



**Ad-Hoc Query on Issuing an Entry Ban for a person residing abroad**

**Requested by FINLAND on 30<sup>th</sup> April 2014**

**Reply requested by 28<sup>th</sup> May 2014**

**Compilation produced on 3<sup>rd</sup> of September 2014**

**Responses from Austria, Belgium, Bulgaria, Finland, France, Germany, Greece, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Slovak Republic, Spain, Sweden, United Kingdom plus Norway (18 in Total)**

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**1. Background Information**

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In Finland, according to the National Action Plan against Illegal Immigration 2012-2015 more effective action will be taken in the case of submission of false information when filing an application for a residence permit abroad. Steps will be taken to make it possible to order a prohibition of entry also on foreign nationals who have already left the country.

Under the current Aliens Act, an entry ban may only be ordered on a foreign national in connection with removal from the country when the foreign national is residing in Finland. Foreign nationals who apply for a residence permit abroad at Finnish missions cannot be prohibited from entering Finland in connection with a refusal of the residence permit even when the applicant has sought to deceive the permit authority by, for example, presenting falsified documents. In the interests of preventing and combating illegal entries, legislation should provide for more effective action against residence permit applicants who resort to fraudulent means. The possibility of a prohibition of entry would in all likelihood reduce attempts to obtain a residence permit by fraudulent means.

Under current legislation, attempted deception for all intents and purposes has no consequences besides a refusal of the application in question. Upon being issued the refusal, the applicant who has resorted to fraudulent means is free to file a new application without the earlier attempt at deception possibly carrying any weight in the consideration of the new application. A prohibition of entry ordered after attempted deceit would prevent the issue of a residence permit for a fixed term while also making the applicant's fraudulence known to other Schengen missions, to the extent that the prohibition could be entered in the Schengen Information System. At present, refusals of residence permits and the grounds thereto issued in Finland are not automatically communicated to other Schengen countries. A foreign national to whom Finland has refused a residence permit may thus attempt to obtain a residence permit in another European state by the same fraudulent means.

In respect of visas, refusals will in future be entered in the Visa Information System. Once the system is fully rolled out, details on refusals will be available to all Schengen countries.

It should be possible to issue an entry ban also in cases where a foreign national residing in Finland has succeeded in evading the authorities and leaving Finland before the issue of a removal decision and order of entry prohibition. There have been cases where foreign nationals, most commonly ones who have committed criminal offenses in Finland, have managed to leave the country while the proposal for removing them and prohibiting their entry has been pending. Once the foreign national has left Finland, removal is no longer necessary, yet a prohibition to enter the Schengen area would still need to be ordered. Entry prohibitions cannot be ordered, however, except in connection with a decision of removal. Preventing foreign nationals who jeopardise public order or public security from entering the Schengen area should not be dependent on whether it has been possible to prohibit them from entering the country in connection with the issue of a removal decision.




This proposal is not intended to interfere with the right to enter the country of persons seeking international protection.

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**Questions:**

1. Is it possible in your Member State to issue an entry ban to a person who has already left the country or if the person resides abroad?  
If it is possible, on what grounds?
2. Is it possible in your Member State to issue an entry ban for a person on the grounds that the person is subject to international sanctions (by the UN and/or the EU)?  
How do international humanitarian obligations effect the issuing of an entry ban (especially to a person residing abroad)? Is the consideration of international obligations included in your national legislation or in implementation guidelines of the legislation?
3. Is an entry ban that is issued to a person residing abroad, valid nationally or in the entire Schengen-area? Do you record information regarding a person who has been issued an entry ban in the SIS-system or in another intra-governmental database?
4. Does your Member State have an administrative register, where information is recorded if a third-country national has used false or forged documents or given false/fraudulent information when applying for a residence permit? Are there other sanctions than an entry ban that can be the result of giving false information? Do you have evidence that proves that the issuing of entry bans for persons residing abroad, has had an effect of reducing the use of false information when applying for a visa or a residence permit?
5. If the legislation in your Member State, does not include the possibility for issuing an entry ban for a person residing abroad are the plans to include the issue in the legislation?

**2. Responses**

		Wider Dissemination?	
	<b>Austria</b>	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Belgium</b>	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Bulgaria</b>	Yes	According to the Rules for the Implementation of Law for the Foreigners in the Republic of Bulgaria (LFRB) for receiving a right of continuous residence the foreigner presents personally an application for the stay to the Migration Directorate – MoI or the regional directorates. So, it is not possible to apply for residence permit abroad.

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			<p>Republic of Bulgaria is currently not a member of the Shengen area and apply national signal “entry ban in RB”. Currently Shengen alerts “entry ban” are for information only. According to the Law for the Foreigners in the Republic of Bulgaria the entry ban into the territory of the Member States for a period of 5 years will be applied after the entry into force of the decision of the EU Council for the full implementation of the provisions of the Shengen acquis in the Republic of Bulgaria. Visa or entry of a third country national shall be refused as described in art.10 para 1 of the Law for the Foreigners in the Republic of Bulgaria.</p> <ol style="list-style-type: none"> <li>1. According to art. 10 (1) of LFRB The issuing of visa and entering in the country shall be refused to a foreigner when: <ul style="list-style-type: none"> <li>– (suppl. – SG 29/07) with his activities he has put or could put in danger the security or the interests of the Bulgarian State or about whom there are data that he acts against the security of the country;</li> <li>– (suppl. – SG 9/2011) with his activities he has discredited the Bulgarian state or has derogated the prestige and the dignity of the Bulgarian people or by his entrance in the country relations of the Republic of Bulgaria with another country could be harmed;</li> <li>– (amend. – SG 11/07; amend. – SG 73/10, in force from 17.09.2010) there are data that he is a member of a criminal group or organisation or that he implements terrorist activity, smuggling and illegal transactions with arms, explosives, ammunitions, pyrotechnical products, strategic raw materials, products and technologies with double use as well as illegal traffic of anaesthetic and psychotropic substances and precursors and raw materials for their production;</li> <li>– there are data that he implements trade with people and illegal bringing persons in the country and bringing out of the country persons to other states;</li> <li>– he has been expelled from the Republic of Bulgaria sooner than 10 years ago and has not restored in 6 months term after the expel the funds spent for this by the country;</li> <li>– (amend. – SG 9/2011) he is sentenced for a committed premeditated crime on the territory of the Republic of Bulgaria which according to the Bulgarian law is sanctioned with a punishment of more than 1 year imprisonment;</li> <li>– (amend. – SG 29/07) he has made an attempt to enter the country or to pass through it using false or forged documents, visa or residence permit;</li> <li>– it could be supposed that he will disseminate grave infectious disease, suffers from a disease which according to the criteria of the Ministry of health or the World Health Organisation represents a threat for public health or when he does not have a certificate for vaccination, or comes from a region with complicated epidemic or epizootic situation;</li> <li>– he has no ensured maintenance and the necessary obligatory insurances during the stay in the country and funds ensuring opportunity for returning back;</li> <li>– at previous entering and stay he has systematically breached the border, the passport - visa, the currency or the customs regime of the Republic of Bulgaria;</li> <li>– at previous stay he has breached the labour or tax legislation of the country;</li> <li>– he has no visas or tickets for the following countries along the route;</li> <li>– to the person has been imposed compulsory administrative measure not to enter the country and this measure is in force;</li> <li>– (amend., SG 42/01; amend. – SG 9/2011) he is included in the informational massif of the unwelcome foreigners in the country;</li> </ul> </li> </ol>
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			<ul style="list-style-type: none"> <li>- (New, SG 42/01) applies for an entry visa by a document for final leaving of the territory of another country where he has stayed by this moment;</li> <li>- (new – SG 29/07) applies for a visa by invalid document for travelling abroad or by other substituting document.</li> <li>- (new – SG 9/11) does not prove the purpose and terms of the planned stay;</li> <li>- (new – SG 9/11) has already stayed for three months within the current 6-months period on the territory of the Republic of Bulgaria as a holder of a visa as per Art. 14, Para 3.</li> <li>- (*) (new – SG 9/11) is a person, about who a signal into the Schengen Information System for refusal of permission of entrance has been entered.</li> <li>- (new – SG 9/2011) in case of a previous stay in the country, the person have been committing breaches of the public order systematically;</li> <li>- (new – SG 9/11) indications exists, that the purpose of the crossing the border is to stay in the country as an immigrant without the needed for this special permission;</li> <li>- (new – SG 9/11) data exists, that the purpose of his/her entry is to use the country as an transit point for immigration to a third country;</li> <li>- (new – SG 43/11, in force from 15.06.2011) has submitted a document containing false information or declared false data;</li> <li>- (new – SG 23/13) there are reasonable doubts about the authenticity of the attachments to the visa, the veracity of their contents, the reliability of the statements by the foreigner or his/her intention to leave the country before the expiry of the visa he or she applies for.</li> <li>- (amend. – SG 9/11) In the cases of Para 1, issuance of a visa or of a permission to enter the territory of the Republic of Bulgaria may be done due to humanitarian reasons or where the State interest or execution of international obligations enforce so.</li> </ul> <p>2. According to Art. 21a. (New, SG 42/01) (1) (suppl. – SG 109/07, in force from 01.01.2008; amend. – SG 9/11) The Minister of Interior, the Minister of Foreign Affairs, the Chairman of State Agency "National Security" or officials authorised by them can periodically include foreigners in the informational massif for the unwelcome in the country foreigners in the presence of the grounds under Art. 10 , Para 1. suppl. – SG 109/07, in force from 01.01.2008) The conditions and the order of maintaining and updating the informational massif under para 1 shall be determined by the Minister of Interior, by the Chairman of State Agency "National Security" and by the Minister of Foreign Affairs.</p> <p>3. According to Art. 42h. (New, SG 42/01; prev. text of Art. 42a – SG 29/07) (1) (suppl. – SG 9/11; amend. – SG 23/13 (*), amend.</p> <ul style="list-style-type: none"> <li>- SG 70/13) Prohibition of entry and residence in the territory of Member States of the European Union shall be imposed where:             <ul style="list-style-type: none"> <li>- the grounds under Art. 10, para 1 are present;</li> <li>- no time limit has been given for the person to leave Bulgaria voluntarily under the terms of Art. 39b, para 4;</li> <li>- the foreign national fails to fulfil his/her obligation to return.                     <ul style="list-style-type: none"> <li>• (revoked – SG 9/11)</li> <li>• (amend. and suppl. - SG 36/09; amend. – SG 23/13; (*), amend. – SG 70/13 (*)) The prohibition for entry and residence in the territory of Member States of the European Union shall be valid for a period of 5 years. The prohibition for entry and</li> </ul> </li> </ul> </li> </ul>
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**EMN Ad-Hoc Query: Issuing an Entry Ban for a Person Residing Abroad**

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			<p>residence in the territory of Member States of the European Union may be for a period longer than 5 years, where the person presents a serious threat for the public order or for the national security.</p> <ul style="list-style-type: none"> <li>• (amend. and suppl. – SG 9/11) The prohibition of entry can be imposed simultaneously with the compulsory administrative measure under Art. 40, Para 2, or under art. 41 when the grounds under Art. 10, Para 1 are present.</li> </ul>
+	<b>Finland</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Under the current Aliens Act, a prohibition of entry may only be ordered on a foreign national in connection with removal from the country when the foreign national is residing in Finland. It is not possible to order a prohibition of entry on foreign nationals who have already left the country or who are residing abroad.</li> <li>2. A prohibition of entry cannot be ordered on foreign nationals residing abroad on the basis of international sanctions. Section 147 of the Aliens Act states that no one may be refused entry and sent back or deported to an area where he or she could be subject to the death penalty, torture, persecution or other treatment violating human dignity or from where he or she could be sent to such an area. Other than this, the current Aliens Act does not state how international sanctions or international humanitarian obligations should be taken into consideration in the ordering of prohibition of entry.</li> <li>3. A prohibition of entry is restricted to Finland if the alien has a residence permit in another Schengen State, and the permit is not cancelled. Prohibitions of entry to the Schengen area are recorded in the Schengen Information System. National prohibitions of entry are recorded only to the national Data System for Police Matters.</li> <li>4. There is the Register of Aliens which is a register of persons which is maintained and used for the processing, decision-making and control of matters relating to the entry into and departure from Finland and residence of aliens in the country. Data considering persons, who have presented forged documents, provided false information or concealed information and data considering persons who have been refused entry or deported or ordered prohibition of entry and data about that decision and the grounds for that decision can be recorded into the Register of Aliens. If a Finnish representation abroad has justified reason to suspect that an applicant is presenting false or forged documents, the representation has to report a criminal offence. By giving false or forged documents to a Finnish official a person may so be sentenced for false denunciation or falsification of evidence. In the Finnish Action Plan against Illegal Immigration 2012–2015 it was estimated that the possibility of a prohibition of entry would in all likelihood reduce attempts to obtain a residence permit by fraudulent means.</li> <li>5. The Action Plan against Illegal Immigration 2012–2015, published in October 2012 stated that a report should be made on the ordering of prohibitions of entry on persons residing abroad. The request for this query was made as a part of making this report. Should the report show that ordering entry prohibitions in the situations presented above were possible and appropriate, amendments to the Aliens Act to permit a prohibition of entry in these situations to be ordered on foreign nationals residing abroad will be suggested.</li> </ol>


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	<b>France</b>	<p align="center"><b>Yes</b></p>	<ol style="list-style-type: none"> <li>1. No, in France it is not possible to issue an entry ban to a person who has already left the country or if the person resides abroad. Entry ban is a measure accompanying the obligation to leave French territory.</li>   <li>2. No. Entry ban is a separate decision from the removal order and is assessed on a case-by-case basis. This decision is not autonomous as it is always based on an obligation to leave the French territory. It is not considered as a sanction and does not aim at punishing an offensive conduct, but rather aims at encouraging voluntary return. If international humanitarian obligations should be taken into consideration, it would be in the framework of a removal order, provided that the third-country national concerned resides in France, and not abroad.</li>   <li>3. Not applicable. According to Article L.511-1-III of the Code on Entry and Residence of Foreigners and the Right of Asylum (CESEDA), France systematically enters an alert into the SIS when an entry ban has been imposed to a third-country national (residing in France).</li>   <li>4. No, it does not exist and it is not planned to develop this type of register. An applicant who uses false or forged documents or gives false/fraudulent information may be subject to two types of sanctions: <ul style="list-style-type: none"> <li>– At penal level, it is sanctioned under Article 441-1 and following of the Penal Code. The term of imprisonment and the amount of fine vary depending on the type of fraud.</li> <li>– At administrative level, a refusal to issue the residence permit may be considered. This refusal may be accompanied by an obligation to leave French territory. Regarding evidence that the issuing of entry bans for persons residing abroad has had an effect of reducing the use of false information when applying for a visa or a residence permit, it is not applicable in France.</li> </ul> </li>   <li>5. No.</li> </ol>
	<b>Germany</b>	<p align="center"><b>Yes</b></p>	<ol style="list-style-type: none"> <li>1. A prohibition of entry or stay can only be issued in connection with an expulsion, refoulement or a deportation (§ 11 German Residence Act). In the case of a voluntary departure or in the case of a foreigner staying abroad, a prohibition of entry or stay is not possible.</li>   <li>2. If a foreigner were to be subject to sanctions and through this the interests of the Federal Republic of Germany would be severely affected by his or her stay, he/she can be expelled. This, in turn, would result in a prohibition of entry and stay. If the person in question is staying abroad, the granting of visa would always be refused because his or her stay would negatively affect the interests of the Federal Republic of Germany. Any additional prohibition of entry or stay would not be issued.</li>   <li>3. Before issuing an expulsion and the execution of a refoulement or deportation, all aspects of the international protection</li> </ol>

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			<p>(during the asylum procedure) and of the European Convention for the protection of Human Rights will be examined if the person concerned refers to an imminent danger to his or her such protected rights. The international regulations on this have been converted into national law (Asylum Procedure Act and Residence Act).</p> <p>4. A prohibition for entry and stay which only applies to Germany (because the foreigner is still in possession of a valid residence title issued by another Schengen State) will only be entered in the National Register of Foreigners. Any prohibition of entry and stay applicable to the whole of the Schengen Territory will be reported to the Schengen Information System.</p> <p>5. A visa warning file is being kept and inter alia has the purpose to support the competent authorities during the visa procedures in order to avoid mistakes and errors in the decisions to be taken in connection with deceptions or attempts of deception. Whoever furnishes false or incomplete particulars in order to procure for himself or herself or for others a residence title or uses such a document in the full knowledge of the document being used for a deception in legal relations, can be punished with a prison sentence of up to three years or with a fine. Seeing that false indications made by persons during a visa procedure can lead to the rejection of a visa but not to a prohibition of entry and stay, any experience regarding the effect of such a prohibition has not been gathered for such cases.</p> <p>6. Any such change in the law has not been planned at this moment in time.</p>
	<p><b>Greece</b></p>	<p align="center"><b>Yes</b></p>	<p>1. It is possible to issue an entry ban to a person who has already left the country or if the person resides abroad in case he/she applies for a visa at the external borders or at a Greek Consulate presenting falsified documents.</p> <p>2. Under the current Aliens Law, it is not possible to issue an entry ban to a TCN on the grounds that he/she is subject to international sanctions. It is not possible to refuse entry or deport a TCN to a country where he/she will be subject to treatments violating human dignity. The Greek legislation abides with the country's international humanitarian obligations referring to the treatment of TCNs who are subject to international sanctions.</p> <p>3. The entry ban that is issued to a person residing abroad is valid in the entire Schengen area when the conditions of article 94 of Schengen Convention are fulfilled but this is not the case when the TCN holds a residence permit in another Schengen area state and this permit has not been revoked. National prohibitions of entry are recorded only in the national Data System for police matters.</p> <p>4. When a TCN has used false or forged documents or has given false/fraudulent information when applying for a residence permit, he/she is registered in the SIS information system with the entry ban. An entry ban is the only sanction for providing false information. According to estimates included in the Greek Action Plan against Illegal Immigration, when it is possible to enter the country legally, the number of attempts to obtain a residence permit by fraudulent means could be reduced. However, when it has been decided by the court that fraudulent/false information has been used, competent authorities reject to issue or renew, or revoke the residence permits in question. At the same time, this decision incorporates also a return decision</p>





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			<p>for the person in question. There is not a dedicated administrative register to record instances of false/fraudulent information used but this kind of data can be retrieved indirectly from the central data base of the Ministry of Interior using a search filter for applications that have been rejected.</p> <p>5. If the legislation in your Member State, does not include the possibility for issuing an entry ban for a person residing abroad are the plans to include the issue in the legislation? Not applicable.</p>
	<b>Hungary</b>	<b>Yes</b>	<p>1. Yes it is possible. Act II of 2007 on the entry and stay of third-country nationals (hereinafter: TCN Act) stipulates that the immigration authority shall independently order entry ban for third-country nationals whose whereabouts are unknown or who resides outside the territory of Hungary, and who must not be allowed to enter the territory of Hungary under international obligations (Article 43(1) lit. a) and b)).</p> <p>2. Yes it is possible. One ground for issuing such an „independent entry ban” (not under the Return Directive) is to effectively implement UNSC or EU Council sanctions. There is explicit reference to international obligations in our national legislation (in the above mentioned Article of the TCN Act), more precisely implicitly the UNSC resolutions adopted under chapter VII of UN Charter are referred to and explicitly the EU Council is mentioned as source of sanctions.</p> <p>3. The independent entry bans are reordered in the SIS-system, so these are Schengen wide entry bans. As for the implementation of Article 26 of the SIS II Regulation, the practice between MS is that the current Presidency of the EU Council is responsible for entering, updating and deleting these alerts on behalf of all Member States in the SIS II. Therefore when Hungary held the Presidency of the EU Council between 1 January and 30 June 2011, Hungary was responsible for the above tasks in relation to these independent entry bans. These are also published on the government webpage (<a href="http://hirdetmeny.magyarorszag.hu">http://hirdetmeny.magyarorszag.hu</a>) by the competent regional directorate of the Office of Immigration and Nationality (legal basis: Article 89(5) of TCN Act).</p> <p>4. No, Hungary does not.</p> <p>5. Not applicable.</p>
	<b>Latvia</b>	<b>Yes</b>	<p>1. Yes, it is possible to issue an entry ban to a person who has already left the country or if the person resides abroad. This decision could be taken under the current Immigration Law, Section 61, if:</p> <ul style="list-style-type: none"> <li>– a competent State or foreign institution has provided information, which is the basis for considering that the foreigner threatens the State security, public order or safety;</li> <li>– during the preceding year the foreigner has illegally crossed external border or otherwise violated the procedures specified in regulatory enactments for entry and residence of foreigners in the Republic of Latvia or in another Schengen Agreement Member State or customs regulations;</li> <li>– in accordance with the provisions of Regulation No 562/2006 of the European Parliament and of the Council of 15 March 2006</li> </ul>


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			<p>a decision on refusal to enter the territory of the Member States of the European Union has been taken on the grounds that the foreigner presents a forged travel document, visa or residence permit;</p> <ul style="list-style-type: none"> <li>- the foreigner has helped another foreigner to illegally enter or illegally reside in the Republic of Latvia and it has been determined by a court judgment or by an injunction of the public prosecutor regarding punishment, or a decision on termination of criminal proceedings by conditionally releasing from criminal liability;</li> <li>- the foreigner has served a punishment for a criminal offence committed in the Republic of Latvia;</li> <li>- a decision has been taken either to refuse the issue of a visa, to annul or revoke a visa, or the foreigner has assisted another foreigner to submit documents for requesting a visa in order to unlawfully receive a visa;</li> <li>- a decision has been taken to refuse the issue or registration of a residence permit or a decision has been taken to annul a residence permit.</li> </ul> <p>2. Section 63, Paragraph six, of the Immigration Law states that if in accordance with the provisions of the Law on Introduction of Sanctions Specified by International Organisations in the Republic of Latvia or Regulations of the Council of the European Union the travel restrictions shall be applied for a foreigner, an official of the Office of Citizenship and Migration shall include him or her in the list of those foreigners for whom entry into the Republic of Latvia is prohibited.</p> <p>3. Information is included into national database - the list of those foreigners for whom entry into the Republic of Latvia is prohibited. But it is possible to make decision by which the foreigner's data can be entered into both systems – National and the SIS-system.</p> <p>4. Latvia does not have such kind of evidence. The same, it is estimated that the possibility of a prohibition of entry would in all likelihood reduce attempts to obtain a visa or residence permit by fraudulent means. If a third-country national has used false or forged documents or given false/fraudulent information when applying for a residence permit and this is the purpose why an entry ban has been issued, information is entered into the list of those foreigners for whom entry into the Republic of Latvia is prohibited. In Latvia more third-country nationals have used false or forged documents when crossing the external border. In such cases he/she could be convicted of a criminal offence committed in the Republic of Latvia, which is related to illegal crossing of the State border (Criminal Law, Section 284).</p>
	<p><b>Lithuania</b></p>	<p align="center"><b>No</b></p>	<p>This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.</p>
	<p><b>Luxembourg</b></p>	<p align="center"><b>Yes</b></p>	<ol style="list-style-type: none"> <li>1. In Luxembourg entry bans can be jointly issued with a removal decision (article 112 (1) of the modified Law of 29 August 2008 on free movement of persons and immigration) or it can be issued in a separate decision (article 112 (1)). This decision can be issued later even if the person is not anymore on the territory but it is always linked to a removal decision. In the case of expulsion the entry ban is systematically issued with the expulsion decision (article 116 (3)).</li> <li>2. No. Entry bans are only issued in the framework of the law. However, if an alert from another database shows that the person is a risk for public order or national security or the international relations, according to article 34(3), the authorities can refuse</li> </ol>


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			<p>entering in the country. The only case when an entry ban can be issued to a person not residing in the territory it is when it was issued after the removal decision was issued and the person has already left.</p> <p>3. A SIS alert is systematically entered when an entry ban has been imposed on a third-country national, so the entry ban is valid in all the Schengen area.</p> <p>4. It exists a database on the entry and stay of foreigners who reside on the territory of the Grand Duchy of Luxembourg. In that database the data directly collected from the foreigners in regards to their entry and/or stay is stored (article 1 (2) of the Grand-ducal regulation of 26 September 2008 on the creation of processes treating personal data which is needed for the implementation of the Law of 29 August 2008). According to article 39 (1) of the modified Law of 29 August 2008, all the applications for an authorisation to stay, with certain exceptions, have to be filed in the country of origin. The application is transferred to the Directorate of Immigration in Luxembourg. If the Directorate of Immigration considers that a document is a forgery or false, the sanction consists in the refusal of the authorisation of stay. In Luxembourg every application has a unique number and in case of use of false documents or forgeries this information will be entered in the system as part of why the application was rejected. At the moment there is no proof or evidence that the issuing of entry bans have reduced the use of false or forged documents.</p> <p>5. With the exception mentioned in article 112 (1) of the modified Law of 29 August 2008 there is no other possibility to issue an entry ban to a person residing abroad. At the moment there are no plans to introduce this type of measure.</p>
	<p><b>Netherlands</b></p>	<p align="center"><b>Yes</b></p>	<p>1. In the Netherlands there are, under the current Aliens Act, two possibilities. The first possibility is to issue an entry ban, as provided for in the Return directive. This is only an option if the person is a third country national, who has no legal stay in another EU member state and who is still present on EU territory. If the person has legal stay in another EU member state or if he has left EU territory, an entry ban cannot be issued, but an ‘ongewenstverklaring’ can be issued, whereby the person is declared ‘undesired’ and on the basis of which has is not allowed to enter the territory of the Netherlands. This is only a possibility if the person has criminal records and if he is convicted, or on the basis of national security. Whether the person can be declared ‘undesired’ depends on his residence situation and residence record in the NL: if the person never had legal residence, it is relatively easy to declare him ‘undesired’, if there is a conviction on criminal grounds. The names of persons who are declared ‘undesired’ are registered in SIS2, unless the person has legal residence in another MS.</p> <p>2. Only if the person, who is the subject of international sanctions, finds himself on NL/EU territory an entry ban could be issued. Under our law the basis would be public order. We would need to have more information to give a useful reply to the other aspects which you raise in this question.</p> <p>3. See reply to Q1. An entry ban as provided for in the Return directive is valid for the whole EU, the EEA and Switzerland and is registered in SIS2. If no entry ban can be issues with respect to a third country national, but he is declared ‘unwanted’ (‘ongewenstverklaring’), his name will be entered in SIS2 as well, unless the person has legal residence in another MS.</p>

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			<p>4. In such cases no entry ban can be issued, nor can the person be declared 'unwanted' (ongewenstverklaring). In our national database it will, however, be registered that the person has used false or forged documents or given false/fraudulent information.</p> <p>5. No, we have no such plans. We agree, however, that it would be desirable to share such information (as meant in the reply to Q4) with other MSs, for example through registration in SIS2</p>
	<p><b>Poland</b></p>	<p align="center"><b>Yes</b></p>	<p>1. Article 318 of the Act of 12 December 2014 on Foreigners states that the return decision may provide for the prohibition of foreigners` re-entry into the territory of the Republic of Poland or into the territory of the Republic of Poland and other countries of the Schengen area. Thus prohibition of entry may only be ordered on a foreign national in connection with removal from the country when the foreign national is residing in Poland.</p> <p>An entry ban is one of circumstances that result in entering the data of a foreigner into the register of foreigners whose stay within the territory of the Republic of Poland is undesirable and –as a consequence – in refusal of entry. Additionally, the data of a foreigner in the Register of foreigners whose stay within the territory of the Republic of Poland is undesirable may be entered without a return decision with entry ban imposed and without knowledge or consent of a foreigner. Apart from the situation when a return decision with the entry ban has been issued toward a foreigner according to Article 435 of the Act on Foreigners the data of a foreigner shall be entered into the Register and stored, if i.a.1] the foreigner`s entry into or stay within the territory of the Republic of Poland is undesirable due to obligations arising from the provisions of ratified agreements applicable to Poland, 2] it is justified by national security or defence, the protection of public order and safety or the interests of the Republic of Poland, 3] a foreigner has been transferred to a third country on the basis of an international agreement on the transfer and acceptance of persons after detention because of border crossing in violation of legal regulations. Thus the foreigner whose data is entered into the Register shall be refused entry into the territory of the Republic of Poland, even though no formal decision on entry ban is issued. The data of a foreigner is entered into the Register by the Head of the Office for Foreigners if one of the abovementioned circumstances occur. Article 440 of the Act on Foreigners states also that inclusion of data of a foreigner in the Register, extension of the entry`s validity period or deletion the data from the Register shall be made by the Head of the Office, ex officio or upon request by one of the following bodies:</p> <ul style="list-style-type: none"> <li>– the minister of National Defence;</li> <li>– the minister competent for public finance;</li> <li>– the minister competent for foreign affairs;</li> <li>– the Commander-in-Chief of the Police;</li> <li>– the Commander-in-Chief of the Polish Border Guard;</li> <li>– the Head of Internal Security Agency;</li> <li>– the Head of the Foreign Intelligence Agency;</li> <li>– the Head of the Customs Service;</li> <li>– the President of the Institute of National Remembrance – the Chief Commission for the Prosecution of Crimes against the Polish Nation;</li> </ul>

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			<ul style="list-style-type: none"> <li>– a Voivode.</li> </ul> <p>Also a public prosecutor or governmental administration bodies shall always provide the Head of the Office with the available information about the circumstances justifying the entry of the data of a foreigner into the Register or the circumstances justifying the removal of the data from the Register, the suspension or renewal of the period of validity of an entry along with a photograph of a foreigner in his/her possession [Article 441 of the Act].</p> <p>2. Polish Act of 12 December 2013 on Foreigners states that a prohibition of entry only <u>into the territory of the Republic of Poland</u> shall be ruled in case of return decision issued in Poland toward a foreigner under certain circumstances. An entry ban may be issued toward a foreigner who has been granted international protection in another European Union Member State and has had his/her long-term resident's EU residence permit revoked.</p> <p>There are some situations when a foreigner shall be refused entry into the territory of the Republic of Poland, even though no formal decision on entry ban is issued. The said situation occur if foreigner's data is entered into the Register of foreigners whose stay within the territory of the Republic of Poland is undesirable due to following circumstances [selection]:</p> <ul style="list-style-type: none"> <li>– <u>a foreigner has been convicted by a final judgement in:</u> <ul style="list-style-type: none"> <li>○ <u>a country other than a Schengen country – for an offense constituting a crime under Polish law, or</u></li> <li>○ <u>the Republic of Poland or another Schengen state – for an offense to serve a prison sentence for more than one year;</u></li> </ul> </li> <li>– <u>the foreigner's entry into or stay within the territory of the Republic of Poland is undesirable due to obligations arising from the provisions of ratified international agreements applicable to the Republic of Poland;</u></li> <li>– <u>it is justified by national security or defence, the protection of public order and safety or the interests of the Republic of Poland.</u></li> </ul> <p>Apart from the “non-refoulement” rule neither in the Act of 12 December 2013 on Foreigners nor in the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland mention any specific consideration of international obligations when issuing an entry ban to a foreigner is taken into consideration. Only article 62 point 2 of the Act of 12 December 2013 on Foreigners states that if the foreigner's data is entered in the Schengen Information System for the purposes of refusing entry, a national visa may be issued only if there are material reasons for it to be issued, in particular for humanitarian reasons or because of international obligations, taking into account the interest of the state that has made the entry in the Schengen Information System.</p> <p>3. In Poland an entry ban cannot be issue toward a foreigner residing abroad. However, the foreigner whose data is entered into the Register of foreigners whose stay within the territory of the Republic of Poland is undesirable shall be refused entry into the territory of the Republic of Poland, even though no formal decision on entry ban is issued. The return decision issued by Polish Border Guard may provide for the prohibition of re-entry into the territory of the Republic of Poland or into the territory of the Republic of Poland and other countries of the Schengen area and shall determine the period of such a prohibition. A prohibition of re-entry <u>into the territory of the Republic of Poland and other countries of the Schengen area</u> shall be ruled in case of return decision in which:</p> <ul style="list-style-type: none"> <li>– no deadline for voluntary return has been specified;</li> <li>– a deadline for voluntary return has been specified – in case when, within this deadline, a foreigner:</li> </ul>
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			<ul style="list-style-type: none"> <li>○ has not left the territory of the Republic of Poland, or</li> <li>○ has crossed or attempted to cross the border in breach of legal regulations.</li> </ul> <p>A prohibition of re-entry <u>into the territory of the Republic of Poland</u> shall be ruled in case of return decision issued toward a foreigner:</p> <ul style="list-style-type: none"> <li>– who has been granted international protection in another European Union Member State and has had his/her long-term resident's EU residence permit revoked, or</li> <li>– who resided within the territory of the Republic of Poland on the basis of a temporary residence permit in connection with the fact that s/he holds a long-term resident's EU residence permit granted by another European Union Member State [issued also with regards to foreigners` family members] and intends to work or study in Poland or there are other grounds for his/her stay in Poland, the decision on imposing the return obligation on a foreigner shall indicate a European Union Member State in which the foreigner has long-term resident's EU residence permit as the state to which the foreigner is to be returned.</li> </ul> <p>Information regarding an entry ban that had been issued toward a foreigner is collected in the Register of foreigners whose stay within the territory of the Republic of Poland. Pursuant to Article 435 (1) of the new Act on Foreigners of 12 December 2013, the register shall include information regarding a foreigner, if at least one of the following conditions is met:</p> <ul style="list-style-type: none"> <li>– a decision on imposing the return obligation [return decision] has been issued in relation to the foreigner, together with an entry ban into the territory of the Republic of Poland, or an entry ban on the territory of the Republic of Poland and other countries of the Schengen area;</li> <li>– the alien has been convicted in the Republic of Poland for an intentional offense or a tax offense with a fine or imprisonment, or in a country outside the Schengen area - for an offense constituting a crime under Polish law, or in Poland or in another country from the Schengen area – for an offense punished with imprisonment of more than one year;</li> <li>– the entry or residence of the foreigner on the territory of the Republic of Poland is undesirable because of the obligations arising from binding treaties and international agreements concluded by the Republic of Poland;</li> <li>– it is required for reasons of national defence or national security, or the protection of public safety and order, or the interests of the Republic of Poland;</li> <li>– following an initial foreigner`s detention in connection with the crossing of the border in violation of the law, the foreigner is transferred to a third country on the basis of an international agreement on transferring and accepting persons.</li> </ul> <p>In accordance with Article 443 of the Act of 12 December 2013 on Foreigners [the Act came into force on 1 May 2014], the Head of the Office for Foreigners transmits the alien`s data gathered in the Register for the period during which it is stored in the register to the Schengen Information System for the purpose of refusing entry, if the basis for storing data in the Register is one of the following:</p> <ul style="list-style-type: none"> <li>– a final and binding return decision including the re-entry ban into the territory of the Republic of Poland and into other Schengen states, or</li> <li>– a final and legally binding decision issued in a country other than one of the countries of the Schengen area for an offense constituting a crime within the meaning of Polish law or the law of another state from the Schengen area for an offense</li> </ul>
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			<p>punished with imprisonment for a period exceeding one year, or</p> <ul style="list-style-type: none"> <li>– the foreigner’s stay or entry into the territory of Poland is undesirable and constitutes a defence or security threat, or a threat to public security and order, or adversely affects the interests of the Republic of Poland, o</li> <li>– the transfer of an alien to a third country on the basis of an international agreement on the transfer and reception of persons, after stopping the alien due to him/her crossing the border in violation of legal provisions, or</li> <li>– Article 77 Act of 14 July 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union and their family members<sup>1</sup>.</li> </ul> <p>This information, depending on the circumstances of the case, can help in making administrative decisions toward a foreigner [when issuing visas and residence permits]. Thus in certain cases the possibility of including foreigners data to the Register may warn against committing infringements to the binding law in Poland, as foreigners may be issued a negative decision.</p> <p>4. There is no special register where information regarding third country nationals that used false or forged document when applying for right to stay in Poland [visa or residence permit]. For the visa procedure a special IT system Wiza-Konsul is used, where additional information are gathered. In the matters pertaining to the entry of foreigners into the territory of the Republic of Poland, stay within that territory and departure from it, Poland established Registers in cases of foreigners and record of invitations [article 428 of the Act on Foreigners]. In an IT system data of foreigners are maintained. Here an information regarding the purpose of negative decision may be included. Foreigner`s data are stored in:</p> <ul style="list-style-type: none"> <li>– registers of persons: <ul style="list-style-type: none"> <li>o who were granted the entry permit referred to in Article 32(1),</li> <li>o detained within the border zone and brought to the border;</li> </ul> </li> <li>– records of matters relating to: <ul style="list-style-type: none"> <li>o denied stay within the territory of the Republic of Poland,</li> <li>o local border traffic permits,</li> <li>o visas,</li> </ul> </li> </ul>
	<b>Slovak 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>Spain</b>	<b>Yes</b>	<p>1. It is possible to issue entry bans, not only in connection with return procedures, but also for carrying out activities contrary to Spanish interests or to human rights, or for having connections with national or international criminal organizations, or for other judicial or administrative reasons. These reasons could be applicable to persons residing abroad.</p>

<sup>1</sup> The article states that the data of the EU citizen or family member of a non-EU citizen who left the territory of the Republic of Poland as a result of the execution of the return decision taken due to the threat to national defence or national security, or the protection of public safety and order, shall be kept in the Register for a period of 5 years. After this period, the data of the EU citizen or a family member of who is not a EU citizen shall be deleted from the Register.

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			<ol style="list-style-type: none"> <li>2. Our legislation foresees respecting entry bans established through international conventions, but not specifically imposing them for this reason. Such a measure should fit in the reasons given in point 1 of our answer.</li> <li>3. This possibility is seldom used.</li> <li>4. There is an administrative register for applications and decisions taken. However, to know about the reasons for an application having been refused, the individual file needs to be consulted.</li> <li>5. No plans exist to make our legislation more specific on this issue.</li> </ol>
	<b>Sweden</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. It is possible in the situation where it comes to our knowledge after the fact that the person in question has left the country, that he or she did not do that within the given time limit for voluntary departure. All according to the Return Directive. But we do not have the possibility to do so in the situation that you are speaking of in the background information, i.e. when someone has tried to obtain a residence permit from abroad using fraudulent means.</li> <li>2. Not once they have left the country. While still in the country, we can issue an entry ban on the grounds that he or she poses a risk to public order or safety (Aliens Act Chapter 8, Section 21, point 2.)</li> <li>3. Entry bans in general, regardless of in what situation they were imposed, are valid in the entire Schengen area plus Bulgaria and Romania. An entry ban is registered in the SIS system.</li> <li>4. No, no such register exists and the question on evidence is not relevant for Sweden.</li> <li>5. No.</li> </ol>
	<b>United Kingdom</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Yes, in the UK individuals who have broken the UK immigration law and are returned to their home country have their details including the date and method of departure flagged on the Warnings Index. A re-entry ban may be applied if an individual seeks to re-enter the UK at a port of entry or applies for entry clearance at a visa point abroad.</li> <li>2. Anyone who poses a risk to national security would also be refused entry to the UK. The Secretary of State can direct that the exclusion of a person is conducive to the public good. For example, because of the applicant's character, conduct or associations, it is undesirable to give them leave to enter.</li> <li>3. UK re-entry bans cover only national territory and do not apply to the entire EU. The UK is not part of the Schengen Information System (SIS) and does not record re-entry bans on another intra-governmental database. Some governments will be advised of enforced returnees, particularly those returning on charter flights; however this does not explicitly mean that these individuals will receive a re-entry ban. A re-entry ban would only be imposed if the individual sought to re-enter the UK.</li> </ol>



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			<p>4. If an applicant has broken the immigration law by using deception this will be recorded on the Warnings Index and the individual will be banned from re-entering the UK (unless refusal of leave to enter would be contrary to the Human Rights Convention or the Convention and Protocol relating to the status of refugees. The re-entry ban for use of deception is 10 years. There has been no formal evaluation of the use of re-entry bans in the UK.</p> <p>5. N/A</p>
	<p><b>Norway</b></p>	<p align="center"><b>Yes</b></p>	<p>1. YES Norway usually issues an entry ban in case of violations of Norwegian Immigration Law, as for example in the case of unauthorized residence or unlawful employment, or in the case of fines or prison sentences for illegal actions.</p> <p>2. Being subject to international sanctions is not an independent ground/ reason alone for issuing an entry ban according to Norwegian Law. We don't have concrete examples of such cases, but should there be any, it would fall under "when fundamental national interests make it necessary", which is reason alone to issue a re-entry ban. (according to Norwegian Immigration Law § 66) We are required to make an individual evaluation of whether a re-entry ban is a reasonable measure in every case. It is not very common that international humanitarian obligations play a decisive role in determining the issuance of a re-entry ban when the person involved resides abroad. Is the consideration of international obligations included in your national legislation or in implementation guidelines of the legislation? Such considerations are included in Norwegian Immigration Law, § 70.</p> <p>3. As a rule, entry bans issued in these cases apply to the entire Schengen area. Do you record information regarding a person who has been issued an entry ban in the SIS-system or in another intra-governmental database? Norway records issuance of entry bans in the SIS-system.</p> <p>4. Norway does not have their own register for this purpose. However, information of this nature will be available in the national criminal register or in the Norwegian Computer System for Immigrant and Refugee Cases (DUF). Are there other sanctions than an entry ban that can be the result of giving false information? Giving false information to authorities in Norway is punishable by law and can lead to fines or prison sentence. Do you have evidence that proves that the issuing of entry bans for persons residing abroad, has had an effect of reducing the use of false information when applying for a visa or a residence permit? We do not know of any such studies or evaluations about this.</p> <p>5. N/A</p>

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