



Ad-Hoc Query on criminal penalties for illegally entering/staying TCNs update

Requested by NL EMN NCP on 4th April 2013

Compilation produced on 6th August 2013

Responses from Austria, Belgium, Cyprus, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Spain, Sweden, United Kingdom plus, Norway
(21 in Total)

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1. Background Information

The Dutch government has prepared a bill on criminalizing illegal residence. The bill has been sent to parliament on January 7 of this year. On behalf of the parliamentary handling we kindly ask you to inform us about the situation in your country concerning the penalization of illegal entry or residence.




1. a. Has your national legislation concerning criminal penalties for third-country nationals who have illegally entered or who are illegally staying in the territory of your country been evaluated (in terms of effectiveness (e.g. a deterrent effect, more voluntary/forced return)?
- b. If yes, what are the main conclusions of the evaluation? Are there any other salient points made in the evaluation, worth mentioning?

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2. a. If your national legislation provides for criminal penalties on illegal stay/entry: In what manner is the legislation being enforced, meaning: when a third country national is recognized being illegal on the territory will the procedure that follows always mean he will be prosecuted? Does your legislation provide for a framework, policies or an elaboration in practice on the prosecution procedure?



b. If Yes, please provide details.

2. Responses

		Wider Dissemination?	
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further
	Belgium	Yes	<p>1a. The relevant Belgian national legislation has as such never been (thoroughly) evaluated, in contrast to the detention and return policy and legislation (“Commission Vermeersch”; “Sum Research”).</p> <p>1b. not applicable</p> <p>2. Although illegal stay and entry is a criminal offence according to the Belgian’s Aliens Act, an illegal residing TCN will in reality never be prosecuted for the mere fact of violation of the residence conditions. Only in combination with other criminal offences (f.i. theft, violence, human trafficking,...), the court(s) will be inclined to rule that immigration (residence) legislation has been violated. Article 75 of the Aliens act stipulates that illegal stay is an offence that is punishable by a fine (up to 200 Euro – to be multiplied by 6 because of the surtax) and/or imprisonment up to three months and up to one year in case of recidivism. According to article 4bis of the Aliens act an administrative fine of 200 Euros (to be multiplied by 6) may be imposed against a foreigner for illegal border crossing.</p>
	Cyprus	Yes	<p>1.a.)The national legislation is evaluated through the practice followed on its implementation where criminal prosecution of an illegally staying TCN has been abolished.</p> <p>According to the Aliens and Migration Law, Chapter 105, article 19 titled Offences and Fines, a person liable for a criminal offence as listed, is subject to imprisonment for a period not exceeding 12 months or for a fine not exceeding 1,000 pounds or to both penalties.</p> <p>Moreover, Article 19 provides that a person who intentionally assists a TCN to illegally enter the Republic is liable of a criminal offence subject to imprisonment not exceeding 8 years or a fine not exceeding 20,000 pounds or to both penalties.</p> <p>1.b.)The transposition of the Return Directive and also the Decisions of the ECJ in related cases, lead to the abolition of criminal prosecution for illegal migrants.</p>



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			2). Detention of illegally staying migrants is a measure of last resort, used only in cases where illegal migrants fail to abide with the decisions for voluntary return and where there is a high risk of disappearance.
	Estonia	Yes	<p>1.a. No</p> <p>1b. not applicable</p> <p>2.a. Yes. According to Estonian Penal Code § 260 an alien who stays in Estonia without a legal basis at least twice within a year shall be punished by a pecuniary punishment or up to one year of imprisonment. The prosecution procedure is regulated by Code of Criminal Procedure.</p> <p>2.b. You may find the Code of Criminal Procedure here.</p>
	Finland	Yes	<p>1. a and b: No such evaluation has been made</p> <p>2. a and b: Criminal sanctions concerning illegal entry/stay in Finland are stated in Section 185 of Aliens Act.</p> <p>Aliens Act Penal provisions Section 185 Violation of the Aliens Act (1) An alien who:</p> <p>1) deliberately resides in the country without the required travel document, visa or residence permit, or through negligence fails to comply with the obligation to register his or her residence or apply for a residence card or permanent residence card;</p> <p>2) deliberately, without right to gainful employment is gainfully employed or pursues a trade;</p> <p>3) deliberately fails to comply with the obligation to report under section 118, another obligation under section 119, or a request under section 130 to appear before the authorities to submit information on his or her residence; or</p> <p>4) deliberately enters the country despite a prohibition of entry on grounds of public order, security or health shall be sentenced to a fine for a violation of the Aliens Act. (323/2009)</p> <p>(2) A person who deliberately or through gross negligence fails to comply with the obligation under section 174 or 175 shall also be sentenced for violation of the Aliens Act.</p>




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			<p>(3) A person who deliberately or through gross negligence fails to comply with the obligation under section 174 or 175 of this Act or section 19 or 20 of the Act on the Processing of Personal Data by the Border Guard is also sentenced for violation of the Aliens Act. (581/2005)</p> <p>Violation of Aliens Act is sanctioned by fine. Thus in most (clear and undisputed) cases violations can be dealt with in summary criminal process i.e. police officer fines the offender on the spot. The full sum of the fine varies depending on several factors, such as the net income of the offender and the length of the illegal stay.</p> <p>72 % of all violations of Aliens Act in 2012 were handled in summary criminal process.</p> <p>In minor cases Violation of Aliens Act can also be handled with written or oral notice with no actual penalty. The offender can always have his/hers case tried in court if he/she so chooses.</p>
	France	Yes	<p>1a. No, French national legislation concerning criminal penalties for third-country nationals who have illegally entered or who are illegally staying in the territory of France has never been evaluated. 1b. not applicable</p> <p>2. a. and b. Since the entry into force of the law of 31 December 2012 , irregular stay of third-country nationals is no longer considered as a criminal offense punishable by law. However, third-country nationals can be subject to criminal penalties in the case of:</p> <ul style="list-style-type: none"> - Irregular entry into French territory (maximum penalties: one-year imprisonment, a € 3,750 fine, and three-year re-entry ban into French territory); - Irregular stay on French territory without a legitimate reason, after they have been subject to a measure of detention or house arrest which ended without the execution of a removal order (maximum penalties: one-year imprisonment, a € 3,750 fine, and one-year re-entry ban into French territory); - not complying with a refusal of entry or a removal order or returning on French territory after they have been subject to a re-entry ban into French territory (maximum penalties: three-year imprisonment and 10-year re-entry ban into French territory). <p>The decision to prosecute is left to the discretion of the public prosecutor. Prosecutions for irregular entry or stay in the territory are carried out according to the common law procedure, in accordance with the Code of Criminal Procedure. Third-country nationals who irregularly enter the territory may be prosecuted only if they are caught in the act.</p>
	Germany	Yes	<p>1. a. No. b. N/A</p> <p>2. a. and b. The provisions as to punishments for criminal offences and fines concerning the residence law on illegal entry and illegal residence are enforced according to the general procedure and procedural rules for the prosecution of crime and the punishment of</p>


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			offences.
	Greece	Yes	<p>.Yes. According to article 83 of Law 3386/05, a third country national leaving or entering the Hellenic territory without the legal formalities shall be punished by imprisonment for at least three months and by a fine of at least 1.500 euro. Third country national who tries to leave the country in an illegal way and is wanted by the judicial or police authorities or has tax liability or obligations of any kind whatsoever to the state or he is repeat infringer, shall be punished by imprisonment for at least six months and by a fine of at least 3000.</p> <p>If a third country national enters or exits the Hellenic territory without legal formalities, the public prosecutor with the approval of the public prosecutor at the court of appeal, to whom he shall report without delay, may refrain from criminal proceedings in this action, and notify immediately of his decision the Commander of the police or the port authority that found illegal entry or exit so that the third country national be immediately returned, by his decision, to the country of origin or provenance. If the immediate return of the third country national can not be made possible, the Commander of the police or the port authority shall refer the third country national to the administrative authority responsible for expulsion, in accordance with article 76 of this law which provides the following.</p> <p>2. The administrative expulsion of a foreigner is permitted if:</p> <p>i) a. he has been sentenced by a final judgment to imprisonment of one year, or regardless of the sentence, for crimes regarding the offence of the regime, betray of the Court, trading and trafficking of drugs, legalization of proceeds from illegal activities, international economic crimes, crimes through the use of high technology, currency crimes, resistance, kidnapping of minors, crimes against sexual freedom and promotion of prostitution, theft fraud, economic crimes, blackmail, usury against the law on mediators, forgery, false certification, libeling, smuggling, crimes regarding guns, antiquities, promotion of illegal immigrants in the Country or facilitation of their transfers or promotion, acquisition of accommodation for them for their dissimulation, since his expulsion has not been ordered by any competent court.</p> <p>b. He has violated the provisions of the present law</p> <p>c. His presence in the Hellenic Territory is dangerous for public order and security of the country.</p> <p>d. His presence in the Hellenic Territory is dangerous for public health and he does not conform to the measures determined by medical authorities from the protection of public health, even though he has received the relevant information</p>
	Hungary	Yes	<p>1 a and b. Yes, it has. As a result of this, mainly due to non-conformity with the Return Directive as established by the Commission, the new Hungarian Criminal Code (Act No. C of 2012) that entered into force on 1 January 2013, does not contain the provision criminalizing the violation of an entry ban by a third-country national anymore.</p> <p>2. Given that the new Criminal Code replaced the old one in its entirety, it also repealed former Article 214 of the old Criminal Code penalizing the violation of an entry ban by a previously expelled third-country national. Therefore, as of now, Hungarian law is not criminalising illegal stay in the country.</p>
	Italy	Yes	<p>1a. No evaluation has been undertaken so far.</p> <p>1b. Not applicable</p>





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			<p>2 a and b. A foreigner recognized being illegal on the territory is subject to expulsion. There are various cases in which an expulsion may be ordered: the administrative expulsion, ordered by the Ministry of the Interior for reasons of public order and national security; the administrative expulsion, ordered by the Prefect; the expulsion ordered by the court as a security measure against a foreign citizen convicted of certain crimes provided for in the Code of Penal Procedure, if he is found to be socially dangerous; the expulsion as an alternative sanction to detention, ordered by the judge in case the foreign citizen has been sentenced either to imprisonment for more than two years, or to restraining order for specific crimes against the State or for the crime of illegal entry and stay.</p> <p>This crime was introduced in August 2009 by Law no. 94 of July 15, 2009, also known as the “security package”. As provided in Article 6(3) of the Consolidated Immigration Act, if a foreigner, at the request of law enforcement officers, fails without reasonable justification to show documents certifying his/her stay on Italian territory, he/she can be punished with imprisonment for up to one year and fined up to 2,000 Euros. Additionally, Article 10bis provides that entry or stay in contravention to the Consolidated Immigration Act shall be punished with a fine between 5,000 and 10,000 Euros.</p> <p>In line with Article 14(1) of the Consolidated Immigration Act, when immediate expulsion or refusal of entry is not possible (need to ascertain alien’s identity or nationality, acquire travel documents, or arrange a suitable means of transport), a person may be detained at the nearest CIE (Identification and Expulsion Centre). Upon arrest of a non-citizen who appears to have violated immigration law, the police are to notify the competent magistrate (<i>giudice di pace</i>) within 48 hours of the apprehension. Following a “validation hearing” in the presence of a lawyer, the magistrate shall issue a detention order within 48 hours. Each subsequent extension of detention has to be endorsed by the magistrate (article 14(3)-(5) of the Consolidated Immigration Act).</p> <p>So-called alternatives to detention were introduced in the 2011 amendment to the Consolidated Immigration Act, transposing the EU Return Directive. Article 14(1bis) provides for three kinds of non-custodial measures: a) relinquishing passport or other equivalent document; b) an obligation to live in a previously identified location; and/or c) reporting obligations. However, these measures may be applied only with respect to migrants who have their passport or other equivalent document.</p>
	<p>Latvia</p>	<p align="center">Yes</p>	<p>1.a. Latvia’s national legislation concerning criminal penalties for third-country nationals who have illegally entered or who are illegally staying in the territory hasn’t been evaluated. However, there have been made amendments in the Criminal law, stipulating criminal penalties for intentional illegal border crossing from the first time of infraction. Previously criminal penalty was applied if person intentionally illegally crossed State border and commission thereof was repeated within one year.</p> <p>1.b. –</p> <p>2.a. In accordance with Criminal law, there are criminal penalties for third-country nationals who have intentionally illegally crossed State border. When third country national is recognized being illegal on the territory, a person may be prosecuted only if there are sufficient evidences that he has intentionally illegally crossed State border. Prosecution is made under ordinary procedure accordance with Criminal law.</p> <p>2.b –</p>

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	Lithuania	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further
	Luxembourg	Yes	<p>1.a. No.</p> <p>1.b. N/A</p> <p>2. a and b. First of all, the Ministry of Immigration takes a return decision and can order at the same time of the return decision of the irregular migrant an entry ban of five years (article 112 of the modified Law of 29 August 2008).</p> <p>The modified Law of 29 August 2008 punishes the persons that have entered or stayed illegally on the territory or that has entered legally but has overstayed. They can be punished with 8 days to 1 year imprisonment and a fine of 251 to 1250 Euros. These fines can be imposed simultaneously or only one of them.</p> <p>These sanctions will be imposed by the judicial courts.</p> <p>In Luxembourg once the Public prosecutor office is informed of the violation, the procedure will begin and it is the instruction judge to determine if there are enough elements to judge the third country national.</p> <p>In case that there is an imprisonment judgment, the expulsion can be carried out after the imprisonment judgment has been served.</p>
	Netherlands	Yes	<p>1a No</p> <p>2. not applicable</p>
	Poland	Yes	<p>1. Before the accession of Poland to the EU in May 2004 there was a process of constant evaluation of national law concerning i.a. border control and responsibility of illegal border crossing. Due to this evaluation Article 3 of the Act of 22 April 2005 on changes in the Act on Border Guard and other related acts [Journal of Law 2005, No 90, item 757] made changes in the Code of Petty Offences by adding Article 49a. It states now in § 1 that any person who against the rules crosses the border of the Republic of Poland is liable to a fine (between 20 and 5 000 PLN – from 5 to 1 250 EUR); whereby § 2 points that attempting and also aiding and abetting an illegal border crossing are punishable as well. The abovementioned provisions entered into force since 24 August 2005. This Act of 2005 repealed from the Penal Code of 1997 [Journal of Laws of 1997, No 88, item 553] article 264 of the Penal Code that for illegal crossing border foreseen a fine, limitation or even deprivation of freedom up to two years. Thus it must be stated that since 2005 in Poland violation of law regarding illegal border crossing or illegal stay of foreigners <u>is not a crime, but petty offence</u> punishable by a fine or deprivation of freedom.</p> <p>2.A. In Poland sanctions for third-country nationals who have illegally entered or who are illegally staying in the territory are issued within the administrative and penal procedure. Detecting illegal stay of a foreigner Polish Border Guard (or Police) may issue an obligation to leave the territory of Poland [art. 97 of the Act on Foreigners] or a decision on expulsion may be issued [by Voivod competent due to foreigners place of residence upon the request of the Border Guard, i.a. as stated in the art. 88, 92 of the Act on</p>

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		<p>Foreigners]. These decisions obliges foreigner to leave Polish territory from 7 up to 30 days. In certain cases and in accordance with the provision of the Act on Foreigners [art. 102 of the Act] Polish Border Guard may apply to the court for placing a foreigner in the guarded detention center for foreigners or in the arrest for the purpose of expulsion, however not in all cases as an may be issued toward foreigners too.</p> <p>The procedure for placing a foreigner in the guarded center or in the arrest for the purpose of expulsion is carried out under the provisions of the Code of Penal Procedure, except that the functions of the public prosecutor can perform the Voivod representative or officer of the Border Guard. Administrative decision on expulsion or an obligation to leave the territory of Poland is issued by a Voivod competent for the foreigner place of residence or place of disclosure of the event giving rise to the request for expulsion of the foreigner.</p> <p>Main acts:</p> <ul style="list-style-type: none"> a) Act of 13 June 2003 on foreigners [Journal of Laws of 2011, No 264, item 1573]; b) Act of 6 June 1997 - the Code of Penal Procedure [Journal of Laws of 1997, No 89, item 555, as amended]; c) Act of 20 May 1971 – the Code of Petty Offences [Journal of Laws of 2007, No 109, item 756, as amended]; d) Act of 6 June 1997 – Penal Code [Journal of Laws of 1997, No 88, item 553, as amended]; e) Act of 13 June 2003 on granting protection to foreigners in the territory of the Republic of Poland [Journal of Laws of 2012, item 680, consolidated text]; f) Act of 14 July 2006 on citizens of the EU Member States and their family members entering, staying and leaving the territory of the Republic of Poland [Journal of Laws of 2006, No 144, item 1043, as amended]; g) Act of 20 April 2004 on promotion of employment and labour market institutions [Journal of Laws of 2008, No 69, item 415, as amended]; h) Act of 15 June 2012 on the consequences of entrusting the performance of work to foreigners who illegally stay within the territory of the Republic of Poland [Journal of Laws of 6 July 2012, No. 679]; i) Act of 12 October 1990 on the Border Guard [Journal of Laws of 2005, No 234, item 1997, as amended]; j) Act of 13 April 2007 on National Labour Inspectorate [Journal of Laws of 2007r, No 89, item 589, as amended]; k) Act of 2 July 2004 on the freedom of economic activity [Journal of Laws of 2010, No 220, item 1447]. <p>B. In Poland one can differentiate issues relating to liability of foreigners in the event of an illegal entry or stay and liability of other entities, e.g. entities inviting foreigners to Poland, persons who facilitate illegal immigration, carriers and employers. In case when a foreigner illegally enters territory of Poland a catalogue of sanctions consists of several elements, e.g.:</p> <ul style="list-style-type: none"> a) penal and administrative sanctions; b) entry in the list of foreigners whose stay within the territory of the Republic of Poland is unwelcome; c) placing in a guarded center or in custody for expulsion purposes or forceful escorting to the border; d) expulsion from the territory of Poland and bearing the cost of expulsion by a foreigner or the host inviting a given foreigner. <p>As for the liability of foreigners the following sanctions relating to illegal entry and stay within the territory of Poland are applicable.</p>
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		<p>LIABILITY OF FOREIGNERS - PENAL SANCTIONS</p> <p>The Act of 20 May 1971 - the Code of Petty Offences¹ in Article 49a. § 1 provides that any person who against the rules crosses the border of the Republic of Poland is liable to a fine (between 20 and 5 000 PLN); whereby attempting and also aiding and abetting an illegal border crossing are punishable as well. While Article 264 § 2 of the Act of 6 June 1997 - the Penal Code² provides that any person, who, against the law, crosses the border of the Republic of Poland, using violence, threat, deceit or in concert with other persons, is liable to a penalty of deprivation of freedom of up to 3 years.</p> <p>Foreigners who stay within the territory of Poland without a legal title, or do not carry out an obligation to leave the country as specified in an expulsion decision, or do not leave the territory of the Republic of Poland within the time limit set in the administrative decision (on refusal to grant or on withdrawal of a residence permit for a definite period, on withdrawal of a settlement permit, on withdrawal of a permit for a long-time EU resident or on an obligation to leave the territory of the Republic of Poland) are liable to a fine. Foreigners who among others enter the territory of the Republic of Poland based on a local border traffic permit and stay outside the border area within which the permit holder is allowed to stay or do not leave the territory of the Republic of Poland within the period of stay specified in the permit are also liable to a fine (Article 148(1) of the Act on foreigners) up to 5 000 PLN. The quantity of financial penalty depends on the foreigner`s incomes and possessions, individual and familiar circumstances and the possibility to perform work.</p> <p>Foreigners who illegally perform work within the territory of Poland are liable to a fine not lower than PLN 1 000 (Article 120(2) of the Act of 20 April 2004 on promotion of employment and labour market institutions).</p> <p>LIABILITY OF FOREIGNERS - ADMINISTRATIVE SANCTIONS</p> <p>Article 14 section 1 of the Act of 13 June 2003 on foreigners specifies that a foreigner stopped in a border area directly after having crossed the border unintentionally and contrary to the binding laws may be immediately escorted to the state border. An expulsion decision from the territory of the Republic of Poland is among others issued if a foreigner stays within the territory without a valid visa or other valid document that entitles to enter and stay within the territory; does not leave the territory of the Republic of Poland within the permissible period of stay within the territory of Schengen countries for 3 months within a 6-month period calculated from the day of the first entry; performs work in violation of the Act of 20 April 2004 on promotion of employment and labour market institutions or undertakes a business activity in breach of the relevant provisions applicable in the Republic of Poland; illegally crosses or attempts to cross the border; stays outside the border area, within which a foreigner is allowed to stay under a local border traffic permit; stays within the territory of the Republic of Poland following the expiry of a local border traffic permit or does not have financial means needed to cover the cost of stay within the territory of the Republic of Poland and cannot indicate any credible sources of obtaining such means (art. 88 of Act on foreigners). If facts of the case allow to conclude that a foreigner will voluntarily comply with the obligation to leave the territory of Poland, a foreigner may be obliged to leave the territory of the Republic of Poland within from 7 to 30 days (Article 97 section 1 of the Act on foreigners). In addition, it must be noted that a decision obliging a foreigner to leave the territory of the Republic of Poland contains a ban on re-entry to the territory of the Republic of Poland or the territory of the Republic of Poland and the Schengen area and specifies a period during which this ban is in force. If such an obligation is issued a local border traffic permit shall expire by virtue of the law.</p> <p>It is worth mentioning that in accordance to the document “Migration Policy of Poland – current state of play and the further actions”</p>
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¹ Journal of Laws 2010, No.46, item 275 with further amendments.

² Journal of Laws 1997, No.88, item 553 with further amendments.


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			adopted by the Council of Ministers on 31 July 2012 the assessment of Polish migration policy should be conducted in the 4 year intervals by Minister responsible for internal affairs and the results should be handed over to the meetings of inter- ministerial Committee for Migration. Non-governmental organizations and academic centres should also take part in these activities under the public consultations procedure.
	Portugal	Yes	1a No 1b. not applicable 2a. not applicable. 2b. not applicable
	Slovak Republic	Yes	1a. No. 1b. NA 2a. No criminal penalties are set in the Slovak legislation for illegal stay or illegal entry. Only administrative expulsion from the territory of the SR and the entry ban (to the SR and thus to the whole Schengen area) is being applied in these cases. The criminal penalties may be set only in cases these foreigners do not respect the provisions of the decision on administrative expulsion and entry ban or in cases they are in a possession of false or altered documentation. 2b. NA
	Spain	Yes	1. Not applicable. The illegal stay and the illegal border-crossing are not criminal offences in Spain. 2. Not applicable.
	Sweden	Yes	1. No evaluation made. 2. No, it's quite uncommon with prosecution.
	United Kingdom	Yes	1a. no 1b. not applicable

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			<p>2a. and b. It is policy, in most cases, to pursue removal of persons who illegally enter or stay in the UK, rather than to seek prosecution and the criminal penalty. The criminal penalty may be sought where a person cannot be removed, or in addition to other criminal offences. Guidance and instructions on the practical use of the removal powers and criminal powers can be found here: http://www.ind.homeoffice.gov.uk/policvandlaw/guidance/enforcement/</p>
	<p>Norway</p>	<p>Yes</p>	<p>1a. To the knowledge of the National Police Immigration Service (NPIS) of Norway, no recent evaluations have been made of the criminal penalties for third-country nationals illegally entering or staying in Norway. 1b. not applicable</p> <p>2. a Yes, Norwegian national legislation does provide for criminal penalties for third-country nationals who have illegally entered or who are illegally staying in Norway.</p> <p>2. b. According to the Norwegian immigration act of 2008, paragraph. 108 second clause, letter a, violation of several provisions of the immigration act are punishable with a fine or with prison up to six months: - illegal entry when an entry ban has been imposed as a part of an expulsion decision, or when entry is refused according to fundamental national interests (violation of the Norwegian immigration act §§ 7, 71 or 124(1). - overstay of the Schengen-visa/ visa-free period of three months (violation of the Norwegian immigration act § 9(1) and (4) - border crossing on other places than official border crossings designated by the Ministry of Justice and emergency services (violation of the Norwegian immigration act § 14 (1) and (2), - failure to report with the police or border control when entering/ exiting Schengen-external borders (ibid.) - when a foreign passenger or blind passenger of a boat or aircraft enters Norway without permission from the police (violation of the Norwegian immigration act § 16 (1) and (3), - when a third country national works or stays in Norway without necessary permission (violation of the Norwegian immigration act § 55), - breach of the duty to leave the country after an application for residence permit has been refused (violation of the Norwegian immigration act § 90 (6), - and breach of the duty to report or to stay at a designated location in situations where the police has made a decision about this because the person's ID is unclear, or because there is a risk that the person will abscond (violation of the Norwegian immigration act § 105 (1).</p> <p>There are exemptions for cases where the third country national who has entered the country illegally qualifies for asylum/ international protection according to the Norwegian immigration act § 28.</p> <p>Please note that for many of the same violations of the Norwegian immigration act, the third country national may also receive an expulsion decision according to the act's § 66, followed by registration in the Schengen information system. In some instances, the Norwegian authorities choose this (administrative) reaction instead of penalizing the third-country national, followed by speedy deportation, in order to cut costs connected with penal cases and prison sentences.</p> <p>The Norwegian immigration act is supplemented with the Norwegian immigration regulation, and together with decisions by the Supreme Court they provide the complete framework on how the criminal legislation on illegal entry and stay is being enforced.</p>

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