



Responses to long-term irregularly staying migrants: practices and challenges in EU Member States and Norway

Common Template for EMN Study 2020

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Action: EMN NCPs are asked to complete this template and submit their National Report by 2 November 2020

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1 BACKGROUND AND RATIONALE FOR THE STUDY

Member States are confronted with the situation of third-country nationals who no longer or have never fulfilled the conditions of stay, who were denied a residence permit or who have exhausted all legal options against the enforcement of their return decision. The Return Directive (Directive 2008/115/EC) sets the obligation for Member States to issue a return decision for third-country nationals once it has been established that they are not eligible for legal stay.¹ This is aimed at reducing situations of legal uncertainty for third-country nationals, so that any third-country national physically present in a Member State should be either considered as legally staying – and enjoying a valid right to stay – or as illegally staying and be issued a return decision.²

However, in practice, a certain share of third-country nationals issued with a return decision do not leave the territory of Member States. National authorities might be unable to proceed with removals due to either legal or practical obstacles. Issuance of a return decision allows for a period of voluntary departure, however a third-country national could be unwilling to leave voluntarily. Forced return may be impossible to enforce without some level of co-operation from the third-country national. In other cases, national authorities postpone return to respect the principle of non-refoulement, individual circumstances or other practical reasons impeding the enforcement of a return decision.³ Additionally, there are cases of third-country nationals whose

¹ Article 6 of the Return Directive. The directive applies to all EU countries except Ireland, nevertheless the concepts covered by the study are also relevant to the Member State.

² European Commission, Return Handbook (section 1.2 'illegal stay').

For the purpose of this study, illegal stay and irregular stay (as used in the EMN Glossary) will be used interchangeably.

³ According to Article 9 of the Return Directive, Member States should postpone removal where it would infringe the respect of the principle of non-refoulement or where the return decision is reviewed by a competent national authority. Member States may postpone return by taking into account the specific individual circumstances of the third-country national or for practical reasons impeding removal (lack of identification of the third-country nationals or transport capacity).

residence permits expire and renewal is not secured, or who for other reasons do not or no longer fulfil conditions for legal stay, and who were not issued a return decision for a variety of administrative and practical reasons. In some cases, third-country nationals may disappear from the supervision of the competent authorities involved. In other cases, migrant who entered illegally remained undetected by migration authorities.

These situations may result in long-term or protracted situations of illegal stay and legal uncertainty over several years, as well as deplorable living conditions.⁴ Examples include homelessness, (mental) health issues, addiction issues, falling victim to organised crime (i.e. labour and sexual exploitation) or involvement in crimes, all of which contribute to the detriment of the third-country national concerned, national governments and the communities in which irregular migrants reside.

In terms of practices, the actions of national governments, and local authorities (cities, regions) may be contradictory. Central authorities are responsible for achieving the objectives of the national migration policy, such as ensuring the prevention and fight against illegal stay and enforcement of return decisions. Local authorities (municipalities and regions) are at the forefront of the practical consequences of third-country nationals irregularly staying for a prolonged time and are confronted with challenges such as ensuring access to basic services and public order. Accordingly, complementarity or tension can result between policy objectives at the central level aimed at achieving the return of irregular migrants and the practical realities faced at the local level. That is, having to accommodate the presence of irregular migrants and provide basic services when return does not happen and when access to mainstream services is not legally possible due to their residence status. Ultimately, the applicable legal framework, demarcation of competences and institutional structure also play a role in the process of cooperation and communication between central authorities and municipalities.

Recent research was carried out by the City Initiative on Migrants with Irregular Status in Europe (C-MISE) examining policies and measures implemented in 11 cities across 10 Member States considering the applicable legal framework.⁵ It showed that cities' responses ranged from adopting policies aimed at discouraging irregular migrants from residing in their territories to adopting measures that include them in the provision of some municipal services.

While existing research offered some insights into approaches adopted by Member States towards long-term irregular migrants, policies and practical measures are changing rapidly and there is currently no recent and comprehensive EU-wide overview regarding this group of third-country nationals. This study aims to respond to this gap.

2 EU LEGAL AND POLICY CONTEXT

The return of illegally staying third-country nationals has been an important issue in the EU's policy agenda on migration over the past 20 years and has accentuated since 2015, as illustrated by the emphasis on enforcement of return in the European Agenda on Migration. There is little recent information available on the number of persons staying illegally in the EU Member States.⁶

⁴ Refugee Law Initiative in cooperation with the Centre for International Criminal Justice (2016) *Undesirable and Unreturnable Migrants*. This research concerned excluded asylum seekers and other migrants suspected of serious criminality who cannot be removed. Available at: <https://cicj.org/wp-content/uploads/2016/09/Undesirable-and-Unreturnable-Full-report.pdf>.

⁵ Delvino, N. (2017) *European Cities and Migrants with Irregular Status: Municipal initiatives for the inclusion of irregular migrants in the provision of services*, Oxford: Centre on Migration, Policy and Society (COMPAS) – University of Oxford. Available at: <https://www.compas.ox.ac.uk/wp-content/uploads/City-Initiative-on-Migrants-with-Irregular-Status-in-Europe-CMISE-report-November-2017-FINAL.pdf>

⁶ A EU-wide research project on this topic carried out in 2008 found an estimate of around 3.8 million of persons were staying illegally in the EU ('Clandestino' project, <http://clandestino.eliamep.gr/wp-content/uploads/2010/03/clandestino-final-report-november-2009.pdf>)

Eurostat data provides only rough estimate of 'third-country nationals found to be illegally present' in the EU as it covers persons who are apprehended or otherwise come to the attention of national immigration authorities. Accordingly, not all irregularly staying migrants are included in these figures. In 2017, the European Commission (in its communication on the delivery of the European Agenda on Migration) estimated that around 1 million third-country nationals were irregularly staying in the EU. More specifically, extrapolating from statistics on the numbers of return decisions which could not be enforced (amounting on average to ca 60% out of 500 000 per year), one can assume that the issue concerns up to 300 000 migrants per year.⁷

In terms of the applicable legislative framework at EU level, the return of third-country nationals as set by the Return Directive is the relevant starting point for this study.⁸ The Return Directive lays down common EU standards on forced return and voluntary departure. It has a two-fold approach: on the one hand, it provides that Member States are obliged to issue return decisions to all third-country nationals staying irregularly on the territory of a Member State. On the other hand, it emphasises the importance of implementing return measures with full respect for the fundamental rights and freedoms and the dignity of the individual returnees, including the principle of 'non-refoulement'. As a result, any return may only be carried out in compliance with EU and other international human rights' guarantees.

The Return Directive provides a framework which imposes an obligation on Member States to issue a return decision to any third-country national illegally staying on their territory, unless there are compassionate, humanitarian reasons not to do so, or if there is a pending procedure for renewing a residence permit.⁹ The respect of this obligation aims at reducing situations of legal uncertainty for third-country nationals since they can be either considered as legally staying, and enjoying a valid right to stay, or illegally staying and subject to a return procedure.

The Directive provides several cases where Member States should or may postpone return of a third-country national. According to Article 9 of the Return Directive, Member States *should* postpone removal where it would infringe on the respect of the principle of non-refoulement or where the return decision is reviewed by a competent national authority. Member States *may* postpone return by taking into account the specific individual circumstances of the third-country national or practical reasons that impede removal (e.g. lack of identification of the third-country nationals or transport capacity).

While postponement of removal of irregular migrants is allowed under the Directive, the legal situation of this category of third-country nationals is only partially addressed.¹⁰ In cases of postponement of return, the Return Directive refers to a set of minimum basic rights and procedural guarantees for third-country nationals.¹¹ These 'basic rights' include family unity, emergency health care, basic education for minors and taking into account the needs of vulnerable persons.¹² In a 2014 case, the Court of Justice of the EU (CJEU) ruled that Member States must cover other basic needs to ensure that emergency health care and essential

⁷ Commission Staff Working Document Fitness Check on EU Legislation On Legal Migration {SWD(2019) 1056 Final}, 2/2, p. 84. See also Eurostat data on non-EU citizens found to be illegally present (*migr_eipre*), ordered to leave the EU (*migr_eiord*), and returned (*migr_eirtn*, *migr_eirt_vol*, *migr_eirt_ass*).

⁸ Ireland does not participate in the Return Directive. National legislation in relation to return applies.

⁹ Article 6 of the Return Directive.

¹⁰ Recital 12 of the Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (hereafter the Return Directive): "*The situation of third-country nationals who are staying illegally but who cannot yet be removed should be addressed. Their basic conditions of subsistence should be defined according to national legislation. In order to be able to demonstrate their specific situation in the event of administrative controls or checks, such persons should be provided with written confirmation of their situation. Member States should enjoy wide discretion concerning the form and format of the written confirmation and should also be able to include it in decisions related to return adopted under this Directive*".

¹¹ Article 14 of the Return Directive.

¹² Article 14 of the Return Directive.

treatment of illness are in fact made available during the period in which that Member State is required to postpone removal.¹³ Additionally, according to the Return Directive, Member States should also provide a third-country national with a written document confirming the postponement of their removal, in order for that person to be able to prove his or her situation in the event of administrative controls or checks.¹⁴ In practice, such a document is not always issued although in another case, the CJEU stated that while Member States have wide discretion concerning the form and format of the written confirmation, they must provide it to third-country nationals when there is no longer a reasonable prospect of removal within the meaning of Article 15(4) of the Return Directive.¹⁵ Lastly, the Return Directive prohibits detention where prospects for removal no longer exist.¹⁶

There is no political consensus nor harmonisation at EU level on the approach to this category of third-country nationals.¹⁷ While the Return Directive foresees some basic rights, also referring to the respect of the Charter of Fundamental Rights, international law and the European Convention for Human Rights in the implementation of the Directive, the way Member States approach this category of third-country nationals is largely determined by domestic law and practices.

Studies have shown that practices vary considerably across Member States. Several trends were identified, considering that a combination of these situations may be encountered in the same Member State.¹⁸

- Third-country nationals are only issued a return decision and do not have rights that are in addition to those referred to in the Return Directive.
- Third-country nationals receive a certificate or other written confirmation to stay in the territory of the Member State until they are removed, yet it is not considered as a fully-fledged residence permit. This is sometimes referred to as a 'toleration status'.
- Third-country nationals may have their return postponed but do not receive a written confirmation. In practice, their presence is 'tolerated' until the return decision can be implemented.

As mentioned in the Return Directive, third-country nationals may receive a decision granting temporary residence to persons who are not or cannot be returned for humanitarian or other policy considerations.¹⁹ In this event, any pending return procedures should be closed, and if a return decision was already issued, it should be withdrawn or suspended. Thus, Member States can either withdraw or suspend the return decision, considering the nature and duration of the right to stay granted as well as the need to ensure effective return procedures.

The framework provided in the Return Directive should be read in conjunction with other legal instruments which also apply to the category of third-country nationals falling under the scope of the study. For example, national authorities' approach to vulnerable persons should also consider

¹³ CJEU, *Abdida*, case C-562/13 of 18 December 2014, ECLI:EU:C:2014:2453. See also Opinion of Advocate General Bot that includes means to secure accommodation as part of 'decent standard of living' (ECLI:EU:C:2014:2167).

While there is no general legal obligation under EU law to provide for the basic needs of all third-country nationals pending return, the Commission encourages Member States to do so to ensure humane and dignified conditions of life for returnees (Return Handbook, p. 75).

¹⁴ Article 14(2) of the Return Directive.

¹⁵ CJEU, *Mahdi*, case C-146/14 PPU of 5 June 2014, ECLI:EU:C:2014:1320.

¹⁶ Article 15(4) of the Return Directive.

¹⁷ Lutz, F. (2018) *Non-removable Returnees under Union Law: Status Quo and Possible Developments*, in European Journal of Migration and Law 20 (2018) 28–52.

¹⁸ EMN 2010 Study, FRA 2011 Study on the situation of third-country nationals pending return/removal and 2013 Study on the situation of third-country nationals pending return/removal.

¹⁹ Article 6(4) of the Return Directive and CJEU ruling in the *Mahdi* case, C-146/14. The Return Handbook provides a number of criteria that Member States may take into account for granting permits related to the individual and policy situation. These criteria can consider the cooperative/non-cooperative attitude of the returnee, the length of factual stay of the returnee in the Member State, the integration efforts made by the returnee, the personal conduct of the returnee, its family links, etc. (Return Handbook, p. 77).

obligations stemming from the 1989 UN Convention on the Rights of the Child²⁰, from the EU's framework on victims of trafficking in human beings.²¹ Additionally, albeit the Return Directive is silent on access of irregular third-country nationals to other social assistance than emergency healthcare and access to education, other instruments may nonetheless apply. For instance, the European Committee of Social Rights²² laid down further specifics on the situation of irregularly staying migrants in their decision in the case *Conference of European Churches vs. the Netherlands*.²³ This decision made clear that, in light of its established case-law, shelter must be provided not only to migrant children but also to adult migrants in an irregular situation and even when they are requested to leave the country.

3 STUDY AIMS AND PRIMARY QUESTIONS

The overall aim of this study is to provide an overview of existing policies and practices in Member States and Norway towards third-country nationals in a prolonged situation of illegal stay. The study aims to explore the responses and approaches to bring such situations to an end both by central and local authorities, and to mitigate the social consequences for the affected third-country nationals. As mentioned, these could range from providing access to basic services or support, other indirect measures to encourage eventual return to their country of origin or other non-EU country, or options to obtain a legal status.

More specifically, this study covers the EU Member States and Norway and aims to:

- Determine the legislation and policies of central, regional and local authorities towards long-term irregular migrants;
- Examine the policies and practices in place to provide access to public services and rights to long-term irregular migrants in the realm of Member States' obligation to cater for basic needs;
- Examine existing practices in Member States and Norway to identify cases of exploitation and abuse among long term irregular migrants;
- Explore cooperation mechanisms between central, regional and local authorities if and when implementing policies targeting this category of third-country nationals;
- Examine the policies and practices in place in Member States and Norway to end long term illegal stay, including return and granting authorisation to stay;

To this end, the below primary research questions will be addressed:

- What is the political and policy debate on the situation of long-term irregularly staying migrants?
- What are the characteristics of the group of third-country nationals who remained in a protracted situation of illegal stay? What information is available on the size of the (sub)groups or categories?
- To what extent are central, regional, and local authorities in your (Member) State confronted with the issue of long-term irregularly staying migrants?

²⁰ UN Convention on the Rights of the Child, 1989, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

²¹ As consolidated in Directive 2011/36/EU and Council Directive 2004/81.

²² The European Committee of Social Rights (previously, the Committee of Independent Experts on the European Social Charter) is a regional human rights body that oversees the protection of certain economic and social rights in most of Europe. The European Committee of Social Rights was established under the auspices of the Council of Europe, pursuant to articles 24 and 25 of the 1961 European Social Charter. The Committee monitors implementation of the 1961 Charter, the 1988 Additional Protocol, and the 1996 Revised European Social Charter. It is unique among regional human rights mechanisms for its collective (as opposed to individual) complaint mechanism, and the flexibility it allows States in deciding which provisions of the Charter to accept.

²³ For more information please see: https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFKJmH2bYG/content/no-90-2013-conference-of-european-churches-cec-v-the-netherlands?inheritRedirect=false

- Which rights and public services are long-term irregularly staying migrants provided access to?
- What is the role of cities dealing with this group of migrants? To what extent are cities involved and cooperate with the central government?
- What is the role of NGOs regarding access to public services for long-term irregularly staying migrants?
- Which measures (e.g. policies, practical tools, guidance) – if any – were implemented to bring protracted situations of illegal stay to an end?
- Were there any studies or research published on the effectiveness of these measures?
- What are the key challenges and good practices in terms of policy regarding long-term irregularly staying migrants?

4 SCOPE OF THE STUDY

The overall focus of this study is on **long-term irregular migrants** in a situation of protracted illegal stay, namely:

- Third-country nationals subject to a return decision and whose return, despite the return decision becoming final, was not enforced or was postponed for legal (non-refoulement principle, medical or humanitarian reasons) or other practical reasons (e.g. non-cooperation on the part of the person concerned or of the country of origin or other administrative reasons), and
- Third-country nationals who do not or no longer fulfil conditions for entry and stay in the territory of a State (as set out in the Schengen Borders Code (Regulation (EU) 2016/399) or other conditions for entry, stay or residence in that EU Member State), and who were not issued a return decision because they were unknown to the authorities.

In the latter case, despite the complexity in the determination of the duration of stay of the irregular migrant, authorities are usually able to distinguish between newly arrived irregular migrants and those that have already been in the Member State for a considerable amount of time before detection (of their illegal stay).

The study will focus on the cooperation between central authorities and municipalities in the implementation of national policies on irregular migration, as well as the margin of discretion of local authorities in the provision of services to third-country nationals. Where relevant, cooperation between municipal authorities and civil society organisations will also be explored.

More specifically, the study aims to examine the type of access to mainstream services of these target groups. It also aims to identify the type of services accessible to a person without a residence permit or other form of authorisation.

The study thus aims to map possible responses to end such long-term irregularity. Various measures directly relate to the enforcement of a return decision such as Assisted Voluntary Return (AVR) programmes or other incentives to return were already captured in numerous other studies and discussions at expert group level and are not the primary focus of this study.²⁴ This study will rather investigate measures which may indirectly relate to the promotion of return – either in the country of origin or another third-country – such as restricted access to mainstream services or specific programmes geared towards third-country nationals in a prolonged situation of illegal stay. Other possible responses to be explored include legal stay options for third-country nationals based on an integration criterion (e.g. length of stay, work, social and family ties, or education reasons). Additionally, Member States may also consider granting a temporary residence permit to migrants in an irregular situation who cooperate with

²⁴ Reference is made to the activities on these topics carried out by the EMN Return Experts Group.

the justice system, either as victims of trafficking in human beings or as witnesses of other offences or crimes.²⁵

While the reasons for issuing the return decision as well as the reasons for the return decision not being enforced or postponed could play a role in the measures implemented by national authorities, their examination does not fall within the scope of this study.

The Study covers the period from 2015 – October 2020.

5 RELEVANT SOURCES AND LITERATURE

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²⁵ Under Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

[return/return-readmission/docs/11032013_sudy_report_on_immigration_return-removal_en.pdf](https://www.compas.ox.ac.uk/return/return-readmission/docs/11032013_sudy_report_on_immigration_return-removal_en.pdf)

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6 DEFINITIONS

There are several key terms used in this template. The definitions listed below are defined with help from the **EMN Glossary**,²⁶ version 6. Please see the table below.

Term	Definition
Entry ban	An administrative or judicial decision or act prohibiting entry into and stay in the territory of the EU Member States for a specified period, accompanying a return decision.
Family members	A third-country national, as specified in Article 4(1) of Directive 2003/86/EC (normally members of the nuclear family – i.e. the spouse and the minor children), who has entered the territory of the European Union for the purpose of family reunification
Forced return	The process of going back – whether in voluntary or enforced compliance with an obligation to return – to one’s country of origin, a country of transit in accordance with EU or bilateral readmission agreements or other arrangements; or another third country, to which the third-country national concerned voluntarily decides to return and in which they will be accepted (Article 3(3) of the Return Directive).
Illegal or irregular stay	The presence on the territory of a Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Art. 5 of the Regulation (EU) 2016/399 (Schengen Borders Code) or other conditions for entry, stay or residence in that EU Member State.
Irregular migration	The movement of persons to a new place of residence or transit that takes place outside the regulatory norms of the sending, transit and receiving countries.
Non-refoulement	A core principle of international refugee and human rights law that prohibits States from returning individuals to a country where there is a real risk of being subjected to persecution, torture, inhuman or degrading treatment or any other human rights violation.

²⁶ Available at: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_en.

Term	Definition
Overstayer	A person remaining in a country beyond the period for which entry was granted. In the EU context, a person who has legally entered an EU State, but who has stayed beyond the expiry of his/her visa and/or residence permit.
Regularisation	State procedure by which illegally staying third-country nationals are awarded a legal status.
Residence permit	An authorisation issued using the format laid down in Regulation (EC) No 1030/2002 entitling its holder to stay legally on the territory of a Member State.
Return	The movement of a person going from a host country back to a country of origin, country of nationality or habitual residence usually after spending a significant period of time in the host country whether voluntary or forced, assisted or spontaneous.
Return decision	An administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return.
Social protection benefits	For the purpose of this study please refer to the definition of 'core benefits' as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum – income support, assistance in the case of illness, or pregnancy, and parental assistance.
Postponement of removal	(Temporary) suspension of removal of a third-country national who has received a return decision but whose removal is not possible either for humanitarian reasons (as their removal would violate the principle of non-refoulement or due to the third-country national's physical state or mental capacity) or for technical reasons (such as lack of transport capacity or failure of the removal due to lack of identification or the country of origin's refusal to accept the person) and for as long as a suspensory effect is granted in accordance with Art. 13(2) of Council Directive 2008/115/EC (Return Directive).
Third-country national	Any person who is not a citizen of the European Union within the meaning of Art. 20(1) of TFEU and who is not a person enjoying the Union right to free movement, as defined in Art. 2(5) of the Schengen Borders Code.
Trafficking in human beings	The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. ²⁷
Voluntary departure	Compliance with the obligation to return within the time limit fixed for that purpose in the return decision.
Vulnerable person	Minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of trafficking in human beings, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation (Art. 21 of Directive 2013/33/EU (Recast Reception Conditions Directive)).

²⁷ Article 2 par.1 of the Anti-trafficking Directive

7 ADVISORY GROUP (CORE AND WIDER GROUP)

An “Advisory Group” (AG) has been established within the context of this Study for the purpose of providing support to EMN NCPs during the development of the specifications for the Study, as well as the drafting of the Synthesis Report. In addition to COM, and the EMN Service Provider (ICF and the Odysseus), the members of the AG for the Study include EMN NCPs from BE, EE, FI, LU, SE, SI, NL and NO. NL NCP is the chair of the Advisory Group.

EMN NCPs are invited to send any requests for clarification or further information on the Study to the following representatives of the core AG:

Organisation	Name	Contact details
NL EMN NCP (Chair)	Hans LEMMENS	HPM.lemmens@ind.nl ;
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8 TIMETABLE

The following timetable presents the key milestones in preparation of the Study:

Date	Action
19 March 2020	Circulate first draft to 'core' Advisory Group members
23 March 2020	Call with core AG group
17 April 2020	Circulate first draft to all Advisory Group members
24 April 2020	<u>Deadline</u> comments Advisory Group on the first draft of the template
29 April 2020	AG meeting to discuss comments on the first draft of the template
12 May 2020	Circulate second draft to Advisory Group members
19 May 2020	<u>Deadline</u> comments Advisory Group on the second draft of the template
5 June 2020	Circulation of third draft to all EMN NCPs, COM and Odysseus
19 June 2020	<u>Deadline</u> for comments on third draft
30 June 2020	<u>Final draft for approval to COM</u>
17 July 2020	<u>Launch of the EMN study</u>
2 November 2020	<u>Deadline for national reports</u>

9 TEMPLATE FOR NATIONAL CONTRIBUTIONS

The template provided below outlines the information that should be included in the National Contributions of EMN NCPs to this Study. The indicative number of pages to be covered by each section is provided in the guidance note. For National Contributions, the total number of pages should not exceed 40 pages, including the questions and excluding the introduction of the study. A limit of 30 pages will also apply to the Synthesis Report, in order to ensure that it remains concise and accessible.

[Common Template of EMN Study 2020](#)

Responses to long-term irregularly staying migrants: practices and challenges in EU Member States and Norway

National Contribution from *Republic of Lithuania*^{*28}

Disclaimer: The following information has been provided primarily for the purpose of contributing to a Synthesis Report for this EMN Study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.

Top-line factsheet [max. 1 page]

*The top-line factsheet will serve as a summary of the **national contribution** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policy-makers. The top-line factsheet should be a stand-alone product. Please add any innovative or visual presentations that can carry through into the synthesis report as possible infographics and visual elements.*

Legal and political context. The scale of long-term irregularly staying migrants in the Republic of Lithuania is low, therefore no separate strategies targeting specifically long-term irregularly staying migrants have been adopted. On 22 January 2014, the Government of the Republic of Lithuania approved the Lithuanian Migration Policy Guidelines, which deal with migration policy issues, including combating irregular migration; however, long-term irregularly staying migrants are not discussed when assessing the overall migration situation and its tendencies in Lithuania. The main document establishing the legal status of such migrants is the Law on the Legal Status of Foreigners.

Overview of the situation in Lithuania. There are no precise statistics on the annual number of long-term irregular migrants in each category indicated in this study in 2015-2020, and it is not possible to determine the number of irregular migrants whose illegal stay has not yet been detected, however, the scale of long-term irregularly staying migrants can be judged on the basis of the number of voluntary return decisions and forced return decisions and the number of these decisions which have not been enforced or concerning which there are no reliable data. Between 2015 and September 2020, an average of 1 804 voluntary return decisions and 170 forced return decisions were issued each year. Each year, an average of 236 voluntary return decisions were not enforced or there are no reliable data concerning their enforcement, and an average of 15 forced return decisions were not enforced each year. At the same time, it should be noted that the mere fact that a third-country national's visa or residence permit has expired or that there is no reliable evidence as to whether the third-country national has complied with the voluntary return decision does not mean that the third-country national has not left the Republic of Lithuania and is staying there illegally (for example, the third-country national may have left the Schengen area at the external border of another Member State).

²⁸ Replace highlighted text with your **Member State** name here.

Categories of long-term irregularly staying migrants. Lithuanian legislation does not contain criteria for distinguishing irregularly staying foreigners between short-term irregularly staying migrants and long-term irregularly staying migrants. All categories of long-term irregularly staying migrants as indicated in this study exist in the Republic of Lithuania:

- third-country nationals subject to return decisions which cannot be enforced for legal or practical reasons;
- third-country nationals whose asylum applications have been rejected and who have absconded;
- third-country nationals whose visa or residence permit has expired;
- other irregular migrants whose illegal stay has not yet been detected.

It is important to note that if an irregularly staying foreigner is issued a temporary residence permit on the grounds provided for in the Law on the Legal Status of Foreigners, such a person is not considered as illegally staying during the period of validity of the temporary residence permit.

Attention should also be drawn to the fact that there still remain foreigners residing in the Republic of Lithuania for almost 28 years who do not hold a residence permit. Between 2015 and September 2020, an average of 7 foreigners applied each year for a permanent residence permit on this ground, having established in court the legal fact of residence in the Republic of Lithuania before 1 July 1993.

Accessibility of services. Accessibility of public services to persons of this category is restricted: irregularly staying migrants are not entitled to take up employment, only emergency healthcare is provided free of charge, special accommodation facilities are available only to unaccompanied third-country nationals and third-country nationals who have been granted the cooling-off period in accordance with the procedure specified by the Government of the Republic of Lithuania, during which they, as a present or former victims of crimes related to trafficking in human beings, must take a decision on cooperation with a pre-trial investigation body or the court.

Issue of residence permits. If an unaccompanied minor third-country national is not returned to a foreign state, the third-country national cannot leave the Republic of Lithuania for humanitarian reasons, he or she cannot be returned in the cases specified in the Law of the Republic of Lithuania on the Legal Status of Foreigners or the enforcement of forced return is suspended due to the circumstances specified in the Law on the Legal Status of Foreigners, the third-country national is issued a temporary residence permit valid for not longer than one year, during the period of validity of which the third-country national is entitled to take up employment. However, the number of temporary residence permits issued on this ground is very small, about 18 each year. It is also important to note that such issue of a temporary residence permit should not be considered as a legalisation scheme for irregularly staying migrants, i.e. a foreigner, even holding a temporary residence permit, should leave the Republic of Lithuania immediately if the circumstances due to which return/expulsion could not be enforced disappear.

Measures aimed at resolving the issue of long-term illegal stay. It is not possible to distinguish between measures promoting the return of long-term irregularly staying migrants and measures discouraging illegal stay, as general measures apply, including prevention and control of irregular migration, promotion of legal migration and identification of cases of abuse of legal migration, reduction of opportunities for abuse of legal migration, adequate control of the enforcement of voluntary return decisions and, where there are grounds for believing that a third-country

national may abscond in order to avoid return, refusal to grant a period for voluntary return and detention of the third-country national.

Public and policy debate. The scale of long-term irregularly staying migrants in the Republic of Lithuania is low. There is therefore no policy or legislative debate on this issue, nor has there been published any research or studies on the accessibility of public services to such migrants.

Section 1: National legal and policy framework

This introductory section of the synthesis report will map the institutional, legal and political contexts on the issue of long-term irregular migrants and aims to provide an overview of main points of discussion in Member States and Norway.

The primary questions addressed in this section are:

- *To what extent are central, regional and local authorities in your Member State confronted with the issue of long-term irregular migrants?*
- *What is the political and policy debate on the situation of long-term irregular migrants?*
- *What are the characteristics of the group of third-country nationals who remained in a protracted situation of illegal stay? What information is available on the size of the (sub)groups or categories?*

SECTION 1.1: CATEGORIES OF LONG-TERM IRREGULAR MIGRANTS AT NATIONAL LEVEL

Q1a. Is there a distinction between 'short-term' irregular migrants and 'long-term' irregular migrants (as defined in the scope of this study) in your (Member) State?

Yes

No

If yes, please explain how these are defined and where (policy, legislation and/or practice):

Lithuanian legislation does not contain criteria for distinguishing irregularly staying foreigners between short-term irregularly staying migrants and long-term irregularly staying migrants. The Law of the Republic of Lithuania on the Legal Status of Foreigners defines what constitutes unlawful entry, illegal stay, unlawful residence and unlawful departure.

However, it is important to mention that legal acts²⁹ distinguish a category of foreigners who resided in the Republic of Lithuania before 1 July 1993 and currently reside in the Republic of Lithuania but do not hold a residence permit.

Q1b. Are different categories of **long-term** irregular migrants (as defined in the scope of this study) – stemming from law or practice – present in your (Member) State?

Yes

No

Q1c. If yes to Q1b, are these:

irregular migrants subject to a return decision but the return cannot be enforced due to legal obstacles (e.g. non refoulement, medical or humanitarian reasons, etc)?

²⁹ Article 2 of the Law of the Republic of Lithuania Implementing the Law on the Legal Status of Foreigners, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.232379?positionInSearchResults=0&searchModelUUID=6345697b-886e-49dd-b2a7-01ff7248fdcd>

- irregular migrants subject to a return decision but the return cannot be enforced due to practical obstacles (cooperation of the person concerned, problems with travel documents etc)?
- former (rejected) applicants for international protection who absconded?
- third-country nationals whose short-stay visa, residence permit expired and/or was not renewed?
- other irregular migrants who were not (yet) detected by national migration authorities?
- Other (e.g. long-term irregular migrants with a criminal record, dependant family members) (please describe in the box below)?

These are foreigners who resided in the Republic of Lithuania before 1 July 1993 and currently reside in the Republic of Lithuania but do not hold a residence permit.

Q1d. If yes to Q1b, please also provide, if possible, an **estimation** of the numbers of persons (for each category identified in Q1a, 1b and 1c, as relevant) in your (Member) State, annually since 2015.

Please also indicate the relevant source of such estimate(s) and other relevant information if available (e.g. country of origin).

In Lithuania, there exist all categories of long-term irregularly staying migrants as listed in the answer to Q1c. There are no precise statistics on the annual number of persons in each category. It is also impossible to determine the number of irregular migrants who have not yet been detected by migration authorities; however, the scale of long-term irregularly staying migrants can be judged on the basis of the number of return decisions which have not been enforced or concerning which there are no reliable data and on the basis of the number of foreigners who, having established the legal fact of lawful residence in the Republic of Lithuania before 1 July 1993, have applied for a permanent residence permit on this ground.

It should be noted that the mere fact that a third-country national's visa or residence permit has expired or that there is no reliable evidence as to whether the third-country national has complied with the voluntary return decision does not mean that the third-country national has not left Lithuania and the Schengen area and is staying there illegally (e.g. the third-country national may have left the Schengen area at the external border of another Member State).

Table 1. Data on issued voluntary return, forced return decisions and (possible) failure to enforce these decisions						
	2015	2016	2017	2018	2019	2020 (until 30 September)
Number of issued voluntary return decisions	1 469	1 571	2 008	2 378	2 274	1 126
Number of voluntary return decisions concerning which there are no reliable data that they have been enforced	150	164	226	376	285	217

Number of issued forced return decisions	434	209	116	148	92	19
Number of non-enforced forced return decisions	6	34	13	12	27	0
Number of foreigners applying for a permanent residence permit on the ground of residing in the Republic of Lithuania before 1 July 1993	12	13	5	8	2	2

Q1f. If no to Q1b, please explain why this is not the case (in the box below)

Not applicable

Q2. If a third-country national is subject to a return decision but there are **legal obstacles to return (i.e. for non-refoulement reasons, medical reasons, etc), can they receive:**

Tick as many boxes as applicable in your (Member) State and use the box below to briefly describe the situation (e.g. procedure followed, conditions of application).

*For instance, please indicate if the option ticked is based on **i)** an administrative practice (please explain the practice); **ii)** legislation (please legislation); **iii)** case law (indicate case law reference and a short summary), or **iv)** other (e.g. policy).*

Please briefly describe also indicating estimations of the scale/numbers per year between January 2015-October 2020, if available.

For clarifications on categories below, please refer to section 2.

Written confirmation of postponement of return (please briefly explain the procedure, conditions below):

The Law of the Republic of Lithuania on the Legal Status of Foreigners stipulates that in cases other than the following:

- a) an asylum application lodged by a foreigner who has entered the Republic of Lithuania from a safe third country is not examined and he is returned (voluntary return) or is expelled from the Republic of Lithuania (forced return) to the safe third country;
- b) a foreigner is refused asylum, except for the case when the decision is issued upon examination of the application for asylum as a matter of urgency, the examination of his application for asylum is terminated or the granted asylum is withdrawn and he is expelled from the Republic of Lithuania (forced return) or returned (voluntary return) to a foreign state,

the enforcement of a return decision appealed against to an administrative court may be suspended by a ruling of the respective administrative court on the measures securing the claim. **In such a case, the foreigner receives the court's ruling.** There are no statistical data available, but on average up to 10 each year (when enforcement is suspended both upon appeal and under a separate court ruling).

In accordance with the Law of the Republic of Lithuania on the Legal Status of Foreigners and the legal act implementing the relevant provisions of this Law, the entity which has issued a decision on expulsion/forced return issues a decision to suspend the enforcement of the decision on expulsion until the disappearance of the grounds for suspension of the enforcement of the decision **and provides the foreigner with a copy of the decision** if, inter alia, the following circumstance transpires and does not disappear within 10 days of its transpiration – the foreigner is in need of basic medical care, the necessity of which is confirmed by a medical advisory committee of a healthcare institution.

Table 2. Number of decisions to suspend the enforcement of a forced return decision, as a foreigner is in need of basic medical care, the necessity of which is confirmed by a medical advisory committee of a healthcare institution

2015	2016	2017	2018	2019	2020 (until 30 September)
0	0	0	0	0	0

Temporary/tolerated stay (please briefly explain the conditions, application procedure below):

Residence permit (please briefly explain the conditions, application procedure, duration of status below):

The Law of the Republic of Lithuania on the Legal Status of Foreigners stipulates that a foreigner is issued a temporary residence permit valid for not longer than one year on the grounds provided for this purpose where, inter alia:

1. It is prohibited to return the foreigner to a country where his life or freedom is in danger or where he may be subjected to persecution on grounds of race, religion, nationality, membership of a certain social group or political opinion or to a country from where he may later be expelled to such country (these provisions do not apply to a foreigner who, for serious reasons, represents a threat to the security of the Republic of Lithuania or who has been convicted by an effective court judgment of a grave crime and constitutes a threat to the community).
2. The foreigner is not to be returned to a country where there are serious grounds for believing that in that country the foreigner will be tortured, subjected to cruel, inhuman or degrading treatment or punishment.

3. The foreigner is not to be returned to a foreign state if he or she has been granted the cooling-off period in accordance with the procedure established by the Government of the Republic of Lithuania, during which he or she, as a present or former victim of crimes related to trafficking in human beings, must take a decision on cooperation with a pre-trial investigation body or the court.
4. If an unaccompanied minor foreigner is not returned to a foreign state.
5. If the foreigner cannot leave the Republic of Lithuania for humanitarian reasons.
6. If the enforcement of a decision on the foreigner's expulsion (forced return) is suspended, inter alia, due to the following circumstance: the foreigner is in need of necessary medical care, the necessity of which is confirmed by a medical advisory committee of a healthcare institution.

In cases 1-3 and 5, a temporary residence permit valid for a period not longer than one year is issued, entitling a foreigner to take up employment during the period of validity of the permit. In case 4, an unaccompanied minor foreigner is issued a temporary residence permit valid for a period not longer than one year. In case 6, if the enforcement of expulsion is suspended and the circumstances due to which the enforcement of the decision has been suspended have not disappeared within one year and the foreigner has not been detained, he or she is issued a temporary residence permit valid for a period not longer than one year, entitling the foreigner to take up employment during the period of validity of the permit.

Table 3. Number of issued decisions to issue/renew a temporary residence permit in the cases referred to in answers to Q2 and Q3

2015	2016	2017	2018	2019	2020 (until 30 September)
25	15	15	15	17	20

Extension of the short-stay visa

Extension of the voluntary departure period

The Law of the Republic of Lithuania on the Legal Status of Foreigners stipulates that the voluntary departure period may be extended due to the following circumstances (however, the total length of the period may not exceed 60 days):

- taking into account the length of the foreigner's stay in the Republic of Lithuania; the family relationship with persons residing in the Republic of Lithuania; existing social, economic and other ties with the Republic of Lithuania, also whether the foreigner has minor children studying under a formal education programme/programmes in the Republic of Lithuania;

- if the foreigner is in need of necessary medical care, the necessity of which is confirmed by a medical advisory committee of a healthcare institution;
- if the foreigner cannot leave for objective reasons (the foreigner is not in possession of a valid travel document, there are no possibilities to obtain travel tickets, etc.).

No return decision issued (for administrative or other reasons including non-refoulement)

The Law of the Republic of Lithuania on the Legal Status of Foreigners stipulates that:

1. It is prohibited to return a foreigner to a country where his or her life or freedom is in danger or where he or she may be subjected to persecution on grounds of race, religion, nationality, membership of a certain social group or political opinion or to a country from where he or she may later be expelled to such country (these provisions do not apply to a foreigner who, for serious reasons, represents a threat to the security of the Republic of Lithuania or who has been convicted by an effective court judgment of a grave crime and constitutes a threat to the community).
2. A foreigner is not to be returned to a country where there are serious grounds for believing that in that country the foreigner will be tortured, subjected to cruel, inhuman or degrading treatment or punishment.
3. A foreigner is not to be returned to a foreign state if he or she has been granted the cooling-off period in accordance with the procedure established by the Government of the Republic of Lithuania, during which he or she, as a present or former victim of crimes related to trafficking in human beings, must take a decision on cooperation with a pre-trial investigation body or the court.
4. A decision on voluntary return of a foreigner may be not taken if, under an international agreement on the readmission of persons residing without authorisation concluded by the Republic of Lithuania, a foreigner illegally staying in the Republic of Lithuania is taken back: by a Member State of the European Union, if this agreement entered into force before 13 January 2009, or a country which is not a Member State of the European Union.
5. An unaccompanied minor foreigner will not be returned to a foreign state if he or she is not duly taken care of in the foreign state to which an unaccompanied minor could be returned taking into consideration his or her needs, age and level of independence.
6. A decision on the return of a foreigner may not be issued where the foreigner has been imposed a measure of restraint or is subject to an interim protection measure which restricts the foreigner's right to leave the Republic of Lithuania.

It is also established practice that a return decision is also not to be taken if there are serious grounds for believing that a foreigner resided in Lithuania before 1 July 1993 and currently resides in the Republic of Lithuania but does not hold a residence permit, or that the foreigner is unable to leave the Republic of Lithuania for humanitarian reasons.

Other (e.g. no other form of certificate/tolerated stay/residence permit granted)

Article 139 of the Law of the Republic of Lithuania on the Legal Status of Foreigners stipulates that the enforcement of a return decision appealed against to an administrative court is suspended where:

- a) an asylum application lodged by a foreigner who has entered the Republic of Lithuania from a safe third country is not examined and he or she is returned (voluntary return) or is expelled from the Republic of Lithuania (forced return) to the safe third country;
- b) a foreigner is refused asylum, except for the case when the decision is issued upon examination of the application for asylum as a matter of urgency, the examination of his or her application for asylum is terminated or the granted asylum is withdrawn and he or she is expelled from the Republic of Lithuania (forced return) or returned (voluntary return) to a foreign state.

In such cases, no separate confirmation that the enforcement of the decision has been suspended is issued, unless the foreigner himself or herself lodges a separate application for the issue of a certificate concerning his or her legal status in the Republic of Lithuania.

Q3. If a third-country national is subject to a return decision but there are **practical obstacles to return** (i.e. lack of means of transportation, lack of identification or travel documents, lack of cooperation of the third-country national, absconding etc.), can they receive:

Tick as many boxes as applicable in your (Member) State and use the box below to briefly describe the situation (e.g. procedure followed, conditions of application).

For instance, please indicate if the option ticked is based on i) an administrative practice (please explain the practice); ii) legislation (please legislation); iii) case law (indicate case law reference and a short summary), or iv) other (e.g. policy).

Please briefly describe also indicating estimations of the scale/numbers per year can be provided for the years 2015-October 2020, if available.

For clarifications on categories below, please refer to section 2

- A written confirmation of postponement of return (please briefly explain the procedure, conditions below):

In accordance with the Law of the Republic of Lithuania on the Legal Status of Foreigners and the legal act implementing the relevant provisions of this Law, the entity which has issued a decision on expulsion/forced return issues a decision to suspend the enforcement of the decision on expulsion until the disappearance of the grounds for suspension of the enforcement of the decision and provides the foreigner with a copy of the above decision if, inter alia, the following circumstances transpire and do not disappear within 10 days of their transpiration:

- the foreign state to which the foreigner may be expelled refuses to accept him or her;
- the foreigner cannot be expelled for objective reasons (the foreigner is not in possession of a valid travel document, there are no possibilities to obtain travel tickets, etc.).

Table 4. Number of decisions to suspend the enforcement of a decision on the expulsion (forced return) due to the above circumstances

2015	2016	2017	2018	2019	2020 (until 30 September)
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0	29	7	8	5	0
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A temporary/tolerated stay (please briefly explain the conditions, application procedure):

A residence permit (please briefly explain the conditions, application procedure, duration of status below):

The Law of the Republic of Lithuania on the Legal Status of Foreigners stipulates that a foreigner is issued a temporary residence permit valid for not longer than one year if, inter alia, the enforcement of a decision on the expulsion (forced return) of the foreigner is suspended, inter alia, due to the following circumstances:

- the foreign state to which the foreigner may be expelled refuses to accept him or her;
- the foreigner cannot be expelled for objective reasons (the foreigner is not in possession of a valid travel document, there are no possibilities to obtain travel tickets, etc.),

and these circumstances have not disappeared within one year of suspension of the enforcement of the decision to expel the foreigner and the foreigner has not been detained.

An extension of the short-stay visa

No return decision issued (for administrative or other reasons including non-refoulement)

Other (e.g. no other form of certificate/tolerated stay/residence permit granted)

SECTION 1.2: PRIORITIES AND DEBATES AT A NATIONAL LEVEL

Q4a. Has the issue of long-term irregular migrants been subject to **policy or legislative debate** (i.e. discussions) in your (Member) State since 2015?

Yes

No

If yes, (i) what was the debate about and (ii) how has the debate evolved since 2015 (include debates related to Covid-19)?

Please provide a brief explanation of the main focus (i.e. main aspects discussed) and the evolution since 2015. Please indicate the main stakeholders involved. Please provide qualitative evidence to support your answer (e.g. national parliamentary debates, strategies, other policy documents).

Not applicable

Q5a. Has the issue of long-term irregular migrants been subject to **inter-institutional debate** between local (municipal, regional, federal) and central level authorities, in your (Member) State since 2015?

Yes

No

If yes, please indicate the main stakeholders involved in your answer and qualitative evidence (e.g. public debates, policy documents).

Not applicable

Q5b. If yes to Q5a, (i) what was the debate about and (ii) how has it evolved since 2015?

Please provide a brief explanation of the main focus (i.e. main aspects discussed) and the evolution since 2015.

Not applicable

Q6. If yes to Q4a and/or Q5a, has the debate influenced **policy or legislative measures** (e.g. national strategies or plans, legislative framework, etc.)?

Yes

No

If yes, please indicate the policy or legislative measures adopted:

Not applicable

Q7a. Has the issue of long-term irregular migrants been subject to **public debate** (i.e. media/NGOs) in your (Member) State since 2015?

Yes

No

Q7b. If yes to Q7a, (i) please indicate the main stakeholders involved (ii) the main circumstances of the debate and (iii) if there has been any change in the debate since 2015?

Please provide a brief explanation of the main focus (i.e. main aspects discussed) and the evolution since 2015.

Please provide qualitative evidence to support your answer (e.g. reliable media reports, statements or reports of NGO/civil society organisations or International Organisations (IOs), research studies, official surveys, barometers, other policy documents).

Not applicable

Q8. Has the issue of long-term irregularly staying migrants been subject to **policy or public debate** in your (Member) State specifically in connection with the measures taken in responses to **COVID-19** and their impacts?

No. The issue of long-term irregularly staying migrants has not been subject to policy or public debate in Lithuania.

Q9. Are there any **planned changes** in law/policy/practice regarding long-term irregular migrants in your (Member) State?

Yes, there are planned changes in law. Please explain below:

Yes, there are planned changes in policy. Please explain below:

Yes, there are planned changes in practice. Please explain below:

No.

Section 2: National policies and approaches regarding long-term irregularly staying migrants

This section aims to provide an overview of national policy in (Member) States and Norway on the way States address long-term irregularity. It will address the following research questions:

- *Which rights and public services are long-term irregularly staying migrants provided access to?*
- *What is the role of central, regional and local authorities in dealing with this group of migrants?*
- *To what extent are regional and local authorities involved and cooperate with the central government?*
- *What is the role of civil society organisations or other entities regarding the access to public services for long-term irregularly staying migrants?*

- *What measures (e.g. policies, practical tools, guidance) were implemented regarding the access to public services for long-term irregularly staying migrants?*
- *Were there any studies or research published on the effectiveness of these measures?*

SECTION 2.1: RIGHTS AND ACCESS TO SERVICES OF LONG-TERM IRREGULAR MIGRANTS

This section aims to understand the rights and services accessible to long-term irregular migrants, which central, regional and local authorities are involved in the provision of services, as well as the role of civil society organisations.

Q10. What services are accessible to long-term irregular migrants who were issued a return decision, but return cannot be implemented for legal or practical obstacles?

Please complete the table below for each type or authorisation to stay or statuses indicated Q2 and Q3 (i.e. written confirmation of postponement of return, temporary or tolerated stay, residence permit, only return decision).

Please complete the below table for each relevant status. If two or more types of authorisations to stay give the same access to services, please fill the table only once.

Table 1: Rights and services available to long-term irregularly staying migrants who have been issued a return decision				
<i>Type of stay or status as identified in Q2 and/or Q3: [Return decision issued; enforcement of a return decision suspended; no return decision issued]</i>				
Type of service	Service provided ? (Y/N)	Is the provision of service mandatory or discretionary ? ³⁰	Brief description Please consider for each type of services the long-term irregular migrants are entitled or have access to: i. Does this access stem from national law or practice? Does it stem from local (regional, municipal) rules or practice? ii. Which authorities are competent to provide access to services? Please indicate if access is provided by other entities (NGO, charities, private entities, etc) as service providers on behalf of the national or local authorities?	Please briefly assess and explain if the rights and access to services are more limited, same or more favourable than those of legal migrants or of nationals?
Accommodation				Less <input type="checkbox"/> Same <input checked="" type="checkbox"/> More <input type="checkbox"/>
Accommodation <i>If yes, please briefly describe</i>	<i>N</i>	Not applicable	As a rule, long-term irregularly staying foreigners are not provided with accommodation, except for unaccompanied minors and victims of crimes related to trafficking in human	As a rule, lawfully residing foreigners are not provided with accommodation,

³⁰ For example, in some cases a service can be accessed but the costs must be met by the individual rather than the State/national authorities.

			beings who have been granted the cooling-off period (see below).	except for certain categories of migrants (e.g. unaccompanied minors, persons who have been granted asylum, etc.).
Special accommodation facilities (i.e. shelter for victims of violence, children etc.) <i>If yes, please briefly describe</i>	T	Mandatory Depends on the situation	Unaccompanied minor foreigners not applying for asylum are accommodated at the Refugee Reception Centre (state budgetary institution) by a decision of the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour. If a foreigner has been granted, in accordance with the procedure specified by the Government of the Republic of Lithuania, the cooling-off period during which he or she, as a present or former victim of crimes related to trafficking in human beings, must take a decision on cooperation with a pre-trial investigation body or the court and if he or she is in need of residential premises, he or she is also provided with accommodation at the Refugee Reception Centre.	
Other forms of accommodation or shelter or specialised centre	T	Mandatory	Irregularly staying foreigners are detained by a court decision for more than 48 hours at the Foreigners' Registration Centre under the State Border Guard Service. A foreigner may not be detained for a period in excess of 6 months, except for the cases when he or she does not cooperate in the process of his or her expulsion from the Republic of Lithuania, in which case the period of detention may be extended for an additional period not exceeding 12 months.	
Healthcare				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Emergency healthcare <i>If yes please describe, as this notion can be</i>	T	Mandatory	Emergency medical services are provided to all patients, regardless of their legal status in the Republic of Lithuania.	Emergency medical services are provided in Lithuania to

<i>understood in a large or restrictive way</i>			Emergency medical services include the following: first medical aid, emergency medical care. First medical aid is provided first, followed by emergency medical care.	all patients, regardless of their legal status.
Basic medical care <i>If yes, please briefly describe</i>	<i>T</i>	Mandatory	Foreigners accommodated at the Refugee Reception Centre (in this case – unaccompanied minor foreigners and present or former victims of crimes related to trafficking in human beings who have been granted the cooling-off period) are entitled to receive healthcare services in accordance with the procedure specified by the Minister of Health.	The provision of other healthcare services (e.g. medical treatment, specialised care, etc.) at public healthcare institutions free of charge is directly linked to whether or not the person is covered by compulsory health insurance.
		Mandatory	Foreigners detained at the Foreigners' Registration Centre are provided with primary outpatient personal healthcare services and necessary medical care, including the possibility of vaccination according to the National Immunisation Programme implemented in the Republic of Lithuania.	
		Depends on the situation	Other irregular migrants do not have access free of charge to basic medical care services at public healthcare institutions, as such migrants are not covered by compulsory health insurance. If a person is not covered by compulsory health insurance, basic medical care services may be provided at private and public healthcare institutions on a paid basis , provided that the person holds a valid identity document and sufficient funds to pay for the services.	If a person is not covered by compulsory health insurance, certain healthcare services may be provided at private and public healthcare institutions on a paid basis , provided that the person holds a valid identity document and sufficient funds to pay for the services.
Specialised care <i>If yes, please briefly describe</i>	<i>T</i>	Mandatory	The foreigners suspected of suffering from dangerous or especially dangerous communicable diseases are hospitalised and/or isolated, tested and/or treated in accordance with the procedure laid down by the Law of the Republic of Lithuania on the Prevention and Control of Communicable Diseases in Humans.	

<p><i>If yes, please briefly describe what these benefits are</i></p>				<p>social assistance and social services.</p> <p>The Law of the Republic of Lithuania on Social Services stipulates that the right to receive social services (i.e. services aimed at providing assistance to a person (family) who, by reason of his or her age, disability, social problems, partially or completely lacks, has not acquired or lost the abilities or possibilities to independently care for his or her private (family) life and to participate in society) is granted, inter alia, to foreigners, including stateless persons, who hold a residence permit in the Republic of Lithuania.³²</p> <p>Applications for cash social assistance for low-income persons (household allowances; social benefits; reimbursement of heating costs, cold and hot water costs, etc.) may be lodged by</p>
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³² Law of the Republic of Lithuania on Social Services, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.270342/asr>

				foreigners holding a permit of a long-term resident of the Republic of Lithuania to reside in the European Union. ³³
Employment				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
<p>Are there circumstances in your MS where long-term irregularly staying migrants are entitled to access to the labour market?</p> <p><i>If yes, please describe any specific conditions attached to their employment.</i></p>	<i>N</i>	Not applicable	A foreigner's employment is considered to be illegal irrespective of whether income is received or not, if he or she is employed while staying illegally in the Republic of Lithuania, therefore, irregularly staying migrants are not entitled to access to the labour market.	Lawfully residing migrants are entitled to access to the labour market.
Education				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
<p>Do (long-term irregular migrant) children have access to compulsory education?</p> <p><i>If yes, please briefly describe access.</i></p>	<i>T</i>	Mandatory	The Law of the Republic of Lithuania on Education stipulates that the State takes measures to ensure that in Lithuania each child studies according to pre-primary, primary, basic, secondary education curricula. This provision applies to all children, regardless of their legal status in Lithuania.	Children's entitlement to education is guaranteed to all children, regardless of their legal status in Lithuania.
<p>Are adult long-term irregularly staying migrants entitled to participate in</p>	<i>N</i>	Not applicable	Adult long-term irregularly staying migrants are not entitled to participate in educational programmes and professional training.	Lawfully residing foreigners are entitled to participate in the educational system.

³³ Law of the Republic of Lithuania on Cash Social Assistance for Low-Income Residents, <https://www.e-tar.lt/portal/lt/legalAct/TAR.3EEE59417F13/asr>. Cash assistance is also available to foreigners who have been granted asylum in the Republic of Lithuania or temporary protection; nationals of Australia, Japan, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Canada, New Zealand and South Korea and their family members who have been issued temporary residence permits in the Republic of Lithuania.

<p>educational programmes and/or professional training?</p> <p><i>If yes, what types of education and under which conditions?</i></p>				<p>The Employment Service also organises professional training of unemployed and employed persons, however, these services are only available to third-country nationals who hold a residence permit and who are exempted from the obligation to obtain a work permit under legal acts of the Republic of Lithuania.³⁴</p>
<p>Legal aid or assistance</p>				<p>Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/></p>
<p>Do long-term irregular migrants have access to legal aid or assistance type of services?</p> <p><i>If yes, please briefly enumerate and explain</i></p>	<p>T</p>	<p>Mandatory</p>	<p>Legal aid or assistance services may be provided to the following categories of irregular migrants:</p> <ul style="list-style-type: none"> ➤ unaccompanied minor foreigners have access to state-guaranteed legal aid, irrespective of the legitimacy of their stay on the territory of the Republic of Lithuania; ➤ during the hearing of a motion for detention of a foreigner or provision to him or her of an alternative to detention, the foreigner is entitled to state-guaranteed legal aid; ➤ foreigners accommodated at the Refugee Reception Centre (unaccompanied minors and present or former victims of crimes related to trafficking in human beings who have been granted the cooling-off period). 	<p>Legal services available to irregular migrants and described in the left column are not relevant for lawfully residing migrants.</p> <p>Foreigners holding a temporary residence permit are eligible to participate in the activities of integration centres in Vilnius, Kaunas and Klaipėda, where foreigners are provided with various services, including legal services.</p>

³⁴ Law of the Republic of Lithuania on Employment, <https://www.e-tar.lt/portal/lt/legalAct/422c8b5042b811e6a8ae9e1795984391/asr>

		Depends on the situation	It should also be noted that the cooperation agreement signed in June 2020 between the State Border Guard Service and the Lithuanian Red Cross Society provided the latter with a possibility to provide legal aid to foreigners who are accommodated or detained at the Foreigners' Registration Centre under the State Border Guard Service or at border crossing points, regardless of their legal status.	Applications for state-guaranteed legal aid may be lodged by natural persons lawfully residing in the Republic of Lithuania. ³⁵
Other?				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input checked="" type="checkbox"/>
Are any other rights relevant to mention here? Please describe	T	Mandatory	<p>Foreigners accommodated at the Refugee Reception Centre (including unaccompanied minors and victims of crimes related to trafficking in human beings who have been granted the cooling-off period) are provided, inter alia, with the following assistance:</p> <ul style="list-style-type: none"> - a monthly allowance for food and petty expenses in the amount of 0.7 of state-supported income is paid to the foreigners³⁶; - translation services are ensured; - teaching of the Lithuanian language, courses in knowledge of Lithuanian culture and vocational guidance are organised. <p>Foreigners accommodated at this centre are, inter alia, entitled:</p> <ul style="list-style-type: none"> - to access a psychologist's services provided at the centre; - to receive free translation assistance; - to receive reimbursement for the use of means of public transport. 	The services indicated in the left column are provided to all foreigners accommodated at the Refugee Reception Centre (e.g. asylum applicants, displaced persons, persons who have been granted asylum). It is not feasible to compare other categories of migrants and the services available to them, as such foreigners are not accommodated at the Refugee Reception Centre.

³⁵ Law of the Republic of Lithuania on State-Guaranteed Legal Aid, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.98693/asr>

³⁶ As of 1 January 2020, the amount of state-supported income is EUR 125, thus foreigners are paid EUR 87.5.

Table 2: Services available to long-term irregularly staying migrants who were unknown to migration authorities (e.g. overstayers, irregular entry)

<i>Type of stay or status as identified in Q2 and/or Q3: [temporary residence permit issued]</i>				
Type of service	Service provided? (Y/N)	Is the provision of service mandatory or discretionary ? ³⁷	Brief description Please consider for each type of services the long-term irregular migrants are entitled or have access to: i. Does this access stem from national law or practice? Does it stem from local (regional, municipal) rules or practice? ii. Which authorities are competent to provide access to services? Please indicate if access is provided by other entities (NGO, charities, private entities, etc) as service providers on behalf of the national or local authorities?	Please briefly assess and explain if the rights and access to services are more limited, same or more favourable than those of legal migrants or of nationals?
Accommodation				Less <input type="checkbox"/> Same <input checked="" type="checkbox"/> More <input type="checkbox"/>
Accommodation <i>If yes, please briefly describe</i>	<i>N</i>	Not applicable	As a rule, foreigners who have been issued temporary residence permits in the cases referred to in answers to Q2 and Q3 are not provided with accommodation, except for unaccompanied minors and victims of crimes related to trafficking in human beings who have been granted the cooling-off period (see below).	As a rule, lawfully residing foreigners are not provided with accommodation, except for certain categories of migrants (e.g. unaccompanied minors, persons who have been granted asylum, etc.).
Special accommodation facilities (i.e. shelter for victims of violence, children etc.) <i>If yes, please briefly describe</i>	<i>T</i>	Mandatory	Unaccompanied minor foreigners not applying for asylum are accommodated at the Refugee Reception Centre (state budgetary institution) by a decision of the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour. If an unaccompanied minor foreigner is not returned to a foreign state, he or she is issued a temporary residence permit valid for a period not longer than one year. However, also in this case, unaccompanied	

³⁷ For example, in some cases a service can be accessed but the costs must be met by the individual rather than the State/national authorities.

		depends on the situation	<p>minor foreigners may continue living at the Refugee Reception Centre.</p> <p>If a foreigner has been granted, in accordance with the procedure specified by the Government of the Republic of Lithuania, the cooling-off period during which he or she, as a present or former victim of crimes related to trafficking in human beings, must take a decision on cooperation with a pre-trial investigation body or the court, he or she is issued a temporary residence permit valid for one year. If such a foreigner is in need of residential premises, he or she is also provided with accommodation at the Refugee Reception Centre.</p>
Other forms of accommodation or shelter or specialised centre	<i>N</i>	Not applicable	
Healthcare			Less <input type="checkbox"/> Same <input checked="" type="checkbox"/> More <input type="checkbox"/>
Emergency healthcare <i>If yes please describe, as this notion can be understood in a large or restrictive way</i>	<i>T</i>	Mandatory	<p>Emergency medical services are provided to all patients, regardless of their legal status in the Republic of Lithuania.</p> <p>Emergency medical services include the following: first medical aid, emergency medical care. First medical aid is provided first, followed by emergency medical care.</p>
Basic medical care <i>If yes, please briefly describe</i>	<i>T</i>	Mandatory	<p>Foreigners accommodated at the Refugee Reception Centre (in this case – unaccompanied minor foreigners and present or former victims of crimes related to trafficking in human beings who have been granted the cooling-off period) are entitled to receive healthcare services in accordance with the procedure specified by the Minister of Health.</p>
			<p>Emergency medical care are provided in Lithuania to all patients, regardless of their legal status.</p> <p>The provision of other healthcare services (e.g. medical treatment, specialised care, etc.) at public healthcare institutions free of charge is directly linked to whether or</p>

			and public healthcare institutions on a paid basis , provided that the person has sufficient means to pay for these services.
Other healthcare services <i>If yes, please briefly describe</i>	T	Depends on the situation	Other healthcare services are available at public healthcare institutions free of charge to foreigners who have been issued temporary residence permits in the cases referred to in answers to Q2 and Q3, only if such foreigners are employed or were employed for at least 6 months and have been registered with the Employment Service as unemployed persons, as well as to minor family members (i.e. the listed persons are covered by compulsory health insurance). If a person is not covered by compulsory health insurance, certain supplementary healthcare services could be provided at private and public medical institutions on a paid basis , provided that the person has sufficient means to pay for these services.
Social assistance			Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are long-term irregularly staying migrants entitled to receive social benefits? ³⁸ <i>If yes, please briefly describe what these benefits are</i>	T	Not applicable – the person is entitled to apply for the provision of social benefits, however this is not mandatory	In Lithuania, social assistance consists of cash social assistance and social services. The Law of the Republic of Lithuania on Social Services stipulates that the right to receive social services (i.e. services aimed at providing assistance to a person (family) who, by reason of his or her age, disability, social problems, partially or completely lacks, has not acquired or lost the abilities or possibilities to independently care for his or her private (family) life and to participate in society) is granted, inter alia,

(see answer in the left column)

³⁸ Please consider the definition of 'core benefits' as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum - income support, assistance in the case of illness, or pregnancy, and parental assistance.

			<p>to foreigners, including stateless persons, who hold a residence permit in the Republic of Lithuania.³⁹</p> <p>Applications for cash social assistance for low-income persons (household allowances; social benefits; reimbursement of heating costs, cold and hot water costs, etc.) may be lodged by foreigners holding a permit of a long-term resident of the Republic of Lithuania to reside in the European Union, therefore such assistance is not available to foreigners who have been issued temporary residence permits in the cases referred to in answers to Q2 and Q3⁴⁰.</p>	
Employment				Less <input type="checkbox"/> Same <input checked="" type="checkbox"/> More <input type="checkbox"/>
<p>Are there circumstances in your MS where long-term irregularly staying migrants are entitled to access to the labour market?</p> <p><i>If yes, please describe any specific conditions attached to their employment.</i></p>	<i>T</i>	<p>Not applicable – the person is entitled to access to the labour market, however this is not mandatory</p>	<p>Foreigners who have been issued temporary residence permits in the cases referred to in answers to Q2 and Q3 are entitled to take up employment during the period of validity of this residence permit and are exempt from the obligation to obtain a work permit.</p>	<p>Lawfully residing migrants are entitled to access to the labour market.</p>
Education				Less <input type="checkbox"/> Same <input checked="" type="checkbox"/> More <input type="checkbox"/>
<p>Do (long-term irregular migrant) children have access to compulsory education?</p> <p><i>If yes, please briefly describe access.</i></p>	<i>T</i>	<p>Mandatory</p>	<p>The Law of the Republic of Lithuania on Education stipulates that the State takes measures to ensure that in Lithuania each child studies according to pre-primary, primary, basic, secondary education curricula. This provision applies to all children, regardless of their legal status in Lithuania.</p>	<p>Children’s entitlement to education is guaranteed to all children, regardless of their legal status in Lithuania.</p>

³⁹ Law of the Republic of Lithuania on Social Services, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.270342/asr>

⁴⁰ Law of the Republic of Lithuania on Cash Social Assistance for Low-Income Residents, <https://www.e-tar.lt/portal/lt/legalAct/TAR.3EEE59417F13/asr>. Cash assistance is also available to foreigners who have been granted asylum in the Republic of Lithuania or temporary protection; nationals of Australia, Japan, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Canada, New Zealand and South Korea and their family members who have been issued temporary residence permits in the Republic of Lithuania.

<p>Are adult long-term irregularly staying migrants entitled to participate in educational programmes and/or professional training?</p> <p><i>If yes, what types of education and under which conditions?</i></p>	<p>N</p>	<p>Not applicable – the person is entitled to participate in educational programmes and professional training, however this is not mandatory</p>	<p>The Law of the Republic of Lithuania on Education stipulates that every foreigner who has the right of permanent or temporary residence in the Republic of Lithuania has the right to study, attain an education level and a qualification. The State guarantees to each foreigner who has the right of permanent or temporary residence in the Republic of Lithuania pre-primary, primary, basic and secondary education, access to higher education study programmes or professional training programmes that result in the acquisition of the first qualification. This service is therefore available also to foreigners who have been issued temporary residence permits in the cases referred to in answers to Q2 and Q3.</p> <p>The Employment Service also organises professional training of unemployed persons and employed persons, and these services are available to third-country nationals who hold a residence permit and who are exempted from the obligation to obtain a work permit under legal acts of the Republic of Lithuania.⁴¹ This service is therefore available to foreigners to whom temporary residence permits have been issued in the cases referred to in answers to Q2 and Q3.</p>	<p>(see answer in the left column)</p>
<p>Legal aid or assistance</p>				<p>Less <input type="checkbox"/> Same <input checked="" type="checkbox"/> More <input type="checkbox"/></p>
<p>Do long-term irregular migrants have access to legal aid or assistance type of services?</p>	<p>T</p>	<p>Mandatory</p>	<p>The Law on the Legal Status of Foreigners stipulates that unaccompanied minor foreigners, regardless of the legitimacy of their stay on the territory of the Republic of Lithuania, have the right to receive state-guaranteed legal</p>	<p>Foreigners holding a temporary residence permit are eligible to participate in the activities of integration centres in Vilnius, Kaunas</p>

⁴¹ Law of the Republic of Lithuania on Employment,

<i>If yes, please briefly enumerate and explain</i>		<p>Mandatory</p> <p>Not applicable – foreigners participate in the activities of integration centres voluntarily</p>	<p>aid, unless laws of the Republic of Lithuania provide otherwise.</p> <p>Foreigners accommodated at the Refugee Reception Centre are entitled to receive legal advice.</p> <p>Foreigners holding a temporary residence permit are eligible to participate in the activities of integration centres in Vilnius, Kaunas and Klaipėda, where foreigners are provided with various services, including legal services.</p>	<p>and Klaipėda, where foreigners are provided with various services, including legal services.</p> <p>Applications for state-guaranteed legal aid may be lodged by natural persons lawfully residing in the Republic of Lithuania.⁴²</p>
Other?				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are any other rights relevant to mention here? Please describe	T	Mandatory	<p>Foreigners accommodated at the Refugee Reception Centre are provided, inter alia, with the following assistance:</p> <ul style="list-style-type: none"> - a monthly allowance for food and petty expenses in the amount of 0.7 of state-supported income is paid to the foreigners; - translation services are ensured; - teaching of the Lithuanian language, courses in knowledge of Lithuanian culture and vocational guidance are organised. <p>Foreigners accommodated at this centre are, inter alia, entitled:</p> <ul style="list-style-type: none"> - to access a psychologist's services provided at the centre; - to receive free translation assistance; - to receive reimbursement for the use of means of public transport. 	<p>The above services are provided to all foreigners accommodated at the Refugee Reception Centre (e.g. asylum applicants, displaced persons, persons who have been granted asylum). It is not appropriate to compare other categories of migrants and the services available to them, as such foreigners are not accommodated at the Refugee Reception Centre.</p>

⁴² Law of the Republic of Lithuania on State-Guaranteed Legal Aid, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.98693/asr>

		Not applicable – foreigners participate in the activities of integration centres voluntarily	Foreigners holding a temporary residence permit are eligible to participate in the activities of integration centres in Vilnius, Kaunas and Klaipėda, where foreigners are provided with various services: information, counselling, intermediation, representation, social, legal, psychological, vocational guidance, teaching of the Lithuanian language, civic integration; seminars on the development of personal competences (presentation to the employer, communication skills, motivation, etc.) are organised.	At integration centres, services are provided to foreigners lawfully residing in Lithuania.
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Q11. What services are accessible to other long-term irregular migrants who were **not issued a return decision, and remained unknown to migration authorities (see answer to Q1)?**

Table 3: Services available to long-term staying migrants who were unknown to migration authorities (e.g. overstayers, irregular entry)

Type of stay or status as identified in Q2 and/or Q3: irregularly staying migrants who were unknown to migration authorities

Type of service	Service provided? (T/N)	Is the provision of service mandatory or discretionary ? ⁴³	Brief description Please consider for each type of services the long-term irregular migrants are entitled or have access to: i. Does this access stem from national law or practice? Does it stem from local (regional, municipal) rules or practice? ii. Which authorities are competent to provide access to services? Please indicate if access is provided by other entities (NGO, charities, private entities, etc) as service providers on behalf of the national or local authorities?	Please briefly assess and explain if the rights and access to services are more limited, same or more favourable than those of legal migrants or of nationals?
Accommodation				Less <input type="checkbox"/> Same <input checked="" type="checkbox"/> More <input type="checkbox"/>
Accommodation	N	Not applicable		

⁴³ For example, in some cases a service can be provided, however the costs must be borne by the person and not by the State or national authorities.

<i>If yes, please briefly describe</i>				As a rule, lawfully residing foreigners are not provided with accommodation, except for certain categories of migrants (e.g. unaccompanied minors, persons who have been granted asylum, etc.).
Special accommodation facilities (i.e. shelter for victims of violence, children etc.) <i>If yes, please briefly describe</i>	N	Not applicable		
Other forms of accommodation or shelter or specialised centre	N	Not applicable		
Healthcare				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Emergency healthcare <i>If yes please describe, as this notion can be understood in a large or restrictive way</i>	T	Mandatory	Emergency medical services are provided to all patients, regardless of their legal status in the Republic of Lithuania. Emergency medical services include the following: first medical aid, emergency medical care. First medical aid is provided first, followed by emergency medical care.	emergency medical services are provided in Lithuania to all patients, regardless of their legal status.
Basic medical care <i>If yes, please briefly describe</i>	N			The provision of other healthcare services (e.g. medical treatment, specialised care, etc.) at public healthcare institutions free of charge is directly linked to whether or not the person is covered by compulsory health insurance. Irregularly staying foreigners are not covered by compulsory health insurance.
Specialised care <i>If yes, please briefly describe</i>	T	Mandatory	The persons suspected of suffering from dangerous or especially dangerous communicable diseases are hospitalised and/or isolated, tested and/or treated in accordance with the procedure laid down by the Law of the Republic of Lithuania on the Prevention and Control of Communicable Diseases in Humans.	
Other healthcare services <i>If yes, please briefly describe</i>	N	Not applicable		
				If a person is not covered by compulsory health insurance,

				certain healthcare services may be provided at private and public healthcare institutions on a paid basis , provided that the person holds a valid identity document and sufficient funds to pay for the services.
Social assistance				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are long-term irregularly staying migrants entitled to receive social benefits?⁴⁴ <i>If yes, please briefly describe what these benefits are</i>	N	Not applicable	Irregularly staying foreigners do not have access to social assistance.	In Lithuania, social assistance consists of cash social assistance and social services. The Law of the Republic of Lithuania on Social Services stipulates that foreigners, including stateless persons, holding a residence permit in the Republic of Lithuania are entitled to social services. ⁴⁵ Foreigners who hold a permit of a long-term resident of the Republic of Lithuania to reside in the European Union may apply for cash social

⁴⁴ Please consider the definition of 'core benefits' as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum – income support, assistance in the case of illness, or pregnancy, and parental assistance.

⁴⁵ Law of the Republic of Lithuania on Social Services, <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.270342/asr>

				assistance for low-income residents. ⁴⁶
Employment				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are there circumstances in your MS where long-term irregularly staying migrants are entitled to access to the labour market?	N	Not applicable	A foreigner's employment is considered to be illegal, irrespective of whether income is received or not, if he or she is employed while staying illegally in the Republic of Lithuania, therefore, irregularly staying migrants are not entitled to access to the labour market.	Lawfully residing migrants are entitled to access to the labour market.
Education				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Do (long-term irregular migrant) children have access to compulsory education? <i>If yes, please briefly describe access.</i>	T	Mandatory	The Law of the Republic of Lithuania on Education stipulates that the State takes measures to ensure that in Lithuania each child studies according to pre-primary, primary, basic, secondary education curricula. This provision applies to all children, regardless of their legal status in Lithuania.	Children's entitlement to education is guaranteed to all children, regardless of their legal status in Lithuania.
Are adult long-term irregularly staying migrants entitled to participate in educational programmes and/or professional training?	N	Not applicable	Irregularly staying migrants are not entitled to participate in educational programmes and professional training.	Lawfully residing foreigners are entitled to participate in the educational system. The Employment Service also organises professional training of unemployed

⁴⁶ Law of the Republic of Lithuania on Cash Social Assistance for Low-Income Residents, <https://www.e-tar.lt/portal/lt/legalAct/TAR.3EEE59417F13/asr>. Cash assistance is also available to foreigners who have been granted asylum in the Republic of Lithuania or temporary protection; nationals of Australia, Japan, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Canada, New Zealand and South Korea and their family members who have been issued temporary residence permits in the Republic of Lithuania.

<i>If yes, what types of education and under which conditions?</i>				persons and employed persons, however, these services are only available to those third-country nationals who are in possession of a residence permit and who are exempted from the obligation to obtain a work permit under legal acts of the Republic of Lithuania. ⁴⁷
Legal aid or assistance				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Do long-term irregular migrants have access to legal aid or assistance type of services? <i>If yes, please briefly enumerate and explain</i>	N	Not applicable	Irregular migrants do not have access to legal aid or assistance type of services provided by the State.	<p>Foreigners who hold a temporary residence permit are eligible to participate in the activities of integration centres in Vilnius, Kaunas and Klaipėda, where foreigners receive various services, including legal services.</p> <p>Applications for state-guaranteed legal aid may be lodged by natural persons lawfully residing in the Republic of Lithuania.</p>
Other?				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>

⁴⁷ Law of the Republic of Lithuania on Employment, <https://www.e-tar.lt/portal/lt/legalAct/422c8b5042b811e6a8ae9e1795984391/asr>

Are any other rights relevant to mention here? Please describe				
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Q12. Do **authorities** (at central or local level) need to **check the migration status** (or the lack thereof) **before providing access to a service** (e.g. accommodation, healthcare, education), or are there 'firewall provisions' allowing persons concerned to access services without fear of being apprehended?

Decisions on the accommodation of foreigners at the Refugee Reception Centre are taken only considering their legal status in the Republic of Lithuania.

Healthcare services, other than emergency medical services, are provided on presentation of an identity document and a document evidencing health insurance coverage or on payment for the services provided. Neither healthcare institutions, nor research and educational institutions, nor public organisations are under the obligation to report to migration authorities on a foreigner illegally staying in the Republic of Lithuania.

Q13. Is **cooperation to return to the country of origin an obligation** if one of the services are provided (under Q10 and Q11) to the long-term irregularly staying migrant?

Yes

No

If yes, please explain the applicable procedures and how it is carried out.

Q14. Are there **any specific projects and/or (ad-hoc) programmes** implemented at **local level** (by municipalities, regions, etc) in your (Member) State specifically targeting the access to services for long-term irregularly staying migrants?

Yes

No

If yes, please provide examples (e.g. which stakeholders are involved in the design, implementation and effects of the projects or programmes, any evaluations conducted on the projects or programmes and any key learning points identified)

Q15a. With the exception of organisations acting as a service provider for public authorities (Q10 and Q11), are **other entities or organisations** (e.g. NGOs, charities, other private entities) involved in providing or facilitating access to services for long term irregularly staying migrants?

Yes

No

If yes, please specify which entities, what type of involvement and service (e.g. accommodation, health care, counselling) are they involved in and, which type of funding used to support their activities.

There are no special projects or programmes involved in this area, however the Vilnius Archdiocese Caritas provides accommodation, food and counselling within their means and capabilities if a person refers to them.

Following the signing of the cooperation agreement with the State Border Guard Service in June 2020, representatives of the Lithuanian Red Cross Society have a possibility to provide legal aid to foreigners who are accommodated or detained at the Foreigners' Registration Centre under the State Border Guard Service or at border crossing points, regardless of their legal status.

Q15b. Do these entities or organisations need to report on the migration status (or the lack thereof) before providing access to a service (e.g. accommodation, healthcare, education), or are there 'firewall provisions' allowing persons concerned to access services without fear of being apprehended?

Decisions on the accommodation of foreigners at the Refugee Reception Centre are taken only with regard to their legal status in the Republic of Lithuania.

Healthcare institutions, research and educational institutions as well as other agencies and organisations are not under the obligation to report to migration authorities on a foreigner illegally staying in the Republic of Lithuania.

Moreover, if non-governmental organisations provide assistance to irregular migrants, they are not under the obligation to report to migration authorities on a foreigner illegally staying in the Republic of Lithuania.

Q16. If a long-term irregular migrant is a victim of or witness to an offence (e.g. labour exploitation, domestic violence, etc), are there any available 'safe reporting'⁴⁸ channels between the TCN concerned and public authorities to report the incident without divulging their situation of illegal stay?

Yes

No

If yes, please briefly describe the channel/reporting mechanism:

Persons who are victims of trafficking in human beings or who suspect that they or their relatives are or were intended for trafficking may refer to a law enforcement institution or to the Trafficking in Human Beings Investigation Unit of the Lithuanian Criminal Police Bureau or to organisations providing assistance to victims. Information provided to organisations providing assistance is

⁴⁸ <https://www.compas.ox.ac.uk/project/safe-reporting-of-crime-for-victims-and-witnesses-with-irregular-migration-status-in-the-usa-and-europe/>

considered to be confidential and is not communicated to police officers without the consent of the person concerned.

If a victim of domestic violence refers directly to a specialised assistance centre rather than to the police, the centre must ensure the protection of personal data and confidentiality of the provision of assistance. Information is communicated to the police only with the person's consent.

Organisations providing assistance are not under the obligation to report a person's legal status in Lithuania to migration authorities.

Q17. Are there any **assisted voluntary return (AVR) projects or programmes** implemented in your (Member) State that also specifically foresee support to access to services (in the host (Member) State, thus before departure) for long-term irregular migrants?

Yes

No

If yes, please describe (e.g. please consider any specific conditions to access the service(s)):

Assisted voluntary return is implemented by IOM Vilnius Office. The project, which pursues the aim of promoting and providing voluntary return assistance to third-country nationals or stateless persons staying in Lithuania by ensuring their safe and dignified return to their country of origin, is being implemented from 1 July 2018 until 31 December 2020. The project targets not only any third-country nationals or stateless persons who enjoy any form of protection in Lithuania, but also irregularly staying third-country nationals in respect of whom a voluntary return decision has been issued. Prior to departure, they receive basic assistance which best suits their individual needs: counselling, receipt of necessary travel documents, organisation of travel and purchase of tickets. If necessary, temporary accommodation, meals, medical care, as well as escort, assistance in the transit country or welcome upon arrival is provided.

Q18. Please provide if applicable **illustrative (and anonymised) case(s)** of measures adopted by authorities (a) at central, (b) regional and (c) local level (e.g. municipalities) to provide access to services (e.g. accommodation, health, etc) – up to two examples.

Example: accommodation of unaccompanied minors at the Refugee Reception Centre

Context

The Minister of Social Security and Labour of the Republic of Lithuania, the Minister of the Interior of the Republic of Lithuania and the Minister of Health of the Republic of Lithuania approved in 2014 by a joint order the Description of the Procedure for Assessment of the Age of Non-asylum Seeking Unaccompanied Minor Foreigners Identified in the Republic of Lithuania, Accommodation and Taking of Other Procedural Actions in Respect Thereof and Provision of Services Thereto.

Process

In accordance with this Description, an institution or agency which has detected an unaccompanied minor on the territory of the Republic of Lithuania transfers him or her to the State Border Guard Service under the Ministry of the Interior. The State Border Guard Service informs about an unaccompanied minor the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour, the territorial division of this service, which, not later than within 6 hours, decides on the accommodation of the unaccompanied minor at the Refugee Reception Centre, the Refugee Reception Centre, the National Health Insurance Fund under the Ministry of Health and the Migration Department under the Ministry of the Interior and escorts and transfers the unaccompanied minor to the Refugee Reception Centre. The Migration Department, in cooperation with non-governmental or international organisations and a representative of the child, immediately organises the search for the family members of the unaccompanied minor and, not later than within 2 days of the receipt of information on the detected unaccompanied minor, issues to him or her a foreigner's registration certificate. If it is established that it is impossible to return the minor to his country of origin, he or she is issued a temporary residence permit valid for one year, which may be renewed, unless the circumstances change.

In Lithuania, all unaccompanied minors, regardless of their legal status, have the following rights:

- 1) to be provided with free accommodation and be supported in the Republic of Lithuania;
- 2) to study according to a general education programme/programmes or a vocational training programme/programmes;
- 3) to receive free medical aid;
- 4) to be provided with free social services;
- 5) to receive state-guaranteed legal aid;
- 6) to contact representatives of non-governmental organisations of the Republic of Lithuania or international organisations.⁴⁹

As mentioned in previous answers, all unaccompanied minors are accommodated at the Refugee Reception Centre, regardless of their legal status. Inhabitants of the Refugee Reception Centre are paid a monthly cash allowance for food and petty expenses. An unaccompanied minor, accompanied by a social worker, goes shopping and decides together with him how to spend this amount of money. The monthly allowance for food and petty expenses is equal to 0.7 of the state-supported income amount⁵⁰. Unaccompanied minors are also provided with seasonal clothes and footwear, essential personal hygiene items, household goods and appliances. Pupils are provided with all the necessary school supplies.⁵¹

The Refugee Reception Centre provides counselling by a psychologist and a social worker (such counselling is not mandatory), courses in the Lithuanian language and knowledge of Lithuania (lessons and courses are mandatory), assessment of professional skills and job counselling, non-

⁴⁹ Article 32(2) of the Law of the Republic of Lithuania on the Legal Status of Foreigners

⁵⁰ As of 1 January 2020, the amount of state-supported income is EUR 125, thus foreigners are paid EUR 87.5.

⁵¹ Description of the Procedure for Providing State Support for the Integration of the Persons who have been Granted Asylum approved by Resolution No 998 of the Government of the Republic of Lithuania of 5 October 2016, 23 p.

formal educational activities, medical services and state-guaranteed legal aid. All these measures target all unaccompanied minors regardless of their status in Lithuania.⁵²

Q19. Did any change happen in relation to access of long-term irregular migrants to social services as described above, as consequence of measures taken in response to the COVID-19 pandemic?

Yes

No

If yes, please describe by referring to all relevant aspects and services covered in **Q10-Q17**.

Q20. Is there any research available in your (Member) State on irregular migrants accessing rights and services listed above (conducted by relevant authorities, academics, NGOs, etc.)?

Yes

No

If yes, please describe the main findings and conclusions of such research and provide a full reference to the source.

SECTION 2.2: COOPERATION MECHANISMS BETWEEN CENTRAL, REGIONAL AND LOCAL AUTHORITIES

This section will focus on the cooperation between central authorities and, regional authorities as well as municipalities in the implementation of national policies on long-term irregular migration.

Q21. Were specific measures (legislative, administrative, practices) implemented by central authorities to help regional and local authorities to anticipate and/or to respond to the situation of long-term irregular migrants in their territories?

Monitoring and follow-up approaches of long-term irregularly staying migrants

Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)

⁵² Ibid.

The scale of long-term irregularly staying migrants in the Republic of Lithuania is low, therefore no separate strategies targeting specifically long-term irregularly staying migrants have been adopted.

On 22 January 2014, the Government of the Republic of Lithuania approved the Lithuanian Migration Policy Guidelines, the provisions of which are applied by ministries, agencies of the Government of the Republic of Lithuania, agencies under the ministries and other state institutions and agencies accountable to the Government. At the same time, the Government recommended that municipalities and other state institutions and agencies not accountable to the Government of the Republic of Lithuania, as well as international and non-governmental organisations should participate in the implementation of the provisions of these Guidelines.

The Lithuanian Migration Policy Guidelines address migration policy issues, including combating irregular migration, however it should be noted that long-term irregularly staying migrants in Lithuania are not discussed when assessing the overall migration situation and its tendencies in Lithuania.

The Ministry of the Interior coordinates the monitoring of migration processes and analyses these processes. To monitor and evaluate the migration processes, the Minister of the Interior has approved a list of criteria for monitoring migration processes based on separate areas of migration policies, including combating irregular migration.

The Ministry of the Interior collects and summarises data on the criteria for monitoring migration processes and other information received from responsible institutions and agencies, analyses developments with regard to the migration processes, challenges, possible negative consequences and submit annually by 1 May a report on the implementation of migration policy and conclusions to the Government.

It should also be noted that the State Border Guard Service carries out an analysis of the situation in the area of irregular migration and informs the relevant authorities accordingly.

Information exchange between central and local authorities about long-term irregularly staying migrants

Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)

Guidance or any other form of established practice made available to regional and local authorities on how to assist long-term irregularly staying migrants (e.g. training sessions, guidance (e.g. written instructions or guidelines), other)

Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)

Other measure(s)

Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)

Q22. Do local authorities in your Member State participate in **horizontal cooperation networks** (of local authorities) to develop good practices and/or programmes to address the situation of long-term irregular migrants?

Yes

No

If yes, please provide examples.

Q23. Were there any studies or research published on the effectiveness of any of the measures mentioned in Q21?

Yes

No

If yes, please mention references and brief description of the studies or piece of research:

SECTION 2.3: GOOD PRACTICES

Q24. What are **good practices** regarding policy measures concerning long-term irregularly staying migrants?

*For each good practice mentioned, please describe **a)** for whom it is a good practice (policy-maker, organisation, other stakeholders), **b)** why it is considered a good practice and **c)** whether the assessment that this is a good practice is based on input from experts (and if so, which experts), surveys, evaluation reports, focus groups or from other sources (please indicate which ones).*

Providing services (housing, health care, other measures)

Please provide a brief explanation:

The services provided to unaccompanied minors could be identified as an example of good practices. More information on the services provided to unaccompanied minors is provided in the answer to Q18.

- Exchanging information between national and local authorities on long-term irregularly staying migrants

Please provide a brief explanation:

- Exchanging information between Member States?

Please provide a brief explanation:

- Other good practices

Please provide a brief explanation:

Adequate guarding of the external borders of the European Union, continuous implementation of measures for the prevention and control of irregular migration of third-country nationals, closer interinstitutional and international cooperation (especially among neighbouring countries) help to ensure effective control of irregular migration.

The conclusion of readmission agreements with their countries of origin and the signing of implementing protocols to readmission agreements is essential to ensure the effective return of irregularly staying third-country nationals.

For example, following a sharp increase in the number of irregular migrants from Vietnam, the Agreement between the Government of the Republic of Lithuania and the Government of the Socialist Republic of Vietnam on the readmission of citizens, which was signed on 8 January 2019, was ratified on 7 May 2019.

Section 3: Responses to end long term irregular stay

This section will focus on policies and good practices implemented in finding approaches to address (and end) the issue of long-term irregularity. This section aims to research the following:

- *What measures (e.g. policies, practical tools, guidance) were implemented to bring protracted situations of illegal stay to an end?*
- *Were there any studies or research published on the effectiveness of these measures?*
- *What are the key challenges and good practices in terms of policy regarding long-term irregularly staying migrants?*

Q25. What options are available in your Member State to end long-term illegal stay of third-country nationals (e.g. return, legalisation of stay, other)? Which are prioritized?

A decision in specific cases takes due account of all the circumstances of the case. Before issuing a return decision, account is taken of the length of a third-country national's stay in the Republic of Lithuania, the family relationship with persons residing in the Republic of Lithuania, existing social, economic and other ties with the Republic of Lithuania, the nature and extent of dangerousness of the committed offence. Thus, it is equally likely that a return decision will be issued and the possibility will be provided for an irregularly staying third-country national to legalise his or her residence in Lithuania, especially in cases when his or her family members lawfully reside in Lithuania⁵³.

Thus, the following actions may be taken in respect of irregular migrants in Lithuania:

- A return decision may be issued;
- An expulsion decision may be issued;
- A temporary residence permit valid for not longer than one year may be issued if an unaccompanied minor foreigner is not returned to a foreign state, the foreigner is unable to leave the Republic of Lithuania for humanitarian reasons, the foreigner cannot be returned to a foreign state or expelled from the Republic of Lithuania;
- After consideration of all the circumstances of the case, it may be decided not to issue any of the above decisions, but to allow a foreigner to apply for a temporary residence permit or a permanent residence permit during illegal stay (if, of course, the foreigner so wishes). This is mainly the case when family members (spouses, minor children) lawfully reside in Lithuania.

SECTION 3.1. MEASURES TO PROMOTE RETURN OR DISCOURAGE ILLEGAL STAY

Q26. What measures to **promote return or discourage illegal stay** are in place in your Member (State) specifically for long term irregular migrants (as identified in this study)?

e.g. restricted access to mainstream services or specific programmes geared towards third-country nationals in a prolonged situation of irregular stay, specific cooperation measures between national, regional and local authorities.

Please note that various measures directly related to the enforcement of a return decision such as AVR programmes or other incentives to return were already captured in numerous other EMN studies and discussions at expert group level and are not the primary focus of this study.

It is not possible to distinguish measures specifically targeting long-term irregularly staying migrants in Lithuania, as general measures are applied: prevention and control of irregular migration,

⁵³ According to the LLSF, family members mean the spouse or the person with whom a registered partnership has been contracted, minor children/adopted children (hereinafter: 'children'), including the minor children of the spouse or the person with whom a registered partnership has been contracted, on condition that they are not married and are dependent, as well as direct relatives in the ascending line who have been dependent for at least one year and are unable to use the support of other family members residing in a foreign state.

promotion of legal migration and identification of cases of abuse of legal migration, reduction of opportunities for abuse of legal migration, adequate control of the enforcement of voluntary return decisions and, where there are grounds for believing that a third-country national may abscond in order to avoid return, refusal to grant a period for voluntary departure and detention of the third-country national.

Q27a. What are the **good practices as identified in your Member States to promote return or discourage illegal stay** for long term irregular migrants identified in your (Member) State?

For each good practice mentioned, please describe a) for whom it is a good practice (policy-maker, organisation, migrant, other stakeholders), b) why it is considered a good practice and c) what is the source of the statement – e.g. based on input from experts, surveys, evaluation reports or from other sources (please indicate which ones).

A voluntary return decision is issued only after taking due account of the real possibilities of a third-country national to comply with such a decision and to leave the country. If there are grounds for believing that the third-country national may abscond in order to avoid return, a period for voluntary departure is not granted and the third-country national is detained. Return decisions are issued only after establishing the identity of third-country nationals.

Q27b. Is there any research available in your (Member) State on **promotion of return or the discouragement illegal stay** (conducted by relevant authorities, academics, NGOs, etc.)?

Yes

No

If yes, please describe the main findings and conclusions of such research and provide a full reference to the source.

Q28. Please provide **illustrative example(s)** of responses and/or good practices to **promote return or discourage illegal stay** adopted by authorities (a) at central level, (b) regional and/or (c) at local level (e.g. municipalities) – up to two examples, in the form of anonymised case studies of individual long-term irregularly staying migrants):

In 2016, there was a sharp increase in the number of irregular migrants from Vietnam. In 2016, the authorities failed to establish the identity of 23 Vietnamese migrants during the maximum period of detention (18 months), which also means failing to expel from Lithuania. However, in 2019, following the ratification on 7 May 2019 of the readmission agreement signed with Vietnam on 8 January 2019, the number of such cases fell to 3.

SECTION 3.2: LEGALISATION OF STAY OPEN SPECIFICALLY TO LONG-TERM IRREGULAR MIGRANTS

Q29. Are options for legalisation of stay open specifically to long-term irregular migrants in your Member (State)?

E.g. a specific status/residence permit for legalising the stay of long-term irregularly staying migrants (see section 1)? specific schemes established at national level for legalising the stay of long-term irregular migrants? Or do such options form part of the system of residence permits available to all migrants?

If yes, please briefly explain the criteria considered (e.g. integration in labour market, length of stay, language skills, absence of criminal record, social and family ties, having entered the country as a minor):

The Law of the Republic of Lithuania Implementing the Law on the Legal Status of Foreigners stipulates the right of foreigners who resided in the Republic of Lithuania before 1 July 1993 and actually currently reside in it to be issued a permanent residence permit in the Republic of Lithuania.

Foreigners who resided in the Republic of Lithuania before 1 July 1993 and currently reside in the Republic of Lithuania, though data on their place of residence in the Republic of Lithuania have not been entered in records of the place of residence in the Republic of Lithuania, must establish in court the legal fact of their residence in the Republic of Lithuania before the specified period and the fact of their current residence on the territory of the Republic of Lithuania. A foreigner must prove in court that he or she: has legal means of subsistence in the Republic of Lithuania and pays income and other taxes or contributions specified by laws and other legal acts of the Republic of Lithuania and possesses residential premises in the Republic of Lithuania.

It is important to note that temporary residence permits issued in the cases referred to in answers to Q2 and Q3 should not be considered as a scheme for legalising irregularly staying migrants. Although such foreigners are issued a temporary residence permit, a foreigner would have to leave the Republic of Lithuania immediately if the circumstances due to which a return/expulsion decision could not be enforced disappear. However, as mentioned in the answer to Q25, a decision in specific cases takes due account of all the circumstances of the case. Before issuing a return decision, account is taken of the length of the stay of a third-country national in the Republic of Lithuania, the family relationship with the persons residing in the Republic of Lithuania, existing social, economic and other ties with the Republic of Lithuania, the nature and extent of dangerousness of the committed offence. Thus, it is equally likely that a return decision will be issued or the possibility will be provided for an irregularly staying third-country nationals to legalise their residence in Lithuania, especially in cases when their family members lawfully reside in Lithuania.

Q30a. What are the good practices as identified in your Member States with regards to legalisation of stay identified in your (Member) State?

For each good practice mentioned, please describe a) for whom it is a good practice (policy-maker, national or local authority, organisation, migrant, other stakeholders), b) why it is considered a good practice and c) what is the source of the statement – e.g. based on input from experts, surveys, evaluation reports or from other sources (please indicate which ones).

The foreigners who exercise the right, as stipulated by the Law of the Republic of Lithuania on the Legal Status of Foreigners, of foreigners who resided in the Republic of Lithuania before 1 July 1993 and actually currently reside in it to be issued a permanent residence permit in the Republic of Lithuania are most often economically disadvantaged persons for whom the collection of documents and the payment of state fees for a residence permit prove to be a heavy burden, therefore the fact that municipalities/wards sometimes help such persons with paperwork and pay for them the state fees should be considered as a good practice.

Q30b. Is there any research available in your (Member) State on **practices with regards to options for legalisation of stay** available specifically to irregular migrants (conducted by relevant authorities, academics, NGOs, etc.)?

Yes

No

If yes, please describe the main findings and conclusions of such research and provide a full reference to the source.

Q31. Please provide **illustrative example(s)** of responses and good practices related to the **legalisation of stay measures** adopted by authorities (a) at central level, (b) regional and/or (c) at local level (e.g. municipalities) – up to two examples, in the form of anonymised case studies of individual long-term irregularly staying migrants):

See the answer to Q30a.

SECTION 3.3.: MEASURES TAKEN IN RESPONSE TO THE COVID-19 PANDEMIC

Q32. Were measures taken to end the situation of long-term irregular migrants specifically in connection to the responses to and **impacts of the COVID-19** (e.g. legalisation of migrant workers employed in specific sectors)? Please describe.

No return decisions were issued and no administrative liability for illegal stay was imposed against the foreigners whose period of legal stay in Lithuania expired during the quarantine declared on the territory of Lithuania (from 16 March 2020 until 16 June 2020, 24:00) and who were/are not able to leave Lithuania on time through no fault of their own. The mentioned foreigners, as well as those in respect of whom a return decision had been issued but the voluntary departure period expired during the quarantine were allowed to remain in Lithuania during the period of quarantine on the territory of Lithuania, however, after the end of the quarantine, they had to leave Lithuania until 17 August 2020, 24:00.

In each case, once it is established that a foreigner who has entered to lodge an application for the issue of a national visa or a residence permit or to collect an issued residence permit is staying

illegally in Lithuania, due account is first taken of all circumstances relevant to the case. The foreigners whose period of legal stay in Lithuania expired during the quarantine declared on the territory of Lithuania and who were unable to leave Lithuania through no fault of their own were allowed to collect the issued residence permit until 17 August 2020, while staying illegally. Moreover, taking into consideration the factual circumstances that led to a third-country national's failure to leave Lithuania until the expiry of the period of his or her legal stay and the actual possibilities to leave, certain third-country nationals were allowed to submit documents for the issue of a national visa or a residence permit even while staying illegally.

Section 4: Challenges and future actions

Q33. What are the challenges regarding **policy measures** concerning long-term irregularly staying migrants?

*For each challenge mentioned, please describe **a)** for whom it is a challenge (policy-maker, organisation, other stakeholders), **b)** why it is considered a challenge and **c)** whether the assessment that this is a challenge is based on input from experts (and if so, which experts), surveys, evaluation reports, focus groups or from other sources (please indicate which ones).*

Providing services (e.g. housing, health care, etc.)

Please provide a brief explanation:

Challenges exchanging information and/or cooperation between national and local authorities on long-term irregularly staying migrants

Please provide a brief explanation:

Challenges exchanging information between Member States?

Please provide a brief explanation:

Other challenges (e.g. other measures mentioned in section 3) Please provide a brief explanation:

Given that the scale of long-term irregularly staying migrants in Lithuania is low, there are no institutional challenges.

Q34. What are the challenges regarding **policy measures concerning long-term irregularly staying migrants specifically linked to the reposes to and impacts of the **COVID-19 pandemic**?**

Given that the scale of long-term irregularly staying migrants in Lithuania is low, there are no institutional challenges.

Q35. What are the challenges of **promoting return or discouraging illegal stay concerning long-term irregularly staying migrants? Please describe any additional challenges specifically linked to the reposes to and impacts of the **COVID-19 pandemic**?**

Given that the scale of long-term irregularly staying migrants in Lithuania is low, there are no challenges. However, it is likely that due to the COVID-19 pandemic, the number of such persons will increase as some countries have restricted entry, transport is complicated (no flights, increased ticket prices, etc.).

Q36. What are the challenges regarding the **options for legalisation of stay available to long-term irregularly staying migrants? Please describe any additional challenges specifically linked to the reposes to and impacts of the **COVID-19 pandemic**?**

Due to the COVID-19 pandemic, third-country nationals are facing challenges in obtaining new travel documents from their country when the documents in their possession expire.

Q37. According to (central and/or local) stakeholders in your (Member) State, what actions could be taken **at EU level to support (Member) States to effectively cooperate and overcome the challenges faced in relation to long-term irregularly staying migrants?**

For each suggested improvement mentioned, please describe a) for whom it is a suggestion (policy-maker, organisation, other stakeholders), b) why it is considered a suggestion and c) whether the assessment that this is a suggested improvement based on input from experts (and if so, which experts), surveys, evaluation reports, focus groups or from other sources (please indicate which ones).

Improving the effectiveness of the EU's return system in relation to irregularly staying migrants also affects the scale of long-term irregularly staying migrants. The launch of the Entry/Exit system and the start of application of the Regulation of the European Parliament and of the Council on the use of the Schengen Information System for the return of illegally staying third-country nationals will improve the control of the short-term stay of third-country nationals and the enforcement of return decisions.

In order to prevent abuse of opportunities for legal migration, instruments should be developed allowing the Member States of the European Union to exchange information on annulled national visas, so that third-country nationals would be prevented from entering and staying on the territory of one Member State under an annulled national visa issued by another Member State.

Section 5: Conclusions

This section of the Synthesis Report will draw conclusions as to the Member States' existing policies, practices and case law related to long-term irregularly staying migrants.

Q38. With regard to the aims of this study (policy responses to long-term irregular migrants), what conclusions would you draw from your findings reached in elaborating your national contribution?

With reference to the primary research question, please elaborate your conclusions highlighting the relevance of your findings to (national and/or EU level) policy-makers. You may cover the following points:

- The size of the problem of long-term irregular migrants in your country
- the most topical issues raised in the political and policy debate on the situation of long-term irregularly staying migrants
- The main concerns and issues related to providing access to public services to long-term irregularly staying migrants
- The main concerns and issues related to implementing measures to bring protracted situations of illegal stay to an end

- 1. The scale of long-term irregularly staying migrants in the Republic of Lithuania is low, therefore no separate strategies and measures targeting specifically long-term irregularly staying migrants have been adopted. There are no major institutional challenges, nor has there been any public or policy debate on this issue.
- 2. In Lithuania, there exist all categories of long-term irregularly staying migrants as indicated in this study. However, Lithuanian legislation does not contain criteria for distinguishing irregularly staying foreigners between short-term irregularly staying migrants and long-term irregularly staying migrants. The only category clearly identified in legal acts is foreigners who resided in the Republic of Lithuania before 1 July 1993 and currently reside in the Republic of Lithuania but do not hold a residence permit.
- 3. Usually a voluntary return or expulsion decision is issued in Lithuania with regard to irregular migrants. It may also be decided to transfer a foreigner under a readmission agreement. If the foreigner cannot be returned/expelled for certain reasons, a decision may be issued to issue a temporary residence permit valid for a period not longer than one year. In this case, the migrant is not considered to be illegally staying in the country during the period of validity of the temporary residence permit. In certain individual cases, having considered all the circumstances, it may be decided not to issue any of the above decisions, but to allow the foreigner to lodge an application for a residence permit even while staying irregularly, if the foreigner's family members lawfully reside in Lithuania.
- 4. Accessibility of public services to long-term irregularly staying migrants is restricted: medical care (except emergency medical services) is not provided free of charge, social benefits and educational services are not available, and foreigners are not entitled to take up employment while staying illegally in Lithuania. The irregularly staying migrants who have been issued a temporary residence permit have wider access to services and have in principle the same rights as other foreigners holding a temporary residence permit.

- 5. Services provided to unaccompanied minors in the country (accommodation, medical, social and legal services and access to education) can be considered as good practices related to institutional measures targeting long-term migrants.
- 6. Legalisation possibilities as regards stay in Lithuania are available to foreigners who resided in the Republic of Lithuania before 1 July 1993 and currently reside in the Republic of Lithuania but do not hold a residence permit. Other foreigners, if their return or expulsion is not possible, may be issued a temporary residence permit valid for a period not longer than one year, however this should not be considered as a legalisation scheme for irregularly staying migrants. Such foreigners should leave the Republic of Lithuania immediately if the circumstances due to which a return/expulsion decision could not be enforced disappear.
- 7. Lithuania's example demonstrates that general measures for the management of irregular migration, such as adequate guarding of the external borders, continuous implementation of measures for the prevention and control of irregular migration, closer interinstitutional and international cooperation, help to ensure effective control of irregular migration and a low scale of irregular migrants in the country. Nevertheless, one of the best practices which has helped to address the issue of long-term illegal stay of foreigners in Lithuania and which could be mentioned is the 2019 agreement between Lithuania and the Government of the Socialist Republic of Vietnam on readmission aimed at reducing the number of irregular migrants from Vietnam.