



## **Ad-Hoc Query on the control mechanism on voluntary departures of TCN, counting of the time period of entry bans**

**Requested by LV EMN NCP on 25 October 2013**

**Compilation produced on 27<sup>th</sup> January 2014**

**Responses from Austria, Belgium, Bulgaria, Croatia, Estonia, Finland, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom (19 in Total)**

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### **1. Background Information**

The State Border Guard of the Republic of Latvia would like to gather information on the control mechanisms existing in the EU MSs related to voluntary departures and counting the period of entry bans in voluntary returns.

The application of voluntary returns and issuance of entry bans by Member States, as well as the enforcement of the obligation to return voluntarily by the third-country national, especially in cases when the third-country national departs from the EU territory crossing the external border of another Member State, indicates that there is a need to establish a common mechanism in the EU Member States.

This mechanism will allow the Member State, which issued a voluntary return decision and an entry ban decision, to control whether 1) the return decision has been enforced by the third-country national and 2) whether the entry ban is in force.

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It is very important for the Member State that issued a decision to be aware of the number of successful returns, as well as to control the decisions, that are not executed. In cases when a third-country national is repeatedly detected in the Member State as illegally entering, staying or residing, Member States should be able to apply appropriate measures.

Taking into account the above-mentioned the State Border Guard of the Republic of Latvia would like to assess the best practices of control mechanisms existing in the Member States.

We would like to ask you the following:

1. Does any mechanism exist in your Member State that allows to control the implementation of a voluntary return decision, issued by Your country, in case if the third-country national depart from European Union territory crossing the external border of another Member State?
2. What is the mechanism of counting the time period of entry bans, imposed by Your country in cases when the third-country national departs from the EU territory by crossing the territory of another Member State?
3. From what date is entry ban to be counted in case when the third-country national departs from the EU territory by crossing the territory of another Member State :
  - from the date when the third-country national has left the EU territory (how do you get to know about it if he/she crossed the external border of the other EU MS?),
  - from the date when the decision on entry ban is issued,
  - from the date when the person is obliged to leave the territory of your country or the date when the person actually leaves from your country?
4. If the third-country national has not enforced the decision on voluntary return with entry ban imposed and is detected in your Member State as staying illegally do you impose a re-entry ban and what is the timing of it?
5. Does your country use Annex 39 to Schengen Handbook a "Standard form for recognizing a return decision for the purposes of transit by land" as a control mechanism of enforcement of return decision by third-country national? If yes is it effective? If not, please, explain why.

We would very much appreciate your responses by the **15<sup>th</sup> of November 2013**.

## **2. Responses**

	<b>Austria</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>Belgium</b>	<b>Yes</b>	1. There is no general controlling system for the implementation of the order to leave the country (decision of return – there is no

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			<p>decision of “voluntary return”, only the voluntary execution of a return decision). Only if the person is controlled at the external border or if he applies for AVRR, there will be a certainty that the person will have left the country. There is no monitoring system for the voluntary return which is requested by the return directive (this is not foreseen in Belgian law).</p> <p>2. Entry ban starts from the moment the delay mentioned on the order to leave the country has expired. e.g. if a delay is given to the person to depart within seven days, and there is a entry ban linked to this decision, the entry ban starts to run on the 8<sup>th</sup> day. If the person is detained in order to be removed, the entry ban starts from first day of detention. Of course it becomes only effective once he has left the EEA (within the delay mentioned on the order or the day that he is forcibly removed – on our order is mentioned that the person should leave the national territory and the countries who have transposed the Schengen acquis as well as the member states of the EU; the entry ban, which is a separate decision since September 2013, does not mention the UK and Ireland). In Belgian law, the return decision becomes effective from the moment that is has been notified to the person.</p> <p>3. see 2</p> <p>4. A entry ban will be imposed only if the previous entry ban has expired, or if there was no entry ban, or if the qualification of the entry ban differs (e.g. first entry ban was for 3 years because of irregular staying; but he is arrested and condemned to a criminal sentence → a new entry ban for 8 years can be imposed because of the condemnation, if it is a serious offence – more then 6 months effective imprisonment – and if there is still an actual danger).</p> <p>5. It has been used very rarely until now because of organisational reasons</p>
	<b>Bulgaria</b>	<b>Yes</b>	<p>1. No, there is not a such mechanism to control a voluntary return decision, issued in the Republic of Bulgaria, in case if the TCNs depart from EU territory crossing the external border of another MS.</p> <p>2. 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.</p> <p>3. The national signal “entry ban in BG” is counted from the date when the decision on entry ban is issued.</p> <p>4. 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 up to 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.</p> <p>5. N/A.</p>
	<b>Croatia</b>	<b>Yes</b>	<p>1. We have not had such cases. Croatia is not a part of Schengen area and has border checks on borders to all neighboring countries. Therefore, it can easily control implementation his own voluntary return decisions issued to the TCN.</p>

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			<p>2. Entry bans issued by Croatian authority are counted from the date of expiry of the time limit for leaving Croatia.</p> <p>3. See answer in 2.</p> <p>4. Yes. The length of second entry ban can be determined from 3 months to 3 years.</p> <p>5. No. See answer in 1.</p>
	<b>Estonia</b>	<b>Yes</b>	<p>1. Currently the Republic of Estonia does not have a special regulation or mechanism to control the implementation of voluntary return decisions issued to the TCN who are departing from the EU by crossing the external border of another MS. If the period of voluntary departure has expired it is the task of the case worker to start the inquiries with a purpose to certify that the person has left the territory of the EU. If there are no sign of border crossing in the national databases the case worker has the right to question the persons related to the case to certify whether the TCN has left and transiting which MS. Based on the collected information the query is made to the relevant MS. It is common that during the regular meetings with case worker the TCN already gives information about the travel routes for leaving EU territory. Besides the common framework Estonia, Latvia and Lithuania have agreed to use the mechanism of information exchange on voluntary departures of TCN crossing the external border of one of the country via the National Coordination Centers.</p> <p>2. The entry ban issued with the return decision shall be counted from the date of departure.</p> <p>3. The entry ban issued with the return decision shall be counted from the date of departure. As related to the mechanisms to certify the date of departure please refer to the answer in p 1.</p> <p>4. If the TCN has not left the territory of the EU during the period of voluntary departure Estonia issues a new return decision without a period for voluntary departure. The return decision is enforced immediately. In the return decision there will be an entry ban issued to the TCN.</p> <p>5. Estonia does not use the Annex 39 procedure. But as an alternative to Annex 39 to Schengen Handbook Estonia, Latvia and Lithuania agreed to use the mechanism of information exchange on voluntary departures of TCN crossing the external border of one of the country via the National Coordination Centers.</p>
	<b>Finland</b>	<b>Yes</b>	<p>1. In case the third country national returns via AVR programme, IOM informs the Aliens Police about the implementation. This control mechanism is organized by IOM Finland. If the third country national returns to his or her home country voluntarily and does not inform Police upon departure, there is no mechanism to control crossing of EU external borders.</p> <p>2. The entry ban becomes legally binding once the decision has been served. The time period for entry ban starts to run from that</p>

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			<p>occasion.</p> <p>3. See above. Once the person has actually left the territory, his or her departure is registered in the national Aliens Register (UMA). The National Bureau of Investigation registers the same information in Schengen Information System (SIS). Finland has not encountered any problems regarding transit via another EU MS, usually there are national authorities present to assist the returnee.</p> <p>4. The returnee cannot be issued with a brief period of grace in case he or she has been imposed with an entry ban. If the person refuses to leave Finland voluntarily before the deadline, a refusal of entry to the Schengen area will be imposed.</p>
	<b>Hungary</b>	<b>Yes</b>	<p>1. There isn't any mechanism in Hungary that allows controlling the implementation of a voluntary return decision, in case if the third-country national departs from European Union territory crossing the external border of another Member State. However in certain cases (participating in IOM HAVRR program) returnee crossing the external air border of another Member State, the Office of Immigration and Nationality of Hungary sends transit requests forms to that member states that allows the returnee to exit the Schengen Territory. This Member State confirms the exit of the Third-country National, therefore it is known. Since Hungary has a long Schengen external land border most of Third-country Nationals exit via this border.</p> <p>2. According to the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals of Section 47 Paragraph 7 the duration of exclusion ordered in conjunction with expulsion shall apply from the date of departure from the territory of the Member States of the European Union, or if this is not known, from the deadline prescribed therefore.</p> <p>3. Please see the answer for question number 2.</p> <p>4. In Hungary there is no entry ban placed on returnees whom are willing to leave the territory of Hungary voluntary, therefore there is no re-entry ban issued to voluntary returnees. In such cases when third-country national did not fulfil the decision on voluntary return and he/she is detected in Hungary as staying illegally, the Office of Immigration and Nationality has the right to order a deportation, implement the forced return and place an entry ban on the returnee.</p> <p>5. Hungary uses the Annex 39 of the Schengen Handbook, but since Hungary has a long Schengen external land border where Third-Country Nationals can exit the Schengen Territory the Annex 39 of the Schengen Handbook is not needed therefore used very seldom.</p>
	<b>Italy</b>	<b>Yes</b>	<p>1. The third country national who is removed from Italian territory with an expulsion order without escort to the border (meaning thorough voluntary return) must inform the frontier authorities that he is leaving the country. While this is not an obligation which is sanctioned by formal legislation, it is in the best interest of the third country national to prove that he/she has really left the territory. Normally, in the written record of notification of the expulsion order, it is stated that the third country national must notify the Italian frontier office (the land frontier especially) that he/she is about to leave Italian territory. If, once the entry ban expires, the third country national decides to re-enter Italy he must be able to prove that he has actually left Italian territory in order to newly request an entry visa.</p>

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			<p>Usually, the entry ban lasts a time period which ranges between three and five years, and the exact duration is determined by taking all relevant circumstances into account. Extraordinarily, the entry ban can last more than five years if the cause of the expulsion is that the person poses a danger to society.</p> <p>There are no instruments in use to control if the third country national has left EU territory through the external frontier of another member State.</p> <p>2. The time period of entry ban imposed on the third country national who is expelled without being escorted to the border (meaning in cases of voluntary return) begins on the last day of the term established to leave national territory. If the third country national wishes to request the anticipated removal of the entry ban, he/she must prove that he/she has left Italian soil within the prescribed period.</p> <p>3. In the case of voluntary return, the entry ban begins on the last day of the term granted to leave Italian territory. This date is specified in the written record of notification of the expulsion order.</p> <p>4. When the third country national has been expelled with a procedure which permits voluntary removal, it is necessary to distinguish between the following cases:</p> <ul style="list-style-type: none"> <li>- The third country national who has not respected the term established to leave Italian territory: when this is discovered the third country national is subject to a new expulsion order, and this time he/she is escorted to the border.</li> <li>- The third country national who has left Italian territory and cannot re-enter it without the special authorization of the Ministry of the Interior. In the case of infringement of this condition, the third country national is punished with one to four years of reclusion, and then he/she escorted to the border and deported.</li> </ul> <p>5. Italy has not yet applied the mentioned Annex 39 to the Schengen Handbook.</p> <p>The reasons for not doing so are the following:</p> <ul style="list-style-type: none"> <li>- when the third country national receives a notification of expulsion without escort to the border, he receives an invitation to leave national territory within a time period of 30 days. The law neither establishes that the person should exit through a specific frontier, nor does it state that he/she is under an obligation to notify authorities of the date and frontier of exit from national territory. Annex 39 states that the member State in which the third country national requested voluntary return should notify the member State that the third country national will transit four days before his/her departure. It is impossible for Italy to respect this aspect of the annex because authorities know neither the effective exit date nor the potential member State of transit.</li> <li>- also, as we mentioned above, the entry ban (from Italy and the Schengen Zone) begins on the last day of the term established to leave national territory and not on the date of actual departure.</li> </ul>
	<p><b>Latvia</b></p>	<p><b>Yes</b></p>	<p>1. Currently the Republic of Latvia does not have a regulation on mechanism of control of implementation of voluntary return decisions issued to the TCN who are departing from the EU territory by crossing the external border of another MS. Thus Latvia accepts recognition of return decisions issued by the EU MSs and has assumed to apply the Annex 39 to Schengen Handbook a "Standard form for recognizing a return decision for the purposes of transit by land". Taking into account that Member States apply Annex 39 on a voluntary basis the implementation of it by the other MS is not possible. For example Latvia does not use the standard form for transits by</p>

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			<p>land as the neighboring countries do not accept it. But as an alternative to Annex 39 to Schengen Handbook Latvia, Estonia and Lithuania agreed to use the mechanism of information exchange on voluntary departures of TCN crossing the external border of one of the country via the National Coordination Centers.</p> <p>2. There is no mechanism on counting the time period of entry bans, imposed by Latvia in case when the third-country national departs from the EU territory by crossing the territory of another Member State. In accordance with the Immigration Law Article 63(4) the entry ban is to be counted from the date of departure. In case if the entry ban is determined after the departure of a foreigner, the time period of the entry ban is to be counted from the day of taking of the decision.</p> <p>3. In accordance with the Immigration law Article 63(4) the entry ban is to be counted from the date of departure. In case if the entry ban is determined after the departure of a foreigner, the time period of the entry ban is to be counted from the day of taking of the decision.</p> <p>4. A new return decision is issued in both cases:          1) if the foreigner has not left the EU territory voluntarily (the obligation to depart from the EU is not enforced) and he/she is detected in the country – a forced return decision is issued in accordance with provisions of the Immigration Law and          2) if the foreigner has departed from the EU territory (the foreigner enforced the obligation to leave), but the entry ban is still in force – a new return decision shall be issued in accordance with the provisions of the Immigration Law and the re-entry ban shall be imposed.</p> <p>5. The Republic of Latvia accepts recognition of return decisions issued by the EU MSs and has assumed to apply the Annex 39 to Schengen Handbook a "Standard form for recognizing a return decision for the purposes of transit by land". Taking into account that Member States apply Annex 39 on a voluntary basis the implementation of it by the other MS is not possible. For example Latvia does not use the standard form for transits by land as the neighboring countries do not accept it. But as an alternative to Annex 39 to Schengen Handbook Latvia, Estonia and Lithuania agreed to use the mechanism of information exchange on voluntary departures of TCN crossing the external border of one of the country via the National Coordination Centers.</p>
	<b>Lithuania</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>Luxembourg</b>	<b>Yes</b>	<p>1. IOM Brussels is implementing a program of assisted voluntary return (AVVR) that targets different categories of migrants in Luxembourg. This program is based on a convention signed between IOM and the Directorate of Immigration, financed by the European Return Fund. Normally this can be made by airplane and the IOM assist the returnees upon departure (and, if need be, in transit and upon arrival)<sup>1</sup> At the date of return, an IOM representative will give the individual a basic financial assistance and the contact details of the IOM contact in the country of origin.</p> <p>In the case of voluntary return of Macedonian, Albanian, Montenegrins, Serbian, Bosnian country nationals the situation is different. These people do not benefit of the AVVR program from the IOM. The competent authority gives the concerned persons a travel document</p>

<sup>1</sup> <http://avrr.belgium.iom.int/en/other-projects/avvr-from-luxembourg.html>

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			<p>and pays their return by bus (commercial line). The contact between the competent authority and the bus company is direct which allows controlling the execution of the return. As these nationals do not need a visa to transit in the Schengen area if their travel documents fulfilled the legal requirements, there will not be any problem for crossing the external border.</p> <p>2. As a general rule, return decisions are accompanied by entry bans only in case of forced return. In accordance with article 112 of the modified Law of 29 August 2008 on free movement of persons and immigration return decisions may be accompanied with an entry ban on the territory, issued either simultaneously with the return decision either through a subsequent, separate decision. The entry ban is to be counted from the date of the decision.</p> <p>3. The entry ban will be counted from the day when it is imposed. The fact that the person continues to circulate in the Schengen area is indifferent as well as the moment that the person leaves the EU.</p> <p>4. If a third-country national who had not respected the voluntary return, (s)he will be submitted to forced return, and a first entry ban will be imposed. If s/he is detected inside the territory but the entry ban is still in force, a new entry ban is likely to be imposed. According to article 34 (2) s/he may be detained and placed in the Detention Center (article 124 (1)), because then it will be considered a risk of absconding (article 111 (3) c.3) so the person will be subject to a forced return. Return decisions may be accompanied with an entry ban on the territory for a maximum duration of five years. Normally the entry ban has a length of 3 years.</p> <p>5. N/A</p>
	<p><b>Netherlands</b></p>	<p><b>Yes</b></p>	<p>1. No, we do not have such a mechanism.</p> <p>2. and 3. The length of the entry ban starts counting from the day the third national has left the territory of the MS. If the third country national leaves the territory from the Netherlands through check posts, his departure is registered. If a third national leaves through another route, for example illegally or through another MS, than it is his own responsibility to prove that he has left the territory of the MS. The third country national if informed about his responsibilities through a brochure.</p> <p>4. According to the law, return decisions provide a period of 28 days for voluntary departure. This period of time may be shortened or may be none if there is a risk of absconding or if the person is a risk to public or national security. When a person leaves within the period for voluntary departure no entry ban is issued. If a person does not leave within the period of voluntary departure, no time for voluntary departure is given or the obligation to return has not been complied with, the return decision is accompanied with an entry ban. If the person, who already has an entry ban, does not leave the territory of the MS and/or is back in the Netherlands within the period the entry ban applies, the duration of the entry ban can be lengthened to 5 years.</p> <p>5. No, we do not use Annex 39 as we forces returns normally take place by air.</p>

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	<b>Poland</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. There is no adopted any mechanism that allows to control the implementation of a voluntary return decision, issued by the Republic of Poland, in case if the third-country national departs from the EU territory crossing the external border of another member state, unless we use the “transit by land mechanism”.</li> <li>2. The foreigners data are inserted into index of foreigners undesirable on the territory of the Republic of Poland and in Schengen Information System since the date of execution of the decision that obliges foreigner to leave the territory of Poland. In case when there is no available information on execution of the decision by foreigner - since the date when the person was obliged to execute the decision.</li> <li>3. In our opinion the entry into the territory of another member state of the foreigner who has been issued the decision on return would be illegal unless he has entered that territory in the framework of “transit by land” mechanism. The entry ban for the foreigner who is executing the return decision in the framework of “transit by land” mechanism would be counted since the execution of the decision on return (departure from EU territory). In case when there is no available information on execution of the decision by foreigner – since the date when the person was obliged to execute the decision.</li> <li>4. In such a case decision on return is subject to forced execution. The time of entry ban is corrected in the way that its beginning is counted since the date of enforcement of the decision.</li> <li>5. The Republic of Poland uses “the standard form for recognizing a return decision for the purposes of transit by land” (annex 39 to the Schengen handbook) mostly as country of transit. We have observed only incidental cases of absconding of the procedures since PL decided to use the abovementioned mechanism. An enormous part of foreigners fulfils obligations deriving from the decision in the timeframe provided for in the form.</li> </ol>
	<b>Portugal</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Portugal doesn't have such mechanism.</li> <li>2. and 3. There is no mechanism for counting the time period of entry bans. According with to the legal framework (n.º 4 of the article n.º 82º of Implementing Decree n.º 2/2013, de 18th of March) “...the period of prohibition of entry will be counted as from the date of actual removal of the foreign citizen from the national territory.”</li> <li>4. The Portuguese legal framework establishes that the foreign citizen who enters national territory during the period in which he/she was interdicted to entry is punished with a prison penalty up to 2 years or a fine up until 100 days and the foreign citizen may be removed from national territory in order to fulfill the remaining entry interdiction period according to the proceeding in which he/she was removed.(nºs 1 and 3, article 187º of the Act n.º 29/2012, 9<sup>th</sup> August).</li> <li>5. There is no need to record in Portugal.</li> </ol>

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	<b>Slovak Republic</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. The Slovak Republic currently does not have a mechanism for control of implementation of voluntary return decisions (decisions on administrative expulsion) issued to third-country nationals who are departing from European Union territory by crossing the external border of another Member State.</li> <li>2. According to Article 82, par. 9, letter a) of the 404/2011 Act on Residence of Aliens and Amendment and Supplementation of Certain Acts the time period of an entry ban shall start to elapse after the elapse of the period for leaving of the country determined in the voluntary return decision (decision on administrative expulsion).</li> <li>3. The time period of an entry ban shall start to elapse after the elapse of the period for leaving of the territory of Slovak Republic.</li> <li>4. According to Article 82, par. 10 of the Act 404/2011 on Residence of Aliens and Amendments and Supplementation of Certain Acts if a police department discovers that the person did not leave the territory of the Slovak Republic after the entry ban period beginning was recorded into the registry of persona non grata, this period will start to elapse anew from the date of implementation of voluntary return decision (decision on administrative expulsion).</li> <li>5. Yes, Slovak Republic uses the “Standard form for recognizing a return decision for the purposes of transit by land” and finds it effective. Most frequently it is used for requests from Czech Republic for land transportation through the territory of the Slovak Republic.</li> </ol>
	<b>Slovenia</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. There is no direct control mechanism regarding voluntary return crossing external border of another MS.</li> <li>2. Entry ban begins with date of return.</li> <li>3. Entry ban begins from the date the third-country national has left the EU territory. Date is always known based on the fact that return is done by our police.</li> <li>4. No such cases apply. Voluntary return decision does not imply entry ban.</li> <li>5. We use Annex 39 to Schengen Handbook a "Standard form for recognizing a return decision for the purposes of transit by land" as a control mechanism of enforcement of return decision by third-country national in theory. In practice this mechanism is not effective. By now we haven't had a single case of such form to be applied. Main reason is that neighboring member states have no need to apply the form in practice.</li> </ol>
	<b>Spain</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. NOTE: We assume the question refers to return decisions with voluntary departure period. In these cases, the entry ban can be revoked. This can be applied for by declaring exit at a BCP (Spanish external borders) or a Consulate in the country of destination (for exits through any Schengen BCP).</li> </ol>

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			<p>2. and 3. The entry ban starts counting from the day return is enforced. For voluntary departures, in case no revocation of the entry ban is applied for, the entry ban would start counting the day of departure. Proof for the exact departure date would best be provided by the Schengen exit stamp.</p> <p>4. No.</p> <p>5. No.</p>
	<b>Sweden</b>	<b>Yes</b>	<p>1. A return that crosses the external border of another MS, can be executed in the form of a DEPU, unaccompanied deportee. We then see the person off at the airport and collaborate with migration personnel at the transit airport. For example, we have contact in advance with German colleagues if the DEPU passes by a German airport and then we get confirmation from them when the deportee has left Germany.</p> <p>2. and 3. The time of the entry ban is counted from the day that the decision of the entry ban has become legally binding, that is when the time to lodge an appeal has run out.</p> <p>4. We do not impose another entry ban, if the person is found on Swedish territory.</p> <p>5. Sweden has chosen not to use Annex 39 for geographical reasons. Transit by land would usually involve many MS and therefore transit by air is more simple and cost-effective.</p>
	<b>United Kingdom</b>	<b>Yes</b>	<p>People face a UK re-entry ban where they have previously breached UK immigration laws. The UK does not participate in any immigration or visa elements of the Schengen Acquis and therefore cannot comment on transfer paths or those who travel across other Member States.</p> <p><u>UK re-entry ban rules</u></p> <p>The UK's re-entry ban provisions are set out in <a href="#">paragraph 320(7B)</a> of the Immigration Rules. In accordance with the Rules, individuals seeking to come to the UK may be refused entry because they are subject to a re-entry ban. Unless they meet one of the prescribed exceptions (described below), individuals will be the subject of a ban where they have previously broken the UK's immigration laws by overstaying; breaching a condition attached to their leave; being an illegal entrant; or using deception to enter the UK. There are four levels of re-entry ban. All start from the date the person left the UK following their previous immigration breach. Those who overstay their lawful leave for 90 days or less and leave the UK voluntarily at their own expense are not subject to a ban. The four levels of ban are:</p> <ul style="list-style-type: none"> <li>• <b>One year</b> where the person left voluntarily at their own expense.</li> <li>• <b>Two years</b> where the person left voluntarily at public expense within 6 months of their removal decision.</li> <li>• <b>Five years</b> where the person left voluntarily at public expense more than 6 months after their removal decision or where they left or were removed from the UK as a condition of a caution issued in accordance with s.134 Legal Aid, Sentencing and Punishment of Offenders Act 2012.</li> </ul>

EMN Ad-Hoc Query: On the control mechanism on voluntary departures of TCN, counting of the time period of entry bans

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			<ul style="list-style-type: none"><li>• <b>Ten years</b> where the person was removed or deported.</li></ul> <p><u>Exceptions</u> The re-entry ban does not apply:</p> <ul style="list-style-type: none"><li>• to applications for entry clearance, leave to enter or leave to remain as a family member (under Appendix FM of the Immigration Rules)</li><li>• to applications for leave to remain on the grounds of private life (under paragraphs 276ADE-276DH of the Immigration Rules), or</li></ul> <p>where the person was aged under 18 when they previously breached the UK's immigration laws.</p>
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