



Ad-Hoc Query on Control of Foreign Nationals

Requested by FI EMN NCP on 19th November 2013

Compilation produced on 21st March 2014

Responses from [Czech Republic](#), [Estonia](#), [Finland](#), [Hungary](#), [Italy](#), [Latvia](#), [Lithuania](#), [Luxembourg](#), [Malta](#), [Netherlands](#), [Poland](#), [Portugal](#), [Slovak Republic](#), [Sweden](#) and [United Kingdom](#) (15 in Total)

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1. Background Information


In Finland, the second national Action Plan against Illegal Immigration covering the years 2012–2015 has been drafted in the spirit of the EU's integrated border management strategy. The need to update the legislation concerning control of foreign nationals was detected while drafting the national Action Plan and a legislative project was launched in order to lay down express provisions on the competence of authorities to carry out control of foreign nationals.

In order to gather information about the practice and legislation of other EU Member States and Norway we would like to pose the following questions:


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1. How is the concept *control of foreign nationals* defined in your national legislation?
2. Which are the competent authorities and what kind of competence they have in order to carry out inland control of foreign nationals?
3. Is there national legislation on the competence of authorities to control, whether foreign nationals are residing legally in your country? If yes, please define.
4. How is the control of foreign nationals carried out in practice? How are the subjects of control measures chosen?
5. Do administrative authorities (e.g. The Immigration Service) have a mandate to execute control measures? Are they for instance empowered to subsequently supervise whether the requirements for a residence permit are still met?

2. Responses

		Wider Dissemination?	
	Czech Republic	Yes	<p>Indeed, control of foreign nationals or the authorization of the Police thereto is defined in the legislation: 1. - 3.</p> <p><u>Act on the Police</u> (No. 273/2008 Coll.) stipulates that:</p> <ul style="list-style-type: none"> • A policeman is authorized to detain/arrest a foreign national based on assumption that he/she entered or is staying in the territory without authorization. (Section 27, 1d) • A policeman is authorized to ask for identification a person staying in the area where the presence of foreign nationals without valid residence permit or visa may be reasonably assumed. (Section 63, 2b) <p><u>Act on Residence of Foreign Nationals</u> (No. 326/1999 Coll.) stipulates that:</p> <ul style="list-style-type: none"> • The Directorate of Alien Police Service carries out residence checks. (Section 163, 1q) • Regional departments of Alien Police Service carry out residence checks. (Section 164, 1c) • The Police are authorized to carry out residence checks of a foreign national for the purpose of ascertaining whether he/she is residing legally and whether he/she meets the conditions for such residence as stipulated by this Act; a foreign national or any other persons for the purpose of ascertaining whether they comply with the obligations stipulated by this Act (Section 167, 1d) • The Police are authorized to enter accommodation facilities and check the register of accommodated persons. (Section 167, 1f) • When carrying out residence control the Police are authorized to enter the premises of employers of foreign nationals if there is reasonable assumption that the foreign nationals stay here. (Section 167, 2) <p>4. Residence checks are carried out in various forms and their purpose is mainly to verify whether the foreign national is in compliance with the declared purpose of his/her stay. Targeted residence checks are focused on a specific negative phenomenon such as irregular employment of foreign nationals or places where the presence of irregularly staying foreign nationals can be expected (hostels, railway stations).</p>



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			<p>5. Yes, during proceedings for extension of a stay in the country, the foreign national’s compliance with the declared purpose of his/her stay is also verified.</p>
	<p>Estonia</p>	<p>Yes</p>	<p>1. How is the concept control of foreign nationals defined in your national legislation? According to the Estonian Aliens Act § 296 section 1 the Police and Border Guard Board, Security Police and the Estonian Unemployment Insurance Fund have, according to their competence, the right to interview an alien, his or her family members and other persons and agencies concerned. The above mentioned agencies have also the right to enter, with the permission of a person, a person’s dwelling or other room or area or a territory of a legal entity to perform supervisory functions of the facts regarding the temporary stay, residence and employment in Estonia of an alien and the absence from Estonia of an alien. Section 2 of the fore mentioned paragraph states that an alien, his or her family member, his or her employer and other person or agency concerned are required to cooperate, be subject to the supervisory measures applied to him or her and, at the request of the Police and Border Guard Board and the Security Police, to verify the facts of the temporary stay, residence and employment in Estonia and of the absence from Estonia of an alien. An employer is required to provide the Police and Border Guard Board and the Security Police with an immediate access to the workrooms, employees, data and documents pertaining to aliens employed by the employer (Aliens Act § 296 section 3). Without prejudice to the person’s citizenship Police and Border Guard Board may question a person if there is reason to believe that the person has information necessary for ascertainment or countering of a threat or for elimination of a disturbance or for guaranteeing the safety of a protected person or a guarded object (Police and Border Guard Act § 7¹⁶ section 1). For establishment of identity the Police and Border Guard Board has the right without prejudice to the person’s citizenship to stop a person and require him or her to present a valid identity document and to obtain statements enabling the establishment of identity, including information on the person’s place of residence and biometric data (Police and Border Guard Act § 7¹⁸ section 2).</p> <p>2. Which are the competent authorities and what kind of competence they have in order to carry out inland control of foreign nationals? The competent authorities are the Police and Border Guard Board, the Security Police and the Estonian Unemployment Insurance Fund based on their competence. The main actor in this field is the Police and Border Guard Board which also has the power to conduct the extra-judicial proceedings concerning the misdemeanours provided for in the Aliens Act.</p> <p>3. Is there national legislation on the competence of authorities to control, whether foreign nationals are residing legally in your country? If yes, please define. As stated already previously the Police and Border Guard Board has the right to interview an alien, his or her family member and other persons and agencies concerned. The alien, his or her family member and other persons or agencies concerned are required to cooperate with the Police and Border Guard Board. According to the § 19 section 1 of the Aliens Act an alien and other person concerned is obliged to cooperate in every way in the clarification of the facts relevant to the proceedings in the organisation of the entry into Estonia, the temporary stay, residence and employment in Estonia and the departure from Estonia of an alien.</p>


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			<p>4. How is the control of foreign nationals carried out in practice? How are the subjects of control measures chosen? The officials of the Police and Border Guard Board carry out regular control and themed operations. The control carried out can roughly be divided into two. Firstly control with an aim to verified whether the third country national is using the issued legal basis for stay purposefully and is not misusing the system. Secondly control with an aim to discover illegally staying working third country nationals. The regular control and themed operations are carried out based on the previous risk assessment and risk analysis on both cases. The subjects of control are selected based on the risk analysis carried out or based on operative information gathered. The risk assessments and analysis's are composed and modified regularly.</p> <p>5. Do administrative authorities (e.g. The Immigration Service) have a mandate to execute control measures? Are they for instance empowered to subsequently supervise whether the requirements for a residence permit are still met? As already stated before the responsible administrative authorities have the mandate to execute control measures and the control measures can be applied with a purpose to control the use and detect the misuse of legal basis for stay or to control the legal basis for stay/work and combat illegal stay/work.</p>
+	Finland	Yes	<p>1. How is the concept control of foreign nationals defined in your national legislation? There is no specific definition for this concept in our contemporary legislation. The only regulation concerning control of foreigners is section 212 of the Finnish Aliens Act which states that "The Finnish Immigration Service, police and the Border Guard supervise compliance with the provisions of this Act and any provisions issued under it."</p> <p>2. Which are the competent authorities and what kind of competence they have in order to carry out inland control of foreign nationals? It is the task of The Finnish Immigration Service, police and the Border Guard to supervise, but there is no specific legislation or regulation concerning the authority or the competence or of these authorities to fulfil this duty. Section 130 of the Finnish Aliens Act: "At the request of the police or other authorities processing a matter concerning an alien, the alien shall present his or her travel document or prove his or her identity in some other reliable manner." This section only obliges foreign nationals to obligation to prove his or her identity, but it does not give authorities any powers.</p> <p>3. Is there national legislation on the competence of authorities to control, whether foreign nationals are residing legally in your country? If yes, please define. There is no specific regulation concerning the authority of the police or other authorities to conduct general control of foreign people. For instance to ask a random person on a street to prove, that he or she is residing legally in Finland.</p> <p>4. How is the control of foreign nationals carried out in practice? How are the subjects of control measures chosen? The Police and the Border Guard have carried out control of foreign nationals, for example by organizing nationwide themed surveillance operations. Themed surveillance consists of analysis-based surveillance in which the Police are tasked with verifying the existence of foreign nationals' right of residence. Based on analysis, the surveillance measures are directed at areas where public disturbances are a</p>

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			<p>particular problem or where illegally resident foreign nationals might with reason be presumed to be present. Themed surveillance events are often coordinated to last one week and concern specific targets determined through analysis. One key target of themed surveillance has been businesses known to have foreign employees.</p> <p>In a decision issued by the Deputy Parliamentary Ombudsman on a complaint (8 August 2011, 3695/4/09), it is held that section 212 of the Aliens Act is by legal nature an administrative duty rule. According to the decision, the Police or the Border Guard have no powers based in law to conduct, for surveillance purposes, inspections of premises subject to public peace such as business premises or construction sites.</p> <p>There is no legislation which would indicate how the subjects of control measures should be chosen. The main principle is that no one can be chosen as a subject of control measures due to their appearance.</p> <p>5. Do administrative authorities (e.g. The Immigration Service) have a mandate to execute control measures? Are they for instance empowered to subsequently supervise whether the requirements for a residence permit are still met?</p> <p>Under section 58 of the Finnish aliens act a fixed-term residence permit may be cancelled if the grounds on which the permit was issued no longer exist. Under the section 212 of the Finnish aliens act the Finnish Immigration Service has the duty to supervise compliance with the provisions of the Act, but there is no legislation concerning the authority of the Finnish Immigration Service to conduct control measures.</p> <p>In practice the Finnish Immigration Service investigates afterwards whether the grounds on which the permit was issued exists, only if there is information or suspicion, which indicates that the ground does not exist anymore.</p> <p>In Finland current situation concerning authority of the Finnish Immigration Service to carry out control of foreign nationals is indeterminate.</p>
	<p>Hungary</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. The relevant Act II of 2007 on the Entry and Stay of Third-Country Nationals and its implementing Governmental Degree (Nr. 114/2007) has provisions on the Control of Third-Country Nationals. The immigration authority (Office of Immigration and Nationality) or the Hungarian Police can check the travel documents and other personal identification documents of the foreign nationals in order to identify their right to reside in Hungary. 2. The immigration authority (Office of Immigration and Nationality) and the Hungarian Police. 3. See point 1. 4. The Office of Immigration and Nationality mainly controls those places (e.g. place of stay, workplace, etc), which are registered during the administrative procedures of the foreign citizens, in order to verify the data submitted by the foreign citizens. The Hungarian Police conducted in land control based on the relevant risk-analyses (mainly along the main motorways in Hungary). 5. Yes, the Office of Immigration and Nationality has the power to execute control measures. See answers in point 4.
	<p>Italy</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. A legal definition of "control of foreign nationals" does not exist in Italian law. The definition is rather inferred from a set of rules contained in the "Consolidated Law on Immigration" (<i>Testo Unico sulle Leggi sull'Immigrazione</i>). In particular, the control activity is related to the "legality of entry and stay". This means that the legal requirements that allow for the entry and residence of third-country


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			<p>nationals in Italy must be verified, both from the point of view of the possession of necessary documents (passport, visa, residence permit) and with reference to the use of these documents, particularly with regard to the carrying out of activities authorized by the relevant type of residence permit and the possession of financial means for the maintenance themselves and their family members;</p> <p>2. In Italy, the activity of territorial control is entrusted to all police forces operating at the national level (State Police, Carabinieri, Finance Guard, the Forest Corps and - with some limitations - the Prison Guard) as well as to the Municipal and Provincial Police. Consequently, all members of these police forces may carry out identity checks, as well as formally verify the regularity of the residence permits (that is, they can verify if the foreign national is the holder of the residence documents). The results of the monitoring and verification of any abuse related to residence permits held are forwarded to the Immigration Office of the Headquarters (National Police), which is the only competent authority allowed to take measures resulting from the inspection, such as deportation or revocation of the residence permit.</p> <p>3. Please refer to the answer given in the previous paragraph;</p> <p>4. Normally, the control of foreigners is ordered by the Police Commissioner at the provincial level, but this does not exclude that other law enforcement agencies or other similar entities (e.g. Carabinieri, local police (municipal) or the labor inspectorate), can carry out inspections independently, usually by informing the police in advance. These activities, as a rule, are not aimed at the mere control of the legal status of the foreigners' presence, but have as their objective the prevention or prosecution of criminal offenses or administrative violations in the context of the legal and illegal activities in which foreign nationals are usually employed (construction sites, farms, night-life activities, etc.). Nevertheless, under certain circumstances (e.g. serious crime or public order disturbances in neighborhoods or in areas with a high density of foreigners) police operations have as their sole objective the control of foreigners and the verification of their regularity.</p> <p>5. Yes, this responsibility is entrusted exclusively to the Immigration Office of any police station.</p>
	<p>Latvia</p>	<p>Yes</p>	<p>1. How is the concept control of foreign nationals defined in your national legislation? A definition of a foreigner is provided in the Chapter 1, Section 1, Clause 1 of the Immigration Law; foreigner - a person who is not a Latvian citizen or non-citizen of Latvia. In accordance with the Paragraph 1 of Section 3 of the Immigration Law the entry and residence of foreigners in the Republic of Latvia shall be documented and controlled by the Office of Citizenship and Migration Affairs, State Border Guard, diplomatic and consular representations of the Republic of Latvia and the Consular Department of the Ministry of Foreign Affairs in accordance with their competence. In accordance with the Border Guard Law Section 13, Clause 15 one of the tasks of the State Border Guard is to control how the regulations on the entry, residence, exit and transit of foreigners and stateless persons are observed in the territory of the Republic of Latvia, as well as within the scope of their competence, to perform the activities provided for in the Asylum Law Control of how the entry, residence, exit and transit regulations are observed in the territory of the country in accordance with the terminology approved by the State Border Guard is called immigration control and it is not equal to border control.</p>


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<p>2. Which are the competent authorities and what kind of competence they have in order to carry out inland control of foreign nationals?</p> <p>The entry and residence of foreigners in the Republic of Latvia shall be documented and controlled by the Office of Citizenship and Migration Affairs, State Border Guard, diplomatic and consular representations of the Republic of Latvia in accordance with their competence.</p> <ol style="list-style-type: none"> 1. State Border Guard - control the entry and residence of foreigners in the Republic of Latvia also controls the employment of foreigners (physical checks within the country). 2. Office of Citizenship and Migration Affairs – examines documents submitted for receipt of visa, residence permit, work permit (does not perform physical checks within the country). 3. Diplomatic and consular representations of the Republic of Latvia – issues visas. <p>The Office of Citizenship and Migration Affairs and the State Border Guard also have the right to draw up an administrative violation report regarding violations of the procedures for the entry and residence of foreigners.</p> <p>3. Is there national legislation on the competence of authorities to control, whether foreign nationals are residing legally in your country? If yes, please define.</p> <p>Immigration Law, Border Guard Law, Latvian Administrative Violation Code, Cabinet Regulation No 676 of August 30, 2011 „Visa Regulations”, Cabinet Regulation No 564 of June 21, 2011 „Regulations Regarding Residence Permits”, Cabinet Regulation No 553 of June 21, 2010 „Regulations Regarding Work Permits for Third-Country Nationals”, Cabinet Regulation No 675 of August 30, 2011 „Procedures for the Entry and Residence in the Republic of Latvia of Citizens of the Union and their Family Members”, Cabinet Regulation No. 159 of March 3, 2011 „Local Border Traffic Permit Regulation”.</p> <p>4. How is the control of foreign nationals carried out in practice? How are the subjects of control measures chosen?</p> <p>In order to establish violations of condition of stay of foreigners and discover foreigners illegally residing in the country, the State Border Guard units independently and in collaboration with the Office of Citizenship and Migration Affairs, the State Police and the State Labour Inspectorate of the Ministry of Welfare throughout the country carry out field checks and preventive measures to combat illegal immigration.</p> <p>According to the Paragraph 3, Section 3 of the Immigration Law the Office of Citizenship and Migration Affairs and State Border Guard for the performance of their duties shall establish and maintain electronic information systems, the amount of information to be included and procedures for use of which shall be determined by the Cabinet.</p> <p>All checks carried out within the territory of the country are performed on the basis of information coming prior from the information systems, from the cooperation with other authorities, as well as proactively taking control of immigration within the country (on a random basis, taking account of risk analysis, an analysis of the crime situation in order to combat cross-border crime, monitor road traffic safety,</p>
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			<p>as well as compliance with the entry, residence, exit and transit conditions throughout the country)</p> <p>The State Border Guard officers carrying out immigration control across the territory of the country have the right to check the identity documents as well as the lawful residence of a foreigner. Foreigners are obliged on the request from the State Border Guard officer to provide documentary evidence to prove his identity and the legality of residence, under the Section 5 of Part 3 of the Immigration Law and general procedures for the entry and residence of <u>third-country nationals</u> of the Article 5 of the Schengen Borders Code, Section 4 of the Immigration Law, but for the <u>EU citizens</u> – Article 5, Paragraph 1 of the European Parliament and Council Directive 2004/38/EC (April 29, 2004) and Paragraph 15 of the Cabinet Regulation No 675 of August 30, 2011.</p> <p>5. Do administrative authorities (e.g. The Immigration Service) have a mandate to execute control measures? Are they for instance empowered to subsequently supervise whether the requirements for a residence permit are still met?</p> <p>See the answers provided above.</p>
	<p>Lithuania</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. Law on the legal status of aliens does not define control of foreign nationals. Article 4 indicates authorities responsible for the control of lawful stay and residence of aliens. The lawful stay and residence of aliens in the Republic of Lithuania shall be controlled by the police, the Migration Department under the Ministry of the Interior, the State Border Guard Service under the Ministry of the Interior, in association with state and municipal institutions and agencies of the Republic of Lithuania. 2. Migration department within its scope of competence controls stay and residence of aliens in the Republic of Lithuania (for example is authorised to take decisions on return, revocation of residence permits); analyses reasons of illegal migration and, in cooperation with the State Border Guard Service and the Police department under the Ministry of the Interior carries out prevention of illegal migration. State Border Guard Service participates in implementing control of migration processes (controls lawful stay of aliens, collects and analyses information on migration flows) and controls third country nationals' arrivals through the EU external border. Police controls lawful residence of third country nationals in the Republic of Lithuania State labour inspectorate carries out control of illegal work phenomenon (including illegal work of third country nationals) and specifies sectors at the high risk level, where work force of third country nationals is used. Migration services are planning and implementing control and prevention measures in the field of illegal migration, summarise the results, analyse changes of migration processes, provide suggestions to improve control of migration processes at national level. 3. Functions and competences of the authorities are defined in particular laws (Law on the legal status of aliens, State border guard law, Police action law) 4. Through Migration services Police verifies if the third country national, who is applying for the temporary residence permit, fulfils all requirements stipulated by law in order to get a permit and if his/her declared purpose of arrival is in accordance with reality. Migration services can interview an applicant (for example, assess if the marriage is not that of convenience), carry out checks, receive information from other state authorities (for example, State tax inspectorate for the taxes paid or incomes received by the third country nationals). State Border Guard Service carries out surveillance of the external borders (installation of modern technologies), controls arrivals of aliens (officers have access to various databases, for example, on persons who has an entry ban to Lithuania, invalid/forged documents etc.),

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			<p>considering risk factors carry out verification at the border, participate in the visa consultation mechanism.</p> <p>State Labour Inspectorate carries out inspections at the workplaces with an aim to check if workers (including third country workers) are employed according to existing rules and if exploitative practices are not used.</p> <p>5. Yes</p>
	Luxembourg	Yes	<p>1. In Luxembourg the modified Law of 28 August 2008 on free movement of persons and immigration does not define “control of foreign nationals”. However, chapter 6 of the Law establishes “The controls”.</p> <p>2. The competent authorities to do the controls are:</p> <p>a. The Minister in charge of immigration: The minister can order any control to verify if the conditions of entry and stay for foreigners are fulfilled (article 133 (1)). The minister can check the accuracy of the data in regard to the condition of entry and stay of EU and EEA citizens. However in this case the checks cannot be systematically. (Article 133 (2)). The Minister is entitled at any moment to perform specific controls when there are presumptions of fraud or that the marriage, partnership or adoption was only concluded for the entering and staying in the country (Article 133 (3)). The Minister is able to have direct access different databases by computer system (article 138).</p> <p>b. The agents of the Grand-ducal police: The grand-ducal police have in its competences and attributions the surveillance and the control of foreigners, in accordance with the instructions of the Minister in charge of immigration (article 134). The police can require of any foreigner the production of the documents that allow him to entry or stay in the territory (article 136 (1)). The police agents are authorised to withhold the travel document of an irregular migrant (article 136 (2)).</p> <p>c. The Central Unit of the Airport Police based at the Luxembourg International Airport (Findel) is in charge of the control of the persons at the airport. This unit depends directly on the Grand-ducal police (Article 135).</p> <p>d. The agents of the Customs and Excise Administration can perform certain controls on foreigners if authorised by the law (Article 134).</p> <p>e. The agents of the Inspectorate of Labour and Mines (ITM) can perform any checks and verification of work permits of foreigners in any working place (article 137).</p> <p>3. Yes. See 2.</p> <p>4. In practice the police, the agents of the Customs and Excise Administration and the ITM agents can perform random controls. The ITM agents can perform them on the workplace. In regards to companies and sites, these control scan be performed at any time of day or night (article L-614-3 of the Labour Code).The police can control any person that looks or acts suspicious. Also the Judicial Police, Foreigners Service, can control the entry and stay of any foreigner at the request of the Minister in charge of Immigration or the Directorate of Immigration if there is suspicion that the limits and conditions of the residence permit had been violated.</p> <p>5. Yes. The Minister of Immigration can proceed to perform any control on entry and stay of any third country national in accordance with article 133 (1). Normally this function can be executed by the personnel of the Directorate of Immigration and the Grand-ducal police</p>


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			(Judicial Police, Foreigners Service). The Immigration Law requires that the administrative authority supervises whether the requirements for a residence permit are still met especially at the renewal of the residence permit (i.e. see salaried worker (article 43 (4)), highly-qualified worker (article 45-1 (2)), transferred worker (article 47 (4)), posted worker (article 48 (3)), self-employed (article 52 (2)), sportsmen (article 54 (3)), student (article 57 (1)), trainee (article 61 (2)), researcher (article 64 (2)) and family member (article 74 (1)), private reasons (article 79 (1)), long-term residence permit (article 82 (2)), or in case the TCN had violated the limits of the residence permit in which case the authority can revoke it.
	Malta	No	This EMN NCP has provided a response, however they have requested that this is not disseminated further.
	Netherlands	Yes	<p>1. How is the concept control of foreign nationals defined in your national legislation? There is no specific definition for this concept in our contemporary legislation. However in policy regulations (vreemdelingen circulaire part A) the control of foreign nationals is defined as: “control of foreign nationals consists of supervision in order to combat irregular migration, the supervision within national borders and supervision resulting from registration of third country nationals. Multiple sections of the Dutch Aliens Act deal with questions regarding the competent authorities and qualifications.</p> <p>2. Which are the competent authorities and what kind of competence they have in order to carry out inland control of foreign nationals? Police The ‘Vreemdelingenpolitie’ (police department dealing with ((irregular) immigrants) is part of the regional police forces. It is engaged in the supervision of the legal stay of third-country nationals. This Police department aims its efforts in particular at preventing cases of abuse (abuse and exploitation) and at preventing and combating the disturbance of public and legal order. With this the police want to contribute effectively to combating irregularity and as a result to security in the Netherlands. The most important tasks of the ‘Vreemdelingenpolitie’ are the following: Dealing with criminal migrants; Dealing with irregular migrants causing nuisance; Tackling migration-related crime (e.g. trafficking in human beings and forgery of documents); Preventing all forms of fraud by irregular migrants and engaging other public and private organisations in this. In addition, the ‘Vreemdelingenpolitie’ performs administrative supervision. The purpose of this is to frustrate unwanted influx and unwanted stay. This is achieved partly by enforcing the obligation to report for people who are present in the Netherlands for a short stay. This is linked to checking actual departure.</p> <p>Royal Netherlands Marechaussee Part of the Ministry of Defence is the Royal Netherlands Marechaussee. The Royal Netherlands Marechaussee is a police organisation with military status and has a wide range of tasks in the context of national and international security. As far as inland control is concerned the Royal Netherlands Marechaussee has a specific task in performing mobile security monitoring at the internal borders.</p> <p>Social Affairs and Employment Inspectorate (Ministry of Social Affairs and Employment) The Social Affairs and Employment Inspectorate began its operations on 1 January 2012. This Inspectorate is a merger of the organisations and activities of the Labour Inspectorate, the Work and Income Inspectorate, and the Social Security Intelligence and Investigation Service of the Ministry of Social Affairs and Employment. In the context of irregular migrants, it is its priority is to identify, locate, and tackle illegal employment, ousting of regular employees by irregular employees,</p>


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		<p>and other forms of fraud and abuse that cause unfair competition on the labour market.</p> <p>3. Yes.</p> <p><i>Constitution</i> Section 2 of the Dutch Constitution assigns the entry and removal of third-country nationals to the legislature. The legislature regulated this in the Aliens Act 2000.</p> <p><i>Aliens laws and regulations</i> The substantive national sources of Dutch aliens laws can be found in the above-mentioned Aliens Act 2000 and in subordinate legislation including the Aliens Decree 2000, the Aliens Regulations 2000, and the Aliens Act Implementation Guidelines 2013. These substantive sources regulate, among other things, entry, stay, aliens supervision, and return. In order to enforce the provisions of the Aliens Act and, in particular, of the restrictive entry policy, aliens law and regulations also contain a large number of legal instruments. In addition to the required identification and residence documents which a third-country national is obliged to hold, there are various statutory regulations that oblige the third-country national to provide information about his residence or living situation. Apart from this, the law provides various possibilities of restricting the freedom of third-country nationals or depriving them of their liberty. For the purpose of combating illegal stay, the measures contained in Section 56 (restriction of freedom) and Section 58 (deprivation of liberty) of the Aliens Act are of particular importance. These measures may be imposed to ensure removal. The most far-reaching measure of deprivation of liberty provided by the Aliens Act is detention, which is regulated by Section 59 of the Aliens Act. Aliens detention is an administrative measure for the purpose of removal.</p> <p>4. How is the control of foreign nationals carried out in practice? How are the subjects of control measures chosen? In practice irregular immigrants can become a subject of control when they have to declare about their identity because of criminal offences or during supervision of working conditions (with the inspectorate responsible for working conditions). Direct control of individuals and businesses are executed when the authorities have strong indications of irregular migration, exploitation or human trafficking. The authority who is responsible for border control or supervision of third country nationals have the competence to maintain individuals in order to determine his/ her identity, nationality and legal status. To be allowed to use this competence there must be a reasonable suspicion of irregular stay according to objective criteria. A reasonable suspicion of irregular stay can be presumed in the following situations:</p> <ul style="list-style-type: none"> • Information from governmental organizations such as the communal social service or inspectorate for working conditions; • Indications from investigation of the police; • Indications gained during control of personal records within the scope of normal police tasks; • Control of a residence or company in which irregular immigrants were located previously; • Control of passengers of a vehicle in which the driver appeared to be an irregular migrant during a traffic control; • Vehicles that transport individuals to companies in which irregular migrants were located in the past; • Concrete anonymous tips about irregular migrants; • A suspect of a crime who is not able to show identification; • An occasion or location where many foreign nationals tend to stay and of which the police presumes that irregular immigrants often attend;
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			<ul style="list-style-type: none"> • A reasonable suspicion of human trafficking; • A reasonable suspicion of illegal employment; • A reasonable suspicion of prostitutes who reside in the Netherlands irregularly <p>In order to make supervision as effective as possible the supervision of foreign nationals is carried out as much as possible due to sharing and analysis of information from all relevant players. The control of foreign nationals is prioritized with the highest priority on criminal foreign nationals and migration related fraud (like fake marriages), second priority on foreign nationals who cause nuisance and finally administrative supervision according to a theme that is chosen periodically by all the relevant stakeholders.</p> <p>The supervision of foreign nationals is carried out on the basis of targetgroup approach. The cooperation between the stakeholders - both directly responsible for the supervision of foreign nationals stakeholders and dealing with foreign nationals in other ways (like municipalities) – is one of the topics the Dutch government invests in at the moment. Another topic is to improve the ability of information driven supervision (based on the analyses of all relevant information).</p> <p>5. Yes the Immigration Service has a mandate to execute control measures. The Immigration Service is empowered to supervise whether the requirements for a residence permit are still met.</p>
	<p>Poland</p>	<p>Yes</p>	<p>1. There is no particular definition of <i>control of foreign nationals</i> in national legislation of Republic of Poland.</p> <p>2. The key actors authorized to carry out inland control of foreign nationals are: Minister of Interior (www.msw.gov.pl) - leading authority in the field of migration, competent inter alia with respect to: repatriation, and border control and control of legality of entrance and stay of foreigners on the territory of Poland. Moreover, the Ministry of Interior is responsible for carrying out the policy to combat trafficking in human beings. The Minister of Interior supervises the activities of the following state agencies: Head of the Office for Foreigners (www.udsc.gov.pl) – the authority carrying out the executive tasks relating to, inter alia: international and national protection of foreigners (first instance), legalization of stay, expulsions of foreigners (appeal instance). <i>May conduct controls of the legality of foreigners' stay.</i> Border Guard (www.strazgraniczna.pl) is responsible for: border control and authorization to enter (issuing appropriate decisions i.e.: to refuse entry to the territory of Poland), receiving applications for refugee status, enforcing decisions on expulsion, issuing decisions on obligation to leave the territory of Poland, <i>conducting controls of the legality of foreigners' stay and employment.</i> Police (www.policja.pl) is: <i>conducting controls of the legality of foreigners' stay</i>, participating in the expulsion procedure, issuing decisions on the obligation to leave the territory of Poland. National Labour Inspectorate (www.pip.gov.pl) is an authority which <i>conducts controls in the field of: the legality of foreigners' employment and performing work by foreigners, management principles of the employment agencies (including those for temporary employment).</i> Voivods are inter alia responsible for: granting residence permits and issuing work permits (lower instance), recognition of a foreigner as a Polish citizen, issuing decisions on expulsion. <i>They may conduct controls of the legality of foreigners' stay.</i> Custom Service (http://www.mf.gov.pl/sluzba-celna) <i>may conduct controls of the legality of foreigners' stay.</i> Ministry of Economy defines the business environment (what refers also to foreigners willing to carry out business activity).</p>


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			<p>Ministry of Health defines the conditions of access of foreigners to health care service.</p> <p>Ministry of Science and Higher Education: recognizes foreign credentials for both academic and professional purposes.</p> <p>Refugee Board (www.rada-ds-uchodzcow.gov.pl): is the appeal instance body with regard to proceedings to grant refugee status, makes analysis of the jurisdiction of law matters relating to granting or withdrawing refugee status.</p> <p>3. There is national legislation on the competence of authorities to control: Act on Foreigners of 13 June 2003 (Journal of Laws of 2011, No 264, it. 1573), however new Act on Foreigners will enter into force on 1 May 2014 Act on Polish Border Guard of 12 October 1990 (Journal of Laws of 2011, No 116, it. 675) Act on National Labour Inspectorate of 13 April 2007 (Journal of Laws of 2012 it. 404) Regulation of the Minister of the Interior and Administration of 19 November 2009 on the method of conducting control of legality of foreigners' stay on the territory of the Republic of Poland (Journal of Laws No 207, item 1600).</p> <p>4. As regards to the control of legality of stay of a foreign national § 1 of the Regulation of the Minister of the Interior and Administration of 19 November 2009 on the method of conducting control of legality of foreigners' stay on the Polish territory states that the control activities are carried out by at least two officers, who have the relevant authorizations containing the indication of the legal basis, identification of the control agency, date and place of issue, name and surname of officer authorized to perform the inspection and number of his/her badge, as well as name and address of the company to be controlled, the extent of control, date of commencement and the anticipated date of completion of inspection, the signature of the person granting the authorization stating their position or function, and instruction on the rights and obligations of the controlled entity. The Border Guard can also carry out inspections of companies, households and individuals employing foreigners, as well as foreigners running their own businesses in Poland and foreigners working in Poland (independently or in cooperation with the National Labour Inspectorate). The National Labour Inspectorate (PIP) is competent to review the legality of employment resulting from the conclusion of contracts of employment. The control of legality of the stay of foreigners on the Polish territory consists in requesting the foreigner to present documents or permits authorizing him/her to stay in Poland, the financial means necessary to cover the costs of such stay and the documents authorizing the foreigner to perform work or business activities.</p> <p>5. There are no mandates to execute control measures.</p>
	Portugal	Yes	<p>1. The Portuguese internal security Act (Act n.º 53/2008, 29th August) defines as a special measure of police searches to detect the presence of (...) people (...) illegally staying in the national territory (...) as well as conducting surveillance activities in stores and other public places or open to the public.</p> <p>2. The competent authorities are SEF as the national authority for the entry, permanence, exit and removal of foreigners as well for the technical assistance and implementation of the national policies on immigration and asylum. SEF still has as mission study and promote</p>

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			<p>measures and actions related to national policies on immigration, asylum and borders and is the entity responsible for national statistics on immigration and asylum, and in connection to immigration, one must emphasise the roles of the law enforcement authorities, such as the Republican National Guard (GNR) and the Public Security Police (PSP) in the actions of control and inspection of immigrants in national territory. The Maritime Police holds the competence to control de coast, the maritime public zone, and the national territorial waters. In the maritime areas under Portuguese sovereignty and jurisdiction the major illicit acts taking place are drug trafficking and illegal immigration, both of which are repressed by the Criminal Police (PJ) and by SEF with the collaboration of the Maritime Police.</p> <p>3. Please see answer 1.</p> <p>4. The legal skills of the Portuguese Immigration Service (Act n. ° 252/2000, 16th October) are: Flow analysis/migration risks; confirmation of the requirements for granting a residence permit; prevention of trafficking in human beings and illegal immigration; response to inflows crimes involving foreign citizens; and combating illegal use of foreign labor and raising.</p> <p>5. The Immigration and Border Service is the entity responsible for the control of the movement of people at border crossings, preventing enter or leaving the country of people who do not meet the necessary legal requirements for the purpose; investigation of illegal immigration crimes, as well as investigation of other related cases, without prejudice to the competence of other bodies; issue advice concerning requests consular visas; grant visas in country, extension of stay, residence permits and travel documents in accordance with legal framework; recognize the right to family reunification; establish, instruct and deciding processes of administrative expulsion of foreigners from the national territory and to implement decisions of administrative and judicial expulsion and drive, instruct and decide the procedures for readmission and to ensure their implementation; making escorts citizens subject of removal; amongst others.</p>
	Slovak Republic	No	This EMN NCP has provided a response, however they have requested that this is not disseminated further.
	Sweden	Yes	<p>1. How is the concept control of foreign nationals defined in your national legislation? The Swedish Aliens Act (2005:716) provides the legal basis control of foreign nationals. The Act regulates opportunities to enter into and stay in the territory. Supplementary regulations, such as the Swedish Aliens ordinance, are published by the Government and more detailed practices are published by the competent authorities. These national laws and regulations also include rules concerning the duties and competences of agencies dealing with immigration control and the surveillance of the external borders, agencies such as the Police and the Swedish Coast Guard. The Swedish Police is the competent authority having the main responsibility for control of foreign nationals.</p> <p>2. Which are the competent authorities and what kind of competence they have in order to carry out inland control of foreign nationals? The Swedish Aliens Act Chapter9, section 9 states “It is the duty of an alien staying in Sweden, when requested to do so by a police officer, to present a passport or other documents showing that he or she has the right to remain in Sweden. It is also the duty of the alien, when summoned by the Swedish Migration Board or the police authority, to visit the Board or the authority and provide information about his or her stay in this country. If the alien does not do so he or she may be collected by the police authority. If, in view of an alien’s personal circumstances or for some other reason, it can be assumed that the alien will not obey the summons, he or she may be collected without prior summons. The Swedish Coast Guard shall</p>

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			<p>assist in police control activities described in the first paragraph by controls of and in conjunction with shipping. If controls are exercised by the Swedish Coast Guard, the passport or other documents must be presented to the Swedish Coast Guard official.</p> <p>3. Is there national legislation on the competence of authorities to control, whether foreign nationals are residing legally in your country? If yes, please define. The same law also states the following: “Controls under the first and second paragraphs may only be undertaken if there is good reason to assume that the alien lacks the right to remain in this country or there is otherwise special cause for controls”.</p> <p>4. How is the control of foreign nationals carried out in practice? How are the subjects of control measures chosen? See above under 3. There have also been statements from the Parliamentary Ombudsman saying among others the following: “I want in this context stress that only the fact that a person has a look as a foreigner is not enough to stop a person on the street and conduct an alien’s control”.</p> <p>5. Do administrative authorities (e.g. The Immigration Service) have a mandate to execute control measures? Are they for instance empowered to subsequently supervise whether the requirements for a residence permit are still met? The Swedish Migration Board does not, as a normal procedure, conduct control measures during the time the permit is valid. Control measures are conducted during the time for extension of the permit. If information comes, during the valid permit period, that are deemed serious there could be a starting point for further investigation.</p>
	<p>United Kingdom</p>	<p>Yes</p>	<p>1. How is the concept <i>control of foreign nationals</i> defined in your national legislation? The Immigration Act 1971 and Immigration Rules issued in accordance with it sets out the people who can enter the UK freely and those that require permission to enter or remain here. There are also a number of subsequent immigration acts etc which have amended and added to the 1971 Act’s provisions. Examples are</p> <ul style="list-style-type: none"> • UK Borders Act 2007 • Immigration, Asylum and Nationality Act 2006 • Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 • Nationality, Immigration and Asylum Act 2002 (NIA Act) • Immigration and Asylum Act 1999 • Special Immigration Appeals Commission Act 1997 • Asylum and Immigration Act 1996 • Asylum and Immigration Appeals Act 1993 • Immigration Act 1988 • Immigration Act 1971 (updated) <p>The Immigration Rules set out the practice to be followed in regulating the entry into and stay in the United Kingdom of persons required by the legislation to have leave to enter, including any rules as to the period for which leave is to be given and the conditions to be attached in different circumstances</p>

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			<p>2. Which are the competent authorities and what kind of competence they have in order to carry out inland control of foreign nationals? On 1 April 2013 the UK Border Agency was split into two separate units within the Home Office; UK Visas and Immigration and Immigration Enforcement. UK Visas and Immigration is a high-volume service that makes high-quality decisions about who comes here, with a culture of customer satisfaction for business-people and visitors who want to come here legally. Immigration Enforcement is an organisation that has law enforcement at its heart and is tough on those who break the UKs immigration laws. Immigration Enforcement officers can arrest and detain immigration offenders such as those who enter or remain illegally, or work when their conditions of stay do not allow it. Such people can also be removed from the UK. See Section 10 of the Immigration and Asylum Act 1999 as an example of the power to remove those who overstay or work illegally.</p> <p>3. Is there national legislation on the competence of authorities to control, whether foreign nationals are residing legally in your country? If yes, please define. The major control is via the ports of entry where people have to demonstrate that they qualify for entry before being admitted to UK. We also carry out street operations where intelligence suggests that immigration offenders can be found but there are strict controls – see next answer.</p> <p>4. How is the control of foreign nationals carried out in practice? How are the subjects of control measures chosen? Street operations are Home Office led operations that target immigration offenders where intelligence has shown that they are gathered at specific locations at certain times. In every case, the Home Office will apply a set of information and prepare an intelligence profile justifying their involvement in such an operation and the decision to base themselves at a particular location. Police officers may also be in attendance (and recorded within the operational briefing), on street operations but this will depend upon their availability, authorisations, risk assessments etc. Chapter 31 of Enforcement Instructions and Guidance explains this further. The UK will also consider action where a persons presence in the UK is not conducive to the public good. Options include revoking leave and deporting the individual (where a foreign national) or depriving them of British nationality (where naturalised). Any such actions would be taken in accordance with UK law and removal could only be conducted if allowed by our international obligations.</p> <p>5. Do administrative authorities (e.g. The Immigration Service) have a mandate to execute control measures? Are they for instance empowered to subsequently supervise whether the requirements for a residence permit are still met? Paragraph 322 of the Immigration Rules allow for a person’s stay to be curtailed where they no longer qualify for further leave such as the student who is no longer following a course of study or a spouse where the marriage breaks down. Once any appeal right is exhausted the person would be liable to administrative removal</p>
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