

Estonia Immigration Detention Profile

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INTRODUCTION

In 2016 Estonia announced plans to build a 70 million euro fence on its border with Russia, mirroring moves made by neighbouring [Latvia](#). The 90-kilometre fence is to be equipped with warning signals, light fixtures, and boundary stones. The Interior Ministry said that “Estonia needs a modern state border, worthy of being the external border of Europe and NATO.”¹ However, the country appears to be mainly motivated by Russia's annexation of Crimea in 2014 and public fears of an influx of migrants.²

Estonia receives one of the lowest numbers of asylum applications annually. In 2015, 230 persons sought international protection, the second lowest number in the EU (after [Croatia](#)).³ In 2011 only 65 people applied for asylum in the country. Estonia also has one of the lowest ratios of asylum seekers per thousand inhabitants, 0.07 in 2014.⁴

On the other hand, the percentage of non-nationals in Estonia is one of the highest in the EU—15.4 as of 2015 (similar to [Ireland](#)).⁵ In 2014 the most important countries of origin of visa applicants were Russia (109,000), Belarus (42,000), and [Ukraine](#)

¹ RT, “‘Great Estonian Wall:’ Country decides to cut itself off from Russia ... with 2.5-meter fence,” *RT*, 17 March 2016, <https://www.rt.com/news/336000-estonia-russia-border-wall/>.

² Andrius Sytas and David Mardiste, “Worried over refugees, Baltics begin to erect border fences,” *Reuters*, 8 March 2016, <http://www.reuters.com/article/us-europe-migrants-baltics-idUSKCN0WA1JN>.

³ Eurostat, *Asylum and Managed Migration*, visited on 9 February 2017, <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>.

⁴ UNHCR, *Statistical Yearbook 2014*, 2015, <http://www.unhcr.org/54cf9bc29.html>.

⁵ UN Department of Economic and Social Affairs, Population Division, *International Migration 2015, 2016*, <http://www.un.org/en/development/desa/population/migration/publications/wallchart/docs/MigrationWallChart2015.pdf>.

(15,000).⁶ Following the break up of the Soviet Union and Estonia's independence in 1991, approximately one-third of the country's population became stateless. This number was reduced to less than 90,000 by 2015.⁷

In 2015, Estonia refused entry to 965 persons, roughly the same number reported by [Switzerland](#) that year. During the period, 980 undocumented migrants were apprehended and 560 ordered removed, of whom 85 were forcibly deported. The International Organisation for Migration provides return assistance.⁸ Out of the total number of expelled migrants, 210 were from Russia, 140 from Ukraine, 25 from Vietnam, and 20 from Georgia.⁹ Estonia places fewer people in immigration detention than its Baltic neighbours persons. In 2013, 94 migrants were detained in Estonia, 196 in Latvia, and 353 in [Lithuania](#).¹⁰

Estonia's sole immigration detention centre, located in Harku, has repeatedly experienced riots, hunger strikes, and violent interactions between detainees and staff. During a June 2016 incident, detainees refused food and began protesting when a staff member allegedly physically mistreated one of the detainees.¹¹ 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 the staff and a detainee. An internal investigation concluded that the use of force in the 2015 incident was inconsistent with the Law Enforcement Act. In 2013, some 40 detainees signed a complaint alleging disproportionate use of force by police as well as inadequate food, medical services, and access to drinking water.¹² More recently, in December 2016, a riot broke out at the

⁶ 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.

⁷ 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.

⁸ IOM, VARRE, <http://www.iom.ee/varre/>

⁹ Eurostat, *Asylum and Managed Migration*, visited on 9 February 2017, <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>.

¹⁰ 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.

¹¹ News ERR, "Confusing incident leads to protest by residents of Harku detention center," *News ERR*, 12 June 2016, <http://news.err.ee/v/news/56f8b936-b728-4c9b-8f2a-23dbd29ab333/confusing-incident-leads-to-protest-by-residents-of-harku-detention-center>.

¹² Delfi, "Pärtel Preinvalts: Harku väljasaatmiskeskuses on ülerahvastatuse tõttu pingeid," *Delfi*, 20 April 2013, <http://epl.delfi.ee/news/eesti/partel-preinvalts-harku-valjasaatmiskeskuses-on-ulerahvastatuse-tottu-pingeid?id=65906346>.

facility after a police officer confronted an apparently mentally ill detainee, setting off a larger confrontation between police and other detainees.¹³

LAWS, POLICIES, PRACTICES

Key norms. The 2009 [Aliens Act \(*Välismaalaste seadus*\)](#) is Estonia's main piece of immigration legislation. Amended several times since its adoption, the 2009 Aliens Act replaced the 1993 Aliens Act and 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 \(OLPEA\) \(*Väljasõidukohustuse ja sissesõidukeelu seadus*\)](#). The 2005 [Act on Granting International Protection to Aliens \(AGIPA\) \(*Välismaalasele rahvusvahelise kaitse andmise seadus*\)](#) sets out the conditions for receiving international protection, asylum procedures, and grounds for the detention of asylum seekers.

Grounds for detention in immigration and asylum laws. Section 15(2) of the OLPEA provides three grounds for pre-removal detention: 1) a risk of absconding; 2) non-cooperation; and 3) lack of documents. Circumstances that can serve as a basis for concluding that there is a risk of absconding include: 1) the person has not left 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 upon application for the stay or the extension thereof; 3) there is a reasoned doubt about the identity or citizenship of the person; 4) the person has repeatedly committed intentional criminal offences or has committed a criminal offence for which he has been imprisoned; 5) the person has not complied with surveillance measures; 6) the person has notified the Police and Border Guard Board or the Estonian Internal Security Service of his non-compliance with an obligation to leave; 7) the person has entered the country during the period of validity of an entry ban; 8) the person has been apprehended for unlawfully crossing the external border and he has not been issued a permit or right to stay in Estonia; or 9) the person has left without permission a residence assigned to him (OLPEA, section 6.8).

A non-national who is refused entry to Estonia may be detained by an official of the Police and Border Guard Board or an officer of the Security Police and his expulsion from Estonia is to be organized without delay and no later than 48 hours (OLPEA, sections 18(1)) and 28(3.2)).

The AGIPA permits detention of asylum seekers for up to 48 hours following the submission of asylum application. During this period the asylum determination bodies 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 person, consult Eurodac, and arrange medical assistance when necessary. If these

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

procedures take longer than 48 hours authorities must request permission to continue the detention period from an administrative court (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: identity verification; verification of the citizenship; verification of the legal bases of the entry or stay; identification of the circumstances relevant to the proceedings of the asylum application, primarily in the case when there is a risk of absconding; existence of reasons to believe that the person has submitted the application for asylum to postpone the obligation to leave or prevent expulsion; protection of the security of state or public order; or transfer of a person under the Dublin procedures.

Both pre-removal detention under the OLPEA (section 15(3)) and asylum detention under the AGIPA (section 36.2(1)) are carried out by the Police and Border Guard Board or the Estonian Internal Security Service.

Children and 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.

The law does not prohibit detention of children. It 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)). Detained minors must be offered age-appropriate activities and children who are under the obligation to attend school must be ensured access to education in accordance with the Basic Schools and Upper Secondary Schools Act (section 26.5(7)-(8)). In practice this means that children have access to education while adults do not.¹⁴ The provision of food for children should take into consideration their specific needs (section 26.7(3)).

In a 2015 ruling concerning the detention of an Iraqi family with two children for nearly two months, the Tallinn Administrative Court found that long-term detention affected children’s well-being and mental health and that the children’s development needs were not met. While the applicants were released, the authorities refused to release eight other children who were detained at that moment.¹⁵

¹⁴ European Migration Network (EMN) National Contact Point for Estonia (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.

¹⁵ News ERR, "Children to stay in Harku immigrant detention center despite court warning," *News ERR*, 12 February 2015, <http://news.err.ee/v/news/politics/3fde1427-d76f-4dff-85da-4614868f69d6/children-to-stay-in-harku-immigrant-detention-center-despite-court-warning>.

According to official sources¹⁶ and the Estonian Union for Child Welfare¹⁷ since 2014 unaccompanied children have not been placed in detention. Rather, they are accommodated in “substitute homes.” According to the government, a child may be placed in a detention centre only if his guardian is also subject to expulsion and detaining the minor is in the child’s best interests in the opinion of the court.¹⁸

According to the Migration and Border Guard Policy Department, one unaccompanied child was detained in 2012, four unaccompanied children in 2011, and one accompanied child was detained in 2010.¹⁹ On the other hand, according to non-governmental sources, 3 children were detained in 2012.²⁰

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, mainly Soviet-era settlers of Russian ethnicity, became stateless. The number of stateless persons decreased over the years but as of 2015 there were still up to 90,000 stateless persons in Estonia, including some 1,000 children below the age of 14.²¹

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

¹⁶ 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>.

¹⁷ Estonian Union for Child Welfare 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.

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>.

¹⁹ Ruth Annus (Chief of Migration and Border Guard Policy Department), *Response to Global Detention Project/ Access Info Questionnaire*, April 2013.

²⁰ Estonian Union for Child Welfare 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; the report says that 17 children were detained but in footnotes (n. 319) explains that 14 were declared adults in the subsequent proceedings.

²¹ 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.

which has a duty to receive him or her.”²²

Noting that stateless persons risk prolonged detention, UNHCR urged Estonia in 2016 to review its law and practice to ensure that stateless persons are not exposed to a risk of detention on account of lack of normalised status.²³

Length of detention. Under both the OLPEA (section 15(3)) and AGIPA (section 36.2(1)), the Police and Border Guard Board or the Estonian Internal Security Service may detain a non-citizen for up to 48 hours without the authorization of the administrative court. Under the AGIPA, administrative court may extend this initial detention 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 administrative court for authorization of detention for up to two months (OLPEA, section 23(1); AGIPA, section 36.2(2)).

Section 25(1) of the OLPEA stipulates that at the request of the Police and Border Guard Board an administrative court may extend the period of pre-removal detention by up to six months, if the grounds for detention are still valid and detention is proportionate in the individual’s specific circumstances. If the detainee fails to comply with the obligation to co-operate or there are delays in obtaining the travel documents from destination countries, at the request of the Police and Border Guard Board, the administrative court may extend the term of detention by four months at a time. The maximum limit on detention is 18 months (OLPEA, section 25(2)).

An administrative court may extend detention of asylum seekers by two additional months thus extending asylum detention to a maximum of four month if the grounds for detention remain valid and detention is proportionate in the person’s individual circumstances (AGIPA, section 36.2(5)).

Under section 25(3) of the OLPEA, the period of time a person has spent in in asylum detention is not counted towards the maximum period of detention under the OLPEA (AGIPA, section 36.2(3)-(4)). Thus detention can last up to 22 months theoretically.

According to official sources, the average length of immigration detention was 58 days in 2013, 80 days in 2012, 92 in 2011, 84 in 2010, 156 in 2009.²⁴ According to the [European Committee for the Prevention of Torture and Inhuman or Degrading](#)

²² 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.

²³ 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.

²⁴ 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.

[Treatment or Punishment](#) (CPT), as of 2007 the average length of detention was between three and four months.²⁵

Procedural guarantees. As stipulated in section 26(1) of the OLPEA, detention proceedings are based on the [Code of Administrative Court Procedure](#). The decision to detain for more than 48 hours and to extend detention is taken by an administrative court. Non-nationals are heard prior to a detention decision being taken. Official sources have described this procedure as being equivalent to automatic, ex officio judicial review. Non-nationals receive information regarding their detention both orally and in written. Detainees may appeal court decision before higher court.²⁶

The OLPEA provides that upon arrival in the detention centre, the rights and obligations of detainees must be explained to the person in a language that he understands and at his request legal aid and language services should be provided at his expense (section 26.2(7)). Detainees should be informed about the possibility to submit complaints (section 26.2(8)).

During its 2007 visit to Estonia's sole immigration detention centre, the CPT noted that 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.²⁷

According to official sources, interpretation is ensured to detainees but free legal advice is limited to appeals against return decisions.²⁸

Trends and statistics. According to official statistics, Estonia detained 94 non-nationals 2013, 93 in 2012, 62 in 2011, 40 in 2010, and 55 in 2009.²⁹

²⁵ 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>.

²⁶ 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.

²⁷ 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>.

²⁸ 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.

²⁹ 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*

According to European Migration Network (EMN) National Contact Point for Estonia, the country detained 2 asylum seekers in 2008, 14 in 2009, 7 in 2010, 8 in 2011, and 8 in 2012.³⁰ In contrast, the Migration and Border Guard Policy Department reported that 8 persons applied for asylum while being detained in 2012, 8 in 2011, and 5 in 2010.³¹

As of 2010, the majority of detainees were persons of Russian origin.³²

Non-custodial measures and “alternatives.” Both the OLPEA (section 15(1)-(2)) and AGIPA (section 36.1(1)-(2)) provide that detention must comply with the principle of proportionality and individual circumstances of each case must be taken into account. Migrants may be detained if non-custodial measures (“surveillance measures”) cannot be applied efficiently. Under section 10(2) of the OLPEA and section 29(1) of the AGIPA, surveillance measures include residing in a determined place of residence; appearing for registration at the Police and Border Guard Board at prescribed intervals; notifying the Police and Border Guard Board of the absence from the place of residence; depositing the travel document issued by a foreign state at the Police and Border Guard Board. In addition, the 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 of the changes in the marital status.

The European Commission reported in 2014 that residence restrictions, reporting duties, and handing in the documents were applied in practice.³³

Criminalization. According to section 17 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 or by detention. Under section 298 of the Aliens Act, undocumented stay is punishable by a fine up to 300 fine units or detention. As of 2014, a fine unit was equal to four euros.³⁴

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.

³⁰ European Migration Network (EMN) National Contact Point for Estonia (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.

³¹ Ruth Annus (Chief of Migration and Border Guard Policy Department), *Response to Global Detention Project/ Access Info Questionnaire*, April 2013.

³² 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," *Civil Society Report on Administrative Detention of Asylum Seekers and Irregular Migrants in Europe: Common Position of JRS in Europe*, Jesuit Refugee Service-Europe, 2007.

³³ European Commission, *Communication from the Commission to the Council and the European Parliament on EU Return Policy*, COM(2014)199, March 2014, [http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com\(2014\)0199/com_com\(2014\)0199_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com(2014)0199/com_com(2014)0199_en.pdf).

³⁴ European Union Agency for Fundamental Rights (FRA), *Criminalisation of migrants in an irregular situation and of persons engaging with them*, 2014,

Privatization. Before 2010, staff at Estonia’s Harku detention centre included officers of the Police and Border Guard Board (formerly the Citizenship and Migration Board) and employees of the multinational security firm G4S.³⁵ In October 2010, according to the Estonian ombudsman, security was transferred to the guard bureau of the Public Order Department of the Police and Border Guard Board.³⁶ As of 2017, G4S’s dedicated Estonia webpage (<http://www.g4s.ee/en/>) provided no information concerning its previous operations at the Harku detention centre. 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 euros in March 2008 to provide security at a various Citizenship and Migration Board facilities, including at the Harku detention centre.³⁷

Regulation of detention conditions. Initial detention of up to two days (or five days, if extended by the court under section 19(2) of the OLPEA) takes place in the offices of the police authorities, police detention house or detention centre (OLPEA, section 19(1); AGIPA, section 36.2(2)). Persons 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, detention is to be carried out in the “detention centre” (*kinnipidamiskeskus*) (OLPEA, section 23(1); AGIPA, section 36.2(2)). The detention centre 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. The officials of the Police and Border Guard Board supervise detainees by visual and electronic surveillance. If detention in the centre is not possible for security or health protection reasons, the person may be accommodated in the police “detention house” (OLPEA, section 23(4)).

Upon arrival, detainees undergo medical examination (section 26.2(3.1)) and a personal file is opened. The 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 possibility to submit complaints (section 26.2(8)).

<http://fra.europa.eu/en/publication/2014/criminalisation-migrants-irregular-situation-and-persons-engaging-them>.

³⁵ 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,” *Civil Society Report on Administrative Detention of Asylum Seekers and Irregular Migrants in Europe: Common Position of JRS in Europe*, Jesuit Refugee Service-Europe, 2007.

³⁶ 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>.

³⁷ DG Markets Tenders Worldwide, “EE-Tallinn: guard services,” <http://www.dgmarket.com/tenders/np-notice.do?noticeId=2345484>

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 be in conformity with the requirements of construction technology, health and hygiene and have windows to ensure suitable lighting. Children must be accommodated separately from adults, except if this would conflict with the child's best interests (section 26.5). During the day detainees should be permitted to move in the detention centre. During the night detainees are required to stay in their rooms which, if necessary, are locked (section 26.6).

Detainees must wear personal clothing. If a person does not have suitable clothing, the detention centre must provide him with clothing free of charge. Detainees are required to wear a name tag attached to their clothing. They should have an opportunity to practice religion if the detention centre has appropriate facilities possibilities and it does not conflict with the provisions of the internal rules (section 26.6). Food must be provided on a regular basis and meet the requirements of food hygiene. The provision of food for minors must take into consideration age-related needs. Detainees may observe their religious dietary habits at their own expense. The preparation of the menu and the provision of food are supervised by the medical staff of the centre (section 26.7). At least once a week and upon reception into the detention centre, non-citizens must be provided with an opportunity to use a sauna, bath or shower. Once a month, hairdressing and barber's services shall be provided to detainees. If a detainee does not have toiletries or funds to buy them, the centre must provide them (section 26.8). Detainees must access to medical examinations and necessary health services. The detention centre must have permanent treatment facilities for the supervision of the detainees' state of health. A medical specialist with family physician qualifications ensures health services, while the in-patient treatment is conducted in the Central Hospital of Prisons (section 26.9).

Detainees may be visited by various bodies, including consular officers of the country of nationality, legal counsels, and representatives of competent state authorities, international or non-governmental organizations. With the permission of the head of the detention centre, migrants may be allowed to receive short-term supervised visits of personal, legal or commercial interest from other persons or bodies. Visits may last up to three hours and take place in the presence of the Police and Border Guard Board. Visits from the legal defense counsel are allowed within sight but not within hearing distance (section 26.10). Detainees are entitled to use telephone and other public communication channels (section 26.11).

Based on an order of the head of the detention centre, for security reasons and in order to ensure compliance with the internal rules of the detention centre a detainee may be isolated from the rest of detainee population (section 26.5).

The OLPEA authorizes the Police and Border Guard Board to use firearms or special equipment only as a measure of last resort when all other measures are exhausted to prevent the escape of a detainee, apprehend an escaped person, neutralize a detainee who is armed or equipped with any other dangerous object or other person staying at the detention centre, to prevent attack or the entry of third persons into the centre.

Special equipment of the detention centre includes handcuffs, bonds, a service dog, and a restraint jacket. Service weapons include a truncheon, a gas weapon, and a firearm. It is prohibited to use firearms against women and minors, except if they pose armed resistance or attack an official of the Police and Border Guard Board or other people. In the case of mass disorders, officials may order the use of firearms and special equipment (section 26.17).

The Police and Border Guard Board may transfer the performance of functions of the detention centre and of officials of the detention centre (except from the functions of the head of the centre) to other persons on the basis of a contract under public law. A person who has assumed the obligation to perform the functions of the detention centre is required to ensure detention of the persons to be expelled, compliance with the internal rules and security in the detention centre. The transfer of functions brings about the rights, obligations and liability provided for in this Act. Upon performance of functions transferred, a person who has assumed the obligations and the employees thereof must be held liable by way of civil, criminal or administrative procedure on the same basis as an official of the Police and Border Guard Board. The employees of a person who has assumed the obligation to perform the functions transferred on the basis of a contract under public law are required to follow the lawful commands given by the head of the detention centre. The Director General of the Police and Border Guard Board or a person authorized by him must supervise performance of the functions transferred on the basis of a contract (section 26.20).

DETENTION INFRASTRUCTURE

As of 2017, Estonia operated one dedicated immigration detention facility. Formerly called the Harku Repatriation Centre (*Harku väljasaatmiskeskus*), the facility is now generally referred to as a “detention centre” (*kinnipidamiskeskusesse*) or “detention house.”³⁸ Opened in 2003, the centre is a structural unit of and managed by the Police and Border Guard Board.³⁹ The centre is set up in a two-floor building on the outskirts of

³⁸ Police and Border Guard Board, Information for familiar persons of a detained person,” <https://www.politsei.ee/en/nouanded/info-arestialuse-lahedasele.dot>; Eero Janson (Estonian Refugee Council), *Email exchange with Izabella Majcher* (Global Detention Project), February 2017; Risto Berendson, “Harku sattack work of fiction,” *Posteemes*, 13 January 2017, http://news.postimees.ee/3978635/harku-gas-attack-work-of-fiction?_ga=1.103850560.1167196335.1486475827; Yle Uutiset, “Suomeen pyrkiin irakilaisperheen matka tyssäsi – Perhe säilössä virolaisessa vankilarakennuksessa,” *Yle Uutiset*, 12 October 2015, http://yle.fi/uutiset/suomeen_pyrkiin_irakilaisperheen_matka_tyssasi_perhe_sailossa_virolaisessa_vankilarakennuksessa/8374286; Estonian Refugee Council, “ÜRO komitee kritiseeris Eesti varjupaigamenetlust,” *Website*, 14 June 2013, <http://www.pagulasabi.ee/uro-komitee-kritiseeris-estivi-varjupaigamenetlust>.

³⁹ 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 Focussed Study 2014*, 2014, <https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we->

Harku, some ten kilometres from Tallinn. The ground floor is reserved for women, children and families, while men are confined on the first floor.⁴⁰ The centre had a capacity of 42 as of 2007⁴¹ and 80 as of 2013.⁴²

Although most rooms can reportedly accommodate four detainees,⁴³ Estonian officials say that cells generally accommodate no more than two persons, children are accommodated along with their parents and there is a separate accommodation for families. Unaccompanied children are kept separate from adults and women and separated from men. Detainees have access to outdoor space for at least one hour daily but usually can stay outside up to ten hours. During the day, they can move about freely in the centre. They have access to library, board games, TV, games for children. Children are provided schooling. Medical consultations take place at least once a month and involve both physical and mental health checks. A clinical psychologist who can communicate in English and Russian visits the centre two times a month.⁴⁴

As of 2013, the centre had ten employees and security was assured by the Guard Service of the Police and Border Guard's Law Enforcement Department.⁴⁵ Previously, staff members included employees of the Police and Border Guard Board (formerly the Citizenship and Migration Board), as well as security officers provided by the

[do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf](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).

⁴⁰ European Migration Network (EMN) National Contact Point for Estonia (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.

⁴¹ 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>.

⁴² European Migration Network (EMN) National Contact Point for Estonia (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.

⁴³ European Migration Network (EMN) National Contact Point for Estonia (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.

⁴⁴ 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.

⁴⁵ European Migration Network (EMN) National Contact Point for Estonia (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.

multinational private security firm G4S.⁴⁶ According to the Estonian ombudsman, security was transferred to the guard bureau of the Public Order Department of the Police and Border Guard Board in October 2010.⁴⁷

In 2015 the advisers to the [Chancellor of Justice](#) (Estonian ombudsman) visited the centre. The delegation found that that material conditions were satisfactory and detainees could move freely within the centre. The Chancellor noted that the centre created new recreation possibilities and had begun providing education to children. The Chancellor advised improving the catering and addressing cultural and religious needs as well as special needs of children and pregnant women. It also noted that the possibilities communication with the outside world should be improved, including by means of computer with Skype. The Police and Border Guard Board did not find it feasible. The Ombudsman also urged not to rely on detainees as interpreters for communication with the staff and medical personnel. The delegation found medical service adequate but noted that translation was not adequately ensured during medical consultations.⁴⁸

Following a previous visit in 2013, the Chancellor recommended that interpretation assistance be provided during medical and psychological consultations. The ombudsman also repeated the recommendation to assure dental treatment to detainees and urged the centre to diversify the range of activities offered to detainees confined for long periods. The Chancellor also urged the centre to increase the food portions, which had been the subject of numerous complaints.⁴⁹

On the other hand, in 2013 the [UN Committee against Torture](#) (CAT) expressed concern at the conditions of detention in the Harku detention centre, 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 Harku detention centre 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.⁵⁰

A few years earlier, in 2007, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) gave a positive account of the conditions in the centre. The Committee noted that material conditions of detention were

⁴⁶ 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," *Civil Society Report on Administrative Detention of Asylum Seekers and Irregular Migrants in Europe: Common Position of JRS in Europe*, Jesuit Refugee Service-Europe, 2007.

⁴⁷ 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>.

⁴⁸ 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>.

⁴⁹ Chancellor of Justice, *Overview of the Chancellor of Justice Activities 2013, 2014*, http://www.oiguskantsler.ee/sites/default/files/annual_report_2013.pdf.

⁵⁰ Committee against Torture, *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>.

of an adequate standard. The rooms were of a reasonable size (around 17 square metres for up to four detainees), had good access to natural light and artificial lighting and were well ventilated and clean. They were also adequately equipped – with bunk beds with clean mattresses and bedding, a table, chairs and cupboards. Detainees had unrestricted access to communal sanitary and shower facilities, which were in a good state of repair and hygiene. The CPT also observed that detainees were permitted to move freely within the centre and had access to three communal rooms, equipped with the TV, board games and newspapers and books. However the Committee regretted that most of the detainees were not offered any purposeful activities. The CPT thus urged authorities to provide a range of activities for detainees confined for prolonged periods.⁵¹

Medical care was provided by a general practitioner who visited the centre for a few hours twice per week. At the time of the CPT's visit, the centre did not have a nurse for four years and, as a result, newly admitted persons could not have prompt medical screening on days when the general practitioner was not present. Medicaments were distributed by custodial staff. The Committee urged Estonia to hire a nurse without delay and to ensure that all newly admitted persons receive medical screening without delay. The Committee expressed misgiving about a few practices. First, a police officer was present during medical consultations carried out outside the centre and, second, immigration detainees were handcuffed during the transport to and from a hospital. The Committee urged authorities to review this practices and base them on individual risk assessment.⁵²

The CPT also noted detainees had generally adequate opportunities for contact with the outside world, including sending and receiving letters, having visits (twice a week for up to three hours) and making telephone calls. However, they had to use the telephones at their own cost and the CPT encouraged authorities to offer detainees lacking financial means at least one free telephone call per month.⁵³

As noted by the Estonia's National Contact Point to the EMN in 2013, the 2011-2015 government's action programme foresees the establishment of a "joint detention centre" at Tallinn Prison which would include an initial reception centre for asylum seekers and the extension of the expulsion centre. The Ministry of Internal Affairs has expressed willingness to take over the functions of an initial reception centre from the Ministry of Social Affairs and to open a "unified detention centre" which would confine asylum

⁵¹ 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>.

⁵² 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>.

⁵³ 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>.

seekers for initial procedures and for extended period if necessary on public order or national security grounds. The GDP was not able to verify whether the government has begun implementing these plans.⁵⁴

⁵⁴ European Migration Network (EMN) National Contact Point for Estonia (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.

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