



Ad-Hoc Query on Entry bans entered into the SIS and consultation procedures in Member States

Requested by COM on 13th February 2015

Compilation produced on 20th April 2015

Responses from Austria, Belgium, Bulgaria, Croatia, Czech Republic, Finland, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Sweden, United Kingdom plus Norway (22 in Total)

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1. Background Information

In accordance with *Article 55 (2) of the SIS II Regulation^[1]* the overall evaluation of the second generation Schengen Information System will take place in the first half of 2015. This overall evaluation is to include an examination of results achieved against objectives and an assessment of the continuing

^[1] Regulation (EC) No 1087/2006 of the European Parliament and the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381, 28.12.2006, p. 4).

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validity of the underlying rationale. The report produced by the Commission has to be transmitted to the European Parliament and to the Council. With respect to Article 24 covering the refusal of entry alerts entered into SIS of the SIS II Regulation the Commission is obliged for the following:

"5. The Commission shall review the application of this Article three years after the date referred to in Article 55(2). On the basis of that review, the Commission shall, using its right of initiative in accordance with the Treaty, make the necessary proposals to modify the provisions of this Article to achieve a greater level of harmonisation of the criteria for entering alerts."

In the course of our regular consultation with the Member States we have already identified some problematic areas where greater harmonisation may be needed. On this basis the Commission seeks assistance from the European Migration Network to address the following questions to Member States:

- 1) Do Member States have statistics how many entry bans are entered into SIS due to the non-compliance with national migration laws and as a sanction of a criminal offence (national grounds for the imposition of entry bans)?
- 2) What duration of overstaying on the territory of a Member State is sanctioned with an entry ban entered into SIS?
- 3) What is the major ground for the consultation procedure pursuant to Section 4.5 of the SIRENE Manual^[2] (namely (i) the procedure provided under Art. 25 (1) of the Schengen Convention, (ii) the procedure provided under Art. 25 (2) of the Schengen Convention, (iii) procedure in cases falling under Art. 5(4) (a) of the Schengen Borders Code, or (iv) procedure in cases falling under Art. 5(4) (c) of the Schengen Borders Code) ?
- 4) Do Member States use the consultation procedure?
- 5) How many successful consultation procedures were conducted in 2013 and 2014?
- 6) What are the national deadlines for a consultation procedure?
- 7) What sorts of difficulties have Member States encountered with the consultation procedure?
- 8) Are there special procedures for such consultation with regard to persons enjoying the right of free movement?



We would very much appreciate your responses by **13th March 2015**

^[2] Commission Implementing Decision replacing the Annex to Commission Implementing Decision 2013/115/EU on the SIRENE Manual and other implementing measures for the second generation Schengen Information System (C(2015) 326) (OJ... 18.02.2015).

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2. Responses

		Wider Dissemination?	
	Austria	Yes	<ol style="list-style-type: none"> 1. No, there are no statistics. 2. A specific number of days are not defined. An entry ban is only entered into SIS after an alien police procedure taking into account all circumstances. 3. Major ground for the consultation procedure is the issuing of a residence permission or prolonging a residence permission (e.g. marriage) of a residence permission authority in case of an existing alert according to Article 24. 4. Yes, AT uses the consultation procedure. 5. There are no statistics about the consultation procedures. 6. The deadlines are within the deadlines of the residence permission procedure of the residence permission authority. 7. There are no difficulties known. 8. There are no special procedures. <p>Source: Federal Ministry of the Interior</p>
	Belgium	Yes	<ol style="list-style-type: none"> 1. Yes. We have statistics about the number of entry ban entered into SIS II by Belgium. The decision to deliver an ‘entry ban’ is always individualized and the duration of the measure is motivated case by case. 2. There are no fixed rules or guidelines regarding the possibility to impose an entry ban because of exceeding the allowed residence period (duration of overstaying). All elements are taken into account, like the fact if the TCN already had received an order to leave the territory in the past, the period of illegal residence, fraud, a conviction, etc. 3. The majority of our consultation procedures are based on art. 25.2 4. Yes. 5. Such statistics are not available.

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			<p>6. There are no national deadlines for a consultation procedure, but an answer in reasonable time limits is always appreciated.</p> <p>7. Identification evidence (fingerprints, pictures) is sometimes not available from other Member States; waiting periods for getting an answer is often too long; The contradiction between the fact that one member state issued a residence permit for a TCN while another MS has issued an entry ban for that some person.</p> <p>8. No</p>
	Bulgaria	Yes	<p>At present Bulgaria is not yet a full member of the Schengen area and has no obligation to perform the procedures under Art. 24 of Regulation 1987/2006. For this reason, no Bulgarian signals for TCNs, announced in SIS second generation as "entry ban". The responsible directorate in the Ministry of Interior does not perform formal procedures on consultation according to SIRENE Manual to the entry into force of the Decision of the Council of EU to fully implementation of the Schengen acquis in Republic of Bulgaria. Under the provisions of the Ordinance on the organization and functioning of the National SIS in the Republic of Bulgaria, the provisions on introducing, updating, deleting and implementing of actions in pursuit of signals for TCNs apply from the entry into force of the Decision of the Council of EU to fully implementation of the Schengen acquis in Republic of Bulgaria.</p>
	Croatia	Yes	<p>1. The SIS II implementation project in the Republic of Croatia is still on-going; hence the system is still not being used.</p> <p>2. Individual assessments are always being carried out when making a decision on entry and stay ban. Overstays up to 30 days cannot entail an entry and stay ban in excess of 1 year.</p> <p>3. The consultation procedure refers to cases when SIS II contains an alert in pursuance with Article 24 of the Regulation, which has been entered at the same time or incompatibly with a stay permit or a visa for a third-country national. Given that SIS II is still not being used in the Republic of Croatia, the consultation procedure is not in place yet.</p> <p>4-8. Refer to answer 3 above.</p> <p><i>Source: Ministry of the Interior</i></p>
	Czech Republic	Yes	<p>1. Register of personae non gratae (national database of entry bans) is not adapted for this. It is possible to find out how many persons were registered in the national database, but not how many of them were subsequently registered in the 2nd generation of Schengen Information System (hereinafter "SIS II").</p> <p>2. The Act on the Residence of Aliens in the Czech Republic does not specify the period by which an alien must exceed his permit for residence in the Czech Republic to be denied entry and for his information to be registered in SIS II. The whole Section X of the Act</p>

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		<p>on the Residence of Aliens in the Czech Republic is devoted to the field of administrative expulsion. The provisions of Section 119 of the Act on the Residence of Aliens in the Czech Republic exhaustively determine the conditions under which a ruling of administrative expulsion may be issued against a citizen of a third country and the conditions under which it is possible to issue a ruling of administrative expulsion against European Union citizens or their family members. A ruling of administrative expulsion may be issued if these legal conditions are met. When this ruling comes into force, the alien is registered in the Register of personae non gratae in compliance with the provisions of Section 154, paragraph 6 of the Act on the Residence of Aliens in the Czech Republic.</p> <p>If the legal conditions are met and a ruling of administrative expulsion is issued against a citizen of the European Union or his family member, this person's personal data will only be registered in the national database, in the Register of personae non gratae.</p> <p>If an alien is identified as a persona non grata on the basis of a final and conclusive ruling by a court, which delivers a sentence of expulsion, this always concerns a sentence for some crime. In such cases the duration of this person's unauthorised residence is not decisive.</p> <p>3. Article 25, paragraph 2 of the Schengen Convention (hereinafter the "SC")</p> <ul style="list-style-type: none">- a consultation with the state, which issued the alien a residence permit or regarding which the alien requests extension. The party possessing a record according to article 24 of European Parliament and Council Regulation No 1987/2006 dated 20th December 2006, on establishment, operation and use of the 2nd generation of Schengen Information System (SIS II) usually initiates the consultation. In practice the state, which issued the residence permit also does so. This concerns cases when aliens request extension of their residence permit and the record made by the Czech Republic originated after the date the residence permit was originally issued. <p>Article 25, paragraph 1 of the SC</p> <ul style="list-style-type: none">- if the Czech Republic does not initiate the procedure, the matter is in the competence of the state the alien requests issue of a residential permit from and the issuing state finds that the Czech Republic possesses a record according to article 24 of the quoted regulation when screening the alien. <p>Article 5, paragraph 4, letter a) and c) of the SC</p> <ul style="list-style-type: none">- if a decision is made during inspection of the alien and further steps are taken during the inspection <p>4. The Czech Republic uses the consultation procedure according to article 25, paragraph 2 of the SC. This concerns the following consultations on the part of the Czech Republic:</p> <ul style="list-style-type: none">a) Type "D" long-term visas (their abuse for illegal gainful activities in the Czech Republic while these are valid – the Czech Republic issues a ruling of administrative expulsion from the members states of the European Union)b) Long-term residence – within the meaning of article 25, paragraph 1 of the SC, states consult cases with the Czech Republic whereas the alien is registered in SIS II in accordance with article 24 of the European Parliament and Council Regulation No 1987/2006 dated 20th December 2006 on establishment, operation and use of the Second Generation of Schengen Information System (SIS II) and are deciding whether to issue a long-term residence permit (long-term residence) or extend such a permit, or not. For this purpose, the state requests provision of information necessary for making this decision, particularly the specific reasons for entry of a Czech record
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		<p>in SIS II, within the terms of a consultation. On the basis of the Czech party's response the inquiring party decides whether to grant the alien a residential permit or not and informs the Czech party, as the possessor of the record, of this within the terms of feedback. The Czech Republic subsequently either deletes the record or not. In cases worth special consideration (if this does not concern a sentence of expulsion) and when the decision for administrative expulsion was issued from a European Union member state, it is possible to deviate from a strict decision to delete a record, if a residential permit is issued to an alien.</p> <p>c) Consultation procedure according to article 25, paragraph 2 of the SC in cases established on the basis of information which was recorded and notified to the Czech Republic as the possessor of a record according to article 24 of the European Parliament and Council Regulation No 1987/2006 dated 20th December 2006 on establishment, operation and use of the Second Generation Schengen Information System (SIS II), by a state, which inspected the alien (residential inspection, entrance, exit inspection) and gave details, including information about the state issuing the alien a residential permit, in the information.</p> <p>5. No statistics are executed on this data by the Czech Republic.</p> <p>6. The procedure is usually initiated as soon as possible – within a week or even earlier, depending on how quickly the papers arrive.</p> <p>7. If a consultation procedure according to article 25, paragraph 2 of the SC is conducted between the Czech Republic and Poland, which issues type “D” long-term visas for the purpose of employment, which can be consulted in accordance with article 25, paragraph 2 of the SC, referred to by article 25, paragraph 3 of the SC, problems are caused by Polish bodies, which refuse to cancel this visa, even though it was issued for the purpose of employment in Poland. Aliens usually arrive in the Czech Republic as soon as a visa is issued and enter into employment without permission by the relevant authorities. Rulings for administrative expulsion are issued from the European Union member states and this should be taken into account during evaluation of further entitlement to reside in Poland. On our part, we cannot delete a record in SIS II, because the ruling was issued during an administrative procedure and deletion of records in SIS II by the police would be in conflict with the Act on the Residence of Aliens in the Czech Republic.</p> <p>8. If a ruling for administrative expulsion was issued or a court issued the sentence of expulsion against citizens of the European Union or a citizen of a country, which is a party to an agreement, then in these cases, when the ruling comes into force the data of the aforementioned alien is only entered to the Register of personae non gratae, in the national database, and not in SIS II. Such aliens may travel to all the countries in the Schengen Area with the exception of the Czech Republic.</p> <p>With regard to the family members of a European Union citizen, the same legal conditions apply as for citizens of a third country, which means that when the ruling for administrative expulsion comes into force or upon a final and conclusive ruling by a court delivering the sentence of expulsion from a territory, the alien is registered in the Register of personae non gratae and on enforcement of this ruling, the registered data is transferred to SIS II in compliance with the provisions of Section 154, paragraph 6 of the Act on the Residence of Aliens in the Czech Republic.</p>
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+	Finland	Yes	<p>1. Statistics are not readily available. Some estimates regarding the grounds for the entry bans can be drawn by combining data from different sources but reliability cannot be guaranteed.</p> <p>2. This has not been defined. In case a person has overstayed for months or years the length of an entry ban has usually been two years. Since the implementation of the EU Return Directive entry bans cannot be imposed solely on the basis of overstaying. Nowadays there must be also a risk of absconding involved, or the person being suspected of evading the provisions on entry into or residence in the country in order to impose an entry ban.</p> <p>3. Information is not available. Finland has been imposing entry bans quite categorically as only national ones in case the concerned person would have been entitled to the freedom of movement within EU (Art 25 (1)). In situations concerning Art. 5(4) (a) and (c) of the Schengen Borders Code where the person has been imposed an entry ban by another Member State, Finland will inform the Member State in question through SIRENE.</p> <p>4. The consultation procedure is mainly used if the issuance of a first residence permit is under consideration. The Asylum Unit of the Finnish Immigration Service is using the consultation procedure in cases in which a residence permit of Finland will be issued or has been issued to a third country national and the person in question has a Schengen entry ban imposed by another Schengen Member State. The consultation procedure is also used in case Finland has imposed an entry ban to a third country national and another Schengen Member State has issued a residence permit to the person in question.</p> <p>5. The Immigration Unit of the Finnish Immigration Service has not statistics. The Asylum Unit of the Finnish Immigration Service has conducted the consultation procedure 26 times in 2013 and 55 times in 2014. In general, all consultation procedures have been successful and SISII-alerts have been changed accordingly into national ones. Only in couple of cases (concerning Italy) Finland has not even been able to begin the consultation procedure as the reporting state Italy has not provided the concerned person's fingerprints or photograph for the purpose of identity verification to the authorities of Finland. In one to two cases Italy has not responded at all to the request for a consultation procedure.</p> <p>6. Deadlines for consultation procedure have not been defined. It should be taken into account, however, that the processing time of the residence permit applications based on family ties should not be longer than nine months and the processing time of applications based on employment not longer than four months (although the consultation procedures could be a justifying reason for prolonging such a processing time). In the Asylum Unit of the Finnish Immigration Service the aim is to respond to the requests within 24 hours (weekends excluded).</p> <p>7. Some South-European countries (especially Italy) are not responding or getting responses takes time. The biggest problem has been that a Member State has not responded despite of several requests and has not cancelled the SISII alert either. Another problem is that Finland has not even been able to begin the consultation procedure as it has not been able to confirm whether the person concerned is the same: the reporting state has not, despite of several requests, provided the concerned person's fingerprints or photograph for the purpose of identity verification. Getting responses to the requests for consultation procedure is</p>
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			<p>sometimes taking weeks or months causing difficulties as well. This is the case especially when a residence permit has to be issued/positive decision has to be made by the Finnish Immigration Service on an application returned by an appeal court.</p> <p>8. Information not available.</p>
	<p>France</p>	<p>Yes</p>	<p>1) The entry ban to the French territory (<i>interdiction de retour sur le territoire français</i>) is stipulated in article L.511-1-III of the Code on Entry and Residence of Foreign nationals and the Right of Asylum (CESEDA). According to this article, an entry ban is not imposed on the ground of a criminal offence. However, the notion of “threat to public order” is taken into account. Number of entry ban in 2013: 1,515 Number of entry ban in 2014: 1,235.</p> <p>2) According to article L.511-1-III of the CESEDA, the entry ban and its duration are decided by the administrative authorities taking into account the foreign national's length of stay on the French territory, the type and duration of his links with France, whether or not he or she has already be subject to a removal order and whether he or she represents a threat to public order on the French territory. There is no specific duration of overstaying which justify the imposition of an entry ban. The decision is taken and stated by the Prefect on a case-by-case basis.</p> <p>3) The main reason is to avoid any inconsistency between Member States regarding the legal status of a third-country national according to the right on residence in the Schengen area.</p> <p>4) Yes, France uses the consultation procedure on a regular basis.</p> <p>5) Statistical data on consultations pursuant to Article 25 are as follows: In 2014: 1,590 consultations issued and 317 consultations received. In 2013: 1,311 consultations issued and 327 consultations received.</p> <p>6) There is no deadline foreseen in the French legislation. Processing times depend on the Member State entering an alert in the SIS and on the type of request to the competent authorities of the French prefectures: family reunification, asylum applications, ill foreign nationals, etc. Similarly, when a foreign national for whom an alert has been entered is found on the territory of a Member State, the reasons of the consultation are transmitted without delay by the SIRENE office to the competent prefecture. The prefecture concerned will then be informed on the decision of the Member State (removal or regularization). In case of regularization, the French SIRENE office will request to the competent administrative authority to remove the alert in the wanted persons file (the alert in the SIS will consequently be erased). If the foreign national is removed from the Schengen area, the prefecture will also be informed.</p> <p>7) The main difficulties encountered in France are the following:</p>



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			<ul style="list-style-type: none"> - length of response time from some Member States inundated by this type of request; - lack of national harmonization by the prefectures regarding the files processing in application of the Schengen guidance; - Complexity of the N and O Schengen forms used in the consultation procedure; - the SIRENE office is not systematically informed of the decision of the French administrative authority and is never informed of the responses of the OFPRA (French Office for the Protection of Refugees and Stateless Persons), which may lead to a multiplication of files for a same foreign national. <p>8) No, there is no special procedure for such consultation with regard to persons enjoying the right of free movement.</p>
	Germany	Yes	<ol style="list-style-type: none"> 1. Statistics on these points have not been kept. 2. The illegal residence beyond the validity of the residence title alone is not normally sanctioned with an entry in SIS if the exit is voluntary and if criminal offences have not been committed. In principle at the moment only the ending of residence by means of expulsion, deportation or refoulement carries an entry in SIS. A bill that at the moment is going through the legislative procedure (Bundestags-Drucksache 18/4097) envisages the possibility that in the case of a deadline for voluntary departure having been exceeded considerably and caused by oneself, this can be sanctioned with the prohibition of entering and stay (§ 11, section 6, German Residence Act -new-). 3. Statistics on the reasons why the consultations were carried out are not being kept. 4. Germany makes use of the consultation procedure. 5. Statistics on these points have not been kept. 6. National deadlines do not exist. 7. Now and again individual Member States only delete SIS tracing procedures after having been requested to do so on several occasions. Within the terms of article 25(1), Schengen Convention, the deletion of an SIS tracing procedure in compliance with the SIRENE Manual has not been formulated precisely as being compulsory. It says there: "If the Member State decides to grant a residence title or a visa, the tracing procedure is deleted from the systems". It is our opinion that the wording should be changed ("... is to be deleted."). In some individual cases the processing times seem to be rather long. 8. Generally speaking the procedure conforms to the SIRENE Manual.



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	<p>Greece</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. Statistics of SIS Alerts, are maintained by eu-Lisa Organization, for all member states and for all kind of entries, including Art. 24 of Regulation 1987/2006. 2. There is no specific duration of sanctioning with an entry ban into SIS the overstayers, as this is a process which applies immediately on the time it is identified. 3. Most of the times, the consultation procedure is based on Art. 25 of the Schengen Convention, mostly on par. 1. 4. Yes 5. The overall estimation of the successful consultation results can't be estimated, as there are different services involved each time (depending on the place of illegal entry or the place of filing an apply to be granted a residence permit). This could only be estimated by the use of certain forms of SIS II. However, some of the forms are also communicated for more than one reason. In addition, there is uncertainty whether the member states use the specific forms for their consultation procedure, or they use the Miscellaneous-generic form (M form). 6. There are no specific national deadlines. 7. Difficulty faced when member states do not follow the consultation procedure and after providing the person with a permit, require the immediate deletion of the SIS alert. In addition, One drawback is the time-wasting bureaucratic procedure for the consultation. 8. No.
	<p>Hungary</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. We do not have special statistics for this purpose on a regular basis. However, our national system allows to collect such statistical figures according to the national legal grounds of the entry bans. 2. We do not have common and unified regulations for the cases of entry bans due to overstaying. As for the practice, in most cases a few days overstaying is the general where the competent authority does not order entry ban. In case the duration of the overstaying is significant – e.g. at least 30 days or more - the ban is usually used to be ordered for police proposal by OIN. 3. Art. 25 (2) of the Schengen Convention 4. Yes, they do.


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			<p>5. 494 in 2013 and 263 in 2014</p> <p>6. The expiry of the alert. Besides, based on our national law we have to start the consultation procedure forthwith if it becomes necessary according to the known circumstances.</p> <p>7. Some Member States do not answer or answer only after a long time upon our requests (reminders).</p> <p>8. No, the same procedure should be followed.</p>
	Ireland	Yes	This query refers to an aspect of the Schengen acquis in which Ireland does not participate.
	Latvia	Yes	<p>1. We have general statistics how many entry bans are entered into SIS from Latvia, mostly of these cases are when third country nationals breach immigration rules.</p> <p>2. If a third country national overstays more than three months, has crossed illegally EU border or uses fraud documents he or she usually is sanctioned with SIS entry ban. However, according to Return Directive and national Immigration rules question on SIS entry ban is evaluated case by case.</p> <p>3. The major ground that Latvia uses for consultation procedures is based on Article 96 of the Schengen Convention.</p> <p>4. Yes.</p> <p>5. Latvia does not collect statistics on successful consultation procedures. (The number would not be very high, around 10-15 cases).</p> <p>6. According to the national legislation as set out in the Administrative Process Law the ordinary deadline is 1 month (30 days) or 45 days in special cases (e.g. if a person has applied for permanent residence permit). The deadline could be prolonged till 4 months because of objective reasons or till 1 year with an agreement of the Head of the Office of the Citizenship and Migration Affairs. The applicant for the residence permit may also ask for an accelerated examination of the documents, e.g. 5, 10 working days or 45 days if it is a special case with examination deadline 90days.</p> <p>7. We would like to point out three types of difficulties we have met with: 1) we have encountered problems with the speed of information exchange because sometimes it is impossible to receive answer in time, e.g. from countries as Italy or Malta because they experience a great number of migrants, as a result response is received after the deadline; 2) as there are no common guidelines how detailed the response should be, we have had problems when the received substantiation for entered entry alert is not much of help because it is too general.; 3) there have been problems during the process of identification of the person because for example</p>


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			<p>nationals of Egypt or Sri Lanka have several names and surnames and in the information request they have been put in wrong box or not fully listed. So additional proof as photo is demanded, as a result the consultation procedure is prolonged.</p> <p>8. There are special procedures (with aim to request to delete entered entry bans from SIS) applied for foreigners who apply for permanent residence permit and for spouses of Latvian citizens who apply for residence permits.</p>																
	Lithuania	Yes	<p>1. Lithuania enters a refusal of entry alert into SIS only if a foreigner is entered in the national no-entry list upon refusing his/her entry into Lithuania on the grounds established in Lithuania's national legislation. The decision to ban entry into Lithuania, on the basis of which data are entered in the national no-entry list, corresponds to the grounds stipulated in the SIS II Regulation. According to Lithuania's national legislation, a criminal offence committed by a foreigner or his/her conviction for the commission of such an offence does not constitute a ground for the imposition of an entry ban. However, the criminal offence committed by the foreigner or his/her conviction for the commission of such an offence is taken into account when deciding whether the foreigner may pose a threat to public policy. Posing threat to national security is a ground for entering a person into the national no-entry list.</p> <table border="1" data-bbox="781 730 1872 922"> <thead> <tr> <th></th> <th>2012</th> <th>2013</th> <th>2014</th> </tr> </thead> <tbody> <tr> <td>Number of refusal of entry alerts entered into SIS by Lithuania, including:</td> <td>423</td> <td>474</td> <td>690</td> </tr> <tr> <td>- due to non-compliance with migration laws</td> <td>393</td> <td>452</td> <td>668</td> </tr> <tr> <td>- due to a threat to national security or public policy likely to be posed by a foreigner</td> <td>4</td> <td>2</td> <td>21</td> </tr> </tbody> </table> <p>2. Lithuania enters a refusal of entry alert into SIS only if a foreigner is entered in the national no-entry list upon refusing his/her entry into Lithuania on the grounds established in Lithuania's national legislation, and the decision to ban entry into Lithuania, on the basis of which data are entered in the national no-entry list, corresponds to the grounds stipulated in the SIS II Regulation. In deciding whether to refuse entry into Lithuania, account is taken of all circumstances relevant to the case (duration of and reasons for illegal stay, existence of family, social, economic and other ties with Lithuania, frequency of violation, etc.). As a rule, a foreigner is not banned from entering into Lithuania if (s)he illegally stays in Lithuania or other Schengen countries due to negligence or lack of care for no longer than 30 days from the expiry of the foreigner's legal stay, or if (s)he provides documentary evidence that he overstayed in Lithuania due to illness, another acute health disorder or condition, also for personal reasons beyond his control or due to force majeure.</p> <p>3. In 2014, the SIRENE National Unit of the International Liaison Office of the Lithuanian Criminal Police Bureau initiated 13 consultation procedures, and 28 consultation procedures were commenced on the initiative of other Member States under Article 25(1) and (2) of the Schengen Borders Code. The SIRENE National Unit does not have statistics on the consultation procedures initiated in cases falling under (iii) Article 5(4)(a) of the Schengen Borders Code or iv) in cases falling under Article 5(4)(c) of the</p>		2012	2013	2014	Number of refusal of entry alerts entered into SIS by Lithuania, including:	423	474	690	- due to non-compliance with migration laws	393	452	668	- due to a threat to national security or public policy likely to be posed by a foreigner	4	2	21
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			<p>Schengen Borders Code. In our practice, we have observed several cases falling under Article 5(4)(a), while there have been no cases falling under Article 5(4)(c).</p> <ol style="list-style-type: none"> 4. Under certain circumstances, the SIRENE National Unit of the International Liaison Office of the Lithuanian Criminal Police Bureau carries out the consultation procedures defined in the SIRENE Manual. The Migration Department provides advice / consults in compliance with Article 25 of the Schengen Convention. Lithuania consults other Schengen countries regarding persons on whom an alert for the purpose of refusing entry and stay has been entered into the Schengen Information System. In practice, there have been several cases of issuing a residence permit to a foreigner, although an alert on him/her had been entered by another state in the Schengen Information System. Such residence permits have been issued on grounds of family reunification in order to preserve family integrity. 5. The SIRENE National Unit of the International Liaison Office of the Lithuanian Criminal Police Bureau does not have such statistics (there was also no clear definition of a successful consultation procedure). 6. The Migration Department responds to the queries forwarded by the SIRENE National Unit in Lithuania within five working days from their receipt. If the Migration Department does not receive a response to its query within one month, it repeats the query (submits a new query to the SIRENE National Unit in Lithuania). The SIRENE National Unit forwards a form received from another Member State to the Migration Department within 12 hours. 7. The Migration Department indicates that the main problem is occasional delays in obtaining responses to queries. 8. Consultations take place in accordance with the general procedure. 														
	<p>Luxembourg</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. Luxembourg has national statistics on entry bans imposed since 2009. <table border="1" data-bbox="517 1066 1585 1177"> <thead> <tr> <th></th> <th>2009</th> <th>2010</th> <th>2011</th> <th>2012</th> <th>2013</th> <th>2014</th> </tr> </thead> <tbody> <tr> <td>No. of entry bans</td> <td align="center">71</td> <td align="center">40</td> <td align="center">63</td> <td align="center">190</td> <td align="center">64</td> <td align="center">117</td> </tr> </tbody> </table> <p>However, they are not specifically divided by non-compliance with national migration laws and as a sanction of a criminal offence.</p> 2. In principle, persons who voluntarily comply with the return decision will not be issued an entry ban, even if they are over-stayers. However, an entry ban will be imposed on all irregularly staying third-country nationals irrespective of the category, if they do not comply with the return decision in the given time frame (30 days). 3. Luxembourg exchanges information on a case-by-case basis. 		2009	2010	2011	2012	2013	2014	No. of entry bans	71	40	63	190	64	117
	2009	2010	2011	2012	2013	2014											
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			<p>Further information will then only be shared, if there has been a request by another Member State or if Luxembourg needs information from a certain Member State. If another Member State issues a residence permit to a person subject to an entry ban, a consultation procedure is launched according to Article 25 (1) of the Schengen Convention, Article 25(2) of the Schengen Convention as well as Article 5 (49) of the Schengen Border code (since the implementation of the Council Decision 2007/533/JAI (Article 24 R)). In these cases the Minister in charge of immigration, via the Directorate of Immigration, is the authority in charge. If such a situation arises, the Directorate of Immigration consults the competent authority of the Member State in question.</p> <p>4. Yes. See answer to Q.3.</p> <p>5. During 2013, Luxembourg sent 9 N forms and 7 O forms and received 3 O forms. For 2014, Luxembourg sent 2 N and 9 O forms and received 6 N forms and 3 O forms.</p> <p>6. On receiving the N or O form, the information is directly transmitted to the Directorate of Immigration which answers in a very short lapse of time. There are no written deadlines foreseen.</p> <p>7. For some countries there seems really to be a problem of deadlines and sometimes despite intensive consultation the real aim is not reached.</p> <p>8. There seems not to be a special procedure in this case.</p>									
	<p>Netherlands</p>	<p>Yes</p>	<p>1. Yes (January 1 2013 the total amount of article 24 alerts in SIS was 21.037, January 1 2014 the total amount of article 24 alerts was 20.922)</p> <p>2. The duration of overstaying must be longer than 3 days.</p> <p>3. The major ground for the consultation procedure pursuant to Section 4.5 of the SIRENE Manual is the procedure provided under Art. 25 (1) of the Schengen Convention.</p> <p>4. Yes.</p> <p>5.</p> <table border="1" data-bbox="510 1254 1565 1414"> <thead> <tr> <th></th> <th>NL 2013</th> <th>NL 2014</th> </tr> </thead> <tbody> <tr> <td>Art 25 Convention Implementing the Schengen Agreement-consultation outgoing</td> <td align="center">495</td> <td align="center">560</td> </tr> <tr> <td>Art 25 Convention Implementing the Schengen Agreement-consultation incoming</td> <td align="center">154</td> <td align="center">179</td> </tr> </tbody> </table>		NL 2013	NL 2014	Art 25 Convention Implementing the Schengen Agreement-consultation outgoing	495	560	Art 25 Convention Implementing the Schengen Agreement-consultation incoming	154	179
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			<p>6. There are no formal deadlines. We hope to get a reaction within 24 hours.</p> <p>7. The response time varies. This can delay the administrative procedures.</p> <p>8. There are no other special procedures than those defined in the Schengen Borders Code</p>												
	Poland	Yes	<p>1. Yes. In general terms in 2013 there were 3499 entry ban entries of foreigner`s data into SIS system and in 2014 – 2764 entry ban entries. In the below mentioned table one may find detailed data as regards to the number of entry ban entries into the SIS system:</p> <table border="1"> <thead> <tr> <th>Year / reason</th> <th>2013</th> <th>2014</th> <th>2015 (as of 28th February)</th> </tr> </thead> <tbody> <tr> <td>Entry ban entry into SIS due to the non-compliance with national migration laws</td> <td align="center">1624</td> <td align="center">1630</td> <td align="center">314</td> </tr> <tr> <td>Entry ban entry into SIS as a sanction of a criminal offence</td> <td align="center">1875</td> <td align="center">1134</td> <td align="center">7</td> </tr> </tbody> </table> <p>2. Neither in the national legislation nor in the internal regulations of the Polish Border Guard is mentioned or determined the minimal period for illegal stay of foreigners on the territory of the Republic of Poland that constitutes the necessity to insert foreigner`s data into the SIS system with the purpose for expulsion from Poland. Decision on inserting or not the foreigner`s data into the SIS system is taken by the Border Guard when issuing the decision on return, when this information is included.</p> <p>3. According to approximate data, the major ground for consultation procedure is pursuant to the procedure provided under Article 25 (1) and Article 25 (2) of the Schengen Convention. As to the reasons for granting residence permits by Poland for serious reasons, in particular for humanitarian and international obligations when the foreigner's data have been entered into the Schengen Information System for the purposes of refusing entry or stay by another Schengen country, one may indicate circumstances related with the foreigners family life on the territory of Poland, as well as being a spouse to a Polish citizen or having a child of Polish citizenship [jus sanguinis]. Another reason is to provide a residence permit because of Polish origin of the foreigner.</p>	Year / reason	2013	2014	2015 (as of 28th February)	Entry ban entry into SIS due to the non-compliance with national migration laws	1624	1630	314	Entry ban entry into SIS as a sanction of a criminal offence	1875	1134	7
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			<p>There were no cases of withdrawal of Polish residence permit as a result of the consultation on the basis of Article 25 Paragraph 2 of the Convention Implementing the Schengen Agreement (CAS), carried out by another Schengen State, which made the data entry of a foreigner into the Schengen Information System for the purposes of refusing entry or stay.</p> <p>When it comes to undo Polish national visas in the situation referred to in Article 25 Paragraph 2 of the Convention Implementing the Schengen Agreement it should be noted that, in accordance with Article 92 Paragraph 1 of the Act on Foreigners of 2013, a national visa shall be revoked or cancelled, by way of decision, by:</p> <ol style="list-style-type: none">1) a consul;2) the commanding officer of a Polish Border Guard unit;3) the commanding officer of a Polish Border Guard outpost. <p>A Schengen visa or a national visa issued to a member of the staff of a diplomatic mission or a consular post of a foreign state or another person treated equally in terms of privileges and immunities under applicable laws, treaties or commonly recognised international customs, as well as to members of their families, shall be revoked or cancelled by the minister competent for foreign affairs, who shall forward a relevant note to the ministry of foreign affairs of the foreign state or its diplomatic mission.</p> <p>4. Yes, consultation procedure pursuant to the procedure provided under Article 25 (1) and Article 25 (2) of the Schengen Convention is in constant use.</p> <p>5. Polish SIRENE Bureau took part in 460 outgoing consultation procedures and in 429 incoming consultation procedures in 2013 (in total pursuant to art 25) and 406 outgoing and 277 incoming consultation procedures in 2014 (in total pursuant to art 25).</p> <p>As regards to the consultation procedure conducted pursuant to the Article 25 (1) of the CAS by Polish authorities responsible for granting residence permits [16 local governors – Voivods] there is carried out average of approximately 30 of such consultations per year, which are usually finalized with granting of a residence permit on humanitarian grounds.</p> <p>There were no cases of withdrawal of Polish residence permit as a result of the consultation on the basis of Article 25 (2) of the CAS as a result of consultations carried out by another Schengen State, which made the data entry of a foreigner into the Schengen Information System for the purposes of refusing entry or stay.</p> <p>As far as Poland was the country which made the data entry of a foreigner into the Schengen Information System:</p> <ul style="list-style-type: none">- there were 797 consultations conducted in 2013 with regards to the Article 25 paragraph 1 or 2 of the CAS,- there were 619 consultations conducted in 2014 with regards to the Article 25 paragraph 1 or 2 of the CAS,- there were 60 deletions of Polish SIS alerts introduced in 2013, in consultation Article 25 paragraph 1 or 2 of the CAS,- there were 43 deletions of Polish SIS alerts introduced in 2014, in consultation Article 25 paragraph 1 or 2 of the CAS,
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			<p>6. Polish law does not provide deadlines for the consultation procedure referred to in Article 25 Paragraph 1 or 2 of the CAS. However, national deadlines for consultation procedure are, according with national legislation, applied by the authorities responsible for border controls and for issuing residence permits or visas. In accordance with the Article 35 paragraph 1 of the Administrative Proceedings Code public administration bodies are obliged to handle the case without unnecessary delay. Article 35 paragraph 3 of the abovementioned Code states that handling a matter requiring investigation should take place no later than one month, and a particularly complicated case - not later than two months from the date of initiation of proceedings. Polish SIRENE Bureau hands over all information concerning procedures under art. 25 of the CAS in working days and hands over all information including other procedures pursuant to Section 4.5 of the SIRENE manual daily 24h/7days/365 (from 2 hours to 24 hours - it depends on staff workload).</p> <p>7. Within the difficulties encountered one may stress the importance of different and sometime very long deadlines for a consultation procedures in other states. In the course of the consultation procedure, referred to in Article 25 paragraph 1 of the Convention Implementing the Schengen Agreement, carried out by the Polish authorities competent to grant the residence permit, the authorities were faced with delays in waiting for a response from the consulted Member State which lasted even a few months. When it comes to Poland as a country which entered a foreigner's data into the SIS system, Poland was also encountered with delays in waiting for a response from the consulted Member State (up to 2 years). Other problems include: - incomplete data sent by other Member States, eg. no date of validity of the residence permit granted by another Member State, lack of information about the type of residence permit to be granted or the type of visa (Schengen or national) - frequent attempts to consult issuing Schengen visas by another Member State, in consultation with Art. 25 CAS, - cases of transmission of illegible copies of identity documents and residence permits of foreigners.</p> <p>8. Apart from the procedures mentioned in the SIRENE manual, there is no special consultation procedure foreseen for persons enjoying the right of free movement.</p>
	<p>Portugal</p>	<p>Yes</p>	<p>1. Yes. In 2014, 484 entry bans were entered into SIS, under Article 24 of SISII.</p> <p>2. From the moment of implementation of the foreign citizen's removal from national territory.</p> <p>3. The major grounds are (i) and (ii).</p> <p>4. Yes.</p>



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			<p>5. On the course of 2014, 27 Consultation Procedures were concluded under Article 25 (1) and 28 Consultation Procedures under Article 25 (2).</p> <p>6. ---</p> <p>7. The main difficulties usually relate with: getting from some Member States the photograph and/or fingerprint for purposes of confirming the identification of the person subject to an alert on SIS; receiving additional information on the alert (more specifically the grounds for alert); and getting the Member State who entered the alert to effectively remove it.</p> <p>8. The common procedure is to conduct a consultation on all citizens. It is the subsequent procedure - regarding immigration control - that will take into consideration if the person(s) enjoys the right of free movement.</p>
	<p>Romania</p>	<p>Yes</p>	<p>1. Both the General Inspectorate for Immigration and the General Inspectorate for Border Police have the necessary technical means to provide statistics on entry bans due to the non-compliance with national migration laws.</p> <p>2. Duration of overstaying on the territory of a Member State is sanctioned as follows: a. 30 day for the aliens who did not leave the territory of Romania at the expiration of the stay right provided for by the visa or by the international conventions unilaterally abolishing the visa regime; b. 90 days for the alines who previously held a temporary residence permit.</p> <p>3. The consultation procedure is provided for by the order of minister of internal affairs 212/2010 on the working procedures for the national authorities within the Ministry of Internal Affairs regarding the NSIS and SIS.</p> <p>4, 5, 7. Romania cannot provide yet an answer having in mind the provisions of art. 1 para 4 Council Decision 2010/365 on the application of the provisions of the Schengen Acquis relating to the SIS in the Republic of Bulgaria and Romania.</p> <p>6. The national procedure addressed to the end users stipulates only the term of 30 days for receiving an answer on the consultation procedure arisen before issuing a residence permit or a visa to an alien and the respective alien is the subject of a SIS alert issued by a Member State. Thus, if the issuing Member State does not answer within the term of 30 days, the Romanian competent unit shall issue to the respective alien the residence permit or the visa and shall inform the National SIRENE Bureau about this.</p> <p>In case of a consultation procedure is occurred due to the fact that after the issuance of an alert on an alien, for the purpose of refusing entry on Romanian national territory or for the purpose of prohibiting their residence on Romanian territory, a visa or a residence permit is found, the national procedure does not provide a certain term for the negotiation, but the national authority will furnish all the relevant data as soon as possible.</p>


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			8. Particular provisions with regard to person enjoying the right of free movement were enforced in accordance with the Directive 2004/38/EC regarding the right to free movement and residence on the Member States territory, for all citizens of the European Union and their families.
	Slovak Republic	Yes	<p>1. Slovak Republic does not generally evaluate this kind of statistical data. However, it is possible to obtain it based on the justified request.</p> <p>2. According to the legislation of the Slovak Republic, as an unauthorised stay is considered a stay of a foreigner who has exceeded the period of his/her authorised stay, i.e. in practice an unauthorised stay is commenced at the moment of exceeding the period for which the person had been granted the residence permit.</p> <p>3. It is not possible to precisely determine which of the situations mentioned can be considered as the major ground for the consultation procedure pursuant to Section 4.5 of the SIRENE Manual. Slovak Republic does not process this kind of statistical data. In practice, all of the mentioned situations, on the basis of which the consultation procedure is carried out, occur. By estimation, the major ground can be considered the procedure provided under Art. 25 (2) of the Schengen Convention.</p> <p>4. Yes, Member States use the consultation procedure in accordance with the Section 4.5 of the SIRENE Manual through their SIRENE offices.</p> <p>5. The data is not available.</p> <p>6. National deadlines for consultation procedures are set by the respective internal regulations. Obviously, urgent requests which cannot be postponed are handled as a priority.</p> <p>7. Also in reference to the question 6, it should be noted that the most common problem are pending cases in which Slovak Republic does not obtain information from other countries, not even after several reminders. Another problem is the unavailability of information in some Member States – either regarding issued residence permits (validity, duration) or regarding the entry ban (reason etc.).</p> <p>8. There is no national framework for special procedures regarding this category of persons. However, in case of control of such a person, in order to assess the situation the Police officers require information about the case which served as a basis for the registration of an entry ban.</p>
	Slovenia	Yes	<p>1. We are in possession of statistics relating entry bans (Art. 24. of the SIS II Regulation), in this connection we entered into SIS II in year 2013 - 143 alerts and in year 2014 - 125 alerts.</p> <p>2. According to our national legalisation (art. 14 of Alien Act - Ztuj-2) , an alien may enter and residing in Republic of Slovenia for as long as he is allowed with visa, residence permit, decision of the Government of the Republic of Slovenia, law or international treaty. In case of alien does not require a visa for entry he can stay up to three months during a period of six months without a visa for stays.</p> <p>3. Hits during the police control and procedures on Administrative Units at issuing residence permit.</p>



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			<p>4. Yes.</p> <p>5. Statistics about consultation procedures are not available.</p> <p>6. According to our national legislation, special deadlines for consultation procedures are not prescribed.</p> <p>7. There are some misunderstandings about communications with Administrative Units in consultation procedure, but will be resolved shortly.</p> <p>8. No.</p>
	Sweden	Yes	<p>1. The Swedish Police manages entry bans into the SIS. Police authorities enter both entry bans due to the non-compliance with national migration laws and entry bans as a sanction of a criminal offence. The EMN NCP has requested statistics from the Swedish Police on both of these categories of entry bans. According to police authorities separate statistics for these categories is not available. However, there is an ongoing project with a view to improve statistics output, which is expected to be ready for use next year.</p> <p>The total number of entry bans entered into the SIS is 11 536.</p> <p>2. If the alien does not leave the country within the prescribed period (Swedish Aliens Act chapter 12, section 15 a.)</p> <p>3. The major ground for consultation concerns (i), i.e. the procedure provided under Art. 25 (1) of the Schengen Convention. In 2014, Sweden initiated 899 such consultation procedures (“N-form”). Unfortunately, more detailed statistics cannot be provided in this respect due to lack of reliability of the number of successful procedures. These require to be entered manually in the Migration Agency’s data system. 33 consultation procedures under Art. 25 (2) were carried out (“O-form”). All in all, the major categories are outgoing requests. It could be added that 139 requests for information were replied to. Statistics pertaining to procedures under the Schengen Borders Code are managed by the Swedish Police. The EMN NCP has requested this statistics from police authorities without receiving a reply before the deadline. Possibly, this statistics is unavailable.</p> <p>4. Yes.</p> <p>5. 932 consultations were carried out in 2014 (899 “N-form”, and 33 “O-form”). Unfortunately, more detailed statistics cannot be provided (see above, question 2).</p> <p>6. No national deadline.</p>

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			<p>7. Difficulties reported from case officers include delayed responses (up to one year) which call for repeated reminders, uncertainties about the background of the entry ban and examples of the forms not being used in the intended manner. In certain instances photographs in the replies are of very poor quality.</p> <p>8. n/a</p>						
	United Kingdom	Yes	The UK is not currently part of the Schengen Information System (SIS) and therefore does not record entry bans on SIS.						
	Norway	Yes	<p>1. We don't actually have available statistics on entry bans entered into SIS. All the consultations that the Norwegian Directorate of Immigration gets are sent to Supplementary Information REquest National Entries (Sirene) -Norway which forwards these to other Schengen countries. Any responses or requests that we get from other Schengen countries are sent and/ or received via Sirene Norway.</p> <p>Sirene-Norway has statistics about SIS entries, but they cannot specify reasons for an entry into SIS. The reasons are given only as text in a separate form which is sent to the Sirene offices. The Norwegian Directorate of Immigration is able to take out the following figures based on our database registrations (not SIS):</p> <table border="0"> <tr> <td>Expulsion, punished</td> <td align="right">1069</td> </tr> <tr> <td>Expulsion, violation of Immigration Law</td> <td align="right">2828</td> </tr> <tr> <td>Expulsion, violation of EEA rules/regulations</td> <td align="right">1398</td> </tr> </table> <p>2. After implementation of the Return Directive which went into effect Dec. 24, 2010, we now have the authority to expel a foreigner after 1 day of overstaying their determined deadline/date of departure. This pertains to foreigners who have received a negative decision on their application for a temporary residence permit in Norway and who have been issued with a particular deadline/date for departure. After changes were made that went into effect July 1st, 2014, we also have started to report these violations in SIS. In these cases, an entry ban of one year will be issued.</p> <p>According to Norwegian law, foreigners who either reside in Norway on a visa or who don't require a visa, have to have a residence permit if they want to remain in Norway longer than 3 months. A foreigner who overstays the valid period of time allowed on their visa is actually <u>un</u>authorized to continue staying in Norway. Unauthorized stays are grounds for expulsion according to Norwegian immigration law. However, UDI does not necessarily expel every person who violates the visa regulation. The usual practice is to consider issuing an expulsion order with a 2 year entry ban when the period of violation is more than one month. If a foreigner enters Norway without a valid visa or residence permit and in that respect, is unauthorized to be in Norway, vi consider issuing a 2 year entry ban when this period of time exceeds one week.</p>	Expulsion, punished	1069	Expulsion, violation of Immigration Law	2828	Expulsion, violation of EEA rules/regulations	1398
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		<p>3. We primarily consult with other Schengen countries in connection with applications/ casework we are processing (Schengen-convention Art. 25.1.) and in connection with our expulsion decisions when it involves reporting persons with permits from another Schengen country (Schengen-convention Art. 25.2.).</p> <p>(i) When UDI gets a hit in SIS while we are processing an application, we always consult with the Schengen country who initially made a report in SIS. We do this, prior to making a decision, in order to establish the reason for why the applicant had been reported to SIS. This kind of consultation is done in accordance with Schengen-convention Art. 25.1.</p> <p>(ii) When UDI processes an application for a renewal of a permit, or an application for citizenship, and when we get a hit in SIS, we always send a consultation to the Schengen country that had registered the entry in SIS. We do this, prior to making a decision, in order to establish the reason for why the applicant had been reported to SIS. This kind of consultation is done in accordance with Schengen-convention Art. 25.2.</p> <p>4. Yes. UDI always makes consultations when we get a hit in SIS when we are processing an application and also when reporting on persons in SIS when they have a permit from another Schengen country. We are very consistent in our consultation procedures in accordance with Schengen-convention Art. 25.</p> <p>5. We have consulted with the Sirene office to see if they can extract these figures for you. Will let you know.</p> <p>6. We do not operate with deadlines for consultations. It would have been desirable to have deadlines in the different consultation procedures. Such deadlines would necessarily have to be based on the reason for the consultation, and the complexity of the issue. When UDI registers an entry into SIS, it will remain there until we get another request from the other Schengen country that we have consulted with in accordance with the Schengen-Convention Art. 25.2.</p> <p>7. The responses Norway gets from the Schengen countries UDI has consultations with, vary depending on why we sent the consultation.</p> <p>a. When we send a consultation in connection with an application which UDI is processing, in accordance with Schengen-convention Art. 25. 1. og 2., we often get a very quick response from the other Schengen countries.</p> <p>b. When UDI sends a consultation to other Schengen countries in connection with registering an entry into SIS, sometimes we get a response, and sometimes we don't: it varies. Most countries provide a quick response while some countries seldom respond at all, such as Italy and Greece. In such cases, this leads to other Schengen countries getting hits in SIS and providing information about hits to Norway in an H-form or G-form in accordance with the Schengen Borders Code Art.5 (4). Sirene Norway then forwards this information to UDI.</p> <p>c. When we send a consultation with a request to delete an entry in SIS, UDI never knows how long it will take to delete the entry in</p>
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			<p>SIS or if it ever will be deleted.</p> <p>We don't experience any problems with the actual consultation procedure, but it can take quite a long time to get a response back. However, usually we don't experience it as a big problem.</p> <p>8. UDI does not have their own procedures for persons who fall in under the EEA regulations. If UDI has to send a consultation then we still consult in accordance with Schengen-convention Art. 25. 1. og 2.</p>
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