



## **EMN Ad-Hoc Query on 2019.39 Residence permit taxes for irregular migrants**

Requested by Christelle CAPORALI-PETIT on 20 March 2019

### **Protection**

Responses from EMN NCP Luxembourg, EMN NCP France, EMN NCP Belgium, EMN NCP Latvia , EMN NCP Sweden, EMN NCP Germany, EMN NCP Lithuania, EMN NCP Netherlands, EMN NCP Austria, EMN NCP Greece, EMN NCP Slovakia, EMN NCP Finland, EMN NCP Estonia  
(13 in total)

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## **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.

## **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?**
- 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?**

## **Responses**

### **EMN NCP Luxembourg**

Wider Dissemination: Yes

*Adolfo SOMMARRIBAS, EMN statelessness platform*

1. No.
2. N/A.

### **EMN NCP France**

Wider Dissemination: Yes

*Christelle CAPORALI-PETIT, EMN NCP France*

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 Belgium**

Wider Dissemination: Yes

*Bram DEVOS, Practitioners (Government Officials only)*

1. No
2. NA

## **EMN NCP Latvia**

Wider Dissemination: Yes

*Stanislavs LOPATINSKIS, EMN NCP Latvia*

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.

2. N/A

## **EMN NCP Sweden**

Wider Dissemination: Yes

*Marie BENGTTSSON, EMN NCP Sweden*

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.
2. Not applicable

## **EMN NCP Germany**

Wider Dissemination: Yes

*Heiko HECHT, EMN NCP Germany*

1. No.
2. n/a.

## EMN NCP Lithuania

Wider Dissemination: Yes

*Vytautas EŽERSKIS, EMN NCP Lithuania*

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.

2. n/a

## EMN NCP Netherlands

Wider Dissemination: Yes

*Linda Burger, EMN NCP Netherlands*

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. -

## EMN NCP Austria

Wider Dissemination: No

## EMN NCP Greece

Wider Dissemination: Yes

*Athena BALOPOULOU, Practitioners (Government Officials only)*

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 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.

2. see Q1

### **EMN NCP Slovakia**

Wider Dissemination: Yes

*Simona MESZAROSOVA, EMN NCP Slovakia*

1. No.

2. N/A

### **EMN NCP Finland**

Wider Dissemination: Yes

*Rafael BÄRLUND, Practitioners (Government Officials only)*

1. No

2. N/a

### **EMN NCP Estonia**

Wider Dissemination: Yes

*Eike Luik, EMN NCP Estonia*

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.

2. N/A