



MADE REAL – Making Alternatives to Detention in Europe a Reality by Exchanges, Advocacy and Learning

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Completed Legal Questionnaire for the project MADE REAL

United Kingdom

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- ✚ The aim of this questionnaire is to collect data on the legal framework in your national context with regards to alternatives to detention. It will be completed by the national member of Odysseus network. The references in the questions to the Reception Conditions Directive concern the version of 2003 (Directive 2003/9/EC) unless your Member State has already transposed the recast Reception Conditions Directive (Directive 2013/33/EU)

Definitions¹:

‘Applicant’: (term used by the directive) or **asylum seeker (A/S)** (term employed by us but which we understand as synonymous): means a third-country national or a stateless person² who has made an application for international protection in respect of which a final decision has not yet been taken;

‘Detention’: means confinement of an applicant by a Member State within a particular place, where the applicant is deprived of his or her freedom of movement;

‘Final decision’: means a decision on whether the third- country national or stateless person be granted refugee or subsidiary protection status by virtue of Directive 2011/95/EU and which is no longer subject to a remedy within the framework of Chapter V of this Directive, irrespective of whether such remedy has the effect of allowing applicants to remain in the Member States concerned pending its outcome;

‘Minor’: means a third-country national or stateless person below the age of 18 years;

‘Third-country national’: means any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty and who is not a person enjoying the Community right of free movement, as defined in Article 2(5) of the Schengen Borders Code;

‘Unaccompanied minor’ (UAM): means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not

¹ The definitions used are taken by the recast reception conditions directive (Directive 2013/33/EU) and the returns directive (Directive 2008/115/EC). As we know that the first is not yet in force and both of these instruments not applicable in all Member States examined, if national law differs at any point from these definitions please specify it in your answers.

² We are aware of the incompatibility of this definition with the 1951 Refugee Convention but we decided to use the definitions as agreed in the EU legal instruments.

effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States;

‘Returnee’: Third country national subject to a return decision

- ✚ Concerning alternatives to detention, regardless of the definition that we will adopt later, this research should cover all schemes that are understood by governments as ‘alternatives to detention’, even if through our analysis we might conclude that some of them in fact do not satisfy our understanding of what can be considered an ‘alternative to detention’.

A. National Legal Framework on detention and alternatives to detention

General

1. Is detention of asylum seekers and returnees regulated by law? (Please comment on the nature and level of the different norms employed for each of the two categories: legislative, regulatory, administrative-like instructions/circulars etc.)

YES	NO	Comment
x		

Section 4 and paragraph 16 Schedule 2 of the Immigration Act 1971 provides that the power to give or refuse leave to enter the United Kingdom shall be exercised by immigration officers and that the power to give leave to remain in the United Kingdom, or to vary any leave, shall be exercised by the Secretary of State. Section 3(5) renders a person who is not a British citizen liable to deportation if the Secretary of State deems his deportation to be conducive to the public good. Section 4 gives effect to Schedule 2, paragraph 1(3) of which provides:

"In the exercise of their functions under this Act immigration officers shall act in accordance with such instructions (not inconsistent with the immigration rules) as may be given them by the Secretary of State."

Schedule 2 Part I of the 1971 Act provides for the detention of persons liable to examination or removal.

It provides that a person who may be required to submit to examination under paragraph 2 above may be detained under the authority of an immigration officer pending his examination and pending a decision to give or refuse him leave to enter. P 16(1A) states that a person whose leave to enter has been suspended under paragraph 2A may be detained under the authority of an immigration officer pending—

(a) completion of his examination under that paragraph; and

(b) a decision on whether to cancel his leave to enter.

P 16(1B) states that a person who has been required to submit to further examination under paragraph 3(1A) may be detained under the authority of an immigration officer, for a period not exceeding 12 hours, pending the completion of the examination.

P 16(2) continues that if there are reasonable grounds for suspecting that a person is someone in respect of whom directions may be given under any of paragraphs 8 – 10, 12 and 14,³ that person may be detained:

- On arrival pending examination;
- On departure for not more than 12 hours;
- On arrival if their leave to remain was suspended;
- Where refused leave to enter (or suspected of having been so refused);
- Illegal entrants;
- Overstayers and those not complying with any conditions on leave to enter or remain;
- Family members of the above;
- Crew members of transport companies;
- Family members of EEA nationals;
- EEA nationals who are not qualifying under Directive 2004/38 ie ceases to have the right to reside;
- Anyone whose EEA residence card or permit has been revoked;
- Anyone entering in breach of a deportation order;
- Anyone an immigration officer thinks may be liable for arrest by a police officer limited to three hours.

Section 5(3) of the 1971 Act⁴ gives effect to Schedule 3 with respect to the removal from the United Kingdom of persons against whom deportation orders are in force and the detention and control of persons in connection with deportation. Paragraph 2 of Schedule 3 appears under the heading "Detention or control pending deportation". It provides in subparagraphs (2) and (3):

"(2) Where notice has been given to a person in accordance with regulations under section 105 of the Nationality, Immigration and Asylum Act 2002 (notice of decision) of a decision to make a deportation order against him, and he is not a detained person in pursuance of the sentence or order of a court, he *may* be detained under the authority of the Secretary of State pending the making of the deportation order.

(3) Where a deportation order is in force against any person, he *may* be detained under the authority of the Secretary of State pending his removal or departure from the United Kingdom and if already detained by virtue of sub-paragraph (1) or (2) above when the order is made, *shall* continue to be detained unless he is released on bail or the Secretary of State directs otherwise.

UK immigration policy guidance states that "The power to detain must be retained in the interests of maintaining effective immigration control. However, there is a

³S 8 – a person (liable to immigration control) refused leave to enter the UK; S 9 an illegal entrant or someone who has entered by deception; S 10 where directions are not likely to be effective directions can be given to a private carrier; S 12 specific provisions on seamen and air crew; S 14 again regarding the private sector.

⁴Which includes detention under s 36 UK Borders Act 2007 for those subject to automatic deportation as foreign criminals.

presumption in favour of temporary admission or release and, wherever possible, alternatives to detention are used.

Detention is most usually appropriate:

- to effect removal;
- initially to establish a person's identity or basis of claim; or
- where there is reason to believe that the person will fail to comply with any conditions

attached to the grant of temporary admission or release”⁵

Within this general legal framework of detention there are regimes specific for asylum seekers and which depend on the ECtHR judgment in *Saadi v UK* for their compatibility with Article 5(1)(f) ECHR. Under the ‘Detained Fast Track’ (DFT)⁶ procedure, people seeking asylum who are in the UK are interviewed by Home Office officials following which a decision is made as to whether their case can be decided quickly and is suitable for ‘fast-tracking’. Often this decision is made on the basis of the person’s country of origin. If a claim is to be fast-tracked, the asylum-seeker will be detained while waiting for their claim to be determined. A ‘fast-tracked’ claim will usually take about two weeks to be finally determined.

Under the ‘Detained Non Suspensive Appeal’ (DNSA) procedure a person will be detained for between 10 and 14 days while their asylum claim is determined, and at the end of this process the person has no right of appeal in the UK to an independent court or tribunal. People from certain listed countries (which include over 20 countries such as Ghana, Nigeria, Liberia, Sierra Leone etc) will be automatically routed into this procedure, unless it can be shown (on arrival) that their claim is not clearly unfounded.

According to the UK authorities DFT/DNSA policy permits detention for the purpose of examining an individual to decide his or her application for asylum under accelerated processes. It is not necessary for removal to be imminent or for there to be an absconding risk to detain for DFT or DNSA. However, if an individual’s asylum application is unsuccessful (a DFT case becoming appeal rights exhausted, or a section 94 refusal decision being served), detention may continue for these or other reasons, if deemed appropriate under general detention policy.

These procedures may not be used in respect of children as a consequence of s 55 Borders, Citizenship and Immigration Act 2009 requires the UK Border Agency to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. An applicant may enter into or remain in DFT/DNSA processes only if there is a power in immigration law to detain,⁷ and

⁵

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/chapter55.pdf?view=Binary>

⁶ In the Practices Questionnaire this is treated slightly differently as the decision that a case is appropriate for DFT results in detention rather than resulting in a decision about detention as such.

⁷This is the law set out above.

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only if on consideration of the known facts relating to the applicant and their case obtained at asylum screening (and, where relevant, subsequently), it appears that a quick decision is possible, and none of the Detained Fast Track Suitability Exclusion Criteria apply (see below – the general criteria for exclusion from detention and these criteria are largely the same).

2. Please indicate the title, date, number and references of publication into the official gazette (if applicable) of the legal measure(s).

Immigration Act 1971 as amended
<http://www.legislation.gov.uk/ukpga/1971/77>

The general policy on detention can be found at :
<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/chapter55.pdf?view=Binary>

The Policy on detained fast track is found at:
http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/detention/guidance/detained_fast_processes?view=Binary

Send us as an annex an electronic version (or link) to the text of the measure(s) in question

- a. For MS other than the UK and Belgium: Please provide access to any translation of the above into English, if they are available (even if it concerns unofficial, non-binding translations undertaken by UNHCR etc., this will be used for our comprehension)

Title	Immigration Act
Date	28 October 1971
Number	1971 CHAPTER 77
Reference of publication in the official journal (if applicable)	n/a
Relevant link	http://www.legislation.gov.uk/ukpga/1971/77

3. Based on which grounds could an asylum seeker be detained during the asylum procedure? Please comment where necessary.

There are two specific procedures: detention is possible where the asylum seeker's application has been certified by the Home Secretary as clearly unfounded under section 94 of the Nationality, Immigration and Asylum Act 2002 (commonly referred to as non-suspensive appeal (NSA) cases) in which case an applicant has no right of appeal against that decision whilst in the UK. Secondly in a procedure called detained fast track (DNSA) which is detention for a short period of time to enable a rapid decision to be taken on an asylum/human rights claim.

Within the general legal framework of detention these regimes specific for asylum seekers depend on the ECtHR judgment in *Saadi v UK* for their compatibility with Article 5(1)(f) ECHR. Under the 'Detained Fast Track' (DFT) procedure, people seeking asylum who are in the UK are interviewed by Home Office officials following which a decision is made as to whether their case can be decided quickly and is suitable for 'fast-tracking'. Often this decision is made on the basis of the person's country of origin. If a claim is to be fast-tracked, the asylum-seeker will be detained while waiting for their claim to be determined. A 'fast-tracked' claim will usually take about two weeks to be finally determined.

Under the 'Detained Non Suspensive Appeal' (DNSA) procedure a person will be detained for between 10 and 14 days while their asylum claim is determined, and at the end of this process the person has no right of appeal in the UK to an independent court or tribunal. People from certain listed countries (which include over 20 countries such as Ghana, Nigeria, Liberia, Sierra Leone etc) will be automatically routed into this procedure, unless it can be shown (on arrival) that their claim is not clearly unfounded.

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These procedures may not be used in respect of children as a consequence of s 55 Borders, Citizenship and Immigration Act 2009 requires the UK Border Agency to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. An applicant may enter into or remain in DFT/DNSA processes only if there is a power in immigration law to detain,⁸ and only if on consideration of the known facts relating to the applicant and their case obtained at asylum screening (and, where relevant, subsequently), it appears that a quick decision is possible, and none of the Detained Fast Track Suitability Exclusion Criteria apply (see above – the general criteria for exclusion from detention and these criteria are largely the same).

⁸This is the law set out above.

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Question	Answer (yes/no)	Comment
Identity verification, in particular if the persons have no or false documents	Yes	DTF and DNSA
Protection of public order or national security	Yes	This is not a specific ground as such but included in the general grounds for detention
Public health	Yes	If release may cause a danger to public health. There are non-immigration or asylum related powers to detain people on public health grounds.
Risk of absconding	Yes	A general ground for detention
Other (please specify)	Detained fast track And Detained non suspensive appeal process	

4. Based on which grounds could a returnee be detained? Please comment where necessary.

Question	Answer (yes/no)	Comment
Identity verification, in particular if the persons have no or false documents	Yes	The policy ground is very wide and covers all the aspects set out. The policy states that “to be lawful, detention must not only be based on one of the statutory powers and accord with the limitations implied by domestic and Strasbourg case law but must also accord with stated policy.”
Protection of public order or national security	Yes	This is part of the assessment of whether the person will comply

		with conditions.
Public health	Yes	If release is a danger to public health.
Risk of absconding	Yes – this is the main ground.	
Other (please specify)	The test is whether the person will comply with conditions	The UK policy states: There must be strong grounds for believing that a person will not comply with conditions of temporary admission or temporary release for detention to be justified.

5. Is detention foreseen for asylum seekers in specific situations under the national legal framework? Are alternatives to detention foreseen in law for asylum seekers under those special circumstances?

Yes, detained fast track and detained non-suspensive appeal processes discussed above.

Detention is also used in respect of Dublin III transferees under the Nationality, Immigration and Asylum Act 2002⁹ and further by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004.¹⁰

Type of group	Detention foreseen?	Alternatives foreseen?	Comment ¹¹
A/S in border procedures	yes	Yes, if the person comes within an identified vulnerable category	Detained fast track
A/S in accelerated procedures	yes	Yes, if the person comes within an identified	Detained non-suspensive appeal

⁹The Act can be found at : <http://www.legislation.gov.uk/ukpga/2002/41/contents>

¹⁰ The Act can be found at: <http://www.legislation.gov.uk/ukpga/2004/19/contents>

¹¹ Please specify in your comments if alternatives to detention are foreseen only for a specific group, for example unaccompanied minors or families with minor children.

		vulnerable category.	cases
A/S subject to a Dublin transfer¹²	Yes	Yes, if the person comes within an identified vulnerable category.	
Other			

Vulnerable applicants

6. Is there a mechanism/process in place to identify vulnerable applicants foreseen in the law? Generally the rules are:
- Pregnant women should not normally be detained;
 - an offender is married to or in a civil partnership with an EEA national, detention should not be considered unless there is strong evidence available that the EEA national spouse/civil partner is no longer exercising treaty rights in the UK;
 - unaccompanied children (that is, persons under the age of 18).

Detailed information about the family returns process is contained in the Practices Questionnaire.

According to the UK policy guidance:

The following are normally considered suitable for detention in only very exceptional circumstances, whether in dedicated immigration detention accommodation or prisons:

- ◆ Unaccompanied children and young persons under the age of 18 (but there are problems of age dispute);
- ◆ The elderly, especially where significant or constant supervision is required which cannot be satisfactorily managed within detention;
- ◆ Pregnant women, unless there is the clear prospect of early removal and medical advice suggests no question of confinement prior to this (but the detention of women in the early stages of pregnancy is permitted at Yarl's Wood detention facility);
- ◆ Those suffering from serious medical conditions which cannot be satisfactorily managed within detention;
- ◆ Those suffering from serious mental illness which cannot be satisfactorily managed within detention (in criminal casework cases, please contact the specialist mentally disordered offender team). In exceptional cases it may be necessary for detention at a

¹² Please specify in your comments whether the law allows for detention during a preliminary stage in order to examine whether the provisions of the Dublin regulation are applicable or in order to carry out the transfer or both? Please also comment whether the law requires a significant risk of absconding in order to justify the measure of detention in that case.

removal centre or prison to continue while individuals are being or waiting to be assessed, or are awaiting transfer under the Mental Health Act;

- ◆ Those where there is independent evidence that they have been tortured (the qualification of independent evidence is a source of contention);
- ◆ People with serious disabilities which cannot be satisfactorily managed within detention;
- ◆ Persons identified by the competent authorities as victims of trafficking (very specific criteria concerning detention of such persons).

Also in respect of detained fast track the following cases are eligible for exclusion:
Women who are 24 or more weeks pregnant;

- Family cases;
 - Children (whether applicants or dependants), whose claimed date of birth is accepted by the UK authorities;
 - Those with a disability which cannot be adequately managed within a detained Environment;
 - Those with a physical or mental medical condition which cannot be adequately treated within a detained environment, or which for practical reasons, including infectiousness or contagiousness, cannot be properly managed within a detained environment;
 - Those who clearly lack the mental capacity or coherence to sufficiently understand the asylum process and/or cogently present their claim. This consideration will usually be based on medical information, but where medical information is unavailable, officers must apply their judgement as to an individual's apparent capacity;
 - Those for whom there has been a reasonable grounds decision taken (and maintained) by a competent authority stating that the applicant is a potential victim of trafficking or where there has been a conclusive decision taken by a competent authority stating that the applicant is a victim of trafficking;
 - Those in respect of whom there is independent evidence of torture.
- For many of the grounds there are extra publicly available clarifications and explanations of how the exception should be applied in practice.

7. Does the system allow for identification of vulnerabilities also at a later stage in the procedure?

There is a mandatory review requirement in respect of all immigration detention. In every case the detention decision must be reviewed at these points:

Period in Detention	Review Authorised by:
24 hours	Inspector/Senior Executive Officer (SEO)
7 days	Chief Immigration Officer/Higher Executive Officer (HEO)
14 days	Inspector/SEO
21 days	CIO/HEO
28 days	Inspector/SEO

Period in Detention	Review Authorised by:
2 months	Inspector/SEO
3 months	Inspector/SEO
4 months	Inspector/SEO
5 months	Inspector/SEO
6 months	Assistant director
7 months	Assistant director
8 months	Assistant director
9 months	Deputy director
10 months	Deputy director
11 months	Deputy director
12 months and monthly thereafter	Director

According to the guidance at each review there must be a robust consideration whether removal is possible and of all other considerations (including vulnerabilities).

8. Are specific categories of asylum seekers generally exempt from detention as a principle according to the legal framework? If so which? Please comment where necessary. These asylum seekers are exempt under the UK policy (not legislation).

According to the UK policy guidance:

The following (including where they are asylum seekers) are normally considered suitable for detention in only very exceptional circumstances, whether in dedicated immigration detention accommodation or prisons:

- ◆ Unaccompanied children and young persons under the age of 18 (but there are problems of age dispute);
- ◆ The elderly, especially where significant or constant supervision is required which cannot be satisfactorily managed within detention;
- ◆ Pregnant women, unless there is the clear prospect of early removal and medical advice suggests no question of confinement prior to this (but the detention of women in the early stages of pregnancy is permitted at Yarl's Wood detention facility);
- ◆ Those suffering from serious medical conditions which cannot be satisfactorily managed within detention;
- ◆ Those suffering from serious mental illness which cannot be satisfactorily managed within detention (in criminal casework cases, please contact the specialist mentally disordered offender team). In exceptional cases it may be necessary for detention at a removal centre or prison to continue while individuals are being or waiting to be assessed, or are awaiting transfer under the Mental Health Act;
- ◆ Those where there is independent evidence that they have been tortured (the qualification of independent evidence is a source of contention);
- ◆ People with serious disabilities which cannot be satisfactorily managed within detention;

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◆ Persons identified by the competent authorities as victims of trafficking (very specific criteria concerning detention of such persons).

Also in respect of asylum detained fast track and DNSA the following cases are specifically identified as eligible for exclusion:

- Women who are 24 or more weeks pregnant;
 - Family cases;
 - Children (whether applicants or dependants), whose claimed date of birth is accepted by the UK authorities;
 - Those with a disability which cannot be adequately managed within a detained Environment;
 - Those with a physical or mental medical condition which cannot be adequately treated within a detained environment, or which for practical reasons, including infectiousness or contagiousness, cannot be properly managed within a detained environment;
 - Those who clearly lack the mental capacity or coherence to sufficiently understand the asylum process and/or cogently present their claim. This consideration will usually be based on medical information, but where medical information is unavailable, officers must apply their judgement as to an individual's apparent capacity;
 - Those for whom there has been a reasonable grounds decision taken (and maintained) by a competent authority stating that the applicant is a potential victim of trafficking or where there has been a conclusive decision taken by a competent authority stating that the applicant is a victim of trafficking;
 - Those in respect of whom there is independent evidence of torture.
- For many of the grounds there are extra publicly available clarifications and explanations of how the exception should be applied in practice.

Categories	Exemption (yes/no)	Comment
Unaccompanied Minors	yes	The problem is age assessment
Families with minor children	Yes	Exceptions are possible.
Single mothers	Yes	Exceptions are possible
Vulnerable individuals	Yes	Exceptions are possible.
Other	See the list above.	

9. Are specific categories of returnees generally exempt from detention as a principle according to the legal framework? If so which? Please comment where necessary.

The following vulnerable persons are normally considered suitable for detention in only very exceptional circumstances, whether in dedicated immigration detention accommodation or prisons:

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- ◆ Unaccompanied children and young persons under the age of 18 (but there are problems of age dispute);
- ◆ The elderly, especially where significant or constant supervision is required which cannot be satisfactorily managed within detention;
- ◆ Pregnant women, unless there is the clear prospect of early removal and medical advice suggests no question of confinement prior to this (but the detention of women in the early stages of pregnancy is permitted at Yarl's Wood detention facility);
- ◆ Those suffering from serious medical conditions which cannot be satisfactorily managed within detention;
- ◆ Those suffering from serious mental illness which cannot be satisfactorily managed within detention (in criminal casework cases, please contact the specialist mentally disordered offender team). In exceptional cases it may be necessary for detention at a removal centre or prison to continue while individuals are being or waiting to be assessed, or are awaiting transfer under the Mental Health Act;
- ◆ Those where there is independent evidence that they have been tortured (the qualification of independent evidence is a source of contention);
- ◆ People with serious disabilities which cannot be satisfactorily managed within detention;
- ◆ Persons identified by the competent authorities as victims of trafficking (very specific criteria concerning detention of such persons).

Categories	Exemption (yes/no)	Comment
Unaccompanied Minors	yes	Age assessment is the key issue.
Families with minor children	yes	There are exceptions
Single mothers	Yes	There are exceptions
Vulnerable individuals	Yes	There are exceptions possible.
Other	See the comments above.	

10. Are there any special provisions in place regarding the detention of specific groups of asylum seekers? Please elaborate on the content of such provisions as well as specify which particular group of asylum seekers they concern.

The UK policy on exception from detention for asylum seekers is based on the criteria and exceptions above. If one considers families to be groups of asylum seekers then the exception in respect of families with children will apply. If one considers torture victims or trafficking victims groups then the policies outlined above will apply.

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Special provisions	Type of group	Comment
Time limits to detention	none	There is no time limit on detention in the UK.
Detention only permitted in exceptional circumstances	Unaccompanied minors, elderly, pregnant women, those with serious medical conditions, mental illness, disabled or lack of mental capacity, torture victims, trafficking victims	Other than children and the elderly most of the other categories are subject to a requirement that the potential detention facilities are not able to provide sufficient care.
Other		

11. Are there any special provisions in place regarding the detention of specific groups of returnees? Please elaborate on the content of such provisions as well as specify which particular group of asylum seekers they concern.

Special provisions	Type of group	Comment
Time limits to detention	There are no limits	There are no limits in U law.
Detention only permitted in exceptional circumstances	Unaccompanied minors, elderly, pregnant women, those with serious medical conditions, mental illness, torture victims and trafficking victims.	Except for children and the elderly the other categories are dependent on the potential detention facility not having the capacity to provide the necessary care.
Other		

Necessity and Proportionality Test and Individual Examination

12. Is there an explicit obligation to detain asylum seekers only:

Question	Answer	Comment
If a particular ground	Yes	There must be a ground for detention as liberty

for detention exists?		is a right.
After an individualized examination?	Yes	Each case must be considered on its facts and merits.
As a last resort if other less coercive measures are not applicable?	Yes	There is a presumption in favour of liberty.

13. Is there an explicit obligation to detain returnees only:

Question	Answer	Comment
If a particular ground for detention exists?	Yes	There must be a power to detain.
After an individualized examination?	Yes	Each case must be considered individually
As a last resort if other less coercive measures are not applicable?	Yes	There is a presumption in favour of liberty.

14. Does the national legal framework take into account the principles of necessity and proportionality, and if so, how?

Under the principle of the legality, detention can only lawfully be exercised where there is a realistic prospect of removal within a reasonable period. Proportionality is a concept of EU law which is not inherent in British law. Rather the concepts of judicial review of unreasonableness and irrationality are used which play the same role but are not entirely consistent with proportionality and necessity. The UK framework takes into account the reasonableness of the decision and whether it is irrational.

15. Is there an obligation established in law to inform detained asylum seekers and/or returnees about the existence of alternatives to detention? What are the possible consequences if they are not informed?

According to UK policy written reasons for detention should be given in all cases at the time of detention and thereafter at monthly intervals (in this context, every 28 days). This includes a risk assessment, detention authority, reasons for detention and movement notification where the place of detention is changed. All of these aspects are covered by specific forms. However, see the questionnaire on practice, this is one of the areas which is least satisfactory.

Alternatives in national law

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16. Alternatives to detention for asylum seekers:

- a) Is there an explicit obligation to establish alternatives to detention under the national legal framework?

Yes there is a presumption against detention which applies in all cases except where there is an administrative reason for detention (DFT/DNSA Dublin III) where the decision is whether the case is appropriate for DFT/DNSA.

- b) Are some examples of alternatives to detention already laid down in national legislation and if so, which?

Yes, bail Para 29 Schedule 2 Immigration Act 1971. Temporary admission Para 21 Sched 2 Immigration Act 1971.

- c) Is it an exhaustive or an indicative list? It is exhaustive.

[Please do not describe here the legal framework on the functioning of alternatives to detention; a detailed section will follow. Please comment where necessary.]

Question	Answer	Comment
Explicit obligation?	Yes	There is a presumption against detention so alternatives must be considered.
Alternatives already laid down?	Yes	
If yes, which alternatives are mentioned?	temporary admission or release on restrictions or temporary release (bail)	
Is it an indicative or exhaustive list?	Exhaustive.	Temporary admission cannot be used as an alternative to leave to enter.

17. Alternatives to detention for returnees:

- d) Is there an explicit obligation to establish alternatives to detention under the national legal framework?

Yes because there is a presumption against detention.

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- e) Are some examples of alternatives to detention already laid down in national legislation and if so, which?

Yes, bail Para 29 Schedule 2 Immigration Act 1971. Temporary admission Para 21 Sched 2 IA 1971.

- f) Is it an exhaustive or an indicative list? It is exhaustive.

[Please do not describe here the legal framework on the functioning of alternatives to detention; a detailed section will follow. Please comment where necessary.]

Question	Answer	Comment
Explicit obligation?	Yes	There is a presumption in law against detention
Alternatives already laid down?	Yes	In rules and policy
If yes, which alternatives are mentioned?	temporary admission or release on restrictions or temporary release (bail)	
Is it an indicative or exhaustive list?	Exhaustive.	

18. Are alternatives to detention foreseen for specific groups of returnees?

Group	Answer	Comment
Unaccompanied minors?	Yes	
Vulnerable A/S other than UAMs?	Yes	
Other?	The elderly Pregnant women Those with serious medical conditions Mental illness Torture victims Trafficking victims	These are categories but exceptions can be made to all of them in individual cases. Each case must be considered individually.

19. Legislative amendments/developments:

- a) Have any changes already been made to the national legal framework concerning alternatives to detention for asylum seekers and/or returnees?

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There have been annual primary law bills on border, immigration, asylum and nationality for the past six years. Virtually every bill has some consequence for detention.

- b) Were they made in view of the transposition of Directive 2013/33/EU? [Question not relevant for the UK]
- c) If not, are you aware of any legislative proposals that are pending, either in view of the transposition of the recast Directive or independently of the transposition, and could you briefly comment as regards their content as they relate to alternatives to detention?

B. National Legal Framework on the functioning of existing alternatives to detention

General

20. What types of alternatives to detention are implemented in your Member State? Which categories of third country nationals do they concern? (i.e. asylum seekers, UAMs, returnees etc.)

Types of alternatives	Implementation in practice? (without description)	Group concerned
Obligation to surrender passport and documents	Yes	This applies generally to everyone liable to detention.
Regular reporting to the authorities	Yes	This is frequently a condition of any of the types of alternative.
Deposit of adequate financial guarantee	Only as regards bail.	
Community release/supervision	No	This is covered by all the types of alternative
Designated residence	Yes	This is covered by all the types of alternative
Electronic monitoring	Yes	This is covered by all the types of alternative
Other (please specify)		

21. How is the functioning of (the) existing particular scheme(s) of alternatives to detention regulated? (Please comment on the nature and level of the different

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norms employed: legislative, regulatory, administrative-like instructions/circulars etc.)

Law and policy instructions cover all the schemes. The review process takes place at first instance by officials in varying positions of authority see answer to Question 7.

Primary legislation:

S 4 Immigration and Asylum Act 1999 (residence/accommodation requirements)

S 36(2) Asylum and Immigration (Treatment of Claimants) Act 2004 (electronic tagging)

For asylum seekers s 70(1) – 71 Nationality, Immigration and Asylum Act 2002

Policy: Enforcement guidelines Chapter 55

22. Please indicate the title, date, number and references of publication into the official gazette (if applicable) of the legal measure(s).

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/chapter55.pdf?view=Binary>

- Send us as an annex an electronic version (or link) to the text of the measure(s) in question

Law: Immigration Act 1971 Schedules II paras 21 – 25 and Part II Appeals

<http://www.legislation.gov.uk/ukpga/1971/77/schedule/2> and III

<http://www.legislation.gov.uk/ukpga/1971/77/schedule/3>

Immigration and Asylum Act 1999

<http://www.legislation.gov.uk/ukpga/1999/33/contents>

Nationality, Immigration and Asylum Act

2002 <http://www.legislation.gov.uk/ukpga/2002/41/contents>

Asylum and Immigration (Treatment of Claimants) Act

2004 <http://www.legislation.gov.uk/ukpga/2004/19/contents>

Policy:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/chapter55.pdf?view=Binary>

Law:

- For MS other than the UK and Belgium: Please provide access to any translation of the above into English, if they are available (even if it concerns unofficial, non-binding translations undertaken by UNHCR etc., this will be used for our comprehension)

Title	
Date	
Number	
Reference of publication in the official journal (if applicable)	
Relevant link	

Analysis of each alternative to detention

23. Please provide the following information, as it is stated in the law/implementing circulars etc., for **each of the alternatives to detention** that is implemented:

- a) Summarize the basic characteristics/nature of the scheme as they are described in law/circulars etc. (namely does it consist of reporting obligations, financial guarantee etc.)

The fundamental differences among:

- temporary admission;
- release on restrictions; and
- bail;

is that the former can be granted without the person concerned having to be detained, while the latter can only be granted once an individual has been detained and has applied for bail. The grant of temporary admission in illegal entry or administrative removal cases may be subject to such restrictions (on residence, employment and reporting to the police or an Immigration Officer) as may be notified to him in writing by an Immigration Officer.

All three may be subject to conditions – residence, employment, occupation, reporting to police (or immigration), electronic monitoring (see the Practices Questionnaire with very detailed information on how the systems work). Where bail is granted by a court the court may require sureties (people who vouch for the individual and that the person will comply with the restrictions) and that they stake money on the matter (for the practices see the Practice Questionnaire).

- b) Which is the institution in charge of deciding which individuals should be submitted to these alternatives?

Immigration Officers, with the authority of a Chief Immigration Officer, are able to grant temporary admission in all illegal entry and administrative removal cases liable to detention, apart from where the person is detained on embarkation. Release on restrictions can be granted by a CEO or HEO. The

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Home Office can also grant temporary admission/release on restrictions. Both can also grant bail.

Immigration judges can only order bail.

- c) Can it act ex officio or only after the application of the concerned individual?

Ex officio but in respect of bail there must be an application.

- d) Which organization/entity/actor is responsible for implementing/running this scheme?

Immigration Officers, Home Office Enforcement Directorate; Immigration and Asylum Tribunal for bail (and also the High Court).

- e) If it is a governmental actor do they work in collaboration with other actors? If so who (civil society, local authorities, institutions etc.) and how?

Yes it is a government actor. Detention centres are run both by public and private actors. Only public actors can make decisions on release and detention. But the private sector actors may be required to carry out the release.

- f) If different, which organisations/institutions are in charge of supervising the implementation of these mechanisms?

Public actors only. Private actors may be responsible for the running of detention centres but they are not charged with powers to make detention or release decisions.

- g) Is the alternative to detention of general application or does it relate only to certain categories of returnees (such as families with children, unaccompanied minors etc.)?

It is of general application.

- h) What are the obligations that returnees must comply with in the framework of the alternative to detention?

All cases may be subject to such restrictions (on residence, employment and reporting to the police or an Immigration Officer, electronic tagging etc). Failure to comply with the obligations is a ground for re-detention.

- i) Could returnees be placed in detention if they do not comply with certain obligations stipulated? If yes, please provide a short description of these obligations and explanation on the procedure.

Yes. A person who fails to comply without reasonable excuse with the terms attached to the grant of temporary admission, release on restrictions or bail commits an offence under section 24(1)(e) of the Immigration Act 1971. A decision on whether to charge a person or prosecute currently rests with the Crown Prosecution Service. The person can also be detained again.

Access to rights and compatibility with human rights law

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24. What rights have returnees who are subject to an alternative to detention access to? Please focus namely on the following rights:

- a) to healthcare; not necessarily at public expense.
- b) to education: children under the general obligations of primary and secondary schooling.
- c) access to the labor market; a person liable to detention may apply for permission to work.
- d) to accommodation and in general assistance provided in kind or to financial assistance – no unless asylum seekers
- e) to social and psychological assistance – not at public expense.

If not please describe the gaps.

Right	Yes/No	Comment on the gaps
Healthcare	Yes	The rules of access to healthcare for foreigners are complex and do not presuppose free access.
Education	No	Access to education is not affected in law by an alternative to detention.
Access to the labor market	Yes	On application.
In kind/financial assistance	Yes	Only provision for asylum seekers.
Social/psychological assistance	Yes	No publicly funded benefits.

25. Is there an obligation to provide returnees with information about the procedure with regards to the alternatives to detention they are subject to? Is there an obligation to inform them about the legal remedies to object the imposition of an alternative to detention?

There is a duty to serve notice on returnees of the conditions of their release. This must be in writing on a specific form. More details on the forms and information which must be provided is contained in the Practices Questionnaire.

26. According to your evaluation as legal experts, does each national legal scheme, as it is established under national law, respect the obligations of your Member State under international and European human rights law (in

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particular the prohibition of inhuman, degrading treatment and arbitrary deprivation of liberty)? Please use references to case-law where available (national jurisprudence and/or case-law from the Human Rights Committee/ECHR) in order to support your opinion.

There are three main legal problems in respect of the UK detention system.

The first is the detained fast track and the non-suspensive fast track schemes. The application of the ECtHR judgment in *Saadi v UK* is questionable in light of the increasingly strict application of Article 5(1)(f) ECHR. The lack of a suspensive appeal right for some asylum seekers is problematic. The qualification of their detention as administrative formality rather than detention is questionable under Article 5(1)(f) ECHR.

The second problem is that there is no limit on the length of the detention. Although the courts have instructions that imperative considerations of public safety may be necessary to justify detention in excess of six months¹³ people are regularly detained for longer periods.

The third problem is the manner in which detention is carried out. While the law, rules and policy documents contain protections and guarantees the practices often deviate from these rules in unacceptable ways. In the Practices Questionnaire there is a wealth of information and analysis of the numerous reports which have detailed these problems.

C. Relevant legal remedies and national jurisprudence relating to alternatives to detention

Please provide us with the following information, as it is stated in the law/implementing circulars etc., **for each of the alternatives to detention** that is implemented:

Remedies/procedures

27. Remedies or procedures to object detention:

- a) Is there a specific procedure under national law allowing returnees to appeal the fact that they are subject to detention or to challenge the detention conditions? Yes.
- b) Please specify for each if it is a judicial or an administrative procedure.

¹³http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&sqi=2&ved=0CCKQFjAA&url=http%3A%2F%2Fwww.justice.gov.uk%2Fdownloads%2Ftribunals%2Fimmigration-and-asylum%2Fflower%2Fbail-guidance-immigration-judges.pdf&ei=S9PzUsTpDsry7AawxlGYDg&usg=AFQjCNH8ethnximXNQOu_glgAf18bkb1w&sig2=K7sN2uA-4r-wYY2_Eu7yfQ Presidential Guidance Note No 1 2012.

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There is first an administrative procedure where the person or his or her representatives can make representations for release (temporary admission/release or bail) to the Immigration Officer or Chief Immigration Officer or the Home Office (depending on which part of the system is responsible for the detention decision). These can be made at any time but must be taken into account in the reviews which take place at the regular times set out above (question 7). The individual can apply for bail to an administrative court – the immigration judge (independent judges under the aegis of the Ministry of Justice).

- c) Is there a right to (free) legal assistance and representation in the framework of this procedure? Yes. While there have been very substantial changes to the provision of legal aid in the UK, for all immigration/asylum cases legal aid is still available if there is an issue of the liberty of the individual. This means that while someone who is subject to deportation for overstaying may not get legal aid for a consideration of the merits of his or her case, he or she will be eligible for legal aid to challenge detention if he or she is detained. See also the Practices Questionnaire where there is an excellent summary of the income and merits tests for the grant of legal aid.

28. Remedies or procedures to object placement in detention instead of the imposition of an alternative to detention:

- a) Is there a specific procedure under national law allowing returnees to object their detention on the basis that they should fall instead under the application of an alternative scheme?

The remedy is against detention. The claim that alternative measures would be sufficient may be pleaded as part of the argument that detention was the wrong choice. Where the legality of the detention is at issue this is not usually relevant as it is the detention simply which is at issue. The fact that there are alternatives is a factor to be taken into account in the legality. When the challenge is by way of bail, the argument is usually that detention (while lawful) was the wrong choice in light of the alternatives available and the presumption against detention. This is spelt out in great detail in the Presidential Guidance Note 1 of 2012 entitled Bail Guidance for Judges Presiding Over Immigration and Asylum Hearings.¹⁴

- b) Please specify if it is a judicial or an administrative procedure.

Both – the review procedure where the person can make representations is administrative. Bail proceedings are judicial.

¹⁴¹⁴ <http://www.justice.gov.uk/downloads/tribunals/immigration-and-asylum/lower/bail-guidance-immigration-judges.pdf>

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- c) Is there a right to (free) legal assistance and representation in the framework of this procedure?

Yes, where Article 5 ECHR liberty is at stake legal aid subject to an income and merits test is available (see Practices Questionnaire for details).

29. Review of the imposition of detention:

- a) Is there a periodic and individual review of the placement in detention?

Yes, see schedule set out above Question 7.

- a) Is this review made by a judge or a non-judicial independent body?

In the first instance it is administrative but the detained person may apply for bail to judicial authorities.

- b) At this stage can the judge or non-judicial body examine whether they should fall instead under the application of an alternative scheme?

The decision whether to maintain the detention decision (always in light of the presumption against detention) is made taking into account the available alternative schemes. Thus the alternative constraints to detention are elements critical to the decision to uphold the presumption against detention but they are not the basis of appeal in themselves.

30. Remedies or procedures to object the imposition of an alternative to detention:

- a) Is there a specific procedure under national law allowing returnees to object the fact that they are subject to an alternative to detention scheme?

There is the general procedure of representations to the administrative authorities against the alternative constraints to detention. Where the person is freed on bail he or she can seek a modification of the bail conditions from the court – eg mandatory place of residence, frequency of reporting requirements etc.

One of the alternatives to detention is Terrorism Prevention and Investigation Measures (TPIMs). But it is not entirely accurate to call these alternatives in the sense of this questionnaire as these are measures which are applied when although the authorities would like to detain a foreigner or British citizen, they have no power to do so (these were created after the Supreme Court and the ECtHR held that the indefinite detention of foreigners was inconsistent both with the British constitution and the ECHR in *A & ors v UK*). But these measures apply irrespective of citizenship and are relevant to counter-terrorism only. I am not going into these measures further in this questionnaire as TPIMs are not properly an alternative to detention

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except in the sense that the state has had to acknowledge that it has no power to detain.

- b) Is there a specific procedure under national law allowing returnees to challenge the conditions/compatibility of such schemes with fundamental rights?

Yes, both. All authorities in the UK are under a legal obligation to comply with the Human Rights Act 1998 (incorporating the European Convention on Human Rights).¹⁵ Thus there is always the possibility to make representations that detention/conditions/constraints other than detention are inconsistent with the HRA. There is a right of appeal based on an allegation of a breach of the HRA.

- c) Please specify for each if it is a judicial or an administrative procedure. Both – representations are administrative and an appeal is judicial.
- d) Is there a right to (free) legal assistance and representation in the framework of this procedure?

Yes, as mentioned above where Article 5 liberty is at stake legal aid is available subject to means and merits tests.

31. Review of the imposition of an alternative to detention:

- b) Is there a periodic and individual review of the placement under such an alternative to detention? Yes – yes see answer to question 7.
- c) Is this review made by a judge or a non-judicial independent body? In the first instance the periodic review is made by an administrative authority. A judge is only competent where the individual in detention has made a bail application to the court.

Jurisprudence

32. Are there any precedents of returnees appealing their detention on the basis that they should fall under the application of an alternative instead? If so please briefly summarize the case(s) and indicate the jurisdiction, date and case number.

This is a rather tricky question in UK law as the appeal is always against detention and the application of alternative regimes is only a factor to be taken into account in determining whether detention is the correct choice in light of the presumption in favour of liberty.

¹⁵ <http://www.legislation.gov.uk/ukpga/1998/42/contents>

Jurisdiction	Date	Case Number	Brief summary
<i>High Court Re Hardial Singh</i> [1984] 1 WLR 704	13 December 1983	Neutral Citation Number: [1983] EWHC 1 (QB)	The judge laid down the limitations on the Secretary of State's power to detain: (1) The Secretary of State must intend to deport the person and can only use the power to detain for that purpose. (2) The deportee may only be detained for a period that is reasonable in all the circumstances. (3) If, before the expiry of the reasonable period, it becomes apparent that the Secretary of State will not be able to effect deportation within that reasonable period, he should not seek to exercise the power of detention. (4) The Secretary of State should act with the reasonable diligence and expedition to effect removal.
Court of Appeal R (I) v SSHD [2002] EWCA Civ 888 , [2003] INLR 196 [46].	28th June 2002	Neutral Citation Number: [2002] EWCA Civ 888	The judge (Dyson) refined the grounds of what is 'reasonable' set out in Singh as follows: The length of the period of detention; The nature of the obstacles which stand in the path of the Secretary of State preventing a deportation; The diligence, speed and effectiveness of the steps taken by the Secretary of State to surmount such obstacles; The conditions in which the detained person is kept; The effect of detention on him and his family; The risk that if he is released from

			detention he will abscond; and The danger that, if released, he will commit criminal offences.
<i>Supreme Court R (Lumba and Mighty) v Home Secretary</i> [2011] UKSC 12, [2011] 2 WLR 671	23 March 2011	[2011] UKSC 12	The Supreme Court approved the interpretation of the power to detain set out in the previous two judgments and added ten more: (1) There can be a 'realistic' prospect of removal without it being possible to specify or predict the date by which the removal can reasonably be expected to occur and without any certainty that removal will occur at all (MH) at [65]) (2) The extent of certainty or uncertainty as to whether and when removal can be effected will affect the balancing exercise, but there must be a sufficient prospect of removal to warrant continued detention when account is taken of all other relevant factors ((MH)) at [65]) (3) The risks of absconding and re-offending are relevant considerations, but the risk of absconding should not be overstated, otherwise it will become a trump card (<i>Lumba</i> [108]-[110] and [121] citing Dyson LJ in <i>R (I)</i> at [53]). (4) The weight to be given to time taken up by an appeal depends on the facts, but much more weight should be given to detention during a period when the detained person is pursuing a meritorious appeal than to detention during a period when he is pursuing a hopeless one (<i>Lumba</i> at [121]). (5) A detainee who will not comply with the ED process or other requirements of detention and is doing everything he can to hinder the deportation process, may reasonably be regarded as likely to abscond

			<p>(<i>Lumba</i> at [123]; <i>MH</i> at [68(iii)])</p> <p>(6) Refusal of voluntary return does not necessarily permit an entrance of risk of absconding (<i>Lumba</i> at [123]).</p> <p>(7) Where return is not possible (for reasons that are extraneous to the person detained), the fact that he is not willing to return voluntarily cannot be held against him, since his refusal has no causal effect (<i>Lumba</i> at [127]).</p> <p>(8) Where a person has issued proceedings challenging his deportation, then it is reasonable that he should remain in the UK pending determination of those proceedings and his refusal to accept an offer of voluntary return is irrelevant (<i>Lumba</i> at [127]).</p> <p>(9) Even where there are no outstanding challenges, refusal of voluntary return should not be regarded as a trump card for the SSHD's wish to detain. If it is relevant, its relevance is limited (<i>Lumba</i> at [128]).</p> <p>(10) There is no maximum period after which detention becomes unlawful.</p>
<p>High Court Zerom, R (On the Application Of) v Secretary of State for the Home Department [2014] EWHC 92 (Admin) (30 January 2014)</p>	<p>30 January 2014</p>	<p>Neutral Citation Number: [2014] EWHC 92 (Admin)</p>	<p>The court reviews the standards for immigration detention and applies the above stated rules.</p>
<p><i>R (Ismail) v SSHD</i> [2013] EWHC 3921 (Admin)</p>	<p>13 December 2013</p>	<p>Neutral Citation Number: [2013] EWHC 3921 (Admin)</p>	<p>The judge held 9 months of detention unlawful as a result of the defendant's "incompetence, neglect and failure to show due diligence". The Secretary of State had taken 18 months to make a decision on</p>

			whether to deport a man who throughout that time had indefinite leave to remain (permanent residence). Even when a decision finally arrived, at the door of court, it was so inadequate that it got the nationality of the detainee's children wrong.
<i>Court of Appeal</i> <i>JS (Sudan) v SSHD</i> [2013] EWCA Civ 1378		Neutral Citation Number: [2013] EWCA Civ 1378	The Court of Appeal held, overturning the decision of the High Court, that 8 months of the appellant's detention was unlawful. In doing so the Court endorsed the gloss put on the <i>Hardial Singh</i> principles by Nicol J in <i>R(Rashid Hussein) v SSHD</i> [2009] EWHC 2492 (Admin) to the effect that where detention is pending consideration of whether an exception to automatic deportation applies it can <u>only</u> be used for that purpose.

33. Is there any precedent of returnees appealing the fact that they are subject to an alternative to detention scheme (i.e. arguing that they should be offered reception conditions in an open centre or financial assistance without any further obligation instead)? If so please briefly summarize the case(s) and indicate the jurisdiction, date and case number.

This is a component of the cases above not a separate issue in the UK system.

Jurisdiction	Date	Case Number	Brief summary
)	

D. Other

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34. What are, in your view, the strengths of the system of alternatives to detention in your Member State?

As mentioned above the strength of the presumption in favour of liberty is a strength of the system. The acknowledgement of the state authorities that legal aid must continue to be available where an Article 5 ECHR liberty issue is at stake is also a strength.

35. What are, in your view, the weaknesses of the system of alternatives to detention in your Member State?

The most problematic aspect of the system is how coercive the alternatives can be. This is spelt out in the Practices Questionnaire.

36. Why are according to your opinion alternatives to detention not applied in the framework of the asylum process?

The main issue in DFT/DNSA/Third Country is the way in which cases are chosen for the track. The result of that choice is either detention or not (though see also the Practices Questionnaire where there are examples of detention of asylum seekers outside DFT/DNSA. DFT/DNSA result in rapid decision making, very limited access to legal assistance and rapid deportation or removal of those refused (the very large majority). The perceived administrative convenience of having a person detained for these periods overwhelms arguments about human rights or cost.

37. Please add here any other interesting element about alternatives to detention in your Member State/commentary which you did not have the occasion to mention in your previous answers.

38. Please quote recent scientific books, articles, reports, substantive online commentaries that have been published about alternatives to detention in your Member State (answer even if this literature is only available in your national language and provide the complete title in your language (without translating it) with all references; indicate author, title, in case name of periodical, year and place of publication as well as publisher).

This is in addition to the excellent list in the Practices Questionnaire:

Bail Observation Project 2nd Report: Still a Travesty: Justice in Immigration Bail Hearings April 2013

<http://closecampfield.files.wordpress.com/2013/04/2nd-bop-report-final.pdf>

Bail for Immigration Detainees (2010), A Nice Judge on a Good Day: Immigration Bail and the Right to Liberty, London

Bail for Immigration Detainees (2012), The Liberty Deficit: Long-term Detention and Bail Decision Making, A Study of Immigration Bail Hearings in the First Tier Tribunal, London <http://www.biduk.org/817/news/new-bid-research-report-on-bail-decision-making-andlongterm-detention-the-liberty-deficit-longterm-detention-and-bail-decisionmaking.html>

Barbed Wire Britain Network to End Refugee and Migrant Detention (2008), Causing Mental Illness is Cruel and Inhuman Treatment, submission to Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Breugel, Irene and Natamba, Eva (2002), Maintaining Contact: What Happens When Detained Asylum Seekers Get Bail?, South Bank University

MacKeith, Bill and Walker, Bridget (2011), Immigration Bail Hearings: A Travesty of Justice? Observations from the Public Gallery, Campaign to Close Campsfield Gatwick Detainees Welfare Group (GDWG) (2012), Prison in the Mind <http://www.gdwg.org.uk/downloads/GDWG-PrisonInTheMind.pdf>

HM Prisons Inspectorate and the Independent Chief Inspector of Borders and Immigration (2012), The Effectiveness and Impact of Immigration Detention Casework: A Joint Thematic Review <http://icinspector.independent.gov.uk/wp-content/uploads/2012/12/Immigration-detention-casework-2012-FINAL.pdf>

Girma, M, Radice, Sophie, Tsangarides, N & Walter N, *Detained Women Asylum Seekers: Locked Up in the UK* Women for Refugee Women, January 2014.

Griffiths, Melanie: ' "Vile liars and truth distorters": Truth, trust and the asylum system', *Anthropology Today*, vol. 28, no.5, October 2012 <http://onlinelibrary.wiley.com/doi/10.1111/j.1467-8322.2012.00896.x/pdf>

London Detainee Support Group (2009): Detained lives: the real cost of indefinite immigration detention <http://www.detentionaction.org.uk/wordpress/wp-content/uploads/2011/10/Detained-Lives-report.pdf>

Marsh, Kevin, Venkatachalam, Meena and Samanta, Kunal (2012), An Economic Analysis of Alternatives to Long-term Detention, Matrix Evidence <http://detentionaction.org.uk/wordpress/wp-content/uploads/2012/09/Matrix-Detention-Action-Economic-Analysis-0912.pdf>

McGinley, Ali and Adeline Trude, Adeline (2012), Positive duty of care? The mental health crisis in immigration detention, Association of Visitors to Immigration Detainees/Bail for Immigration Detainees

Pourgourides, C.K., Sashidharan, S.P., Bracken, P.J. (1996), A Second Exile: The Mental Health Implications of Detention of Asylum-seekers in the United Kingdom, Northern Birmingham Mental Health Trust

Tribunals Judiciary, Immigration and Asylum Chamber, Mr Clements (2012), Bail Guidance for Judges Presiding over Immigration and Asylum Hearings, Presidential Guidance note no. 1 of 2012 (implemented on Monday 11th June 2012)

UKBA (2012) Enforcement Instructions and Guidance <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/enforcement/>

UN High Commissioner for Refugees (2012), Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention. <http://www.unhcr.org/refworld/docid/503489533b8.html>

White, Caroline (2012), ‘“Get me out of here”: Bail hearings of people indefinitely detained for immigration purposes’, *Anthropology Today*, vol. 28, no.3,, pp. 3-6(4), June 2012
<http://onlinelibrary.wiley.com/doi/10.1111/j.1467-8322.2012.00870.x/abstract>

39. In case you have conducted interviews/consulted other experts/organisations in order to conclude this research please provide us with the following elements for each of them:

Name of the organisation/institution	AIRE Centre Immigration Law Practitioners Association Wesley Gryk Partners
Name of individual contacted	Ellie Sibley Alison Harvey Allison Hunter
Position/function of the individual	Lawyer Lawyer Lawyer
Email address	esibley@airecentre.org Alison.harvey@ilpa.org.uk Alison@gryklaw.com



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