



European Migration Network

Ad-Hoc Query on the 24th February 2009.

Requested by FR EMN NCP on the detention of illegal aliens.

Responses from : Austria, Bulgaria, Estonia, Finland, France, Germany, Hungary, Latvia, Netherlands, Poland, Portugal, Romania, Slovenia, Slovak Republic, Spain, Sweden, United Kingdom.

1. Background Information

The Finance Committee of the French Senate has asked the NCP to ask the question that follows.

- 1- In your country, what are the organizational arrangements for detention of illegal aliens?
- 2- In your country, what are the legal rights enjoyed by illegal aliens during their detention?

Responses would be appreciated before 10/03/2009.






2. Responses¹

		Wider Dissemination?²	
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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 clear "YES", your response may be circulated further (i.e. to national network members) or "NO" should be added here.




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	Belgium		
	Bulgaria	Yes	<p>1. According to the Law for the foreigners in the Republic of Bulgaria coercive administrative measures shall be imposed by an order of the Chairperson of the State Agency for National Security and the Directors of National Services, the Directors of Chief Directorates and the Director of the Migration Directorate of the Ministry of Interior.</p> <p>The authority who has issued an order on forcible escort to the border of the Republic of Bulgaria or an expulsion order may, at his or her own discretion, coercively place the foreigner in a special accommodation until the lapse of the obstacles to the execution of the coercive administrative measure.</p> <p>Special accommodations for temporary placement of foreigners under order for forcible escort to the border of the Republic of Bulgaria or under an expulsion order are operating within the Migration Directorate.</p> <p>Foreigners shall be placed at such special accommodations on the basis of a coercive placement order issued by competent officials of the Ministry of Interior or by the State Agency for National Security, and any such order shall expressly state the need of such placement and the legal ground, and a copy of the order for forcible escort to the border of the Republic of Bulgaria or an expulsion order shall be attached thereto.</p> <p>The procedure for temporary placement of foreigners in such special accommodations, as well as the organization and operation thereof, shall be regulated by an ordinance of the Minister of Interior.</p> <p>2. The third country nationals accommodated in the special detention center shall enjoy all the human rights guaranteed by the European legislation with the exception of the right to freedom of movement. The accommodated foreigners have the right to medical help, legal representation, visits. They can make contacts with non government organizations caring for the observing of human rights.</p>
	Czech Republic		
	Denmark		
	Germany	yes	<p>1a) Aliens subject to an executable order to leave the country may be required to stay in a facility accommodating aliens having to leave the country. There, through assistance and counselling, it is attempted to enhance their willingness to voluntarily leave the country. Also the ability for authorities and courts to get into contact with them and the organisation of the actual trip out of the country should thus be ensured (section 61</p>


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			<p>of the law regarding the residence of aliens- <i>AufenthG</i>). A measure imposing this form of residence does <u>not</u> constitute a measure depriving the alien of his liberty.</p> <p>1b) Taking aliens into detention in order to ensure their leaving the country as practiced in case of detention pending deportation (section 62 <i>AufenthG</i>) and detention pending repudiation (section 15 <i>AufenthG</i>) is organised by the “Bundesländer” under their own responsibility. Efforts are made to arrange accommodation in the prison centres separately from criminal prisoners. In the case of minors the mildest form of accommodation should always be chosen on an individual basis, for instance in an institution for individuals waiting to leave the country respectively an institution for juveniles, thus avoiding putting minors in prison centres (for young offenders). In accordance with the responsibility rules applicable in the individual “Bundesland” either the alien offices or police authorities are responsible for bringing forward a motion for having the individual concerned taken into custody. Actual detention may only occur pursuant to an order issued by a committing judge.</p> <p>2a) Decisions emanating from the Alien Office about having to take up residence in a centre for individuals having to leave the country can be appealed against by lodging an objection with the next higher administrative instance and, in case this legal remedy should be unsuccessful, by filing a lawsuit through the administrative court channel. However, these measures do not have any suspensive effect (section 84 paragraph 2 no. 2 <i>AufenthG</i>).</p> <p>2b) Detention in preparation of deportation and/or repudiation as measures depriving the individual of liberty may only be imposed by a judge. Legal remedies against it can be lodged, bringing them before the regular judicial authority (district court) pursuant to the general provisions the law on judicial proceedings in case of deprivation of liberty stipulates.</p>
	Estonia	yes	<p>1. Upon the discovery of a person’s illegal stay in Estonia an official of the Citizenship and Migration Board (CMB) shall make him/her a precept for leaving Estonia on the basis of the Obligation to Leave and Prohibition on Entry Act. If a person does not leave during the period assigned for him, administrative coercion shall be applicable for him. He/she shall be detained by the CMB officials, police or border guard officials and his/her leaving from Estonia shall be organised during 48 hours.</p> <p>If it is not possible to complete expulsion within 48 hours after the alien is detained, the person to be expelled shall, at the request of the governmental authority which applied for or which is enforcing the expulsion of the alien and on the basis of a judgment of an</p>




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			<p>administrative court judge, be placed in an expulsion centre until his or her expulsion, but for not longer than two months. If it is impossible to enforce expulsion within the term of detention in an expulsion centre, an administrative court shall, at the request of a competent official of the CMB, extend the term of detention in the expulsion centre of a person to be expelled by up to two months at a time until expulsion is enforced or until the alien is released.</p> <p>Expulsion centres are structural units of the Estonian Citizenship and Migration Board. Judgments concerning the detention of persons to be expelled and extension of the term of detention are made by an administrative court.</p> <p>2. During the stay at the expulsion centre a person shall be ensured with housing, catering, emergency medical care, use of means of communication, the possibility to meet his defender, a consular employee of the country of citizenship and a minister of religion.</p>
	Ireland		
	Greece		
	Spain	Yes	<p>1. Organic Law 4/2000 of 11 January on the Rights and Freedoms of Foreigners in Spain and their Integration (Articles 62 and 62-bis to 62-sixth) and the Regulations that develop it (Articles 153 to 155) govern the scheme that applies to alien detention centres in Spain.</p> <p>In this regard, it has been laid down that the examining magistrate of the location where the alien is arrested may authorise the alien's internment in a non-penitentiary alien detention centre within 72 hours.</p> <p>The alien's detention may only be determined when any of the following circumstances comes about:</p> <ul style="list-style-type: none"> - If he/she has been arrested for any of the circumstances for deportation laid down for specific very serious or serious offences concerning alien affairs (Articles 53.1 a) and b), as well as 53 a), d) and f) of Organic Law 4/2000 respectively); - If a return order has been issued and it cannot be executed within 72 hours, whenever the court authority may so rule; - Whenever removal order of return has been issued; - Whenever a deportation order has been issued and the alien does not abandon Spanish territory within the deadline he/she has been granted to do so. <p>The alien may not be held for longer than the time needed to execute the deportation, removal or return. The maximum period of detention may not exceed 40 days and the court authority shall have to be requested to release the alien once it is known that the deportation cannot be brought about within the time period set forth.</p> <p>During his/her detention, the alien shall at all times be at the disposal of the jurisdictional body that authorised the detention, and the government authority shall have to inform the magistrate of any circumstances regarding the detained alien.</p> <p>Aliens who are minors may not be held at such centres and shall be placed at the disposal of the competent minor protection agencies, except when the judge of first instance should authorise such detention after receiving a favourable report from the</p>






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			<p>Prosecution Service (Ministerio Fiscal) and his/her parents are held at the same centre, state their wish to remain together and the centre is equipped with modules that can ensure the family's unity and intimacy.</p> <p>2. Aliens held at non-penitentiary detention centres shall enjoy the following <u>rights</u>:</p> <ul style="list-style-type: none"> - To be kept informed about their situation; - That their life, physical safety and health are safeguarded and that their dignity and intimacy is preserved; - That they be facilitated the possibility of exercising their rights as recognised by the legal system, without any constraints other than those arising from their detention; - To receive suitable medical assistance and healthcare and to be assisted by the centre's social services; - That the person they may designate in Spain or their lawyer be immediately informed that they are being held at the centre; along with the consular office of the country of which they are citizens; - To be assisted by a lawyer and to be able to communicate privately with such lawyer; - To be informed about the timetable laid down for visits of family members, their country's consular officials and other people; - To be assisted by an interpreter free of charge if they do not understand or speak Spanish should they lack economic means; - To have their children who are minors at their side, as long as the Prosecution Service has issued a favourable report about such a measure and the centre is equipped with modules to ensure the family's unity and intimacy. <p>Upon their entry into the centre, aliens shall be given written information in a language they can understand about their rights and obligations, matters concerning overall organisation, the centre's rules and the means to file requests and complaints.</p> <p>Internees may file requests and complaints, either verbally or in writing, about matters having to do with their detention.</p>
	France	y	<p>1 - the detention of an alien in administrative premises may be ordered when the alien:</p> <ul style="list-style-type: none"> - must be submitted to the authorities of a UE-MS and can not leave the French territory immediately, - been the subject of a deportation order, he can not leave the French territory immediately, - is the subject of an order of deportation and can not leave the French territory immediately, - is the subject of an alert,

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			<p>- did not obey a decision of placement in a detention center.</p> <p>The detention decision in an administrative detention center is taken by the administrative authority. The public prosecutor (procureur de la République) is seized.</p> <p>After 48 hours, the judge of freedoms and detention (le juge des libertés et de la détention) is seized for the extension of the duration of detention.</p> <p>2 - The entire process of detention is placed, after 48 hours, under the authority of the judge.</p> <p>In addition, a monitoring committee responsible for ensuring the rights of foreign "détenus", was established in November 2003. Its jurisdiction has been taken since 1 July 2008 by the "Controller General of places of deprivation of liberty".</p> <p>Finally, the French and European parliamentarians, the judiciary order members and the Commissioner for Human Rights of the Council of Europe have a right of access to the administrative detention centers.</p>
	Italy		
	Cyprus		
	Latvia	Yes	<p>1) In accordance with the Immigration Law of the Republic of Latvia an official of the State Border Guard has the right to detain an alien, except a minor alien who has not reached the age of 14 years:</p> <p>- if he or she has illegally crossed the State border of the Republic of Latvia or otherwise violated the procedures prescribed by regulatory enactments for the entry and residence of aliens into the Republic of Latvia;</p>



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			<p>- if competent State authorities including the State Border Guard have reason to believe that an alien causes a threat to national security or public order and safety; and</p> <p>- in order to implement a decision regarding the forcible expulsion of an alien from the Republic of Latvia.</p> <p>The State Police official has the right to detain an alien for three hours until handing over to the State Border Guard. An official of the State Border Guard has the right to detain an alien for a period not exceeding 10 days.</p> <p>An official of the State Border Guard has the right to detain an alien for more than 10 days only pursuant to a decision of a judge of a district (city) court (in conformity with the actual location of the detained alien) (hereinafter – judge).</p> <p>An official of the State Border Guard may again submit a submission for extending the time period of detention, but the total time period of detention may not exceed 20 months.</p> <p>2) In accordance with the Immigration Law a detained alien in an accommodation centre has the right:</p> <ul style="list-style-type: none"> -to communicate with his or her state consulate; - to inform family members, kin or other persons regarding his or her whereabouts; - with his or her own means, to receive legal assistance; - to meet with family members or kin, as well as with representatives of international and non-government human rights organisations; - to submit complaints and submissions.
	Lithuania		
	Luxembourg		
	Hungary	Y	The legal provisions of detention of third country nationals are stated in the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals and in the Government Decree 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (see attached document).
	Malta		
	Netherlands	Yes	<p>In NL, the ‘detention of aliens’ is an administrative measure that can be applied in order to prevent aliens that are to be removed from evading removal. Another way to deter illegal immigrants from trying to evade departure is to detain them or to impose another custodial measure or liberty-restricting measure.</p> <p>Placement in alien detention locations is only possible when foreign nationals fail to cooperate in their departure and only where there is a likelihood of removal. Detention must also be demanded in the interest of public order or national security. In some cases, a foreign national may also be detained if he does cooperate in his departure. For example, this would apply when the foreign national in question has criminal antecedents or if it is anticipated that removal can take place in the very short term.</p> <p>For example, this might be a situation where there is a suspicion that the foreign national will evade supervision (Aliens Act</p>


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		<p>implementation guidelines A6). The Netherlands does not have a maximum term for placement in detention locations. Detention may continue while removal remains likely. This is subject to judicial review.</p> <p>The restriction and deprivation of liberty are only permissible on the basis of a statutory provision. Due to their drastic nature, the application of a liberty-restricting measure or custodial measure must only be used where absolutely necessary.</p> <p>A foreign national can lodge an appeal against a decision to impose a liberty-restricting measure or custodial measure with the court (Aliens Act implementation guidelines A6/1). Legal protection is in line with the requirements of Article 5 of the ECHR. Placement in a detention location is a measure that is designed to effect the removal of a foreign national. Article 59 of the Aliens Act makes it possible to detain foreign nationals for this purpose. Article 59 (1) of this Act determines that the State Secretary of Justice can detain a foreign national in the interests of public order or national security. Article 59 (2) determines that if the documents necessary for the return of a foreign national are available, or will be available within a short period of time, it will be considered in the interest of public order to demand the detention of the foreign national, except where the foreign national has lawful residence. The documents referred to above are a passport, laissez-passer (or other valid border crossing documents) or a claim against a passenger carrier. The phrase 'will be available within a short period of time' refers, for example, to a situation where the diplomatic representation from the foreign national's country of origin has held out the prospect of a replacement border crossing document. Before a foreign national can be detained under Article 59 of the Aliens Act, he will be heard in the presence of his lawyer and he will be issued with a copy of the measure (Aliens Act implementation guidelines A6/5.3)</p> <p>Article 59 (4) of the Aliens Act indicates how long alien detention is permitted under Article 59. No statutory period applies here either. However, the following does apply for special categories:</p> <ol style="list-style-type: none"> a. if a residence permit application is pending, detention must be limited to just four weeks (as the foreign national has lawful residence and the main rule is that there is no detention in the case of lawful residence); b. if an asylum application is pending, detention must be limited to a maximum of just six weeks (as the foreign national has lawful residence); c. four weeks in the case of foreign nationals who have been detained under Article 59 (2) of the Aliens Act. <p>The period indicated under a and b will commence on the date on which an application is received by the administrative body and will end on the date on which the decision is announced. If detention continues, the interest of the foreign national's release increases. Court case law usually assumes that, after six months of detention, a foreign national's interest in being released generally outweighs the general interest of detaining the foreign national for the purpose of removal. However, under certain circumstances, this period may be longer or shorter. The six-month period can be exceeded if the following applies, for example:</p> <ol style="list-style-type: none"> a. pronouncement of undesirability or serious criminal antecedents; b. frustration by the foreign national of the investigation into the determination of his identity or nationality; c. the fact that, after detention, the foreign national has instituted one or more proceedings in order to obtain a residence permit, with the apparent objective of delaying removal or delaying issue of a travel document; d. the fact that once the period of six months has expired, there is a probability bordering on certainty that the foreign national will be removed in the short term.
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	Austria	No.	No wider dissemination.
	Poland		<p>1. In your country, what are the organizational arrangements for detention of illegal aliens?</p> <p>A foreigner, in case of whom the conditions for issuing the expulsion decision appear or who evades to perform obligations specified in the expulsion decision, may be apprehended for the period of no longer than 48h by the Border Guard or the Police. Immediately after the apprehension, the relevant organ should, when the necessity arises, apply to the local court for placing the foreigner in a guarded centre or in custody for the purpose of expulsion. The foreigner is released if within the period of 48h s/he was not put at disposal of the court; or if within 24h from being put at court's disposal, s/he was not delivered a decision on placing him/her foreigner in a guarded centre or arrest for the purpose of expulsion; or on the basis of the instruction of the court; or if the purpose for apprehension ceases to exist. The court issuing the decision on placing the foreigner in a guarded centre or in custody for the purpose of expulsion specifies the period of detention, which can be no longer than 90 days – this period can be extended, however all together it may not exceed 1 year.</p> <p>The foreigner is placed in a guarded centre if it is necessary for effective execution of expulsion procedure or procedure of withdrawing a permit to settle or a residence permit for a long-term EC resident; justified concerns exist that the foreigner will evade to perform obligations resulting from the expulsion decision or decision to withdraw a permit to settle or a residence permit for a long-term EC resident; s/he crossed, or tried to cross the border against the law, if s/he was not escorted immediately to the border. The foreigner is put in custody for the purpose of expulsion if any of the aforementioned conditions arise and there are justified concerns that s/he will not obey the rules effective in the guarded centre.</p> <p>2. In your country, what are the legal rights enjoyed by illegal aliens during their detention?</p> <p>The entire process of detention is placed, after 48 hours, under the authority of the judge. A foreigner in detention may freely contact: Polish administrative bodies and diplomatic outposts of foreign countries in personal/official matters; non-governmental or international organisations dealing with (legal) assistance to foreigners. S/he may also submit complaints and applications to the manager of the centre or to relevant unit / official of the Border Guard / Police responsible for management of the centre.</p> <p>A foreigner is granted indemnification in case of unlawful detention.</p>


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	Portugal	Yes	<p>1 - According to the Act that approves the legal framework of entry, permanence, exit and removal of foreigners into and out of national territory (Lei n.º 23/2007), in the Article 146.º, “Arrest of a foreign citizen who is in an illegal situation”, n.º 7, the competent authorities to make arrests of a foreign citizen in national territory are the officers from SEF, Guarda Nacional Republicana, Polícia de Segurança Pública, Polícia Judiciária and Polícia Marítima.</p> <p>Furthermore the foreign citizen who illegally enters or stays in national territory is arrested by a police authority and, when possible, handed over to SEF with the respective writ, and must be presented within forty eight-hours.</p> <p>If it is determined the detention at a temporary lodging centre or a matching facility SEF is notified in order to further the judicial proceeding aiming at the removal of the foreign citizen from national territory.</p> <p>The detention foreseen in the preceding number cannot exceed more than the necessary period to allow the execution of the removal decision, which is of 60 days.</p> <p>If it is not determined the detention in a temporary lodging centre or a matching facility SEF is also notified for the purposes mentioned in n.º 2, and the foreign citizen is notified to appear where indicated.</p> <p>In the Article 147.º “Accompaniment to a border post”, n.ºs 1, 2 and 3: The foreign citizen detained under the stipulations of n.º 1 of article 146.º who, during judicial interrogatory and after being informed on the arrangements of n.º 2 and 3.º, claims that he/she wants to leave national territory can, by determination of the competent judge and if duly provided with documents, be handed over to SEF custody to be accompanied to a border post in the shortest period possible.</p> <p>The citizen who declares the will to be accompanied to the border post is forbidden to enter national territory for a period of one year.</p> <p>Accompaniment to a border post implies the registering of the citizen at the Schengen Information System and the national register of non-admissible persons for the period of entrance interdiction.</p> <p>2 – The main legal rights are: - Receive information about his/her rights in his/her mother tongue or in a language he/she understands; - Receive free medical, psychological, legal, and social support; Besides these there are other rights, as such: - Receive a hygiene kit on a weekly basis composed of disposable pair of sheets and towels as well other tool specific for personal hygiene when asked; - Be able to choose between four courses – fish, meat, diet or vegetarian food – at lunch and dinner; - Receive a phone card with 50 units and have access to a landline where he/she can make collect calls; - Benefit from a specific support, adequate to his/her needs and his/her age in case of minors less than 18 years old;</p>


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			<ul style="list-style-type: none"> - Be respected in his/her individuality and not be subject to any discrimination or judgemental attitude; - Keep his/her individual belongings, except when this hampers the normal functioning of the centre; - Have access to book and written press; - Practice physical exercise and have free access to the backyard; - Ask for visits he/she would like to have/the visits must be requested with 12 hours notice to the management; - Benefit and participate in the social activities organized in the centre.
	Romania	Yes	<p>1. Escorted removal shall be carried out, under conditions of the Government Emergency Ordinance 194/2002 on aliens regime, by specialised staff of the Romanian Immigration Office, for following categories of aliens:</p> <ul style="list-style-type: none"> a) who did not voluntary leave the territory of Romania on expiry of the term provided by the decision of return; b) who have illegally crossed the state border; c) who have been declared undesirable; d) against whom the measure of expulsion has been ordered. <p>Escorted removal may also be carried out in case of aliens who have physical or mental disabilities or represent a danger to public health.</p> <p>When there are well-founded indications that escorted removal may not be carried out within 24 hours, the alien shall be transferred into public custody.</p> <p>Transfer into public custody is a measure of temporary restriction of the freedom of movement on the territory of the Romania, ordered by the magistrate against the alien who could not be removed under escort within the term provided by the law, as well as against the alien who has been declared undesirable or with regard to whom a court has ordered expulsion.</p> <p>In case of aliens who could not be removed under escort within the term provided by the law, transfer to public custody shall be ordered by the specially designated prosecutor from the Prosecutor's Office within the Bucharest Court of Appeal, for a period of 30 days, upon request of the Romanian Immigration Office or its territorial units.</p> <p>Extension of the duration for transfer into public custody of aliens apprehended illegally staying, who could not be removed from the territory of Romania within 30 days shall be decided upon by the court of appeal in whose area of territorial competence the accommodation centre is situated, upon motivated request of the Romanian Immigration Office. The court shall decide before the expiry of the term of transfer into public custody previously ordered, and the court decision shall be irrevocable.</p> <p>The maximum duration for public custody for aliens against whom a return measure has been ordered may not exceed 6 months.</p> <p>In the case when, subsequent to an alien's transfer into public custody, the alien requests for the first time a form of protection, the measure of transfer into public custody shall cease <i>de iure</i>. In formulating a second request, the measure of public custody ceases at the date of granting the access to a new procedure.</p> <p>Exceptions are situations in which, for reasons of national security or public order, it is necessary to remove the aliens from the territory of Romania or maintain the alien in public custody up to the finalisation of the procedure for granting the refugee status.</p> <p>Aliens, against whom the transfer into public custody has been ordered, in order to implement an escorted removal, may submit, within a limit of 5 days, a complaint to the Court of Appeal of Bucharest city, which has the obligation to process it within 3 days from the date of registration.</p> <p>Aliens take under public custody, as well as those removed under escort within the 24 hours, shall be fingerprinted and photographed.</p>


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			<p>Aliens taken into public custody shall be placed into accommodation centres.</p> <p>The centres are closed spaces, especially equipped for this purpose, under administration of the Romanian Immigration Office, and serve the purpose of temporary accommodation for aliens who have been declared undesirable or against whom the measures of return or expulsion have been ordered and they have been transferred into public custody.</p> <p>Centres are set up, organised, authorized for sanitary standards, furnished and equipped in order to offer adequate conditions of accommodation, catering, medical assistance and personal hygiene.</p> <p>2. Aliens accommodated in centres enjoy rights provided by the law, as well as those mentioned by treaties and international agreements to which Romania is a party.</p> <p>Aliens accommodated in centres have the right to legal, medical and social assistance and to respect for their own opinion and traditions, with regard to religion, philosophy and culture.</p> <p>Aliens accommodated within centres have the right to be informed, immediately after having been delivered to such places, in the language they speak or in a language they understand, about the main reasons which have led to deciding this measure, as well as about the rights and obligations they have during their residence in the centres. The reasons for being taken into public custody, as well as the rights and obligations of the aliens accommodated within centres shall be communicated in writing by the persons designated to manage such centres.</p> <p>For the whole duration of stay, the aliens shall be granted access to communication with diplomatic and consular officers of their country of origin.</p> <p>The staff of the centres shall treat the aliens accommodated in a non-discriminatory manner with regard to race, sex, age, culture, nationality, religion or membership to a certain social group.</p> <p>During the whole duration of accommodation within the centres, aliens have the obligation to respect the rules, daily schedule and internal order defined by the regulation for organisation and functioning of the centres.</p> <p>Aliens transferred into public custody have the right to catering, medical assistance, medicine and sanitary materials free of charge. Medical services shall be ensured, whenever the case, by means of the medical service of the accommodation centres or by medical facilities of the Ministry of the Interior and Administration Reform or the Ministry of Public Health. Reimbursement of expenses incurred shall be ensured by the Ministry of the Interior and Administration Reform, from the budget allocated to the Romanian Immigration Office, especially allocated for this purpose.</p>
	Slovenia	Yes	<p>An alien who fails to leave the country by the specified deadline and who for whatever reason can not be removed immediately or in cases where the identity of the alien is not known shall be ordered by the police, by the time of his removal from the country, to stay in the Alien's Centre or outside it, but for no longer than six months.</p> <p>An alien whom it is not possible to accommodate at the Alien's Centre due to special reasons or needs may, in agreement with the social security office and with the costs borne by the Centre, be accommodated at a social security facility or provided with other appropriate institutional care.</p> <p>The police may, at any point in time, replace the measure of the obligatory accommodation of an alien at the</p>


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		<p>Centre with more lenient measures if they believe that they will thereby accomplish their purpose.</p> <p>An alien may be deported from the country only if the decision on the basis of which the alien is obliged to leave the country is executable. Aliens have the right to appeal against decision of expulsion.</p> <p>The <i>non-refoulement</i> principle is fully respected. The deportation or return of an alien to a country in which his/her life or freedom would be endangered on the basis of race, religion, nationality, membership of a special social group or political conviction, or to a country in which the alien would be exposed to torture or to inhumane and humiliating treatment or punishment, shall not be permitted.</p> <p>Special regime of detention, human integrity protection and removal is provided for sensitive groups of aliens, especially for unaccompanied minors. An alien minor who has entered the Republic of Slovenia illegally unaccompanied by their parents or other legal representatives or who illegally resides in the Republic of Slovenia must be immediately returned to the country of origin or handed over to representatives of the country of which he/she is a national. If this is not possible, the police shall notify the Department of Social Security, which must immediately assign a special custodian to the minor. The police shall temporarily accommodate the alien minor in the Centre, in a special division for minors. Upon the proposal of the special custodian or with his/her prior consent, the police may also find another, more suitable form of accommodation for the minor if it establishes during the procedure that accommodation under the supervision of a social security body is more beneficial for the minor.</p> <p>Aliens involved in expulsion procedures and detained in Detention Centre have right to general health and social care. Detention is under supervision of bodies with jurisdiction over human rights protection and NGO's in this field of work.</p>
	Slovak Republic	<p>According to Article 62, Pars. 1 through to 7 of the <i>Act No. 48/2002 Coll. on the Residence of Foreigners</i> the following rules apply to the detention of foreigners in Slovakia:</p> <ol style="list-style-type: none"> 1. The police officer may detain the foreigner for the purpose of: <ol style="list-style-type: none"> a) The execution of his/her administrative expulsion or the execution of the sentence of expulsion; b) The execution of his/her transportation according to a special regulation (Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national. Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national) or;

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			<p>c) The foreigner's return according to special regulation (e.g. the Agreement between the Government of the Slovak Republic and the Government of Ukraine on the Hand-Over and Reception of Foreigners across the Joint State Border) if he/she had illegally entered or stayed in the territory of the Slovak Republic.</p> <ol style="list-style-type: none"> 2. Submission of an asylum claim or a request for voluntary return does not constitute grounds for the release of the detained foreigner. The asylum procedure is not influenced by the foreigner's detention. 3. The foreigner may be detained for the inevitably necessary time, however, for a maximum duration of 180 days. 4. The police authority will without delay issue a decision on the detention to the foreigner and will place the foreigner to the detention facility. If the identity of the foreigner cannot be immediately established, the police authority will attach to the decision on the detention such evidence as to ensure that the foreigner cannot be mistaken for another person. 5. The detained foreigner in whose case proceedings were started according to a special agreement (Agreement between the Government of the Slovak Republic and the Government of Ukraine on the Hand-Over and Reception of Foreigners across the Joint State Border) may be placed at the police authority for a maximum of seven days since his/her apprehension. 6. The detained foreigner can file an appeal against the decision to the court within 15 days since the delivery of the decision on the detention. The court will immediately decide on the appeal. The appeal does not have suspensive effect. 7. The provision of Par. 1 does not apply to a minor foreigner who does not have a legal guardian. <p>According to Article 63 the police authority is obliged to: inform the foreigner immediately after apprehension in the language he/she understands about the reasons the detention and the possibility to review the legality of the decision; to immediately inform the embassy of the foreigner's country of origin about his/her detention; to enable the foreigner to inform a close person and his/her attorney, to carry out all immediately necessary measures towards the execution of expulsion or the establishment of the foreigner's identity; to examine during the whole time of the detention whether the grounds of the detention remain. The police authority is obliged to release the foreigner: if the reason of the detention ceased to exist; on the basis of a court decision, if the period of 180 days passed.</p> <p>The rights of the detained foreigner are specified in Articles 70 through to 73 and include the following rights: right to an interrupted 8-hour sleep and daily walk in the designated premises; right to send mail at the his/her own expense; right to order books, daily press and magazines at his/her own expense; right to receive a visit of two persons in the duration of 30 minutes in a 3 weeks' time; right to receive persons providing legal protection without restriction; right to receive mail, right to receive money.</p>
	Finland	Yes	<p>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.</p> <p>Helsinki Detention Centre is responsible for the services for Detainees under the Aliens Act in cooperation of the Police Administration and the Frontier Guard.</p> <p>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</p>

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			<p>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> <p>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.</p> <p>2.) Under the law on the establishment of a detention centre (116/2002), a detained foreigner is entitled to have visitors and contact one's family member and/or diplomatic embassy. Detained family members are being offered an opportunity to dwell together. Right to interpretation, free accommodation, possible spending money, nursing and legal aid are also guaranteed by law.</p>
	Sweden	Y	<p>1.</p> <p>An alien who has attained the age of 18 may be detained if</p> <ol style="list-style-type: none"> 1. the alien's identity is unclear on arrival in Sweden or when he or she subsequently applies for a residence permit and he or she cannot establish the probability that the identity he or she has stated is correct and 2. the right of the alien to enter or stay in Sweden cannot be assessed anyway. <p>An alien who has attained the age of 18 may also be detained if</p> <ol style="list-style-type: none"> 1. it is necessary to enable an investigation to be conducted on the right of the alien to remain in Sweden, 2. it is probable that the alien will be refused entry or expelled or 3. the purpose is to enforce a refusal-of-entry or expulsion order. <p>A detention order under the paragraph above points 2 or 3 may only be issued if there is reason on account of the alien's personal situation or the other circumstances to assume that the alien may otherwise go into hiding or pursue criminal activities in Sweden.</p>


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			<p>Decisions on detention are taken by the authority or court handling the case.</p> <p>2.</p> <p>Time limits</p> <p>An alien may not be detained for investigation pursuant to an unclear identity for more than 48 hours.</p> <p>In other cases an alien who has attained the age of 18 may not be detained for more than two weeks, unless there are exceptional grounds for a longer period. If, however, a refusal-of entry or expulsion order has been issued, the alien may be detained for not more than two months unless there are exceptional grounds for a longer period.</p> <p>A detention order shall be re-examined within two weeks from the date on which enforcement of the order began. In cases where there is a refusal-of-entry or expulsion order, the detention order shall be re-examined within two months from the date on which enforcement of the order began.</p> <p>If the alien is retained in detention or is to remain under supervision, the order shall be re-examined regularly within the same intervals.</p> <p>A detention or supervision order shall be set aside immediately if there are no longer any grounds for the order.</p> <p>A detention or supervision order that is not re-examined within the prescribed period expires.</p> <p>Each re-examination of a detention order shall be preceded by an oral hearing, unless it appears obvious in view of investigation or other circumstances that an oral hearing is of no importance.</p> <p>Public counsel</p> <p>A public counsel shall be appointed for the person whom the measures concerns, unless it must be assumed that there is no need for a counsel, where an alien has been held in detention for more than three days. A public counsel may also – in an aliens case – be appointed for other reasons for example refusal</p>
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			<p>of entry and expulsion.</p> <p>In cases of detention there is a strong assumption that there is need for counsel, whereas counsel is more or less always appointed.</p> <p>Appeal A detention order made by a police authority or the Swedish Migration Board may be appealed to a migration court.</p> <p>A detention order may be appealed separately and without limitation to a certain period of time. If a detention order has been issued by the Government Minister responsible for cases under this Act, the Supreme Administrative Court examines, at the request of the alien, whether the measure shall remain in force.</p> <p>A decision of a migration court on detention that has not been made after an appeal concerning the question of detention, may be appealed separately to the Migration Court of Appeal. A decision of a migration court on detention may be appealed without limitation to a certain period of time.</p> <p>Treatment An alien who is being held in detention shall be treated humanely and his or her dignity shall be respected. Activities that concern detention shall be organised in a way that results in the least possible infringement of the alien's integrity and rights.</p> <p>An alien who is being held in detention under this Act shall be kept in premises that have been specially arranged for this purpose. The Swedish Migration Board is responsible for such premises.</p> <p>The Swedish Migration Board is responsible for the treatment and supervision of an alien who is being held in detention.</p> <p>An alien who is being held in detention shall be given the opportunity for activities, recreation, physical training and time outdoors.</p>
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			<p>An alien who is being held in detention shall be given the opportunity to receive visits and have contact with persons outside the premises except if the visit or contact would hamper activities concerning the detention in a particular case.</p> <p>If necessary for reasons of security a visit may be monitored. A visit by a public counsel or a lawyer who is a member of the Swedish Bar may only be monitored if the counsel or the lawyer personally request this.</p> <p>An alien who is being held in detention shall have access to the same level of health and medical care as a person who has applied for a residence permit under Chapter 4, Section 1 or 2, even if the alien has not applied for such a permit. If an alien who is being held in detention needs hospital care during the period of detention, he or she shall be given the opportunity for such treatment.</p>
	United Kingdom	<u>Y</u>	<p><u>1. Detention may be used in the following circumstances:</u></p> <ul style="list-style-type: none"> § <u>initially, whilst a person's identity and basis of claim are being established;</u> § <u>where there are reasonable grounds for believing that a person will fail to comply with the conditions of temporary admission or release;</u> § <u>as part of a fast-track asylum process; or</u> § <u>to effect removal.</u> <p><u>Authority to detain under Immigration Act powers is vested in immigration officers and the Secretary of State (in practice, UK Border Agency officials acting on her behalf).</u></p> <p><u>2. Detained persons are accommodated in Immigration Removal Centres (IRCs). These provide for their secure but humane accommodation in a relaxed regime, with as much freedom of movement and association as possible, consistent with maintaining a safe and secure environment. All IRCs within the United Kingdom are subject to the statutory Detention Centre Rules 2001, which make provision for the regulation and management of the IRCs.</u></p> <p><u>All detainees have a right to legal representation and they must be advised of this right and how to obtain such representation within 24 hours of arrival at an IRC. Detained persons can apply for bail, as many times as they wish, and are able to challenge the lawfulness of their detention before an Immigration Judge via the processes of judicial review or habeas corpus. Detained persons must be provided with written reasons for their detention at the time of initial detention and after that, at least monthly.</u></p> <p><u>Every detained person must be provided with a copy of a compact (document setting out certain rights to be enjoyed and responsibilities to be undertaken by detainees during their stay at the IRC) in a language they understand as soon as possible after their</u></p>

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		<p>reception into the IRC. All detainees are entitled to retain all their personal property, except cash, unless there are issues of safety or security; or when this is not compatible with storage facilities provided at the IRC.</p> <p>Detained persons are also entitled to receive visits from, and communicate with, persons outside the IRC, save to the extent necessary in the interests of security and safety.</p>
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