



European Migration Network

Ad-Hoc Query on Freedom of Movement, Age Assessment of Asylum Applicants, etc

Requested by AT EMN NCP on 23rd April 2009

Compilation produced 16 May 2009

Responses from Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Latvia, Lithuania, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom (16 in Total)

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1. Background Information

The Austrian Ministry of the Interior has requested the following ad hoc query (four questions) concerning residence requirement, reporting obligation and freedom of movement of asylum applicants as well as concerning age assessment when the age indicated by the asylum applicant is doubtful.





2. Responses¹

		Wider Dissemination? ²	<p>I) <i>Does your legislation envisage a <u>residence requirement</u> for asylum applicants (=the asylum applicants have to stay in a certain district, territory of a municipality, etc) - generally or under specific conditions (i.e. for Dublin cases, in case of consecutive applications, in case of liability to criminal punishment)?</i></p> <p><i>If yes,</i></p> <ul style="list-style-type: none"> - <i>How is the monitoring of such a residence requirement organised?</i> - <i>What are the consequences if the asylum applicant leaves this limited territory without permission (violation of residence requirement) ?</i>
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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.

EMN Ad-Hoc Query: Freedom of Movement, Age Assessment of Asylum Applicants, etc


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	Austria	No	"This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."
	Belgium	Yes	<p>In Belgium there are in principal no residence requirements for the asylum seeker. The Constitution guarantees a free choice of residence in Belgium, including the asylum seekers. The federal state can only impose an administrative place of residence to the asylum seeker, through which he/she receives material aid. The rule is that the asylum seeker is upon his application assigned to a reception centre by Fedasil, taking into account as much as possible the specific needs of the applicant. The first four months this will in principal be a collective reception centre, and afterwards the person can be transferred to a local, more individual reception facility. Only in the reception structure the applicant will receive material assistance from the state (housing, social, legal, and medical assistance). However, the applicant is under no obligation to stay in the assigned reception structure but in that case he/she will no (longer) have right to material assistance, except for medical care.</p> <p>The Immigration Department can decide to transfer an asylum applicant according to the Dublin Regulations. A distinction can be made between on the one hand asylum applicants at the border and on the other hand asylum applicants within the territory. In case a asylum claim is made at the border, the applicant will in most cases be detained in a detention centre pending a decision of the Immigration Department. In case the asylum claim is made within the territory the applicant the applicant can be detained for 1 month (renewable for 1 month in complex cases) for the Dublin-investigation. In practice the possible detention will depend on the number of places available in the detention centres. Thus, in most cases the applicant will be assigned to an open reception centre. Once the Immigration Department takes a decision the applicant can be detained in order to be transferred.</p> <p>In case of liability to criminal punishment the applicant can be detained in a prison.</p>
	Czech Republic	Yes	<p>Generally, we have no residence requirements as to locality.</p> <p>An applicant for international protection must reside either on the address of the facility (Refugee Integration Facility) in which he/she was placed by the Ministry or on private address. In the latter case, the address must be checked by the Police as to the habitability of the property.</p> <p>An applicant must have a pass to leave the asylum facility for a period longer than 24 hours. If he/she returns to the facility after the deadline set in the pass he/she may be fined. If he/she does not return to the facility, steps are taken to suspend the asylum proceeding.</p>
	Estonia	Yes	<p>In Estonia the Act on Granting International Protection to Aliens envisages a residence requirements and surveillance measures.</p> <p>The residence of asylum seekers is regulated in the above named law in § 34. In Estonia all asylum seekers are generally accommodated at the Illuka Reception Centre for Asylum Seekers, where they are requested to spend their nights (from 10. p.m. to 6 a.m.). If the asylum</p>

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			<p>seekers want to live somewhere else, they have to submit a relevant application to the Citizenship and Migration Board (CMB). With the written permission of the CMB the asylum seeker may reside outside the reception centre if:</p> <ul style="list-style-type: none"> · their accommodation and subsistence is ensured by their relative or friend legally residing in Estonia or · they have sufficient financial resources to ensure their accommodation and subsistence or · this is necessary for their security. <p>Their residence is not limited to any district.</p> <p>§ 29 of the Act stipulates the surveillance measures. For the effective and efficient, simple and expedient conduct of asylum proceedings, the CMB may apply the following surveillance measures with respect to applicants:</p> <ol style="list-style-type: none"> 1) residing in a determined place of residence; 2) appearing for registration at the CMB at prescribed intervals; 3) notifying the CMB of absence from the place of residence for a period longer than three days. <p>Officials of the CMB and police officers have the right to verify the compliance of applicants with the surveillance measures at any time. An applicant is informed in writing of the application of surveillance measures.</p> <p>If there is a violation of surveillance measures (including residence requirement) then the CMB considers the application clearly unfounded (§ 20 section 1 p 8) or presumes that the application for asylum has been withdrawn indirectly or waived (§ 23 sec. 1 p 2- the applicant is in hiding or has left his or her residence or the initial reception centre or the reception centre without permission without having had informed the CMB).</p> <p>The Act also foresees the possibility to detain (with the permission of court) an asylum seeker if he/she fails to comply with the surveillance measures applied with respect to him or her, or fails to perform other duties provided by law (§ 32) and he/she is obliged to live in the reception centre (§ 34 section 4).</p>
	<p>Finland</p>	<p align="center">Yes</p>	<p>In principle an asylum seeker can choose where to live, according to wherever one finds accommodation, if the person can afford to pay for his own living costs. Few people are able to do so. Of course the Finnish authorities need to have knowledge of the person's address to be able to contact him / her in regards to interrogation, asylum interview, and notifications of decisions on the person's case.</p> <p>When an asylum applicant, who can not afford to arrange one's own accommodation independently, announces that he / she is applying for political asylum, accommodation is arranged for in a reception centre. The Police or the Border Guard direct the person to the closest transit centre, from where the applicant is forwarded to another reception centre, where he stays while waiting for a decision on the asylum case. The goal is that both the Police interrogation (for the identity and the travel route) and the Finnish Immigration Service interview (for the persecution grounds) are conducted while the person is staying in Transit Unit. Currently, due to the large numbers of asylum applicants, the transit units are forced to forward persons to other reception centres before the above mentioned measures, which are meant to be conducted during the Transit Unit stay, have been completed.</p>






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			<p>Living in a reception centre is cost free to the applicant, if he / she is without means and receives income support to secure his living. If the applicant is working and earns sufficiently enough (according to the norm calculated by the social worker), he / she has to pay for his accommodation in the reception centre.</p> <p>A person can transfer from the reception centre to a so called private accommodation, but only on the approval of the reception centre's personnel. This approval requires, that the housing association which runs the building into which the person is moving, is aware of the matter and accepts the asylum applicant moving into the premises. Furthermore, the reception centre requires a copy of the register of occupants from the housing association (to verify who else are living in that address.)</p> <p>If the housing unit is owned by a private person, the owner's prior approval is needed. An applicant staying in private accommodation does not receive financial support for his / her living costs (as there is an option for living in a reception centre), but he / she has to use the income support received from the state funds also for the accommodation expensed. The income support received by the asylum applicants is 10 % lower compared to the general income support stipulated in the law.</p> <p>Persons staying in private accommodation in Helsinki area are under the responsibility of Metsälä reception centre, which is situated in the outskirts of Helsinki, and they are registered having Metsälä as their official municipality. Likewise, some asylum seekers living elsewhere in southern Finland, in such places as the town of Porvoo on the southern coast, and in Tampere (180 km north of Helsinki), where the reception centre was closed down, are also registered in Metsälä reception centre. Thus, all their health and social services are provided by Metsälä reception centre. Living in private accommodation in Helsinki while waiting for a decision on the asylum application does not guarantee that after a positive decision has been made, Helsinki will be appointed as the municipality for them to stay in. In practice, however, most of them end up staying long term in Helsinki or around the capital city area. One can also stay in private accommodation elsewhere in Finland while waiting for asylum decision. In those cases the person is registered under the closest reception centre.</p>
	<p>Germany</p>	<p align="center">Yes</p>	<p>In Germany the permission for asylum seekers to reside during the asylum procedure is limited to the district of the foreigners authority where the reception centre responsible for receiving the foreigner is located. In cases when the asylum seeker holds a residence title with an overall validity of more than six months, the permission to reside is limited to the district of the foreigners authority where the foreigner is staying.</p>
	<p>Latvia</p>	<p align="center">Yes</p>	<p>The national legislation does not stipulate any requirements regarding to the place of residence in meaning of limited territory. Generally there are three possibilities where an asylum seeker is staying during the asylum procedure:</p> <ol style="list-style-type: none"> 1) at the reception centre for asylum seekers. At the moment there is one asylum seeker reception centre not far from the capital which is in charge of the Office of Citizenship and Migration Affairs of the Ministry of Interior; 2) if there is any other legal reason for staying in Latvia (for example, visa or residence permit) an asylum seeker is not placed in the reception centre; 3) if the decision on detention has been made an asylum seeker is staying in the special detention centre which is in charge of State Border Guard. According to the Asylum Law the State Border Guard may present a submission regarding the extension of the time period of detention repeatedly, however, the total detention time period may not exceed the time period for the examination of an


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			application.
	Lithuania	Yes	<p>In Lithuania asylum applicants can choose their place of residence. If they choose to stay outside the Aliens' registration centre they must ensure that the authorities can contact them. If the asylum applicant does not contact a relevant authority during a month the examination of his/her application can be suspended.</p> <p>If a asylum seeker does not have any place of residence in Lithuania he/she might choose to reside in the Aliens' registration centre. In this case he/she must register at the centre every 24 hours.</p> <p>Asylum seekers, which are legally present in Lithuania, may choose a place of residence according to their discretion. In such case they write a request to the Migration department under the Ministry of Interior indicating the address in Lithuania where they intend to reside. If the Migration department establishes that the asylum seeker is legally present in Lithuania, the permission to reside in the chosen place is granted.</p> <p>- If the asylum applicant does not contact a relevant authority during a month the examination of his/her application can be suspended.</p>
	Netherlands	Yes	<p>Yes.</p> <p>During the accelerated asylum procedure the applicant is required to stay in the application centre during the hours (between 8.00 and 18.00 h.) that are designated for the examination of the asylum claim. If the presence of the applicant is not needed for the procedure, the applicant is allowed to leave the centre. This instruction is given based on article 55 of the Aliens Act 2000.</p> <p>During the normal asylum procedure the applicant is granted reception and required to stay in a designated accommodation centre. The application is allowed to leave the centre/municipality as long as his presence is not required for the examination of his asylum claim. Instructions are also given based on article 55 of the Aliens Act 2000.</p> <p>The monitoring of these residence requirements is organised by a reporting obligation.</p> <p>In case the asylum applicant does not follow the instructions given, this may have (negative) consequences on the assessment of the application.</p>
	Poland	Yes	<p>There is no general residence requirement for asylum applicants except one to reside within the territory of Poland till the final decision is made. An exception may be made for applicants who were released from detention. They may be ordered not to leave a certain territory (town, municipality) without permission and report regularly to authorities. The order may be issued by the Chief of the Office for Foreigners and must specify authorities and time intervals the applicant should report at. Non compliance with the order is punished by a fine. One should notice that this measure is non obligatory.</p>
	Portugal	Yes	Not applicable.
	Slovak Republic	Yes	<p>Movements of asylum seekers within Slovakia (except of obligatory quarantine during which they can not leave the reception centre which lasts until the results of the medical exams are known- usually 30 days) are restricted by the obligation to have a leave permit issued by the authorities in the residence centre (in case of short-term stays outside the centre –up to one week) or to have such a leave permit and to notify the Alien Police Department of their place of stay (in case of long-term stays outside the residence centre).</p> <p>If the asylum seekers in Slovakia want to live outside the residence centre (run by the Migration Office), they have to apply for a long-</p>




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			<p>term permit with the decision-maker of the Migration Office. In this case, the applicant must prove that s/he has a valid accommodation lease and the necessary financial means. It is also possible for another person to sign a declaration of honor, stating that the applicant will live with him/her and that s/he will cover all necessary expenses. This declaration has to be verified by a public notary. The long-term permit is issued for up to a month. The applicant, who is granted such a long-term permit, has to notify the Alien Police Department of the place where s/he is staying within three days. The long-term permit can be repeatedly renewed.</p> <p>In case of a criminal punishment same procedures as to the citizens of the Slovak Republic are applicable – freedom of movement can be restricted, when there are reasons for custody or when the foreigner is consecutively condemned for imprisonment.</p> <p>As for the monitoring, this is irrelevant for the short term stay. Concerning the long term stay, the practice is so, that the copy of the leave permit is sent to the respective Alien Police Department. If the applicant does not notify him or herself to the respective Alien Police Department, in case of a next request for the leave permit s/he is warned that if s/he will not fulfill this obligation the permit will be not granted. In practice, this is not happening.</p> <p>Consequences in case of the leave of the centre without a permit are following: If the applicant is out of the centre for more than 7 days without a leave permit or the applicant arbitrarily leaves the Slovak Republic, the asylum procedure is stopped. In case the asylum procedure is stopped for the above reasons and than again restarted, the applicant is not granted the pocket money.</p>
	<p>Slovenia</p>	<p align="center">Yes</p>	<p>The Slovene International Protection Act provides that the applicants for international protection have the right to reside in Slovenia. The Ministry of the Interior of the Republic of Slovenia organises the Asylum Centre for the accommodation of the applicants where they stay until the procedure for granting the international protection is final. For accommodating asylum applicant branches of Asylum Centre may be established in order to resettle the applicants more evenly on the national territory.</p> <p>This provisions therefore show that the applicants whose movement is not restricted are allowed to move freely in the Slovene territory yet they have the duty to return to the Asylum Centre every day. If they wish to be absent from the Centre for several days they have to apply for a special permission.</p> <p>The Act also provides that in exceptional cases (such as medical reasons, trauma etc.) the applicants may be accommodated also in other institutions (safe house, for example) or at a private address. In these cases the competent authority periodically performs the control over their accommodation. The Slovene International Protection Act provides in Article 51 that the applicant’s freedom of movement can be restricted to the premises of Asylum Centre, its branch or to other suitable facilities of the Ministry of the Interior. The restriction applies until the cessation of reasons thereof but for no more than three (3) months. If the reasons persist the restriction can be extended for another one month.</p> <p>In the so called Dublin cases the competent authority may restrict the applicant’s movement until his/her extradition to another country:</p> <ul style="list-style-type: none"> - on the date when a positive result regarding the existence of fingerprints in the Eurodac database has been received based on the Regulation 2000/2725/ EC; - when the applicant is issued with the decision based on Regulation 2003/343/EC stating that Slovenia is not the Member State responsible for examining his/her asylum application; - If there is evidence or indirect circumstance from Regulation 2003/343/EC including the information from Section III of Regulation 2000/2725/EC based on which it has been established that the applicant illegally crossed the Member State’s national border on arriving from a third country; and - If he/she has a visa or a residence permit of another Member State which is deemed the reason for determining the responsible Member

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			State under Regulation 2003/343/EC. Slovenia therefore has not particular "residence requirements".
	Spain	Yes	Asylum seekers in Spain obtain a permit of stay until their asylum proceedings are finalised. Such permits do not involve any limitations as regards geographical mobility. In other words they may reside wherever they wish within Spanish territory. They are only required to give notice of their address and, should it change, they should also give notice thereof. The art. 18 of the asylum law estipulate that in cases of security risks exist a limitation, and is the State who establishes where they must reside
	Sweden	Yes	No.
	United Kingdom	Yes	In the UK asylum applicants may be 'dispersed' and given accommodation in different parts of the UK. Asylum seekers can request to be accommodated in a particular region / area, and UKBA will consider such a request on a case by case basis. For example if an individual is receiving specialist medical treatment in a particular area, we would not disperse them elsewhere if they could not receive the same level of care in the new area. Applicants are free to reside in a place of their choice, but in this case their accommodation expenses may not be provided.

		Wider Dissemination?³	2) <i>Does your legislation envisage a regular reporting obligation for asylum applicants to the authorities (i.e. accommodation centre, asylum authority or police)- generally or under specific conditions (i.e. for Dublin cases, in case of consecutive applications, in case of liability to criminal punishment)?</i> <i>If, yes:</i> - <i>How is the reporting obligation implemented (electronically, personal contact with the authorities)</i> - <i>What are the consequences of the violation of the reporting obligation?</i>
	Austria	No.	"This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."
	Belgium	Yes	As mentioned, there are no specific residence requirements for asylum seekers. However, there are <ul style="list-style-type: none"> - internal regulations specific to the reception centres where the applicants needs to report on a regular basis in order to keep his assigned place in the reception centre. - requirements to present oneself at the municipality to get a prolongation of the residence permit. If this is not done in time, the applicant will stay illegally on the territory - requirements to present oneself at an interview with the asylum authorities; otherwise this can lead to a negative decision in his/her asylum claim

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	Czech Republic	Yes	An applicant residing on private address must report to the nearest asylum facility each 1-3 months for renewal of his/her certificate of the applicant for international protection. Failing to do so is an offence and the applicant may be fined.
	Estonia	Yes	Yes. - The applicant has to appear for the registration at the CMB at prescribed intervals. - Vide answer 1.
	Finland	Yes	In normal case, there is no legal obligation to report to the asylum authorities. An asylum seeker residing in reception centre is, however, asked to report one's address and/or phone number e.g. when staying with friends. Under Aliens Act section 118 an alien may be obliged to report at regular intervals to police or border check authorities if this is necessary for: 1) establishing that he or she meets the requirements for entry into the country; or 2) preparing or ensuring the enforcement of a decision on removing the alien from the country, or for otherwise supervising that the alien leaves the country. (2) The obligation to report is ordered by the authorities preparing the matter referred to in subsection 1 or the enforcement authorities. The person obliged to report shall be informed of the grounds for the obligation. (3) The obligation to report is in force until it has been established that the alien meets the requirements for entry, a decision on removal from the country has been enforced or the processing of the matter has ended otherwise. However, the obligation to report shall be immediately ordered to end when it is no longer necessary for ensuring the issue or enforcement of a decision. Reporting obligation is implemented by personal contact with the authorities. Violating obligation to report leads to issuing a warrant for a person's arrest.
	Germany	Yes	No, there is no reporting obligation for asylum applicants, but they are obliged to live in the reception centre and not allowed to leave the district of their foreigners authority. In so far they are under surveillance of the foreigners authority. If they leave the district of their foreigners authority without an official permission, they receive a fine.
	Latvia	Yes	According to the Asylum Law an asylum seeker can leave the reception centre if he gets the permission from the reception centre's administration. Asylum seeker has a right to leave the centre without the permission in situations mentioned in the Directive 2003/9/EC. In the case when the asylum seeker leaves the centre without permission and there is no information about of his place of state during 48 hours, the centre's administration can take a decision to cease a payment of allowances.
	Lithuania	Yes	If asylum applicant stays outside the Aliens registration centre, he/she must ensure that relevant authorities can contact him/her within 72 hours. No reporting obligation is foreseen. If asylum applicant resides in the Aliens' registration centre, he/she must report every 24 hours. Reporting is done every time when the applicant leaves/returns to the Aliens' registration centre. In case he/she does not report on time the Centre informs the Migration Department.





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	Netherlands	Yes	Yes Asylum seekers have an obligation to report weekly to the Aliens Police during the normal procedure, by means of a fingerprint recognition system. If they do not report for two consecutive weeks without having a good reason, the asylum procedure is ended, along with any reception benefits.
	Poland	Yes	For information on reporting obligation “ <i>sensu stricte</i> ” please see the answer to the question No. 1. In general the applicant is not required to report to any authorities. Applicants who receive social assistance must remain in reception centres or collect the assistance in person if they are accommodated outside reception centres. Failure to appear results in suspension of the assistance.
	Portugal	Yes	Not applicable.
	Slovak Republic	Yes	In case of a short term stay, the applicant is obliged to state in his/her request for a leave permit the place of his/her stay during this period of time (max. 7 days- see also response to question Nr. 1). In case of a long term permit the applicant has to notify the relevant Alien Police Department of the place where s/he is staying within three days. Any changes in this regard have to be notified accordingly within 3 days. The notification is done personally and the consequences are described in the answer to question Nr. 1. In practice, there are no particular problems in this regard.
	Slovenia	Yes	An applicant for international protection in Slovenia has only the duty to be available at all times to the competent authority, respond to its invitations and observe its instructions
	Spain	No	"This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."
	Sweden	Yes	An asylum seeker can be put under supervision which means that he/she will have to personally report at a time and place decided by the authority on a regular basis. Other special conditions can also apply. Supervision is used as an alternative to detention and can be used under the same conditions: - if the identity is unclear, - if there is reason to believe that the asylum seeker will hide or get involved in illegal activities. If supervision is violated the person can be put in detention.
	United Kingdom	Yes	All non detained asylum applicants have a reporting obligation. The legal basis for requiring an applicant to report to the UKBA, or the police, is provided under section 21(2) of Schedule 2 to the Immigration Act 1971 and was further expanded under section 71 of the Nationality and Immigration Act 2002. The frequency of the reporting obligation is set by the applicants UKBA ‘case owner’ according to particular and prevailing circumstances. Asylum applicants ‘report’ in person by visiting a reporting centre or police station. The Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) states that asylum applicants can be electronically monitored. Failure to report may result in the loss of subsistence payments and a reassessment of the contact management regime, as well as scope for electronic monitoring (tagging or voice recognition (VR)), or increased physical reporting, or detention.

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		Wider Dissemination? ⁴	3) Does your legislation envisage a <u>restriction of freedom of movement</u> for asylum applicants – the obligation to reside at a certain place - which is <u>distinct</u> from detention pending deportation? If yes, - How is this detention organised, where does it take place (detention centres, police custody) and how long is it? - What are the consequences if the asylum applicant leaves this detention place without permission?
	Austria	No.	"This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."
	Belgium	Yes	No.
	Czech Republic	Yes	In case that a foreign national detained in a <u>detention centre</u> for the purpose of expulsion, readmission or leaving of the territory or an imprisoned foreign national applies for international protection, he/she cannot be released from detention/prison. An applicant for international protection (except for certain categories of applicants) may be ordered to stay in a <u>reception centre</u> until leaving the Territory but no more than 120 days if the applicant's identity was not established, if the applicant produced falsified or altered identity documents, or in case of a well-founded assumption that the applicant could threaten security of the state. The Police shall place an alien who has made the Declaration on International Protection in the transit zone of an international airport into a <u>reception centre at the international airport</u> . An applicant for international protection may not leave the reception centre even after his/her identification, medical examination, and quarantine (or other measures related to the protection of public health) are completed, and a visa for the purposes of the asylum proceedings is issued for him/her. The length of stay of a foreign national in a reception centre at an international airport shall not exceed 120 days from the date of the Declaration on International Protection made by the foreign national. Also, a foreign national whose identity was not established in a reliable manner, who produced falsified or altered identity documents, or for whom there is a well-founded assumption that he/she could threaten security of the state, public health or public order, will not be allowed to enter the Territory.
	Estonia	Yes	Yes. § 32 of the Act stipulates the detention of applicants at initial reception centre and stay in offices of the CMB. An applicant who has submitted an application during his or her stay in the country may be detained at the initial reception centre but not for longer than 48 hours. With the permission of an administrative court judge, an applicant may be detained and be required to stay at the initial reception centre after the expiry of the 48 hours in the following cases: 1) the identity of the applicant has not been not ascertained, including in the case where the applicant does not co-operate in the identification or hinders identification;

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			<p>2) for establishing circumstances relevant to the asylum proceedings if the applicant does not co-operate in establishment of the circumstances provided for or hinders the establishment thereof;</p> <p>3) there is good reason to believe that the applicant has committed a serious criminal offence in a foreign state;</p> <p>4) the applicant has repeatedly or seriously violated the internal procedure rules of the reception centre;</p> <p>5) the applicant fails to comply with the surveillance measures applied with respect to him or her, or fails to perform other duties provided by law;</p> <p>6) the applicant's stay at the initial reception centre is necessary in the interests of the protection of national security and public order.</p> <p>An applicant who is required to stay at the initial reception centre is permitted to leave the centre with the written permission of the CMB, or in order to receive emergency medical care.</p>
	Finland	Yes	<p>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. 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>Helsinki Detention Centre is responsible for the services for Detainees under the Aliens Act in cooperation of the Police Administration and the Frontier Guard. The authorities handling the matter shall order a detained alien to be released immediately once the requirements for detention cease to exist. The detention centre is closed, but the detainees are not segregated in their rooms except when the person acts e.g. violently and needs isolation. The 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>In other parts of Finland the asylum seekers are still kept in police premises.</p>
	Germany	Yes	<p>Asylum applicants are only obliged to live in the reception centre and not allowed to leave the district of their foreigners authority for the period of their asylum procedure (s. question 2). The reception centre is a public building, which the applicant may leave – following the specific regulations of the centre - unless he doesn't leave the restricted territory of his foreigners authority. The centre is managed by the foreigners authority.</p>
	Latvia	Yes	<p>Please, see the reply on question 2)</p>
	Lithuania	Yes	<p>Asylum applicants may be detained in the Aliens' registration centre only by the decision of the court.</p>
	Netherlands	Yes	<p>Yes.</p> <p>Accelerated procedure at Schiphol airport</p>




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			<p>Asylum seekers who are refused entry to the Netherlands, are transferred to a closed application centre at Schiphol airport. In case the application is rejected, the asylum seeker remains in (border) detention. There is only a maximum duration of (border) detention for families with children. In those cases (border) detention can only continue for a maximum of four weeks after the final rejection of the asylum application (including the appeal before the Administration Court).</p> <p><u>Normal procedure</u> During the normal asylum procedure, detention occurs if it is expected that the application will be rejected and the public order or national security is at risk. In that case, the asylum-seeker is placed in a detention centre.</p> <p><u>Procedure in detention</u> There are also possibilities for foreign nationals to make an application for asylum while they are already in detention. In that case detention of an asylum seeker who is allowed to await the outcome of an asylum application in the Netherlands can not last longer than six weeks. The detention of families with children that apply for asylum can only continue for a maximum of two weeks.</p> <p><u>Appeal</u> Decisions to detain may be appealed before the Administrative Court. The IND has to inform the Administrative Court within 28 days on the detention measure, unless the decision to detain has been appealed by the foreign national.</p> <p>The applicants who are in detention during the asylum procedure will not be able to leave the detention places because these places are closed detention centres.</p>
	Poland	Yes	See answer to Q1.
	Portugal	Yes	Not applicable.
	Slovak Republic	Yes	Obligations of the applicant as for the freedom of movement are described in the response to question Nr. 1. Further to this response the applicant is obliged to stay in the reception centre assigned by the Migration Office until the results of his/her medical exams are known, or when an isolation or a quarantine have been ordered due to the prevention against infective diseases.
	Slovenia	Yes	<p>The applicant's movement can be temporarily restricted if this is necessary for the following reasons:</p> <ul style="list-style-type: none"> - to establish the applicant's identity; or - due to a suspect of deception or abuse of the procedure, particularly for the reasons from the fourth, fifth, sixth, seventh, eighth, ninth, tenth, twelfth, fifteenth and sixteenth sub-paragraph of Article 55 of this Act or; - due to endangering life or property of other people; or - to prevent contagious diseases from spreading. <p>The movement can be restricted:</p> <ul style="list-style-type: none"> - to the area of Asylum Centre or its branch; or - to the facility of Asylum Centre designed for that purpose or in another suitable facility of the Ministry.

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			<p>The restriction on movement is ordered by the decision of the Ministry. A certified copy of the decision is issued by the competent authority no later than in 48 hours after the oral sentence. The restriction on movement can last until the cessation of reasons but no more than three months. If the reasons for the restriction on movement still exist after this period of time the restriction can be extended for another month. The applicant has the right to appeal the decision on the restriction of movement before the Administrative Court in three days after the decision has been served. The Court has to decide the suit in three working days after a preliminary oral hearing. If the applicant arbitrarily leaves the Asylum Centre or its branch and has not returned there in three days after such an arbitrary departure it is deemed that his/her application is withdrawn.</p>
	Spain	Yes	<ul style="list-style-type: none"> - No, It doesn't - They stay in detention Centers not more than 40 days - He is detained again.
	Sweden	Yes	No.
	United Kingdom	Yes	<p>Any asylum claim, whatever the nationality or country of origin of the claimant, may be fast tracked through the Detained Fast Track procedure, if after the screening process, it appears to be one which may be decided quickly, and if the applicant is not someone to whom the general Fast Track exclusion criteria apply, for instance, where significant health problems could not be adequately treated within detention.</p> <p>Fast Track asylum applicants are accommodated until their asylum claim is concluded in Immigration Removal Centres designated for the Detained Fast Track system. The asylum applicant cannot leave the detention centres as they are secure units.</p>

		Wider Dissemination?⁵	<p>4) Please describe briefly the legal background and the practice to assess the age of asylum applicants, if the (minor) age claimed by the asylum applicant is <u>doubtful</u>. Do you carry out <u>medical examinations to assess the age of the asylum applicants</u>?</p> <p><i>If, yes</i></p> <ul style="list-style-type: none"> - <i>What are these medical examinations?</i> - <i>Do you carry out radiological examinations?</i> - <i>Are the checkups voluntary or can they be carried out against the explicit will of the asylum applicant (forced)?</i> - <i>What are the consequences if the asylum applicant refuses to cooperate?</i>
	Austria	No.	"This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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	Belgium	Yes	<p>The Guardianship Office is in charge of the age assessment procedure and will perform a so-called “triple test”. People are referred to a forensic odontologist. The age assessment is based on the clinical impression of an experienced dentist and the radiological examination of the dentition, the hand wrist of the non-dominant hand and the medial ends of both collarbones.</p> <p>According to the Law on the Patience Rights the minor will have to give his/her consent to the medical examination.</p> <p>There are no legal specifications yet to deal with the refusal of the minor to have carried out the medical examination. In practice the Guardianship Office will use all other elements at their disposition (e.g. documents, statements of the minor, etc.) to do the age assessment. The fact that the asylum applicant refuses to cooperate to the age determination procedure has no effect on the appreciation of his/her asylum claim.</p>
	Czech Republic	Yes	<p>Yes, in case of doubts about the declared age medical examinations may be carried out, consisting of radiological (X-ray picture of forearm) and psychical examination, or psychological tests.</p> <p>If the applicant who declared himself minor but his/her age is doubtful does not permit to be examined he/she is no longer regarded minor</p>
	Estonia	Yes	<p>According to the Act on Granting International Protection to Aliens, if the CMB has reasoned doubts regarding the information provided by the applicant in respect of his/her age, medical examination for establishing age may be conducted with the consent of the applicant or his representative. If an unaccompanied minor refuses to undergo medical examination his/her application for asylum may not be rejected solely on such grounds. The medical examination will be conducted by the Estonian Forensic Science Institute (EFSI) which is a state agency and administered by the Ministry of Justice. The EFSI is using for the age examinations Tanner & Whitehouse (TW-2) method and the tooth X-ray (roentgen) method. In the practice the method was used only once in case of illegal immigration.</p>
	Finland	No	<p>"This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."</p>
	Germany	Yes	<p>The age of unaccompanied minors or young adults without passport or other documents is only estimated by their appearance, if they apply for asylum at the federal office. Some foreigners authorities proceed in the same way, others determine the age by medical examinations like tooth examination or carpal bone analyses. These examinations are voluntary.</p>
	Latvia	Yes	<p>According to the national practice in case where there are doubts about the age of asylum seeker the medical examination is carried out by specialists. The medical examination to assess the age of asylum seeker is compulsory and is based on the provision of the Asylum Law that an asylum seeker has a duty to co-operate with the institution involved in the asylum procedure. If the asylum seeker refuses a duty to cooperate it is taken into consideration when the decision on asylum status is taken.</p>
	Lithuania	Yes	<p>Lithuania has general rules to assess the age of asylum applicants.</p> <p>If there are reasonable grounds to doubt the alien's age, the Migration Department may oblige the alien who is applying for the issue of a residence permit or for the granting of asylum to undergo an age determination test (radiological examination). The test is performed only with the consent of the asylum applicant (or parents/tutors/legal representatives in case of a minor). If the applicant refuses to undergo an age determination test for no justifiable reasons is deemed to mislead the investigation. In such a case Migration department takes a final decision on the application. Minors are not singled out as a separate group therefore general conditions for them must apply. In practice</p>






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			there have been only 2 cases when the age determination test was done.
	Netherlands	Yes	<p>Yes.</p> <p>Age assessment in the Netherlands is carried out by means of radiological examination. This is done by the X-ray of the radius (wrist joint) supplemented by an X-ray of the medial end of the clavicles (collar bone).</p> <p>Age examinations may have three outcomes in the Netherlands:</p> <ol style="list-style-type: none"> a. The radius and clavicles have not matured fully; b. The radius has fully matured, the clavicles have not; c. The radius and clavicles have matured fully. <p>The following applies to men:</p> <p>Re a) If the radius and clavicle have not matured, the individual's calendar age is estimated to be between 0 and 20. If he has claimed an age of below 18 years, this age will be accepted.</p> <p>Re b) If the radius has matured and the clavicle has not, the calendar age is estimated to be being between 16 and 32. If he has claimed an age within these limits, it will be accepted. If he has claimed an age below 16, it will not be accepted. In that case, the age concluded by the examiner is adopted and the applicant is allocated a date of birth in the manner set out above.</p> <p>Re c) If the radius and clavicle have both matured, the individual will be deemed to be at least 20 years old. If he has stated an age of below 20, it is not accepted. In that case he will be assigned a new date of birth based on the examination results in the manner set out above, based on the assumption that the applicant was twenty years old at the time the X-rays were taken.</p> <p>The following applies to women:</p> <p>Re a) If the radius and clavicle have not matured, the calendar age is estimated to be between 0 and 19. If the individual has claimed an age of below 18 years, this age will be accepted.</p> <p>Re b) If the radius is matured and the clavicle is not, the calendar age is estimated to be between 14,7 and 32 years. If the individual has claimed an aged within these limits, this age is accepted. If she has stated an age below 15, this is not accepted. In that event the conclusion drawn by the examiner in respect of the age will be adopted and she will be allocated a date of birth in the manner set out above.</p> <p>Re c) If the radius and clavicle have both matured, the calendar age will be regarded to be at least over 20. If the individual has claimed an age below 20, this will not be accepted. In that case she will be allocated a new date of birth based on the examination results in the manner set out above. This will be based on the assumption that the applicant was twenty years old at the time the X-rays were taken.</p> <p>Participation in a radiological age assessment is voluntary. It cannot be carried out against the explicit will of the asylum applicant, since the child himself will have to request to have is age tested. The child will have to sign a form (model M39C). This is after the interviewer has informed the child that the IND has doubt about the given age. A folder about the age testing is handed out to the applicant. The applicant has the right to deny the use of age testing, In that case the IND will handle the request for asylum as an adult.</p> <p>If the child is under 15 years of age the form will have to be signed by their legal guardian.</p>


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	Poland	Yes	Act of 13.06.2003 on granting protection to aliens within the territory of Republic of Poland provides for voluntary medical examination. The law does not specify methods of the examination (commonly used – wrist or collarbone radiology, dental examination.) The result of the examination should specify the age of the applicant and imprecision limits. If the applicant refuses to cooperate he/she is deemed adult. (Art. 30)
	Portugal	Yes	<p>Yes. When a non-EU citizen applicant for asylum, undocumented, claims to be minor and there are doubts about the stated age and this is relevant for the asylum process, medical examinations are conducted to determine the minority invoked, and are requested to the competent entity to do so.</p> <p>- The medical examinations are a panoramic radiography to determine the dental age and radiological examinations to the wrist and ribs bone for age determination.</p> <p>- All the medical examinations are voluntary, but it's always required the consent of the asylum seeker.</p> <p>- Portugal has a small universe of applicants, minors of age, and never has been any case in which the applicant has not given his consent. If this occurs, the refusal and the reasons invoked are assessed in the context of asylum.</p>
	Slovak Republic	Yes	<p>Based on the § 23, Art. 7 of the Law on Asylum the applicant is obliged to undergo the medical examination, when the ministry has doubts about his/her age. When this is a foreigner according to the § 16 Art. 2 of the Law on Asylum (minor), the consent of the statutory representative or a guardian is needed. When based on the medical examination it is detected that the foreigner is an adult, the applicant is treated by the ministry as an adult and the results of the medical examination are announced to the statutory representative or guardian and to the responsible court. When the foreigner refuses to undergo the medical examination or when the statutory representative or a guardian does not give his/her consent the foreigner, for the proceedings according to this law, is considered as an adult. When based on the medical examination it is impossible to determine if the foreigner is an adult or a minor, for the proceedings according to this law, the foreigner is considered as a minor and the statutory representative or a guardian is immediately informed. The ministry informs the applicant about possibilities of the medical examination for the age determination, modalities of its execution, about its consequences on the examination of the asylum application and about the consequences of its refusal.</p> <p>The check ups can not be carried out against the explicit will of the applicant, however in this case s/he is consider as an adult if it is not obvious that s/he is a minor.</p> <p>As for the practice the Slovak Republic carries out an X-ray examination of hands and elbow-joints based on which it is determined if the skeleton of the examined person corresponds to a person older than 18 years of age. Till today this kind of examination (especially due to high financial costs) was conducted only rarely.</p>
	Slovenia	Yes	Slovenia has no legal basis whatsoever to determine the age of minor applicants or children
	Spain	Yes	Yes, we carry out, in these cases, medical examinations and biometrical proofs.


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			<p>In general terms age of asylum applicants is assessed through the following procedure: documents and legal papers such as birth certificates and so on are first considered. In case of people not having any identity document, other sources of information would be considered. Basically, when situations are doubtful, in case of minors who have a doubtful age, not being clear whether this person is over 18 years old or not, biometric proofs are being taken, always in combination with regular or forensic medical exams. The procedure is decided by the Public Prosecutor or District Attorney, who asks the public health system doctor to make a radiological checking and a report from an expert in forensic medicine. Once these two steps are taken, the Public Prosecutor-Attorney decides on the doubtful age.</p> <p>What are these medical examinations? A) Public health system doctor makes radiological checking and B) report from an expert in forensic medicine. In the general evaluation of the case, within the medical examination, checking of the collarbone and the wrist bones and its cartilage is essential. Secondary Sexual characters and teeth are also considered. Additionally, in order to enter reception centres or for general examination other basic analysis of-blood, urine, checking of contagious diseases, spirometry, X-rays radiology, etc are made to assess the state of health.</p> <p>Do you carry out radiological examinations? Yes, of course, they are always carried out</p> <p>Are the checkups voluntary or can they be carried out against the explicit will of the asylum applicant (forced)? In doubtful situations and given the administrative procedure of repatriation, as well, these proofs are to be taken compulsory, in case of any person wanting to keep him or herself within the procedure, retaining the legal condition of asylum seeker. In Spain, until now, nobody in such a situation has ever rejected to undertake these proofs.</p> <p>What are the consequences if the asylum applicant refuses to cooperate?</p> <p>There are two basic consequences:</p> <ul style="list-style-type: none"> a) Application for international protection can be refused and the person can be set out of the procedure. b) In case of minors, repatriation or, in any case, withdrawal of the application and transfer to an immigrant status, in centres of reception of unaccompanied minors
	<p>Sweden</p>	<p align="center">Yes</p>	<p>There are various methods for determining an applicant's age. The most common method is to x-ray the applicant's bones. But the method is not reliable enough to determine age. To determine the applicant's age as reliably as possible, the following three examinations must be done:</p> <p><i>General assessment</i> The paediatric assessment constitutes the basis for the medical age determination. It primarily comprises a medical history and evaluation of height, weight and psychomotor and physical development, including pubertal development.</p> <p><i>Skeletal age determination</i> Skeletal age determination can be done via x-ray examination of various parts of the skeleton. In order to limit exposure to radiation, the examination should preferably be limited to examination of the bones of the hand. This should be performed by a specialist in paediatric radiology.</p> <p><i>Dental age determination</i></p>

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			<p>This examination uses the degree of dental development as assessed on x-ray images. This should be performed by a forensic odontologist.</p> <p>The examinations are voluntary but if the applicant refuses this will be noted in the case file.</p>
	United Kingdom	Yes	<p>Asylum Applicants presenting them selves as minors who have no identification documents to support their identity may have their age questioned by Immigration Officers during the asylum screening process. The UKBA will dispute the age of an applicant "who claims to be a child but whose physical appearance and/or general demeanour very strongly suggests that they are aged 18 or over, unless there is credible documentary or other persuasive evidence to demonstrate the age claimed. In borderline cases, it is the UK Border Agency's policy to give the applicant the benefit of the doubt and treat them as a child". If "the applicant's physical appearance/demeanour very strongly suggests that they are significantly over 18 years of age the applicant should be treated as an adult and be considered under the process instructions for adults.</p> <p>There is nothing contained within UK legislation that specifically deals with age assessments. However, the United Kingdom Border Agency (UKBA) bases age assessments on the applicant's physical appearance and/or general demeanour and any available documentation. The UKBA do not ask for medical evidence and do not conduct bone scans to resolve age dispute cases. It is UKBA's policy to accept a local authority (in England and Wales) Merton compliant age assessment as evidence of age. This is an assessment conducted by a social worker following guidance outlined by the Courts in a case called; <u><i>B v London Borough of Merton [2003] EWHC 1689 (Admin) (14th July 2003)</i></u>. This assessment is carried out based on personal history as well as ethnic and cultural information.</p> <p>If an age disputed applicant refuses to comply with a 'Merton compliant age assessment' then they will continue to be treated as an adult for asylum application purposes. Applicants are never forced to undergo age assessments of any kind. The UKBA does not use medical x-rays to assess age, but will consider these if submitted by the applicant.</p>
