



**AD HOC QUERY ON 2019.105 Return of third country nationals with a residence permit obtained through legal migration channels (study, work and family purposes)**

**Requested by EMN NCP The Netherlands on 16 December 2019**

**Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Slovakia, Slovenia, Sweden, United Kingdom (20 in Total)**

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**1. Background information**

Over the last decade priority has been given in the Netherlands to the return of rejected asylum seekers and third-country nationals in criminal detention, and only to a limited extent to return of third country nationals who had overstayed their residence permit obtained through legal migration channels (study, work and family purposes) or they have been revoked or not renewed.

In recent years, this has changed. Currently, a project called 'Terugkeer van Reguliere Vreemdelingen' (started in 2018) in the Netherlands is being carried out to put more focus on the return of third country nationals who (tried to) obtain a residence permit through legal migration channels (i.e. study, work and family purposes) and whose permit has ended, revoked or not renewed. Therefore the third country nationals no longer have the right to stay in the Netherlands and are obliged to leave the country. This project ensures the development of a "governance mechanism", whereby prioritization of supervision, enforcement and return of the third country nationals process

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is achieved.

Currently, there is no comprehensive overview of measures by Member States regarding this group of migrants. The Netherlands would like to know how other Member States return third country nationals whose permit in legal migration cases (i.e. study, work and family purposes) have revoked or not renewed. For the Netherlands it would be helpful to see how Member States deal with this issue and which are the (national) policies implemented. Additionally, this could also help to gather information on this subject since in practice nationality and identity documents are (mostly) known in legal migration cases, which may differ from asylum cases. Therefore, the results of this ad-hoc query will be used to further enhance the project that deals with this matter.

## 2. Questions

- 1. Is the applicable process when returning third country nationals with a former work, study or family reunification permit which was withdrawn/non-renewed, laid down in national legislation or internal guidelines? Yes/No. If yes, briefly specify which legislative documents/internal guidelines regulate the procedure in both cases.**
- 2. If the residence permit (i.e. study, work or family purposes) of a third country national is withdrawn, what actions are undertaken by the competent authorities to return the third country national to his/her country of origin? Please briefly describe all relevant steps.**
- 3. If the residence permit (i.e. study, work or family purposes) of a third country national expires and it is not renewed, what actions are undertaken by the competent authorities to return the third country national to his/her country of origin? Please briefly describe all relevant steps.**
- 4. Which authority/authorities is/are involved in returning third country nationals with a former work, study or family reunification permit? Please explain their role in the return process (f.e. check on removability, takes proof of ID, enforcing the decision, monitoring, forced return, informing on the decision, other).**
- 5. Are third country nationals with a residence permit for study, work and/or family purposes informed about the return process once their residence permit is withdrawn and/or not renewed? Yes/No. If yes, please describe how information is provided (i.e. through a letter, orally when the letter is notified, etc.).**
- 6. Are there initiatives undertaken in your (Member) State to support or raise awareness among involved stakeholders (i.e. public bodies, municipalities, NGOs) in regards to the return of third country nationals with a former residence permit for study, work and/or family purposes? Yes/No. If yes, please describe which organizations are involved, goals and (if possible) results.**
- 7. If the return of third country nationals with a former work, study or family reunification permit which was withdrawn/non-renewed is not enforced; is it tolerated that the third country nationals may stay in your (Member) State? Yes/No. Please explain (f.e. is it tolerated, is a specific scheme or pardon created at a later stage for this group of migrants, et cetera).**


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We would very much appreciate your responses by **27 January 2020**.

**3. Responses**

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		Wider Dissemination <sup>2</sup>	
	EMN NCP Austria	Yes	<p>1. Third-country nationals whose residence permit or residence title has expired are no longer lawfully residing in Austria (Art. 31 para 1 subpara 1 Aliens Police Act 2005). The Federal Office for Immigration and Asylum must therefore issue a return decision against these persons (Art. 52 para 1 subpara 1 Aliens police Act). This procedure is regulated by national law.</p> <p>---</p> <p>Source: Ministry of the Interior</p> <p>2. The procedure pursuant to Art. 25 Settlement and Residence Act in conjunction with Art. 52 para 4 Aliens Police Act is as follows: If the conditions for granting the title are not met, the Residence and Settlement Act-authority refuses the renewal of or withdraws the title. The Federal Office for Immigration and Asylum then takes action and issues a return decision.</p>

<sup>1</sup> If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

<sup>2</sup> A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."


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			<p>Art. 25 Settlement and Residence Act à If the prerequisites for granting a residence title pursuant to Art. 11 para 1 and 2 are missing in a procedure for the extension of the residence title, the authority must – if necessary after obtaining a statement from the Federal Office for Immigration and Asylum – inform the applicant on this and inform him/her that a termination of residence pursuant to Art. 52 et seq. Aliens Police Act is intended and explain to him/her why this seems permissible, taking into account the protection of his/her private or family life (Art. 9 Federal Office for Immigration and Asylum Procedures Act).</p> <p>The authority shall also inform him/her that he/she has the right to submit his/her comments within a period to be determined at the same time, which shall not be less than 14 days. After expiry of this period, the authority must notify the Federal Office for Immigration and Asylum, forwarding – if necessary – the foreigner's statement.</p> <p>---</p> <p>Source: Ministry of the Interior</p> <p>3. See question 2</p> <p>---</p> <p>Source: Ministry of the Interior</p> <p>4. Art. 52 Aliens Police Act regulates on the basis of precise criteria that the Federal Office for Immigration and Asylum is responsible for issuing a return decision against a third-country national. Art. 46 Aliens Police Act provides for the removal of a third-country national if the person concerned is not prepared to leave the federal territory voluntarily. The Federal Office for Immigration and Asylum is also responsible for all preparatory measures for return, such as the procurement of replacement travel documents. The return decision is carried out by the regional police directorate acting on behalf of the Federal Office for Immigration and Asylum.</p> <p>---</p> <p>Source: Ministry of the Interior</p> <p>5. Art. 25 Settlement and Residence Act =&gt; If the prerequisites for granting a residence title pursuant to Art. 11 para 1 and 2 are missing in a procedure for the extension of the residence title, the authority must – if necessary after obtaining a statement from the Federal Office for Immigration and Asylum –</p>
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	<p>EMN NCP Belgium</p>	<p>Yes</p>	<p>1. There is no specific legislation on that matter, unless the staying permits have been withdrawn for reasons of public order and national security (article 20-24 of the Immigration Law of 15/12/1980 - <a href="http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&amp;la=N&amp;c...">http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&amp;la=N&amp;c...</a> ).</p> <p>There is also a general follow up of persons who have received a return decision after their staying permit was not renewed or withdrawn. This procedure is called SEFOR (“sensitize, follow up, return” – see <a href="http://www.sefor.be">www.sefor.be</a> ). This procedure is also used for every person who has received a return decision (refusal of international protection, refusal of staying permit, overstay visa, ...).</p>

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			<p>People who have overstayed can also benefit from the assisted voluntary return programme. They will be considered as irregularly staying migrants (category C).</p> <p>2. See also Q1 (SEFOR) :</p> <ul style="list-style-type: none"><li>- After a return decision has been issued or a staying permit has been withdrawn or not been renewed, the SEFOR unit within the Immigration Office is informed by the service who has issued the decision;</li><li>- Once the deadline of the return decision is expired (or after at least 10 days after expiration of the staying permit), the SEFOR unit will ask the local police forces, to control whether the concerned person is still living at his last known address;</li><li>- If the person is still there,<ul style="list-style-type: none"><li>· A return decision will be taken and notified to the concerned person (if there has not been yet issued a return decision);</li><li>· A new return decision, with immigration detention and entry ban can be decided (if the person has not complied to the first return decision), in order to enforce the return;</li><li>· In case of families with minor children, the SEFOR unit will first organise an interview, in order to explain to the family that she has to leave the territory; in case of noncompliance, a transfer to an alternative to detention could be decided;</li><li>· Unaccompanied minor children are never forcibly removed nor detained.</li></ul></li><li>- In cases of public order or national security, a detention can be decided immediately (most of these persons come directly from prison) in order to forcibly remove the concerned person – in those cases the “Criminal Detainees Unit” of the Immigration Office will take the decisions.</li></ul> <p>3. See answers Q2</p> <p>4. The competent authority for forced returns is the Immigration Office for every step of the procedure. The actual forced removal may involve the federal police if the person needs to be escorted. The competent authority for the voluntary return in Fedasil, the Federal Agency in charge of the reception of applicants for international protection and voluntary return.</p>
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			<p>5. The concerned persons are always informed (in compliance to art.41 of the EU Fundamental Rights Charter) in writing. In case of withdrawal or nonrenewal of the staying permit, these are formal decisions, against which a (non-suspensive) appeal can be lodged at the Aliens Litigation Council (CALL – Raad voor Vreemdelingenbetwistingen / RVV). In some cases, e.g. if the staying permit is a long stay permit (non-limited), a suspensive appeal is possible.</p> <p>6. In the SEFOR procedure, most notifications of withdrawal or non-renewal of the staying permit, as well as the notifications of return decisions, are executed via the foreigners service of the municipality where the concerned person is living. The persons are invited to the municipality, will be informed about the decision, will get explanations about the consequences and the appeals possibilities, and will be invited to fill out a form about their identity, documents, ... (see also <a href="http://www.sefor.be">www.sefor.be</a>). This means of course that it is important to give regularly some training to local staff of the municipalities, but also to the different police officers, who need to make verifications, address controls, and sometimes have to arrest the concerned persons in the framework of the organization of forced return. The AVRR partners are well aware of the SEFOR procedure and the concerned persons are invited to use AVRR if they do not have the necessary financial means to organise their return. Fedasil does not specifically target these groups but outreach projects are conducted in several cities to raise awareness about the possibility to voluntary return for irregularly staying migrants.</p> <p>7. As a general rule : NO. But exceptions can be made. Individuals can lodge a regularization request (they have then to prove they are well integrated, that a return in the country of origin would be a disproportionate measure, that they have working possibilities, ...) – article 9bis of the Immigration Law. Regularisation requests on medical grounds are also possible – article 9ter of the Immigration Law. A temporary stay can be allowed for families with school going children until the end of the school year, provided that they have received a recent return decision and that this request is limited for the period counting from the Easter holiday until the Summer holiday. Temporary tolerated stay can also be allowed for ill people (for the duration of a medical treatment), provided that they cannot travel or that the treatment cannot be guaranteed in their country of origin.</p>
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	<p>EMN NCP Bulgaria</p>	<p>Yes</p>	<p>1. Yes. It is laid down in the national legislation (Law on the Foreigners in the Republic of Bulgaria). First, we start with compulsory administrative measures.          “Art. 39a. The compulsory administrative measures imposed on the foreigners according to this Law are:          1. revoking the right to stay in the Republic of Bulgaria;          2. return to the country of origin, a country of transit or a third country;”</p> <p>When we issue a compulsory administrative measure we follow:          “Art. 39b. In the Order imposing a compulsory administrative measure under Article 39a, Paragraph 1, Points 1 and 2, shall be specified a term between 7 and 30 days, within which foreigners shall voluntarily fulfil their obligation to return.          (2) For the provision of a term for voluntary departure longer than 30 days, the foreigner shall submit an application to the competent authority which has issued the Order under Paragraph 1 and which shall take a decision and notify the foreigner within three days. In such cases, the specific circumstances shall be taken into account for each individual case, such as: length of stay, health status, needs of vulnerable groups, presence of children attending school and other family and social relations. The term for voluntary departure may be prolonged but for no longer than one year.          (3) Where a voluntarily departure has been allowed but there is a risk that the foreigner will abscond, the competent authority issuing the Order under Paragraph 1 may issue an Order to the foreigner to report on a daily basis to the territorial structure of the Ministry of Interior at the location of his residence.          (4) Where the person represents a threat to national security or to public order, the competent authority shall not provide a term for voluntary departure.”</p> <p>When those obligations have already been fulfilled and the TCN (third-country national) is still located in the country, we follow Article 41, Paragraph 1, Point 2:          “Art. 41. Return shall be required when:          2. the foreigner has not left the country until the expiration of the permitted term or within the terms under Article 39b;”</p> <p>2. Same as answer 1</p>
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			<p>3. Same as answer 1</p> <p>4. Authorities responsible for imposing compulsory administrative measures are as set out in Article 44” “Art. 44. Compulsory administrative measures shall be imposed by Orders of the Chairperson of the State Agency for National Security and the Directors of the "National Police", "Border Police" and "Fighting Organised Crime" Chief Directorates, the Directors of the Metropolitan and Regional Directorates, the Director of the Migration Directorate, the Directors of the "Border Police" Regional Directorates at the Ministry of Interior, and of officials authorised by them. The factual grounds for the imposition of a compulsory administrative measure, when containing classified information, shall be indicated in a separate document drawn up by the relevant officials under the terms of the Law on the Protection of Classified Information. (3) Once they have entered into force, the Orders imposing compulsory administrative measures shall be executed by the authorities for administrative control of foreigners, respectively by the border control authorities, unless the authority which had issued the Order has allowed preliminary execution.”</p> <p>5. Yes, they are informed by letter, according to the provisions of the Administrative Procedure Code.</p> <p>6. No</p> <p>7. Only in the case under Article. 39b. (2) For the provision of a term for voluntary departure longer than 30 days, the foreigner shall submit an application to the competent authority which has issued the Order under Paragraph 1 and which shall take a decision and notify the foreigner within three days. In such cases, the specific circumstances shall be taken into account for each individual case, such as: length of stay, health status, needs of vulnerable groups, presence of children attending school and other family and social relations. The term for voluntary departure may be prolonged but for no longer than one year.</p>
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	<p>EMN NCP Croatia</p>	<p>Yes</p>	<p>1. Yes. Aliens Act (OG, No 130/11, 74/13, 69/17, 46/18)</p> <p>2. If the residence permit of TCN is withdrawn, officers for administrative affairs in the police administration or police stations of the Ministry of the Interior issue a decision on termination of the residence. At the same time, the return decision with the deadline to leave voluntary EEA is issued to TCN by the same authority. TCN must leave the EEA after the negative first-instance decision has become enforceable and within given deadline for voluntary leaving (it is enforceable when the second-instance body affirms the first-instance decision, if an appeal has been made). If TCN doesn't leave Croatia within a period for voluntary departure, he/she becomes illegally staying third country national in Croatia.</p> <p>TCN who does not leave the Republic of Croatia within a period for voluntary departure police officers for illegal migration in police administration and police stations of the Ministry of the Interior shall treat them as illegally staying third country national. The fact that TCN had a previously regulated status is irrelevant for the procedure. It will be taken into account in further decision making, however, at this stage of the procedure, TCN is considered to be an illegally staying third country national. TCN will be heard, all the individual circumstances of each case will be taken into account and one of the following decisions will be issued accordingly:</p> <ul style="list-style-type: none"> <li>- a return decision with the deadline for voluntary departure;</li> <li>- a return decision with the deadline for voluntary return with an entry ban or</li> <li>- an expulsion decision with an entry ban.</li> </ul> <p>The last includes detention of a TCN in the Detention Centre for Foreigners and, accordingly, forced return of TCN. The length of an entry ban will be determined in accordance with the individual assessment and the principle of proportionality.</p> <p>3. To TCN who has requested renewal of his/her residence permit but his/her permit has not been renewed, officers for administrative affairs in the police administration or police stations of the Ministry of the Interior issue a decision rejecting the application and a return decision with a deadline for leaving voluntary EEA. TCN must leave the EEA after the negative first-instance decision has become enforceable and within given deadline for voluntary leaving (it is enforceable when the second-instance body affirms the first-instance decision, if an appeal has been made). If TCN does not</p>
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			<p>leave the country, he/she becomes illegally staying third county national in Croatia and is then treated by officials for illegal migration in police administrations and police stations - see answer to question 2.</p> <p>To TCN whose residence permit has expired and hasn't requested renewal, officers for administrative affairs in the police administration or police stations of the Ministry of the Interior are not obliged to take official action after the expiration of the residence permit. TCN must leave the Republic of Croatia and if doesn't leave then he/she becomes illegally staying third county national in Croatia and is then treated by officials for illegal migration in police administrations and police stations - see answer to question 2.</p> <p>4. Border Police Directorate (Detention Centre for Foreigners) and officers for illegal migration in police administrations and police stations of the Ministry of the Interior.</p> <p>5. Yes. In a situation when TCN's residence permit is withdrawn, officers for administrative affairs in the police administration or police station of the Ministry of the Interior issue a decision on termination of the residence and a return decision with the deadline to leave voluntary EEA and TCN is obliged to leave the EEA. In a situation when TCN's residence permit expires and TCN hasn't requested renewal, no decision on termination of the residence or return decision is issued and the TCN is obliged to leave the Republic of Croatia. In a situation when TCN requested renewal of his/her residence permit but his/her permit has not been renewed, a decision rejecting the application and a return decision with the deadline for leaving voluntary EEA is issued to TCN and TCN is obliged to leave the EEA.</p> <p>6. No.</p> <p>7. When there is no possibility for forced return, a decision on temporary postponement of forced return is issued to TCN.</p>
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			<p>The following obligations may be imposed to TCN by a decision:                  seizure of a travel document,                  deposition of certain funds,                  prohibition to leave a particular address of accommodation,                  regular reporting to a police station.</p> <p>TCN whose forced return was temporarily postponed is still bound by the obligation to leave the EEA.                  TCN whose forced return was temporarily postponed is entitled to health protection and to education in line with special regulations.</p>
	EMN NCP Cyprus	Yes	<ol style="list-style-type: none"> <li>1. The applicable process is based on internal guidelines.</li> <li>2. The competent authority (Civil Registry and Migration Department) notifies in written form (letter) the TCN that he/she must leave the Republic within 15 days. If the TCN does not leave the Republic within the specific time frame, his/her file is transferred to the Police (Aliens and Immigration Service) to locate him/her and carry out the return.</li> <li>3. The competent authority (Civil Registry and Migration Department) notifies in written form (letter) the TCN that he/she must leave the Republic within 15 days. If the TCN does not leave the Republic within the specific time frame, his/her file is transferred to the Police (Aliens and Immigration Service) to locate him/her and carry out the return.</li> <li>4. Police (Aliens and Immigration Service) carries out all the necessary actions for the return. The return decision is issued by the competent authority (Civil Registry and Migration Department)</li> <li>5. No.</li> </ol>


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			<p>6. No, not for the specific category. However they can be informed through our AVRR project, currently carried out by IOM.</p> <p>7. No. The TCN is considered an illegal migrant in all cases. However, he/she may have applied for asylum or a different residence permit category (usually as a member of CY/EU family).</p>
	<p>EMN NCP Czech Republic</p>	<p>Yes</p>	<p>1. Not specifically, general rules for returns are applied. It means that the Aliens Act imposes obligation to stay in the territory of the Czech Republic only with valid passport and visa or other type of permission to stay. The law states that if the residence permit is over (not prolonged, expired, cancelled) the Ministry of the Interior (step 1) issues the so-called “exit order” – it is special short permission to stay only for the purpose of return. During this period the person is obliged to leave the territory (it is similar to “period for voluntary departure” within the meaning of Return Directive). According to the law no special monitoring measures can be applied. If the person does not leave the country within this period and is detected by the Police, the Police will generally issue (step 2) return decision either with or without entry ban (depending on the circumstances of the case). (step 2a) Monitoring measures may be imposed by the Police. At this stage, only return decision with entry ban can lead to forced (step 4) return via placement of the person to detention (step 3)– Police competence. All types of foreigners mentioned above (those with ended legal stay and those issued with return decisions) may apply for assisted voluntary departure programme (step 1a) organized by the Ministry of the Interior. This programme is laid down in the Aliens Act.</p> <p>2. See A1</p> <p>3. See A1</p> <p>4. See A1 Non-prolongation, cancellation of legal stay, assisted voluntary returns – Ministry of the Interior Return decision, detention, decision on monitoring, forced return, IDs ... - Police</p>

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			<p>Removability check – Police (in cooperation with Min.of the Interior)</p> <p>5. No</p> <p>6. There are information provided on web pages of the Ministry on the Interior and the Police and also on web pages of NGOs but no special massive information campaign exist.</p> <p>7. Generally, all steps mentioned above shall be made to return the foreigner. However, it depends on the reason why the return cannot be executed:</p> <ul style="list-style-type: none"> <li>-Lack of IDs – all steps shall be taken to return the person, no legalization of stay generally possible</li> <li>-Medical reasons – temporary national long term visa (“tolerated stay”) for the period of illness</li> <li>-Non-refoulement - temporary national long term visa (“tolerated stay”) for the period of non-removability - usually leads to longer stay in the end</li> <li>-Article 8 ECHR (family ties) – no return decision with entry ban issued, but no automatic legalization of stay – the person has to use legal channels to apply for standard residence permit/visa</li> </ul>
	EMN NCP Estonia	Yes	<p>1. Yes. According to the Obligation to Leave and Prohibition on Entry Act section 3 (2) an TCN is required to leave Estonia if his or her basis for stay expires and is not extended and if he or she has no other basis for stay. Pursuant to same act section 7, an order to leave Estonia shall be issued to an TCN who is staying in Estonia without a basis for stay. By the return decision it is established, that the TCN is staying in Estonia illegally.</p> <p>2. The decision to cancel a residence permit will be made by the Police and Border Guard Board. By the order to leave an obligation is imposed on an TCN, on the basis of subsection 72 (1) of the Obligation to Leave and Prohibition on Entry Act (hereinafter the OLEPA), to leave Estonia within the term stipulated in the order to leave (from 7 to 30 days). In the case of appearance of any circumstances stipulated in subsection 72 (2) of the OLEPA, the TCN’s obligation to leave shall be promptly executed compulsorily and no term for voluntary leave shall be enabled to the person. In</p>

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			<p>order to ensure compliance with a precept, the Police and Border Guard Board may require a person to comply with surveillance measures and to make a penalty payment. In case of appearance of circumstances named in subsection 72 (6) of the OLEPA, The Police and Border Guard Board has a right to shorten the term for voluntary leave and to execute the obligation to leave compulsorily before expiry of the term for voluntary leave. In case if the performance of the order to leave within the term stipulated in the return decision shall turn out to be disproportionately burdensome for the person, then the Police and Border Guard Board may extend the term of the order to leave on the basis of subsection 72 (5) of the OLEPA by up to 30 days. In case if a person has not left voluntarily within the term provided for him or her by the order to leave, an obligation to leave will be compulsory and the person shall be expelled from the Estonia on the basis of section 73 of the OLEPA. An TCN may be detained if the application of surveillance measures provided for in this Act does not ensure the efficiency of the compliance with the obligation to leave and, primarily, in the case if there is a risk of escape of the person; the person does not comply with the obligation to co-operate or the person does not have documents necessary for the return or the obtaining thereof from the receiving state or transit state is delayed.</p> <p>3. The decision to issue, extend or cancel a residence permit will be made by the Police and Border Guard Board. The actions to return a person are described under the answer to question 2.</p> <p>4. The Police and Border Guard Board is the responsible authority for the return (issuing a return decision, monitor of the surveillance measures, performs detention and expulsion) of the TCN. As well, the Estonian Internal Security Service may be involved. Estonian Red Cross is carrying out the monitoring of expulsion of the TCN staying illegally in Estonia.</p> <p>5. Person will be informed about a negative decision by the return decision by letter. But also return counselling will be provided to a person.</p> <p>6. No.</p>
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			<p>7. According to Aliens Act section 2103 (1,2) in exceptional circumstances a TCN may be granted a temporary residence permit for settling permanently in Estonia if the person is staying in Estonia and in the course of the proceedings concerning the entry of a person into Estonia, his or her temporary stay, residence and employment in Estonia and the obligation to leave Estonia of a person it has become evident that it would be clearly unduly burdensome to him or her, the person lacks the possibility of getting the residence permit in Estonia on another basis and he does not constitute a threat to public order and national security. The decision on granting a temporary residence permit on such basis shall be substantiated by the Police and Border Guard Board.</p>
+	EMN NCP Finland	Yes	<p>1. Yes. Aliens Act section 58: "Cancelling residence permits". Aliens Act section 143: "Deportation".</p> <p>2. The Finnish Immigration Service makes the decision to cancel a residence permit. A return decision is also made in the same decision. The police is responsible for enforcement of the return decision. A return decision includes 30 days time-limit for voluntary departure. If a foreigner has a valid residence permit in another member state, the Finnish Immigration Service will not make a return decision but will make a requirement under Aliens Act section 149b to move to another member state. If a foreigner does not comply with the requirement to move, a return decision is made.</p> <p>3. The Finnish Immigration Service will decide on the extension of a residence permit. If the decision is negative, a return decision is also made. All other steps are the same as in the answer for question 2.</p> <p>4. In Finland the authorities involved with operational return procedures are the Police and the Finnish Border Guard. The process is the same regardless of the content of the negative decision. That means: • The service of negative decisions is done by the police or border guard.</p>



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			<ul style="list-style-type: none"> <li>• We go through all the issues you mentioned above in order to make sure that the return can be implemented.</li> <li>• In general, if the returnee has not committed any crimes, he / she has a valid travel document, the person may return to his / her own country without the involvement of the police.</li> <li>• If the person does not want to live the country, then we consider to escort him / her.</li> <li>• In Finland the Non-Discrimination Ombudsman monitors removals from the country.</li> </ul> <p>5. If the decision is negative, the police or the border guard give the information about the decision orally.</p> <p>6. No. As mentioned before, in general, the return procedure is the same in all cases and we do not deal with awareness in these particular cases, however we give information about return procedures as a whole.</p> <p>7. Aliens Act section 51: Aliens residing in Finland are issued with a temporary residence permit if they cannot be returned to their home country or country of permanent residence for temporary reasons of health or if they cannot actually be removed from the country. If the return is not enforced, The Finnish Immigration Service can consider issuing residence permit under section 51 of Aliens Act. Once the obstacle of return is removed, return decision may be done under an expedited procedure.</p>
	<p>EMN NCP France</p>	<p>Yes</p>	<p>1. YES The administrative authority may impose to the third country national an obligation to leave the French territory (OQTF) if: his/her residence permit issuance or renewal has been refused or withdrawn; he/she has not requested the renewal of his/her temporary or multi-annual residence permit and he/she stayed illegally after the expiration of this permit; the receipt for a residence permit application or the provisional residence permit has been withdrawn.</p>

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			<p>All these cases which end legal residence are specifically provided by law and therefore allow the application of an OQTF according to the return directive article L.511-1 I, 3 °; 4 ° and 5 ° of the Code on Entry and Residence of Foreign Nationals and Right of Asylum - CESEDA). To comply with the OQTF, the return procedure is applicable to the foreign national. He/she is required to join the country of which he/she has the nationality or any other country not member of the European Union which does not apply the Schengen acquis and where he/she is legally admissible.</p> <p>2. YES The CESEDA describes precisely the procedure applicable to cases of non-renewal or withdrawal of a residence permit. Stage 1: the end of the stay is identified and therefore an obligation to leave the territory is founded. The grounds for pronouncing an OQTF are specifically provided by the law. The OQTF implies both the irregular stay of the third country national (this results directly from the decision to refuse the issuance, the renewal or withdrawal of the resident permit to which the OQTF refers) and establishes an obligation to return to the person concerned. In all cases, and not only in those covered by this question, a decision on the deadline for voluntary return must be taken: Either the deadline is granted: in principle the deadline is 30 days following the notification, which may exceptionally be longer if specific circumstances have to be considered (length of stay in France, schooling of children). or the deadline is refused: in this case a reasoned decision of the refusal of the voluntary departure deadline, separate from the OQTF, must be notified to the foreign national. The reasons are restrictively listed by law, in accordance with article 7 of the return directive: if the foreign national's behaviour constitutes a threat to public order; if the issuance or renewal of his/her residence permit, of his/her receipt of the residence permit application or his/her temporary residence permit has been refused because the application was unfounded or fraudulent; if there is a risk that the foreign national will circumvent this obligation (if he/she stayed on French territory more than one month after the expiration of his/her residence permit, without having</p>
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			<p>requested its renewal) . The cases when this risk is given is listed (in 3 ° of II of article L. 511-1 of the CESEDA).</p> <p>Step 2: the OQTF is implemented The foreign national must respect the OQTF. The removal is carried out: to the/she third country of which he/she has the nationality from; or, in application of a Community readmission agreement or arrangement, or bilateral agreement, to the country which has issued him/her a valid travel document; or, with his/her agreement, to another third country in which he/she is legally admissible.</p> <p>In order to prevent the risk of absconding, the law allows: to oblige the foreign national to hand over his/her passport and identity documents in exchange for a receipt; when a deadline for voluntary departure is granted, to compel the foreign national to reside at a place that a reasoned decision of the administrative authority designates in combination with presentation obligations up to three times a week in a prefecture, a police station or a gendarmerie; when the deadline for voluntary departure has been refused, withdrawn or if it has expired, the foreign national may, if he/she is still on the territory, be placed in a detention centre or under house arrest with following automatic execution of his/her removal (article L. 513 of the CESEDA).</p> <p>Note : When the foreign national has an OQTF, with or without a deadline for voluntary departure, he/she can request assistance for voluntary return and, under certain conditions, assistance for reintegration into his/her country of origin.</p> <p>3. see Q2</p> <p>4. The administrative authority competent for the pronouncement of removal orders and the determination of the country of return is the Prefect of the respective department and, in Paris, the Prefect of police. The Prefect is also competent to impose presentation obligations and to designate a place of residence.</p>
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			<p>The conditions for granting and the amount of return assistance are determined by the Minister responsible for immigration, after consulting the French Office for Immigration and Integration (OFFI) who implements this aid.</p> <p>5. YES As soon as possible after the notification of the OQTF, the foreign national can consult a lawyer, the consulate of his country of origin or a person of his/her choice. The foreign national is informed that he/she can receive the main elements of the decision. He/she may request that these elements are communicated in a language which he/she understands. In general and regardless the reason for the removal order, the law guarantees the foreign national placed in detention the right to indicate the language he/she understands and that this language is used until the end of the procedure. The law guarantees as well the assistance of an interpreter in case of contestation of the removal order. In addition to these rights, the law specifically foresees the administration's obligation to inform the foreign national concerned by an OQTF: Foreign nationals under house arrest have to be informed during the preparation period for their return of their rights and obligations and, where applicable, of the possibility of receiving return assistance. Foreign nationals placed in detention benefit from information on reception and support actions to exercise their rights but also to prepare their departure. These actions are implemented by the OFII as well as by associations which are authorised by the Ministry of the Interior to intervene in detention places.</p> <p>6. YES, but on a voluntary basis. There is no specific measure which supports foreign nationals whose residence permit has been withdrawn or expired. However, like all foreign nationals who are removed, they can apply for return assistance. Once the request for return assistance has been transmitted, the respective departments of the OFII will contact the person concerned. During a meeting, they organise the departure and prepare the reintegration in the country of origin.</p>
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			<p>To allow foreign nationals in an irregular situation to plan their return, the OFII established a website (<a href="http://www.retourvolontaire.fr/">http://www.retourvolontaire.fr/</a>) gathering the necessary information in several languages.</p> <p>7. NO</p> <p>The removal order has to be executed.</p> <p>However, the foreign national has the possibility to file a suspensive appeal which could result in the annulment of the decision. In the frame of this appeal, the foreign national can submit new information which may lead the administration to withdraw its initial decision.</p> <p>Finally, when the removal order has not been carried out within one year of the date of notification (two and three years in the event of a return ban), he/she can apply for a residence permit, including for one for exceptional reasons.</p> <p>Finally, the law foresees that certain categories of foreign nationals cannot be subject of an OQTF. This does apply to:</p> <ul style="list-style-type: none"><li>unaccompanied minors;</li><li>foreign nationals who justify by all means that they have resided habitually in France since the age of 13;</li><li>foreign nationals who have resided regularly in France for more than ten years, unless they were during this whole period holder of a temporary or multi-annual residence permit for students;</li><li>foreign nationals who have resided regularly in France for more than twenty years;</li><li>foreign nationals not living in a state of polygamy who are the father or mother of a minor French child residing in France when it is established that they effectively contribute to the maintenance and education of the child under the conditions provided for by article 371-2 of the civil code since the child's birth or for at least two years;</li><li>foreign nationals who have been married for at least three years to a spouse of French nationality, provided that the cohabitation has not ceased since marriage and that the spouse has retained the French nationality;</li><li>foreign nationals who have resided regularly in France for more than ten years and who, not living in a state of polygamy, have been married for at least three years with an foreign national provided that the cohabitation has not ceased since marriage;</li><li>foreign nationals receiving an accident at work pension or one for occupational disease by a French organisation and whose permanent incapacity rate is 20% or more;</li></ul>
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			<p>foreign nationals habitually residing in France if their state of health requires medical treatment without which the consequences could be of exceptional gravity and if, with regard to the supply of health care and the characteristics of the health care system of the country of return, they could not effectively benefit from appropriate treatment there.</p> <p>There is also the possibility to impose a long-term house arrest in cases where execution of the removal order is impossible in the short or medium term. This impossibility may result from circumstances pertaining to the specific situation of the foreign national, as for example: circumstances justifying the recognition of protection on the basis of Article 3 ECHR; circumstances specific to the country of destination: lack of means of transport, natural disaster. This measure secures the retention of foreign nationals subject to a removal order in France by authorising them to stay temporarily.</p> <p>The maximum legal duration of this measure is limited by law to a period of six months, renewable once. No duration is individually fixed for the foreign national. The removal can be carried out as soon as the impossibility of departure has ended.</p>
	EMN NCP Germany	Yes	<p>1. Yes. §§ 50 and following AufenthG (Residence Law) and § 51 Para. 1 AufenthG</p> <p>2. Section 50, Paragraph 2, AufenthG "The foreigner must leave the federal territory immediately or, if a departure deadline is set, by the end of the deadline." Section 50, Paragraphs 5 and 6 of the Residence Act "The passport or passport substitute of a foreigner who is obliged to leave the country should be kept in safekeeping until he or she leaves the country ." „A foreigner can be put on the wanted list in the police search tools for the purpose of ending his stay ,to determine his stay and arrest if his stay is unknown."</p> <p>Deportation is possible under additional conditions, § 58 Para.1 AufenthG "The foreigner is to be deported if the obligation to leave the country is enforceable, a departure period has not been granted or has expired, and the voluntary fulfillment of</p>


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			<p>the departure obligation is not ensured or monitoring of the departure is necessary for reasons of public security and order appears. "</p> <p>Paragraph 3 "The monitoring of the departure is particularly necessary if the foreigner 1. is in custody or in other public custody by order of a judge, 2. has not left within the departure period set for him, 3. due to a particularly serious interest in expulsion has been expelled ( § 54 paragraph 1 in connection with § 53), 4. is destitute, 5. does not have a passport or passport substitute, 6. has given incorrect information to the aliens office for the purpose of deception or has refused to provide the information or 7 that he will not meet his obligation to leave. "</p> <p>3. See answer Nr. 2</p> <p>4. - Aliens Offices - determine whether a residence permit exists / does not exist and, if necessary, threatens deportation, (Section 71 (1) AufenthG) - BAMF - determines whether a residence permit exists / does not exist and, if necessary, threat of deportation - Federal Police - Enforcement (Section 71 Paragraph 3 AufenthG).</p> <p>5. currently no information</p> <p>6. currently no information</p> <p>7. Toleration is legally provided for, which under certain conditions enables continued presence (Section 60 a AufenthG) Examples: a) as long as departure is impossible for factual or legal reasons or b) if the temporary presence of the foreigner in federal territory for criminal proceedings for a crime is deemed appropriate by the public prosecutor or the criminal court, because without his information it would be difficult to investigate the facts, c) or if urgent humanitarian or personal reasons or significant public interests require its temporary continued presence in the federal territory.</p>
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	<p>EMN NCP Hungary</p>	<p>Yes</p>	<p>1. Yes. - Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals - Government Decree 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals</p> <p>Subsection (1) of Section 42 The immigration authority, if it finds that a third-country national who has lawfully resided in the territory of Hungary no longer has the right of residence, shall adopt a resolution to refuse his/her application for a residence permit or to withdraw the document evidencing right of residence of the third-country national in question, and - with the exceptions set out in this Act - shall order him/her to leave the territory of the Members States of the European Union. The third-country nationals may seek remedy against the expulsion order in the appeal submitted to challenge the resolution adopted to refuse the application for a residence permit or to withdraw the document evidencing the right of residence.</p> <p>2. Return obligation or return decision shall only be taken when the withdrawal of the residence permit is a final decision (and the TCN has no other on-going residence permit procedure). In this case, the Units of Admission Affairs informs the Alien Policing Units which will adopt a return decision. Where there are no reasons to believe that this would undermine the purpose of a return procedure, voluntary return should be preferred over forced return and a period for voluntary departure should be granted. Before ordering the return back to the country of origin the Unit of Admission Affairs contacts the asylum authority and requests a prompt opinion as to whether the principle of non-refoulement applies.</p> <p>3. In practice in case the Units of Admission Affairs rejects the renewal of a residence permit, if the TCN's present residence permit is valid, the TCN will not be subject of a return obligation, as he/she is obliged to leave the territory of the European Union latest on the last day of the validity of the residence permit.</p>
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			<p>In case the Units of Admission Affairs rejects the issuance of a residence permit, according to the Hungarian legislation the decision contains a return order, so the TCN shall leave voluntarily the territory of the European Union - with exceptions the territory of Hungary. The TCN concerned has a time limit until he/she shall leave, the time limit is. Before ordering the return back to the country of origin the Unit of Admission Affairs contacts the asylum authority and requests a prompt opinion as to whether the principle of non-refoulement applies.</p> <p>If the TCN has not left the territory of the European Union - with exceptions the territory of Hungary – the Alien Policing Units are the competent authorities for taking a removal decision.</p> <p>4. The Alien Policing Units of the 7 regional directorates of the National Directorate-General for Aliens Policing are the competent authorities when a removal decision has to be taken on the ground that the TCN who no longer has the right of residence in Hungary and who has not left the territory of the European Union until a specified date given by the Unit of Admission Affairs which dealt with the residence permit case of the TCN. The Alien Policing Units are responsible for conduction first interviews with the TCNs, collect all the data of the person and the case itself. When The Alien Policing Unit has taken the removal decision, they inform the Unit of Coercive Measures and Return in order to start the return process as detailed below.</p> <p>The Unit of Coercive Measures and Return of the Directorate of Aliens Policing of the National Directorate-General for Aliens Policing (located in Budapest, quasi Headquarters) is the competent authority to organize the return operations, incl. conducting identification procedure and obtaining travel documents for undocumented third-country nationals who are illegally staying in Hungary; organizing and co-ordinating voluntary returns (in cooperation with the IOM); organizing and participating in forced returns (removal operations) by air of third-country nationals who are subjects of individual removal orders (JRO-s, SRO-s, commercial flights).</p> <p>5. Yes. As a general rule, the TCN is present at the immigration authority's premises and the decision is shared with them there.</p>
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			<p>Where there are no reasons to believe that this would undermine the purpose of a return procedure, voluntary return should be preferred over forced return and a period for voluntary departure should be granted.</p> <p>If a voluntary departure is granted, the TCN is also informed that if he/she does not leave the territory of the European Union until the date the immigration authority grants, the TCN will be removed by the Police with force.</p> <p>The National Directorate-General for Aliens Policing informs about every decision the TCN concerned directly, via post as a general rule, also issue a written summon for the person at the address that the TCN has declared to be his/her place of stay in Hungary. If the TCN has a legal representative the National Directorate-General for Aliens Policing informs the legal representatives also, via email, via post. The legal representatives are informed about every procedural step before the measure has been taken.</p> <p>If the TCN's whereabouts are unknown, the decision may be served by way of posted notice. The notice shall be posted on the authority's website for providing information electronically.</p> <p>6. Yes. In general, the National Directorate-General for Aliens Policing works in close cooperation with the IOM. The IOM issued various information leaflets and they are available via e-mail, phone.</p> <p>7. Yes. According to Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals Subsection (4) and (5) of Section 42</p> <p>Where justified by the personal circumstances of the person expelled - such as the length of stay in the territory of Hungary, on account of which more time is required for making preparations for departure, or the existence of other family and social links -, the immigration authority may - upon request or on its motion - extend the period for voluntary departure by a period of up to thirty days. If the child who is in the parental custody of an expelled third-country national pursues studies in a public education institution, the immigration authority may - upon request or on its motion - extend the period for voluntary departure by a period up to the end of the running semester. Extension of the time limit for voluntary departure shall be ordered by way of a ruling. Enforcement of ruling on the extension of the time limit for voluntary departure may be contested.</p>
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	<p>EMN NCP Italy</p>	<p>Yes</p>	<p>1. Yes. The applicable process is laid down in national legislation. According to art. 13 (para 2 lett. b) of law 286/1998, an expulsion order is issued by the Prefect when the alien remains on the national territory although his residence permit was revoked or withdrawn or refused or expired more than 60 days without applying for renewal (art. 5 para. 5 of the same law 286/1998 provides that a residence permit is withdrawn or not renewed when necessary requirements established by law are not or are not longer met).</p> <p>2. If an alien remains on the national territory although his residence permit was revoked or withdrawn, the Prefect issues an expulsion order. In this case - when there are no conditions for forced removal - the expelled foreigner could ask to the Prefect for a period of time (which can range between 7 and 30 days) for a voluntary departure, also through a voluntary and assisted return programs. This period can be extended depending on the concrete circumstances, such as the admission to a voluntary return program, the presence of minors who attending school.</p> <p>3. The procedure is the same as what described in Q.2.</p> <p>4. As described in Q. 1, when a foreigner is not longer authorised to reside in Italy, the Prefect is competent to issue an expulsion decree. Then, in general - considering the difficulty to proceed to a forced removal - the Quaestor orders to foreigner to leave voluntarily the national territory within 7 days (art. 14 para 5 bis of law 286/1998) starting from the notification of the expulsion decree (or within the different period granted by the Prefect according to art. 13 para 5 of law 286/1998). If foreigner doesn't comply with it, the Prefect has to emanate another expulsion decree for violating the Quaestor's removal order. The violation is also punished by a penalty. It may be useful to underline that if the alien, also regularly residing in Italy, constitutes a danger for security or public order, the expulsion can be issued directly by the Minister of Interior, who has to prior inform the President of the Council of Ministers and the Ministry of Foreign Affairs (art. 13 para 1 of law 286/1998).</p>
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			<p>5. They are informed by the notification of the expulsion decree, which must be motivated by the Prefect. Moreover, they are informed about the possibility to enjoy an assisted and voluntary return program thanks a multilingual brochure issued by police.</p> <p>6. Yes. Relevant initiatives have been undertaken in the field of the voluntary return. In particular, Ministry of Interior has promoted a project (in 2018) which included important measures of reintegration (so called AVRR) for 900 TCNs. The Assisted Voluntary Return and Reintegration (AVR&amp;R) activities are part of the broader IOM migration management approach and have been realized in close synergy with the REVITA project, funded under the AMIF fund. The aim of the project is to further enhance the voluntary return measure and contribute to a correct management of migration flows.</p> <p>7. The law provides that the expulsion decree is immediately enforceable (art. 13 para 3 of law 286/1998). So, the only way to remain more time in the Italian territory is to apply to the Prefect for a period of time (between 7 and 30 days) necessary to organize a voluntary departure.</p>
	EMN NCP Latvia	Yes	<p>1. Yes, the applicable process is completely laid down in national legislation and this process formally can be done without any internal guidelines but, of course, in some stages of the process internal guidelines, if required, are applied as well. National legislative documents that regulate the procedure: Immigration Law and Cabinet Regulation No.564. Internal guidelines are not documented but are the result of work practice. Return handbook recommendations are integrated in the work practice as well.</p> <p>2. The legislative act stipulates that a third country national (TCN) whose residence permit (RP) (i.e. study, work or family purposes) has been withdrawn must leave Latvia immediately after the RP is withdrawn, but the head of the Office of Citizenship and Migration Affairs (OCMA) or his/her authorized</p>

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			<p>official according to possible humanitarian reasons may allow TCN to stay in Latvia for up to 45 days. Pursuant to this paragraph, in the decision on the withdrawal of RP the time is given for TCN to leave Latvia (if TCN is still in the country). The time for leaving Latvia given in decision is determined in accordance with current practice (the documents in TCN case are taken into account as well as factual circumstances, the situation of the TCN, the obligations of the TCN in Latvia, the possibilities for the TCN to leave country).</p> <p>Thus, if a RP is withdrawn, the revocation decision first gives TCN time to leave the country. This time given in decision (from RP withdrawal until the day he/she has to leave Latvia) is not considered to be illegal stay in the country.</p> <p>If TCN has received RP on the basis of family reunification and his/her RP has been withdrawn, TCN can appeal decision on revocation of his/her RP and stay in Latvia legally until the final decision in his/her case is made (if false marriage is not detected). This does not apply to study and work RP withdrawal cases.</p> <p>OCMA sends the information on revoked RP to the State Border Guard (SBG). If the TCN does not leave Latvia within the specified time period (given in the decision), the SBG officials shall carry out a check of TCN stay in the country. If the check reveals that TCN is still in Latvia after the time specified in the decision, TCN is administratively punished, the SBG has the right to detain TCN or if TCN cooperates and agrees to voluntarily leave Latvia, SBG contacts OCMA and informs about the situation and agrees on time when TCN will arrive at OCMA to receive the voluntary return decision (VRD). If TCN does not have the means to leave the country, IOM support is offered. If TCN refuses to cooperate and leave voluntarily then, SBG can decide to detain P and a removal order is issued. In the VRD the time is given for TCN within which he/she must leave the European Union (EU). This time within which TCN must leave the EU is set according to TCN explanation - the circumstances of TCN are taken into account and evaluated as well (the time given in the VRD for TCN to execute it and leave EU depends on current work practice and internal guidelines; the rights and interests of TCN are taken into account as well). Time for VRD execution is not less than 7 days and not more than 30 days. TCN has rights to ask to prolong VRD execution time and this time can be prolonged by Head of the OCMA if there is a valid reason for that. If a removal order (RO) has been issued, forced return of TCN is provided by the SBG. After the adoption of RO, the Ombudsman's Office is informed and the Ombudsman's Office monitors the forced return of TCN.</p>
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			<p>3. If RP expires, the next day TCN is without status in Latvia and OCMA updates the information in the Population Register database. In such cases, no decision is made and no letter is sent to TCN, nor is TCN otherwise informed, because TCN was already informed about all conditions of the residence upon receipt of the RP. If the SBG detects such TCN illegal stay, the return procedure is the same as that described in the answer to previous question.</p> <p>4. An illegal stay of TCN can be detected by OCMA or SBG. OCMA can inform SBG about the possible illegal stay of TCN and request appropriate procedural steps. The SBG can detain TCN or decide to apply an alternative measure to detention. If the TCN has had RP in Latvia, OCMA and only OCMA issues a return decision – VRD or RO (depending on the circumstances). Official of the OCMA or the SBG introduces TCN with return decision. When VRD is issued, SBG has to release the person. If VRD is issued for TCN, he/she can turn to the IOM for support, and the IOM can agree to provide assistance and accommodation and minimal and necessary expenses until VRD is enforced, i.e., TCN has left EU. IOM can transport TCN to the airport or, depending on TCN profile, it can be carried out in cooperation with the SBG. If RO is issued for TCN, the Ombudsman is notified about that. In this case TCN may be detained until removal (or an alternative remedy to detention can be applied but TCN is supervised by the SBG until removal). Removal is provided by the SBG. Removal is supervised by the Ombudsman's Office.</p> <p>5. In RP withdrawal case TCN is informed about procedure. As mentioned before, TCN receives the decision on the withdrawal of the residence permit and by this decision TCN is informed about the appeal procedure, the time for departure if they are still in Latvia, when and where the ID card has to be delivered and that further entry and residence in Latvia is possible if TCN has a valid travel document and visa or residence permit. The decision about RP withdrawal is only in Latvian.</p> <p>In RP expiring case – TCN has been informed about the conditions under which he/she can enter and stay in Latvia when RP was received and no additional information is given to TCN when RP is expired. If there is a special case where OCMA is required to control TCN stay in Latvia, TCN is contacted and informed about his/her rights and further actions that will be taken, about actions that should be taken from TCN side and a meeting with TCN is held.</p>
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			<p>6. OCMA, SBG and IOM work together to keep track on new emerging problems and trends. Statistics are produced and analyzed to see what problems can emerge in future. If new problems are foreseen, corrections in national legislation can be made.</p> <p>7. OCMA and SBG work to ensure that in maximal possible number of cases the return of TCN is enforced. Illegal stay of third-country nationals in Latvia is not tolerated. There are, of course, cases where OCMA tolerates TCN stay in Latvia for a short period of time. In those cases TCN has the opportunity to pursue their interests/rights to legalize their stay in Latvia without leaving the country. Example - if there are minor deficiencies to be rectified to receive a new residence permit and TCN cooperates, for example, tries to settle the obligations at the educational institution (fulfillment of contract conditions for payment, proof of study progress, etc.), or TCN has no place to return to and at the same time there is a possibility to apply for residence permit on a different basis and TCN cooperates etc.</p> <p>There is no special scheme. If TCN has done everything to legalize his/her status in the Republic of Latvia, then the head of OCMA may allow TCN to submit documents for RP without leaving the country. This does not apply to any particular immigrant group, but to individual cases.</p>
	<p>EMN NCP Lithuania</p>	<p>Yes</p>	<p>1. Yes.</p> <p>The Law on the Legal Status of Aliens stipulates that foreigners must leave Lithuania when the validity of a work permit or work in Lithuania expires, legal activities in Lithuania cease when a period of education, training, traineeship or professional development ends or a foreign national ceases to study, study, traineeship or professional development, unless he is granted a temporary residence permit on another basis laid down in this Law.</p> <p>The Law on the Legal Status of Aliens also stipulates that an alien must leave Lithuania until the expiry of the visa or temporary residence permit, as well as until the end of his stay without a visa or other lawful stay, unless he receives a document certifying his right to stay or reside in Lithuania. If an alien is staying illegally in Lithuania after the annulment of a visa or residence permit, a visa, a temporary residence permit, a stay without a visa or other legal stay has expired, a return decision</p>

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			<p>shall be issued which (after assessing the alien's ability to leave as soon as possible and if he cooperates with the competent authorities in the matter of return) shall set a time limit of 7 to 30 days to voluntarily leave Lithuania. If an alien has not voluntarily left Lithuania within the time limit set in the decision to return, or if he has not been given a time limit for voluntary departure because there is reason to believe that the alien may abscond, the alien shall be expelled from Lithuania.</p> <p>2. If, at the time when the decision to withdraw the temporary residence permit is taken, it is known that the alien is staying in Lithuania and his stay will become illegal following the withdrawal of the temporary residence permit, a return decision may be issued together with the decision to withdraw the temporary residence permit. In cases where a residence permit is withdrawn because of an alien's threat to public policy or public security, the decision to withdraw the residence permit shall be accompanied by a decision on expulsion from Lithuania. If the ground for withdrawal of the residence permit does not relate to a threat to public policy or public security posed by the alien, an appeal against the decision to withdraw the residence permit to a court suspends its enforcement, so the alien still holds a valid residence permit during the appeal period and, if the decision is challenged before a court, until the final court decision, which means that there are no grounds for a return decision. When dealing with the withdrawal of a temporary residence permit, in most cases foreigners have already left Lithuania or leave Lithuania as soon as they have received a decision to withdraw a temporary residence permit. If it is established that the alien is staying in Lithuania after the entry into force of the decision to withdraw the residence permit and his stay is illegal, a return decision shall be issued. The authority that took the decision on the return of the alien (the State Border Guard Service or the Migration Department) monitors whether the alien has complied with the return decision in the same way as any other return decision (checks in the information systems and registers if the alien's exit is not recorded at the address indicated by the alien as the place of stay or residence in Lithuania and checks that the foreigner has left the State border).</p> <p>3. See answer to Q 1 and 2. If an alien is staying illegally in Lithuania after the expiration/annulment of a visa or residence permit, a temporary residence permit, a stay without a visa or other legal stay has expired, a return decision shall be issued which (after assessing the alien's ability to leave as soon as possible and if he cooperates with the competent authorities in the matter of return) shall set a time limit of 7 to 30 days to voluntarily leave Lithuania. If an alien has not voluntarily left Lithuania within</p>
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			<p>the time limit set in the decision to return, or if he has not been given a time limit for voluntary departure because there is reason to believe that the alien may abscond, the alien shall be expelled from Lithuania.</p> <p>4. The decision on the return of an alien to a foreign country (country of origin) or on expulsion from Lithuania is taken by the authority that determined the basis for the return or removal of the alien – Migration Department or State Border Guard Service. The enforcement of the decision on the return of the alien shall be monitored by the authority that issued the decision and the decision on the forced return of the alien shall be carried out by the State Border Guard Service. The alien shall be detained by a written decision of a law enforcement officer for a maximum period of 48 hours. Law enforcement authorities which apprehended the alien and found that there are grounds for his detention for more than 48 hours shall transmit him to the officers of the State Border Guard Service within 5 hours of the alien's apprehension. The alien shall be detained by a court order for more than 48 hours at the State Border Guard Service.</p> <p>5. No, in such cases, foreigners are not informed individually.</p> <p>6. Not to the best of our knowledge.</p> <p>7. Yes, but there are no special schemes for this group of persons. If the foreigner is unable to leave Lithuania for humanitarian reasons or cannot be returned to a foreign country or expelled from the Lithuanian Law on the Legal Status of Aliens in the cases referred to in Article 130(1), (2), (4) (principle of non-refoulement; if the foreigner would be in danger if returned, etc) or if the execution of the decision to expel the alien from Lithuania is suspended due to the circumstances referred to in Article 128.2, (2), (3) and (4) (medical reasons, etc) of the Law on the Legal Status of Aliens. If these circumstances have not ceased to exist within one year of the suspension of the the decision, alien is issued with a temporary residence permit valid for a period of up to one year and is entitled to work during the period of validity.</p>
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	<p>EMN NCP Luxembourg</p>	<p>Yes</p>	<p>1. Yes. It is laid down in the amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law). The overstayers are foreseen in article 100 (1) b of the Immigration Law and the cases when the residence permit is revoked or not renewed are foreseen in article 101(1) of the Immigration Law. A return decision is taken by the Minister in charge of Immigration. This duly motivated decision (article 109 (1)) is notified to the concerned individual. The individual will receive a copy of the decision (article 110 (1)), which will indicate the recourses that are available against the decision and the delay in which they have to be introduced (article 110 (2)). At the request of the third-country national the main elements of the notified decision are communicated to her/him in a language that s/he can reasonably understand (article 110 (3)). The return decision is accompanied with the obligation to leave the country indicating that s/he has a deadline of 30 days to leave voluntarily the territory (article 111 (1) and (2)). The return decision can be also issued in conjunction with an entry ban up to 5 years. (article 112 (1)). Against the return decision and the entry ban the third-country national can introduce an annulment appeal before the First instance Administrative Court in a deadline of three months after the notification of the decision. Against the decision of the First instance Administrative Court an appeal can be filed before the Administrative Court in a deadline of 40 days after the notification. The appeals do not have suspensive effect (art. 113).</p> <p>2. The first action is to notify the third-country national the return decision which is accompanied with an obligation to leave the country. As it was mentioned above, there is a general deadline (there are exceptions where it is not granted) of 30 days for leaving the country voluntarily (it can be extended under certain circumstances). Once the deadline expires the Ministry in charge of Immigration, in accordance with articles 133 (1) and 134 of the Immigration Law, verifies that the individual has left the country. If the third-country national remains in the territory after this period, s/he will be removed by force.</p> <p>3. See answer to question 2.</p> <p>4. The Directorate of Immigration Foreigners Department examines the case and decides if the residence permit shall be revoked or not renewed. The recommendation of the Directorate of Immigration, Foreigners Department is passed to the Minister in charge of Immigration that takes the decision, which is notified to the third-country national in her/his place of residence. The Minister in</p>
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			<p>charge of Immigration can request the Grand-ducal police to do the verification that the third-country national has left the territory. If the third-country national remains in the territory s/he will be placed in detention in the Detention Center in order to prepare the forced removal which will be organized by the Return Department of the Directorate of Immigration. In these cases, the Return Department will take the travel and ID documents of the third-country national (who is going to be returned by the escorts) and will check the removability of the individual.</p> <p>5. Yes. The return decision is a motivated decision and not only explains the obligation to leave the territory in the deadline of 30 days but also includes information on the recourses that can be introduced against the decision, before which authority and in which deadline. As it was mentioned before, the decision is notified in written but the principal elements of the decision can be explained to the third-country national in a language that s/he understands.</p> <p>6. No. At the moment there are no initiatives in this sense.</p> <p>7. No. However there exists the postponement of removal (report à l'éloignement) when the removal is impossible for technical or logistical reasons beyond the control of the third-country national. In these cases, the third-country national can remain on the territory until the removal can be effectively executed (article 125bis). However, this status is not a tolerance status nor confers a right to stay in the territory; the suspension of removal (sursis à l'éloignement) for medical reasons (article 130), if the third-country national establishes by means of medical certificates that her/his health state requires medical care and where the lack of medical care entails the risk of exceptionally serious damage to her/his health, and if s/he proves that s/he cannot, in practice, benefit from suitable treatment in the country to which s/he should be removed.</p>
	<p>EMN NCP Netherlands</p>	<p>Yes</p>	<p>1. Yes, the applicable process when returning third country nationals with a former work, study or family reunification permit which was withdrawn/non-renewed is laid down in national legislation. First,</p>

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			<p>the general applicable national legislation is describe (rejection and or withdraw of the permit). Second, the applicable national legislation for the process of departure is described.</p> <p>a) In the Aliens Act (Vreemdelingenwet), the grounds for rejection of a residence permit (study, work and family purposes) are mentioned. These grounds can be found in Article 16 (1) Vw. The application for an extension of a legal migration permit can be rejected on the grounds stated in Article 18 (1) of the Aliens Act. The withdrawal of a residence permit takes place on the same grounds as stated in Article 18 of the Aliens Act.</p> <p>b) In addition, the process of departure and the various steps within the process are laid down in Articles 61 to 66a of the Aliens Act and Articles 6.1 to 6.5 of the Aliens Regulations (Voorschrift Vreemdelingen). Articles 3.1 and 6.1a to 6.4 of the Aliens Decree (Vreemdelingenbesluit) and further elaborated in Chapter A3 of the Aliens Circular (Vreemdelingencirculaire).</p> <p>2. The following steps are undertaken. Please see below.</p> <p>1. Handing out the return decision</p> <p>The decision to withdraw a residence permit (study, work or family purposes) contains a return decision including a period within which the third country national must leave the Netherlands voluntarily (in principle within four weeks). The departure period of four weeks may be waived if:</p> <ul style="list-style-type: none"><li>- there is a risk that the third country national will withdraw from supervision; or</li><li>- the third country national provided incorrect or incomplete information; or</li><li>- in case the third country national constitutes a threat to public order, public security or national security.</li></ul> <p>2. Voluntary return</p> <p>The third country national must leave the Netherlands independently, within the given departure period.</p> <p>After the departure period the National Police (specifically: AVIM) may ask the third country national to stop by in order to provide information necessary for the preparation of the departure from the Netherlands. AVIM must explain to the third country national what information the third country national must provide in order to make it possible to leave the Netherlands. AVIM registers the claim for the provision of data in its administration. If AVIM finds the third country national during the so called monitoring of the home address (adrescontrole), or if the third country national complies with the claim, the case can be transferred to the DT&amp;V.</p>
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			<p>In the case the third country national wants to leave the Netherlands he or she can also turn to the International Organization for Migration (IOM) for assistance in arranging the return under the so called Return and Emigration Assistance from the Netherlands (REAN)-program. If they fulfil the requirements they can get assistance from IOM. For more information please see <a href="http://www.iom-nederland.nl">www.iom-nederland.nl</a>.</p> <p>3. Forced return In case the third country national does not cooperate with his voluntary departure, the third country national may be forced to cooperate in it's return process. If the third country national does not cooperate in the departure process, the third country national will be subject to supervisory measures. For example, the third country national has to report regularly to the Police, the passport may be taken and/or a deposit must be paid. The third country national may be detained as a last resort and under strict conditions. When the third country national is in detention, the third country national can still decide to cooperate in the departure process.</p> <p>4. The return The Repatriation and Departure Service (DT&amp;V) starts a procedure aimed at the departure to the country of origin.</p> <p>3. Please see our answer to question 1. The same procedure and actions apply.</p> <p>4. The following authorities are involved in returning third country nationals with a former work, study or family reunification permit.</p> <p>In general, the supervision of third country nationals in the Netherlands is carried out by Police officers, officials from the Royal Netherlands Marechaussee (KMar), officials from the Repatriation &amp; Departure Service (DT&amp;V) and some other officials referred to in article 4.1 VV.</p> <p>1. The Dutch Immigration- and Naturalisation Service withdraws (or does not renew) the residence permit, accompanied by the return decision. 2. The Repatriation and Departure Service (DT&amp;V) investigates options for departure, possibly conducts additional identity checks and checks the removability. Then the actual departure will take place, possibly under the supervision of the Royal Netherlands Marechaussee (KMar).</p>
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			<p>3. Possible detention is carried out by the Police, with supervision measures (such as reporting obligation) as a result. Please see chapter A3, Departure and Expulsion in the Vc2000 (national legislation) for further information.</p> <p>5. Yes, the third country national is informed about the return process once their residence permit is withdrawn and/or not renewed. The obligation to leave the Netherlands within a certain departure period is stated in the decision (letter) to withdraw and/or not renew the residence permit.</p> <p>6. Yes, an initiative is undertaken. Specifically, the goal of the initiative is to revise the process of returning third country nationals with a former residence permit for study, work and/or family purposes. This is done through a project, which is described in the introduction of this ad-hoc query. The organizations under question 4 are involved. There are no results to be mentioned so far.</p> <p>7. No. If the application for the granting or extension of a residence permit has been rejected or the residence permit has been withdrawn, the third country national must leave the Netherlands. If (s)he does not comply with this departure obligation within the offered departure period, the third country national will no longer legally reside in the Netherlands. If found, (s)he can be detained for the purpose of removal.</p>
	<p>EMN NCP Slovakia</p>	<p>Yes</p>	<p>1. Yes, Slovak Republic has an established procedure of return process of third-country nationals outlined in the national legislation – Act n. 404/2011 Coll. on Residence of Foreigners, as well as in internal implementing regulations.</p> <p>2. In general, a TCN is obliged to leave the territory of the Slovak Republic on last day of his/her legal residence at the latest. In case of the withdrawal of the temporary residence (regardless of the purpose of the temporary residence), the TCN is obliged to leave the country within 30 days from the date of the enforceability of the decision on the withdrawal of the residence, if not authorised to stay on the Slovak territory for another reason. If the TCN does not fulfil his/her duty, he/she is considered</p>

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			<p>a person with an unauthorised residence on the Slovak territory and thus the respective authorities perform his/her administrative expulsion (return).</p> <p>3. See Q2</p> <p>4. All the steps during the return process are executed by the basic service units of border and foreign police which falls under the scope of Border and Foreign Police of the Presidium of Police Forces. Monitoring of the TCNs' return are done jointly in cooperation with nongovernmental organisations.</p> <p>5. All TCNs who were granted residence in the territory of the Slovak Republic are notified in writing about the duty to leave the Slovak territory on the last day of their legal residence at the latest, as well as about the duty to leave the territory within 30-day period starting from the day of enforceability of the decision on withdrawal of the residence.</p> <p>6. Awareness raising about the return of TCNs, regardless of their former residence in the Slovak Republic, is carried out especially by the Bureau of Border and Foreign Police of the Presidium of Police Forces jointly with nongovernmental organisations active in the Slovak Republic (IOM, Slovak Humanitarian Council, etc.)</p> <p>7. Slovak Republic does carry out the return of this category of TCNs. In some very specific and individual cases can the stay of certain TCN categories be „tolerated“ (when return is not possible – non refoulment principle). There is however no specific scheme for such procedure.</p>
	<p>EMN NCP Slovenia</p>	<p>Yes</p>	<p>1. Provisions are laid in the Aliens Act <a href="https://www.policija.si/images/stories/Legislation/pdf/AliensAct_2012.pdf">https://www.policija.si/images/stories/Legislation/pdf/AliensAct_2012.pdf</a></p> <p>2. (1) A temporary residence permit shall be annulled by the competent authority that issued it or by the competent authority in the area of which the alien resides in the following circumstances: – if it</p>

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			<p>has been determined subsequently that the alien no longer fulfils the conditions for the granting of a residence permit or if there are other reasons for the refusal of the permit; – if the alien concerned intentionally submitted incorrect data on his identity or other inaccurate data, or if he intentionally concealed the circumstances which have a bearing on the issuing of a permit.</p> <p>(2) Notwithstanding the first indent of the first paragraph of this Article, a residence permit issued for the purpose of employment or other work shall not be annulled by virtue of an expired work permit during the first three months of the invalidity of this work permit if the alien's employment in the Republic of Slovenia which lasted at least one year was terminated involuntarily and the alien has been registered as job seeker which is evidenced by a document issued by the competent employment office. (3) An EU Blue Card shall, in addition to the reasons defined in the preceding paragraph, also be annulled if the EU Blue Card holder has been unemployed for over three consecutive months or if during the validity of his EU Blue Card he has been unemployed at least twice. 4) A permanent residence permit shall be annulled by the competent authority which issued this permit or by the competent authority in the area of the alien's residence if the alien intentionally presented incorrect data on his identity or other incorrect data or if he intentionally concealed information relevant to the issuing of the permit. (5) A decision annulling a residence permit on the grounds referred to in the fourth indent of the first paragraph of the preceding Article or on the grounds referred to in the fifth indent of the first paragraph of the preceding Article, provided that they are related to non-compliance with the regulations governing the entry and stay of aliens in the Republic of Slovenia, the competent authority may ban the alien from entering the country, in which case the period of prohibition shall not be less than one year or more than five years. In judging how long an alien should be banned from re-entering the country, the authority which issues the decision on the annulment of a residence permit shall take into account the type and gravity of the circumstances by reason of which the alien's stay in Slovenia is undesirable. 6) The competent body shall issue a decision on the annulment of a residence permit which an alien may appeal against with the Ministry of the Interior within eight days of the decision being served. (7) After the decision annulling an application for a residence permit and banning the alien from entering the Republic of Slovenia has become final, the competent authority shall notify the authority competent for the input of data in the Schengen Information System of the prohibition of entry.</p>
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			<p>3. (1) A temporary residence permit shall be terminated in the following circumstances: – if the validity of the permit expires or if the permit is annulled; – if the alien's residence is terminated; – if a final secondary sentence of expulsion has been passed on the alien in the Republic of Slovenia or a final sentence of expulsion has been passed on him by another EU Member State due to which he will be deported from the Republic of Slovenia; – if the alien concerned relinquishes the permit, from the day the statement on the relinquishment of the permit for temporary residence is submitted; – if the alien acquires the citizenship of the Republic of Slovenia; – if the alien is granted a permanent residence permit; – if prior to the expiry of a residence permit, his temporary residence permit is extended or he is issued with a subsequent temporary residence permit or a residence registration certificate; – if the alien dies.</p> <p>(1) An alien who fails to depart the territory of the Republic of Slovenia pursuant to the third paragraph of Article 60 of this Act shall be permitted to return voluntarily or shall be deported from the country.</p> <p>(2) The police may cooperate with other national or international bodies or non-governmental organisations in voluntary return or deportation of an alien.</p> <p>(1) A return decision shall be issued by the police to an alien who resides illegally in the Republic of Slovenia, save where the alien is apprehended due to the illegal crossing of the state border or in connection with it and has not been granted the right to reside, or the alien is the subject of a return or extradition procedure based on an international agreement on readmission, or an secondary sanction of expulsion from the country has been imposed on the alien. If the return procedure based on an international agreement ends in the non-readmission of the alien to the state party, the alien shall be issued with a return decision. (2) An alien who resides illegally in the Republic of Slovenia and holds, in another Member State of the European Union, a valid residence permit or any other permit granting him the right to reside there must immediately depart from the Republic of Slovenia and travel to that Member State. If the alien fails to do so or if he is obliged to depart the Republic of Slovenia immediately as a result of jeopardising law and order or national security, he shall be issued with a return decision. (3) An alien may lodge an appeal against a return decision issued by the police within three days of the service of process. The ministry responsible for the interior shall render a decision on the appeal within eight days at the latest. (4) In proceedings before courts relating to the decision rendered by the ministry responsible for the interior referred to in the preceding paragraph, the alien has the right to free legal aid as set out in the Act regulating free legal aid.</p>
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			<p>(1) The police shall issue a return decision to an alien following a completed minor offence procedure for the violation referred to in the second or third indent of the second paragraph of Article 60 of this Act and in the case referred to in the first indent of the first paragraph of Article 60 of this Act if the alien who entered illegally was not readmitted to the state party concerned during the return procedure based on an international agreement on readmission. (2) In the event that the police set a deadline for the voluntary return of the alien in the return decision, the return decision shall be issued in the form prescribed by the minister responsible for the interior. (3) The return decision issued in the form referred to in the preceding paragraph of this Article shall be served on the alien in person. The operative part and the legal instruction of the return decision issued in accordance with the provision of the preceding paragraph shall be translated into at least five foreign languages. (4) Where no deadline for voluntary return is set in a return decision and where an entry ban is imposed by a return decision, the decision shall not be issued in the form referred to in the second paragraph of this Article. The return decision shall be issued to the alien in writing and shall include the name of the authority issuing the decision, the number and date of the decision, an introduction, operative part, a statement of grounds, legal instruction, the signature of the authorised officer, and the stamp of the authority. (5) The return decision referred to in the preceding paragraph shall be served on the alien in person. At the request of the alien, the operative part and the legal instruction of the return decision must be translated orally or in writing into a language that the alien understands.</p> <p>(1) The police may set a deadline in a return decision by which the alien must depart from the country voluntarily and which may not be shorter than seven days or longer than thirty days. The police may determine a specific address where the alien shall stay in the Republic of Slovenia during the period set for his voluntary departure from the country. The alien may depart from the country earlier than within seven days. (2) The deadline by which the alien must depart from the country, which is set by the competent authority referred to in the third paragraph of Article 60 of this Act, shall be considered a deadline for voluntary departure from the country. (3) In a return decision determining a deadline for voluntary departure from the country, the police may restrict the movement of the alien to his place of residence in the Republic of Slovenia and impose on him the obligation to report regularly to the nearest police station. (4) If there exist objective circumstances preventing the alien from voluntary return by the deadline set, the police may, upon the submission of a request made by the alien prior to the expiry of the period for voluntary return, extend the deadline for voluntary return by a decision, having taken the specific circumstances of the case in question into consideration. The minister</p>
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			<p>responsible for the interior shall determine the circumstances that provide grounds for the extension of the deadline for the voluntary return of an alien. (5) A deadline for voluntary return shall not be set for an alien who is at risk of absconding or whose residence in the Republic of Slovenia poses a threat to public order, security or national security. A deadline for voluntary return may be set for an alien with regard to whom there exists less serious circumstances that indicate a risk of absconding.</p> <p>4. The key stakeholder is the Police. They verify if there are no grounds for the "non-refoulement" or other reasons not to act accordingly. They verify identity and make relevant provisions for the travel document, make a formal announcement and provide other information to the country of return and transit if applicable. Monitoring is provided by NGOs under contract. There may be other provisions if relevant.</p> <p>5. They are officially provided with the administrative decision in written form.</p> <p>6. We have a contract with NGO to provide for monitoring and assistance.</p> <p>7. There is such possibility under the following provisions: (1) Under this Act, a stay in the country means permission granted to an alien who must be deported to remain temporarily in the Republic of Slovenia. (2) Permission to stay in the Republic of Slovenia shall be granted in the following circumstances: – if the deportation of the alien is not permitted under the preceding Article; – if the alien does not possess and is unable to acquire a valid travel document of the country of his nationality; – if a physician advises that immediate deportation is avoided due to the health condition of the alien; – if an alien minor attends primary school in the Republic of Slovenia; permission shall be granted till the end of the school year; – if the country of the alien's nationality or, for stateless persons, of last habitual residence refuses to admit the alien; – if deportation is not possible because the transportation of the alien from the country cannot be provided by land, air or water; – if deportation is not possible because circumstances preventing return, such as natural or other disasters, occurred in the country of the alien's nationality or in the country where the alien last resided as a stateless person; – if it is required by a guardian for special case assigned to an unaccompanied alien minor. (3) Permission to stay shall be granted by the police at the request of the alien or ex officio for a period of six months. The permission may be renewed at the alien's request or</p>
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			<p>ex officio for as long as the conditions referred to in the preceding paragraph exist. An alien who acquires permission to stay in the Republic of Slovenia shall be issued a personal card by the police evidencing that the alien has permission to stay in the Republic of Slovenia. (4) In the decision permitting an alien to stay in the Republic of Slovenia, the police may determine the alien's place of residence at a specific address. (5) Permission to stay shall not cancel or in any way change the alien's obligation to depart from the country. If there are reasons to suspect that the alien would attempt to avoid deportation, certain obligations such as regular reporting to the nearest police station, deposit of an adequate financial guarantee, submission of documents or the obligation to stay at a certain place may be imposed on him.</p> <p>(1) An alien who has been granted a temporary stay in the Republic of Slovenia shall have the right to emergency health insurance pursuant to the Act governing healthcare and health insurance and to basic treatment, while alien minor schoolchildren shall also have the right to basic education. (2) The right to basic treatment referred to in the preceding paragraph shall mean the right to an allowance granted in the amount and manner specified for financial social assistance by the Act governing social support allowances. Resources for the payment of the allowance shall be provided by the Centre.</p> <p>(3) An alien who fails to act in compliance with the first and second paragraphs of Article 90 of this Act shall not be entitled to basic treatment.</p>
	<p>EMN NCP Sweden</p>	<p>Yes</p>	<p>1. There are no guidelines for a non-renewed permit. As for a withdrawn permit the guidelines are to be found in the Aliens Act (4 and 7 chapter), the Aliens Ordinance (4:18) and in the EU Visa Codex. There are also internal routines within the Swedish Migration Agency.</p> <p>2. If information in a case is delivered orally it should be written down in the case file. The information that can lead to a withdrawal of a permit is scrutinised by a decision maker. If the information can lead to a withdrawal the Swedish Migration Agency initiates a investigation and the person is informed in writing.</p> <p>If the permit is withdrawn the decision is connected to an order to leave the country. The decision can be appealed. The Swedish Migration Agency is informing other authorities that are concerned.</p>

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			<p>3. None</p> <p>4. The Swedish Migration Agency informs the applicant of the decision. If the person is not returning voluntarily the case is handed over to the police that is responsible for forced return.</p> <p>5. Yes, normally through a letter but in some cases orally at one of the reception centers of the Swedish Migration Agency.</p> <p>6. The Swedish Migration Agency and the universities and university colleges of Sweden are collaborating in several different groups. Yearly information meetings, work groups, pilot projects, etc. Meeting with security branches in Sweden. Meetings with Ministry of Foreign Affairs and Ministry of Justice.</p> <p>7. No. A third country national without a permit or visa are staying illegal in Sweden. Some third country nationalities are visa free and are entitled to stay in Sweden for 90 days.</p>
	EMN NCP United Kingdom	Yes	<p>1. Yes. People who require, but do not have, leave to enter or remain in the UK are expected to leave the UK. If they fail to do so, the Home Office will enforce their removal under section 10 of the Immigration and Asylum Act 1999.</p> <p>Relevant Immigration Acts:</p> <ul style="list-style-type: none"> <li>· Immigration Act 1971</li> <li>· Immigration and Asylum Act 1999</li> <li>· UK Borders Act 2007</li> <li>· Immigration Act 2014</li> <li>· Immigration Act 2016</li> </ul>

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			<p>The Immigration Rules lay down the practice to be followed in the administration of the Immigration Acts for regulating entry into and the stay of persons in the United Kingdom, including curtailing (withdrawing) a person's leave if they, for example, breach the conditions attached to their leave or used deception during their application.</p> <p>Guidance used by Home Office staff is available in the Immigration Enforcement general instructions on GOV.UK (<a href="https://www.gov.uk/government/collections/enforcement-instructions-and-g...">https://www.gov.uk/government/collections/enforcement-instructions-and-g...</a>). On this page under a subsection titled 'Documents' there are 4 links to pages which contain guidance and information for staff. Below is a brief summary of the guidance contained within each link:</p> <ul style="list-style-type: none"><li>· the first link provides guidance for enforcement officers considering immigration status and deciding enforcement action, including curtailment</li><li>· the second link covers immigration offender management, including how to set up and maintain contact with a person who is required to report, what to do if they fail to comply, how to manage detention of a person, and how to refer a person for sanctions to be applied</li><li>· the third link contains guidance and information on administrative and criminal powers for officers, and guidance on the planning, implementation and completion of operational enforcement visits</li><li>· the final link covers instructions for arranging for a person to be removed from the UK, either singly or as part of a family, or assist them in voluntary or assisted return</li></ul> <p>Please see the attachment for all the relevant links in response to each question. return_of_third_country_nationals.docx</p> <p>2. The Home Office may help the person to return the person to their country of origin, see Get help to return home if you're a migrant in the UK. If the person does not leave voluntarily the Home Office will enforce their removal, as part of this enforced removal they may be detained or granted immigration bail. For legislation and guidance see the links supplied in answer to question 1 above.</p> <p>3. The Home Office may help the person to return the person to their country of origin, see Get help to return home if you're a migrant in the UK. If the person does not leave voluntarily the Home Office will</p>
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			<p>enforce their removal, as part of this enforced removal they may be detained or granted immigration bail. For legislation and guidance see the links supplied in answer to question 1 above.</p> <p>4. All actions are taken by Home Office staff.</p> <p>5. Yes. The person is given a 'notice of liability to removal' document which will tell them why they no longer have leave to enter or remain in the UK, that the Home Office may be able to help them return to their country of origin (see answers to questions 2 and 3), what to do if they consider the decision is incorrect and that the Home Office will take action to remove them to their country of origin. The person will be given time to voluntarily leave the UK, or lodge grounds why they should be allowed to stay, after this time they will be given removal directions which will tell them when and to where they will be removed. Relevant legislation and guidance links have been supplied in answer to question 1 above.</p> <p>6. Yes. When a person is granted leave to enter or remain in the UK they are told they are expected to leave the UK when that leave ends (for whatever reason). Notices of liability to removal (see answer to question 5) also advise the person to seek legal advice. All relevant legislation and guidance for Home Office staff are in the public domain (see answer to question 1) so stakeholders and non-governmental organisations are fully aware of our legislation and policy.</p> <p>7. No. The Home Office will enforce removal when it and the courts conclude that it is safe to do so, with a safe route of return. The government will enforce immigration law and to ensure that those who have no legal basis of stay in the UK do not enjoy access to benefits, employment or services to which they are not entitled. The Home Office works closely with other public and private bodies to achieve this.</p>
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## **4. Summary of results**

### KEY POINTS TO NOTE

- ★ All (Member) States (AT, BE, BG, CZ, DE, FI, FR, HR, HU, IT, LV, LT, LU, NL, SE, SI, SK and UK) have national legislation and/or internal guidelines on this topic. Mostly, this entails national legislation and/or internal guidelines on the return of third country nationals in general.
- ★ In most (Member) States (AT, BE, BG, FI, FR, HU, IT, LV, LU, NL, SE, SK, SI and UK) the third country national with a residence permit for study, work and/or family purposes is informed about the return process once their residence permit is withdrawn and/or expires and is not renewed. The situation differs in several (Member) States (CZ, HR, LT, LV). In DE there is no uniform procedure.
- ★ Only in BE, FR, IT, NL and SE (specific) initiatives are undertaken to support or raise awareness among involved stakeholders (public bodies, municipalities, NGOs) in regards to the return of third country nationals with a former residence permit for study, work and/or family purposes.

### BACKGROUND

Over the last decade priority has been given in the Netherlands to the return of rejected asylum seekers and third-country nationals in criminal detention, and only to a limited extent to return of third country nationals who had overstayed their residence permit obtained through legal migration channels (study, work and family purposes) and whose permits have been revoked or not renewed. In recent years, this has changed. Currently, a project called 'Terugkeer van Reguliere Vreemdelingen'<sup>1</sup> (started in 2018) in the Netherlands is being carried out to put more focus on the return of third country nationals who (tried to) obtain a residence permit through legal migration

channels (i.e. study, work and family purposes) and whose permit has ended, revoked or not renewed. Therefore the third country nationals no longer have the right to stay in the Netherlands and are obliged to leave the country. This project ensures the development of a "governance mechanism", whereby prioritization of supervision, enforcement and return of the third country nationals process is achieved.

Currently, there is no comprehensive overview of measures by Member States regarding this group of migrants. The Netherlands would like to know how other Member States return third country nationals whose permit in legal migration cases (i.e. study, work and family purposes) have been revoked or not renewed. For the Netherlands it would be helpful to see how Member States deal with this issue and which are the (national) policies implemented. Additionally, this could also help to gather information on this subject since in practice nationality and identity documents are (mostly) known in legal migration cases, which may differ from asylum cases. Therefore, the results of this ad-hoc query will be used to further enhance the project that deals with this matter.

### MAIN FINDINGS

Q1. Is the applicable process when returning third country nationals with a former work, study or family reunification permit which was withdrawn/non- renewed, laid down in national legislation or internal guidelines? Yes/No. If yes, briefly specify which legislative documents/internal guidelines regulate the procedure in both cases.

All (Member) States (AT, BE, BG, CZ, DE, FI, FR, HR, HU, IT, LV, LT, LU, NL, SE, SI, SK and UK) have national legislation and/or internal guidelines. Mostly, this entails national legislation and/or internal guidelines on the return of third country nationals in general (e.g. procedure guidelines when a permit was not renewed or withdrawn, grounds for non-renewal or withdrawal).



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SE also specifically mentioned that there are no guidelines for a non-renewed permit. Please see the compilation of the ad-hoc query for the specific return procedure of the (Member) States. Q2 & Q3. If the residence permit (i.e. study, work or family purposes) of a third country national is withdrawn and/or expires and it is not renewed, what actions are undertaken by the competent authorities to return the third country national to his/her country of origin? Please briefly describe all relevant steps.

Procedure

Most (Member) States (AT, BE, BG, CZ, DE, FI, FR, IT, LT, LU, NL, SK and UK) apply (in general) the same procedure when returning a third country national with a former residence permit for study, work or family purposes (both when non-renewed or withdrawal).

However, five (Member) States have stipulated that different procedures and/or circumstances apply (HR, HU, LV, SI and SE). For example, in HR, if the residence permit is withdrawn, the return of the third country national has become enforceable which needs to be done by the Croatian authorities. If the residence permit has expired, the police administration and/or police stations of the Ministry of the Interior are not obliged to take official action after the expiration of the residence permit. In SE, when the residence permit is withdrawn, the Swedish Migration Agency initiates an investigation and the third country national is informed in writing, connected with an order to leave the country. However, no procedure is applicable when the permit is not-renewed.

Elements taken into account

Due to the many differences in return procedures of (Member) States when a residence permit (study, work or family purposes) is withdrawn or not-renewed, no comprehensive overview of the differences can be given. However, elements that are part of the procedure in (Member) States during the return procedure include the following:

- Issuance of a return decision/obligation to return the third country national;
- First voluntary return and if not possible, forced return (with a possibility for detention);
- Inclusion of a departure period (which sometimes may be waived);
- Check on appliance of the principle of non- refoulement;
- Put on a wanted list for the purpose of ending his/her stay;
  
- Possibility to appeal a decision;
- Monitoring mechanisms<sup>2</sup>;
- Imposing an entry ban;

Please see the compilation of the ad-hoc query for the specific return procedure of the (Member) States.

Q4. Which authority/authorities is/are involved in returning third country nationals with a former work, study or family reunification permit? Please explain their role in the return process (f.e. check on removability, takes proof of ID, enforcing the decision, monitoring, forced return, informing on the decision, other).

There is a wide range of authorities in many (Member) States involved in returning third country nationals with a former work, study or family reunification permit. For example, this includes the Police, enforcement authorities, border guards, specialized (im)migration authorities, et cetera. For a complete overview, and their specific roles, please see annex 1.

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Q5. Are third country nationals with a residence permit for study, work and/or family purposes informed about the return process once their residence permit is withdrawn and/or not renewed? Yes/No. If yes, please describe how information is provided (i.e. through a letter, orally when the letter is notified, etc.).

Information provided

In most (Member) States (AT, BE, BG, FI, FR, HU, IT, LV, LU, NL, SE, SK, SI and UK) the third country national with a residence permit for study, work and/or family purposes is informed about the return process once their residence permit is withdrawn and/or not renewed. The situation differs in several (Member) States. In CZ and LT the third country nationals are not informed individually. Additionally, in FR and LV, when the residence permit is withdrawn and/or was denied a renewal, the third country national is informed, however this is not the case when the residence permit expires and hasn't requested renewal. In DE there is no uniform procedure (responsibility of the Länder).

Means of communication and content

Third country nationals with a former residence permit for study, work and/or family purposes are informed (mostly) in writing (whose permit has been withdrawn, expired or refused for renewal).

Additionally, some (Member) States (BE, HU, SE) also indicated possibilities to inform the individual in person. FI indicated that the Police or the Border Guard informs on the information about the decision orally.

The information stated in the letter and/or given in person differs in (Member) States. Decisions include information about the decision itself, time for departure, explanations about the consequences, appeal possibilities and/or fill out a form about identity and documents. Additionally, FR and LU indicate that the elements may be communicated in a language which the third country national understands.

Q6. Are there initiatives undertaken in your (Member) State to support or raise awareness among involved stakeholders (i.e. public bodies, municipalities, NGOs) in regards to the return of third country nationals with a former residence permit for study, work and/or family purposes? Yes/No. If yes, please describe which organizations are involved, goals and (if possible) results. Several (Member) States have indicated that information is provided to the public and/or public bodies (CZ, FI, FR, HU, SI, SK and UK) among stakeholders to provide support or raise awareness (e.g. through websites, et cetera). For example, in FR, information on forced / voluntary return is provided to all TCNs subject to a removal order (illegally staying or with a former residence permit) through the French office for immigration and integration - OFII – website on voluntary returns, in various locations with the support of local NGOs or stakeholders (for example in retention centers through NGOs and OFII agents, through public officers in Prefectures, in asylum centers, etc.) for forced and voluntary returns. LV indicated that several governmental organizations work together on this subject and produce statistics in this regard.

In BE, FR, IT, NL and SE (additional) initiatives are undertaken to support or raise awareness among involved stakeholders (public bodies, municipalities, NGOs) to the return of third country nationals with a former residence permit for study, work and/or family purposes. In BE local staff is trained. Additionally, Fedasil does not specifically target these groups but outreach projects are conducted in several Belgian cities. In IT relevant initiatives have been undertaken in the field of the voluntary return. In particular, the Italian Ministry of Interior has promoted a project (in 2018) which included important measures of reintegration (so called AVRR) for 900 third country nationals. In NL a project called 'Terugkeer van Reguliere Vreemdelingen' (started in 2018) in the Netherlands is being carried out to put more focus on the return of third country nationals who (tried to) obtain(ed) a residence permit through legal migration channels (i.e. study, work and family purposes) and whose permit has ended, been revoked or not been renewed. This project ensures the development of a "governance mechanism", whereby prioritization of supervision, enforcement and return of the third country nationals process is achieved. In SE the Swedish Migration Agency and the universities and university colleges of Sweden are collaborating in several different groups.<sup>3</sup>

No initiatives

AD HOC QUERY ON 2019.105 Return of third country nationals with a residence permit obtained through legal migration channels (study, work and family purposes)

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The other (Member) States (BG, CZ, FI, HU, HR, LV, LT, LU, SK, SI and UK) have not mentioned specific projects and/or initiatives target at other stakeholders in order to prioritize/support the return of third country nationals with a former residence permit for study, work and/or family purposes. In DE there is no uniform procedure (responsibility of the Länder).

AT could not provide information.

Q7. If the return of third country nationals with a former work, study or family reunification permit which was withdrawn/non-renewed is not enforced; is it tolerated that the third country nationals may stay in your (Member) State? Yes/No. Please explain (f.e. is it tolerated, is a specific scheme or pardon created at a later stage for this group of migrants, et cetera).

Most (Member) States that answered this ad-hoc query indicate that return decisions must be enforced, however made clear that exceptions to prolong the stay of the third country national and/or to not enforce a return decision are possible.

The following exceptions to the obligation to return are mentioned by the (Member) States (please see below). The abbreviation of the name of the (Member) States indicate which (Member) States have answered which exceptions. It may be the case that some exceptions also are applicable to other (Member) States, e.g. due to international law, et cetera. However, this is not described as such, since only the exceptions mentioned by (Member) States are noted.

- If removal is not permitted or possible for legal or factual reasons (AT, DE, FI, NL);
- Regularization requests (BE);
- Personal and/or family matters (BE, BG, HU);
- Illness/medical reasons (BE, BG, FI, NL, LU, SI);
- Waived requirements for certain groups (FR, NL);
- Decision of temporary postponement and/or suspensive appeal (FR, HR, NL);
- non-refoulement<sup>4</sup> (CZ, LT, SK);
- Lack of ID (CZ);
- Apply to the Prefect for a period of time (between 7 and 30 days) necessary to organize a voluntary departure (IT);
- Humanitarian reasons (DE, LT);
- New residence permit (LV);
- For criminal proceedings (DE);
- Technical or logistical reasons beyond the control of the third-country national (LU);
- Article 8 ECHR (CZ);

SE and UK did not indicate – in general – such exceptions.

[EMN NCPs participating](#): Responses from Austria, Belgium, Bulgaria, Croatia, Czech Republic, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Slovakia, Slovenia, Sweden and the United Kingdom<sup>5</sup> (18 in total).

AD HOC QUERY ON 2019.105 Return of third country nationals with a residence permit obtained through legal migration channels (study, work and family purposes)

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