



AD HOC QUERY ON 2019.39 Residence permit taxes for irregular migrants

Requested by EMN NCP France on 20 March 2019

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Sweden, United Kingdom (25 in Total)

Disclaimer:

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1. Background information

In the context of its expert mission related to residence permit taxes, the Finance Committee of the French National Assembly has contacted the General Directorate for Foreign Nationals in France in order to gather information from other Member States and Norway on their practices.

2. Questions

1. Concerning TCNs who have been granted a residence permit in your Member State after having entered or stayed irregularly: are they required to pay a specific tax arising exclusively from either their irregular entry or irregular stay?

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2. If the answer is yes, is the payment of this tax conditioned by the issuance of a residence permit or is it required even if their application for a residence permit is denied?

We would very much appreciate your responses by **17 April 2019**.

3. Responses

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		Wider Dissemination ²	
	EMN NCP Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	EMN NCP Belgium	Yes	1. No 2. NA

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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	EMN NCP Bulgaria	Yes	<p>1. Republic of Bulgaria does not grant a residence permit to irregularly entered or stayed TCNs. Permanent residence permit may be granted to foreigners who up to 27 December 1998 entered, reside and have not left the territory of the Republic of Bulgaria or are born on the territory of the Republic of Bulgaria and are not recognized as citizens of the former soviet republics; for this category of persons the requirement of Art. 15 Para 1 shall not be applied.</p> <p>2. N/A.</p>
	EMN NCP Croatia	Yes	<p>1. No. If TCNs who entered/stayed irregularly wish to apply for a residence permit they are not obliged to pay any tax arising exclusively from their irregular entry or stay when submitting their application. But, this is no relation to a penalty proscribed for irregular entry/stay.</p> <p>2. N/A</p>
	EMN NCP Cyprus	Yes	<p>1. No</p> <p>2. N/A</p>
	EMN NCP Czech Republic	Yes	<p>1. No</p> <p>2. N/A</p>
	EMN NCP Estonia	Yes	<p>1. No, Estonia does not have a specific tax or fee. But according to Penal Code, irregular entry of the state border or crossing the temporary border line is punishable by a pecuniary punishment.</p>

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			2. N/A
	EMN NCP Finland	Yes	1. No 2. N/a
	EMN NCP France	Yes	1. Third-country nationals (TCNS) who have entered irregularly or have been staying irregularly in France and who wish to apply for a residence permit have to pay a 50-euro tax when submitting their application. 2. If their application is denied, no refund will be granted. If their application is successful, the TCN has to pay a further complementary tax of 290 euros before receiving their residence permit. TCNs who apply for asylum or are granted a refugee status are not submitted to the payment of this tax.
	EMN NCP Germany	Yes	1. No. 2. n/a.
	EMN NCP Greece	Yes	1. According to Greek legislation, there is a fee to be paid when submitting the application and the supporting documents for a residence permit. Moreover, a fine is provided for in national legislation for third-country nationals who violate the deadline for voluntary departure or otherwise illegally reside in the country for a period less than thirty (30) days. More specifically, it is provided that, on departure, they shall pay four times the relevant

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			<p>fees for an annual residence permit. If the duration of such illegal residence exceeds thirty days, they shall pay eight times the relevant fees for an annual residence permit. However, the following persons are exempt from fines: (a) minors, (b) those who qualify as ethnic Greeks, (c) those who have the status of spouse or parent of a Greek national, an ethnic Greek or an EU national, (d) those who have been included in procedures and programs for voluntary repatriation, (e) those who have violated the lawful period of residence in Greek territory for reasons of force majeure if they leave within thirty (30) days from the elimination of the event. In all cases it is the police authority responsible for the control of the departure of the alien must decide on whether there are reasons for exemption.</p> <p>2. see Q1</p>
	EMN NCP Hungary	Yes	<p>1. No</p> <p>2. Not applicable.</p>
	EMN NCP Ireland	Yes	<p>1. No.</p> <p>2. N/A</p>
	EMN NCP Italy	Yes	<p>1. No, Italian legislation doesn't provide a specific tax for irregular entry or irregular stay. The Ministry of Interior has transposed the decree of the Ministry of Finance (n. 131/2017), which determines new taxes for the request or the renewal of the residence permit: Duration period: - From 3 month to 1 year: 40 euro - From 1 years to 2 years: 50 euro</p>

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			<p>- From 2 years: 100 euro To these costs must be added others:</p> <ul style="list-style-type: none"> - 16 euro: official stamp - 30 euro: forwarding services - 30,46 euro: electronic document <p>2. N/A</p>
	EMN NCP Latvia	Yes	<p>1. No. There is no specific tax. Only due to exceptional circumstances, TCN have a right to ask to submit documents for residence permit in Latvia. Decision to allow submit documents in Latvia is made by Head of the Office of Citizenship and Migration Affairs and only in exceptional reasons (for instance serve illness). In the case if Head of Office of Citizenship and Migration Affairs of Latvia allows to submit documents, TCN have a right to submit documents for residence permit in Latvia (without leaving the country) if he/she is staying in Latvia irregularly even he/she has return decision. The return decision is suspended on the period of reviewing of documents for residence permit. When the TCN applies for a residence permit and he /she entered the country irregularly or is staying in the country irregularly, TCN has to pay a highest possible state fee (urgency fee) for a review of the documents submitted to request a residence permit. There is differential between state fees based on period of reviewing submitted documents. In this case TCN has to pay highest possible state fee which equals for 5 day period of reviewing. It is approximately 400 euro, but this amount depends on the reason of residence permit and it is nonrefundable.</p> <p>2. N/A</p>
	EMN NCP Lithuania	Yes	<p>1. No, there is no specific tax or fee. However, it should be noted that an irregular stay/entry is a violation, which in accordance with Article 538 of the Code of Administrative Offenses of the Republic of Lithuania might result in a warning or a fine.</p>

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			2. n/a
	EMN NCP Luxembourg	Yes	1. No. 2. N/A.
	EMN NCP Malta	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	EMN NCP Netherlands	Yes	1. No, aliens do not have to pay taxes, but they do have to pay fees if they apply for a residence permit, whether they entered the Netherlands legally or illegally. When applying for asylum, no fees have to be paid. Airlines and maritime transport companies can get a fine if they transport inadequately documented or undocumented passengers to the Netherlands. (Article 4 Aliens Act) This is based on their duty of care. They are obliged to check whether the passengers they will transport have valid travel documents. In case aliens arrive in the Netherlands undocumented or inadequately documented with a transport company, the aliens are not required to pay a fine, but they will not be allowed to enter the Netherlands. They will be kept in detention until they leave the Netherlands. The costs of detention and departure from the Netherlands will have to be paid by the transport company on the basis of the so-called Removal Order. 2. -

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	EMN NCP Poland	Yes	<p>1. No, Poland does not have a specific tax for irregular stay. But any person submitting the application is obliged to pay a fixed application fee.</p> <p>2. n/a</p>
	EMN NCP Portugal	Yes	<p>1. No.</p> <p>2. NA</p>
	EMN NCP Slovakia	Yes	<p>1. No.</p> <p>2. N/A</p>
	EMN NCP Slovenia	Yes	<p>1. In case TCNs entered and/or stayed irregularly in Slovenia, they are under the subject of sanctions, which are defined in relevant legislative acts an implemented by the relevant authorities. In case TCNs granted a valid residence permit, they are obliged to pay taxes, which are defined by the relevant legislative acts.</p> <p>2. Payment of the basic tax is not conditioned by the issuance of a residence permit.</p>
	EMN NCP Sweden	Yes	<p>1. No Normally they would be required to leave the country to apply for a residence permit from their home country and cannot apply from Sweden.</p> <p>2. Not applicable</p>

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	EMN NCP United Kingdom	Yes	1. No, the UK does not have a specific tax for irregular stay. 2. N/A
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