



Ad-Hoc Query on detention of asylum applicants at the border

Requested by NL EMN NCP on 28 November 2014

Reply requested by 2 January 2015

Compilation prepared 8 January 2015

Summary prepared 12 January 2015 by NO EMN NCP of the responses from Austria, Czech Republic, Finland, France, Germany, Greece, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Portugal, Romania, Slovak Republic, Sweden and Norway

Disclaimer: The responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

Background Information

The Dutch parliament has requested the Minister for Migration to investigate the policy of the other EU Member States regarding the possibility of border detention of asylum applicants, who have not been granted entry to the Schengen area at the border or in transit zones.

A *General questions*

- 1 Are asylum applicants who want to enter your country at a Schengen border (main airport, seaport) directly granted access to your country? Or are these asylum applicants subject to a border procedure at the Schengen border or in transit zones?
- 2 If asylum applicants are not granted access to your country at a Schengen border before their application is processed/examined, is it possible to impose restrictions of freedom? If so, what do you impose on them?
 - a. A form of (border) detention;
 - b. An alternative for detention, like placement in the lounge;
 - c. If none of the above: please specify?

B *Questions about housing*

- 3 If a form of detention is imposed on asylum applicants: in what kind of location are they placed?
- 4 If there is border detention: what is the maximum period asylum applicants can be hold in detention?
If there is an alternative to detention: what is the maximum period they can stay there?

Direct access to the territory of the country by asylum applicants presenting themselves at the border seekers is being granted by 7 of the responding countries. For 2 of these countries access is granted only if certain conditions are satisfied, e.g. that the person has presented a credible travel document. One of the 7 countries is considering a revision of the relevant regulations.

Most of the replies indicate that under certain circumstance detention may be used for some asylum seekers.

When **direct access is not granted** the asylum applicant is restricted to a transit area or center until the relevant examinations have been concluded. His/her freedom of movement is consequently limited, but only the replies from 3 countries refer to this as representing **detention**. Different designations are used for the **accommodation provided**: e.g. (special) transit center, reception center (at the airport), waiting area, specialized detention facilities, border crossing point facilities, specialized closed location, etc.

Information about a **maximum duration** of detention has been given by 8 countries. These durations were either expressed in terms of the number of days (ranging from 7 to 30, the maximum being subject to a court order in one country), or in terms of the number of weeks (ranging from 2 to 6).

Comment

Among the countries granting direct access to the territory are some of those experiencing the highest number of asylum applications, but this is also the case for countries that do not grant direct access. Thus this aspect of how asylum applicants are treated does not seem to be important in determining their number.