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**Responses to long-term irregularly staying migrants:  
practices and challenges – contribution of the Slovak  
Republic**

EMN Study – Questionnaire Form

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Except for the questionnaire specification, the text of the study is an unofficial translation prepared by IOM Bratislava as the coordinator of the EMN National Contact Point for the Slovak Republic provided for reference only. In the event of any ambiguity about the meaning of certain translated terms or of any discrepancy between the Slovak version and the translation, the Slovak version shall prevail. Users are advised to consult the original Slovak language version of the study.

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## Preface

The aim of the study is to provide an overview of existing policies in EU Member States and Norway towards third-country nationals in a prolonged situation of illegal stay in a given country. The study also aims 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 measures may include the provision of basic services or support, indirect measures supporting the return to the country of origin or another third country as well as steps to legalize the residence of these third-country nationals.

The study covers the period between 2015 and October 2020.

Target group of the study are long-term irregular migrants in a situation of protracted illegal stay, specifically:

- third-country nationals subject to a return decision and whose return, despite the return decision becoming final, was not enforced or was postponed for legal (non-refoulement principle, medical or humanitarian reasons) or other practical reasons (e.g. non-cooperation on the part of the person concerned or of the country of origin or other administrative reasons), and
- third-country nationals who do not or no longer fulfil conditions for entry and stay in the territory of a State (as set out in the Schengen Borders Code (Regulation (EU) 2016/399) or other conditions for entry, stay or residence in that EU Member State), and who were not issued a return decision because they were unknown to the authorities.

The methodological approach to the preparation of this study, the contribution of the Slovak Republic (SR), is based mostly on secondary resources, especially on legislative and informational documents related to this topic. Documents from and structured interviews with the Bureau of the Border and Foreign Police of the Police Force Presidium (BBFP PFP), Slovak Humanitarian Council (SHC), Human Rights League (HRL) and International Organization for Migration (IOM) in the SR were an important source of information and statistical data. Answers to questionnaire/e-mail questions by the following involved state and non-state national, regional or local level authorities or institutions were a valuable source of information: Ministry of Labour, Social Affairs and Family of the SR (MoLSAF SR), Ministry, Ministry of Education, Science, Research and Sport of the SR, Centre for Legal Aid, Office of the Public Defender of Rights, Association of Self-governing Regions SK8<sup>1</sup>, Bratislava Self-Governing Region, City of Banská Bystrica, Centre for the Research of Ethnicity and Culture, and Mareena civic association.

Based on the questionnaires from each EU Member State and Norway, the European Commission prepares a synthesis report covering the main findings. The questionnaire form of the study from the Slovak Republic in Slovak and English language (and later on the synthesis report) are available on the Slovak EMN National Contact Point website [www.emn.sk](http://www.emn.sk).

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<sup>1</sup> SK8 is a voluntary, interest and independent association of SR self-governing regions.

## List of abbreviations

**AVR** – Assisted Voluntary Return Programme  
**AVRR** - Assisted Voluntary Return and Reintegration Programme  
**BBFP PFP** – Bureau of Border and Foreign Police of the Police Force Presidium  
**CLA** – Centre for Legal Aid  
**Coll.** – Collection of Laws  
**EC** – European Commission  
**EMN** – European Migration Network  
**EU** – European Union  
**HRL** – Human Rights League  
**IOM** –International Organization for Migration  
**MIC** – Migration Information Centre  
**MoI SR** – Ministry of Interior of the Slovak Republic  
**MoLSAF SR** – Ministry of Labour, Social Affairs and Family of the Slovak Republic  
**MS** – EU Member State  
**NA** – not applicable/not available  
**NGO** – non-governmental organisation  
**PDCF** - Police Detention Centre for Foreigners  
**SHC** – Slovak Humanitarian Council  
**SR** – Slovak Republic  
**TCN** – third country national(s)  
**UAM(s)** – unaccompanied minor(s)

## Summary

The “Responses to Long-Term Irregularly Staying Migrants: Practices and Challenges” study by the European Migration Network (EMN) was chosen by the EMN Steering Board to be a part of the 2020 working programme. Each EU Member State and Norway drafts its own study based on a common specification – the questions below.

This questionnaire form of the study has five chapters.

The first chapter covers the information on basic legislation and political documents governing irregular migration in the SR. The chapter contains the definitions of basic categories of irregular migrants in the SR based on relevant legislation and administrative practice while the Act No. 404/2011 Coll. on Residence of Foreigners and on changes and amendments to some acts, as amended (hereinafter Act on Residence of Foreigners) and BBFP PFP internal documents are the basic documents. It also describes the possibilities of obtaining various types of documents / residence permits or certificates if a TCN was issued a decision on return and it was not possible to enforce it due to practical or legal obstacles. In the SR, the possibilities of issuing documents / residence permits or certificates to TCNs are not dependent on the type of obstacle of return. In this context it is also necessary to clarify that based on the Act on Residence of Foreigners the term “decision on return” is not used in the SR but “decision on administrative expulsion” is used instead. In the case of this study and in compliance with its specifications we will use both the “decision on return” and “decision on administrative expulsion” as synonyms.

The first chapter also maps the discussions which were led about irregular migration whether on national, regional or local level with the view to define policies or adopt legislation as well as within non-governmental sector and in media. In the SR, irregular migration is not a prominent topic in such debates. Apart from the IOM, only several non-governmental organizations are interested in it. On political level it is present only during the adoption of legislation. There are neither important studies nor research studies on this topic in the SR.

Chapter 2 describes various types of services such as accommodation, access to healthcare, social assistance, employment, education and legal aid, which can be provided to long-term irregularly staying migrants based on the type of permit or status granted to them. In the Slovak context, it is important to distinguish whether a TCN who was issued a return decision is placed in a Police Detention Centre for Foreigners (PDCF) or is not detained, i.e. they were issued a so called ‘remaining’ status, or if they have no status since they are unknown to relevant authorities. In principle, however, long-term irregular migrants have only a very limited, or non-existent, access to services, since the checking of legality of residence is a prerequisite for the provision of most of the services or they are conditioned by the existence of valid documents, which puts them in an extremely vulnerable situation. The only exception to this is legal aid, which long-term irregular migrants can access under the same conditions as Slovak nationals. Access to services further improves for TCNs when they are granted tolerated residence or in exceptional cases permanent residence. Services provided to long-term irregularly staying migrants are mainly covered by the state at the central level (in case of the migrants’ placement in a PDCF) or by NGOs. Local and regional authorities provide almost no services to irregular migrants.

As the issue of irregular migration is not a flagship topic at a regional or local level, cooperation in this field is very rare. Mostly, it takes the form of ad-hoc guidance meetings of central and local authorities. Chapter 2 provides more details on this.

The third chapter of the study provides an overview of possible regularisation measures as well as measures related to enforcing return and preventing irregular migration. In the SR, the very setup of legislative options for irregular migrants and related very limited access to basic services put the irregular migrants into a very vulnerable position when return seems the best and easiest solution to their status. In the SR, there are no regularisation programmes which would change status of long-term irregular migrants. The situation due to the coronavirus pandemic did not bring any changes to this policy and overall setup. TCNs more or less faced restrictions equal to those for the citizens of the SR. More information can be found in the third chapter.

The fourth chapter describes the challenges and future measures for the status of long-term irregular migrants. The measures are described also in the coronavirus pandemic context. In the SR, the following were identified as the biggest challenges: the exchange of information between state and

local / regional authorities, gathering data on cross-border mobility of migrants but also the service provision to this group of persons or the lack thereof, missing access to valid documents, employment and healthcare as well as systemic solutions to the stateless person's status.

The fifth chapter closes the study by defining the extent of irregular migration problem in the SR and issues related to termination of irregular migrant status.

The SR remains mostly a transit country for irregular migrants entering the Schengen area and the SR illegally. SR is a destination country primarily for migrants entering the Schengen area legally or semi-legally (misuse of visas, false travel or supporting documents, marriages of convenience, etc.). Their stay becomes unauthorised while breaking the rules of the foreigners and residence regime or by illegal work.<sup>2</sup> In the last five years, however the numbers of illegal state border crossings as well as of irregular migrants detected as illegally staying were in fact low and stable.<sup>3</sup> That is also one of the reasons why this topic is not a prominent subject of professional and wide-reaching debate.

## Chapter 1: National legal and policy framework

### Chapter 1.1: Categories of long-term irregular migrants at national level

Q1a. Is there a distinction between 'short-term' irregular migrants and 'long-term' irregular migrants (as defined in the preface of this study) in your (Member) State?

Yes

No

If yes, please explain how these are defined and where (policy, legislation and/or practice):

Q1b. Are different categories of long-term irregular migrants (as defined in the preface of this study) – stemming from law or practice – present in your (Member) State?

Yes

No

Q1c. If yes to Q1b, are these:

irregular migrants subject to a return decision but the return cannot be enforced due to legal obstacles (e.g. non refoulement, medical or humanitarian reasons, etc)?

irregular migrants subject to a return decision but the return cannot be enforced due to practical obstacles (cooperation of the person concerned, problems with travel documents etc)?

former (rejected) applicants for international protection who absconded?

third-country nationals whose short-stay visa, residence permit expired and/or was not renewed?

other irregular migrants who were not (yet) detected by national migration authorities?

Other (e.g. long-term irregular migrants with a criminal record, dependant family members) (please describe in the box below)?

Persons included in this category can also be included in one of the categories above.<sup>4</sup>

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<sup>2</sup> Information from BBFP PFP, 23 November 2020.

<sup>3</sup> Statistical Overview of Legal and Illegal Migration in the Slovak Republic in 2015, 2016, 2017, 2018, 2019 and first half of 2020.

<sup>4</sup> Structured interview with BBFP PFP, 9 October 2020.

Q1d. If yes to Q1b, please also provide, if possible, an estimation of the numbers of persons (for each category identified in Q1a, 1b and 1c, as relevant) in your (Member) State, annually since 2015.

Please also indicate the relevant source of such estimate(s) and other relevant information if available (e.g. country of origin).

**Table 1: The number of persons in categories by Q1c (by years).**

Status / Year	2015	2016	2017	2018	2019	2020 (as of 30 Sept. )
Irregular migrants who were issued a decision on administrative / court expulsion and were detained for the purposes of return or were imposed an alternative to detention but return could not be or was not enforced (performance of expulsion, voluntary return, readmission, Dublin transfer) due to the existence of legal or practical obstacles (i.e. first two categories according to the Q1c).**	74 (TOP nationalities: SYR, Kosovo, AFG)	70 (TOP nationalities: SYR, IND, AFG)	25 (TOP nationalities: VNM, AFG, IRQ)	43 (TOP nationalities: AFG, IRQ, PAK)	36 (TOP nationalities: AFG, BGD, SDN)	76 (TOP nationalities: SYR, BGD, AFG)
Former seekers of international protection whose application was rejected and who absconded*						
Third-country nationals whose short-term visa or residence permit expired or was not renewed*						
Other irregular migrants who have not yet been detected by state authorities*						
Other (e.g. long-term irregular migrants with a criminal record, dependent family members etc.)?*						

Source: MIGRA information system

Notes:

\*These statistical data are not available in the SR.

\*\*These numbers do not include TCNs who were issued a decision on administrative expulsion with the obligation to voluntarily leave the territory of the SR i.e. voluntary departure (in the SR, this option is very often used in the case of TCNs who are overstayers, and irregular migrants with valid travel documents). The SR as well as other MS (apart from cases in which TCNs meet the obligation by leaving the country through the national sections of state borders which are at the same time external Schengen border) are not able to ascertain whether TCNs met or did not meet the obligation. These cases should not be included in executed expulsions / performed returns in relation to the return statistics reported to Frontex or Eurostat.

The SR does not process estimates of irregular migrants numbers in its territory. Given that the SR is still mostly a transit country and the fluctuation of migrants remains relatively high, it is very difficult to draft such estimates.<sup>5</sup>

Q1f. If no to Q1b, please explain why this is not the case (in the box below)

NA

Q2. If a third-country national is subject to a return decision but there are legal obstacles to return (i.e. for non-refoulement reasons, medical reasons, etc), can they receive:

Please indicate if the option ticked is based on i) an administrative practice (please explain the practice); ii) legislation (please legislation); iii) case law (indicate case law reference and a short summary), or iv) other (e.g. policy).

Please briefly describe also indicating estimations of the scale/numbers per year between January 2015-October 2020), if available.

Slovak legislation does not distinguish between legal and practical obstacles to return. Thus, in both cases the third-country national who was issued a return decision which cannot be executed has the same options of obtaining various types of documents, certificates or residence permits as described below. They are all based on valid SR legislation i.e. the Act on Residence of Foreigners.

The SR does not have statistical data or estimates of the number of irregular migrants grouped according to the categories below. There are only statistical data on the number of issued tolerated residences as stated in the Table 2 below.

Written confirmation of postponement of return (please briefly explain the procedure, conditions below):

Based on the Act on Residence of Foreigners (Sec. 84, par. 6), Police department issues a written confirmation about the suspension of the execution of the decision on administrative expulsion to the third-country national, containing the reason and the time period for which the execution of the decision is suspended. In the case of third-country nationals in whose cases obstacles to administrative expulsion exist, the Police department in the territorial competence of which the third-country national is located, shall issue a written confirmation to such third-country national about the possibility to remain in the Slovak Republic territory<sup>6</sup> (Act on Residence of Foreigners, Sec. 61a par. 6).<sup>7</sup> This is performed by the police officer who determined that circumstances exist which correspond to the conditions for remaining of a TCN. The confirmation of remaining is issued on prescribed form, one copy is given to the TCN and one remains in the file. The confirmation of possibility to remain in the territory of the SR is not time limited. Its validity ends at the moment when the reasons to remain in the territory cease to exist. If the reason to remain in the territory changes, the Police department prepares a new confirmation of possibility to remain in the territory of the SR.<sup>8</sup>

Remaining in the Slovak Republic territory shall not be considered as residence according to Act on Residence of Foreigners. This means that during the period of remaining in the territory of the SR such TCN

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<sup>5</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>6</sup> Pursuant to Sec. 89 par. 1 of Act on Residence of Foreigners, written confirmation of remaining is issued also in the case of those TCNs who instead of detention have been imposed a duty to report at the place of residence or pay a warranty deposit.

<sup>7</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>8</sup> Guidelines for procedures concerning administrative expulsion of foreigners, detention of third-country nationals and voluntary returns of third-country nationals from the territory of the Slovak Republic. Annex to the Order of BBFP PFP Director No. 25/2019.

cannot apply for verification of invitation, temporary or permanent residence (if it is not an exception described below in the chapter about permanent residence).

The status of "remaining" was introduced by the amendment to the Act on Residence of Foreigners no 108/2018 Coll. effective from 1 May 2018. Until then the option of "tolerated residence" was used in the case of obstacles to administrative expulsion and when leaving the country was not possible and detention was not purposeful. However, tolerated residence is not granted anymore due to its frequent abuse and because of the administrative burden on Police departments. Presence of these groups of persons in the territory of the SR is now dealt with by means of the option of remaining for a third-country nationals in the territory of the SR.<sup>9</sup>

☒ Temporary/tolerated stay (please briefly explain the conditions, application procedure below):

A third-country national in whose case obstacles to return exist can be granted tolerated residence (Act on Residence of Foreigners, Sect. 58)<sup>10</sup> given the fulfilment of some of the following conditions:

1. is the victim of human trafficking and at least 18 years old,
2. is a minor person found in the Slovak Republic territory,
3. if required due to the respect for his/her personal and family life (pursuant to Art. 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms) and not threatening the state security or public order,
4. was illegally employed under particularly particularly exploitative working conditions or to an illegally employed minor person,
5. if it results from the international obligations of the Slovak Republic (e.g. if it concerns a stateless person).

A tolerated residence application shall be submitted at a competent Foreign Police department in person on the prescribed form and in the Slovak language. It must contain written justification of reasons and documents attesting to the facts justifying granting of tolerated residence.

A law enforcement authority shall apply for tolerated residence on behalf of the third-country national if he/she:

- is the victim of human trafficking and at least 18 years old,
- was illegally employed under particularly exploitative working conditions or is an illegally employed minor person, or his/her presence in the territory of the SR is inevitable for the purposes of criminal proceedings.

The Police department decides upon the application for granting or renewal of tolerated residence within 15 days from submitting the application. The Police department shall grant tolerated residence based on the application of a foreigner for a maximum of 180 days. Tolerated residence may be repeatedly renewed.

By 1 May 2018 when the amendment to Act on Residence of Aliens No. 108/2018 Coll. came into force, it was possible to grant tolerated residence also if:

- obstacles to administrative expulsion existed,
- leaving the country was not possible and detention was not purposeful.

Under valid legislation this type of tolerated residence was replaced by the option of "remaining" (see answer above).

**Table 2: The number of granted (including renewed) tolerated residences in the territory of the SR for 2015 – 2019 and in the 9 months of 2020**

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<sup>9</sup> Explanatory report to the amendment to Act on Residence of Foreigners No. 108/2018 Coll. from 1 May 2018. Structured interview with BBFP PFP, 9 October 2020.

<sup>10</sup> Tolerated residence as stated in this answer can be granted to any third-country national meeting the conditions for it, not only to those with an issued decision on return or whose return it is not possible to perform due to legal or practical reasons.

Tolerated residence / year	2015	2016	2017	2018	2019	1 January - 30 September 2020
obstacle to administrative expulsion**	7	7	6	-	-	-
leaving not possible and detention not purposeful**	990***	625***	63	-	-	-
unaccompanied minor	0	5	10	9	48	24
respect for personal and family life	48	40	24	16	23	10
illegal employment under particularly exploitative working conditions	0	0	0	2	0	0
International obligations	0	0	0	6	0	3
human trafficking victim	0	0	0	0	0	0
<b>TOTAL</b>	<b>1 045</b>	<b>677</b>	<b>103</b>	<b>33</b>	<b>71</b>	<b>37</b>

Source: BBFP PFP

\*\*by the amendment to Act on Residence of Foreigners effective from 1 May 2018 the stated purposes ceased to exist and the status of "remaining" is given instead.

\*\*\*the high numbers of this tolerated residence purpose are related to temporary placement of Syrian nationals in the Gabčíkovo reception facility as bilateral aid to Austria during migration situation.

Note: The numbers in Table 2 represent all granted tolerated residences in the SR in the given year. It is not possible to distinguish how many of them were granted to TCNs who had been issued a return decision which could not be enforced due to the existence of legal or practical obstacles.

☒ Residence permit (please briefly explain the conditions, application procedure, duration of status below):

Third-country national who was issued a decision on administrative expulsion / return decision which could not be executed due to the existence of legal or practical obstacles can be granted permanent residence under specific circumstances.

Based on Act on Residence of Foreigners (Sec. 84 Par. 7) a decision on administrative expulsion shall expire:

1. by the granting of permanent residence for 5 years

- to a stateless person
- for reasons worth special consideration
- to an adult who has been granted a tolerated residence or granted subsidiary protection as an unaccompanied minor for at least three years and in this period he/she studied at a school in the Slovak Republic territory,
- if necessary for the provision of protection and assistance to a witness or upon a proposal of the Slovak Intelligence Service or Military Intelligence due to security interests of the Slovak Republic

2. by the granting of permanent residence for an indefinite period of time

- upon a proposal of the Slovak Information Service or Military Intelligence due to security interests of the Slovak Republic

In these cases, the permanent residence can be granted even without meeting the conditions laid out in the Act on Residence of Foreigners (Sec. 45 Par. 1 and Sec. 46 Par. 2) which means that the documents specified by the Act do not have to be enclosed with the application.

Extension of the short-stay visa

NA

Extension of the voluntary departure period

Based on the Act on Residence of Aliens (Sec. 83 Par. 1), a TCN who has been issued a decision on administrative expulsion shall be obliged to leave the country within the period specified in the decision. Upon request of the third-country national, the Police department shall determine a period to leave the country of no less than 7 days and no more than 30 days from the date of enforceability of the decision; this period of time may be reasonably extended taking into consideration the previous length of residence, personal and family relations or health condition of the third-country national. The police department shall set the deadline to leave the country of a maximum of 90 days from the date of enforcement of the decision if TCN voluntarily comes to the Police department, asks to return into their country of origin within assisted voluntary return and the Ministry of Interior of the SR agrees with the execution of assisted voluntary return; in justified cases in connection with the implementation of assisted voluntary return, this period may be repeatedly extended. The Police department shall issue a separate decision on prolonging the deadline to leave the country. Each case of prolonging the deadline to leave the country shall be evaluated on an individual basis and taking into consideration all of the above described circumstances.<sup>11</sup>

No return decision issued (for administrative or other reasons including non-refoulement)

If obstacles to expulsion – legal or practical – are determined during the administrative expulsion procedure and if the third-country national is not in detention, the administrative expulsion procedure is stopped, a decision is not issued and a confirmation of remaining is issued instead (see above). This process is based on the Act on Residence of Foreigners and administrative practice.<sup>12</sup>

Other (e.g. no other form of certification/tolerated stay/residence permit granted)

Pursuant to the Act on Residence of Foreigners (Sec. 84 Par. 7a)) a decision on administrative expulsion shall expire by the decision on the granting of asylum or provision of subsidiary protection.

If a TCN against whom the proceedings on administrative expulsion is exercised files an application for asylum, a Police department shall issue a decision on the suspension of proceedings on administrative expulsion at the time of deciding about his/her application for asylum. If a foreigner is neither granted asylum, nor provided subsidiary protection, the Police department which has suspended proceedings on administrative expulsion shall continue with proceedings on administrative expulsion (Sec. 77 Par. 5 of the Act on Residence of Foreigners).

If a TCN files an application for granting asylum after the decision on his/her administrative expulsion becomes enforceable, the Police department shall not execute the decision before the time of deciding about his/her application for granting asylum. If the decision on administrative expulsion determined the period to leave the country, this period shall start to run again when the decision about his/her application for asylum becomes enforceable. (Sec. 77 Par. 7 of the Act on Residence of Foreigners).<sup>13</sup>

When filing an asylum application, the procedure pursuant to the Act No. 480/2002 Coll. on Asylum and on changes and amendments to some acts as amended is followed. The asylum procedure starts by the TCN declaring at a respective Police department that they seek asylum or subsidiary protection in the territory

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<sup>11</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>12</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>13</sup> Act No. 404/2011 Coll. on Residence of Foreigners and on changes and amendments to some acts as amended.

of the Slovak Republic. The Police department notes the declaration on official form the example of which is included in the Act on Asylum and immediately sends it to the Ministry of Interior of the SR for further proceedings.<sup>14</sup>

Q3. If a third-country national is subject to a return decision but there are practical obstacles to return (i.e. lack of means of transportation, lack of identification or travel documents, lack of cooperation of the third-country national, absconding etc.), can they receive:

Please indicate if the option ticked is based on i) an administrative practice (please explain the practice); ii) legislation (please legislation); iii) case law (indicate case law reference and a short summary), or iv) other (e.g. policy).

Please briefly describe also indicating estimations of the scale/numbers per year can be provided for the years 2015-October 2020), if available.

Slovak legislation does not distinguish between legal and practical obstacles to return. A third-country national who was issued a decision return which cannot be executed therefore has the same options of obtaining various types of documents, certificates or residence permits as described in Q2 in both cases.

A written confirmation of postponement of return (please briefly explain the procedure, conditions below): .

See Q2.

A temporary/tolerated stay (please briefly explain the conditions, application procedure):

See Q2.

A residence permit (please briefly explain the conditions, application procedure, duration of status below):

See Q2.

An extension of the short-stay visa

NA

No return decision issued (for administrative or other reasons including non-refoulement)

See Q2.

Other (e.g. no other form of certificate/tolerated stay/residence permit granted)

See Q2.

## Chapter 1.2: Priorities and debates at national level

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<sup>14</sup> Act. No. 480/2002 on Asylum and on changes and amendments to some acts.

Q4a. Has the issue of long-term irregular migrants been subject to policy or legislative debate (i.e. discussions) in your (Member) State since 2015?

Yes

No

If yes, (i) what was the debate about and (ii) how has the debate evolved since 2015 (include debates related to Covid-19)? Please provide a brief explanation of the main focus (i.e. main aspects discussed) and the evolution since 2015. Please indicate the main stakeholders involved. Please provide qualitative evidence to support your answer (e.g. national parliamentary debates, strategies, other policy documents).

The amendments to the Act on Residence of Foreigners (which among other things governs returns and expulsions) submitted since 2015 were a topic of debate on political and legislative level either within inter-ministerial commenting of involved state and public administration entities or small group of non-governmental sector representatives or on political level within the Parliament sessions or the Committees of the SR National Council meetings.

None of the amendments, however, opened any important discussions which would significantly affect the setting of the law submitted by the author, which is the Ministry of the Interior of the Slovak Republic. In most cases the amendment updates the law due to the transposition of EU legislation or the need for updating based on the application practice.

Since 2015, the Act on Residence of Foreigners was amended four times and for the last time due to temporary measures related to the COVID-19 pandemic. This amendment, however, still did not initiate any significant debate on political or legislative level.

Q5a. Has the issue of long-term irregular migrants been subject to inter-institutional debate between local (municipal, regional, federal) and central level authorities, in your (Member) State since 2015?

Yes

No

If yes, please indicate the main stakeholders involved in your answer and qualitative evidence (e.g. public debates, policy documents).

Meetings or discussions at the inter-institutional level between local, regional and state actors specifically aimed at resolving the situation of long-term irregular migrants in the SR were not held. However, according to the BBFP PFP, meetings with the representatives of the Association of Slovak Towns and Cities (ZMOS), Tripartity or industry and employer associations or employers themselves are organized as needed. The main aim of the meetings is to provide them with counselling in the context of the employment of foreigners, in order to prevent cases of illegal employment, unauthorized residence and subsequent expulsion or violation of other provisions of the Act on the Residence of Foreigners<sup>15</sup>. This indirectly makes the issue of the situation of long-term irregular migrants, especially as a prevention of this phenomenon, part of the interinstitutional debate. BBFP PFP holds similar advisory meetings with representatives of universities. Preventive training meetings to prevent irregular migration are also organized by BBFP PFP for cities, registries or labour offices.<sup>16</sup>

The discussion on the topic of social inclusion and vulnerable groups, including foreigners, took place at the level of the Bratislava Self-Governing Region within the preparation of the Bratislava Self-Governing Region Concept for Social Inclusion 2020-2030. It was not specifically focused on foreigners and

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<sup>15</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>16</sup> Structured interview with BBFP PFP, 9 October 2020.

migration, but in the context of other topics (e.g. homelessness or vulnerable groups) also touched on this category of persons.<sup>17</sup>

Several projects funded by the EU funds (e.g. the BUK<sup>18</sup> or the KapaCity<sup>19</sup> projects) address the integration of foreigners at local and regional level and support the development of professional skills and capacities of local actors in this field. Local and regional stakeholders might touch upon irregular migration within these projects even though TCNs without legal residence are not their target group.

Q5b. If yes to Q5a, (i) what was the debate about and (ii) how has it evolved since 2015? Please provide a brief explanation of the main focus (i.e. main aspects discussed) and the evolution since 2015.

The debate has been organized if needed and it is more of a counselling from state authorities towards local and regional self-government authorities and other participants so that cases of illegal work and unauthorized residence do not occur.

Q6. If yes to Q4a and/or Q5a, has the debate influenced policy or legislative measures (e.g. national strategies or plans, legislative framework, etc.)?

Yes

No

If yes, please indicate the policy or legislative measures adopted:

National level debate is always based mainly on a new legislation proposition and essentially does not change the measures proposed by the author, i.e. Ministry of Interior of the SR.

The result of the debate at the level of the Bratislava Self-Governing Region was the adoption of the Bratislava Self-Governing Region Concept for Social Inclusion 2020-2030.<sup>20</sup> The Concept includes separate chapters on the situation of foreigners as one of the vulnerable groups and on homeless people. However, it is not concerned with the issue of irregular migrants specifically.

Q7a. Has the issue of long-term irregular migrants been subject to public debate (i.e. media/NGOs) in your (Member) State since 2015?

Yes

No

Q7b. If yes to Q7a, (i) please indicate the main stakeholders involved (ii) the main circumstances of the debate and (iii) if there has been any change in the debate since 2015?

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<sup>17</sup> Bratislava Self-Governing Region Concept for Social Inclusion 2020-2030, available at [https://bratislavskykraj.sk/mdocs-posts/06-koncepcia-socialnej-inkluzie-2020-2030\\_koncepcia/](https://bratislavskykraj.sk/mdocs-posts/06-koncepcia-socialnej-inkluzie-2020-2030_koncepcia/), consulted on 13 October 2020.

<sup>18</sup> BUK project: Capacity building on the level of local territorial self-government in integration policy; funded from European Fund for Integration of third-country nationals and implemented between 1 April 2014 and 30 June 2015. Its aim was to build capacities on the level of local territorial self-government in integration policy.

<sup>19</sup> The main objective of the project funded from the EU Home Affairs Funds is to develop professional, networking, coordination, advocacy and communication capacities of local actors in TCN integration as well as know-how and mechanisms creation locally which would ensure the implementation of integration measures even after the project has ended. The project is implemented between 1 January 2018 and 31 December 2020.

<sup>20</sup> Bratislava Self-Governing Region Concept for Social Inclusion 2020-2030 contains selected social and economic characteristics of Bratislava Self-Governing Region which directly relate to social exclusion / inclusion. Based on the analysis of selected problems in social inclusion and on discussions with relevant representatives of self-government, state authorities, non-governmental and non-profit organisations it identifies the most vulnerable groups of citizens. By means of proposing priorities, measures and activities it defines the options of ensuring more acceptable living conditions of individual vulnerable groups of citizens. Available at [https://bratislavskykraj.sk/mdocs-posts/06-koncepcia-socialnej-inkluzie-2020-2030\\_koncepcia/](https://bratislavskykraj.sk/mdocs-posts/06-koncepcia-socialnej-inkluzie-2020-2030_koncepcia/), consulted on 13 October 2020.

Please provide a brief explanation of the main focus (i.e. main aspects discussed) and the evolution since 2015.

Please provide qualitative evidence to support your answer (e.g. reliable media reports, statements or reports of NGO/civil society organisations or International Organisations (IOs), research studies, official surveys, barometers, other policy documents).

Non-governmental organisations Slovak Humanitarian Council (SHC) and the Human Rights League (HRL) have been the main stakeholders involved in the debate on long-term irregular migrants. They offer counselling and social, legal, and other aid to this category of migrants. In the SR, working in this area, is also the International Organization for Migration (IOM) with its Migration Information Centre and is also implementing the assisted voluntary returns programme in the SR. These organizations try to improve the situation of various migrant categories and find new solutions for them by their activities and mutual discussion. Many activities are implemented in the regions and include a developed cooperation with several local level actors. However, there is no activity which would specifically and in a comprehensive way aim to provide services to irregular migrants (apart from the KOMPAS project and the projects by the HRL below). This is a part of other migration related topics and activities within individual projects.

The SHC is currently implementing the KOMPAS III project (see also Q24) which is aimed at services for irregular migrants who are in Police Detention Centres for Foreigners (PDCF) and those who have been released out of them (for a max. period of 60 days from the release). This project includes project meetings and seminars with non-profit organisations who also work with foreigners such as Mareena or the Human Rights League as well as with state and public administration authorities such as Ministry of Interior of the SR (BBFP PFP) or Centre for Legal Aid. One example of results of such discussions is that since 1 July 2013 it is possible for project activities to aim not only on third-country nationals detained in the PDCFs but also on those who were released out of detention due to expiration of maximum detention period or due to cancellation of detention by the court.<sup>21</sup> The aid is limited to 60 days following the day of the end of detention and is specifically focused on vulnerable persons.

The Human Rights League has for a long time been actively protecting the rights of foreigners detained in the SR. Since 2017, they have been implementing a series of 'Let's give refugees a chance' (I, II, III, IV) projects which are mainly focused on the provision of legal aid to asylum seekers in detention. They only marginally allow for the provision of legal counselling to other foreigners in detention (detained for the purposes of administrative expulsion or punishment of expulsion), especially to vulnerable persons such as families with children, women, those whose age is undetermined (they claim to be minor) or persons with serious health issues.<sup>22</sup> Also within the Legal Aid in Detention project (2018/2019) legal aid was provided to asylum seekers detained in Police Detention Centres for Foreigners in Slovakia. The project included activities aiming to improve the conditions for the detained asylum seekers and other detained persons, especially families with children. Related to detention, the Human Rights League organizes the 'Children do not belong to prison' campaign in which they propose alternative measures to detention.<sup>23</sup>

The Legal counselling for Residence and Citizenship 5 and 6 projects (2015/2016)<sup>24</sup> by the Human Rights League offered legal counsel to third-country nationals and unaccompanied minors. The projects focused mainly on foreigners with residence in the SR including tolerated residence. An anonymous online legal

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<sup>21</sup> Structured interview with the SHC, 8 October 2020.

<sup>22</sup> Structured interview with the Human Rights League, 4 November 2020. Available at <https://www.hrl.sk/sk/co-robime/projekty/ukoncene-projekty/dajme-sancu-utecencom-i>, <https://www.hrl.sk/sk/co-robime/projekty/ukoncene-projekty/dajme-sancu-utecencom-2>, <https://www.hrl.sk/sk/co-robime/projekty/ukoncene-projekty/dajme-sancu-utecencom-iii>, <https://www.hrl.sk/sk/co-robime/projekty/aktualne-projekty/dajme-sancu-utecencom-iv> (consulted on 5 November 2020), Projects are implemented with financial help of the Ministry of Justice of the SR within the funding programme to promote, support and protect human rights and freedoms and to prevent all forms of discrimination, racism, xenophobia, antisemitism and other types of intolerance.

<sup>23</sup> The project was supported by the US government within the Julie Taft grant programme to help refugees. Available at: <https://www.hrl.sk/sk/co-robime/projekty/ukoncene-projekty/pravna-pomoc-v-zaisteni-> (consulted on 5 November 2020).

<sup>24</sup> The project was funded from the European Fund for the Integration of Third-Country Nationals. Available at: [www.crp.gov.sk](http://www.crp.gov.sk) (consulted on 5 November 2020).

counsel was a part of the project. Foreigners were able to use it free of charge to quickly obtain information. Further legal aid was provided on an individual basis only.

The Human Rights League have for a long time been providing a pro bono legal counselling to irregular migrants. Apart from that, they have been actively involved in commenting on legislation within inter-ministerial commenting procedure and have proposed improvements to policies in this area.<sup>25</sup>

The Human Rights League also cooperates with non-governmental organisations such as Marginal, Centre for the Research of Ethnicity and Culture civic association and the Milan Šimečka Foundation in implementing the KapaCity project<sup>26</sup> which is focused on building capacities of local territorial self-government representatives in local integration of foreigners. TCNs with legal residences are the target group of the project as they are therefore enabled to participate in executing self-government. Within educational activities with self-governments, the project touched upon the issues related to irregular TCNs in order for employees of self-governments to be prepared for situations in which they would have to deal with related questions and problems (such as education, healthcare, birth or death in the territory of self-governing region etc).<sup>27</sup>

From 2015, the Slovak media have been giving more attention to migration and asylum in comparison with previous years while formats focused on returns of third-country nationals who are unauthorizedly staying in the territory of Member States (MS). Within this topic they were covering the return policy of the EU and its MS, agreement between the EU and Turkey, voluntary return, agreements with African states, and returns within the Slovak Presidency to the Council of the EU as this was one of priority topics. Media regularly inform about irregular Slovak border crossings, illegal work, negative attitude of the SR towards quotas, measures adopted at EU level etc. Long-term irregular migrants and their access to rights and services were separately not a point of media interest.

#### Q8. Has the issue of long-term irregularly staying migrants been subject to policy or public debate in your (Member) State specifically in connection with the measures taken in responses to COVID-19 and their impacts?

On 9 April 2020 Act No. 73/2020 Coll. came into effect. Apart others, it amended also the Act on Residence of Foreigners. A draft Act, was submitted with the aim to react to the declaration of extraordinary situation and state of emergency by the Government of the SR due to the situation around the COVID-19 in the SR and in relation to the need to solve possible unwanted situations in which the TCN could have found themselves. Since this concerned an inevitable need to react to a current situation there was no room for wider discussion before the adoption of the Act. It amends several acts within the competence of the Ministry of the Interior of the SR so that their application reduces the risk of endangering public health as much as possible and at the same time so that the rights of citizens are limited as little as possible under the limited regime of some public authorities. It amended the Act on Residence of Foreigners so that the foreigners who cannot leave the country due to the state of crisis and their residence expires are protected against consequences of their unauthorized residence. Related to returns, the Act adjusts the postponement of the execution of administrative expulsion decision. If the execution of administrative expulsion decision of a detained third-country national is postponed, the postponement is not the reason for releasing them out of detention.<sup>28</sup>

#### Q9. Are there any planned changes in law/policy/practice regarding long-term irregular migrants in your (Member) State?

Yes, there are planned changes in law. Please explain below:

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<sup>25</sup> Structured interview with the Human Rights League, 4 November 2020.

<sup>26</sup> The main objective of the project funded from the EU Home Affairs Funds is to develop professional, networking, coordination, advocacy and communication capacities of local actors in third-country national integration as well as know-how and mechanisms creation locally which would ensure the implementation of integration measures even after the project has ended. The project is implemented between 1 January 2018 and 31 December 2020.

<sup>27</sup> Questionnaire from the Human Rights League from 16 November 2020.

<sup>28</sup> Explanatory report to the Act No. 73/2020.

In the area of legislation, changes to the Act on Residence of Foreigners are planned which are among other things focused on administrative expulsion. Recommendations from the third evaluation (2019) of the level of correct and complete application of the Schengen Acquis in the area of returns in the SR should be used as a basis for these changes.

Yes, there are planned changes in policy. Please explain below:

Yes, there are planned changes in practice. Please explain below:

Changes in this area relate to the planned legislative changes described above.

No.

## Chapter 2: National policies and approaches regarding long-term irregularly staying migrants

### Chapter 2.1: Rights and access to services of long-term irregular migrants

Q10. What services are accessible to long-term irregular migrants who were issued a return decision, but return cannot be implemented for legal or practical obstacles?

Please complete the table below for each type or authorisation to stay or statuses indicated Q2 and Q3 (i.e. written confirmation of postponement of return, temporary or tolerated stay, residence permit, only return decision).

Described in the tables below are the services provided in case a Third Country National is detained in a PDCF (Table 3), in case a TCN holds the status of 'remaining' (Table 4)<sup>29</sup> and in case a TCN has been granted tolerated residence (Table 5). We do not have a separate table with a description of services provided to the TCNs with 'permanent residence' and 'asylum or subsidiary protection granted' status as identified in Q2 as these statuses are not specific for long-term irregular migrants and can be granted to any TCN if they apply for them, provided they meet the conditions for their grant. With respect to the eligibility and access to services, if a TCN has already been granted permanent residence or asylum or subsidiary protection, the law does not distinguish between the conditions pertaining to grounds on which these were granted.

In case of a suspension of the execution of the decision on expulsion, pursuant to the Act on Residence of Foreigners (Section 61 (a) par. 1(e)) a TCN is granted a status of 'remaining' described in Table 4.

Table 3: Rights and services available to long-term irregularly staying migrants who have been issued a return decision				
<i>Type of stay or status as identified in Q2 and/or Q3: <b>written confirmation of a suspension of the decision on administrative expulsion – TCNs who have been detained and placed in a PDCF</b></i>				
Type of service	Service provided ? (Y/N)	Is the provision of service <b>mandatory or discretionary</b> ? <sup>30</sup>	Brief description Please consider for each type of services the long-term irregular migrants are entitled or have access to:  i. Does this access stem from national law or practice? Does it stem from local (regional, municipal) rules or practice? ii. Which authorities are competent to provide access to services? Please indicate if access is provided by other entities (NGO, charities, private entities, etc) as service providers on behalf of the national or local authorities?	Please briefly assess and explain if the rights and access to services are more limited, same or more favourable than those of legal migrants or of nationals?
<b>Accommodation</b>				Less <input type="checkbox"/>   Same <input checked="" type="checkbox"/>   More <input type="checkbox"/>
<b>Accommodation</b>	NA	NA	NA	

<sup>29</sup> The status of 'remaining' is also granted to those TCNs on whom, pursuant to Section 89 par. 1 of the Act on Residence of Foreigners, a duty to report their place of residence or pay a warranty deposit (the so-called alternative to detention) instead of their detention has been imposed.

<sup>30</sup> For example, in some cases a service can be accessed but the costs must be met by the individual rather than the State/national authorities.

<b>If yes, please briefly describe</b>				
<b>Special accommodation facilities (i.e. shelter for victims of violence, children etc.)</b>  <b>If yes, please briefly describe</b>	Y (PDCF <sup>31</sup> )	Mandatory	<i>Placement of a TCN in a PDCF is governed by Section 88 of the Act on Residence of Foreigners, which stipulates conditions under which a TCN can be detained. Based on Section 80 of the Act on Residence of Foreigners, the costs related to administrative expulsion consist of the costs for accommodation, meals and transport of a foreigner, the costs related to the detention of a third-country national and all other necessary financial costs related to a foreigner. The costs related to administrative expulsion shall be paid by a TCN at their own cost. A TCN does not pay at their own cost for the costs under the conditions laid down in the Act (e.g. if it concerns a TCN who was employed illegally, etc.). The Act specifies the authorities responsible for the reimbursement of the costs. If neither the authorities nor the TCN can pay for the costs, the costs shall be paid by the MoI SR.</i>	
<b>Other forms of accommodation or shelter or specialised centre</b>	NA	NA	NA	
<b>Healthcare</b>				<b>Less <input type="checkbox"/>   Same <input checked="" type="checkbox"/>   More <input type="checkbox"/></b>
<b>Emergency healthcare</b>  <b>If yes please describe, as this notion can be understood in a large or restrictive way</b>	Y	Mandatory	<i>Provided under the Constitution of the SR<sup>32</sup>, which, in its Article 40, stipulates that everyone shall have the right to protection of his or her health; as well as on the basis of Act no. 576/2004 on Healthcare<sup>33</sup>, where emergency healthcare is defined as healthcare provided to a person in case of a sudden change of their health which represents imminent risk for their life or some of the vital functions; which can pose serious threat to their health in case medical care is not provided quickly; which causes a person to feel sudden and unbearable pain or</i>	<i>Emergency healthcare is provided to all persons in the territory of the SR irrespective of their status.</i>

<sup>31</sup> Police Detention Centre(s) for Foreigners (PDCF) are guarded facilities of a closed nature. PDCF(s) are specialised facilities intended for detention of third-country nationals under the national legislation. Frkáňová, A., Kubovičová, K. Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky SR (*Detention and Alternatives to Detention in the Context of Migration Policy of the SR*), European migration Network, IOM Bratislava, 2014.

<sup>32</sup> Act no. 460/1992, Art. 40

<sup>33</sup> Act no. 576/2004 Coll. on Healthcare, Healthcare Related Services and on changes and amendments to some acts

			<p>sudden changes of their behaviour and acting under the influence of which the person represents immediate danger for themselves or their surroundings. Healthcare provided during childbirth is also considered emergency healthcare. Furthermore, emergency healthcare includes medical examination of a person designated as a source of a rapidly spreading and life-threatening infection and diagnostics and treatment of a person with a rapidly spreading and life-threatening infection. Emergency healthcare also includes urgent transportation of a person into a healthcare facility, urgent transportation of a person between healthcare facilities, urgent transportation of a donor and receiver of human organs intended for transplantation, urgent transportation of healthcare professionals carrying out activities related to the procurement of a human organ and urgent transportation of human organs intended for transplantation. Urgent transportation shall also mean transportation of a person whose health condition requires the provision of medical care in course of such transportation.</p> <p>Responsible for the provision of emergency healthcare are all healthcare professionals and healthcare facilities.</p> <p>However, TCNs placed in a PDCF are holders of public health insurance and, as such, they are entitled to a wider scope of healthcare provision than just emergency healthcare coverage (see Basic medical care line below).</p>	
<p><b>Basic medical care</b> <i>If yes, please briefly describe</i></p>	Y	Mandatory	<p>TCNs placed in a PDCF are holders of public health insurance<sup>34</sup>, which means they have access to the scope of healthcare covered by public health insurance.</p> <p>Authorities responsible for the provision of healthcare are all healthcare professionals and healthcare facilities contracted by relevant health insurance companies to execute public health insurance.</p>	<p>Services provided under the public health insurance are the same for all persons covered by it under same conditions, irrespective of their status.</p>
<p><b>Specialised care</b> <i>If yes, please briefly describe</i></p>	Y	Mandatory	<p>Within the scope of public health insurance as described above.</p>	

<sup>34</sup> Act no. 580/2004 Coll. on Health Insurance, Section 2 par.3 (f)

<p><b>Other healthcare services</b></p> <p><i>If yes, please briefly describe</i></p>	<p>Y</p>	<p>Discretionary</p>	<p>Access to other healthcare services is governed by practice. In the scope of its project KOMPAS III, financed from the EU Home Affairs Funds (see also Q24), the non-governmental organisation SHC provides TCNs placed in PDCFs with supplementary healthcare e.g. in the form of purchasing of medicines available over the counter, vitamins, teas, powders, ointments, repellents, assistive devices such as glasses, hearing aids, crutches, etc. (purchase is always made based on a previous written recommendation by the medical doctor serving in the facility). Medical aids not covered by the public health insurance which are essential for TCN(s), such as dentures and the like, are also provided.</p>	<p>In general, Slovak citizens or TCNs with legal stay are not provided supplementary health care by the state or by a third party.</p>
<p><b>Social assistance</b></p>				<p>Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/></p>
<p><b>Are long-term irregularly staying migrants entitled to receive social benefits?</b><sup>35</sup></p> <p><i>If yes, please briefly describe what these benefits are</i></p>	<p>N</p>	<p>NA</p>	<p>NA</p>	
<p><b>Employment</b></p>				<p>Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/></p>
<p><b>Are there circumstances in your MS where long-term irregularly staying migrants are entitled to access to the labour market?</b></p> <p><i>If yes, please describe any specific conditions attached to their employment.</i></p>	<p>N</p>	<p>NA</p>	<p>NA</p>	
<p><b>Education</b></p>				<p>Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/></p>

<sup>35</sup> Please consider the definition of ‘core benefits’ as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum - income support, assistance in the case of illness, or pregnancy, and parental assistance.

<p><b>Do (long-term irregular migrant) children have access to compulsory education?</b></p> <p><i>If yes, please briefly describe access.</i></p>	Y	Mandatory	<p>Based on Section 96 par. 2 of the Act on Residence of Foreigners a TCN placed in a PDCF younger than 18 years of age is entitled to have access to education within three months after their detention. Qualified teachers are available in PDCFs, visiting the facilities regularly, and the teaching process follows the curriculum as defined in valid legislation for the given age group.</p> <p>Renovation of premises intended for educational activities in PDCFs comprises one of the activities financed under the KOMPAS III project implemented by the non-governmental organisation SHC.</p>	
<p><b>Are adult long-term irregularly staying migrants entitled to participate in educational programmes and/or professional training?</b></p> <p><i>If yes, what types of education and under which conditions?</i></p>	Y	Discretionary	<p>Basics of the Slovak language and lessons on Slovakia and Slovak realia are taught within the scope of the KOMPAS III project implemented by the non-governmental organisation SHC. Teaching is done by qualified teachers.</p> <p>No other education or training is provided to TCNs in PDCFs.</p>	
<b>Legal aid or assistance</b>				<b>Less <input type="checkbox"/>   Same <input checked="" type="checkbox"/>   More <input type="checkbox"/></b>
<p><b>Do long-term irregular migrants have access to legal aid or assistance type of services?</b></p> <p><i>If yes, please briefly enumerate and explain</i></p>	Y	Mandatory <sup>36</sup> /Discretionary	<p>Following the placement of a TCN in a PDCF, the PDCF shall immediately inform the TCN on the possibility to request legal aid provided free of charge. If a TCN declares their interest to seek free legal aid, they fill in an individual application form that the PDCF shall send to the competent branch of the Centre for Legal Aid.<sup>37</sup> Long-term irregular migrants are entitled to access free legal aid provided by the state pursuant to Section 3 of the Act no. 327/2005 Coll. under the conditions stipulated therein. They are entitled to access legal aid in asylum matters, in administrative expulsion procedure and in detention procedure (in these matters also in the course of proceedings before a court in</p>	<p>Conditions under which CLA's services can be accessed are the same for irregular migrants, legal migrants and Slovak citizens. The Centre does not check migration status of the persons seeking legal aid or of the persons appearing for consultation (legal advice).</p>

<sup>36</sup> In case a TCN detained pursuant to the Act on Residence of Foreigners is placed in a PDCF, the PDCF shall immediately instruct them on the possibility to request free legal aid. Then, it is up to the TCN whether they wish to use this possibility. Source: Guidelines for procedures concerning administrative expulsion of foreigners, staying of third-country national in the territory of the SR, assisted voluntary returns and detention of third-country nationals. Annex to the Order no. 25/2019 of the Director of BBFP PFP.

<sup>37</sup> Guidelines for procedures concerning administrative expulsion of foreigners, staying of third-country national in the territory of the SR, assisted voluntary returns and detention of third-country nationals. Annex to the Order no. 25/2019 of the Director of BBFP PFP.

			<p><i>administrative proceedings), and to access legal aid in the course of proceedings before Slovak courts provided they are in the territory of the SR in civil law matters, commercial law matters, labour law matters, family law matters, in administrative judiciary and in these matters also in the course of proceedings before the Constitutional Court of the SR (in these matters legal aid in the course of proceedings before a court is provided to all natural persons within the territory of the SR). The abovementioned is laid down in legislation (Act no. 327/2005 Coll.) and the responsible authority shall be the Centre for Legal Aid as a state organisation financed from the budget of the Ministry of Justice of the SR (more about this also in Q 18).<sup>38</sup></i></p> <p><i>Free legal aid and advisory and consultation activities more comprehensive than the services provided by the Centre for Legal Aid (CLA) are provided to TCNs in PDCFs mainly by the non-governmental organisation Human Rights League within the scope of projects described more in Q7b, even though these are primarily aimed at asylum seekers placed in PDCFs or provided pro bono.<sup>39</sup></i></p>	
<b>Other?</b>				<b>Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/></b>
<b>Are any other rights relevant to mention here? Please describe</b>	Y	Discretionary	<p><i>Apart from other supplementary services, the non-governmental organisation SHC provides social and psychological guidance and organizes leisure time activities, provides supplementary material assistance and, if necessary, also translation and interpretation services for TCNs in PDCFs within the scope of its KOMPAS III project (see also Q24).</i></p>	<p><i>TCNs are limited by the possibilities of the project under which the psychological and social guidance is provided in PDCFs. As they are not detained, other persons, whether the citizens of the SR or legal migrants, have more options to access free or even paid services in this field available for them.</i></p>

<sup>38</sup> CLA Questionnaire of 7 October 2020.

<sup>39</sup> Structured interview with Human Rights League, 4 November 2020.

**Table 4: Rights and services available to long-term irregularly staying migrants who have been issued a return decision**

*Type of stay or status as identified in Q2 and/or Q3: **Status of 'remaining'**<sup>40</sup> (explained in detail in Q 3 in the part concerning a written confirmation of a suspension of the decision on administrative expulsion)*

Type of service	Service provided ? (Y/N)	Is the provision of service <b>mandatory or discretionary</b> ? <sup>41</sup>	Brief description  Please consider for each type of services the long-term irregular migrants are entitled or have access to:  i. Does this access stem from national law or practice? Does it stem from local (regional, municipal) rules or practice?  ii. Which authorities are competent to provide access to services? Please indicate if access is provided by other entities (NGO, charities, private entities, etc) as service providers on behalf of the national or local authorities?	<b>Please briefly assess and explain</b> if the rights and access to services are more limited, same or more favourable than those of legal migrants or of nationals?
<b>Accommodation</b>				<b>Less</b> <input checked="" type="checkbox"/>   <b>Same</b> <input type="checkbox"/>   <b>More</b> <input type="checkbox"/>
<b>Accommodation</b>  <i>If yes, please briefly describe</i>	N	NA	<i>The vulnerable nature of the situation of long-term irregular migrants holding the status of 'remaining' (under the Act on Residence of Foreigners they are not entitled to work or conduct business activities), as well as frequent lack of valid ID documents<sup>42</sup> and the resulting lack of financial means in principle prevent the long-term irregular migrants from using accommodation services offered on commercial basis (e.g. hotels or rented accommodation). Under the Act on Residence of Foreigners, an accommodation provider, i.e. for instance a hotel, a shelter, etc, shall be obliged to report the presence of each foreigner accommodated in the facility, for which they require the foreigner's ID document.</i>	
<b>Special accommodation facilities (i.e. shelter for</b>	Y	Discretionary	<i>In principle, they can take advantage of services provided by low-threshold accommodation facilities that are operated by local or regional</i>	

<sup>40</sup> The status of 'remaining' is also granted to those TCNs on whom, pursuant to Section 89 par. 1 of the Act on Residence of Foreigners, a duty to report their place of residence or pay a warranty deposit (the so-called alternative to detention) instead of their detention has been imposed.

<sup>41</sup> For example, in some cases a service can be accessed but the costs must be met by the individual rather than the State/national authorities.

<sup>42</sup> Pursuant to the Act on Residence of Foreigners Sec. 74, par. 2a) and possibly b), the Police department issues a foreigners' passport to a TCN which primary aim is the departure from and return to the SR. Information from BBFP PFP from 23 November 2020.

<b>victims of violence, children etc.)</b> <i>If yes, please briefly describe</i>			<i>self-governments<sup>43</sup> or by non-profit organisations or various church authorities. These facilities are also obliged to check ID documents and report the stay of foreigners, but their operators often do not know how to proceed in case of people without valid documents and they allow or tolerate their accommodation, <sup>44</sup> since they are often dealing with homeless people who frequently also lack their ID papers anyway.</i>	
<b>Other forms of accommodation or shelter or specialised centre</b>	<i>N</i>	<i>NA</i>	<i>NA</i>	
<b>Healthcare</b>				<b>Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/></b>
<b>Emergency healthcare</b> <i>If yes please describe, as this notion can be understood in a large or restrictive way</i>	<i>Y</i>	<i>Mandatory</i>	<i>Provided under the Constitution of the SR<sup>45</sup>, which, in its Article 40, stipulates that everyone shall have the right to protection of his or her health; as well as on the basis of Act no. 576/2004 on Healthcare<sup>46</sup>, where emergency healthcare is defined as healthcare provided to a person in case of a sudden change of their health which represents imminent risk for their life or some of the vital functions; which can pose serious threat to their health in case medical care is not provided quickly; which causes a person to feel sudden and unbearable pain or sudden changes of their behaviour and acting under the influence of which the person represents immediate danger for themselves or their surroundings. Healthcare provided during childbirth is also considered emergency healthcare. Furthermore, emergency healthcare includes medical examination of a person designated as a source of a rapidly spreading and life-threatening infection and diagnostics and treatment of a person with a rapidly spreading and life-threatening infection. Emergency healthcare also includes urgent transportation of a person into a healthcare facility, urgent transportation of a person between healthcare facilities, urgent transportation of a donor and receiver of human organs intended for transplantation, urgent transportation of healthcare professionals carrying out activities related to the procurement of a human organ and urgent transportation of human</i>	<i>Emergency healthcare is provided to all persons in the territory of the SR irrespective of their status.</i>

<sup>43</sup> Pursuant to Act no. 448/2008 Coll. on Social Services

<sup>44</sup> City of Banská Bystrica questionnaire of 7 October 2020. Structured interview with SHC, 8 October 2020. Information provided by IOM.

<sup>45</sup> Act no. 460/1992, Art. 40

<sup>46</sup> Act no. 576/2004 Coll. on Healthcare, Healthcare Related Services and on changes and amendments to some acts

			<p><i>organs intended for transplantation. Urgent transportation shall also mean transportation of a person whose health condition requires the provision of medical care in course of such transportation.</i></p> <p><i>Responsible for the provision of emergency healthcare are all healthcare professionals and healthcare facilities.</i></p>	
<p><b>Basic medical care</b></p> <p><i>If yes, please briefly describe</i></p>	N	NA	<p><i>Other than emergency healthcare could only be provided to these persons if they held commercial health insurance paid for from their own resources. With respect to the lack of valid ID documents in case of this category of people, as well as due to the costs of commercial healthcare insurance, it is unlikely that these TCNs could afford to purchase such coverage (as they are not entitled to work or conduct business activities during their stay in the SR). In case they were able to secure such insurance for themselves, the scope of healthcare services would depend on the coverage paid for within the particular commercial insurance plan.</i></p> <p><i>TCNs holding the status of 'remaining' are not entitled to public health insurance.</i></p>	
<p><b>Specialised care</b></p> <p><i>If yes, please briefly describe</i></p>	N	NA	<p><i>Only in case they held a commercial health insurance which could also cover specialised care.</i></p>	
<p><b>Other healthcare services</b></p> <p><i>If yes, please briefly describe</i></p>	Y	Discretionary	<p><i>The non-governmental organisation SHC provides emergency healthcare to TCNs released from PDCFs for the maximum period of 60 days after their release within the scope of its KOMPAS III project (see also Q24). The assistance is primarily aimed at vulnerable persons.</i></p>	
<b>Social assistance</b>				Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/>

<p><b>Are long-term irregularly staying migrants entitled to receive social benefits?</b><sup>47</sup></p> <p><i>If yes, please briefly describe what these benefits are</i></p>	Y	Mandatory (only some types of social support) <sup>48</sup>	<p>TCNs holding the status of 'remaining' shall be entitled to:</p> <ul style="list-style-type: none"> <li>- subsidy for the support of humanitarian aid<sup>49</sup> in case the 'remaining' status was granted due to obstacles to administrative expulsion;</li> <li>- material need assistance (provided they are not serving a term of imprisonment, in custody or detained)<sup>50</sup></li> <li>- Operational Programme Food Aid and Material Assistance<sup>51</sup></li> </ul>	<p>A variety of social benefits are available for Slovak citizens and legal migrants (e.g. based on their migration status) but the TCNs holding the status of 'remaining' only have the described social assistance options.</p>
<b>Employment</b>				<b>Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/></b>
<p><b>Are there circumstances in your MS where long-term irregularly staying migrants are entitled to access to the labour market?</b></p>	N	NA	<p>Based on the Act on Residence of Foreigners, TCNs holding the status of 'remaining' are not allowed to conduct business activities in the SR or enter into labour relations.</p>	

<sup>47</sup> Please consider the definition of 'core benefits' as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum - income support, assistance in the case of illness, or pregnancy, and parental assistance.

<sup>48</sup> MoLSAF SR questionnaire of 14 October 2020.

<sup>49</sup> A subsidy for humanitarian aid can be granted within the meaning of Act 544/2010 Coll. on Subsidies to an applicant who is a natural person in a situation of life crisis or in an exceptionally adverse social situation. Such situation may include, in particular, consequences of natural disasters, loss of the main wage earner, serious disease or injury, loss of income at the time of pandemics, etc. Prior to the provision of this subsidy, the competent Office of Labour, Social Affairs and Family shall examine the social circumstances of the applicant. The subsidy is provided as a one-off benefit in the maximum amount of €800.

<sup>50</sup> Material need is a situation when the household income does not reach the subsistence minimum amount and the members of the household are not capable of or cannot secure or increase their income: through their own work, exercise of property rights or other property-related rights, or by setting up a claim. The material need assistance shall mean: Material Need Benefit, Protecting Allowance, Activation Allowance, Allowance for a Dependent Child, Housing Allowance. The Material Need Benefit amount shall be: €66.30 per month for one person; €126.20 per month for one person with 1 to 4 children; €115.30 per month for two persons without children; €172.60 per month for two persons with 1 to 4 children; €184.30 per month for one person with more than 4 children; and €232.60 per month to two persons with more than 4 children. Material Need Assistance and a Special Allowance is provided by Offices of Labour, Social Affairs and Family and financed from the state budget. A one-off benefit in material need is provided by municipal offices and financed from municipal budgets. Source: MoLSAF SR questionnaire of 14 October 2020 and [www.employment.gov.sk](http://www.employment.gov.sk) (consulted on 19 October 2020).

<sup>51</sup> Operational Programme Food Aid and Material Assistance in Slovak Republic was ratified by the implementing decision of the European Commission no. CCI 2014SK05FMOP001 of 11 December 2014. Assistance is to be implemented in programming period 2014 – 2020 through four actions: provision of food and hygienic packages to selected groups of material need assistance beneficiaries; provision of hot meals to homeless people; and the distribution of donated food in order to prevent excess food waste. For the purpose of this programme, asking for a hot meal is a sufficient criterion and the origin, stay or basic identification data are not examined. Source: Information provided by MoLSAF SR of 14 October 2020 and [www.employment.gov.sk](http://www.employment.gov.sk) (consulted on 19 October 2020).

<b><i>If yes, please describe any specific conditions attached to their employment.</i></b>				
<b>Education</b>				<b>Less <input type="checkbox"/>   Same <input checked="" type="checkbox"/>   More <input type="checkbox"/></b>
<b>Do (long-term irregular migrant) children have access to compulsory education?</b> <b><i>If yes, please briefly describe access.</i></b>	Y	Mandatory	<i>Children of foreigners granted residence permit in the territory of the SR, including unaccompanied minors (Section 146 of the Act no. 245/2008 on Education and Training) shall be provided education and training, accommodation and meals in schools under the same conditions as citizens of the SR, which means that at public schools (but not at private or church schools) they can study free of charge and they are lent basic study literature free of charge. In order to eliminate language barriers at elementary and secondary schools, basic and extension state language courses are provided for children of foreigners. In Slovakia, compulsory school attendance lasts ten years and pupils complete it by finishing the academic year in which a pupil reached the age of 16 years at the latest.</i>	
<b>Are adult long-term irregularly staying migrants entitled to participate in educational programmes and/or professional training?</b> <b><i>If yes, what types of education and under which conditions?</i></b>	N	NA	NA	
<b>Legal aid or assistance</b>				<b>Less <input type="checkbox"/>   Same <input checked="" type="checkbox"/>   More <input type="checkbox"/></b>
<b>Do long-term irregular migrants have access to legal aid or assistance type of services?</b> <b><i>If yes, please briefly enumerate and explain</i></b>	Y	Mandatory as well as discretionary	<i>Long-term irregular migrants are entitled to access free legal aid provided by the state pursuant to Section 3 of the Act no. 327/2005 Coll. under the conditions stipulated therein. They are entitled to access legal aid in asylum matters, in administrative expulsion procedure and in detention procedure (in these matters also in the course of proceedings before a court in administrative proceedings), and to access legal aid in the course of proceedings before Slovak courts provided they are in the territory of the SR, in civil law matters, commercial law</i>	<i>Conditions under which CLA's services can be accessed are the same for irregular migrants, legal migrants and Slovak citizens. The Centre does not check migration status of the persons seeking legal aid or of the persons</i>

			<p><i>matters, labour law matters, family law matters, in administrative judiciary and in these matters also in the course of proceedings before the Constitutional Court of the SR (in these matters legal aid in the course of proceedings before a court is provided to all natural persons within the territory of the SR). The abovementioned is laid down in legislation (Act no. 327/2005 Coll.) and the responsible authority shall be the Centre for Legal Aid as a state organisation financed from the budget of the Ministry of Justice of the SR (more about this also in Q 18).<sup>52</sup></i></p> <p><i>Even TCNs holding the status of 'remaining' can request assistance from non-governmental organisations such as SHL, Human Rights League or Mareena, as well as the IOM's Migration Information Centre, where they will be provided basic advice and guidance.</i></p> <p><i>However, only Human Rights League provides more comprehensive legal advisory services as a pro bono activity.<sup>53</sup></i></p>	<p><i>appearing for consultation (legal advice).</i></p>
<b>Other?</b>				<b>Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/></b>
<b>Are any other rights relevant to mention here? Please describe</b>	Y	<i>Discretionary</i>	<p><i>The non-governmental organisation SHC, within its KOMPAS III project, provides TCNs released from PDCFs up until 60 days from the date of release (i.e. persons holding the status of 'remaining') assistance with the following, e.g., looking for accommodation (as mentioned above, this mainly includes low-threshold accommodation facilities or shelters), provision of foodstuffs, material assistance, reimbursement of travel costs or notary's fees necessary for legalisation of one's stay in the territory of the SR. The assistance is primarily aimed at vulnerable persons.</i></p>	

<sup>52</sup> CLA Questionnaire of 7 October 2020.

<sup>53</sup> Structured interview with Human Rights League, 4 November 2020.

**Table 5: Rights and services available to long-term irregularly staying migrants who have been issued a return decision**

*Type of stay or status as identified in Q2 and/or Q3: tolerated residence<sup>54</sup>*

Type of service	Service provided ? (Y/N)	Is the provision of service <b>mandatory or discretionary</b> ? <sup>55</sup>	Brief description Please consider for each type of services the long-term irregular migrants are entitled or have access to:  i. Does this access stem from national law or practice? Does it stem from local (regional, municipal) rules or practice?  ii. Which authorities are competent to provide access to services? Please indicate if access is provided by other entities (NGO, charities, private entities, etc) as service providers on behalf of the national or local authorities?	<b>Please briefly assess and explain</b> if the rights and access to services are more limited, same or more favourable than those of legal migrants or of nationals?
<b>Accommodation</b>				<b>Less</b> <input checked="" type="checkbox"/>   <b>Same</b> <input type="checkbox"/>   <b>More</b> <input type="checkbox"/>
<b>Accommodation</b>  <i>If yes, please briefly describe</i>	N	NA		
<b>Special accommodation facilities (i.e. shelter for victims of violence, children etc.)</b>  <i>If yes, please briefly describe</i>	Y (some types)	Mandatory (in some types)	<p><i>If tolerated residence was granted due to the reason that the case concerns a minor person found in the Slovak Republic territory (Section 58 par. 1(a) of the Act on Residence of Foreigners), i.e. it concerns an unaccompanied minor, they are provided accommodation in a Children and Family Centre specialized to cater for unaccompanied minors.</i></p> <p><i>If tolerated residence was granted due to the reason that the case concerns a person who is the victim of human trafficking (Section 58 par. 1(c) of the Act on Residence of Foreigners), the person shall be provided an appropriate and safe accommodation, e.g. in a specialised facility, apartment or low-threshold shelter under the Provision of support</i></p>	

<sup>54</sup> Tolerated residence may be granted to any third-country national who meets the conditions for its grant, not only to a TCN who was issued a return decision, but whose return cannot be enforced for legal or practical reasons. Until 1 May 2018, when the amended version of the Act on Residence of Foreigners (No. 108/2018) entered into force, tolerated residence was granted to TCNs in case of whom obstacles to administrative expulsion existed and where leaving the country was not possible and detention was not purposeful. These two types of tolerated residence were replaced by the abovementioned amendment by the ‘remaining’ status. See also Table 4.

<sup>55</sup> For example, in some cases a service can be accessed but the costs must be met by the individual rather than the State/national authorities.

			<p>and protection to victims of human trafficking programme provided that person decides to join the Programme.</p> <p>If the case concerns a person who was illegally employed under particularly exploitative working conditions (Section 58 par. 2 of the Act on Residence of Foreigners), that person shall be entitled to material need assistance which includes Housing Allowance.<sup>56</sup></p>	
<b>Other forms of accommodation or shelter or specialised centre</b>	N	NA	NA	
<b>Healthcare</b>				<b>Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/></b>
<p><b>Emergency healthcare</b></p> <p><b><i>If yes please describe, as this notion can be understood in a large or restrictive way</i></b></p>	Y	Mandatory	<p>Provided under the Constitution of the SR<sup>57</sup> which, in Article 40, stipulates that everyone shall have the right to protection of his or her health; as well as on the basis of Act no.576/2004 on Healthcare<sup>58</sup>, where emergency healthcare is defined as healthcare provided to a person in case of a sudden change of their health which represents imminent risk for their life or some of the vital functions; which can pose serious threat to their health in case medical care is not provided quickly; which causes a person to feel sudden and unbearable pain or sudden changes of their behaviour and acting under the influence of which the person represents immediate danger for themselves or their surroundings. Healthcare provided during childbirth is also considered emergency healthcare. Furthermore, emergency healthcare includes medical examination of a person designated as a source of a rapidly spreading and life-threatening infection and diagnostics and treatment of a person with a rapidly spreading and life-threatening infection. Emergency healthcare also includes urgent transportation of a person into a healthcare facility, urgent transportation of a person between healthcare facilities, urgent transportation of a donor and receiver of human organs intended for transplantation, urgent transportation of healthcare professionals carrying out activities related to the</p>	<p>Emergency healthcare is provided to all persons in the territory of the SR irrespective of their status.</p>

<sup>56</sup> Act No. 417/2013 Coll. on Material Need Assistance. One-member households receive Housing Allowance in the amount of €55.80 and households with more members, or in case of a flat rented by several persons, the housing allowance is provided in the amount of €89.20.

<sup>57</sup> Act no. 460/1992, Art. 40

<sup>58</sup> Act no. 576/2004 Coll. on Healthcare, Healthcare Related Services and on changes and amendments to some acts

			<p><i>procurement of a human organ and urgent transportation of human organs intended for transplantation. Urgent transportation shall also mean transportation of a person whose health condition requires the provision of medical care in course of such transportation.</i></p> <p><i>Responsible for the provision of emergency healthcare are all healthcare professionals and healthcare facilities.</i></p>	
<p><b>Basic medical care</b> <i>If yes, please briefly describe</i></p>	<p><i>Y (under certain circumstances)</i></p>	<p><i>Mandatory</i></p>	<p><i>Other than emergency healthcare can only be provided to these persons if they are employed, as this implies obligation to be covered by compulsory public health insurance.</i></p> <p><i>Pursuant to the Act on Health Insurance<sup>59</sup>, UAMs are holders of public health insurance.</i></p> <p><i>In such case, authorities responsible for the provision of healthcare are all healthcare professionals and healthcare facilities contracted by relevant health insurance companies to execute public health insurance.</i></p> <p><i>In case of human trafficking victims, the assistance is provided via the Provision of support and protection to victims of human trafficking programme if the victim decides to join the Programme. This concerns mainly the provision of medical examination in the shortest period possible, in justifiable cases immediately, but also a consequent provision of healthcare.</i></p>	<p><i>Services provided under the public health insurance are the same for all persons covered by it under same conditions, irrespective of their status.</i></p>
<p><b>Specialised care</b> <i>If yes, please briefly describe</i></p>	<p><i>N</i></p>	<p><i>NA</i></p>	<p><i>Only in case they hold commercial health insurance which could also cover specialised care. Holders of public health insurance only within the scope of this insurance, provided specialised care is provided under this scope.</i></p>	
<p><b>Other healthcare services</b> <i>If yes, please briefly describe</i></p>	<p><i>N</i></p>	<p><i>NA</i></p>		
<p><b>Social assistance</b></p>				<p><b>Less</b> <input checked="" type="checkbox"/>   <b>Same</b> <input type="checkbox"/>   <b>More</b> <input type="checkbox"/></p>

<sup>59</sup> Act no. 580/2008 Coll. on Health Insurance , Section 3 par. 3(e)

<p><b>Are long-term irregularly staying migrants entitled to receive social benefits?<sup>60</sup></b></p> <p><b><i>If yes, please briefly describe what these benefits are</i></b></p>	Y	Mandatory	<p><i>TCNs with tolerated residence shall be entitled to:</i></p> <ul style="list-style-type: none"> <li>- <i>material need assistance (provided they are not serving a term of imprisonment, in custody or detained)<sup>61</sup></i></li> <li>- <i>Operational Programme Food Aid and Material Assistance<sup>62</sup></i></li> </ul> <p><i>It is also important to state that in case of tolerated residence being granted to unaccompanied minors the UAMs are placed in state institutional care. In case of victims of human trafficking assistance is also provided through the Provision of support and protection to victims of human trafficking programme provided they decide to join the Programme (e.g. as social assistance, social counselling).</i></p> <p><i>At the same time, TCNs granted tolerated residence are entitled to enter into an employment relationship, which can provide access to further forms of social assistance.</i></p>	
<b>Employment</b>				<b>Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/></b>
<p><b>Are there circumstances in your MS where long-term irregularly staying migrants</b></p>	Y	Discretionary (depends on the TCN)	<p><i>Based on the Act on Residence of Foreigners in connection with Act no. 5/2004 Coll. on Employment Services and on changes and amendments to some acts as amended, those entitled to enter into an employment relationship are those foreigners</i></p>	

<sup>60</sup> Please consider the definition of ‘core benefits’ as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum - income support, assistance in the case of illness, or pregnancy, and parental assistance.

<sup>61</sup> Material need is a situation when the household income does not reach the subsistence minimum amount and the members of the household are not capable of or cannot secure or increase their income: through their own work, exercise of property rights or other property-related rights, or by setting up a claim. The material need assistance shall mean: Material Need Benefit, Protecting Allowance, Activation Allowance, Allowance for a Dependent Child, Housing Allowance. The Material Need Benefit amount shall be: €66.30 per month for one person; €126.20 per month for one person with 1 to 4 children; €115.30 per month for two persons without children; €172.60 per month for two persons with 1 to 4 children; €184.30 per month for one person with more than 4 children; and €232.60 per month to two persons with more than 4 children. Material Need Assistance and a Special Allowance is provided by Offices of Labour, Social Affairs and Family and financed from the state budget. A one-off benefit in material need is provided by municipal offices and financed from municipal budgets. Source: MoLSAF SR questionnaire of 14 October 2020 and [www.employment.gov.sk](http://www.employment.gov.sk) (consulted on 19 October 2020).

<sup>62</sup> Operational Programme Food Aid and Material Assistance in Slovak Republic was ratified by the implementing decision of the European Commission no. CCI 2014SK05FMOP001 of 11 December 2014. Assistance is to be implemented in programming period 2014 – 2020 through four actions: provision of food and hygienic packages to selected groups of material need assistance beneficiaries; provision of hot meals to homeless people; and the distribution of donated food in order to prevent excess food waste. For the purpose of this programme, asking for a hot meal is a sufficient criterion and the origin, stay or basic identification data are not examined. Source: Information provided by MoLSAF SR of 14 October 2020 and [www.employment.gov.sk](http://www.employment.gov.sk) (consulted on 19 October 2020).

<p><b>are entitled to access to the labour market?</b></p> <p><i>If yes, please describe any specific conditions attached to their employment.</i></p>			<p>a) whose tolerated residence permit was extended on the grounds of them being a victim of human trafficking;  b) who were granted tolerated residence so that their private and family life be respected; or  c) who were granted tolerated residence on the grounds of their having been illegally employed under particularly exploitative working conditions, if their presence is necessary for the purpose of criminal proceedings. However, they are not allowed to conduct business activities.</p> <p>Prior to 1 May 2018, TCNs who are now granted the status of 'remaining' were granted tolerated residence on the grounds of the existence of obstacles to administrative expulsion or due to the fact that their leaving the country was not possible and their detention was not purposeful. However, TCNs granted this type of tolerated residence were not allowed to be employed or conduct business activities.</p>	
<b>Education</b>				Less <input type="checkbox"/>   Same <input checked="" type="checkbox"/>   More <input type="checkbox"/>
<p><b>Do (long-term irregular migrant) children have access to compulsory education?</b></p> <p><i>If yes, please briefly describe access.</i></p>	Y	Mandatory	<p>Children of foreigners granted residence permit in the territory of the SR, including unaccompanied minors (Section 146 of the Act no. 245/2008 on Education and Training) shall be provided education and training, accommodation and meals in schools under the same conditions as citizens of the SR, which means that at public schools (but not at private or church schools) they can study free of charge and they are lent basic study literature free of charge. In order to eliminate language barriers at elementary and secondary schools, basic and extension state language courses are provided for children of foreigners. In Slovakia, compulsory school attendance lasts ten years and pupils complete it by finishing the academic year in which a pupil reached the age of 16 years at the latest.</p>	
<p><b>Are adult long-term irregularly staying migrants entitled to participate in educational programmes and/or professional training?</b></p>	N	NA	NA	

<b><i>If yes, what types of education and under which conditions?</i></b>				
<b>Legal aid or assistance</b>				<b>Less <input type="checkbox"/>   Same <input checked="" type="checkbox"/>   More <input type="checkbox"/></b>
<b>Do long-term irregular migrants have access to legal aid or assistance type of services?</b>  <b><i>If yes, please briefly enumerate and explain</i></b>	Y	<i>Mandatory as well as discretionary</i>	<i>Pursuant to Section 3 of the Act no. 327/2005 Coll. and under the conditions stipulated therein foreigners shall have the right to access free legal aid provided by the Centre for Legal Aid under the same conditions as citizens of the SR. They are entitled to access legal aid in asylum matters, in administrative expulsion procedure and in detention procedure (in these matters also in the course of proceedings before a court in administrative proceedings), and to access legal aid in the course of proceedings before Slovak courts provided they are in the territory of the SR, in civil law matters, commercial law matters, labour law matters, family law matters, in administrative judiciary and in these matters also in the course of proceedings before the Constitutional Court of the SR (in these matters legal aid in the course of proceedings before a court is provided to all natural persons within the territory of the SR). (more about this also in Q 18).</i>  <i>Legal and social guidance for foreigners granted tolerated residence in the territory of the SR is provided by the IOM's Migration Information Centre, which is financed from the EU Home Affairs Funds.<sup>63</sup></i>  <i>The non-governmental organisation Human Rights League also provides legal advice and guidance for TCNs as part of their activities.</i>	<i>Conditions under which CLA's services can be accessed are the same for irregular migrants, legal migrants and Slovak citizens. The Centre does not check migration status of the persons seeking legal aid or of the persons appearing for consultation (legal advice).</i>
<b>Other?</b>				<b>Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/></b>

<sup>63</sup> The MIC is the counselling centre of the International Organization for Migration (IOM). Since 2006, it has been providing foreigners with services helping them with social, economic and cultural integration in Slovakia. It provides a comprehensive integration, social and vocational counselling to foreigners, promotes their inclusion into the labour market, organizes Open Slovak Language Courses and courses of social and cultural orientation, provides them with important information about life in Slovakia, and supports the community life of foreigners.

<p><b>Are any other rights relevant to mention here? Please describe</b></p>	<p>Y</p>	<p><i>Discretionary</i></p>	<p><i>IOM's Migration Information Centre, which is financed from the EU Home Affairs Funds<sup>64</sup>, provides comprehensive services to foreigners granted tolerated residence in the territory of the SR.</i></p> <p><i>Various types of guidance, advice and services targeting TCNs are also provided by non-governmental organisations such as the Human Rights League, SHC, Mareena, and the like.</i></p> <p><i>In case of human trafficking victims the assistance is also provided through the Provision of support and protection to victims of human trafficking programme if the victim decides to join the Programme (e.g. interpretation, legal counselling, Slovak language course, information about tolerated residence in the SR, etc.).</i></p>	
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<sup>64</sup> The MIC is the counselling centre of the International Organization for Migration (IOM). Since 2006, it has been providing foreigners with services helping them with social, economic and cultural integration in Slovakia. It provides a comprehensive integration, social and vocational counselling to foreigners, promotes their inclusion into the labour market, organizes Open Slovak Language Courses and courses of social and cultural orientation, provides them with important information about life in Slovakia, and supports the community life of foreigners.

Q11. What services are accessible to other long-term irregular migrants who were not issued a return decision, and remained unknown to migration authorities (see answer to Q1)?

Table 6: Services available to long-term irregularly staying migrants who were unknown to migration authorities (e.g. overstayers, irregular entry)				
<i>Type of stay or status as identified in Q2 and/or Q3: [all relevant statuses are described in Tables 3, 4 and 5 above. Information in Table 6 below concern <b>TCNs who were unknown to authorities, i.e. who are holding irregular status and were not issued any valid documents verifying their status by Slovak authorities]</b></i>				
Type of service	Service provided ? (Y/N)	Is the provision of service <b>mandatory or discretionary</b> ? <sup>65</sup>	Brief description Please consider for each type of services the long-term irregular migrants are entitled or have access to:  i. Does this access stem from national law or practice? Does it stem from local (regional, municipal) rules or practice? ii. Which authorities are competent to provide access to services? Please indicate if access is provided by other entities (NGO, charities, private entities, etc) as service providers on behalf of the national or local authorities?	Please briefly assess and explain if the rights and access to services are more limited, same or more favourable than those of legal migrants or of nationals?
<b>Accommodation</b>				<b>Less</b> <input checked="" type="checkbox"/>   <b>Same</b> <input type="checkbox"/>   <b>More</b> <input type="checkbox"/>
<b>Accommodation</b> <i>If yes, please briefly describe</i>	N	NA	<i>The vulnerable nature of the situation of long-term irregular migrants, as well as the lack of valid ID documents in principle prevent them from using accommodation services provided on commercial basis (e.g. hotels or rented accommodation). Under the Act on Residence of Foreigners, an accommodation provider, i.e. for instance a hotel, a shelter, etc., shall be obliged to report the presence of each foreigner accommodated in the facility, for which they require the foreigner's ID document</i>	
<b>Special accommodation facilities (i.e. shelter for</b>	Y	Discretionary	<i>In principle, they can take advantage of services provided by low-threshold accommodation facilities that are operated by local or regional</i>	

<sup>65</sup> For example, in some cases a service can be accessed but the costs must be met by the individual rather than the State/national authorities.

<b>victims of violence, children etc.)</b> <i>If yes, please briefly describe</i>			<i>self-governments<sup>66</sup> or by non-profit organisations or various church authorities. These facilities are also obliged to check ID documents and report the stay of foreigners, but their operators often do not know how to proceed in case of people without valid documents and they allow or tolerate their accommodation<sup>67</sup>, since they are often dealing with homeless people who also lack their ID papers anyway.</i>	
<b>Other forms of accommodation or shelter or specialised centre</b>	<i>N</i>	<i>NA</i>		
<b>Healthcare</b>				<b>Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/></b>
<b>Emergency healthcare</b> <i>If yes please describe, as this notion can be understood in a large or restrictive way</i>	<i>Y</i>	<i>Mandatory</i>	<i>Provided under the Constitution of the SR<sup>68</sup> which, in Article 40, stipulates that everyone shall have the right to protection of his or her health; as well as on the basis of Act no.576/2004 on Healthcare<sup>69</sup>, where emergency healthcare is defined as healthcare provided to a person in case of a sudden change of their health which represents imminent risk for their life or some of the vital functions; which can pose serious threat to their health in case medical care is not provided quickly; which causes a person to feel sudden and unbearable pain or sudden changes of their behaviour and acting under the influence of which the person represents immediate danger for themselves or their surroundings. Healthcare provided during childbirth is also considered emergency healthcare. Furthermore, emergency healthcare includes medical examination of a person designated as a source of a rapidly spreading and life-threatening infection and diagnostics and treatment of a person with a rapidly spreading and life-threatening infection. Emergency healthcare also includes urgent transportation of a person into a healthcare facility, urgent transportation of a person between healthcare facilities, urgent transportation of a donor and receiver of human organs intended for transplantation, urgent transportation of healthcare professionals carrying out activities related to the procurement of a human organ and urgent transportation of human</i>	<i>Emergency healthcare is provided to all persons in the territory of the SR irrespective of their status.</i>

<sup>66</sup> Pursuant to Act no. 448/2008 Coll. on Social Services

<sup>67</sup> City of Banská Bystrica questionnaire of 7 October 2020. Structured interview with SHC, 8 October 2020. IOM's experience.

<sup>68</sup> Act no. 460/1992, Art. 40

<sup>69</sup> Act no. 576/2004 Coll. on Healthcare, Healthcare Related Services and on changes and amendments to some acts

			<p><i>organs intended for transplantation. Urgent transportation shall also mean transportation of a person whose health condition requires the provision of medical care in course of such transportation.</i></p> <p><i>Responsible for the provision of emergency healthcare are all healthcare professionals and healthcare facilities.</i></p>	
<p><b>Basic medical care</b></p> <p><i>If yes, please briefly describe</i></p>	<i>N</i>	<i>NA</i>	<p><i>Other than emergency healthcare could only be provided to these persons if they held commercial health insurance paid for from their own resources. However, such insurance is conditioned by the production of valid documents. If they were able to secure such insurance for themselves, the scope of healthcare services would depend on the scope of coverage paid for within the particular commercial insurance plan. The extent to which commercial health insurance companies are capable of assessing irregularity of the TCNs' stay or residence is questionable, though.</i></p>	
<p><b>Specialised care</b></p> <p><i>If yes, please briefly describe</i></p>	<i>N</i>	<i>NA</i>		
<p><b>Other healthcare services</b></p> <p><i>If yes, please briefly describe</i></p>	<i>N</i>	<i>NA</i>		
<b>Social assistance</b>				<b>Less</b> <input checked="" type="checkbox"/>   <b>Same</b> <input type="checkbox"/>   <b>More</b> <input type="checkbox"/>

<p><b>Are long-term irregularly staying migrants entitled to receive social benefits?<sup>70</sup></b></p> <p><i>If yes, please briefly describe what these benefits are</i></p>	N	NA	<p><i>TCNs unknown to authorities could only access the support provided under the Operational Programme Food Aid and Material Assistance<sup>71</sup></i></p>	
<b>Employment</b>				<b>Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/></b>
<p><b>Are there circumstances in your MS where long-term irregularly staying migrants are entitled to access to the labour market?</b></p> <p><i>If yes, please describe any specific conditions attached to their employment.</i></p>	N	NA		
<b>Education</b>				<b>Less <input checked="" type="checkbox"/>   Same <input type="checkbox"/>   More <input type="checkbox"/></b>
<p><b>Do (long-term irregular migrant) children have access to compulsory education?</b></p> <p><i>If yes, please briefly describe access.</i></p>	N	NA	<p><i>Pursuant to Section 146 par. 2 of the Act no. 245/2008 on Education and Training (School Act) education and training, accommodation and meals in schools shall be provided to children of foreigners granted a residence permit in the territory of the SR. If a child has not been granted legal residence in the territory of the SR, the school legislation does not apply to them. The issue concerning the right to education of a child residing in the territory of the SR who has not been granted residence or stay permit would have to be decided by a court.<sup>72</sup></i></p>	

<sup>70</sup> Please consider the definition of ‘core benefits’ as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum - income support, assistance in the case of illness, or pregnancy, and parental assistance.

<sup>71</sup> Operational Programme Food Aid and Material Assistance in Slovak Republic was ratified by the implementing decision of the European Commission no. CCI 2014SK05FMOP001 of 11 December 2014. Assistance is to be implemented in programming period 2014 – 2020 through four actions: provision of food and hygienic packages to selected groups of material need assistance beneficiaries; provision of hot meals to homeless people; and the distribution of donated food in order to prevent excess food waste. For the purpose of this programme, asking for a hot meal is a sufficient criterion and the origin, stay or basic identification data are not examined. Source: Information provided by MoLSAF SR on 14 October 2020 and [www.employment.gov.sk](http://www.employment.gov.sk) (consulted on 19 October 2020).

<sup>72</sup> Information provided by the Ministry of Education, Science, Research and Sport of the SR of 6 November 2020.

			<i>However, in practice it can happen that a TCN's child started compulsory school attendance at the time when their parent(s) resided in the territory of the SR legally. If their legal residence permit expired during the course of the academic year, it is questionable whether the school can find out about this fact immediately.<sup>73</sup></i>	
<b>Are adult long-term irregularly staying migrants entitled to participate in educational programmes and/or professional training?</b>  <i>If yes, what types of education and under which conditions?</i>	N	NA		
<b>Legal aid or assistance</b>				<b>Less <input type="checkbox"/>   Same <input checked="" type="checkbox"/>   More <input type="checkbox"/></b>
<b>Do long-term irregular migrants have access to legal aid or assistance type of services?</b>  <i>If yes, please briefly enumerate and explain</i>	Y	Mandatory /Discretionary	<i>Pursuant to Section 3 of the Act no. 327/2005 Coll. and under the conditions stipulated therein foreigners shall have the right to access free legal aid provided by the Centre for Legal Aid under the same conditions as citizens of the SR. They are entitled to access legal aid in asylum matters, in administrative expulsion procedure and in detention procedure (in these matters also in the course of proceedings before a court in administrative proceedings), and to access legal aid in the course of proceedings before Slovak courts provided they are in the territory of the SR, in civil law matters, commercial law matters, labour law matters, family law matters, in administrative judiciary and in these matters also in the course of proceedings before the Constitutional Court of the SR (in these matters legal aid in the course of proceedings before a court is provided to all natural persons within the territory of the SR). (more about this also in Q 18).  <i>Only the Human Rights League provides a more comprehensive legal advisory services as a pro bono activity.<sup>74</sup></i></i>	<i>Conditions under which CLA's services can be accessed are the same for irregular migrants, legal migrants and Slovak citizens. The Centre does not check migration status of the persons seeking legal aid or of the persons appearing for consultation (legal advice).</i>

<sup>73</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>74</sup> Structured interview with Human Rights League, 4 November 2020.

**Other?**

**Less  | Same  | More**

**Are any other rights relevant to mention here? Please describe**

N

NA

Q12. Do authorities (at central or local level) need to check the migration status (or the lack thereof) before providing access to a service (e.g. accommodation, healthcare, education), or are there 'firewall provisions' allowing persons concerned to access services without fear of being apprehended?

Possibility to access services without the checking of the migration status depends on the service concerned. In some cases the checking of the migration status and legality of residence is linked with the actual provision of the service, e.g. access to social assistance; in other cases the migration status is not checked as it is not mandated by law and neither does it result from practical application (e.g. access to legal advice provided by the Centre for Legal Assistance<sup>75</sup> or by non-profit organisations<sup>76</sup>), or the documents are checked but the authorities in charge are not always capable of assessing regularity of person's residence or stay (e.g. accommodation providers in case of their obligation to report a foreigner's stay pursuant to the Act on Residence of Foreigners). If accommodation providers are not sure about the regularity of the residence or stay of the accommodated person, they can contact a Foreign Police Department in order to check their status, but they are under no obligation to do so.<sup>77</sup>

Checking of the status and the ability to assess its regularity in case of healthcare provision or access to education is also questionable. As concerns healthcare, each person, regardless of their situation or status, shall be entitled to emergency healthcare.<sup>78</sup> Other types of healthcare depend on the health insurance held by a person. Health insurance can be concluded on a commercial basis, which requires production of valid documents, or – in case of public health insurance – it could have been concluded at the time when a person was residing in the territory of the SR legally. In such case, it may be difficult for the authorities in charge of the provision of healthcare to immediately assess the regularity (or lack thereof) of residence of the person concerned. Similar case may occur in the field of education, when a child started their school attendance at the time when their residence or stay in the territory of the SR was legal, yet their legal residence permit expired during the course of their school attendance.<sup>79</sup> In case of doubts concerning individual cases the Ministry of Education, Science, Research and Sport of the SR can approach the Ministry of Interior of the SR in order to check the child's residence permit.<sup>80</sup>

Q13. Is cooperation to return to the country of origin an obligation if one of the services are provided (under Q10 and Q11) to the long-term irregularly staying migrant?

- Yes  
 No

If yes, please explain the applicable procedures and how it is carried out.

Q14. Are there any specific projects and/or (ad-hoc) programmes implemented at local level (by municipalities, regions, etc) in your (Member) State specifically targeting the access to services for long-term irregularly staying migrants?

- Yes  
 No

If yes, please provide examples (e.g. which stakeholders are involved in the design, implementation and effects of the projects or programmes, any evaluations conducted on the projects or programmes and any key learning points identified)

In general, there are no specific projects and/or ad-hoc programmes implemented at local level targeting the access to services for irregularly staying migrants in the SR.

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<sup>75</sup> CLA questionnaire of 7 October 2020.

<sup>76</sup> Structured interview with SHC, 8 October 2020.

<sup>77</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>78</sup> Act No. 460/1992 (Constitution of the SR), Art. 40.

<sup>79</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>80</sup> Ministry of Education, Science, Research and Sport of the SR questionnaire of 6 November 2020.

Activities implemented by some non-profit organisations (see Q7b) – such as, e.g., the KapaCity project – focus on the integration of third-country nationals at a local level, where the issue of irregular migration might be discussed, yet irregular migration as such does not represent their primary project activity.

Q15a. With the exception of organisations acting as a service provider for public authorities (Q10 and Q11), are other entities or organisations (e.g. NGOs, charities, other private entities) involved in providing or facilitating access to services for long term irregularly staying migrants?

Yes

No

If yes, please specify which entities, what type of involvement and service (e.g. accommodation, health care, counselling) are they involved in and, which type of funding used to support their activities.

With the exception of the KOMPAS III project implemented by Slovak Humanitarian Council described in Q7b and Q24 herein Slovak non-profit organisations, charities and private organisations do not, in general, provide comprehensive services for irregular migrants.

As stated in Q7b and Q12 herein, legal and social advice and guidance can be provided by a number of organisations operating at the central level (Centre for Legal Aid) by non-profit organisations (Human Rights League, Mareena, Marginal) or by international organisations (IOM) within the context of the services they primarily provide to legally residing foreigners. Human Rights League also provides comprehensive legal advice for detained foreigners and foreigners appealing against the decision on administrative expulsion and detention (for more information see Q7b). HRL provides legal advice to TCNs holding the status of 'remaining' and to irregular migrants as a pro bono service.<sup>81</sup>

With regard to accommodation, especially in large cities there are several charitable organisations (civic associations, church organisations) that provide accommodation services, often connected with the provision of basic advice and guidance in the field of social, legal and work orientation for homeless people. Long-term irregularly staying migrants who find themselves in a difficult life situation can make use of their services.<sup>82</sup>

Q15b. Do these entities or organisations need to report on the migration status (or the lack thereof) before providing access to a service (e.g. accommodation, healthcare, education), or are there 'firewall provisions' allowing persons concerned to access services without fear of being apprehended?

See Q12.

Q16. If a long-term irregular migrant is a victim of or witness to an offence (e.g. labour exploitation, domestic violence, etc), are there any available 'safe reporting'<sup>83</sup> channels between the TCN concerned and public authorities to report the incident without divulging their situation of illegal stay?

Yes

No

If yes, please briefly describe the channel/reporting mechanism:

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<sup>81</sup> Structured interview with Human Rights League, 4 November 2020.

<sup>82</sup> In general, it is difficult to assess whether these charities provide their services also to irregularly staying migrants, as they do not check the status of their clients. The information is drawn from the long-term experience of working with this group of people. Structured interview with SHC, 8 October 2020 and information drawn from IOM's activities implemented under the assisted voluntary returns programmes and from activities implemented by the MIC.

<sup>83</sup> <https://www.compas.ox.ac.uk/project/safe-reporting-of-crime-for-victims-and-witnesses-with-irregular-migration-status-in-the-usa-and-europe/>

If an offence is reported, the authority in charge is obliged to verify the identity of the person reporting the crime or offence. However, it is difficult to say whether they also check the regularity of the person's residence at the same time and, in case they find out the person is staying in the SR irregularly, whether they notify other authorities of this fact.<sup>84</sup>

Similarly to citizens of the SR, foreigners (including irregularly staying migrants) may e.g. use the option allowing for anonymous reporting of work exploitation to the National Labour Inspectorate. However, foreigners are afraid to do so as they fear possible consequences.<sup>85</sup> Foreigners can also file a motion to the Public Defender of Rights.

In case a person's irregular status is divulged, there are several options they can use to stay in the SR legally, yet each case is different. E.g. if the case concerns a victim of human trafficking or work exploitation, they can be granted tolerated residence (see Q2). In case of a decision on administrative expulsion, the period for person's travel can be extended if their presence in the SR is necessary for the purpose of further proceedings; or an entry ban may not be placed in order for the foreigner to be able to return to the SR if needed.<sup>86</sup>

In case of other categories of victims/witnesses of an offence the residence of such persons is not specifically regulated. At the same time it is also to be stated that in case of return of these persons, assisted voluntary return would be preferred or return decision without entry ban, etc. To this moment the BBFP PFP did not have such cases.<sup>87</sup>

Q17. Are there any assisted voluntary return (AVR) projects or programmes implemented in your (Member) State that also specifically foresee support to access to services (in the host (Member) State, thus before departure) for long-term irregular migrants?

Yes

No

If yes, please describe:

In the SR, the Assisted Voluntary Return and Reintegration Programme (AVRR) is implemented by IOM<sup>88</sup>. Within the scope of the programme, long-term irregularly staying migrants interested in assisted voluntary return are provided return advice. The guidance also includes information on other organisations providing support services aimed at this group of people (e.g. charities, hostels, organisations providing legal and social advice and counselling, etc.). Services provided under the AVRR programme (such as healthcare, accommodation, meals, transportation, clothes, etc.) are provided only to the TCNs registered in the programme who have been approved by MoI SR and the provision of the abovementioned is limited to the period of a maximum of 2 weeks before the return.

Q18. Please provide if applicable illustrative (and anonymised) case(s) of measures adopted by authorities (a) at central, (b) regional and (c) local level (e.g. municipalities) to provide access to services (e.g. accommodation, health, etc) – up to two examples.

Since the authorities at the national, regional and local levels are not significantly active in the field of provision of services for irregularly staying migrants, it is not possible to provide illustrative examples from this field.

One of the examples that can be mentioned at the national level, however, is the existence and operation of the Centre for Legal Aid (CLA)<sup>89</sup>. Unlike non-governmental or international organisations providing legal advice to foreigners, the Centre for Legal Aid is a state organisation which receives stable funding (which,

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<sup>84</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>85</sup> Structured interview with Human Rights League, 4 November 2020.

<sup>86</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>87</sup> Information from the BBFP PFP of 23 November 2020.

<sup>88</sup> The AVRR programme is financed from the EU's Home Affairs Funds.

<sup>89</sup> CLA questionnaire of 7 October 2020.

oftentimes, is not a case of NGOs whose operation is funded from various projects). Moreover, the CLA's operation covers the entire territory of the SR.

### Background

The Centre for Legal Aid is a state budgetary organisation established by the Ministry of Justice of the SR pursuant to Act No. 327/2005 Coll. on the Provision of Legal Aid to People in Material Need. The mission of the Centre is to provide legal aid to persons who, due to the lack of financial means, are unable to use other legal services. In accordance with said Act, long-term irregularly staying migrants are also entitled to access free legal aid provided by the state through the Centre. They can access legal aid in asylum matters, in administrative expulsion procedure and in detention procedure (in these matters also in the course of proceedings before a court in administrative proceedings), and can access legal aid in the course of proceedings before Slovak courts provided they are in the territory of the SR, in civil law matters, commercial law matters, labour law matters, family law matters, in administrative judiciary and in these matters also in the course of proceedings before the Constitutional Court of the SR (in these matters legal aid in the course of proceedings before a court is provided to all natural persons within the territory of the SR).

CLA can be contacted in person, by phone or by electronic means. CLA provides its services in 15 offices throughout Slovakia and in 28 consultation places working under CLA branch offices.

### Process

Following the placement of a TCN in a PDCF the PDCF shall immediately instruct the TCN on the possibility to request legal aid provided free of charge. If a TCN declares their interest in seeking free legal aid, they fill in an individual application form that the PDCF shall send to the competent branch office of the Centre for Legal Aid.<sup>90</sup> Practical experience with irregularly staying migrants placed in a PDCF's usage of free legal aid shows that they approach the CLA mainly in matters concerning detention, matters concerning administrative expulsion and, less frequently, in matters concerning decisions on transfer to another Member State and decisions on asylum. Third-country nationals placed in a PDCF do not approach the CLA in other legal matters.

Third-country nationals who are not detained contact the CLA rather rarely (in civil law, labour law and family law matters) and the CLA does not have statistical details on the distribution of applicants between citizens of the SR and other applicants for legal aid, as CLA does not check the migration status of the applicants for legal aid or persons appearing for consultation.

Q19. Did any change happen in relation to access of long-term irregular migrants to social services as described above, as consequence of measures taken in response to the COVID-19 pandemic?

Yes

No

If yes, please describe by referring to all relevant aspects and services covered in Q10-Q17.

Just as for Slovak nationals, the COVID-19 pandemics and the declaration of the extraordinary situation by the government of the SR limited access to many services and, especially at the beginning of the pandemics, also to the information in foreign languages even for third-country nationals, whether they resided in the SR legally or irregularly. It was due to altered or shortened working hours of some offices, adherence to hygiene measures, access to disinfectants, protective equipment and drinking water; or due to the prohibition of gatherings, restriction of accommodation services, etc.

Irregular migrants who were issued a return decision but whose return could not be enforced and their detention continues, have been and continue to be provided supplementary services in the PDCFs by SHC, albeit to a limited extent, within the scope of their KOMPAS III project (see also Q24). Due to hygiene-related measures, a number of mass services and activities (such as music therapy, art therapy, leisure-

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<sup>90</sup> Guidelines for procedures concerning administrative expulsion of foreigners, staying of third-country national in the territory of the SR, assisted voluntary returns and detention of third-country nationals. Annex to the Order no. 25/2019 of the Director of BBFP PFP.

time activities) were cancelled. All TCNs in PDCFs were compulsorily tested and in case of positive test results were placed in quarantine in a separate section of the facility. Thus, they lost access to the provided services and, at the same time, facilities were struggling with their capacity limits.<sup>91</sup> Returns were mostly not executed during this period, or they were executed only to a limited extent due to the pandemic situation and the availability of transportation.

Q20. Is there any research available in your (Member) State on irregular migrants accessing rights and services listed above (conducted by relevant authorities, academics, NGOs, etc.)?

Yes

No

If yes, please describe the main findings and conclusions of such research and provide a full reference to the source.

In general, authors in the SR do not pay significant attention to the issues concerning irregular migrants and their access to various services. Some of the issues were partially studied and discussed in previous EMN studies.<sup>92</sup> In 2011, Human Rights League published a publication entitled Detention and Alternatives to Detention.<sup>93</sup>

In June 2020, Human Rights League published a publication entitled 'Analysis of the Situation and Recommendations in Relation to the Setting-up of Asylum, Migration and Integration Policies of the Slovak Republic', which, inter alia, discusses irregular migration and detention.<sup>94</sup>

In cooperation with partner organisations from Central European countries (Poland, Czech Republic, Romania, Hungary) the Human Rights League implemented a project advocating for the rights of migrants without documents in Central Europe (2014/2015) aimed at the protection of this group of migrants from work exploitation and increasing awareness of their rights resulting from the EU Directive providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (2009/52/EC).<sup>95</sup>

## Chapter 2.2: Cooperation mechanism between central, regional and local authorities

Q21. Were specific measures (legislative, administrative, practices) implemented by central authorities to help regional and local authorities to anticipate and/or to respond to the situation of long-term irregular migrants in their territories?

As stated in the answers to Q5a and Q5b, the majority of contacts between central and regional/local authorities happen as needed and mostly in the form of advice concerning employment or education.

Monitoring and follow-up approaches of long-term irregularly staying migrants

Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)

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<sup>91</sup> Structured interview with BBFP PFP, 9 October 2020 and with SHC, 8 October 2020.

<sup>92</sup> E.g. Good practices in the return and reintegration of irregular migrants: Member States' entry bans policy & use of readmission agreements between Member States and third countries (2014), The Use of Detention and Alternatives to Detention on the Context of Immigration Policies (2014), The effectiveness of return in EU Member States (2017). Available at [www.emn.sk](http://www.emn.sk) (downloaded on 13 October 2020).

<sup>93</sup> Available at [https://www.hrl.sk/assets/files/obsah/74-zaistenie\\_a\\_alternativy\\_k\\_zaisteniu\\_v\\_slovenskej\\_republike\\_-\\_narodna\\_sprava.pdf](https://www.hrl.sk/assets/files/obsah/74-zaistenie_a_alternativy_k_zaisteniu_v_slovenskej_republike_-_narodna_sprava.pdf) (downloaded on 13 October 2020).

<sup>94</sup> The analysis was prepared within the scope of the Migration Compass project. The non-repayable contribution was provided from the OP Effective Public Administration from the European Social Fund. Available at [https://www.hrl.sk/assets/files/obsah/961-Analyza\\_ju%CC%81n%202020.pdf](https://www.hrl.sk/assets/files/obsah/961-Analyza_ju%CC%81n%202020.pdf) (consulted on 5 November 2020).

<sup>95</sup> Within the project a publication Unprotected Migrant workers in an irregular situation in Central Europe (December 2014) was published. Available at [http://www.old.hrl.sk/sites/default/files/files\\_downloads/unprotected\\_report.pdf](http://www.old.hrl.sk/sites/default/files/files_downloads/unprotected_report.pdf) (consulted on 5 November 2020). The project was financed from the European Programme for Integration and Migration (EPIM).

As necessary, BBFP PFP organizes preventive training sessions on the topic of irregular migration prevention in regions and cities with registry offices and labour offices.<sup>96</sup>

BBFP PFP continually throughout several years organises educational activities for the employees working with the issues of return policies in the form of trainings which secure their better knowledge about the topic. The training is aimed at police officers and employees of those state organisations who are fulfilling the tasks and are part of the return policies implementation in the SR.

BBFP PFP realizes regular educational activities of police officers within the MoI SR system. The police officers also have opportunity to participate in educational activities offered by "external" entities, e.g. trainings organised by non-governmental organisations, Civil Services Institute, etc.

Information exchange between central and local authorities about long-term irregularly staying migrants

Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)

BBFP PFP organizes operational meetings with local authorities where various migration related questions resulting from legislation and application practice and, if necessary, even concerning irregular migration, are discussed.

Guidance or any other form of established practice made available to regional and local authorities on how to assist long-term irregularly staying migrants (e.g. training sessions, guidance (e.g. written instructions or guidelines), other)

Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)

See the answers above as well as answers to questions Q5a and Q5b.

Other measure(s)

Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)

Within the scope of its activities, BBFP PFP cooperates with the Ministry of Foreign and European Affairs of the SR in the process of seconding staff to SR's Representative offices abroad and in the training of seconded employees. They also cooperate at the level of SR's police attachés serving abroad and at the level of seconded staff and attachés of other countries serving in the SR. Cooperation also exists within the scope of local Schengen cooperation and with EU Member States' immigration officers operating in various countries of origin.

Q22. Do local authorities in your Member State participate in horizontal cooperation networks (of local authorities) to develop good practices and/or programmes to address the situation of long-term irregular migrants?

Yes

No

If yes, please provide examples.

Apart from the projects described above in Q5a and Q5b which are implemented within the context of foreigners' integration in the SR, there is no cooperation at the horizontal level between local authorities providing services to irregular migrants.

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<sup>96</sup> Structured interview with BBFP PFP, 9 October 2020.

Q23. Were there any studies or research published on the effectiveness of any of the measures mentioned in Q21?

Yes

No

If yes, please mention references and brief description of the studies or piece of research:

### Chapter 2.3: Good practices

Q24. What are good practices regarding policy measures concerning long-term irregularly staying migrants?

For each good practice mentioned, please describe a) for whom it is a good practice (policy-maker, organisation, other stakeholders), b) why it is considered a good practice and c) whether the assessment that this is a good practice is based on input from experts (and if so, which experts), surveys, evaluation reports, focus groups or from other sources (please indicate which ones).

Providing services (housing, health care, other measures)

Please provide a brief explanation:

The abovementioned (Q7b and Q15a) project KOMPAS III<sup>97</sup> implemented by Slovak Humanitarian Council can be quoted as a good practice concerning provision of comprehensive services to irregularly staying migrants, as no other authority or organisation in the SR provides services to irregular migrants of such comprehensive nature and scope.<sup>98</sup> The project, which is financed from the EU Home Affairs Funds, follows successful projects KOMPAS and KOMPAS II. The objective of the project is to provide comprehensive services for clients and secure equal conditions in BBFP PFP facilities throughout the SR, as well as to improve living conditions of third-country nationals placed in various BBFP facilities in the SR, with special focus on vulnerable groups. Within the scope of project activities, third-country nationals in PDCFs are provided social and psychological counselling, leisure time activities and educational activities (Slovak Language courses and courses of cultural orientation), supplementary healthcare and material assistance, as well as interpreting and translation services. As stated in Q7b, since 2013 assistance was extended to cover third-country nationals released from the PDCFs for the maximum of 60 days after the release, with special focus on vulnerable groups. Assistance to these persons is provided in the extent of basic care (securing of essentials needs for dignified life such as sanitary items, emergency healthcare, meals allowance, provision of financial means to cover administrative costs, securing of low-threshold accommodation, travel costs, field social care) and always on the basis of a consultation and approval of the PDCF. Services are available for all foreigners placed in PDCFs or released therefrom, i.e. they are not limited to those whose return cannot be enforced due to legal or practical obstacles.

It is also important to mention the activities of the Human Rights League (described in more details in Q7b), which has been working with irregular migrants over the long-term and which provides comprehensive legal aid and assistance to this group mainly in the form of a pro-bono activity.<sup>99</sup> The Human Rights League has already prepared a number of analyses and papers concerning these issues and, in particular, concerning TCNs placed in detention (for more information see Q20).

Exchanging information between national and local authorities on long-term irregularly staying migrants

Please provide a brief explanation:

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<sup>97</sup> Kompas and Kompas II projects, financed from the EU funds, were finished. Implementation of the Kompas III project, financed from the EU Home Affairs Funds, continues until 31 December 2021.

<sup>98</sup> Own assessment based on the data and information collected during the preparation of this study.

<sup>99</sup> Structured interview with Human Rights League, 4 November 2020.

See answers to questions Q5a, Q5b and Q21.

Exchanging information between Member States?

Please provide a brief explanation:

In practice, exchanging of information also exists within the scope of local Schengen cooperation as well as the cooperation with EU Member States' immigration officers operating in various countries of origin of irregular migrants, which proved useful. Other means of efficient cooperation are, e.g., joint contact points and cooperation through police attachés.<sup>100</sup>

Other good practices

Please provide a brief explanation:

### Chapter 3: Responses to end long term irregular stay

Q25. What options are available in your Member State to end long-term illegal stay of third-country nationals (e.g. return, legalisation of stay, other)? Which are prioritized?

Options to end long-term irregular stays by third-country nationals are described in detail in Q2. All types of legal residences which it is possible to obtain in the case of irregular status are granted under very specific conditions. That is the reason why the return is usually the most feasible solution to irregular status.<sup>101</sup>

#### Chapter 3.1: Measures to promote return or discourage illegal stay

Q26. What measures to promote return or discourage illegal stay are in place in your Member (State) specifically for long term irregular migrants (as identified in this study)? e.g. restricted access to mainstream services or specific programmes geared towards third-country nationals in a prolonged situation of irregular stay, specific cooperation measures between national, regional and local authorities.

*Please note that various measures directly related to the enforcement of a return decision such as AVR programmes or other incentives to return were already captured in numerous other EMN studies and discussions at expert group level and are not the primary focus of this study.*

Given that irregular migrants in the SR do not have access to any services which would in any way help them in their vulnerable status, this fact itself is a strong factor to search for a solution in the form of return. In the case of third-country nationals who were granted the status of "remaining" (see Q2), the status itself is set up in such a way as to motivate return.<sup>102</sup> Third-country nationals with this status cannot be employed in the SR and engage in entrepreneurship. They do not have access to public health insurance and often lack needed documents<sup>103</sup>. They can apply for temporary residence or permanent residence (apart from exceptions stated in the Q2) only outside of the territory of the SR at a Diplomatic mission of the SR abroad.

Q27a. What are the good practices as identified in your Member States to promote return or discourage illegal stay for long term irregular migrants identified in your (Member) State?

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<sup>100</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>101</sup> Structured interview with BBFP PFP, 9 October 2020. Experience of SHC (structured interview, 8 October 2020) and IOM MIC with work with third-country nationals.

<sup>102</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>103</sup> Pursuant to the Act on Residence of Foreigners Sec. 74, par. 2a) and possibly b), the Police department issues a foreigners' passport to a TCN which primary aim is the departure from and return to the SR. Information from BBFP PFP from 23 November 2020.

For each good practice mentioned, please describe a) for whom it is a good practice (policy-maker, organisation, migrant, other stakeholders), b) why it is considered a good practice and c) what is the source of the statement – e.g. based on input from experts, surveys, evaluation reports or from other sources (please indicate which ones).

See answer to Q26. However, the SR does not proactively discourage irregular migration or actively promote return to the country of origin.

Q27b. Is there any research available in your (Member) State on promotion of return or the discouragement illegal stay (conducted by relevant authorities, academics, NGOs, etc.)?

Yes

No

If yes, please describe the main findings and conclusions of such research and provide a full reference to the source.

Q28. Please provide illustrative example(s) of responses and/or good practices to promote return or discourage illegal stay adopted by authorities (a) at central level, (b) regional and/or (c) at local level (e.g. municipalities) – up to two examples, in the form of anonymised case studies of individual long-term irregularly staying migrants):

NA

## Chapter 3.2: Legalisation of stay open specifically to long-term irregular migrants

Q29. Are options for legalisation of stay open specifically to long-term irregular migrants in your Member (State)? E.g. a specific status/residence permit for legalising the stay of long-term irregularly staying migrants (see section 1)? specific schemes established at national level for legalising the stay of long-term irregular migrants? Or do such options form part of the system of residence permits available to all migrants?

If yes, please briefly explain the criteria considered (e.g. integration in labour market, length of stay, language skills, absence of criminal record, social and family ties, having entered the country as a minor):

In SR, there are no specific schemes for legalising long-term irregular migrants' residence. The options for legalisation are described in Q2 but the statuses might be also granted to other third-country nationals who meet the conditions.

Q30a. What are the good practices as identified in your Member States with regards to legalisation of stay identified in your (Member) State?

For each good practice mentioned, please describe a) for whom it is a good practice (policy-maker, national or local authority, organisation, migrant, other stakeholders), b) why it is considered a good practice and c) what is the source of the statement – e.g. based on input from experts, surveys, evaluation reports or from other sources (please indicate which ones).

Tolerated residence granted to a person who is a minor found in the territory of the SR (Act on Residence of Foreigners, Sec. 58 Par 1 a)) can be considered (when meeting criteria) an example of regularisation or stabilisation of residence status. If such minor with tolerated residence is present in the territory of the SR for at least three years during which they studied in the SR, they can be granted permanent residence for five years (Act on Residence of Foreigners, Sec. 45a Par. 1 c)).

Q30b. Is there any research available in your (Member) State on practices with regards to options for legalisation of stay available specifically to irregular migrants (conducted by relevant authorities, academics, NGOs, etc.)?

Yes

No

If yes, please describe the main findings and conclusions of such research and provide a full reference to the source.

Q31. Please provide illustrative example(s) of responses and good practices related to the legalisation of stay measures adopted by authorities (a) at central level, (b) regional and/or (c) at local level (e.g. municipalities) – up to two examples, in the form of anonymised case studies of individual long-term irregularly staying migrants):

NA

### Chapter 3.3: Measures taken in response to the COVID-19 pandemic

Q32. Were measures taken to end the situation of long-term irregular migrants specifically in connection to the responses to and impacts of the COVID-19 (e.g. legalisation of migrant workers employed in specific sectors)? Please describe.

The SR did not introduce any specific measures to legalize the residence of irregular migrants with respect to the COVID-19 pandemic.

Act No. 73/2020 Coll. which, among other things, amended the Act on Residence of Foreigners regulated the residence of foreigners so that the foreigners who cannot leave the country due to the state of crisis and their residence expires are protected against consequences of their unauthorized residence (see Q8).

### Chapter 4: Challenges and future actions

Q33. What are the challenges regarding policy measures concerning long-term irregularly staying migrants?

For each challenge mentioned, please describe a) for whom it is a challenge (policy-maker, organisation, other stakeholders), b) why it is considered a challenge and c) whether the assessment that this is a challenge is based on input from experts (and if so, which experts), surveys, evaluation reports, focus groups or from other sources (please indicate which ones).

Providing services (e.g. housing, health care, etc)

Please provide a brief explanation:

The institutions and organisations with whom this study was consulted identified several challenges related to the provision of services to long-term irregular migrants. Those were especially the following:

- the provision of services to the persons with the status of "remaining". As described in Table 4, nearly no support services are provided to these TCNs from the state<sup>104</sup> which puts them in an extremely vulnerable position. Apart from the SHC individual project financed from EU Funds (see more in Q7b and Q24) other non-governmental organisation or local / regional level authorities does not concern themselves in a comprehensive way with service provision to this group of migrants.<sup>105</sup> The following was identified as the most problematic regarding the status of these persons:

a) access to healthcare and the possibility to become a person insured with public health insurance. An introduction of the option to provide health insurance to such persons is not planned as there are worries that such insurance and insurance card might be abused in other EU countries.<sup>106</sup> On the other hand, direct payment for healthcare costs when helping persons with the status of "remaining" by a non-governmental organization within a project (only within 60 days following the day of leaving PDCF) seems very costly,

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<sup>104</sup> The BBFP PFP prefers these activities to be primarily financed from EU funds also bearing in mind the low number of persons with such status.

<sup>105</sup> Structured interview with the SHC, 8 October 2020. Consultations within IOM (IOM MIC and the AVRR programme).

<sup>106</sup> Structured interview with BBFP PFP, 9 October 2020.

non-systemic and in the case of procedures which are very expensive from long-term perspective also impossible to execute. TCNs with the status of "remaining" cannot enter employment or engage in entrepreneurship, so also the access to commercial insurance is rather limited.

b) access to accommodation. Based on the Act on Residence of Foreigners, the person providing accommodation is obliged to report accommodating a foreigner and register them for which they need identification document of the foreigner. In the case of persons with the status of "remaining", the access to accommodation is therefore very restricted and only a couple of charity low-cost accommodation hostels intended primarily for the homeless provide them with accommodation.<sup>107</sup>

c) the absence of regular valid documents onto which most of provided services (such as accommodation, social and health care) but also ordinary life processes (such as opening and accessing a bank account, buying a cellphone etc.) are dependent.<sup>108</sup>

d) no possibility to enter employment which further increases the vulnerability of such persons and their propensity to illegal work or work exploitation.<sup>109</sup>

- locally, the problem is perceived in a more comprehensive way and the following were identified as challenges: the absence of general methodical guidelines and procedures of working with this group of persons,<sup>110</sup> as well as subsequent refund of services which could be provided to such TCNs locally if they were not able to pay for them themselves<sup>111</sup>.

- the non-governmental sector identified as a challenge the insufficient functionality and availability of alternatives to detention for vulnerable persons and families with children especially with regard to access to accommodation and healthcare. There is no possibility of temporary placement of these persons e.g. to an accommodation facility run by the state.<sup>112</sup>

Challenges exchanging information and/or cooperation between national and local authorities on long-term irregularly staying migrants

Please provide a brief explanation:

The absence of a permanent platform for regular information exchange between central and local level authorities, situation monitoring and identification of problems were identified as major challenges.<sup>113</sup>

The awareness of the Foreign Police of the local situation regarding the residence and movements of foreigners is also absent as the Foreign Police Departments are located only in 13 Slovak cities and responsible for vast areas.<sup>114</sup>

Challenges exchanging information between Member States?

Please provide a brief explanation:

On the EU level, the disunified period for storing data on the mobility and residence of foreigners on national level in particular EU states is a challenge. As a result of personal data protection, most data is very quickly erased from databases and later when examining cases it is very difficult to obtain it anew. On EU level, a central registry for storing data on residence of foreigners is absent.<sup>115</sup>

Other challenges (e.g. other measures mentioned in chapter 3) Please provide a brief explanation:

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<sup>107</sup> Structured interview with the SHC, 8 October 2020.

<sup>108</sup> Structured interview with the Human Rights League, 4 November 2020.

<sup>109</sup> Structured interview with the Human Rights League, 4 November 2020.

<sup>110</sup> Questionnaire from the City of Banská Bystrica from 8 October 2020.

<sup>111</sup> Questionnaire from the City of Bratislava from 15 October 2020.

<sup>112</sup> Structured interview with the Human Rights League, 4 November 2020.

<sup>113</sup> Questionnaire from the City of Banská Bystrica from 8 October 2020 and from the Association of Self-governing Regions SK8 from 22 October 2020. Structured interview with BBFP PFP, 9 October 2020.

<sup>114</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>115</sup> Structured interview with BBFP PFP, 9 October 2020.

Locally, deaths of foreigners in the territory of a city was identified as a challenge. Information on how to proceed in such a case is lacking.<sup>116</sup>

The non-governmental sector identified as a challenge a long-term irregularity status of TCNs without citizenship and without a real possibility to regularize their status. The Human Rights League in this respect proposes to introduce a statelessness determination procedure which might help with the recognition also of irregular migrants as stateless persons. In this way they would have legal status, residence and rights stemming from the Convention relating to the Status of Stateless Persons. The existence of a procedure to duly examine whether a person is a stateless person and to grant them stateless person status would facilitate them in obtaining residence and work and improve their current situation of long-term vulnerability.<sup>117</sup>

**Q34. What are the challenges regarding policy measures concerning long-term irregularly staying migrants specifically linked to the reposes to and impacts of the COVID-19 pandemic?**

There were no challenges identified which would be related to long-term irregular migrants and policy measures concerning them during the COVID-19 pandemic. Challenges concerned especially the practical execution of returns (see Q35).

**Q35. What are the challenges of promoting return or discouraging illegal stay concerning long-term irregularly staying migrants? Please describe any additional challenges specifically linked to the reposes to and impacts of the COVID-19 pandemic?**

Challenges during the COVID-19 pandemic were related especially to the actual execution of returns. During the pandemic, forced returns were executed only if circumstances allowed. The execution of returns was influenced mainly by external factors such as cooperation with third countries in the process of return, availability of flights, measures adopted by the SR and third countries in order to mitigate COVID-19 spread.

Assisted voluntary returns were provided ad hoc and based on an individual situation of each person. They depended also on available transport (e.g. not enough flights) and the current situation in the SR, transit countries, and the country of destination.

**Q36. What are the challenges regarding the options for legalisation of stay available to long-term irregularly staying migrants? Please describe any additional challenges specifically linked to the reposes to and impacts of the COVID-19 pandemic?**

The options for legalisation of residence are described in Q2. In these cases (e.g. submission of residence application at territorially competent Foreign Police Department), long-term irregular migrants faced same restrictions as any other foreigners such as Foreign Police Departments working only in a limited regime (hours for public etc.). Currently, the applications are received only from clients who had booked themselves previously electronically, with the exception of applications in cases worthy of special consideration or for humanitarian reasons. When entering buildings of individual Departments, it is necessary to cover the face (use face mask) and allow themselves to be checked by Police employees.<sup>118</sup>

**Q37. According to (central and/or local) stakeholders in your (Member) State, what actions could be taken at EU level to support (Member) States to effectively cooperate and overcome the challenges faced in relation to long-term irregularly staying migrants?**

On the EU level, measures to make return policy more effective (while respecting human rights and dignity) would help.<sup>119</sup>

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<sup>116</sup> Questionnaire from the City of Banská Bystrica from 8 October 2020.

<sup>117</sup> Structured interview with the Human Rights League, 4 November 2020.

<sup>118</sup> <http://www.minv.sk/?uradne-hodiny-ocp-pz> (consulted on 3 November 2020) and <https://www.mic.iom.sk/sk/novinky/639-covid-19-opatrenia.html#OCP> (consulted on 3 November 2020).

<sup>119</sup> Structured interview with BBFP PFP, 9 October 2020.

Exchanging examples of best practices when dealing with the situation of long-term irregular migrants as well as co-funding of relevant measures in the provision of services to this group of persons form the part of the EU could be very helpful.<sup>120</sup>

## Chapter 5: Conclusions

Irregular migration has been relatively stable in the SR since 2015, i.e. for the last five years. Significant changes have not occurred even during migration situation in 2015 and 2016. The Slovak Republic is still mostly a transit country. The yearly average numbers of illegal state border crossings in this period of the year are around 300 persons. More irregular migrants are detected in the case of unauthorized residence in which the numbers account to approx. 2,500 persons a year.<sup>121</sup> Regarding irregular migration, attempts to abuse legal ways of entry into the SR are most often: purposeful obtaining residence for various purposes such as engaging in entrepreneurship, family reunification, study, marriages of convenience, opening fictional business entities, issuing invitations for foreigners and providing fictional certificates of university study in the SR.<sup>122</sup>

As mentioned before, given the relatively low numbers of long-term irregular migrants (primarily TCNs with the status of remaining), the issue of services provided to them is not a topic of political or legislative debate. Irregular migration and irregular migrants' status are a topic for the debate of only a very narrow circle of professionals active in non-governmental sector and cooperating with state administration authorities, especially with the Ministry of Interior of the SR. Regionally or locally, this issue is not addressed at all and only marginally occurs in the context of measures related to employment and integration of foreigners or to vulnerable groups. In general, the Slovak legislation is fully in line with the European legislation. At the same time the SR actively and continuously participates in solving the issue of irregular migration on European level.<sup>123</sup>

Long-term migrants have for a long time been in a very vulnerable position in the SR. Apart from exceptional cases in which they have the option to obtain tolerated or permanent residence, they mostly have the status of "remaining" in the SR which does not allow them to enter employment relations or start a business. These persons with the status of "remaining" do not have public health insurance so if needed their healthcare related costs could be covered only by commercial health insurance which, however, they cannot afford either financially or due to not having valid documents. Their access to social benefits, accommodation or education is also very restricted. The only service which is provided to them under equal conditions to those valid for Slovak citizens is the access to legal counselling through the Centre for Legal Aid. Counselling services, whether legal or social, are provided also by several non-profit organizations or the IOM. Locally, there are no specific activities or targeted services for this group of migrants. Based on the legislative conditions set up in this way, the status of long-term irregular migrants, and practical experience, the most feasible way to solve their situation and status is return to their country of origin.

Regarding the status of irregular migrants about whom the authorities do not know and their access to services, it is necessary to say that nearly all services (with the exception of the above mentioned legal counselling) depend on valid identification documents which means that irregular migrants are excluded from using any services whatsoever. In this regard it is also important to state that such irregular migrants are breaking the law and their situation should be solved within the national law.<sup>124</sup>

This vulnerable position of irregular migrants is connected to many challenges such as healthcare provision or obtaining common living needs which are not covered (with the exception of special situations) even by the central and local level authorities. Services of such nature are provided only by non-profit organisations and only in a limited way as the organisations have only limited funding e.g. from the EU funds within current active projects. Services provided to irregular migrants are not defined as target activities even in those EU funds which are directly focused on third-country nationals.

With the exception of unaccompanied minors studying at a school in the SR for at least 3 years, to whom permanent residence can be granted after the expiration of tolerated residence, the SR has no

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<sup>120</sup> Structured interview with the SHC, 8 October 2020.

<sup>121</sup> Statistical Overview of Legal and Illegal Migration in the Slovak Republic in 2015, 2016, 2017, 2018, 2019 and first half of 2020. Structured interview with BBFP PFP, 9 October 2020.

<sup>122</sup> Activity Report, Schengen Information System for 2015, 2016, 2017, 2018 a 2019. Available at <https://www.sis.gov.sk/pre-vas/sprava-o-cinnosti.html> (consulted on 21 October 2020).

<sup>123</sup> Information from BBFP PFP from 23 November 2020.

<sup>124</sup> Information from BBFP PFP from 23 November 2020.

regularization mechanisms in place for any category of irregular migrants. Irregular migrants (with several exceptions) cannot apply for temporary or permanent residence in the territory of the SR. They can apply for it only outside of the territory of the SR at a Diplomatic mission of the SR abroad.

When considering irregular migration, it is also necessary to account for the fact that these persons can be in situation of dependability, victims of human trafficking, forced labour or other illegal activity in which they did not arrive from their own will<sup>125</sup>. This only deepens the complexity of the irregular migration issue.

Given the above explained facts, return is only the only solution to the situation of a long-term irregular migrant. In SR, the assisted voluntary returns programme is very well established and functional. It offers the irregular migrants the option of returning safely and having reintegration assistance. The Police provides information on the AVR programme after detaining an irregular migrant in a PDCF but it is also available at the website and via other communication channels. However, the AVRR programme and available information do not aim to persuade migrants to return to their country of origin. The decision is in the hands of every single TCN.

This means that the SR has no mechanisms in place to promote returns or dissuade migrants from irregular migration.

From the national perspective, the SR considers these measures as sufficient and suitable for now. As for what is needed, the communication with other EU MS on storing data about migrants or the introduction of a Europe-wide database of granted residence for third-country nationals could be mentioned.<sup>126</sup>

On the local and regional level of the SR, there is no acute need to change current status as irregular migration is not perceived as a pressing problem.<sup>127</sup> This is the reason why it would be useful to have strategic materials, manuals and processes ready so that they would help self-governments with the situation, should it change.<sup>128</sup> It would also be helpful if central authorities raised the awareness of self-governments in order to be better prepared for potential challenges in this area in the future.<sup>129</sup>

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<sup>125</sup> Analysis of Situation and Recommendations concerning the Asylum, Migration, and Integration Policy in the SR, Human Rights League, Bratislava, 2020.

<sup>126</sup> Structured interview with BBFP PFP, 9 October 2020.

<sup>127</sup> Questionnaire from the City of Banská Bystrica 7 October 2020 and questionnaire from Bratislava Self-Governing Region from 15 October 2020.

<sup>128</sup> Questionnaire from the City of Banská Bystrica from 7 October 2020.

<sup>129</sup> Questionnaire from the Association of Self-governing Regions SK8 from 22 October 2020.