Detention - Austria

Overview

Content updated on: 15/05/2025

Relevant EU legislation

Austria is bound by the recast Reception Conditions Directive, the recast Asylum Procedures Directive and the Dublin III Regulation and has transposed their provisions through the Aliens Police Act | Fremdenpolizeigesetz: Bundesgesetz über die Ausübung der Fremdenpolizei, die Ausstellung von Dokumenten für Fremde und die Erteilung von Einreisetitel, StF: BGBl. I Nr. 100/2005.

National legislation

1 January 2005: Austria transposed the recast Reception Conditions Directive by the Aliens Police Act | Fremdenpolizeigesetz: Bundesgesetz über die Ausübung der Fremdenpolizei, die Ausstellung von Dokumenten für Fremde und die Erteilung von Einreisetitel, StF: BGBl. I Nr. 100/2005. The Aliens Police Act refers explicitly to the principles of necessity (Article 76(1) and (2)) and proportionality (Article 76(2a)) in the context of detention.

1 January 2005: Austria transposed the recast Asylum Procedures by the Asylum Act (Federal Act on the Granting of Asylum) | AsylG: Bundesgesetz über die Gewährung von Asyl, StF: BGBl. I Nr. 100/2005.

Competent authority and stakeholders

Area	National authority/ stakeholder	Assistance to competent authority

© European Union Agency for Asylum, 2026. Reproduction is authorised, provided the source is acknowledged.

Detention decision	The Federal Office for Immigration and Asylum | Bundesamt für Fremdenwesen und Asyl (BFA)	
Administration and management of detention facilities	Federal Police	
Information provision in detention	The Federal Office for Immigration and Asylum | Bundesamt für Fremdenwesen und Asyl (BFA)	
Interpretation services in detention	Federal Agency for Reception and Support Services | Bundesagentur für Betreuungs- und Unterstützungsleistungen (BBU GmbH)	
Access to the procedure and provision of asylum information in detention	The Federal Office for Immigration and Asylum | Bundesamt für Fremdenwesen und Asyl (BFA)	
Detention for the Dublin procedure	The Federal Office for Immigration and Asylum | Bundesamt für Fremdenwesen und Asyl (BFA)	
Processing of asylum applications of applicants who are in detention	The Federal Office for Immigration and Asylum | Bundesamt für Fremdenwesen und Asyl (BFA)	

© European Union Agency for Asylum, 2026. Reproduction is authorised, provided the source is acknowledged.

Legal assistance and representation in detention	Federal Agency for Reception and Support Services | Bundesagentur für Betreuungs- und Unterstützungsleistungen (BBU GmbH)	
Review of detention	The Federal Office for Immigration and Asylum | Bundesamt für Fremdenwesen und Asyl (BFA)	

The Federal Office for Immigration and Asylum | Bundesamt für Fremdenwesen und Asyl (BFA) may order an applicant's detention pending a removal when it is necessary to maintain public order or security, there is a risk of absconding and the detention is proportionate, or for the purposes of carrying out a Dublin transfer, when the criteria under Article 28 (1) and (2) of the Dublin III Regulation are met. The BFA has to review the proportionality of detention every 4 weeks.

Grounds for detention during the asylum procedure

Grounds for detention in national law

Detention in the context of identification or verification of identity

Following the judgment (Ro 2017/21/0009) of the Supreme Administrative Court (VwGH), the Aliens Law Amendment Act 2018 (FrÄG 2018) brought the relevant article of the Aliens Police Act (FPG) in line with the recast Reception Conditions Directive.

Article 76(2) of the Aliens Police Act lists the grounds for detention:

- When it is necessary to ensure a return procedure and the stay of the person endangers the public order or security and there is a risk of absconding and the detention is proportionate;
- When it is necessary to ensure a return procedure and there is a risk of absconding and the detention is proportionate;
- When the criteria under Article 28 (1) and (2) of the Dublin III Regulation are met.

© European Union Agency for Asylum, 2026. Reproduction is authorised, provided the source is acknowledged.

A person who applies for international protection from detention may be kept in detention if there is reason to suspect that the application was made in order to delay the enforcement of a measure terminating the person's residence (Article 76(6) Aliens Police Act, FPG).

Detention to determine elements on which the application for international protection is based, in particular where there is a risk of absconding

Article 76(3) of the Aliens Police Act details the circumstances to conclude that a person may evade a removal procedure or render deportation considerably more difficult (both for applicants in the Dublin procedure and failed applicants).

The circumstances include:

1) the person has not complied with the obligation to obtain a travel document for the removal;

2) the person avoids or hampers a deportation order;

3) the person has violated a re-entry ban;

4) an expulsion order has already been made or the person has withdrawn from the asylum procedure or a procedure to issue a measure terminating a legal stay;

5) the *de facto* protection against deportation has been lifted in the case of a subsequent asylum application;

6) the person has already been issued a measure ending the legal stay, in particular when they are in pre-removal detention at the time that the asylum application was lodged;

7) another country is responsible for the asylum procedure under the Dublin III Regulation, in particular when the person has lodged multiple applications, made false statements, tried to move to another country or it is probable that they will try to do so;

8) the person fails to fulfil the conditions relating to alternatives to detention;

9) the person does not cooperate or comply with reporting duties;

10) whether there is a sufficient link with Austria such as family relations, legal employment, sufficient resources or a place of residence.

© European Union Agency for Asylum, 2026. Reproduction is authorised, provided the source is acknowledged.

These criteria are non-exhaustive and the Aliens Police Act does not refer to a serious risk of absconding in line with Article 28(2) of the Dublin III Regulation.

Detention in the context of a procedure to decide on the applicant's right to enter the territory

The Asylum Act provides for detention at the border (*Sicherung der Zurückweisung*). Under Article 32(1) of the Asylum Act, a non-citizen who has been transferred to an initial reception centre at the airport may be required to remain at a specific place in the border control area or in the area of the initial reception centre for as long as the entry is not permitted. They are entitled to leave Austria at any time.

Detention in the context of a return procedure

The Federal Office for Immigration and Asylum (BFA) issues the detention order.

Article 76(2) of the Aliens Police Act lists the grounds for detention:

- When it is necessary to ensure a return procedure and the stay of the person endangers the public order or security and there is a risk of absconding and the detention is proportionate;
- When it is necessary for ensuring a return procedure and there is a risk of absconding and the detention is proportionate;
- When the criteria under Article 28(1) and (2) of the Dublin III Regulation are met.

Detention in the context of national security and public order

The Federal Office for Immigration and Asylum (BFA) issues the detention order.

Article 76(2) of the Aliens Police Act lists the grounds for detention:

- When it is necessary to ensure a return procedure and the stay of the person endangers the public order or security and there is a risk of absconding and the detention is proportionate;

Detention for the purpose of a Dublin transfer

The Federal Office for Immigration and Asylum (BFA) issues the detention order, which is possible when the detention is proportionate or to carry out a Dublin transfer when the criteria under Article 28(1) and (2) of the Dublin III Regulation are met (Article 76 (2) Aliens Police Act).

© European Union Agency for Asylum, 2026. Reproduction is authorised, provided the source is acknowledged.

Article 76(2) of the Aliens Police Act lists as grounds for detention:

- When the criteria under Article 28(1) and (2) of the Dublin III Regulation are met.

Less coercive measures (alternatives to detention)

The Aliens Police Act (FPG) refers to the principles of necessity (Article 76).

Alternative measures must be applied in all cases, not only if a particular ground for detention exists, if the authorities have good reasons to believe that the object and purpose of detention (i.e. a removal) could be reached by the application of such measures. Article 77(3) of the Aliens Police Act provides three alternatives to detention:

- reporting obligations;
- the obligation to take up residence in a certain place of accommodation; and
- the deposit of a financial guarantee.

Application for international protection and processing while in detention/impact on the asylum procedure

A person who applies for international protection from detention may be kept in detention if there is reason to suspect that the application was made in order to delay the enforcement of a measure terminating the person's residence (Article 76(6) Aliens Police Act, FPG)

The Federal Agency For Reception and Support Services (BBU) appoints a legal adviser.

The Federal Office for Immigration and Asylum (BFA) must review the lawfulness of detention every 4 weeks.

Procedural safeguards

Access to information and interpretation

The Federal Office for Immigration and Asylum (BFA) issues the detention order.

© European Union Agency for Asylum, 2026. Reproduction is authorised, provided the source is acknowledged.

Third-country nationals in detention are informed about the reasons for their detention and the procedures for challenging the detention order as part of the formal decision issued by the authorities. The reasons for detention are clearly outlined in the formal decision, which also includes information on legal remedies available. This decision is accompanied by an information leaflet, which explains the detention procedure and provides guidance on how to seek legal advice.

The Police inform applicants about the rules and regulations that apply within the detention facility, as well as their rights and obligations.

Legal assistance and representation

The Federal Agency For Reception and Support Services (BBU) appoints a legal adviser. Applicants in detention have access to legal aid. The detainee has the right to call a lawyer, who can visit their clients during working hours in a special visitor room. UNHCR representatives have access without restrictions.

NGOs representatives need prior authorisation to act as detainees' legal representatives, during office hours.

Length of detention

The Aliens Police Act explicitly provides that the Federal Office for Migration is required to ensure that detention is as short as possible (Article 80(1)) and contains detailed rules on the maximum duration of detention. Detention cannot exceed 6 months for adults and 3 months for minors over the age of 14, subject to exceptional extensions of up to 18 months.

Judicial review of detention

An appeal can be submitted to the Federal Administrative Court (BVwG).

After 4 months, the Federal Administrative Court (BVwG) must review the lawfulness of detention *ex officio*.

Specific conditions relating to detention

Conditions of detention

© European Union Agency for Asylum, 2026. Reproduction is authorised, provided the source is acknowledged.

Information currently not available

Detention of applicants with special needs

Legislative overview

Aliens Police Act | Fremdenpolizeigesetz: Bundesgesetz über die Ausübung der Fremdenpolizei, die Ausstellung von Dokumenten für Fremde und die Erteilung von Einreisetitel, StF: BGBl. I Nr. 100/2005.

© European Union Agency for Asylum, 2026. Reproduction is authorised, provided the source is acknowledged.