

Responses to long-term irregularly staying migrants: practices and challenges in Cyprus

EMN Study 2020

1 BACKGROUND AND RATIONALE FOR THE STUDY

Member States are confronted with the situation of third-country nationals who no longer or have never fulfilled the conditions of stay, who were denied a residence permit or who have exhausted all legal options against the enforcement of their return decision. The Return Directive (Directive 2008/115/EC) sets the obligation for Member States to issue a return decision for third-country nationals once it has been established that they are not eligible for legal stay.¹ This is aimed at reducing situations of legal uncertainty for third-country nationals, so that any third-country national physically present in a Member State should be either considered as legally staying – and enjoying a valid right to stay – or as illegally staying and be issued a return decision.²

However, in practice, a certain share of third-country nationals issued with a return decision do not leave the territory of Member States. National authorities might be unable to proceed with removals due to either legal or practical obstacles. Issuance of a return decision allows for a period of voluntary departure, however a third-country national could be unwilling to leave voluntarily. Forced return may be impossible to enforce without some level of co-operation from the third-country national. In other cases, national authorities postpone return to respect the principle of non-refoulement, individual circumstances or other practical reasons impeding the enforcement of a return decision.³ Additionally, there are cases of third-country nationals whose residence permits expire and renewal is not secured, or who for other reasons do not or no longer fulfil conditions for legal stay, and who were not issued a return decision for a variety of administrative and practical reasons. In some cases, third-country nationals may disappear from the supervision of the competent authorities involved. In other cases, migrant who entered illegally remained undetected by migration authorities.

¹ Article 6 of the Return Directive. The directive applies to all EU countries except Ireland, nevertheless the concepts covered by the study are also relevant to the Member State.

² European Commission, Return Handbook (section 1.2 'illegal stay').

For the purpose of this study, illegal stay and irregular stay (as used in the EMN Glossary) will be used interchangeably.

³ According to Article 9 of the Return Directive, Member States should postpone removal where it would infringe the respect of the principle of non-refoulement or where the return decision is reviewed by a competent national authority. Member States may postpone return by taking into account the specific individual circumstances of the third-country national or for practical reasons impeding removal (lack of identification of the third-country nationals or transport capacity).

These situations may result in long-term or protracted situations of illegal stay and legal uncertainty over several years, as well as deplorable living conditions.⁴ Examples include homelessness, (mental) health issues, addiction issues, falling victim to organised crime (i.e. labour and sexual exploitation) or involvement in crimes, all of which contribute to the detriment of the third-country national concerned, national governments and the communities in which irregular migrants reside.

In terms of practices, the actions of national governments, and local authorities (cities, regions) may be contradictory. Central authorities are responsible for achieving the objectives of the national migration policy, such as ensuring the prevention and fight against illegal stay and enforcement of return decisions. Local authorities (municipalities and regions) are at the forefront of the practical consequences of third-country nationals irregularly staying for a prolonged time and are confronted with challenges such as ensuring access to basic services and public order. Accordingly, complementarity or tension can result between policy objectives at the central level aimed at achieving the return of irregular migrants and the practical realities faced at the local level. That is, having to accommodate the presence of irregular migrants and provide basic services when return does not happen and when access to mainstream services is not legally possible due to their residence status. Ultimately, the applicable legal framework, demarcation of competences and institutional structure also play a role in the process of cooperation and communication between central authorities and municipalities.

Recent research was carried out by the City Initiative on Migrants with Irregular Status in Europe (C-MISE) examining policies and measures implemented in 11 cities across 10 Member States considering the applicable legal framework.⁵ It showed that cities' responses ranged from adopting policies aimed at discouraging irregular migrants from residing in their territories to adopting measures that include them in the provision of some municipal services.

While existing research offered some insights into approaches adopted by Member States towards long-term irregular migrants, policies and practical measures are changing rapidly and there is currently no recent and comprehensive EU-wide overview regarding this group of third-country nationals. This study aims to respond to this gap.

2 EU LEGAL AND POLICY CONTEXT

The return of illegally staying third-country nationals has been an important issue in the EU's policy agenda on migration over the past 20 years and has accentuated since 2015, as illustrated by the emphasis on enforcement of return in the European Agenda on Migration. There is little recent information available on the number of persons staying illegally in the EU Member States.⁶ Eurostat data provides only rough estimate of 'third-country nationals found to be illegally present' in the EU as it covers persons who are apprehended or otherwise come to the attention of national immigration authorities. Accordingly, not all irregularly staying migrants are included in these figures. In 2017, the European Commission (in its communication on the delivery of the European Agenda on Migration) estimated that around 1 million third-country nationals were irregularly staying in the EU. More specifically, extrapolating from statistics on

⁴ Refugee Law Initiative in cooperation with the Centre for International Criminal Justice (2016) *Undesirable and Unreturnable Migrants*. This research concerned excluded asylum seekers and other migrants suspected of serious criminality who cannot be removed. Available at: <https://cicj.org/wp-content/uploads/2016/09/Undesirable-and-Unreturnable-Full-report.pdf>.

⁵ Delvino, N. (2017) *European Cities and Migrants with Irregular Status: Municipal initiatives for the inclusion of irregular migrants in the provision of services*, Oxford: Centre on Migration, Policy and Society (COMPAS) - University of Oxford. Available at: <https://www.compas.ox.ac.uk/wp-content/uploads/City-Initiative-on-Migrants-with-Irregular-Status-in-Europe-CMISE-report-November-2017-FINAL.pdf>

⁶ A EU-wide research project on this topic carried out in 2008 found an estimate of around 3.8 million of persons were staying illegally in the EU ('Clandestino' project, <http://clandestino.eliamep.gr/wp-content/uploads/2010/03/clandestino-final-report-november-2009.pdf>)

the numbers of return decisions which could not be enforced (amounting on average to ca 60% out of 500 000 per year), one can assume that the issue concerns up to 300 000 migrants per year.⁷

In terms of the applicable legislative framework at EU level, the return of third-country nationals as set by the Return Directive is the relevant starting point for this study.⁸ The Return Directive lays down common EU standards on forced return and voluntary departure. It has a two-fold approach: on the one hand, it provides that Member States are obliged to issue return decisions to all third-country nationals staying irregularly on the territory of a Member State. On the other hand, it emphasises the importance of implementing return measures with full respect for the fundamental rights and freedoms and the dignity of the individual returnees, including the principle of ‘non-refoulement’. As a result, any return may only be carried out in compliance with EU and other international human rights’ guarantees.

The Return Directive provides a framework which imposes an obligation on Member States to issue a return decision to any third-country national illegally staying on their territory, unless there are compassionate, humanitarian reasons not to do so, or if there is a pending procedure for renewing a residence permit.⁹ The respect of this obligation aims at reducing situations of legal uncertainty for third-country nationals since they can be either considered as legally staying, and enjoying a valid right to stay, or illegally staying and subject to a return procedure.

The Directive provides several cases where Member States should or may postpone return of a third-country national. According to Article 9 of the Return Directive, Member States *should* postpone removal where it would infringe on the respect of the principle of non-refoulement or where the return decision is reviewed by a competent national authority. Member States *may* postpone return by taking into account the specific individual circumstances of the third-country national or practical reasons that impede removal (e.g. lack of identification of the third-country nationals or transport capacity).

While postponement of removal of irregular migrants is allowed under the Directive, the legal situation of this category of third-country nationals is only partially addressed.¹⁰ In cases of postponement of return, the Return Directive refers to a set of minimum basic rights and procedural guarantees for third-country nationals.¹¹ These ‘basic rights’ include family unity, emergency health care, basic education for minors and taking into account the needs of vulnerable persons.¹² In a 2014 case, the Court of Justice of the EU (CJEU) ruled that Member States must cover other basic needs to ensure that emergency health care and essential treatment of illness are in fact made available during the period in which that Member State is required to postpone removal.¹³ Additionally, according to the Return Directive, Member States should also provide a third-country national with a written document confirming the postponement of their removal, in order for

⁷ Commission Staff Working Document Fitness Check on EU Legislation On Legal Migration {SWD(2019) 1056 Final}, 2/2, p. 84. See also Eurostat data on non-EU citizens found to be illegally present (*migr_eipre*), ordered to leave the EU (*migr_eiord*), and returned (*migr_eirtn*, *migr_eirt_vol*, *migr_eirt_ass*).

⁸ Ireland does not participate in the Return Directive. National legislation in relation to return applies.

⁹ Article 6 of the Return Directive.

¹⁰ Recital 12 of the Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (hereafter the Return Directive): “*The situation of third-country nationals who are staying illegally but who cannot yet be removed should be addressed. Their basic conditions of subsistence should be defined according to national legislation. In order to be able to demonstrate their specific situation in the event of administrative controls or checks, such persons should be provided with written confirmation of their situation. Member States should enjoy wide discretion concerning the form and format of the written confirmation and should also be able to include it in decisions related to return adopted under this Directive*”.

¹¹ Article 14 of the Return Directive.

¹² Article 14 of the Return Directive.

¹³ CJEU, *Abdida*, case C-562/13 of 18 December 2014, ECLI:EU:C:2014:2453. See also Opinion of Advocate General Bot that includes means to secure accommodation as part of ‘decent standard of living’ (ECLI:EU:C:2014:2167).

While there is no general legal obligation under EU law to provide for the basic needs of all third-country nationals pending return, the Commission encourages Member States to do so to ensure humane and dignified conditions of life for returnees (Return Handbook, p. 75).

that person to be able to prove his or her situation in the event of administrative controls or checks.¹⁴ In practice, such a document is not always issued although in another case, the CJEU stated that while Member States have wide discretion concerning the form and format of the written confirmation, they must provide it to third-country nationals when there is no longer a reasonable prospect of removal within the meaning of Article 15(4) of the Return Directive.¹⁵ Lastly, the Return Directive prohibits detention where prospects for removal no longer exist.¹⁶

There is no political consensus nor harmonisation at EU level on the approach to this category of third-country nationals.¹⁷ While the Return Directive foresees some basic rights, also referring to the respect of the Charter of Fundamental Rights, international law and the European Convention for Human Rights in the implementation of the Directive, the way Member States approach this category of third-country nationals is largely determined by domestic law and practices.

Studies have shown that practices vary considerably across Member States. Several trends were identified, considering that a combination of these situations may be encountered in the same Member State:¹⁸

- Third-country nationals are only issued a return decision and do not have rights that are in addition to those referred to in the Return Directive.
- Third-country nationals receive a certificate or other written confirmation to stay in the territory of the Member State until they are removed, yet it is not considered as a fully-fledged residence permit. This is sometimes referred to as a 'toleration status'.
- Third-country nationals may have their return postponed but do not receive a written confirmation. In practice, their presence is 'tolerated' until the return decision can be implemented.

As mentioned in the Return Directive, third-country nationals may receive a decision granting temporary residence to persons who are not or cannot be returned for humanitarian or other policy considerations.¹⁹ In this event, any pending return procedures should be closed, and if a return decision was already issued, it should be withdrawn or suspended. Thus, Member States can either withdraw or suspend the return decision, considering the nature and duration of the right to stay granted as well as the need to ensure effective return procedures.

The framework provided in the Return Directive should be read in conjunction with other legal instruments which also apply to the category of third-country nationals falling under the scope of the study. For example, national authorities' approach to vulnerable persons should also consider obligations stemming from the 1989 UN Convention on the Rights of the Child²⁰, from the EU's framework on victims of trafficking in human beings.²¹ Additionally, albeit the Return Directive is silent on access of irregular third-country nationals to other social assistance than emergency healthcare and access to education, other instruments may nonetheless apply. For instance, the European Committee of Social Rights²² laid down

¹⁴ Article 14(2) of the Return Directive.

¹⁵ CJEU, *Mahdi*, case C-146/14 PPU of 5 June 2014, ECLI:EU:C:2014:1320.

¹⁶ Article 15(4) of the Return Directive.

¹⁷ Lutz, F. (2018) *Non-removable Returnees under Union Law: Status Quo and Possible Developments*, in *European Journal of Migration and Law* 20 (2018) 28–52.

¹⁸ EMN 2010 Study, FRA 2011 Study on the situation of third-country nationals pending return/removal and 2013 Study on the situation of third-country nationals pending return/removal.

¹⁹ Article 6(4) of the Return Directive and CJEU ruling in the *Mahdi* case, C-146/14. The Return Handbook provides a number of criteria that Member States may take into account for granting permits related to the individual and policy situation. These criteria can consider the cooperative/non-cooperative attitude of the returnee, the length of factual stay of the returnee in the Member State, the integration efforts made by the returnee, the personal conduct of the returnee, its family links, etc. (Return Handbook, p. 77).

²⁰ UN Convention on the Rights of the Child, 1989, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

²¹ As consolidated in Directive 2011/36/EU and Council Directive 2004/81.

²² The European Committee of Social Rights (previously, the Committee of Independent Experts on the European Social Charter) is a regional human rights body that oversees the protection of certain economic and social rights in most of Europe. The European

further specifics on the situation of irregularly staying migrants in their decision in the case *Conference of European Churches vs. the Netherlands*.²³ This decision made clear that, in light of its established case-law, shelter must be provided not only to migrant children but also to adult migrants in an irregular situation and even when they are requested to leave the country.

3 STUDY AIMS AND PRIMARY QUESTIONS

The overall aim of this study is to provide an overview of existing policies and practices in Cyprus towards third-country nationals in a prolonged situation of illegal stay. The study 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.

4 SCOPE OF THE STUDY

The overall focus of this study is on **long-term irregular migrants** in a situation of protracted illegal stay, namely:

- 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.

5 DEFINITIONS

There are several key terms used in this template. The definitions listed below are defined with help from the **EMN Glossary**,²⁴ version 6. Please see the table below.

Term	Definition
Entry ban	An administrative or judicial decision or act prohibiting entry into and stay in the territory of the EU Member States for a specified period, accompanying a return decision.
Family members	A third-country national, as specified in Article 4(1) of Directive 2003/86/EC (normally members of the nuclear family – i.e. the spouse and the minor children), who has entered the territory of the European Union for the purpose of family reunification
Forced return	The process of going back – whether in voluntary or enforced compliance with an obligation to return – to one’s country of origin, a country of transit in accordance with EU or bilateral readmission agreements or other arrangements; or another third country, to which the third-country national concerned voluntarily decides to return and in which they will be accepted (Article 3(3) of the Return Directive).

Committee of Social Rights was established under the auspices of the Council of Europe, pursuant to articles 24 and 25 of the 1961 European Social Charter. The Committee monitors implementation of the 1961 Charter, the 1988 Additional Protocol, and the 1996 Revised European Social Charter. It is unique among regional human rights mechanisms for its collective (as opposed to individual) complaint mechanism, and the flexibility it allows States in deciding which provisions of the Charter to accept.

²³ For more information please see: https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFKJmH2bYG/content/no-90-2013-conference-of-european-churches-cec-v-the-netherlands?inheritRedirect=false

²⁴ Available at: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_en.

Term	Definition
Illegal or irregular stay	The presence on the territory of a Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Art. 5 of the Regulation (EU) 2016/399 (Schengen Borders Code) or other conditions for entry, stay or residence in that EU Member State.
Irregular migration	The movement of persons to a new place of residence or transit that takes place outside the regulatory norms of the sending, transit and receiving countries.
Non-refoulement	A core principle of international refugee and human rights law that prohibits States from returning individuals to a country where there is a real risk of being subjected to persecution, torture, inhuman or degrading treatment or any other human rights violation.
Overstayer	A person remaining in a country beyond the period for which entry was granted. In the EU context, a person who has legally entered an EU State, but who has stayed beyond the expiry of his/her visa and/or residence permit.
Regularisation	State procedure by which illegally staying third-country nationals are awarded a legal status.
Residence permit	An authorisation issued using the format laid down in Regulation (EC) No 1030/2002 entitling its holder to stay legally on the territory of a Member State.
Return	The movement of a person going from a host country back to a country of origin, country of nationality or habitual residence usually after spending a significant period of time in the host country whether voluntary or forced, assisted or spontaneous.
Return decision	An administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return.
Social protection benefits	For the purpose of this study please refer to 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.
Postponement of removal	(Temporary) suspension of removal of a third-country national who has received a return decision but whose removal is not possible either for humanitarian reasons (as their removal would violate the principle of non-refoulement or due to the third-country national's physical state or mental capacity) or for technical reasons (such as lack of transport capacity or failure of the removal due to lack of identification or the country of origin's refusal to accept the person) and for as long as a suspensory effect is granted in accordance with Art. 13(2) of Council Directive 2008/115/EC (Return Directive).
Third-country national	Any person who is not a citizen of the European Union within the meaning of Art. 20(1) of TFEU and who is not a person enjoying the Union right to free movement, as defined in Art. 2(5) of the Schengen Borders Code.
Trafficking in human beings	The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. ²⁵

²⁵ Article 2 par.1 of the Anti-trafficking Directive

Term	Definition
Voluntary departure	Compliance with the obligation to return within the time limit fixed for that purpose in the return decision.
Vulnerable person	Minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of trafficking in human beings, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation (Art. 21 of Directive 2013/33/EU (Recast Reception Conditions Directive)).

Common Template of EMN Study 2020

Responses to long-term irregularly staying migrants: practices and challenges in EU Member States and Norway

National Contribution from *Member State**²⁶

Disclaimer: The following information has been provided primarily for the purpose of contributing to a Synthesis Report for this EMN Study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.

Top-line factsheet [max. 1 page]

*The top-line factsheet will serve as a summary of the **national contribution** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policy-makers. The top-line factsheet should be a stand-alone product. Please add any innovative or visual presentations that can carry through into the synthesis report as possible infographics and visual elements.*

Cyprus prioritises voluntary returns through a number of schemes implemented, in all cases. Although there is no any distinguishment between long-term and short-term irregularly staying migrants, both national law and national policy have no specific provisions for long-term irregularly staying migrants. In a nutshell, this means that in principle the same law provisions, national policy and practices apply for all irregularly staying migrants, irrelevant to their previous period of stay in the Republic.

In every case, the competent authority responsible for the return of irregularly staying migrants, is obliged to take under consideration the non-refoulement principle, the best interest of the minor and the family life of the returnee (in cooperation with the Social Welfare Services) as well as the medical condition of the returnee, based on a report requested by the Health services.

²⁶ Replace highlighted text with your **Member State** name here.

Section 1: National legal and policy framework

This introductory section of the synthesis report will map the institutional, legal and political contexts on the issue of long-term irregular migrants and aims to provide an overview of main points of discussion in Member States and Norway.

The primary questions addressed in this section are:

- *To what extent are central, regional and local authorities in your Member State confronted with the issue of long-term irregular migrants?*
- *What is the political and policy debate on the situation of long-term irregular migrants?*
- *What are the characteristics of the group of third-country nationals who remained in a protracted situation of illegal stay? What information is available on the size of the (sub)groups or categories?*

SECTION 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 scope of this study) in your (Member) State?

No

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

No

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

Cyprus does not make any distinction between long-term and short-term irregularly staying migrants. Both the national law and national policy have no specific provisions for long-term irregularly staying migrants. That means, that in principle the same law provisions, national policy and practices apply for all irregularly staying migrants, irrelevant to their previous stay period in the Republic.

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

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

Before issuing a return decision, the competent authority is obliged to take under consideration the non-refoulement principle, the best interest of the minor and the family life of the returnee (in cooperation with the Social Welfare Services) and the medical condition of the returnee, based on a report of the Health Services. In case there is any reason, based on the above, not to return the TCN, no return decision is issued.

In case a return decision is issued, and the competent authority finds out that the return cannot be implemented, based on the non-refoulement principle, the best interest of the minor and the family life of the returnee (in cooperation with the Social Welfare Services) and/or the medical condition of the returnee, based on a report of the Health Services, the return decision is recalled.

There are no statistical data available for these cases

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:

Extension of the voluntary departure period

In some cases, when the obstacles of return can be overcome in a short period (e.g. issuing of travel documents) or, during covid-19 period, the return is not possible due to lack of flights, then the returnee may ask for a longer voluntary departure period. In this case, the competent authority may grant a longer voluntary departure period, on an ad-hoc basis.

Furthermore, due to covid-19 and lack of flights, since June 2020, all AVRR return decisions are issued without voluntary departure period. Before that the period was usually 30 days.

There are no statistical data available for these cases

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

In case of absconding, the competent authority notifies the Police (Aliens and Immigration Unit) and the TCN is put on the "wanted" list. In case he/she is apprehended, usually a deportation and detention order is issued. Of course, all cases are treated on an ad-hoc basis.

SECTION 1.2: PRIORITIES AND DEBATES AT A NATIONAL LEVEL

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?

No

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?

No

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

No

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?

No

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

No.

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

This section aims to provide an overview of national policy in (Member) States and Norway on the way States address long-term irregularity. It will address the following research questions:

- *Which rights and public services are long-term irregularly staying migrants provided access to?*
- *What is the role of central, regional and local authorities in dealing with this group of migrants?*
- *To what extent are regional and local authorities involved and cooperate with the central government?*
- *What is the role of civil society organisations or other entities regarding the access to public services for long-term irregularly staying migrants?*
- *What measures (e.g. policies, practical tools, guidance) were implemented regarding the access to public services for long-term irregularly staying migrants?*
- *Were there any studies or research published on the effectiveness of these measures?*

SECTION 2.1: RIGHTS AND ACCESS TO SERVICES OF LONG-TERM IRREGULAR MIGRANTS

This section aims to understand the rights and services accessible to long-term irregular migrants, which central, regional and local authorities are involved in the provision of services, as well as the role of civil society organisations.

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).

Please complete the below table for each relevant status. If two or more types of authorisations to stay give the same access to services, please fill the table only once.

Table 1: 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: [_____]				
Type of service	Service provided ? (Y/N)	Is the provision of service mandatory or discretionary ? ²⁷	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?
Accommodation				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Accommodation <i>If yes, please briefly describe</i>	<i>N</i>			
Special accommodation facilities (i.e. shelter for victims of violence, children etc.) <i>If yes, please briefly describe</i>	<i>N (for victims of violence/trafficking,</i>			

²⁷ 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.

	<i>minors, etc. no return decision is issued)</i>			
Other forms of accommodation or shelter or specialised centre				
Healthcare				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Emergency healthcare <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>Emergency healthcare is provided, by public hospitals, to all TCNs, irrelevant to their status</i>	<i>Same</i>
Basic medical care <i>If yes, please briefly describe</i>	<i>N</i>			
Specialised care <i>If yes, please briefly describe</i>	<i>N</i>			
Other healthcare services <i>If yes, please briefly describe</i>	<i>N</i>			
Social assistance				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are long-term irregularly staying migrants entitled to receive social benefits?²⁸ <i>If yes, please briefly describe what these benefits are</i>	<i>N</i>			

²⁸ 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.

Employment				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
<p>Are there circumstances in your MS where long-term irregularly staying migrants are entitled to access to the labour market?</p> <p><i>If yes, please describe any specific conditions attached to their employment.</i></p>	N			
Education				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
<p>Do (long-term irregular migrant) children have access to compulsory education?</p> <p><i>If yes, please briefly describe access.</i></p>	Y	Mandatory	According to the national law, all children under 15 years old must be enrolled in a school. Attending public schools is free for all children.	More. All TCN children have access to specific educational programmes designed for children with migratory background.
<p>Are adult long-term irregularly staying migrants entitled to participate in educational programmes and/or professional training?</p> <p><i>If yes, what types of education and under which conditions?</i></p>	N			
Legal aid or assistance				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
<p>Do long-term irregular migrants have access to legal aid or assistance type of services?</p> <p><i>If yes, please briefly enumerate and explain</i></p>	Y	<p><i>Legal aid: mandatory, if the law provisions are met</i></p> <p><i>Legal assistance: discretionary, provided by NGOs</i></p>	<p><u>Legal aid:</u> According to the law, It is provided free given and is not subject to any other conditions, for the first instance procedure only and if the TCN's appeal is likely to succeed. The returnee/illegal migrant may submit a relevant request to the Court and its decision is based on the socioeconomic status of the applicant and on the seriousness of the case or other circumstances of the case and if it is desirable for the interest of the judiciary to receive free legal aid for the preparation and handling of the case</p>	More, in the sense that the law has specific provisions for legal aid for the irregular staying migrants.

			<p><i>Legal assistance is provided by several NGOs. Specific mention shall be made to the project “case management as an alternative to detention”, run by the local NGO “Cyprus refugee council”, which among others provides free legal assistance to irregular migrants not only in return related cases, but also assistance to possibly legalize the residence in the Republic. The Ministry of Interior cooperates closely with “Cyprus refugee council”, on the implementation of this project.</i></p>	
Other?				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are any other rights relevant to mention here? Please describe	N			

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 2: Services available to long-term irregularly staying migrants who were unknown to migration authorities (e.g. overstayers, irregular entry)				
Type of stay or status as identified in Q2 and/or Q3: [_____]				
Type of service	Service provided? (Y/N)	Is the provision of service mandatory or discretionary ? ²⁹	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?
Accommodation				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Accommodation <i>If yes, please briefly describe</i>	N			
Special accommodation facilities (i.e. shelter for victims of violence, children etc.) <i>If yes, please briefly describe</i>	Y	mandatory	<i>In Cyprus, no return decision is issued for minors or families with children. The guardian of the minors (Social Welfare Services) provides accommodation and all other services to the minors.</i>	Same
Other forms of accommodation or shelter or specialised centre	N			
Healthcare				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>

²⁹ 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.

Emergency healthcare <i>If yes please describe, as this notion can be understood in a large or restrictive way</i>	Y	mandatory	<i>Emergency healthcare is provided, by public hospitals, to all TCNs, irrelevant to their status</i>	same
Basic medical care <i>If yes, please briefly describe</i>	N			
Specialised care <i>If yes, please briefly describe</i>	N			
Other healthcare services <i>If yes, please briefly describe</i>	N			
Social assistance				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are long-term irregularly staying migrants entitled to receive social benefits? ³⁰ <i>If yes, please briefly describe what these benefits are</i>	N			
Employment				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are there circumstances in your MS where long-term irregularly staying migrants are entitled to access to the labour market? <i>If yes, please describe any specific conditions attached to their employment.</i>	N			

³⁰ 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.

Education				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
<p>Do (long-term irregular migrant) children have access to compulsory education?</p> <p><i>If yes, please briefly describe access.</i></p>	Y	Mandatory	<p><i>According to the national law, all children under 15 years old must be enrolled in a school. Attending public schools is free for all children.</i></p>	<p><i>More. All TCN children have access to specific educational programmes designed for children with migratory background.</i></p>
<p>Are adult long-term irregularly staying migrants entitled to participate in educational programmes and/or professional training?</p> <p><i>If yes, what types of education and under which conditions?</i></p>	N			
Legal aid or assistance				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
<p>Do long-term irregular migrants have access to legal aid or assistance type of services?</p> <p><i>If yes, please briefly enumerate and explain</i></p>	<p><i>Legal aid: N</i></p> <p><i>Legal assistance: Y</i></p>	<p><i>Legal aid: mandatory, if the law provisions are met</i></p> <p><i>Legal assistance: discretionary, provided by NGOs</i></p>	<p><i><u>Legal aid:</u> According to the law, free legal aid may only be provided in the case of an appeal against a return decision.</i></p> <p><i><u>Legal assistance</u> is provided by several NGOs. Specific mention shall be made to the project “case management as an alternative to detention”, run by the local NGO “Cyprus refugee council”, which among others provides free legal assistance to irregular migrants not only in return related cases, but also assistance to possibly legalize the residence in the Republic. The Ministry of Interior cooperates closely with “Cyprus refugee council”, on the implementation of this project.</i></p>	
Other?				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
<p>Are any other rights relevant to mention here? Please describe</p>				

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?

Where access to service is possible (emergency healthcare, education) there is no background check. In principle, an irregular migrant may contact any public service (not the police) without fear of being apprehended.

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?

No

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?

No

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

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.

In principle, all NGOs may provide services and include in their programmes/actions irregular migrants, as long as the funding is not from a public (national or EU) source.

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?

In principle, an irregular migrant may contact any service without fear of being apprehended. The competent authority never asks NGOs or any other entity about the status of any TCN.

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**’³¹ channels between the TCN concerned and public authorities to report the incident without divulging their situation of illegal stay?

No

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

There is no ‘safe reporting’ as far as Police is concerned.

³¹ <https://www.compas.ox.ac.uk/project/safe-reporting-of-crime-for-victims-and-witnesses-with-irregular-migration-status-in-the-usa-and-europe/>

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

If yes, please describe (e.g. please consider any specific conditions to access the service(s)):

IOM Cyprus, which implements the national co-funded AVRR project, may provide in exceptional cases access to healthcare (up to 5000 euros) and/or accommodation (up to 3 weeks) services and/or food supplies to the returnee. The decision is made solely by IOM Cyprus, based on their interviews.

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.

N/A

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?

No

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.)?

No

SECTION 2.2: COOPERATION MECHANISMS BETWEEN CENTRAL, REGIONAL AND LOCAL AUTHORITIES

This section will focus on the cooperation between central authorities and, regional authorities as well as municipalities in the implementation of national policies on long-term irregular migration.

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?

N/A

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?

No

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

No

SECTION 2.3: GOOD PRACTICES

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

Section 3: Responses to end long term irregular stay

This section will focus on policies and good practices implemented in finding approaches to address (and end) the issue of long-term irregularity. This section aims to research the following:

- *What measures (e.g. policies, practical tools, guidance) were implemented to bring protracted situations of illegal stay to an end?*
- *Were there any studies or research published on the effectiveness of these measures?*
- *What are the key challenges and good practices in terms of policy regarding long-term irregularly staying migrants?*

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?

The possibilities are a) return b) provide protection status based on humanitarian reasons c) any other form of legalization (e.g. work permit), if possible.

Cyprus prioritizes voluntary return in all cases.

SECTION 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)?

Cyprus prioritizes voluntary returns. Other than the AVRR programme and cash incentives, no other measure is implemented.

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?

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).

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.)?

No

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):

SECTION 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)?

The most common pathway for irregular migrants to legalize their residence is to apply for residence permit due to humanitarian reasons. It is a temporary residence permit, which is granted by the Minister of Interior based solely on an ad-hoc basis. The main criteria is the period of the irregular stay and the personal/family conditions of the TCNs. Holders of such a permit have full access to labour market and social/health care.

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

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.)?

No

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):

SECTION 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.

No

Section 4: Challenges and future actions

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

Since Cyprus has no specific policy for long-term irregular migrants, no challenges can be identified.

*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).*

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**?

N/A

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**?

N/A

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**?

N/A

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?

N/A

The collection of information consisted primarily of desk research (use of data already available or published, including national statistics, legal texts, reports etc.), complemented, when necessary, by interviews conducted with different stakeholders in the field of migration, asylum and integration, depending on the topical issues aroused of the respective publications.

Public servants from the Ministry of Interior, as well as the other Ministries, contributed as experts in their field, to all of the CY EMN NCP outcomes, tasks and developments' provision of information, when needed.