



EMN Ad-Hoc Query on CY Ad-Hoc Query on implementing Council Directive 2001/51/EC

Requested by Tania CHARALAMBIDOU on 10th November 2016

Irregular Migration

Responses from Austria, Belgium, Blocked / Unknown, Croatia, Czech Republic, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom (19 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:

Cyprus is in the process of an ongoing internal consultation whether revision of the existing Cypriot legislation (which is in accordance to the EU Acquis) would be necessary, in order to provide for a better legal base to fine carriers in accordance to the Directive 2001/51/EC. Having in mind that Cyprus imposes administrative fines for breaches of the Law, we are searching for better ways to impose and collect the fines. More specifically, we are interested in seeing the specific competent authorities handling the Directive 2001/51/EC, and under which Ministry(ies) they are subjected, as well as other Member States' practices and/or policy regarding applications in relation to the imposition and collection of fines.

Summary

Cyprus is in the process of an ongoing internal consultation whether revision of the existing Cypriot legislation (which is in accordance to the EU Acquis) would be necessary, in order to provide for a better legal base to fine carriers in accordance to Directive 2001/51/EC. Having in mind that Cyprus imposes administrative fines for breaches of the Law, we are searching for better ways to impose and collect the fines.

The CY NCP launched a query on 10th November 2016 to see the specific competent authorities handling the Directive 2001/51/EC, and under which Ministry (ies) they are subjected, as well as other Member States' practices and / or policy regarding applications in relation to the imposition and collection of fines.

19 MS responded to the query (Austria, Belgium, Croatia, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom)

Question 1: What are the specific competent authorities handling the Directive 2001/51/EC, and under which Ministry (ies) they are subjected?

The findings of the Ad-Hoc query are multifaceted. Based on the replies provided by 19 MS, the competent authority to enforce the sanctions is in all MS the Police, and the competent Ministry is in sixteen (16) MS the Ministry of Interior, and in one (1) MS the Ministry of Justice.

Question 2: Which procedure is followed for the imposition and collection of the fines?

The findings of the Ad-Hoc query are also multifaceted. Based on the replies provided by 19 MS, in six (6) of them, as regards the ratification type, it is reported that the sanction is an administrative sanction, whereas in other MS, simply a penalty or a fine is mentioned. The competent Authority for examining appeals is in four (4) MS the police, in two (2) MS the Ministry of Interior, and in one (1) MS the Department responsible of migration issues. In case the fines are not paid, they can be collected through court procedures in most member-states.

Questions

1. What are the specific competent authorities handling the Directive 2001/51/EC, and under which Ministry(ies) they are subjected?
2. Which procedures are followed for the imposition and collection of the fines?

Responses

	Country	Wider Dissemination	Response
	Austria	Yes	<p>1. Directive 2001/51/EC is implemented in Art. 111 and 112 Aliens Police Act. The police administrations of the provinces are responsible for imposing fines (Art. 112 in conjunction with Art. 5 para 1 subpara 4 Aliens Police Act). The police administrations of the provinces are subordinate to the Austrian Federal Minister of the Interior (Art. 4 Security Police Act). The responsibility of carriers falls within the competence of the Austrian Federal Ministry of the Interior (Art. 127 Aliens Police Act).</p> <p>2. The offence is an administrative offence (Art. 112 para 1 Aliens Police Act). The first-instance procedure before the police administration of the province is regulated by the Administrative Penal Act. The administrative decision may be appealed before the administrative court of the province (Art. 9 Aliens Police Act). The ruling of the administrative court may be appealed before the Administrative High Court and/or the Constitutional Court (Art. 133 and 144 Federal Constitutional Act). The collection of the fine is regulated by the Administrative Enforcement Act. Accordingly, the fine is enforced through the competent court upon application of the authority enforcing the fine (Art. 3 Administrative Enforcement Act).</p>

	Belgium	Yes	<p>1. The competent authority responsible for handling the Directive 2001/51/EC is the Belgian Immigration Office (Border Control Unit), which is part of the Federal Public Service Home Affairs.</p> <p>2. The Directive 2001/51/EC has been transposed into national legislation in the Belgian Immigration Act, more precisely in articles 74/2 74/3 and 74/4bis under Title III bis (responsibilities of carriers regarding foreigners access to the territory), providing for both criminal and administrative sanctions for carriers who brought foreigners into the territory without proper documentation. (Source: Immigration Act - French version: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1980121530&table_name=loi) Originally, Belgian authorities applied criminal sanctions for carriers, however, in 1995 the House of Representatives established that this type of sanctions was ineffective and as a consequence, in practice these were replaced by administrative sanctions (art. 74/4). The Belgian authorities consequently make use of these administrative sanctions. (Source: http://www.dekamer.be/FLWB/PDF/48/1709/48K1709002.pdf) In case of an offense, the federal police informs the Belgian Immigration Office. Than the Belgian Immigration Office determines whether the concerned articles have been infringed and on this basis whether the fine has to be paid, and if so drafts a report in which the amount of the fine is mentioned. The fine has to be payed or deposited in the consignment office immediately. Please note that the consignment office is a government body, which is part of the Belgian Federal Public Service Finance. The Office receives and administers all deposits, security deposits and consignments that are imposed pursuant to judicial or administrative decisions or as a consequence of laws and regulations (Source: National Bank of Belgium Glossary). The means of transport (airplane, boat, bus ...) with which the offense was committed (or another means of transport of the same carrier), can be confiscated if this payment or deposit is not made immediately. If the person who was not in possession of the necessary entry documents, has applied for asylum at the border and is later granted refugee status or subsidiary protection, the fine is reimbursed. The carrier has 30 days, from the date of notification of the decision, to appeal. If the carrier wins the appeal, the fine is also reimbursed. (Source: Immigration Act, article 74/4bis).</p>
	Blocked / Unknown	Yes	<p>1. The Police authority is the competent body under the Ministry of Interior.</p> <p>2. The Police authority is the competent body under the Ministry of Interior.</p> <p>3. Act II of 2007 Section 69. (1) Carriers providing travel accommodations to third-country nationals by</p>

means of air, water or scheduled road transport shall be required to check the travel document and visa of their passengers before boarding for travelling to Hungary or to another country through the territory of Hungary to ensure that they have travel documents required for entry or for transit, or visas for an intended stay of no more than ninety days. (2) The carrier transporting any third-country national by means of air, water, road or railway transport shall provide for the return of such third-country national to the country of departure or to the country which is liable to accept him/her: a) if its passenger is refused admission to Hungary for lacking any of the requirements specified by law; b) if its passenger is refused admission to another country and is turned back to Hungary; or c) if the carrier to which the passenger was scheduled to be transferred refused to admit the passenger on his means of transport. (3) If return cannot be promptly executed, the carrier in question shall bear all costs incurred in connection with the stay of the third-country national until his/her return. (4) When a third-country national is refused admission and the carrier disputes its obligation to return the person in question or to finance his/her stay, the immigration authority shall adopt a formal resolution to order the carrier to comply. (5) For any failure to comply with the obligation specified in Subsection (1) as set out in specific other legislation, a penalty for the protection of public policy shall be imposed upon the carrier in question. (6) A carrier shall be exempted from the payment of penalty for the protection of public policy if able to verify of having proceeded with due care and diligence to ensure compliance with the obligation of control specified in Subsection (1).

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			<p>Subsection (1) as set out in specific other legislation, a penalty for the protection of public policy shall be imposed upon the carrier in question. (6) A carrier shall be exempted from the payment of penalty for the protection of public policy if able to verify of having proceeded with due care and diligence to ensure compliance with the obligation of control specified in Subsection (1).</p>
	Croatia	Yes	<p>1. 1. The Directive 2001/51/EC has been transposed into the Aliens Act under the Article 41, and Article 225. The police administrations of the provinces are responsible for imposing fines. The police administration is under the Croatian Ministry of Interior.</p> <p>2. 2. The procedure is regulated by the Aliens Act (Article 225), and the Administrative Penal Act (Article 33). An appeal may be lodged against such a decision (Article 191). The collection of the fine is regulated by the Article 245 of the Administrative Panel Act. Accordingly, the fine is enforced through the competent court.</p>
	Czech Republic	Yes	<p>1. This Directive was implemented into the Czech legislation by the Act No. 326/1999 Coll., on Residence of Foreign Nationals in the Territory of the Czech Republic. According to the Section 104 paragraph 1, the carrier shall be forbidden to transport a foreign national who is not in possession of travel document or a visa. According to the paragraph 3 of the same Section, the carries shall be obliged to transport this person back abroad. Paragraph 5 of the same Section further states that the carrier shall be obliged to bear the costs associated with the stay of a foreign national in the Czech Republic until the foreign national in question is transported abroad. Furthermore, Section 157 (1) and (3) states that failing to meet the above mentioned obligations is regarded as an administrative offence, paragraph 7 of the same Section specifies the penalty ranging between 100,000 and 500,000 CZK – this penalty corresponds to the penalty required by the Directive 2001/51/EC. The Directorate of the Alien Police Service is the authorized unit for handling these administrative offences. The carrier may appeal against penalty imposition at the Department for Asylum and Migration Policy of the Ministry of the Interior. The entire proceeding is in compliance with the Act No. 500/2004 Coll., Code of Administrative Procedure, which allows making an appeal up to the administrative court.</p> <p>2. The decision is issued after the termination of administrative proceedings, which imposes fine on the carrier in question. Also, a relevant bank account (where the penalty should be sent to) is included in this</p>

			<p>decision containing all necessary identification details. The decision also specifies when the penalty should be paid once the decision legally comes into force, this period usually counts to 15 days – still this fact depends on the decision of the administrative body. If the penalty is not paid within the specified period, then the case is transferred to the Customs Administration of the Czech Republic which ensures enforcement of penalties.</p>
	Estonia	Yes	<p>1. The competent authority is Police and Border Guard Board under the Ministry of Interior.</p> <p>2. According to the Estonian Aliens Act § 299, regulating delivery of alien to transit zone, state border or temporary borderline: (1) A direct delivery, by a natural person engaged in transport operations, of an alien who has no legal basis for the stay in Estonia or in the transit zone to the state border of Estonia, transit zone or temporary borderline is punishable by a fine of up to 300 fine units. (2) The same act, if committed by a legal person, is punishable by a fine of up to 6,400 euros per each person delivered.</p>
	Finland	Yes	<p>1. In Finland, it is the Border Guard, which is administratively located under the Ministry of the Interior, which is the competent authority handling the Directive 2001/51/EC.</p> <p>2. Section 179 of the Alien's Act Financial penalties on carriers (1) A carrier who violates the obligation to report laid down in section 173 or the obligation to provide information laid down in section 20 of the Act on the Processing of Personal Data by the Border Guard is liable to financial penalty (financial penalty on a carrier). The penalty for violation of section 173 amounts to 3,000 euros per transported person. The penalty for violation of section 20 of the Act on the Processing of Personal Data by the Border Guard amounts to 3,000 euros per each journey where passenger information is missing or inadequate, or where false information has been supplied. (2) No financial penalty on a carrier is imposed if: 1) the carrier can prove that that it has fulfilled its obligation to ensure that the alien held the required travel document and the required visa or residence permit when taken on board; 2) the required travel document, visa or residence permit has proved to be a forgery and the forgery has not been easy to detect; 3) transporting a person without the required travel document, visa or residence permit or the mistake in supplying air passenger data has been excusable, all circumstances considered; or 4) imposing a penalty would be otherwise unreasonable under the circumstances. Subsection 2(1) does not apply to a penalty imposed for violation of section 20 of the Act on the Processing of Personal Data by the Border Guard. According to Section 181 of the Alien's Act, the carrier who fails to comply to the Carriers' obligation to check according to Section 173, a financial penalty on is</p>

			<p>imposed in conjunction with a border check by the Commander or Deputy Commander of the Border Guard District or Coast Guard District or the head of the Border Guard office or Coast Guard office within whose territory the violation of section 173 of this Act or section 20 of the Act on the Processing of Personal Data by the Border Guard was detected. If the border control authority is the police, the financial penalty on a carrier is ordered by a Commanding Officer of the District Police. If the border control authority is a customs authority, the head of the Customs District or the head of the Enforcement Unit of the Customs District imposes the financial penalty on a carrier. According to Sections 183 and 184, the financial penalty on a carrier shall be paid within one month of service of the decision. The Legal Register Centre is responsible for the enforcement of a financial penalty on a carrier.</p>
	France	Yes	<p>1. The Ministry of the Interior is responsible for the application of provisions of the Directive 2001/51/EC. Infringements are ascertained by authorities entitled to check on person at the border: border police officer, customs, and the gendarmerie brigade in Saint-Barthélemy.</p> <p>2. When a breach is established by border control agencies, a report must be given to the concerned company. The report mentions the name of the company and the flight details of the journey for which responsibility may be engaged. It specifies the obligations which were not respected by the company and, when appropriate, it may include the company's comments. Reports shall be communicated to the Ministry of the Interior and a copy is provided as soon as possible to the representative of the transport company, who shall acknowledge receipt. If the passenger seeks asylum at the border, the report is established three weeks later after his/her arrival. This corresponds to the time needed for processing the asylum application. The Minister of the Interior notifies at the transport company, by registered letter with acknowledgement of receipt, the draft fine. The company may submit written observations and have an access to the records within one month after the draft fine has been sent. The Minister of the Interior shall take his decision, after the expiry of the deadline, taking account of the transport company's observations. A written and duly motivated decision to impose a fine is notified at the transport company by registered letter with acknowledgement of receipt. Non-compliance with this regulation can imply a fine up to 50 000€.</p>
	Germany	Yes	<p>1. For the realization of the Directive 2001/51 / EC, the Federal Police is the competent authority. The Federal Police is subordinated to the Federal Ministry of the Interior</p>

			<p>2. The Directive has been transposed into national law by Section 63 of the AufenthG(Residence Act). The airport offices of the Federal Police are responsible for any infringement of § 63 AufenthG. The Federal Police Presidium evaluates this and decides on a forced money threat and the amount of the compulsory money. Subsequently, for each further breach of the airline company, a hearing and the compulsory suspension of the performance shall be made by means of a requisition order. The compulsory money is to be paid, the objection and the action have no suspensory effect.</p>
	Italy	Yes	<p>1. The competent authority is the Border Police.</p> <p>2. Legislative Decree No 87 of 7 April 2003, implementing Directive 2001/51/EC, supplementing the provisions contained in Article 26 of the Convention that implements the Schengen Agreement of 14 June 1985, amended Legislative Decree No 286 of 25 July 1998 (Consolidated Act on Immigration), establishing that air, sea and land carriers have the obligation to verify that the foreign nationals they transport have the documents required for entry into the territory of the State. Moreover, the carriers have the obligation to report the presence of any foreign nationals with an irregular position they may have on board to the border police. Failure to fulfil any of the above obligations is punishable with a fine from € 3,500 to € 5,500 for each foreign national transported. In the most serious cases, it is established that the carrier's operation may be suspended from one to twelve months, or the licence/authorization/concession issued by the Italian administrative authority related to the carrier' operation and the vehicle/craft used may be revoked (Article 12(6)).</p>
	Latvia	Yes	<p>1. The competent authority responsible for handling the Directive 2001/51/EK is the State Border Guard of the Republic of Latvia, which is under supervision of the Ministry of Interior. Requirements of the Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 are laid down in the Immigration Law and the Latvian Administrative Violations Code. In accordance with Section 21 of the Immigration Law a carrier (a merchant whose commercial activities are related to the carriage of persons by sea, air or road transport) has the duty to ascertain that the foreigner is carrying the necessary documents for entry. If this duty is not fulfilled, the carrier upon request of an official of the State Border Guard must deliver the foreigner back to the relevant country and cover all expenses related to the detaining, holding under guard and removal of a foreigner. In accordance with Section 114.2 of the Latvian Administrative Violations Code in the case of the</p>

			<p>carriage of citizens of such state that is not a Member State of the European Union or European Economic Area, from such states to the Republic of Latvia, if the referred to persons do not have the necessary travel documentation to cross the border of the Republic of Latvia and if the carrier has performed it by sea, air or land transport – a fine shall be imposed on a natural or legal person in an amount from EUR 3000 up to EUR 5000 for each carried person. In accordance with Section 226.1 of the Latvian Administrative Violations Code the State Border Guard shall examine administrative violation matters provided for in the Section 114.2 of the Latvian Administrative Violations Code and impose administrative fines.</p> <p>2. In accordance with Article 238.1 Administrative Violations Code upon receipt of an information indicating on possible administrative violation the authorised persons within a period of three working days shall take a decision on initiation of proceedings in administrative violation case or on refusal of initiation of proceedings in administrative case or on the transfer of the materials in accordance with jurisdiction. A decision on initiation of proceedings in administrative violation case can be taken by drawing up an administrative violations protocol. An authorised person shall draw up an administrative violation protocol regarding an administrative violation committed. A violator shall pay the fine not later than within 30 days from the date, when the decision regarding the imposition of the fine was issued to him or her, but, if this decision is appealed or a protest is submitted regarding such – not later than within 30 days from the day, when it was notified of the appeal or protest rejection. A fine that is imposed regarding an administrative violation, shall be paid by the violator into a bank institution. If the decision on the imposition of an administrative fine is not executed voluntarily, within one month after the expiry of the term defined for voluntary execution of the decision the decision shall be transferred to the executive body (bailiff).</p>
	Lithuania	Yes	<p>1. The Law of the Republic of Lithuania on the Basics of Transportation Activity (hereinafter: the ‘Law’) implements Council Directive 2001/51/EC of 28 June 2001. The Law provides for obligations and liability of carriers, time limits for the examination of cases, decisions taken upon examining a case, penalties for carriers, payment of financial penalties and their recovery, appeal against resolutions imposing the penalties. In accordance with the Law, the State Border Guard Service under the Ministry of the Interior of the Republic of Lithuania examines cases and imposes penalties on carriers.</p> <p>2. In implementing Directive 2001/51/EC, the Law provides that the carriers engaged in passenger transport by air or by sea or carrying groups of passengers on international coach services in special and non-scheduled</p>

			<p>transport must, when bringing aliens into the territory of the Republic of Lithuania across the state border, ensure that the passengers be in possession of the travel documents required for entry into the Republic of Lithuania. The carriers have the right to check the passengers' travel documents in order to make sure that a passenger is in possession of the travel documents required for entry into the Republic of Lithuania. Upon detecting a violation, officers of the State Border Guard Service (SBGS) draw up a record of offence. Parties to proceedings are given a written notice of detected violations (no later than five working days prior to the examination of a case), the venue and time of the examination of the case, are also offered access to the material of the case and the possibility to provide written explanations. Other participants in the proceedings are notified of the venue and time of the examination of the case in writing no later than three working days prior to the examination of the case. The State border guard service (SBGS) examines cases and imposes financial penalties no later than within one month from detection of a violation. A carrier must pay the financial penalty imposed by a SBGS officer to the state budget no later than within one month from dispatch of the resolution. The penalties unpaid by carriers are recovered by judicial officers by enforcing the resolutions served by the SBGS in accordance with the procedure established by the Code of Civil Procedure of the Republic of Lithuania. The resolutions are served for enforcement no later than within one month from the expiry of a deadline for the payment of a penalty (Article 27 of the Law).</p>
	<p>Luxembourg</p>	<p>Yes</p>	<p>1. The Ministry in charge of Immigration is the competent authority for the imposition of the fines (4.000 euros for each transported passenger) in accordance with article 147 of the amended Law of 29 August 2008 on free movement of persons and immigration. The Grand-Ducal Police makes the determination of the violations in regards with article 108 and 147 of the amended Law of 29 August 2008. The Treasury will collect the fines. The Ministry in charge of Immigration is the competent authority for the imposition of the fines (4.000 euros for each transported passenger) in accordance with article 147 of the amended Law of 29 August 2008 on free movement of persons and immigration. The Grand-Ducal Police makes the determination of the violations in regards with article 108 and 147 of the amended Law of 29 August 2008. The Treasury will collect the fines.</p> <p>2. In accordance with article 108 (1) of the amended Law of 29 August 2008 the airline which disembarks in the territory a third-country national who does not have a valid travel document and/or a valid visa is subject to the fines foreseen by article 147. Article 108 (2) establishes that the violation of this article is drawn in a report by the Grand-Ducal Police. Copy of the report is notified to the airline. The airline has access to the</p>

			<p>file and it must present its written observations in a deadline of a month after the reception of the report. Then the Minister in charge of Immigration will take a motivated decision on the case (article 108 (3)). The airline can appeal this decision before the First instance Administrative Court. It is important to mention that the Minister will not take any sanction against the airline if one of the following situations are present: (a) where the third-country national concerned has not been refused entry onto the territory or where, having lodged an application for international protection, s/he has been admitted on that basis onto the territory of the Grand Duchy of Luxembourg and that her/his application has not been declared inadmissible or rejected in the context of an accelerated procedure, or (b) where the transporter establishes that the required documents were presented to it at the time of embarkation or where the documents presented show no signs of manifest irregularity.</p>
	Netherlands	Yes	<ol style="list-style-type: none"> 1. the Netherlands Royal Marechaussee (Department of Defence) 2. The Carrier can be prosecuted in the event of the transgression of article 4, paragraphs one of the Aliens Act 2000 and chapter A1/9 of the Dutch Aliens Act Implementation Guidelines 2000 (A) (Vreemdelingencirculaire). The carrier must take precautionary measures such that the conveyance to the Netherlands of aliens with no or inadequate documentation is avoided. If such aliens are nevertheless conveyed to The Netherlands, the carrier may be punishable. A border control officer of the Netherlands Royal Marechaussee (Department of Defence) will draw up an official report in all cases in which as a result of the failure by the carrier to comply with the duty of care or a non-documented or wrongly documented foreign national was brought into The Netherlands. The border control officer will send all official reports to the Public Prosecution Service. The Public Prosecution Service will first offer the offender an out-of-court settlement. The carrier will not be fined in all cases. The Public Prosecution Service will consider the due negligence of the Carrier and whether conveying the passengers with inadequate travel documents was reproachable.
	Slovak Republic	Yes	<ol style="list-style-type: none"> 1. Border Control Units of the Police Force located at the border crossing are responsible for handling this in the Slovak Republic. The appellate body is the subordinated body at the regional level which are competence of the Ministry of Interior of the Slovak Republic. 2. According to the Act on Residence of Aliens, this is an administrative delict and a written decision is

			issued about the imposition of a fine. The carrier in question may lodge an appeal which is then handled by the subordinated body. An action can be brought against the decision of the second instance.
	Slovenia	Yes	<ol style="list-style-type: none"> 1. The competent authority are the Police within Ministry of Interior. 2. Fine is imposed by the Police and collected by national financial and tax institution in accordance with national misdemeanor procedure legislation.
	Spain	Yes	<ol style="list-style-type: none"> 1. The administrative sanctioning procedure is carried out by the National Police (Ministry of Interior) and the sanction is imposed by the Government Delegate in the province/region. 2. For imposing the fine, a procedure specifically foreseen in the Spanish Alien Law is followed (the same as for Directive 2004/82/EC). For the collection of the fine, the general administrative procedures apply.
	Sweden	Yes	<ol style="list-style-type: none"> 1. The Swedish Police Authority is the responsible authority. The Ministry of Justice is responsible in the Government Offices. 2. The question of carrier's liability and whether or not the carrier is obliged to pay a fine is examined by the Swedish Police Authority. Cases concerning the collection of fines are dealt with according to the general provisions in the Act on collection of state debts, following due legal processes and with the involvement of the Swedish Enforcement Authority.
	United Kingdom	Yes	<ol style="list-style-type: none"> 1. Policy for handling Directive 2001/51/EC is managed by the International and Immigration Policy Group of the Home Office. The penalties applicable to carriers are implemented through the UK's carrier liability regime under section 40 of the Immigration and Asylum Act 1999, which makes provision for the application of a charge in respect of passengers without proper documents. Border Force and Immigration Enforcement are responsible for imposing and collecting the penalties. These are delivery agencies of the Home Office. 2. Section 40A of the Immigration and Asylum Act 1999 sets out the process of notification and objection in relation to a decision to charge a person. (This provision is set out below.) The procedures that are followed for the imposition and collection of penalties are set out in pages 12-18 of our published document:

			<p>“Charging Procedures, A Guide for Carriers, Section 40 of the Immigration and Asylum Act 1999 (as amended)”. This can be found at the UK Government website at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380616/Charging_Guide_Nov_2014_Version_7.pdf. These procedures give effect to the process set out in legislation. Section 40A provides as follows: 40A Notification and objection (1) If the Secretary of State decides to charge a person under section 40, the Secretary of State must notify the person of his decision. (2) A notice under subsection (1) (a “charge notice”) must— (a) state the Secretary of State’s reasons for deciding to charge the person, (b) state the amount of the charge, (c) specify the date before which, and the manner in which, the charge must be paid, (d) include an explanation of the steps that the person may take if he objects to the charge, and (e) include an explanation of the steps that the Secretary of State may take under this Part to recover any unpaid charge. (3) Where a person on whom a charge notice is served objects to the imposition of the charge on him, he may give a notice of objection to the Secretary of State. (4) A notice of objection must— (a) be in writing, (b) give the objector’s reasons, and (c) be given before the end of such period as may be prescribed. (5) Where the Secretary of State receives a notice of objection to a charge in accordance with this section, he shall— (a) consider it, and (b) determine whether or not to cancel the charge. (6) Where the Secretary of State considers a notice of objection, he shall inform the objector of his decision before the end of— (a) such period as may be prescribed, or (b) such longer period as he may agree with the objector. (7) Any sum payable to the Secretary of State as a charge under section 40 may be recovered by the Secretary of State as a debt due to him. (8) In proceedings for enforcement of a charge under subsection (7) no question may be raised as to the validity of the charge. (9) Subsections (12) and (13) of section 35 shall have effect for the purpose of this section as they have effect for the purpose of section 35(1), (7) and (10)</p>
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