



## **EMN Ad-Hoc Query on COM AHQ on Member States' Experiences with the use of the Visa Information System (VIS) for Return Purposes**

Requested by Salvatore SOFIA on 18th March 2016

### **Return**

Responses from Austria, Belgium, Blocked / Unknown, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Spain, Sweden, United Kingdom, Norway (25 in total)

#### *Disclaimer:*

*The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable.*

*Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*

### **Background information:**

The VIS Regulation (EC) No 767/2008, which foresees that the biometric data of third country nationals who apply for a visa are stored in the VIS, has started to be applied in practice for nearly four and half years, since October 2011 and is now fully in place since the completion of the roll-out in November 2015. One of its objectives, according to Article 2(e), is "to assist in the identification of any person who may not, or may no longer, fulfil the conditions for entry to, stay or residence on the territory of the Member States." Articles 19(1) and 20(1) allow the authorities competent for carrying out checks at external border or within the territory of the Member States as to whether the conditions for entry to, stay or residence on the territory of the Member States are fulfilled to access certain VIS data for verification and identification purposes. Article 31(2) allows to transfer or to make available these data to a third country for the purpose of proving the identity of third-country nationals for the purpose of return. This can obviously facilitate both the identification of the irregular migrant and the issuing of travel documents for return. In addition, the EU Action Plan on Return (COM(2015) 453 final) calls for the better use of European Information Systems, including the VIS, to enhance the effectiveness of the EU return system.

On 10th June 2013 the European Commission launched an Ad-Hoc Query on 'First Experiences with the use of the Visa Information System (VIS) for Return Purposes'. The Ad-Hoc Query revealed that, in general, Member States' experience in this area was limited at that point in time.

The European Commission is currently in the process of conducting an evaluation of the implementation of the VIS and a VIS evaluation survey was conducted but it provided unfortunately only a limited number of information on its use for return purposes. In this context, it would be helpful to gather updated information on the practical experiences of Member States with the use of VIS data for return purposes as well as any obstacles that Member States may be encountering thereof.

### **Questions**



1. 1. What are your experiences with the use of VIS data for return purposes?
2. 2. Do you use VIS data to identify irregular migrants in practice?


3. Do you use VIS data to facilitate the issuance of Emergency Travel Documents by consulates of the countries of origin?  
2a. If yes, are you already in a position to provide for first statistics or quantitative estimations on how this has impacted return/readmission procedures (both in terms of length of return procedures and success rates of return)? Have you used this information in support of an EU




travel document? Have you been confronted with some countries refusing the issuance of an Emergency Travel Document or the use of an EU travel document despite the evidence collected in the VIS? If yes, please list the countries concerned.



4. 2b. If no, what are the reasons why you do not use VIS data for return and readmission purposes, *e.g. lack of awareness of this possibility among the authorities responsible, no access to the VIS database by the competent authorities, lack of coordination between the various actors involved, issues in getting copy of the scanned passport (please explain which issues, e.g. no reply from the consulate which has issued the visa, difficulty to retrieve copy of the passport when not kept in a database, copy deleted...)* other practical and/ or legal obstacles (please elaborate on those if applicable).



## Responses

	Country	Wider Dissemination	Response
	Austria	No	
	Belgium	Yes	<p><b>1.</b> 1. The experiences are limited. The services, competent for identification and return within the Immigration Office, have not yet direct access to the VIS. They receive finger print VIS hits for administratively detained persons, which allow them to request supplementary information about the visa applications, through the diplomatic representations of Belgium or the other member states. It is foreseen that in a nearby future, these services will have direct access to VIS, which would allow them to access the visa application information directly. Therefore, some technical impediments should first be solved. So although the experiences are limited, the Immigration Office clearly sees the benefits of the system and is requesting copies of passports, submitted at the time of the visa application, for asylum purposes and for return purposes.</p> <p><b>2.</b> Yes, but as for now for a limited number of cases for the aforementioned reasons. In some cases, the Immigration Office requests also a copy of the passport from the EU-embassy where the visa application was made. A copy of the passport is considered a stronger evidence (by the</p>

			<p>embassies that have to issue an ETC) than just the passport details, provided by VIS automatically</p> <p><b>3.</b> No statistics are available as for now</p> <p><b>4.</b> Besides the abovementioned technical impediments, some consulates and embassies refuse to send a copy of the passports, even if referring to the VIS-regulation. In other cases, embassies/consulates do not answer at all to requests. In some cases the files have already been destroyed, so no copy of passports can be sent. In this sense the Belgian Immigration Office is of the opinion that the possibility or obligation of entering a scan of the passport (in particular data page) into the VIS would definitively be a step forward.</p>
	Blocked / Unknown	Yes	<p><b>1.</b> At the start of the aliens policing process, the authority shall check – among other systems – based on the data given by the foreigner whether there is a match or no. If there is a match, it can be used as a basis for identification if the person does not hold any documents.</p> <p><b>2.</b> In practise the authorities do not find matches as many foreigners give false data in lot of cases or names can be written down in several ways with European alphabet. If a match is found, data from the visa application can be used (e.g. mother's name etc.)</p> <p><b>3.</b> NO.</p> <p><b>4.</b> Lack of awareness among the case workers,</p>
	Bulgaria	Yes	<p><b>1.</b> Bulgaria does not use VIS data for return purposes because is not a SIS member.</p> <p><b>2.</b> No.</p> <p><b>3.</b> N/A</p> <p><b>4.</b> No access to the VIS database.</p>



	Croatia	Yes	<p><b>1.</b> 1. Croatia is not a part of the Schengen Area. Further to that, Croatia does not follow common rules in relation to VIS within the Schengen Acquis. However, since March 2013 those applying for visas to travel to Croatia are required to provide their biometric data (digital photograph and finger scans). At the same time, collected data can be passed over to the other states (that Croatia has signed Readmission Agreement or the ones agreeing to use data for this reasons only) is with purpose of providing identity of the person and/or in case the person is in the process of return.</p> <p><b>2.</b> 2. N/A</p> <p><b>3.</b> 3. N/A</p> <p><b>4.</b> 4. N/A</p>
	Cyprus	Yes	<p><b>1.</b> The VIS is used at entry/exit points of the Republic of Cyprus. In cases of detection of a false/falsified visa or an imposture case, VIS has supported the return or repatriation of the irregular migrant. Furthermore the VIS equipment has recently been installed at Aliens and Immigration Branches where migrants apply for extension of a visa. Officers have recently been trained to use VIS for extension reasons but not yet have used the VIS during screening procedures for the identification of migrants. The Aliens and Immigration Headquarters are preparing a handbook for the use of the VIS equipment which will be disseminated to the involved officers.</p> <p><b>2.</b> No</p> <p><b>3.</b> N/A</p> <p><b>4.</b> Please see answer No. 1</p>
	Czech Republic	Yes	<p><b>1.</b> The Czech Republic does not have any experience in this regard.</p>




			<p>2. This data has not been used yet. No.</p> <p>3. N/A.</p> <p>4. The Czech Republic does use another sources and databases. So far there have been no cases during which it would be necessary to use the VIS data for the verification of the identity of the concerned foreigner needed for the realization of an administration expulsion.</p>
	Estonia	Yes	<p>1. At the time being VIS data is used in Estonia for examining applications and for verification at external border crossing points. The possibility for VIS data verification is also made available to the units responsible for verification within the territory of Estonia. Currently the VIS data is accessible based on number of the visa sticker and fingerprints of the holder. Access to VIS data for identification of third country nationals who no longer have the right to stay or residence based on the fingerprints of the person is in the process of development. The VIS can serve as a great tool in return purposes but so far Estonia does not have any cases of success to present where use of VIS data has led to successful identification of person to be returned.</p> <p>2. At the time being it is possible for the units who are responsible for carrying out checks in member states to Access VIS data only based on the number of visa sticker and fingerprints. Queries based only on fingerprints are not available yet. Therefore in practice VIS data is not used to identify irregular migrants.</p> <p>3. No</p> <p>4. At the time being it is possible for the units who are responsible for carrying out checks in member states to Access VIS data only based on the number of visa sticker and fingerprints. Queries based only on fingerprints are not available yet. Mentioned Query type is under development and VIS data shall be used for return purposes once the Query is available.</p>
	Finland	Yes	<p>1. In Finland, the police are responsible for the enforcement of decisions to remove a foreign national from the country, and VIS data is in used in the process. The Finnish police authorities</p>



			<p>state that the VIS data system serves them well. The Finnish Border Guard also use VIS data regularly for refusals of entry.</p> <p><b>2.</b> VIS data is used to identify irregular migrants, and to facilitate the issuance of Emergency Travel Documents.</p> <p><b>3.</b> Unfortunately there are no statistics available. Have you used this information in support of an EU travel document? No. Have you been confronted with some countries refusing the issuance of an Emergency Travel Document despite the evidence collected in the VIS? Yes, some Sub-Saharan countries.</p> <p><b>4.</b> N/A</p>
	France	No	
	Germany	Yes	<p><b>1.</b> A survey among all alien authorities in Germany, which use VIS, was not possible due to the high number of offices. Random samples among the biggest Federal States were therefore taken. The given answers below do not reflect all authorities in Germany. Please take note. • Regarding return purposes, VIS data can be very helpful for identification of persons and for acquiring Emergency Travel Documents. • Initial reception facility: Existing Data is transferred to the responsible body (in this case: Federal Office for Migration and Refugees). Emergency Travel Documents are not acquired at the initial reception facilities. • One authority tried to use VIS Data for identification of Third country nationals ordered to leave. This was not successful however, since no software/hardware was available, through which fingerprints could be taken and sent to the VIS database. For testing purposes this authority was sent one fingerprint as a file through the police. The format of the fingerprint (*.nst - Nistfile) could not be used in the database. Especially regarding unattended minors VIS data often revealed that they entered the country with a visitors' visa issued for other EU member states and then declared false information, through which they received youth welfare for many years. • For one authority it is not possible to search via fingerprints. So far personal data and photographs have not lead to any results. • Another authority stated that so far VIS- Data has almost never been used for return</p>


			<p>purposes, since they do not use this system. In individual cases VIS queries were ran for persons entering the country illegally to prove that a national visa was denied and that a Schengen-Visa of another Member State was applied for by stating false residence purposes. • Regarding return purposes VIS can only be used when noticing that a visa application was filed through the German Embassy, while checking the data from the asylum application (a VIS and an AZR query is started routinely). The requested files, which are only kept for two years by the Federal Office of Administration, contain information regarding the passport number, which can be helpful for the acquisition of ETDs. • One authority uses VIS Data when checking persons, who entered the country illegally. When allocating Asylum-seekers it is assumed that the necessary query is started through the central alien authority or the Federal Office for Migration and Refugees</p> <p><b>2.</b> • Yes, VIS data is used to identify persons as well as to facilitate the issuance of Emergency Travel Documents by consulates of the countries of origin. To be able to use VIS data for the issuance of ETDs in the long term, it is necessary that the Visa documents are kept on for at least two years. • One authority states that VIS-Data are used to identify persons in the initial reception facilities and for acquiring ETD. The data is not used for actually issuing a travel document, since so far the hit rate was zero. • The authorities are using the system to assert if data files are still available at the Embassies, which could be helpful in obtaining a travel document. However, in most of the cases the data has already been deleted at the Embassies when running the query. • When finding a hit in VIS (which happens very rarely) and the Third country national ordered to leave has not presented any travel documents, VIS data is used for obtaining an ETD. • When matching a person in VIS, the data is transferred.</p> <p><b>3.</b> • Statistics are not collected. • Only authority answered that only two cases were reported: in one case the data was already deleted by the Algerian Embassy. In the other case a VIS query was run through scanned and saved finger prints by the alien authority. However the query was not successful due to an error report that “the fingerprint file was faulty and that the used file should be checked again”. • Altogether the use of VIS data still needs to be improved. • One authority states that so far, no EU travel document has been issued using the information gained through VIS data and that no experiences regarding countries refusing the issuance of an</p>
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			<p>Emergency Travel Document or the use of an EU travel document despite the evidence collected in the VIS have been made.</p> <p><b>4.</b> • No suitable software/hardware is available. The Federal Government has enabled access to the database, however at the same time no possibility to take the necessary fingerprints in digital form was created. The authority giving this answer would be very interested in this option. • Using the declared personal data and/or a photo is not sufficient to obtain information. • Running a VIS query regarding personal data is only successful when the person concerned has applied for/received a visa in another Member State using the exact same personal data. In most cases, the person ordered to leave has not applied for a visa when entering the Germany. Above that most of the persons ordered to leave do not possess any travel documents. • In most of the cases, for which a VIS query is started only when a travel document has to be obtained (when people are ordered to leave), the data has unfortunately already been deleted at the Federal Office of Administration. To avoid this, the query should be ran at the earliest stage possible (when applying for asylum). Asylum procedures often take longer than the two years, during which the data is saved.</p>
	Ireland	No	
	Italy	Yes	<p><b>1.</b> VIS is used by Italian Police Offices in a growing extension. During all 2015 182.558 VIS queries where carried out to check migrants at the moment of their access in the Italian Territory with c-visas on their passports. In the first two months of 2016 the queries where 59.086, so the extension of the VIS utilization is visibly increasing.</p> <p><b>2.</b> We do not use VISA to facilitate the issuance of ETD or to identify irregular migrants.</p> <p><b>3.</b> See answer 2.</p>



			<p><b>4.</b> A wider awareness will be reached in the next future, because our Administration is developing training programmes for national police officers, in order to disseminate to the widest extent the use of VIS.</p>
	Latvia	Yes	<p><b>1.</b> The Republic of Latvia carries out verifications in VIS for the purposes of identification and verification of the status of foreigners (legal or illegal stay). There were no cases when data and information included in VIS system was used for the purpose of return. Latvia considers that VIS data can be helpful for person identification and obtaining of necessary evidences with the aim to make arrangements for return or readmission of the person.</p> <p><b>2.</b> The Republic of Latvia use VIS data for the purposes of identification and verification of the status of foreigners (legal or illegal stay). There were no cases when VIS data were used to facilitate the issuance of Emergency travel documents by consulates of the countries of origin of foreigners.</p> <p><b>3.</b> Taking into account that there were no cases when VIS data for return/readmission purposes was used, the statistics and quantitative estimations cannot be provided.</p> <p><b>4.</b> There were no cases, when the data or information on the persons to be returned or readmitted from Latvia were included in VIS and could be used for facilitating the return procedure, as well as issuance of Emergency travel document.</p>
	Lithuania	No	
	Luxembourg	Yes	<p><b>1.</b> Luxembourg has not yet used VIS data for return or readmission purposes.</p> <p><b>2.</b> No.</p> <p><b>3.</b> N/A.</p>

			4. No information available.
	Malta	Yes	<p>1. MT does not have much experience with the use of VIS for return purposes. The main migrants who are difficult to repatriate do not fall under the category of VIS.</p> <p>2. VIS data is used to obtain information on the possible immigration status of undocumented visa nationals apprehended whilst suspected of being in the territory in an irregular manner. So far we have not used such data to facilitate the issuance of ETDs.</p> <p>3. N/A</p> <p>4. We do not have any such issues on VIS use to report. As mentioned above VIS is not used so much for return purposes as the local scenario has not yet required such use.</p>
	Netherlands	Yes	<p>1. 1 and 2. The EU Visa Information System (VIS) enables the identification of irregular migrants through fingerprint/biometrics. This means for the identification process that every migrant, who has applied for a Schengen visa, will be traceable. EU VIS data is included in a so called 'identification column' of the Dutch Police and of the Royal Netherlands Marechaussee (military police). In practice this means that both the Police and the Marechaussee will receive hits based on the biometric data of persons who have applied for a visa of one of the Schengen countries. It is also possible to request for any documents (e.g. a copy of a passport), based on the information that was obtained. The Repatriation and Departure Service (R&amp;DS) is responsible for the departure of foreign nationals who are not allowed to stay in the Netherlands. The Police or the Marechaussee will transfer the casefile of an irregular migrant (or asylum seeker) to the R&amp;DS. This file contains the results of the identification process and therefore also VIS data (when available). The RD&amp;S will use this information for return and readmission purposes. The obtained personal data of a person and/ or a copy of an identity document can be included in a request for an emergency travel document for example.</p> <p>2. See 1.</p>

			<p><b>3.</b> No statistics are available.</p> <p><b>4.</b> N/a</p>
	Poland	Yes	<p><b>1.</b> On basis of Article 20(1) of the Regulation No 767/2008 of the European Parliament and of the Council, of 9 July 2008, concerning the Visa Information System (VIS) and the exchange of data between member states on short-stay visas (VIS regulation), the Polish Border Guard Officers for the purpose of the identification of any person who may not, or may no longer, fulfil the conditions for the entry to, stay or residence on the territory of the Member States and at external border crossing points in accordance with the Schengen Borders Code as to whether the conditions for entry to, stay or residence on the territory of the Member States are fulfilled, have to collect and process biometric data (include fingerprints) from those foreigners whose personal data are entered in Visa Information System (VIS). Polish Border authorities noted that there were incorrect verification and identification of fingerprints, mistakes made by employees of consulates when attaching fingerprints and photos to applications (photo and fingerprints of two different persons) and was a lack in connection with CS-VIS. There exists a need to use the VIS Mail application 24h/7 day a week by all entitled users for the purpose of exchange of information on incorrect data in VIS and amendment of that data.</p> <p><b>2.</b> Yes, checking an undocumented foreigner in VIS system is obligatory. The Polish Border Guard uses the VIS system in identification of foreigners illegally staying in Poland. In case a person has been issued a visa by Polish diplomatic post abroad and his data are found in VIS system, the Border Guard asks this diplomatic post abroad for the copy/scan of foreigner's passport. Obviously in identification process such evidence as a copy of a passport is extremely helpful in identity confirmation and obtaining an Emergency travel document for a foreigner who is going to return to the country of origin.</p> <p><b>3.</b> No, Poland does not gather any statistics in this regard.</p> <p><b>4.</b> n/a</p>

	Portugal	Yes	<p>1. Portugal hasn't already implemented VIS for return purposes.</p> <p>2. -</p> <p>3. -</p> <p>4. -</p>
	Slovak Republic	Yes	<p>1. The Slovak Republic uses data from VIS and considers them beneficial.</p> <p>2. Yes. Obtaining information that a person has been issued visa to enter an EU Member State is useful for the process of issuing the emergency travel documents by the consulates of the countries of origin.</p> <p>3. No, the Slovak Republic does not collect such statistics or carry out quantitative estimations in this regard. No, such information has not been used in support of an EU travel documents. The Slovak Republic has no experience with a country refusing to issue an Emergency Travel Document in case the evidence from the VIS proves the person is the citizen of the country concerned.</p> <p>4. N/A</p>
	Spain	Yes	<p>1. VIS is available for checks inside the territory on undocumented people by the National Police. However, many illegally staying third country nationals in Spain are either over stayers from countries whose citizens don't need a visa (South and Central America) or people who illegally crossed the border. Thus, the relevance of VIS for identification purposes is limited.</p> <p>2. We have no statistics available. As stated above, the number of cases is limited.</p> <p>3. Little impact. No statistics available. The EU travel document is not used currently by Spain.</p>

			<b>4. -</b>
	Sweden	Yes	<p><b>1.</b> The Swedish Migration Agency is using the VIS data if available and if necessary for return purposes in requests for temporary travel documents and readmission requests sent to the Embassies or appointed competent authorities in the country of origin. The data is used as evidence for verifying identities. How the Embassies act on the given information differs between the Embassies but also depends on what other information and documentation is available in the respective case. It would be of great value if a scanned copy of the passport would be available in the VIS- system. This would help speed up the return process and more returns could be carried out on the EU-travel document together with the passport copy. 2a. The Swedish Migration Agency (SMA) is unfortunately not able to provide any statistics or estimations on how often the VIS data has been used for return purposes. The data is, if available, submitted together with all other available information and documentation about the returnee return cases. These cases are not distinguished in any way from other cases and so it is not possible for us to provide data on them separately. The SMA has not used the VIS data solely in support of an EU travel document, -some other evidence has always been attached. Therefore it would be of great value if a scanned copy of the passport would be available in the VIS system. This would help speed up the return process and more returns could be carried out on the EU-travel document together with the passport copy. A few cases with VIS data has been presented to the Embassy of Lebanon with request for temporary travel documents, with the VIS data attached. The Embassy will not issue a travel document before having investigated and verified the VIS data.</p> <p><b>2.</b> Yes. See question 1.</p> <p><b>3.</b> The Swedish Migration Agency (SMA) is unfortunately not able to provide any statistics or estimations on how often the VIS data has been used for return purposes. The data is, if available, submitted together with all other available information and documentation about the returnee return cases. These cases are not distinguished in any way from other cases and so it is not possible for us to provide data on them separately. The SMA has not used the VIS data solely in support of an EU travel document, - some other evidence has always been attached.</p>

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	United Kingdom	Yes	<p><b>1.</b> The UK does not participate in the immigration and border aspects of the Schengen acquis and consequently the visa code and VIS do not apply to the UK. However, since 2007 those applying for visas to travel to the UK are required to provide their biometric data (digital photograph and finger scans). These are checked against a range of Home Office databases.</p> <p><b>2. N/A</b></p> <p><b>3. N/A</b></p> <p><b>4. N/A</b></p>
	Norway	Yes	<p><b>1.</b> VIS-data is primarily used in connection with Dublin-cases. The Norwegian National Police Immigration Service (PU) take fingerprints when registering all asylum seekers. When there is a match in the VIS-database this information is used to determine if the case should be put on the Dublin track by finding out if another MS is responsible seen from the Dublin perspective. VIS-reports are then registered in the immigration control registration system (DUF) and the Norwegian Directorate of Immigration attaches these when sending a request to the MS. Norway is unable to pull up statistics on the number of cases which are transferred to the Dublin track after finding matches in VIS, but Norway most certainly benefits from the VIS system. If a case is not a Dublin case, but there is a match in the VIS system, this will be very beneficial in</p>

			<p>terms of following through on establishing the person's ID and for implementing a potential return to country of origin. Please see question 2 for further details.</p> <p><b>2.</b> The Police make use of VIS during operative, routine checks of immigrants where an ID check is made and there is suspicion that the ID is possibly fraudulent. This happens when processing cases for deportation and expulsion not done in connection with asylum registration. Sometimes we get matches which can mean that the case is put on a Dublin track or that the information is used directly to return the person to their country of origin. These kinds of checks usually lead to a return to a European third country – one outside Schengen. A VIS match can potentially be very beneficial to the PU, in cases when someone is being returned to their country of origin. Normally the PU will contact the embassy that has issued the visa and ask for the scanned copy of the documents which provided the basis for issuing the visa. The response is varied, and the embassies do not always archive the documents or the documents are inaccessible. When the embassy is able to send a copy of the passport, the information has decisive influence on the return case. Even if the embassy is not able to send a copy of the scanned documents, there will often be a passport number in the VIS match. This can in and of itself be enough for verification and issuing a travel document from the authorities from the country of origin. It depends on the kind of registration system they have in the respective country. Do you use VIS data to facilitate the issuance of Emergency Travel Documents by consulates of the countries of origin? When possible, we do use VIS to facilitate issuing emergency travel documents. It depends on the country; for some countries it is possible to use VIS data, in others, it's not. Some countries accept a copy of the passport in order to accept return of the person and issue a travel document, while other countries do not. This is also the case when the passport is no longer valid, which is sometimes an issue and can have consequences when requesting a return. Generally, PU is of the opinion that the VIS-system has great potential for verification of ID and return to country of origin and that VIS information will be used more and more given that more and more embassies are acquiring biometry kiosks and take fingerprints in connection with visa applications. In addition, the potential will increase even more when fingerprints are required for other kinds of applications; first and foremost in connection with family reunification.</p>
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		<p><b>3.</b> NO is unable to extract statistics from VIS since the system is not designed for that purpose. Generally, it can be said that there is a direct correlation between the rate of success for returns by using VIS matches, where we have been able to get a copy of the passport or other ID information and the likelihood of following through on the return given the respective countries' practices. In other words, if a return is possible and the country in question cooperates about returns in general, information in VIS matches will be very useful to us to facilitate returns. If, however, the country in question does not cooperate about returns, our hands are tied. For some countries, information in a VIS match will be adequate to accept a person in return, while some countries will not even accept a copy of a valid passport to facilitate return. Many countries lie somewhere in between.</p> <p><b>4.</b> N/A</p>
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