



Ad-Hoc Query on detention in Dublin III cases (Regulation EU No 604/2013)

Requested by DE EMN NCP on 11th July 2014

Compilation produced on 08th September 2014

Responses from Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Sweden, United Kingdom plus Norway (23 in Total)

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1. Background Information

In the course of the development of the Common European Asylum System, a regulation covering imprisonment during Dublin-procedures came into force for the first time in the form of Article 28, section 2 of the EU-regulation 604/2013 (Dublin-III-Regulation). A prerequisite for imprisonment is, among other things, that “a significant risk of absconding” prevails. Article 2, letter n), of the Dublin-III-regulation defines “the risk of absconding”. The German Federal Government is in the process of transposing the aforementioned into national legislation and is planning new legal provisions regarding imprisonment during a Dublin transfer.

We are interested to know how other Member States deal with these issues, and would very much appreciate your responses by **8th August 2014**.

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2. Responses¹

		Wider Dissemination? ²	<p>1.) a) Is detention used for the purpose of transfer pursuant to Regulation (EU) 604/2013 (Dublin III Regulation)? b) If no, is this practice planned for the future?</p> <p>2.) Are the 'objective criteria defined by law' within the meaning of Article 2(n) of Regulation (EU) 604/2013 (Dublin III Regulation) a) in place in national legislation or b) planned to be put in place? What is the (planned) scope of these criteria?</p> <p>3.) How is the 'significant' risk of absconding within the meaning of Article 28(2) of Regulation (EU) 604/2013 (Dublin III Regulation) a) defined in national legislation or b) planned to be defined?</p> <p>4.) If detention is used or planned to be used in future, without provisions being in place or planned to be put in place regarding questions 2 and 3, what is the national legal basis for detention?</p>
	Austria	No	This NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.
	Belgium	Yes	<p>Answer to question 1:</p> <p>Yes, detention is used for the purpose of transfer pursuant to Regulation (EU) 604/2013 (Dublin III Regulation). Belgian authorities ensure the respect of provisions under Article 31 and 32 of the Regulation:</p> <p><i>Article 31 Exchange of relevant information before a transfer is carried out (special needs, contact details of family members, relatives or any other family relations in the receiving Member State, assessment of the age of the applicant, information on their education, use of standard form...)</i></p>

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<p>Article 32 Exchange of health data before a transfer is carried out (use of common health certificate, explicit consent of the applicant...)</p> <p>Answer to question 2:</p> <p>The “objective criteria defined by law” <u>within the meaning of Article 2(n) of Regulation (EU) 604/2013</u> (Dublin III Regulation) aren’t currently in place in national legislation.</p> <p>Please note however that, <u>in the context of the transposition of the Return Directive</u> into national legislation, the Immigration Act has been completed to include, under Title I General provisions - Chapter I Definitions - Article 1, 11°, the following definition of the risk of absconding: <i>“the fact that the third-country national who is subject to a removal procedure presents an actual and real risk of removing himself from the reach of the authorities. To this end, the Minister or his delegate bases himself on objective and serious elements”</i>.</p> <p>In the framework of the dialogue between Belgian authorities and the EU Commission in relation to the implementation of the EU Return Directive, it has been decided to amend the above mentioned Article 1, 11° of the Immigration Law in order to modify the definition of the “risk of absconding” as well as the objective and serious elements which can lead to a risk of absconding. In May 2014, a new proposal has been submitted to the Commission, which foresees the following definition of the risk of absconding: <i>“the fact that a third country national who is submitted to a removal procedure presents an actual and real risk of removing himself from the reach of the authorities. To this end the Minister or his delegate assesses on a case-by-case basis according to the elements listed below:</i></p> <ol style="list-style-type: none"> 1) <i>the hiding, by the person concerned, of his identity, either by a lack of cooperation, or the use of false documents or misleading information or statements at the time of a previous request for authorization or admission to stay or at the time of his identification in view of his removal</i> 2) <i>an explicit declaration of intention to not comply with the removal order</i> 3) <i>the non-reporting, by the concerned person, of his presence on the territory to the competent authorities</i> 4) <i>the non-compliance with a previous removal order or opposition to the enforcement of his removal order or new illegal stay after removal</i> 5) <i>the non-compliance with preventive measures (stipulated in Article 74/4§2 of the Immigration Act) in order to avoid the risk of absconding</i> 6) <i>the change of the place of residence within the period provided for leaving the territory pursuant to Article 74/14 §1, without notifying this to the authorities</i> 7) <i>the non-compliance, on several occasions, with a summons of the authorities</i> 8) <i>the absence of a fixed address or one known from the authorities or the refusal to communicate his place of residence</i> 9) <i>the non-compliance with a removal order issued by another member State</i> <p>The Belgian legislation will shortly be modified.</p> <p>Answer to question 3:</p>
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		<p>The ‘significant’ risk of absconding <u>within the meaning of Article 28(2) of Regulation (EU) 604/2013</u> (Dublin III Regulation) isn’t defined in national legislation. It will be necessary to modify Article 51/5 of the Immigration Act (see additional details on Article 51/5 in the answer to question 4).</p> <p>Please note however that, as the Regulation (EU) 604/2013 (Dublin III Regulation) entered into force as of 1 January 2014, Article 28(2) is applied and the “significant risk of absconding” assessed in practice. According to the Dublin Unit (Immigration Office), the assessment is made on an individual basis and a decision to detain includes grounds relating to the risk of absconding. Most often, elements, that are taken into consideration in this regard, include for example: (i) a certain number of (Eurodac) hits showing that the person concerned hasn’t shown willingness to remain in the Member State responsible for the application for international protection, (ii) misleading information regarding the name, nationality, age etc. The decision to detain must satisfy the necessity and proportionality principle and it is taken when no other less coercive measure can effectively be applied.</p> <p>Answer to question 4:</p> <p>As mentioned above, detention for the purpose of a Dublin transfer is used based on the provisions of Article 51/5 of the Immigration Act - §1 (when the requested Member State hasn’t accepted yet to take charge of or to take back an applicant) or §3 (when the requested Member State has accepted to take charge of or to take back an applicant). The said provisions are worded as follows:</p> <p><i>§1 As soon as the foreigner introduces an asylum application at the border or within the Kingdom, pursuant to Article 50, 50bis, 50ter or 51, the Minister or his delegate conducts the determination of the State responsible for the examination of the asylum application, pursuant to the EU Regulation which is binding on Belgium.</i></p> <p><i>To this end, may be retained in a particular location, for the time strictly necessary, with the duration of the retention or detention not exceeding one month:</i></p> <p><i>1° the foreigner who has a residence permit or travel document, to which a visa or a document in lieu of a visa is affixed, issued by a State bound by the European Regulation relating to the determination of the Member State responsible for examining the asylum application, or</i></p> <p><i>2° the foreigner who has non entry documents referred to in article 2 and who, according to his own statements, has stayed in such a State, or</i></p> <p><i>3° the foreigner who has no entry documents referred to in article 2 and whose fingerprints taken in accordance with article 51/3 indicate that he has stayed in such a State.</i></p> <p><i>When it is demonstrated that the examination of a request to take charge or to take back an asylum applicant is particularly complex, the duration of retention or detention can be extended by the Minister or his delegate for an additional period of one month.</i></p> <p><i>(...)</i></p> <p><i>§3 If Belgium isn’t responsible for examining the application, the Minister or his delegate consults the State responsible to take or take back the asylum applicant under conditions laid down in EU Regulation which is binding on Belgium.</i></p> <p><i>When the asylum applicant must be transferred to the responsible State, the Minister or his delegate can deny him entry or residence in</i></p>
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			<p>the Kingdom and instruct him to present himself by a given date to the competent authorities of this State. If the Minister or his delegate considers it to be necessary to ensure the effective transfer, he can have him brought back without delay to the border. To this end, the foreigner can be detained or retained in a particular location for the time strictly necessary to implement the transfer, with the maximum duration of detention or retention not exceeding one month.(...)"</p> <p>Sources :</p> <ul style="list-style-type: none"> - Immigration Office – Study Unit - Immigration Office – Dublin Unit - Law of 15 December 1980 on entry, stay, settlement and removal of foreign nationals. - Law of 19 January 2012 modifying the Law of 15 December 1980 on entry, stay, settlement and removal of foreign nationals. - Regulation (EU) N° 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) - Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals
	Bulgaria	Yes	<ol style="list-style-type: none"> 1. Yes 2. Yes 3. "Risk of a foreigner absconding to whom a coercive administrative measure under Art. 39, pt. 2 and pt. 3 is imposed" occurs when according to the factual basis a reasonable assumption can be made that the same person will attempt to refuse to implement the imposed measure. Such facts could be that the person can not be found at the declared address of residence; the presence of previous violations of public order, previous convictions, regardless of rehabilitation; the fact that the person has not left the country within the granted period for voluntary departure; that the person clearly showed that he/she will not comply with the imposed measure; possesses falsified documents or no documents; submitted incorrect information; has been already in hiding; did not comply with the prohibition of entry, etc. 4. Law for the Foreigners in the Republic of Bulgaria
	Cyprus	Yes	<p>1a. Cyprus does not practise at the moment detention under Dublin III Regulation. Detention of persons to be transferred may be authorized only under the Aliens and Immigration Law for the purposes of return and/or removal</p> <p>1b. At the moment, a draft of an amendment bill for the purposes of detention within the Dublin Regulation III has been prepared which will transpose the article 8(3)f Directive 2013/33/EU to the Refugee Laws</p> <p>2a. No</p> <p>2b. Consultations are to be initiated in this matter.</p>

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			<p>3a/b. The ‘significant’ risk of absconding is not defined by national law and consultations are to be initiated on this part. There is only a definition of ‘risk of absconding’ in the Aliens and Immigration Law as it is explained below.</p> <p>4. The national legal basis may be the certain provisions of the Refugee Laws which foresee the detention of an applicant only after a Court order and only for</p> <p>a) establishing his identity or nationality, and in case of a stateless person the country of his previous habitual residence, in case he destroyed or disposed of his travel or identity documents or used forged documents on his arrival in the Republic in order to mislead the competent authorities, provided that he did not reveal these actions and his real identity at the time of submission of the application and</p> <p>b) for the examination of new elements which the applicant wishes to submit in order to prove his claim relating to his asylum application, in case his application has been rejected on first as well as on second instance and a deportation order has been issued against him. The detention of a minor applicant is prohibited.</p> <p>Also, the Aliens and Immigration Law foresees the detention of a third country citizen for the purposes of return or removal when there is a ‘risk of absconding’ or the alien is avoiding or hampers the procedure of return or removal. The risk of absconding is defined by this Law and includes provisions such as non compliance with the return decision, possession of forged or falsified documents, providing false information, previous disappearance / escape, previous deportation and others</p>
	Czech Republic	No	This NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.
	Estonia	Yes	<ol style="list-style-type: none"> 1. a) Yes, According to Act on Granting to International Protection to Aliens § 36¹ 2 p 7 an asylum seeker may be detained if it is unavoidably necessary to transfer of a person in the procedure provided for in Regulation (EU) No 604/2013 of the European Parliament and of the Council. b) – 2. a) A Police and Border Guard official, who handles the case, make the initial assessment of the need of detention of a person. If a risk of absconding can be determined, the official will present a detention request about the person to an administrative court and administrative court is authority, which will make a final decision on detaining person. b) – 3. a) There is no term for “significant risk of absconding”. And at the moment the term “risk of absconding” is not defined and understanding of it is mostly up to official. However, since 01.10.2014 will come into force improved act of Obligation to Leave and Prohibition on Entry Act, where risk of absconding is defined. <i>The risk of absconding of an alien is present if:</i> <ol style="list-style-type: none"> 1) an alien has not left Estonia or a member state of the Schengen Convention after the term for voluntary leaving determined in the precept to leave has expired; 2) an alien has presented false data or a falsified document when applying for legal grounds for staying in Estonia or prolonging it, for Estonian citizenship, for international protection or for a document of personal identification;

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			<p>3) there is grounded doubt on the identity or citizenship of the alien;</p> <p>4) the alien has repeatedly committed intentional criminal offences or committed a crime for which a prison sentence has been ruled for him or her;</p> <p>5) the alien has not complied with surveillance measures that have been applied to him or her for guaranteeing the fulfilment of the precept to leave;</p> <p>6) the alien has informed PBGB or Security Police that he or she will not comply with the obligation to leave;</p> <p>7) the alien has entered Estonia while a prohibition of entry is effective with regard to him or her;</p> <p>8) the alien has been apprehended because of illegally crossing the Estonian border and he or she has not been granted permission or right to stay in Estonia.</p> <p>b) –</p> <p>4. N/A</p> <p>3</p>
	Finland	Yes	<p>1. a) Yes b) –</p> <p>2. a) Yes b) -</p> <p>3. a.) Section 121 of the Alien's Act: "Requirements for holding an alien in detention" states that: "1) taking account of the alien's personal and other circumstances, there are reasonable grounds to believe that the alien will prevent or considerably hinder the issue of a decision concerning him or her or the enforcement of a decision on removing him or her from the country by hiding or in some other way;"</p> <p>Section 121 a "Risk of Absconding" further states that: "there is a risk of absconding if interim measures stated in sections 118-120 of the Alien's Act have been employed, but they have not proven to be sufficient, or if the alien in question has changed his/her domicile without notifying the authorities. When assessing the risk of absconding all circumstances of the person have to be taken into account."</p> <p>The current Alien's Act fulfils the obligations of the Dublin Regulation (604/2013). A government proposal regarding detention is in preparation; its aim is to clarify the legislation and make it fully compliant with the provisions of the Receptions Conditions Directive. The government proposal includes e.g. the prohibition of placing unaccompanied minor asylum seekers in detention.</p> <p>4. See above.</p>
	Germany	Yes	<p>1.a) Yes b) -</p> <p>2.a) No</p>

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			<p>b) Transposition into national law is planned. The new provisions will be modelled on current legislation in force, containing a set of criteria.</p> <p>3.a) -</p> <p>b) The legislative amendment is also planned to contain a set of criteria to determine the presence of a 'significant risk of absconding'.</p> <p>4. At present, detention measures in Dublin cases are based on a provision contained in the German Residence Act. Among others, detention to secure transfer is applied in cases where a well-founded suspicion exists that the person in question intends to evade transfer. In case law, this is established among others in cases of identity deception or absconding in order to escape police checks.</p>
	Greece	Yes	Greece is in the process of adjusting the relevant legislation, hence a response to this questionnaire at this time is not deemed relevant and useful
	Hungary	Yes	<p>1.) a) Is detention used for the purpose of transfer pursuant to Regulation (EU) 604/2013 (Dublin III Regulation)?</p> <p>Yes, currently the so-called asylum detention is used for the purpose of <i>Dublin transfers</i> as well.</p> <p>b) If no, is this practice planned for the future?</p> <p>2.) Are the 'objective criteria defined by law' within the meaning of Article 2(n) of Regulation (EU) 604/2013 (Dublin III Regulation)</p> <p>a) in place in national legislation or</p> <p>b) planned to be put in place?</p> <p>Amendment of the legislation is planned. The objective criteria of the „<i>risk of absconding</i>” are currently defined in Article 36/E of the Government Decree No. 301/2007. (XI. 9.) Korm. on the Implementation of Act LXXX of 2007 on Asylum.</p> <p>What is the (planned) scope of these criteria?</p> <p>One of the main purposes of the asylum detention is to ensure the presence of the asylum-seeker in the asylum procedure, including the Dublin procedure. However it is planned to amend these provisions in order to make the provisions more detailed also in relation to the Dublin transfer.</p> <p>3.) How is the 'significant' risk of absconding within the meaning of Article 28(2) of Regulation (EU) 604/2013 (Dublin III Regulation)</p> <p>a) defined in national legislation or</p> <p>b) planned to be defined?</p> <p>Article 36/E of the Government Decree No. 301/2007. (XI. 9.) Korm. contains provisions on the risk of absconding, however it is planned to determine the reasons under which it is highly presumable that the person will abscond in accordance with Article 28</p>

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			<p>of the Dublin III Regulation.</p> <p>4.) If detention is used or planned to be used in future, without provisions being in place or planned to be put in place regarding questions 2 and 3, what is the national legal basis for detention?</p> <p>The Asylum Act (Act No LXXX of 2007).</p>
	Italy	Yes	<p>1. A) Yes, it is provided for in the Circular Letter of the Ministry of the Interior No. 2237 of 23 January 2014, providing information on the entry into force of the Dublin III Regulation. B) -</p> <p>2) A) Yes, they are. Circular Letter of the Ministry of the Interior No. 2237, in the part referring to the detention of the foreign national during the Dublin procedure, refers to Article 13(4-bis) of the <i>Consolidated Act on Immigration</i>. According to this procedure, there is a «risk of absconding» when at least one of the cases <i>a) to e)</i> below apply - making the Prefect of police ascertain on a case by case basis that there a risk that the foreign national may shirk the voluntary enforcement of the deportation measure. The foreign national <i>a)</i> does not have a valid passport or other equivalent document; <i>b)</i> does not have the documentation proving they have an accommodation where they can be easily found; <i>c)</i> has previously provided false personal particulars; <i>d)</i> has already escaped the deportation procedure, violated the concession of benefitting from an assisted voluntary return, or already violated the obligation not to re-enter Italian territory after deportation without Ministry of the Interior's special authorisation; <i>e)</i> has violated even only one of the conditions in which 1 to 3 months are allowed to leave Italy through an assisted voluntary return programme.</p> <p>3) No, it is assessed on a case-by-case basis, in compliance with the proportionality principle.</p> <p>4) At present, the legal basis lies in the <i>Consolidated Act on Immigration</i>.</p>
	Latvia	Yes	<p>1.a) No b) It is planned to make amendments in national law in connection to Directive 2013/33/EU.</p> <p>2.a) No b) It is not planned to set the definition in the national law.</p> <p>3.a) Is not defined in the national law. b) It is not planned to set the definition in the national law.</p> <p>4. It is planned to make amendments in the national law and in accordance with transposition of Directive 2013/33/EU to anticipate that an asylum seeker can be detained if it is necessary in order to ensure transfer under Dublin Regulation.</p>
	Lithuania	Yes	<p>1. a) Yes b) –</p> <p>2. a) No. b) It is proposed to stipulate these criteria in the Law on the Legal Status of Aliens. The proposed amendments were submitted for consideration to Parliament.</p>

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			<p>3. a) –</p> <p>b) It is proposed to stipulate a set of criteria based on which a risk of absconding should be evaluated.</p> <p>4. According to the Law on the Legal Status of Aliens, an asylum seeker who is being transferred to a MS which is responsible for the examination of his/her asylum application, may be detained if (s)he hinders the adoption or implementation of the appropriate decision or may abscond in order to avoid return, expulsion or transfer, etc. In all cases the Court decides, if there is a risk of absconding, taking into account all circumstances of an individual case.</p>
	Luxembourg	Yes	<p>1.</p> <p>a. Yes, in accordance with article 10 (1) d) of the amended law of 5 May 2006 (Asylum Law) or article 120 of Immigration law (applicable for third country national in irregular stay).</p> <p>b. N/A</p> <p>2.</p> <p>a. Asylum applications: There are no 'objective criteria defined by law' within the meaning of Article 2(n) of Regulation (EU) 604/2013 in place in the Asylum Law. However, from the text of article 10 (1) d) it is clear that the detention is authorised to guarantee the transfer of the detainee. Third country nationals in irregular stay: third country nationals in irregular stay have an obligation to leave the country. Article 111(3) c is applicable and defines the criteria of the risk of absconding (as foreseen by the return directive).</p> <p>b. Not at the moment.</p> <p>3.</p> <p>a. N/A</p> <p>b. N/A</p> <p>As we mentioned before article 10 (1) d) authorized the place of detention in a Dublin case in order to guarantee the transfer of the detainee.</p>
	Netherlands	Yes	<p>1.) a) Yes.</p> <p>b) -</p> <p>2.) a) Yes</p> <p>b) Yes, we have defined a set of objective criteria in our national law (Aliens Act/Aliens Decree) to determine the presence of a 'significant risk of absconding'.</p> <p>3.) It has been defined in national legislation (Aliens Act/Aliens Decree). The scope of these criteria is based on an individual assessment (for example: not respect the duty to report/illegal entry etc.).</p> <p>4.) See previous answers.</p>
	Poland	Yes	<p>Ad 1.</p> <p>a) Yes, pursuant to Polish regulations (Article 87 <i>on granting protection to foreigners within the territory of the Republic of Poland</i>, paragraph 1 and 2).</p> <p>b) -</p>

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			<p>Ad 2. a) No. b) The term is planned to be defined in the future (in the new <i>Act on granting protection to foreigners within the territory of the Republic of Poland</i> which is currently being drafted). The term is currently defined in the <i>Act of 12 December 2013 on Foreigners</i> but it solely refers to irregular migrants.</p> <p>Ad 3. a) – b) The term „significant” risk of absconding is also planned to be defined in the new <i>Act on granting protection to foreigners within the territory of the Republic of Poland</i>.</p> <p>Ad 4. The legal basis is set forth in the <i>Act on granting protection to foreigners within the territory of the Republic of Poland</i>. A foreigner shall be detained in order to: - establish his/her identity, - prevent from abuse in proceedings for granting the refugee status, - prevent from a threat to other people safety, health, life or property, - protect the defence or safety of the state or safety and public order protection.</p> <p>It is also possible to detain such a foreigner if: - he/she illegally crossed or attempted to cross the border, - applicant’s behaviour poses a threat for the safety, health or life of other foreigners staying in the open centre or for employees of this centre.</p>
	Portugal	Yes	<p>1 a)YES b)--- 2.a)YES b)--- 3. a) no b)no 4. Portuguese foreigner act and asylum act</p>
	Romania	Yes	<p>1.) a) Is detention used for the purpose of transfer pursuant to Regulation (EU) 604/2013 (Dublin III Regulation)? No. b) If no, is this practice planned for the future? The specific legislation will be changed, but, since the future legal act is still in the drafting and public consultation procedure we cannot give further details until it is in an almost final phase.</p>

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			<p>2.) Are the 'objective criteria defined by law' within the meaning of Article 2(n) of Regulation (EU) 604/2013 (Dublin III Regulation)</p> <p>a) in place in national legislation or</p> <p>No.</p> <p>b) planned to be put in place?</p> <p>What is the (planned) scope of these criteria?</p> <p>The specific legislation will be changed, but, since the future legal act is still in the drafting and public consultation procedure we cannot give further details until it is in an almost final phase.</p> <p>3.) How is the 'significant' risk of absconding within the meaning of Article 28(2) of Regulation (EU) 604/2013 (Dublin III Regulation)</p> <p>a) defined in national legislation or</p> <p>No</p> <p>b) planned to be defined?</p> <p>The specific legislation will be changed, but, since the future legal act is still in the drafting and public consultation procedure we cannot give further details until it is in an almost final phase.</p> <p>4.) If detention is used or planned to be used in future, without provisions being in place or planned to be put in place regarding questions 2 and 3, what is the national legal basis for detention?</p> <p>According to Romanian legislation detention is used only against illegal immigrants, prior return.</p>
	Slovak Republic	Yes	<p>1. a) According to the Act No. 404/2011 on Residence of Aliens, the Police Officer shall be entitled to detain a third country national for the purpose of his/her transport pursuant to Regulation (EU) 604/2013 from 26 June, 2013 if there is a significant risk of absconding (Article 88 (1c)).</p> <p>b) N.A.</p> <p>2. a) According to the Act No. 404/2011 on Residence of Aliens, the risk of absconding "shall mean the condition when it can be anticipated, based on the reasonable apprehension or direct threat, that the third country national will escape or hide especially if it is impossible to identify him/her immediately, if he/she has no residence permit pursuant to this Act or if there is a threat of an entry ban for a period of more than three years" (Article 88(2)).</p> <p>b) N.A.</p> <p>3. a) There is no definition of the term "significant" in the Act No. 404/2011 on Residence of Aliens. When assessing the risk of absconding, the respective authority takes into account all circumstances related to the respective case and each case is considered individually.</p> <p>b) N.A.</p> <p>N.A. (See 1.)</p>
	Slovenia	Yes	<p>1.Q. a.) Yes, but not for UA (Unaccompanied Minors) and other applicants belonging to vulnerable groups. Restriction on movement applies only if the person poses a risk of absconding and when he/she meets the Regulation requirements.</p> <p>2.Q. a.) Dublin procedure is defined in the national legislation and an applicant is detained only if he/she poses a risk of absconding.</p> <p>3.Q. b</p> <p>4.Q. Legal basis for detention is provided in the International Protection Act. - Article 51 and 59.</p>
	Sweden	Yes	<p>1.a) Yes</p> <p>b) -</p>

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			<p>2.a) The requisite “risk...of absconding” is found in the Swedish Aliens Act. The assessment of the presence of such a risk is based on a set of codified criteria (e.g. use of alias, expressed unwillingness to follow removal orders, etc.)</p> <p>b) At present no amendments are planned</p> <p>3.a) Not defined.</p> <p>b) At present no amendments are planned.</p> <p>4. At present, detention measures in Dublin cases are based on the provisions in the Dublin III Regulation complemented by provisions in the Swedish Aliens Act. Detention measures may for example be used when, if not used, there otherwise is a “significant risk” that the alien absconds to prevent the enforcement of a transfer decision.</p>
	United Kingdom	Yes	<ol style="list-style-type: none"> 1. Yes. 2. The objective criteria are defined by law in our case-law, which forms “part of our law” as the UK has a common law system. Abscond risk is a well-established concept in our case-law. 3. In our view the Dublin III Regulation does not suggest that it is necessary to define the term “significant risk of absconding” in legislation and we have no plans to do so. As set out above, we consider that there is no need to define “significant risk of absconding” as the concept is very well-established in case-law. 4. As above, we do not consider that it is necessary to define these criteria by way of legislation because the concepts are well-established in our law through case-law. The legal basis for detention is provided by Schedule 2 to Immigration Act 1971: we accept that Dublin III imposes specific requirements relating to detention within the Dublin procedure and these are reflected in guidance/instructions given to caseworkers who deal with cases to which the Regulation applies.
	Norway	Yes	<p>1a) Yes</p> <p>2a) Yes. The objective criteria are defined by law in the Norwegian Immigration Act section 106 (1)(a)</p> <p>3a) It is defined as "significant risk of absconding" in The Norwegian Immigration Act section 106 (1) (a).</p> <p>4) Not relevant.</p>

¹ A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."