



**Ad-Hoc Query on facilities for detention of a third-country national
who is the subject of return procedures and asylum seekers**

Requested by EE EMN NCP on 4 May 2011

Compilation produced on 6 June 2011

**Responses from Austria, Czech Republic, Estonia, Finland, Hungary, Latvia, Lithuania, Luxembourg, Malta,
Netherlands, Portugal, Romania, Slovak Republic, Sweden, United Kingdom (15 in Total)**

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1. Background Information

Estonia's Police and Border Guard Board is interested in finding out MS practices regarding facilities for detention of a third-country national who is the subject of return procedures and asylum seekers.

- 1) Under whose subordination is the facility for detention of aliens in case of return procedure and detention centre for asylum seekers?
- 2) How many such facilities exist and how many persons can these facilities accommodate?
- 3) Are these facilities separate buildings or are there sections allocated for accommodation of aliens (including asylum seekers) in e.g. prison or police arrest house?
- 4) Are there also private bodies used for operating of these facilities (e.g. security and internal order is provided by a private company)?
- 5) On what basis are persons detained in these facilities – official's decision or court's order?

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2. Responses

		Wider Dissemination?	
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Czech Republic	Yes	<ol style="list-style-type: none"> 1) Detention centres are operated by the Refugee Facilities Administration, which is subordinated to the Ministry of the Interior 2) There are two such facilities for 434 persons in total. 3) Detention centres are separate facilities. 4) No. 5) Detention is based on an administrative decision.
	Estonia	Yes	<ol style="list-style-type: none"> 1) For detention of a third country national subject to a return procedure is the Expulsion Centre under the Police and Border Guard Board who is subordinate to Ministry of the Interior. There is no detention centre for asylum seekers. 2) There is one expulsion centre which can accommodate 60 persons. 3) Expulsion centre is a separate building. 4) There are only employees of Police and Border Guard Board working at the Expulsion Centre. 5) Third country national subject to a return procedure is detained in the Expulsion Centre on the basis of a court order.
	Finland	Yes	<ol style="list-style-type: none"> 1) A new law on the establishment of a detention centre for foreigners taken into custody under the Aliens Act came into force on 1 March 2002. The detention centre was opened in Helsinki in July 2002. Helsinki Detention Centre is responsible for the services for Detainees under the Aliens Act in cooperation of the Police Administration and the Frontier Guard. 2) Just one facility with capacity of 40 detainees. If this facility is fully occupied, then detainees may be kept in police prisons in custody. 3) Helsinki Detention Centre is located in connection with Metsälä reception centre. In Detention Centre the detainees are not segregated in their rooms except when the person acts e.g. violently and needs isolation. The Detention Centre is provided with gym, TV, internet access and a variety of games. There are also outdoor activities and the detainees are allowed to have visitors. The detainees are also provided with free accommodation, meals, nursing, interpretation, legal aid, spending money or advice in the daily routines of the centre.

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			<p>4) A kind of semi-official/semi-private body is providing security services and cleaning, maintenance and food services. "Semi" means here that the body is a company that is owned by Helsinki municipality.</p> <p>5) The customers are detained under the Aliens Act. The police or the Finnish Frontier Guard decides to place a foreigner in detention upon arrival to Finland. Some of the detainees are asylum seekers, whose identity and/or travel route are unclear. Also the asylum seeker who has got a negative decision can be detained before deportation. Usually detention lasts from a few days to some weeks but can last up to a few months. Detention cases have to be taken to a Court hearing every two weeks. The District Court decides whether the foreigner should be released or kept in detention. A decision on detention made by the authorities or a District Court is not subject to appeal.</p> <p>The authorities handling the matter shall order a detained alien to be released immediately once the requirements for detention cease to exist.</p>
	Hungary	Yes	<p>1) For detention of a third country national and for asylum seekers subject to a return procedure, the Detention Centre is operated by the Police, who are subordinate to the Ministry of the Interior.</p> <p>2) Hungary has 5 Detention Centres. The total capacity is 608 persons. (See attached file.)</p> <p>3) In Hungary the Detention Centres are separate objects. (See attached file.)</p> <p>4) The Detention Centres are operated only by the Hungarian Police.</p> <p>5) Detention under immigration laws shall be ordered by way of a formal resolution, and shall be carried out when communicated. Detention under immigration laws may be ordered for a maximum duration of seventy-two hours, and it may be extended by the court of jurisdiction by reference to the place of detention until the third-country national's departure, or for maximum thirty days.</p>
	Latvia	Yes	<p>1) The facility for detention of third country nationals, who are under the return procedure and asylum procedure is under the State Border Guard and is subordinated to the Ministry of the Interior.</p> <p>2) Currently detained third country nationals and asylum seekers are being accommodated in the Detained aliens' accommodation center Olaine, where 86 persons can be accommodated. The above-mentioned center in Olaine will be closed at the end of May this year and from the 1st of June 2011 in Daugavpils city will be opened new center for accommodation of detained third country nationals and asylum seekers. There are 72 places provided in Daugavpils center, out of them 31 place is foreseen for illegal immigrants and 41 - for asylum seekers.</p> <p>3) There is one building (currently in Olaine and after Olaine will be closed in Daugavpils) of detention facilities for both categories of</p>

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			<p>third country nationals: illegal immigrants and asylum seekers with separate sections for accommodation.</p> <p>4) There are no private bodies operating the detention facilities of third country nationals, only border guards.</p> <p>5) Third country nationals are detained and placed in the detention facilities on the basis of the State Border Guard official's decision: third country nationals, who are the subjects of return procedure for the time period of 10 days, but third country nationals, who are the subjects of asylum procedure for the time period of 7 days. After the above-mentioned time period (10 or 7 days) court takes a decision on detention of a third country national for the time period until 2 months.</p>
	Lithuania	Yes	<ol style="list-style-type: none"> 1. The State border guard service (SBGS under the Ministry of Interior) is responsible for the administration of Foreigners registration centre (accommodates asylum applicants, irregular migrants). There is only one centre in Lithuania and it accommodates both – aliens who are subject to return procedure as well as asylum seekers – in separate buildings. 2. There is one facility with separate building for asylum seekers and irregular migrants. It can accommodate up to 300 persons. 3. This facility is a separate building. 4. No. 5. Persons can be detained by the decision of responsible institution or by court order.
	Luxembourg	Yes	<ol style="list-style-type: none"> 1) The detention facilities are under the authority of the Ministry of Foreign Affairs. They hold both third-country nationals subject to a return procedure and failed asylum applicants. 2) In Luxembourg, there are two detention facilities. The first facility (<i>AIDA Centre</i>) within the country's only international airport can hold a maximum of 28 detainees (men, women and families) for a maximum period of 72 hours. The second facility, a detention centre (<i>Centre de Retention</i>), can hold up to 25 male detainees but no women or families. In the next months, a new facility will be opened with an envisaged capacity of 88 detainees, including men, women and families. This centre will replace the two existing facilities. 3) The AIDA Centre is the holding facility within the country's only international airport. The detention facility (<i>Centre de Retention</i>) is currently located in a separate wing of the Central Penitentiary of Luxembourg (<i>Centre Pénitentiaire de Luxembourg</i>) in Schrassig. The new facility will be located as a separate facility in direct vicinity of the international airport with separate units for men, women and families. 4) No, all personnel working in the detention centers are public employees. 5) Persons are held in the detention centre (<i>Centre de Retention</i>) on the basis of an official decision by the Minister of Work, Employment

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			and Immigration (Art. 120 (1) of the Law of Free Movement of Persons and Immigration). The respective person has the possibility to file an appeal against this decision with the first instance Administrative Court (<i>Tribunal administratif</i>) (Art. 123 (1)). In case of a negative decision of the first instance Administrative Court, the person has to right to appeal to the second instance Administrative Court (<i>Cour administrative</i>).
	Malta	Yes	<ol style="list-style-type: none"> 1) Malta has one authority that caters for the detention of illegal migrants. This is the Detention Service. 2) There are three detention centres in Malta. 3) They are separate facilities. 4) These facilities are operated by the Detention Service. No private bodies are involved. 5) Persons are detained in these facilities in line with the Immigration Act. In most cases they would have been subject of a Removal Order issued by the Immigration Officers.
	Netherlands	Yes	<ol style="list-style-type: none"> 1) Apart from detention centres for the purposes of alien detention, illegal foreign nationals (mostly with an asylum background) who are not in the possession of a legal status in the Netherlands, can also be accommodated in the freedom restricted centre in Vlagtwedde. The target group consists of aliens who, after exhausting all their legal remedies, have not left the Netherlands within the statutory period of 28 days and who are willing to work intensively on their return to the country of origin. Once they are admitted to the freedom restricted centre they have to remain within the boundaries the municipality of Vlagtwedde and register daily. The measures taken are in accordance with the articles 54 and 56 of the Dutch Aliens Act. In principle the duration of the stay is maximum twelve weeks. The Central Agency for the Reception of Asylum Seekers is responsible for the facilities at the freedom restricted centre. There are also regular alien detention centres, which are the responsibility of the Custodial Institutions Agency of the Ministry of Justice. 2) There is currently only one freedom restricted centre, with a capacity of maximum 750 persons, in the Netherlands. Apart from the freedom restricted centre, there are 5 facilities for alien detention. On October 2010, these facilities kept disposal of average 362 beds, of which 312 (on average) occupied. Since regular cells were deemed fit for double occupation, the number of beds is not corresponding with the number of cells. On a yearly basis, 7,867 aliens are detained (source: 2009). The number of detainees has decreased since 2006 (12,480 detainees in 2005/2006). National budget is based on a total capacity of 2,756 places, part of which is indicated as back-up capacity. 3) Within the freedom restricted centre, families with young children are accommodated in mobile homes. Other categories within the freedom restricted centre are accommodated in apartments with a capacity of maximum 6 to 8 persons in each apartment. The 5 detention facilities are exclusively dedicated to aliens: migrants who are either denied access at the national border or found illegally on the territory (and conceived deportable), following art 6 / art 59 of the Aliens Act. Facilities are indicated as <i>detention</i>

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			<p><i>centres (remand custody regime). Aliens subject to criminal proceedings are detained in separate sections in regular prisons. During their stay in criminal detention, the Repatriation and Departure Services initiates proceedings towards return to their country of origin. For the last remainder of their criminal detention (4 months), foreign national criminal detainees are concentrated in 1 location, where efforts on realising the aliens return are intensified.</i></p> <p>4) The freedom restricted centre is operated by the Central Agency for the Reception of Asylum Seekers, which is an independent administrative body funded by the Ministry of the Interior and Kingdom Relations. Private bodies which are operating on the premises of the freedom restricted centre include the security and the janitorial service. Also organisations like the International Organisation for Migration (IOM) and the Dutch Refugee Council are also operating on the premises of the centre. Their aim is, in close cooperation with the Repatriation and Departure Service of the Ministry of the Interior, providing the necessary information with regard to return to the aliens at the centre. All alien detention facilities are public facilities and operated by the Custodial Institutions Agency of the Ministry of Justice. On an operational level these detention centres make use of personnel provided by a private company. The share of private personnel on the operational level is 50%.</p> <p>5) With regards to the Freedom Restricted Centre, The Repatriation and Departure Service is in first instance the competent agency to impose measures of freedom restriction, in accordance with articles 54 and 56 of the Dutch Aliens Act. Alien detention is imposed solely by the Dutch Alien Police and the Royal Netherlands Military Constabulary, on the basis of article 59 or article 6 of the Dutch Aliens Act. The measure of detention is periodically reviewed by an independent court.</p>
	<p>Portugal</p>	<p align="center">Yes</p>	<ol style="list-style-type: none"> 1. TCN subject to a return procedures are lodge in a temporary lodging centre. The temporary lodging centre is under Aliens and Border's management, assisted by IOM and Jesuit Refugee Service. Asylum seekers are not subject to detention. 2. There is one temporary lodging centre. The centre accommodates 36 persons in 26 rooms, 5 cells and 2 family units (2 rooms with bath). 3. Temporary lodging centre is a separate building. 4. Security and internal order is provided by a private company. 5. The placement in the temporary lodging centre is an enforcement measure determined by a judge.
	<p>Romania</p>	<p align="center">Yes</p>	<ol style="list-style-type: none"> 1. Aliens taken into public custody are accommodated in <i>accommodation centers</i>. The centers are closed specially designed facilities administrated by the Romanian Immigration Office and they are designated to temporary accommodation of the aliens against whom the measure of return has been ordered or they were declared undesirable and they were taken into public custody. 2. The Romanian Immigration Office has 2 such accommodation centers.

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			<ol style="list-style-type: none"> 3. The accommodations centers are separate buildings. 4. No private bodies are used to operate the accommodation centers. 5. Taking into public custody is a measure of temporary restriction of freedom which is decided by a magistrate (prosecutor) against the alien who could not be returned under escort in the time limit provided for by the law, and also, against the alien who was declared undesirable or against who the court decided the measure of expulsion.
	Slovak Republic	Yes	<ol style="list-style-type: none"> 1. The Slovak Republic has two detention centres for aliens subordinated to the Border and Alien Police of the Police Corps Presidium. The Slovak Republic does not have a detention centre for asylum-seekers. 2. The Slovak Republic has two detention centres for aliens together with capacity of 328 persons (ÚPZC Medved'ov - 176, ÚPZC Sečovce - 152). 3. Both of these facilities are separate buildings. 4. No. 5. Detention of foreigners in these facilities is based on a decision of a police unit.
	Sweden	Yes	<ol style="list-style-type: none"> 1. Swedish detention centres are managed and run by the Swedish Migration Board. 2. There are 5 detention facilities, which are geographically located over the country from south to north. In 2010, the detention centres were able to accommodate in total 205 persons. 3. These are separate facilities. 4. No. 5. Both court order and official's decision.
	United Kingdom	Yes	<ol style="list-style-type: none"> 1. The UK Border Agency is responsible for the detention of asylum seekers or other individuals, including those liable to be returned to their country of origin. Please note, however, that although some asylum seekers are held in detention individuals are not automatically detained simply for having claimed asylum. The UK Border Agency is responsible for managing the immigration detention estate although the actual operation of these facilities falls to private contractors or the Prison Service (see question 4 below). 2. The UK Detention Estate currently comprises 11 Immigration Removal Centres (IRCs) with a total of just under 3,000 beds. Another

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			<p>IRC is due to open later this month. In addition, there are 2 small residential short term holding facilities (STHF) where individuals can be detained up to a maximum of 5 days which accommodate around 60 people, with another STHF due to be opened later this year. The UK Border Agency is also shortly opening a new residential facility, operated with a children's charity, for families whose return is being enforced. This will be an entirely new type of accommodation and is not being operated along the lines of existing detention facilities.</p> <p>3. All of the above are dedicated immigration detention facilities, holding only persons detained under immigration powers. However, in certain circumstances, individuals may also be detained in other premises e.g. prisons/young offender institutions, police stations, hospitals.</p> <p>4. Eight of the IRCs and both STHFs are operated by private contractors, with the 3 remaining IRCs operated on behalf of the UK Border Agency by the Prison Service under a service level agreement.</p> <p>5. The power to detain in UK immigration legislation is vested in UK Border Agency officials or Immigration Officers. There is no direct judicial involvement in detention decisions.</p>
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