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# 5.3. Limitations on applicants' freedom of movement and detention

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Many court decisions in 2024 influenced when and how applicants and former applicants can be detained. In addition, provisions in the Pact on Migration and Asylum cover allocation to a geographical area, limitations on the freedom of movement and the use of alternatives to detention, which will guide EU+ countries in the upcoming years in implementing new practices.

Detention in the context of access to the procedure continued to be highly debated at the political level and in the context of the Pact, while the ECtHR and national courts looked into its legality in individual cases, for example detention in transit zones which were in place in Hungary between 2015-2020 (*see Section 2*). The Dutch Council of State clarified that people requesting to be registered for temporary protection at the border cannot be detained on the legislative basis used for the detention of applicants for international protection at the border.[272]

A series of cases deliberated on the legality of detention when national authorities considered that a person is a threat to national security. The ECtHR reiterated on several occasions the need for a close connection between detention and the aim to prevent unauthorised entry as an interest of national security.[273]

Allocation to a specific geographical area and limitations on the freedom of movement were considered by Dutch, Lithuanian and Swiss courts. The Dutch Council of State ruled that transferring an applicant to a specific reception facility for disruptive applicants did not amount to detention, despite this measure being a significant restriction on the freedom of movement.[274] In contrast, a district court found that the process availability location (PBL), where restrictions on the freedom of movement were used for applicants with a low probability of being recognised, did not have a sufficient legal basis in national legislation.[275] In Lithuania, the court concluded that an accommodation which restricts movement (applicants cannot leave the facility) cannot be considered as an alternative to detention but de facto detention.[276] The

Swiss Federal Administrative Court underlined the importance of the right to family unity when an applicant requested to change the canton to which he was allocated.277 A legislative amendment eased the rules for requesting a change of canton based on proximity to employment.278

A central element to decide on the lawfulness of a detention order remained the prospect of a viable removal within a reasonable period. While Greek courts released applicants from detention by considering that there was no real prospect of a return to Türkiye,279 the Dutch Council of State confirmed that the possibility to return to Algeria was restored and, when necessary, detention pending a return may be applied.280

The use of alternatives to detention received greater interest with the Pact reiterating the key principles and safeguards, while introducing new elements, such as the obligation of the authorities to state in written in the detention order the reason why a less coercive measure could be applied.281 The EUAA received the mandate to develop guidelines on alternatives to detention under the Return Border Procedure Regulation, which were published in December 2024.282 UNHCR called states to reform legislation and mobilise resources to end the detention of asylum seekers and refugees for immigration-related reasons and implement alternatives to detention.283 Following its introduction in 2023, Italian legislation was amended to adjust the rules requiring certain applicants to pay a bail of EUR 2,500-5,000 as an alternative to detention pending the outcome of their asylum application.284 As a consequence, the Italian Court of Cassation communicated to the CJEU that a preliminary ruling, requested earlier in 2024,285 was no longer necessary and the case was removed from the register (*see Table 4*).286

Conditions in immigration detention remained a source of concern for international and civil society organisations.287 Comprehensive reports were published for Cyprus,288 Denmark,289 Estonia,290 Greece,291 Italy,292 Norway,293 Poland294 and Switzerland.295

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