

Press Release

New EMN study on long-term irregularly staying migrants

The new EMN study provides an overview of the policies and practices in 25 Member States¹ and Norway regarding third-country nationals in a prolonged situation of irregular stay. This includes both those who cannot be returned for legal or practical obstacles and those who remain unknown to the authorities.

Brussels, 30 July 2021

Third-country nationals who no longer or who have never fulfilled the conditions of stay are denied a residence permit, while those whose return decision has not been or cannot be enforced may face long-term situations of illegal stay and legal uncertainty. The study found that the status of third-country nationals who cannot be returned due to legal or practical obstacles varies within and across the Member States as it does not rely on a harmonisation at EU level and usually depends on individual circumstances. This creates a potentially confusing situation for both migrants and service providers to navigate.

Services provided to long-term irregular migrants with some form of status/authorisation are limited compared to those provided to regular migrants, often discretionary, and difficult to access, especially concerning social protection benefits and employment. Services available to undetected migrants with no authorisation to stay are even more limited and essentially rely on the application of standards set out in international human rights law. Access to services may be limited still further by migrants' concerns about detection and apprehension.

The main service providers for long-term irregular migrants are national authorities and municipalities, with non-governmental organisations (NGOs) providing complementary and/or autonomous services. The actions of national governments and local authorities (municipalities, regions) may be contradictory; central authorities must fulfil national migration policy objectives to prevent illegal stay and enforce return decisions, while local authorities must address the practical issues associated with the prolonged irregularly stay, including access to basic services.

In order to end irregular stay in general, (voluntary) return is prioritised in the Member States. Regularisation is only marginally addressed in policy. Good practices identified in the study focused on encouraging return through return counselling and on discouraging irregular stay by restricting certain rights while balancing the need to provide humane treatment for all persons, irrespective of their legal status.

The COVID-19 pandemic has highlighted the situation of migrants who cannot be returned or who remain undetected by the authorities, due to the urgency in ensuring universal access to medical care. In a limited number of cases, labour market shortages in essential sectors due to border closures led to regularisation of workers with skills in shortage areas. The majority of Member States face cases where forced returns could not take place because of irregular migrants' refusal to undertake a PCR test or other medical examination required by their country of origin. The scale of this issue is however limited.

¹ AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI and SK.



Background:

The study

- Title: “Responses to long-term irregularly staying migrants: practices and challenges in the EU and Norway”.
- Period covered: This study reflects the situation in the EU Member States and Norway from 2015 – October 2020.
- Subject: The overall aim of this study was to provide an overview of existing policies and practices in Member States and Norway towards third-country nationals in a prolonged situation of irregular stay. The study aimed to explore the responses and approaches to bring such situations to an end both by central and local authorities, and to mitigate the social consequences for the affected third-country nationals.

The European Migration Network (EMN)

The [European Migration Network \(EMN\)](#) is a Europe-wide network consisting of [National Contact Points \(NCPs\)](#) in the Member States as well as Norway, Georgia and the Republic of Moldova, providing information on migration and asylum. The EMN was officially set up in 2008 by the European Commission on behalf of the European Council in order to satisfy the need of a regular exchange of reliable information on migration and asylum related issues on a European level.

The report is the result of a collaboration of migration and asylum experts representing EMN contact points across the EU.

More information: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network_en

Link to report: https://ec.europa.eu/home-affairs/content/new-emn-study-responses-long-term-irregularly-staying-migrants_en

Contact:

European Commission – EMN

Mr. Magnus Ovilius
Head of Sector European Migration Network and EMN Chair
Email: magnus.ovilius@ec.europa.eu

EMN website: www.ec.europa.eu/emn | Twitter: <https://twitter.com/EMNMigration> | LinkedIn: www.linkedin.com/company/european-migration-network