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Authors of the study:

- Maria Daniella Marouda, Assistant Professor, International and European Studies, Panteion University, Member of the Naturalization Commission, Decentralized Administration of Crete.
- Dr. Eleni Koutsouraki, Université Paris II, Panthéon Assas – Panteion University.
- Theofania Antoniou, Dr., Panteion University.
- Ersi Koi, MA holder, Aristotle University of Thessaloniki.

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The European Migration Network (EMN) was established in 2003, originally as a preparatory action of the European Commission, with the aim of providing the European Commission and the Member States with objective, reliable, comparable and up-to-date data on migration and asylum, to build policymaking in the European Union and hence their national policies in these areas. Subsequently, the Council of the EU in 2008, with the No. 381/2008/EK Judgment founded the EMN, as permanent structure that will operate within the European Commission, with the participation of member states in order achieve these goals.

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Contact data with the Greek Focal Point of the European Migration Network:
Ministry of Migration Policy
Directorate of Immigration Policy
Department of Immigration Policy
Evangelistrias 2
105 63 Athens

Tel. 0030 213 136 1251
0030 213 136 1257

Email: emn@ypes.gr

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EMN FOCUSED STUDY 2016

ILLEGAL EMPLOYMENT

OF THIRD-COUNTRY NATIONALS IN THE EU

Top-line "Factsheet" (National Contribution) [maximum 1 page]

Overview of the National Contribution – introducing the Study and drawing out key facts and figures from across all sections of the National Contribution, with a particular emphasis on elements that will be of relevance to (national) policymakers.

Please also provide a concise summary of the main findings of Sections 1-5 below, for example:

- ★ Extent to which illegal employment is an issue in general in your (Member) State;
- ★ Key prevention and identification measures regarding illegal employment of third-country nationals (TCNs) in place in your (Member) State;
- ★ Possible sanctions for employers and sanctions and other outcomes for TCNs;
- ★ Mechanisms on access to justice and enforcement of rights of illegally employed TCNs;
- ★ Challenges as well as best practices in the field.

The rate of officially recorded undeclared work in Greece is quite high, especially in the sectors of food service and retails. The problem remains strong despite the fact that since the beginning of the economic crisis a number of measures to combat illegal employment have been proposed and taken (e.g. "ergosimo", fines imposed by the Labour Inspection Corps and IKA (social security foundation) in case of undeclared work, information system "Ergani" and monitoring of unemployment rates, labour card, insurance compliance certificate and register PERSEAS, sanctions for employment of illegally subsidized unemployed, Artemis project). Moreover, supportive information for employers and employees is provided by the Labour Inspection Corps, employers are required to inform the authorities when hiring TCNs, there is a legislative provision for discounts in insurance contributions are provided for installation of a card system which ensures daily information in real time of IKA - ETAM (social security foundation) about working time and arrival and departure time of employees and employers must pay for irregularly present and illegally employed TCNs an amount equal to any fee and tax which would have been paid if legally employed. As regards the sanctions imposed on employers for illegal employment of both illegally and legally resident TCNs, it should be noted that these include fines and imprisonment. Especially for irregularly residing and illegally employed TCNs, employers face sanctions such as ineligibility for public contracts, temporary or permanent closure of the enterprise, exclusion of some or all public benefits, aid or subsidies, including EU funds as well as criminal sanctions. Irregularly residing in Greece TCNs who are found to be employed illegally are subject to the provisions of Law 3907/2011, which transposed into Greek legal order the provisions of the Directive 2008/115 on the return of illegally staying TCNs. Illegally employed TCNs may, like any legally employed worker, submit any complaint provided for by national law against their employer. Also, irregularly staying and illegally employed TCNs have access to the competent courts and administrative authorities to enforce their due and generally asserting legal rights in accordance with existing labour legislation and enforce judicial rulings against their employers, even if they have returned or been returned to their country. However, there is no available information as to whether this legislative provision has been applied in practice. A recent positive development that should be noted here is the adoption of Law 4384/2016 "Agricultural Cooperatives, forms of collective organization of rural areas and other provisions", which added an additional provision to the provisions of the Immigration Code (Law 4251/2014) regarding employment of irregularly staying third country nationals in the rural economy (Article 13a). According to this, a work permit and insurance can be

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granted to irregularly staying TCNs in order to be employed in farms for emergency response if the positions within the invitation procedure for employment and seasonal work of workers in agriculture, shepherds and beekeepers are not covered. This legislation essentially addresses the severe phenomenon of illegal employment of TCNs without residence permit in the rural economy and is expected to have a positive effect on the combat against illegal employment and protection of workers' rights.

Section 1: Contextual overview of the general situation regarding illegal employment in the (Member) States [maximum 1 page]

This introductory section of the Synthesis Report will aim at setting the scene for the Study and contextualize the Study in terms of providing a brief overview of the general situation in the (Member) State with regard to illegal employment of TCNs.

Q1. Please provide an overview of the **general situation with regard to illegal employment**, including, *inter alia*:

- Q1a. Extent to which the grey and informal economy is present in your (Member) State;
- Q1b. Extent to which fighting illegal employment is a political priority in your (Member) States;
- Q1c. Public and/or policy debates in the area of illegal employment;
- Q1d. Extent of the problem of illegal employment in your (Member) State, in particularly concerning the TCNs;
- Q1e. Available research on the main routes to an irregular employment situation in your (Member) State;
- Q1f. Any (planned) changes in law or practice in the field of illegal employment;
- Q1g. Issues with illegal employment in particular industries and sectors and particular types of employer (e.g. is it more prevalent in SMEs or larger businesses, start-ups or more established businesses?)
- Q1h. Profiles of the illegally working individuals (EU, EEA or TCNs) and the extent to which illegal employment of TCNs is an issue;
- Q1i. Other related issues experienced in your (Member) State which may directly affect the extent of illegal employment in your (Member) State, such as corruption, trafficking in human beings, etc.

The fight against the phenomenon of the informal economy is undoubtedly a political priority in Greece. However, despite the fact that since the beginning of the economic crisis a number of measures to combat illegal employment have been proposed and taken (e.g. "ergosimo", fines imposed by the Labour Inspection Corps and IKA (social security foundation) in case of undeclared work, information system "Ergani" and monitoring of unemployment rates, labour card, insurance compliance certificate and register PERSEAS, sanctions for employment of illegally subsidized unemployed, Artemis project), the rate of officially recorded undeclared work is quite high, especially in the food service and retail sector¹. Relevant research on this phenomenon has been developed by the International Monetary Fund, the International Labour Organization and the Ministry of Labour (the latter remains unpublished)². The percentages of fully undeclared work rose from 29.7% at the end of 2009 to 40.5% at the end of 2013 and since autumn 2013, when the increased fine of 10,550 euros per unregistered worker started applied, the rate fell to 25% in 2014 (ILO, 2014) and steadily declines, thereby reducing to 5.32% -13.6% for foreign employees- (Artemis Prospectus Operational Plan, November 2015). It should however be noted that these data do not reflect the actual scale of the problem, since they concern the rates of fully undeclared work, while employers often resort to fictitious, virtual or minimal declaration of undeclared workers in order to be sanctioned, in case of controls, with milder fines, which are prescribed for other violations of labour law (working hours, professional specialty, illegal overtime) relating to reality in partially or incorrectly declared work. It should also be noted that the undeclared workers generally refrain from participating in the labour force surveys, especially immigrants without residence permits, who are not registered even within the ten-year census.

¹ INE - GSEE Results - Conclusions of the Nationwide Multidisciplinary Workshop on Undeclared Work, April 14, 2016, p. 16 (INE - ΓΣΕΕ: Αποτελέσματα - Συμπεράσματα Πανελλαδικής Διακλαδικής Συνάντησης Εργασίας για την Αδήλωτη Εργασία).

² Kapsalis Apostolos, Undeclared work in Greece -Evaluation of the modern measures to combat this phenomenon, INE - GSEE 43 Studies / Documentation, January 2015, p. 7 (Καψάλης Απόστολος, Η αδήλωτη εργασία στην Ελλάδα -Αξιολόγηση των σύγχρονων μέτρων καταπολέμησης του φαινομένου, INE - ΓΣΕΕ 43 Μελέτες/ Τεκμηρίωση).

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Moreover, according to estimates, the number of the latter may not be less than 500,000 and relates generally to workers employed in the black labour in the absence of residence permit (for work) in force. Between 2008 and 2015, according to ELSTAT workforce surveys, the percentage of uninsured employment of nationals remains stable (2.8%), foreigners increased from 13.7% to 17% and in particular the EU nationals increased by 17.6% to 23.3%. The percentage of workers who did not complete the required number of stamps for issuing health booklet also increased from 2.0% to 2.9% for nationals and by 12.3% to 16.6% for the total number of foreigners. Finally, it appears that for 2015, 90% of undocumented migrant workers have no health insurance (75.2% in 2008), while the corresponding figures for nationals is 59.3% (2015) and 48.3% (2008)³.

Section 2: Prevention measures [maximum 5 pages]

*This section of the Synthesis Report will provide a comparative overview of the prevention measures available in (Member) States. Particular distinction will be made between (i) measures and incentives for employers and (ii) measures and incentives for employees. Furthermore, a cross-cutting distinction will be made between the two main categories of TCNs subject to examination of this Study: (i) **irregularly staying and illegally working TCNs** and (ii) **regularly staying and illegally working TCNs**. The section will also examine how risk assessments are carried out. Moreover, any best practices and success stories in prevention measures will be highlighted in the Synthesis Report under this section.*

Q2. Please describe the types of **preventive measures** targeting employers of TCNs to discourage them from employing a TCN illegally in your (Member) State:

a. Preventive measures and incentives for employers: Please indicate which measures and incentives for employers exist in your (Member) State and describe the measures.

Measure/incentive for employers	Description *Please indicate if the measures/incentives below exist in your (Member) State (Yes/No) and if Yes, please describe them. ** Please indicate if measures differ between the two main categories of TCNs: (i) irregularly staying and illegally working TCNs (ii) regularly staying and illegally working TCNs ***Please specify if these measures are established to tackle illegal employment or are general incentives.
<p>a.1. Information campaigns targeted at employers</p> <p>For campaigns that have been run in your MS indicate:</p> <ul style="list-style-type: none"> • Which sectors were targeted? • How the campaign was conducted? (e.g. through advertising, visits and talks by government officials visits, etc.) <p><i>Outreach/awareness-raising activities to inform employers on the criteria by which they can hire TCNs</i></p>	<p>No</p>

³ INE - GSEE Results - Conclusions of the Nationwide Multidisciplinary Workshop on Undeclared Work, April 14, 2016, p. 16-17 (INE - ΓΣΕΕ: Αποτελέσματα - Συμπεράσματα Πανελλαδικής Διακλαδικής Συνάντησης Εργασίας για την Αδήλωτη Εργασία).

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<p>a.2. Information support for employers</p> <p><i>Simplification of administrative procedures and information support for employers recruiting TCNs (e.g. helpline, information on government website etc.)</i></p>	<p>Yes</p> <p>Law 3996/2011 "Reforming the Labour Inspectorate, social security arrangements and other provisions" provides that the Labour Inspectorate is responsible for providing information to employers and employees on the most effective means for the fulfilment of its provisions (Article 2). This is a general measure, which was established for the supervision and control of the implementation of the provisions of labour law, the investigation of the insurance cover and the illegal employment of workers and not just to tackle illegal employment. Thus it does not distinguish between illegally staying and illegally working TCNs and legally staying and illegally working TCNs but covers all workers in Greece.</p>
<p>a.3. Partnership agreements and initiatives by Social Partners</p> <p><i>Conclusion of agreements between trade unions and employer organisations in the same sector (e.g. construction industry) establishing bilateral agreements of actions to curb illicit activities.</i></p>	<p>No</p>
<p>a.4. Obligation of the employer to notify the authorities about employing a TCN</p>	<p>Yes</p> <p>The obligation of employers to notify the Employment Agency concerning any new hiring is a general measure to combat illegal employment and also applies to TCNs who are legally staying in Greece. In particular, according to Article 80 of Law 4052/2012 par.1c employers are obliged to notify immediately the competent authorities of the start of employment of a TCN art.80 par.1c Law 4052 / 2012 c) "notify immediately the competent authorities of the start of employment of a TCN". In this case, among other information the employer is required to provide (identification, TIN, studies, specialty under which the employee is hired etc.), a residence permit with right to work must accompany the notification.</p>
<p>a.5. Other measures/incentives for employers</p>	<p>Law 3996/2011 provides that the companies, which are required to install the work card system and timely pay insurance contributions and the employees of these companies, enjoy a discount of up to ten per cent of the respective contributions (Article 26). The work card system installation ensures daily information in real time of IKA - ETAM (insurance foundation) on working time and the arrival and departure time of the company's employees. This procedure takes place using work cards into an electronic personnel attendance clock. This is a general measure, which was established for the supervision and control of the implementation of the provisions of labour law, the investigation of the insurance cover and the illegal employment of workers and not just to tackle illegal employment. The nature of the measure is such that it enables its application only to legally staying in Greece TCNs. For the implementation of this measure, the Ministerial Decisions provided by Law have to be issued.</p>

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b. Measures and incentives for employees from third countries: Please indicate which measures and incentives for employees from third countries exist in your (Member) State and describe the measures.

Measure/incentive for employees	Description <i>Please indicate if the measures/incentives exist in your (Member) State (Yes/No) and if Yes, please describe them.</i> <i>* Please indicate if measures differ between the two main categories of TCNs:</i> <i>(i) irregularly staying and illegally working TCNs</i> <i>(ii) regularly staying and illegally working TCNs</i>
<p>b.1. Financial incentives for employees</p> <p><i>Financial and fiscal incentives, including social security incentives – i.e. any social security incentives aimed at encouraging employers to legally register their employees</i></p>	<p>Yes</p> <p>For irregularly staying and illegally working TCNs, the employer must pay to the competent authorities an amount equal to any taxes and social security contributions that he/she would have paid if the TCN had been legally employed (Article 81 par. B Law 4052/2012). This measure concerns only irregularly staying in Greece TCNs and aims at addressing their undeclared work and avoiding their exploitation by employers.</p>
<p>b.2. Information campaigns targeted at employees</p> <p><i>(including pre-departure campaigns and post-departure campaigns in third countries)</i></p> <p>Please provide detail of the campaigns, including who is the target; what country, type of workers etc.</p>	<p>No</p>
<p>b.3. Information support for employees from third countries</p> <p><i>(e.g. One-stop shop information points)</i></p>	<p>Yes</p> <p>Law 3996/2011 "Reforming the Labour Inspectorate, social security arrangements and other provisions" provides that the Labour Inspectorate is responsible for providing information to employers and employees on the most effective means for the fulfilment of its provisions (Article 2). This is a general measure, which was established for the supervision and control of the implementation of the provisions of labour law, the investigation of the insurance cover and the illegal employment of workers and not just to tackle illegal employment. Thus it does not distinguish between illegally staying and illegally working TCNs and legally staying and illegally working TCNs but covers all workers in Greece.</p>
<p>b.4. Other measures/incentives for employees (incl. obligation of TCN to notify the authorities about any changes in employment conditions)</p>	<p>Yes</p> <p>Illegally employed TCNs (or those acting on their behalf with their acquiescence) are able, like any legally employed worker, to submit to the local labour centres, each complaint provided for by national law against the employer. Any assistance provided to TCNs for this purpose is not considered in any way as assisting their illegal entry, transit and residence (Article 83 Law 4052/2012). Also, irregularly staying and illegally employed TCNs have access to the competent courts and administrative authorities to enforce their due and generally asserting legal rights in accordance with existing labour legislation and enforce</p>

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	<p>judicial rulings against their employers, even if they have returned or been returned to their country. These measures concern the illegally staying in Greece TCNs. According to Article 26 par. 2 c of the Immigration Code (Law 4251/2014), in order to facilitate workers to assert their rights and to address the illegal employment, the general rule that public services, legal entities of public law, local authorities, public utilities and social security organisations shall not provide their services to third country nationals who do not have a passport or any other travel document recognised by international conventions, an entry visa or a residence permit and, generally, who cannot prove that they have entered and reside legally in Greece does not apply.</p>
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Q3. Does your (Member) State carry out **risk assessments**, to identify the sectors of activity ('sensitive sectors') in which the illegal employment of TCNs is concentrated? (Yes/No)

If **Yes**, please describe:

- What are the **methods and tools** used for carrying out the risk assessments?
- Which **authorities** are involved in drawing up the risk assessment?
- How are the **results** of the risk assessments used in practice (e.g. used to target inspections)?

Please indicate if there are differences between the two main categories of TCNs: (i) irregularly staying and illegally working TCNs and

<p>The Labour Inspectorate conducts inspections for the monitoring and implementation of the provisions of labour legislation, including rules on the legality of the employment of third country nationals (as employees) based on its annual planning. The inspections are carried out in accordance with the provisions in force, under the same procedure, whether the investigation concerns a complaint relating to illegal employment of TCN (either legally (Law 4251 / 2014) or irregularly staying in Greece (Law 4052 / 2012)) or this finding emerged during the inspection. These inspections affect all sectors of economic activity, are carried out every month of the year and are divided into ordinary and extraordinary. In the first case (ordinary control), there is a monthly plan of inspections including economic activity sectors in accordance with the annual action plan, which is prepared based on the overall goals and priorities arising after processing and analysing the inspection activities of the Labour Inspectorate services (inspections-sanctions), the complaints etc., and taking in every case into account the proposals of the social partners, as set out under the Social Work Inspection Control Council (SKEEE). In addition, the economic activity sectors under the responsibility of each service and any repeated offence are taken into account for the elaboration of the monthly action plan. In the second case (extraordinary inspection), the complaint may be submitted to the Labour Inspectorate verbally or in writing, anonymously or not, even by telephone (15512 line), e-mail or fax or through the website or portal of the Labour Inspectorate (www.sepenet.gr).</p> <p>The most effective tool for the objective design and planning of the inspection activities of the Labour Inspectorate is its Integrated Information System, which has been operating since the end of 2016 and includes a special Risk Analysis subsystem. Collection, sorting, processing and evaluation of all necessary data and information will be achieved by using this subsystem, in order to create a reliable and well-updated database that will contribute to the objective, targeted and effective combating of labour offences.</p>
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(ii) regularly staying and illegally working TCNs

See above.

Q4. What are **the strengths and weaknesses** of prevention measures of illegally employed TCNs in your (Member) State? What were the particular success factors with measures that can be identified as good practices?

There are no available data or studies on the implementation of preventive measures for illegally employed TCNs in order to identify the strengths and weaknesses. However, a recent good practice should be mentioned here: Law 4384/2016 "Agricultural Cooperatives, forms of collective organization of rural areas and other provisions" added an additional provision to the provisions of the Immigration Code (Law 4251/2014) concerning employment of irregularly staying third country nationals in the rural economy (Article 13a). According to this, a work permit and insurance can be granted to irregularly staying TCNs in order to be employed in farms as an emergency response, if the positions within the invitation procedure for employment and seasonal work labourers, shepherds and beekeepers are not covered. This provision essentially addresses the severe phenomenon of illegal employment of TCNs without residence permit in the rural economy and is expected to have a positive impact on the fight against illegal employment and protection of workers' rights.

Section 3: Identification of illegal employment of TCNs [maximum 7 pages]

This section of the Synthesis Report will aim to provide an overview of the identification practices of illegal employment of TCNs in the (Member) States. It will start with a descriptive overview of the types of national authorities involved in the identification of TCNs as well as look into specific identification measures in place and how these are carried out in practice.

Q5 a. Which types of **national authorities** are responsible for identification of illegally employed TCNs?

**Please indicate if there are any differences in the approach to identification between the two main categories of TCNs: (i) irregularly staying and illegally working TCNs and (ii) regularly staying and illegally working TCNs.*

***Please specify if these authorities are specifically tasked to identify illegally employed TCNs or involved in general checks on illegal employment.*

Q5b. Are there special authorities responsible for **specific sectors**? If yes, please describe.

Q5c. With regard to **labour inspectorates**, do they have separate functions/departments targeted to the detection of illegal employment of migrants from third countries?

Q5d. How do national authorities and other organisations involved **cooperate**? Are there any specific cooperation mechanisms/fora in place in your (Member) State? Is there is any legal basis specifying that authorities must cooperate, including a cooperation agreement or it is done on an ad-hoc basis by authorities?

Q5e. Please provide statistics on the number of staff/inspectors involved in identification/inspections on illegal employment per authority and if available, per sector for 2015 (or if not available for latest available year). Please specify if the staff are specifically dedicated to identifying illegally employed TCNs or are involved in general checks on illegal employment.

Migrants workers from third countries can be identified during inspections by any competent authority carrying out control (e.g. police, financial police, Social Security Foundation, Labour Inspectorate) as well as by the inspection agencies of the decentralised administrations according to the provision of article 28 par. 4 of the Immigration Code (Law 4251/2014). The Labour Inspectorate is responsible for monitoring and implementing the provisions of labour law, including provisions on the legality of the employment of third country workers. It is responsible for identifying the illegally employed TCNs either legally (Law 4251/2014) or irregularly staying in Greece (Law 4052/2012). There is not a separate department for the detection of illegal employment of immigrants from third countries but all Inspectors conduct ordinary and extraordinary inspections by sectors of activity and against any employer, in accordance with the provisions governing the Labour Inspectorate, in order to control employment of TCNs (either legally (Law 4251 / 2014) or irregularly staying in Greece (Law 4052/2012)). Especially in the case of irregularly staying TCNs, every competent authority carrying out controls prepares a declaratory act and the Labour Inspectorate is immediately notified. This is binding for the Labour Inspectorate, which must impose on the offender employer the administrative sanctions provided for in Law 4052/2012 within ten days and submit a complaint report to the competent prosecuting authorities if the conditions of article 88 of Law 4052/2012 are fulfilled. According to article 88, an employer who: a) employs intentionally illegally staying TCNs whose employment continues or is persistently repeated and / or b) employs intentionally and simultaneously a

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significant number of illegally staying third country nationals and / or c) employs intentionally illegally staying third-country nationals whose employment is accompanied by particularly exploitative working conditions, is punished, regardless of administrative sanctions, with imprisonment of at least five (5) months. Anyone who employs illegally staying minors, who are citizens of third countries, shall be punished with at least six (6) months imprisonment. When an employer uses work or services exacted from an illegally staying third country national with the knowledge that he or she is a victim of trafficking in human beings the penalty prescribed in paragraph 3 of Article 323a of the Penal Code providing for imprisonment of at least six (6) months applies. Within twenty days of receiving the declaratory act, the Labour Inspectorate notifies the decision imposing sanctions to the competent authority that originally detected the offense (Article 91 par. 3 Law 4052/2012). Also, the administrative authorities, the authorities of the Armed Forces and Security Forces, judicial services, public services, and local government agencies are required to provide any assistance requested, in particular by providing the Labour Inspectorate with computerized data and information to facilitate the exercise of its powers (Article par. 2 Law 3996/2011).

Q6. What **identification measures** regarding illegal employment of TCNs exist in your Member State? (e.g. inspections; border checks; checks of premises by migration officials; other types of checks) Please describe.

See previous answer.

Q7. How are **inspections carried out** in your (Member) State?

**Please provide information if any differences exist between the two main categories of TCNs: (i) irregularly staying and illegally working TCNs and (ii) regularly staying and illegally working TCNs.*

More specifically, please answer the following questions:

Q7a. What methods are used for selecting/sampling employers to be inspected (targeted labour inspections to specific sectors/categories of TCNs)?

Q7b. How are inspections planned? Are they based on the results of a risk assessment?

Q7c. Could inspections be triggered by reporting/signals from (a) the general public (e.g. whistleblowers) and (b) from illegally employed TCNs? Is there a hotline established to signal illegal employment cases? If yes, please describe.

Q7d. Which authorities (a) decides on carrying out the inspections and (b) carry out the inspections? How are inspections carried out (e.g. on-sight inspections/controls; interviewing and checking workers)?

Q7e. Which elements are checked? (e.g. checking employees residence and/or employment permits or inspecting employer records (payslips, contracts of employment etc)

Q7f. How do labour inspectorates cooperate with the police/other authorities? What are the entry/search powers of inspectorates?

Q7g. How often are inspections carried out in different sectors? Are inspections conducted at random intervals?

The Labour Inspectorate conducts inspections for the monitoring and implementation of the provisions of labour legislation, including rules on the legality of the employment of third country nationals (as employees) based on its annual planning. The inspections are carried out in accordance with the provisions in force, under the same procedure, whether the investigation concerns a complaint relating to illegal employment of TCN or this finding emerged during the inspection. These inspections affect all sectors of economic activity and are carried out every month of the year. According to Article 17 Law 3996/2011 "...the Labour Inspectorate officers exercise their control duties 24/7 and are required to work overtime on Sundays, public holidays and nights...."

The inspections are divided into ordinary and extraordinary. In the first case (ordinary control), there is a monthly plan of inspections including economic activity sectors in accordance with the annual action plan, which is prepared based on the overall goals and priorities arising after processing and analysing the inspection activities of the Labour Inspectorate services (inspections-sanctions), the complaints etc., and taking in every case into account the proposals of the social partners, as set out under the Social Work Inspection Control Council (SKEEE). In

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addition, the economic activity sectors under the responsibility of each service and any repeated offence are taken into account for the elaboration of the monthly action plan. In the second case (extraordinary inspection), the complaint may be submitted to the Labour Inspectorate verbally or in writing, anonymously or not, even by telephone (15512 line), e-mail or fax or through the website or portal of the Labour Inspectorate (www.sepenet.gr).

The most effective tool for the objective design and planning of the inspection activities of the Labour Inspectorate is its Integrated Information System, which has been operating since the end of 2016 and includes a special Risk Analysis subsystem. Collection, sorting, processing and evaluation of all necessary data and information will be achieved by using this subsystem, in order to create a reliable and well-updated database that will contribute to the objective, targeted and effective combating of labour offences.

The inspection is decided by the Special Secretary of the Labour Inspectorate or the competent Director of the Central or Regional Directorate of the Labour Inspectorate or the competent Head of Section. The Labour Inspectors are equipped with their official identity and numbered and certified checklist by the service, visit without prior notice of the employer the work premises at any hour of the day or night (Law 3996/2011, art. 2 par. d) in order to verify the correctness of the implementation of the provisions of the labour legislation (lawful employment, labour relations, timeouts, individual contract terms, employment of foreigners etc.)

During the inspection, at first takes place the registration of all present employees including TCNs. The Inspectors check if the provisions in force concerning books and documents are respected (such as staff lists, payslips, employment contracts etc.) and also check the residence and work permits of TCNs. Regarding TCNs, the respective control process is followed either they stay legally (Law 4251/2014) or irregularly in Greece (Law 4052/2012) and according to the results of the inspection the corresponding sanctions are impose. Finally, in accordance with Article 17 par. 2 of Law 3996/2011, the administrative authorities, the authorities of the Armed Forces and Security Forces, judicial services, public services and local government agencies are required to provide any assistance requested in order to facilitate the exercise of the Labour Inspectorate's powers.

Q8. What **technical tools and methods** are in use for identification of illegal employment of TCNs (e.g. planning maps, criteria to select enterprises, manuals, operational guidelines, checklists and scripts for interviews, visit protocols and visit follow up procedures)?

For the detection of illegal employment of TCNs questions are submitted to employees identified during inspections and additional information is requested (residence permits).

Q9. What are the strengths and weaknesses of identification measures of illegally employed TCNs in your (Member) State? What were the particular success factors with measures that can be identified as good practices?

According to Article 80 par. b Law 4052/2012 employers are required to keep a copy of the residence permit or other other authorisation for stay and keep for at least the duration of the employment a copy of these documents available for possible inspection. Otherwise, when the inspection is conducted by the Labour Inspectorate a fine of 500 euros is imposed. (art. 92 Law 4052/2012). However, the weaknesses of identification measures of TCNs mostly noticed by the Inspectors during inspections concern mainly the difficulty of identifying the illegal workers themselves in the work premises. Except from the above-mentioned remarks, there are no available data or studies on the strengths and weaknesses of identification measures of illegally employed TCNs.

Section 4: Sanctions for employers [maximum 5-10 pages]

This section of the Synthesis Report will aim to map the types of sanctions for employers which are found to be illegally employing TCNs. In addition, any best practices and success stories will also be recorded.

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Q10. For each of the listed sanctions, please elaborate whether this type of sanction is imposed in your (Member) State (Yes/No) and if Yes, please describe in which cases are these sanctions applied.

Sanctions for employers	Description: <i>irregularly staying and illegally working TCNs</i> <i>*Please indicate if this sanction is imposed in your (Member) State (Yes/No), and if yes in which cases</i> <i>** Please provide reference to the specific legal provisions</i>	Description: <i>regularly staying and illegally working TCNs</i> <i>*Please indicate if this sanction is imposed in your (Member) State(Yes/No), and if yes in which cases</i> <i>** Please provide reference to the specific legal provisions</i>
Fines (e.g. fines imposed per illegally hired employee)	Yes In case of violation of the prohibition of employment of irregularly staying TCNs, a penalty of five thousand (5,000) euros per illegally employed TCN is imposed on the employer by the relevant Labour Inspectors. If the employer relapses within four (4) years following execution of the initial inspection, the amount of the financial penalty per employee is doubled (Article 85 of Law 4052/2012).	Yes A fine of 1,500 euros for each legally staying but illegally working foreigner is imposed (Article 28 par. 4 Law 4251/2014).
Imprisonment of employers <i>(Please indicate the aggravating circumstances)</i>	Yes According to Article 88 of Law 4052/2012, an employer who: a) employs intentionally illegally staying TCNs whose employment continues or is persistently repeated and / or b) employs intentionally and simultaneously a significant number of illegally staying third country nationals and / or c) employs intentionally illegally staying third-country nationals whose employment is accompanied by particularly exploitative working conditions, is punished, regardless of administrative sanctions, with imprisonment of at least five (5) months. Anyone who employs illegally staying minors, who are citizens of third countries, shall be punished with at least six (6) months imprisonment. When an employer uses work or services exacted from an illegally staying third country national with the knowledge that he or she is a victim of trafficking in human beings the penalty prescribed in paragraph 3 of Article 323a of the Penal Code providing for imprisonment of at least six (6) months applies.	Yes When the violation aims to promote prostitution of TCNs, the employer shall be punished with imprisonment of at least two years and a fine of at least six thousand (6,000) euros. If the victim is a minor, is punished with imprisonment up to ten years and a fine of ten thousand (10,000) to fifty thousand (50,000) euros. Imprisonment and a fine of fifty thousand (50,000) to one hundred thousand (100,000) euros shall be imposed on the perpetrator if the crime was committed: a. against a person younger than fifteen years old, b. by fraudulent means, c. an ascendant relative by blood or marriage or adoptive parent, spouse, guardian or other person to whom the minor was entrusted for upbringing, teaching, supervision or custody, even temporarily, d. an employee who, in the performance of duty or by taking advantage of its status commits or participates in any way in practice (Article 28 par. 5 Law 4251/2014).

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Confiscation of financial gains (e.g. share of profit or revenue of the employer)	No	No
Ineligibility for public contracts	Yes Exclusion from all public contracts as defined in Article 1 of Directive 2004/18 / EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts for a period that can reach up to five years (Article 87A b Law 4052/2012).	No
Temporary or definitive closure of company or worksite	Yes Temporary or permanent revocation of the premises license in which the infringement was committed (Article 87 A c Law 4052 / 2012).	Yes In case of a final conviction against crimes described in par. 5 of article 28 of Law 4251/2014 and are subject to the judicial procedure in the course of committing the offence. The issuance of the irrevocable conviction is communicated by the competent public prosecutor to the Secretary General of the Decentralized Administration within a month. The latter, within one month since the notification of the decision, must to cancel the operating license of the store or business where the offense was committed, for a period of at least twelve months. Also, by taking into account all the circumstances, he/she can definitively withdraw the license.
Confiscation of equipment/property	No	No
Suspension of activity	Yes According to Article 87 B of Law 4052/2012: a) Temporary suspension of activity of a specific production process or section or sections or the whole of the undertaking or operation, in which a violation has occurred, for up to three days with a reasoned act of the Special Inspector or by	No

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	<p>reasoned act of the Head of the competent Regional Directorate inspection of the Labour Inspectorate upon a substantiated recommendation of the competent Labour Inspector.</p> <p>b) Temporary for more than three days or permanent suspension of activity of a specific production process or section or sections or the whole of the undertaking or operation in which a violation has occurred following a decision of the Minister of Labour, Social Security and Welfare, upon a substantiated recommendation of the Special Inspector or the Head of the competent Regional Directorate of Inspection of the Labour Inspectorate.</p>	
Withdrawal of trading license/disbarment of activity	No	No
Withdrawal of residence permit if the employer is a TCN	No	
Other sanctions	Exclusion from some or all public benefits, aid or subsidies, including EU funding, for a period that can be of up to five years (Article 87A a Law 4052/2012).	No

Q11. Do the procedures differ if the employer did not intentionally hire irregular worker? How is this established? What if the residence permit of the employee was revoked?

According to Article 80 par. 2 of Law 4052/2012 the employers who require that a third-country national before taking up the employment holds and presents them a valid residence permit or other authorisation for his or her stay, keep for at least the duration of the employment a copy or record of the residence permit or other authorisation for stay available for possible inspection by the competent authorities and notify the competent authorities of the start of employment of third-country nationals within a period laid down by each Member State shall not be liable for the breach, unless they knew that the document presented as a valid residence permit or other authorisation for stay was forged or falsified.

Q12a. Does legislation in your (Member) State provide for criminal sanctions for: a/b/c/d/e (as per Art.9.1 of the Employer Sanctions Directive 2009/52) or domestic equivalent?

Criminal sanctions for employers	Description <i>*Please indicate if this sanction is imposed in your (Member) State, and if yes in which cases</i> <i>** Please provide reference to the specific legal provisions</i>
(a) the infringement continues or is persistently repeated	<p>Yes</p> <p>According to Article 88 par. 1 a of Law 4052/2012 an employer who employs intentionally illegally staying third-country nationals whose employment continues or is persistently repeated, is subject to imprisonment of at least five (5) months regardless of administrative</p>

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	sanctions applied.
(b) the infringement is in respect of the simultaneous employment of a significant number of illegally staying third-country nationals	Yes According to Article 88 par. 1 b of Law 4052/2012 an employer who employs intentionally and simultaneously a significant number of illegally staying third-country nationals, is subject to imprisonment of at least five (5) months regardless of administrative sanctions applied.
(c) the infringement is accompanied by particularly exploitative working conditions	Yes According to Article 88 par. 1 c of Law 4052/2012 an employer who employs intentionally illegally staying third-country nationals whose employment is accompanied by particularly exploitative working conditions, is subject to imprisonment of at least five (5) months regardless of administrative sanctions applied.
(d) the infringement is committed by an employer who, while not having been charged with or convicted of an offence established pursuant to Framework Decision 2002/629/JHA, uses work or services exacted from an illegally staying third-country national with the knowledge that he or she is a victim of trafficking in human beings	Yes According to Article 88 par. 3 of Law 4052/2012 the infringement is committed by an employer who uses work or services exacted from an illegally staying third-country national with the knowledge that he or she is a victim of trafficking in human beings, he/she is subject to the anticipated sentence of paragraph 3 of Article 323 A of the Penal Code of at least six (6) months, unless for the same employee and the same act the employer has already been prosecuted or convicted under the same article of the Penal Code.
(e) the infringement relates to the illegal employment of a minor	Yes Whoever employs illegally staying minors, who are citizens of third countries, shall be punished with at least six months' imprisonment (Article 88 Paragraph 2 Law 4052/2012).

Q13b. Has you Member States amended legislation on sanctions for illegally employed TCN since July 2014?. If so, please provide details.

Yes. According to Law 4384/2016 "Agricultural Cooperatives, forms of collective organization of rural areas and other provisions", which adds an additional provision to the provisions of the Immigration Code (Law 4251/2014) concerning employment of irregularly staying third country nationals in rural economy (Article 13a), a work permit and insurance can be granted to irregularly staying migrants from third countries for employment in the rural economy in order to address urgent needs if vacancies for subordinate and seasonal work in agriculture are not covered by the process of invitation for employment and seasonal work labourers, shepherds and beekeepers. Article 13a of Law, which was added by article 58 of Law 4384/2016, provides that the sanctions of Law 4052/2012 are not imposed in the cases defined by this article. Law 4332/20015 also provides that employers of seasonal workers should provide them with suitable accommodation and inform the authorities about any change. According to Article 7 par. 11 of Law 4332/2015, which added additional provisions in Article 28 of the Immigration Code (Law 4251/2014), if the competent authorities find that accommodation has not been provided or that the provided accommodation does not meet the required health and safety standards, a fine of 1,500 euros is imposed on the employer and he/ she is also excluded from the possibility of inviting seasonal workers for the next five years. In addition, employers who have failed to fulfil their obligations during the previous invitation of seasonal workers cannot submit a new request for third-country nationals for a period of three years since the previous

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violation took place.

Q14. What are the strengths and weaknesses in sanctioning employers who illegally employed TCNs in your (Member) State? What were the particular success factors with measures that can be identified as good practices?

Regarding sanctions against employers who illegally employ TCNs, the identified strength is that through the relevant legislation has been formed an integrated framework for imposing sanctions including both administrative sanctions of any kind (administrative fines, suspension of activity, exclusion from public benefits etc.) and criminal penalties. The weaknesses concern mainly the difficulty of detection of illegally employed TCNs.

Illegal employment of Third-Country Nationals in the EU**Section 5: Outcomes for TCNs found to be working illegally [maximum 5-10 pages]**

This section of the Synthesis Report will aim to identify the possible outcomes and measures for TCNs found to be working illegally in the (Member) States. Hypothetical scenarios 'case studies' are presented under Question 14.

Q15. In the event that an irregularly staying and illegally working TCN is detected, please describe in which situations s/he is:

Q15a. *issued with a return decision. Please also describe the procedure after the labour inspectorate detects an illegally employed TCNs how is this communicated to immigration authorities.*

Usually the police authorities are those who detect infringements and then inform the Labour Inspectorate. Otherwise, the police has been invited to assist the Labour Inspectorate in advance or is called during the inspection, if necessary. The procedure followed by the Police is provided by Law 3907/2011, which transposed into Greek legal order the provisions of Directive 2008/115 for returning illegally staying third-country nationals.

Q15b. *is granted a period for voluntary departure*

Yes. If however there is a risk of absconding or the application for a residence permit has been rejected as manifestly unfounded or abusive or the TCN constitutes a risk for public security, public order or national security, the competent authorities may refuse to grant a voluntary departure period (Article 22 Law 3907/2011).

Q15c. *has received an entry ban*

Entry ban to a third-country national in Greece is compulsorily issued with the return decision, if: a) no period for voluntary departure has been granted, or b) if the third-country national has not complied with the obligation to return. In addition, entry ban may be imposed in case that the third-country national concerned may jeopardize public order and security, national safety or public health (Article 26 of Law 3907/2011).

Q15d. *fined (Please elaborate on the different types of sanctions in place)*

No.

Q15e. *detained (Please also describe which authorities have the right to detain illegally employed TCNs)*

The TCNs who are subject to return procedures are detained for their return preparation and enforcement of the removal procedure, unless other sufficient but less coercive measures can be implemented in a specific case. The detention measure applies when: a) there is risk of absconding or b) the third-country national avoids or hampers the preparation of return or the removal process or c) grounds of national security occur (Article 30 of Law 3907/2011).

Q15f. *receives work permit*

No.

Q15g. *receives residence permit*

The national migration legislation provides grant of residence permit for one of the purposes provided by the Immigration and Social Integration Code.
A residence permit is granted according to the terms and conditions provided by article 89 of Law 4052/2012.

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More precisely, third country nationals who were employed under particularly exploitative working conditions or as minors, and the specific acts are qualified by the competent Prosecutor as such, may lodge a complaint against their employer and apply to obtain a residence permit for humanitarian reasons in accordance with the other terms and conditions of article 19 A of Law 4251/2014, as in force, contributing at the same time in the criminal proceedings.

A residence permit for humanitarian reasons can be granted even if the aforementioned illegally employed foreigner is not cooperating with law enforcement authorities, if the competent Prosecutor considers that he/she does not cooperate because of threats to persons of his family in Greece or in his/her country of origin or elsewhere, and that, if he/she is not protected or deported, the aforementioned persons face imminent danger.

Q15h. Please indicate outcomes *if identified as a victim of trafficking of human beings*

A residence permit in accordance with Article 52 of Law. 4251/2014 is granted.

Q15i. *Other sanctions/outcomes*

-

Q16. In the event that a regularly staying and illegally working TCN is detected, please describe in which cases:

Q16a. *s/he can lose their residence rights*

-

Q16b. *the illegal work is tolerated or regularised*

Law 4384/2016 "Agricultural Cooperatives, forms of collective organization of rural areas and other provisions" added an additional provision to the provisions of the Immigration Code (Law. 4251/2014) concerning employment of irregularly staying third country nationals in the rural economy (article 13 a). According to this, a work permit and insurance can be granted to irregularly staying migrants from third countries for employment in the rural economy in order to address urgent needs if vacancies for subordinate and seasonal work in agriculture are not covered by the process of invitation for employment and seasonal work labourers, shepherds and beekeepers.

Q16c. *fined*

-

Q16d. *detained*

-

Q16e. *issued a return decision*

-

Q16f. *Other sanctions/outcomes*

-

Q17. What are the consequences to TCN who have temporary or permanent residence permit in one EU country and is illegally employed in your (Member) State?

-

Q18. Please describe the possibility for compensation or unpaid wages to the illegally working TCNs- i.e. back payment of the salary (see definition of back payment in Section 6)

a. In the event that back payment of salaries, social security contributions and income taxes are due in favour of the illegally employed TCN, please describe mechanisms in place which provide for the liability of the employer to pay:

(i) outstanding remuneration

(ii) amount equal to taxes and social security contributions (which is due to the State and not the TCN)

b. Does your national legislation foresee that, in addition to employers, direct contractors and any intermediate subcontractor may also be required to pay any outstanding remuneration and taxes?

c. Please provide comments on difficulties encountered or success factors with measures that can be identified as good practices in relation to claims for back payments.

d. In addition to back-payment, can employer be ordered to cover other expenses, such as payment of living expenses (please define how living expenses are defined/ calculated) and cost of return of illegally employed TCNs

According to article 81 par. 1 a) of Law 4052/2012 the employer who employs an illegally staying third country national is liable to pay him/ her) any outstanding remuneration. The agreed level of remuneration is presumed to have been at least as high as the wage provided for by the applicable laws on minimum wages, by collective agreements or in accordance with established practice in the relevant occupational branches or in the specific enterprise, unless either the employer or the employee can prove otherwise in the framework of the legislative provisions in force. According to par. 3 of the same article, before the enforcement of any return decision, illegally employed TCNs are systematically and objectively informed about their rights by the competent authorities for the the enforcement of the decision.

According to article 81 par. 1 b) of Law 4052/2012 the employer who employs an illegally staying third country national is liable to pay an amount equal to any taxes and social security contributions that he/ she would have paid had the third-country national been legally employed, including penalty payments for delays and relevant administrative fines. It is presumed that the employment relationship had at least three months duration unless, among others, the employer or the employee can prove otherwise.

Furthermore, the Greek legislation provides that except from employers, the contractors and any intermediate subcontractor may also be liable to pay outstanding remuneration and taxes.

Finally, it is provided that if the employer is a subcontractor who violated the provisions of article 28 of Law 4251/2014, and the main contractor and any intermediate subcontractor are not fulfilling their obligations with due diligence, the contractor and any intermediate subcontractor are subject to the aforementioned sanctions and pay any compensation and any outstanding remuneration to the seasonal worker.

However, it must be noted that there is no data of any litigation in order to identify difficulties or success factors of the measures that can be identified as good practices in relation to the applications for obtaining outstanding remunerations.

It is finally clarified that an employer who employs illegally staying TCNs must pay all expenses required for sending back payments to the country where the TCN has returned or has been returned and pay any costs related to the forced returned procedure, if applicable.

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- Q19a.** Does the legislation in your (Member) State foresee the right of illegally employed TCN to make a claim against employer including in cases in which they have, or have been, returned?
- b. if the answer is positive, is it a specific claim, or it falls under general provisions concerning the right to bring a case before civil or labour courts
 - c. may third parties with legitimate interest act on behalf or in support of TCN in relevant administrative or civil proceedings (e.g. trade unions, organisation of migrant workers, public authorities)
 - d. Please provide comments on difficulties encountered or success factors with measures that can be identified as good practices.

The Greek legislation foresees the right of illegally employed TCN to make a claim against employer including in cases in which they have, or have been, returned. Illegally employed TCNs (or those acting on their behalf with their consent), as any legally employed employee, may lodge complaints against their employers at the respective labour centres every complaint provided for by national legislation. Providing assistance to third-country nationals to lodge complaints shall not be considered as facilitation of unauthorised entry, transit and residence (article 83 Law 4052/2012). Also, illegally employed TCNs may resort to the competent courts and administrative authorities to obtain any outstanding remuneration and assert any legitimate rights in accordance with applicable labour laws and to enforce the relevant judgments against their employers, even if they have returned or have been returned to their country. These measures concern the TCNs illegally staying in Greece. According to article 26 par. 2 c of the Immigration Code (Law 4251/2014), in order to facilitate employees to lodge complaints pursuant to the provisions of Articles 83 and 86 of Law 4052/2012 concerning their labour rights, an exception from the general rule provided in par. 1 of the same article providing that "public services, legal entities of public law, local authorities, public utilities and social security organisations shall not provide their services to third country nationals who do not have a passport or any other travel document recognised by international conventions, an entry visa or a residence permit and, generally, who cannot prove that they have entered and reside legally in Greece" is introduced. Third parties which have a legitimate interest may engage either on behalf of or in support of TCNs in any administrative or civil proceedings. However, there are not any available data concerning potential judicial proceeding in order to identify difficulties or success factors with measures that can be identified as good practices.

Q20. Does your (Member) State provide for information to illegally employed TCNs on their rights?

- if the answer is positive, is this foreseen in legislation, or else is it a part of general administrative guidelines or practices?

Please provide comments on difficulties encountered or success factors with measures that can be identified as good practices in relation to information obligations.

Law 3996/2011 "Reforming the Labour Inspectorate, social security arrangements and other provisions" provides that the Labour Inspectorate is responsible for providing information to employers and employees on the most effective means for the fulfilment of its provisions (Article 2). This is a general measure, which was established for the supervision and control of the implementation of the provisions of labour law, the investigation of the insurance cover and the illegal employment of workers and not just to tackle illegal employment. Thus it does not distinguish between illegally staying and illegally working TCNs and legally staying and illegally working TCNs but covers all workers in Greece. Questions may be submitted to the Labour Inspectorate verbally or in writing, anonymously or not, even by telephone, e-mail or fax or through the website or portal of the Labour Inspectorate (www.sepenet.gr). However, there are not any available data concerning difficulties or success factors with measures that can be identified as good practices in relation to information obligations.

Q21. Case studies

In order to better understand the different procedures used when authorities detect illegal employment of third-country nationals, five hypothetical case studies have been designed. It is recognised that outcomes for TCNs may

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largely differ depending on their particular situation. In this respect, the case studies will help to illuminate the elements which exist for national authorities to use discretion in response to this. For each of the case studies below, please describe the general procedure **after detecting illegal employment** and the consequences in your (Member) State for the third-country national. In order to determine the procedure and the consequences in accordance with the rules of your Member State, additional information about the particular circumstances of each case may be required. EMN NCPs are asked to identify the different circumstances relevant for each case.

Q21a. A third-country national residing and working irregularly

Adawe, a 38 years-old carpenter from Somalia entered your (Member) State via irregular means with his wife and 2-year old daughter. They have been in the (Member) State for three years. He is an experienced carpenter with a Diploma in carpentry from Somalia, which is not recognised in your (Member) State. Adawe has been working without an employment contract at a construction company as a general construction worker. Now he has found a job in his profession and would like to sign a contract and apply for a legal residence permit.

What happens after the labour inspectorate detected irregularities on a random control? What are the consequences for him? If Adawe is not detected but he is offered a new job with a written contract can his situation be regularised?

The Labour Inspectorate will follow the sanctions' procedures in force against the employer but Adawe will not face any consequence on the fact that he has not a residence permit. Because according to Article 78 A of Law 3386/2005 expulsion decisions are not issued when the conditions of the principle of non-refoulement are fulfilled, but a certificate of non-removal on humanitarian grounds is granted instead. The circular of the Greek Police (1604/15/1423412 / 10.08.2015) specifies that the certificate is granted, inter alia, to Somali citizens. It should be noted that according to the Joint Ministerial Decision 53619/735 - 12.07.2015 the TCNs falling in this category can work only in agriculture and livestock, the domestic work sector and the clothing industry and only if they were entitled to work under their previous legal residence permit, which is no longer valid, the work permit can be issued for the employment sector for which it had been previously authorized to work. Therefore Adawe, who did not have a residence and work permit, can henceforth, after obtaining certificate of non-removal, work in agriculture and livestock, the domestic work sector and the clothing sector. Otherwise, if he is not detected, it is not possible to accept the job offered to him and be granted a residence and work permit because he entered Greece illegally and not through the procedures provided for in the Immigration Code (Law 4251/2014) for TCNs employees.

Q21b. A third-country national on a student permit employed more hours than allowed

Svitlana, a student holding Ukrainian citizenship, aged 22, moved to your (Member) State one year ago. Svitlana is enrolled in a two year master's programme at university. She holds a residence permit for students. For the past six months she was also employed for 10 hours per week at a local café⁴. During the summer break at university, Svitlana started to work longer hours at the café, leading to work of almost 45 hours per week during term time for 3 months without changes in her part-time student contract. What happens after the labour inspectorate detected that Svitlana was working 40 hours per week? Please specify the maximum hours per week that students are allowed to work in your (Member) State.

According to article 36 of the Immigration Code (Law 4251/2014), third-country nationals who have been granted a residence permit for the purposes of studies, may be employed only part time. In all cases, the number of working hours may not be less than ten hours per week, or the equivalent in days or months per year. Therefore, if the Labour Inspectorate finds that Svitlana's weekly hours are not less than the normal working hours of a comparable

⁴ Based on Directive 2016/801 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (recast) allowing students to take up employment of at least 15 hours per week. IE and the UK are not participating in this Directive.

full-time worker will follow the prescribed sanctions proceedings against the employer.

Q21c. A third-country national who resided and worked regularly, but whose permit has expired

Chen, a 33 years old web designer from China arrived in your Member State two years ago through a temporary residence permit arranged through an IT company that employed him. He lost his job and found a job in a local bar for which he was not authorised by his residence permit. After four months of working in the local bar, he applies for a job at another IT company and receives a job offer. However, in the meantime he was detected by the labour inspectorate of working irregularly in the local bar. What happens after the detection taking into consideration that he holds a job offer?

According to article 28 par. 1 of the Immigration Code (Law 4251/2014), hiring and employing third-country nationals who no longer meet or at all the requirements for legal residence in Greece is not allowed. Since Chen's previous residence permit has expired, he has not the right to acquire a new residence and work permit while he is present in Greece illegally. Moreover, the employer will face the prescribed sanctions for his illegal employment.

Q21d. A third-country national residing as a tourist

Marija, a Serbian citizen, aged 45 has entered your Member State as a tourist one month ago. Due to visa liberalisation for the Western Balkans countries, Marija has the right to remain in your Member State for up to 90 days per six-month period as a tourist without requiring a visa⁵. During her stay in your Member State, Marija has been working for a family she met through friends as a housekeeper and babysitter. She has been living with the family and has been paid cash for her work. After two months the family asks Marija to stay and work for them full time. They offered to grant her a work contract and asked her to apply for a residence permit. Marija intends to apply for a residence in permit in your Member State during the 90 days period she enjoys visa liberalization. However, Marija is detected by the authorities in your (Member) State before applying for the permit.

According to article 28 par. 2 of the Immigration Code (Law 4251/2014), hiring and employing third-country nationals holding residence permits or visas which do not grant access to the labour market is not allowed. Thus, Marija does not have the right to submit an application. Moreover, her employer will face the prescribed sanctions for her illegal employment.

A21e. A third-country national seasonal worker

Karim, a 25 year old from Morocco entered your (Member) State as a seasonal worker for strawberry picking three months ago. He has been residing on a seasonal worker permit and is required to leave your (Member State) after the legally allowed duration for stay within 12 months expires⁶. The contract with his current employer is valid for six months. However, after his contract expired he remained in your (Member) State and took on another job in a hotel. He thus remained in your (Member) State longer than the legally allowed duration. After a few months in the second job, he applied again as a seasonal worker for strawberry picking. However, he is detected that he has overstayed in the country. What would be the consequences for Karim?

According to the provision of article 13 a of the Immigration Code (Law 4251/2014), which has been introduced by Law 4384/2016 "Agricultural Cooperatives, forms of collective organization of rural areas and other provisions",

⁵ Based on the visa free travel decision adopted by the EU Member States on 30 November 2009: http://europa.eu/rapid/press-release_IP-09-1852_en.htm?locale=fr

⁶ Based on Directive 2014/36/EU – Seasonal workers – allowing third-country nationals to reside in a Member State between five months and nine months in any 12-month period. The permit is renewable. IE and the UK are not participating in this Directive.

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work permits and insurance can be granted to irregularly staying TCNs in order to be employed in farms for emergency response if the positions within the invitation procedure for employment and seasonal work of workers in agriculture, shepherds and beekeepers are not covered. Thus, Karim may apply to fall in the above procedure and if there are any urgent needs in the strawberry harvest that have not been covered by the invitation procedure, he will receive a work permit.

*The Synthesis Report will outline the main findings of the Study and present conclusions relevant for policymakers at national and EU level. **(Member) States should include any overall conclusions in the Top-line Factsheet at the beginning of the Common Template rather than duplicate information in this Section.***

[Annex 1 Statistical Annex](#)**1. Inspections and sanctions for employers**

The European Commission has collected data under the reporting requirements of the Employers' Sanctions Directive impose on (Member) States⁷.

The following data are therefore available:

- ★ Number of inspections carried out by sector (and as percentage of the total number of employers in the sector)
- ★ Number of inspections which detected illegally staying third-country nationals (and as percentage of the total number of employees in each sector)
- ★ Sanctions, in particular how many proceedings have been opened following the inspections, how many have been closed and the total amount of the imposed fines
- ★ Criminal sanctions, in particular the number of prosecutions initiated following the inspections, the final decisions, the average duration of imprisonment imposed and the total sum of imposed fines

The statistics has been made available on the IES in the Study folder: EMN Outputs ->EMN studies ->.Illegal employment study ->Working Papers and Additional documents->Employer Sanctions Directive data. EMN NCPs are encouraged to review the statistics and flag up any methodological issues or changes in the statistics. The Service Provider will make use of the statistics for the purposes of the Synthesis Report. EMN NCPs are also encouraged to use the statistics in the preparation of their national report.

Question A.1: Please provide statistics on a number of convictions for employing illegally staying TCNs for years 2014, 2015 and 2016, if possible broken down by specific criminal offences enlisted in Article 9.1. a-e of Directive 209/52, i.e.:

Convictions for employers	2014	2015	2016
Total number of convictions		65	
(a) infringement continues or is persistently repeated			

⁷ IE and the UK do not participate in this Directive.

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(b) infringement is in respect of the simultaneous employment of a significant number of illegally staying third-country nationals			
(c) the infringement is accompanied by particularly exploitative working conditions			
(d) the infringement is committed by an employer who, while not having been charged with or convicted of an offence established pursuant to Framework Decision 2002/629/JHA, uses work or services exacted from an illegally staying third-country national with the knowledge that he or she is a victim of trafficking in human beings			
(e) the infringement relates to the illegal employment of a minor			

Question A.2: Please provide statistics on type and number of sanctions for employers in your (Member) State

Type of sanction for employers (please fill in)	2014	2015	2016
fines	145	61	
suspensions of operation of a total duration of 13 days		4	
suspensions of operation of a total duration of 377 days	51		

*Illegal employment of Third-Country Nationals in the EU***2. Scale and profiles of illegal employment of TCNs**

Question A.3: Please provide statistics on a number of identified illegally employed TCNs. Please explain if any differences in the data provided here and the data under the reporting requirements on Directive 2009/52 available on the EMN IES in [this folder](#).

Illegally employed TCNs	2014	2015	2016	Methodological notes
Number of cases of identified <u>illegally staying</u> and illegally employed TCNs	202	104		
Number of cases of identified <u>legally staying</u> and illegally employed TCNs				

Question A.4: Please provide statistics on the profiles of illegally employed TCNs in your (Member) State for 2015

Illegally employed TCNs	Top nationalities 10	Age disaggregation	Sex disaggregation	Methodological notes
Number of cases of identified <u>illegally staying</u> and illegally employed TCNs				
Number of cases of identified <u>legally staying</u> and illegally employed TCNs				

3. Outcomes for TCNs

Question A.5: Please provide statistics on the outcomes of identified illegally employed TCNs.

Illegally employed TCNs	2014	2015	2016	Methodological notes
Number of residence and/or work permits issued to detected <u>illegally staying</u> and illegally working TCNs				
Number of residence and/or work permits issued to detected <u>legally staying</u> and illegally working TCNs				
Number of illegally employed TCNs who were granted a period for voluntary return				

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Number of illegally employed TCNs who were given an order to leave the country following a labour inspection				
Number of illegally employed TCNs who were deported following an inspection				
Number of illegally employed TCNs who were identified as victims of trafficking in human beings				
Number of decisions obliging employers to pay back payments/ amount equal to taxes and social security contributions				

Question A.6: Please provide statistics on the types and number of sanctions for illegally employed TCNs

Type of sanctions available for illegally employed TCNs (e.g. fines, imprisonment, etc)	2014	2015	2016	Methodological notes

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Question A.7: Number of complaints lodged against employers for employing illegally TCNs. Please provide any disaggregation/break down on the type of complaints if available – such as complaints lodged by third parties, complaints lodged by TCNs, etc.

Number of complaints	2014	2015	2016	Methodological notes

Question A.8: Descriptive overview of the profile of employers, including affected sectors of labour market

Question A.9: Please provide any additional statistics and general observations on the availability of data and methodology of available data