



## **Ad-Hoc Query on “Penalties for unauthorised border crossings by Third Country nationals”**

**Requested by NL EMN NCP on 29<sup>th</sup> September 2014**

**Compilation produced on 7<sup>th</sup> November 2014**

**Responses from Austria, Belgium, Croatia, Czech Republic, Estonia, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom plus Norway (19 in Total)**

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### **1. Background Information**

Reviewing Dutch legislation gave rise to a question as to how European countries have implemented article 4, paragraph three of the Schengen Border Code (SBC).

Article 4.3 SBC:

Without prejudice to the exceptions provided for in paragraph 2 or to their international protection obligations, Member States shall introduce penalties, in accordance with their national law, for the unauthorised crossing of external borders at places other than border crossing points or at times other than the fixed opening hours. These penalties shall be effective, proportionate and dissuasive.

## EMN Ad-Hoc Query on penalties for unauthorised border crossings by third country nationals


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Though the current legislation on punishment of illegal entering the Netherlands seems to be sufficient, given the limited possibilities to enter the Netherlands from outside the Schengen area, your answers can be useful in evaluating whether further legislation would be necessary implementing the SBC in Dutch law and how this could be done. Given the idea that regulations pursuant to the SBC should not differ to much in each MS we have the following questions:

1. Does your country have specific legislation in force regarding article 4, paragraph three SBC, i.e. penalizing illegal entry of the country?
2. If so, what is the exact wording of this offence in your law?
3. What type of sanctions does your country impose as penalty? Does your country differentiate in categories of offenders, e.g. first offenders vs. repeated offenders or offenders with an entry ban vs. offenders without an entry ban?


We would very much appreciate your responses by **Monday 19<sup>th</sup> October 2014**.

### **2. Responses**

	<b>Austria</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes.</li> <li>2. Art. 10 para 1 of the Border Control Act constitutes that the external borders may only be crossed at border crossing points, except in cases where international conventions or agreements provide otherwise. The term border crossing point is defined by Art. 1 para 3 Border Control Act as a point or area determined by the competent authorities for the purpose of border crossing, during the opening hours and within the scope of its purpose, at the external border or the internal border (in case of a reintroduction of border controls in the meaning of Art. 23 et. seq. of the Schengen Borders Corde). According to Art. 16 para 1 Border Control Act, a violation of this provision is sanctioned with an administrative penalty of up to 2,180 Euros or imprisonment of up to six weeks, if criminal sanctions or other similarly severe or more severe sanctions are not provided; attempts are similarly sanctioned. Furthermore, however not directly related to border crossings at places other than border crossing points according to Art. 4 (3) Schengen Borders Code, the “illegal” entry of individuals to the Austrian territory is sanctioned with an administrative fine of 100 to 1,000 Euros or up to two weeks of imprisonment (Art. 120 para 1 Aliens Police Act).</li> <li>3. See 2.</li> </ol>
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	<b>Belgium</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Although illegal entry is a criminal offence according to the Belgian's Immigration Act, a TCN who entered illegally will in reality never be prosecuted for the mere fact of violation of the entry conditions. Only in combination with other criminal offences (f.i. theft, violence, human trafficking,...), the court(s) will be inclined to rule that immigration legislation has been violated.</li>   <li>2. (only available in Dutch and French)  "Artikel 4bis  § 1. Aan de buitengrenzen in de zin van de internationale overeenkomsten betreffende de overschrijding van de buitengrenzen die België binden of van de Europese regelgeving, dient het binnenkomen en het verlaten van het Rijk plaats te grijpen via een toegelaten doorlaatpost, dit gedurende de vastgestelde openingstijden, zoals aangegeven bij deze doorlaatposten.  § 2. De vreemdeling is verplicht om zowel bij het binnenkomen als bij het verlaten van het Rijk uit eigen beweging zijn reisdocumenten te tonen.  § 3. Een administratieve geldboete van 200 euro kan door de minister of zijn gemachtigde worden opgelegd aan de vreemdeling die de verplichting bedoeld in § 1 niet naleeft.  Indien de schending, van de verplichting, bedoeld in § 1, te wijten is aan een nalatigheid van de vervoerder, is deze hoofdelijk aansprakelijk met de vreemdeling voor het betalen van de opgelegde boete.  De beslissing waarbij de administratieve geldboete wordt opgelegd is onmiddellijk uitvoerbaar, niettegenstaande hoger beroep.  De rechtspersoon is burgerlijk aansprakelijk voor het betalen van de administratieve geldboete die aan zijn bestuurders, zijn leden van het leidinggevend en uitvoerend personeel, zijn aangestelden of lasthebbers wordt opgelegd.  De administratieve geldboete kan betaald worden door middel van de consignatie van het verschuldigde bedrag bij de Deposito- en Consignatiekas.  § 4. De vreemdeling of vervoerder die de beslissing van de minister of van diens gemachtigde betwist, stelt binnen een termijn van één maand te rekenen van de kennisgeving van de beslissing, bij wege van een verzoekschrift, beroep in bij de rechtbank van eerste aanleg.  Indien de rechtbank van eerste aanleg het beroep ontvankelijk en gegrond verklaart, wordt de betaalde of in consignatie gegeven som teruggegeven.  De rechtbank van eerste aanleg moet uitspraak doen binnen een maand te rekenen van de indiening van het in het eerste lid bedoelde verzoekschrift.  De tekst van het eerste lid wordt opgenomen in de beslissing waarbij de administratieve geldboete wordt opgelegd.  § 5. Indien de vreemdeling of vervoerder in gebreke blijft de geldboete te betalen, wordt de beslissing van de bevoegde ambtenaar of de in kracht van gewijsde gegane beslissing van de rechtbank van eerste aanleg ter kennis gebracht van de administratie van het Kadaster, Registratie en Domeinen, met het oog op de invordering van het bedrag van de administratieve geldboete.  § 6. Indien de vreemdeling of de vervoerder of diens vertegenwoordiger de som van de administratieve geldboete heeft geconsigneerd bij de Deposito- en Consignatiekas en indien hij binnen de hierboven vermelde termijn geen beroep heeft ingesteld bij de rechtbank van eerste aanleg, komt de in consignatie gegeven som ten goede aan de Staat."</li> </ol>
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			<p>3. See point 2: Article 4bis of the Immigration act stipulates that an administrative fine of 200 Euros may be imposed against a foreigner for illegal border crossing. In case the carrier is, because of negligence, hold responsible for the violation of the entry conditions, he is severally liable with the foreigner to pay this fine. This decision is directly applicable, although appeal is possible. There is no differentiation in the category of offenders (first vs repeated; entry ban or not;...).</p>
	<p><b>Croatia</b></p>	<p align="center"><b>Yes</b></p>	<p>In State border protection act impose penalty in their Penalty clauses.  <b>STATE BORDER PROTECTION ACT</b>  <b>IX. PENALTY CLAUSES</b></p> <p>Article 42  A natural person shall be subject to a penalty of a 30 day prison sentence or a 2.000 to 10,000 HRK fine for an offence where he/she:</p> <ol style="list-style-type: none"> <li>1. crosses or attempts to cross the state border at a place other than a border crossing point, or at times other than the fixed opening hours, or in a manner that is contrary to the purpose of the border crossing point (Article 4, SBC);</li> <li>2. avoids the border control procedure or leaves a border crossing point area before the border control is completed, or if in any other way attempts to avoid the border control procedure (Article 26, paragraph 1).</li> </ol> <p>But The aliens act define administrative decision on expulsion if alien crossed or attempted to cross the state border illegally. The prohibition of entry and stay issued in a decision on expulsion may not be less than three months or more than 20 years (107 Aliens act). (3) The prohibition of entry and stay issued in a decision on expulsion referred to in Article 105, paragraph 1, items 1 and 2 (illegal stay and crossed or attempted to cross the state border illegally) of Aliens Act may not be longer than 5 years.</p> <p>Decision on expulsion  Article 105  (1) Within the meaning of Article 102, paragraph 1 of this Act, the decision on expulsion may be issued in particular if:</p> <ol style="list-style-type: none"> <li>1. the alien's stay is illegal,</li> <li>2. the alien crossed or attempted to cross the state border illegally,</li> <li>3. the alien provides assistance in illegal entries, transit or stay,</li> <li>4. concludes a marriage of convenience,</li> <li>5. the alien violated the regulations on the employment and work of aliens, public order and peace, weapons, abuse of narcotic drugs or taxes,</li> <li>6. the alien committed a criminal offence that is prosecuted in the line of duty,</li> <li>7. a legally effective decision was issued against the alien while he was abroad for a serious criminal offence, which is also punishable under the Croatian legislation,</li> <li>8. the alien repeats a misdemeanour,</li> </ol>

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			<p>9. commits a misdemeanour with the elements of violence.</p> <p>(2) In the case referred to in paragraph 1, items 1 and 2 of this Article, the decision on expulsion may be issued without conducting a misdemeanour procedure.</p> <p>(3) The prohibition of entry and stay issued in a decision on expulsion referred to in Article 105, paragraph 1, items 1 and 2 of this Act may not be longer than 5 years</p>
	<b>Czech Republic</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Estonia</b>	<b>Yes</b>	<p>1. Yes, penalization of illegal entry is regulated in <a href="#">Penal Code</a> § 258 Illegal crossing of state border or temporary borderline of Republic of Estonia 1,2.</p> <p>2. Illegal crossing of the state border or temporary border line of the Republic of Estonia, if committed:</p> <ol style="list-style-type: none"> <li>1) in disregard of a stop signal or order given by a police officer;</li> <li>2) by a group;</li> <li>3) by a means of transport in a location not intended for crossing;</li> <li>4) and a punishment for a misdemeanor has been imposed on the offender for the same act, <u>is punishable by a pecuniary punishment or up to one year of imprisonment.</u></li> </ol> <p>The same act, if committed:</p> <ol style="list-style-type: none"> <li>1) by using violence; or</li> <li>2) by causing serious damage to health; <u>is punishable by 4 to 12 years' imprisonment.</u></li> </ol> <p>3. See 2.</p>
	<b>Finland</b>	<b>Yes</b>	<p>1. Penalizing illegal entry is legislated in the Criminal Code of Finland. Entry to country despite of the entry ban is penalized in the Finnish Aliens Act.</p> <p>2. Border Offence (both in Schengen external and internal border):</p> <p>The Criminal Code of Finland</p> <p>Chapter 17 - Offences against public order (563/1998)</p> <p>Section 7 - Border offence (563/1998)</p> <p>(1) A person who</p>

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			<p>(1) crosses the border of Finland without a valid passport or another travel document, or otherwise than from a legal point of departure or to a legal point of arrival, or contrary to a statutory prohibition, or attempts the same,</p> <p>(2) otherwise breaches the provisions on border crossing, or</p> <p>(3) without permission stays, moves or undertakes prohibited measures in the border zone, as referred to in the Border Zone Act (403/1947) shall be sentenced for a border offence to a fine or imprisonment for at most one year.</p> <p>(2) A foreigner who is refused entry or deported as a result of the act referred to in subsection 1 or a foreigner who seeks asylum or applies for a residence permit as a refugee in Finland shall not be sentenced for a border offence. A foreigner who has committed the act referred to in subsection 1 due to the fact that he or she has been subjected to trafficking in human beings referred to in chapter 25, section 3 or 3a shall not be sentenced also for a border offence. (650/2004)</p> <p>Section 7(a) - Petty border offence (756/2000)</p> <p>(1) If the border offence, in view of the short duration of the unauthorized stay or movement, the nature of the prohibited act, or the other circumstances of the offence is petty when assessed as a whole, the offender shall be sentenced for a petty border offence to a fine.</p> <p>(2) The provisions in section 7, subsection 2 apply also to acts referred to in subsection 1.</p> <p>Person who enters to Finland despite of entry ban:</p> <p>The Finnish Aliens Act</p> <p>Chapter 12 Penal provisions</p> <p>Section 185 Violation of the Aliens Act</p> <p>(1) An alien who</p> <p>1) deliberately resides in the country without the required travel document, visa or residence permit, or through negligence fails to comply with the obligation to register his or her residence or apply for a residence card or permanent residence card;</p> <p>2) deliberately, without right to gainful employment is gainfully employed or pursues a trade;</p> <p>3) deliberately fails to comply with the obligation to report under section 118, another obligation under section 119, or a request under section 130 to appear before the authorities to submit information on his or her residence; or</p> <p>4) deliberately enters the country despite a prohibition of entry on grounds of public order, security or health shall be sentenced to a fine for a violation of the Aliens Act. (323/2009)</p> <p>(2) A person who deliberately or through gross negligence fails to comply with the obligation under section 174 or 175 shall also be sentenced for violation of the Aliens Act.</p> <p>(3) A person who deliberately or through gross negligence fails to comply with the obligation under section 174 or 175 of this Act or section 19 or 20 of the Act on the Processing of Personal Data by the Border Guard is also sentenced for violation of the</p>
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			<p>Aliens Act. (581/2005)</p> <p>3. Sanctions in above mentioned offences are: 1) fine or maximum one year of imprisonment in the border offence 2) fine in the petty border offence 3) fine in the violation of Aliens Act. Sentencing and determining the sentence is legislated in the Criminal Code of Finland.</p> <p>The Criminal Code of Finland</p> <p>Chapter 6 – Sentencing (515/2003)</p> <p>General provisions Section 1 – The types of punishment (1) The general punishments are summary penal fine, fine, conditional imprisonment, community service, monitoring sentence and unconditional imprisonment. (329/2011)</p> <p>Section 3 – The points of departure in sentencing (1) In sentencing, all grounds according to law affecting the amount and type of punishment, as well as the uniformity of sentencing practice, are taken into account. (2) The grounds affecting sentencing are those provided in sections 4 through 8 of this chapter as well as those provided elsewhere in law. (3) In deciding on the type of punishment, the provisions of sections 9 through 12 apply in addition to the grounds affecting sentencing.</p> <p>Determining the sentence Section 4 – The general principle The sentence shall be determined so that it is in just proportion to the harmfulness and dangerousness of the offence, the motives for the act and the other culpability of the perpetrator manifest in the offence.</p> <p>Section 5 – Grounds increasing the punishment (1) The following are grounds for increasing the punishment: (1) the methodical nature of the criminal activity, (2) commission of the offence as a member of a group organised for serious offences, (3) commission of the offence for remuneration, (4) commission of the offence for a motive based on race, skin colour, birth status, national or ethnic origin, religion or belief, sexual orientation or disability or another corresponding grounds, and (511/2011) (5) the criminal history of the perpetrator, if the relation between it and the new offence, due to the similarity between the offences or otherwise, shows that the perpetrator is apparently heedless of the prohibitions and commands of the law.</p>
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			<p align="center">*****</p> <p>In sections 6 -- 8 is legislated: <i>Grounds reducing the punishment, Grounds mitigating the punishment and Mitigation of the penal latitude</i></p> <p align="center">*****</p> <p>The choice of the type of punishment</p> <p>Section 9 – The choice between conditional and unconditional imprisonment</p> <p>(1) A sentence of imprisonment for a fixed period not exceeding two years may be conditional (conditional imprisonment), unless the seriousness of the offence, the guilt of the perpetrator as manifested in the offence, or the criminal history of the perpetrator requires the imposition of an unconditional sentence of imprisonment.</p> <p>(2) However, an unconditional sentence of imprisonment shall not be imposed for an offence committed when the perpetrator was under 18 years of age, unless this is demanded by weighty reasons.</p>
	<p><b>Germany</b></p>	<p align="center"><b>Yes</b></p>	<ol style="list-style-type: none"> <li>1. Yes. The transposition into German Law has taken place through § 98 of the German Residence Act. (AufenthG).</li> <li>2. The regulation provides as follows: <ul style="list-style-type: none"> <li>„§ 98 Provisions governing administrative fines</li> <li>...</li> <li>(3) <i>an administrative offence is deemed to have been committed by any person who, intentionally or negligently</i></li> <li>...</li> <li>1. <i>and contrary to § 13, section 1, enters or leaves the country outside of an authorised border-crossing point or outside of the fixed opening hours of the border-crossing points...</i></li> <li>...</li> <li>(4) <i>In the cases of ..... section 3, subsection 3, the attempt of committing an administrative offence can be punished.</i></li> <li>...</li> <li>(6) <i>Article 31, section 1, of the agreement governing the legal status of refugees shall remain unaffected. ”</i></li> </ul> </li> </ol> <p>§ 13, section 1, German Residence Act (AufenthG), to which reference is made above, however, shall be in the relevant sentence 1 as follows:</p> <p>„§ 13 <i>Border-crossing</i></p> <p>(1) <i>The entry into the Federal Territory and the leaving of the Federal Territory shall only be admissible at the authorised border-crossing points and within the fixed opening hours of the same, unless exceptions have been allowed due to other</i></p>





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			<p align="center"><i>legislative provisions or due to inter-governmental agreements. ...</i></p> <p>3. The administrative offence in accordance with § 98, section 5, German Residence Act (AufenthG), can be punished with a fine of up to Euro 3,000. Even the attempt to commit the administrative offence can be punished. The provision does not explicitly differentiate between the first offence or any repeated offences, however there may be an influence on the calculation of the amount of the fine in individual cases. The entry of the country with a violation of the ban of entry and stay in force is already deemed to be an autonomous criminal offence that can be punished with a prison sentence of up to three years or with a fine (§ 95, section 2, subsection 1, German Residence Act (AufenthG).</p>
	<b>Hungary</b>	<b>Yes</b>	<p>1. Illegal border crossing is not penalized in Hungary, however it is an administrative infraction.</p> <p>2. a) The Hungarian Code of Administrative Infractions provides that anyone crossing the Hungarian borders without an authorization or in any unauthorized manner, or even attempts to, commits an administrative infraction. Anyone violating the legal regulations pertaining to travel documents also commits an administrative infraction. (Competent authority: the police) b) Note that according to the Act on the entry and stay of third-country nationals ('TCN') in Hungary, carriers/aerial carriers/employers of TCNs are obliged to report the entry and the stay of any TCNs carried/employed by them and omitting to fulfill this obligation is sanctioned by an administrative fine (min. 3000€ - 5000€/capita).</p> <p>3. The <u>sanctions of any administrative infraction</u> are the following: (a) penalties (i) administrative detention (ii) fine (iii) community service (b) measures (i) disqualification from driving (ii) confiscation (iii) exclusion (iv) warning.</p> <p>Aiding and abetting, as well as attempt are also administrative infractions. During sentencing of a sanction all circumstances are taken in to consideration, especially repetitive comportment. Should the action crossing of the border realize a crime, the crossing shall be adjudicated as the crime. No administrative infraction is committed if the offender is statutorily unpunishable (e.g. in the case of minors).</p>
	<b>Italy</b>	<b>Yes</b>	<p>1. Yes. This offence was introduced in Italy in July 2009 by Law No 95 (which added Article 10-bis to the 1998 <i>Consolidated Act on Immigration</i>). However, by Law No 67 of April 2014, Parliament enabled the Government to convert a set of offences into administrative wrongdoings, including the above offence.</p> <p>2. The exact wording of this offence is: "Illegal entry into the territory of the State".</p> <p>3. The sanction imposed as a penalty is a fine from Euro 5,000 to Euro 10,000 euro, without differentiating in categories of</p>



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			offenders.
	<b>Latvia</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Does your country have specific legislation in force regarding article 4, paragraph three SBC, i.e. penalizing illegal entry of the country?</li> <li>2. If so, what is the exact wording of this offence in your law?</li> <li>3. What type of sanctions does your country impose as penalty? Does your country differentiate in categories of offenders, e.g. first offenders vs. repeated offenders or offenders with an entry ban vs. offenders without an entry ban?</li> </ol> <p>The amendments to the Criminal Law and Latvian Administrative Violations Code were adopted on 1 April 2013, which defines the punishment for illegal border crossing and violation of the state border regulatory regime. Article 284 of Criminal Law defines the following punishments: (1) For a person who intentionally commits illegal crossing of the State border, the applicable punishment is temporary deprivation of liberty or community service, or a fine. (2) For a person who commits the same acts, if they have been committed by a group of persons or using a vehicle, or violating the specified prohibition to enter the Republic of Latvia, the applicable punishment is deprivation of liberty for a term up to two years or temporary deprivation of liberty, or community service, or a fine. Article 194<sup>1</sup> of the Latvian Administrative Violations Code defines the following: In the case of violation of the regime for the State border, frontier, border zone, border control or border crossing points – a warning shall be issued or a fine shall be imposed in an amount up to 210 EUR or an administrative arrest shall be imposed for a period of up to 15 days.</p>
	<b>Lithuania</b>	<b>Yes</b>	<p>In Lithuania illegal entry is considered a criminal offence according to Article 291 of the Criminal Code of the Republic of Lithuania (fine, arrest or imprisonment up to 2 years can be imposed).</p> <p>Illegal crossing of the state border related to smuggling of human beings is considered a criminal offence according to the Article 292 of the Criminal Code of the Republic of Lithuania (imprisonment from 6 to 10 years depending on severity of the offence).</p> <p>Illegal crossing of the State border through negligence is considered an administrative offence according to the Article 205 (2) of the Administrative Code of the Republic of Lithuania.</p> <p><i>Extracts from the Criminal Code of the Republic of Lithuania</i> Article 291. Illegal crossing of the State border</p> <ol style="list-style-type: none"> <li>1. A person, who has crossed the State border illegally, shall be punished by a fine, or arrested, or imprisoned for up to two years.</li> <li>2. An alien, who has entered the Republic of Lithuania illegally with the aim of applying for asylum, shall be excused criminal</li> </ol>


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			<p>liability referred to in paragraph 1 of this Article.</p> <p>3. An alien, who has committed an act provided for in paragraph 1 of this Article with the aim of entering illegally a third country from the territory of the Republic of Lithuania, shall be excused criminal liability referred to in paragraph 1 of this Article if following the established order he/she is removed from the Republic of Lithuania either to the country, from the territory of which he/she illegally crossed the State border of the Republic of Lithuania, or to the country he/she is a national of.</p> <p>Article 292. Illegal smuggling of persons across the State border</p> <p>1. A person, who illegally transported an alien without a permanent place of residence in the Republic of Lithuania across the State border of the Republic of Lithuania, or transported or harboured an alien, who had illegally crossed the State border of the Republic of Lithuania, in the territory of the Republic of Lithuania, shall be punished by a fine, or arrest, or imprisonment for up to six years.</p> <p>2. A penalty of imprisonment up to eight years shall be imposed on a person, who committed the act referred to in paragraph 1 of this Article, for immoral motives or if the act endangers life.</p> <p>3. A penalty of imprisonment from four up to 10 years shall be imposed on a person for organisation of the acts referred to in paragraph 1 of this Article.</p> <p>4. A legal person shall be liable for the acts stipulated in this Article.</p> <p><i>Extract from the Code of Administrative Offences of the Republic of Lithuania</i></p> <p>Article 205(2). Illegal crossing of the State border through negligence A fine from LTL 250 up to LTL 500 shall be imposed for illegal crossing of the border through negligence.</p>
	<b>Luxembourg</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Luxembourg does not have external borders besides the international airport. Administrative law does not provide for a penalty for mere entering the territory irregularly.</li> <li>2. N/A</li> <li>3. N/A</li> </ol>
	<b>Netherlands</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Administrative law does not provide for a penalty for mere entering the territory irregularly. In administrative law a maximum penalty of six months detention or a fine with a maximum of €4050,- is introduced for not showing a travel document when asked for it by a border guard. This penalty is also applied for not complying with the requirements specified in Annex VI Schengen Borders Code.</li> <li>2. In Dutch alien law in article 108, par. 1 it is stated: <i>With six months imprisonment – or a fine of the 2nd. Category – is punished a violation of in a ministerial decree to be appointed regulations pursuant to the Schengen Border Code, or given to implement article 46, paragraph 2, under b, of the Alien law</i></li> </ol>


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			<p>In article 46, paragraph 2 under b is stated:  <i>In secondary legislation additional provisions can be made concerning:</i>  <i>a.(...)</i>  <i>b. The obligations a person has to meet in view of border control;</i></p> <p>In 4.5 Alien Decree is stated:  <i>The person who enters the Netherlands is obliged, when ordered to so by border guards:</i>  <i>a. to hand over or show his passport with a valid visa</i></p> <p>In Article 7.1 h Alien regulations (i.e. a ministerial Decree) is stated:  <i>The regulations mentioned in article 108 Alien law pursuant to the Schengen Border Code are:</i></p> <ol style="list-style-type: none"> <li>1. <i>Annex VI , under 2.3.1, of the Schengen Border Code</i></li> <li>2. <i>Annex under 3.1.2, of the Schengen Border Code</i></li> <li>3. <i>Annex VI, onder 3.1.4, of the Schengen Border Code</i></li> <li>4. <i>Annex VI, onder 3.1.5, of the Schengen Border Code</i></li> <li>5. <i>Annex VI, onder 3.2.1, of the Schengen Border Code</i></li> <li>6. <i>Annex VI, onder 3.2.6, of the Schengen Border Code</i></li> <li>7. <i>Annex VI, onder 3.2.7, of the Schengen Border Code</i></li> <li>8. <i>Annex VI, onder 3.2.10, i, of the Schengen Border Code</i></li> </ol> <p>3. The main sanction is a fine. When this fine is not paid an imprisonment is possible in Dutch legislation. The legislation doesn't differ between a person with or without an entry ban, though entering the country while in possession of an entry ban can be sanctioned on its own merits. The type of sanction depends on the length of the entry ban in combination with the grounds of imposing this entry ban. Further elaboration on this would fall outside the scope of these questions.</p>
	<p><b>Portugal</b></p>	<p align="center"><b>Yes</b></p>	<ol style="list-style-type: none"> <li>1. Yes. This is stated on the Portuguese legal framework in its n.º 1 of the article 6º, "Border Crossing" which defines that the entry into and exit from Portuguese territory are done through the recognized border posts during working hours, without jeopardy to the provisions of the Schengen Implementing Convention.</li> <li>2. "Noncompliance with certain duties"</li> <li>3. The subsequent numbers of the article n.º 202º, stipulates that "The noncompliance with the duty established in article 6º represents an infraction punishable with fine from € 200 to € 400" (n.º 2)"; "The act of disembarking foreign citizens outside the border posts specifically established for that effect represents an infraction to paragraph 1, article 6º and is punishable with fine from € 50000 to € 100000". Finally are jointly responsible for paying the fines established in the preceding paragraph the carrier</li> </ol>




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			and their representatives in Portuguese territory". (n.º 4).
	<b>Slovak Republic</b>	<b>Yes</b>	<p>1. Yes.</p> <p>2. and 3. According to the Article 116 (1) of the Act No. 404/2011 Coll. on Residence of Aliens and Amendment and Supplementation of Certain Acts, the third country national commits an offence in the field of border control if:</p> <ol style="list-style-type: none"> <li>he/she crosses the external border in an unauthorized manner,</li> <li>he/she deliberately avoids or refuses to undergo the border check when crossing the external border,</li> <li>he/she provides other person's travel document or other document entitling to cross the external border or a visa as his/her own at the border check.</li> </ol> <p>For the offences stated above, the following fine shall be applied:</p> <ol style="list-style-type: none"> <li>up to 800 EUR.</li> <li>up to 1600 EUR.</li> <li>up to 300 EUR.</li> </ol> <p><u>Smuggling of migrants:</u></p> <p>According to the Article 355 (1) of the Act No. 300/2005 Coll. Penal Code, any person who organises illegal crossing of the State Border of the Slovak Republic, or a transfer through its territory, for a person who is neither a citizen of the Slovak Republic nor a person with permanent residence in the territory of the Slovak Republic, or who enables such activity or aids and abets it, shall be liable to a term of imprisonment of <u>one year to five years</u>.</p> <p>According to the Article 355 (2) of the Act No. 300/2005 Coll. Penal Code any person who, with the intention of obtaining financial or other material benefit for himself or another person either directly or indirectly, for a person who is neither a citizen of the Slovak Republic nor a person with permanent residence in the territory of the Slovak Republic, organises illegal crossing of the State Border of the Slovak Republic, or a transfer through its territory, or who enables such activity or aids and abets it, or for this purpose manufactures, procures, provides or has in his possession a forged passport or a forged identity card shall be liable to a term of imprisonment of <u>three to eight years</u>.</p> <p>According to the Article 355 (3) of the Act No. 300/2005 Coll. Penal Code, the offender shall be liable to a term of imprisonment of <u>seven to ten years</u> if he commits the offence referred to in Article 355 (1) or (2),</p> <ol style="list-style-type: none"> <li>and obtains larger benefit for himself or another through its commission,</li> <li>by reason of specific motivation,</li> <li>in a manner that may pose a danger to lives and limbs of facilitated persons, or constitutes inhuman or degrading treatment or abuse of facilitated persons, or</li> <li>acting in a more serious manner.</li> </ol> <p>According to the Article 355 (4) of the Act No. 300/2005 Coll. Penal Code, the offender shall be liable to a term of imprisonment of <u>ten to fifteen years</u> if he commits the offence referred to in Article 355 (1) or (2), and</p>


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			<p>a) causes grievous bodily harm or death through its commission,  b) and obtains substantial benefit for himself or another through its commission, or  c) as a member of a dangerous grouping.</p> <p>According to the Article 355 (5) of the Act No. 300/2005 Coll. Penal Code, the offender shall be liable to a term of imprisonment of <u>twelve to twenty years</u> if he commits the offence referred to in paragraphs 1 or 2,  a) and causes grievous bodily harm or death to several persons through its commission,  b) and obtains large-scale benefit through its commission, or  c) under a crisis situation.</p> <p>According to the Article 357 of the Act No. 300/2005 Coll. Penal Code, any person who violates international flight regulations by entering the territory of the Slovak Republic using an aircraft shall be liable to a term of imprisonment of between six months and three years.</p>
	<b>Slovenia</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Illegal entry is penalised by Article 145 of Aliens Act.</li> <li>2. Fine of 500 to 1.200 EUR shall be imposed to alien, who enters Republic of Slovenia illegally.</li> <li>3. For sanctions please refer to previous reply. According to Aliens Act no differentiation exists. Nevertheless the Misdemeanour Act provides for stricter sanctions in cases of repeated misdemeanours. In such cases Police may transmit cases to court with proposal for stricter sanction. Final decision regarding sanction is in the hands of court, yet it may not exceed maximum limit as set above.</li> </ol>
	<b>Sweden</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. The Swedish Aliens Act (Chapter 20, para 4) states that an alien who intentionally crosses the external Schengen border in an unlawful way can be sentenced to a fine or a maximum of 1 year imprisonment.</li> <li>2. See 1.</li> <li>3. A fine or a maximum of 1 year imprisonment. The legislation does not differentiate between first time offenders and repeated offenders.  Those who have a re-entry-ban from a criminal court and re-enter Sweden can be sentenced to 1 year imprisonment, or if the circumstances are extenuating, to a fine (Swedish Aliens Act chapter 20 para 2). This does not apply to an alien applying for asylum or subsidiary international protection.</li> </ol>
	<b>United Kingdom</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. The UK is not bound by the Schengen Border Code.</li> </ol>

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			<p>2. Not applicable</p> <p>3. Not applicable</p>
	<b>Norway</b>	<b>Yes</b>	<p>1. Yes. According to the Norwegian Immigration Act, § 14, the first paragraph, travel in and out (through the outer border of the Schengen border) of the country shall take place through designated border crossings determined by the Norwegian Ministry of Justice and Public Security.          “Unless otherwise provided, entry and exit shall take place at border crossings determined by the Ministry. An internal Schengen border may be crossed anywhere provided that no temporary border control has been introduced. Such border control may only be introduced if there is a serious threat to public order or national security. Customs legislation shall apply when an internal Schengen border is crossed. The King may by regulations make further provisions.          Anyone coming to the realm shall immediately report to the border control authorities or the nearest police authority. Anyone leaving the realm is subject to exit control and shall upon exiting report to the border control authorities or the nearest police authority. The obligation of notification under this paragraph shall not apply to crossing of an internal Schengen border, provided that no temporary border control such as mentioned in the first paragraph has been introduced. The Ministry may grant exemption from the obligation of notification under this paragraph.”          According to the Norwegian Immigration Act, (§ 108 second paragraph, letter a), a fine or imprisonment for a term not exceeding six months or both shall be imposed on anyone who (a) willfully or through negligence contravenes the conditions issued under §14.</p> <p>2. This regulation (The Norwegian Immigration Act § 108, second paragraph, letter a) does not provide a more detailed description of the actual conditions for punishment. The regulation in fact, simply refers to 16 different articles in the Norwegian Immigration Act, stipulating that if someone willfully or through negligence violates this regulation it is punishable by law. Among these articles is § 14, which states:           " Unless otherwise provided, entry and exit shall take place at border crossings determined by the Ministry. "           When these regulations are viewed in light of each other, we can conclude that it would be punishable by law to willfully or through negligence violate the regulation by entering the country some place other than the designated border crossings.</p> <p>3. The punishment can be a fine or imprisonment for a term not exceeding six months or both. There is no further stipulation in regards to the amount of the fine. There is no separate regulation regarding increase in degree of punishment for those who are guilty of repeated border crossing violations. In practice though, it would be considered an aggravated offense if the person being charged for a border crossing violation, had previously convicted for a similar offence.</p>

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