



5.3. Detention of applicants for international protection

5.3. Detention of applicants for international protection

icon presenting detention during the asylum procedure

The detention of applicants remained contentious for authorities, courts and civil society organisations, with the 2013 and 2024 RCDs emphasising that such measures must be a last resort. Courts have highlighted the principle of proportionality, the need to consider less intrusive measures (such as residing in designated accommodation) and to safeguard an applicant's vulnerabilities.[299](#)

Several Member States, such as Czechia, Denmark, Ireland, Luxembourg and Portugal,[300](#) were working on alternatives to detention through standard operating procedures and other administrative frameworks.

Switzerland is piloting a task force which focuses on repeat offenders among asylum seekers and other foreign nationals with the aim of ensuring the effective and proportionate use of coercive measures, including administrative detention. Information was shared on a centralised case management system among migration authorities and federal/cantonal law enforcement.[301](#)

Detention for migratory purposes was monitored by national preventive mechanisms, civil society organisations[302](#) and international bodies. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published several reports on fact-finding visits conducted in 2024. The CPT expressed great concern about detention conditions in Bulgaria and Malta.[303](#) It issued statements about the situation in Denmark and Norway, where authorities were urged to expand non-custodial alternatives, improve conditions (including the handling of self-harming detainees) and move away from prison-like immigration detention.[304](#)

Some countries expanded or plan to expand detention capacity, for example Sweden, which also tightened legislation on security measures in custody,[305](#) and Poland, which amended its asylum law and allowed the detention of asylum-seeking unaccompanied minors aged 15 or older.[306](#) Polish courts deliberated on detention used in the framework of temporarily suspending access to the asylum procedure at the border in cases of instrumentalisation, noting

in several cases that there was no legal ground for detention.[307](#) Poland underlined that placing unaccompanied minors in secured facilities is an exceptional measure of last resort, subject to judicial oversight and an individual assessment. The ongoing legislative reforms (effective June 2026) specifically address the legal gaps noted by domestic courts in cases of instrumentalisation, aiming to ensure a robust framework that balances national security requirements with the fundamental rights of vulnerable applicants.

Cyprus planned to expand its detention capacity by constructing EU-funded facilities in Limnes, including an 800-place pre-departure centre for those awaiting a return. The first phase of this centre with a capacity of 160 places was completed and handed over to the Cyprus police and is expected to become operational in March 2026. The remaining sections are scheduled for delivery in April 2026. In Malta, the Prevention of Disease Ordinance, Article 13 was deleted and replaced by Legal Notice 183 of 2025,[308](#) which can be used by the public health authorities and the Immigration Police to order the detention of migrants who arrive on the territory in an irregular manner, including asylum seekers, pending a medical clearance.

Courts adjudicated numerous cases concerning the detention of applicants for international protection. Proportionality[309](#) remained a central criterion in assessing the lawfulness of detention, with special consideration paid to the risk of absconding[310](#) and the prospects of a removal.[311](#) In this context, the French Constitutional Council upheld the detention of asylum applicants only when detention constitutes a last resort and proportionate measure under judicial oversight and: i) the asylum applicant poses a real, current and serious threat to public order; or ii) for the purpose of determining the grounds on which the asylum application is made, when the application is not submitted to the competent authority and there is a proven risk of absconding.[312](#)

European courts also examined issues relating to the right to a fair procedure in detention,[313](#) including standards in age assessments,[314](#) the best interests of the child[315](#) and legal representation.[316](#) In a 2021 case concerning Croatia, the ECtHR found that the restrictions on the applicant's access to a lawyer and the absence of an effective remedy with an automatic suspensive effect breached Articles 3 and 13 of the European Convention on Human Rights (ECHR).[317](#) The ECtHR found violations of the same provisions in a case submitted in 2013 against Greece, where the applicant had been detained for more than 2.5 months in conditions unsuitable for prolonged confinement and was denied an effective remedy to challenge them.[318](#)

Detention conditions were also reviewed by national and EU courts.[319](#) When a higher than usual influx of asylum seekers arrived at Schiphol airport resulting in more restrictive detention conditions, the Dutch Council of State ruled that the premises still qualified as a specialised detention facility within the meaning of Article 10(1) of the 2013 RCD and found it to be lawful.[320](#) Later in the year, the CJEU was requested to rule on the concept of specialised facilities,[321](#) as well as on the extent to which judges may examine, of their own motion, compliance with the principle of *non-refoulement*.[322](#)

Lastly, some courts continued to refuse to validate the transfer of migrants (who are subject to a return decision and applied for asylum after the transfer) to the Italian CPR in Albania, stating grounds such as the right to remain on the territory after applying for asylum, vulnerabilities and

health concerns.³²³ In mid-2025, the Italian Constitutional Court held that the CPR framework did not meet the constitutional requirement that restrictions on personal liberty must be clearly defined and regulated by law. Meanwhile, the CJEU issued a preliminary ruling in cases involving asylum seekers held in administrative detention in Albania based on their provenance from countries deemed safe by Italian law, finding that countries where certain categories of people would not be protected cannot be designated as safe. The court noted that the APR, due to enter into application in June 2026, introduces this option, and the regulation to designate a third country as a safe country of origin, both at the EU and national levels, may provide for exceptions for clearly identifiable categories of people.³²⁴

- [299](#)

Lithuania, Utena district court [Utenos apylinkės teismas], Ministry of the Interior of the Republic of Lithuania v V.D., A20.-25-617/2025, 20 January 2025. Link redirects to the English summary in the EUAA Case Law Database; Lithuania, Supreme Administrative Court of Lithuania [Lietuvos vyriausioji administracinis teismas], Applicant v Migration Department of the Ministry of the Interior of the Republic of Lithuania, e

- [300](#)

European Commission. (11 June 2025). [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. State of play on the implementation of the Pact on Migration and Asylum](#). COM/2025/319 final.

- [301](#)

State Secretariat for Migration | Staatssekretariat für Migration | Secrétariat d'État aux migrations | Segreteria di Stato della migrazione. (4 April 2025). [Lutte contre les étrangers multirécidivistes : la Confédération et les cantons instituent une taskforce et se penchent sur les mesures de contrainte](#) [Combating repeat offenders: the Confederation and the cantons set up a task force and look into coercive measures].

- [302](#)

European Council on Refugees and Exiles (ECRE). (August 2025). [Fact-finding visit to Romania](#).

- [303](#)

Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (6 August 2025). [Foreign nationals detained in Bulgaria pursuant to aliens legislation: New report from CPT](#); Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (10 July 2025). [Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 26 September to 5 October 2023](#). CPT/Inf (2025) 20.

- [304](#)

Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (23 June 2025). [Response of the Danish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) on its visit to Denmark from 23 May to 3 June 2024](#). CPT/Inf (2025) 19; Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. (21 January 2025). [Report to the Norwegian Government on the visit to Norway carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 21 to 31 May 2024](#). CPT/Inf (2025) 03.

- [305](#)

Ministry of Justice (Sweden) | Justitiedepartementet. (17 February 2025). [Ett nytt regelverk för uppsikt och förvar](#) [A new regulatory framework for supervision and detention].

- [306](#)

Ombudsman | Rzecznik Praw Obywatelskich. (20 January 2026). [Sprawa cudzoziemskich dzieci bez opieki, które wnoszą o ochronę międzynarodową w RP. Odpowiedź MSWiA](#) [The case of unaccompanied foreign children who apply for international protection in the Republic of Poland. Response of the Ministry of Interior and Administration].

- [307](#)

Poland, Regional Court [Sąd Okręgowy], [P.K.O. v Commander of the Border Guard Unit \(Komendanta Oddziału Straży Granicznej\)](#), VII Kz 557/25, 9 January 2026. Link redirects to the English summary in the EUAA Case Law Database.

- [308](#)

[A.L. 183 tal-2025 ATT DWAR IS-SAĦĦA PUBBLIKA \(KAP. 465\) Regolamenti tal-2025 dwar Ordni fir-rigward ta' Restrizzjoni ta' Moviment \(Saħħa Pubblika\)](#) [L.N. 183 of 2025 PUBLIC HEALTH ACT (CAP. 465) Order for Restriction of Movement (Public Health) Regulations, 2025], 29 August 2025.

- [309](#)

Denmark, Supreme Court [Højesteret], [T v The Danish State](#), 111/2023 and 16/2024, 21 March 2025. Link redirects to the English summary in the EUAA Case Law Database; Czech Republic, Supreme Administrative Court [Nejvyšší správní soud], [Applicant v Ministry of the Interior \(Ministerstvo vnitra České republiky\)](#), 10 Azs 244/2024 - 37, 20 February 2025. Link redirects to the English summary in the EUAA Case Law Database.

- [310](#)

Luxembourg, Administrative Tribunal [Tribunal administratif], [A. v Minister of Home Affairs](#), 53730, ECLI:LU:TADM:2025:53730, 12 November 2025. Link redirects to the English summary in the EUAA Case Law Database; Luxembourg, Administrative Tribunal [Tribunal

administratif], [A. v Minister of Home Affairs](#), No 53052, ECLI:LU:TADM:2025:53052, 30 June 2025. Link redirects to the English summary in the EUAA Case Law Database; Estonia, Courts of Appeal (Circuit Courts) [Ringkonnakohtud], [P.Z. v Police and Border Guard Board \(Politsei- ja Piirivalveamet, PBGB\)](#), 3-25-552, ECLI:EE:TLRK:2025:3.25.552.4863, 2 April 2025. Link redirects to the English summary in the EUAA Case Law Database.

- [311](#)

Cyprus, Supreme Court of Cyprus [Ανώτατο Δικαστήριο Κύπρου], [Applicant v Republic of Cyprus through the Asylum Service Ministry of Interior and the Civil Registry and Migration Department](#), No 32/2024, 14 January 2025. Link redirects to the English summary in the EUAA Case Law Database; Luxembourg, Administrative Tribunal [Tribunal administratif], [A. v Ministry of Home Affairs](#), No 53015, 25 June 2025. Link redirects to the English summary in the EUAA Case Law Database; Cyprus, Supreme Court of Cyprus [Ανώτατο Δικαστήριο Κύπρου], [K.P. v Republic of Cyprus](#), No 31/2024, 26 March 2025. Link redirects to the English summary in the EUAA Case Law Database.

- [312](#)

France, Constitutional Council [Conseil Constitutionnel], [Association GISTI \(Groupe d'information et de soutien des immigrées\) and others](#), 2025-1140 QPC, ECLI:FR:CC:2025:2025.1140.QPC, 23 May 2025. Link redirects to the English summary in the EUAA Case Law Database; Ministry of the Interior (France) | Ministère de l'Intérieur. (8 August 2025). [Loi visant à faciliter le maintien en rétention des personnes condamnées pour des faits d'une particulière gravité](#) [Act to facilitate the continued detention of persons convicted of particularly serious offence].

- [313](#)

Italy, Supreme Court of Cassation [Corte Suprema di Cassazione], [Applicant v Ministry of the Interior \(Ministero dell'Interno\), Milan Police Headquarters](#), 27143/2025, 25 September 2025. Link redirects to the English summary in the EUAA Case Law Database; Cyprus, International Protection Administrative Court [Διοικητικό Δικαστήριο Διεθνούς Προστασίας], [S.O. v \(through Deputy Minister of Migration and International Protection and through the Director of the Department of Civil Registry and Migration\)](#), No Δ.A 8/2024, 7 February 2025. Link redirects to the English summary in the EUAA Case Law Database.

- [314](#)

Italy, Supreme Court of Cassation [Corte Suprema di Cassazione], [Applicant v Ministry of the Interior \(Ministero dell'Interno\)](#), R.G. 30999/2025, 8 October 2025. Link redirects to the English summary in the EUAA Case Law Database.

- [315](#)

European Union, Court of Justice of the European Union [CJEU], [GB \[Adrar\] v The Minister for Asylum and Migration \(de Minister van Asiel en Migratie\)](#), C-313/25 PPU, ECLI:EU:C:2025:647, 4 September 2025. Link redirects to the English summary in the EUAA

Case Law Database.

- [316](#)

Germany, Regional Court [Landgericht], [Applicant v Regional Police](#), 6 T 26/24, 28 January 2025. Link redirects to the English summary in the EUAA Case Law Database.

- [317](#)

Council of Europe, European Court of Human Rights [ECt

- [318](#)

Council of Europe, European Court of Human Rights [ECt

- [319](#)

Malta, First Hall Civil Court, [Applicants v The Prime Minister of Malta \(Il-Prim Ministru ta' Malta\)](#), 645/2021, ECLI:MT:KOST:2025:152746, 10 April 2025. Link redirects to the English summary in the EUAA Case Law Database.

- [320](#)

Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], [Applicant v The Minister for Asylum and Migration \(de Minister van Asiel en Migratie\)](#), 202407479/1/Q3, ECLI:NL:RVS:2025:258, 29 January 2025. Link redirects to the English summary in the EUAA Case Law Database.

- [321](#)

Netherlands, Court of The Hague [Rechtbank Den Haag], [The Minister for Asylum and Migration \(de Minister van Asiel en Migratie\) v Applicant](#), NL25.8606, ECLI:NL:RBDHA:2025:4571, 20 March 2025. Link redirects to the English summary in the EUAA Case Law Database; Netherlands, Court of The Hague [Rechtbank Den Haag], [Applicant v The Minister for Asylum and Migration \(de Minister van Asiel en Migratie\)](#), NL25.6640, ECLI:NL:RBDHA:2025:4570, 20 March 2025. Link redirects to the English summary in the EUAA Case Law Database.

- [322](#)

Netherlands, Court of The Hague [Rechtbank Den Haag], [Applicant v The Minister for Asylum and Migration \(de Minister van Asiel en Migratie\)](#), NL25.17803, ECLI:NL:RBDHA:2025:7570, 6 May 2025. Link redirects to the English summary in the EUAA Case Law Database.

- [323](#)

Italy, Court of Appeal [Corte di Appello], [Questura di Roma](#), RG 2025 2208, 19 April 2025. Link redirects to the English summary in the EUAA Case Law Database; Italy, Court of Appeal [Corte di Appello], [Questura di Bari](#), R.G. 795/2025, 9 May 2025. Link redirects to

the English summary in the EUAA Case Law Database; Italy, Civil Court [Tribunale], [Applicant v Ministry of the Interior \(Ministero dell'Interno\)](#), RG 33697/2025, 25 July 2025. Link redirects to the English summary in the EUAA Case Law Database; Italy, Justices of the Peace [giudice di pace], [Applicant v Rome Police Headquarters, Ministry of the Interior \(Ministero dell'Interno\)](#), RG 26017/2025, 30 July 2025. Link redirects to the English summary in the EUAA Case Law Database; Italy, Supreme Court of Cassation [Corte Suprema di Cassazione], [Applicant v Head of the Police Headquarters \(Questura\) of Bari](#), R.G.N. 23258/2025, 4 September 2025. Link redirects to the English summary in the EUAA Case Law Database; Italy, Supreme Court of Cassation [Corte Suprema di Cassazione], [Applicant v Ministry of the Interior \(Ministero dell'Interno\), Milan Police Headquarters](#), 27143/2025, 25 September 2025. Link redirects to the English summary in the EUAA Case Law Database; Italy, Justices of the Peace [giudice di pace], [Quaestor of Rimini](#), RG 27730-25, 31 July 2025. Link redirects to the English summary in the EUAA Case Law Database.

- [324](#)

European Union, Court of Justice of the European Union [CJEU], *LC [Alace] and CP [Canpelli] v Territorial Commission of Rome*, Joined cases C-758/24 and C-759/24, ECLI:EU:C:2025:260, 1 August 2025. Link redirects to the English summary in the EUAA Case Law Database. Pending: Italy, Court of Appeal [Corte di Appello], [Chief Police of Rome \(Questura di Roma\)](#), 5 November 2025. Link redirects to the English summary in the EUAA Case Law Database.