1. *Please provide information on any legislation or policy that prohibits or restricts the use of immigration detention of children and their families in your country. Grateful if you could kindly submit the original text of the legislation or policy, accompanied by an English translation if it is in a language other than English, French or Spanish.*

Pursuant to Article 56 (2) of Act II of 2007 on the Entry and Stay of Third Country Nationals, the pre-removal or alien policing detention of a third-country national who is a minor may not be ordered. In accordance to Article (3), families with minors shall only be detained as a measure of last resort and for not more than thirty days where the best interests of the child shall be a primary consideration, if the immigration authority is of the opinion that the objective of detention cannot be ensured by the confiscation of travel document or the ordering of a designated place to stay.

Article 31/B (2) of Act LXXX of 2007 on Asylum also emphasizes that asylum detention may not be ordered in the case of an unaccompanied minor seeking recognition.

According to Article 31/B (3) of Act LXXX of 2007 on Asylum, families with minors may only be placed in asylum detention as a measure of last resort, and taking the best interests of the child into account as a primary consideration. In line with Article 31/A (7), asylum detention shall last no longer than six months or, in the case of a family with a minor, for no more than thirty days.

1. *Please provide information on existing non-custodial alternatives to immigration detention of children in your country (e.g. community-based reception solutions) and elaborate how these alternatives effectively enhance the protection of the rights of migrant children and their families.*

Alternatives to asylum detention may include accommodation in the transit zone, a reception center, a community accommodation, private accommodation and, in the case of unaccompanied minors, accommodation in a child protection institute.

According to Article 31/A (2) of Act LXXX of 2007 on Asylum, measures securing availability constitute alternatives to asylum detention as reported in Article 2(1), which, however, cannot be interpreted or applied in the case of minors.

A special case is the a crisis situation caused by mass immigration, where Article 80/J (1) of Act LXXX on Asylum - with the exceptions set out therein - an application for asylum can only be submitted in person to the refugee authority, exclusively in the transit zone. During the asylum procedure, the person seeking recognition is obliged to stay in the transit zone, except for an unaccompanied minor under the age of 14. However, it is important to note that the person seeking recognition can leave the territory of the transit zone at any time via the exit gate.

During the alien policing procedure, pursuant to Article 62 of Act I of 2007 on the Entry and Stay of Third Country Nationals, designated place of residence may be ordered as an alternative solution. The designated place of residence shall be designated at a reception center or community accommodation, if the third-country national is unable to support himself, and has no adequate place of abode, financial resources, income, or host or relative who can be compelled to provide support. Pursuant to Article 130 of the Government Decree 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Entry and Stay of Third-Country Nationals, the designated place of residence can be ordered at the accommodation provided by charity organizations, at the medical institution providing care for inpatients for the duration of treatment to prevent severe damage to health, subject to the consent of the government body in charge of the healthcare system, and at social institutions providing personal care to third-country nationals who satisfy the criteria as required by law.

Unaccompanied minors are placed in a children's home on a temporary basis by the alien policing authority for the duration of the alien policing procedure. With a view to the accommodation of the unaccompanied minor, the alien policing authority shall contact the competent guardian authority and the consular post of the country of origin of the minor in question in Hungary. From 16 March 2016, based on the measures of the Department of Child Protection and Guardianship of the Ministry of Human Capacities, the alien policing authority accommodates minors in the Károlyi István Children's Home during the alien policing procedure, where a child and youth protection supervisor, a child protection assistant, a social pedagogue, a romologist, a teacher of Romology and Pedagogy major, a psychologist and a pedagogue deal with them. In the children's center, children are provided with special training and education corresponding to their intellectual and emotional development. In the institution created for special accommodation and development for the vulnerable group, the children live among themselves, in family moral and in community.

An alternative to the detention ordered during the alien policing procedure can help the integration of migrant children and families and provide the possibility of family reunification and the search for family members. Migrant children are entitled to home care when they enter the child protection system, which includes the utmost solicitude of the child’s physical, intellectual, emotional and moral development, nutrition appropriate to their age, health and other needs, clothing, mental health and medical treatment, education, and housing.

1. *Please provide information on any existing good practices or measures taken in your country to protect the human rights of migrant children and their families while their migration status is being resolved, including inter alia their rights to liberty, family life, health and education(e.g. by ensuring effective access to inter alia adequate reception, healthcare, education, legal advice, family reunion).*

Separate living quarters are designated for families with children in the transit zones, so that the right to family life and privacy is fully guaranteed. During the placement, the unity of the family is ensured, as is the protection of family life; if a given family exceeds 5 persons, the family members will be accommodated in different dwellings.

Above the appropriate reception conditions the following services are provided for asylum-seekers in the transit zones: sanitary package, three meals a day; for minors, pregnant women or breastfeeding mothers five meals a day, 1 liter of milk or equivalent dairy product and fruit. In the case of families with babies (infants, toddlers), the authority shall provide a potty, a baby bath tub and, if necessary, a cot for the applicant families.

Applicants can move freely in the designated area, and also pass through the different sectors. They can use the wi-fi service without restriction with own devices, which is one of the means of communicating with the outside world. Asylum seekers staying in the transit zones may have visitors or receive a package. As regards free-time activities, there is a communal space, media and telecommunications devices, a foreign language library, video room, and a room for free practice of religion.

Education, including pre-school education is provided throughout the refugee determination procedure; the material conditions of education are supplied by the asylum authority; the educational materials were compiled by experts of the Ministry of Human Resources. Participation in the education is compulsory for children aged 6-16. A special education teacher is also present if necessary, in order to ensure access to education for minors with mental health problems as well.

Social workers are on duty 24 hours a day in the transit zones. Health care is provided every day of the week, paying particular attention to persons with special needs, including minors. General practitioner for adults is present two hours a day, while a pediatrician and midwife visits the facilities twice a week. All children are given the necessary vaccinations. The equipment of the doctor’s consulting rooms complies with the provisions of the sectoral legislation. If case of need, however, asylum seekers placed in transit zones can be transferred to specialized health care institutions.

The applicants may make a complaint about care and services in the transit zones to the head of the body responsible for reception facilities. Complaints requiring immediate action will be investigated without delay in order to put an end to the infringement in a timely manner (Instruction No. 22/2017 of the Director General of the National Directorate-General for Aliens Policing).

Regulations concerning aliens-policing procedure and detention are laid down in Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals. Section 61 stipulates that families with a minor child shall be separated from other detainees to ensure privacy during detention; detainees below 18 years of age are entitled to leisure activities including play and recreational activities appropriate to their age, and access to education depending of the length of the detention.

All persons under aliens policing procedure either in detention or designated place of residence shall be entitled to communicate without control with their representative and/or representatives of the consular office; the authority shall also ensure to receive and send parcels, enter into correspondence, receive visitors and communicate (under due supervision) with their relatives in any way.

As of 7 June 2017 the detention of families with minor children ordered in aliens policing procedure is carried out in the guarded reception facility in the town of Nyírbátor with the capacity of 27 (run by the Szabolcs-Szatmár-Bereg County Police Headquarters). The family sector here has enough games and tools to spend the free time in a meaningful way for all age groups. Some of them are located in the communal space, some other equipment in the living area, and there is also a playroom for children and a well-furnished outdoor playground (sandpit, slide etc.).

In order to guarantee the basic conditions of family coexistence for families with children, a separate living space is provided, as well as the conditions and tools necessary for educational and leisure activities according to the age and development of the minor. Social worker specialist deals with the minors individually to enhance personal development.

In order to easily familiarize minors with daily activities and provide them with necessary information, the management of the facility has developed a child-friendly method – pictograms corresponding to the children's emotional, intellectual level and development.

Until the asylum application is processed unaccompanied minors under the age of 14 who submit an asylum application will continue to be accommodated and cared for during the state crisis due to mass migration at the Károlyi István Children's Home for Unaccompanied Minors in Fót which is a child protection care institution.

In accordance with the provisions of the Child Protection Act - in line with the UN Convention on the Rights of the Child - unaccompanied minors receive full, home-based care, which includes, inter alia, accommodation, meals, clothing, health care and education, ensuring access to development, psychological support, useful leisure time. Furthermore, full care include meals five times a day as per religious and cultural customs, in terms of both the diet and the preparation of food.

The amendment to Decree 15/1998. (IV.30.) on the Professional Tasks and Conditions of Operation of Child Welfare, Child Protection Institutions and Persons Providing Personal Care, which entered into force on 15 October 2015, regulated the specific professional tasks of a temporary home for unaccompanied minors and a temporary reception facility, with particular attention to providing information in foreign languages and interpretation, as well as the provision of accommodation and services in accordance with religious and cultural customs, as well as the provision of the number of specialized professional staff. This amendment guarantees the provision of care for an unaccompanied minor under the age of 14 during his or her temporary placement, until the decision is made in his or her asylum application.

Unaccompanied minors under the age of 14 residing in the Children’s Home who have lodged an asylum application will also be assigned a child protection guardian to represent their rights until their asylum application is processed (during their temporary placement). In the case of children over the age of 14, they are placed in the Children’s Home once they are granted international protection status.

At his or her request, an unaccompanied minor placed in an children’s home or with a foster parent will be entitled to after-care support for housing and care as required after he or she reaches the age of majority, especially if he or she wishes to study until the age of 25, or up to the age of 30 if he or she continues his/her studies in higher education.

1. *Please indicate any challenges and/or obstacles in the development and/or implementation of non-custodial alternatives to immigration detention of children and their families.*

The trend is that the number of unaccompanied minors entering Hungary as asylum seekers or illegally is low. It can be said that the facilities for the accommodation of minors and families (closed facilities, community accommodation, children's homes) are properly equipped and suitable for the reception of families as well as vulnerable groups.

Directive 2008/115 / EC of the European Parliament and the Council (Return Directive) in addition to families with minors provides for the possibility of ordering the detention of unaccompanied minors in accordance with Article 17 (1) during the immigration procedure. However, national law regulates that a detention order cannot be issued against an unaccompanied minor.

Taking into account that the detention order in an immigration procedure against an unaccompanied minor cannot be carried out, the aliens policing authority - with regard to Section 130 (4) of the Government Decree (a child protection institution is designated as a mandatory place of residence in the case of an unaccompanied minor) and to Act XXXI of 1997 on guardianship administration - place the minor in a children’s home.

Unfortunately, in the vast majority of cases, minors leave child protection institutions provided for the temporary placement of children for an unknown place, and if they do not return within 60 days, the temporary placement order is terminated by the guardianship authority. Families leaving the designated place of residence and the Hungarian care system behind in the hope of a better life in Western Europe are at risk. Without adequate education, work permit, financial support, language skills and legal residence or the necessary documents, they might not have the opportunity to integrate into Western European society and gain legal income to support themselves. Children are most at risk due to their maturity and intellectual level. It often happens that they generate the income out of necessity to support themselves and their families by committing crimes or become victims of exploitation (e.g. prostitution, forced labor, begging).

1. *What support could other stakeholders (other than your Government) provide to strengthen the development and/or implementation of non-custodial alternatives to immigration detention of children and their families that enhance the protection of their rights?*

In Hungary, non-governmental organizations cooperate with the National Directorate-General for Aliens Policing in order to improve the quality of placement conditions. The DG is open to any non-governmental cooperation that would help to further develop a non-custodial alternative to immigration detention.