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NOTE

From: Presidency
To: Working Party on Frontiers/Mixed Committee
(EU-Iceland/Liechtenstein/Norway/Switzerland)
Subject: Overstayers in the EU

Delegations will find attached the compilation of replies to the questionnaire on overstayers in the EU, set out in 6920/15.

1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?
2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?
3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?
4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.
5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?
6. What reasons are usually indicated by travellers in overstaying cases?
7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?
8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?
9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?
 11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?
 12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?
 13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?
 14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?
 15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?
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BELGIUM

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

At the border, the Police does not hold information on identity or reason of overstay in databases. However, cases of an overstayers at the border are reported in an individual report with detailed information concluding the reason of overstay, a copy of the travel documents, a copy of his arrival stamp and exit stamp which is afterwards send to the Border Service of the Immigration office and put in the personal file.

In addition, when an overstayer is detected on the Belgian territory, the Short Stay Service of the Immigration Office makes a request to the local police to check whether an overstayer is still on the Belgian territory. In this case, information is transmitted to the '*Sensibilisation, 'Follow-up' en 'Return*' - unit (SEFOR) of the Immigration Office. However, persons who have received an order to leave the country and present themselves voluntarily at the border are notified to the aforementioned service.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

The statistical information on overstaying is transmitted to Frontex under the title 'illegal stay at the border'. This includes also the cases of border crossings with false or forged documents.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

In case of a departing overstayer at the airport transit zone with a valid travel document, an individual file is made and transmitted to the Immigration Office. Within the country, an order to leave the country can be issued without an entry ban, or a new order to leave the country can be issued with an entry ban, with the possibility of detention.

- 4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

The use of emergency travel documents, checks of stamps if feasible and visa checks, whereas the checks of persons with only an identity card and no passport, uses of a false or forged passport or residence permit, or a new issued passport are seen as typical detection methods.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

This information can only be checked when an arrival stamp is found in the passport.

6. What reasons are usually indicated by travellers in overstaying cases?

The main reasons for overstay are family matters, bereavement or medical problems and extension of declaration of arrival. In some remarkable cases, the reason for return, after a long-term overstay to the country of origin, is the passing away of family members.

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

No.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

At the departure border, the border officer checks whether the passenger meets the requirements of the documents and in some cases he needs to place a departure stamp. During this check, the date of arrival is checked automatically. However in most cases this is not feasible.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

When the documents of the overstayer fulfil the requirements for his/her final destination, he/she is granted to cross the border. An informative file is made and send to the Immigration Office. However, the Federal Police is not informed about the consequences of decisions taken by the Immigration Office. In case an overstayer is not in possession of a valid document or a false or forged document, he/she will be held at the border and a police report will be made and transmitted to the Immigration Office.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

In principle, overstayers receive an order without an entry ban, except when there are reasons for (ex. public order or undeclared work).

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

Although it is foreseen in the Aliens Law (Law 15.12.1980, art.75), no sanctions are imposed. Administrative sanctions are only imposed when other crimes have been committed. As such, the judge can impose a supplementary sanction.

- 12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?**

The Immigration Office.

- 13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?**

In so far overstayers are subject to an entry ban (cf supra): all entry bans, regardless the reason, will in principle be entered into the SIS (as BE has a backlog in this regard, this is not always done immediately together with the issuance of the entry ban).

- 14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?**

No.

- 15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?**

No measures are done at national level in regard to a visa application. However, there is an agreement on best practice on EU level for the deliverance of an info sheet at the time of the deliverance of the visa in reference to the possibility of an entry ban in case of overstay (at the demand of DE). Belgium has since long such an info sheet. However, BE is not referring to entry bans, because this is not applicable on family members of the Union.

BULGARIA

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Bulgaria collects such information.

The Ministry of Interior maintains a Unified register for foreign citizens, which holds data for durable, long-term or permanent residence. The data processed is about the visa control on foreign citizens; border control on crossing of foreign citizens; foreign citizens seeking protection or who have received protection in Bulgaria; address registration of short-term residing foreign citizens; imposed administrative penalties and administrative coercive measures on foreign citizens for violations against the residence regime, as well as the acquiring, losing and restoration of Bulgarian citizenship.

The data on third country nationals, for who it was established during a border check that they have exceeded the permitted stay in Bulgaria and on whom administrative penalty was imposed (a fine), is included in the national information system. Through a check in the national database the border control authorities have access to information on the person, the legal grounds and the amount of the sanction.

Information regarding the reasons for overstay is not included.

The information is stored in the national information system of the MoI until the payment of the imposed fine or until the dropping of the time for execution of the administrative penalty, under the national legislation.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Bulgaria provides general statistics for violations against the residence regime on the territory of Bulgaria, which includes information on overstay, without dividing the information on categories.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

Bulgaria has standard actions in cases of detected overstay, regarding checks inside the country and border checks.

The travel documents and the border stamp in them are a source of information for overstay during a first line check at the border. The entry and exit dates are indicated in the Automated Information System for Border Control. A second line check is conducted when overstay is suspected in cases of multiple entries and exits.

A punitive decision stating the amount of the financial penalty is issued when overstay is established during the border check.

A coercive administrative measure related to leaving the territory of Bulgaria can be imposed when overstay is established during a check inside the country; in all cases a deadline for voluntary leaving the country is given.

The Automated Information System “Imposed administrative coercive measures” holds information on the coercive administrative measures imposed and it is accessible during border checks.

4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.

The third country nationals are subject to border checks, within which when exiting the country it is compulsory to check whether the person has exceeded the stay permitted on the territory of Bulgaria. The check on their stay can be carried out based on entry and exit stamps in the passport, as well as through a check in the AIS for Border Control, where the travels of the third country nationals are outlined.

Inside the country checks are carried out on addresses and residence documents, interviews are conducted with the persons in view of detecting marriages and adoptions of convenience etc., in order to establish violations against the residence regime in the country.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

Information on such a check will be relevant to Bulgaria after its accession to the Schengen area.

6. What reasons are usually indicated by travellers in overstaying cases?

When overstay is detected within the border check on exit, information on the reasons for the violation is not collected and is not included in the national information systems.

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

Under the national legislation, a physical or legal person who has accommodated a foreign citizen shall inform within 5 days in written form the service for administrative control on foreign citizens or the local MoI department and state the names, date of birth, citizenship, ID number of the ID document of the foreign citizen. A person providing hotel services or their employee has to immediately register an accommodated foreign citizen in a special register. The information on accommodated foreign citizens is provided daily by this person to the service for administrative control of foreign citizens or the local MoI department.

Arrangements for interaction with other state authorities are in place. For example, on terminating employment of a foreign citizen who resides on the territory of the country due to the labour permit, the services for administrative control on foreign citizens are notified.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

No, because Bulgaria is not part of the Schengen area and the residence periods are only for the national territory.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

In such cases return decision is not issued as the person leaves the country on their own will. As stated in answer 3, a financial fine is imposed.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

This is not relevant to Bulgaria before its accession to the Schengen area.

A ban on entering and residing on the territory of the EU Member States can be imposed on strictly regulated legal grounds (under the Law on Foreigners in the Republic of Bulgaria) and after the accession of Bulgaria to the Schengen area.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

The sanctions imposed by the border control authorities on third country nationals due to overstay are: on entering the country – refusal of permission for entrance, on exit – imposing an administrative sanction (fine).

Within the administrative-penal procedure the person can make objections and can provide written or material evidence in order to show that the violation was not due to their fault.

The evidence is taken into consideration by the administrative penal body when issuing the punitive decision (imposing of the fine).

Exceptionally, when this is due to extraordinary circumstances (natural or man-made disasters, accidents, robbery and circumstances which led to the need for first medical aid, as well as other events which were not due to the foreign citizen's will, which he could not foresee or prevent) and when these circumstances have affected more people, the border control authorities can take the decision to not impose administrative penal sanctions on persons who have exceeded their permitted stay in Bulgaria.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

In cases when the overstay is established at the BCPs by the border control authorities, the decision for starting the administrative penal proceeding is made by the officials who have established the violation.

When the overstay is established inside the country the coercive administrative measure is imposed by the director of Migration Directorate – MoI or the Directors at the regional level.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

The data on persons who have exceeded the stay permitted in Bulgaria, for which an administrative punitive decision was issued, as well as the amount of the imposed fine, are entered in the national information system. Bulgaria does not enter refusals in SIS under Art 24 of the SIS Regulation as it is not a member of the Schengen area.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

In relation to the answer to question 13, in the cases of established overstay in another Member State, the Bulgarian SIRENE bureau contacts the SIRENE bureau of the country which entered the alert under Art. 24 of the SIS Regulation and informs it that it allows the person on Bulgarian territory.

- 15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?**

Migration Directorate – MoI has provided information boards in its structures and also has reception days during which it works with third country nationals in order to inform them on their rights and obligations.

CZECH REPUBLIC

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Information on third-country nationals/overstayers (whether detected on the territory of the Czech Republic, or at the external borders of the Czech Republic) is collected at national level by the Risk Analysis Unit (RAU) of the Alien Police Service Directorate. RAU collects following information on all detected third-country nationals/overstayers: nationality, gender, age, date of incident, region of incident. This data is stored in the database "Illegal entry and stay of persons" that is administrated by RAU.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Statistical information on third-country nationals/overstayers (whether detected on the territory of the Czech Republic, or at the external borders of the Czech Republic) is submitted to Frontex on a monthly basis. Information on whether third-country nationals/overstayers entered legally or illegally is submitted since January 2015 as well. Information currently gathered on overstaying cases by Frontex is considered as adequate so far.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

When an overstay is detected, standard administrative procedure begins. Only the Alien Police Service is authorised to make a decision in an overstaying case. If an overstay is detected by other department of the Police of the Czech Republic than the Alien Police Service, the other department passes on the case to the Alien Police Service to proceed.

- 4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

The most common overstayer detection method at the external borders of the Czech Republic is the comparison of entry and exit stamps in travel documents. Whereas on the territory of the Czech Republic the overstayers are commonly detected during the control activity of the Alien Police Service, on the initiative of other state authorities, or when the overstayers themselves contact the Police of the Czech Republic.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

Usually, information on the first country of entry and the initial purpose of entry is not checked in overstaying cases. This information is analysed only in cases that are non-standard, and therefore described more in detail.

6. What reasons are usually indicated by travellers in overstaying cases?

The most common reasons indicated by travellers in overstaying cases are ignorance, or awareness that their residence permit would not be prolonged due to the fact that the initial purpose of stay is not fulfilled any more (usually they work illegally).

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

Usually, the Alien Police Service does not receive information on overstayers from state institutions or private companies.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

When an overstay is detected (whether on the territory of the Czech Republic, or at the external borders of the Czech Republic) the administrative removal follows, irrespective of the fact whether the overstay was committed in the Czech Republic only, or partly in other Member State(s).

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

The Alien Police Service does not issue a return decision in case of detection of an overstayer when the overstay is detected at the airport when the person is about to leave the Schengen area.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

An entry ban is imposed in the cases of overstay detected on the territory of the Czech Republic or at the external borders of the Czech Republic, irrespective of the fact whether the overstay was committed in the Czech Republic only, or partly in other Member State(s). An entry ban is also imposed in the cases of overstay mentioned under question 9.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

Generally, overstayers are fined. Nevertheless, fines are not imposed on overstayers in some exceptional cases, e.g. for humanitarian reasons. Administrative removal is not considered as sanction but as a measure for rectification. In cases when the overstay is detected at the airport when the person is about to leave the Schengen area, for practical reasons the administrative removal might not follow if he/she did not exceed the authorised stay by more than five days.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

When an overstaying case is detected at the external borders of the Czech Republic, the decision is made on the spot. Whereas when an overstaying case is detected inside the territory of the Czech Republic, standard administrative procedure is conducted (it is possible for the person to attend the administrative procedure at a distance). Only the Alien Police Service is authorised to make a decision in an overstaying case.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

Alerts on refusal of entry are entered into the SIS in case of administrative removal.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

During the decision-making process on overstaying cases the Czech Republic usually does not consult other Member States.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

There are no specific measures done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay.

GERMANY

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

The crime statistics compiled by the police record all criminal offences committed in Germany and reported to the police. If the police detect a person who illegally stays in Germany, he/she - as long as he/she has not committed more serious offences - will be recorded in the crime statistics under category 725710 (illegal stay pursuant to Section 95 (1) nos. 1 and 2 of the Residence Act) or under category 725720 (illegal stay following expulsion/deportation pursuant to Section 95 (2) no. 1b of the Residence Act). In addition to the person's age and sex, the crime statistics also record the nationality and the purpose of his/her stay (employment, asylum, studies, tourism). The Federal Criminal Police Office (BKA) is responsible for compiling the crime statistics for Germany. By 15 February the federal states must transmit their collected and adjusted data to the BKA to be included in the crime statistics. Information on whether and to what extent the federal states record data in greater detail is not available.

When detecting persons who illegally stay in Germany, the Federal Police also records their expired visas/residence titles. The Federal Police does not record any further data (mentioned in the above question).

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

FRONTEX data on persons illegally staying in the EU were revised in January 2015 and provide only limited information on overstayers. The revision mainly concentrated on recording the status of persons entering an EU Member State. As part of this data collection the Federal Police transmits data to FRONTEX on a monthly basis.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

In Germany first-line border checks are conducted only at external Schengen air and sea borders and are intended to verify entry requirements. This also includes checking the duration of former and planned stays. If the person concerned overstayed on a prior occasion, the checks concentrate on whether this could have any impact on his/her planned stay in the Schengen area. If the checks conclude that there is the risk that the person concerned will again overstay, he/she is refused entry. The person can then be sent back to the country

- from which he/she started the journey by plane or ship,
- whose nationality he/she has,
- in which he/she has his/her habitual (legal) residence,
- which issued the passport or passport substitute, or
- which the person concerned may enter.

Second-line border checks are mainly intended for detailed questioning, gathering information from third parties, technical document checks, thorough searches in police information systems, comprehensive checks of prior stays in the Schengen area and other searches.

If any violations during former stays or the intended duration of the stay are found, the person concerned will also be refused entry.

Third-country nationals who cannot be returned directly and have travelled to Germany by air, should stay in the airport's transit area so that they are unable to enter the Schengen area. This applies only to cases in which the person concerned can actually leave the transit area by plane. Otherwise preventive detention must be applied for without delay or entry must be permitted.

Third-country nationals who are detected in Germany and have overstayed are requested to leave by the competent authority. A border certificate is sufficient proof that the person concerned has left the country. If the third-country national does not leave voluntarily, he/she can be deported or removed.

The Federal Police and the authorities responsible for the control of cross-border traffic may take measures to end a person's stay in Germany only directly after the illegal entry has been detected. Otherwise this is the federal states' responsibility.

- 4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

The duration of the stay of third-country nationals with or without a visa is generally established with the help of border control stamps. If such stamps are missing, flight or hotel bookings can be used.

- 5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?**

If third-country nationals illegally staying in Germany apply for asylum or there is information that they have already applied for asylum in another Member State, information on the state of first entry is gathered to prepare the possible transfer of the third-country national in line with the criteria of Regulation (EU) No. 603/2014 (Dublin III).

- 6. What reasons are usually indicated by travellers in overstaying cases?**

Any personal information of travellers on the reasons for overstaying are not recorded.

- 7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?**

Information is shared only between public authorities. Private organizations or businesses are not required to do so.

- 8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?**

The duration of the stay of third-country nationals in other Schengen countries is taken into account when establishing the entire duration. The following procedure for overstayers is described in the answer to question 3.

- 9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?**

No return decision is taken for overstayers leaving the Schengen area from a German airport. This does not affect the criminal prosecution of the illegal stay under the requirements of national law (usually the Residence Act).

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

Third-country nationals illegally staying in a Schengen country for a longer period of time may be subject to measures to end their stay (expulsion, deportation, removal) in conjunction with an entry ban.

This includes cases in which the individual illegal stay covered more than six months or in which the third-country national stayed several times in the Schengen area for shorter periods for the same reason and thus overstayed the six-month limit.

Their presence in the territory of a contracting party constitutes a threat to public order and security or national security, because it is not a minor or single violation of criminal law.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

In line with the provisions on penalties and fines of the Residence Act, illegal stays may be punished by imprisonment not exceeding one year or by a fine. A person who at the time of the criminal offence was below the age of 14 is exempt from punishment. Other reasons exempting a person from punishment, e.g. mental disorders, are determined by the public prosecutor's office responsible for the proceedings.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

The competent local court decides on the punishment imposed.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

An alert for the purposes of refusing entry because of a longer illegal stay in a member state is usually stored in the Schengen Information System. Entry bans imposed because of measures to end a person's stay in the Schengen area are also stored in the SIS.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

If it is necessary to involve other Member States to take evidence, they are requested to provide relevant information.

15. **What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?**

The diplomatic missions abroad inform visa applicants on residence regulations during the application process. Furthermore this information is also available on the websites of all German diplomatic missions. To prevent illegal migration, the Federal Police also provides information material to professional road transport drivers, taxi drivers and lift-arranging agencies.

ESTONIA

1. **Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Data on overstayers is collected during the exit checks regardless the reason and number of days that were exceeded. Therefore these persons covered by this category are not considered as illegally present. Data on overstayers includes data fields such as:

- Date
- Border crossing point
- Type of border (sea, land, air)
- Nationality
- Sex
- Date of Birth
- Age
- Days overstayed in Schengen area
- Days overstayed in Estonia
- Visa issuing Member State
- Decision
- Amount of fine (if applicable)
- Remark about the length of entry ban (if applicable)

Reason of overstay is not collected due to unreliability of data. Data has stored in specific database at disposal analysis unit of Intelligence Management Bureau of Police and Border Guard Board. Stored data is not personalised (does not include the name of offender).

2. **Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Yes, information is submitted regularly with in framework FRAN. At present FRAN statistics does not covered data on visas and the period of exceeded stay that is found to have added value.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

In case of an overstayer is detected at the 1st line control the foreigner is a subject to the 2nd line control where additional checks will be carried out to make sure that the foreigner has indeed exceeded the allowed length of stay in the country. If it is confirmed that the foreigner has stayed illegally in the country, the following proceedings are carried out:

- 1) a card of an alien who has stayed in the country without legal bases is prepared in an electronic database;
- 2) an enforcement order to leave the country is prepared;
- 3) the overstayer is given an opportunity to explain or justify his/her reasons for stay in the country without legal bases in a written form;
- 4) a misdemeanour procedure will be carried out;
- 5) sanctions on the bases of the duration of the illegal stay will be applied.

Previously described procedures are applied during profiling, as well as in case of detected foreigners who have stayed illegally in the country.

If detected overstayers can be immediately identified, there are no time restrictions in terms of proceedings, the proceedings will be conducted as soon as possible as quickly as possible.

If detected overstayers cannot be identified immediately, they will be detained for up to 48 hours in purpose of identification. Detention longer than 48 hours can be applied only in permission of the court.

- 4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

Methods detecting overstayers are not different from those applied during normal entry/exit checks – all elements listed in the text of question are used. There are no priorities because overstay is easy to detect by following step by step check methodology applied towards third country national and travel document provided by him/her.

- 5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?**

Yes if there is need.

6. What reasons are usually indicated by travellers in overstaying cases?

Most common is unawareness how the days of stay are calculated and other quite common reason is underestimating time needed for border crossing (national holidays, Christmas etc). This is also reflected by statistics collected, which in the case of Estonia shows that 50% of overstay falls into timeframe 1-10 days (statistics of 2014).

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

Yes, information on overstayers is provided regularly by other state institutions. For example local governmental units responsible for registering family status acts (births, marriages etc), Estonian Tax and Customs Board, Prisons etc. Information from private companies is also received but it depends on the willingness of the private company.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

There is no general rule because case by case principal is applied. Just the fact of overstay itself or the length of period exceeded is not enough for implying any administrative measures.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

Yes.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

It depends case by case.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

There is a possibility to impose a fine on overstayers under misdemeanour proceeding. Additionally a return decision is issued to overstayer, imposing an obligation to leave the country, which may be accompanied with an entry ban based on the individual circumstances of the case.

Upon imposing the possible sanctions in every individual case the proportionality of the possible sanctions is assessed also taking account length of illegal stay and the objective reasoning of the individual case. If the person had objective reasoning for illegal stay which were not under his/her control (force majeure) then the sanctions are not imposed.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

Yes, the decision in an overstaying case made in the BCP by BG official (shift leader), while overstayer is departing to the third country.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

Yes if decision includes applying of entry ban.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

No.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

In order to prevent overstay three Estonian embassies (Moscow, Kiev, Minsk) are providing information booklets to the visa applicants. The information booklets give detailed information about methods used for calculating stay; about the grounds for extension of the period of stay and the possible sanctions in case of illegal stay. Similar booklets are also made available for all third country nationals in border crossing points.

GREECE

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Information on third-country nationals are gathered only in the cases of illegal stayers (not of overstayers).

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Statistical information on illegal stayers (not overstayers) are submitted to Frontex within FRAN on a monthly basis.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

Hellenic Police, which is the official competent institution for the examination of the compliance with the legal duration of stay, implements the following procedures in case of detection of overstaying cases:

- At first and second line border checks: When an overstay attempting to leave the member states (exit) crossing the external borders, the border guard is imposing a fine for overstaying the amount of which ranges between 600 and 1200 euros. At the same time an alert about a ban of entry for overstay is registered for him in the national database. Furthermore, when the overstay is detected during his attempt to enter member states (entry), the border guard has to impose a refusal of entry to the concerned individual and consequently put an alert concerning a ban of entry in the national data base.
- In case the overstay is detected within the country, the procedure of arrest has to be followed. Subsequently, a decision is issued and the overstay is detained in the pre-removal centre, where the identification and registration procedure is taking place until the execution of his return. During the period of his staying he can depart in cooperation with I.O.M. In case his removal cannot be executed during the period of his staying at the above mentioned centre, he is released after he is given a note according to which he has to leave the territory of the state voluntarily within 30 days and if he did not, he has to be arrested and detained again following the above mentioned procedure.

- 4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

The typical overstayer detection methods at the external borders and within the country can be set in order of priority as follows: 1) the examination of the authenticity of the travel documents, 2) the check against the national and SIS databases, 3) the examination of the entry – exit member states stamps, 4) the check against the national entry – exit system and 5) the second line interview.

- 5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?**

The information on the first country of entry and the initial purpose of entry are checked in overstaying cases in combination with the above mentioned detection methods.

- 6. What reasons are usually indicated by travellers in overstaying cases?**

The main reasons usually indicated by overstayers are the ignorance of the legal period of stay, health problems, family reasons and force majeure.

- 7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?**

Information about overstaying cases are often transmitted to the police officers by private companies such as hotels, carriers, car rental shops, etc.

- 8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?**

Information on overstay committed in other Member State(s) taken into account during the procedure on both entry and exit, provided that the traveller obtains a Schengen visa or exemption from the obligation to hold a visa, because the authorised duration of stay or the exemption from the obligation to hold a visa concerns all the Member States.

- 9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?**

When an overstayer is attempting to leave the member states crossing the external borders, the border guard is imposing a fine for overstaying the amount of which ranges between 600 and 1200 euros. At the same time an alert about a ban of entry for overstay is registered for him in the national database.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

In the cases of overstay committed in other Member States an alert about a ban of entry for overstay is registered in the national database in the cases mentioned under question no. 3, only if the overstay case takes place in Greece or both in Greece and other Member States.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

All the sanctions that are imposed on overstayers are mentioned above. Nevertheless they can be exempted from the imposition of the relevant fine in the following cases: 1) when the overstayer has a Greek origin, 2) when the overstayer is a minor, 3) when a medical problem has occurred to the overstayer within 30 days of the expiry of the legal duration of stay, 4) when force majeure has occurred within 30 days of the expiry of the legal duration of stay.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

The relevant decision is made on the spot by the competent second line police officer (shift leader).

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

The above mentioned alerts on ban of entry on overstayers are registered only in the national database.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

The relevant decision is made on the spot by the competent second line police officer (shift leader) without consulting other member states, as the competency of decision making belongs to the police authorities of the member state the territory of which the overstayer attempts to leave.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

The measures taken at national level in order to inform third country nationals on their obligation to comply with the authorized duration of stay lies in the uploading of the whole relevant information material on the website of the Hellenic Police and the Ministry of Foreign Affairs.

SPAIN

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Spain has not got any register system on exit checks regarding overstayers.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

The data referred to FRONTEX are required by the Agency regarding the indicators established for FRAN, for instant, detections of illegal stay in the territory, in which overstayers are included. Spain considers it is enough information.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

If overstay is detected in the airport transit area and she/he is not going to enter in the Schengen territory, it is allowed to continue your trip.

In an entry check, if the border guard detects traveller has already stayed for 90 days in the preceding 180 day period on the territory of the Member States of the European Union a refusal of entry at the border is carried out (reason letter F of Standard form for refusal of entry at the border-Schengen Borders Code).

In an entry check, if the border guard detects traveller has already stayed for 90 days but in a period before the 180 days preceding time preceding, a very detailed border check is carried out in order to verify all entry conditions and, especially, the purpose of travel is sufficiently justified before being allowed entry. If it is not sufficiently justified the entry is refused.

When a third country national is detected within the territory and she /he has exceeded authorized stay, an expulsion proceeding is conducted in accordance with Directive EC 2008/115.

- 4. What are the typical overstay detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

It is detected by checking the date of entry–exit stamps from the travel document.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

6. What reasons are usually indicated by travellers in overstaying cases?

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

No.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

The period of stay is common in all Schengen States and for this reason Spain considers it is not necessary to know the Member state in which has remained.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

In general not.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

When a third country national is detected within the territory and she /he has exceeded of authorized stay, an expulsion proceeding is conducted in accordance with Directive EC 2008/115 and an entry ban is imposed.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

The competent administrative authority.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

Not in the case of refusal of entry. Entry bans are entered into SIS.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

No.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

FRANCE

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

When cases of overstaying by third-country nationals are detected, either on French territory or on leaving the territory, various information is collected at national level and entered in the PAFISA (French border police statistics) software.

The data collected relate to the place of detection (département, types of place, types of border, etc.), the illegally staying foreign national (country from which he or she has just come, nationality, age bracket, gender), the detaining agencies, the legal framework and the actions taken in the case.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

In the context of the collection of data at the external air borders organised by the "PULSAR" Programme, the French authorities do not provide Frontex with statistics on overstaying.

However, when collecting data for the Frontex Risk Analysis Network (FRAN), France provides Frontex with statistics via a table on irregular stays which keeps a record of persons detected as residing without authorisation when they leave or attempt to leave the territory via the external borders at a border crossing point (BCP) or between two BCPs. However, this table does not specify whether or not the person has overstayed, but merely indicates whether the foreign national's illegal stay results from a lawful or unauthorised entry at the external borders.

Consequently, there does not appear to be sufficient information gathered by Frontex on such situations to allow for thorough analysis.

3. **Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

The procedure described above (question 1) for registration in PAFISA is triggered. In addition, there are two separate cases:

- When overstaying by a foreign national is **detected on national territory**: an administrative procedure is launched and a return decision (OQTF – obligation to leave French territory)¹ may, in compliance with the 'Return' Directive, be issued against the person concerned.
- If the foreign national's overstay is **detected on exit from the territory**:
 - If the period of overstaying is **less than or equal to 30 days**: a procedure for the collection of consular fees is launched. The third-country national is therefore liable to consular fees, which are payable immediately².
 - If the period of overstaying is **more than 30 days**:
 - A procedure for the collection of consular fees is launched.
 - The overstay is automatically reported by the border control service to the French central service in charge of visas (Visas Subdirectorate) which records the person concerned in the FAD (departmental warning index) database, which it is responsible for managing.

5 059 alerts for overstaying were reported in this way between 1 July 2014, when this procedure was set up, and 31 March 2015.

Thus, a person already entered in the FAD database who submits a new visa application is automatically reported to the consular posts via the national RMV (Réseau Mondial Visa - global visa network) records system.

Whatever the length of overstay, the issuance of OQTF decisions has been abolished in the case of detection of an overstay when the person exits the territory³.

¹ Code on the entry and stay of aliens and the right to asylum (CESEDA), Article L511-1-I (2).

² See question 11.

³ See question 9.

4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.

France does not have an "Entry/Exit" system. The detection of cases of overstay is effected by police officers who carry out checks of travel documents, when they examine the date-stamps of entry into and exit from the Schengen area. There is no database allowing an overstay to be detected.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

No, the information concerning the first country of entry into EU territory and the initial purpose of entry are not checked in the cases of overstay.

6. What reasons are usually indicated by travellers in overstaying cases?

In general, the reasons given by travellers are as follows:

- The foreign national's desire to remain in the Schengen area, either definitively or for a longer period than that granted by his or her visa;
- The foreign national's carelessness;
- Health problems preventing the traveller from making his or her journey within the set period.

In the case of short overstays due to errors of calculation by foreign nationals, which are moreover detected on exit from the territory, the honesty of travellers is taken into account and overstays are not recorded by the authorities.

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc...)?

The police at the borders may, very occasionally, receive alerts from French consulates, in cases where foreign nationals who were supposed to report to them on their return to their country did not do so.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

Information on overstays committed in other Member States is not taken into account when deciding on return measures. The situation as regards the stay in France is the only factor for consideration.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

When the overstay is detected during a control on departure from the country – in particular at the airport when the person is leaving Schengen territory - no return decision is issued.

The practice of issuing of return decisions⁴ in such cases was in fact abandoned on account of its disadvantages. It entailed significant efforts by the authorities and risked delaying the person's departure from European territory. A system was therefore introduced that involves the recording of such occurrences and the charging of consular fees, payable immediately by the third-country national.

As the Commission made clear in its draft manual of best practices for returns, the fact that such return decisions are not issued is down to the implementation of a more favourable arrangement, which is compatible with the Return Directive.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

– In cases of overstay committed in other Member States:

In France overstays in other Member States are not taken into account when issuing a ban on entry into French territory nor in determining the duration of such a ban. Only overstays in France are taken into account.

– In cases of overstay committed in France and discovered during controls on departure from the territory:

As stated in the reply to question 9, no OQTF (obligation to leave French territory) decision is issued in these cases. Where a return decision has not been issued, no decision prohibiting re-entry into France can be taken.

On the other hand, affixing a specific stamp to the travel document and feeding data into the database of the 'RMV' national records system enables consulates to know that a third-country national has overstayed and ensures that they will exercise particular vigilance when a visa applied for subsequently. This also applies to the border guards, who would notice that such a stamp has been affixed when a third-country national arrives at entry control.

⁴ The issuance of return decisions was abolished following the instruction of 30 June 2014 on the action to be taken at border crossing points (BCPs) in respect of foreign nationals voluntarily leaving French territory and the Schengen area but whose right to stay is exhausted.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

When a person is found to have overstayed on leaving the country, consular fees are charged. In this regard there are four distinct situations:

- A third-country national, whether subject to a short-stay visa requirement or not, who has **stayed in France for over 90 days without authorisation** is in a **long-stay** situation covered by national law. Hence if he should have been in possession of a long-stay visa regardless of his nationality, he is charged double the fee at the border on leaving the country. **He therefore has to pay EUR 198 (2 x EUR 99).**
- A third-country national who is subject to a short-stay visa requirement and is in possession of such a visa, and has **stayed in France for over 90 days without authorisation**, is in a long-stay situation covered by national law. Hence if he should have been in possession of a long-stay visa regardless of his nationality, he is charged double the fee at the border on leaving the country. **He therefore has to pay EUR 198 (2 x EUR 99).**
- A third-country national who is subject to a short-stay visa requirement and is not in possession of such a visa, and **has stayed in France for under 90 days**, is liable to pay double the normal consular fee. **He therefore has to pay EUR 120 (2 x EUR 60).**
- A third-country national **who is subject to a short-stay visa requirement, and has overstayed his visa and stayed in France for a period less than or equal to 90 days**, triggers a new short-stay period during which he should have applied for a short-stay visa. He is therefore liable to pay double the normal fee for a short-stay visa. **He therefore has to pay EUR 120 (2 x EUR 60).**

Decree 81/779 of 13 August 1981 setting the amounts to be paid **does not provide for any exemptions from this penalty in the legal sense of the word because the consular fees are not a penalty but an opportunity** granted to foreign nationals allowing them both to regularise their situation without having to go to Police Headquarters and to be exempted from the OQTF procedure and from being held in detention.

However, the border police chief is entirely free to allow the foreign national to pay a **reduced fee or, in exceptional cases, to waive it**⁵. In this case an ink stamp is affixed to the passport so that the foreign national has proof that his situation has been regularised.

Moreover, where the holder of a visa is prevented, **by force majeure or on humanitarian grounds**, from leaving French territory before the authorised expiry date, the border police can issue a visa sticker to extend the validity of that person's visa and his stay. Evidence of force majeure or humanitarian grounds has to be provided. Such a visa extension is granted free of charge.⁶

⁵ The second part of the Annex to Decree No 81-778 of 13 August 1981 setting the fees to be charged at diplomatic and consular missions and, on French territory, by the Ministry of Foreign Affairs.

⁶ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

When on national territory the police discover a foreign national who has overstayed and is therefore in the country illegally, that person is handed over to a CID officer who will be able to hold him in detention so that the ensuing administrative proceedings for illegal aliens can be instituted.

A border guard who detects a visa overstay at the border generally hands over the foreign national to the second-line officer of the watch, although he can also assist the latter by dealing with consular fee formalities and drawing up the alert report.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

No, no overstays are entered in the SIS.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

No, other Member States are not consulted.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)

There is no awareness-raising campaign at national level with regard to overstays. The French authorities are in fact of the opinion that the duration of stay is clearly stated on the visa stickers.

However, certain measures are or may be taken by the French authorities:

- All short-stay visa application forms contain a warning to raise applicants' awareness. It states: "*I undertake to leave the territory of the Member States before the expiry of the visa, if granted.*"
- Each consular post or service is free to use its own website to inform applicants in more detail.

The border guards can draw travellers' attention to the fact that the visa they present is valid for only a few days.

CROATIA

1. **Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Croatia collects such information. Personal data (i.e. date/place/country of birth, citizenship), date/place of detection, way of entry, however data of length of overstay is not collected. Croatia collects data in all cases. Data is stored in Information system of Ministry of Interior.

2. **Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Yes.

3. **Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

Official procedure regarding overstay is regulated by Aliens Act.

The police have to determine facts and apply sanctions and other measures (fine, entry ban, return decision). In case of entry border check, also refusal of entry has to be applied. In case of exit border check, return decision does not have to be issued. Entry ban based on individual assessment may be applied.

If the question is related to the procedure at the border crossings, during the exit movements, fulfillment of all exit conditions would be carried out at second line check, in accordance with the Schengen Borders Code, Article 7.3.b and c. In accordance with good Schengen practice, whole process would be done in the shortest possible time within a half of hour, depending on the conditions and circumstances at the border crossing.

4. **What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

Ministry of Interior has got an Information system which signalizes likeliness of overstaying. Further field-check is always required. Checking National Entry/Exit System and checking stamps in travel document. Checking database of registration of short stay etc.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

No. Croatia has not been part of Schengen area and duration of stay in other MS is not calculated in duration of stay in Croatia.

6. What reasons are usually indicated by travellers in overstaying cases?

Such a data has not been collected.

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

Aliens Act regulates that state bodies, legal and natural persons shall immediately notify the police administration or police station if they learn that a foreigner is staying or working in the Republic of Croatia illegally unless they have an obligation of keeping a secret in accordance with special legal provisions.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

No. Croatia has not been part of Schengen area and duration of stay in other MS is not calculated in duration of stay in Croatia.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

No.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

As a rule not.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

A fine. Humanitarian and other justified reasons. I.e. health and other important personal reasons, important family reasons, problems with transport.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

Yes. Misdemeanour courts and the police.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

Croatia does not have access to SIS.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

No. Croatia has not been part of Schengen area and duration of stay in other MS is not calculated in duration of stay in Croatia.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

Such measures have not been applied yet.

LATVIA

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Latvia collects information on overstayers. In general personal data (travel documents), place of detection (border crossing point or inland), route, time of detection is collected, as well as any other information submitted by overstayee during the interview. The information on reason of overstay is not collected, but during the interview this information is asked and stored in analytical reviews files/records.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Information on overstaying cases is submitted to FRONTEX (FRAN) every month. Latvia is of the opinion that the necessity to collect additional information should be assessed, including information: on first country of entry, length of overstay, purpose of overstay declared, document used by person in overstay case and route used for exit.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstayee is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

Latvia applies a standard procedure in case of detection of overstayers at border crossing points and inland. The standard action is as follows:

- 1) At airport transit zone – the Shift Leader evaluates the conditions regarding the initiation of administrative proceedings, gathers the explanation from the person (in order not to delay the exit to the country of origin, the explanation may not be gathered), the warning on issuing of a return decision is issued for a person (the decision on issuing the return decision, which includes information on a decision regarding the refusal of entry, is made later);
- 2) If the case of overstay is detected at the first line border check, then person is controlled at the second line border check, which includes detailed document control, interview, check of information in data bases. After the second line border check the decision on administrative proceedings and issuing of return decision, which includes information on a decision regarding the refusal of entry, is made;
- 3) If the case of overstay is detected inland the decision on administrative proceedings and issuing of return decision, which includes information on a decision regarding the refusal of entry, is made;

The time limit of proceedings is not established, but the decision should be taken during reasonable time.

4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.

The most effective way to detect overstayer is analysis of entry stamp, national Entry-Exit system and calculator, recommended by the Commission. The way to detect overstayers inland is activity of the Immigration structural units, who implement intensified control of the holders of short time entry visas.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

Internal proceedings include, as far as possible, collecting information on the first country of entry and the initial purpose of entry. The main mean of detection of the first country of entry is entry stamp in travel documents.

6. What reasons are usually indicated by travellers in overstaying cases?

The main reasons of overstaying are: inability to calculate the permitted period of stay (in case of short stay visa – number of days within the period of visa validity, in case of long stay visa - 90 days allowed within the 180 day period), health problems, loss of travel documents, employment etc.

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

Latvia has efficient cooperation with state authorities (police and other law enforcement authorities), as well as with public authorities (carriers, hotels). In addition, according to Latvian legislation, in case of accommodation of foreigners, it is necessary to fill in certain inquiry regarding the stay. On the demand of the State Border Guard the mentioned inquiry is submitted.

8. Is information on overstay committed in other MemberState(s) taken into account during the procedure on exit and how does it affect further action?

In overstay detection process, LV takes into consideration the duration of overstay in other Member State. This information is serving as evidence during the decision making process on issuing return decision, which also includes determination of refusal of entry.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

Latvia issues return decision to all overstayers.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

Latvia evaluates all conditions of overstay (at the territory of other Member State and Latvia) before making the decision on refusal of entry.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

LV in the case of overstay initiates the administrative proceeding (penalty varies from caution to 350 EUR). During the administrative proceeding all attenuating and aggravating circumstances are taking into consideration, also only persons older than 14 years can be held liable. Additionally during the decision making process on issuing return decision, ban on person's entry is also evaluated.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

In majority of overstayers cases the decision is made by the shift leader at border crossing point. Only in exceptional cases, when return decision is issued to person, the decision is made after the person exits the country.

If the overstayer is detected inland, the decision is made on the spot (by officials of the State Border Guard or Department of Citizenship and Migration affairs).

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

The decision on person including into entry ban is made taking into consideration all the circumstances. In most cases such a decision is made when person exits the country or after the exit – the decision is sent by post to the indicated/provided address.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

In a case of overstay during the decision-making process in standard situations Latvia does not consult other Member States, because the conditions of overstay are detected with a help of stamps in a travel documents, interview etc. Only in exceptional cases, when it is necessary to confirm the information, Latvia consults particular Member State.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

In order to inform the third country nationals the information is provided to the Consular Departments (while getting visa). Also the person is informed about allowed period of stay at border crossing point (while entering the country). The information on conditions of entry is available on the homepage of the State Border Guard and Ministry of Foreign Affairs, as well as consultation is provided 24/7 (via phone, e-During the certain time period (during the tourist season), with a help of other authorities the measures, with an aim to inform the third country nationals on conditions of entry and stay, are implemented.

CYPRUS

1. **Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centers or other)? Is this data stored (where or in which databases)?**

The information and data concerning third country nationals/ overstayers is collected and recorded at national level. Also relevant statistics are recorded where possible. Registered details and data of persons are kept in various categories e.g. tourists-visitors who overstayed illegally, labourers and students who have infringed on their residence permit and remained illegally, etc. The data and details are kept both for intentional or through negligence overstayers. These data are recorded in the computerized database of the competent department of the Ministry of Interior - Civil Registry and Migration Department and also on the National Stop-List.

2. **Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Yes, statistical information on overstaying is regularly submitted to FRONTEX. Information gathered by Frontex on overstaying cases, is relatively adequate (sufficient) and provide a fair, reasonable and satisfactory basis for further analysis.

3. **Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstayer is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

Yes, there is a standard action for the relevant service that undertakes the cases when overstayers are detected. The Police Border Control Officers, who are conducting controls at the first and second border control line or within the country, deal with cases involving overstayers. During the checks at the entry points (arrivals at airports and ports), when a person is identified as an overstayer in the Republic or has already stayed 90 within 180 days, is not allowed to enter (refusal of entry). When an overstayer is detected at departure, he/she is allowed to depart, unless there are other reasons for not doing so. Then, an informative note containing details is prepared by border guards and forwarded to the Civil Registry and Migration Department, in order to be informed about the departure, register and place the subject person on Stop-List, as a prohibited immigrant (unless he/she is already placed on the Stop-List). Police Immigration Officers proceed to arrests of overstayers located within the country and undertake the process of issuing Detention and Deportation Orders, in order to deport and repatriate them. The Civil Registry and Migration Department, is responsible in cooperation with the Stop-List Office, which is placed under Aliens and Immigration Department administration, for registering overstayers.

- 4. What are the typical overstay detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

The typical method for detection-localization of overstayers at external borders and within the country, is the check through databases, National Entry / Exit System, National Stop-List, the check through the computerized database of the Migration Department of Ministry Interior, the comparison-checking of stamps and notes located in passports, etc.

- 5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?**

No, there is no such possibility, since Cyprus is not yet member of Schengen area (zone). SIS II and VIS are not operational yet.

- 6. What reasons are usually indicated by travelers in overstaying cases?**

Usually the departing travelers indicate reasons and excuses such as not being unaware that they had to leave earlier, financial or other problems or simply the desire to stay longer. The arriving travelers claim that they are not aware for the exact period that they may remain in the country, i.e. 90 days within 180.

- 7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?**

Information and alerts, concerning persons who exceeded their residence permit (overstayers), are received from the Migration Department, colleges, employers, hotels, tenants of houses, etc.

- 8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?**

No, because Cyprus is not yet member of Schengen area (zone). SIS II and VIS are not operational yet.

- 9. Do you issue a return decision in case of detection of an overstay also when the overstay is detected at the airport when the person is about to leave the Schengen area?**

No return decision is issued since the overstay already departs from the country and the European Union. No other MS is informed.

- 10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under Question 9?**

No because it is not known (there is no information or information exchange between MSs), whether a person has exceeded the authorized stay period in other MS.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

The details of overstayers are placed on the National Stop-List, as prohibited immigrant. If there are humanitarian reasons (family reunification, medical reasons) or a new authorization for entry and stay for other reasons is granted, then their details are removed from the stop-list or no sanctions are imposed. Overstayers who entered the country as visitors-tourists and remain more than 90 days within 180 (without any approved extension) or exceed the days of the visa they have been granted, their details are placed in stop-list if they exceed the period of six months of illegal stay.

12. Is the decision in an overstaying case, made on the spot? Which authority is authorized to make a decision in an overstaying case?

Yes, the decision is made on the spot. The competent authority is the Civil Registry and Migration Department (Ministry of Interior). The executive authority is the Aliens and Immigration Department (Ministry of Justice and Public Order).

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

No, because Cyprus is not yet member of Schengen area (zone). SIS II is not operational yet.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

No.

15. What kind of measures are taken at national level, in order to inform third country nationals about their obligation to respect authorized duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

All third country nationals who have obtained a residence permit in Cyprus, are informed-updated for the duration of their staying (leaflets distributed) upon their registration at the local Civil Registry and Migration Departments. Also, they are informed in writing, in advance, that they must leave the Republic within 7-30 days from the date of expiry of their residence permit. Also, third country nationals, upon arrival, at entry points, are informed of the period of stay depending and according to the visa they obtained (visa holders) or the 90 days in 180, for persons imposed the visa requirement (visa exempts). As regards prevention and deterrence, all relevant information for the period of stay are given to third country nationals, visitors and to holders of residence permits, both at our embassies and consulates abroad, and also upon arrival in Cyprus. Additionally, information is available on the official website of Ministry of Foreign Affairs. Brief note, is also included on the actual permit of entry in Cyprus.

LITHUANIA

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Lithuanian State Border Guard Service (SBGS) collects data on overstayers of both categories: detected inland and detected on exit from Lithuania. This data is stored statistically in a depersonalized fashion. However, it is important to note that SBGS collects and stores statistics only on those overstayers who were either detected by border guards or detected by other authority and then handed over to border guards for further procedures. SBGS does not collect statistics on those overstayers whose cases are not processed by border guards.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

SBGS provides FRONTEX with border guard statistics on overstayers on monthly basis in the framework of FRAN (Frontex Risk Analysis Network) activity.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

Yes, there are standard procedures: cases of overstayers are processed under provisions of the Law on the Legal Status of Aliens of the Republic of Lithuania. An overstayers detected at a border crossing point on exit from the Republic of Lithuania is obliged to return to a foreign country. Migration control on the territory of the Republic of Lithuania is based on risk analysis or checks are carried out acting on intelligence.

When in the first line check or during profiling in transit area overstayers are detected they are sent to the second line check, where SBGS officers make all necessary procedures by national law. If an alien has a valid document, decision has to be taken no later than 2 work days.

- 4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

Overstayers may be detected inland during migration control activity which is based on risk analysis, intelligence or specific alerts. However, from border guards' perspective this migration control activity mostly leads into detection intra-Schengen secondary irregular movements where irregular immigrants are usually not overstayers but rather third country nationals entered Schengen territory illegally. Overstayers are mainly detected on exit at border crossing points.

SBGS officers use national entry/exit databases and visuals methods and measures to check travel documents if third country nationals are not an overstayers.

- 5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?**

Yes, it is checked and information is filed in the alien's interrogatory.

- 6. What reasons are usually indicated by travellers in overstaying cases?**

Do not understand the validity and duration of stay of the difference, so think before visa validity period of the dates lapse, their presence in the country is legal. Another reason - with multiple annual visa incorrectly calculates the length of stay within 180 days periods.

- 7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?**

There is no legal regulation, but air carriers sometimes inform SBGS officers about possible foreign overstayers.

- 8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?**

If SBGS officers detected that the alien is unlawfully inside, still a decision on the return has to be drawn up despite the fact that another Schengen state it had drawn up such a decision. However, such an alien shall not be appointed to an administrative fine.

- 9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?**

In all cases border guard officers make the decision on the return of an alien.

- 10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?**

In all cases procedures are the same.

- 11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?**

In all cases, it is draw up and adopt decision in administrative violation case and designate a warning or a fine. The alien may also be included in the list of unwanted entry - except force majeure.

- 12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?**

Under provisions of the Law on the Legal Status of Aliens of the Republic of Lithuania, Migration department, Police or State Border Guard Service are makes decision on the return of an alien. The decision shall be drawn up only place where the offence is determined by the departure and a decision provided by SBGS.

- 13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?**

Yes, it is possible.

- 14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?**

No.

- 15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?**

LUXEMBOURG

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Luxembourg collects information on all detected cases of overstaying at national level in national databases.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Yes, Luxembourg submits information on overstaying to Frontex regularly (FRAN monthly and Pulsar weekly). This information is sufficient basis for further analysis.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

Luxembourg has a procedure which describes all the steps to be taken by border guards in case of an overstay case. Generally the overstayer is intercepted in the first line border check. There is no restriction to let the person leave Schengen territory. A protocol is transmitted to the prosecutor and a report to the Ministry for Foreign Affairs.

- 4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

Luxembourg checks the entry stamps and the validity of the visa dates. Luxembourg does not have national databases on Entry/Exit System.

- 5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?**

It is partially checked. The first country of entry is checked using the stamps in the travel document. The initial purpose of entry can only be checked by interviewing the overstayer.

- 6. What reasons are usually indicated by travellers in overstaying cases?**

- They had not paid attention
- They did not understand the restrictions noted on the visa.

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

No.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

It does not affect further action.

9. Do you issue a return decision in case of detection of an overstay also when the overstay is detected at the airport when the person is about to leave the Schengen area?

Yes.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

If the overstay has an interdiction of entry to the Schengen territory due to an overstay committed in other MS and it is in the SIS II database, that person may not cross the border. Referring to question 9, Luxembourg will impose an entry ban on a case by case basis by the end of the month.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

There are not currently any other sanctions in place.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

Yes, the decision in overstaying cases is made on the spot. The Grand-ducal Police is authorised to make such a decision with the collaboration and referral to the Directorate of Immigration.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

This will happen by the end of this month.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

No.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

HUNGARY

1. **Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Yes. Overstayers are primarily identified not during the in-depth control, but on the external border, during the exit checks. This data can be found in the corresponding unit's statistics that is responsible for the external border section.

Overstayers at the external border

The following data are collected: name, date of birth, place of birth, nationality, moreover, police unit, date and time of the interception, border section, measures, means of transport, description of the incident etc. The police officer at the border crossing point has to fill out a data sheet at all detected cases. Data are uploaded to the national database which is used for data management.

Overstayers during the in-depth control

The following data are collected: nationality, gender, age, moreover, police unit, circumstances of detection (date and time of interception, place of interception, means of transport), route etc. The police officer has to fill out a data sheet on overstay at all detected cases. This data sheet is forwarded to the Border Policing Department at the National Police Headquarters where statistics are made.

2. **Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Yes. Statistical information on overstayers is submitted to Frontex on a monthly basis by the Analytical Department at the National Police Headquarters.

3. **Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

All circumstances have to be taken into account before making a decision. Police measures have to be gradual and proportional, therefore, the following actions are possible:

During the in-depth control:

- Overstayers are taken to the Office of Immigration and Nationality for further procedure.

At the external border:

- Warning,
- On-the-spot fine,
- Minor offence procedure,
- Proposal for ban of entry

Giving on-the-spot fine is the most widely used measure at border crossing points and also within the country.

In the first line, persons are checked in the Border Control and Registration System (HERR) which performs queries from different databases. During checks carried out in second line, there is access to all databases and applications accessible at the first line.

There is no time limit for official procedure when overstaying cases are detected.

4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.

Checking of stamps in travel documents and the examination of legal residence are applied measures and also priorities when performing checks at border crossing points and also within the country.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

No. They have no relevance in overstaying cases except ban of entry.

6. What reasons are usually indicated by travellers in overstaying cases?

Not collected information.

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

No. There is no information on overstayers from state institutions or private companies.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

Basically, the police officer proves the number of days of residence before a foreign national wants to enter or exit the Schengen area. The Schengen visa and entry regulations are only applicable for a stay not exceeding 90 days. Foreign nationals may travel to Hungary without a visa and may there for the maximum stay of 90 days during the 180 days period from the date of exit, therefore, measures (see Point 3) taken by police officers depend on the number of days of unlawful stay. When a ban of entry was launched by any other Member State, it will be taken into account before taking the appropriate measure (see Point 3).

- 9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?**

No. Return decision is not made at the airport when detecting an overstay case on exit.

- 10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?**

Ban of entry is a possible measure after taking into consideration all circumstances.

- 11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?**

See Point 3.

- 12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?**

Decision is made on the spot by police officers.

- 13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?**

The police officers have to consider all circumstances, examine the travel document, take into consideration offences committed beforehand etc. After having a univocal point of view, it is possible to make a proposal for entering an alert into the SIS by the Office of Immigration and Nationality. Ban of entry ordered by the Office of Immigration and Nationality will be placed in the SIS automatically under Article 24 (alert) of the SIS Regulation.

- 14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?**

No.

- 15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?**

Third country nationals can be informed on different channels. For example, information materials referring to overstay are available on airports in different languages, note in case of a fine or infringements, websites of embassies or different authorities (e.g.: Office of Immigration and Nationality), police stations, via phone, e-mail etc.

MALTA

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

In Malta, all known cases of overstaying are acted upon and recorded. All personal details of the overstayer are taken including his/her fingerprints and photograph (except for border cases in which case no fingerprints and photograph is taken). There is no electronic database of these cases and records are not stored electronically, whether the cases are justified or not.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Yes statistical data on detected overstayers is relayed to Frontex Risk Analysis Network (FRAN) on a regular basis. No analysis on the basis of the information sent to FRAN is carried out.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

Yes, a standard procedure exists for detected overstayers. Return decisions and, if necessary, removal orders are issued to all detected overstayers. At border crossing points, when the individual is leaving the Schengen area, the passport is checked to verify whether the person leaving the Schengen area would have overstayed. No time limit is established for this procedure.

- 4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

The main detection method is by comparing stamps in travel documents and this includes the possibility of the passport containing false or counterfeit entry/exit stamps.

- 5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?**

This is not normal procedure for all cases, but this information is checked if the situation requires further investigation.

6. What reasons are usually indicated by travellers in overstaying cases?

Rather than reasons, overstayers try to justify their actions by stating that they had no knowledge of the period they could stay or else, in the case of visa holders, by stating that they read the validity period of the visa rather than the period allowed to stay.

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

Reports of overstayers are received from all quarters.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

The overstay period is always considered, taking into consideration the whole period spent in the Schengen area.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

Yes this is the case.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

An entry ban is imposed in the case of a detected overstayer at the Schengen external border whilst the individual is leaving the Schengen area through Malta, irrespective of the Schengen country in which the overstay period commenced.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

As a rule, all overstayers are processed in line with the Directive on common standards and procedures in Member States for returning illegally staying third-country nationals (Return Directive). An entry ban is issued in all cases but no other sanction is imposed. In specific humanitarian cases or for other reasons the Principal Immigration Officer (PIO) may regularize the immigration position of any overstayer but such cases need to be seen individually on their own merits.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

The Principal Immigration Officer (PIO) may decide on an overstaying case. All police officers assigned by the PIO to immigration duties are empowered to decide on overstaying cases. Decisions are usually taken on the spot unless other investigations are required.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

Yes.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

This is not normally done but if the specific case so requires, consultations and enquiries are carried out.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

Whenever visas or residence permits are issued, individuals are always informed of the authorised period of stay so as to ensure that this is respected.

AUSTRIA

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

When a policeman/border guard detects an overstayer inside the country or at the external border he must file a report to the competent Regional Police Directorate in every case. For this report names, alias names, gender, birth date, birth place, citizenship, names of the parents, marriage status, occupation, address, passport details, visa details as well as the dates and time of the interception, the statement of the person concerned and the immediate measures taken (including info about legal remedies) are collected.

The data is stored only in the data base for administrative penalties, if not a return decision and an entry ban is issued. Then the information is also stored in the national database on foreigners.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Statistical Data on Overstayer are collected and sent on weekly bases to Frontex in the framework of "Pulsar Reports". Based on this information Frontex creates the Pulsar Weekly Report and provides MS with the "European situation picture".

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

When a policeman/border guard detects an overstayer inside the country, during border checks or in the airport transit zone he must file a report with all the necessary details of the case to the competent Regional Police Directorate in the sense of Section 120 (1a) of the Austrian Aliens' Police Act (FPG). Inside the country the overstayer would be taken to the nearest police station, during border checks the border guard will take the overstayer to second line for this procedure. The Regional Police Directorate will decide whether the overstayer has to be brought before them. For these cases the policeman/border guard has the power to arrest the overstayer for up to 24 hours.

The arrest of an overstayer and the transfer to the Regional Police Directorate is not mandatory in cases where the overstayer exits Austria to a third country without delay. A return decision will be normally issued in such a case.

- 4. What are the typical overstay detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

Typical overstayers are normally detected by comparing stamps in travel documents and in some cases by checking national databases, for example in the case of a holder of an Austrian residence permit. There is no NEES in place.

- 5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?**

In the framework of establishing an overstaying case all the entries and exits are considered with equal accurateness. Special attention to the first point of entry or the initial purpose of the stay is only paid if the circumstances of the case make it necessary.

- 6. What reasons are usually indicated by travellers in overstaying cases?**

Mainly overstayers indicate that they were not able to leave the territory due to sickness (if they can provide a medical statement, no fine will be issued).

In other cases overstayers indicate that they were not able to leave the territory because their departure flight was cancelled or that they believed that they could stay until the end of the validity period (for example in case of a visa) and are not bound to a specific number of days of stay.

- 7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?**

Sometimes private persons inform the MoI about overstayers still present in the territory of Austria.

- 8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?**

When establishing whether a person is residing irregularly in Austria periods of residence in other Schengen States are fully taken into account and counted the same way as periods of residence in Austria.

- 9. Do you issue a return decision in case of detection of an overstay also when the overstay is detected at the airport when the person is about to leave the Schengen area?**

The competent Federal Office for Immigration and Asylum has to issue a return decision for every overstay unless the fact that a person has overstayed became known to the Federal Office only six weeks after he left Austria.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

An entry ban is imposed on the overstayer if he/she has been convicted for irregularly residing in Austria under Section 120(1a) of the FPG to a fine of more than EUR 1000.

When establishing whether a person is residing irregularly in Austria periods of residence in other Schengen States are taken into account.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

According to Section 120(1a) of the FPG, a foreign national who irregularly resides in Austria is guilty of an administrative offence punishable by a fine of EUR 500 to EUR 2 500 or, if the fine cannot be paid, by a term of imprisonment of up to two weeks. Anyone who has already been convicted of a similar offence is punished by a fine of EUR 2 500 to EUR 7 500 or, if the fine cannot be paid, by a term of imprisonment of up to four weeks.

However, irregular residence in Austria is not an administrative offence,

- if exit were only possible to a country to which expulsion is not permitted;
- for as long as the foreign national is tolerated in Austria;
- if the person is a third-country national family member of an EU-citizen with no visa;
- for as long as the foreign national has had their freedom withdrawn or
- pending the deadline for voluntary exit (Section 55 of the FPG)

If a penalty is imposed for irregular residence in Austria, no penalty can be imposed for the simultaneous administrative offence of irregular entry. Irregular entry or irregular residence in Austria is not an administrative offence if the foreign national has applied for international protection and has been granted the status of asylum seeker or beneficiary of subsidiary protection. Administrative criminal proceedings are put on hold during the asylum procedure.

When a policeman/border guard detects an overstayer inside the country, during border checks or in the airport transit zone he must file a report with all the necessary details of the case to the competent Regional Police Directorate in the sense of Section 120 (1a) of the Austrian Aliens' Police Act (FPG). Inside the country the overstayer would be taken to the nearest police station, during border checks the border guard will take the overstayer to second line for this procedure. The Regional Police Directorate will decide whether the overstayer has to be brought before them. For these cases the policeman/border guard has the power to arrest the overstayer for up to 24 hours.

The arrest of an overstayer and the transfer to the Regional Police Directorate is mandatory in cases where the overstayer exits Austria to a third country without delay. A return decision will be issued in any case.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

As stated under point 3 the policeman/border guard must file a report with all the necessary details of the case to the competent Regional Police Directorate, which will decide whether the overstayer has to be brought before them. For this cases the policeman/border guard has the power to arrest the overstayer for up to 24 hours. The arrest of an overstayer and the transfer to the Regional Police Directorate is not mandatory in cases where the overstayer exits Austria to a third country without delay. A return decision will be issued in any case by the Federal Office for Immigration and Asylum.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

If an entry ban has been issued due to overstaying as described under point 10 the alert will also be entered into the SIS!

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

Other Member States have to be consulted in the decision-making process especially if questions arise in connection with residence permits of other Schengen States or for example if the overstayer states that his passport has not been stamped by the authorities of another Schengen State when entering or leaving the Schengen Area.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

Extensive information on the authorized duration of residence is provided on the homepage of the MoI, the authorities issuing residence permits, the MFA and embassies abroad.

In the course of the visa application process third country nationals are provided with info folders, information during the application procedure and information on the homepage of the respective embassies.

POLAND

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

The Border Guard (BG) do not gather information on third-country nationals/ overstayers on the territory of Poland. In accordance with the national Act of 12 December 2013 on foreigners the BG collect the information regarding the number of persons who were given a decision on an obligation to return and the reasons on which those decisions were based. This statistical information regarding number of persons who were issued a decision on an obligation to return and the reasons on which those decisions were based are collected in the internal database conducted by the Border Guard.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

The Border Guard submit to Frontex, via FRAN and INTRA-SCHENGEN project, statistical information (monthly) on persons who stay illegally in Poland. Above mentioned statistics includes information about third-country nationals/ overstayers on the territory of Poland but not as a separate category so, in our opinion, this data is not adequate and sufficient basis for further analysis.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

The Border Guard initiate proceedings to issue the obligation to return in accordance with the Act of 12 December 2013 on foreigners. If an alien has used the authorised period of stay in the territory of the Schengen states of 90 days in each period of 180 days, he is refused entry to the territory of the Republic of Poland.

If this occurs during the border check at the first line, the Border Guard, prior to the decision to refuse entry, shall:

- 1) question an alien,
- 2) check the documents possessed by the alien,
- 3) question persons indicated by the alien if they accompany him/her in the travel,
- 4) check the available databases, records and lists related to aliens,
- 5) obtain the necessary information from state institutions, government bodies, local government and individuals.

The proceedings mentioned above may be limited to the control of the documents possessed by the alien if there are the circumstances of failure the conditions necessary for crossing the border.

The above procedures include also a third country national who does not fulfil, or no longer fulfils the conditions relating to the duration of a short stay within the territory of Poland.

In the case when during the exit check is found that an alien:

- has not left the territory of the Republic of Poland after the authorised period of stay in the territory of all or some of the Schengen states to which he was entitled without the need for a visa, in each period of 180 days or:
- has not left the territory of the Republic of Poland after the authorised period of stay specified in the Schengen visa in each period of 180 days, or after exhausting the maximum duration of stay on the basis of a national visa:

the decision obliging an alien to return is issued.

There is no time limit established for the procedure performed by officials (institutions) when overstaying cases are detected. These should be done without undue delay.

4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.

This situations are detected on the basis of:

- verification that the third-country national is in possession of a document valid for crossing the border;
- verification of the travel document for signs of falsification or counterfeiting;
- verification in national and European databases that the third-country national is not considered to be a threat to public policy, internal security or the international relations of any of the Member States;
- examination of the entry and exit stamps on the travel documents in order to verify, by comparing the dates of entry and exit, that the person has not exceeded the maximum duration of authorised stay in the territory of the Member States,
- available documentation.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

When performing the border check activities the Border Guard officers follow the activities referred in point 3. Obtaining information about the country of first entry and the initial purpose of entry may be an element of such activities. This information is not verified.

6. What reasons are usually indicated by travellers in overstaying cases?

Such information is not collected by the Border Guard.

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

- There are no formal procedures between institutions and the Border Guard to receive that information permanently but such situations happen to occur.
- The Border Guard cooperates with the National Labour Inspectorate on legality of employment of foreigners and the performance of work by foreigners.
- The National Labour Inspectorate notifies the Border Guard of all infringement cases on legality of employment of foreigners and the performance of work by foreigners.
- The Border Guard also cooperates with the Voivods (regional authorities) and the Office for Foreigners.

The Voivods and the Office for Foreigners notifies the Border Guard of the submission by a foreigner of an application for a temporary residence permit during illegally stay on the territory of Poland. In cases when the residence permits are refused, the return procedures may be initiated.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

Yes, it is. Information on overstay committed in other Member State is taken into account during the procedure of exit.

If an alien does not leave the territory of the Republic of Poland after the allowed period of stay on the territory of all or some of the Schengen states, to which he was entitled without the need for a visa in each period of 180 days, the decision obliging him/her to return is issued.

When the foreigner overstays with the Schengen visa or within a visa-free movement the overstay concerns all Member States.

With regard to the abuse of the period of stay under Article 21 of Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, of foreigner traveling with residence permit or long term visa it is not possible to determine whether such an abuse occurred.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

Yes. As a general rule Poland issues a return decision in case of detection of an overstayer.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

Yes, it is.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

The Border Guard officers are entitled to impose fines/ tickets.

On individual basis it is possible to derogate from the decision to oblige a foreigner to return if it suspended the exit from the territory of Poland, and:

- there would be no possibility to leave the territory of Poland at a later date for example: validity of the travel document is coming to the end and there would be no possibility to leave the territory of Poland (ex. there is no embassy of that particular country on the territory of Poland);
- Foreigner's life situation requires him to leave immediately the territory of Poland (ex. death of a loved one);
- Foreigner belongs to a category of persons requiring a special treatment, ex. minors, people with disabilities, etc.

Derogation from the decision on obligation to return also possible when the overstay was for reasons independent of the foreigner and lasted for a short period of time.

The decision on obligation to return is also not issued when it is possible to transfer the foreigner immediately to the border and/or transfer them to another third country or another Member State of the EU / EEA/ CH on the basis of agreements for the readmission of foreigners.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

Yes, it is. The decision to refuse entry and the decision to oblige an alien to return are issued by the Polish Border Guard.

The return decisions can be issued on the spot, especially at the border when the foreigner leaves the territory of Poland.

A decision on imposing the return obligation shall be issued to a foreigner:

- 1) ex officio by the commanding officer of the Polish Border Guard or the commanding officer of a Polish Border Guard outpost, which established the premises justifying the decision on imposing the return obligation on a foreigner;
- 2) at the request of a Voivode, the Minister of National Defence, the Chief of the Internal Security Agency, Chief of the Intelligence Agency, an authority of the Customs Service, a voivodeship or powiat (municipal) Police commander, the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard Post territorially competent for the seat of the authority that submits the application or for the place of residence of the foreigner.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

Yes, they are. Data on foreigners for whom an alert has been issued for the purposes of refusing entry is entered into the SIS on the basis of a national alert resulting from decisions on the return taken by the competent administrative authorities.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

An overstay is established on the basis of the available documentation. Therefore, there is no need to consult it with other MS.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

Such information is available at the official websites (the website of the Border Guard provides information about the consequences of illegal stay on the territory of Poland) and in a form of information/ leaflets distributed by institutions competent in matters of entry and stay on the territory of Poland (the Border Guard, Consulates, the Ministry of Foreign Affairs, the Office for Foreigners, NGOs).

Apart from that, within the Ministry of the Interior and its services, works on two information documents for foreigners, namely Vademecum for travelers and Vademecum for persons who stay in Poland without a residence permit or who have not registered as a family members of the Member State of the EU/ EEA/CH citizens, which contain among others information on the consequences of exceeding the authorized period of stay, are about to be finalized with a view to make them publicly available soon.

ROMANIA

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

The Romanian General Inspectorate for Immigration (GII) and the Romanian Border Police collect statistical data on all cases of overstaying on third-country nationals, as part of the statistical data produced on migration management (irregular migrants apprehended).

Romanian Border Police collects information regarding date and place of detection, name and surname of the person, nationality, age and sex, the period of interdiction of entry (in the event this measure was adopted).

Romanian authorities collect only the above mentioned data, without making the difference between the reasons for overstaying.

Information on all irregular migrants when apprehended (including measures taken against them) is implemented in the IT System for the management of aliens managed by GII and accessible also at the level of RBP units.

At the border, the data is stored in the database of the Romanian Border Police (Entry/Exit system) which is available to the GII also.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

General Inspectorate for Immigration provides statistical data to Frontex as part of the collection of statistical information on irregular stay (FRAN reports) via the Romanian Border Police.

Romanian Border Police submits to Frontex, on a monthly basis, information on detected overstaying cases.

The information gathered provides a sufficient basis for further analysis.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

At national level, a Common Procedure on the organisation and carrying out of specific activities for detecting and countering the illegal stay of third-country nationals on the territory of Romania is in place. The procedure was approved by the State Secretary within MoIA in 2013 and it is applicable to National Police, Border Police, General Immigration Inspectorate and Romanian Gendarmerie personnel.

The overstayers subjected for border checks are refused upon entry. The person is informed in the BCP by the border guards ascertaining the illegal stay through the specific form (Annex V B of SBC), on the adopted measure, the reasons and ways of appealing it.

When an overstayer is detected upon exiting Romania, depending on the exceeded period, border guards shall impose fines and bans of entry (additional information are provided for in question 11).

In case an overstayer is detected within the national territory, GII performs all the necessary checks in order to establish the identity or the status in RO (databases checks, visual identification), and then apply the legal measures provided by the legislation on aliens (extend the right to stay if all conditions are met, or issue a return decision/remove by escort/put him/her into public custody).

There is no time limit established for the procedure, but the Romanian authorities strive to solve the cases in the shortest period of time. It always depends on the complexity of each overstaying case.

- 4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

Within the national territory, the typical overstayer detection methods include (not necessarily limited or prioritised): daily controls/checks, actions in cooperation with other national authorities, checks in available databases, specific information collected etc.

Typical overstayers detection methods at the border are, simultaneously:

- by checking in the National Entry/Exit System, which, based on the previous records, automatically calculates the period of stay and reports any irregularity regarding the authorised period of stay on the national territory
- by comparing stamps in travel documents.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

The Romanian authorities do not check information on the first country of entry and the initial purpose of entry in overstaying cases because RO is not a full Schengen MS and Romania is always the first country of entry.

The Romanian Border Police verifies in all situations if third country nationals fulfil the entry conditions depending on the purpose of stay on the national territory, the justifying documents and subsistence means.

6. What reasons are usually indicated by travellers in overstaying cases?

Romanian authorities do not collect information on the reasons usually indicated by travellers in overstaying cases.

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

As regards General Inspectorate for Immigration, specific information on overstayers is usually received from other national authorities and also from private companies.

Romanian Border Police receives, on a monthly basis, from the General Inspectorate for Immigration, information on overstayers detected inland.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

At the border, information on overstays committed in other MS is not taken into account during the procedure on exit because, according to the indications given by the European Commission, until abolition of checks at internal borders, MS not fully implementing the Schengen acquis should calculate the duration of stay only on their national territory (although article 5 SBC does not differentiate).

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

Romania is not a full Schengen Member State. For situation of detections at airports, please note the information submitted in previous question.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

No ban is imposed in such cases, as RO is not a full Schengen MS.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

Sanctions for overstayers may include: administrative fines, issuance of a return decision, forced return and entry bans for a definite period of time. In specific cases, an overstayer can be exempted from any sanctions for humanitarian reasons or for duly justified reasons.

On exit, when a third-country national is established as overstaying, the sanctions provided for by G.E.O. no. 194/2002 on aliens legal regime in Romania are applied:

- from 400 RON to 700 RON, for maximum 30 days of overstay
- from 600 RON to 1000 RON, for maximum 60 days of overstay
- from 800 RON to 1200 RON, for more than 60 days of overstay

The currency rate is 1 EURO = 4.5 RON.

In the case of at least 30 days of overstay, the measure of refusal of entry on Romanian territory is also taken, as follows:

- a) from 6 months to 1 year, in the case of:
 - (i) an overstay period from 30 days to 1 year, for aliens who did not leave the Romanian territory when the residence period - authorized by a visa or international conventions or normative acts that unilaterally waves the visa regime - expired
 - (ii) an overstay period from 90 days to 1 year, for aliens who had a temporary residence permit
- b) from 1 year to 2 years – for an overstay from 1 year to 2 years
- c) from 2 years to 3 years - for an overstay from 2 years to 3 years
- d) from 3 years to 4 years - for a more than 3 years of overstay

The court can order the revocation of the measure of refusal of entry in some justified cases:

- humanitarian grounds
- the necessity of the person's presence on the Romanian territory in the interests of the Romanian state
- the third-country national is parent of a minor child with Romanian citizenship, if the minor child is under her/his maintenance or if the obligation to pay the maintenance allowance exists and the third-country national fulfils this obligation
- the third-country national is married to a Romanian citizen or to a third-country national who has the right of stay for a long period on the Romanian territory
- the third-country national is over 80 years old.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

The decision in a case of overstaying is taken by General Inspectorate for Immigration after all information on the case is collected and analysed. Decisions and sanctions in such cases are taken on the spot or as soon as possible, but not longer than 24 hours.

At the border, the decision to refuse entry/exit is made on the spot and it is made by the commanding officer of the Border Crossing Point.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

Until the full application of the Schengen acquis by Romania, alerts of national interest (for the purpose of refusing the entry) are only inserted in the national databases.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

No consultation with other Member State is carried out on such cases for the same reason as above.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

In order to prevent third country nationals from overstaying into Romania, information campaigns are developed by Romanian authorities directly through mass media but also in cooperation with other authorities or private entities such as NGOs. Public information regarding some overstay cases may also be published in press releases. Detected overstayers are informed on the measures that are to be taken against him/her and also on the sanctions to be imposed by the authorities.

The entry conditions into Romania for third-country nationals and the measures taken by the responsible Romanian authorities for persons exceeding the legal period of stay are specified on the websites of Romanian Border Police and General Inspectorate for Immigration.

SLOVENIA

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Respective information is collected systematically. Slovenian Police detect all the cases of overstaying that led to misdemeanour procedure. Data is stored in central police database.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Respective data is submitted to Frontex on regular basis and in accordance with Frontex definitions and demands. Statistical data is of sufficient quality and suitable for analytical purposes.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

If such case is detected at entry border check it leads to refusal of entry in accordance with the Article __ of the Schengen Borders Code. If such case is detected at exit border check it leads to misdemeanour procedure (usually a fine or a warning in specific cases). After finishing such procedure third country national leaves the area of Member States. If it is detected within the territory of Member State it leads to misdemeanour procedure (usually a fine or a warning in specific cases). After finishing such procedure to such third country national a return decision (usually voluntary) is issued.

- 4. What are the typical overstay detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

Each border police officer performs border checks according to the Schengen Borders Code. Calculation of previous stay on the territory of Member States for third country nationals is obligatory at entry border check and mandatory at exit border check. In both cases entry and exit stamps are checked. "Schengen Calculator" developed by the Commission is a useful tool to help police officers in calculation of authorized stay. This application is available to all police officers via Police Intranet. National EES is not available.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

Information on the first country of entry is checked by entry stamp. The initial purpose of entry is not checked. However, those information is not collected systematically. It is collected only if relevant for some purpose.

6. What reasons are usually indicated by travellers in overstaying cases?

Information is not collected systematically and data is not available.

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

No.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

Such information is not committed to other Member State.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

No.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

According to the national legislation entry ban can be imposed only in cases when a return decision is issued. Specific cases are defined in the Foreigners Act. A police officer responsible for issuing the return decision must take into account all relevant circumstances of the specific case and decide in the case.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

No other sanctions can be imposed on overstayers. In each specific case a police officer should examine all relevant circumstances of the case. If third country national present relevant circumstances for overstaying (i.e. delay of flight, staying in hospital because of illness, defection of a car etc) a warning can be issued.

- 12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?**

Such decision is made on the spot. The Police is responsible to make a decision.

- 13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?**

Yes.

- 14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?**

No.

- 15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?**

Information to third country nationals about entry conditions, residence conditions and visas are available at web pages of the Police, the Ministry of Interior and the Ministry of Foreign Affairs. The link to “Schengen Calculator” is also available at web pages of the Police and the Ministry of Interior and Ministry.

SLOVAKIA

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Information on irregular migration on the territory of the Slovak Republic, including overstayers, are gathered in a particular information system(MIGRA). Information are regularly put in the information system, while there is a basic differentiation among illegal crossing of an external border, illegal stay and entry refusal. Data on overstayers do not constitute a separate category, they are included in the category of illegal stay. Detailed information on overstayers are not gathered in a structured way. These data are stored in the database (information system).

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Slovakia does not provide data on overstayers separately to Frontex. Data are provided on a monthly basis on all cases of illegal stay according to nationality, place of detention and according to the previous entry to a Member State, i.e. Information on exceeding a maximum length of stay are not provided to Frontex Agency.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

Yes, these procedures are commonly regulated by the internal regulations. If the overstaying is detected at first line border check, the third country national is always sent to the second line border check, which carries out further steps. If a police officer(border guards) detects that a third country national has exceeded length of stay in territory of one of the Member States, he/she has to find out a reason of overstaying. Exceeding of a maximum length of stay is a tort under the Act on Residence of Aliens and is the reason for the decision on the administrative expulsion (if there are no other legal obstacles) and for imposing a ban on entry (police may impose a ban on entry for one to five years) according to the Act on Residence of Aliens.

- 4. What are the typical overstay detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

The most common methods for detection of overstaying are consulting national databases (including National Entry/Exit System), comparing stamps (notes) in travel documents and using the short-stay „schengen calculator“. The priority is comparing entry and exit stamps.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

Yes, these information are checked in overstaying cases.

6. What reasons are usually indicated by travellers in overstaying cases?

In case of exceeding authorized duration of stay given in a visa, the visa passengers most frequently indicate that they had no knowledge of when they must leave the Schengen area, as they have confused validity of the visa with the duration of stay in the visa. In cases of multiple entry visas, the passengers indicate that they have incorrectly calculated the duration of the short stay not exceeding 90 days of a stay.

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

Slovakia does not receive information on overstayers from other State institutions nor private companies.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

Yes, these information are taken into account. In order to examine the length of stay of a third country national, the whole length of his/her stay in the territory of the Member States is taken into account. (The length of authorized/unauthorized stay in the territory of the Member States is assessed on the basis of these information in order to determine whether a third country national stays at the territory of the Slovak Republic legitimately or not). The information are considered into account for the decision on the administrative expulsion.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

Yes. The decision on the administrative expulsion is issued in each case (if there are no other legal obstacles), when overstaying of a third country national is detected.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

In this case the ban on entry may be imposed from one to five years. There is no obligation to impose a ban on entry. It is the decision of the police officer (border guards).

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

Overstaying under the Act on Residence of Aliens constitutes a tort, to which a fine up to 1.600 € may be imposed. The sanctions are not imposed in case of provision of institutional care; in case of quarantine measures; and during prison sentence execution or detention. (this period is considered as a tolerated residence). Sanctions also do not apply to alien, who applied for asylum after he/she immediately appeared at the police department and proved reasonable grounds for his/her irregular stay nor they apply to the alien, who applied for assisted voluntary return to his/her country of origin.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

In case of overstaying within the country, the person is at first transferred to the relevant Aliens Police Unit, and only then a decision on administrative expulsion is issued against him/her. When an overstaying case is detected at the border crossing point, the competent border police department decides on the administrative expulsion.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

Overstay is considered for illegal stay in the territory of the Slovak Republic, what is a reason for the decision on the administrative expulsion with an option to impose entry ban under Act on Residence of Aliens. The decisions on administrative expulsion and on entry ban are entered into the SIS as alerts. For the purposes of a refusal of the entry.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

Yes, where appropriate Slovakia consults other Member States during the decision-making process on overstaying cases.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

FINLAND

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Information of overstaying third country nationals is collected when these people are met. Most often that happens in exit control at the external borders or by the police when they meet third country nationals in their surveillance.

This information is stored in in database of Police and this information can be stored by police, border guard on customs. Information is stored following Aliens Act and it is paragraph 185 which includes more information than just overstaying.

Aliens Act
(301/2004)
Section 185
Violation of the Aliens Act

(1) An alien who

- 1) deliberately resides in the country without the required travel document, visa or residence permit, or through negligence fails to comply with the obligation to register his or her residence or apply for a residence card or permanent residence card;
- 2) deliberately, without right to gainful employment is gainfully employed or pursues a trade;
- 3) deliberately fails to comply with the obligation to report under section 118, another obligation under section 119, or a request under section 130 to appear before the authorities to submit information on his or her residence; or
- 4) deliberately enters the country despite a prohibition of entry on grounds of public order, security or health shall be sentenced to a fine for a violation of the Aliens Act.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Frontex FRAN information is submitted regular to Frontex in monthly basis. That information includes more information than just overstayers data as can be seen from the definition in this regard.

Illegal stay and exit

The number of third-country nationals who have been detected by Member State authorities while not fulfilling, or no longer fulfilling, the conditions for stay or residence in the Member State during the reference month, whether they were detected inland or while trying to exit the territory.

The total is disaggregated between:

- a) Detections of illegal stay inland. This also includes persons who were detected for illegally crossing internal borders (= borders between two Schengen Member States), and;
- b) Detections of illegal stay while the third-country nationals were exiting or attempting to exit the territory at external borders, either at border crossing points (BCPs) or between BCPs.
- c) Detections of persons that have entered legally or illegally the territory of the Member State.

The category should include third-country nationals who are not in the possession of a valid visa, residence permit, travel document etc. or being in breach with a decision to leave the country. It also includes third-country nationals who initially entered legally but overstayed their permission to stay.

3. **Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

There are no special standards in this regard. Checking passenger is business as usual and checking duration of stay is a standard procedure. When this clarification takes more than minutes the traveler is moved to secondary inspection and they continue concentrating in deeper details including possible travel tickets found from the personal belongings.

4. **What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

Typical detection methods are calculation from the stamps of the passport and checking from the National Entry and Exit-system. These basic-methods are in use by the external borders and in land. All additional information including possible travel tickets is used as well.

5. **Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?**

Information given when entering the first country and the initial purpose of entry is checked when possible. In practice this is possible only from the national Entry/Exit-system.

6. **What reasons are usually indicated by travellers in overstaying cases?**

Most often the travelers do not care. They have been working somewhere and returning back to home country when they are met.

- 7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?**

This kind of information is not received.

- 8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?**

Whole duration of stay is taken into account when ordering entry ban for the overstayer but when ordering the fine only stay in Finland is calculated.

- 9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?**

If duration of stay is long enough proposal is made to Directorate on Immigration and they can refuse overstayer and order entry ban and that is also stored in SIS.

- 10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?**

Entry ban is also ordered in these cases when stay is long enough and decision is made by Directorate of Immigration.

- 11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?**

Fine, refusal of entry and entry ban are the only sanctions when only violation is overstaying.

- 12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?**

Fine can be ordered by police or border guard. Refusal of entry in this regard is made by Directorate on Immigration and they make also entry ban decision. Decisions are normally made on the spot. To get decision from Directorate on Immigration during weekends is not possible. They work only in office hours.

- 13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?**

If the entry ban is ordered by Directorate on Immigration and it concerns all Member States it is stored in SIS. If there is only refusal decision it is not stored in SIS.

- 14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?**

In some cases the other Member States are consulted. Most often when there is also some kind of doubt of criminal behaviour in other Member State.

- 15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?**

Finland does not have any such special measures.

SWEDEN

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

The Swedish Police collect information regarding overstayers from Sweden's four largest airports: Stockholm-Arlanda, Stockholm-Skavsta, Gothenburg-Landvetter, and Malmo-Sturup.

The information consists of a statistics file that is reported to Frontex, containing the following categories: Nationality, Number, Country of issuance, Sex, Age, Date of expiry, Date of exit.

The statistics files are sent to Frontex, but they are also stored within the Swedish police.

The Swedish police also collect data regarding overstayers, which is sent to the Swedish embassies for information purposes. The data collected in this matter is as follows: A copy of the id page of the passport, a copy of the visa permit, date of entry/exit and any explanation to why the person has overstayed his/her permit.

The data described above is, as stated before, limited to the numbers collected from the top four largest airports. Detection of overstayers inside the territory can also occur, but this information is not gathered in the statistics file.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Yes, Sweden submits such information to Frontex. The information that is gathered should be adequate, but there is reason to believe, as stated above, that all cases of overstay are not reported.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

There is no standard action put in place regarding the procedure when an overstayer is detected. The work procedures vary between the different border crossing points. Up until 1 January 2015 the border checks were the individual responsibility of the 21 independent police authorities. This has however changed with the merge into one national Swedish Police. No changes in the procedures have been made as of yet though.

As a result of the above, nothing certain can be said about a standard procedure. Some border crossing points may put legal matters into effect and the overstayer will get fined. The time limit may in some situations be that of the departure time of the flight which the overstayer shall board.

- 4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

The most common way of detection is when an overstayer is detected when leaving Sweden and the Schengen area by exiting through a border check. If something strikes the border guard as odd, he or she has the ability to perform checks in national databases and the VIS-system. Other ways to detect overstayers are of course through interception inside the territory or in connection with crime investigations.

- 5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?**

Yes, this is a part of the investigation of the overstaying issue.

- 6. What reasons are usually indicated by travellers in overstaying cases?**

No collected information of this can be found.

- 7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?**

No.

- 8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?**

Information on overstay committed in another Member State is not taken into consideration during the exit procedure.

- 9. Do you issue a return decision in case of detection of an overstayer also when the overstayer is detected at the airport when the person is about to leave the Schengen area?**

Yes.

- 10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?**

No, Sweden does not base a decision solely on this, but it may affect the outcome of an investigation that results in an entry ban.

- 11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?**

An overstayer can sometimes be fined as a result of the fact that overstay is a criminal act according to the Swedish Alien's Act.

- 12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?**

The return decision and entry ban decision can be made by the Swedish police on the spot. The Swedish police and the Migration Board are both competent authorities.

The decision to fine an overstayer has to pass the prosecutor, but the police can, ordered by the prosecutor, put the punishment into effect and collect the fines.

- 13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?**

Yes, if other necessary conditions are fulfilled.

- 14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?**

No.

- 15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?**

The Swedish police do not perform any information campaigns regarding overstayers.

ICELAND

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Yes, Iceland collects information on third-country nationals who have overstayed.

The information collected is: nationality of the person, age, sex and when and where detected.

Iceland collects the above information regarding all third country nationals who have overstayed.

This data is stored in a national Police database.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Yes, Iceland submits statistical information on overstaying third-country citizens to Frontex on regular basis.

The information submitted to Frontex in this regard are according to Frontex requests.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

Yes, there is a standard procedure in place for such cases.

In all cases the relevant information is collected (as stated in 1) above). Then there are three categories:

- (1) If the person is detected internally, she/he normally should be deported.
- (2) If the person is exiting when detected, then she/he is taken to a second level check. No further action is taken (there is no regulation in place for giving fine).
- (3) If the person is entering, she/he must be refused entry.

There is no time limit as such, but in all instances actions must be taken as quickly as possible.

- 4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

The typical detection method is comparison of stamps in travel documents.

- 5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?**

This has not been checked specifically. Information on this has not been collected. Soon, however, there may be a need to collect such information based on (new) requirements from Frontex.

- 6. What reasons are usually indicated by travellers in overstaying cases?**

Lack of understanding of the rules regarding three months within six-months-period.

- 7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?**

Exclusively from state institutions (police and immigration).

- 8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?**

In all cases, it is an overstay in the Schengen area which is being considered (see 3) above for actions taken).

- 9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?**

Normally not (see 3) above).

- 10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?**

Not when the person is exiting (see 3) above), but is being considered if the person is detected internally.

- 11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?**

In most cases there are no sanctions imposed (see 3) above). An entry ban can be imposed if the person is detected internally.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

The border police officers consult, and get acceptance of a commissioner's deputy before a person is being refused entry or deported. In other cases (such as in 3) (2) above), there is not a need for such consultation.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

No. However, when people are refused entry their passports get stamped with refusal-of-entry stamping to alert other border-guards in the future.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

Normally not, but depending on the statement of the person. If the person claims to have been residing legally in one country, but cannot prove it, then the authorities of that country may be contacted to get the facts clear.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

On the website of The Directorate of Immigration in Iceland, there is information in English regarding the rule of three-months-stay within six-months-period along with information on who needs a visa. When people are detected in overstay they are informed accordingly.

LIECHTENSTEIN

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

No, Liechtenstein does not collect information on third-country nationals/overstayers at national level.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

No, Liechtenstein does not submit statistical information on overstaying to Frontex.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

No, there is no standard action foreseen.

- 4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

(No external border.)

- 5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?**

Not in each case.

- 6. What reasons are usually indicated by travellers in overstaying cases?**

No statistic about reasons.

- 7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?**

Yes, from the national police or the border guards.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

No.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

(No airport.)

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

See answer under question 9.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

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12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

The Migration and Passport Office makes a decision as far as possible.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

No.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

No.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

No specific measures.

NORWAY

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Norway does not systematically collect data on detected cases of overstayers at national level. Norway only systematically collects information on persons who get return decisions (i.a. final rejection of an asylum case, expulsion, decision on transferal according to the Dublin III-convention etc.) who are forcefully returned.

The Directorate of Immigration produces public statistical overviews of all rejection and expulsion decisions made in Norway, for example cases motivated by illegal stay. However, the categories used are too broad to distinguish which cases are for “overstayers”.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Yes, the police station at Oslo Airport Gardermoen (OSL) provide Frontex with weekly reports on overstayers. The reports include nationality, travel route, airline, and falsified documents if any.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

In cases where the overstayer is detected at departure, please see our reply for Q9. If the overstayer is detected at entry or in Norwegian territory, the overstayer will be expelled if conditions for expulsion are met. The overstayer will be rejected if conditions for expulsion are not met.

- 4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.**

At the external border: The usual mode of detection is by examining passport stamps and visa stickers. All relevant data bases are checked to ascertain whether the overstayer has applied for asylum etc.

At the territory: Territorial controls, controls at relevant work spaces etc. Like controls at the external border, passport and other document controls are an important method.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

Yes. The overstayer is questioned on where and when he entered Schengen. Normally, Norway does not contact the alleged country of entry to have this information confirmed.

6. What reasons are usually indicated by travellers in overstaying cases?

Visit with friends, illness, work.

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

The airlines notify the police station at the airports when they detect travellers who are attempting to leave Norway with expired visas.

In cases where the overstayer have been in an accident, has given birth or is ill, the police will receive information from the hospitals. Some overstayers are also detected in customs controls or by other inspection agencies.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

Yes, an expulsion case will be filed if overstaying in another Member State is detected, and bilateral agreements are taken into consideration. Elements like the length and severity of the illegal stay are factors that will determine further action towards the overstayers.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

Yes, an expulsion case will be filed if the person in question have overstayed by more than 30 days. The directorate of Immigration is the decision making body, who will determine whether the overstayer will be expelled or not. The overstayer will also be required to contact a Norwegian embassy/consulate in his country of origin prior to a possible return to Norway.

If the overstay is less than 30 days, and the person in question holds a Norwegian visa a report will be filed in the relevant databases. If the visa is issued by another MS, the overstayer will be informed that he is staying in Norway illegally.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

Yes, when relevant. For overstay between 30 days and one year, an entry ban of two years duration will be considered. If the third country national have overstayed more than one year, or have overstayed on several occasions, an entry ban of five years duration will be considered.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

Expulsion or rejection.

All relevant factors are assessed when considering an expulsion case. If for example, the overstay is due to hospitalization, illness or other factors which is out of the overstayers control, this will contribute to the overall assessment.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

The police decides whether to file an expulsion case or not, while the Directorate of Immigration is the decision making body. A decision can be made within a very short period of time.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

In most cases. This is decided by the Directorate of Immigration.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

In the relevant cases, yes.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

- Information campaigns
- A standard text is printed on all visas:

I undertake to leave the territory of the Member State before expiry of the visa, if granted. I have been informed that possession of a visa is only one of the prerequisites for entry into the European territory of the Member States. The mere fact that a visa has been granted to me does not mean that I will be entitled to compensation if I fail to comply with relevant provisions of Article 5(1*) of Regulation (EC) No 562/2006 (Schengen Borders Code) and I am therefore refused entry. The prerequisites for entry will be checked again on entry into the European territory of the Member States.

SWITZERLAND

- 1. Do you collect information on third-country nationals/overstayers at national level? What information is collected and in which categories? Do you collect data on all detected cases of overstaying or only in a few categories (for example, committed intentionally or through negligence, or in duly justified cases such as staying at hospitals, medical centres or other)? Is this data stored (where or in which databases)?**

Yes, the Border control authorities (Cantonal Police and Swiss Border Guard) collect information. The State Secretariat for Migration (SEM) records the information on overstayers in the Central Migration Information System (ZEMIS) at national level.

The border control authorities control information that is needed to check if a violation of the Federal Act on Foreign Nationals, FNA was committed by the person concerned. This information – data on the person and on the circumstances of detection – passes into the ZEMIS. However there is no special category “overstay/overstayers” in the ZEMIS.

If a person is checked and grounds for violation of the law found, all data is collected (name, circumstances of detection and overstay etc.), however only if the national law was violated. These cases are then recorded in the ZEMIS.

Yes, in the ZEMIS and in the report systems of the border control authorities.

- 2. Do you submit statistical information on overstaying to Frontex regularly? Is the information currently gathered on overstaying cases by Frontex adequate and does it provide a reasonable and sufficient basis for further analysis?**

Yes.

The border control authorities conduct their own analysis on regional and local level. They use the FRONTEX analysis as supplemental information for their national analysis.

- 3. Is a standard action, inter alia procedures, for the official (institution) concerned defined for cases where an overstay is detected? What actions are carried out by the official (institution) at first and second line border checks, during profiling of passengers at the airport transit zone, or within the country in overstaying cases? Is a time limit established for the procedure performed by officials (institutions) when overstaying cases are detected?**

When an overstay is detected the legally defined penal procedure is in the competence of each Canton. The Federal Act on Foreign Nationals, FNA defines an additional administrative procedure, which is in the competence of the State Secretariat for Migration (SEM). The SEM decides about an entry refusal as well as an entry ban.

The border authorities check all travel documents consistently. If an overstay of a third country national is detected the person is handed over to the investigative authorities.

The process is as follows:

- a. Determination of the circumstances
- b. Ensuring the right to be heard
- c. If overstay, according to the law, is determined, a report is written
- d. The report is sent to the law enforcement authorities and to the State Secretariat for Migration (SEM)
 - a. Decision on entry refusal at the border by the SEM
 - b. Decision of removal from the Swiss territory by the Canton, Swiss Border Guard or the SEM
 - c. Decision on an entry ban by the SEM

The only time limits are those prescribed by the Federal Act on Foreign Nationals, FNA (48h for entry refusals, cf. article 65, para. 2 FNA) and the national law pertaining to legal remedies.

In cases of overstayers the Federal Act on Foreign Nationals does not allow any tolerance concerning the period of stay. The border control authorities comply with that law.

4. What are the typical overstayer detection methods at the external borders and within the country (for example, by checking in national databases or in the National Entry/Exit System, by comparing stamps (notes) in travel documents, by detecting counterfeit travel or other documents, etc.)? Please specify priorities, if possible.

Detection methods pertain to the control on persons and travel and/or identity documents – checks of national databases, checking of stamps, check of proof if available: travel route, hotel reservations, place of stay.

5. Is information on the first country of entry and the initial purpose of entry checked in overstaying cases?

No, it is not.

6. What reasons are usually indicated by travellers in overstaying cases?

The most common reasons given are the following:

- did not have knowledge of the rights/laws on duration of stay
- lost the travel documents
- other and unforeseen reasons for exceeding the duration of stay
- counted the duration of stay wrong (3 months instead of 90 days)

7. Do you receive information on overstayers from state institutions or private companies (e.g. hotels, carriers, etc.)?

Not commonly. If such information is received, it is checked and verified by the border control authorities.

8. Is information on overstay committed in other Member State(s) taken into account during the procedure on exit and how does it affect further action?

Yes it is, especially if the person shall be entered in the SIS or the national data system for the purposes of refusing entry. The procedure is lead according to the law. However Cantonal variations are possible.

9. Do you issue a return decision in case of detection of an overstayer also when the overstay is detected at the airport when the person is about to leave the Schengen area?

No, Switzerland does not issue a special decision or order at the exit.

10. Is an entry ban imposed in the cases of overstay committed in other Member States or mentioned under question 9?

An overstay in another Member State is taken into account.

11. What other sanctions are imposed on overstayers? What justified causes would exempt overstayers from sanctions? What are the exceptions when sanctions are not imposed on overstayers?

There is the possibility to impose a penalty or a prison sentence of up to one year (cf. article 115, para. 1 FNA).

In principle unforeseen events that can be proven, such as an emergency, an accident, malfunctioning means of transport, natural disasters.

cf. above). The person in question is then not prosecuted.

12. Is the decision in an overstaying case made on the spot? Which authority is authorised to make a decision in an overstaying case?

Yes. Decisions according to the criminal law are made by the Cantonal authority. Decisions according to the Federal Act on Foreign Nationals FNA/Administrative Law are the competence of the State Secretariat for Migration. There can be a competence by the Swiss Border Guard and the Canton if the removal is connected to the Return Directive.

13. Are alerts on refusal of entry entered into the SIS in the case of overstayers?

No. Only if there is an entry ban.

14. Do you consult other Member States during the decision-making process on overstaying cases (for example, other Member States where the person exceeded the duration of stay)?

No.

15. What kind of measures are done at national level in order to inform third country nationals on obligation to respect authorised duration of residence and to prevent overstay (for example, brief note issued, information campaign, note in visa application etc.)?

None.
