

EMN FOCUSED STUDY 1 | 2014

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



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The EMN has been established by Council Decision 2008/381/EC and is financially supported by the European Union. The objective of the EMN is to meet the information needs of Community institutions and of Member States' authorities and institutions by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the European Union in these areas. The EMN also serves to provide the general public with such information

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EMN FOCUSSED STUDY 2014

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

Top-line “Factsheet”

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.

Chapter 7 of the Finnish Aliens Act currently in force regulates interim measures. Interim measures may be used if this is necessary for establishing that the alien meets the requirements for entry into the country, for preparing or ensuring the enforcement of a decision on removing the alien from the country, or for otherwise supervising that the alien leaves the country. Interim measures specified in the Act include the obligation to report, taking possession of travel documents, giving a security and holding in detention.

The starting point for using interim measures is the utilisation of so-called alternative interim measures (the obligation to report, taking possession of the passport, giving a security); if these measures are not considered effective, the alien can be placed in detention on the basis of Section 121 of the Aliens Act. A decision to hold an alien in detention, when taken by the Police, is made by a commanding officer at the local police department, the National Bureau of Investigation or the Finnish Security Intelligence Service, and when taken by the Border Guard, by an official of the Border Guard entitled to arrest people or a Border Guard officer holding the rank of at least lieutenant. According to the law, the alien or his or her legal representative shall be informed of the grounds for detention.

The decision on the utilisation of interim measures is always made on an individual-by-individual basis. The police’s and the Border Guard’s discretion with

regard to detention is restricted by the laws regulating the operations of these authorities and the principles of law contained in them (respect for fundamental and human rights, the proportionality principle and the principle of least harm). The use of alternative interim measures becomes emphasised when assessing the reasonability of detention in view of the person’s age, health or another similar personal reason (pregnancy, serious illness). According to the Aliens Act, in connection with discretion related to the detention of a child, special attention shall be paid to the best interests of the child and his or her development. In addition, before a minor is placed in detention, the representative of social welfare authorities must be heard.¹

Finland has two detention centres: the Metsälä detention unit in Helsinki and the Joutseno detention unit to be opened in the autumn 2014 near the south-eastern border of Finland. The Joutseno detention unit specialises in the accommodation of vulnerable aliens, while the accommodation of so-called higher-risk aliens is concentrated in the Metsälä detention unit.

With regard to detention or continuation of detention, rehearings at District Courts are considered challenging; in addition, detained aliens generally consider the rehearings taxing. Other perceived challenges include the small number of detention units, their location and accommodation capacity. Due to the scarcity of detention capacity, it has been necessary to hold

¹ The government proposal for amending the Aliens’ Act proposes changes that emphasise the use of alternative measures, especially when it comes to children.

aliens in police detention facilities (a police prison) even for weeks. On the other hand, the location of detention units in Southern Finland is also considered a factor restricting detention in Northern Finland, for instance; in practice, the transfer costs of a detainee may rise to such a level that a detention decision is not made due to cost reasons.

Regardless of the fact that detainees consider hearings at District Courts taxing, authorities regard the hearings as important for ensuring the realisation of human and fundamental rights and for assessing the lawfulness of grounds for detention. In addition to District Courts, the Ombudsman for Minorities is notified of each detention decision pertaining to an alien, which is considered important for monitoring the operations of authorities. Alongside external monitoring, the authorities that make detention decisions conduct internal monitoring with regard to the lawfulness of the decisions.

When contemplating detention and alternative interim measures (the obligation to report, handing over travel documents) in relation to the achievement of the goal of interim measures, the Finnish police and the Finnish Border Guard have found detention to be the only way to ensure the efficient removal of an alien from the country. Detention is considered to have significance for cost efficiency: measures related to a removal from the country are expensive and the absconding of an alien during the process would lead to economic losses.

In 2013, the Metsälä detention unit provided accommodation for a total of 442 detained aliens. The detained aliens were mainly men – in 2013, there were 47 women and 41 minors, of which 10 unaccompanied, placed in detention. According to the police's statistics, the average duration of detention in 2010–2013 was 11.8 days. In 2010–2013, on average 81 per cent of detentions were made on grounds related to the removal from the country. Of the grounds for detention that have been recorded in statistics, the most common was the preparations for the enforcement of an expulsion decision which was the reason for detention in 43 per cent of decisions. Establishing whether the requirements for entry into the country are met was the reason in an average of 16 per cent

of decisions and establishing the person's identity in approximately 1 per cent.

There are no nationwide statistics on the utilisation of alternative interim measures, which makes their comprehensive assessment difficult. Nevertheless, the situation will probably improve along with the implementation of the police information system (VITJA). According to the Border Guard's statistics, in 2013 the Border Guard made 156 detention decisions, the obligation to report was imposed in 222 cases and the travel document was taken into possession as an interim measure in 68 cases. Giving a security was used as an interim measure in one case.

Section 1: Overview of EU acquis

This section of the Synthesis Report will briefly outline the EU legal framework guiding national legislation in relation to detention and alternatives to detention. It will provide a mapping of the substantive and procedural provisions in the EU acquis that regulate immigration detention and apply to different migration situations. The section will also highlight how the EU acquis relates to the broader international legal framework on immigration detention.

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

This section aims at providing an overview of the categories of third-country nationals that can be placed in detention in (Member) States according to national law and practice. The section also examines whether the possibility to detain each category of third-country national is enshrined in national legislation, the grounds for detention that apply and whether national legal frameworks include an exhaustive list of grounds. EMN NCPs are asked to provide their answers to these questions in the table provided overleaf. The section considers whether special provisions regarding detention are in place for persons belonging to vulnerable groups, including minors, families with children, pregnant women or persons with special needs. Finally, the section examines national provisions on (release) of detention of persons who cannot be returned and/or are granted tolerated stay.

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 grounds for detention for each category of migrant that can be detained in your (Member) State. Is there an exhaustive list of grounds outlined in your national framework?
Applicants for international protection in ordinary procedures	YES	YES	N/A	<p>In Finland, the general provision in Section 118 of the Finnish Aliens Act is applied to the detention of an alien and, with regard to requirements, Section 121 of the Finnish Aliens Act is applied.</p> <p>Section 118: An alien may be obliged to report at regular intervals to police or border control authorities if this is necessary for:</p> <ol style="list-style-type: none"> 1) establishing that he or she meets the requirements for entry into the country; or 2) preparing or ensuring the enforcement of a decision on removing the alien from the country, or for otherwise supervising that the alien leaves the country. <p>Section 121: Instead of the interim measures referred to in sections 118–120, an alien may be ordered to be held in detention if:</p> <ol style="list-style-type: none"> 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; 2) holding an alien in detention is necessary for establishing his or her identity; or 3) taking account of the alien's personal and other circumstances, there are reasonable grounds to believe that he or she will commit an offence in Finland. <p>Holding an alien in detention on grounds that his or her identity is unclear requires that the alien gave unreliable information when the matter was processed or refused to give the required information, or that it otherwise appears that his or her identity cannot be considered established.</p>
Applicants for international protection in fast-track (accelerated) procedures	YES	YES	N/A	See above.

Applicants for international protection subject to Dublin procedures	YES	YES	N/A	See above.
Rejected applicants for international protection	YES	YES	N/A	See above.
Rejected family reunification applicants	YES	YES	N/A	See above.
Other rejected applicants for residence permits on basis other than family reunification (Please provide details)	YES	YES	N/A	See above.
Persons detained at the border to prevent illegal entry (e.g. airport transit zone)	YES	YES	N/A	See above.
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	YES	N/A	See above.
Persons who have been issued a return decision	YES	YES	N/A	See above.
Other categories of third-country nationals (Please specify the categories in your answer)	YES	YES	N/A	<p>Reasonable grounds to believe that the alien will commit an offence in Finland.</p> <p>Section 118: An alien may be obliged to report at regular intervals to police or border control authorities if this is necessary for:</p> <p>1) establishing that he or she meets the requirements for entry into the country; or</p> <p>2) preparing or ensuring the enforcement of a decision on removing the alien from the country, or for otherwise supervising that the alien leaves the country.</p> <p>Section 121: Instead of the interim measures referred to in sections 118–120, an alien may be ordered to be held in detention if:</p> <p>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>2) holding an alien in detention is necessary for establishing his or her identity; or</p> <p>3) taking account of the alien's personal and other circumstances, there are reasonable grounds to believe that he or she will commit an offence in Finland.</p> <p>Holding an alien in detention on grounds that his or her identity is unclear requires that the alien gave unreliable information when the matter was processed or refused to give the required information, or that it otherwise appears that his or her identity cannot be considered established.</p>

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.*

Yes.

There are no special provisions on grounds for detention when it comes to minors or otherwise vulnerable persons. The grounds are included in the general provisions in Sections 118 and 121 of the Finnish Aliens Act:

Section 118:

An alien may be obliged to report at regular intervals to police or border control authorities if this is necessary for:

- 1) establishing that he or she meets the requirements for entry into the country; or
- 2) preparing or ensuring the enforcement of a decision on removing the alien from the country, or for otherwise supervising that the alien leaves the country.

Section 121:

Instead of the interim measures referred to in sections 118–120, an alien may be ordered to be held in detention if:

- 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;
- 2) holding an alien in detention is necessary for establishing his or her identity; or
- 3) taking account of the alien's personal and other circumstances, there are reasonable grounds to believe that he or she will commit an offence in Finland.

Holding an alien in detention on grounds that his or her identity is unclear requires that the alien gave unreliable information when the matter was processed or refused to give the required information, or that it otherwise appears that his or her identity cannot be considered established.

A) Minors accompanied by their family: When it comes to families, it is possible that only one of the parents is placed in detention while the rest of the family lives in a reception centre.

B) Unaccompanied minors: The legislation allows for

the detention of minors. The government proposal for amending the Aliens' Act proposes changes that emphasise the use of alternative measures, especially when it comes to children. In addition, all children, including those that arrive accompanied by their family, shall be placed in detention unit facilities, never in police facilities.

In the autumn 2014, a new detention unit will be opened under the Joutseno reception centre. This unit will focus on the accommodation of vulnerable persons. The Joutseno reception centre has experience of the National Assistance System for Victims of Trafficking in Human Beings. On the basis of this, it was decided that the detention of vulnerable persons be centralised to Joutseno. The Joutseno detention unit will pilot alternative models to detention.

According to Section 6 of the Finnish Aliens Act, in connection with detention-related discretion, special attention shall be paid to the best interests of the child and his or her development. This discretion is also restricted by Section 122 of the Aliens Act which states that before a person under 18 years of age is placed in detention, the representative of social welfare authorities must be heard.

Section 6

Applying the Act to minors

In any decisions issued under this Act that concern a child under eighteen years of age, special attention shall be paid to the best interest of the child and to circumstances related to the child's development and health.

Before a decision is made concerning a child who is at least twelve years old, the child shall be heard unless such hearing is manifestly unnecessary. The child's views shall be taken into account in accordance with the child's age and level of development. A younger child may also be heard if the child is sufficiently mature to have his or her views taken into account. Matters concerning minors shall be processed with urgency.

Further, according to Section 123 of the Finnish Aliens Act, a person under 18 years of age may be

placed in police and Border Guard detention facilities only if his or her parent or guardian or other adult member of his or her family is also held in detention in police or border guard detention facilities.

In addition, the police's discretion with regard to detention is restricted by the principles of law in Sections 2, 3 and 4 of the Finnish Police Act: respect for fundamental and human rights, the proportionality

principle and the principle of least harm. The same principles restrict the Border Guard's discretion (Sections 5–8 of the Finnish Border Guard Act).

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.²

Section 127 of the Finnish Aliens Act:

The authorities handling the matter shall order a detained alien to be released immediately once the requirements for detention cease to exist. The detained person must be released no later than six months from the detention decision. The detention period may be longer than this; however, not more than 12 months if the detained person does not cooperate in the implementation of return or necessary return documents are not received from a third country and the removal from the country is delayed due to these reasons.

In addition, the police's discretion with regard to detention is restricted by the principles of law in Sections 2, 3 and 4 of the Finnish Police Act: respect for fundamental and human rights, the proportionality principle and the principle of least harm. No internal guidelines on application have been provided in cases referred to in the Finnish Aliens Act. The same principles restrict the Border Guard's discretion (Sections 5–8 of the Finnish Border Guard Act).

²According 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.

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

This section examines the assessment procedures and criteria/benchmarks that are used by (Member) States in order to decide whether detention is justified in individual cases. It begins with a series of questions which explore the extent to which individual assessment procedures (e.g. interviews) are used in all cases before placing third-country nationals in detention, or whether individual assessment procedures are only used in the case of certain categories of third-country national. Where individual assessments are used, EMN NCPs are asked to describe the procedures involved and whether they include an assessment of the vulnerability of the individual in question. Finally, EMN NCPs are asked to provide information on the challenges associated with the assessment procedures in their Member States and to identify any elements of good practice.

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?

The starting point for the application of interim measures is that the primary measures to be used are the obligation to report and taking possession of travel documents. Discretion is always conducted on an individual-by-individual basis; there is no categorisation in the Finnish Aliens Act with regard to certain third-country nationals. The decision is also guided by the principles in Sections 2, 3 and 4 of the Finnish Police Act (respect for fundamental and human rights, the proportionality principle and the principle of least harm). The same principles restrict the Border Guard's discretion (Sections 5–8 of the Finnish Border Guard Act).

The requirements for holding an alien in detention are specified in Section 121 of the Finnish Aliens Act. An alien may be ordered to be held in detention if the more lenient interim measures specified in Sections 118–121 prove ineffective and, taking account of the his or her personal or 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.

Likewise, an alien may be held in detention instead of other interim measures if it is necessary for establishing his or her identity or, taking account of the alien's personal or other circumstances, there are reasonable grounds to believe that he or she will commit an offence in Finland. Holding an alien in detention on grounds that his or her identity is unclear requires that the alien gave unclear information when the matter was processed or refused to give the required information, or that it otherwise appears that his or her identity cannot be considered established.

In order to establish if the requirements for removal from the country are met, a police investigation is conducted, during which the alien is heard several times. During the discussions, it is assessed whether the alien is willing to cooperate, whether he or she is at risk of absconding during the process and whether he or she is willing to leave the country by his or her means or at all. The alien is also separately requested to provide his or her response for the removal from the country when the expulsion decision is prepared.

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).*

Legislation makes no difference between different groups of aliens. The requirements for holding an alien in detention are specified in Section 121 of the Finnish Aliens Act. Instead of the interim measures, an alien may be ordered to be held in detention if, taking account of the his or her personal or 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.

Likewise, an alien may be held in detention instead of other interim measures if it is necessary for establishing his or her identity or, taking account of the alien's personal or other circumstances, there are reasonable grounds to believe that he or she will commit an offence in Finland. Holding an alien in detention on grounds that his or her identity is unclear requires that the alien gave unclear information when the matter was processed or refused to give the required information, or that it otherwise appears that his or her identity cannot be considered established.

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?*

There is no mention of this in the actual detention legislation; instead, with regard to Section 121 of the Finnish Aliens Act, the preamble to the Act advises that the person in question be informed of his or her rights and obligations.

When establishing if the requirements for residing in or removing from the country are met, the alien is heard without being separately informed of the possibility that the hearing may lead to detention. If a police investigation is initiated after the hearings, the alien must be informed of his or her rights and obligations at the beginning of the interview. The alien will be heard as a suspect if it becomes evident that he or she would resist removal from the country.

Upon detention, the person in question is told why he or she is detained and informed of a potential expul-

sion decision and of the removal procedure in general (Section 123 of the Aliens Act: The detained alien or his or her legal representative shall be informed of the grounds for detention). Section 4 of the Finnish Police Act, Stating the grounds for measures: A police officer shall inform the person subjected to a measure affecting his or her personal liberty, or a representative of the person, of the grounds for the measure, unless this is impossible because of the person's condition or the prevailing circumstances.

Information provided outside the interviews can be utilised in the operations of authorities in the removal process – the detained person is not separately informed of this.

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.

Yes.

Detention-related discretion is always conducted on an individual-by-individual basis. Discretion is restricted by the provisions of law that are mentioned below.

In addition, the police's discretion with regard to detention is restricted by the principles of law in Sections 2, 3 and 4 of the Finnish Police Act: respect for fundamental and human rights, the proportionality principle and the principle of least harm. No internal guidelines on application have been provided in cases referred to in the Finnish Aliens Act.

Section 6 of the Finnish Aliens Act:

Special attention shall be paid to the best interests of the child, etc.

Section 122:

A requirement for the detention of a child is that social welfare authorities must be heard before the decision about detention is made.

Section 123:

A person under 18 years of age may be placed in police and Border Guard detention facilities only if his or her parent or guardian or other adult member of his or her family is also held in detention in police or border guard detention facilities.

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

Section 121(1) of the Finnish Aliens Act contains the criteria for detention on the basis of the risk of absconding:

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;

Indicators:

- The person has no home address where he or she could be reached. The person changes his or her place of residence without notification.
- If an alien has submitted several asylum applications in other EU Member States, this is considered an indicator of possible absconding.
- If an alien flees upon the arrival of the police, this is a clear indicator of the person being at risk of absconding.

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

If the person fails to fulfil his or her obligation to report. See the risk of absconding above. The person hampers the process by concealing his or her iden-

tity or by giving false information about his or her identity.

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

Persons entering the country illegally who are encountered in circumstances that point to the conclusion that the person in question will commit offences. Certain types of offence, such as pick-pocketing and certain types of narcotics offences (with intent

to supply) – if the person has been suspected of the above-mentioned offences several times, there is reason to suspect that the alien would commit offences while residing in Finland.

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

On the basis of the Finnish Police Act, an unaccompanied minor can be placed in detention if it is considered that the person is not able to take care of him/

herself (in this case, it is not a question of an asylum seeker). (E.g. the person is intoxicated and has no money for taking care of him/herself)

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

The starting point is the obligation to report or taking possession of travel documents (Sections 118–121).

Detention is used only if more lenient measures have not proved to be effective interim measures.

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.

According to Section 123 of the Finnish Aliens Act, a decision to hold an alien in detention, when taken by the Police, is made by a commanding officer at the local police department, the National Bureau of Investigation or the Finnish Security Intelligence

Service, and when taken by the Border Guard, by an official of the Border Guard entitled to arrest people or a Border Guard officer holding the rank of at least lieutenant.

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?)

According to Section 124 of the Finnish Aliens Act, the official responsible for a decision on holding an alien in detention shall, without delay and no later than the day after the alien was placed in detention, notify **the District Court of the municipality where the alien is held in detention or, in an urgent case, another District Court** of the matter, as further provided by Ministry of Justice decree.

The District Court that received the notification shall

hear the matter without delay and no later than four days from the date when the alien was placed in detention.

The official responsible for the decision on holding an alien in detention or the person delegated by the official shall be present at the hearing of the matter at a District Court. When the matter is heard by a District Court, the Court shall be presented with a statement on the requirements for detention. An alien held in

detention shall be brought before the District Court to answer questions concerning the requirements for holding him or her in detention.

If the release of an alien who has been held in detention has not been ordered, the District Court of the

place of detention shall, on its own initiative, always rehear the matter concerning the detention no later than two weeks after the decision under which the District Court ordered continuation of the detention of the alien at the facility concerned (Section 128 of the Finnish Aliens Act).

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

According to the police, detained aliens have considered detention-related rehearings at District Courts taxing.

Challenges: the small number of units, their location and detention capacity. In some cases, it has been necessary to hold persons in police detention facilities even for weeks. Requirements for detention facilities; there are detention units only in Helsinki and Joutseno. In the northern parts of the country, dis-

cretion is required with regard to whether a person will be transported to Southern Finland. The centre to be opened in Joutseno will consume resources as detainees will be transported from one centre to another.

With regard to holding a person in detention, the achievement of the goal of detention is perceived as a challenge; whether the person is removed from the country, etc.

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)

According to the police, the fact that all cases of detention that continue for more than four days are automatically taken to a District Court to be assessed with regard to the lawfulness of detention is significant for monitoring lawfulness. The police conducts internal monitoring with regard to the lawfulness of detention decisions.

A notification is sent to the District Court and the Ombudsman for Minorities of each detention decision. According to Section 208 of the Finnish Aliens Act, the Ombudsman for Minorities shall be notified of any decisions on placing an alien in detention.

Section 4: Types of detention facilities and conditions of detention

This section of the Synthesis Report will provide a factual, comparative overview of the types of immigration detention facilities that exist in the EU and the conditions of detention associated with these. It examines whether there are specialised immigration detention facilities and explores whether different types of detention facilities are available for different categories of third-country national. The section also reviews the conditions of third country nationals in these detention facilities, including average surface per person, existence of separate facilities for families, visitation rights, access to medical care and legal assistance.

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.*

Yes.

Finland has two detention centres: the Metsälä and Joutseno detention units. The Metsälä detention unit is located in Helsinki as the Helsinki Police Department has the main responsibility for involuntary removal from the country. Furthermore, the proximity of Helsinki Airport is a grounds for the unit's location in the Helsinki metropolitan area: aliens subject to escorted return are accommodated in the centre before the departure of their flight and on the other hand, aliens encountered at the airport whose identi-

ty and/or fulfilment of the requirements for entry into the country is unclear. The Metsälä detention unit is used by both the Finnish Border Guard and the police and its total capacity is 40 beds.

The Joutseno detention unit, to be opened in the autumn 2014, is located near the eastern border of Finland which is one of the busiest border crossing points. The unit can accommodate altogether 30 persons.

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.

Yes. The Joutseno detention unit focuses on the accommodation of vulnerable persons. The Metsälä detention unit focuses on so-called higher-profile aliens

placed in detention as the unit takes safety aspects into account particularly well.

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

The Finnish Immigration Service is in charge of steering and monitoring the practical activities of the detention units.

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.*

According to Section 123 of the Finnish Aliens Act, a detained alien may be placed exceptionally in police

detention facilities (a police prison) if the detention units are temporarily full.

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

Yes. According to Section 123 of the Finnish Aliens Act, a detained alien may be placed exceptionally in police detention facilities (a police prison) if the detention units are temporarily full.

The government proposal for amending the Aliens Act suggests that in future, it would not be allowed to place minors in police detention facilities under any circumstances.

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?*

The police detention facilities are called a police prison. The term "police prison" refers to a cell ward that is located in connection with police facilities and where persons arrested due to a suspected criminal offence are held. No prisoners convicted of crime and serving their imprisonment sentences are held at a police prison. According to the Finnish Aliens Act, a detained person may temporarily be placed at a police prison if the detention unit is full. At a police prison, each detained and arrested person is placed in his or her own cell and has no possibility of being in contact or ending up into contact with persons arrested due to a suspected criminal offence.

If an alien is arrested as a suspect of a criminal offence, he or she is placed at a police prison in the same way as a Finnish suspect. Even then he or she has no possibility of being in contact with other arrested persons or other persons held at a police prison.

Actual prisons hold persons who are serving a sentence of imprisonment passed for a criminal offence. A person placed in detention on the basis of the Aliens Act may under no circumstances be held at an actual prison, not even temporarily.

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 detention units and the treatment of persons placed in detention are regulated by the Finnish Act on the Treatment of Aliens Placed in Detention and on Detention Units (116/2002). The Act does not define the minimum number of square metres per detainee.
Please provide any statistics on the average number of detainees placed in one room per detention facility	Metsälä Detention Unit: 2 persons per room Joutseno: 1 person per room, in exceptional cases 2 persons
Are families accommodated in separate facilities?	There are separate facilities for families in the detention units.
Can children be placed separately from their parents? (e.g. in a childcare facility). Under what circumstances might this happen?	Only if child welfare authorities make a protection decision according to which children are placed in a child welfare facility or another similar facility.
Are single women separated from single men?	Yes.
Are unaccompanied minors separated from adults?	Yes.
Do detainees have access to outdoor space? If yes, how often?	Yes. According to Section 14(3) of the Act on the Treatment of Aliens Placed in Detention and on Detention Units, the detainees must be guaranteed one hour of outdoors time per day, if the detained alien so wishes. In practice, in the summer the Metsälä detention unit offers the opportunity of several hours of outdoors time per day.

<p>Are detainees allowed to have visitors? If yes, which visitors are allowed (for example, family members, legal representatives, etc.) and how often?</p>	<p>Yes. Section 7 of the Act on the Treatment of Aliens Placed in Detention and on Detention Units: An alien has the right to receive visitors and use a telephone. The alien has the right to maintain contact in Finland to the recipient, close relatives or other loved ones, their home country representative of the diplomatic mission or consular post, the authority supervising detention unit operations, the Ombudsman for Minorities, general legal counsel or other LL.M. graduates, human rights monitoring bodies and the United Nations High Commissioner for Refugees Office or a representative of the Agency, as well as a non-profit association that provides professional legal assistance and advice to asylum seekers, refugees and other foreigners. Visits of the above mentioned groups may not be refused on the grounds mentioned in Section 15 of the Act on the Treatment of aliens placed in detention and on detention unit. The rules of a detention unit may be used to restrict the reception of visitors at times other than normal visiting hours as well as to provide more specific reception arrangements and telephone usage regulations that are necessary for the unit's order and the equal realisation of the communication right of detainees. Section 6a: With the consent of the detention unit, national and international organisations have a right to visit the detention unit. Legislation and the rules of the detention unit apply to the arrangement of these visits. Section 15: A visit may be refused if the visitor cannot reliably prove his or her identity or refuses to undergo a security check or there are reasonable grounds to suspect that the visit will cause such risk for safety or order that cannot be prevented through monitoring. A visit may be refused if there are reasonable grounds to believe that the visit will risk the establishing of the detained alien's identity or fulfilment of the requirements for entry into the country or if there are reasonable grounds to assume that the visit will contribute to committing a criminal offence.</p>
<p>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?</p>	<p>Yes, they can use their own telephone if it does not have a camera. Incoming messages are not screened. The use of e-mail and the Internet is allowed. If a detained alien does not have a telephone available to him or her, indispensable calls may be made with a telephone of the detention unit. The right to use a telephone may be restricted and/or related guidelines provided with the rules of a detention unit that are confirmed by the Finnish Immigration Service (Section 7 of the Act on the Treatment of Aliens Placed in Detention and on Detention Units).</p>
<p>Are education programmes provided (e.g. school courses for minors and language classes for adults)?</p>	<p>No. The Finnish Red Cross organises friend visitor activities at the detention unit.</p>
<p>Do detainees have access to leisure activities? If yes, which leisure activities are provided in the detention facility? And if yes, how often?</p>	<p>Yes. A gym, TV/DVD devices, a billiards table, a basketball court. In addition, the use of one's own laptop is allowed.</p>
<p>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>	<p>Detainees may not leave the detention unit freely. If a person requires hospital care, he or she is transported there under the police's supervision. A permit to leave the unit may be applied for separately in exceptional cases (e.g. the funeral of a close relative). Detainees may freely move within the premises of the detention unit with the exception of the facilities reserved for women. As for women, they may move freely in the common premises used also by men.</p>
<p>Are detainees entitled to legal advice / assistance? If yes, is it free of charge?</p>	<p>Yes. Legal advice/assistance is free of charge.</p>
<p>Are detainees entitled to language support (translation / interpretation services)? If yes, is it free of charge?</p>	<p>Yes. The detention-related guidelines have been translated in several languages and they are given to each detainee. An alien may get interpretation services for handling various tasks. The service is free of charge.</p>

Is medical care available to detainees inside the facilities? Is emergency care covered only or are other types of medical care included?	Yes. A public health nurse is available at the detention unit daily, and he or she assesses the need for medical treatment by a physician as necessary. If someone needs specialised health care, he or she is transported outside the unit to receive it.
Are there special arrangements for persons belonging to vulnerable groups? Please describe	Yes, based on case-by-case discretion. Visits to a child health clinic may be arranged for pregnant women, for instance. Mobility aids, for instance, may be arranged for the disabled but rehabilitation is not offered by the unit.
Are there special arrangements for persons considered to be security risks for others and/or themselves? Please describe	<p>Yes. Such persons may be held in detention in isolation from others.</p> <p>Section 8 of the Act on the Treatment of Aliens Placed in Detention and on Detention Units: An alien may be held in detention in isolation from other detained aliens if:</p> <ol style="list-style-type: none"> 1) he or she endangers his or her life or health or those of others or causes a serious risk to the safety or order of the detention unit; 2) isolated detention is necessary for protecting him or her from an immediate and serious risk to his or her life, health or safety; or 3) isolated detention is exceptionally necessary for ensuring the establishing of the alien's identity or fulfilment of the requirements for entry into the country. <p>The head of the detention unit must re-assess the need for isolated detention referred to in Subsection 1(1) and (2) as frequently as necessary, at the minimum every three days.</p> <p>Section 9: By request of the head of the detention unit, a detained alien who is at least 18 years old may temporarily be transferred from the detention unit to police detention facilities if the risk referred to in Subsection 1(1) or (2) of Section 8 cannot be prevented through isolated detention.</p>

Section 5: Availability and practical organisation of alternatives to detention

This section explores the availability of different types of alternatives to detention for different categories of third-country national. It further explores the practical organisation of the alternatives to detention, including information on the authorities/organisations responsible for administering the alternatives; the conditions that must be met by the third-country national who has been provided an alternative to detention; and information on the mechanisms in place in order to monitor the third-country national's compliance with these conditions. EMN NCPs are further requested to provide information on the challenges associated with the implementation of the alternatives, and any examples of good practice in their (Member) State that they may wish to share.

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 police or immigration authorities at regular intervals)	<p>Yes.</p> <p>Example: Third-country nationals subject to reporting obligations are required to report regularly to a monitoring authority once a week. When reporting, the person has to present an identification document and sign the reporting protocol. The third-country national can reside in an address of his/her own or s/he can be accommodated in an open reception centre. If the person fails to comply with reporting obligations, s/he will be placed in detention facilities.</p> <p>Yes. Section 118 of the Finnish Aliens Act: An alien may be obliged to report at regular intervals to police or border control authorities if this is necessary for:</p> <ol style="list-style-type: none"> 1) establishing that he or she meets the requirements for entry into the country; or 2) preparing or ensuring the enforcement of a decision on removing the alien from the country, or for otherwise supervising that the alien leaves the country. <p>The obligation to report is ordered by the authorities preparing the matter referred to in subsection 1 or the enforcement authorities. The person obliged to report shall be informed of the grounds for the obligation.</p> <p>The obligation to report is in force until it has been established that the alien meets the requirements for entry, a decision on removal from the country has been enforced or the processing of the matter has ended otherwise. However, the obligation to report shall be immediately ordered to end when it is no longer necessary for ensuring the issue or enforcement of a decision.</p>
Obligation to surrender a passport or a travel document	<p>Yes.</p> <p>Section 119 of the Finnish Aliens Act: Subject to the requirements laid down in section 118(1), an alien may be ordered to hand over his or her travel document and travel ticket to police or border control authorities or to give them the address where he or she may be reached.</p> <p>The authorities referred to in section 118(2) make a decision on the matter. The alien shall be informed of the grounds for the order.</p>
Residence requirements (e.g. residing at a particular address)	<p>Yes. Section 119 of the Finnish Aliens Act: Subject to the requirements laid down in section 118(1), an alien may be ordered to hand over his or her travel document and travel ticket to police or border control authorities or to give them the address where he or she may be reached.</p>
<p>Release on bail (with or without sureties)</p> <p><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></p>	<p>Yes though seldom used.</p> <p>Section 120:</p> <p>Giving a security:</p> <p>Instead of the obligations referred to in sections 118 and 119, an alien may be obliged to give a security to the State for the expenses related to his or her residence and return. The authorities referred to in section 118(2) make a decision on giving a security.</p> <p>The security shall be released or returned when it is no longer required for establishing whether the alien meets the requirements for entering the country or for preparing or ensuring the enforcement of a decision on removing the alien from the country. In other cases, the security is used to cover the expenses related to the alien's residence or return. The remainder of the security after such expenses have been paid shall be returned immediately.</p>

Electronic monitoring (e.g. tagging)	No.
Guarantor requirements	
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)	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.	No.

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;
- 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.

Finland does not use categories on the basis of which alternative interim measures would be applied. However, alternative interim measures are used instead of detention especially in case of vulnerable persons. Both the police and the Border Guard use alternative interim measures whenever their use is possible. Taking possession of a travel document and the obligation to report are the most commonly used of all alternative interim measures.

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).

N/A.

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.

The police or the border control authority is responsible for ordering alternative interim measures.

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.

If an alien fails to fulfil his or her obligation to report or another alternative interim measure, he or she may be ordered to be placed in detention. Section 121 of the Aliens Act regulates the requirements for holding an alien in detention.

Section 121 of the Finnish Aliens Act:
Requirements for holding an alien in detention
Instead of the interim measures referred to in sections 118–120, an alien may be ordered to be held in detention if:

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;

2) holding an alien in detention is necessary for establishing his or her identity; or

3) taking account of the alien's personal and other circumstances, there are reasonable grounds to believe that he or she will commit an offence in Finland.

Holding an alien in detention on grounds that his or her identity is unclear requires that the alien gave unreliable information when the matter was processed or refused to give the required information, or that it otherwise appears that his or her identity cannot be considered established.

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)

According to police departments, the obligation to report is not an effective interim measure, especially with regard to persons to be removed from the country, as there is a risk of absconding. In addition, the period of time between the obligation to report and detention may be long because, in the police's opinion, reporting is not required to be made frequently

enough and this may lead to absconding of an alien. One of the aims of the amendment to the Aliens Act that is currently being prepared is to make it possible to report not only at a police facility but also at a reception centre, which would make monitoring more effective.

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)

The police and the Border Guard consider alternative interim measures functional and effective in certain situations. Advantages mentioned with regard to alternative interim measures include the reduction of workload when compared to detention as well as lighter processes. Detention requires regular hearing of the case at court, among other things. Another aspect that is considered an advantage of alternative interim measures is the fact that violation of obligations imposed with them is a clear reason for placing the alien in detention.

According to the Border Guard, when it comes to interim measures, the obligation to report and taking

possession of travel documents have proved functional on several occasions. Alternative interim measures restrict a person's liberty significantly less than detention. The Border Guard comments that, from an authority's point of view, the obligation to report also is, upon its realisation, notably a more process economical solution than detention, which requires regular hearing of the case at court, among other things. On the other hand, in this context one should also bear in mind that if the person absconds, the uncompleted process may incur significantly higher costs due to a return from another Member State, for instance.

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

This section explores the type of assessments made by the competent authorities when considering whether to place a third-country national in an alternative to detention. It includes a number of questions which explore the timing of this assessment – in particular whether the assessment is conducted on all third-country nationals who are apprehended, or only on those third-country nationals who have completed a period in detention. It also includes questions about the practical implementation of the assessment procedure, in particular whether an individual assessment is conducted, what this involves and which organisations are involved in the assessment procedure.

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.*

In Finland, the alternative interim measures of the obligation to report or taking possession of travel documents are considered primary compared to detention and they are used whenever they are regarded as sufficient measures for handling the case.

If an alien has been placed in detention, one can revert to alternative interim measures, e.g. if detention has continued for a long time. In case the alien's identity has been unclear at the time of detention but new proof is provided of his or her identity, the alien may be released from detention and face an obligation to report (grounds for detention no longer exist). Aliens found to be present in the country illegally who have submitted an asylum application while in detention may be released after interviewing if it is evident that the person in question would be granted a Finnish residence permit, and his or her application will not be processed in the so-called expedited procedure. A Finnish Immigration Service official is consulted when the grounds for detention no longer exist, and he or she visits the detention facilities to conduct an asylum interview.

Families with minor children are placed in a reception unit on grounds of reasonability.

The use of alternative interim measures is based on a case-by-case situational assessment that takes into account the person's history and the assessment, established during the removal interview, of the per-

son's willingness to cooperate with regard to return. Consequently, alternative interim measures are used in cases in which the person to be removed from the country is willing to cooperate and does not prevent the issue of a decision concerning him or her or the enforcement of the removal from the country.

According to police departments, alternative interim measures have been used in situations related to establishing that the alien meets the requirements for residence in the country, in connection with preparations for a decision related to the refusal of entry and removal from the country as well as in ensuring the enforcement of the decision, among other things. The obligation to report is mainly used when detention is not necessary for carrying out the police's duties. Several points have been considered to be requirements for the obligation to report: the person has a valid travel document and an address where he or she can be reached, the person's risk of hiding and committing an offence is small, the person has no valid prohibition of entry for Finland or the Schengen area and so on.

In police departments, the prevalent experience is that those persons to be removed from the country who have few ties with Finland are at a greater risk to abscond. For instance, the obligation to report is considered to be more functional as an interim measure if the person in question has already developed ties with Finland.

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?

Interim measures have been abandoned due to humanitarian reasons, although it has been likely that the person will hinder the issue of a decision concerning him or her or the enforcement of the removal from the country.

According to the Border Guard, the use of alternative interim measures becomes emphasised when assess-

ing the reasonability of detention in view of the person's age, health or another similar personal reason (such as pregnancy or serious illness). In addition, the aim is to avoid the detention of minors.

The economic impact is estimated considering the duration of detention, and the goal is to enforce the removal from the country as soon as possible.

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.

Yes. Discretion is always based on a **case-by-case situational assessment**, and specific categories for

the application of interim measures have not been defined in legislation. See above.

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.

Yes. Discretion is always based on a case-by-case situational assessment, and humanitarian reasons may be a grounds for using alternative interim measures (the obligation to report or taking possession of travel documents). According to the Border Guard, the use of alternative interim measures becomes emphasised when assessing the reasonability of deten-

tion in view of the person's age, health or another similar personal reason (such as pregnancy or serious illness). In addition, the aim is to avoid the detention of minors.

Humanitarian reasons may be a grounds for not using detention as an interim measure.

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 aliens.

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

According to Section 118(2) of the Finnish Aliens Act, the obligation to report is ordered by the authorities establishing that the alien in question meets the requirements for entry into the country, the authorities preparing the decision on removing the alien

from the country or the enforcement authorities. The person obliged to report shall be informed of the grounds for the obligation. In practice, these authorities are the police and the Border Guard.

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?)

See above. A District Court does not take a stand with regard to other interim measures than the assessment of requirements for detention.

Section 7: Impact of detention and alternatives to detention on the effectiveness of return and international protection procedures

This section aims at exploring the impact of detention and alternatives to detention on the effectiveness of (Member) State return and international protection procedures. The questions are formulated as a comparison between the impact of detention and alternatives to detention; they do not attempt to compare the impact of detention (or alternatives to detention) on the effectiveness of return and international protection procedures in the case of third country nationals whose freedom of movement is not restricted at all.

Four specific aspects of effectiveness are considered: (i) effectiveness in reaching prompt and fair decisions on the immigration status of the individuals in question, and in executing these decisions; (ii) cost-effectiveness; (iii) respect for fundamental rights; and (iv) effectiveness in reducing the risk of absconding. Whilst an attempt is made to compare the impact of detention and alternatives to detention on each of these dimensions of effectiveness, it is recognised that the type of individuals placed in detention and in alternatives to detention (and their corresponding circumstances) are likely to differ significantly and therefore the comparisons made need to be treated cautiously.

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.

Studies have been conducted on the effectiveness of the interim measures included in the Finnish Aliens Act currently in force and, partly on the basis of these studies, the Finnish Ministry of the Interior has prepared a proposal for amending the legislation. In the proposal, effective alternatives for detention are sought. On the basis of the studies conducted, there

is no unambiguous information available about how interim measures have influenced the period of time that it takes to determine the need for international protection. In general, it can be noted that, as a rule, detention has promoted the handling of the case.

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	N/A	N/A	N/A	N/A	N/A

Required compilation of statistics is not carried out in Finland. The only information available is about average detention periods.

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)

Along with the preparations for the amendments to the Aliens Act, the Finnish Ministry of the Interior had a report made on the current practices and effectiveness of interim measures. On the basis of the responses from the police and the Border Guard, the only way to ensure an effective removal from the country is to place the alien in detention. Police departments consider other interim measures risky in case of refusal of entry and removal from country. Detention also has significance for cost efficiency; removal from the country is expensive – the absconding of an alien would nullify the preparations related to the removal and economic input would be lost.

Police departments consider it challenging to identify the aliens to whom the obligation to report or taking possession of a travel document could be applied to. In situations in which it has been determined that the alien has ties with Finland these interim measures have been considered functional and sufficient.

As good practices, the police also points out the role of District Courts as a body assessing the grounds for detention as well as the monitoring conducted by the Ombudsman for Minorities. The Helsinki Police Department also conducts internal monitoring with regard to detention decisions.

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.

No studies have been conducted. In case of asylum seekers, detention is rarely used as an interim measure (approximately 1% of detainees), so one can hardly list any advantages in this context.

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	N/A	N/A	N/A	N/A	N/A
Average length of time from issuing a return decision to the execution of the return	N/A	N/A	N/A	N/A	N/A
Number of voluntary returns (persons who opted to return voluntarily)	N/A	N/A	N/A	N/A	N/A
Success rate in number of departures	N/A	N/A	N/A	N/A	N/A

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)

N/A.

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 studies about the financial costs of interim measures have been conducted. On the basis of studies, the cost of one day in detention is EUR 179 and that of one day at a reception centre is EUR 43. Other studies have not been conducted or are not available.

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

Applicable year	Detention* Figures are from 2013 and from the Metsälä detention unit.	Alternatives to detention			
		A1	A2	A3	A4
Total costs	EUR 2,635,061	N/A	N/A	N/A	N/A
Staffing costs	EUR 1,460,000	N/A	N/A	N/A	N/A
Medical costs	EUR 87,000	N/A	N/A	N/A	N/A
Food and accommodation costs	EUR 630,000	N/A	N/A	N/A	N/A
Legal assistance	EUR 5,000. Nowadays, legal aid offices are responsible for this; the figure is related to the annual price of the initial legal information session of the detention unit.	N/A	N/A	N/A	N/A
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	EUR 453,000 The figure covers all expenses not included in the categories above (safety and security, property-related expenses, upkeep and maintenance expenses, transportation, interpretation services, childcare, etc.).	N/A	N/A	N/A	N/A

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)

N/A

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)?

In Finland, the Parliamentary Ombudsman supervises the lawfulness of the operations of authorities (including observation of fundamental and human rights). On 11 December 2012, the Parliamentary Ombudsman made a statement with regard to a complaint about informing an alien of the date and time of the removal from the country. In his resolution, the Parliamentary Ombudsman stated that although the Aliens Act does not require that the person to be removed from the country be informed of the date and time of the removal in advance, in his opinion, the main rule should be that the person to be removed is notified of the date and time of removal well in advance. In the case to which this complaint was related to the alien had been informed of the date and time in the evening before the removal.

The Parliamentary Ombudsman supervises the lawfulness of operations of closed institutions in Finland. In 2011, the Deputy Ombudsman conducted an inspection at the Metsälä detention unit, in which she drew attention to the following issues. According to Section 5 of the Act on the Treatment of Aliens Placed

in Detention and on Detention Units, an alien must be informed of his or her detention arrangements, right and obligations without delay. As far as possible, this information should be given in writing in a language that the person in question understands. Many of the aliens that visited the Deputy Ombudsman during the inspection complained that they do not know at which stage the legal process related to their removal from the country is. In the Deputy Ombudsman's view, general information about the legal status (the status of the legal process or potential removal from the country) of the persons residing at the detention unit should be increased, as far as possible.

In addition, the Deputy Ombudsman drew attention to the point that the residents of the detention unit should have more information about the bodies monitoring the lawfulness of closed institutions, such as the Parliamentary Ombudsman. This information, translated into several languages, could be posted on the noticeboard of the unit or distributed among the detained aliens in another regular manner.

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	Detention	Alternatives to detention			
		A1	A2	A3	A4
Number of complaints of violations of fundamental rights lodged 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).	2 The complaints were lodged with the Parliamentary Ombudsman. One complaint was about the quality of food served at the detention unit, and the other was lodged by an outsider with regard to the services provided by the detention unit during Ramadan. Neither of the complaints led to a condemnatory decision for the authority.	N/A	N/A	N/A	N/A
Number of complaints of violations of fundamental rights upheld 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).	N/A	N/A	N/A	N/A	N/A
Number of court cases in which there have been challenges 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)	N/A	N/A	N/A	N/A	N/A
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 upheld (where possible, please disaggregate by types of violation and by categories of third-country national)	N/A	N/A	N/A	N/A	N/A

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.)

N/A

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)

According to the police, the fact that all cases of detention that continue for more than four days are automatically taken to a District Court to be assessed with regard to the lawfulness of detention is significant for monitoring lawfulness. The police conducts internal monitoring with regard to the lawfulness of detention decisions. The police conducts internal

monitoring with regard to the lawfulness of detention decisions.

A notification is sent to the District Court and the Ombudsman for Minorities of each detention decision. According to Section 208 of the Finnish Aliens Act, the Ombudsman for Minorities shall be notified of any decisions on placing an alien in detention.

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.

N/A

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 no applicable, please indicate "Not applicable and briefly state why."

Applicable year	Detention	Alternatives to detention			
		A1	A2	A3	A4
Rate of absconding	0	N/A	N/A	N/A	N/A
Compliance rate	100	N/A	N/A	N/A	N/A

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.*

In 2012, a report was compiled at the Finnish Immigration Service about the absconding of unaccompanied minor asylum seekers from reception centres. The report was based on the research project about missing children in 27 EU Member States, carried out by the Dutch ECORYS organisation for the EU Commission. Later on, the report was utilised when preparing the amendment of the Aliens Act's regulations on the grounds for detention. The focus point in law drafting was the prohibition of the detention of minors.

According to a report prepared in the Finnish Immigration Service, the number of children absconding

from special units for minors was low: in 2012, a total of 6 children absconded, one of which returned. In case of one of these children, the underlying reason for absconding was a removal decision. As a conclusion, the report stated that the best way to prevent children from absconding would be preventive activities and atmosphere that build/generate safety, attachment and trust. Good relationships with adults as well as peer support were also considered key elements in supporting a child and preventing absconding. As all cases of absconding were different in all aspects, it would be difficult to establish generalisations, categories and regularities for absconding.

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.

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
Statistics on number of third-country nationals in detention per category						
Total number of third-country nationals in detention	509	534	460	410	444	<p>The number indicates the number of detainees at the Metsälä detention unit. The Metsälä detention unit is used by both the police and the Border Guard. In exceptional cases, the Border Guard may accommodate a detained alien at a police prison.</p> <p>The total number of detainees is based on the accommodation statistics of the Metsälä detention unit because the statistics of the police and the Border Guard is based on apprehension decisions, of which there may be several per person. Consequently, the number of apprehension decisions cannot be considered to indicate the true number of detention cases. There are no comprehensive statistics about the number of aliens placed in police facilities.</p>

Number of third-country national applicants for international protection in ordinary procedures in detention	N/A	47	83	35	N/A	The figures reported are statistical information from the Helsinki Police Department. Immigration affairs and removal from the country have concentrated in the Helsinki region, which explains why the statistics are available only for Helsinki.
Number of third-country national fast-track international protection applicants (accelerated international protection procedures) in detention	N/A	N/A	N/A	N/A	N/A	Finland does not compile statistics about detained aliens by customer groups as the status of a person often changes during detention (e.g. when a person who is found to be present in the country illegally submits an asylum application).
Number of applicants for international protection subject to Dublin procedures in detention	N/A	N/A	N/A	N/A	N/A	See above.
Number of rejected applicants for international protection in detention	N/A	N/A	N/A	N/A	N/A	See above.
Number of rejected family reunification applicants in detention	N/A	N/A	N/A	N/A	N/A	See above.
Number of other rejected applicants for residence permits on basis other than family reunification (Please specify)	N/A	N/A	N/A	N/A	N/A	See above.
Number of persons detained to prevent illegal entry at borders in detention	N/A	N/A	N/A	N/A	N/A	The number of detention decisions reported by the Border Guard covers all persons detained on the basis of the Aliens Act. The detention of a person who enters the country illegally is based on committing a criminal offence, and no separate statistics is compiled of such detention cases. The determination of their number would require that decisions be reviewed one by one.
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	N/A	N/A	N/A	N/A	N/A	

Number of persons who have been issued a return decision in detention						The only information available is the figure indicating the number of detention decisions in cases in which an expulsion or deportation decision is being prepared for an alien.
Expulsion decision is being prepared	N/A	402	449	578	598	
Deportation decision is being prepared	N/A	30	26	34	28	
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						Source: Metsälä detention unit
Minors, total	30	17	17	26	41	
Unaccompanied minors	15	3	4	4	10	
Number of other third-country nationals placed in immigration detention	N/A	N/A	N/A	N/A	N/A	
Statistics on number of third-country nationals provided alternatives to detention						
Total number of third-country nationals provided alternatives to detention	374 119	260 144	266 86	238 29	291 Police: N/A	The figures include figures from both the police and the Border Guard. The lower figure is the figure reported by the police, the upper by the Border Guard. At the moment, there is no comprehensive statistical information with regard to alternative interim measures.
Number of third-country nationals applicants for international protection in ordinary procedures provided alternatives to detention	N/A	47	83	35	N/A	
Number of third-country nationals fast-track international protection applicants (accelerated international protection procedures) provided alternatives to detention	N/A	N/A	N/A	N/A	N/A	
Number of international protection applicants subject to Dublin procedures provided alternatives to detention	N/A	N/A	N/A	N/A	N/A	
Number of rejected applicants for international protection provided alternatives to detention	N/A	N/A	N/A	N/A	N/A	
Number of rejected applicants for family reunification provided alternatives to detention	N/A	N/A	N/A	N/A	N/A	

Number of other rejected applicants for residence permits on basis other than family reunification (Please specify)	N/A	N/A	N/A	N/A	N/A	
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	N/A	N/A	N/A	N/A	N/A	
Number of persons issued a return decision provided alternatives to detention	N/A	292	205	239	N/A	The figures were reported by the Helsinki Police Department and cover alternative interim measures used in connection with the refusal of entry and deportation.
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	N/A	N/A	N/A	N/A	N/A	
Number of other third-country nationals provided alternatives to detention (Please specify the category(ies))	N/A	N/A	N/A	N/A	N/A	

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.

Average length of time in detention	2009	2010	2011	2012	2013	Source / further information
Average length of time in detention of all categories of third-country nationals in detention	N/A	11,318	12,673	11,252	11,799	Police
Average length of time in detention of applicants for international protection in ordinary procedures	N/A	N/A	N/A	N/A	N/A	
Average length of time in detention of fast-track (accelerated) international protection applicants (accelerated international protection procedures)	N/A	N/A	N/A	N/A	N/A	
Average length of time in detention of applicants for international protection subject to Dublin procedures	N/A	N/A	N/A	N/A	N/A	
Average length of time in detention of rejected applicants for international protection	N/A	N/A	N/A	N/A	N/A	The only figure available is the total number of detention decisions in cases in which the alien has been issued an expulsion decision at any phase of the entry process (including the residence permit process).
Average length of time in detention of rejected family reunification applicants	N/A	N/A	N/A	N/A	N/A	
Average length of time in detention of other rejected applicants for residence permits on basis other than family reunification (Please specify)	N/A	N/A	N/A	N/A	N/A	
Average length of time in detention of persons detained to prevent illegal entry						
Average detention period when investigating the possibility to allow the alien to enter the country	N/A	16,155	19,925	20,574	20,834	
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)	N/A	16,155	19,925	20,574	20,834	The figures indicate the number of cases in which the possibility to allow the alien to enter the country is being investigated

Average length of time in detention of persons who have been issued a return decision: expulsion	N/A	10,451	12,481	9,519	8,947	Police
Deportation:	N/A	9,673	16,525	8,600	24,354	Police
Minors total	15,7	12,0	25,1	10,7	11,8	Source: Metsälä detention unit
UAMs	10,0	16,5	20,8	12,00	20,0	
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	N/A	N/A	N/A	N/A	N/A	

**FOKUSOITU EMN-TUTKIMUS
1 | 2014**

Säilöönotto ja vaihtoehtoiset turvaamistoimet osana maahanmuuttopolitiikkaa



Euroopan unionin
osarahoittama

Säilöönotto ja vaihtoehtoiset turvaamistoimet osana maahanmuuttopolitiikkaa

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Euroopan muuttoliikeverkosto (EMN) perustettiin Neuvoston päätöksellä 14. päivänä toukokuuta 2008 ja se saa taloudellista tukea Euroopan unionilta. Euroopan muuttoliikeverkoston tavoitteena on vastata yhteisön toimielinten sekä jäsenvaltioiden viranomaisten ja laitosten tarpeeseen saada tietoa maahanmuuttoja turvapaikka-asioista tuottamalla ajantasaista, puolueetonta, luotettavaa ja vertailukelpoista tietoa näitä asioita koskevan politiikan suunnittelun tukemiseksi Euroopan unionissa. EMN antaa lisäksi yleisölle tietoa kyseisistä asioista.

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FOKUSOITU EMN-TUTKIMUS 2014

Säilöönotto ja vaihtoehtoiset turvaamistoimet osana maahanmuuttopolitiikkaa

Top-line "Factsheet"

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.

Voimassa olevan ulkomaalaislain 7 luvussa säädetään turvaamistoimista. Turvaamistoimia voidaan käyttää, mikäli se on välttämätöntä ulkomaalaisen maahantulon edellytysten selvittämiseksi; hänen maasta poistamistaan koskevan päätöksen valmistelemiseksi tai täytäntöönpanon turvaamiseksi taikka muutoin maasta poistumisen valvomiseksi. Lailla säädettyjä turvaamistoimia ovat ilmoittautumisvelvollisuus, matkustusasiakirjojen haltuunotto; vakuuden asettaminen sekä säilöön ottaminen.

Lähtökohtana turvaamistoimien käyttämiselle on niin sanottujen vaihtoehtoisten turvaamistoimien käyttäminen (ilmoittautumisvelvollisuus, passin haltuunotto, vakuuden asettaminen), mikäli näitä toimia ei katsota tehokkaiksi, voidaan ulkomaalainen ottaa säilöön ulkomaalaislain 121 pykälän nojalla. Säilöön ottamisesta päättää poliisissa poliisilaitoksen, keskusrikospoliisin tai suojelupoliisin päällystään kuuluva poliisimies ja rajavartiolaitoksessa pidättämiseen oikeutettu virkamies tai vähintään luutnantin arvoinen rajavartiomies. Lain mukaan ulkomaalaiselle tai hänen lailliselle edustajalleen on ilmoitettava säilöön ottamisen peruste.

Päätös turvaamistoimien käyttämisestä tehdään aina yksilökohtaisesti. Poliisin ja Rajavartiolaitoksen harkintaa säilöön ottamiseen liittyen rajoittavat näiden viranomaisten toimintaa sääntelevät lait ja niiden sisältämät oikeusperiaatteet (perus- ja ihmisoikeuksien kunnioittaminen, suhteellisuusperiaate sekä vähemmän haitan periaate). Vaihtoehtoisten turvaamistoimien käyttö korostuu arvioitaessa säilöön ot-

tamisen kohtuullisuutta henkilön iän, terveydentilan tai muun vastaavan henkilöön liittyvän syyn ollessa käsillä (raskaus, vaikea sairaus). Lapsen säilöön ottamista harkittaessa on ulkomaalaislain mukaan kiinnitettävä erityistä huomiota lapsen etuun ja hänen kehitykseensä. Ennen alaikäisen säilöön ottamista on lisäksi kuultava sosiaaliviranomaisen edustajaa.¹

Suomessa on kaksi säilöönottoyksikköä: Metsälän säilöönottoyksikkö Helsingissä sekä syksyllä 2014 avattava Joutsenon säilöönottoyksikkö lähellä Suomen kaakkoisrajaa. Joutsenon säilöönottoyksikkö erikoistuu haavoittuvassa asemassa olevien säilöön otettujen ulkomaalaisten majoittamiseen kun taas Metsälän säilöönottoyksikköön keskitetään niin sanottujen korkeamman riskin säilöön otettujen ulkomaalaisten majoittaminen.

Säilöön ottamiseen tai säilössä pitämisen jatkamiseen liittyen haasteelliseksi koetaan asian käsittely käräjäoikeuksissa minkä säilöön otetut ulkomaalaiset kokevat pääsääntöisesti raskaiksi. Haasteelliseksi on koettu myös säilöönottoyksiköiden vähäinen lukumäärä, sijainti ja majoituskapasiteetti. Ulkomaalaisia on jouduttu säilökapasiteetin riittämättömyyden vuoksi pitämään jopa viikkojen ajan poliisin pidätystiloissa (poliisivankila). Toisaalta säilöönottoyksiköiden sijainti Etelä-Suomessa nähdään myös säilöönottamista rajoittavana tekijänä esimerkiksi Pohjois-Suomessa; säilöön otetun siirtämiskustannukset saattavat nousta käytännössä niin suuriksi, että kustannussyistä säilöönottamispäätöstä ei tehdä.

¹Ulkomaalaislain muuttamisesta annettavassa hallituksen esityksessä esitetään muutoksia, jotka painottavat ensisijaisesti vaihtoehtoisten turvaamistoimien käyttöä erityisesti lasten kohdalla.

Siitä huolimatta, että säilöön otetut henkilöt kokevat käräjäoikeuskäsittelyt raskaina, viranomaiset näkevät käsittelyt tärkeinä ihmis- ja perusoikeuksien toteutumisen turvaamiseksi sekä säilöön ottamisen perusteiden lainmukaisuuden arvioimiseksi. Käräjäoikeuksien ohella Vähemmistövaltuutettu saa tiedon jokaisesta ulkomaalaista koskeneesta säilöönottamispäätöksestä, mitä pidetään viranomaistoiminnan valvonnan kannalta tärkeänä. Ulkopuolisen valvonnan lisäksi säilöönottamispäätöksiä tekevissä viranomaisissa suoritetaan sisäistä valvontaa päätösten lainmukaisuudesta.

Tarkasteltaessa säilöön ottamista ja vaihtoehtoisia turvaamistoimia (esimerkiksi ilmoittautumisvelvollisuus, matkustusasiakirjojen luovuttaminen) suhteessa turvaamistoimien päämäärän saavuttamiseen poliisi ja Rajavartiolaitos ovat todenneet säilöön ottamisen olevan ainoa keino varmistaa ulkomaalaisen tehokas maasta poistaminen. Säilöön ottamisella nähdään olevan merkitystä myös kustannustehokkuuden kannalta: maasta poistamiseen liittyvät toimet ovat taloudellisesti kalliita, jolloin ulkomaalaisen katoaminen kesken prosessin johtaisi taloudellisiin menetyksiin.

Vuonna 2013 Metsälän säilöönottoyksikössä majoitui yhteensä 442 säilöön otettua ulkomaalaista. Pääosin säilöön otetut ulkomaalaiset ovat olleet miehiä – vuonna 2013 naisia otettiin säilöön 47, alaikäisiä 41 joista 10 oli ilman huoltajaa. Poliisin tilastojen mukaan säilöön ottamisen kesto oli vuosina 2010–2013 keskimäärin 11,8 vuorokautta. Vuosina 2010–2013 keskimäärin 81 prosenttia säilöön ottamisista tehtiin maasta poistamiseen liittyvällä perusteella. Tilastoiduista säilöönottoperusteista yleisin oli käännättämispäätöksen täytäntöönpanon valmistelu, joka oli säilöön ottamisen peruste 43 prosentissa päätöksiä. Maahantulon edellytysten selvittäminen oli kyseessä keskimäärin 16 prosentissa päätöksiä ja epäselvän henkilöllisyyden selvittäminen noin 1 prosentissa päätöksiä.

Vaihtoehtoisten turvaamistoimien käyttämisestä ei ole valtakunnallisesti kattavaa tilastotietoa, mikä tekee niiden kokonaisvaltaisen arvioinnin hankalaksi. Tilanne tullee kuitenkin parantumaan poliisiasiain toiminnanohjausjärjestelmän (VITJA) käyttöönoton myötä. Rajavartiolaitoksen tilastojen mukaan vuonna 2013 rajavartiolaitos teki 156 säilöönottopäätöstä, ilmoittautumisvelvollisuus määrättiin 222 tapauksessa ja matkustusasiakirja otettiin haltuun turvaamistoina 68 tapauksessa. Vakuuden asettamista käytettiin turvaamistoina yhdessä tapauksessa.

Section 1: Overview of EU acquis

This section of the Synthesis Report will briefly outline the EU legal framework guiding national legislation in relation to detention and alternatives to detention. It will provide a mapping of the substantive and procedural provisions in the EU acquis that regulate immigration detention and apply to different migration situations. The section will also highlight how the EU acquis relates to the broader international legal framework on immigration detention.

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

This section aims at providing an overview of the categories of third-country nationals that can be placed in detention in (Member) States according to national law and practice. The section also examines whether the possibility to detain each category of third-country national is enshrined in national legislation, the grounds for detention that apply and whether national legal frameworks include an exhaustive list of grounds. EMN NCPs are asked to provide their answers to these questions in the table provided overleaf. The section considers whether special provisions regarding detention are in place for persons belonging to vulnerable groups, including minors, families with children, pregnant women or persons with special needs. Finally, the section examines national provisions on (release) of detention of persons who cannot be returned and/or are granted tolerated stay.

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 grounds for detention for each category of migrant that can be detained in your (Member) State. Is there an exhaustive list of grounds outlined in your national framework?
Applicants for international protection in ordinary procedures	YES	YES	N/A	<p>Suomessa sovelletaan ulkomaalaisen säilöönottamisessa ulkomaalaislain yleissäännöstä 118 pykälässä sekä edellytysten osalta ulkomaalaislain 121 pykälää.</p> <p>118§: Ulkomaalainen voidaan velvoittaa ilmoittautumaan poliisin tai rajatarkastusviranomaisen toimipisteessä määräajoin, jos se on välttämätöntä:</p> <p>1) hänen maahantulonsa edellytysten selvittämiseksi; taikka</p> <p>2) hänen maasta poistamistaan koskevan päätöksen valmistelemissä tai täytäntöönpanon turvaamiseksi taikka muutoin maasta poistumisen valvomiseksi.</p> <p>121 §: Ulkomaalainen voidaan 118–120 §:ssä tarkoitettujen turvaamistoimien sijasta määrätä otettavaksi säilöön, jos:</p> <p>1) ulkomaalaisen henkilökohtaiset ja muut olot huomioon ottaen on perusteltua aihetta olettaa, että hän piileskelemällä tai muulla tavoin menetellen estää tai huomattavasti vaikeuttaa itseään koskevaa päätöksentekoa tai maasta poistamistaan koskevan päätöksen täytäntöönpanoa;</p> <p>2) säilöönotto on tarpeellinen epäselvän henkilöllisyyden selvittämiseksi; taikka</p> <p>3) ulkomaalaisen henkilökohtaiset ja muut olot huomioon ottaen on perusteltua aihetta olettaa hänen syyllistyvän rikokseen Suomessa.</p> <p>Ulkomaalaisen säilöön ottaminen henkilöllisyyden epäselvyyden vuoksi edellyttää, että hän on asiaa käsiteltäessä esittänyt epäluotettavia tietoja tai kieltäytynyt tietojen antamisesta taikka muutoin käy ilmi, ettei henkilöllisyyttä voida pitää selvänä.</p>
Applicants for international protection in fast-track (accelerated) procedures	YES	YES	N/A	Kts. ylle

Applicants for international protection subject to Dublin procedures	YES	YES	N/A	Kts. ylle
Rejected applicants for international protection	YES	YES	N/A	Kts. ylle
Rejected family reunification applicants	YES	YES	N/A	Kts. ylle
Other rejected applicants for residence permits on basis other than family reunification (Please provide details)	YES	YES	N/A	Kts. ylle
Persons detained at the border to prevent illegal entry (e.g. airport transit zone)	YES	YES	N/A	Kts. ylle
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	YES	N/A	Kts. ylle
Persons who have been issued a return decision	YES	YES	N/A	Kts. ylle
Other categories of third-country nationals (Please specify the categories in your answer)	YES	YES	N/A	<p>Perusteltu syy olettaa ulkomaalaisen syyllistyvän rikokseen Suomessa.</p> <p>118§: Ulkomaalainen voidaan velvoittaa ilmoittautumaan poliisin tai rajatarkastusviranomaisen toimipisteessä määräajoin, jos se on välttämätöntä:</p> <p>1) hänen maahantulonsa edellytysten selvittämiseksi; taikka</p> <p>2) hänen maasta poistamistaan koskevan päätöksen valmistelemissä tai täytäntöönpanon turvaamiseksi taikka muutoin maasta poistumisen valvomiseksi.</p> <p>121 §: Ulkomaalainen voidaan 118–120 §:ssä tarkoitettujen turvaamistoimien sijasta määrätä otettavaksi säilöön, jos:</p> <p>1) ulkomaalaisen henkilökohtaiset ja muut olot huomioon ottaen on perusteltua aihetta olettaa, että hän piileskelemällä tai muulla tavoin menetellen estää tai huomattavasti vaikeuttaa itseään koskevaa päätöksentekoa tai maasta poistamistaan koskevan päätöksen täytäntöönpanoa;</p> <p>2) säilöönotto on tarpeellinen epäselvän henkilöllisyyden selvittämiseksi; taikka</p> <p>3) ulkomaalaisen henkilökohtaiset ja muut olot huomioon ottaen on perusteltua aihetta olettaa hänen syyllistyvän rikokseen Suomessa.</p> <p>Ulkomaalaisen säilöön ottaminen henkilöllisyyden epäselvyyden vuoksi edellyttää, että hän on asiaa käsiteltäessä esittänyt epäluotettavia tietoja tai kieltäytynyt tietojen antamisesta taikka muutoin käy ilmi, ettei henkilöllisyyttä voida pitää selvänä</p>

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.*

Kyllä.

Alaikäisiä tai haavoittuvassa asemassa muutoin olevia koskien ei ole olemassa erityissäännöksiä säilöönottamisen perusteista. Perusteet sisältyvät yleissäännöksiin ulkomaalaislain 118 ja 121 pykälissä:

118§:

Ulkomaalainen voidaan velvoittaa ilmoittautumaan poliisiin tai rajatarkastusviranomaisen toimipisteessä määräajoin, jos se on välttämätöntä:

- 1) hänen maahantulonsa edellytysten selvittämiseksi; taikka
- 2) hänen maasta poistamistaan koskevan päätöksen valmistelemiseksi tai täytäntöönpanon turvaamiseksi taikka muutoin maasta poistumisen valvomiseksi.

121 §:

Ulkomaalainen voidaan 118–120 §:ssä tarkoitettujen turvaamistoimien sijasta määrätä otettavaksi säilöön, jos:

- 1) ulkomaalaisen henkilökohtaiset ja muut olot huomioon ottaen on perusteltua aiheutta olettaa, että hän piileskelemällä tai muulla tavoin menetellen estää tai huomattavasti vaikeuttaa itseään koskevaa päätöksentekoa tai maasta poistamistaan koskevan päätöksen täytäntöönpanoa;
- 2) säilöönotto on tarpeellinen epäselvän henkilöllisyyden selvittämiseksi; taikka
- 3) ulkomaalaisen henkilökohtaiset ja muut olot huomioon ottaen on perusteltua aiheutta olettaa hänen syyllistyvän rikokseen Suomessa.

Ulkomaalaisen säilöön ottaminen henkilöllisyyden epäselvyyden vuoksi edellyttää, että hän on asiaa käsiteltäessä esittänyt epäluotettavia tietoja tai kieltäytynyt tietojen antamisesta taikka muutoin käy ilmi, ettei henkilöllisyyttä voida pitää selvänä.

A) perheen mukana tulevat alaikäiset: Perheiden kohdalla on mahdollista tehdä siten, että vain toinen vanhempi otetaan säilöön, muu perhe asuu vastaanottokeskuksen puolella.

B) Yksintulleet alaikäiset: Alaikäisten ottaminen säilöön on lain perusteella mahdollista, mutta ulkomaalaislain muuttamisesta annettavassa hallituksen esityksessä esitetään muutoksia, jotka painottavat

ensisijaisesti vaihtoehtoisten keinojen käyttöä erityisesti lasten kohdalla. Lisäksi esitetään, että kaikki lapset, mukaan lukien ne jotka tulevat perheen kanssa, tulee ottaa säilöönottotoyksikön tiloihin, ei koskaan poliisin tiloihin.

Joutsenon Vastaanottokeskuksen alaisuuteen avataan syksyllä 2014 uusi säilöönottotoyksikkö, joka on keskittynyt haavoittuvassa asemassa olevien säilöön otettujen ulkomaalaisten majoittamiseen. Joutsenon vastaanottokeskuksella on kokemusta ihmiskaupan uhrien auttamisjärjestelmästä, minkä perusteella haavoittuvassa asemassa olevien säilöönottaminen haluttiin keskittää Joutsenoon. Joutsenon säilöönottotoyksikössä tullaan pilotoimaan vaihtoehtoisia malleja säilöönottamiselle.

Ulkomaalaislain 6 pykälän mukaisesti säilöön ottamista harkittaessa on kiinnitettävä erityistä huomiota lapsen etuun sekä hänen kehitykseensä. Samoin harkintaa rajoittaa ulkomaalaislain 122 pykälä, jonka mukaisesti ennen alle 18-vuotiaan säilöön ottamista on kuultava sosiaaliviranomaisen edustajaa.

6 §

Lain soveltaminen alaikäisiin

Tämän lain nojalla tapahtuvassa päätöksenteossa, joka koskee kahdeksatoista vuotta nuorempaa lasta, on erityistä huomiota kiinnitettävä lapsen etuun sekä hänen kehitykseensä ja terveyteensä liittyviin seikkoihin.

Ennen kaksitoista vuotta täyttäneitä lasta koskevan päätöksen tekemistä on lasta kuultava, jollei kuuleminen ole ilmeisen tarpeetonta. Lapsen mielipiteet tulee ottaa huomioon hänen ikänsä ja kehitystasonsa mukaisesti. Myös nuorempaa lasta voidaan kuulla, jos hän on niin kehittynyt, että hänen näkemyksiinsä voidaan kiinnittää huomiota. Alaikäistä lasta koskevat asiat on käsiteltävä kiireellisesti.

Edelleen ulkomaalaislain 123 pykälän mukaan Alle 18-vuotias voidaan sijoittaa poliisiin ja rajavartiolaitoksen pidätystiloihin vain, jos myös hänen huoltajansa tai muu täysi-ikäinen perheenjäsenensä on otettu säilöön poliisiin tai rajavartiolaitoksen pidätystiloihin.

Poliisin harkintaa säilöönottamiseen liittyen rajoittavat lisäksi poliisilain 2; 3 ja 4 pykälien sisältämät oikeusperiaatteet: perus- ja ihmisoikeuksien kunnioittaminen, suhteellisuusperiaate sekä vähim-

haitan periaate. Samat periaatteet rajoittavat rajavartiolaitoksen harkintaa (Rajavartiolain 5-8 pykälät).

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.²

Ulkomaalaislaki 127 §:

Asiaa käsittelevän viranomaisen on määrättävä säilöön otettu päästettäväksi heti vapaaksi, kun edellytyksiä säilössä pitämiselle ei enää ole. Säilöön otettu on päästettävä vapaaksi viimeistään kuuden kuukauden kuluttua säilöönottopäätöksestä. Säilöönottoaika voi olla tätä pidempi, ei kuitenkaan yli 12 kuukautta, jos säilöön otettu ei tee yhteistyötä palauttamisen toteuttamiseksi tai kolmannelta valtiolta ei saada tarvittavia paluusiakirjoja ja maastapoistaminen viivästyy näistä syistä.

Poliisin harkintaa säilöönottamiseen liittyen rajoittavat lisäksi poliisilain 2; 3 ja 4 pykälien sisältämät oikeusperiaatteet: perus- ja ihmisoikeuksien kunnioittaminen, suhteellisuusperiaate sekä vähimhaitan periaate. Soveltamisesta ei ole annettu sisäistä ohjeistusta ulkomaalaislain tarkoittamissa tapauksissa. Samat periaatteet rajoittavat rajavartiolaitoksen harkintaa (Rajavartiolain 5-8 pykälät).

²According 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.

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

This section examines the assessment procedures and criteria/benchmarks that are used by (Member) States in order to decide whether detention is justified in individual cases. It begins with a series of questions which explore the extent to which individual assessment procedures (e.g. interviews) are used in all cases before placing third-country nationals in detention, or whether individual assessment procedures are only used in the case of certain categories of third-country national. Where individual assessments are used, EMN NCPs are asked to describe the procedures involved and whether they include an assessment of the vulnerability of the individual in question. Finally, EMN NCPs are asked to provide information on the challenges associated with the assessment procedures in their Member States and to identify any elements of good practice.

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?

Lähtökohtana turvaamistoimien soveltamisessa on, että ensijaisesti käytetään ilmoittautumisvelvollisuutta ja matkustusasiakirjojen haltuunottoa. Harkinta tehdään aina yksilökohtaisesti, ulkomaalaislaissa ei ole kategorisointia tiettyihin kolmansien maiden kansalaisiin liittyen. Päätöstä ohjaa myös poliisilain 2, 3 ja 4 pykälien sisältämät periaatteet (perus- ja ihmisoikeuksien kunnioittaminen, suhteellisuusperiaate, vähimmän haitan periaate).

Ulkomaalaislain 121 pykälässä säädetään säilöön ottamisen edellytyksistä. Ulkomaalainen voidaan määrätä säilöön otettavaksi, jos 118-121 pykälissä annetut lievemmat turvaamistoimet osoittautuvat tehottomiksi ja hänen henkilökohtaiset tai muut olonsa huomioon ottaen on perusteltua aihetta olettaa, että hän piileskelemällä tai muulla tavoin menetellen estää tai huomattavasti vaikeuttaa itseään koskevaa päätöksentekoa tai maasta poistamistaan koskevan päätöksen täytäntöönpanoa.

Ulkomaalainen voidaan niin ikään ottaa muiden turvaamistoimien sijasta säilöön, jos se on tarpeen ulkomaalaisen epäselvän henkilöllisyyden selvittämiseksi tai ulkomaalaisen henkilökohtaiset tai muut olot huomioon ottaen on perusteltua aihetta olettaa hänen syyllistyvän rikokseen Suomessa. Otettaessa ulkomaalainen säilöön epäselvän henkilöllisyyden perusteella edellytetään, että hän on asiaa käsiteltäessä esittänyt epäselviä tietoja tai kieltäytynyt tietojen antamisesta taikka muutoin käy ilmi, ettei henkilöllisyyttä voida pitää selvänä.

Maastapoistamisen edellytysten selvittämiseksi tehdään poliisitutkinta, jonka aikana ulkomaalaista kuuluaan useita kertoja. Keskustelujen aikana arvioidaan sitä, onko ulkomaalainen halukas yhteistyöhön, onko hän vaarassa kadota prosessin aikana ja haluaako poistua maasta omin avuin tai lainkaan. Ulkomaalaiselta pyydetään myös erikseen vastinetta maastapoistamiselle siinä vaiheessa kun maastapoistamis-päätöstä valmistellaan.

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).*

Lainsäädäntö ei tee eroa eri ulkomaalaisryhmien osalta. Ulkomaalaislain 121 pykälässä säädetään säilöön ottamisen edellytyksistä. Ulkomaalainen voidaan turvaamistoimien sijasta määrätä säilöön otettavaksi, jos hänen henkilökohtaiset tai muut olonsa huomioon ottaen on perusteltua aihetta olettaa, että hän piileskelemällä tai muulla tavoin menetellen estää tai huomattavasti vaikeuttaa itseään koskevaa päätöksentekoa tai maasta poistamistaan koskevan päätöksen täytäntöönpanoa.

Ulkomaalainen voidaan niin ikään ottaa muiden turvaamistoimien sijasta säilöön, jos se on tarpeen ulkomaalaisen epäselvän henkilöllisyyden selvittämiseksi tai ulkomaalaisen henkilökohtaiset tai muut olot huomioon ottaen on perusteltua aihetta olettaa hänen syyllistyvän rikokseen Suomessa. Otettaessa ulkomaalainen säilöön epäselvän henkilöllisyyden perusteella edellytetään, että hän on asiaa käsiteltäessä esittänyt epäselviä tietoja tai kieltäytynyt tietojen antamisesta taikka muutoin käy ilmi, ettei henkilöllisyyttä voida pitää selvänä.

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?*

Varsinaisessa säilöön ottamista koskevassa lainsäädännössä ei ole tästä mainintaa, sen sijaan ulkomaalaislain 121 pykälää koskien lain esitöissä kehoitetaan kertomaan henkilölle hänen oikeuksistaan ja velvollisuuksistaan.

Maassaoleskelun tai maastapoistamisen edellytyksiä selvitettäessä ulkomaalaista kuullaan eikä hänelle erikseen kerrota sitä, että kuuleminen voi johtaa säilöönottamiseen. Mikäli kuulemisten jälkeen käynnistetään poliisitutkinta, on kuulustelun aluksi ulkomaalaiselle kerrottava hänen oikeutensa ja velvollisuutensa. Ulkomaalaista kuullaan epäillyn asemassa mikäli ilmenee että hän tulisi vastustamaan maastapoistamista. Säilöönottaessa henkilölle kerrotaan miksi hänet

otetaan kiinni, mahdollisesta käännyttämispäätöstä sekä maastapoistamisen menettelyistä ylipäätään (ulkomaalaislain 123 §: säilöön otetulle tai hänen edustajalleen on ilmoitettava säilöönoton peruste). Poliisilain 4 § Toimenpiteen perusteen ilmoittaminen: Poliisimiehen on ilmoitettava henkilön vapautteen kohdistuvan toimenpiteen peruste toimenpiteen kohteena olevalle tai tämän edustajalle, jolle se ole mahdotonta henkilön tilan taikka olosuhteiden johdosta.

Kuulustelujen ulkopuolella annettua tietoa voidaan käyttää viranomaistoiminnassa hyväksi maastapoistamisprosessissa – tästä ei erikseen kerrota säilöön otetulle.

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.*

Kyllä. Säilöönottamiseen liittyvä harkinta tehdään aina yksilökohtaisesti. Harkintaa rajoittavat alla mainitut oikeussäännökset.

Poliisin harkintaa säilöönottamiseen liittyen rajoittavat lisäksi poliisilain 2; 3 ja 4 pykälien sisältämät oikeusperiaatteet: perus- ja ihmisoikeuksien kunnioittaminen, suhteellisuusperiaate sekä vähimmän haitan periaate. Soveltamisesta ei ole annettu sisäistä ohjeistusta ulkomaalaislain tarkoittamissa tapauksissa.

Ulkomaalaislaki 6 §: erityistä huomiota kiinnitettävä lapsen etuun jne.

122 §: Edellytyksenä lapsen säilöönottamiselle on, että sosiaaliviranomaisia kuultava ennen säilöönottamista koskevaa päätöstä.

123 §: alle voidaan sijoittaa poliisiin tai rajavartiolaitoksen pidätystiloihin vain jos myös hänen huoltajansa tai muu täysi-ikäinen perheenjäsenensä on otettu säilöön poliisiin tai rajavartiolaitoksen pidätystiloihin.

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

Example: The risk of absconding may be measured in your (Member) State on the basis of a previous escape or attempt to escape from detention, a statement about the person's reluctance to return to their home country, a previous breach of temporary release or non-compliance with an alternative to detention, lack of a valid passport, lack of address or residence, previous declaration of false identify, previous violation of voluntary departure or entry ban, etc.

Ulkomaalaislain 121 pykälän 1 momentti sisältää kriteerit säilöön ottamiselle katoamisvaaran perusteella:

1) ulkomaalaisen henkilökohtaiset ja muut olot huomioon ottaen on perusteltua aihetta olettaa, että hän

piileskelemällä tai muulla tavoin menetellen estää tai huomattavasti vaikeuttaa itseään koskevaa päätöksentekoa tai maasta poistamistaan koskevan päätöksen täytäntöönpanoa;

Indikaattoreita:

- henkilöllä ei ole kotiosoitetta josta hänet tavoitetaisiin. Henkilö muuttaa asuinpaikkaa ilmoittamatta.
- Ulkomaalaiset jotka jättäneet useita turvapaikkahakemuksia muissa EU-maissa, katsotaan se indikaattoriksi pakenemisenmahdollisuudesta.
- Jos ulkomaalainen pakenee poliisin ilmestyessä paikalle, on se selkeä indikaatio siitä, että henkilö olisi katoamisen vaarassa.

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

Mikäli henkilö ei noudata hänelle asetettua ilmoitustautumisvelvollisuutta. Kts. ylle pakenemisen vaara. Henkilö vaikeuttaa prosessia salaamalla henkilölli-

syytensä tai antamalla henkilöllisyydestään vääriä tietoja.

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

Laittomat maahantulijat jotka tavataan olosuhteissa, joista voidaan päätellä että henkilö tulee syylistymään rikokseen. Tietty rikostyyppit kuten taskuvarkaudet sekä tietynlaiset huumausainerikokset (myymistarkoituksessa) –mikäli henkilö ollut useita

kertoja epäiltynä edellä mainituista rikoksista antaa tämä aihetta epäillä että ulkomaalainen syyllistyisi rikokseen Suomessa oleskellessaan.

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

Yksintulleen alaikäisen kohdalla voidaan ottaa poliisilain perusteella säilöön, mikäli katsotaan, ettei henkilö kykene huolehtimaan itsestään (tällöin ei ole ky-

seessä turvapaikanhakija). Henkilö on juopunut eikä hänellä ole rahaa itsestään huolehtiakseen.

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

Lähtökohtana on ilmoittautumisvelvollisuus tai matkustusasiakirjojen haltuunottaminen (118-121§). Säilöönottoa käytetään vain mikäli lievemmat keinot eivät osoittaudu tehokkaiksi turvaamistoimiksi.

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.*

Ulkomaalaislain 123 pykälän mukaan säilöön ottamisesta päättää poliisissa poliisilaitoksen, keskusrikospoliisin tai suojelupoliisin päällystöön kuuluva poliisimies ja rajavartiolaitoksessa pidättämiseen oikeutettu virkamies tai vähintään luutnantin arvoinen rajavartiomies.

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?)*

Ulkomaalaislain 124 pykälän mukaan säilöönottamisesta päättäneen virkamiehen on viipymättä ja viimeistään säilöön ottamista seuraavana päivänä ilmoitettava asiasta **säilyttämispaikkakunnan kärjäoikeudelle tai kiireellisessä tapauksessa muullekin kärjäoikeudelle** sen mukaan kuin oikeusministeriön asetuksella tarkemmin säädetään.

Ilmoituksen vastaanottaneen kärjäoikeuden on otettava asia käsiteltäväksi viipymättä ja viimeistään neljän vuorokauden kuluttua säilöön ottamisesta.

Kärjäoikeuden käsittelyssä on läsnä säilöönottamisesta päättänyt virkamies tai hänen määräämänsä toinen henkilö. Käsittelyssä kärjäoikeudelle on esi-

tettävä selvitys säilöön ottamisen edellytyksistä. Säilöön otettu ulkomaalainen on tuotava kärjäoikeuden istuntoon ja häntä on kuultava käsittelyssä säilöön ottamisen edellytyksistä.

Jollei säilöön otettua ulkomaalaista ole määrätty päästettäväksi vapaaksi, säilöön otetun säilyttämispaikkakunnan kärjäoikeuden on omasta aloitteestaan otettava säilöön ottamista koskeva asia uudelleen tutkittavaksi aina viimeistään kahden viikon kuluttua päätöksestä, jolla kärjäoikeus on määrännyt säilöön otetun pidettäväksi edelleen säilössä asianomaisessa sijoituspaikassa (ulkomaalaislain 128 §).

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

Poliisin mukaan säilöön otetut ulkomaalaiset ovat kokeneet säilöönottoa koskevat uusintakäsittelyt kärjäoikeuksissa raskaiksi.

Haaste: yksiköiden vähäinen lukumäärä, sijainti ja säilökapasiteetti. Henkilöitä on jouduttu jopa viikkoja pitämään poliisin pidätystiloissa. Säilytyspaikkaa koskevat vaatimukset; säilöönottoyksiköitä on vain Helsingissä ja Joutsenossa. Maan pohjoisosissa tämä

edellyttää harkintaa siitä, lähdetäänkö henkilöä kuljettamaan Etelä-Suomeen. Joutsenoon avattava keskus tulee syömään resursseja kun säilöön otettuja kuljetetaan keskuksesta toiseen.

Säilössä pitämisen suhteen haasteena nähdään säilössä pitämisen tavoitteen saavuttaminen; saadaanko henkilöä poistettua maasta jne.

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)

Poliisin mukaan se, että säilöönotot jotka jatkuvat yli neljä päivää menevät automaattisesti käräjäoikeuden käsittelyyn, jossa arvioidaan säilössä pitämisen lainmukaisuus, on merkittävää laillisuusvalvonnan kannalta. Poliisissa tehdään sisäistä valvontaa säilöönottopäätösten lainmukaisuudesta.

Jokaisesta säilöönottamispäätöksestä lähtee ilmoitus käräjäoikeudelle ja Vähemmistövaltuutetulle. Ulkomaalaislain 208 pykälän mukaan Vähemmistövaltuutetun tiedoksi on saatettava ulkomaalaisen säilöönottoa koskevat päätökset.

Section 4: Types of detention facilities and conditions of detention

This section of the Synthesis Report will provide a factual, comparative overview of the types of immigration detention facilities that exist in the EU and the conditions of detention associated with these. It examines whether there are specialised immigration detention facilities and explores whether different types of detention facilities are available for different categories of third-country national. The section also reviews the conditions of third country nationals in these detention facilities, including average surface per person, existence of separate facilities for families, visitation rights, access to medical care and legal assistance.

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.*

Kyllä.

Suomessa on kaksi säilöönottoyksikköä: Metsälän ja Joutsenon säilöönottoyksiköt. Metsälän säilöönottoyksikkö sijaitsee Helsingissä, koska Helsingin poliisilaitoksella on päävastuu vastentahtoisista maastapoistamisista. Lisäksi Helsinki-Vantaan lentoaseman läheisyys on peruste yksikön sijainnille pääkaupunkiseudulla: saattaen palautettavia ulkomaalaisia majoitetaan keskukseen ennen lennon lähtöä ja toisaalta lentoasemalla tavattuja ulkomaalaisia, joiden henki-

öllisyys ja/tai maahantulon edellytysten täyttyminen on epäselvää. Metsälän säilöönottoyksikköä käyttävät sekä Rajavartiolaitos että poliisi ja siellä on kaikkiaan 40 asiakaspaikkaa.

Joutsenon säilöönottoyksikkö, joka avautuu syksyllä 2014, sijaitsee lähellä Suomen itärajaa joka on rajanylityspaikoista vilkkaimpia. Yksikössä on mahdollista majoittaa kaikkiaan 30 asiakasta.

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.*

Kyllä. Joutsenon säilöönottoyksikkö tulee keskittymään haavoittuvassa asemassa olevien säilöön otettujen majoittamiseen. Metsälän säilöönottoyksikkö on keskittynyt ns. korkeamman profiilin säilöön-

tettuihin ulkomaalaisiin asiakkaisiin koska yksikössä on otettu turvallisuusnäkökohdat huomioon erityisen hyvin.

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

Säilöönottoyksikköjen käytännön toiminnan ohjauksesta ja valvonnasta vastaa Maahanmuuttovirasto.

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.*

Ulkomaalaislain 123 pykälän mukaan säilöön otettu ulkomaalainen voidaan sijoittaa poikkeuksellisesti

poliisin pidätystiloihin (poliisivankila), jos säilöönottoyksiköt ovat tilapäisesti täynnä.

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

Kyllä. Ulkomaalaislain 123 pykälän mukaan säilöön otettu ulkomaalainen voidaan sijoittaa poikkeuksellisesti poliisin pidätystiloihin (poliisivankila), jos säilöönottoyksiköt ovat tilapäisesti täynnä.

Ulkomaalaislain muuttamisesta annettavassa hallituksen esityksessä esitetään, että jatkossa alaikäisiä ei saisi enää missään olosuhteissa sijoittaa poliisin pidätystiloihin.

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?

Poliisin pidätystiloja kutsutaan poliisivankilaksi. Poliisivankilalla tarkoitetaan poliisin toimitilojen yhteydessä olevaa selliosastoa, jossa säilytetään rikosepäilyn johdosta pidätettyjä henkilöitä. Poliisivankilassa ei säilytetä rikoksista tuomittuja vankeusrangaistustaan suorittavia vankeja. Ulkomaalaislain mukaisesti säilöön otettu henkilö voidaan tilapäisesti säilyttää poliisivankilassa, mikäli säilytyspaikka on täynnä. Poliisivankilassa jokainen säilöön otettu ja pidätetty sijoitetaan omaan selliinsä eikä heillä ole mahdollisuutta olla tekemisissä tai joutua tekemisiin rikosepäilyn vuoksi pidätettyjen henkilöiden kanssa.

Mikäli ulkomaalainen henkilö pidätetään rikoksesta epäiltynä, hänet sijoitetaan poliisivankilaan samalla tavoin kuin suomalainenkin rikoksesta epäilty. Silloinkaan hänellä ei ole mahdollisuutta pitää yhteyttä muihin pidätettyihin tai muihin poliisivankilassa säilytettäviin henkilöihin.

Varsinaisissa vankiloissa säilytetään henkilöitä, jotka suorittavat rikoksesta tuomittua vankeusrangaistusta. Ulkomaalaislain nojalla säilöön otettua ei voida missään tilanteessa edes tilapäisesti säilyttää varsinaisissa vankilassa.

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)	Säilöönottoyksiköstä sekä säilöön otettujen kohtelusta säädetään laissa säilöön otettujen ulkomaalaisten kohtelusta (116/2002). Kyseinen laki ei määrittele vähimmäisneliöitä per säilöön otettu henkilö.
Please provide any statistics on the average number of detainees placed in one room per detention facility	Metsälän säilöönottoyksikkö: 2 henkilö/huone Joutseno: 1 henkilö/huone, poikkeustapauksissa 2 henkilöä.
Are families accommodated in separate facilities?	Perheille on säilöönottoyksiköissä omat osastonsa.
Can children be placed separately from their parents? (e.g. in a childcare facility). Under what circumstances might this happen?	Vain mikäli lastensuojeluviranomaiset tekevät huostaanotto päätöksen, jonka mukaisesti lapset sijoitetaan lastensuojelulaitokseen tms.
Are single women separated from single men?	Kyllä.
Are unaccompanied minors separated from adults?	Kyllä.
Do detainees have access to outdoor space? If yes, how often?	Kyllä. Säilönlain 14 pykälän 3 momentin mukaisesti säilöön otetuille täytyy taata vähintään 1 tunti ulkoilua vuorokaudessa, mikäli säilöön otettu ulkomaalainen henkilö niin haluaa. Käytännössä Metsälän säilöönottoyksikössä on mahdollista ulkoilla kesäaikaan useita tunteja päivässä

<p>Are detainees allowed to have visitors? If yes, which visitors are allowed (for example, family members, legal representatives, etc.) and how often?</p>	<p>Kyllä. Laki säilöönottettujen ulkomaalaisten kohtelusta 6 - 7 §: Ulkomaalaisella on oikeus ottaa vastaan vieraita ja käyttää puhelinta. 6 §: Ulkomaalaisella on oikeus pitää yhteyttä Suomessa olevaan vastaanottajaan, lähiomaiseensa tai muuhun läheiseensä, kotimaataan edustavaan diplomaattiseen edustustoon tai konsuliedustustoon, säilöönottoyksikön toimintaa valvovaan viranomaiseen, vähemmistövaltuutettuun, yleiseen oikeusavustajaan, asiamiehenään toimivaan asianajajaan tai muuhun oikeustieteen kandidaatin tutkinnon suorittaneeseen henkilöön, ihmisoikeuksien valvontaelimiin ja Yhdistyneiden kansakuntien pakolaisasiain päävaltuutetun virastoon tai viraston edustajaan sekä yleishyödylliseen yhdistykseen, joka antaa ammattimaisesti oikeudellista apua ja neuvontaa turvapaikanhakijoille, pakolaisille ja muille ulkomaalaisille. Säilöönottoyksikön järjestyssäännöillä voidaan rajoittaa vieraiden vastaanottamista muina kuin vierailuille tavanomaisina vuorokaudenaikoina sekä antaa yksikön järjestyksen ja säilöön otettujen yhteydenpito-oikeuden yhdenvertaisen toteutumisen kannalta välttämättömiä tarkempia määräyksiä vieraiden vastaanottojärjestelyistä ja puhelimen käytöstä. 6a§: Kansallisilla ja kansainvälisillä järjestöillä on oikeus säilöönottoyksikön suostumuksella vierailta säilöönottoyksikössä. Vierailujen järjestämisessä noudatetaan lakia ja säilöönottoyksikön järjestyssääntöä. 15 §: Tapaaminen voidaan evätä, jos vierailija ei pysty luotettavasti todistamaan henkilöllisyytensä tai kieltäytyy turvatarkastuksesta tai on perusteltua syytä epäillä, että tapaamisesta aiheutuu turvallisuudelle tai järjestykselle sellaista vaaraa, jota ei voida valvonnalla torjua. Tapaaminen voidaan evätä, jos tapaamisen perustellusta syytä arvioidaan vaarantavan säilöön otetun ulkomaalaisen maahantuloedellytysten ja henkilöllisyyden selvittämisen tai jos on perusteltua syytä olettaa, että tapaaminen myötävaikuttaa rikoksen tekemiseen. Kuitenkin 6 § 3 mom.: Yllä 6 § 1 mom. listattujen tahojen vierailuita ei saa rajoittaa 15 §:n perusteella.</p>
<p>Are detainees allowed contact with the outside world via telephone, mail, e-mail, internet? If yes, are in- and/or outgoing messages screened in any way?</p>	<p>Kyllä, omaa puhelinta saa käyttää mikäli siinä ei ole kameraa. Saapuvia viestejä ei lueta. Sähköpostin ja internetin käyttö on sallittua. Mikäli säilöönotetulla ulkomaalaisella ei ole käytössään puhelinta, välttämättömät puhelut voi soittaa säilöönottoyksikön puhelimella. Oikeutta puhelimen käyttämiseen voidaan rajoittaa ja/tai ohjeistaa säilöönottoyksikön omilla järjestyssäännöillä, jotka vahvistaa Maahanmuuttovirasto (laki säilöön otettujen ulkomaalaisten kohtelusta 7§).</p>
<p>Are education programmes provided (e.g. school courses for minors and language classes for adults)?</p>	<p>Ei. Suomen Punainen Risti järjestää säilöönottoyksikössä ystävätoimintaa.</p>
<p>Do detainees have access to leisure activities? If yes, which leisure activities are provided in the detention facility? And if yes, how often?</p>	<p>Kyllä. Punttisali, TV/DVD -laitteet, biljardipöytä, koripallokenttä. Lisäksi oman kannettavan tietokoneen käyttäminen on sallittua.</p>
<p>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>	<p>Säilöönotetut henkilöt eivät voi vapaasti poistua säilöönottoyksiköstä. Mikäli henkilö tarvitsee sairaalahoitoa, hänet kuljetetaan sinne poliisin valvonnassa. Poistumislupaa yksiköstä on mahdollista erikseen anoa poikkeuksellisissa tapauksissa (esimerkiksi läheisen hautajaiset). Säilöönotetut voivat vapaasti liikkua säilöönottoyksikön tiloissa lukuun ottamatta naisille varattua osastoa. Naiset puolestaan pääsevät vapaasti liikkumaan yhteisiin tiloihin joita myös miehet käyttävät.</p>
<p>Are detainees entitled to legal advice / assistance? If yes, is it free of charge?</p>	<p>Kyllä. Oikeusapu on ilmaista.</p>
<p>Are detainees entitled to language support (translation / interpretation services)? If yes, is it free of charge?</p>	<p>Kyllä. Säilöönottamiseen liittyvät ohjeet on käännetty useille eri kielille ja ne jaetaan jokaiselle säilöönotetulle henkilölle. Ulkomaalaisen on mahdollista saada tulkkaukspalveluita oman asiansa hoitamiseen. Palvelu on ilmaista.</p>

Is medical care available to detainees inside the facilities? Is emergency care covered only or are other types of medical care included?	Kyllä. Säilöönottoyksikössä on päivittäin tavattavissa terveydenhoitaja, joka arvioi tarpeen mukaan lääkärinhuollon tarpeen. Mikäli henkilö tarvitsee erikoissairaanhoidon, hänet kuljetetaan sitä varten yksikön ulkopuolelle.
Are there special arrangements for persons belonging to vulnerable groups? Please describe	Kyllä, tapauskohtaisen harkinnan mukaan. Esimerkiksi raskeana oleville on mahdollista järjestää neuvolakäyntejä. Invalidisoituneille asiakkaille on mahdollista järjestää apuvälineitä esimerkiksi liikkumiseen, mutta kuntoutusta yksikkö ei tarjoa.
Are there special arrangements for persons considered to be security risks for others and/or themselves? Please describe	Kyllä. Tällaisia henkilöitä voidaan säilyttää erillään muista. Laki säilöönottettujen ulkomaalaisten kohtelusta 8§: Ulkomaalainen voidaan säilyttää erillään muista säilöön otetuista ulkomaalaisista, jos: 1) hän aiheuttaa vaaraa omalle tai muiden hengelle taikka terveydelle taikka vakavaa vaaraa säilöönottoyksikön turvallisuudelle tai järjestykselle; 2) erillään säilyttäminen on tarpeen hänen suojaamiseksi henkeä, terveyttä tai turvallisuutta välittömästi uhkaavalta vakavalta vaaralta; tai 3) erillään säilyttäminen on poikkeuksellisesti välttämätöntä maahantuloedellytysten tai henkilöllisyyden selvittämisen turvaamiseksi. Säilöönottoyksikön johtajan täytyy arvioida uudelleen 1 momentin 1 ja 2 kohdassa tarkoitettu erillään säilyttämisen tarve niin usein kuin siihen on syytä, kuitenkin vähintään joka kolmas päivä. 9 §: Säilöön otettu 18 vuotta täyttänyt ulkomaalainen voidaan säilöönottoyksikön johtajan pyynnöstä siirtää tilapäisesti säilöönottoyksiköstä poliisin pidätystiloihin, jos 8 §:n 1 momentin 1 tai 2 kohdassa tarkoitettua vaaraa ei voida torjua erillään säilyttämisellä.

Section 5: Availability and practical organisation of alternatives to detention

This section explores the availability of different types of alternatives to detention for different categories of third-country national. It further explores the practical organisation of the alternatives to detention, including information on the authorities/organisations responsible for administering the alternatives; the conditions that must be met by the third-country national who has been provided an alternative to detention; and information on the mechanisms in place in order to monitor the third-country national's compliance with these conditions. EMN NCPs are further requested to provide information on the challenges associated with the implementation of the alternatives, and any examples of good practice in their (Member) State that they may wish to share.

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)	Kyllä. Ulkomaalaislain 118 §: Ulkomaalainen voidaan velvoittaa ilmoittautumaan poliisin tai rajatarkastusviranomaisen toimipisteessä määräajoin, jos se on välttämätöntä: 1) hänen maahantulonsa edellytysten selvittämiseksi; taikka 2) hänen maasta poistamistaan koskevan päätöksen valmistelemiseksi tai täytäntöönpanon turvaamiseksi taikka muutoin maasta poistumisen valvomiseksi. Ilmoittautumisvelvollisuuden määrää se viranomainen, joka valmistelee 1 momentissa tarkoitettua asiaa, tai täytäntöönpanosta huolehtiva viranomainen. Ilmoittautumisvelvolliselle on ilmoitettava ilmoittautumisvelvollisuuden peruste. Ilmoittautumisvelvollisuus on voimassa, kunnes maahantulon edellytykset on selvitetty, kunnes maasta poistamista koskeva päätös on pantu täytäntöön tai kunnes asian käsittely on muutoin päättynyt. Ilmoittautumisvelvollisuus on kuitenkin heti määrättävä päättyväksi, kun se ei ole enää välttämätön päätöksenteon tai täytäntöönpanon turvaamiseksi.
Obligation to surrender a passport or a travel document	Kyllä. Ulkomaalaislain 119 §: Ulkomaalainen voidaan 118 §:n 1 momentissa säädetyin edellytyksin määrätä luovuttamaan matkustusasiakirjansa ja matkalippunsa poliisin tai rajatarkastusviranomaisen haltuun taikka ilmoittamaan poliisille tai rajatarkastusviranomaiselle paikka, josta hän on tavoitettava. Asiasta päättää 118 §:n 2 momentissa tarkoitettu viranomainen. Ulkomaalaiselle on ilmoitettava määräyksen peruste.
Residence requirements (e.g. residing at a particular address)	Kyllä. Ulkomaalaislain 119 §: Ulkomaalainen voidaan 118 §:n 1 momentissa säädetyin edellytyksin määrätä luovuttamaan matkustusasiakirjansa ja matkalippunsa poliisin tai rajatarkastusviranomaisen haltuun taikka ilmoittamaan poliisille tai rajatarkastusviranomaiselle paikka, josta hän on tavoitettava.
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>	Kyllä. 120 § Vakuuden asettaminen: Ulkomaalainen voidaan 118 ja 119 §:ssä tarkoitettujen velvollisuuksien sijasta velvoittaa asettamaan viranomaisen määräämä vakuus valtiolle oleskelu- ja paluukustannuksiin. Vakuuden asettamisesta päättää 118 §:n 2 momentissa tarkoitettu viranomainen. Vakuus on vapautettava tai palautettava, kun vakuus ei enää ole tarpeen ulkomaalaisen maahantulon edellytysten selvittämiseksi taikka maasta poistamista koskevan päätöksen valmistelemiseksi tai täytäntöönpanon turvaamiseksi. Muussa tapauksessa vakuus käytetään ulkomaalaisen oleskelu- tai paluu-kustannusten kattamiseen. Se osuus vakuudesta, jota ei käytetä näihin kustannuksiin, on välittömästi palautettava.
Electronic monitoring (e.g. tagging)	Ei.
Guarantor requirements	
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)	Ei.
Release to care worker or under a care plan	Ei.
Community management programme	Ei.
Other alternative measure available in your (Member) State. Please specify.	Ei.

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;
- 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.

Suomessa ei ole käytössä kategorioita, joiden perusteella vaihtoehtoisia turvaamistoimia sovelletaan. Vaihtoehtoisia turvaamistoimia käytetään kuitenkin erityisesti haavoittuvassa asemassa olevien kohdalla säilöönottamisen sijasta. Sekä poliisissa että

Rajavartiolaitoksella vaihtoehtoisia turvaamistoimia aina kun niiden käyttäminen on mahdollista. Matkustusasiakirjan haltuunotto sekä ilmoittautumisvelvollisuus ovat vaihtoehtoisista turvaamistoimista käytetyimpiä.

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).

N/A.

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.

Vaihtoehtoisten turvaamistoimien määräämisestä vastaavat poliisi tai rajatarkastusviranomainen.

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.

Mikäli ulkomaalainen ei noudata ilmoittautumisvelvollisuuttaan tai muuta vaihtoehtoista turvaamistoimea, voidaan hänet määrätä säilöönottettavaksi. Säilöönottamisen perusteista on säädetty ulkomaalaislain 121 pykälässä.

Ulkomaalaislain 121 §:

Säilöön ottamisen edellytykset

Ulkomaalainen voidaan 118–120 §:ssä tarkoitettujen turvaamistoimien sijasta määrätä otettavaksi säilöön, jos:

1) ulkomaalaisen henkilökohtaiset ja muut olot hu-

mioon ottaen on perusteltua aihetta olettaa, että hän piileskelemällä tai muulla tavoin menetellen estää tai huomattavasti vaikeuttaa itseään koskevaa päätöksentekoa tai maasta poistamistaan koskevan päätöksen täytäntöönpanoa;

2) säilöönotto on tarpeellinen epäselvän henkilöllisyyden selvittämiseksi; taikka

3) ulkomaalaisen henkilökohtaiset ja muut olot huomioon ottaen on perusteltua aihetta olettaa hänen syyllistyvän rikokseen Suomessa.

Ulkomaalaisen säilöön ottaminen henkilöllisyyden epäselvyyden vuoksi edellyttää, että hän on asiaa käsiteltäessä esittänyt epäluotettavia tietoja tai kiel-

täytynyt tietojen antamisesta taikka muutoin käy ilmi, ettei henkilöllisyyttä voida pitää selvänä.

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)*

Poliisilaitosten mukaan ilmoittautumisvelvollisuus ei ole erityisesti maasta poistettavien henkilöiden kohdalla tehokas turvaamistoimi koska vaarana on asiakkaan katoaminen. Samoin ilmoittautumisvelvollisuuden ja säilöönottamisen välinen aika saattaa olla pitkä, koska ilmoittautumista ei edellytetä poliisin mukaan riittävän usein ja vaarana on se, että ulko-

maalainen katoaa pitkäksiin aikaa ennen kuin hänet saadaan kiinni säilöön otettavaksi. Valmisteltavana olevalla ulkomaalaislain muutoksella on tarkoitus mahdollistaa ilmoittautuminen poliisiin lisäksi myös vastaanotokeskuksessa, mikä tehostaisi valvontaa.

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)*

Poliisi ja rajavartiolaitos pitävät vaihtoehtoisia turvaamistoimia tietyissä tilanteissa toimivina ja riittävinä. Vaihtoehtoisten turvaamistoimien hyvänä puolena mainitaan työmäärän väheneminen säilöönottoon verrattuna sekä prosessien keventyminen. Säilöönottaminen edellyttää mm. asian käsittelyä säännöllisesti tuomioistuimessa. vaihtoehtoisten turvaamistoimien etuna nähdään myös se, että niillä asetettujen velvoitteiden rikkominen on selkeä peruste ulkomaalaisen säilöönottamiselle.

Rajavartiolaitoksen mukaan vaihtoehtoisista turvaamistoimista ilmoittautumisvelvollisuus ja matkus-

tusasiakirjojen haltuunotto on todettu toimivaksi useassa tilanteessa. Vaihtoehtoiset turvaamistoimet rajoittavat henkilön vapautta merkittävästi säilöönottoa vähemmän. Rajavartiolaitoksen mukaan viranomaisen toiminnan kannalta ilmoittautumisvelvollisuus on toteutuessaan myös huomattavasti prosessiekonomisempi ratkaisu kuin säilöönotto, joka edellyttää mm. asian käsittelyä tuomioistuimessa säännöllisesti. Toisaalta tässä yhteydessä tulee huomioida myös sitä, että henkilön kadotessa kesken jäänyt prosessi voi aiheuttaa merkittävästi suurempia kustannuksia esim. toisesta jäsenvaltiosta tapahtuvan palautuksen muodossa.

Section 6:

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

This section explores the type of assessments made by the competent authorities when considering whether to place a third-country national in an alternative to detention. It includes a number of questions which explore the timing of this assessment – in particular whether the assessment is conducted on all third-country nationals who are apprehended, or only on those third-country nationals who have completed a period in detention. It also includes questions about the practical implementation of the assessment procedure, in particular whether an individual assessment is conducted, what this involves and which organisations are involved in the assessment procedure.

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.*

Vaihtoehtoiset turvaamistoimet ilmoittautumisvelvollisuus tai matkustusasiakirjojen haltuunotto katsotaan Suomessa ensisijaisiksi säilöönottoon nähden ja niitä käytetään aina kun ne katsotaan riittäviksi asian hoitamisen kannalta.

Mikäli ulkomaalainen on otettu säilöön, voidaan palata vaihtoehtoihin turvaamistoihin esimerkiksi silloin jos säilöönotto pitkittyisi. Mikäli ulkomaalaisen henkilöllisyys on ollut säilöönottamisen hetkellä epäselvä mutta henkilöllisyydestä esitetään uusia todisteita, henkilö voidaan vapauttaa säilöstä ja hänelle asetetaan ilmoittautumisvelvollisuus (säilöönoton peruste poistunut mutta perusteet turvaamistojen käyttämiselle ovat edelleen voimassa). Laittomasti maassa tavatut ulkomaalaiset jotka ovat jättäneet turvapaikkahakemuksen säilöönoton aikana, voidaan vapauttaa turvapaikkapuhuttelun jälkeen, mikäli on ilmeistä että tämä saisi oleskeluluvan Suomeen eikä hänen hakemustaan käsitellä niin sanotussa nopeutetussa menettelyssä, mikä edellyttäisi säilössä pitämisen jatkamista maastapoistamisen turvaamiseksi. Säilöönottamisen perusteen poistumisesta konsultoidaan Maahanmuuttoviraston virkailijaa joka käy säilötiloissa tekemässä turvapaikkapuhuttelun.

Perheet joiden mukana alaikäisiä lapsia sijoitetaan vastaanottoyksikköön kohtuusyistä.

Vaihtoehtoisten turvaamistojen käyttö perustuu

tapauskohtaiseen tilannearvioon, jossa otetaan huomioon henkilön historia ja maastapoistamispuhuttelussa muodostunut arvio henkilön yhteistyöhalukkuudesta palauttamiseen liittyen. Vaihtoehtoisia turvaamistoimia käytetään siis sellaisissa tapauksissa, jossa maasta poistettava henkilö on yhteistyöhaluinen eikä estä itseään koskevaa päätöksentekoa tai maastapoistamisen täytäntöönpanoa.

Vaihtoehtoisia turvaamistoimia on poliisilaitosten mukaan käytetty muun muassa ulkomaalaisen maassalolon edellytysten selvittämiseen liittyvissä tilanteissa, käännyttämistä ja maastapoistamista koskevan päätöksen valmistelun yhteydessä sekä päätöksen täytäntöönpanon turvaamisessa. Ilmoittautumisvelvollisuutta käytetään pääsääntöisesti silloin kun säilöönotto ei ole välttämätöntä poliisin tehtävän hoitamiseksi. Ilmoittautumisvelvollisuuden edellytyksenä on pidetty muun muassa sitä, että henkilöllä on voimassa oleva matkustusasiakirja ja osoite, josta hänet voidaan tavoittaa; henkilön piileskely- ja rikoksentekeväara on pieni, eikä hänellä ole voimassa olevaa maahantulokieltoa Suomeen tai Schengen-alueelle.

Yleinen kokemus poliisilaitoksissa on, että sellaiset käännyttävät henkilöt, joilla on vähän siteitä Suomeen, ovat muita suuremmassa riskissä kadota. Esimerkiksi ilmoittautumisvelvollisuuden nähdään toimivan turvaamistojena paremmin, mikäli henkilölle on jo muodostunut siteitä Suomeen.

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?

Turvaamistoimista on luovuttu humanitaaristen syiden vuoksi, vaikka on ollut todennäköistä, että henkilö tulee hankaloittamaan häntä koskevaa päätöksentekoa tai maastapoistamisen täytäntöönpanoa.

Rajavartiolaitoksen mukaan vaihtoehtoisten turvaamistoimien käyttö korostuu arvioitaessa säilöönnoton kohtuullisuutta henkilön iän, terveydentilan tau

muun vastaavan henkilöön liittyvän syyn ollessa käsillä (esim. raskaus, vaikea sairaus). Myös alaikäisten säilöönnottoa pyritään välttämään.

Taloudellisia vaikutuksia arvioidaan säilöissäpitämisen kestoa ajatellen, maastapoistamisen täytäntöönpanoon pyritään heti kuin mahdollista.

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.

Kyllä. Harkinta perustuu aina tapauskohtaiseen tilannearvioon, erityisiä kategorioita turvaamistoimien soveltamiselle ei ole lailla säädetty. Kts. ylle.

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.

Kyllä. Harkinta perustuu aina tapauskohtaiseen tilannearvioon, humanitaariset syyt voivat olla peruste käyttää vaihtoehtoisia turvaamistoimia (ilmoittautumisvelvollisuus tai matkustusasiakirjojen haltuunotto).

Rajavartiolaitoksen mukaan vaihtoehtoisten turvaamistoimien käyttö korostuu arvioitaessa säilöönnoton

kohtuullisuutta henkilön iän, terveydentilan tai muun vastaavan henkilöön liittyvän syyn ollessa käsillä (esim. raskaus, vaikea sairaus). Myös alaikäisten säilöönnottoa pyritään välttämään.

Humanitaariset syyt voivat olla peruste sille, että säilöönnottoa ei käytetä turvaamistoimena.

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?

Kaikille ulkomaalaisille.

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

Ulkomaalaislain 118 pykälän 2 momentin mukaan Ilmoittautumisvelvollisuuden määrää se viranomainen, joka selvittää ulkomaalaisen maahantulon edellytyksiä, valmistelee maasta poistamista koskevaa

päätöstä, tai täytäntöönpanosta huolehtiva viranomainen. Ilmoittautumisvelvolliselle on ilmoitettava ilmoittautumisvelvollisuuden peruste. Käytännössä nämä viranomaiset ovat poliisi ja Rajavartiolaitos.

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?)

Kts. ylle. Käräjäoikeus ei ota kantaa muihin turvaamistoimiin kuin säilöönottamisen edellytyksien arvioimiseen.

Section 7: Impact of detention and alternatives to detention on the effectiveness of return and international protection procedures

This section aims at exploring the impact of detention and alternatives to detention on the effectiveness of (Member) State return and international protection procedures. The questions are formulated as a comparison between the impact of detention and alternatives to detention; they do not attempt to compare the impact of detention (or alternatives to detention) on the effectiveness of return and international protection procedures in the case of third country nationals whose freedom of movement is not restricted at all.

Four specific aspects of effectiveness are considered: (i) effectiveness in reaching prompt and fair decisions on the immigration status of the individuals in question, and in executing these decisions; (ii) cost-effectiveness; (iii) respect for fundamental rights; and (iv) effectiveness in reducing the risk of absconding. Whilst an attempt is made to compare the impact of detention and alternatives to detention on each of these dimensions of effectiveness, it is recognised that the type of individuals placed in detention and in alternatives to detention (and their corresponding circumstances) are likely to differ significantly and therefore the comparisons made need to be treated cautiously.

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.

Voimassa olevan ulkomaalaislain sisältämien turvaamistoimien vaikuttavuudesta on laadittu selvityksiä ja osin näiden selvitysten pohjalta sisäministeriö on valmistellut esitystä lainsäädännön muuttamiseksi. Sisäministeriön maahanmuutto-osaston vetämässä hankkeessa säilöön ottamiselle pyritään löytämään

tehokkaita vaihtoehtoja. Tehtyjen selvitysten perusteella ei ole saatavissa yksiselitteistä tietoa siitä, miten turvaamistoimet ovat vaikuttaneet kansainvälisen suojelun tarpeen määrittämiseen kuluvaan aikaan. Yleisesti voidaan todeta, että pääsääntöisesti säilöön ottaminen on edistänyt asian selvittämistä.

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	N/A	N/A	N/A	N/A	N/A

Vaaditunlaista tilastointia ei Suomessa tehdä. Saatavissa on ainoastaan keskimääräisiä säilössä pitämisen aikoja.

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)

Valmisteltaessa ulkomaalaislain muutoksia sisäministeriö teetti selvityksen turvaamistoimien nykykäytännöistä sekä tehokkuudesta. Poliisin ja Rajavartiolaitoksen vastausten perusteella ainoa keino varmistaa tehokas maasta poistaminen on ottaa ulkomaalainen säilöön. Poliisilaitokset pitävät muita turvaamistoimia riskialttiina käännättämis- ja maastapoistamistilanteissa. Säilöönottamisella on myös merkitystä kustannustehokkuuden kannalta; maastapoistaminen on taloudellisesti kallista –ulkomaalaisen katoaminen tekisi maastapoistamiseen valmisteluun liittyneen valmistelutyön tyhjäksi ja taloudelliset panostukset valuisivat hukkaan.

Poliisilaitokset näkevät haasteelliseksi niiden ulkomaalaisten tunnistamisen, joiden kohdalla voitaisiin soveltaa ilmoittautumisvelvollisuutta tai matkustusasiakirjan haltuunottoa. Tilanteissa, joissa ulkomaalaisella on todettu olevan siteitä Suomeen, nämä turvaamistoimet on todettu toimiviksi ja riittäviksi. Hyväksi käytänteeksi poliisi nostaa myös käräjoikeuksien roolin säilöönottoperusteiden arvioijana sekä Vähemmistövaltuutetun suorittaman valvonnan. Helsingin poliisilaitoksen sisällä suoritetaan myös sisäistä valvontaa säilöönottamispäätösten suhteen.

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

Selvityksiä ei ole tehty. Turvapaikanhakijoiden kohdalla säilöönotto turvaamistoimena harvoin käytetty (noin 1% säilöönotetuista), joten hyödyistä ei voitane puhua tässä yhteydessä.

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	N/A	N/A	N/A	N/A	N/A
Average length of time from issuing a return decision to the execution of the return	N/A	N/A	N/A	N/A	N/A
Number of voluntary returns (persons who opted to return voluntarily)	N/A	N/A	N/A	N/A	N/A
Success rate in number of departures	N/A	N/A	N/A	N/A	N/A

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)

N/A.

7.2. Costs

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

Selvityksiä vaihtoehtoisten turvaamistoimien taloudellisista kustannuksista ei ole tehty. 179€/vrk ja vastaanottokeskuksessa asuttu vuorokausi 43€/vrk. Muunlaisia selvityksiä ei ole tehty tai Selvitysten perusteella säilövuorokausi maksaa niitä ei ole saatavilla.

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

Applicable year	Detention* Luvut koskevat vuotta 2013 Metsälän säilönot- toyksikössä.	Alternatives to detention			
		A1	A2	A3	A4
Total costs	2 635 061 €	N/A	N/A	N/A	N/A
Staffing costs	1 460 000 €	N/A	N/A	N/A	N/A
Medical costs	87 000 €	N/A	N/A	N/A	N/A
Food and accommo- dation costs	630 000	N/A	N/A	N/A	N/A
Legal assistance	5 000 € Tästä vastaavat nykyisin oikeusaputoimistot, luku koskee säilönottoyksikön oikeudellisen alkuinfon hin- taa/vuosi	N/A	N/A	N/A	N/A
Other costs (This could include any additional costs that do not fall into the categories above e.g. costs of techni- cal tools for admin- istering alternatives to detention, such as electronic tag- ging). Please specify	453 000 € Luku kattaa kaikki sellaiset kulut jotka eivät sisälly yllä oleviin kategorioihin (turval- isuus, kiinteistöön liittyvät kulut, huolto ja hoitokulut, kuljetukset, tulkkipalvelut, lastenhoito jne).	N/A	N/A	N/A	N/A

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)

N/A

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)?

Eduskunnan oikeusasiamies valvoo Suomessa viranomaistoiminnan lainmukaisuutta (ml. perus- ja ihmisoikeuksien noudattamista). Eduskunnan oikeusasiamies on ottanut kantaa 11.12.2012 kanteluun, jossa oli kyse maastapoistamisen ajankohdan ilmoittamisesta ulkomaalaiselle. ratkaisussaan oikeusasiamies totesi, että vaikka ulkomaalaislaki ei edellytä, että käännetyksen ajankohta ilmoitetaan käännetykselle etukäteen, tulisi hänen mielestään pääsääntönä olla se, että käännetyksen ajankohdasta ilmoitetaan maasta poistettavalle hyvissä ajoin etukäteen. kantelun kohteena olleessa tapauksessa ajankohdasta oli ilmoitettu ulkomaalaiselle edellisenä iltana.

Oikeusasiamies valvoo Suomessa suljettujen laitosten toiminnan lainmukaisuutta. Apulaisoikeusasiamies suoritti vuonna 2011 Metsälän säilöönottoyksikön tarkastuksen, jossa hän kiinnitti huomiota seuraaviin seikkoihin. Säilölain 5 §:n mukaan ulkomaalaiselle on viipymättä tiedotettava hänen säilöönottajärjestelyistään sekä hänen oikeuksistaan ja

velvollisuuksistaan. Nämä tiedot on mahdollisuuksien mukaan annettava kirjallisina sellaisella kielellä, jota asianomainen henkilö ymmärtää. Useat apulaisoikeusasiamiehen vastaanotolla tarkastuksen aikana käyneet ulkomaalaiset valittivat sitä, että eivät tiedä missä vaiheessa heidän maasta poistamiseen liittyvä oikeusprosessinsa on. Apulaisoikeusasiamiehen mielestä säilöönottoyksikössä asuvien oikeudelliseen asemaan (oikeusprosessin tai mahdollisen maasta poistamisen tilanne) liittyvää yleistä informaatiota tulisi mahdollisuuksien mukaan lisätä.

Apulaisoikeusasiamies kiinnitti huomiota myös siihen, että säilöönottoyksikön asukkailla tulisi olla nykyistä enemmän tietoa suljettujen laitosten toiminnan lainmukaisuutta valvovista elimistä, kuten eduskunnan oikeusasiamiehestä. Tällainen usealla eri kielelle käännetty informaatio voisi olla esimerkiksi yksikön ilmoitustaululla tai se voitaisiin muulla tavalla säännönmukaisesti jakaa säilössä oleville ulkomaalaisille.

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	Detention	Alternatives to detention			
		A1	A2	A3	A4
Number of complaints of violations of fundamental rights lodged 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).	2 kantelut tehtiin eduskunnan oikeusasiamiehelle. Toinen säilöönottoyksikössä tarjottavan ruoan laadusta ja toisen kantelun jätti sivullinen henkilö liittyen säilöönottoyksikön palveluihin Ramadanin aikana. Kumpikaan kantelu ei johtanut viranomaisen kannalta langettavaan päätökseen.	N/A	N/A	N/A	N/A
Number of complaints of violations of fundamental rights upheld 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).	N/A	N/A	N/A	N/A	N/A
Number of court cases in which there have been challenges 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)	N/A	N/A	N/A	N/A	N/A
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 upheld (where possible, please disaggregate by types of violation and by categories of third-country national)	N/A	N/A	N/A	N/A	N/A

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.)

N/A

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)

Poliisin mukaan se, että säilöönotot jotka jatkuvat yli neljä päivää menevät automaattisesti käräjäoikeuden käsittelyyn, jossa arvioidaan säilössä pitämisen lainmukaisuus, on merkittävää laillisuusvalvonnan kannalta. Poliisissa tehdään sisäistä valvontaa säilöönottopäätösten lainmukaisuudesta. Poliisissa tehdään sisäistä valvontaa säilöönottopäätösten lainmukaisuudesta.

Jokaisesta säilöönottamispäätöksestä lähtee ilmoitus käräjäoikeudelle ja Vähemmistövaltuutetulle. Ulkomaalaislain 208 pykälän mukaan Vähemmistövaltuutetun tiedoksi on saatettava ulkomaalaisen säilöönottoa koskevat päätökset.

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.

N/A

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.

Applicable year	Detention	Alternatives to detention			
		A1	A2	A3	A4
Rate of absconding	0	N/A	N/A	N/A	N/A
Compliance rate	100	N/A	N/A	N/A	N/A

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.

Vuonna 2012 Maahanmuuttovirastossa tehtiin selvitys yksintulleiden alaikäisten turvapaikanhakijoiden katoamisista vastaanottokeskuksista. Selvitys perustui Hollantilaisen ECORYS-järjestön EU-komissiolle tekemään tutkimushankkeeseen kadonneista lapsista 27 eri EU-maassa. Selvitystä käytettiin myöhemmin ulkomaalaislain säilöönottamisen perusteita koskevien säännösten muutosta valmisteltaessa Ulkomaalaisen säilöönottoa koskevien säännösten tarkistaminen -hankkeessa.

Maahanmuuttovirastossa tehdyn selvityksen perusteella alaikäisyksiköistä kadonneiden lasten määrä

on vähäinen: vuonna 2012 katosi kaikkiaan 6 lasta joista 1 palasi takaisin. 1 lapsen kohdalla katoamisen taustalla oli käännytyspäätös. Johtopäätöksenä selvityksessä todettiin, että paras tapa ehkäistä lasten katoamisia olisi ennaltaehkäisevä, turvallisuutta, kiintymystä ja luottamusta rakentava/tuottava toiminta ja ilmapiiri. Hyvät aikuissuhteet sekä vertaistuki nähtiin myös keskeisiksi elementeiksi lapsen tukemisessa ja katoamisten ehkäisyssä. Katoamiset olivat kaikki yksilöllisiä kaikin puolin, minkä vuoksi olisi vaikeaa yleistää tai muodostaa luokkia ja säännönmukaisuuksia katoamisille.

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.

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
Statistics on number of third-country nationals in detention per category						
Total number of third-country nationals in detention	509	534	460	410	444	<p>Lukumäärä kuvaa säilöön otettujen määrää Metsälän säilöönottoyksikössä. Metsälän säilöönottoyksikkö käyttävät sekä poliisi että rajavartiolaitos. Rajavartiolaitos voi poikkeustapauksissa majoittaa säilöön otetun ulkomaalaisen poliisivankilaan.</p> <p>Säilöön otettujen kokonaismäärä perustuu Metsälän säilöönottoyksikön majoitustilastoihin koska poliisin ja Rajavartiolaitoksen tilastointi perustuu kiinniottamispäätöksiin, joita on mahdollisesti useita samaa henkilöä koskien. Siten kiinniottamispäätösten lukumäärän ei voida katsoa osoittavan säilöön ottojen todellista määrää. Poliisin tiloihin otettujen ulkomaalaisten lukumäärästä ei ole olemassa kokonaisvaltaista tilastointia.</p>

Number of third-country national applicants for international protection in ordinary procedures in detention	N/A	47	83	35	N/A	Ilmoitetut luvut ovat Helsingin poliisilaitoksen tilastotietoja. Ulkomaalaisasiat sekä maastapoistaminen ovat keskittyneet Helsingin alueelle, mikä selittää tilastotietojen saatavuutta ainoastaan Helsingin osalta.
Number of third-country national fast-track international protection applicants (accelerated international protection procedures) in detention	N/A	N/A	N/A	N/A	N/A	Suomi ei tilastoi säilöön otettuja ulkomaalaisia asiakasryhmittäin, koska henkilön status muuttuu usein säilössä olon aikana (esim. laittomasti maassa tavattu jättää turvapaikkahakemuksen).
Number of applicants for international protection subject to Dublin procedures in detention	N/A	N/A	N/A	N/A	N/A	Kts. ylle.
Number of rejected applicants for international protection in detention	N/A	N/A	N/A	N/A	N/A	Kts. ylle.
Number of rejected family reunification applicants in detention	N/A	N/A	N/A	N/A	N/A	Kts. ylle.
Number of other rejected applicants for residence permits on basis other than family reunification (Please specify)	N/A	N/A	N/A	N/A	N/A	Kts. ylle.
Number of persons detained to prevent illegal entry at borders in detention	N/A	N/A	N/A	N/A	N/A	Rajavartiolaitoksen ilmoittamien säilöönottamispäätösten määrä kattaa kaikki ulkomaalaislain perusteella säilöön otetut. Laittoman maahantulijan säilöön ottaminen tapahtuu rikosperusteisesti eikä tällaisia säilöön ottamisia tilastoida erikseen. Lukumäärän selvittäminen edellyttäisi päätösten käymistä yksitellen lävitse.
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	N/A	N/A	N/A	N/A	N/A	

Number of persons who have been issued a return decision in detention						Saatavissa ainoastaan luku joka kuvaa säilöönottamispäätösten määrää tapauksissa, joissa valmistellaan ulkomalaisen käännättämis- tai karkottamispäätöstä.
Käännättämispäätöstä valmistellaan	N/A	402	449	578	598	
Karkottamispäätöstä valmistellaan	N/A	30	26	34	28	
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						Lähde Metsälän säilöönottoyksikkö
Minors, total	30	17	17	26	41	
Unaccompanied minors	15	3	4	4	10	
Number of other third-country nationals placed in immigration detention	N/A	N/A	N/A	N/A	N/A	
Statistics on number of third-country nationals provided alternatives to detention						
Total number of third-country nationals provided alternatives to detention	374 119	260 144	266 86	238 29	291 Poliisi: N/A	Luvut sisältävät sekä Rajavartiolaitoksen että poliisin lukuja. Alempi luku kuvaa poliisin ilmoittamia lukuja, ylempi Rajavartiolaitoksen. Vaihtoehtoisten turvaamistoimien osalta ei ole tällä hetkellä saatavissa kattavia tilastotietoja.
Number of third-country nationals applicants for international protection in ordinary procedures provided alternatives to detention	N/A	47	83	35	N/A	Luvut ovat Helsingin poliisilaitoksen ilmoittamia, luvut kattavat turvapaikkaprosessin kaikki muodot, ml. nopeutetun prosessin.
Number of third-country nationals fast-track international protection applicants (accelerated international protection procedures) provided alternatives to detention	N/A	N/A	N/A	N/A	N/A	
Number of international protection applicants subject to Dublin procedures provided alternatives to detention	N/A	N/A	N/A	N/A	N/A	
Number of rejected applicants for international protection provided alternatives to detention	N/A	N/A	N/A	N/A	N/A	
Number of rejected applicants for family reunification provided alternatives to detention	N/A	N/A	N/A	N/A	N/A	

Number of other rejected applicants for residence permits on basis other than family reunification (Please specify)	N/A	N/A	N/A	N/A	N/A	
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	N/A	N/A	N/A	N/A	N/A	
Number of persons issued a return decision provided alternatives to detention	N/A	292	205	239	N/A	Luvut ovat Helsingin poliisilaitoksen ilmoittamia lukuja ja kattavat sekä käännättämisen että karkottamisen yhteydessä käytetyt vaihtoehtoiset turvaimistimet.
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	N/A	N/A	N/A	N/A	N/A	
Number of other third-country nationals provided alternatives to detention (Please specify the category(ies))	N/A	N/A	N/A	N/A	N/A	

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.

Average length of time in detention	2009	2010	2011	2012	2013	Source / further information
Average length of time in detention of all categories of third-country nationals in detention	N/A	11,318	12,673	11,252	11,799	Poliisi
Average length of time in detention of applicants for international protection in ordinary procedures	N/A	N/A	N/A	N/A	N/A	
Average length of time in detention of fast-track (accelerated) international protection applicants (accelerated international protection procedures)	N/A	N/A	N/A	N/A	N/A	
Average length of time in detention of applicants for international protection subject to Dublin procedures	N/A	N/A	N/A	N/A	N/A	
Average length of time in detention of rejected applicants for international protection	N/A	N/A	N/A	N/A	N/A	Saatavissa on vain kokonaisluku säilöönottamispäätöksistä tapauksissa, joissa ulkomaalainen on saanut käännytämispäätöksen missä tahansa maahantulo-prosessin vaiheessa (ml. oleskelulupaprosessi).
Average length of time in detention of rejected family reunification applicants	N/A	N/A	N/A	N/A	N/A	
Average length of time in detention of other rejected applicants for residence permits on basis other than family reunification (Please specify)	N/A	N/A	N/A	N/A	N/A	
Average length of time in detention of persons detained to prevent illegal entry						
Keskimääräinen säilösaipitoaika kun ulkomaalaisen maahantulon sallimista selvitetään	N/A	16,155	19,925	20,574	20,834	
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)	N/A	16,155	19,925	20,574	20,834	Luvut kuvaavat tapauksia, joissa selvitetään ulkomaalaisen maahantulon sallimista.

Average length of time in detention of persons who have been issued a return decision: expulsion	N/A	10,451	12,481	9,519	8,947	Poliisi
Deportation:	N/A	9,673	16,525	8,600	24,354	Poliisi
Minors total	15,7	12,0	25,1	10,7	11,8	Lähde: Metsälän säilöönottoyksikkö.
UAMs	10,0	16,5	20,8	12,00	20,0	
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	N/A	N/A	N/A	N/A	N/A	

