# Detention - Switzerland

## Overview

Content updated on: 18/06/2025

### Relevant EU legislation

Switzerland is not bound by the recast Reception Conditions Directive, however it is bound by the Dublin II Regulation (2013) and the Returns Directive (2008) and has national legislation in place to regulate the use of detention.

### National legislation

Asylum Act | Loi sur l'asile

Federal Act on Foreign Nationals and Integration | Loi fédérale sur les étrangers et l'intégration, as amended by Annex No 1 of the Federal Act of 25 September 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991)

Immigration detention in Switzerland is applied for the purpose of removal and no general detention of asylum seekers is foreseen.

### Competent authority and stakeholders

| Area | National authority/ stakeholder | Assistance to competent authority |
|---|---|---|

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| **Detention decision** | Following a legislative amendment entered into force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991), the competent authorities for ordering detention are the authorities of the canton responsible for enforcing the removal or expulsion order (see art. 80 par.1-3). In the case of persons staying in federal centres, the canton where the centre is located is responsible for ordering detention in preparation for departures.<br><br>Cantons \| Kantone \| Cantons \| Cantoni | |
| **Administration and management of detention facilities** | Information currently not available | |
| **Information provision in detention** | Information currently not available | |
| **Interpretation services in detention** | Information currently not available | |
| **Access to the procedure and provision of asylum information in detention** | Information currently not available | |

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|---|---|---|
| **Detention for the Dublin procedure** | Information currently not available | |
| **Processing of asylum applications of applicants who are in detention** | Information currently not available | |
| **Legal assistance and representation in detention** | Information currently not available | |
| **Review of detention** | Information currently not available | |

# Grounds for detention during the asylum procedure

## Grounds for detention in national law

### Detention in the context of identification or verification of identity

Asylum seekers may be temporarily detained for identification purposes or for the purpose of issuing a decision in connection with the applicant's residence status may be ordered according to Article 73 of the Federal Act on Foreign Nationals and Integration for a maximum of 3 days.

**Detention in preparation for departure** (Article 75 of the Federal Act on Foreign Nationals and Integration): the competent cantonal authority may detain a person who does not hold a short stay, residence or permanent residence permit, during the preparation of the decision on residence status for a maximum of 6 months if they, inter alia:

- Refuse to disclose his or her identity, lodges several applications for asylum using various identities or repeatedly fails to comply with a summons without sufficient reason or ignores other instructions issued by the

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authorities in the asylum procedure.

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

The competent cantonal authority may detain a person who does not hold a short stay, residence or permanent residence permit, during the preparation of the decision on residence status for a maximum of 6 months if they, inter alia:

- Leaves an area allocated to them in accordance with a restriction or exclusion order or enters an area he or she was prohibited from entering;
- Asylum seekers may be detained in airport transit zone of the Geneva and Zurich airports when their application is being examined in accelerated procedures (art. 22 Asylum Act).
- Detention in the context of a procedure to decide on the applicant's right to enter the territory

The competent cantonal authority may detain a person who does not hold a short stay, residence or permanent residence permit, during the preparation of the decision on residence status for a maximum of 6 months if hey, inter alia:

- Enter Swiss territory despite a ban on entry and cannot be immediately removed.

**Detention in the context of a return procedure**

The competent cantonal authority may detain a person who does not hold a short stay, residence or permanent residence permit, during the preparation of the decision on residence status for a maximum of 6 months if s/he, inter alia:

- Enters Swiss territory despite a ban on entry and cannot be immediately removed;
- Lodges an application for asylum after an expulsion ordered by the Federal Office for Police to protect internal or external national security;
- Stays unlawfully in Switzerland and lodges an application for asylum with the obvious intention of avoiding the imminent enforcement of a removal or expulsion order. Such an intention shall be suspected if it were possible and reasonable to file the asylum application earlier and if the application is submitted in close chronological relation to detention, criminal proceedings, the implementation of a penalty or the issue of a removal order;

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Third country nationals can also be detained pending deportation (Art. 76 of the Federal Act on Foreign Nationals and Integration): Third Country Nationals who have received an expulsion or removal order from the competent cantonal authorities, can be issued a so-called detention pending deportation ("*Ausschaffungshaft*") to ensure the enforcement of the decision.

Article 77 of the Federal Act on Foreign Nationals and Integration permits detention pending deportation due to a lack of cooperation in obtaining travel documents.

Article 78 of the Federal Act on Foreign Nationals and Integration may be ordered when a valid removal or expulsion decision cannot be carried out because the foreign national's personal conduct prevents its enforcement.

**Detention in the context of national security and public order**

The competent cantonal authority may detain a person who does not hold a short stay, residence or permanent residence permit, during the preparation of the decision on residence status for a maximum of 6 months if they, inter alia:

- Seriously threatens other persons or considerably endangers the life and limb of other persons and is therefore being prosecuted or has been convicted;
- Has been convicted of a crime.

**Detention for the purpose of a Dublin transfer**

According to Article 76a of the Federal Act on Foreign Nationals and Integration , an applicant in the Dublin procedure can be detained if: (a) there are specific indications that the person intends to evade removal; (b) detention is proportionate; and (c) less coercive alternative measures cannot be applied effectively. De facto practices vary across cantons. The specific indications that lead to the assumption that the person intends to evade removal are defined as follows:

- The person concerned disregards official orders in the asylum or removal proceedings, in particular by refusing to disclose their identity, thus failing to comply with his or her duty to cooperate or by repeatedly failing to comply with a summons without sufficient excuse.
- Their conduct in Switzerland or abroad leads to the conclusion that he or she wishes to defy official orders.
- They submit two or more asylum applications under different identities.

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- They leave the area that he or she is allocated to or enter an area from which he or she is excluded.
- They enter Swiss territory despite a ban on entry and cannot be removed immediately.
- They stay unlawfully in Switzerland and submits an application for asylum with the obvious intention of avoiding the imminent enforcement of removal.
- They seriously threaten other persons or considerably endangers the life and limb of other persons and is therefore being prosecuted or have been convicted.
- They have been convicted of a crime.
- They deny to the competent authority that he or she holds or has held a residence document and/or a visa in a Dublin State or has submitted an asylum application there.

If the person resists boarding a means of transport for the conduct of a Dublin transfer, or prevents the transfer in another way by his or her personal conduct.

### Less coercive measures (alternatives to detention)

Restricted or coercive measures (including detention) are regulated by Section 5 of the Federal Act on Foreign Nationals and Integration.

According to Art. 74 of the Federal Act on Foreign Nationals and Integration, which regulates alternative measures to detention, applicants may be subjected to:

- interdiction the leave a defined area/canton,
- interdiction to be present in a certain area/city/canton, or
- the obligation to present him/herself regularly at the office of the migration authority.

Conditions relating to alternatives to detention are within the competence and responsibility of the cantons, and the federal authorities are not involved.

**Regular reporting to the authorities:**

According to Article 64e of the Federal Act on Foreign Nationals and Integration, the competent authority may require a person to regularly report to an authority.

**Deposit of a financial guarantee:**

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According to Article 64e of the Federal Act on Foreign Nationals and Integration, the competent authority may require a person to provide appropriate financial security or to hand in travel documents.

**Obligation to stay at an assigned place:**

The cantonal authority may also order the applicant to stay in a specific accommodation and not leave a specified region. According to Article 74 of the Federal Act on Foreign Nationals and Integration, the competent cantonal authority may require a person not to leave the area they were allocated or not to enter a specific area (restriction and exclusion orders).

**Seizure of money for travel documents and tickets:**

According to Article 64e of the Federal Act on Foreign Nationals and Integration, the competent authority may require a person to provide appropriate financial security or to hand in travel documents.

**Entrusting the guardianship of an unaccompanied minor to a relevant social agency:** information currently not available.

**Alternative facilities:**

The Cantons have the possibility to accommodate the concerned persons in the ordinary reception centres.

**Other:**

Monetary incentives in the form of assisted voluntary return (AVR) or “departure money” and also a possibility for third country nationals.

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

Information is currently not available.

## Procedural safeguards

### Access to information and interpretation

Information is not currently available.

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### Legal assistance and representation

According to Article 81 of the Federal Act on Foreign Nationals and Integration, detained persons have the right to communicate with their legal representative both orally and in writing.

### Length of detention

According to Article 79 of the Federal Act on Foreign Nationals and Integration, detention in the preparatory phase, detention with a view to return or expulsion, and the detention on the grounds of non-cooperation/insubordination should not exceed 6 months in total. However, such an extension may not exceed a total of twelve months where:

- the individual fails to cooperate with the competent authority; or
- the issuing of the documents required for departure by a non-Schengen State is delayed.

### Judicial review of detention

Appeals against detention orders must first be challenged at cantonal level before being brought in front of the Federal Administrative Court, following the recent amendment in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991) on responsible authorities to order detention as follows:

- At Federal level: in the case of persons accommodated in a federal centre: the canton responsible for enforcing removal under Article 46 paragraph 1bis third sentence Asylum Act, and in other cases the canton in which the federal centre is located (art. 80 par.1 let a).
- At Cantonal level: in the case of persons that have been allocated to a canton or resident in a canton who have not submitted an asylum application (Art. 64a): the canton concerned is responsible to order detention. In these cases, the cantonal authorities are responsible for ordering detention, and the cantonal courts and the Federal Supreme Court are the appeal instances.

Preparatory detention or detention pending deportation: review of administrative detention (except Dublin detention) is regulated in Article 80 of the Federal Act

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on Foreign Nationals and Integration. Article 80(2) of the Federal Act on Foreign Nationals and Integration provides that the legality and appropriateness of detention must be reviewed at the latest within 96 hours by a judicial authority on the basis of an oral hearing. If detention has been ordered in accordance with Article 77, the detention review shall be carried out in writing.

According to Article 80(4) of the Federal Act on Foreign Nationals and Integration, when reviewing the decision to issue, extend or revoke a detention order, the judicial authority shall also take account of the detainee's family circumstances and the circumstances behind the enforcement of detention. The detainee may submit a request for release from detention 1 month after the detention review. The judicial authority must issue a decision on the request on the basis of an oral hearing within 8 working days. A further request for release in the case of preparatory detention may be submitted after 1 month or in the case of detention pending removal after 2 months.

Detention pending transfer (Dublin): review of Dublin detention is regulated in Article 80a Fof the Federal Act on Foreign Nationals and Integration. In case of detention of persons in a Dublin procedure, the legality and the appropriateness of detention shall be revised by a judicial authority in a written procedure at the request of the detainee (not automatically, no oral hearing). This review may be requested at any time. According to a ruling of the Federal Court of 2 May 2016, the review should in principle be conducted within 96 hours after the request.

# Specific conditions relating to detention

## Conditions of detention

### Specialised detention facilities

Information is currently not available.

### Access to open-air space

Access is dependent on the rules that apply in the detention centre ("Hausordnung") and may vary significantly; at least one hour a day.

### Visitors/access to external communications – including the role of UNHCR, access to facilities of UNHCR and legal counsellors

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Access is dependent on the rules that apply in the detention centre (“Hausordnung”) and may vary significantly.

- Lawyers and UNHCR: anytime.
- Family members: during visiting hours.
- NGOs: prior authorisation

**Access to legal assistance**

Access to free legal advice and assistance is not necessarily free of charge. The right to free legal assistance is regulated by cantonal procedural law. As a minimal constitutional guarantee, the Swiss Federal Court has ruled that free legal representation must be granted upon request in the procedure of prolonging detention after 3 months. Regarding the first review by a judge, free legal representation must only be granted if it is deemed necessary because the case presents particular legal or factual difficulties.

**Privacy and confidentiality**

Information is currently not available.

**Access to education (school for minors, language courses, etc.)**

Minors in detention have, depending on the length of their stay, access to education. Language courses or other integration measures are not provided.

**Opportunity to leave the detention facility**

Dependent on the rules that apply in the detention centre (“Hausordnung”) and may vary significantly.

**Freedom of movement within the detention centre**

Information is currently not available.

**Language support (translation and interpretation services)**

OSAR has drafted a basic form in three languages with which to ask for a review of the Dublin detention.

**Recreational activities, leisure time**

Information is currently not available.

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### Medical care, psychological assistance

Access to health care is guaranteed.

### Other relevant aspects

Information is currently not available.

## Detention of applicants with special needs

### Legislative overview

The Reception Conditions Directive 2024/1346, Article 13 provides the requirements for the detention of applicants with special reception needs. The new provision adds the following safeguards:

- No detention of applicants with special reception needs whose physical and mental health would be put at serious risk.
- No detention of minors, unless there are exceptional circumstances and after an assessment of alternative of detention and the best interests of the child.
- Right to access education for minors while in detention.
- Detained families must be kept together and in a separate accommodation to ensure adequate privacy.

Swiss law contains rules for different groups of persons having special needs.

- Article 81(3) of the Federal Act on Foreign Nationals and Integration requires taking into account the specific needs of vulnerable groups in the detention arrangements, notably the needs of vulnerable persons, unaccompanied children, and families with children. In these cases the detention arrangements are otherwise governed by Article 16 paragraph 3 and Article 17 of the EU Return Directive (2008/115/EC). In case of families, the authorities mostly detain only the father, while the mother and children can stay in the reception centre. However, in some (rare) cases it can also happen that a single parent (or both parents) are detained, while the children are placed in foster care or a home. In the small number of cases, where a mother of a baby is detained for a very short period, the baby is usually placed in detention with her.
- According to Article 80(4) of the Federal Act on Foreign Nationals and Integration,, in no event may any detention order be issued in respect of

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children under 15 years old.

- According to Article 80(4) of the Federal Act on Foreign Nationals and Integration, in no event may any detention order be issued in respect of children, including UAMs, under 15 years old (in 2016 there have been 40 detained minors between 15 and 18 years in Switzerland).

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