

Immigration Detention in the European Union: Research and Advocacy

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BETWEEN POLITICS AND ENFORCEMENT:
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Outline of the presentation

- 1) The Global Detention Project: our work and avenues of collaboration
- 2) Research on immigration detention in the EU countries
- 3) UN advocacy

1) Global Detention Project: Objectives

To improve
transparency in the
treatment of
detainees

To encourage
adherence to
fundamental norms

To reinforce
advocacy
aimed at reforming
detention practices

To promote
scholarship and
comparative analysis
of migration control
regimes

Structure of the GDP Country Profiles

GLOBALDETENTIONPROJECT

Country Profiles | Data & Analysis | Detention Centres | Publications | News & Activities

Map Satellite Jersey

Vordernberg Detention Centre
Styria
Status: in use

Home / Europe / Austria

Austria Immigration Detention

Austria has sharply increased the number of people it places in immigration detention after years of declining detainee populations. While it continues the controversial practice of placing immigration detainees in "Police Detention Centres," the country opened a new dedicated immigration detention centre in 2014, which is partly operated by the multinational security company G4S. The country has also announced plans to significantly boost removals, focusing mainly on people from the Middle East and sub-Saharan Africa.

Quick Facts

Immigration detainees (2014):	1,920
Detained asylum seekers (2013):	741
Detained minors (2013):	175
Persons expelled (2016):	6,055
International migrants (2015):	1,492,400
New asylum applications (2016):	39,844

Austria Immigration Detention Profile

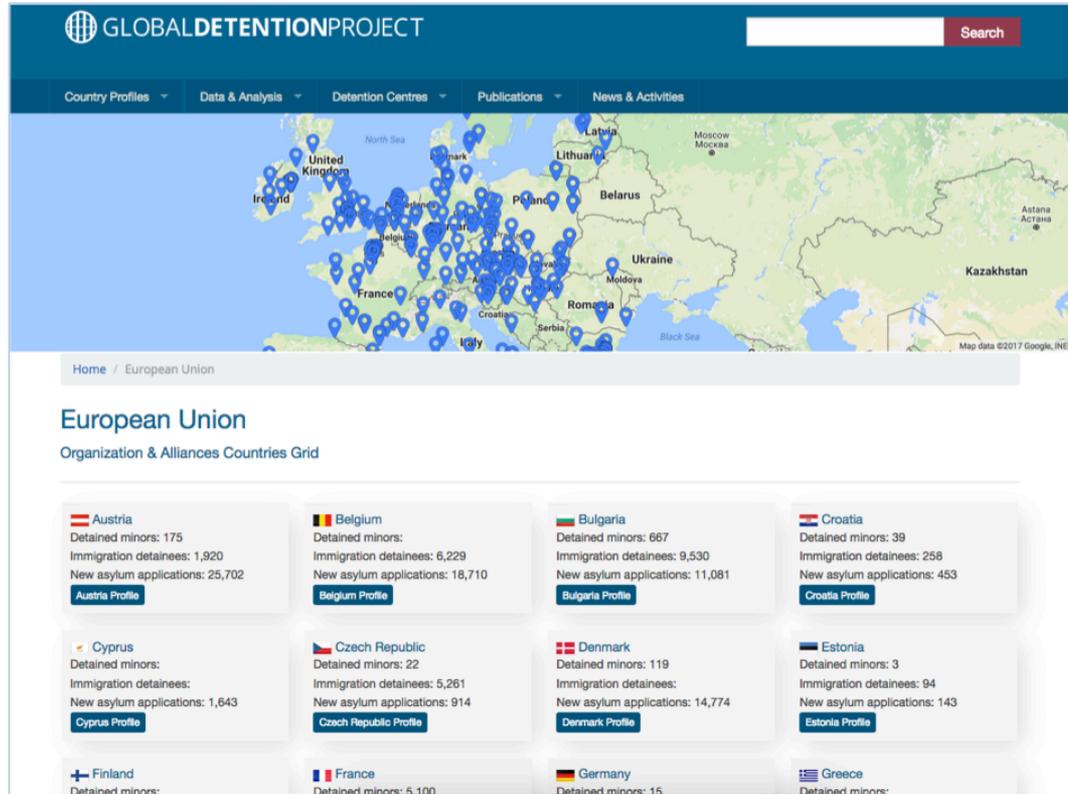
Profile Updated: May 2017

- Introduction
- Laws, Policies, Practices
- Detention Infrastructure
- PDF Version of 2017 Profile
- PDF Version of 2014 Profile

INTRODUCTION

A key feature of Austria's immigration detention system has been its use of "Police Detention Centres" (PAZ). Along with immigration detainees, these facilities confine people who have committed "administrative" offenses as well as criminal suspects. Under pressure from various international human rights bodies—including the European Committee for the Prevention of Torture and the UN Committee against Torture—the country opened its first long-term detention centre in January 2014. Labelled "the most modern immigration

2) Immigration detention in the EU countries



Immigration detention in the EU countries

- Grounds for detention,
- Number of persons detained,
- Length of detention,
- Alternatives to detention,
- Detention of children,
- Places of detention.

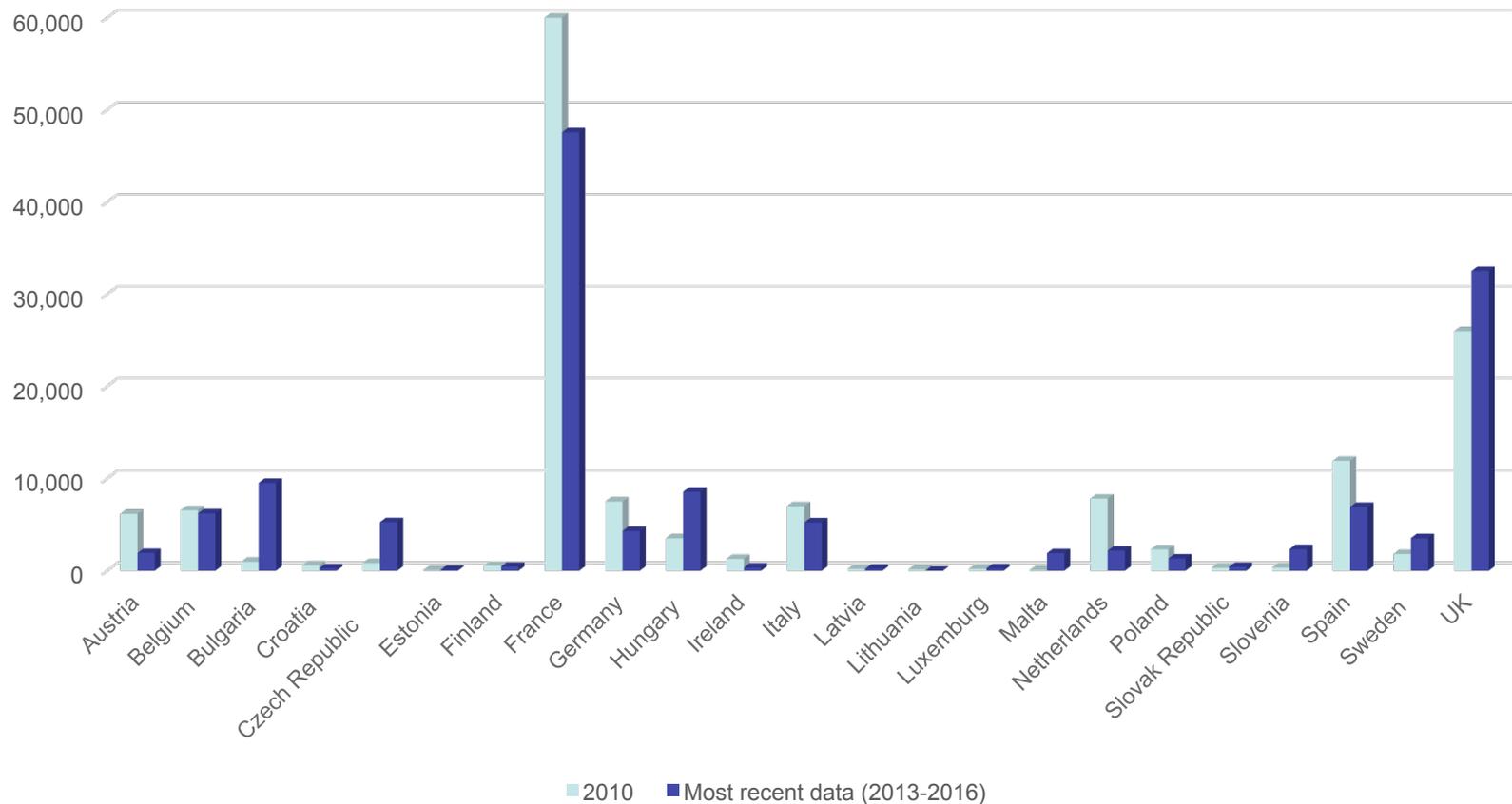
Grounds for detention

- More grounds than two grounds explicitly listed in the Returns Directive;
- Grounds unrelated to two grounds explicitly listed in the Returns Directive: lack of documents (Estonia), irregular entry or stay (Lithuania, Spain), public health (Lithuania) threat to national security or public order (the Czech Republic, Lithuania, Spain) (vs. the *Kadzoev* ruling);
- Long lists of the criteria to determine the risk of absconding (but the *Al Chodor* ruling);
- Grounds for detention of asylum seekers under the Reception Conditions Directive now provided in most of domestic legislation.

Number of persons detained

Country	2010	Most recent data (2013-2016)	Year
Austria	6'153	1'920	2014
Belgium	6'553	6'229	2015
Bulgaria	973	9'530	2015
Croatia	559	258	2015
Czech Republic	822	5'261	2016
Estonia	40	94	2013
Finland	534	444	2013
France	60'000	47'565	2015
Germany	7'495	4'309	2013
Hungary	3'509	8'562	2015
Ireland	1'279	335	2015
Italy	7'000	5'242	2015
Latvia	187	196	2014
Lithuania	132	353	2015
Luxemburg	200	243	2013
Malta	61	1'900	2013
Netherlands	7'812	2'560	2016
Poland	2'310	1'322	2014
Slovakia	319	412	2016
Slovenia	340	2'338	2015
Spain	11'915	6'930	2015
Sweden	1'810	3'524	2015
UK	26'000	32'526	2016
Total	146'003	141'700	

Number of Immigration Detainees

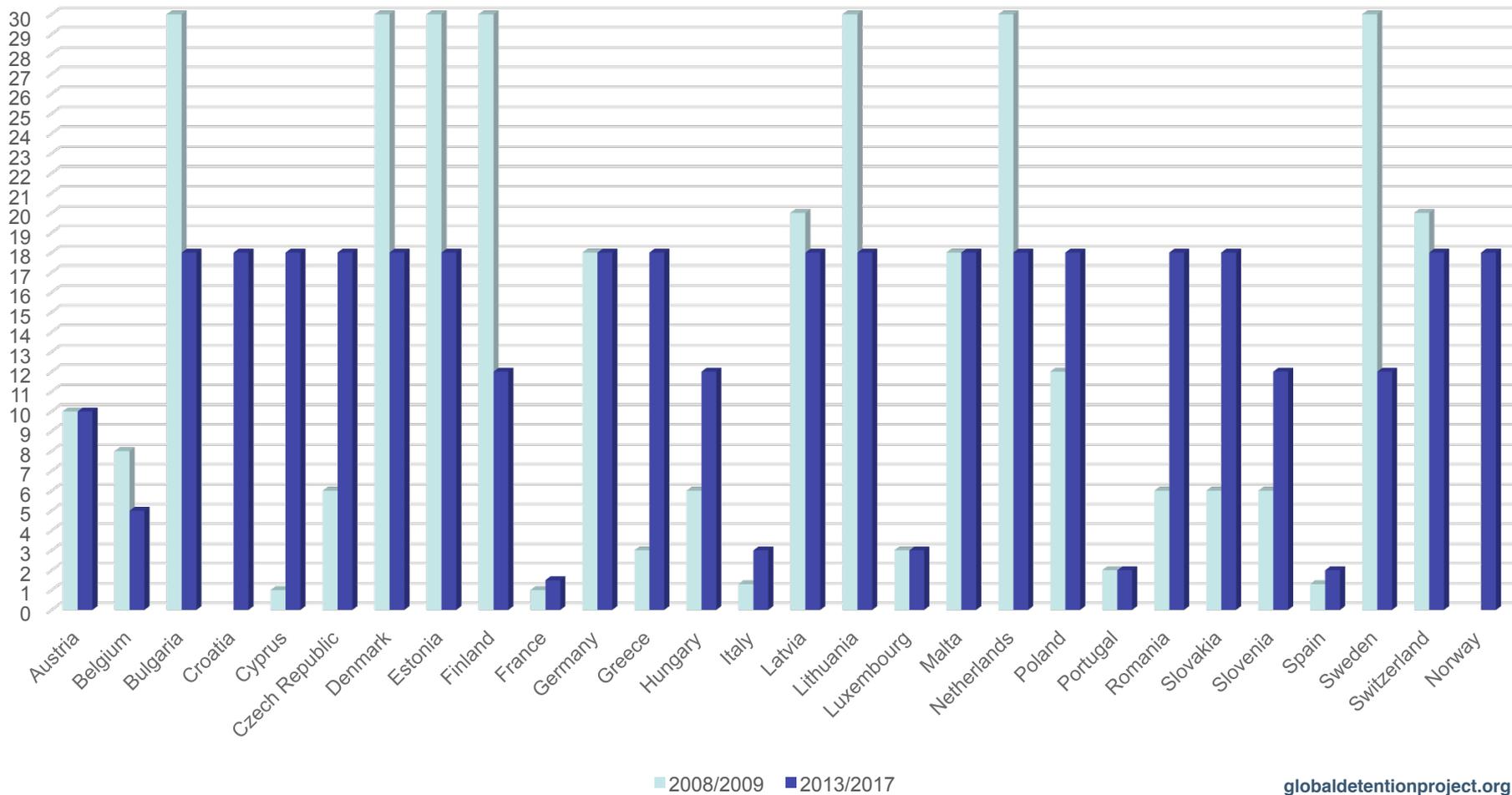


Length of detention

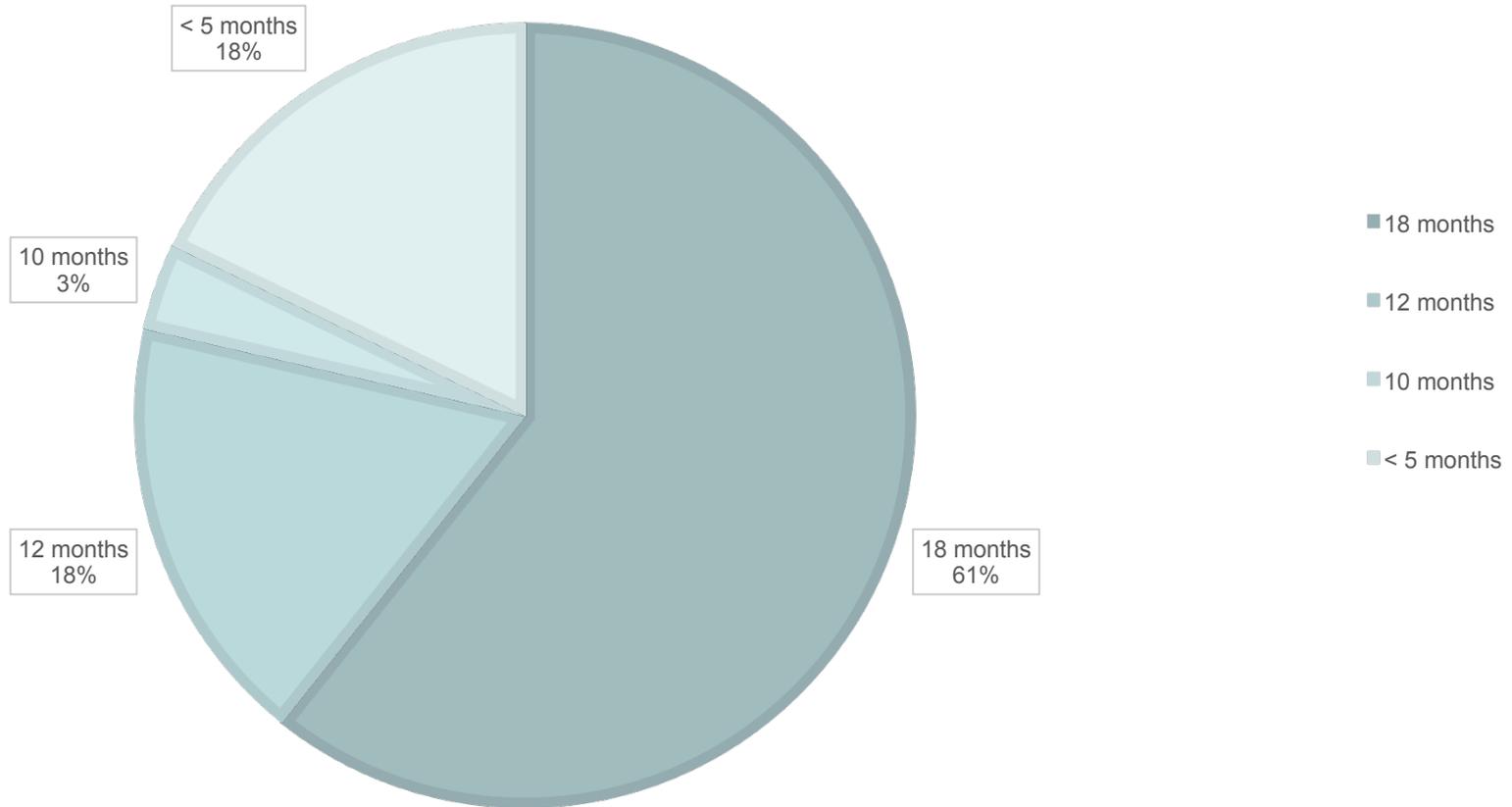
Country	2008/2009	2014/2017
Austria	10	10 (2017)
Belgium	8	5 (2016)
Bulgaria	No Limit	18 (2017)
Croatia		18 (2016)
Cyprus	1	18 (2017)
Czech Republic	6	18 (2016)
Denmark	No Limit	18 (2016)
Estonia	No Limit	18 (2016)
Finland	No Limit	12 (2017)
France	1	1.5 (2017)
Germany	18	18 (2017)
Greece	3	18 (2017)
Hungary	6	12 (2016)
Italy	1.3	12 (2016)
Latvia	20	18 (2017)

Country	2008/2009	2014/2017
Lithuania	No Limit	18 (2016)
Luxembourg	3	3 (2017)
Malta	18	18 (2017)
Netherlands	No Limit	18 (2016)
Poland	12	18 (2015)
Portugal	2	2 (2017)
Romania	6	18 (2017)
Slovakia	6	18 (2016)
Slovenia	6	12 (2016)
Spain	1.3	2 (2017)
Sweden	No Limit	12 (2016)
Switzerland	20	18 (2017)
Liechtenstein		
Norway		18 (2014)
Iceland		

Maximum Length of Pre-Removal Detention (in months)



LENGTH OF PRE-REMOVAL DETENTION FOR COUNTRIES BOUND BY THE RETURNS DIRECTIVE



Alternatives to detention

Three alternative measures most frequently listed in legislation of the EU countries:

- 1) regular reporting to the authorities,
- 2) deposit of a financial guarantee,
- 3) deposit of travel documents,
- 4) an obligation to stay at an assigned place.

Alternatives to detention

Why are alternatives to detention rarely used in practice?

- Lack of a clear obligation in the legislation to assess alternatives in each case (Latvia);
- Conditions to fulfil by migrant: there are “reasons of a humanitarian nature” (Latvia), non-citizen’s identity has been established, he does not pose a threat to national security or public order, and collaborates with the authorities (Lithuania);
- Practical obstacles: accommodation and means of subsistence (Lithuania, Slovakia, Slovenia), social and family links with the host country (Lithuania);
- In practice, authorities frequently do not consider alternatives to detention (Poland, Slovakia, Hungary) or discard them automatically (Croatia), no operational rules on the use of alternatives (Latvia).

Detention of children

Divergent states' practice:

- Detention of unaccompanied children not allowed in law (Czech Republic and Poland (asylum seekers), Hungary, Italy, Slovakia, and Spain);
- Detention of children below 14 (Austria, Latvia) or 15 (Czech Republic, Poland, Switzerland) not allowed in law;
- Detention only on specific grounds (Czech Republic: state security, public order; Sweden: obvious risk of absconding, alternatives not sufficient; Netherlands: repeated breach of alternatives to detention, offence, removal to be carried out soon);
- Stronger emphasis on the last resort principle and considering alternatives to detention (Austria (children 14-16); Sweden),
- Shorter duration (Sweden 6 days).

Country	Number of detained children
Austria	175 (2013)
Bulgaria	667 (2013)
Croatia	39 (2010)
Czech Republic	22 (2013)
Denmark	119 (2011)
Estonia	3 (2012)
France	5,100 (2015)
Germany	15 (2013)
Hungary	190 (2015)
Lithuania	5 (2015)
Luxembourg	27 (2012)
Malta	11 (2015)
Netherlands	402 (2012)
Poland	347 (2014)
Slovakia	4 (2012)
Slovenia	449 (2015)
Spain	19 (2015)
Sweden	25 (2014)
United Kingdom	144 (2016)

Global Detention Project

Detention of children

- Discrepancy between law and practice: inadequate and lengthy age determination (Hungary), assignment of children with unrelated adults (Bulgaria, Croatia);
- If not detained, where are unaccompanied children placed: special facility for foreign children (Czech Republic), orphanages (Croatia), juvenile shelters (Croatia, Czech Republic, Spain); asylum seekers reception centre (Lithuania), juvenile detention centre (Netherlands);
- General problem with adequacy of these facilities; accommodation vs. detention; long term policy towards these children (return vs. integration (foster families?).

Places of detention

- Around 200 places in use in the past 5 years (used for detention above three days);
- Most of the places are dedicated immigration detention centres (the *Bero & Bouzalmate* ruling);
- Does the *Bero & Bouzalmate* ruling also preclude the use of police stations (Greece) and police detention centres (Austria)?
- Blurred practice: “secure” reception centres (Czech Republic, Slovakia), hotspots (Italy, Greece).



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