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Ad-Hoc Query on 2022.41 The application of entry bans in decisions of entry refusals

Requested by EMN NCP Portugal on 1 September 2022

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden (21 in Total)

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1. BACKGROUND INFORMATION

The Portuguese Parliament approved the proposed changes to Law 23/2007, (commonly known as the Foreigners' Law) on 21st July this year, with the new law 18 of 2022 coming into force on 26th August 2022.

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Among the main changes, the operationalization of the 2nd generation Schengen Information System (SIS II) for the purposes of the provisions of article 24 of [EU Regulation 1861/2018](#) stands out. This legislative and operational change requires an adaptation of procedures, to be defined in a Regulatory Decree to be approved.

According to the provisions of article 24 of EU Regulation 1861/2018, Member States shall enter an alert for refusal of entry and stay when the Member State has concluded, based on an assessment of the personal circumstances of the third-country national concerned and the consequences of refusing him or her entry, that the presence of that third-country national, on its territory poses a threat to public policy, to public security or to national security, namely:

1. a third-country national has been convicted in a Member State of an offence carrying a penalty involving the deprivation of liberty of at least one year;
2. there are serious grounds for believing that a third-country national has committed a serious criminal offence, including a terrorist offence, or there are clear indications of his or her intention to commit such an offence in the territory of a Member State; or
3. a third-country national has circumvented or attempted to circumvent Union or national law on entry into and stay on the territory of the Member States.

We would very much appreciate the contributions of the EMN National Contact Points in answering the following questions.

Note: In view of the urgency to submit the results of this ad-hoc query in order to draft the regulatory decree, Portugal has requested a shorter deadline to respond the questions of two weeks which had been approved by the co-chair of the AHQWG. We will appreciate your collaboration with this urgent ad-hoc query.

We would like to ask the following questions:

1. Does the legislation of your Member State provide for an entry ban into national territory of third-country nationals who are refused entry to national territory? YES/NO.
2. If you answer yes to Q.1, which circumstances justify an entry ban when the third-country national is refused because he/she constitutes a threat to public policy, public security or national security?

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3. Which specific consequences are foreseen in relation to third-country nationals that "circumvented or attempted to circumvent Union or national law on entry into and stay on the territory of the Member States"?

4. Taking into account the situations described in Q.2 and Q.3, which of them are (or will be) likely be use to issue an indication/alert for refusal of entry and stay in SIS, for the purposes of the provisions of article 24 of EU Regulation 1861/2018 and for how long ?

We would very much appreciate your responses by 19 September 2022.

2. RESPONSES

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		Wider Dissemination ²	
	EMN NCP Austria	Yes	<p>1. In Austria, the prevention of entry and rejection at the border of third-country nationals (TCNs) by the public security service as well as measures to terminate residence including entry bans imposed to TNCs by the Federal Office for Immigration and Asylum (BFA) are regulated in the Aliens Police Act.</p> <p>Agents of the public security service are authorized to prevent the entry of TCNs pursuant to Article 41 Aliens Police Act. The rejection at the border shall be entered in the TCN's travel document (Article 41 para 2 Aliens Police Act).</p> <p>Entry bans are regulated in Article 53 Aliens Police Act. The BFA may impose an entry ban by administrative decision together with a return decision. See also Q3.</p> <p>An entry ban of TCNs who are refused entry into national territory at the border by agents of the public security service is not explicitly provided for by the Aliens Police Act.</p>

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."



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			<p>In event of a rejection at the border or a forcible return a return decision in conjunction with an entry ban is not issued (Article 52 para 7 Aliens Police Act). Source: Ministry of the Interior</p> <p>2. The authority issuing the alert is responsible for the assessment but it can be referred to the reasons for an alert set out in Article 53 Aliens Police Act. Source: Ministry of the Interior</p> <p>3. According to Article 41 para 2 subpara 1 Aliens Police Act, agents of the public security service are authorized to prevent entry or onward journey of TCNs attempting to enter or having entered the federal territory on the occasion of border checks at land border crossing-points as well as at airports, in ports and in train traffic within the border control area (rejection at the border) if their entry is unlawful. The BFA shall impose a return decision on a TCN if he or she is unlawfully resident in the federal territory or if he or she was unlawfully resident in the federal territory and the procedure relating to the return decision was initiated within six weeks from his or her departure (Article 52 para 1 Aliens Police Act). An entry ban may be imposed by administrative decision by the BFA together with the return decision. An entry ban is issued for a maximum period of 5 (in certain cases of 10) years taking into consideration the previous conduct of the TCN and the extent to which his or her residence constitutes a threat to law and order or public safety or runs counter other public interests (as stated in Article 8 para 2 European Convention on Human Rights). This is particularly assumed, for example, if the TCN was sentenced, by final judgement, for certain administrative infractions or has been convicted, by a final court judgement, of certain criminal offences (Article 53 para 2 and 3 Aliens Police Act). The return decision includes a ruling on whether removal to one or more specified States is permissible (Article 52 para 9 Aliens Police Act), while possibly also setting a deadline for voluntary departure (Art. 55 para 1 Aliens Police Act). If the return decision cannot be enforced due to legal or practical obstacles, so that the individual concerned cannot be removed, the person's stay in Austria is tolerated. Furthermore, irregular entry and residence in Austria is an administrative infraction and the TCN can be subjected to a fine pursuant to Article 120 Aliens Police Act. (Source: Stiller, M. and L. Humer, 2020. Long-term irregular staying migrants in Austria. Practices and challenges. International Organization for Migration (IOM), Vienna, p. 12) Unlawful residence justifies an entry ban of up to 5 years (duration depends on the circumstances of the individual case). Source: Ministry of the Interior</p>
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			<p>4. As already stated, an entry ban is not issued in the event of a rejection of entry. If a person has already entered an entry ban is to be issued pursuant to Article 53 para 2 Aliens Act, without prejudice to para 3, with a maximum duration of five years. When assessing the duration of the entry ban, the BFA shall take into consideration the previous conduct of the TCN and the extent to which his or her residence constitutes a threat to law and order or public safety or runs counter other public interests as stated in Article 8 para 2 European Convention on Human Rights. Pursuant to Article 53 para 3 Aliens Police Act, an entry ban can be issued for up to 10 years in specific cases.</p> <p>Alerts for arrest expire three years after storage, unless they are renewed. (see also Article 39 of Regulation 2018/1861).</p> <p>Source: Ministry of the Interior</p>
	EMN NCP Belgium	Yes	<p>1. Currently: no From SIS-recast onwards (planned Nov. '22, national implementing legislation still pending): yes, but not solely for the mere reason that they were refused entry. Only when the conditions of Art. 24(1)(a) and (2) of Regulation 2018/1861 are fulfilled. (Note: according to the draft Belgian legislation, strictly legally speaking this won't actually be an entry ban within the meaning of return directive 2008/115, but rather an "alert for refusal of entry and stay" based on the SIS-regulation 2018/1861)</p> <p>2. Currently: n/a From SIS-recast onwards: no specific circumstances foreseen, national legislation will simply refer to Art. 24(1)(a) and (2), case by case assessment.</p> <p>3. Currently: n/a From SIS-recast onwards: no specific circumstances foreseen, national legislation will simply refer to Art. 24(1)(a) and (2), case by case assessment.</p> <p>4. Currently: n/a From SIS-recast onwards: probably mainly foreign terrorist fighters (in application of art. 24(2)(b)), although the alert would likely be issued when they are abroad in general (not specific at the border when they want to enter). No time limits foreseen in national legislation, although in practice we don't go over 20 year.</p>
	EMN NCP Bulgaria	Yes	<p>1. Yes. The Law on Foreigners in the Republic of Bulgaria lists the cases in which a national "entry ban" is imposed on a TCN as</p>



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			<p>well as the cases in which a TCN is refused entry to the territory of the country.</p> <p>In Art. 423, para. 1, item 1 of the Law on Foreigners in the Republic of Bulgaria states that an "entry ban" is imposed when the grounds under Art. 10, para. 1 of the Law on Foreigners in the Republic of Bulgaria exist.</p> <p>2. When an "entry ban" is imposed, based on an analysis and assessment of existing information, and it is concluded that a third-country national poses a threat and danger to the national security, and the existing information is classified, the same shall not be specified in the document enforcing the "entry ban". This classified information is set out in a separate document. The Law on Foreigners in the Republic of Bulgaria does not list specific cases in which a citizen of a third country poses a danger to the national security of the country.</p> <p>3. The Law on Foreigners in the Republic of Bulgaria lists the requirements that a citizen of a third country must meet in order to be admitted to the territory of the Republic of Bulgaria. Competent officials of the Ministry of Foreign Affairs and the Ministry of Internal Affairs strictly comply with the national legislation, in order to prevent a TCN from entering and residing on the territory of the country, circumventing the its legislation.</p> <p>4. The Republic of Bulgaria enters into the Schengen Information System a "refusal of entry" signal under Art. 24 of Regulation (EU) 1861/2018, when circumstances listed in 24, paragraph 1 and paragraph 2 of Regulation (EU) 2018/1861 are present. The period of validity of each signal for "refusal of entry" under Art. 24 of Regulation (EU) 2018/1861 and its possible continuation is determined after assessing the circumstances of each individual case.</p>
	EMN NCP Croatia	Yes	<p>1. NO, a citizen of a third country who does not meet the conditions for entry prescribed by the Schengen Border Code (SBC) is refused entry to the Republic of Croatia by decision.</p> <p>2. /</p> <p>3. A decision on expulsion is issued to a citizen of a third country who resides illegally in the Republic of Croatia. A citizen of a third country can be deported for illegal stay and illegal crossing or attempted crossing of the state border, and is deported if he has not left the EEA or the Republic of Croatia within the time limit set by the decision; if he came to the EEA or the Republic of Croatia before the entry and stay ban expired, and; if a decision on return is not issued because there is one of the legally prescribed exceptions for the mandatory issuance of a decision on return.</p>


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			<p>The decision on expulsion will establish that the citizen of a third country is illegally staying in the Republic of Croatia or that his legal stay in the Republic of Croatia ends, that he is obliged to leave the EEA, and the time during which he is prohibited from entering the EEA and staying in the EEA will be determined.</p> <p>If a citizen of a third country has a residence permit in another EEA member state, the decision on expulsion can determine that the ban on entry and residence is valid only on the territory of the Republic of Croatia. If a citizen of a third country has a residence permit in another member state of the EEA, and a decision on expulsion has been made, the decision may revoke the ban on entry into the EEA and stay in the EEA and determine the ban on entry to the Republic of Croatia and stay in the Republic of Croatia.</p> <p>4. Pursuant to Article 1, Paragraph 4 of Council Decision (EU) 2017/733, until the internal border control is abolished, Croatia should refrain from entering warnings and additional data into the SIS system and from exchanging additional information on citizens of third countries.</p>
	EMN NCP Cyprus	Yes	<p>1. No. According to the national law, an entry ban shall accompany a return decision (in accordance to the Return directive 2008/115/EC)</p> <p>2. N/A</p> <p>3. According to the national law, a third country national is considered a "prohibited immigrant" and can be refused entry to the country or must be deported (among others) when</p> <ul style="list-style-type: none"> (a) he/she has been expelled from the Republic (b) his/her entry into the Republic is prohibited under any provision for the time being in force; (c) he/she enters or remains in the Republic in contravention of any prohibition, condition, restriction or reservation contained in the Law or in any permit granted or licensed under the Law <p>4. N/A, as Cyprus is not a full Schengen area member. However, in all the cases of a "refusal of entry" an alert is issued in the national alert list.</p>
	EMN NCP	Yes	<p>1. No</p>


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	Czech Republic		<p>2. N/A</p> <p>3. A national entry ban can be issued at any time (as long as there is a valid reason). It is not dependent on refusal of entry. Therefore, there is no ground for linking entry bans and refusals of entry in CZ.</p> <p>4. Risks are determined individually.</p>
	EMN NCP Estonia	Yes	<p>1. YES. The Ministry of the Interior has right to apply entry ban if the person poses a threat to public order or national security.</p> <p>2. In Estonia the bases to apply an entry ban is set in the Obligation to Leave and Prohibition on Entry Act § 29, according to which it may applied to third country national if:</p> <p>1) there is good reason to believe that person stay in Estonia may endanger the security and public order of the Republic of Estonia, other Member State of the European Union, a Member State of the Schengen Convention or a Member State of the North Atlantic Treaty Organisation or the health of other persons;</p> <p>2) there is information or good reason to believe that person belongs to a criminal organisation, or connected with the illegal handling or illicit trafficking of narcotics, psychotropic substances or the illegal conveyance of persons across the border or a temporary control line, that he or she is a member of a terrorist organisation or has committed an act of terrorism, or there is good reason to believe that that he or she may commit a terrorist crime or he or she is involved in financing or supporting a terrorist crime or money laundering;</p> <p>3) is employed or has been employed by the intelligence or security service of a foreign state or he or she is related to or has been related to the intelligence or security service of a foreign state, or there is good reason to believe that he or she is employed or has been employed by an intelligence or security service of a foreign state or he or she is related to or has been related to the intelligence or security service of a foreign state;</p> <p>4) has received or there is good reason to believe that he or she has received special training in landing operations or in diversion or sabotage activities, or other special training, and if the knowledge and skills acquired in the process of such training can be directly applied in the formation or training of illegal armed units;</p> <p>5) incites or there is good reason to believe that he or she may incite national, racial, religious or political hatred in Estonia</p>

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			<p>or a foreign state;</p> <p>6.1) has been punished or there is good reason to believe that he or she has been punished for a serious crime against humanity or for a war crime, regardless of whether the criminal record has expired or been expunged, and regardless of the expungement of data concerning the penalty from the criminal records database;</p> <p>6.2) there is information or a good reason to believe that the person has participated or contributed to violation of human rights in a foreign state, which has resulted in the death or serious injury of a person, the unfounded conviction of a person in an offence inspired by political motives or other serious consequences;</p> <p>7) been punished for an intentionally committed criminal offence or for another offence in Estonia or a foreign state, and if the criminal record has neither expired nor been expunged or if data concerning the penalty have not been expunged from the criminal records database;</p> <p>8) has violated legislation regulating the stay of TCNs in Estonia or the crossing of the state border;</p> <p>9) has provided incorrect information or a falsified document upon application for a legal basis to stay in Estonia or extension thereof, for Estonian citizenship, international protection or an identity document;</p> <p>10) has unperformed obligations to the Estonian state, a governmental authority or local government.</p> <p>3. 1) Person with regard to whom a prohibition on entry applies shall not be granted permission to enter Estonia at a border checkpoint.</p> <p>2) With regard to whom a prohibition on entry applies shall not be granted a basis for stay and his or her basis for stay shall not be extended within the period of validity of the prohibition on entry.</p> <p>3) Person to whom a prohibition on entry is imposed is not permitted to stay in Estonia and the stay of such person in Estonia is without legal basis regardless of the existence of a basis for stay.</p> <p>4. Data on entry ban is entered into SIS and it will last until the duration of the entry ban.</p>
	EMN NCP Germany	Yes	<p>1. No. Refusal of entry does not entail an entry ban in the sense of aliens law.</p> <p>2.</p> <p>3. If a criminal offense is suspected, a judicial investigation is initiated.</p> <p>In the context of the control of cross-border traffic, the person can be refused entry. In the case of an unauthorized stay,</p>



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			<p>this can be terminated - if necessary also compulsorily.</p> <p>4. In individual cases, an alert pursuant to Article 24 (1) (a) in conjunction with (2) of Regulation (EU) 2018/1861 may be examined in the context of a threat assessment in accordance with national security law of the Federal Police. The subject of the examination here are the material facts listed in Article 24 (2) of Regulation (EU) 2018/1861. If one of the conditions listed there is met, the person constitutes a danger within the meaning of Article 24 (1) (a) of Regulation (EU) 2018/1861.</p> <p>In all situations, the treaty states are considered as an overall danger area due to the elimination of internal border control. In this respect, there is always a threat effect on Germany as well.</p> <p>Within the framework of an individual assessment that</p> <ul style="list-style-type: none"> • demonstrates a consideration of the individual's personal circumstances, and • takes into account the effects of the refusal of entry and residence on the individual <p>public and private interests are weighed against each other.</p> <p>The situation regarding question 2 is considered to exist if there is a reasonable suspicion that one of the following criminal acts has been committed:</p> <ul style="list-style-type: none"> • According to its definition under national law, one of the terrorist offenses referred to in Art. 3 to 14 of the Directive (EU) 2017/5416, or • a catalog offense from Art. 2 RB 2002/584/JHA (EuHB), or • Criminal offenses, or • misdemeanor offenses, if the offense is punishable by a maximum term of imprisonment of at least three years, or • Continuous offenses (e.g. violations of BtMG, SprengG, WaffG) <p>or there are concrete indications that these are planned.</p> <p>This situation regarding question 3 is considered to exist if the third-country national</p> <ul style="list-style-type: none"> • Offenses under national residence or asylum laws, • Documentary offenses under German criminal law in connection with a border crossing, or • Offences committed in an organized manner in connection with a planned or actual unauthorized entry <p>has committed or attempted to commit.</p>
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			Alerts are reviewed after three years at the latest for the existence of hazard-reducing findings. Depending on this, extensions will be made.
	EMN NCP Greece	Yes	<p>1. YES</p> <p>2. Under national legislation, an entry-ban of third-country nationals who have been refused entry to Greek territory may be imposed on grounds of public policy and public security (e.g. use of false supporting documents for entry into Greek territory) (Joint Ministerial Decision 4000/4/32-λα as amended by Joint Ministerial Decision 4000/4/32-ν)</p> <p>3. The consequences foreseen for third country nationals who are circumventing or attempting to circumvent Union or National law on entry into and stay on the territory of Greece are (a) criminal penalties as provided for by National law, (b) the adoption of a return/deportation/removal decision, as well as relevant measure prohibiting entry into the country in accordance with Union and National law and (c) the imposition of a fine by the borderguard carrying out border checks at the exit for exceeding the period of legal stay in Greek territory associated with a measure banning entry at national level only. (Regulation (EU) 2018/1861, Regulation (EU) 1987/2006 and JHA / 533/2007, National law 3386/2005, National law 3907/2011, National law 4251/2014, Joint Ministerial Decision 4000/2/14-ιθ)</p> <p>4. From the situations described in answers 2 and 3, the only case where no alert of refusal of entry into Schengen Information System is registered for the purposes of Article 24 of Regulation (EU) 1861/2018 is the case of the imposition of a fine by the borderguard carrying out border checks at the exit for exceeding the period of legal stay in Greek territory. In all other cases, a notification of refusal of entry into the Schengen Information System shall be registered, if the conditions and criteria of national and Union law are met, for an appropriate according to the case period of time. Bottom of Form</p>
	EMN NCP Hungary	Yes	<p>1. No</p> <p>2. -</p>


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			<p>3. In the case of a person who is banned from entering and tries to evade the authorities, he or she will be expelled and the ban will be extended for one and three years.</p> <p>4. article 24 of EU Regulation 1861/2018: a) If the expulsion was ordered by a judgment b) If the expulsion is ordered by a judgment or if the Hungarian law enforcement authority considers it risky c) - Q3</p>
	EMN NCP Italy	Yes	<p>1. YES</p> <p>2. The main criteria to be taken into account are: the existence of convictions for specific offences, as well as reports and accusations from which one can presume habitual commitment to the perpetration of offences, as well as info-investigative evidences linking the foreigner to contexts and associations that pose a threat to public order and security.</p> <p>3. A rejection decree (1st degree measure) is issued against them, which can be enforced by: 1) direct execution; 2) administrative detention; 3) order to leave the national territory.</p> <p>4. The information reported in answer no. 2 will be taken into account, essentially, and the condition of irregular entry/stay that emerges from the investigations carried out will be noted. On the basis of these evidences, an alert will be issued in compliance with Article 24 of EU Regulation No. 1861 of 2018. The national legislation provides that any re-entry ban associated with the rejection decree shall have a duration of no less than three years and no more than five years, to be quantified on a case-by-case basis.</p>
	EMN NCP Latvia	Yes	<p>1. Yes.</p> <p>2. Article 61.(5) 4. of Latvia Immigration Law states that the Chief of the State Border Guard or his or her authorized official shall take the decision to include the foreigner in the list, if any of the following circumstances exist: the decision to refuse entry in the territory of the Member States of the European Union has been taken in accordance with the provisions</p>


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			<p>of Regulation No 2016/399 of the European Parliament and of the Council of 9 March 2016 and on the grounds that the foreigner presents a forged travel document, visa or residence permit.</p> <p>3. According to the Immigration Law if it is established that a TCN is staying illegally in the Republic of Latvia, the voluntary return decision or removal order shall be issued.</p> <p>If TCN has violated the procedures laid down in the laws and regulations for entry and stay of foreigners in the Republic of Latvia or in another Schengen Agreement country or customs regulations, OCMA (Office of Citizenship and Migration Affairs) or SBG (State Border Guards) is entitled to include in the voluntary return decision or removal order a decision to include the person in the list of foreigners whose entry into the Republic of Latvia and Schengen area is prohibited, while imposing the ban on entry for a period from 30 days to three years and a fine of up to 350 euros can be applied.</p> <p>4. In accordance with article 24 of EU Regulation 1861/2018, Member States shall enter an alert for refusal of entry and stay when the Member State has concluded, based on an assessment of the personal circumstances of the third-country national concerned and the consequences of refusing him or her entry, that the presence of that third-country national, on its territory poses a threat to public policy, to public security or to national security, namely:</p> <ul style="list-style-type: none"> a) a third-country national has been convicted in a Member State of an offence carrying a penalty involving the deprivation of liberty of at least one year; b) there are serious grounds for believing that a third-country national has committed a serious criminal offence, including a terrorist offence, or there are clear indications of his or her intention to commit such an offence in the territory of a Member State; or c) a third-country national has circumvented or attempted to circumvent Union or national law on entry into and stay on the territory of the Member States <p>In this case the alert must be entered in the SIS in accordance with the above-mentioned article as the individual represents a threat to public policy, public security or the national security. Entry bans can be issued in the voluntary return decision or removal order or it can be issued in a separate decision. A SIS alert is systematically entered when an entry ban has been imposed on a TCN, and it will last according to the duration of the entry ban.</p>
	EMN NCP Lithuania	Yes	<p>1. YES.</p> <p>According to Article 133§1 of the Law on the Legal Status of Foreigners, third-country nationals who have been refused</p>


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			<p>entry to the Republic of Lithuania may be banned from entering the Republic of Lithuania for up to 5 years.</p> <p>2. According to the Schengen Borders Code, one of the grounds for refusing entry to a third-country national is a threat posed to public order, society or internal security. A third-country national may be refused entry on these grounds and, subsequently, entered into the list of persons who are banned from entering Lithuania in accordance with Article 133§1 of the Law on the Legal Status of Foreigners. The decision regarding the inclusion into or exclusion from the list of persons who are banned from entering is taken in accordance with the criteria specified in Order No. 3K-33 of 14 April 2014 of the Director of the Migration Department under the Ministry of the Interior.</p> <p>3. The category of third-country nationals who circumvented or attempted to circumvent national law includes those who attempted to fraudulently obtain or obtained visas, as well as those who illegally crossed the state border. In the case of persons who attempted to fraudulently obtain visas, a decision may be passed to not issue visas or to cancel or withdraw visas that have already been issued. In the case of persons who illegally crossed the state border, a decision may be passed to expel or return them. In all the above-mentioned cases (i.e., refusing to issue visas, canceling visas, expulsion, or return decisions), Article 133§1 of the Law on the Legal Status of Foreigners allows for imposing a ban on entry to the Republic of Lithuania.</p> <p>4. The period during which a third-country national is banned from entering the Republic of Lithuania may extend from 2 to 5 years. If the foreigner poses a threat to national security or public order, the entry ban period may extend from 3 to 10 years.</p>
	EMN NCP Luxembourg	Yes	<p>1. No. Articles 104 (1), 105 (1) and article 112 (1) of the amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law) does not foresee an entry ban as the individual is refused entry at the border and has not yet entered the territory.</p> <p>2. N/A.</p> <p>3. Article 142 of the Immigration Law states that “Any foreigner who has been expelled or deported and who has returned to the country despite a ban on entry shall be punished by imprisonment for a period of six months to three years and a fine of 251 to 3,000 euros or by one of these penalties only.”</p>

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			<p>4. In accordance with article 24 of EU Regulation 1861/2018, Member States shall enter an alert for refusal of entry and stay when the Member State has concluded, based on an assessment of the personal circumstances of the third-country national concerned and the consequences of refusing him or her entry, that the presence of that third-country national, on its territory poses a threat to public policy, to public security or to national security, namely:</p> <p>a) a third-country national has been convicted in a Member State of an offence carrying a penalty involving the deprivation of liberty of at least one year;</p> <p>b) there are serious grounds for believing that a third-country national has committed a serious criminal offence, including a terrorist offence, or there are clear indications of his or her intention to commit such an offence in the territory of a Member State; or</p> <p>c) a third-country national has circumvented or attempted to circumvent Union or national law on entry into and stay on the territory of the Member States</p> <p>In this case the alert must be entered in the SIS in accordance with the above-mentioned article as the individual represents a threat to public policy, public security or the national security.</p> <p>In Luxembourg entry bans can be jointly issued with a removal decision (article 112 (1) of the amended Law of 29 August 2008 on free movement of persons and immigration) or it can be issued in a separate decision (article 112 (1)). This decision can be issued later even if the person is not anymore on the territory but it is always linked to a removal decision. In the case of expulsion the entry ban is systematically issued with the expulsion decision (article 116 (3)).</p> <p>Entry bans are only issued in the framework of the law. However, if an alert from another database shows that the person is a risk for public order or national security or the international relations, according to article 34(3), the authorities can refuse entering in the country. The only case when an entry ban can be issued to a person not residing in the territory is when it was issued after the issuance of removal decision and the person has already left the territory.</p> <p>A SIS alert is systematically entered when an entry ban has been imposed on a third-country national, and it will last according to the duration of the entry ban.</p>
	EMN NCP	Yes	1. Yes, the legislation of the Netherlands does provide for a decision in accordance with national law to refuse entry and


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	Netherlands	<p>stay of third country nationals. This is the so called pronouncement of undesirability. The national alert that follows for refusal of entry and stay in SIS works as an entry ban. To implement EU Regulation 1861/2018 more precisely, there will be a new article in the Dutch legislation referring to article 24, clause 2. Note: It only concerns third country nationals who do not have a residence permit or long stay visa in another Member State but who are illegally staying in a Member State or who are staying in a country outside the EU.</p> <p>2. Among others, the following situations, relating to public policy, public security or national security threats, justify a pronouncement of undesirability[1] If a third-country national:</p> <ul style="list-style-type: none"> • resides illegally in the Netherlands and repeatedly commits actions punishable by law. • is irrevocably condemned to prison for three years or more, or is placed under psychiatric hospital order according to Article 37a of Dutch penal law. • poses a real, actual and sufficiently serious threat to a fundamental interest of society (see paragraph A3/3 of the Aliens Act Implementation Guidelines, under the header 'Actual and current threat to public policy'). • Poses a threat to national security (see paragraph B1/4.4 of the Aliens Act Implementation Guidelines) in the sense of art. 67, first paragraph, opening and sub c) <p>It will depend on the case whether the Dutch pronouncement of undesirability will fall under art. 24, first paragraph, sub a, Regulation 2018/1861.</p> <p>[1] Article 67, first paragraph, sub b, Aliens Act</p> <p>3. The Dutch national measure is only used if the return directive is not applicable. Most of this group (EU citizens, third-country nationals enjoying international protection in the EU, and Dublin claimants) are not registered in SIS. In the Netherlands, therefore there are no specific consequences to be foreseen in relation to third-country nationals that "circumvented or attempted to circumvent Union or national law on entry into and stay on the territory of the Member States". Only third-country nationals with a right of residence in the Netherlands, which is being revoked, but who are staying elsewhere, or third-country nationals staying outside the EU may now be registered in SIS because of our national measure.</p> <p>4. The grounds as set out in article 24, paragraph 2, sub and b of EU Regulation 1861/2018, will be the most used grounds to signal our national measure in SIS. Our national measure has no duration. Depending on the severity of the national</p>
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			measure, a lifting of the entry measure could, after the passing of time, be requested if the third-country national can prove he/she stayed outside the Netherlands whilst the measure was active.
	EMN NCP Poland	Yes	<p>1. No.</p> <p>The decision to refuse entry into the territory of the Republic of Poland does not contain the prohibition of re-entry to the territory of the Republic of Poland and other countries of the Schengen Area.</p> <p>The decision to refuse entry into the territory of the Republic of Poland is issued to the foreigner by the commanding officer of a Border Guard outpost. There are many reasons for issuing such decision. For example:</p> <p>The data of foreigner are entered into the register of foreigners whose stay in the territory of the Republic of Poland is undesirable or in the Schengen Information System for the purposes of refusing entry.</p> <p>Another reason for issuing the decision to refuse entry into the territory of the Republic of Poland is that it is justified by national security or defence or by the protection of public safety and order, or the international relations of the Republic of Poland or another European Union Member State.</p> <p>But as we mentioned at the beginning, it is not a reason for entering data into register of foreigners whose stay in the territory of the Republic of Poland is undesirable or to the Schengen Information System for the purposes of refusing the entry.</p> <p>According to Polish law a separate decision must be issued. This is a decision with the obligation to return with the prohibition of re-entry into the territory of the Republic of Poland and the countries of the Schengen Area, but in this case the person has to be on the territory of Poland.</p> <p>2. n/a</p> <p>3. This is a decision with the obligation to return with the prohibition of re-entry into the territory of the Republic of Poland and the countries of the Schengen Area.</p> <p>4. When the foreigner's entry or stay is undesirable due to a threat to defence, state security or public order and safety or interests of the Republic of Poland the Office for Foreigners may enter the foreigner's data into register and SIS for not longer than 5 years, with the possibility of extension for subsequent periods, none of which exceeds 5 years.</p> <p>In the situations described in Q.3 the entry ban and the prohibition of re-entry into the territory of the Republic of Poland</p>



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			and other countries of the Schengen is determined for the period from 6 months up to 5 years.
	EMN NCP Portugal	Yes	<p>1. Until the recent amendment of the legal regime for the entry, stay, exit and removal of foreigners from national territory to adapt national legislation to the SIS Recast, the national Aliens Act did not provide for any prohibition of entry as a direct effect of a refusal to enter the border control. With the recent amendments to national law (Law No 18/2022 of 25th August), where, following border control, entry is refused on the grounds of danger or serious threat to public order, the national public security or international relations of Member States of the European Union, as well as of States where the Implementing Convention is in force, is provided for, after assessing the personal circumstances of the third-country national, the creation of alerts for refusal of entry and residence, with the consequent inclusion in SIS.</p> <p>2. The circumstances justifying a ban on entry when the third-country national is refused entry because it constitutes a threat to public order, public security or national security will, with recent amendments to the Aliens Act, those provided for in Article 24, paragraph 2 of Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28th November 2018: a) The third-country national has been convicted in a Member State of an offence liable to imprisonment for at least one year; b) There are serious grounds to believe that the third-country national has committed a serious criminal offence, including a terrorist offence, or there are clear indications that the third-country national intends to commit such an offence on the territory of a Member State; or c) The third-country national has circumvented or attempted to circumvent Union or national law on entry and stay in the territory of the Member States.</p> <p>3. With the recent changes in national law, it is planned to create alerts for refusal of entry and residence at the border control at entry, with the consequent insertion into SIS. In accordance with Article 33, paragraph 5 and 6 of the Aliens Act, the specific period for the prohibition of alerts for refusal of entry and residence (up to a maximum of 5 years) and situations that may pose a threat to public order, public security or national security, in particular those involving foreign nationals who have circumvented or attempted to circumvent the applicable rules on entry and residence, in particular by the use or resort to identity or travel documents, residence permits, visas or documents proving compliance with the conditions of entry false or falsified, will be determined by order of the national director of the SEF.</p> <p>4. For the purposes of Article 24 of EU Regulation 1861/2018, situations involving third-country nationals may give rise to a sign/alert for refusal of entry and stay in the SIS, who are not resident in Portugal or in the territory of the European Union/Schengen, who are indicated on the national basis associated with border control - by the immigration services or by</p>



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			the police or judicial authorities - by the practice or suspicion of serious crimes. After consulting the authors of the sign/alert and after assessing the personal circumstances of the third-country national. In these cases the measure of interdiction, when plausible, must be adequate to the gravity of the practice or suspicion of the crime(s) and to the potential threat or danger to public order, public security or national security. The length of the ban on entry in situations involving "foreign nationals who have evaded or attempted to evade the applicable rules on entry and stay, on national territory or in Member States of the European Union or in States where the Convention is in force" will be graduated according to whether the person has already been caught in possession of or using false documentation and with regard to safeguarding the integrity and security of travel, identity or residence/visa documents; the use of false or falsified documents intended to prove family ties or to benefit fraudulently from travel facilities granted to members of the family of a European Union citizen; where there is documentary fraud in connection with documents proving compliance with entry conditions or the issue of visas used for that purpose.
	EMN NCP Slovakia	Yes	<p>1. When issuing a decision on administrative expulsion, the police department issues an entry ban for the territory of the Slovak Republic and the territory of all Member States, as stated in Article 77 par. 1 last sentence of the Act on the Residence of Foreigners: "The police department, in the decision on administrative expulsion, issues an entry ban to the territory of the Slovak Republic and to the territory of all Member States...". When a decision on administrative expulsion is issued together with an entry ban, the entry ban record is automatically transferred from the national system to SIS.</p> <p>2. See response to question 1.</p> <p>3. If a person is on the territory of the Slovak Republic despite of an issued entry ban for the territory of the Slovak Republic, it is a criminal offense - obstructing the execution of an official decision.</p> <p>4. See response to question 1.</p>
	EMN NCP Slovenia	Yes	<p>1. NO.</p> <p>2. N/A</p>

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			<p>3. The offence is considered as illegal entry or illegal stay in the country. Fines and return measures apply.</p> <p>4. There is a strict distinction between the entry ban and the refusal of entry. Refusal of entry is just a measure, which might be the consequence of the entry ban. If the entry ban is issued, it results in entry into SIS immediately as the measure of refusal of entry. In case there is a refusal of entry, which is not resulting in the measure in SIS, the data is entered in the national system only for the purpose of taking account of it. The entry is useful for possible attempts to re-enter the country another time or to detect the offences of illegal entry despite of the refusal of entry measure.</p>
	EMN NCP Spain	Yes	<p>1. No.</p> <p>2.</p> <p>3. No entry ban can be imposed.</p> <p>4. None.</p>
	EMN NCP Sweden	Yes	<p>1. YES. (The Swedish legislator does not see a need for any amendments to our current provisions covering this situation. If a TCN is refused entry because of relevant reasons, he/she can also be subject of alert for refusal of entry and stay.)</p> <p>2. The Swedish Police Authority is in the process of identifying such criteria. The work is ongoing, however, if the TCN is known to be involved in some kind of criminality this will most likely be such a criteria. This can be based on facts (convictions in Sweden or other member states) or reliable intelligence. There can also be situations where the TCN is refused a visa or a residence permit or where a visa or residence permit is revoked.</p> <p>3. Situations where the TCN gives obviously false information about his/her intentions with the stay. TCNs violating given rules for the stay on the territory.</p> <p>4. Since the implementation process in Sweden is still ongoing it is difficult at this time to outline the details or to say how long an entry ban would be issued for. The Swedish Police Authority can only estimate this would be between one and five</p>

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			years depending on the circumstances in each individual case.
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