Detention - Malta

Overview

Content updated on: 2/06/2025

Relevant EU legislation

Malta 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 International Protection Act, Chapter 420 of the Laws of Malta, the Reception of Asylum Seekers Regulations S.L. 420.06, and the Procedural Standards for Granting and Withdrawing International Protection Regulations, S.L. 420.07.

National legislation

- International Protection Act, Chapter 420 of the Laws of Malta
- Reception of Asylum Seekers Regulations S.L. 420.06
- Procedural Standards for Granting and Withdrawing International Protection Regulations, S.L. 420.07.

Competent authority and stakeholders

Area	National authority/ stakeholder	Assistance to competent authority
Detention decision	Principal Immigration Officer (PIO), Police Immigration Section	Not applicable
Administration and management of detention facilities	Detention Services Agency	Not applicable

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

Area	National authority/ stakeholder	Assistance to competent authority
Information provision in detention	Principal Immigration Officer (PIO), Police Immigration Section Agency for the Welfare of Asylum Seekers	Not applicable
Interpretation services in detention	Ministry for Home Affairs, Security and Employment	EUAA (within the context of the asylum procedure)
Access to the procedure and provision of asylum information in detention	International Protection Agency Agency for the Welfare of Asylum Seekers	Not applicable
Detention for the Dublin procedure	Principal Immigration Officer (PIO), Police Immigration Section	Not applicable
Processing of asylum applications of applicants who are in detention	International Protection Agency	Not applicable
Legal assistance and representation in detention	Ministry for Home Affairs, Security and Employment	Not applicable
Review of detention	Immigration Appeals Board	Not applicable

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

All persons who arrive by boat in an irregular manner are initially detained on the basis of a medical order issued by the Superintendent of Public Health, based on Article 3 of the Order for Restriction of Movement (Public Health) Regulations (2025), which states that where the Superintendent has reason to suspect that a person may spread disease he may, by order, restrict the movements of such person for a period not exceeding 4 weeks. This period may be extended by 4 weeks, up to a maximum of 12 weeks, for any diagnostic tests which may be necessary. Furthermore, according to Article 8, any person who acts in contravention of the provisions of this regulation shall be liable to legal proceedings.

When the medical order ceases to be applicable and the person is medically cleared by the Superintendent of Public Health (usually within a few days), a detention order is issued by the Principal Immigration Officer on one or more grounds specified in Article 6 of S.L. 420.06. Article 6(9) of S.L. 420.06 states that an applicant must not be detained for the sole reason of being an applicant for international protection.

Grounds for detention during the asylum procedure

Grounds for detention in national law

Detention in the context of identification or verification of identity

Article 6(1)(a) of S.L. 420.06 states that without prejudice to any other law, the Principal Immigration Officer may, when it proves necessary and if other less coercive measures cannot be applied effectively, order the detention of an applicant pursuant to an individual assessment of the case. One of the grounds is in order to determine or verify the applicant's identity or nationality.

This ground for detention is usually applied to asylum seekers who arrive by boat in an irregular manner.

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

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

Article 6(1)(b) of S.L. 420.06 states that without prejudice to any other law, the Principal Immigration Officer may, when it proves necessary and if other less coercive measures cannot be applied effectively, order the detention of an applicant pursuant to an individual assessment of the case. One of the grounds is to determine the elements on which the application is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding on the part of the applicant.

This ground for detention is usually applied to asylum seekers who arrive by boat in an irregular manner and those present on the territory in an irregular manner.

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

Article 6(1)(c) of S.L. 420.06 states that without prejudice to any other law, the Principal Immigration Officer may, when it proves necessary and if other less coercive measures cannot be applied effectively, order the detention of an applicant pursuant to an individual assessment of the case. One of the grounds is to decide, in the context of a procedure in the Immigration Act, on the applicant's rights to enter the territory.

Detention in the context of a return procedure

Article 6(1)(d) of S.L. 420.06 states that without prejudice to any other law, the Principal Immigration Officer may, when it proves necessary and if other less coercive measures cannot be applied effectively, order the detention of an applicant pursuant to an individual assessment of the case. One of the grounds is when the applicant is detained prior to a return procedure under the Common Standards and Procedures for Returning Illegally Staying Third-Country Nationals Regulations, in order to prepare the return or carry out the removal process, and the Principal Immigration Officer can substantiate, on the basis of objective criteria, including that the applicant already had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that the applicant is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision.

Detention in the context of national security and public order

Article 6(1)(e) of S.L. 420.06 states that without prejudice to any other law, the Principal Immigration Officer may, when it proves necessary and if other less coercive measures cannot be applied effectively, order the detention of an

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

applicant pursuant to an individual assessment of the case. One of the grounds is when the protection of national security or public order so require.

Detention for the purpose of a Dublin transfer

Article 6(1)(f) of S.L. 420.06 states that without prejudice to any other law, the Principal Immigration Officer may, when it proves necessary and if other less coercive measures cannot be applied effectively, order the detention of an applicant pursuant to an individual assessment of the case. One of the grounds is in accordance with Article 28 of the Dublin III Regulation, provided that administrative procedures relevant to the grounds for detention set out in the law are executed with due diligence. Delays in administrative procedures that cannot be attributed to the applicant do not justify a continuation of detention.

Less coercive measures (alternatives to detention)

Article 6(1) of S.L. 420. 06 states that the Principal Immigration Officer may, when it proves necessary and if other less coercive measures cannot be applied effectively, order detention for one or more reasons listed in law. National legislation does not specifically detail the types of less coercive measures to be applied.

Article 6(8) of S.L. 420.06 states that when the PIO does not order the detention of an applicant on the applicable grounds (Article (6(1)), the PIO may require the applicant to:

- Report at a police station within specified timeframes;
- Reside at an assigned place, and the PIO has the possibility to grant temporary permission to leave. The PIO takes the decisions individually, objectively and impartially and gives reasons if the decision is negative. In this context, the applicant does not require permission to keep appointments with the authorities and courts if his/her appearance is necessary. When the applicant is not required to reside at an assigned place, he/she is required to notify any change of address to the PIO within 24 hours;
- Deposit or surrender documents;
- Place a one-time guarantee or surety with the PIO.

Less coercive measures have a maximum duration of 9 months. If the applicant does not comply with conditions, the PIO may order the applicant to be detained

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

in accordance with the law.

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

According to Article 4 of S.L. 420.06, the Principal Immigration Officer (PIO) must take the necessary steps, within a reasonable time and not exceeding 15 days from the lodging of an application, to inform the asylum seeker about rights and obligations related to reception conditions. In this respect, the PIO must ensure that an applicant is provided with information on organisations or groups that provide specific legal assistance and organisations that can help or inform about reception conditions, including healthcare.

The PIO must also ensure that the information provided is in writing and, as far as possible, in a language that the applicant may reasonably be presumed to understand. When appropriate, this information may also be provided verbally.

The application for international protection is processed by the International Protection Agency, and applicants in detention are notified of the first instance decision in writing as per the usual procedure.

Detention is not automatically terminated once a person applies for international protection. Detention may continue on the basis of one or more grounds of detention.

Procedural safeguards

Access to information and interpretation

According to Article 6(2) of S.L. 420.07, a detention order issued by the Principal Immigration Officer in writing, in a language which the applicant is reasonably presumed to understand, must state the reason or reasons on which it is based. When the PIO issues a detention order, the PIO must inform the applicant about procedures to challenge detention and obtain free legal assistance and representation.

Legal assistance and representation

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

Article 6(5) of S.L. 420.06 states that an applicant is provided with free legal assistance and representation during the review of the lawfulness of the detention. Free legal assistance and representation entails preparing procedural documents and participating in hearings before the Immigration Appeals Board, which is responsible for reviewing the lawfulness of the applicant's detention. In connection to this, Article 6A(5) of S.L. 420.06 states that legal advisers, counsellors, representatives of non-governmental organisations and family members of detainees are given the possibility to communicate with and visit applicants in detention under conditions that may be laid down in legislation regulating detention facilities.

Lawyers are contracted by the Ministry for Home Affairs, Security and Employment to provide legal advice to applicants in detention during the review of their detention before the Immigration Appeals Board. Specifically, they are required to:

- Provide, in terms of the Reception of Asylum Seekers Regulations (Subsidiary Legislation 420.06), legal assistance and representation entailing preparation of procedural documents and participation in hearings before the Immigration Appeals Board.
- Examine the grounds of appeal and present, in writing, the appellant's case before the Immigration Appeals Board.
- Attend, if required, sessions of the Immigration Appeals Board to explain case submissions and provide other general assistance to appellants during their appeal.
- Carry out administrative work related to the preparation and presentation of the cases as well as in relation to the overall management of the caseload assigned by ministry.
- Report on the outcomes of interviews held with appellants and bring to the ministry's attention any pertinent matters which may arise.

The appointment of legal aid and the first hearing are carried out within 7 days of the issuance of a detention order.

Free legal assistance to challenge the lawfulness of detention is also offered by two civil society organisations: Aditus and Jesuit Refugee Service Malta. Both organisations have their own internal criteria for accepting cases for legal representation. Lawyers from civil society organisations are only permitted to access detention facilities if they want to visit a specific applicant. This requires that they request permission to the Detention Service Agency in order to visit an

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

applicant they identify by immigration number or name. They are not permitted to visit entire groups, for example after a group of persons arrive by boat and are subsequently issued with detention orders.

Applicants may also engage a private lawyer at their own cost or pro bono.

Length of detention

Article 6(7) of S.L. 420.07 states that any person detained in accordance with the regulations shall, on the lapse of 9 months, be released from detention if they are still an applicant.

Judicial review of detention

Article 6(3) of S.L. 420.06 states that the Immigration Appeals Board (IAB) shall, with due regard to Article 25A(1) of the Immigration Act (regulating proceedings of the IAB), review the lawfulness of detention after a period of 7 working days, which may be extended by another 7 working days by the Board for duly justified reasons.

If an applicant is still detained, a review of the lawfulness of the detention must be held after periods of 2 months thereafter. When the IAB rules that detention is unlawful, the applicant must be released immediately (Article 6(4) S.L. 420.06).

It is possible to challenge the lawfulness of detention by filing an emergency *habeas corpus* application before the Court of Magistrates, according to Article 409A of the Criminal Code, Chapter 9 of the Laws of Malta. A person who alleges that they are unlawfully detained under the authority of the police or other public authority not in connection with an offence may apply to the Court of Magistrates to request release from custody. Civil society organisations have made use of this procedure in a number of cases which has resulted in the court ordering the release.

The detention of an applicant pending an asylum appeal procedure may continue after the rejection of the application for international protection. In such circumstances, the continued detention needs to be authorised by a detention order based on one or more relevant grounds as per applicable laws.

Specific conditions relating to detention

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

Conditions of detention

Detention conditions are regulated by the Detention Service Regulations S.L. 217.19 enacted under the Immigration Act, Chapter 217 of the Laws of Malta.

Specialised detention facilities: In Safi Barracks there is a child-friendly section where minors can be accommodated. Detained females must be provided with sleeping accommodation which is separate from male detainees (Article 17 S.L. 217.19). Detained family members are entitled to have family life at the detention centre except when contrary to security and safety. (Article 18(1) S.L. 217.19). The protection, safety and well-being of detained persons must be ensured (Article 18(2) S.L. 217.19).

Access to open-air space: Article 25 of S.L. 217.19 states that a detained person must be given the opportunity to spend at least 1 hour in the open air every day. However, time in the open air may be refused in exceptional circumstances for safety and security.

Visitors/access to external communications – including the role of UNHCR, access to facilities of UNHCR and legal counsellors: Generally, a person must have authorisation by the Head Detention Services or the Principal Immigration Officer acting on the advice of the Minister responsible for immigrations to have access to a detention centre (Article 49(1) S.L. 217.19).

Detained persons are entitled to visits from, or communications with, authorised persons and representatives of non-governmental organisations, except when security and safety are at risk (Article 30 S.L. 217.19). In the interests of security and safety, every visit to a detained person takes place in accordance with the directions of the officer in charge or the Head of Detention Services. Photographs cannot be taken at the detention centre unless permission has been granted by the Head of Detention Services (Article 32 of S.L. 217.19).

Access to legal assistance: The legal adviser or representative of a detained person in any legal proceedings must be afforded reasonable facilities to interview the applicant in confidence, but the interview must be in front of an officer (Article 34 S.L. 217.19). Article 49(2) of S.L. 217.19 states that representatives of international organisations and non-governmental organisations must have access to a detained person after obtaining authorisation by the Head of Detention Services or the Principal Immigration Officer acting on the advice of the minister responsible for immigration.

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

Article 6(5) of S.L. 420.06 states that an applicant must be provided with free legal assistance and representation during the review of the lawfulness of the detention. Free legal assistance to challenge the lawfulness of detention is also offered by two civil society organisations: Aditus and Jesuit Refugee Service Malta . Both organisations have their own internal criteria for accepting cases for legal representation. Lawyers from civil society organisations are only permitted to access detention facilities if they want to visit a specific applicant. This requires that they request specific permission to the Detention Service Agency in order to visit an applicant they identify by immigration number or name. They are not permitted to visit entire groups, for example after a group of persons arrive by boat and are subsequently issued with detention orders.

In terms of Article 35 of S.L. 217.19 all detained person shall have access to public telephones at the detention centre. The Head of Detention Services may bear the expense of any telephone calls, within reasonable limits, by providing phone cards to all detained persons.

Medical care, psychological assistance: Every detention centre must have reasonable access to a medical officer (Article 37(1) S.L. 217.19). The medical officer must pay special attention to recognise medical conditions which may be found among a diverse population and have cultural sensitivity when performing the duties. (Article 37(2) S.L. 217.19). Every request by a detained person to see the medical officer must be recorded by the officer to whom it is made and provided to the medical officer or nursing staff responsible for the detention centre (Article 37(3) S.L. 217.19). The medical officer must ensure that all medical records relating to a detained person are forwarded as appropriate following a transfer to another detention centre. Immediately prior to discharge from the detention centre, the department responsible for health must inform the Principal Immigration Office about the detained person’s medical clearance.

Article 16 of S.L. 217.19 states that the Head of Detention Services must provide a detained person enquiring about the case with an update on the progress of any relevant matter, such as:

- claim for asylum in terms of the International Protection Act;
- an application for, or for the variation of, leave to enter or remain in Malta in terms of the Immigration Act;
- the proposed removal or deportation from Malta in terms of the Immigration Act;
- an application to the International Protection Appeals Tribunal in terms of the International Protection Act;

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

- an application to the Immigration Appeals Board in terms of the Immigration Act;
- an appeal against or an application for a judicial review of any decision taken in connection with any of the above applications.

Detention of applicants with special needs

Legislative overview

Article 6B(1) of S.L. 420.06 states that when vulnerable persons are detained, the competent authority must ensure regular monitoring and adequate support which takes into account their particular situation, including health. In practice, those who are deemed to be vulnerable after an assessment by the Agency for the Welfare of Asylum Seekers (AWAS) are released from detention, however this process may take time and is not automatic.

Minors are detained only as a measure of last resort and after it has been established that other less coercive alternative measures cannot be applied effectively. Their detention must be for the shortest period of time and all efforts should be made to release detained minors and place them in accommodation which is suitable for minors. The minor's best interests must be the primary consideration. When minors are detained, they must have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age (Article 6B(2) S.L. 420.06).

Unaccompanied minors are detained only in exceptional circumstances, and all efforts must be made to release a detained unaccompanied minor as soon as possible. Unaccompanied minors must never be detained in restrictive accommodation, and as far as possible, unaccompanied minors should be provided with accommodation in institutions provided with personnel and facilities which take into account their age. When unaccompanied minors are detained, the competent authority must ensure that the minor is accommodated separately from adults (Article 6B(3) S.L. 420.06).

Detained families must be provided with separate accommodation guaranteeing adequate privacy (Article 6B(4) S.L. 420.06).

When female applicants are detained, they must be accommodated separately from male applicants, unless they are family members and all persons consent to the arrangement (Article 6B(5) S.L. 420.06).

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