



Ad-Hoc Query on the costs of the issue and the execution of the decision on return

Requested by PL EMN NCP on 23th March 2015

Responses from Austria, Croatia, Czech Republic, Estonia, Finland, France, Germany, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Sweden and United Kingdom (18 in Total)

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1. Background Information

According to the Polish legislation – art. 336 par. 1 of the act of 12 December 2013 on foreigners (J. of L. of 2013, item 1650 with amendments) the costs associated with the issue and execution of a decision on imposing the return obligation on a foreigner shall be determined in case when a decision on return does not specify a deadline for voluntary return or in case when the decision on return has been executed by force.

According to art. 338 this costs shall include in particular the costs of:

- 1) the procedure to issue a decision on imposing the return obligation on a foreigner;
- 2) taking the foreigner's fingerprints and photographs;
- 3) the foreigner's stay at a guarded centre or at a detention centre for foreigners;
- 4) foreigner's medical examination;
- 5) assistance granted to a foreigner by the other Member States of the European Union in connection with a transit by air through its territory;

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6) transfer of a foreigner to the border or to an airport or sea port of the state to which he/she is to be brought;
According to art. 337 par. 1 This costs shall be borne by a foreigner.

We would like to ask the following questions:





1. Do other Member States issue to the foreigner the decision determining the costs of return?
2. What kind of costs are included in the decision determining the costs of return?
3. Do the costs determined in the decision cover also the costs of the salaries of the officers executing the decision or the salaries of the officers supervising the stay of the foreigner in a detention center?

We would very much appreciate your responses by **14th April 2015**.




2. Responses

		Wider Dissemination?	
	Austria	Yes	<p>1. Yes, the decision determining the costs of return is issued to the foreigner by the competent authority (Art. 53 para 4 Federal Office for Immigration and Asylum Procedures Act; Art. 113 para 1 and para 6 Aliens Police Act).</p> <p>2. Interpretation costs that originate from procedures concerning the removal and the termination of residence (e.g. return decision, entry ban, exclusion order, detention pending deportation). Costs of enforcement of termination of residence measures: particularly Costs for use of means of transport (e.g. train, bus or flight ticket) Costs of escort by officers of public security services Material costs (e.g. food) Contribution to the costs of detention pending deportation Costs of medical care during detention pending deportation Costs of the implementation of lenient measures</p> <p>3. While the costs of escort by officers of public security services enforcing termination of residence measures are covered by the decision determining the costs, the costs of escort by officers of public security services to enforce detention pending deportation are partly covered by the general contribution to the costs of pre-expulsion detention.</p>



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	Croatia	Yes	<p>An invoice for the cost of forced return is being issued to a foreigner. The invoice is being issued using a prescribed template and does not constitute an integral part of the return decision.</p> <p>Costs of forced return include the following:</p> <ol style="list-style-type: none"> 1. cost of escort to a border crossing point or to a country to which a foreigner is being escorted: <ol style="list-style-type: none"> a) fuel cost; b) cost of escort; 2. ticket costs; 3. travel documents cost, visa, etc., 4. cost of stay at the Detention Centre; 5. cost of transit; 6. other costs (cost of healthcare, treatment, damage to property, etc.). <p>Source: Ministry of the Interior</p>
	Czech Republic	Yes	<ol style="list-style-type: none"> 1. Yes (administrative procedure). 2. According to the law, these costs include: <ul style="list-style-type: none"> - Foreigner's stay in a detention centre (accommodation and food), - Transportation of a foreigner abroad (flight ticket, bus ticket), - Other necessary financial costs. 3.No.
	Estonia	Yes	<ol style="list-style-type: none"> 1. Yes, to foreigners who had been in detention center for the purpose of removal, are made precept to recover the removal costs. 2. Expelled person is required to bear the costs incurred by him while staying in detention centre (consists of costs to food, utility and health services, operational costs associated with the return); costs of expulsion, including transportation costs borne in connection with the expulsion (also conveying costs). 3. No
	Finland	Yes	<ol style="list-style-type: none"> 1.No 2.N/a




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			3.N/a
	France	Yes	<p>1.No: in France, removal orders (obligation to leave the territory, police order for escort to the border, readmission and other expulsion order) do not mention the costs of return for the concerned migrant. They only mention legal remedies and periods allowed for appeals, which are legally compulsory to inform the migrant if he/she intends to contest the decision.</p> <p>Moreover, when a period for voluntary departure is granted to the migrant who is obliged to leave the French territory, the decision also mentions the possibility for him to apply for a financial aid to the French office for Immigration and integration (OFII).</p> <p>The total cost of return decisions and related funds are registered in a dedicated program budget (“fight against irregular migration”) and include mainly the cost for the stay in a detention center for foreigners with relevant expenses (equipment, repair, “hotel” service, costs for the officers who supervise the stay and escort foreigners) as well as the price of the plane ticket. One can also add the costs of house arrest for foreigners who do not stay in a detention center but are hosted in hotels or dedicated accommodation centers, until they leave.</p> <p>2.N/A</p> <p>3.N/A</p>
	Germany	Yes	<p>1. Yes.</p> <p>2. According to § 66 of the German Act on Residence, Employment and Integration of foreigners in the area of the Federal Republic (German Residence Act =Aufenthaltsgesetz – AufenthG), the foreigner has to bear the costs which arise from the execution of a refusal of entry or deportation. Third parties (e.g. the liable debtor, the carrier, the employer or human trafficker) can also be made liable for the costs. According to § 67 AufenthG the costs for refusal of entry or deportation are comprised of</p> <ul style="list-style-type: none"> -the costs for transport and other travels for the foreigner within the territory of the Federal Republic and to his destination outside the Federal territory, -the administrative costs for the preparation and execution of the measure (not the costs for criminal proceedings and custody and/or penal sentence) including costs for detention and translations and interpreting, as well as the expenses for accommodation, food and any other provision of the foreigner and -all costs that arise from necessary escorting the foreigner including personnel costs. <p>3. Yes.</p>
	Ireland	Yes	<p>Ireland does not issue the decision determining the costs of return.</p> <p>Some of the costs of return from Ireland are recouped through the Returns Fund or paid from national budgets.</p>





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	Latvia	Yes	<p>1. In accordance with <i>Regulation of the Cabinet of Ministers adopted on 22 November 2011 No.894 on Procedures for Determining and Recovering of Expenses which have arisen due to the Forced Return, Detention and Holding under Temporary Custody of a Foreigner or Returning of a Foreigner to the Country, which Takes the Person back</i>, defines that the costs related with:</p> <p>1) the forced return, detention and holding under temporary custody of a foreigner or the sending of a foreigner to the country, which takes the person back (expenses) shall be recovered from <i>the foreigner, his or her inviter or employer, if he or she has employed the foreigner residing illegally in the Republic of Latvia</i>;</p> <p>2) the forced return, detention and holding under temporary custody of a foreigner shall <i>be recovered from the carrier</i>.</p> <p>The State Border Guard of the Republic of Latvia issue a decision on recovery of expenses.</p> <p>When taking a decision on recovery of expenses, the Chief of the State Border Guard or his or her authorised official evaluate the possibility to recover the expenses proportionally from the foreigner, his or her inviter or employer.</p> <p>2. In accordance with the above-mentioned regulation expenses shall be composed of the following costs:</p> <p>3.1. residence of the foreigner in specially equipped premises or an accommodation centre;</p> <p>3.2. services of an interpreter in order to ensure communication with the foreigner and acquaint him or her with the materials of the matter;</p> <p>3.3. health care services for the foreigner;</p> <p>3.4. transfer of the foreigner under the supervision of security guards;</p> <p>3.5. identification of the foreigner and his or her citizenship or country of origin, specifying expert-examinations and inspections of documents, objects, language and medical and other expert-examinations and inspections;</p> <p>3.6. transportation of the foreigner;</p> <p>3.7. the drawing up of a travel document or an exit document for the foreigner;</p> <p>3.8. insurance of the foreigner; and</p> <p>3.9. the State fee for drawing up a visa for the foreigner.</p> <p>3.No.</p>
	Lithuania	Yes	<p>According to the Article 131 of the Law on the Legal Status of Aliens of the Republic of Lithuania, an alien shall be expelled from the Republic of Lithuania or returned to the country of origin or foreign country to which he has the right to depart:</p> <p>1) at his own expense;</p> <p>2) at the expense of the natural or legal persons who invited the alien to the Republic of Lithuania;</p> <p>3) at the expense of the carriers in cases established by the laws of the Republic of Lithuania.</p> <p>4) at the expense of the employer to whom the alien has been working illegally.</p> <p>In the absence of resources specified in paragraph 1 of this Article, an alien shall be expelled from the Republic of Lithuania or returned at the expense of the State. The state resources shall be recovered in the manner prescribed by legal acts from the natural or legal persons who invited the alien to the Republic of Lithuania or from the carriers who brought the alien to the Republic of Lithuania or another country which took a decision to expel the alien. Although the Law has special provisions on costs of return and expulsion, the recovery mechanism does not work in practice and there have been only few cases when the costs of expulsion were recovered.</p>


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	Luxembourg	Yes	<p>1.No.</p> <p>2.Article 126 of the amended law of 29 August 2008 on the free movement of persons and immigration establishes that the costs and expenses incurred for the removal of a third-country national shall be borne by him/her. As a consequence it should include all expenses incurred for the effective removal of the third-country national, but they are not detailed in the law. In practice however, this clause is not applied.</p> <p>3.No.</p>
	Malta	Yes	<p>1.This is not usual practice even though Article 14 (6) of Chapter 217 of the Laws of Malta gives the Principal Immigration Officer the possibility to file an application before the Immigration Appeals Board which Board , if satisfied that any expenses have been or will be incurred by the Government in connection with the maintenance, medical treatment or expulsion of a prohibited immigrant or his dependents, may issue an executive warrant against a prohibited immigrant and may also order the forfeiture of such amount or any moneys in his possession or is to be recovered. Employers of illegally staying third country nationals may also be required to pay the costs of return of illegally employed third country nationals in those cases where return procedures are carried out and in this in line with EU Directive 2004/52/EC as transposed by means of Legal Notice 432 of 2011. This obligation needs to be ordered by the Court of Magistrates.</p> <p>2. These are defined in the reply above.</p> <p>3.As stated we have not used this proviso sufficiently to be in a position to reply to this query.</p>
	Netherlands	Yes	<p>1.Legally, this is possible in the Netherlands, although in practise the authorities do not make use of this option. Also, anyone who will vouch for the foreigner could be subjected to a claim for paying the costs of return. This happens occasionally.</p> <p>2.The following costs could be included:</p> <ul style="list-style-type: none"> • Costs of the flight ticket • Costs of stay • Costs of an identity investigation (language analysis) • Costs of a replacement travel document • Transport costs for presenting the inadmissible person to the authorities of the country of origin • Costs of an escort by the Royal Netherlands Marechasse • Costs for carrying out the removal • Administrative costs

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			Not directly, only the salary costs for the escort by the Royal Netherlands Marechasse.
	Poland	Yes	<p>1. Yes</p> <p>2. According to art. 338 this costs shall include in particular the costs of:</p> <ul style="list-style-type: none"> a. the procedure to issue a decision on imposing the return obligation on a foreigner; b. taking the foreigner's fingerprints and photographs; c. the foreigner's stay at a guarded center or at a detention center for foreigners; d. foreigner's medical examination; e. assistance granted to a foreigner by the other Member States of the European Union in connection with a transit by air through its territory; f. transfer of a foreigner to the border or to an airport or sea port of the state to which he/she is to be brought. <p>3. No</p>
	Portugal	Yes	PT does not notify the expelled citizen of the costs of his/her removal.
	Slovak Republic	Yes	<p>1. No. The decision determining the costs of return is not issued to a foreigner. According to the Slovak legislation, the costs associated with the return of a foreigner include costs of accommodation, food and transportation, costs associated with his/her detention and all other costs. In practice, the third country national who is detained for the purpose of his/her forced return is disposed of his/her personal items (including his/her financial resources) by the Police. His/her personal items are listed in his/her personal record. His/her financial resources, which he/she had while being apprehended, are then used to cover the costs. The amount and the purpose are also stated in the personal record. If it is not possible to cover the costs from his/her financial resources, the costs are born by the state through the Ministry of Interior of the Slovak Republic or they are covered by the person who is bound to do so according to the invitation letter (in case of granted visa) or by the carrier (if the carrier did not fulfil the obligations). If the foreigner was illegally employed, the costs are born by the responsible person (an employer, intermediary etc.).</p> <p>2. See 1.</p> <p>3. No.</p>
	Sweden	Yes	<p>1. No.</p> <p>2. NA</p> <p>3. NA</p>

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	United Kingdom	Yes	<p>1.The United Kingdom does not recover administrative costs for removal from individual returnees and there is currently no provision for the recovery of expulsion costs in UK domestic legislation.</p> <p>2.N/A</p> <p>3.N/A</p>
