



## **EMN Ad-Hoc Query on The Return Directive (2008/115/EC) an effective remedy against the decisions related to return**

Requested by Adolfo SOMMARRIBAS on 13th August 2018

### **Return**

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

#### Disclaimer:

*The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*

### **Background information:**


The Return Directive (2008/115/EC) states in Article 13 an effective remedy against return decisions. However other modalities related to procedural steps and guarantees shall be provided in national law. Discussions with the other relevant national stakeholders about the possible improvements of the national system related to the returns of third country nationals are taken place at the moment.

The Czech Republic authorities would like to ask MS:

### **Questions**

1. **Please describe very briefly your national system of remedies/appeals against the decisions related to returns according to the questions below. CZ is especially interested in how many review stages are provided by your national system.**
  - a) **who issues the return decision?**
  - b) **is there a standard non-judicial appeal?**
  - c) **is there a court review?**
  - d) **is there court review of the court of the second/last instance?**
2. **What are the deadlines for the lodging of an appeal before the court against the decision related to the return? – please state time limits according to the situations described in points a)-c) of Question 1.**
3. **Does your national legislation states a deadline for the competent authorities (at any stage of the procedure or appeal) for rendering their decision?**


### **Responses**

	<b>Country</b>	<b>Wider Dissemination</b>	<b>Response</b>
	Austria	Yes	<b>1.</b> a) In Austria, return decisions are issued by the Federal Office for Immigration and Asylum (Art. 52 Aliens Police Act) b) Legal remedies to appeal return decisions of the Federal Office for

Immigration and Asylum are available, however, there are no non-judicial remedies. c) Rulings of the Federal Office for Immigration and Asylum (thus also return decisions) can be contested through an appeal (Art. 16 Federal Office for Immigration and Asylum Procedures Act). Among other things, appeals against rulings of the Federal Office for Immigration and Asylum are decided by the Federal Administrative Court (Art. 7 Federal Office for Immigration and Asylum Procedures Act). d) Under certain circumstances, the decision of the Federal Administrative Court can be reviewed by the Constitutional Court or the Administrative High Court. If constitutionally guaranteed rights have been violated, legal action can be taken at the Constitutional Court (Art. 144 para 1 Federal Constitutional Law). Legal action at the Administrative High Court can be taken, among other things, by reason of unlawfulness (Art. 130 para 1 subpara 1 Federal Constitutional Law). Whether the Constitutional Court or the Administrative High Court take up an appeal depends on whether there are gross defects in the proceedings or legal issues of fundamental importance (Art. 133 para 4 and Art. 144 para 3 Federal Constitutional Law). Therefore, such appeals are often declined by the aforementioned courts.

**2.** Against, inter alia, return decisions of the Federal Office for Immigration and Asylum an appeal can be lodged within four weeks. However, a time limit of one week is applicable for airport proceedings (Art. 33 para 3 Asylum Act 2005). The time limit starts on the date of service if the decision was served to the complainant, or on the date of pronouncement if the decision was pronounced only orally to the complainant (Art. 7 para 4 Proceedings of Administrative Courts Act). The time limit for appealing to the Constitutional Court or the Administrative High Court against decisions of the Federal Administrative Court is six weeks. It starts on the date of service if the decision was served to the complainant, on the date of pronouncement if the decision was pronounced only orally to the complainant, however on the date of pronouncement/service of the decision (Art. 26 para 1 Administrative High Court Act, Art. 82 para 1 Constitutional Court Act).



**3.** According to Art. 73 General Administrative Procedures Act, the Federal Office for Immigration and Asylum has to render its decision (ruling) without unnecessary delay, at the latest six months after receiving the application. However, there exist shorter time limits for appellants in detention pending removal (three months; Art. 22 para 6 Asylum Act 2005). The Federal Administrative Court is obliged to decide on appeals without unnecessary delay, at the latest six months after receiving the appeal (Art. 34 para 1 Proceedings of Administrative Courts Act). However, there exist shorter time



			<p>limits for: - Airport proceedings (two weeks; Art. 33 para 4 Asylum Act 2005) - Appellants in detention pending removal (three months; Art. 22 para 6 Asylum Act 2005) - Dismissing decisions, that dismiss an application for international protection (1) that are connected with measures terminating the stay or (2) if an enforceable return decision already exists (eight weeks; Art. 17 para 2 Federal Office for Immigration and Asylum Procedures Act) - Appeals against decisions that dismiss applications in admission procedure (eight weeks, if the appeal is not granted suspensive effect; Art. 21 para 2 Federal Office for Immigration and Asylum Procedures Act). There are no time limits for decisions of the Administrative High Court or the Constitutional Court.</p>
	Belgium	Yes	<p><b>1.</b> a) who issues the return decision? In principle, return decisions are taken by the State Secretary for Asylum Policy and Migration or by the Immigration Office according with the law of 15 December 1980 on the entry, residence, settlement and removal of foreign nationals (the so-called Immigration Act). Exceptionally, communal authorities or the police are also competent to issue return decision. b) is there a standard non-judicial appeal? This is not explicitly foreseen in the Immigration Act. However, an administrative appeal can be lodged with the Council for Alien Law Litigation (CALL). c) is there a court review? An appeal for annulment can be lodged against a return decision (with or without a suspension order) before the Council for Alien Law Litigation (CALL). This administrative court can solely rule on an appeal for annulment against a return decision on formal grounds (article 39/2, § 2 of the Immigration Act). In addition to an appeal for annulment (with or without suspension order), a claim for suspension can also be submitted against a return decision in a procedure of extreme urgency (article 39/82, § 4, second paragraph, of the Immigration Act). This is possible when the foreign national is the subject of a return decision whose enforcement is imminent, in particular if he or she is detained in a specific place or made available to the government, and he or she has not yet initiated an ordinary suspension action against the intended return decision. When the foreign national has already initiated an ordinary suspension action against a return decision and whose enforcement becomes imminent, the foreign national may, by way of interim measures, request that the CALL examines a previously lodged ordinary request for suspension in order to proceed as quickly as possible, on condition that this claim has been properly registered and that the CALL has not given an opinion yet (Article 39/85, § 1, first paragraph, of the Immigration Act). d) is there court review of the court of the second/last instance? Against a judgment of the CALL, a cassation appeal is possible before the Council of State. The Council of State derives this power from</p>



		<p>article 14, § 2, of the co-ordinated law of 12 January 1973 on the Council of State according to which it rules on account of violation of the law or on the grounds of violation of substantial forms or on pain of nullity. The Council of State does not take part in the assessment of the cases themselves. However, the cassation appeal lodged before the Council of State is only dealt with insofar as it has been considered as admissible by the Council of State after a short preliminary investigation (filter procedure).</p>
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**2.** The appeal for annulment must be lodged before the CALL within thirty days after the notification of the return decision. However, the appeal period is ten days if the appeal is lodged by a foreign national who is at the moment of the notification of the return decision in a specific place where he or she is detained or made available to the government (article 39/57, § 1, first and second paragraph, of the Immigration Act). With regard to the claim for suspension in a procedure of extreme urgency, the time limit for lodging this claim is ten days after the notification of the return decision. For a second return decision the term is reduced to five days (article 39/57, § 1, third paragraph, of the Immigration Act). The deadlines for the claim for the imposition of interim measures are the same as for the claim for suspension in a procedure of extreme urgency (see above).

**3.** The CALL takes a decision within three months after the reception of the appeal for annulment (article 39/76, § 3, first paragraph and article 39/81, first paragraph, of the Immigration Act). However, this is a non-mandatory time-limit which means that there is no sanction if the term is exceeded. The claim for suspension in a procedure of urgent necessity is settled by the CALL within forty-eight hours after the reception of it. However, this period can be extended to five days following the date of reception, when the effective removal of the foreign national is foreseen for a date that exceeds eight days. If no decision is taken within the term, the president (or the judge) will be informed accordingly. He or she will take the necessary measures to ensure that a judgment is given, depending on the case, at least within seventy-two hours after reception of the request or as soon as possible (article 39/82, § 4, fifth and sixth paragraph, of the Immigration Act). The deadlines for the claim for the imposition of interim measures are the same as for the claim for suspension in a procedure of urgent necessity (see above).

	Croatia	Yes	<p><b>1.</b> 1.a) The Ministry of Interior. b) No. Article 106. of the Foreigners Act proscribes legal remedies against the decision on return. (1) The time limit for voluntary departure (which is decided by the expulsion order or by the decision of the Ministry by which a TCN ceases to be legally resident) may be challenged by a legal remedy against the expulsion decision or against the decision of the Ministry by which a third-country national ceases to be legally resident. Against these decisions an appeal is not allowed, but an administrative dispute may be initiated. (2) If a third-country national who illegally resides or a third-country national on short-term residence is issued a decision on return, an appeal is not allowed against that decision, but an administrative dispute may be initiated. (3) If a third country national has subsequently been granted temporary stay, permanent residence or international protection, a decision on return shall be terminated by that approval or by a special decision. (4) If a third-country national has expressed the intention to apply for international protection, the decision on return shall remain in force, but shall not be executed until the procedure for resolving the request has been completed. c) Yes. See above. d) Yes. An appeal against a decision of an Administrative Court ruling on a lawsuit against a decision on return may be lodged to the High Administrative Court, which in such cases decides as a second instance court.</p> <p><b>2.</b> 2. Article 24. of the Regulation on Administrative Disputes: Administrative Dispute begins with a law suit. Law suit has to be lodged in 30 days after the delivery of the disputed decision. The appeal to the verdict can be lodged within 15 days of the verdict.</p> <p><b>3.</b> 3. The court decides on the deadline for a response on the law suit that can't be shorter than 30 or longer than 60 days.</p>
	Cyprus	Yes	<p><b>1.</b> a) The Director of Civil, Registry and Migration Department, due to competency defined by the relevant Law, Cap 105. b) There can be a non-judicial appeal, if the person in concern appeal administratively to the Minister of Interior, stating humanitarian or other reasons in support of the appeal. c) Yes there can be a Court review only upon judicial appeal d) The final review is upon the competency of the High Court of the Republic.</p> <p><b>2.</b> 75 days.</p>

			<b>3. No</b>
	Czech Republic	Yes	<p><b>1.</b> a) who issues the return decision? Return decisions are issued by the police. b) is there a standard non-judicial appeal? Yes, there is an appeal to the Directorate of the Foreign Police Service. c) is there a court review? Yes, after the appeal, the person may submit an action to the administrative court. d) is there court review of the court of the second/last instance? Yes, after the court review, the person may submit the cassational complaint to the Supreme administrative court.</p> <p><b>2.</b> The time-limit for issuing a decision on administrative expulsion is 7 days but the time limit may be prolonged. The time-limit for lodging an appeal are 5 days in case of the return decision without entry ban and 15 days in case of the decision on administrative expulsion (entry ban is always present). The time limit for court action to lodge is 10 days in case of administrative expulsion and 30 days in case of return decision without entry ban.</p> <p><b>3.</b> With regard to the decision on the appeal against the return decision the general time limit of 30 days is applicable (some extensions are possible). With regard to the judicial review in the case of return decision with entry ban the time limits of 60 days is applicable. In the other cases the courts are required to decide the appeals within the reasonable period of time and prioritise the examination of these cases ex lege.</p>
	Estonia	Yes	<p><b>1.</b> a) Who issues the return decision? Return decisions are issued by the Police and Border Guard Board or Estonian Internal Security Service. b) is there a standard non-judicial appeal? No, there is no standard non-judicial appeal against return decisions. TCNs may lodge an appeal with the administrative court. c) is there a court review? Yes. d) is there court review of the court of the second/last instance? Yes, but certain conditions have to be fulfilled. Appeal against the ruling of the administrative court may be lodged at the circuit court. Under certain conditions a matter may also be heard in the Supreme Court.</p> <p><b>2.</b> According to the legislation it is possible to appeal the return decision in the administrative court in ten days as of the date of notification of the return decision, but the appeal itself does not have an automatic suspensive effect. An appeal against a judgment of the administrative court must be lodged</p>


			<p>within 30 days following public pronouncement of the judgment.</p> <p><b>3.</b> No, there is no deadline for the courts to decide the appeals. Matters must be heard within reasonable time. International protection matters are heard by the court as a priority. In case the applicant has applied for the interim relief, the court has to decide by a ruling without delay.</p>
	Finland	Yes	<p><b>1.</b> a) Finnish Immigration Service, as a rule. In some very limited cases the decision can also be issued by the police or by the Finnish Border Guard. b) No c) Yes. Appeal against the return decision can be made to the Administrative Court. d) Yes, but it is conditional. Appeal against the decision made by the Administrative Court can be made to the Supreme Administrative court, if it grants a leave to appeal.</p> <p><b>2.</b> REJECTED ASYLUM SEEKERS (21 days and 14 days): Appeal against the negative decision on asylum application (including the return decision) must be made to the Administrative Court within 21 days of the date of service of the decision. If the Administrative Court rejects the appeal, the asylum seeker can continue the process by applying for a leave to appeal from the Supreme Administrative Court. This application must be made within 14 days from the decision of the Administrative Court. OTHER RETURNEES (30 days and 30 days): If the return decision is not related to the asylum procedure (i.e. the returnee is not an asylum seeker), the appeal against the decision on refusal of entry or deportation must be made to the Administrative Court within 30 days of the date of service of the decision. If the returnee continues the process, the application to the Supreme Administrative Court for a leave to appeal must be made within 30 days from the decision of the Administrative Court.</p> <p><b>3.</b> No, not as a rule. There is no deadline for the Administrative Courts to decide the actual appeals. The only deadline is that the Administrative Court shall make its decision on the prohibition application within seven days including five working days.</p>
	France	Yes	<p><b>1.</b> In principle, the decision refusing the issue or renewal of a residence permit is judged during the same hearing as the order to leave the French territory. The Prefect takes this decision. Removal decisions may be challenged before the administrative judge or through an administrative appeal.</p>





This may be either an internal appeal before the administrative authorities that decided the measure, or a hierarchical appeal before the Minister of the Interior. The return decision is not subject to the requirement of a prior contradictory procedure. However, it must be based on law and fact and may be challenged by the foreign national before the administrative court. If the appeal is refused, a new appeal can be filed with the Administrative Court of Appeal, competent for the court which takes the appeal in the first instance.

**2.** The appeal deadline is 48 hours when the foreign national does not benefit from a period for voluntary departure (see article L. 512-1 II of the CESEDA) or when the foreign national is imprisoned (see IV of the same article). The appeal deadline is 15 days when the order to leave the French territory along with a period for voluntary departure is issued against the foreign national that has not requested the issue or renewal of a residence permit: case of illegally remaining in the territory and asylum application (see grounds for removal stipulated in 1°, 2°, 4° and 6° of article L. 511-1 I). The appeal deadline is 30 days when the order to leave the French territory along with a period for voluntary departure is issued against a foreign national who has a right to residence or movement or who has filed a residence permit application (see grounds for removal stipulated in 3°, 5°, 7° and 8° of article L. 511-1 I). A return decision that has not been challenged within the stipulated deadline becomes binding. If the appeal is refused, the applicant has to file the new appeal with the Administrative court of appeal within one month after the notification of the decision.

**3.** Once the appeal has been filed, the administrative court (first instance after the removal order) has a specific deadline to render its decision depending on the reason for the removal order: - 6 weeks for the following reasons (illegal entry to France, stay in France after the expiry of the visa or after the expiry of the visa waiver period, no application for the residence permit renewal and stay in France after its expiry, refusal of the asylum application) - 3 months for the following reasons (refusal for the residence permit application or renewal, withdrawal of the residence permit, threat for the public order and residence in France of at least 3 months, working without the appropriate authorization and residence in France of at least 3 months), For the administrative court of appeal, the average processing time from the filing of the appeal to the decision is between one year and two years and a half depending on the nature and the difficulty of the topic to be processed. Such a deadline is due to the time required for the filing and exchange of written submissions between stakeholders.



	Germany	Yes	<p><b>1. a)</b> In case of an unsuccessful asylum procedure, the return decision is rendered by the Federal Office for Migration and Refugees (Federal Office) together with the rejection on the asylum application (Section 34 of the Asylum Act). In other cases (e.g. expiry, withdrawal or revocation of a residence title) the competent alien authority issues the return decision (Section 50 subs. 1, Section 59 subs. 1 in conjunction with Section 71 subs. 1 of the Residence Act). <b>b)</b> There is no standard non-judicial appeal against decisions taken by the Federal Office in the framework of the asylum procedure (Section 11 of the Asylum Act). Instead, applicants may directly lodge an appeal with the competent administrative court. In case of a return decision issued by an alien authority, there can be – depending on the law of the particular Land – either the possibility to lodge an objection with the competent authority or only an appeal with the competent administrative court. <b>c)</b> see answer to question 1. <b>b) d)</b> An appeal on points of fact and law against a ruling of the administrative court can only be lodged if it has been admitted by the Higher Administrative Court in response to an application filed by the asylum applicant or by the Federal Office (Section 78 subs. 3 and 4 of the Asylum Act). Under certain conditions, there is a third instance in terms of an appeal on points of law only to the Federal Administrative Court (Section 132 subs. 1 and 2 Section 133 and of the Code of Administrative Court Procedure). Once all the instances have been exhausted, the person concerned may lodge a constitutional complaint to the Federal Constitutional Court if it relates to the fundamental right to asylum (Sections 90 et seqq. Federal Constitutional Court Act).</p> <p><b>2.</b> In general, a court action against a rejection of an asylum application must be lodged within two weeks. If the application was rejected as manifestly unfounded, the deadline will be at one week (Section 74 subs. 1 and Section 36 subs. 3 first sentence of the Asylum Act). Objections and court actions against a removal warning issued by an alien authority may be lodged within one month with the competent alien authority or the competent administrative court (Sections 68 et seqq. respectively Section 42 subs. 1 of the Code of Administrative Court Procedure).</p> <p><b>3.</b> In general, there is no deadline for the Federal Office to decide on the asylum application. If a decision on the asylum application is not taken within six months, the Federal Office shall inform the foreigner upon request as to when a decision is likely to be taken (Section 24 subs. 4 of the Asylum Act). In case of rejection as manifestly unfounded, the administrative court shall decide on a request for suspensive effect pursuant to Section 80 subs. 5 of the Code of Administrative Court Procedure</p>
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			within one week (Section 36 subs. 3 sentence 5 of the Asylum Act).
	Greece	Yes	<p><b>1.</b> Greece has transposed into national Law the Return Directive (2008/115/EC) with all obligations deriving from this Directive included in Greek Law 3907/2011. Article 28 of Greek Law 3907/2011 lays down all the parameters of an effective remedy against the decisions related to return. In addition, Article 77 of Greek Law 3386/2005 lays down the rights involved and the relevant procedure in cases of appeal against the return decision. In Greece the three (3) competent authorities responsible for issuing return Decisions for third-country nationals are the Ministry for Migration Policy, the Hellenic Police and Judicial authorities. In cases where an application for granting a residence permit is rejected or a residence permit is revoked, the competent authorities (Ministry for Migration Policy), which initially received the application, is responsible for issuing the return decision. As regards return decisions issued by Police authorities, third-country nationals may appeal against these decisions, as stipulated in Article 77 of Law 3386/2005. More specifically, third-country nationals have the right to appeal against their return decision to the senior administrative officer of the Directorate which issued the decision within a period of 5 days from the date of issuing and, during this five-day period, the return decision cannot be duly executed. Third-country nationals shall be notified of the decision with regard to their appeal within a period of three (3) days from submitting their request. Third country nationals are also able to appeal against their return decision to the competent administrative courts. As regards return decisions which may be issued by the other authorities (Ministry for Migration Policy and Judicial authorities), third-country nationals may appeal against their return decision to the competent administrative courts without any time limitation to exercising this right but, in such cases, the decision cannot be suspended.</p> <p><b>2.</b> see q1</p> <p><b>3.</b> see q1</p>
	Hungary	Yes	<p><b>1. a)</b> Return decisions are issued by the alien policing authority or the asylum authority (if the asylum application is rejected or the refugee or the subsidiary protection status is withdrawn). Both the alien policing authority and the asylum authority issues their decisions based on the Act II of 2007 on the admission and Right of Residence of Third-Country Nationals. The Hungarian courts can order the</p>



expulsion of a third country national based on the Act C of 2012 on the Criminal Code in final verdicts. These expulsions are executed by the alien policing authority according to the regulations stipulated in the Act II of 2007 on the admission and Right of Residence of Third-Country Nationals. b) Against the return decisions issued by the alien policing authority and the asylum authority there is only judicial appeal. If the expulsion is issued by the court and enforced by the alien policing authority, the third-country national may lodge a complaint against the deportation measure, but not against the expulsion, since it was ordered by the court in a final decision. Against several decisions regarding return (i.e. entry ban or deportation ordered with a several decision), the third-country national may lodge an appeal within 15 days of delivery of the decision, although there are decisions that can not be contested (i.e. modification of the deportation based on the behaviour of the third country national). The aforementioned appeals are assessed by the alien policing authority of the second instance. c) Against the return decisions issued by the alien policing authority and the asylum authority there is only judicial appeal. In specific cases, the third country national can apply for a judicial review against the decision issued by the alien policing authority of the second instance. d) Until the 1st of January 2018 the court decisions could have been contested before the Curia both by the immigration authority and the third country national. After the amendment of the the Act II of 2007 on the admission and Right of Residence of Third-Country Nationals and the acts on judicial procedures, the court's decision can not be contested.

**2.** The third country national has to lodge the appeal against the return decision in 8 days from the delivery of the decision. The third country national can initiate the judicial review of the decision issued by the alien policing authority of the second instance within 30 days in specific cases.

**3.** The appeal lodged against the resolution of the alien policing authority of the first instance has to be assessed within 15 days, while the ruling of the first instance authorities has to be assessed within 8 days. If otherwise not stipulated by the law, the court delivers its final decision regarding expulsion orders within 60 days from the appeal. The court cannot alter the decision of the authority (the court can either uphold or annul the decision). The appeal and the judicial procedure does not have suspensive effect on the execution of the expulsion order, only if the third country national applies for it in the appeal. We wish to point out that although the authorities guarantee the right to appeal, the legal remedy system regarding return decisions was amended to a large extent in order to execute



			return decisions more effectively.
	Italy	Yes	<p><b>1. a.</b> Who issues the return decision? The Prefect issues the return decision. Nonetheless, there are special cases in which the decision is made by the Minister of the interior. If the return decision has to be executed in a coercive form this one is managed by the Questore-police provincial authority (art 13, Testo Unico sull'Immigrazione, d.lgs. 286/98). <b>b.</b> Is there a standard non-judicial appeal? No, there is not a standard non-judicial appeal against the return decision. <b>c.</b> Is there a court review? Yes, there is a court review. The person may appeal against the return decision. Enforced execution is only effective if a court validates it (art 13, Testo Unico sull'Immigrazione, d.lgs. 286/98; art. 18 d.lgs. 150/2011). <b>d.</b> Is there court review of the court of the second/last instance? No</p> <p><b>2.</b> Deadline for validation request in connection with enforced execution: 48 hours (art 13, Testo Unico sull'Immigrazione, d.lgs. 286/98)</p> <p><b>3.</b> Deadline for validation in connection with enforced execution: 48 hours (art 13, Testo Unico sull'Immigrazione, d.lgs. 286/98)</p>
	Latvia	Yes	<p><b>1. A)</b> According to the Immigration Law a voluntary return decision or removal order shall be issued by the Head of the Office of Citizenship and Migration Affairs (hereinafter - OCMA) or his or her authorised official or the Chief of the State Border Guard (hereinafter - SBG) or his or her authorised official in accordance with their competence. Usually return decisions are issued by the officials of the responsible structural units of the OCMA or the SBG in accordance with their competence. <b>B)</b> A foreigner has the right, within seven days after entering into effect of a voluntary return decision or a removal order to contest these to a higher authority in accordance with the procedures regarding subordination. Usually as a return decisions are taken by the officials of the responsible structural units of the OCMA or the SBG return decisions are appealed respectively to the Head of the OCMA or to the Chief of the SBG. <b>C)</b> A decision of a higher authority on the voluntary return decision or the removal order may be appealed to the Administrative District Court within seven days from the day when it entered into effect. Submission of an application to the court shall not suspend the operation of the abovementioned decisions. <b>D)</b> A judgment of the Administrative District Court may be appealed by submitting a cassation complaint to the Department of Administrative Cases of the</p>



			<p>Supreme Court. A cassation complaint may be submitted within thirty days from the day when judgment is pronounced. A cassation court judgment may not be appealed and it shall come into effect at the time when it is pronounced.</p> <p>2. A) n/a B) 7 days C) 7 days</p> <p>3. A) The time period for making a return decision depends on the circumstances of the individual case, but the return decision is taken as soon as possible. Immigration Law states a deadline for rendering in-absentia voluntary return decision – it shall be issued within 10 days from the day when the foreigner departed. B) Responsible institution shall take a decision on appealed return decision within a month from the day the appeal is received. C) - D) Legislation does not state a deadline for rendering a judgment. The time period for rendering a judgment depends on workload taking into account the principle of procedural economy.</p>
	Lithuania	Yes	<p>1. a) Return decisions (corresponds to the term ‘voluntary departure/return’ in the Return Directive) may be issued by the Migration Department, the State Border Guard Service and the police. The enforcement of the decisions is controlled by the police and State Border Guard Service. The duration of the period for voluntary departure is between 7 to 30 days. This period may be extended depending on the specific circumstances of the particular case (for example, the length of stay, whether the alien has children attending school, and whether there exist other family and social ties), but may not exceed 60 days. If there is a ground for believing that an alien may abscond in order to avoid return to a foreign state, in a return decision the alien may be granted a period shorter than seven days during which the alien is obliged to voluntarily leave the Republic of Lithuania, or the period for voluntary departure is not granted, i.e., a decision on expulsion is issued. Decisions on expulsion (corresponds to the term ‘forced return’ in the Return Directive) are issued by the Migration Department. The decisions are enforced by the State Border Guard Service or the police. The decision on expulsion is of unlimited duration, i.e., if an alien cannot be expelled due to objective circumstances or is not accepted by a third country, the enforcement of the decision on expulsion is suspended, however the decision remains in force until the expulsion of the alien or the change of his legal status. b) No. Please see answers 1c, 1d. c) An appeal against a return decision or a decision on expulsion may be filed with a relevant regional administrative court within 14 days</p>

			<p>from the service of the decision. The court must examine the appeal not later than within two months from the day the court passes a ruling on the admissibility of the appeal. d) A decision adopted by a regional administrative court may be appealed against within 14 days to the Supreme Administrative Court of Lithuania. A decision of this court is final and not subject to appeal.</p> <p><b>2.</b> See O1.</p> <p><b>3.</b> See Q1. (2 months)</p>
	Luxembourg	Yes	<p><b>1.</b> A) The return decision is issued by the Ministry in charge of Immigration (article 109 (1) of the amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law). B) No. However, article 13 (2) of the amended law of 21 June 1999 regulating the procedure before the administrative jurisdictions foresees the possibility to introduce an informal appeal (recours gracieux) before the Minister in charge of Immigration. C) Yes. An appeal seeking annulment (recours en annulation) of the decision of the Minister may be brought before the First instance Administrative Court (Tribunal administratif) in accordance with the ordinary procedure and subject to the normal time-limits. The decision of the First instance Administrative Court may be the subject of an appeal to the Administrative Court (Cour administrative). The lodging of any appeal shall not have suspensory effect. D) Yes. See answer to Q.1 C).</p> <p><b>2.</b> 2. The deadline for filing the appeal seeking the annulment of the return decision is of 3 months after the notification of the return decision (article 13 (1) of the amended law of 21 June 1999 regulating the procedure before the administrative jurisdictions) when appealing before the First instance Administrative Court and 40 days after notification of the sentence of the First Instance Administrative Court when appealing this decision before the Administrative Court (article 38 paragraph 1 of the amended law of 21 June 1999).</p> <p><b>3.</b> No.</p>
	Poland	Yes	<p><b>1.</b> a) As a rule, return decisions (decisions on obliging the foreigner to return) are issued by the competent authorities of the Polish Border Guard. The return decision is issued by the commander of</p>

			<p>the Border Guard Regional Unit or the commander of the Border Guard Post ex officio or upon the request of the voivode, the Minister of National Defense, the Head of the Internal Security Agency, the Head of the Foreign Intelligence Agency, an authority of the National Revenue Administration, or a voivodeship or powiat (municipal) Police commander. In exceptional situations – in the case of a foreigner, for which there is a concern that he/she can be involved in terrorism or espionage, or suspected of committing one of these crimes – the decision may be issued by the minister competent for internal affairs upon request of the the Commander-in-Chief of the National Police, the Head of the Internal Security Agency or the Head of the Military Counter-Intelligence Service. b) Yes. The Head of the Office for Foreigners is a higher-level authority (second instance in the case of appeal), within the meaning of the Code of Administrative Procedure, in relation to the commander of the Border Guard Regional Unit or the commander of the Border Guard Post in cases regarding the foreigner's obligation to return. The Head of the Office for Foreigners is an administrative authority. c) In case of a final decision (issued by the administrative second instance authority – the Head of the Office for Foreigners) a foreigner is entitled to a complaint to the regional administrative court. d) The judgement of the regional administrative court may be subject to cassation complaint to the Supreme Administrative Court.</p> <p><b>2.</b> An appeal to the second instance administrative authority (to the Head of the Office for Foreigners) shall be lodged within 14 days from the date of delivery of the decision to the foreigner. A complaint to the regional administrative court shall be lodged within 30 days from the date of delivery to the foreigner of the decision issued by the second instance administrative authority. A cassation complaint shall be filed within 30 days from the date of delivery to the party of a copy of the judgement of the regional administrative court.</p> <p><b>3.</b> Public administration authorities are obliged to handle the case without undue delay. The case requiring investigation should be dealt with not later than within one month. The particularly complex case should be dealt with not later than within two months from the date of initiation of the proceedings. In appeal proceedings - within one month from the date of receipt of the appeal. The national legislation does not specify deadlines for proceedings before administrative courts.</p>
	Slovak	Yes	<p><b>1.</b> a) Ministry of Interior of the SR, more specifically the respective police authority that falls under</p>



	Republic		<p>the Ministry of Interior of the SR. b) Yes, appeal shall be lodged at the administrative authority who issued the decision being appealed. The appeal authority is the administrative authority on a higher level immediately superior to the authority who issued the decision. c) Yes, TCN can file an action at the competent court. d) Yes the court review is conducted in two instances.</p> <p><b>2.</b> The action should be filed within 30 days from the day the decision was delivered.</p> <p><b>3.</b> Administrative expulsion proceedings – decision should be issued without delays Non-judicial appeal – 30 days Courts – no specific deadline for the authorities is stated in the administrative procedure code when deciding about an action lodged.</p>
	Spain	Yes	<p><b>1.</b> a) The Government Delegate or Deputy Delegate in the region or province. b) Return decisions for illegal stay can be directly appealed before the judge, but an administrative appeal is also an option. Return decisions for not respecting an entry ban must first be appealed administratively. c) Yes. d) Yes, a second judicial appeal is available under certain circumstances.</p> <p><b>2.</b> One month in all cases.</p> <p><b>3.</b> Only for the optional administrative appeal (one month)</p>
	Sweden	Yes	<p><b>1.</b> a) who issues the return decision? The Swedish Migration Agency or the Swedish Police Authority issue the return decision. The Swedish Migration Agency is responsible when the third-country national has applied for asylum or a residence permit or has a close family member who is applying for asylum in Sweden or if the third-country national has stayed more than three months in the country after the asylum application was lodged. The Swedish Police Authority is responsible in all other cases except when there is a doubt as to whether the third-country national should be refused entry, in that case it is transferred to the Swedish Migration Agency. b) is there a standard non-judicial appeal? No, the appeal of the return decision made by the Swedish Migration Agency or the Swedish Police Authority, is handled by the Migration Courts. c) is there a court review? Only if an appeal has been lodged. d) is there court review of the court of the second/last instance? The Migration Court reviews the appeal of the return decision of the Swedish Migration Agency or the</p>

			<p>Swedish Police Authority and the Migration Court of Appeal the decision of the Migration Court. The Migration Court of Appeal is the last instance and only after leave to appeal.</p> <p><b>2.</b> The time limit for lodging an appeal is three weeks.</p> <p><b>3.</b> There is no deadline but according to new legislation on 1 July 2018 , the Administrative Procedure Act (Förvaltningslagen (2017:900)) section 11 and 12, the competent authority (first instance) is obliged to notify if the processing of an application cannot be finalized within six months as well as the reason of the delay. The authority is obliged to either take a decision within four weeks or to reject the demand if there is a written demand from the person in question for a decision. If rejected the person in question can lodge an appeal regarding the rejection.</p>
	United Kingdom	Yes	<p><b>1.</b> The Home Office. No Yes. The returnee can apply for a judicial review of the return decision. Yes. There is a right of appeal to the Court of Appeal and from the Court of Appeal to the Supreme Court. In both cases, permission from the court is required.</p> <p><b>2.</b> An application for judicial review of a return decision must be made within 3 months of the decision. There is judicial discretion to extend the time limit in the interests of justice.</p> <p><b>3.</b> No.</p>
	Norway	Yes	<p><b>1.</b> a) The Norwegian Directorate of Immigration. b) Yes, the foreign national can appeal to the Immigration Appeals board (UNE) within 3 weeks from receiving the decision. The Immigration Appeals Board is an independent administrative body. The foreign national can also request a deferred implementation of the decision. c) No, there's not a court review. UNE's decision is final. However, it is possible to sue UNE in the Norwegian court system. d) No, however, it is possible to sue UNE in the Norwegian court system.</p> <p><b>2.</b> The time limit for lodging an appeal is three weeks from the date on which notification of the administrative decision has reached the party concerned.</p>

			<p><b>3.</b> No, but according to the public administration act, a provisional reply shall be given if an application cannot be answered within one month of its being received.</p>
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