

EMN Ad-Hoc Query on Communication to the outside and usage of mobile phones in detention facilities

Requested by Adolfo SOMMARRIBAS on 12th November 2018

Return

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovak Republic, Spain, Sweden, United Kingdom, Norway (23 in total)

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.



Background information:

Portuguese authorities (SEF) are currently revising the Regulation on reception conditions at our detention facilities for persons who were refused entry and cannot return in the same day, as well as for asylum seekers waiting for decision on admissibility. In this context, we would like to get information from other EU practices as regards the following:

Questions

- 1. Can this individuals communicate with people from outside the facilities? YES/NO
- 2. If yes, under which terms /rules?
- 3. Is the use of private mobile phones allowed? Yes/No.
- 4. If yes, under which conditions?

Responses

Country	Wider Dissemination	Response
Austria	No	
Belgium	Yes	 Yes, the policy of the detention centers in Belgium aims to enable communication with people from the outside as much as possible through telephonic contacts and/or visits to the centers. a)The persons in detention are allowed to make phone calls between 8am and 10pm on their own costs. During meals it is not possible to make calls due to organisational reasons. At that moment they can always use their personal phone as long as it does not have a camera. Telephonic contacts with lawyers are less restricted. Residents can telephone for free with their lawyer between 8am and 10pm and the lawyer can contact his client anytime. b)The persons in detention can have visitors. Close family members such as a spouse, a cohabiting partner and children have the right to visit. Other family members or acquaintances need to ask permission to the head of the center. Visits are granted quite flexible. Visits are possible every day (also in weekends and on holiday days). These visits take

		 place in the visitors space. Lawyers can visit their clients in the detention center every day (at least from 8am till 10pm). Members of the Parliament, diplomatic staff and some international (e.g. UNHCR) and national organisations have access to the detention centers. Staff members of NGO's can be accredited to pay regular visits to residents in the center to support them. They also provide information (inter alia about legal matters) to residents. c) Conjugal visits with spouse or partner are also possible for residents who are staying already more than one month in the center. They take place in a separate space at least once a month (under certain conditions). d) The persons in detention can exchange letters with people from outside the facilities. Incoming letters undergo a check on other materials included in the letter. The check is done in the presence of the person in detention and his lawyer are never checked as well as other specific mentioned people in the Royal Decree of 2 August 2002 (Article 21/2). If the residents is not able to pay for the stamps, the detention center will provide the stamps (limited to a reasonable sum). 3. Yes, without a camera. 4. During day time residents can use their mobile phones (without camera) to contact the outside world. If the mobile phone of a resident has a camera, he can buy in the detention center a new cheap mobile phone cards following the Belgian legislation for the duration of they stay of the resident.
Bulgaria	Yes	 Yes. TCNs accommodated in the SHTAFs (Special homes for temporary accommodation of foreigners (detention centers)) within Migration Directorate are allowed to communicate personally with persons outside the Homes - relatives, friends, diplomatic/consular representations, lawyers, etc. Yes. TCNs who are forcedly accommodated in the SHTAFs have rights to use their own mobile devices freely on the territory of the Homes without the supervision of a staff member but with condition that those devices are without camera. Those who do not have such a device can use an office phone,

			mainly for communication with relatives and embassies in connection with the provision of personal documents and travel documents.
	Croatia	Yes	 1. 1.Yes 2. 2.Communication is permitted through telephone booths (telephone cards can be purchased in the cafeteria) and visits are allowed. Also, foreigners are entitled to two free calls (provided by the Centre). 3. 3.Use of mobile phones is not allowed. 4. N/A.
*	Cyprus	Yes	 Yes The detainees may communicate freely with people out of the center. At Menoyia Detention Center there are two visiting rooms. At the first one they may have confidential meetings with their lawyers at any time. At the second one they may have visits from friends and relatives at specific hours during the day under the supervision of a member of the police. Yes The detainees may also possess a mobile phone at all times and communicate without restrictions. In addition, there are card phones and computers with internet access for further communication, especially by those who do not have mobile phone.
	Czech Republic	Yes	 Yes The communication with people from outside is allowed under these terms: - Persons in detention facilities in the Czech Republic can receive visitors four times a week for one hour and up to four people (present at the same time). If they want more, they have to apply for an exception; - they are

			 also entitled to receive lawyer's visits; - they can use local payphones to call outside; - they can use Internet communication tools (such as email, Skype – written only, Messenger) on the internet kiosks. 3. The use of private mobile phones is not allowed for the persons in detention facilities in the Czech Republic, but they are entitled to one call from the mobile phone when they are placed in the detention facility, and are entitled to copy phone numbers from the phone as well. They also receive a prepaid phone card with the value of 180 CZK for every 90 days of detention so they can use local payphones. 4. -
	Estonia	Yes	 Yes In Estonia according to the Obligation to Leave and Prohibition on Entry Act, visits are allowed to following persons: consular officers of the country of nationality; legal counsels; priests; representatives of competent state authorities, international or non-governmental organisation's. Also if visits serve personal, legal or commercial interest of detained persons. The duration of visits is up to three hours. Visits are organized in the presence of the Police and Border Guard Board, exceptions are visits from the legal defense counsel or a priest, which are allowed within sight but not within hearing distance. Private mobile phones are not allowed. Persons who are in the detention center are not allowed to use mobile phones and other electronic/technical means of communication, including radio transmitters, handheld and personal computers, through which it is possible to transmit and receive information. They may use only a telephone provided by the detention center.
+	Finland	Yes	 Yes Please see details under Q.2.

			3. Yes 4. POSSESSION AND USE OF TELEPHONES AND OTHER COMMUNICATION AND RECORDING DEVICES Detainees are permitted to use their personal mobile telephone in the detention unit. Detainees who use their mobile telephone to take photographs or video, or to record sound, in the communal areas or in the yard will have their device confiscated. The detention unit will provide such detainees with a mobile telephone without a camera or a sound recording function, which they may use with their own SIM card. The use of mobile telephones may be restricted if their use causes unreasonable inconvenience in the detention unit. This refers to, for example, prohibiting loud telephone conversations in the communal areas. Detainees may be given access to a telephone provided by the detention unit in order to make calls pursuant to Section 6(1) of the Act on the Treatment of Detained Foreigners and on the Detention Facility. Foreign detainees may only use the detention unit's telephones if they tell the staff whom they are calling. Officials in charge of coordinating and supervising the detention unit may impose restrictions on the length of telephone calls. Detainees have the right to use their personal laptop or tablet in their room. Computers may not be brought to the communal areas. Detainees also have the opportunity to access the internet using the detention unit's computer. Using the internet on the detention unit's computer must not inconvenience other residents or pose a threat to order and security. Officials in charge of coordinating and supervising the detention on the detention unit's computer if necessary.
Fra	ince	Yes	 YES The detainees in retention centres have access to a visiting room ensuring their privacy where they can meet their relatives, friends and consular authorities. A visiting room is devoted to interviews with lawyers. Detainees can purchase prepaid phone cards and make phone calls (wall telephones are available in the corridors, regulations provide one phone booth with free access for 50 detainees). Destitute detainees are provided with free phone cards (available at the French office of immigration and integration's desk in the detention centre). yes

		4. as long as there is no camera (no possibility to take photos)
Germany	Yes	 As the responibility for the detention facilities lies with the federal states, I have added a document with an overview of the situation in 6 exemplary Länder. see attached document see attached document see attached document
Hungary	Yes	 Detention facility: Yes Applicants: Yes Detention facility: Individuals can communicate with people from the outside according to the internal rules of the detention facility. They are entitled to receive post, packages, and they can use the internet and telephone in the facility. For the usage of the internet and the telephone, the internal rules specify the time period per day, when they are allowed to use them. They are entitled to keep in touch in person with their legal representative or the representative of the diplomatic corps of their home country without supervision, and they are entitled to keep in touch with their family members in person with supervision. Applicants: Applicants have the opportunity to have visitors from outside the facilities by so called visit requests. Applicants have their own personal mobile phones as well and they can make and receive calls from people from outside the facilities. They can also use social networking sites on the Internet, such as Facebook, Messenger, Viber, Whatsapp, etc. where they can keep in touch with their relatives, family members, friends and can have access to their legal advisors or counselors. Detention facility: No, only the land phone within the facility. Applicants: Yes Applicants: They are allowed to keep and use their own mobile phones on the premise of these facilities where free Wi-Fi is provided for them.

Italy	Yes	1. Yes.
		2. Individuals refused to entry and who cannot be immediately returned are hosted in Repatriation centres, if certain conditions apply. In these centres, they are allowed to communicate (also by means of mail and telephone) with people outside the centres, as per Article 14(2) of Immigration Act. At least one telephone every 15 people should be available in the centres and should be freely accessed by migrants, who are entitled to have private conversations (as per Carta dei diritti e doveri dello straniero nel Centro di identificazione ed espulsione – letter k, in the Guidelines for the organization and management of Centres). Migrants should be given a telephone card that they can use, as well as pocket money for, among other things, topping up the telephone card. Moreover, people from outside the centres can visit migrants, upon authorization by the competent authorities. It should be noted that alternatives to detention in Repatriation centres apply. As per Art. 14-bis of Immigration Act, if the person holds a valid passport or an equivalent document, and there are no public order or state security reasons, and there are no reasons to suppose the person regularly commits crimes/is involved in illicit activities, the competent authorities (questore) can opt for alternatives to detention, like the temporary withdrawal of identity documents, the mandatory residence where the person can be reached, or the obligation to report at specified times to law enforcement authorities. In such cases, no communication restrictions apply.
		3. NO. In Repatriation centres, migrants are entitled to "freedom of correspondence by mail and phone, via telephones located in the centres"
		4. In Repatriation centres, migrants are entitled to "freedom of correspondence by mail and phone, via telephones located in the centres", as per Chart on rights and obligations of the foreigner, in the Guidelines for the organization and management of Centres (Regolamento recante "Criteri per l'organizzazione e la gestione dei centri di identificazione ed espulsione previsti dall'articolo 14 del Decreto legislative 25 luglio 1998, n. 286 e successive modificazioni", 2014).
Latvia	Yes	1. In response to the questions it is necessary to keep in mind that in accordance to Latvian national legislation and practice: Latvia has temporary accommodation premises for placement of detained foreigner who has been issued a decision on refusal of entry and it is not possible to return him/her immediately back to the country he/she arrived from. The State Border Guard official has the right to

		 detain such foreigners until it is possible to return him/her, but not longer than for 48 hours. The temporary accommodation premises are located at the external border (border crossing points, border surveillance units). The answers are marked as A. Latvia does not have special facilities at the border for accommodation of asylum seekers, who has been issued a refusal of entry and are waiting for a decision on admissibility. Latvia does not have experience in applying border procedure for asylum seekers. The detained asylum seekers are placed in Detained Foreigners Accommodation Centre inside the country. Answers to the questions regarding the detained asylum seekers, who are placed in the Detained Foreigners Accommodation Centre are marked for B. A) No B) Yes, certain category of people – family members, relatives, lawyers, legal aid providers, human rights protection agencies, international organizations assisting in returns. 2. A) N/A B) It is not allowed to keep private mobile phones with them in the rooms, but it is allowed to use the mobile phones in the case of need. 4. N/A
Lithuania	Yes	 Yes. In accordance with the Order No. 1V-132 of the Minister of the Interior of the Republic of Lithuania of February 24th 2016 regarding the "Description of Conditions and Procedures for Temporary Accommodation of Aliens in the Foreigners' Registration Center", foreigners must be informed about their rights, obligations and rules of the Foreigners' Registration Center (FRC), in a language she/he understands, no later than in 15 calendar days after they are located in the FRC. Item 18(14) of the Description notes that foreigners have a right to have visitors in the FRC. The visit should be approved by the FRC Commander. A visit to the FRC is organized in accordance with the rules stated in Chapter IX of the "Description of Conditions and Procedures for Temporary Accommodation of Aliens in the Foreigners' Registration Center." Request for a visit must be submitted no later than in 3 working days before the planned visit and visitor must receive a permission in writing. Meetings take place in specially assigned rooms.

		3. No, but foreigners can use a payphone installed in the territory of the Center.
		4. N/A.
Luxembourg	Yes	1. Yes.
		 When an individual arrives in the Detention Centre, s/he is informed that s/he has the right to inform a person of his/her choice. The designated person is notified either by the detainee or by an agent of the Centre (article 6 of the Grand Ducal regulation of 17 August 2011 establishing the conditions and modalities of the detention regime in the Detention Centre). In accordance with article 22 s/he is entitled to receive visitors at least twice a week and s/he can receive up to three visitors per visit. The visits are generally granted for 1 hour but at the request of the detainee and if there are available rooms the duration of the visit can be extended even outside of normal visit hours. In principle, visits are reserved 24 hours before the visit. Visiting hours are from 8:00 to 13:00 and from 13:00 to 18:00 including weekends and holidays. In principle visits are free and are not under surveillance. For security reasons visitors are subject to an access control. A visitor who refuses to submit to this control is refused entry. Lawyers can enter the Centre just by presenting their credentials without a previous appointment. A visiting room is especially reserved for these visits. Also, the detainees, under the conditions and respecting the modalities fixed by the director of the Centre. At the moment, there are approximately forty authorizations granted to members of these organizations which allow them to access to the visiting rooms and recreation rooms during normal visiting hours. The detainees can seed faxes and regular mail at the expense of the Detention Centre. Each unit is equipped with 6 public telephones from which 5 are programmed to place international and national calls. Each detainee receives a prepaid calling card of a value of 10 € per week, with the possibility of buying additional cards. Another telephone (only for national calls) is available free of charge for the detainees in order that they can call their lawyers the Ombudsman, and the Ombudsman for the children (ORK).

			 phones with the condition that these instruments cannot take pictures and record sounds (see also article 25 § 2). 4. In practice, the detainees are forbidden to have mobile phones. Seen that the authorisation has to be issued by the Director of the holding facility and mobile phones are forbidden, the guards seize any telephone that is not authorised. In principle, detainee's calls cannot be supervised. If there is an abuse, the communications will be limited or forbidden. The only way of supervising communications is if an investigation judge (juge d'instruction) orders it according to article 88-1 of the Criminal Procedural Code.
+	Malta	Yes	 Yes They are given a phone card so they can contact their relatives, lawyer etc they are allowed to receive calls. No Private mobile phones are now allowed.
	Netherlands	Yes	 Yes, detainees can communicate with people from outside the facilities. Asylum seekers staying at the reception centres of COA (Central Reception Agency) can also communicate with people from outside. Detainees have the following rights: - In all detention centres there is a phone on the ward or in the cell. The calls are made with a phone card that is handed out at the moment of entry in the detention centre Inhabitants have the right to receive visitors for at least two hours per week. There are spaces dedicated to these visits. These spaces have among others a children's play corner. A new bill will come into force during the Summer of 2019 in which inhabitants can receive visitors (mainly from the family) under circumstances that guarantee their privacy The centres are equipped with telephones and internet facilities (white list based), with the possibility to surf permitted pages Inhabitants can receive letters There is no access to social/interactive media nor one's own e-mail. Asylum seekers

			 staying at one of the reception centres of COA have to sign the COA house rules which provides rules for (amongst others): the use of the living space, receiving visitors, noise reduction, etc. Residents are free to leave the COA reception centres (no detention). All COA-reception centres have free wifi and an Open Learning Centre where residents have free access to internet. Residents also have the right to receive visitors. Visitors are obliged to register themselves and to respect the house rules of COA. Residents are free to leave the centres but will have to report themselves to the Foreign police (AVIM) and COA once a week or 5 times a week, depending on the phase of their asylum application. For a limited number of reception centres, it is not allowed to go outside the boundaries of the municipality without permission. In case the asylum application has been rejected by the Immigration and Naturalisation Service (IND), this permission will need to be granted by the Repatriation and Departure Service (DT&V). 3. At the moment, private mobile phones are not allowed for detainees. However, the House of Representatives passed a new bill, that will come into force during the Summer of 2019, that allows detainees to communicate through their mobile phones. These phones cannot have a camera function nor internet access. Asylum seekers staying at the reception centres of COA are allowed to have private mobile phones. 4. Detainees will be allowed to have mobile phones in Summer 2019 under the conditions for asylum seekers staying at the reception centres of COA with regard to their private mobile phones.
Pola	and	Yes	 According to the article 410 (1)(1,2,3) of the Act on foreigners every foreigner placed in a guarded centre or in detention centre for foreigners shall have the right: to get in touch with the Polish state authorities, as well as the diplomatic mission or consular office of a foreign country; to get in touch with NGOs or international organisations involved in the provision of assistance to foreigners, including legal aid; to get in touch with his/her attorney in the conditions respecting the right to privacy. Thus, in all guarded centers for foreigners meetings with attorney or persons providing legal advice (representatives of non-governmental organizations) are held without the participation of representatives of guarded centers in viewing/visting rooms or in specially prepared rooms. The right

		 to receive visits of close persons is guaranteed in each guarded center, (Article 415 (1)(19). The possibility to receive visits is preceded by a written request addressed to the head of the guarded center. The right of persons placed in guarded center to get in touch with family and relatives is fully implemented by the Border Guard. The foreigners have at their disposal mobile cell phones (being the equipment of every guarded center), without of the recording function and the possibility of using the Internet. In addition, in justified cases (lack of financial resources, emergency situation), in accordance with article 415 (1)(17) of the Act on foreigners, persons staying in the center have the right to use the means of communication at his/her own expense, and in particularly justified cases to use the means of communication at mail at the expense of a guarded center, foreigners are allowed to talk to family and relatives. 3. According to the article 410 (2) of Act on Foreigners a foreigner imposes on the person placed in a guarded center the obligation to transfer to the deposit of a guarded center, among others technical devices used for image recording. All guarded center private cell phones having the above-mentioned function due to the fact that all guarded center shave been equipped with alternative work phones (without the image registration function). 4. Thus, the foreigner staying in a guarded center is forbidden to have, apart from the deposit, the technical devices to record the image and items that may pose a threat to the order and safety at a centre or at a detention centre for foreigners outside the custody deposit (Article 420(1)(2)) In addition, measures have been taken to prevent image registration by securing cameras on Internet stations available in the computer lab of the guarded center
Slovak Republic	Yes	 Yes In the police detention centre for aliens (PDCA) detained TCNs have the right to receive and send letters and parcels. Upon the person's entry check, the person placed in detention in a PDCA is disposed of his/her mobile phone. Detainees, however, have access to public payphones. Except for the first phone-calls to inform their relatives, lawyer or respective consular office, in general, the detainees must pay for their prepaid phone cards on their own or such cards can be paid or provided

			by non-governmental organisations carrying out activities within the PDCA. Non-governmental organizations also provide a mobile phone which detained TCNs can use once a week for 10 minutes if requested. Detainee has limited access to the computer with Internet connection in the presence of PDCA staff and/or a NGO worker. Detained TCN is entitled to receive visits by not more than two persons once every three weeks for a duration of 30 minutes. The facility director may allow an exception in justified cases. The Act on Residence of Aliens does not explicitly list the categories of persons that can visit detainees. The act only mentions the staff of the International Organization for Migration (IOM), other non-governmental or inter-governmental organisations, and persons providing legal assistance to third-country nationals. All such persons are entitled to enter the facility throughout the period of detention of the third-country national with the consent of the facility director at designated time. The third-country national is entitled to receive such persons without restrictions. The representatives of the organisations/entities listed above are expected to inform the PDCA about every planned visit in advance. Detainees may ask for communication with their lawyer or other persons through the PDCA staff or a social workers working in the respective PDCA. 3. No, see the answer to Q2. 4. N/A
<u>.</u>	Spain	Yes	 Yes: visits, public phone booths, private mobile phones. Phone calls during leisure hours. Visits during visiting hours (with their lawyer at any moment). Yes. Only during leisure hours, not during rest hours.
	Sweden	Yes	 In Sweden we do not have these type of detention at the border. But in regular detention centers the detained can communicate with the outside using mobile phones (without camera) or regular phones. See question 1

		 3. In regular detention centers: Yes, if it doesn't have camera - otherwise a phone without camera can be borrowed and the private phone with camera will be stored out of reach for the detained. 4. See question 3.
United Kingdom	Yes	 Yes Internet access / Email The provision of internet access in immigration removal centres (IRCs) helps detainees to remain in contact with family, friends and legal representatives and to prepare for removal. It is a contractual requirement that all IRCs provide detainees with reasonable and regulated access to the internet and IT facilities. Detention Services Order 04/2016 provides guidance on access to the internet. This can be viewed online at: https://www.gov.uk/government/publications/internet-access-for-detainees Internet access in IRCs enables detainees to use personal internet based email accounts, subject to the detainee signing up to the individual centre's code of conduct for internet use. Social Media / Skype Access to social networking sites is currently not permitted. In September 2018 the Home Office launched a three month Skype pilot at two IRCs. The pilots offer controlled access to Skype through a booking system with equipment located in official interview rooms to enable privacy. The pilots will be evaluated after three months to assess the value that detainees after from use of the system. The Government. Other external communication Detainees are also able to maintain written and personal contact with family and friends in writing (by post or fax) and in person (through social visits to IRCs). The Home Office's Detention services operating standards can be viewed online at: https://www.gov.uk/government/publications/detention-services-operating-standards-manual Yes, but please see below. Detention Services Order 08/2012 sets out the Home Office's policy on detainees' possession of mobile phones in IRCs. This can be viewed online at: https://www.gov.uk/government/publications/mobile-phones-and-cameras-in-immigration-removal-

		centres
Norway	Yes	 1. Please see responses to FR EMN AHQ on from Feb. 2018 on Detention Conditions Part I and II YES 2. Detainees can make private phone calls, for example with wall phones or pre-paid cards. NO is the only State to limit the duration of phone calls (42 minutes per week, except in case of family emergencies or administrative procedures). Communication with the "outside world" is organized with the WIND calling system. Each detainee gets her/his own calling account. They give the number they want to call to the staff to put into the system. They are provided with 42 minutes for private calls per week. They can make calls all over the world. Detainees can be provided extra calling time if they have special needs (family sickness, children, trying to provide ID documents). If the detainee needs extra calling time they fill out an application and give this to one of the staff. There is no time restriction if calling own authorities or lawyers. 3. NO, mobile phones are not allowed. 4. N/A