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4.8.6 Alternatives to detaining applicants

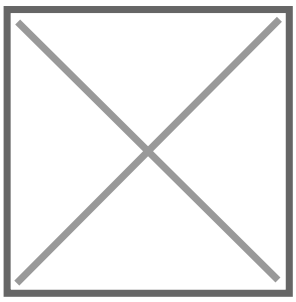
According to the Reception Conditions Directive, detention should be applied only if other less coercive measures cannot be applied effectively. To this end, Member States must ensure that the rules concerning alternatives to detention, such as regular reporting to the authorities, the deposit of a financial guarantee or an obligation to stay at an assigned place, are laid down in national law. To assist countries, UNHCR published a revised version of “Options for governments on open reception and alternatives to detention” with references to national practices. [733]’[734]

In this context, Estonia established a new surveillance measure, the ‘appearing for counselling’, which was introduced in the Obligation to Leave and Prohibition on Entry Act in June 2020. [735] The amendment aims to provide social or psychological counselling to a person who is staying without a legal basis and who is not placed in a detention centre in order to fulfil the obligation to leave or to ensure the protection of national security or public order. The counselling service will be organised and provided by the PBGB.

Lithuania also introduced a new alternative to detention in November 2020, namely accommodation at the State Border Guard Service with the right of movement restricted only within the territory belonging to the accommodation facility. This alternative to detention applies to third-country nationals and asylum seekers whose application for international protection was rejected and they will be returned to a third country.

The Swedish Police Authority implemented alternatives extensively during the pandemic, particularly using supervision to prevent the risk of absconding.[736]

Civil society organisations called for a wider use of alternatives to detention in Bulgaria,[737] Ireland, [738] Poland [739] and Spain [740]. The use of alternatives to detention as a means to continue detention was raised in Malta and Cyprus by civil society organisations. In practice, the AIDA report for Malta noted that the majority of asylum seekers released from detention were subject to alternatives to detention despite the lack of a legal basis in the first place.[741] In a similar way, detainees from Menoyia in Cyprus were released by ordering alternatives to detention. In October 2020, the CRMD appointed an officer to examine the use of alternative measures for persons in detention.[742]



[733] United Nations High Commissioner for Refugees. (2020). *Options Paper 2: Options for governments on open reception and alternatives to detention (first published 2015, revised version 2020)*. https://www.refworld.org/docid/5523e9024.html
[734] See also: United Nations High Commissioner for Refugees. (2020). *Global Strategy Beyond Detention: Final Progress Report, 2014 - 2019*. https://www.unhcr.org/protection/detention/5fa26ed64/unhcr-global-strategy-beyond-detention-final-progress-report-2014-2019.html
[735] Väljasõidukohustuse ja sissesõidukeelu seaduse ning välismaalasele rahvusvahelise kaitse andmise seaduse muutmise seadus (massilise sisserände tõkestamine) [Act Amending the Obligation to Leave and Prohibition on Entry Act and the Act on Granting International Protection to Aliens (Prevention of Mass Immigration)]. https://www.riigiteataja.ee/akt/117062020001
[736] Save the Children Sweden | Rädda Barnen. (2021). *Input to the EASO Asylum Report 2021.*
[737] AIDA Bulgaria. (2021). *Country Report: Bulgaria - 2020 Update*. Edited by ECRE. Written by Bulgarian Helsinki Committee. https://asylumineurope.org/wp-content/uploads/2021/02/AIDA-BG_2020update.pdf
[738] AIDA Ireland. (2021). *Country Report: Ireland - 2020 Update*. Edited by ECRE. Written by Irish Refugee Council. https://asylumineurope.org/wp-content/uploads/2021/04/AIDA-IE_2020update.pdf
[739] AIDA Poland. (2021). *Country Report: Poland - 2020 Update*. Edited by ECRE. Written by Karolina Rusilowicz, Ewa Ostaszewska and Maja Lysienia. https://asylumineurope.org/wp-content/uploads/2021/04/AIDA-PL_2020update.pdf
[740] AIDA Spain. *Country Report: Spain - 2020 Update*. Edited by ECRE. Written by Accem. https://asylumineurope.org/wp-content/uploads/2021/03/AIDA-ES_2020update.pdf
[741] AIDA Malta. (2021). *Country Report: Malta - 2020 Update*. Edited by ECRE. Written by aditus. https://asylumineurope.org/wp-content/uploads/2021/05/AIDA-MT_2020update.pdf
[742] AIDA Cyprus. (2021). *Country Report: Cyprus - 2020 Update*. Edited by ECRE. Written by Cyprus Refugee Council. https://asylumineurope.org/wp-content/uploads/2021/04/AIDA-CY_2020update.pdf





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