



## EMN FOCUSED STUDY 2014

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

### Top-line "Factsheet" (National Contribution)

#### *National contribution (one page only)*

*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.*

Article 15.1 of the Return Directive permits detention of a third country national in order to prepare return or to carry out the removal process, in particular when there is a risk of absconding or the third country national avoids or hampers the preparation of the removal process, and unless other sufficient but less coercive measures can be applied effectively in a specific case.

According to Spanish legal framework, these alternatives to detention are:

- regular reporting in police stations
- limited residence to a certain area
- submission of travel or identity documents

In line with Return Directive, they are all taken into consideration before ordering detention. However, detention remains the most effective measure to ensure return after the administrative procedure has been completed and the necessary travel documents have been obtained.

Detention is not foreseen for international protection applicants nor for Dublin cases. Minors are only placed in detention centres as part of a family in order not to break the family unit. Fast track asylum procedures are applied to applications made by irregularly staying third country nationals placed under detention.

Detention decisions are taken individually, through a double assessment procedure involving the National Police, who take into account not only the personal circumstances but also the likelihood of removal (programmed flights, etc), and an independent decision by the judge. Moreover, all resolutions are subject to appeal.

Eight detention centres are available in Spain. Stays have an average length of 25 days and the maximum

length legally established is of 60 days.

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 <u>grounds</u> for detention for each category of migrant that can be detained in your (Member) State.  Is there an <u>exhaustive list</u> of grounds outlined in your national framework?
<i>Applicants for international protection in ordinary procedures</i>	No.			
<i>Applicants for international protection in fast-track (accelerated) procedures</i>	Ongoing detention can be maintained.	Yes		Application lodged while under detention.
<i>Applicants for international protection subject to Dublin procedures</i>	No.			
<i>Rejected applicants for international protection</i>	An equal treatment to irregular migrants is applied if they don't return within the timeframe given after their application is refused (normally 15 days).			
<i>Rejected family reunification applicants</i>				
<i>Other rejected applicants for residence permits on basis other than family reunification (Please provide details)</i>				
<i>Persons detained at the border to prevent illegal</i>	No.			

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<i>entry (e.g. airport transit zone)</i>				
<i>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</i>	Yes	Yes		As a precautionary measure, in compliance with the Return Directive, when subject to a return procedure.
<i>Persons who have been issued a return decision</i>	Yes	Yes		As foreseen under the Return Directive
<i>Other categories of third-country nationals (Please specify the categories in your answer)</i>				

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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.

Children can only be held in detention centres as part of a family to ensure the family unit, when the detention centre has adequate premises to lodge families.

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.

They must be released when reasons for detention don't exist anymore, 60 days have passed or removal will not be possible.

### Section 3: Assessment procedures and criteria for the placement of third-country nationals in detention (Maximum 5 pages)

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).

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?

Detention decisions must be individual and motivated. This involves an individual assessment. In fact, an individual assessment is made twice: first by the National Police, in order to decide if a detention order is asked from the judge, and then by the judge himself.

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).

Organic Law (Ley Orgánica 4/2000) of the rights and freedoms of aliens in Spain and their social integration (Article 63) and Royal Decree 557/2011, of 20 April that approves the implementing Regulation of the Organic Law 4/2000, following its reform by Organic Law 2/2009 (Articles from 234 to 237).

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?

When an irregularly staying third country national is arrested he is informed about his rights and his statement is taken with the lawyer and the interpreter being present. He is interviewed again by the judge before issuing the detention decision.

Q4. Where individual assessments are used, please indicate whether the procedure includes an assessment of the **vulnerability** of the individual in question. If yes, please describe the vulnerability assessment procedure used.

Yes. It is based on all available information, especially health reasons. Victims of trafficking and victims of gender

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violence are not detained, since return procedures are stopped.

Q5. Please provide more detailed information on **the criteria /indicators** used to decide whether particular grounds for detention apply in individual cases.

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

Yes. Lack of address or personal documents.

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

Yes.

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

Yes, as part of the general proportionality assessment.

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

Previous administrative and penal sanctions or pending administrative and penal procedures.

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

Yes.

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.

First assessment by the National Police. For detention, final assessment and decision by the judge.

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?

Judicial authorities take the final decision. After first assessment by the National Police, this authority may request the detention to the judge, who takes the final decision after hearing the person concerned and the Public Prosecutor, based on the personal circumstances. Afterwards, appeal procedure is available before the Contentious Administrative Court.

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

Information provided by irregularly staying third country nationals is often unreliable.

Q10. Please identify any **good practices** in relation to the implementation of assessment procedures

The use of a double assessment procedure, involving the National Police, who take into account not only the personal circumstances but also the likelihood of removal (programmed flights, etc), and an independent decision by the judge.

*The Use of Detention and Alternatives to Detention in the Context of Immigration Policies***Section 4: Types of detention facilities and conditions of detention (Maximum 5 pages)**

Q1. Are there specialised immigration detention facilities in your (Member) State, which are not prisons? If yes, please indicate how many exist and how they are distributed across the territory of your (Member) State.

Yes. Madrid, Barcelona, Valencia, Murcia, Algeciras, Las Palmas de Gran Canaria, Santa Cruz de Tenerife, Fuerteventura.

Q2. Are there different types of specialised immigration detention facilities for third-country nationals in different circumstances? If yes, please provide a brief overview of the different types of immigration detention facilities.

No. Applicants for international protection are not detained.

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

National Police.

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.

Priorities are established for the most serious cases (third country nationals with criminal records) and the most likely removals (e.g. imminent charter flight to a certain destination).

Q5. Are third-country nationals detained in prisons in your (Member) State? If yes, under which circumstances?

No.

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?

In Spain third country nationals detained are not held in prisons.

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)	Information not available.
Please provide any statistics on the average number of detainees placed in one room per detention facility	Information not available.
Are families accommodated in separate facilities?	Yes, when possible (only then also with children).

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Can children be placed separately from their parents? (e.g. in a childcare facility). Under what circumstances might this happen?	Children are not subject to return procedures and they are only placed in detention centres in order to maintain the family unit.
Are single women separated from single men?	Yes.
Are unaccompanied minors separated from adults?	UM are not detained.
Do detainees have access to outdoor space? If yes, how often?	Yes, at least 4 hours per day.
Are detainees allowed to have visitors? If yes, which visitors are allowed (for example, family members, legal representatives, etc.) and how often?	Yes. Unlimited within visiting hours. Lawyers also outside visiting hours in urgent cases.
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?	Yes, public phones are available. Communications can only be intercepted by judicial order, in criminal investigations.
Are education programmes provided (e.g. school courses for minors and language classes for adults)?	The maximum detention time (60 days) doesn't allow for long time activities. Social assistance is provided.
Do detainees have access to leisure activities? If yes, which leisure activities are provided in the detention facility? And if yes, how often?	Yes.
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?	Yes, for medical assistance or treatment, when not available at the detention centre. Movements are restricted, depending on the day period.
Are detainees entitled to legal advice / assistance? If yes, is it free of charge?	Yes. Yes.
Are detainees entitled to language support (translation / interpretation services)? If yes, is it free of charge?	Yes. Yes.
Is medical care available to detainees inside the facilities? Is emergency care covered only or are other types of medical care included?	Yes. Detainees are entitled to adequate medical care while in detention.
Are there special arrangements for persons belonging to vulnerable groups? Please describe	A special medical follow up is provided for pregnant women.
Are there special arrangements for persons considered to be security risks for others and/or themselves? Please describe	Yes. They can be isolated through a motivated decision of the Director, notified to the detainee and to the judge, who will decide whether to maintain this measure or not.



*The Use of Detention and Alternatives to Detention in the Context of Immigration Policies*Section 5: Availability and practical organisation of alternatives to detention(Maximum 6 pages)

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.

Alternatives to detention	Yes/ No (If yes, please provide a short description)
Reporting obligations (e.g. reporting to the policy or immigration authorities at regular intervals)	Regular reporting to the National Police unit processing the return file.
Obligation to surrender a passport or a travel document	Yes.
Residence requirements (e.g. residing at a particular address)	Residence in a particular place.
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 determined and who could be appointed as a guarantor (e.g. family member, NGO or community group)</i>	No.
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.	

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.

(Yes=any measure mentioned above)

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- Applicants for international protection in ordinary procedures; No
- Applicants for international protection in fast-track (accelerated) procedures; No
- Applicants for international protection subject to Dublin procedures; No
- Rejected applicants for international protection; Yes (as irregularly staying tcn).
- Rejected family reunification applicants; Yes (as irregularly staying tcn).
- 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) Yes, when subject to a return procedure.
- Persons who have been issued a return decision; Yes.
- Other categories of third-country nationals;
- Vulnerable persons (such as minors, families with very young children, pregnant women and persons with special needs. Yes.

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).

Organic Law 4/2000, of rights and freedoms of aliens in Spain and their social integration, establishes in Article 61 paragraph 1 the following precautionary measures: a) periodic presentation before the competent authorities, b) compulsory residence in a given place, c) withdrawal of the alien's passport c) precautionary arrest for a maximum period of 72 hours, e) any other precautionary measure the Judge may deem adequate and sufficient.

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.

National Police.

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.

It would be a reason to be considered for imposing detention.

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)

They are not effective against absconding.

Q7. Please provide any examples of good practices regarding the implementation of the alternatives to detention in your (Member) State. Please specify the source

## Section 6: Assessment procedures and criteria used for the placement of third-country nationals in alternatives to detention (Maximum 5 pages)

*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.*

Alternative measures:

- a) periodic presentation before the competent authorities
- b) compulsory residence in a given place
- c) withdrawal of the alien's passport
- c) precautionary arrest for a maximum period of 72 hours
- e) any other precautionary measure the Judge may deem adequate and sufficient- are considered in the first place, before detention, which is the last and most serious option.

*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?*

Vulnerability, imminence of return, other personal circumstances, etc.

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

Assessment is always individual.

*Q4. Where individual assessments are used, please indicate whether the procedure includes an assessment of the vulnerability of the individual in question. If yes, please describe the vulnerability assessment procedure used.*

Yes. All factors are assessed, including vulnerability. Different types of vulnerability may lead to different options (reflection period, temporary residence permit, no detention, detention with special follow-up, etc).

*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?*

On all.

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

National Police.

*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?*

Only in the way that, if they refuse to issue a detention decision, an alternative has to be sought.

## Section 7: Impact of detention and alternatives to detention on the effectiveness of return and international protection procedures (Maximum 5 pages)

### **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? .

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 applicable.

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(s) available (for example "2013" or "2011-2013") and, if possible, distinguish between the different types of alternatives to detention that are available in your (Member) State (The different alternatives are listed as A1, A2, A3 in the table below; please explain what these represent in a key underneath the table).

Where statistics can be disaggregated by categories of third-country nationals, please do so. Please provide information on the methodology and data collection.

Where no information is available, please indicate "No information" and briefly state why no information is available.

Where it is not applicable, please indicate "Not applicable" and briefly state why.

Applicable year(s)	Detention	Alternatives to detention			
		A1	A2	A3	A4
Average length of time in determining the status of an applicant for international protection	Not applicable				

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.

Not applicable

#### **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:

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

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The length of time from apprehending an irregular migrant to issuing a return decision? **It has no influence at all. The decision is issued (or refused) anyway.**

The length of time that transpires from issuing a return decision to the execution of the return? **No.**

The share of voluntary returns out of the total number of returns? Voluntary return is not applicable to people in detention. According to article 63 of Organic Law 4/2000, no granting shall be made of a period of voluntary departure from Spanish territory in any of the following circumstances arise: the risk of non-appearance, the alien prevents or impedes the deportation, and when the aliens represents a threat to public order, public safety or national security.

The total number of removals completed? **No**

*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(s) available (for example "2013" or "2011-2013") and, if possible, distinguish between the different types of alternatives to detention that are available in your (Member) Stat. (The different alternatives are listed as A1, A2, A3 in the table below; please explain what these represent in a key underneath the table).*

*Where statistics can be disaggregated by categories of third-country nationals, please do so. Please provide information on the methodology and data collection.*

*Where no information is available, please indicate "No information" and briefly state why no information is available.*

*Where it is not applicable, please indicate "Not applicable" and briefly state why.*

*Statistics on the success rate in the number of departures should be provided as the number of persons who were issued a return decision and who have returned to their country of origin, and the number of persons who were issued a return decision and who have not returned to their country of origin. Please provide both the numbers and the share they represent out of the total number of persons issued a return decision.*

Applicable year(s)	Detention	Alternatives to detention			
		A1	A2	A3	A4
Average length of time from apprehending an irregular migrant to issuing a return decision	No information available				
Average length of time from issuing a return decision to the execution of the return	No information available.				
Number of voluntary returns (persons who opted to return voluntarily)	Not applicable	No information available.			
Success rate in number of departures	No information available.				

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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.

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**7.2. Costs**

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

No.
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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 (The different alternatives are listed as A1, A2, A3 in the table below; please explain what these represent in a key underneath the table).

Where costs can be disaggregated by categories of third-country nationals, please do so. Please provide information on the methodology and data collection to measure the costs.

Where no information is available, please indicate "No information" and briefly state why no information is available.

Where it is not applicable, please indicate "not applicable" and briefly state why

No information.

Applicable year	Detention	Alternatives to detention			
		A1	A2	A3	A4
Total costs					
Staffing costs					
Medical costs					
Food and accommodation costs					
Legal assistance					
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					

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.

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

By the Ombudsman, Council of Europe, NGOs, etc.

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 (The different alternatives are listed as A1, A2, A3 in the table below; please explain what these represent in a key underneath the table). Please do the same with any statistics that may be available in your (Member) State on the number of voluntary returns.

Where statistics can be disaggregated by categories of third-country nationals, please do so. Please provide information on the methodology and data collection.

Where no information is available, please indicate "No information" and briefly state why no information is available.

Where it is not applicable, please indicate "Not applicable" and briefly state why.

Applicable year No information	Detention	Alternatives to detention			
		A1	A2	A3	A4
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 categories of third-country nationals).					
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).					
Number of court cases in which there have been <b>challenges</b> to the decision to detain / place in					

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<i>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>					
<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.

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.

#### 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.

No.

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 (The different alternatives are listed as A1, A2, A3 in the table below; please explain what these represent in a key underneath the table).

Where statistics can be disaggregated by categories of third-country nationals, please do so. Please provide information on the methodology and data collection.

Where no information is available, please indicate "No information" and briefly state why no information is available.

Where it is not applicable, please indicate "Not applicable and briefly state why."



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<i>Applicable year</i>	<i>Detention</i>	<i>Alternatives to detention</i>			
		<i>A1</i>	<i>A2</i>	<i>A3</i>	<i>A4</i>
<i>Rate of absconding</i>	Close to 0	No information			
<i>Compliance rate</i>					

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.

### Section 7: Conclusions (Maximum 2 pages)

In order to guarantee the effectiveness of return policies, Spanish regulation includes both detention and alternative measures to detention. These alternative measures (article 61 of Organic Law 4/2000) are: periodic presentation before competent authorities; passport withdrawal; compulsory residence in a given place and, any other precautionary measure the Judge deems appropriate and sufficient.

On the other hand, the Spanish legal framework has established many safeguards in relation to detention ensuring an absolute legal certainty and full respect for human rights. First of all, detention shall be ordered only by judges. They also shall also adjudge the requests and complaints that may be submitted by detainees with respect to their fundamental rights. The Spanish Ombusman, as National Mechanism to Prevent Torture may visit at any time detention centres. NGO have also access to these centres.

Detention is not foreseen for international protection applicant nor for Dublin cases. For those TCN that apply for asylum during their detention there is a fast track procedure

Detention centres are not of a penitentiary nature and the third country nationals are only deprived of their deambulatory right. Detention and stay therein have exclusively a preventive objective, and the rights and freedoms recognised in the legal system are safeguarded.

The maximum length of the detention is 60 days.

The new Regulation on functioning and internal regime of detention centres for foreign nationals, approved by Royal Decree 162/2014, 14<sup>th</sup> March, includes a complete list of rights recognised to detainees in relevant areas, such as social assistance, health care, communication and visits, security and privacy, counsel and language interpretation, enhancing and deepening in the path of reinforcing the guarantees of the detainees.

*The Use of Detention and Alternatives to Detention in the Context of Immigration Policies*Annex 1

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	17.203	11.915	13.241	11.325	9.020	
Number of third-country national applicants for international protection in ordinary procedures in detention	Not applicable					
Number of third-country national fast-track international protection applicants (accelerated international protection procedures) in detention		214	261	160	306	
Number of applicants for international protection subject to Dublin procedures in detention	Not applicable					
Number of rejected applicants for international protection in detention	No information					
Number of rejected family reunification applicants in detention	No information					
Number of other rejected applicants for residence permits on basis other than family reunification (Please specify)	No information					
Number of persons detained to prevent illegal entry at borders in detention	Not applicable					
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	No information					
Number of persons who have been issued a return decision in detention	No information					

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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					
Number of other third-country nationals placed in immigration detention						
<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					
Number of third-country nationals applicants for international protection in ordinary procedures provided alternatives to detention	Not applicable					
Number of third-country nationals fast-track international protection applicants (accelerated international protection procedures) provided alternatives to detention	Not applicable					
Number of international protection applicants subject to Dublin procedures provided alternatives to detention	Not applicable					
Number of rejected applicants for international protection provided alternatives to detention	No information					
Number of rejected applicants for family reunification provided alternatives to detention	No information					
Number of other rejected applicants for residence permits on basis other than family reunification (Please specify)	No information					
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	No information					
Number of persons issued a return decision provided alternatives to detention	No information					
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 provided alternatives to detention	No information					

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Number of other third-country nationals provided alternatives to detention (Please specify the category(ies))	No information
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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 (days)	22	23	25	24	25	
Average length of time in detention of applicants for international protection in ordinary procedures						
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						
Average length of time in detention of rejected applicants for international protection						
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						
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						

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for international protection and are not (yet) been issued a return decision)						
Average length of time in detention of persons who have been issued a return decision						
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						
Average length of time in detention of other third-country nationals placed in immigration detention						

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