



## EMN FOCUSSED STUDY 2014

# The use of detention and alternatives to detention in the context of immigration policies

National Contribution from Slovenia

*The Use of Detention and Alternatives to Detention in the Context of Immigration Policies*

The study was prepared by Legal-informational centre for nongovernmental organisations – PIC in cooperation with the National contact point of the European Migration Network in the Republic of Slovenia and the Ministry of the Interior of the Republic of Slovenia.

European Migration Network was established due to the need for exchange of information on all aspects of migrations and for the establishment of common asylum and migration policy. Council Decision 2008/381/EC which provides a legal basis for the establishment of the European Migration Network was adopted on 14 May, 2008.

More information on the European Migration Network is available at: [www.emm.si](http://www.emm.si).

## Top-line “Factsheet” (National Contribution)

### National contribution

*Overview of the National Contribution – introducing the study and drawing out key facts and figures from across all sections of the Focussed Study, with a particular emphasis on elements that will be of relevance to (national) policymakers.*

For the purposes of this study research was carried out into Slovenian legislation and practice regarding detention of third-country nationals. Two interviews have been carried out with officials of public authorities, responsible for imposing and administering detention and providing alternatives to detention in procedures with third-country nationals – the Internal Administrative Affairs, Migration and Naturalisation Directorate (a division of the Ministry of the Interior) and Centre for Foreigners (a division of the Police). Shorter inquiries and requests for statistical data have also been sent to other responsible authorities.

The study focuses on two types of detention that may be imposed on third-country nationals for a longer duration of time. Firstly, detention of applicants for international protection (maximum duration of four months), and secondly, detention of aliens that have been issued a return decision (maximum duration of six months, exceptionally extended to 12 months). The parts of the study that describe existing system of detention in “return decision” do not refer to shorter detention of aliens that are to be returned without a return decision (maximum duration of 48 hours). This shorter detention is briefly described under Section 2, Q1.

Currently, two alternatives to detention are being implemented in the system of immigration detention in the Republic of Slovenia and presented in the study – “restriction of movement to the area of the Asylum Home” in international protection procedures and “residence outside the Centre” in return procedures. Several measures separate but related to alternatives to detention (e.g. permission to stay, accommodation of vulnerable persons in other suitable facilities) are also described in the study.

Important findings of the study are summarized in Section 7 (Conclusions).

## Section 1: Overview of EU *acquis* (Maximum 2 pages)

*This section will be developed by the EMN Service Provider and no input from the EMN NCPs is required.*

## Section 2: Categories of third-country nationals that can be detained, national provisions and grounds for detention (Maximum 3 pages)

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Q1. Please complete the table below with regard to the categories of third-country nationals that can be detained in your Member State. Children and other vulnerable groups are not included in this table as they are a cross-cutting category; instead, they are dealt with in a separate question (Q2) after the table.

Categories of third-country nationals	Can third-country nationals under this category be detained? (Yes/No)	If yes, is the possibility to detain laid down in legislation? (Yes/No)	If the possibility to detain third-country nationals exists in your (Member) State but is not laid out in national legislation, please explain whether it is outlined in 'soft law' or policy guidelines	Please list the <b>grounds</b> for detention for each category of migrant that can be detained in your (Member) State.  Is there an <b>exhaustive list</b> of grounds outlined in your national framework?
<b>Applicants for international protection in ordinary procedures</b>	Yes	Yes	-	The grounds are set out exhaustively in the <b>International protection act</b> <sup>1</sup> (same for all applicants for international protection):  <ol style="list-style-type: none"> <li>1. establishing identity of the applicant;</li> <li>2. suspicion of deception and abuse of procedure;</li> <li>3. threat to other persons' life or property;</li> <li>4. pending safe third country procedure;</li> <li>5. pending Dublin procedure.</li> </ol>
<b>Applicants for international protection in fast-track (accelerated) procedures</b>	Yes	Yes	-	See "Applicants for international protection in ordinary procedures".
<b>Applicants for international protection subject to Dublin procedures</b>	Yes	Yes	-	See "Applicants for international protection in ordinary procedures".

<sup>1</sup> Official Gazette of the Republic of Slovenia No. 111/2007 and subsequent amendments; Article 51, Paragraph 1 and Article 59, Paragraph 2.

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<b>Rejected applicants for international protection</b>	Yes	Yes	-	See "Persons who have been issued a return decision".
<b>Rejected family reunification applicants</b>	Yes	Yes	-	See "Persons who have been issued a return decision".
<b>Other rejected applicants for residence permits on basis other than family reunification (Please provide details)</b>	Yes	Yes	-	See "Persons who have been issued a return decision".
<b>Persons detained at the border to prevent illegal entry (e.g. airport transit zone)</b>	Yes	Yes	-	<p>The grounds are set out exhaustively in the <b>State Border Control Act</b><sup>2</sup>:</p> <ol style="list-style-type: none"> <li>1. the person intends to or has already crossed the border and suspicion exists that he/she has done so illegally and detention is necessary for determining all relevant circumstances of crossing the border;</li> <li>2. the person has been refused entry into Slovenia for not meeting the entry conditions and he/she cannot be immediately referred back due to valid reasons.</li> </ol> <p>This type of detention is imposed to determine the circumstances of entry into Slovenia. If it is determined that the person is to be returned informally (without a return decision), detention on the above grounds is transformed into detention under the <b>Police Tasks and Powers Act</b><sup>3</sup> on the grounds that "the person has to be transferred to foreign security authorities"<sup>4</sup>. Detention on both grounds may not cumulatively exceed 48 hours. In case the person is to be returned without a return decision but this cannot be carried out in 48 hours, he/she is taken to the Centre for Foreigners and is issued a detention decision.</p>

<sup>2</sup> Official Gazette of the Republic of Slovenia No. 35/2010 and 15/2013; Article 32, Paragraph 1.

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<b>Persons found to be illegally present on the territory of the (Member) State who have not applied for international protection and are not (yet) subject to a return decision</b>	Yes	Yes	-	See "Persons detained at the border to prevent illegal entry". (Short term detention – maximum 48 hours).
<b>Persons who have been issued a return decision</b>	Yes	Yes		<p>The grounds are set out exhaustively in the <b>Aliens Act</b><sup>5</sup> (same for all aliens in return procedures). An alien may be detained in the Centre for Foreigners in case of:</p> <ol style="list-style-type: none"> <li>1. risk of absconding if removal cannot be carried out immediately;</li> <li>2. failure to depart from the country by the ordered deadline if removal cannot be carried out immediately.</li> </ol> <p>Note: The assessment for placing a third-country national in detention is carried out in conjunction with the assessment for issuing a return decision. If a person is issued a return decision without a deadline for voluntary departure and he/she cannot be returned immediately, he/she is placed in detention on the above grounds (unless there are obstacles preventing return that may lead to a "tolerated stay" status).</p>

<sup>3</sup> Official Gazette of the Republic of Slovenia No. 15/2013.

<sup>4</sup> Police Tasks and Powers Act, Article 64, Paragraph 1.

<sup>5</sup> Official Gazette of the Republic of Slovenia No. 50/2011 and subsequent amendments, Article 76, Paragraph 1.

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<p><b><i>Other categories of third-country nationals (Please specify the categories in your answer):</i></b></p> <p><b><i>Aliens of unknown identity</i></b></p>	Yes	Yes	-	<p>Pursuant to the Aliens Act<sup>6</sup> an alien may also be detained in the Centre for Foreigners on the grounds that his/her identity is unknown. This type of detention is governed by the same rules as detention of persons who have been issued a return decision.</p>
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<sup>6</sup> Aliens Act, Article 76, Paragraph 2.

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Q2. Is it possible, within the national legal framework of your (Member) State, to detain persons belonging to vulnerable groups, including minors, families with children, pregnant women or persons with special needs? Please indicate whether persons belonging to these vulnerable groups are exempt from detention, or whether they can be detained in certain circumstances. If yes, under which conditions can vulnerable persons be detained? NCPs are asked in particular to distinguish whether children can be detained who are (a) accompanied by parents and (b) unaccompanied.

International Protection Procedures:

Asylum applicants that are unaccompanied minors may not be detained in the Centre for Foreigners. Only an alternative measure – restriction of movement to the area of the Asylum Home may be imposed on them<sup>7</sup>. Accompanied minors and persons belonging to other vulnerable groups may be detained normally.

Return Procedures:

All categories of third-country nationals in return procedures can be detained. However, unaccompanied minors are only taken to the Centre for Foreigners and detained after this is deemed to be in their best interest by their legal guardian appointed in procedure at the Police Station.<sup>8</sup>

Q3. Concerning persons, who cannot be removed and/or are granted tolerated stay, please provide information on any provisions in your (Member) State regulating the release from detention of this category of third-country nationals.<sup>9</sup>

Pursuant to Aliens Act, Article 73, a person in return procedure can be granted tolerated stay:

- if the deportation of the alien would be in breach of the principle of non-refoulement;
- if the alien does not possess and is unable to acquire a valid travel document of the country of his nationality;
- if a physician advises that immediate deportation is avoided due to the health condition of the alien;
- if an alien needs to extend his granted residence due to death or serious illness of a family member that resides in the Republic of Slovenia;
- if the participation of the alien is required in a procedure in front of an authority of the Republic of Slovenia;
- if an alien minor attends primary school in the Republic of Slovenia; permission shall be granted till the end of the school year;
- if the country of the alien's nationality or, for stateless persons, of last habitual residence refuses to admit the alien;
- if deportation is not possible because the transportation of the alien from the country cannot be provided by land, air or water;
- if deportation is not possible because circumstances preventing return, such as natural or other disasters, occurred in the country of the alien's nationality or in the country where the alien last resided as a stateless person;
- if it is requested by a legal guardian assigned to an unaccompanied alien minor.

Persons with tolerated stay status are not detained, but an obligation to reside at a particular address may be imposed on them<sup>10</sup>. If there are reasons to suspect that they will attempt to avoid removal, the authorities may also impose regular reporting to the nearest police station, deposition of bail, submission of documents or the obligation to stay at a certain location<sup>11</sup>. An alien in detention may apply for tolerated stay while in detention<sup>12</sup>. If successful he/she is released from detention (there are no particular provisions regulating this but it follows implicitly from the Aliens Act).

<sup>7</sup> International Protection Act, Article 51, Paragraph 3.

<sup>8</sup> Aliens Act, Article 82, Paragraph 1.

<sup>9</sup> According to Article 15(4) of the Return Directive, in situations when it appears that a reasonable prospect of removal no longer exists for legal or other considerations detention ceases to be justified and the person concerned shall be released immediately.

<sup>10</sup> Aliens Act, Article 73, Paragraph 5.

<sup>11</sup> Aliens Act, Article 73, Paragraph 6.

<sup>12</sup> Aliens Act, Article 73, Paragraph 4.

### Section 3: Assessment procedures and criteria for the placement of third-country nationals in detention

Q1. Please indicate whether an **individual assessment** procedure is used to determine the appropriateness of detention in the case of any of the categories of third-country nationals selected in Section 2 (Table Q1). Yes/No.

If yes, please list the categories of third-country nationals where individuals are subject to individual assessments.

If individual assessment procedures are not used, please indicate the mechanism used to determine the appropriateness of detention e.g. are all individuals within a particular category of third country national automatically placed in detention?

#### International Protection Procedures:

Individual assessment is carried out in all cases. The authorities decide whether to impose detention upon carrying out the application for international protection (first interview), checking EURODAC and evaluating other evidence that may be relevant to the case.

#### Return Procedures:

Individual assessment is carried out in all cases by the Police Station or Police Directorate where a third-country national is in procedure due to illegal entry/illegal residence. If the Police Station or Police Directorate determines upon evaluating all the evidence and circumstances that a person needs to be detained in the Centre for Foreigners, he/she is transported there by the Police. Centre for Foreigners then issues a detention decision.

Q2. Where individual assessment procedures are used, and specific criteria exist to help the competent authorities decide whether particular grounds for detention apply, please indicate the **legal basis** on which these individual assessment procedures are exercised (for example legislation, soft law/guidelines).

#### International Protection Procedures:

Individual assessment procedures are exercised on the grounds set out in the law (see Section 2, Q1 above). Rules for interpreting the legal grounds have been developed in jurisprudence of the national courts (Administrative Court, Supreme Court and Constitutional Court).

#### Return Procedures:

The grounds for detention are set out in the law (see Section 2, Q1 above).

Q3. Where individual assessments are used, does the third-country national receive detailed information on the consequences of the interview before the individual assessment procedure? If yes, is there an emphasis on all possible options/outcomes of the assessment?

#### International Protection Procedures:

Immediately prior to the asylum application all asylum applicants undergo an information session carried out by an NGO<sup>13</sup> under the project "Information and legal advice for foreigners in the field of international protection" co-financed by the European Refugee Fund and the Ministry of the Interior of the Republic of Slovenia. The

<sup>13</sup> Legal-informational centre for nongovernmental organisations – PIC: [www.pic.si](http://www.pic.si).

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information session includes information on the grounds and criteria possibly leading to detention. Asylum applicants also receive pertinent information from the officials of the asylum authority.

Return Procedures:

Third-country nationals in return procedures receive the information from the Police Station or Police Directorate administering their case.

*Q4. Where individual assessments are used, please indicate whether the procedure includes an assessment of the **vulnerability** of the individual in question. (Yes/No) If yes, please describe the vulnerability assessment procedure used.*

International Protection Procedures:

Assessment of vulnerability is a part of the overall assessment and is not formally prescribed by law. The International Protection Act contains general provisions on treatment of vulnerable persons<sup>14</sup> but they do not refer to criteria for placing persons in detention specifically.

Return Procedures:

Assessment of vulnerability is a part of the overall assessment and is not formally prescribed by law.

*Q5. Please provide more detailed information on **the criteria/indicators** used to decide whether particular grounds for detention apply in individual cases. EMN NCPs are asked to answer this question by listing the criteria/indicators that are used to determine the circumstances in which the following grounds for detention, permitted in EU law, apply. However, if the grounds for detention are not applicable in your (Member) State, EMN NCPs may identify the criteria/indicators that are used to determine the circumstances in which other grounds for detention apply.*

*a) **Ground 1: If there is a risk of absconding***

This can be a ground for detention in return procedures (see Section 2, Q1 above).

The Aliens Act specifies **circumstances** that indicate risk of absconding<sup>15</sup>:

- the person has previously illegally resided in the Republic of Slovenia;
- the person has entered the country despite an entry ban;
- the person has been found guilty of a criminal offence with a final judgment;
- the person possesses forged or altered travel or other documents or documents of another person;
- the person has given false information or is uncooperative in the procedure;
- the conduct of the person suggests that he/she will not leave Republic of Slovenia by the deadline set for voluntary departure.

The Aliens Act further specifies **milder circumstances** that indicate risk of absconding<sup>16</sup>:

- the person has entered the Republic of Slovenia illegally;

<sup>14</sup> International Protection Act, Article 15.

<sup>15</sup> Aliens Act, Article 68, Paragraph 1.

<sup>16</sup> Aliens Act, Article 68, Paragraph 2.

- the person has exceeded the period of legal residence in the country by less than 30 days;
- there is no possibility for the person to reside in the Republic of Slovenia;
- other milder circumstances identified on the basis of individual assessment.

Note: These criteria are primarily assessed when the authorities are deciding whether to issue a return decision with or without a deadline for voluntary departure. If it is determined that above circumstances indicating risk of absconding exist, the person is issued a return decision without a deadline for voluntary departure. If the person cannot be returned to another country immediately, he/she is placed in detention in the Centre for Foreigners (unless obstacles preventing return exist and the person is issued a "tolerated stay" status<sup>17</sup>).

**b) Ground 2: If the third-country national avoids or hampers the preparation of a return or removal process**

This is not a specific ground for detention, however it may fall under "risk of absconding" ground in return procedures (see above) or "suspicion of deception and abuse of procedure" in international protection procedures. No specific criteria for assessment is set out in the law.

**c) Ground 3: If required in order to protect national security or public order**

This can be a ground for issuing a return decision without a deadline for voluntary departure<sup>18</sup> and may therefore lead to placing a person in detention. It may also fall under "threat to other persons' life or property" ground for detention in international protection procedures. No specific criteria for assessment is set out in the law.

**d) Ground 4: Please indicate any other ground(s) and the respective criteria/indicators considered in the assessment**

**i.**

In international protection procedures "suspicion of deception and abuse of procedure" can lead to detention in the following cases<sup>19</sup>:

- the applicant has misled the authorities by presenting false reasons, in particular when his statements are inconsistent, contradictory, improbable and inconsistent with the information on the country of origin;
- the applicant has failed without reasonable cause to make his application earlier, having had opportunity to do so;
- the applicant has submitted the application merely in order to delay or frustrate the enforcement of his removal from the country;
- the applicant refuses to have his fingerprints and photograph taken;
- the applicant has grounded his application on false information with respect to his identity or forged documents or has withheld relevant information or documents with respect to his identity and/or nationality;
- the applicant has intentionally destroyed or alienated a travel document, an identity document with a

<sup>17</sup> Aliens Act, Article 73.

<sup>18</sup> Aliens Act, Article 67, Paragraph 5.

<sup>19</sup> International Protection Act, Article 51, Paragraph 1 and Article 55.

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photograph, revealing his identity or nationality or other document containing a photograph that would have helped establish his identity or nationality;

- the applicant has intentionally destroyed or alienated other documentation (documents, tickets, certificates etc.) that could bear significance in establishing his identity, nationality or eligibility for obtaining international protection;

- the applicant has filed another application for asylum stating other personal data without reasonable cause;

- the applicant can with a criminal act endanger the national security or public order of the state, and due to these reasons, a title of execution of leaving the country has been served on him as a secondary sentence, or the title of execution for leaving the country has already been exercised, while the deadline for prohibiting him entry to the European Union has not yet expired;

- the applicant has withheld the fact that he/she already filed an application in another country, particularly in case of him/her stating false personal data.

**ii.**

Additional rules for interpreting legal grounds for placing applicants for international protection in detention have also been developed in jurisprudence of the national courts; some of the more often cited judgments are: Administrative Court Judgment I U 531/2009 of 1 April 2009, Administrative Court Judgment I U 1353/2011 of 28 July 2011, Supreme Court Judgment I Up 46/2010 of 15 February 2010, Constitutional Court Judgment Up-1116/2009 of 3 March 2011 and Constitutional Court Judgment Up-21/2011 of 10 October 2012.

*Q6. Is the **possibility to provide alternatives to detention** systematically considered when assessing whether to place a person in detention in your (Member) State?*

International Protection Procedures:

Yes, in the course of individual assessment the authorities are considering between detention, alternative to detention ("restriction of movement to the area of the Asylum Home") and no measure (accommodation of a person in Asylum Home without restriction of movement).

Return Procedures:

The possibility to provide alternative to detention in a return procedure ("residence outside the Centre") is systematically considered. However, in practice the Centre for Foreigners always issues a detention decision first and only later carries out the assessment whether detention is to be replaced with the "residence outside the Centre".

*Q7. Please indicate which **national authorities** are responsible for (i) conducting individual assessment procedures (where these exist) and (ii) deciding on the placement of a third-country national in detention.*

International Protection Procedures:

The "Sector for Accommodation, Care and Integration"<sup>20</sup>, a division of the "Internal Administrative Affairs, Migration and Naturalisation Directorate"<sup>21</sup> of the Ministry of the Interior, is the responsible authority for individual assessment procedures and deciding on the placement of third-country nationals in detention.

Return Procedures:

Police Stations and Police Directorates where a third-country national is in procedure due to illegal entry/illegal residence carry out an individual assessment on whether he/she is to be issued a return decision without a deadline for voluntary departure in accordance with and within grounds set by the Aliens Act. If such a decision is issued and a person cannot be returned immediately he/she is taken to the Centre for Foreigners, where the Centre issues a detention decision. The Centre for Foreigners is a public body within the organizational structure of the Police.

The procedure is different in case of unaccompanied minors due to obligatory participation of legal guardians. The Police Stations or Police Directorates do not issue a return decision but take an unaccompanied minor to the Centre for Foreigners where he/she is issued a detention decision. The minor is then issued a return decision by the Centre only if this is determined to be in his/her best interest by an appointed guardian (this normally takes a few days, up to a week).

*Q8. Please indicate whether **judicial authorities** are involved in the decision to place a third-country national in detention, and if so, at which stage(s) of the decision-making process and in what capacity? (e.g. do judicial authorities make the final decision, do they only make a recommendation, do they only come in if the third-country national appeals against a decision?)*

International Protection Procedures:

Judicial authorities are only involved in assessing detention if a person files a legal remedy (administrative dispute) against detention.

Return Procedures:

Judicial authorities are involved in assessing detention if a person files a legal remedy (administrative dispute) against detention. Furthermore, the amendments of the Aliens Act from April 2014 have introduced an obligatory *ex officio* judicial review of detention longer than three months. If the Administrative Court determines that reasons for detention no longer exist, it orders the Centre to immediately release the person. In case of detention shorter than three months the *ex officio* review is carried out by the Ministry of the Interior.

*Q9. Please identify any **challenges** associated with the implementation of existing assessment procedures in your (Member) State.*

International Protection Procedures:

In order to apply the legal criteria for detention set out in the International Protection Act further interpretative guidelines are needed. This is provided by jurisprudence of the courts, however due to a large volume of case law and sometimes contradicting rulings, some criteria/indicators may be unclear.

Return Procedures:

<sup>20</sup> Slovenian name: "Sektor za nastanitev, oskrbo in integracijo".

<sup>21</sup> Slovenian name: "Direktorat za upravne notranje zadeve, migracije in naturalizacijo"

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As opposed to international protection procedures, where free legal assistance is provided, the number of legal remedies used against detention in return procedures is relatively low. Therefore more detailed rules on interpretation of legal grounds for detention have not yet been developed by independent authorities to the extent as in international protection procedures.

*Q10. Please identify any **good practices** in relation to the implementation of assessment procedures (e.g. cited in existing evaluations/studies/other sources or based on information received from competent authorities).*

Both in international protection procedures as well as in return procedures individual assessment is carried out in all cases (see above).

#### Section 4: Types of detention facilities and conditions of detention

*Q1. Are there specialised immigration detention facilities in your (Member) State, which are not prisons? (Yes/No) If yes, please indicate how many exist and how they are distributed across the territory of your (Member) State.*

There is one specialized immigration detention facility in the Republic of Slovenia – the Center for Foreigners. It is located in the town of Postojna, around 50km from Ljubljana, capital of Slovenia. This is the only facility in the country that detains migrants in return procedures and applicants for international protection.

*Q2. Are there different types of specialised immigration detention facilities for third-country nationals in different circumstances (e.g. persons in return proceedings, applicants for international protection, persons who represent a security risk, etc.)? (Yes/No). If yes, please provide a brief overview of the different types of immigration detention facilities.*

No, all of the above are detained in the Centre for Foreigners.

*Q3. Which authorities/organisations are responsible for the day-to-day running of the specialised immigration detention facilities in your (Member) State?*

Centre for Foreigners, a public body within the structure of the Police, is responsible.

*Q4. Please describe any measures taken by your (Member) State to deal with situations where the number of third country nationals to be placed in detention exceeds the number of places available in the detention facilities.*

The Ministry of the Interior is currently preparing a contingency plan for the eventuality of a sudden increase in the number of irregular migrants and asylum applicants in the Republic of Slovenia, which includes an inquiry into the availability of additional accommodation.

*Q5. Are third-country nationals detained in prisons in your (Member) State? (Yes/No) If yes, under which circumstances?*

No.

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Q6. If third-country nationals are detained in prisons in your (Member) State, are they held separately from general prisoners? If yes, please provide information on the mechanisms to separate third-country nationals under immigration detention from general prisoners.

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Q7. Please provide the following information about the conditions of third-nationals who have been placed in an immigration detention facility in your (Member) State: (Please indicate if the facilities in question are prisons or specialised immigration detention facilities).

Conditions of detention	Statistics and/or comments
Please provide any statistics on the average available surface area per detainee (in square meters)	The rooms are designed for six person and measure 17m <sup>2</sup> . The detainees have free access to the common area of the ward where they are detained.
Please provide any statistics on the average number of detainees placed in one room per detention facility	Maximum number of persons per room is six, however the rooms are normally not occupied to full capacity.
Are families accommodated in separate facilities?	Yes.
Can children be placed separately from their parents (e.g. in a childcare facility)? Under what circumstances might this happen?	No.
Are single women separated from single men?	Yes.
Are unaccompanied minors separated from adults?	Yes, however they may be placed in the same ward as families. This is done to prevent them being isolated, as the number of detained unaccompanied minors is often small (sometimes only one).
Do detainees have access to outdoor space? If yes, how often?	Yes, once per day, for at least one hour. Access to outdoor space is usually provided in a closed yard of the Centre. Families also have access to additional outdoor space by the side of the Centre, which also includes a children's playground.
Are detainees allowed to have visitors? If yes, which visitors are allowed (for example, family members, legal representatives, etc.) and how often?	Yes, every day during scheduled time for visits: from 2 to 6 pm and for visits by NGO representatives also from 7 to 9 pm <sup>22</sup> . Legal representatives with power of attorney may also visit detainees outside these visiting hours. No

<sup>22</sup> Aliens Act, Article 76, Paragraph 9 and Additional Measures to the House Rules for Facilities and Premises of the Ministry of the Interior for the Facilities of the Center for Foreigners, Article 23.

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	other restrictions are placed on visits.
Are detainees allowed contact with the outside world via telephone, mail, e-mail, internet? If yes, are in- and/or out-coming messages screened in any way?	Payphones are placed in each ward and may be used by detainees without restrictions. Incoming calls can also be made to the payphone to make contact with a detainee directly. Detainees are allowed limited access to internet, currently three times per week (on Thursdays, Saturdays and Sundays) for around 20 minutes.
Are education programmes provided (e.g. school courses for minors and language classes for adults)?	Minors are placed in elementary school, which is obligatory under Slovenian law, and given permissions to exit the Centre for attending school. Other education, such as language and literacy classes, is carried out informally by the social workers in the Centre.
Do detainees have access to leisure activities? If yes, which leisure activities are provided in the detention facility? And if yes, how often?	Leisure activities are provided by social workers. The Slovenian Jesuit Refugee Service <sup>23</sup> is also visiting the Centre around once per week to provide activities. The Centre is currently developing plans for introducing additional NGO-managed activities for detainees.
Can persons in detention leave the facility and if yes, under what conditions? Can persons move freely within facility or are their movements restricted to some parts/rooms of the facility?	<p>Detained persons in <u>return procedures</u> can leave the facility if they obtain permission<sup>24</sup>. In practice the permission is issued to persons that need to exit the Centre in order to make arrangements that may lead to facilitating their return or acquiring their residency status in Slovenia. Permission is also issued to minors that attend school and in other cases where good cause exists.</p> <p>In case of detained <u>applicants for international protection</u> permission to exit the Centre is not formally prescribed by law, however in practice the asylum authority ("Sector for Accommodation, Care and Integration") can give permission and inform the Centre to let the person exit.</p> <p>All detainees (<u>persons in return procedures and applicants for international protection</u>) can freely move within the area of their ward, which includes bedrooms and a common area, however they cannot access other wards (the Centre is usually separated into single male ward and families/unaccompanied minors/single women ward). The detainees do not have free access to</p>

<sup>23</sup> www.jrs.rkc.si

<sup>24</sup> Additional Measures to the House Rules for Facilities and Premises of the Ministry of the Interior for the Facilities of the Center for Foreigners, Article 18.

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	outside area but are only allowed access to it during scheduled time for outdoor exercise.
Are detainees entitled to legal advice/assistance? If yes, is it free of charge?	<p>All <u>international protection applicants</u> are entitled to free legal assistance by an NGO<sup>25</sup> under a project "Legal aid for asylum seekers" co-financed by the European Refugee Fund and the Ministry of the Interior of the Republic of Slovenia.</p> <p><u>Persons in return procedures</u> are entitled to free legal assistance only in regard to the issuing of the return decision. This is provided by an NGO<sup>26</sup> under the project "Legal assistance in return procedures of foreigners from the Republic of Slovenia" co-financed by the European Return Fund and the Ministry of the Interior of the Republic of Slovenia.</p>
Are detainees entitled to language support (translation / interpretation services)? If yes, is it free of charge?	Yes, detainees are entitled to language support in all official procedures free of charge. Currently, due to lack of interpreters in Slovenia access to interpretation may be limited in case of some languages (most concerningly Pashtu).
Is medical care available to detainees inside the facilities? Is emergency care covered only or are other types of medical care included?	Four nurses are employed by the Centre. The Centre also cooperates with a general physician and a psychiatrist who visit the Centre on call.
Are there special arrangements for persons belonging to vulnerable groups? Please describe.	<p>Detention of women, families, children, unaccompanied minors, elderly people, severely ill and other vulnerable persons is provided separately.<sup>27</sup> Pursuant to the Aliens Act, a person in return procedure that cannot be accommodated at the Centre due to specific reasons or needs can be accommodated at a social security facility or provided with other appropriate institutional care,<sup>28</sup> however such cases are rare in practice.</p> <p>Unaccompanied minors are appointed legal guardians, whose responsibility is to represent and assist the minor.<sup>29</sup> Pursuant to the law unaccompanied minors and families with minors are to be accommodated in appropriate facilities for minors and are only to be a detained in the Centre for Foreigners if this is not possible.<sup>30</sup> Due to lack of suitable facilities in practice detention of unaccompanied minors and families with minors is</p>

<sup>25</sup> Legal-informational centre for nongovernmental organisations – PIC: [www.pic.si](http://www.pic.si).

<sup>26</sup> Ibid.

<sup>27</sup> Aliens Act, Article 76, Paragraph 3.

<sup>28</sup> Aliens Act, Article 76, Paragraph 5.

<sup>29</sup> Aliens Act, Article 82, Paragraph 1.

<sup>30</sup> Aliens Act, Article 82, Paragraph 3.

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	<p>carried out in the Centre. Pursuant to the law unaccompanied minors need to be provided leisure activities, including games and recreational activities suitable for their age.<sup>31</sup></p> <p>Note: Unaccompanied minors that are asylum applicants cannot be detained in the Centre for Foreigners, they can only be issued an alternative to detention – restriction of movement to the area of the Asylum Home.<sup>32</sup></p>
<p>Are there special arrangements for persons considered to be security risks for others and/or themselves? Please describe.</p>	<p>A detainee violating the rules of the Centre, including behaviour presenting a security risk to others or themselves, may be placed under “stricter Police supervision”.<sup>33</sup> This means that the person’s movement is restricted to certain parts of the Centre, which may also be monitored by video and audio surveillance.<sup>34</sup></p>

Section 5: Availability and practical organisation of alternatives to detention

*Q1. Please indicate whether any alternatives to detention for third-country nationals are available in your (Member) State and provide information on the practical organisation of each alternative (including any mechanisms that exist to monitor compliance with/progress of the alternative to detention) by completing the table below.*

<b>Alternatives to detention</b>	<b>Yes / No (If yes, please provide a short description)</b>
Reporting obligations (e.g. reporting to the policy or immigration authorities at regular intervals)	Reporting obligation is not a separate alternative to detention but may be imposed on a person in return procedure that is granted “residence outside the Centre” (see below).
Obligation to surrender a passport or a travel document	No.
Residence requirements (e.g. residing at a particular address)	Residence requirement is not a separate alternative to detention but may be imposed on a person in return procedure that is granted “residence outside the Centre” (see below).
Release on bail (with or without sureties) <i>If the alternative to detention “release on bail” is available in your (Member) State, please provide information on how the amount is</i>	No.

<sup>31</sup> Aliens Act, Article 82, Paragraph 4.

<sup>32</sup> International Protection Act, Article 51, Paragraph 3.

<sup>33</sup> Aliens Act, Article 77.

<sup>34</sup> Additional Measures to the House Rules for Facilities and Premises of the Ministry of the Interior for the Facilities of the Center for Foreigners, Article 27 and Article 28.

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<i>determined and who could be appointed as a guarantor (e.g. family member, NGO or community group)</i>	
Electronic monitoring (e.g. tagging)	No.
Guarantor requirements <i>If this alternative to detention is available in your (Member) State, please provide information on who could be appointed as a guarantor (e.g. family member, NGO or community group)</i>	No.
Release to care worker or under a care plan	No.
Community management programme	No.
Other alternative measure available in your (Member) State. Please specify.	<p><u>International Protection Procedures:</u></p> <p><b>Restriction of movement to the area of the Asylum Home<sup>35</sup></b></p> <p>The person may live in the Asylum Home under the same arrangements as other asylum applicants and may move freely within the compounds of the Asylum Home including the inside yard, however he/she is not permitted to leave the Asylum Home. As opposed to the Centre for Foreigners the Asylum Home is not a Police institution and is not guarded; security is provided by a security company, whose powers are limited.</p> <p><u>Return Procedures:</u></p> <p><b>Residence outside the Centre<sup>36</sup></b></p> <p>The person may live outside the Centre for Foreigners pending the return procedure. In addition, the Police can order the person to reside at a particular location. In such case the Police may also restrict movement of the person to that particular location and impose an obligation to report regularly to the nearest Police Station.</p>

*Q2. For each of the alternatives to detention that are available in your (Member) State, please indicate the categories of third country nationals that may be provided an alternative to detention, making use of the list provided below and adding any additional categories as applicable. If there are variations in the practical organisation of any of the alternatives to detention provided to different categories of third country national, please indicate this is the case and briefly illustrate the variations.*

- *Applicants for international protection in ordinary procedures;*
- *Applicants for international protection in fast-track (accelerated) procedures;*

<sup>35</sup> International Protection Act, Article 51, Paragraph 2.

<sup>36</sup> Aliens Act, Article 81.

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- Applicants for international protection subject to Dublin procedures;
- Rejected applicants for international protection;
- Rejected family reunification applicants;
- Persons found to be illegally present on the territory of the (Member) State who have not applied for international protection and are not (yet) subject to a return decision;
- Persons who have been issued a return decision;
- Other categories of third-country nationals;
- Vulnerable persons (such as minors, families with very young children, pregnant women and persons with special needs).

International Protection Procedures:

All asylum applicants may be provided the alternative to detention "restriction of movement to the area of the Asylum Home". Unaccompanied minors may not be detained in the Centre for Foreigners but only imposed this alternative to detention.

Return Procedures:

All persons in return procedures may be provided the alternative to detention "residence outside the Centre".

*Q3. For each of the alternatives to detention that are available in your (Member) State, please indicate the legal basis on which they may be granted to particular categories of third country nationals (for example legislation, soft law/guidelines, other).*

The legal basis for alternatives to detention in international protection procedures and in return procedures are the provisions of the International Protection Act and Aliens Act respectively (see above).

*Q4. For each of the alternatives to detention that are available in your (Member) State, please indicate the authorities/organisations responsible for (a) deciding and (b) administering the alternative. Please indicate in particular whether the responsible organisation is a non-governmental organisation.*

International Protection Procedures:

The "restriction of movement to the area of the Asylum Home" is imposed by the asylum authority – the Sector for Accommodation, Care and Integration of the Ministry of the Interior. This is normally done in a single assessment procedure, in which it is determined whether a person is to be placed under detention, the alternative to detention or accommodated in the Asylum Home without any restriction of movement. The measure is administered by the Sector for Accommodation, Care and Integration of the Ministry of the Interior.

Return Procedures:

The "residence outside the Centre" is granted by the Centre for Foreigners *ex officio* or upon a request of the detainee. It is also administered by the Centre.

*Q5. For each of the alternatives to detention that are available in your (Member) State, please provide information on any consequences if the third-country national does not follow the conditions of the alternative to detention.*

International Protection Procedures:

If a person does not follow the conditions of the "restriction of movement to the area of the Asylum Home", the

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authorities may replace the measure with detention in the Centre for Foreigners.

Return Procedures:

If a person does not follow the conditions of the "residence outside the Centre", the measure may be revoked and the person detained in the Centre for Foreigners.

*Q6. Please indicate any challenges associated with the implementation of the alternatives to detention in your (Member) State (based on existing studies/evaluations or information received from competent authorities)*

International Protection Procedures:

The alternative to detention is not successful in preventing absconding, as is also evidenced by the statistics in Section 7.4 below.

Return Procedures:

The "residence outside the Centre" is only considered a suitable measure in case when the risk of absconding is very low. Also, the measure can only be implemented if the person can access (and bear the costs of) private accommodation. Therefore the measure is not used very often (only four cases in 2013).

*Q7. Please provide any examples of good practices regarding the implementation of the alternatives to detention in your (Member) State. Please specify the source (e.g. cited in existing evaluations/studies/other sources or based on information received from competent authorities)*

Both "restriction of movement to the area of the Asylum Home" in international protection procedures and "residence outside the Centre" in return procedures can be issued to any person in procedure based solely on individual assessment of the case.

## Section 6: Assessment procedures and criteria used for the placement of third-country nationals in alternatives to detention

*Q1. In Section 2, Q1, you have identified the grounds on which detention can be authorised for particular categories of third-country national. In what circumstances can those grounds be displaced in favour of an alternative to detention in your (Member) State? Please provide answers in relation to each of the relevant categories of third-country national. If there is a separate set of grounds for providing third-country nationals an alternative to detention in your (Member) State, please indicate this is the case.*

International Protection Procedures:

There are no particular circumstances that need to be met for the authorities to be able to impose an alternative to detention.

Return Procedures:

There are no particular circumstances that need to be met for the authorities to be able to impose an alternative to detention.

*Q2. Which other considerations are made before deciding whether to provide the third-country national concerned an alternative to detention, e.g. considerations regarding the availability of alternatives, the cost of alternatives, and vulnerabilities of the third-country national?*

*The Use of Detention and Alternatives to Detention in the Context of Immigration Policies*International Protection Procedures:

Risk of absconding and vulnerability are the main considerations made in deciding whether an alternative to detention will be provided.

Return Procedures:

Risk of absconding, vulnerability and availability (whether the person has the means for and access to suitable accommodation) are the main considerations made in deciding whether an alternative to detention will be provided.

*Q3. Please indicate whether an individual assessment procedure is used to determine whether the grounds on which detention can be authorised can be displaced in favour an alternative to detention? Yes/No. If yes, please list the categories of third-country nationals where individuals are subject to individual assessments.*

International Protection Procedures:

Yes, all asylum applicants are subject to individual assessment.

Return Procedures:

Yes, all persons in return procedure are subject to individual assessment.

*Q4. Where individual assessments are used, please indicate whether the procedure includes an assessment of the vulnerability of the individual in question. Yes/No. If yes, please describe the vulnerability assessment procedure used.*

International Protection Procedures:

Assessment of vulnerability is a part of the overall assessment and is not formally prescribed by law in a specific manner.

Return Procedures:

Assessment of vulnerability is a part of the overall assessment and is not formally prescribed by law in a specific manner.

*Q5. Are assessment procedures for providing alternatives to detention conducted on all third-country nationals who are apprehended, or only on those third-country nationals who have already completed a period in detention?*

International Protection Procedures:

The providing of the alternative to detention is not conditioned on completing a certain period of time in detention.

Return Procedures:

The providing of the alternative to detention is not conditioned on completing a certain period of time in detention.

*Q6. Please indicate which national authorities are responsible for (i) conducting individual assessment procedures (where these exist) and (ii) deciding on alternatives to detention*

International Protection Procedures:

The individual assessment is conducted and the alternative to detention decided on by the Sector for

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Accommodation, Care and Integration of the Ministry of the Interior.

Return Procedures:

The individual assessment is conducted and the alternative to detention decided on by the Centre for Foreigners.

*Q7. Please indicate whether judicial authorities are involved in the decision to provide an alternative to detention, and if so, at which stage(s) of the decision-making process and in what capacity? (e.g. do judicial authorities make the final decision, do they only make a recommendation, do they only come in if the third-country national appeals against a decision?)*

International Protection Procedures:

Judicial authorities are involved in assessing the alternative to detention if a person files a legal remedy (administrative dispute) against the decision of the Sector for Accommodation, Care and Integration.

Return Procedures:

Judicial authorities are involved in assessing the alternative to detention if a person files a legal remedy (administrative dispute) against the decision of the Centre for Foreigners. Furthermore, while this is not specifically set out in the law, the new provisions of the Aliens Act on obligatory *ex officio* judicial review of detention<sup>37</sup> will likely in practice also apply to the alternative to detention.

## [Section 7: Impact of detention and alternatives to detention on the effectiveness of return and international protection procedures](#)

### **7.1. Effectiveness in reaching prompt and fair decisions on the immigration status of the individuals in question, and in executing these decisions**

#### **7.1.1. Effectiveness in reaching decisions on applications for international protection**

*Q1. Have any evaluations or studies (including studies of the views of detainees of alternatives to detention) in your (Member) State considered the impact of detention and alternatives to detention on the efficiency of reaching decisions on applications for international protection? (For example, by affecting the time it takes to decide on international protection status). Yes/No.*

*If Yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report.*

An evaluation or study on comparison between detention and alternatives to detention has not yet been carried out. However, a research conducted by the Odysseus Network in the framework of the international project "Making Alternatives to Detention in Europe a Reality by Exchanges, Advocacy and Learning (MADE REAL)" is currently underway in member states and deals with this comparison specifically. Its findings are expected to be published in 2015.

<sup>37</sup> See Section 3, Q8.

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Q2. Please provide any statistics that might be available in your (Member) State on the average length of time needed to determine the status of applicants for international protection who are held in detention and who are in an alternative to detention. Please provide the statistics for the latest year available and, if possible, distinguish between the different types of alternatives to detention that are available in your (Member) State.

2013	Detention	Alternatives to detention
		Restriction of movement to the area of the Asylum Home
Average length of time in determining the status of an applicant for international protection	No information (MOI could not provide this data).	No information (MOI could not provide this data).

Q3. Please provide any other evidence that may be available in your (Member State) on the impact of detention and alternatives to detention on effectiveness in terms of reaching decisions on applications for international protection and provide any examples of good practice in this regard. (E.g. cited in existing evaluations/studies/other sources or based on information received from competent authorities).

Other evidence of impact on effectiveness is not available.

The asylum authority examines cases of persons placed in detention as priority cases. Nevertheless, the goal of concluding the asylum procedure in four months (maximum duration of detention) usually cannot be attained, particularly due to length of legal remedy procedures in front of Courts (Administrative Court as first court and Supreme court as court of appeal) which need to be finished for the asylum decision to become final.<sup>38</sup>

### 7.1.2 Effectiveness in reaching decisions regarding the immigration status of persons subject to return procedures and in executing returns

Q4. Have any evaluations or studies in your (Member) State considered the impact of detention and alternatives to detention on:

- The length of time from apprehending an irregular migrant to issuing a return decision? Yes/No
- The length of time that transpires from issuing a return decision to the execution of the return? Yes/No
- The share of voluntary returns out of the total number of returns? Yes/No
- The total number of removals completed? Yes/No

If Yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report

Not yet, however "MADE REAL" project is currently underway (see Section 7.1.1, Q1) and its findings may also

<sup>38</sup> This is especially true for on merit procedures, while Dublin and safe third country procedures may be shorter and therefore concluded with a final decision in four months.

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try to address this question.

*Q5. Please provide any statistics that might be available in your (Member) State on (i) the average length of time that transpires from the decision to return a person in detention, and in (different) alternatives to detention, to the execution of the return procedure; (ii) the proportion of voluntary returns and (iii) the success rate in the number of departures among persons that were placed in detention and in alternatives to detention. Please provide the statistics for the latest year available and, if possible, distinguish between the different types of alternatives to detention that are available in your (Member) State.*

2013	Detention	Alternatives to detention
		Residence outside the Centre
<i>Average length of time from apprehending an irregular migrant to issuing a return decision</i>	No information, not applicable	No information, not applicable [The authorities do not collect this data. Also, all persons in return procedures, except for unaccompanied minors (see Section 3, Q7 above), are issued a return decision prior to being imposed detention or alternative to detention.]
<i>Average length of time from issuing a return decision to the execution of the return</i>	No information	No information [The authorities do not collect this data.]
<i>Number of voluntary returns (persons who opted to return voluntarily)</i>	Not applicable	Not applicable [Persons who are allowed to return voluntarily are issued a return decision with a deadline for voluntary departure and they are not detained.]
<i>Success rate in number of departures</i>	129 out of 175 persons (73.7%)	No information [Four persons in return procedures were issued an alternative to detention in 2013, however the authorities could not provide information on resolution of their cases.]

*Q6. Please provide any other evidence that may be available on the effectiveness in reaching decisions regarding the immigration status of persons subject to return procedures and executing the return, and provide any examples of good practice in this regard. (E.g. cited in existing evaluations/studies/other sources or based on information received from competent authorities).*

Other evidence of impact on effectiveness is not available.

**7.2. Costs**

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Q7. Have any evaluations or studies on the costs of detention and alternatives to detention been undertaken in your (Member) State?

Not yet, however "MADE REAL" project is currently underway (see Section 7.1.1, Q1) and its findings may also try to address this question.

Q8. Please provide any statistics available on the costs of detention and alternatives to detention in the table below. Please provide the statistics for the latest year(s) available and, if possible, distinguish between the different types of alternatives to detention that are available in your (Member) State.

2013	International Protection Procedures		Return Procedures	
	<i>Detention (Detention in the Centre for Foreigners)</i>	<i>Alternative to detention (Restriction of movement to the area of the Asylum Home)</i>	<i>Detention (Detention in the Centre for Foreigners)</i>	<i>Alternative to detention (Residence outside the Centre)</i>
<i>Total costs<sup>39</sup></i>	15,10 EUR per person per day	9,29 EUR per person per day	15,10 EUR per person per day	0,00 EUR per person per day
<i>Staffing costs</i>	No information	No information	No information	No information
<i>Medical costs</i>	No information	No information	No information	No information
<i>Food and accommodation costs</i>	No information	No information	No information	No information
<i>Legal assistance</i>	No information	No information	No information	No information
<i>Other costs (This could include any additional costs that do not fall into the categories above, e.g. costs of technical tools for administering alternatives to detention, such as electronic tagging). Please specify</i>	No information	No information	No information	No information [The authorities could not provide separate data on costs].

<sup>39</sup> The »Total costs« include costs for food and accommodation, clothes and hygienic items, running costs of facilities (heating, electricity, water etc.) and do not include staffing costs and outstanding costs such as costs of medical and legal assistance.

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Q9. Please provide any other evidence that may be available in your (Member) State on the cost-effectiveness of detention and alternatives to detention, and provide any examples of good practice in this regard. (E.g. cited in existing evaluations/studies/other sources or based on information received from competent authorities).

Other evidence of impact on effectiveness is not available. Residence outside the Centre in particular is less expensive than detention of a person in return procedure, however this measure also requires that the person provides for him/herself and cannot be used if the person does not have sufficient resources or a sponsor.

### 7.3. Respect for fundamental rights

Q10. Have evaluations or studies been conducted in your (Member) State on the impact of detention and alternatives to detention on the fundamental rights of the third-country nationals concerned (for example, with regard to the number of complaints of detainees or persons provided alternatives to detention)?

Not yet, however "MADE REAL" project is currently underway (see Section 7.1.1, Q1) and its findings may also try to address this question.

Q11. Please provide any statistics that might be available in your (Member) State on the number of complaints regarding violations of human rights and the number of court cases regarding fundamental rights violations in detention as opposed to alternatives to detention. Please provide the statistics for the latest year available and, if possible, distinguish between the different types of alternatives to detention that are available in your (Member) State.

2013	International Protection Procedures		Return Procedures	
	Detention (Detention in the Centre for Foreigners)	Alternative to detention (Restriction of movement to the area of the Asylum Home)	Detention (Detention in the Centre for Foreigners)	Alternative to detention (Residence outside the Centre)
Number of complaints of violations of fundamental rights <b>lodged</b> with non-judicial bodies (e.g. Human Rights Commissioners/ Ombudspersons) (where possible, please disaggregate by types of complaints and by	2 complaints lodged with the Ombudsperson <sup>40</sup>  1 complaint lodged under the Police Act <sup>41</sup>	0 complaints lodged with the Ombudsperson  0 complaints lodged under the Police Act	0 complaints lodged with the Ombudsperson  0 complaints lodged under the Police Act	0 complaints lodged with the Ombudsperson  0 complaints lodged under the Police Act

<sup>40</sup> The available data refers to all complaints lodged with the Ombudsperson by persons in detention, not specifically due to violations of fundamental rights in detention.

<sup>41</sup> Official Gazette of the Republic of Slovenia No. 49/1998 and subsequent amendments.

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<i>categories of third-country nationals)</i>				
<i>Number of complaints of violations of fundamental rights <b>upheld</b> by non-judicial bodies (e.g. Human Rights Commissioners/ Ombudspersons) (where possible, please disaggregate by types of complaints and by categories of third-country nationals)</i>	1 (out of 2) complaints lodged with the Ombudsperson upheld  0 (out of 1) complaints lodged under the Police Act upheld	-	-	-
<i>Number of court cases in which there have been <b>challenges</b> to the decision to detain / place in an alternative to detention based on violations of fundamental rights (where possible, please disaggregate by types of violation and by categories of third-country national)</i>	No court cases were started on the grounds of violations of fundamental rights in detention.	No court cases were started on the grounds of violations of fundamental rights in relation to implementation of alternatives to detention.	No court cases were started on the grounds of violations of fundamental rights in detention.	No court cases were started on the grounds of violations of fundamental rights in relation to implementation of alternatives to detention.
<i>Number of court cases in which challenges to the decision to detain / place in an alternative to detention based on violations of fundamental rights have been <b>upheld</b> (where possible, please disaggregate by types of violation and by categories of third-country national)</i>	-	-	-	-

Q12. Please indicate if studies exist in your (Member) States which show negative effects of the alternatives to detention in practice. (For example, ankle bracelets can be socially stigmatising and cause physical and emotional distress.)

No such studies exist.

Q13. Please provide any other evidence that may be available in your (Member) State on the impact of detention and alternatives to detention on the fundamental rights of the third-country nationals, and provide any examples of good practice in this regard. (E.g. cited in existing evaluations/studies/other sources or based on information received from competent authorities).

Other evidence of impact on fundamental rights is not available.

*The Use of Detention and Alternatives to Detention in the Context of Immigration Policies***7.4. Rate of absconding and compliance rate**

*Rate of absconding* is the share of persons who have absconded from all third-country nationals placed in detention or provided an alternative to detention.

*Compliance rate* is the share of persons who have complied with the alternative to detention.

Q14. Have evaluations or studies on the compliance rate and rate of absconding of third-country nationals in detention and in alternatives to detention been undertaken in your (Member) State? Please provide details.

Not yet, however "MADE REAL" project is currently underway (see Section 7.1.1, Q1) and its findings may also try to address this question.

Q15. Please provide any statistics that might be available in your (Member) State on the rate of absconding and the compliance rate of third-country nationals in detention as opposed to alternatives to detention. Please provide the statistics for the latest year available and, if possible, distinguish between the different types of alternatives to detention that are available in your (Member) State.

2013	International Protection Procedures		Return Procedures	
	Detention (Detention in the Centre for Foreigners)	Alternative to detention (Restriction of movement to the area of the Asylum Home)	Detention (Detention in the Centre for Foreigners)	Alternative to detention (Residence outside the Centre)
Rate of absconding	0 out of 49 persons (0,0%)	13 out of 14 persons (92,9%)	8 out of 171 persons (4.6%)	0 out of 4 persons (0,0%)
Compliance rate		7,1%		100,0%

Q16. Please provide any other evidence that may be available of the impact of detention and alternatives to detention on the rate of absconding and compliance rate of third-country nationals in detention and in alternatives to detention.

Other evidence of impact on rate of absconding and compliance rate is not available.

**Section 8: Conclusions**

The Synthesis Report will outline the main findings of the Study and present conclusions relevant for policymakers at national and EU level.

Long term detention of third-country nationals in the republic of Slovenia can be imposed in international protection procedures and return procedures. Currently, the criteria for detention are set out in the International

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Protection Act and Aliens Act respectively without further provisions in soft law or guidelines. Detention in international protection procedures has been subject to extensive case law of the courts, introducing more in depth rules for interpretation of particular criteria for detention. Conversely, due to lack of free legal representation, detention in return procedure has not seen much development in court jurisprudence and has so far mostly been developed through the practice of the responsible authority – the Centre for Foreigners. However, with the recent introduction of obligatory *ex officio* judicial review of detention longer than three months, the judiciary will likely develop further standards for imposing of detention and providing of alternatives to detention in return procedures.

Only two alternatives to detention are currently being set out and implemented in the system of immigration detention in the Republic of Slovenia – “restriction of movement to the area of the Asylum Home” in international protection procedures and “residence outside the Centre” in return procedures. An introduction of additional alternatives to detention (including reporting obligations, obligation to surrender a passport or a travel document, residence requirements, release on bail and guarantor requirements) would allow a more tailored approach to securing an individual’s presence and cooperation in procedure, which would likely result in better efficiency with reduced intrusion on personal rights. It should also be mentioned that some of these measures, in particular obligation to surrender documents and deposition of bail, already exist in the law in the context of the “permission to stay” measure (granted to persons that cannot be returned), however they are so far not available as an alternative to detention.

Legal provisions describing specific arrangements for certain categories of detainees also exist in the Aliens Act – namely, accommodation of a vulnerable person in a social security facility or provision of other appropriate institutional care and accommodation of unaccompanied minors and families with minors in appropriate facilities for minors. While these are not alternatives to detention *per se*, they can serve a similar purpose of alleviating the limitations on personal liberty and providing suitable accommodation adjusted to the individual in question. The authorities should consider exploring the possibilities of more extensive use of these options, in particular establishing appropriate facilities for minors (currently not yet available) which could replace detention of minors in return procedures in the Centre for Foreigners.

The study has found that individual assessment of conditions for detention or alternatives to detention is being carried out in all cases, which can be presented as good practice in Slovenian immigration policy. Attention should be paid to sustaining this procedural standard even in case of a potential increase in the number of apprehended irregular migrants and international protection applications in the Republic of Slovenia. The Ministry of the Interior is currently conducting contingency planning in order to improve the capability of the authorities to respond to such eventuality.



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Statistics from EU-harmonised sources, such as Eurostat and the EMN Annual Policy Report, on inter alia the outcome of international protection applications and return, including voluntary return will be used in the Synthesis Report to contextualise the statistics provided in this annex.

**Table 1: Statistics on number of third-country nationals in detention and provided alternatives to detention per category**

**Please provide the cumulative figures (the number of all third-country nationals that have been detained during the year).**

	2009	2010	2011	2012	2013	Source / further information
<b>Statistics on number of third-country nationals in detention per category</b>						
Total number of third-country nationals in detention	439	340	289	402	426	Source: Centre for Foreigners and MOI statistics.  The data includes all third-country nationals detained in the Centre for Foreigners <sup>42</sup> :  -persons issued return decisions  -aliens of unknown identity  -persons under short term detention pending return without a return decision  -applicants for international protection issued a

<sup>42</sup> The data does not include third-country nationals in short term detention at Police Stations or at the international airport (maximum duration 48 hours) on the grounds of the State Border Control Act and the Police Tasks and Powers Act (see Section 2, Q1).

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						detention decision
Number of third-country national applicants for international protection in ordinary procedures in detention	31	27	39	43	49	Source: MOI statistics.  The authorities do not collect data on detention in different types of international protection procedures.
Number of third-country national fast-track international protection applicants (accelerated international protection procedures) in detention						
Number of applicants for international protection subject to Dublin procedures in detention						
Number of rejected applicants for international protection in detention	No information	The authorities do not collect data on different categories of third-country nationals in return procedures in detention.				
Number of rejected family reunification applicants in detention						
Number of other rejected applicants for residence permits on basis other than family reunification (Please specify)						
Number of persons detained to prevent illegal entry at borders in detention	No information	The authorities could not provide this data.				
Number of persons found to be illegally present on the territory of the (Member) State who have not applied for international protection and are not (yet) issued a return decision in detention	Not applicable	This category of persons (persons under short term detention pending return without a return decision) is included in the "Number of persons detained to prevent illegal entry at borders in detention" above.				
Number of persons who have been issued a return decision in detention	Not applicable	Not applicable	No information	No information	175	Source: Centre for Foreigners statistics.  Return decisions have only started being issued since the coming into force of

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						the new Aliens Act in October 2011.
Number of vulnerable persons part of the aforementioned categories of third-country nationals – please, where possible, disaggregate by type of vulnerable persons (for example, minors, persons with special needs, etc.) and by category						
Unaccompanied minors	29	26	12	30	34	Source: Centre for Foreigners statistics.  The data includes all unaccompanied minors detained in the Centre for Foreigners (see table entry “Total number of third-country nationals in detention” above).
Family members	No information	10	6	9	10	Source: Centre for Foreigners and MOI statistics.
Single women	No information	32	20	14	29	Source: Centre for Foreigners and MOI statistics.
Number of other third-country nationals placed in immigration detention	Not applicable	All categories of third-country nationals in detention are included above.				
<b>Statistics on number of third-country nationals provided alternatives to detention</b>						
Total number of third-country nationals provided alternatives to detention	No information	No information	No information	No information	18	Source: Centre for Foreigners and MOI statistics.  The authorities could not provide data for years 2009 – 2012.
Number of third-country nationals applicants for international	0	0	3	14	14	Source: MOI statistics.

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protection in ordinary procedures provided alternatives to detention							The authorities do not collect data on alternatives to detention in different types of international protection procedures.
Number of third-country nationals fast-track international protection applicants (accelerated international protection procedures) provided alternatives to detention							
Number of international protection applicants subject to Dublin procedures provided alternatives to detention							
Number of rejected applicants for international protection provided alternatives to detention	No information	The authorities do not collect data on different categories of third-country nationals in return procedures provided alternatives to detention.					
Number of rejected applicants for family reunification provided alternatives to detention							
Number of other rejected applicants for residence permits on basis other than family reunification (Please specify)							
Number of persons found to be illegally present on the territory of the (Member) State (i.e. such as those who have not applied for international protection and are not (yet) been issued a return decision) provided alternatives to detention	Not applicable	This category of persons can only be imposed a short term detention and cannot be provided an alternative to detention.					
Number of persons issued a return decision provided alternatives to detention	No information	4	Source: Centre for Foreigners statistics.  The authorities could not provide data for years 2009 – 2012.				
Number of vulnerable persons part of the aforementioned categories of third-country nationals - Please, where possible, disaggregate by type of vulnerable persons (for example, minors, persons with special needs, etc.) and by category	No information	The authorities do not collect data on vulnerable persons provided alternatives to detention.					
Number of other third-country nationals provided alternatives to detention (Please specify the category(ies))	Not applicable	All categories of third-country nationals provided alternatives					

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						to detention are included above.
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**Table 2: Average length of time in detention**

Please provide information on the methodology used to calculate the average length of time in detention, including whether the mean or the median was used to calculate the average.

<b>Average length of time in detention</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Source / further information</b>
Average length of time in detention of all categories of third-country nationals in detention	No information	No information	No information	No information	17,8 days	Source: Centre for Foreigners statistics.  The authorities could not provide data for years 2009 – 2012.
Average length of time in detention of applicants for international protection in ordinary procedures	No information	No information	No information	No information	47,16 days	Source: Centre for Foreigners statistics.  The authorities do not collect data on detention in different types of international protection
Average length of time in detention of fast-track (accelerated) international protection applicants (accelerated international protection procedures)						
Average length of time in detention of applicants for international protection subject to Dublin procedures						

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						procedures. The authorities could not provide data for years 2009 – 2012.
Average length of time in detention of rejected applicants for international protection	No information	The authorities do not collect data on different categories of third-country nationals in return procedures in detention.				
Average length of time in detention of rejected family reunification applicants						
Average length of time in detention of other rejected applicants for residence permits on basis other than family reunification (Please specify)						
Average length of time in detention of persons detained to prevent illegal entry	No information	The data is not available however this type of detention cannot exceed 48 hours.				
Average length of time in detention of persons found to be illegally present on the territory of the (Member) State (i.e. such as those who have not applied for international protection and are not (yet) been issued a return decision)	No information	The data is not available however this type of detention cannot exceed 48 hours.				
Average length of time in detention of persons who have been issued a return decision	No information	The authorities				

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						do not collect this data.
Average length of time in detention of vulnerable persons part of the aforementioned categories of third-country nationals – please, where possible, disaggregate by type of vulnerable persons (for example, minors, persons with special needs, etc.) and by category	No information	The authorities do not collect this data.				
Average length of time in detention of other third-country nationals placed in immigration detention	Not applicable	All categories of third-country nationals in detention are included above.				

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