

COUNTRY REPORT

IMMIGRATION DETENTION IN ESTONIA: BETTER CONDITIONS, STRICTER REGIME

MAY 2019



GLOBALDETENTIONPROJECT



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THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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Front cover image: Graffiti in Tallinn © Inimõiguste Keskus

This report is also available online at www.globaldetentionproject.org

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GLOSSARY

AGIPA	Act on Granting International Protection to Aliens
CAT	UN Committee against Torture
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CRC	UN Committee on the Rights of the Child
OLPEA	Obligation to Leave and Prohibition on Entry Act



KEY FINDINGS

- Despite being located far from important migration routes impacting the rest of the European Union, public attitudes in Estonia appear to be deeply antagonistic towards migrants.
- The country historically has had a large population of stateless persons, a legacy of Soviet migration policies and the refusal to grant citizenship to ethnic Russians after independence in 1991.
- Non-citizens may be detained if they are not in possession of proper documents, which does not conform to the EU Returns Directive and may lead to automatic detention.
- In 2018, Estonia opened a new dedicated immigration detention centre to replace an older facility that had been plagued by riots, violence, and hunger strikes.
- Immigration law does not prohibit the detention of children, though the country ostensibly attempts to promptly transfer unaccompanied children from the detention centre to “substitute homes,” a process that is reportedly delayed in some cases.
- “Alternatives to detention” are not widely used because migrants and asylum seekers are assumed to be transiting Estonia en route to other destinations in Europe and thus are at a high risk of absconding.



1. INTRODUCTION

Since its independence in 1991, Estonia has maintained a largely restrictive line on immigration policy. This is rooted in part in the country's past experience of large-scale immigration during the Cold War, when Soviet efforts to settle large numbers of ethnic Russians resulted in Estonia having one of the largest foreign populations in Europe.¹ Because the government of the newly independent Estonia granted citizenship only to those who had resided on the territory before the Soviet takeover (and their descendants), approximately one-third of the country's population became stateless. The numbers of stateless persons have decreased considerably since then, totalling some 76,000 as of January 2019.²

The percentage of non-nationals residing in Estonia nevertheless remains one of the highest in the European Union (EU), reaching 14.7 percent as of 2017.³ Among the most important countries of origin of visa applicants have been Russia (109,000), Belarus (42,000), and Ukraine (15,000).⁴

Estonia's approach to immigration began to change in 2003, arguably in response to growing emigration rates, a phenomenon it shares with its Baltic neighbours. The government acknowledged the potential that immigration can offer the country's economy and labour market, and a skill-based selective migration policy has since been pursued by the country's authorities.⁵

Also like its Baltic neighbours, Estonia has been largely shielded from the major migration events that have impacted the rest of the EU over the last decade. In 2018, the country received only 95 asylum applications, the lowest number in the EU. Estonia also has some of the lowest numbers of migrant apprehensions, which totalled less than 1,000 in 2018. Most of those apprehended are from Ukraine and Russia, who comprised 35 percent and 20

¹ H. Maasing and E. Asar, "Evolution of Migration Policy in the European Union and Estonia, Estonian Human Development Report 2016/2017, Estonia at the Age of Migration," 2019, <https://inimareng.ee/en/migration-and-demographic-changes-in-estonia-and-europe/evolution-of-migration-policy-in-the-european-union-and-estonia/>

² ERR News, "Number of Stateless Residents in Estonia Drops by Over 2,200 in 2018," 3 January 2019, <https://news.err.ee/891967/number-of-stateless-residents-in-estonia-drops-by-over-2-200-in-2018>

³ Un Department of Economic and Social Affairs (UNDESA), "International Migration 2017," <https://www.un.org/en/development/desa/population/migration/publications/wallchart/docs/MigrationWallChart2017.pdf>

⁴ European Migration Network, "Country Factsheet: Estonia 2014," 2015, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/country-factsheets/08.estonia_emn_country_factsheet_2014.pdf

⁵ H. Maasing and E. Asar, "Evolution of Migration Policy in the European Union and Estonia, Estonian Human Development Report 2016/2017, Estonia at the Age of Migration," 2019, <https://inimareng.ee/en/migration-and-demographic-changes-in-estonia-and-europe/evolution-of-migration-policy-in-the-european-union-and-estonia/>

percent of all apprehensions in 2018. The number of people refused entry at the border is similar to Latvia: 1,635 in 2018 and 1,175 in 2017. In 2018, Estonia returned 750 people (a figure similar to Cyprus) and 630 in 2017. In 2018, 37 percent of returnees were from Ukraine and 22 percent from Russia.⁶ Estonia detained 63 non-citizens in 2018, 61 in 2017, and 97 in 2016.⁷

In 2018, following an Estonian Police and Border Guard Board risk analysis that concluded that the arrival of 3,000 migrants in the country would be an “emergency situation,” the country’s Interior Ministry drafted a bill to address “mass immigration.” The law, which was still being drafted by the Interior Ministry as of July 2018, would significantly curb the rights of migrants and asylum seekers. It would provide: an extension to the time period allowed for detention without an administrative court authorisation, from 48 hours to one week; the possibility of holding migrants outside the designated detention centre if it is at capacity; the option to suspend the legal requirement of housing family members together; and a reduction in the number and scope of services that are provided to migrants.⁸

Public and political discourse is permeated by anti-immigrant rhetoric. In 2019 the Conservative People’s Party, a far-right party that says it wants to protect the country’s “indigenous Estonian” population, nearly tripled its share of seats in parliament, mirroring the rise of populist nationalist parties elsewhere in Europe.⁹ The country’s Interior Minister has voiced support for Hungarian Prime Minister Viktor Orbán’s divisive efforts to “defend” Europe from migrants, including Hungary’s construction of a mammoth razor-wire fence along its borders.¹⁰ These remarks came two years after the country announced plans to build a 70 million EUR fence along its border with Russia, paralleling developments in neighbouring Latvia. The 90-kilometre fence is to be equipped with warning signals, light fixtures, and boundary stones, necessary features according to the Interior Ministry, which has stated that “Estonia needs a modern state border, worthy of being the external border of Europe and NATO.”¹¹ As of mid-2019, only some preparatory work has been completed and construction is expected to begin in 2020. According to reports, this delay in construction is due to the fact that costs are likely to be several times higher than initially planned.¹²

Estonia operates one dedicated immigration detention centre. The facility was opened in

⁶ Eurostat, “Asylum and Managed Migration,” <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

⁷ Eike Luik (European Migration Network (EMN) Estonia), Email exchange with Izabella Majcher (Global Detention Project), May 2019.

⁸ ERR News, “Police Scenario: Arrival of 3,000 Migrants Would Cause State of Emergency,” 2 July 2018, <https://news.err.ee/843687/police-scenario-arrival-of-3-000-migrants-would-cause-state-of-emergency>; ERR News, “Bill on Table Aims to Tackle Major Surge in Third Country Immigration,” 3 July 2018, <https://news.err.ee/843849/bill-on-table-aims-to-tackle-major-surge-in-third-country-immigration>; J. Voltri, “State Prepares for Mass Immigration,” *Postimees*, 3 July 2018, <https://news.postimees.ee/4513634/state-preparing-for-mass-immigration>

⁹ The Conservative People’s Party was later included in the new three-party coalition government, taking control of five key ministries. See: E. Gershovich, “Estonia Joins the Far-Right Club,” *Politico*, 30 April 2019, <https://www.politico.eu/article/estonia-tallinn-joins-the-far-right-club-martin-helme-mart-helme-kersti-kaljulaid-populism/>

¹⁰ ERR News, “Anvett on Migration Crisis: To Protect Country, Estonia also Favours Fences,” 21 September 2018, <https://news.err.ee/843687/police-scenario-arrival-of-3-000-migrants-would-cause-state-of-emergency>

¹¹ Russia Today (RT), “‘Great Estonian Wall:’ Country Decides to Cut Itself off from Russia ... With 2.5-Meter Fence,” 17 March 2016, <https://www.rt.com/news/336000-estonia-russia-border-wall/>

¹² Liina Laanpere (Estonian Human Rights Centre), Email exchange with Izabella Majcher (Global Detention Project), May 2019.

2018 in Rae municipality, outside Tallinn. It replaced a long-standing centre in Harku whose history was peppered with repeated riots, hunger strikes, and violent altercations between detainees and staff. In December 2016 for example, a riot broke out at the facility after a police officer confronted an apparently mentally ill detainee, setting off a larger confrontation between police and other detainees.¹³ During a June 2016 incident, detainees refused food and began protesting when a staff member allegedly physically mistreated a detainee,¹⁴ and in an incident in November 2015 the police shot rubber bullets at detainees when they refused to leave a recreation area after a disagreement between staff and one detainee. An internal investigation concluded that the use of force in the 2015 incident was inconsistent with the Law Enforcement Act.¹⁵

¹³ Post Times, “Harku Gas Attack Work of Fiction,” 13 January 2017, <http://news.postimees.ee/3978635/harku-gas-attack-work-of-fiction>

¹⁴ ERR News, “Confusing Incident Leads to Protest by Residents of Harku Detention Center,” 12 June 2016, <http://news.err.ee/v/news/56f8b936-b728-4c9b-8f2a-23dbd29ab333/confusing-incident-leads-to-protest-by-residents-of-harku-dentention-center>

¹⁵ Delfi, “Pärtel Preinvalts: Harku väljasaatmiskeskuses on ülerahvastatuse tõttu pingeid,” 20 April 2013, <http://epl.delfi.ee/news/eesti/partel-preinvalts-harku-valjasaatmiskeskuses-on-ulerahvastatuse-tottu-pingeid?id=65906346>



2. LAWS, POLICIES, PRACTICES

2.1 Key norms. Upon Estonia's independence, the country adopted the Immigration Act in 1990, which was replaced in 1993 by the Aliens Act.¹⁶ The current 2009 *Aliens Act* (*Välismaalaste seadus*) replaced the 1993 Aliens and is Estonia's main piece of immigration legislation. Amended several times since its adoption, the Aliens Act regulates the conditions of entry, stay, and employment in Estonia. Pre-removal detention is provided in the 1998 *Obligation to Leave and Prohibition on Entry Act* (OLPEA) (*Väljasõidukohustuse ja sissesõidukeelu seadus*).

Following the ratification of the UN Refugee Convention, the country adopted the Refugee Act in 1997. It was replaced by the 2005 *Act on Granting International Protection to Aliens* (AGIPA) (*Välismaalasele rahvusvahelise kaitse andmise seadus*), which sets out the conditions for receiving international protection, asylum procedures, and grounds for the detention of asylum seekers.

2.2 Grounds for detention. Section 15(2) of the OLPEA provides three grounds for pre-removal detention: 1) a risk of absconding; 2) failure to cooperate; and 3) a lack of documents. This last ground, however, does not appear to conform to the *EU Returns Directive*.

Circumstances that can serve as a basis for concluding that there is a risk of absconding include: 1) the individual has failed to leave Estonia or another Schengen country within the voluntary departure period stipulated in a removal order; 2) the person has submitted false information or falsified documents in their application to stay, or its extension; 3) there is a reasoned doubt regarding the individual's identity or citizenship; 4) the non-citizen has repeatedly committed intentional criminal offences or has committed a criminal offence for which they have been imprisoned; 5) the individual has failed to comply with surveillance measures; 6) the individual has notified the Police and Border Guard Board or the Estonian Internal Security Service of their non-compliance with an obligation to leave; 7) the individual entered Estonia while an entry ban was still valid; 8) the individual has been apprehended for unlawfully crossing the external border and has not been issued a permit or right to stay in Estonia; or 9) the individual has left a residence assigned to them without permission (OLPEA, Section 6.8).

The issue of non-cooperation, which may also trigger detention, is interpreted as: 1) failure to provide the governmental authorities enforcing expulsion with oral and written information and explanations; 2) failure to submit all information, documents, and other pieces of evidence in their possession that are relevant to the expulsion proceedings; 3) failure to co-

¹⁶ H. Maasing and E. Asar, "Evolution of Migration Policy in the European Union and Estonia, Estonian Human Development Report 2016/2017, Estonia at the Age of Migration," 2019, <https://inimareng.ee/en/migration-and-demographic-changes-in-estonia-and-europe/evolution-of-migration-policy-in-the-european-union-and-estonia/>

operate in obtaining the necessary documents for expulsion; 4) failure to co-operate in the collection of information needed for identification of his or her person, and for verification purposes.¹⁷

A non-national who is refused entry to Estonia may be detained by a Police and Border Guard Board official or a Security Police official, and their expulsion from Estonia is to be organised within 48 hours (OLPEA, Sections 18(1) and 28(3.2)).

2.3 Asylum seekers. According to the AGIPA, asylum seekers may be detained for up to 48 hours following the submission of an asylum application. During this period the asylum determination bodies should receive the asylum application form, examine the claim, confiscate personal items, conduct identification procedures, review explanations concerning arrival and circumstances that are the basis for the asylum application, photograph and fingerprint the individual, consult Eurodac, and arrange medical assistance when necessary. If these procedures take longer than 48 hours, authorities must request permission from an administrative court to extend the detention period (Section 15(6)).

Section 36.1(2) of the AGIPA provides specific grounds for the detention of asylum seekers, which were expanded when the country transposed the [EU Reception Conditions Directive](#). Asylum seekers may be detained if it is “unavoidably necessary” for the following purposes: 1) verification of identity; 2) verification of citizenship; 3) verification of the legal basis for entry or stay; 4) identification of the circumstances relevant to the asylum application proceedings, primarily when there is a risk of absconding; 5) existence of reasons to believe that the person has submitted the asylum application in order to postpone an obligation to leave or prevent an expulsion; 6) protection of the security of state or public order; or 7) the transfer of an individual under the Dublin procedure.

2.4 Children. Estonian law does not prohibit nor restrict the detention of children. It merely provides that a child must be detained separately from adults, unless this is contrary to the child’s best interests (OLPEA, Section 26.5(4)).

According to official sources¹⁸ and the [Estonian Union for Child Welfare](#),¹⁹ unaccompanied children have generally not been placed in detention since 2014. Rather, as per the Social Welfare Act, they are accommodated in “substitute homes,” which are managed by SOS Children’s Villages.²⁰ According to the government, a child may be placed in a detention centre only if their guardian is also subject to expulsion and, in the opinion of the court,

¹⁷ V. Lapimaa, “National Synthesis Report – Estonia: Detention for the Purpose of Removal,” *Odysseus Network, Redial Project*, 2017, <http://euredial.eu/publications/national-synthesis-reports/>

¹⁸ Government of Estonia, “Combined Second, Third and Fourth Periodic Reports of States Parties Due in 2008, Estonia, CRC/C/EST/2-4,” 30 April 2015, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/086/19/PDF/G1508619.pdf?OpenElement>; European Migration Network (EMN), “The Effectiveness of Return in EU Member States, Synthesis Report for the EMN Focussed Study 2017,” 2018, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_synthesis_report_return_study_en.pdf

¹⁹ Estonian Union for Child Welfare, Estonian Human Rights Centre (et al), “Additional Report on the UN Convention on the Rights of the Child Additions, Comments and Proposals by NGOs in Estonia,” 2015, http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/EST/INT_CRC_NGO_EST_22404_E.pdf

²⁰ Liina Laanpere (Estonian Human Rights Centre), Email exchange with Izabella Majcher (Global Detention Project), May 2019.

detention is in the child's best interest.²¹ However, interviews conducted by the ombudsman during inspection visits in 2015 revealed that unaccompanied children are frequently detained after their arrival in Estonia. Although unaccompanied children are later placed in "substitute homes," transfer to these facilities has been delayed in some cases. Further, unaccompanied children are often confined for short periods of time in other locations, such as border guard stations and detention houses.²² However, as the [EU Fundamental Rights Agency](#) has noted, border guard facilities are not adapted to the needs of children.²³

There were no children in detention in 2018, 4 in 2017, and 6 in 2016.²⁴ According to the Migration and Border Guard Policy Department, one unaccompanied child was detained in 2012, four unaccompanied children were detained in 2011, and one accompanied child was detained in 2010.²⁵ However, non-governmental sources provide different figures, such as the detention of three children in 2012.²⁶ During the Chancellor of Justice's visit to Harku Detention Centre in October 2015, 10 children were present in the centre, out of whom seven were below the age of 10. During a May 2016 visit, two children were found to be present in the centre.²⁷

Under the OLPEA, detained children must be offered age-appropriate activities and access to education in accordance with the Basic Schools and Upper Secondary Schools Act (Section 26.5(7)-(8)). The food that is provided to children should also take into consideration their specific needs (Section 26.7(3)). However, according to the ombudsman and the Estonian Union for Child Welfare, leisure activities and access to education are not properly ensured.²⁸ Access to education is reportedly complicated due to language barriers,

²¹ Government of Estonia, "Combined Second, Third and Fourth Periodic Reports of States Parties Due in 2008, Estonia, CRC/C/EST/2-4," 30 April 2015, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/086/19/PDF/G1508619.pdf?OpenElement>

²² Chancellor of Justice, "Report of Chancellor of Justice of the Republic of Estonia on Implementation of UN Convention on the Rights of the Child," November 2015, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRC%2fNGO%2fEST%2f22403&Lang=en

²³ European Agency for Fundamental Rights (FRA), "European Legal and Policy Framework on Immigration Detention of Children," 2017, <http://fra.europa.eu/en/publication/2017/child-migrant-detention>

²⁴ Eike Luik (European Migration Network (EMN) Estonia), Email exchange with Izabella Majcher (Global Detention Project), May 2019.

²⁵ Ruth Annus (Chief of Migration and Border Guard Policy Department), Response to Global Detention Project/ Access Info Questionnaire, April 2013.

²⁶ (Although the report states that 17 children were detained, in footnotes (n. 319) it explains that 14 were declared adults in subsequent proceedings.) See: Estonian Union for Child Welfare, Estonian Human Rights Centre (et al), "Additional Report on the UN Convention on the Rights of the Child Additions, Comments and Proposals by NGOs in Estonia," 2015, http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/EST/INT_CRC_NGO_EST_22404_E.pdf

²⁷ Chancellor of Justice, "Inspection Visit to the Detention Centre of the Migration Office of the Information Management and Processing Department of the Police and Border Guard Board," 12 October 2015, <http://www.oiguskantsler.ee/en/opinions?page=5>

²⁸ Chancellor of Justice, "Report of Chancellor of Justice of the Republic of Estonia on Implementation of UN Convention on the Rights of the Child," November 2015, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRC%2fNGO%2fEST%2f22403&Lang=en; Estonian Union for Child Welfare, Estonian Human Rights Centre (et al), "Additional Report on the UN Convention on the Rights of the Child Additions, Comments and Proposals by NGOs In Estonia," 2015, http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/EST/INT_CRC_NGO_EST_22404_E.pdf

gaps in previous education,²⁹ and a lack of adequately qualified teaching staff.³⁰ Following his 2015 visit to the detention centre, the ombudsman found other gaps in the care of detained children, notably a lack of legal advisers during detention proceedings and a failure to provide specific staff members to be responsible for taking care of individual children.³¹ Reportedly, based on an informal agreement, the Police and Border Guard Board informs the Estonian Union for Child Welfare when a child is placed in detention. A protection specialist and a social worker from the local municipality then visit the child to verify their wellbeing.³²

In 2017, the [UN Committee on the Rights of the Child \(CRC\)](#) expressed concern in response to reports suggesting that the detention of asylum-seeking and refugee children was increasing. The committee urged Estonia to amend the AGIPA to prohibit the detention of refugee and asylum-seeking children and to adopt alternatives to detention so that children can remain with family members or guardians in non-custodial, community-based contexts, consistent with their best interests and with their rights to liberty and family life.³³

2.5 Other vulnerable groups. Under the OLPEA (Section 6.7) and AGIPA (Section 36.3(4)) authorities must take into account the specific needs of minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, and persons who have been subjected to torture, rape, or other serious forms of psychological, physical, or sexual violence.

As regards stateless persons, following its independence in 1991, Estonian citizenship was granted only to citizens of pre-war Estonia and their descendants. As a result, almost 32 percent of the population of Estonia, largely ethnic Russians settled in Estonia by the Soviet authorities, became stateless. The number of stateless persons decreased over the years but, according to government statistics, as of the 1 January 2017 there were still 77,926 stateless persons, which comprised 5.9 percent of the total population. Nearly all of them were ethnic Russians, Ukrainians, and Belarusians.³⁴ According to UNHCR, as of 2015

²⁹ Estonian Union for Child Welfare, Estonian Human Rights Centre (et al), “Additional Report on the UN Convention on the Rights of the Child Additions, Comments and Proposals by NGOs in Estonia,” 2015, http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/EST/INT_CRC_NGO_EST_22404_E.pdf

³⁰ European Agency for Fundamental Rights (FRA), “European Legal and Policy Framework on Immigration Detention of Children,” 2017, <http://fra.europa.eu/en/publication/2017/child-migrant-detention>

³¹ Chancellor of Justice, “Report of Chancellor of Justice of the Republic of Estonia on Implementation of UN Convention on the Rights of the Child,” November 2015, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRC%2fNGO%2fEST%2f22403&Lang=en

³² European Agency for Fundamental Rights (FRA), “European Legal and Policy Framework on Immigration Detention of Children,” 2017, <http://fra.europa.eu/en/publication/2017/child-migrant-detention>

³³ UN Committee on the Rights of the Child (CRC), “Concluding Observations on the Combined Second to Fourth Periodic Reports of Estonia, CRC/C/EST/CO/2-4,” 8 March 2017, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/EEIndex.aspx>

³⁴ U.S Department of State, Bureau of Human Rights Democracy and Labour, “Country Reports on Human Rights Practices for 2017: Estonia,” 2018, <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

there were still up to 90,000 stateless persons in Estonia, including some 1,000 children below the age of 14.³⁵

Noting that stateless persons risk prolonged detention, in 2016 UNHCR urged Estonia to review its laws and practices to ensure that stateless persons are not exposed to a risk of detention on account of their lack of a normalised status.³⁶ In 2006, the Estonian Supreme Court ruled that “the lawfulness of the detention of a person with undetermined citizenship who has been residing in Estonia for a long time as well as its conformity with (the principle of) human dignity is problematic because it may lead to a situation when the detention centre will accommodate a person with regard to whom it is clear that s/he cannot be deported at all because there is no State which has a duty to receive him or her.”³⁷

2.6 Length of detention. Under both the OLPEA (Section 15(3)) and AGIPA (Section 36.2(1)), the Police and Border Guard Board and the Estonian Internal Security Service may detain a non-citizen for up to 48 hours without the authorisation of an administrative court. Beyond this time-period, detention must be authorised by a court.

With regards to pre-removal detention under the OLPEA, the Police and Border Guard Board or the Estonian Internal Security Service must apply to an administrative court for authorisation to extend detention from the initial 48 hours to up to two months (OLPEA, Section 23(1)). Following this, at the request of the Police and Border Guard Board, an administrative court may also extend the period of pre-removal detention up to six months, if the grounds for detention are still valid and detention is proportionate in the individual’s specific circumstances (Section 25(1)). If the detainee fails to comply with the obligation to co-operate or there are delays in obtaining travel documents from destination countries, an administrative court may extend the term of detention by four months at a time, at the request of the Police and Border Guard Board. The maximum limit of detention is 18 months (OLPEA, Section 25(2)).

Like several other countries, including [Denmark](#), [Finland](#), [Sweden](#), and [Lithuania](#), Estonia did not place a limit on the length of detention before transposing the EU Returns Directive into its legislation. Like most of these countries, Estonia subsequently relied on the maximum time period permitted by the Directive. According to official sources, the average

³⁵ Institute on Statelessness and Inclusion, “The Committee on the Rights of the Child, 73rd Pre-Sessional Working Group (1 – 5 February 2016), Estonia, Civil Society Submission on the Right of Every Child to Acquire a Nationality under Article 7 CRC,” 31 October 2015, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRC%2fNGO%2fEST%2f22405&Lang=en; UN High Commissioner for Refugees (UNHCR), “Mapping Statelessness in Estonia,” 2016, http://www.unhcr.org/neu/wp-content/uploads/sites/15/2017/01/UNHCR-Statelessness_in_Estonia-ENG-screen.pdf; Legal Information Centre for Human Rights, “Ending Childhood Statelessness: A Study on Estonia,” *European Network on Statelessness*, 2015, http://www.statelessness.eu/sites/www.statelessness.eu/files/Estonia_2.pdf

³⁶ UN High Commissioner for Refugees (UNHCR), “Mapping Statelessness in Estonia,” 2016, http://www.unhcr.org/neu/wp-content/uploads/sites/15/2017/01/UNHCR-Statelessness_in_Estonia-ENG-screen.pdf

³⁷ UN High Commissioner for Refugees (UNHCR), “Mapping Statelessness in Estonia,” 2016, http://www.unhcr.org/neu/wp-content/uploads/sites/15/2017/01/UNHCR-Statelessness_in_Estonia-ENG-screen.pdf

length of immigration detention was 58 days in 2013, 80 days in 2012, 92 days in 2011, 84 days in 2010, and 156 days in 2009.³⁸

Meanwhile, according to the AGIPA, an administrative court may extend an asylum seeker's initial detention of 48 hours by three days (Section 19(2)). Upon expiry of this period, the Police and Border Guard Board or the Estonian Internal Security Service must apply to an administrative court for authorisation of an extension to up to two months (AGIPA, Section 36.2(2)). Following this, an administrative court may further extend detention by two additional months (AGIPA, Section 36.2(5)). The maximum period of detention is 18 months.³⁹

Under Section 25(3) of the OLPEA, the period of time a person has spent in asylum detention is not counted towards the maximum period of detention under the OLPEA (AGIPA, Section 36.2(3)-(4)). In 2017, Estonia's Supreme Court confirmed that the periods of detention under both acts are not counted cumulatively.⁴⁰ Hence a person could theoretically be detained for three years.

2.7 Procedural guarantees. As stipulated in Section 26(1) of the OLPEA, detention proceedings are based on the [Code of Administrative Court Procedure](#). According to this legislation, the detention of an individual for more than 48 hours, or a detention extension, is to be granted by an administrative court, and non-nationals are heard prior to the decision being made. Official sources have described this procedure as an equivalent to automatic, ex officio judicial review. Non-nationals receive information regarding their detention both orally and in written form.⁴¹

A detention decision may be appealed to the Court of Appeal within 15 days of the decision notification being translated into a language that the non-citizen understands. Appeal decisions are usually made within two weeks. If the detention decision is quashed, the detainee is immediately released and entitled to compensation for pecuniary and non-pecuniary damage. While the court is not bound by the facts and reasons presented by the administrative authority, it frequently takes the administration's opinion on the risk of absconding and the feasibility of removal into account.⁴²

The OLPEA provides that upon arrival in the detention centre, the non-citizen should be briefed on their rights and obligations in a language that they can understand, and should they request legal aid and language services, these should be provided at the detainee's

³⁸ European Migration Network (EMN), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Synthesis Report for the EMN Focused Study 2014," 2014, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf

³⁹ Liina Laanpere (Estonian Human Rights Centre), Email exchange with Izabella Majcher (Global Detention Project), May 2019.

⁴⁰ Liina Laanpere (Estonian Human Rights Centre), Email exchange with Izabella Majcher (Global Detention Project), May 2019.

⁴¹ European Migration Network (EMN), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Synthesis Report for the EMN Focused Study 2014," 2014, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf

⁴² V. Lapimaa, "National Synthesis Report – Estonia: Detention for the Purpose of Removal," *Odysseus Network, Redial Project*, 2017, <http://euredial.eu/publications/national-synthesis-reports/>

expense (Section 26.2(7)). Detainees should also be informed about the option of submitting complaints (Section 26.2(8)). In 2007, the CPT noted that these rights were respected. Upon admission, detainees received written information on their rights, including the right to lodge a complaint. Complaints could be addressed to the director of the centre and the Head of the Citizenship and Migration Board (which was later replaced by the Police and Border Guard Board), as well as independent bodies, including courts and the Chancellor of Justice.⁴³

According to official sources, detainees have access to interpretation and free legal advice to appeal against return decisions.⁴⁴ However, according to reports the quality of state-appointed lawyers is low.⁴⁵

2.8 Detaining authorities and institutions. Under both the OLPEA (Section 15(3)) and the AGIPA (Section 36.2(1)), the Police and Border Guard Board (which is under the authority of the Internal Affairs Ministry) or the Estonian Internal Security Service may detain a non-citizen for up to 48 hours without the authorisation of an administrative court. However, detention for more than 48 hours must to be authorised by an administrative court.

The country's sole dedicated detention centre is a structural unit of the Police and Border Guard Board.⁴⁶

The initial 48 hours of detention (or five days, if extended by a court under Section 19(2) of the OLPEA) can take place in police authority offices, a police "detention house," or the detention centre (OLPEA, Section 19(1); AGIPA, Section 36.2(2)). The police "detention house" can be also used beyond the initial detention period, if it is not possible to confine a non-citizen in the detention centre for security or health-protection reasons (OLPEA, Section 23(4)).

2.9 Non-custodial measures. Both the OLPEA (Section 15(1)-(2)) and the AGIPA (Section 36.1(1)) provide that custodial measures must comply with the principle of proportionality and that the individual circumstances of each case must be taken into account. Under Section 10(2) of the OLPEA and Section 29(1) of the AGIPA, non-custodial measures ("surveillance measures") include: residing in a determined place of residence; registering at the Police and Border Guard Board at prescribed intervals; notifying the Police and Border Guard Board if one is not at the place of residence; and depositing a foreign state travel document at the Police and Border Guard Board. In addition, surveillance measures under the OLPEA include appearing at the Police and Border Guard Board to clarify circumstances ensuring compliance with a return decision and notifying the Police and Border Guard Board

⁴³ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Estonian Government on the Visit to Estonia Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 18 May 2007, CPT/Inf (2011) 15," 19 April 2011, <http://www.cpt.coe.int/documents/est/2011-15-inf-eng.htm>

⁴⁴ European Migration Network (EMN), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Synthesis Report for the EMN Focused Study 2014," 2014, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf

⁴⁵ V. Lapimaa, "National Synthesis Report – Estonia: Detention for the Purpose of Removal," *Odysseus Network, Redial Project*, 2017, <http://euredial.eu/publications/national-synthesis-reports/>

⁴⁶ Estonian Union for Child Welfare, Estonian Human Rights Centre (et al), "Additional Report on the UN Convention on the Rights of the Child Additions, Comments and Proposals by NGOs In Estonia," 2015, http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/EST/INT_CRC_NGO_EST_22404_E.pdf

of changes in marital status. If surveillance measures cannot be applied efficiently, non-citizens may be detained.

In practice, alternatives to detention are barely considered and detention orders systematically point to a risk of absconding without substantiating the claim.⁴⁷ Estonia is considered a transit country, and authorities thus perceive a high risk of absconding. Indeed, when authorities establish that a risk of absconding exists, they generally do not consider alternatives to detention.⁴⁸

2.10 Regulation of detention centre conditions and regimes. The OLPEA provides detailed rules concerning places of detention and detention conditions.

The initial 48 hours of detention (or five days, if extended by the court under Section 19(2) of the OLPEA) can take place in police authority offices, a police “detention house,” or the detention centre (OLPEA, Section 19(1); AGIPA, Section 36.2(2)). Those who are confined in these places receive food and emergency health care. Women and men are accommodated separately, family members are accommodated together, and pre-removal detainees are separated from other persons detained in the police “detention house” (OLPEA, Section 19(1)).

Beyond the initial detention period, detention is to be carried out in the detention centre (*kinnipidamiskeskus*) (OLPEA, Section 23(1); AGIPA, Section 36.2(2)), which is a structural unit of the Police and Border Guard Board (OLPEA, Section 26.1(1)). As stipulated in Section 26.1(2)-(4) of the OLPEA, the detention centre is a guarded enclosed area that is marked by clearly visible signs enabling constant supervision of detainees. Police and Border Guard Board officials supervise detainees using visual and electronic surveillance. If it is not possible to confine a non-citizen in the detention centre for security or health-protection reasons, they may be accommodated in the police “detention house” (OLPEA, Section 23(4)).

Upon arrival at the detention centre, detainees undergo a medical examination (Section 26.2(3.1)) and a personal file is opened. This file should include the documents and information which are the basis for detention, photographs, and a fingerprint card (Section 26.2(6)). Detainees must be informed in writing about legislation regulating the enforcement of expulsion, the internal rules of the detention centre, and the option for them to submit complaints (Section 26.2(8)).

The OLPEA provides detailed rules governing detention conditions. Women and men are to be detained separately, and family members should be accommodated together. Rooms must conform to health, hygiene, and construction technology requirements, and have windows to ensure suitable lighting. Children must be accommodated separately from adults, unless this conflicts with the child’s best interests (Section 26.5). During the day detainees should be permitted to move freely in the detention centre, but at night detainees are required to stay in their rooms which, if necessary, are locked (Section 26.6).

Detainees are to wear their own clothing, but if they do not possess suitable attire the detention centre must provide them with clothes free of charge. They are also required to

⁴⁷ Liina Laanpere (Estonian Human Rights Centre), Email exchange with Izabella Majcher (Global Detention Project), May 2019.

⁴⁸ V. Lapimaa, “National Synthesis Report – Estonia: Detention for the Purpose of Removal,” *Odysseus Network, Redial Project*, 2017, <http://euredial.eu/publications/national-synthesis-reports/>

wear a name tag attached to their clothing. Detainees should have the opportunity to practice their religion, so long as the detention centre has appropriate facilities and it does not conflict with the facility's internal rules (Section 26.6). Food, which is supervised by the centre's medical staff, is to be provided on a regular basis, and it must meet food hygiene requirements—although religious dietary habits are at the expense of the individual detainee. The food provided to children should take age-related needs into consideration (Section 26.7). Detainees must be able to use a bath, shower, or sauna at least once a week, as well as following their arrival at the detention centre, and once a month, hairdressing and barber's services shall be provided. If a detainee does not have toiletries or sufficient funds to purchase them, the centre must provide them (Section 26.8). Medical examinations and necessary health services must be available for detainees, and the centre must have permanent medical facilities so that the health of detainees can be monitored. Health services should be provided by a qualified family physician, while in-patient treatment is to be conducted at the Central Hospital of Prisons (Section 26.9).

Detainees may receive visits from various official and non-governmental entities, including consular officers, legal counsels, and representatives of competent state authorities and international or non-governmental organisations. With the permission of the head of the detention centre, non-citizens may also receive short-term supervised visits from personal, legal, or commercial contacts. Visits may last for up to three hours and are to take place in the presence of the Police and Border Guard Board. (Visits from the legal defence counsel are to take place within sight, but not within hearing distance, of the Police and Border Guard Board) (Section 26.10). Detainees are entitled to use a telephone and other public communication channels (Section 26.11).

For security reasons and in order to ensure compliance with the internal rules of the detention centre, a detainee may be placed in isolation following an order from the head of the centre (Section 26.5).

The OLPEA authorises the Police and Border Guard Board to use firearms or special equipment as a measure of last resort when all other measures have been exhausted in order to: prevent the escape of a detainee; apprehend an escaped person; neutralise a detainee who is armed or equipped with a dangerous object or is aided by anyone else; to prevent an attack; or to prevent the entry of third persons into the centre. The special equipment that can be used in the centre includes handcuffs, bonds, a service dog, and a restraint jacket. Service weapons include a truncheon, tear gas, and a firearm. Firearms cannot be used against women and minors, unless they are involved in armed resistance or they attack a Police and Border Guard Board or anyone else. In the case of mass disorder, officials may order the use of firearms and special equipment (Section 26.17).

The Police and Border Guard Board can transfer detention centre functions and personnel (except for the head of the centre) to "other persons" on the basis of a contract under public law. An entity that has assumed the role of performing detention centre functions is required to ensure the detention of persons to be expelled, compliance with the centre's internal rules, and security in the facility. When functions are transferred, the new entity that has assumed obligations—and its employees—are liable to civil, criminal, and administrative procedures on the same basis as the Police and Border Guard Board. The employees of this entity are required to follow the orders of the head of the detention centre, and the Director General of the Police and Border Guard Board, or a person authorised by him, is responsible for supervising staff performance (Section 26.20).

2.11 Domestic monitoring. Immigration detention centres and practices receive scrutiny from both official and non-governmental bodies. Acting as the National Preventive Mechanism, the **Chancellor of Justice** (Ombudsman) (*Oiguskantsler*) visits places of immigration detention. The Chancellor of Justice visited Harku Detention Centre in March 2013,⁴⁹ October 2015, and May 2016.⁵⁰

According to the OLPEA, detainees should be permitted to receive visits from representatives of national, international, and non-governmental organisations (Section 26.10). Within a project supported by UNHCR, the Estonian Human Rights Centre undertakes two official monitoring visits per year. In addition, the Human Rights Centre visits the centre at least once a month to provide legal counselling and representation.⁵¹

2.12 International monitoring. As a State Party to the **European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment** (CPT), Estonia receives regular monitoring visits from the CPT. In 2007, the committee visited the Harku Detention Centre, following which it noted that the material conditions at the centre were good. However, it also recommended that Estonia ensures medical screening upon detention as well as medical confidentiality during consultations, and that it should provide more activities for detainees held for prolonged periods.

In the past few years, two UN human rights treaty bodies have made immigration detention related recommendations to Estonia, notably the CRC (2017)⁵² and the **UN Committee against Torture** (CAT) (2013).⁵³ The CRC urged Estonia to amend the AGIPA to prohibit the detention of refugee and asylum-seeking children and adopt alternatives to detention. In turn, the CAT recommended that the country improve conditions at Harku Detention Centre and provide training and instruction to prison personnel regarding the use of force and the prohibition of verbal abuse.

2.13 Criminalisation. According to Section 17.2 of the 1994 **State Borders Act**, unlawful crossing of the state border of Estonia is punishable by a fine of up to 200 “fine units” (one fine unit is equal to four EUR—so individuals can be fined up to 800 EUR)⁵⁴ or detention.

⁴⁹ Chancellor of Justice, “Inspection to the Expulsion Centre of the Police and Border Guard Board,” 12 March 2013, https://www.oiguskantsler.ee/sites/default/files/IMCE/inspection_to_the_expulsion_centre_of_the_police_and_border_guard_board.pdf

⁵⁰ Chancellor of Justice, “Inspection Visit to the Detention Centre of the Migration Office of the Information Management and Processing Department of the Police and Border Guard Board,” https://www.oiguskantsler.ee/sites/default/files/field_document2/Inspection%20visit%20to%20the%20detention%20centre%20of%20the%20migration%20office%20of%20the%20information%20management%20and%20processing%20department%20of%20the%20PBGB%202015.pdf

⁵¹ Liina Laanpere (Estonian Human Rights Centre), Email exchange with Izabella Majcher (Global Detention Project), May 2019.

⁵² UN Committee on the Rights of the Child (CRC), “Concluding Observations on the Combined Second to Fourth Periodic Reports of Estonia, CRC/C/EST/CO/2-4,” 8 March 2017, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/EEIndex.aspx>

⁵³ UN Committee against Torture (CAT), “Concluding Observations on the Fifth Periodic Report of Estonia, Adopted by the Committee at its Fiftieth Session (6–31 May 2013), CAT/C/EST/CO/5,” 17 June 2013, <http://www.ohchr.org/EN/countries/ENACARegion/Pages/EEIndex.aspx>

⁵⁴ Government of Estonia, “A Misdemeanour,” <https://www.eesti.ee/en/legal-advice/crime-and-punishments/a-misdemeanour/>

Under Section 298 of the Aliens Act, undocumented stay is punishable by a fine up to 300 fine units or detention.⁵⁵

2.14 Privatisation. Until 2010, staff at the Harku Detention Centre included Police and Border Guard Board officers and employees of the multinational security firm G4S.⁵⁶ A [summary](#) of a “contract award” between G4S and the Citizenship and Migration Board indicates that G4S was given a 33-month contract worth 1.6 million EUR in March 2008 to provide security at various Citizenship and Migration Board facilities, including the Harku Detention Centre.⁵⁷ However, as of 2019, G4S’s [dedicated Estonia webpage](#) provided no information concerning its previous operations at the facility.

According to the ombudsman, security was transferred to the guard bureau of the Public Order Department of the Police and Border Guard Board in October 2010.⁵⁸

2.15 Cost of detention. Article 26(13)(4) of the OLPEA provides that a person to be expelled is required to cover the costs of their expulsion, including accommodation and transportation.

2.16 Trends and statistics. Estonia detained 63 non-citizens in 2018, 61 in 2017, and 97 in 2016. Of these, 45 were asylum seekers in 2018, 20 in 2017, and 20 in 2016.⁵⁹

In 2014, approximately 100 persons were held in detention.⁶⁰ According to official statistics, Estonia detained 94 non-nationals in 2013, 93 in 2012, 62 in 2011, 40 in 2010, and 55 in 2009.⁶¹

According to the European Migration Network (EMN) National Contact Point for Estonia, the country detained two asylum seekers in 2008, 14 in 2009, seven in 2010, eight in 2011, and

⁵⁵ European Union Agency for Fundamental Rights (FRA), “Criminalisation of Migrants in an Irregular Situation and of Persons Engaging With Them,” 2014, <http://fra.europa.eu/en/publication/2014/criminalisation-migrants-irregular-situation-and-persons-engaging-them>

⁵⁶ Marika Pihel (Migration and Supervision Bureau, Police and Border Guard Board), Email exchange with Aiko Holvikivi (Global Detention Project), March 2010; Estonian Refugee Council (ERC), “Estonia,” *in: Jesuit Refugee Service-Europe, Civil Society Report on Administrative Detention of Asylum Seekers and Irregular Migrants in Europe: Common Position of JRS in Europe, 2007.*

⁵⁷ DG Markets Tenders Worldwide, “EE-Tallinn: Guard Services,” <http://www.dgmarket.com/tenders/np-notice.do?noticeId=2345484>

⁵⁸ Chancellor of Justice, “Overview of the Chancellor of Justice Activities for the Prevention of Ill-Treatment: 2010,” 2011, <http://www.theioi.org/downloads/5kmja/Estonia%20AR%202010%20EN.pdf>

⁵⁹ Eike Luik (European Migration Network (EMN) Estonia), Email exchange with Izabella Majcher (Global Detention Project), May 2019.

⁶⁰ University of Tallinn, School of Governance, Law and Society (SOGOLAS), and European Migration Network (EMN) National Contact Point for Estonia, “EMN Ad-Hoc Query: Existing Rules on Deprivation of Liberty of Third-Country Nationals Suspected of Staying Irregularly in a Member State,” 2015, https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/adhocqueries_en

⁶¹ Ruth Annus (Chief of Migration and Border Guard Policy Department), Response to Global Detention Project/ Access Info Questionnaire, April 2013; European Migration Network (EMN), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Synthesis Report for the EMN Focused Study 2014,” 2014, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf

eight in 2012.⁶² Simultaneously, the Migration and Border Guard Policy Department reported that eight persons applied for asylum while being detained in 2012, eight in 2011, and five in 2010.⁶³

The number of people refused entry at the border is similar to Latvia: 1,635 in 2018; 1,175 in 2017; and 875 in 2016. In 2018, Estonia returned 750 people (a figure similar to [Cyprus](#)); 630 in 2017; and 465 in 2016. In 2018, 37 percent of returnees were from Ukraine and 22 percent were from Russia.⁶⁴

As of 2019, 76,418 stateless persons were living in Estonia.⁶⁵ The percentage of non-nationals residing in Estonia remains one of the highest in the EU, reaching 14.7 percent as of 2017.⁶⁶ Among the most important countries of origin of visa applicants have been Russia (109,000), Belarus (42,000), and [Ukraine](#) (15,000).⁶⁷

⁶² European Migration Network (EMN) National Contact Point for Estonia, and Estonian Academy of Security Sciences (Centre for Migration Studies), "The Organisation of Reception Facilities for Asylum Seekers in the Different Member States: Estonia," 2013, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/07.estonia_national_report_reception_facilities_en_september_2013_en.pdf

⁶³ Ruth Annus (Chief of Migration and Border Guard Policy Department), Response to Global Detention Project/ Access Info Questionnaire, April 2013.

⁶⁴ Eurostat, "Asylum and Managed Migration," <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

⁶⁵ ERR News, "Number of stateless residents in Estonia drops by over 2,200 in 2018," 3 January 2019, <https://news.err.ee/891967/number-of-stateless-residents-in-estonia-drops-by-over-2-200-in-2018>

⁶⁶ Un Department of Economic and Social Affairs (UNDESA), "International Migration 2017," <https://www.un.org/en/development/desa/population/migration/publications/wallchart/docs/MigrationWallChart2017.pdf>

⁶⁷ European Migration Network, "Country Factsheet: Estonia 2014," 2015, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/country-factsheets/08.estonia_emn_country_factsheet_2014.pdf



3. DETENTION INFRASTRUCTURE

3.1 Summary. Estonia operates one dedicated detention centre, which is located in Tallinn's eastern suburbs (in Rae municipality). This centre, the Rae Detention Centre, opened in November 2018 replacing a long-standing centre in Harku. The previous facility, which was formally called the Harku Repatriation Centre (*Harku väljasaatmiskeskus*), had been in use since 2003.⁶⁸ Like the centre in Harku, the new detention centre is managed by, the Police and Border Guard Board.⁶⁹ The history of the Harku centre was peppered with repeated riots, hunger strikes, and violent altercations between detainees and staff.

The initial 48 hours of detention (or five days, if extended by a court under Section 19(2) of the OLPEA) can take place in police authority offices, a police “detention house,” or the detention centre (OLPEA, Section 19(1); AGIPA, Section 36.2(2)). The police detention house can be also used beyond the initial detention period, if is not possible to confine a non-citizen in the detention centre for security or health-protection reasons (OLPEA, Section 23(4)).

3.2 Detention facilities. Rae Detention Centre and Harku Repatriation Centre (closed).

3.3 Conditions in detention.

3.3a Rae Detention Centre. Although this facility is located next to Tallinn Prison (some 100 metres apart from each other), the centre is an entirely separate facility and is under the authority of the Northern Prefecture of the Police and Border Guard Board's law enforcement office. When it was opened, the centre assumed the roles of both the Harku Detention Centre and Rahumae Detention House, and it thus features two buildings: an immigration detention centre and an arrest house (for persons awaiting trial and serving short sentences for misdemeanours). The two buildings are separate, and those confined in one have no contact with those in the other. In the arrest house, persons are placed in cells

⁶⁸ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Estonian Government on the Visit to Estonia Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 18 May 2007, CPT/Inf (2011) 15,” 19 April 2011, <http://www.cpt.coe.int/documents/est/2011-15-inf-eng.htm>; European Migration Network (EMN), The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Synthesis Report for the EMN Focused Study 2014,” 2014, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf

⁶⁹ Police and Border Guard Board, “*Kontaktid: kinnipidamiskeskus*,” https://www.politsei.ee/et/kontaktid/pohja_prefektuur/korrakaitsebyroo/kinnipidamiskeskus/ametnik/vambo.oolberg; European Migration Network (EMN), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Synthesis Report for the EMN Focussed Study 2014,” 2014, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf

while those in the detention centre are held in rooms. Individuals in the arrest house are able to go outdoors for one hour a day, while immigration detainees are granted access to the outdoors throughout the day.⁷⁰

According to the head of the centre, the new immigration detention centre, which has a capacity of 123, has better living conditions than the Harku centre offered. The rooms are equipped with lighting, ventilation, and noise protection. Detainees can move freely in the centre, participate in recreation activities, participate in language classes, and access a children's playground and sports facilities.⁷¹ The centre is divided into three sections, two of which are for men and one is for women and families. The rooms can hold up to four people and have two bunk beds, two wardrobes, a desk, and four chairs. The rooms are larger than in Harku, and also include a bathroom.⁷²

While material detention conditions appear to be of a good standard, detainees have reported that the centre resembles a prison more than the Harku centre did. Windows cannot be opened and doors are locked from 10pm until 7.45am. Restrictions that existed at Harku also persist, for instance, there is no access to the internet or to computers, and mobile telephones are confiscated. Detainees can use payphones but the five EUR that they receive each month is insufficient. The quality and variety of food has also remained a key source of complaints among detainees.⁷³

In 2017, the ombudsman inspected the building while it was still under construction and emphasised that a prison-like environment should be avoided. Further, he stressed that persons with special needs, such as those with mobility impairments, should have equal access to public areas and outdoor spaces.

3.3b Harku Detention Centre. Based in a two-storey building on the outskirts of Harku, this centre was located some 10 kilometres from Tallinn. The ground floor was reserved for women, children, and families, while men were confined on the first floor. Upon its closure in 2018, the centre had a capacity of 80.⁷⁴

Rooms were 17m² and could accommodate up to four persons, although efforts are made to try and accommodate no more than two people in each room. Detainees were allocated spaces in shared rooms based on their ethnic or religious backgrounds. Rooms were equipped with bunk beds, bedside tables, wardrobes, and chairs. Rooms for families and persons with disabilities also featured an integrated toilet, an integrated television, and

⁷⁰ Liina Laanpere (Estonian Human Rights Centre), Email exchange with Izabella Majcher (Global Detention Project), May 2019; A. Antson, "Galerii: varjupaigataotlejate kinnipidamiskeskus kolib uude kohta," *Postimees*, 20 November 2018, <https://www.postimees.ee/6457249/galerii-varjupaigataotlejate-kinnipidamiskeskus-kolib-uude-kohta>

⁷¹ A. Antson, "Galerii: varjupaigataotlejate kinnipidamiskeskus kolib uude kohta," *Postimees*, 20 November 2018, <https://www.postimees.ee/6457249/galerii-varjupaigataotlejate-kinnipidamiskeskus-kolib-uude-kohta>

⁷² Liina Laanpere (Estonian Human Rights Centre), Email exchange with Izabella Majcher (Global Detention Project), May 2019.

⁷³ Liina Laanpere (Estonian Human Rights Centre), Email exchange with Izabella Majcher (Global Detention Project), May 2019.

⁷⁴ A. Antson, "Galerii: varjupaigataotlejate kinnipidamiskeskus kolib uude kohta," *Postimees*, 20 November 2018, <https://www.postimees.ee/6457249/galerii-varjupaigataotlejate-kinnipidamiskeskus-kolib-uude-kohta>

nursery equipment if necessary.⁷⁵ In 2007, the CPT reported that material conditions in the centre were adequate—rooms were of a reasonable size, had good access to natural light and artificial lighting, and were well ventilated and clean. The committee also noted that detainees had unrestricted access to communal sanitary and shower facilities, which were in a good state of repair and hygiene.⁷⁶

Detainees officially had access to outdoor space for at least one hour a day, but in reality they could usually spend up to ten hours a day outside. During the day, they could move freely within the centre. They had access to a library, board games, television, and children’s games.⁷⁷ Sports activities, such as football and volleyball, were organised on a daily basis and several times a week other activities were provided, such as cooking, painting, film screenings, handicrafts, and language classes.⁷⁸ However, such activities were not always provided. In 2007, the CPT noted that few detainees were offered any purposeful activities and thus urged authorities to provide a range of activities for those confined for prolonged periods.⁷⁹ Meanwhile, following his 2015-2016 inspections, the ombudsman noted that children did not have the opportunity to attend school.⁸⁰

A family physician was present at the detention centre at least twice a week, and they could refer a detainee to a hospital or any other health care institution.⁸¹ Detainees were also provided with medical consultations at least once a month, in which their physical and mental health was checked. A clinical psychologist, communicating in English and Russian, visited the centre twice a month.⁸² Previously, in 2007, the CPT had criticised the centre’s health care arrangements. In particular, it noted with concern that medical care was provided

⁷⁵ University of Tallinn, School of Governance, Law and Society (SOGOLAS), and European Migration Network (EMN) National Contact Point for Estonia, “Ad-Hoc Query on Ad-Hoc Query on Detention and Material Detention Conditions,” 2018, https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/adhocqueries_en

⁷⁶ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Estonian Government on the Visit to Estonia Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 18 May 2007, CPT/Inf (2011) 15,” 19 April 2011, <http://www.cpt.coe.int/documents/est/2011-15-inf-eng.htm>

⁷⁷ European Migration Network (EMN), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Synthesis Report for the EMN Focused Study 2014,” 2014, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf

⁷⁸ University of Tallinn, School of Governance, Law and Society (SOGOLAS), and European Migration Network (EMN) National Contact Point for Estonia, “EMN Ad-Hoc Query on Ad-hoc Query on Recreational Activities and Leisure Equipment in Detention,” 2018, https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/adhocqueries_en

⁷⁹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Estonian Government on the Visit to Estonia Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 18 May 2007, CPT/Inf (2011) 15,” 19 April 2011, <http://www.cpt.coe.int/documents/est/2011-15-inf-eng.htm>

⁸⁰ Chancellor of Justice, “2015-2016 Overview of the Chancellor of Justice Activities,” 2016. <http://www.oiguskantsler.ee/en/annual-reports-0>

⁸¹ University of Tallinn, School of Governance, Law and Society (SOGOLAS), and European Migration Network (EMN) National Contact Point for Estonia, “EMN Ad-Hoc Query on Functioning of Closed Type Centres for Asylum-Seekers Under the Directive 2013/33/EU,” 2016, https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/adhocqueries_en

⁸² European Migration Network (EMN), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: Synthesis Report for the EMN Focused Study 2014,” 2014, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf

by a general practitioner who visited the centre for just a few hours twice a week. At the time of the CPT's visit, the centre had also not had a nurse for four years, leaving newly admitted detainees without prompt medical screening on days when the general practitioner was not present. Medication was also distributed by custodial staff, police officers were present during medical consultations conducted outside the centre, and detainees were handcuffed during transport to and from the hospital. The committee thus urged Estonia to hire a nurse without delay and to ensure that all newly admitted persons promptly receive a medical screening. It also encouraged the country to review practices outside the centre and to base them on individual risk assessments.⁸³

Detainees were barred from retaining their mobile phones. However, every person was granted a phone call upon arrival at the centre, a phone card was provided to each detainee once a month, and detainees with sufficient financial means could purchase phone cards using the centre's shopping service twice a month. Two telephones were present on each floor.⁸⁴

In 2013, the CAT expressed concern at the conditions of detention, such as poor food, routine handcuffing during transfers to hospitals or courts, disproportionate use of force, and verbal abuse by staff. The committee urged Estonia to improve conditions at the facility so that they conform to international standards, and provide training and instruction to prison personnel regarding the use of force and the prohibition of verbal abuse.⁸⁵

Two years later, upon his 2015 visit, the Chancellor of Justice noted that material conditions were satisfactory and that detainees could move freely within the centre. He noted that the centre had introduced new recreation options and had begun to provide education for children. However, he recommended that authorities improve the quality of catering in the centre, and to ensure that cultural and religious dietary requirements were met—as well as the requirements of children and pregnant women. The chancellor also noted that detainees' access to means of communication with the outside world should be improved—including by way of computers equipped with Skype. The Police and Border Guard Board, however, did not find this suggestion feasible. Noting that medical services were adequate, but that translation was not adequately ensured during medical consultations, the chancellor also urged the centre not to rely on detainees as interpreters for staff and medical personnel.⁸⁶

⁸³ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Estonian Government on the Visit to Estonia Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 18 May 2007, CPT/Inf (2011) 15," 19 April 2011, <http://www.cpt.coe.int/documents/est/2011-15-inf-eng.htm>

⁸⁴ University of Tallinn, School of Governance, Law and Society (SOGOLAS), European Migration Network (EMN) National Contact Point for Estonia, "Ad-Hoc Query on Ad-hoc Query on Detention and Material Detention Conditions," 2018, https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/adhocqueries_en

⁸⁵ UN Committee against Torture (CAT), "Concluding Observations on the Fifth Periodic Report of Estonia, Adopted by the Committee at its Fiftieth Session (6–31 May 2013), CAT/C/EST/CO/5," 17 June 2013, <http://www.ohchr.org/EN/countries/ENACARRegion/Pages/EEIndex.aspx>

⁸⁶ Office of the Chancellor of Justice, "Overview of the Chancellor of Justice Activities 2015-2016," 2016, <http://www.oiguskantsler.ee/sites/default/files/Annual%20Report%202015-2016.pdf>



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