

Study Template Completed for EMN Synthesis Report

The effectiveness of return in EU Member States: challenges and good practices linked to EU rules and standards

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November 2017



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THE EFFECTIVENESS OF RETURN IN EU MEMBER STATES: CHALLENGES AND PRACTICES

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November 2017

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ABOUT THE EMN

The aim of the European Migration Network (EMN) is to provide up-to-date, objective, reliable and comparable information on migration and asylum at Member State and EU levels with a view to supporting policymaking and informing the general public.

The Irish National Contact Point of the European Migration Network, EMN Ireland, sits within the Economic and Social Research Institute (ESRI).

Further information is available at www.esri.ie

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ABOUT THIS REPORT

This study provides an overview of the practices and challenges facing national authorities in Ireland in managing the effective return of individuals, including those whose applications for asylum/international protection have been rejected, and who do not have a legal basis to remain in the Irish State.

The report consists of information provided to the European Migration Network for the purpose of completing an overall Synthesis Report with contributions from all participating EMN National Contact Points. The full title of the Synthesis Report is: *The effectiveness of return in EU Member States: challenges and good practices linked to EU rules and standards*.

Questions in the common Study Template have been cross-referenced to specific recommendations within the European Commission Recommendation of 7 March 2017 on making returns more effective when implementing the Directive 2008/115/EC. Ireland does not participate in the Directive therefore the Recommendations are often not relevant. Where a question is not relevant in the Irish context it is marked 'not applicable' in this Study Template.

The opinions presented in this report are those of the Irish National Contact Point of the European Migration Network and do not represent the position of the Irish Department of Justice and Equality or the European Commission Directorate General Home Affairs.

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ABBREVIATIONS AND IRISH TERMS

An Garda Síochána	The Irish Police
AVRR	Assisted Voluntary Return and Reintegration
CTA	Common Travel Area
Dáil Éireann	Irish Parliament (lower house)
DJE	Department of Justice and Equality
EEA	European Economic Area
EU	European Union
FLAC	Free Legal Advice Centre
Frontex	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU
GNIB	Garda National Immigration Bureau
HSE	Health Service Executive
ICI	Immigrant Council of Ireland
IHREC	Irish Human Rights and Equality Commission
INIS	Irish Naturalisation and Immigration Service
IOM	International Organisation for Migration
IPO	International Protection Office
IRC	Irish Refugee Council
MASI	Movement of Asylum Seekers in Ireland
MRCI	Migrant Rights Centre Ireland
NGO	Non-Governmental Organisation
NASC	The Irish Immigrant Support Centre
PQ	Parliamentary Question
RAT	Refugee Appeals Tribunal
RIA	Reception and Integration Agency
TCN	Third Country National
TFEU	Treaty on the Functioning of the European Union
IPRT	Irish Penal Reform Trust
SIS	Schengen Information System
TUSLA	Child and Family Agency
UNCAT	UN Committee Against Torture
UNHCR	United Nations High Commissioner for Refugees

INTRODUCTION: NATIONAL CONTRIBUTION

While the return of irregularly staying third country nationals (TCN) is a priority for the Irish State, in accordance with Protocol No.21 to the Treaty on the Functioning of the European Union (TFEU) Ireland does not participate in the EU Return Directive (2008/115/EC). A Return Decision is defined in the Return Directive as an administrative decision or judicial act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return. In Ireland, the closest equivalent decision is a deportation order.

There are several key differences between the Irish return system and that provided for under the Directive. For example, it is important to note that a return decision issued in accordance with the EU Return Directive has a period for voluntary return built into it whereas in the Irish system the period for availing of voluntary return expires once the deportation order is issued (Sheridan 2017). The concept of “risk of absconding” does not exist in the Irish context. Furthermore, unlike under the Return Directive, entry bans are not issued independently to deportation orders in Ireland (Quinn and Gusciute 2015).

Up to 31 December 2016, all deportation orders were issued under the provisions of section 3 of the Immigration Act 1999. Since the commencement of the International Protection Act 2015 separate provision exists under Section 51 for the deportation of unsuccessful protection applicants. In the Irish return context, separate documents contain elements of the Return Decision. The notification that the individual does not have a legal basis to remain is contained in the final negative determination received by unsuccessful applicants for International Protection and in a notice of intention to deport (known as a ‘15-day letter’) for all others (Sheridan 2017).

A person in receipt of a ‘15-day letter’ has three options available to them (voluntary return, consent to the deportation order, or assessment of leave to remain) for 15 days before a deportation order is issued.

Applicants for protection are given five days, from receipt of the Minister’s notice rejecting their application, to confirm they will voluntarily return to their country of origin (Sheridan 2017). The International Organisation for Migration (IOM) assists in procuring travel documents in the context of Assisted Voluntary Return and Reintegration. The obligation to leave the territory is communicated by way of the section 3(3) (b) (ii) notice issued under of the Immigration Act 1999 (the arrangements letter) (Quinn and Gusciute, 2015) and is issued with the deportation order.

Pursuant to section 3 of the 1999 Act, the Minister for Justice can make an order in respect of any non-national requiring that person to leave the State within a specified period and to remain thereafter outside of the State.

While a deportation order under Irish law is therefore in principle of lifelong duration, a person who is the subject of a deportation order can apply to the Minister for Justice at any time to have that order revoked under section 3(11) of the Immigration Act 1999. Section 3 of the Immigration Act 1999 provides that the Minister for Justice may take into account humanitarian considerations when deciding whether to make a deportation order. The Minister for Justice has the discretion not to make a deportation order in respect of a non-Irish national who is the subject of a proposal to deport and may instead grant that person leave to remain (sometimes referred to as humanitarian leave to remain).

Ireland is in the minority group of Member States (alongside Bulgaria, Greece and Latvia) where a return decision (deportation order) can only enter into force after all asylum appeals have been exhausted (Sheridan, 2017).

Section 3(10) of the Immigration Act 1999 provides that a person who contravenes a provision of a deportation order or a requirement specified in a deportation notice is guilty of an offence. Furthermore, section 8 of the Immigration Act 1999 provides it is an offence for a person in respect of whom a deportation order has been made to obstruct or hinder the enforcement of that deportation order by a Ministerial official. If the person on whom a deportation order has been served fails to comply with the terms of the deportation order, or those contained in the arrangements letter, the person may be liable to arrest without warrant and detention pending removal under the terms of Section 5 of the Immigration Act 1999 (Sheridan 2017). The provision for detention does not apply to minors.

Where a person has been detained for the maximum period of eight weeks and it is sought to detain that person thereafter based on fresh grounds for detention, an application must be made to a judge of the District Court to authorise the continued detention. Data are not available on TCN placed in detention for the purpose of return and aggregated statistics are not routinely produced.

Section 3 of the Immigration Act 1999 which sets out the Minister's power to make deportation orders does not require the best interests of the child to be taken into account before issuing a return decision. The omission of such a requirement was the subject of a legal challenge but the Court of Appeal confirmed that the Minister for Justice is not obliged to treat as a primary consideration the best interests of the child or, alternatively, to decide expressly whether deportation would be consistent with the best interests of the child.

National debate has centred around three areas of concern: procedural issues, detention, and data on deportation.

Debate on procedural issues includes calls for an independent appeals mechanism, for legal advice to be available to those who receive a notice of intention to deport, and for a limit to be placed on the number of extensions to detention that can be approved by a judge. Debate around detention concerns the placement of persons detained for immigration related reasons in ordinary prison facilities. Deportation is an infrequent topic in media coverage and generally follows parliamentary questions (PQ) requesting deportation data. Addressing one such PQ in January 2017, the Minister for Justice said that of 1,195 deportation orders placed in 2016, 428 were enforced. In June 2017, following a PQ, the media reported that the number of 'deportation letters' was expected to rise dramatically in 2017 with 1,451 'letters' issued in the first months of the year in contrast to 1,752 in the year 2016. Numbers of deportation letters, as this study explains, do not equate to numbers of persons removed from the State.

SECTION 1: CONTEXTUAL OVERVIEW OF THE NATIONAL SITUATION

Q1. Please provide an overview of the national measures implementing the Return Directive (including judicial practices, interpretations and changes related to case law concerning the Return Directive) or equivalent standards (for Member States which are not covered by the Directive) in your Member State.

In accordance with Protocol No.21 to the Treaty on the Functioning of the European Union (TFEU) Ireland does not participate in the EU Return Directive (2008/115/EC). A Return Decision is defined in the Return Directive as an administrative decision or judicial act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return.¹ In Ireland, the closest equivalent decision is a deportation order.

For the purposes of this study, it is important to note that a return decision issued in accordance with the EU Return Directive (2008/115/EC) has a period for voluntary return built into it, whereas in the Irish system, the period for availing of voluntary return expires once the deportation order is issued (Sheridan, 2017). Furthermore, unlike under the Return Directive, entry bans are not issued independently to deportation orders in Ireland (Quinn and Gusciute, 2015).

Pursuant to section 3 of the 1999 Act, the Minister for Justice can make an order in respect of any non-national requiring that person to leave the State within a specified period and to remain thereafter outside of the State. While a deportation order under Irish law is therefore in principle of lifelong duration, a person who is the subject of a deportation order can apply to the Minister for Justice at any time to have that order revoked under section 3 (11) of the Immigration Act 1999.

Up to 31 December 2016, all deportation orders were issued under the provisions of section 3 of the Immigration Act 1999. Since the commencement of the International Protection Act 2015 separate provision exists under Section 51 for the deportation of unsuccessful protection applicants. Section 51 of the International Protection Act 2015 provides that a deportation order made under that section will be deemed to be a deportation order made under the Immigration Act 1999. All non-protection applicants found to be illegally present in the State continue to be deported under section 3 of the Immigration Act 1999.

¹ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, 24th December 2008.

In accordance with the provisions of the 1999 Act, a deportation order is issued at the end of a two-part process. Firstly, a notice of intention to deport (known as a '15-day letter') is issued. This letter offers the recipient three options which are valid for 15 days: voluntary return, consent to the deportation order, or assessment of leave to remain on non-protection grounds. If the person declines voluntary return and is found to be ineligible for to leave to remain a deportation order is issued, following assessment of the prohibition on *refoulement* (Sheridan, 2017).

Since 31 December 2016, under the International Protection Act 2015, the assessment of leave to remain is undertaken as part of the single procedure. Rejected applicants are given five days from the date of receipt of the Minister's notice rejecting their protection application to confirm that they will voluntarily return to their country of origin (Sheridan, 2017). Subject to the prohibition on *refoulement*, the legislation provides that a deportation order shall be issued in respect of applicants who are not successful in their protection application or in obtaining permission to remain, and who do not leave the State voluntarily. Section 51 of the International Protection Act 2015 provides that a deportation order made under that section will be deemed to be a deportation order made under the Immigration Act 1999 and certain provisions in the Immigration Act 1999 continue to apply to deportation orders issued to rejected asylum applicants. This includes the power for the Minister for Justice and Equality to revoke a deportation order under Section 3(11) of the Immigration Act 1999 and the power of detention. The Irish High Court and Supreme Court have confirmed that the Ministerial power to make a deportation order in respect of a non-national involves the exercise of a broad discretion.² The Minister's exercise of that discretion is not reviewable by the courts unless there is evidence that the Minister did not afford a person an opportunity to make representations, did not consider those representations or did not consider the factors set out in s.3(6) of the 1999 Act which the Minister must consider before making a deportation order.³ The courts will also intervene where a deportation order breaches the prohibition on *refoulement*.⁴

According to the McMahon Report (Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process: Final Report (June 2015), approximately 20 per cent of deportation orders are implemented.⁵ See *Question 7 for discussion of a Return Decision in the Irish context*.

² *Pok Sun Shun v Ireland* [1986] ILRM 593 and *Oshoku v Ireland* [1986] IR 733.

³ *EHK v Minister for Justice and Equality* [2011] 2 IR 1 of 1999

⁴ *BM (Eritrea) v Minister for Justice* [2014] 2 I.L.R.M. 519

⁵ Comments received from EMN legal consultant, August 2017.

Q2. [EC Recommendation (8)] Does your Member State make use of the derogation provided for under Article 2(2) (a) and (b) of the Return Directive?

Please briefly elaborate on important exceptions to the general rule stated above

Not applicable. Ireland does not participate in the EU Return Directive (2008/115/EC).

If Yes, please describe:

The categories of third-country nationals to whom this derogation applies (third-country nationals who are subject to a refusal of entry AND/OR third-country nationals who are apprehended or intercepted while irregularly crossing the external border AND/OR third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures);

How the return procedure applied in such cases differs from standard practice (e.g. a period for voluntary departure is not granted, appeals have no suspensive effect, etc.)

Not applicable.

Q3. Please indicate any recent changes in the legal and/or policy framework (i.e. as a result of the migration situation in 2015-2016 or the European Commission Recommendation issued in March 2017).

Not applicable.

Q4. Is the return of irregularly staying third-country nationals a priority in your Member State?

Yes.⁶

If Yes, please provide a brief overview of the national debate on return in your Member State. Please indicate key points of discussion and players involved in this debate, and reference the information provided. Sources of national debate to include may be national media reports, parliamentary debates, and statements or reports of NGO/civil society organisations or International Organisations (IOs).

Procedural issues

It is currently not possible to administratively appeal a deportation order.

⁶ Interview with INIS, August 2017.

Some NGOs have called for an independent appeals mechanism for immigration-related administrative decisions, including return decisions, to be established. These include Crosscare⁷ in 2010, the Immigrant Council of Ireland (ICI) and *Doras Luimní*⁸ in 2013, and the Irish Refugee Council and Nasc⁹ in 2011 (see Quinn and Gusciute 2015). In July 2017, the UN Committee Against Torture (UNCAT) met to consider its second periodic report on Ireland. In its submission to UNCAT, the ICI reiterated this call. It also recommended that legal advice should be available to those who receive a notice of intention to deport and that there should be a limit to the number of extensions to detention that can be approved by a District Court judge (Immigrant Council of Ireland, 2017). The Irish Human Rights and Equality Commission (IHREC) has also called for legal aid and translation facilities for detained irregular migrants (IHREC, 2017). The Amnesty International submission concerned alleged lack of transparency in how the risk of torture and other ill-treatment is assessed when persons suspected of involvement in terrorism in other states are being forcibly removed (Amnesty International, 2017). The ICI also submitted to UNCAT that potential deportees should be given notice as to when the deportation will be carried out. The NGO alleged that, notwithstanding cooperation with the authorities, persons are often arrested in their home in the very early morning hours without enough time to inform family or pack (Immigrant Council of Ireland, 2017).

Detention

Among the issues raised, prior to submission of the second periodic report of Ireland, UNCAT expressed concern about the placement of persons detained for “immigration related reasons” in ordinary prison facilities alongside convicted and remand prisoners.¹⁰ In advance of the 2017 review, the IRC submission¹¹ noted no progress in this matter, although the Minister for Justice had said in July 2016 that a dedicated facility would be completed within 12 months.¹² The IRC also expressed concern that no disaggregated figures were available for the number of asylum seekers that had been detained. This, the NGO submitted, was of particular concern given that the International Protection Act 2015 now allowed Gardaí and immigration officers to arrest with reasonable cause and without warrant.

7 A civil society organisation providing advice to migrants.

8 A migrant rights advocacy group.

9 A migrant rights advocacy group.

10 UN Committee Against Torture (2013).

11 Irish Refugee Council (2017).

12 Parliamentary Question [20169/16] (7 July 2016).

The IRC also raised concern over the amount of time asylum seekers could be detained submitting that, under section 20 (12) of The International Protection Act 2015, an asylum seeker can be detained for renewable 21-day detention periods and that there is no statutorily defined limit on the number of times this detention period can be renewed, leaving the potential for arbitrary indefinite detention in renewable periods.¹³ The Irish Penal Reform Trust (IPRT) also asked UNCAT to enquire of the Irish State as to progress regarding the planned facility for immigration detainees; arrangements for independent oversight of such a facility; and measures to monitor the exact number of immigration detainees (unrelated to criminal charges) (IPRT, 2017). IHREC also submitted that prison was not a suitable place in which to detain someone on immigration related issues, including applicants for international protection, a person subject to transfer under the Dublin regulation, a person refused leave to land or a person in respect of whom a deportation order has been issued (Irish Human Rights and Equality Commission, 2017).

In an early draft of its 2017 observations,¹⁴ UNCAT welcomed the information from the State that asylum seekers are only placed in detention as exceptional measures and recommended the Irish State should:

- Enshrine in legislation that detention of asylum-seekers should be used as a measure of last resort, for as short a period as possible, and in facilities appropriate for their status;
- Ensure that persons detained for immigration purposes are not held with remand and convicted prisoners, are informed about their situation in a language they can understand, and have effective access to legal advice and to the process of application for international protection.

Co-incidentally, the issue of the provision of an immigration detention centre entered the wider public domain on 18 July 2017 following widespread media coverage of the search and detention overnight, in the all-female prison (*Dochas*) in Dublin, of a Brazilian tourist. The Brazilian Embassy in Dublin expressed its concern that its citizens, denied entry to Ireland, were being sent to ‘common prisons’. Drawing on figures from The Irish Prison Services, The Irish Times carried a subsequent report headed ‘421 people committed to prison in 2016 on immigration-related issues’ (Holland, 20 July 2017). In a follow-up story, the paper reported that the Minister for Justice had told *Dáil Éireann* that a ‘modern detention facility’ would be completed within 12 months (Minihan and Hennigan, 28 July 2017).

13 Irish Refugee Council (2017).

14 UN Committee Against Torture (2017).

Data

Deportation is not a common feature of media coverage on migration issues and such coverage as exists generally follows cross-party parliamentary questions (PQs) requesting deportation data. For example, following a PQ in September 2016,¹⁵ a national newspaper reported that 4,000 persons would be deported or refused entry by year end: 'the highest number in 6 years' (Fegan, 30 September 2016).

Addressing a PQ¹⁶ in January 2017, the Minister for Justice said that of 1,195 deportation orders placed in 2016, 428 were enforced. This was reported in an Irish Times article entitled 'One-third of deportation orders from Ireland carried out' (O'Halloran, 5 February 2017).

An online newspaper¹⁷ story in February 2017 on a rise in deportations also drew on data from a PQ¹⁸ and cited the concerns this increase was causing among groups including End Direct Provision, The Green Party, the IRC, and the Free Legal Advice Centre (FLAC).

In March 2017, again citing a PQ¹⁹ The Irish Times reported that 114 deportation orders were signed in January and February with the total cost of flights for people removed from the State of €698,000 (Edwards, 12 March 2017). Further PQs on deportation data were asked on 2 and 23 May 2017. In June 2017, The Irish Times reported that the number of 'deportation letters' was expected to rise dramatically in 2017 with 1,451 'letters' issued in the first months of the year in contrast to 1,752 in 2016. The coverage included concerned comments from both a former Minister of State of the Department of Justice and a spokesperson for the Movement of Asylum Seekers in Ireland (MASI) (Power, 19 June 2017).

Individual Cases

On occasion, an individual case will be highlighted by the media, for example the case of a Somalian man, with Tanzanian travel papers, who had been deported to Tanzania and had died violently within a week of deportation (Siggins, 3 January 2015).

15 Parliamentary Question. No. 24371/16 (16 September 2016). Available on: www.oireachtas.ie

16 Parliamentary Question. No. 4065/17. (31 January 2017) Available on: www.oireachtas.ie

17 Power, J. (26 February 2017)

18 Parliamentary Question. No. 8853/17. (22 February 2017). Available on: www.oireachtas.ie

19 Parliamentary Question. No.12764/17. (9 March 2017). Available on: www.oireachtas.ie

This case was also referenced in a *Dáil* debate on 10 December 2015 on the International Protection Bill 2015 [Seanad].²⁰

In its 2017 UNCAT submission, Amnesty International drew attention to two deportation cases which, it submitted, revealed a lack of transparency in how the risk of torture and other ill-treatment is assessed when those suspected of involvement in, or support of, terrorism in other states are being forcibly removed. The cases referred to i) a Jordanian national of Palestinian descent deported to Jordan on the basis of allegations that he was a recruiter for the armed group calling itself Islamic State and as such posed a threat to Ireland's national security and ii) a case, which lawyers appealed before the Supreme Court, relating to an unsuccessful challenge before the High Court, on a deportation order issued against an Algerian man on alleged national security grounds.²¹ In the latter case, the deportation order was made following a determination by the Refugee Appeals Tribunal (RAT) that the man faced a risk of torture in Algeria if returned there. Amnesty referred to the State's " cursory determination " of risk of torture and ill-treatment in these two cases. The appeal has since been decided in favour of the appellant - see *YY v Minister for Justice* [2017] IESC 61 - where the Supreme Court directed the Minister for Justice to reconsider the application to revoke the deportation order.

NGO/Civil Society

Volunteer-led groups such as Anti-Racism Ireland, Residents Against Racism, Anti-Deportation Ireland, End Direct Provision, and the Movement for Asylum Seekers (MASI) have, in the past, organised anti-deportation campaigns and protests (see Smyth, 2010).

²⁰ Dáil Debate (10 December 2015) International Protection Bill 2015 [Seanad]: Second Stage (Resumed).

²¹ Amnesty International (2017).

SECTION 2: SYSTEMATIC ISSUANCE OF RETURN DECISIONS

Please indicate in your answers if any of the measures described in this section were introduced or changed as a result of implementing EU rules, namely the Return Directive or relevant case law

Q5. Who are the competent authorities to issue a return decision in your Member State?

This report treats deportation orders as the closest equivalent to a Return Decision in the Irish context. *See Question 7.*

The Minister for Justice and Equality is responsible for issuing deportation orders, and on his or her behalf, the Irish Naturalisation and Immigration Service (INIS) sends notifications of proposals to deport and any other relevant notifications pertaining to deportation orders. The Repatriation Division of INIS is responsible for issuing deportation orders and arrangements letters and for making practical arrangements such as securing travel documents. The Garda National Immigration Bureau (GNIB) is tasked with enforcement of the order.

Q6a. [EC Recommendation (5)] Does your Member State refrain from issuing a return decision to irregularly-staying third-country nationals if?

a) The whereabouts of the third-country national concerned are unknown:

No.²²

b) The third-country national concerned lacks an identity or travel document:

No.²³

c) Other (please describe)

Q6b. In connection with Q6 a) above, does your Member State have any measures in place to effectively locate and apprehend those irregularly-staying third-country nationals whose whereabouts are unknown? Yes.

If Yes, please elaborate on the type of measures

A notice issued under section 3(3) (b) (ii) of the Immigration Act 1999, known as an arrangements letter, is issued with the deportation order. It contains information that a deportation order has been issued, the reasons for issuing and

²² Interview with INIS, August 2017.

²³ Interview with INIS, August 2017.

the date by which the person concerned must leave the State (Quinn and Gusciute, 2015).

A unit of GNIB has, among other responsibilities, the task of locating individuals who do not attend at the GNIB office on the date and time specified on the arrangements letter. GNIB works with other State bodies such as the Department of Social Protection and the HSE Civil Registration Service to locate and apprehend irregularly staying TCNs.²⁴

Any person subject to a deportation order who fails to present as required in the arrangements letter is deemed to be evading and becomes liable to arrest and detention for the purposes of effecting their deportation from the State.²⁵

Standard Garda methods are used to locate and apprehend “evaders”.²⁶

See section 4.3 for a discussion on detention.

Q6c. [EC Recommendation (24) (d)] Does your Member State issue a return decision when irregular stay is detected on exit? Yes/No

Not applicable. Ireland does not have exit checks.^{27 28}

Please briefly elaborate any important exceptions to the general rule stated above

Q7. [EC Recommendation (5) (c)] In your Member State, is the return decision issued together with the decision to end the legal stay of a third-country national?

No.

If No, when is the return decision issued? Please specify.

In Ireland, the closest equivalent decision to a return decision is a deportation order. A Return Decision is defined in the EU Return Directive (2008/115/EC) as an administrative decision or judicial act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return (Quinn and Gusciute, 2015).

24 Interview with GNIB, August 2017.

25 See www.inis.gov.ie/en/INIS/Pages/repatriation

26 Interview with GNIB, August 2017.

27 Interview with INIS, August 2017.

28 Interview with GNIB, August 2017.

In the Irish return context separate documents contain elements of the Return Decision. The notification that the individual does not have a legal basis to remain is contained in the final negative determination received by unsuccessful applicants for International Protection, and in what is known as a '15-day letter' for all others (Sheridan 2017). The obligation to leave the territory is communicated by way of the section 3(3) (b) (ii) notice issued under of the Immigration Act 1999 (arrangements letter) (Quinn and Gusciute, 2015).

While a return decision issued in accordance with the EU Return Directive has a period for voluntary return built into it, in the Irish system the period for availing of voluntary return expires once the deportation order is issued (Sheridan, 2017).

Ireland is in the minority group of Member States (alongside Bulgaria, Greece and Latvia) where a return decision (deportation order) can only enter into force after all asylum appeals have been exhausted (Sheridan, 2017).

Q8. Does the legislation in your Member State foresee the possibility to grant an autonomous residence permit or other authorisation offering a right to stay for compassionate, humanitarian or other reasons to third-country nationals irregularly staying on their territory?

Yes.

If Yes, please elaborate on the type of permit/ authorisation granted and to which type of third-country national it is granted.

Section 3 of the Immigration Act 1999 provides that the Minister for Justice may take into account humanitarian considerations when deciding whether to make a deportation order. The Minister for Justice has the discretion not to make a deportation order in respect of a non-Irish national who is the subject of a proposal to deport, and may instead grant that person leave to remain (sometimes referred to as humanitarian leave to remain). The power of the Minister to grant humanitarian leave to remain is part of the Minister's broad discretion, and there are no available guidelines as to the type of permit/authorisation granted or the duration of such permission. This permission may be granted to any non-Irish national who is the subject of a proposal to deport.²⁹

29 Comments received from EMN legal consultant, August 2017.

A total of 532 persons were granted leave to remain under section 3 of the Immigration Act 1999 in 2016 of which 467 persons were rejected asylum applicants.³⁰

For refused International Protection applicants permission to remain is considered by the Minister as part of the single procedure. The Minister will have regard to such matters as the applicant's family and personal circumstances and his or her right to respect for private and family life. The Minister may consider further information provided by the applicant at the appeal stage. The onus is on the person to submit information relating to any change of circumstances. There is no appeal mechanism for a refusal of permission to remain.³¹

Q9a. [EC Recommendation (6)] In your Member State, do return decisions have unlimited duration?

Yes.

Q9b. If No, for how long are return decisions valid?

Q10. Does your Member State have any mechanism in place to take into account any change in the individual situation of the third-country nationals concerned, including the risk of refoulement before enforcing a removal?

Yes.

If Yes, please describe such mechanism:

The risk of refoulement is considered by the Ministerial Decisions Unit prior to the issuing of a deportation order under the International Protection Act 2015 or the Immigration Act 1999. Humanitarian considerations are considered part of the Permission to Remain assessment process, also completed before the issuing of a deportation order under the International Protection Act 2015 or the Immigration Act 1999 (*see Q8 above*).

Where a deportation order has been made pursuant to section 3 of the Immigration Act 1999, the subject of that deportation order may apply in writing at any time to the Minister for Justice to revoke the deportation order pursuant to section 3(11) of the Immigration Act 1999.

³⁰ Department of Justice response to Parliamentary Question [24567/17]

³¹ EMN Ireland (2017).

The decision of the Minister for Justice whether to revoke a deportation order is also part of the broad discretion of the Minister in this regard³² although it remains subject to the prohibition on *refoulement*^{33 34}

Ireland does not distinguish deportation orders that cannot immediately be enforced from other deportation orders and, consequently, does not apply the concept of 'tolerated stay' to persons in receipt of deportation orders who cannot immediately be returned (Sheridan, 2017).

Q11. [EC Recommendation (7)] Does your Member State systematically introduce in return decisions the information that third-country nationals must leave the territory of the Member State to reach a third country?

No.

Please briefly elaborate on important exceptions to the general rule stated above.

The notification of intention to deport (or '15 day letter') advises that the recipient "should be aware that regulations will be made under the European Communities Act, 1972 (as amended), to give statutory effect to the European Union (EU) Directive 2001/40/EC which obliges each EU Member State to mutually recognise and give effect to deportation orders issued in respect of third-country nationals i.e. anyone who is not a national of any of the EU States. This means that a deportation order may also prevent you from entering another EU State in the future".

32 *Smith v Minister for Justice* [2013] IESC 4

33 *Meadows v Minister for Justice and Equality* [2010] IEHC 3 and *YY v Minister for Justice and Equality* [2017] IESC 61

34 Comments received from EMN legal consultant, August 2017.

SECTION 3: RISK OF ABSCONDING

This section will examine Member States' practices and criteria to determine the risk of absconding posed by third-country nationals who have been issued a return decision (to the extent that it has not been covered in previous EMN studies/outputs), as well as measures aiming to avoiding the risk of absconding (as per Article 7(3) of the Return Directive). Please indicate in your answers if any of the measures described in this section were introduced or changed as a result of implementing EU rules, namely the Return Directive or relevant case law.

Q12. [EC Recommendation (15)] In your Member State, are the following elements/behaviours considered as a rebuttable presumption that a risk of absconding exists?

Not applicable.

TABLE 1: ASSESSMENT OF THE RISK OF ABSCONDING

Elements/ behaviours	Yes/No	Comments
Refusal to cooperate in the identification process, e.g. by using false or forged documents, destroying or otherwise disposing of existing documents, and/or refusing to provide fingerprints		
Violent or fraudulent opposition to the enforcement of return		
Explicit expression of the intention of non-compliance with a return decision		
Non-compliance with a period for voluntary departure		
Conviction for a serious criminal offence in the Member States		
Evidence of previous absconding		
Provision of misleading information		
Non-compliance with a measure aimed at preventing absconding		
Non-compliance with an existing entry ban		
Lack of financial resources		

Q13. What measures are in place in your Member State to avoid the risk of absconding for the duration of the period for voluntary departure?

Not applicable. No measures apply prior to issuing a deportation order.³⁵ When a deportation order has issued, the period for voluntary return has lapsed. See *question 20b and 29*.

- a) Regular reporting to the authorities; N/A
- b) Deposit of an adequate financial guarantee; N/A
- c) Submission of documents; N/A
- d) Obligation to stay at a certain place; N/A
- e) Other (please describe) N/A

Q14. Please indicate any challenges associated with the determination of the existence of a risk of absconding in your Member State. In replying to this question please specify for whom the issue identified constitutes a challenge and specify the sources of the information provided (e.g. existing studies/evaluations, information received from competent authorities or case law)

Not applicable.

Q15. Please describe any examples of good practice in your Member State's determination of the existence of a risk of absconding, identifying as far as possible by whom the practice in question is considered successful, since when it has been in place, its relevance and whether its effectiveness has been proved through an (independent) evaluation. Please reference any sources of information supporting the identification of the practice in question as a 'good practice' (e.g. evaluation reports, academic studies, studies by NGOs and International Organisations, etc.)

Not applicable.

³⁵ Interview with GNIB, August 2017.

SECTION 4: EFFECTIVE ENFORCEMENT OF RETURN DECISIONS

Q16. [EC Recommendation (11)] Does national legislation in your Member State foresee any sanctions for third-country nationals who fail to comply with a return decision and/or intentionally obstruct return processes? Yes.

If Yes, please specify to whom such sanctions apply and their content

Section 3 of the Immigration Act 1999 provides that where the Minister for Justice makes a deportation order against a non-Irish national, that person is obliged to leave the State by the date specified and to thereafter remain outside of the State. The notification of a deportation order may also include certain conditions including a requirement to report at regular intervals to the Garda National Immigration Bureau which has responsibility for enforcing deportation orders.

Section 3(10) of the Immigration Act 1999 provides that a person who contravenes a provision of a deportation order or a requirement specified in a deportation notice is guilty of an offence. Furthermore, section 8 of the Immigration Act 1999 provides it is an offence for a person in respect of whom a deportation order has been made to obstruct or hinder the enforcement of that deportation order by a Ministerial official. It is also an offence for a person who is the subject of a deportation order to endanger his or her own safety or the safety of others in the course of the enforcement of the deportation order. A person who is subject of a deportation order must also co-operate with the arrangements made to implement deportation such as travel documents, tickets or other documents required for the purpose of deportation; failure to co-operate in this regard is also an offence.

The penalties for these offences are set out in section 9 of the Immigration Act 1999. A person guilty of such an offence is liable on summary conviction to a fine not exceeding £1,500 (€1,875) or to imprisonment for a term not exceeding 12 months or to both.³⁶

If the person on whom a deportation order has been served fails to comply with the terms of the deportation order, or those contained in the arrangements letter, the person may be liable to arrest without warrant and detention pending removal under the terms of Section 5 of the Immigration Act 1999 (Sheridan 2017). *Detention is discussed in section 4.3.*

³⁶ Comments received from EMN legal consultant, August 2017.

SECTION 4.1. MUTUAL RECOGNITION

Q17. [EC Recommendation (9) (d)] Does your Member State systematically recognise return decisions issued by another Member State to third-country nationals present in the territory?

No.³⁷

Please briefly elaborate on your practice and any exception to the general rule stated above.

If Yes, does your Member State:

a) Initiate proceedings to return the third-country national concerned to a third country; Yes/No

b) Initiate proceedings to return the third-country national concerned to the Member State which issued the return decision; Yes/No

c) Other (please specify)

If No, please specify the reasons why your Member State does not recognise return decisions issued by another Member State

In accordance with Protocol No.21 to the Treaty on the Functioning of the European Union (TFEU), Ireland does not participate in the EU Return Directive (2008/115/EC).

SECTION 4.2 TRAVEL DOCUMENTS

Q18. [EC Recommendation (9) (c)] Does your Member State issue European travel documents for return in accordance with Regulation 2016/1953?

No.³⁸

If Yes, in which cases do you issue these documents?

If Yes, are these documents generally accepted by third countries?

³⁷ Interview with INIS, August 2017.

³⁸ Interview with INIS, August 2017.

Please briefly elaborate on important exceptions to the general rule stated above.

INIS noted that Ireland uses travel letters issued by the relevant states to facilitate return.

IOM can assist in procuring travel documents in the context of Assisted Voluntary Return and Reintegration (AVRR). IOM confirm that in recent years it has not had a case of AVRR requiring a Travel Document issued by IE. All AVRR cases have had travel documents issued, where necessary, by the country of return.³⁹ (See Q.19 below).

Q19. In your Member State, what is the procedure followed to request the third country of return to deliver a valid travel document/ to accept a European travel document? Please briefly describe the authorities responsible for carrying out such requests (where relevant, for each type of document, e.g. laissez-passer, EU travel documents...) and the timeframe within which these are lodged before third countries.

The procedure to request a third country of return to deliver a valid travel document/to accept a European travel document varies case-by-case according to the particular circumstances. INIS Repatriation Division or IOM communicate directly with Embassies, Consulates or High Commissioners. The time frame also varies by country.⁴⁰ The IOM supports AVRR travel with a travel document, where possible, issued by the country of return. This facilitates the most regular form of travel, both at departure and arrival stages.⁴¹

SECTION 4.3. USE OF DETENTION IN RETURN PROCEDURES

Please indicate in your answers if any of the measures described in this section were introduced or changed as a result of implementing EU rules, namely the Return directive or relevant case law.

Q20a. [EC Recommendation (10) (a)] In your Member State, is it possible to detain a third-country national within the context of the return procedure?

In Ireland, there is no general detention of holders of deportation orders, but there can be limited detention in relation to non-compliance with the deportation order.⁴²

³⁹ Interview with IOM, August 2017.

⁴⁰ Interview with INIS, August 2017.

⁴¹ Correspondence with IOM, September 2017.

⁴² Interview with GNIB, August 2017. See also Sheridan (2017)

If a person on whom a deportation order has been served fails to comply with the terms of the deportation order, or those contained in the arrangements letter, the person may be liable to arrest without warrant and detention pending removal under the terms of Section 5 of the Immigration Act 1999. Where an immigration officer or a member of the Garda Síochána, with reasonable cause, suspects that a person against whom a deportation order is in force:

- has failed to leave the State within the time specified in the order,
- has failed to comply with any other provision of the order or with a requirement in a notice under section 3(3)(b)(ii) (arrangements letter),
- intends to leave the State and enter another state without lawful authority,
- has destroyed his or her identity documents or is in possession of forged identity documents, or
- intends to avoid removal from the State
- the officer or member may arrest the person without warrant and detain the person.

Section 51(4) of the International Protection Act 2015 provides inter alia that the provisions on detention in the Immigration Act 1999 apply to a deportation order made under Section 51 of the International Protection Act 2015. In order to detain a TCN for return there must be an ongoing intention to deport i.e. deportation must be possible within a reasonable time.⁴³ Section 3(8) of the Act states that if a person who has consented in writing to the making of a deportation order is not deported from the State within three months of the making of the order, the order shall cease to have effect (Quinn and Gusciute, 2015).

Please briefly elaborate on any exceptions to the general rule stated above

This provision for detention does not apply to minors.⁴⁴

⁴³ Interview with GNIB, August 2017.

⁴⁴ Immigration Act 1999, Section 5(4) (a). See also Sheridan (2017).

Q20b. If Yes, please specify the grounds on which a third-country national may be detained (select all that apply)

If there is a risk of absconding;

To some extent. A person may be detained under Section 5 (v) if he or she intends to avoid removal from the State but this provision is rarely invoked in isolation.⁴⁵

If the third-country national avoids or hampers the preparation of a return or removal process:

Yes. Under section 5 (ii) a person may be detained if he or she has failed to comply with any provision of the deportation order or with a requirement in a notice under section 3(3) (b) (ii) (the arrangements letter). Such notices contain a date and place to present. If the recipient fails to do so he or she may be detained under section 5(ii).⁴⁶ It is not the case that everyone who does not present on the date specified in the arrangements letter will be detained. Decisions to detain are made on a case by case basis.⁴⁷

Other (please specify).

45 Interview with GNIB, August 2017.

46 Interview with GNIB, August 2017.

47 Interview with GNIB, August 2017.

Q21. How often does your Member State make use of detention for the purpose of removal? Please complete the table below for each reference year (covering a 12-month period, from 1st January to 31st December).

TABLE 2: THIRD-COUNTRY NATIONALS PLACED IN DETENTION 2012-2016

Data are not available on TCN placed in detention for the purpose of return.⁴⁸

	2012	2013	2014	2015	2016	Comments
Total number of third-country nationals placed in detention						See EMN Ad-Hoc Queries on the 'Use of Detention in Return Procedures - Requested by COM on 30th November 2015' and 'Use of Detention in Return Procedures (update) - Requested by COM on 9th August 2016' for balance of information.
Number of third-country nationals placed in detention (men)						
Number of third-country nationals placed in detention (women)						
Number of families in detention						
Number of UAMs in detention						

Q22a. [EC Recommendation (10) (b)] In your Member State, what is the overall maximum authorised length of detention (as provided for in national law or defined in national case law)?

Section 5(8)(a) of the Immigration Act 1999 (as amended by section 78 of the International Protection Act 2015) provides that in general, the maximum authorised length of detention is eight weeks in aggregate.⁴⁹ GNIB noted that if a prisoner is released before the 56 day maximum, then the balance of the 56 days remains if or when the same individual has a case to answer on another occasion on one of the five grounds above.⁵⁰

⁴⁸ This is because data are held on individual files and aggregated statistics are not routinely produced (Interview with GNIB, August 2017). INIS also do not hold such data (Interview with INIS, August 2017).

⁴⁹ Comments received from EMN legal consultant, August 2017.

⁵⁰ Interview with GNIB, August 2017.

Q22b. Does your national legislation foresee exceptions where this maximum authorised length of detention can be exceeded? Yes

Please elaborate under which circumstances:

Section 5(9) and (10) of the Immigration Act 1999 (as amended by section 78 of the International Protection Act 2015) provides that the maximum authorised length of detention can be exceeded in specified circumstances, namely where a person has already been detained for the maximum period of 8 weeks but having been released from detention, there are fresh grounds for detention.

These fresh grounds of detention may be that the person (a) has failed to leave the State within the time specified in the order, (b) has failed to comply with any other provision of the order or with a requirement in the deportation notice, (c) intends to leave the State and enter another state without lawful authority, (d) has destroyed his or her identity documents or is in possession of forged identity documents, or (e) intends to avoid removal from the State. There is no maximum period specified for such continued detention by order of the District Court. However, an additional safeguard is provided in such cases as the continued detention must be authorised by a court.⁵¹ No extension period had been requested through the District Court at time of writing (August 2017).⁵²

Q23a. In your Member State, is detention ordered by administrative or judicial authorities?

a) Judicial authorities; please specify

b) Administrative authorities; please specify

c) Both judicial and administrative authorities; please specify

According to section 5 of the Immigration Act 1999 (as amended), the detention of a person who is the subject of a deportation order can be ordered by administrative officials, namely an immigration officer or a member of *An Garda Síochána* (police) where there is reasonable cause to suspect that the person:

(a) has failed to leave the State within the time specified in the order,

(b) has failed to comply with any other provision of the order or with a requirement notified with the order,

(c) intends to leave the State and enter another state without lawful authority,

⁵¹ Comments received from EMN legal consultant, August 2017.

⁵² Interview with GNIB, August 2017.

(d) has destroyed his or her identity documents or is in possession of forged identity documents, or

(e) intends to avoid removal from the State.

However, where a person has been detained for the maximum period of eight weeks and it is sought to detain that person thereafter based on fresh grounds for detention, an application must be made to a judge of the District Court to authorise the continued detention.⁵³ *See Question 22b.*

Q23b. If detention is ordered by administrative authorities, please provide more detailed information on the procedure for reviewing the lawfulness of the detention and the timeframe applicable to such a review:

a) The lawfulness of detention is reviewed by a judge ex officio:

Yes.

If Yes, how long after the start of detention?

Although detention can be ordered by administrative authorities in the first instance without judicial oversight, where such detention exceeds the maximum provided period of 8 weeks, such further detention must be authorised by a District Court judge.⁵⁴

b) The lawfulness of detention is reviewed by a judge if the third-country national takes proceedings to challenge the lawfulness of detention;

Yes.

If Yes, how long after the initiation of such proceedings by the third-country national?

A person who is detained pursuant to section 5(8)(a) of the Immigration Act 1999 (as amended) for the purposes of enforcing deportation may apply at any time to the High Court for a review of the legality of the detention in a procedure known as “habeas corpus”. According to Article 40.4 of the Constitution of Ireland, where a person challenges the lawfulness of his or her detention, the High Court shall order an enquiry “forthwith”, and require the detainor to produce the person before the court and to certify in writing the grounds of detention. The High Court may then hear legal arguments relating to the legality of the detention, and unless the court is satisfied that the detention is lawful, the court

⁵³ Comments received from EMN legal consultant, August 2017.

⁵⁴ Comments received from EMN legal consultant, August 2017.

must order the release of the person. Habeas corpus proceedings are heard on an expedited basis, usually within a matter of days.⁵⁵

Q24a. In your Member State, is the duration of the stay of a third-country national in detention reviewed upon application by the third-country national concerned or ex officio? Please note that whereas Q23b above refers to the review of the lawfulness of the decision to detain, Q24a and Q24b and 24c below refer to the review of the duration of the stay of the third-country national in detention.

Section 5(10) (b) of the Immigration Act 1999 (as amended) provides that where a person who is the subject of a deportation order has already spent the maximum period of 8 weeks in detention, and the administrative authorities are seeking a further period of detention, the person must be brought before a judge of the District Court as soon as practicable, and such further detention may only occur with the court's permission.⁵⁶

Q24b. In your Member State, how often is the stay of a third-country national in detention reviewed (e.g. every two weeks, every month, etc.)?

Every eight weeks.⁵⁷

Q24c. In your Member State, is the stay of a third-country national in detention reviewed by judicial or administrative authorities?

a) Judicial authorities; please specify

b) Administrative authorities; please specify

c) Both judicial and administrative authorities; please specify

Detention is in general reviewed by administrative authorities but will be reviewed by a judge in cases of prolonged detention (over 8 weeks).⁵⁸

55 Comments received from EMN legal consultant, August 2017.

56 Comments received from EMN legal consultant, August 2017.

57 Comments received from EMN legal consultant, August 2017.

58 Comments received from EMN legal consultant, August 2017.

Q25. [EC Recommendation (10) (c)] How many detention centres were open and what was the total detention capacity (number of places available in detention centres) as of 31st December 2016? Please complete the table below, indicating if possible the number of places available for men, women, families and unaccompanied minors. If such disaggregation is not possible, please simply state the total number of detention places available in your Member State.

Ireland does not operate a separate immigration detention system, but instead uses the criminal detention system for immigration detention.⁵⁹

TABLE 3: DETENTION CAPACITY AS OF 31ST DECEMBER 2016

Situation as of 31st December 2016		
Number of detention centres		There are 9 locations within the Irish Prison System ⁶⁰ where those <u>failing to comply</u> with a detention order may be held. There are no dedicated detention facilities for these individuals. ⁶¹ These locations within the Irish Prison system may also be the site of detention of prisoners detained on criminal matters rather than immigration related matters but who are also the subject of a deportation order. ⁶² These locations within the Irish Prison system may also, on occasion, be the site of detention of those subject to removal i.e. refused entry to the State. ^{63 64 65}
Number of places available in detention centres per category of third-country nationals	Men	Castlerea Prison, Roscommon Cloverhill Prison, Dublin Cork Prison, Cork Limerick Prison, Limerick The Midlands Prison Mountjoy Prison, Dublin Saint Patrick's Institution, Dublin The Training Unit, Glengariff Parade, Dublin Wheatfield Prison, Dublin
	Women	Dochas Centre, Dublin Limerick Prison
	Families	The provision for detention of those in breach of a deportation order does not apply to minors.
	Unaccompanied minors	The provision for detention of those in breach of a deportation order does not apply to minors.
Total		Not applicable.

59 Comments received from EMN legal consultant, August 2017.

60 See www.irishprisons.ie

61 In February 2017, The Minister for Justice and Equality said that work would commence soon on a dedicated facility near Dublin Airport to accommodate persons who have been detained for immigration related matters. Parliamentary Question. No. 8854/17 (22 February 2017).

62 Section 24 of the Prisons Act 2015 provides that where a person is serving a sentence of imprisonment and is also subject to a deportation order or removal order, the Minister for Justice may direct that the person can be taken from the prison in order to facilitate the person's deportation or removal from the state before the term of imprisonment is completed (providing there is not more than one years of the term of imprisonment remaining to be served). This statutory power was introduced in response to the decision in NBO, NL and LO v. Minister for Justice and Equality. See Sheridan and Whelan (2016).

63 The Immigration Act, 2003 s.5.

64 Minihan, M. (20 July, 2017).

65 Sherlock, C. (30 July, 2017).

Q26. How does your Member State measure the number of detention places? (e.g. in terms of the number of beds, the square meters available per detainee, etc.)

There are no dedicated or specialised detention facilities.⁶⁶ *See Q25 above.*

Q27 [EC Recommendation (21) (c)]. In your Member State, are third-country nationals subject to return procedures detained in specialised detention facilities (i.e. a facility to keep in detention third-country nationals who are the subject of a return procedure)?

No. No such specialised detention facility exists currently.⁶⁷

Please briefly elaborate on important exceptions to the general rule stated above.

If No, please specify the kind of facilities which are used to detain third-country nationals.

See Q25 above.

Q28a. Has your Member State faced an emergency situation where an exceptionally large number of third-country nationals to be returned placed an unforeseen heavy burden on the capacity of the detention facilities or on the administrative or judicial staff?

No.

Please elaborate on the circumstances in which this happened:

Q28b. Has your Member State's capacity to guarantee the standards for detention conditions, as defined in Article 16 of the Return Directive, been affected due to an exceptionally large number of other categories of third-country nationals (e.g. Dublin cases) being placed in detention facilities?

Not applicable.

Q28c. If Yes to Q28a, please describe the situation(s) in additional detail and provide information on any derogations that your Member State may have decided to apply with respect to general detention conditions and standard periods of judicial review (e.g. during the emergency situation, third-country nationals had to be detained in prison accommodation in order to increase the detention capacity, the detention was reviewed once a month instead of once a week, etc.)

Not applicable.

⁶⁶ Interview with GNIB, August 2017. See also Parliamentary Question. No 20169/16. (7 July 2016)

⁶⁷ Interview with GNIB, August 2017. See also Parliamentary Question. No 20169/16. (7 July 2016)

SECTION 4.4. USE OF ALTERNATIVES TO DETENTION IN RETURN PROCEDURES

Q29. Please indicate whether any alternatives to detention for third-country nationals are available in your Member State and provide information on the practical organisation of each alternative (including any mechanisms that exist to monitor compliance with/progress of the alternative to detention) by completing the table below.

TABLE 4: ALTERNATIVES TO DETENTION

Alternatives to detention	Yes/ No (If yes, please provide a short description)
Reporting obligations (e.g. reporting to the policy or immigration authorities at regular intervals)	Yes. Required to report to a specified Garda Síochána station or immigration officer at specified intervals while and until return travel arrangements are put in place. Failure to comply may lead to arrest and detention without warrant under section 5(1) of the Immigration Act 1999. ⁶⁸
Obligation to surrender a passport or a travel document	No obligation to surrender these documents however passports or copies of passport information are requested to assist making travel arrangements. Section 5(8) Immigration Act 1999 obliges a person to co-operate in order to procure a document. Also, Section 14(1) Immigration Act 2004 (as amended), requires a person in the State without permission to surrender his/her passport ‘only for so long as it is necessary to facilitate his/her removal from the State’.
Residence requirements (e.g. residing at a particular address)	Yes. The Arrangements Letter which accompanies the deportation order specifies that the person is required to reside at the address to which the Order is addressed. Failure to comply may lead to arrest and detention without warrant under section 5(1) of the Immigration Act 1999.
Release on bail (with or without sureties). If the alternative to detention “release on bail” is available in your (Member) State, please provide information on how the amount is determined and who could be appointed as a guarantor (e.g. family member, NGO or community group)	No ⁶⁹

⁶⁸ Interview with GNIB, August 2017.

⁶⁹ Interview with GNIB, August 2017.

Electronic monitoring (e.g. tagging)	No ⁷⁰
Guarantor requirements If this alternative to detention is available in your (Member) State, please provide information on who could be appointed as a guarantor (e.g. family member, NGO or community group)	No ⁷¹
Release to care worker or under a care plan	No ⁷²
Community management programme	No ⁷³
Other alternative measure available in your (Member) State. Please specify.	No ⁷⁴

Q30. Please indicate any challenges associated with the implementation of detention and/or alternatives to detention in your Member State.

In replying to this question please note for whom the issue identified constitutes a challenge and specify the sources of the information provided (e.g. existing studies/evaluations, information received from competent authorities or case law)

Under the original provisions of the Immigration Act 1999, the maximum period of detention permitted for the purposes of enforcing a deportation order was 8 weeks. The Supreme Court confirmed in the case of *Kadri v Governor of Cloverhill Prison*⁷⁵ that this provision must be strictly construed and could not be extended for any reason, even if there were fresh grounds for detention. However as noted above this decision was reversed by section 78 of the International Protection Act 2015 which now allows for further periods of detention where the 8 week maximum has been exceeded provided there are fresh grounds for detention and the detention is authorised by a judge of the District Court. GNIB identified the 8 week maximum detention period as an ongoing challenge, particularly in the context of complex and problematic travel arrangements.⁷⁶

70 Interview with GNIB, August 2017.

71 Interview with GNIB, August 2017.

72 Interview with GNIB, August 2017.

73 Interview with GNIB, August 2017.

74 Interview with GNIB, August 2017.

75 [2012] IESC 27

76 Interview with GNIB, August 2017.

Q31. Please describe any examples of good practice in your Member State's implementation of detention and alternatives to detention, identifying as far as possible by whom the practice in question is considered successful, its relevance, since when the practice has been in place and whether its effectiveness has been proved through an (independent) evaluation. Please reference any sources of information supporting the identification of the practice in question as a 'good practice' (e.g. evaluation reports, academic studies, studies by NGOs and International Organisations, etc.

The GNIB avoids detention where possible and endeavours to work cooperatively with individuals served with a deportation order to expedite their return to the third country.⁷⁷

The provision for detention of those in breach of a deportation order does not apply to minors.

Where the situation arises that parent/s are taken into detention, GNIB will place minors with Tusla, the State agency responsible for children. Tusla will apply to the Irish courts for a Care Order to ensure the safety and wellbeing of the child or young person concerned.⁷⁸

GNIB provide assistance to individuals about to be removed from the State with i) access to a discretionary fund to provide small amounts of money for use on arrival in the third country ii) assistance with shipping of belongings to the third country iii) overnight accommodation, near Dublin airport, provided by the Reception and Integration Agency (RIA) in particular when there are minors in a family group or the individuals have had a long journey to get to the airport.⁷⁹

77 Interview with GNIB, August 2017.

78 Interview with GNIB, August 2017.

79 Interview with GNIB, August 2017.

SECTION 5: PROCEDURAL SAFEGUARDS AND REMEDIES

Q32. [EC Recommendation (12) (d)] Is the application of the principle of non-refoulement and/or of Article 3 European Convention on Human Rights systematically assessed as part of the procedure to take a return decision?

Yes. Section 50(1) of the International Protection Act 2015 provides that a person shall not be expelled or returned in any manner whatsoever to the frontier of a territory where, in the opinion of the Minister (a) the life or freedom of the person would be threatened for reasons of race, religion, nationality, membership of a particular social group or political opinion, or (b) there is a serious risk that the person would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment. Section 50(4) of the 2015 Act provides that a person whose application for international protection has been refused, and who has been refused humanitarian leave to remain, who would otherwise be the subject of a deportation order, shall be given permission to remain in the State where the return of that person would be in breach of section 50(1) i.e. the principle of non-*refoulement*.⁸⁰

Please briefly elaborate on important exceptions to the general rule stated above

If No, under which circumstances is it assessed?

- a) It is never assessed as part of the return procedure; Yes/No
- b) It is only assessed once (e.g. during the asylum procedure) and does not need to be repeated during the return procedure; Yes/No
- c) Other (please specify)

Q33. In your Member State, before which authority can a return decision be challenged?

- a) Judicial authority; Yes/No
- b) Administrative authority; Yes/No
- c) Competent body composed of members who are impartial and who enjoy safeguards of independence. If Yes to c), please specify

A deportation order in Ireland can only be challenged before a judicial authority by way of an application for judicial review to the High Court. This is not an appeal, but a challenge to the lawfulness of the decision to make the deportation order.⁸¹

⁸⁰ Comments received from EMN legal consultant, August 2017.

⁸¹ Comments received from EMN legal consultant, August 2017.

Q34. [EC Recommendation (12) (b)] Is there a deadline for the third-country national concerned to appeal the return decision? Yes/No

If Yes, please specify whether the deadline is:

- a) Less than a week;**
- b) Two weeks;**
- c) One month;**
- d) As long as the return decision has not been enforced.**
- e) Other (please specify)**

Other. Section 5 of the Illegal Immigrants (Trafficking) Act 2000 (as amended) provides that an application for leave to seek judicial review of a decision to make a deportation order shall be made within 28 days of notification of the order. However, the High Court has discretion to extend that period provided there is good and sufficient reason to extend the time, and that substantial grounds exist for contending that the deportation order is invalid.⁸²

Q35. [EC Recommendation (12) (c)] In your Member State, does the appeal against a return decision have a suspensive effect?

If Yes, under which conditions? Are there cases where the appeal is not suspensive (please describe)?

Not applicable. It is currently not possible to administratively appeal a deportation order. (See Q33 above). Section 22 of the International Protection Act deals with applications for readmission to the protection process, which may have suspensive effect, but an application for readmission to the protection process is not an appeal against a return decision, but is instead the making of a fresh application for international protection.⁸³

Q36. Does national legislation in your Member State provide for an administrative/judicial hearing for the purposes of return?

No. The decision to make a deportation order in Ireland is an administrative process and a person who is the subject of a proposal to make a deportation order can make submissions in writing as to why a deportation order should not be made, but there is no provision in Irish law for either an administrative or judicial hearing.⁸⁴

Please briefly elaborate on important exceptions to the general rule stated above.

82 Comments received from EMN legal consultant, August 2017.

83 Comments received from EMN legal consultant, August 2017.

84 Comments received from EMN legal consultant, August 2017.

Q37. [EC Recommendation (12) (a)] In your Member States, is there a possibility to hold the return hearing together with hearings for different purposes?

No. As noted above, there is no hearing in respect of a decision to make a deportation order in Irish law.⁸⁵

If Yes, which ones (e.g. hearings for the granting of a residence permit or detention)?

Q38. Is there an obligation for the third-country national concerned to attend the hearing in person? Yes/No

If No, please describe what alternatives can be used (e.g. phone, video conference...)

Not applicable.

⁸⁵ Comments received from EMN legal consultant, August 2017.

SECTION 6: FAMILY LIFE, CHILDREN AND STATE OF HEALTH

Q39. In your Member State, which categories of persons are considered vulnerable in relation to return/ detention (e.g. minors, families with children, pregnant women or persons with special needs)? Please differentiate between return and detention if applicable

Irish law does not designate any categories of vulnerable persons in relation to either return or detention.^{86 87} Existing policy indicates that certain categories are unlikely to be issued with a deportation order: If a victim of trafficking has had a negative determination in an asylum or subsidiary protection application, he or she will be issued with a notification of proposal to deport. At that stage considerations regarding experience of trafficking, along with any other matters as outlined in Section 3(6) will be examined and the Minister may exercise discretion not to issue a deportation order. No legislative prohibition exists on the deportation of unaccompanied minors aged under 18 years, but in practice no such deportations have taken place. Transfers of unaccompanied minors under the Dublin Regulation do occur when Tusla has deemed that it is in the best interests of the child (Quinn et al., 2014). Minors are not detained under section 5 of the 1999 Act.⁸⁸

Q40. [EC Recommendation (13)] In order to ensure that the best interest of the child is taken into account, how and by whom is it assessed before issuing a return decision?

Section 3 of the Immigration Act 1999 which sets out the Minister's power to make deportation orders does not require the best interests of the child to be taken into account before issuing a return decision. The omission of such a requirement was the subject of a legal challenge in the case of *Dos Santos v Minister for Justice and Equality*⁸⁹ but the Court of Appeal confirmed that the Minister for Justice is not obliged to treat as a primary consideration the best interests of the child or, alternatively, to decide expressly whether deportation would be consistent with the best interests of the child.⁹⁰

86 Comments received from EMN legal consultant, August 2017.

87 The Government Working Group on improvements to the Protection Process including Direct Provision and Supports for Asylum Seekers states that the introduction of vulnerability screening of all applicants is 'a desirable objective but carries significant resource implications. This recommendation is unlikely to be fully implemented in medium term'. Working Group on the Protection Process (2015) Report to Government. Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers. Final Report. Available: www.justice.ie/en/JELR. Accessed: 23 August 2017.

88 Immigration Act 1999, Section 5(4) (a).

89 [2015] IECA 210.

90 Comments received from EMN legal consultant, August 2017.

Q41. In your Member State, what elements are taken into account to determine the best interest of the child when determining whether a return decision should be issued against an irregularly staying minor (aside from the assessment of the non-refoulement principle)?

TABLE 5: ELEMENTS CONSIDERED IN DETERMINING THE BEST INTEREST OF THE CHILD

Elements considered	Yes/No	Comments
Child's identity	No ⁹¹	See Q40 – no best interests assessment required in Irish law.
Parents' (or current caregiver's) views	No ⁹²	
Child's views	No ⁹³	
Preservation of the family environment, and maintaining or restoring relationships	No ⁹⁴	
Care, protection and safety of the child	No ⁹⁵	
Situation of vulnerability	No ⁹⁶	
Child's right to health	No ⁹⁷	
Access to education	No ⁹⁸	
Other (please describe)	No ⁹⁹	

Q42. In the event a return decision against an unaccompanied minor cannot be carried out, does your Member State grant the minor a right to stay? Yes/No

Not applicable. The decision to make a deportation order does not generally include an assessment of the enforceability of the deportation.

If Yes, please describe any relevant practice/case law.

91 Comments received from EMN legal consultant, August 2017.

92 Comments received from EMN legal consultant, August 2017.

93 Comments received from EMN legal consultant, August 2017.

94 Comments received from EMN legal consultant, August 2017.

95 Comments received from EMN legal consultant, August 2017.

96 Comments received from EMN legal consultant, August 2017.

97 Comments received from EMN legal consultant, August 2017.

98 Comments received from EMN legal consultant, August 2017.

99 Comments received from EMN legal consultant, August 2017.

Q43. [EC Recommendation (13) (c)] Does your Member State have in place any reintegration policies specifically targeted to unaccompanied minors?

No.¹⁰⁰

If Yes, please describe such policies

Q44. In your Member State, can the enforcement of the return decision be postponed on the grounds of health issues? Yes/No

No.¹⁰¹

If Yes, please describe any relevant practice/case law.

There is no provision in Irish law for postponing a deportation order on health or any other grounds. However, a person who is the subject of a deportation order can apply at any time for revocation of the deportation order e.g. on the grounds of health issues. For example, in *Cosma v Minister for Justice* [2006] IESC 44 the applicant applied for revocation of a deportation order on the grounds of mental health/suicidality but the application was unsuccessful.¹⁰² Persons with a serious illness and elderly people may be deported unless the actual act of removal would cause death (Quinn and Kingston, 2012).

Q45. In your Member State, how is the assessment of the state of health of the third-country national concerned conducted?

a) The third-country national brings his/her own medical certificate; Yes/No

b) The third-country national must consult with a doctor appointed by the competent national authority; Yes/No

c) Other (please describe)

There is no provision in Irish legislation for the assessment of the state of health of a non-national in the deportation procedure. However, in practice where a person who is the subject of a deportation order seeks revocation on the basis of health issues, the person would be expected to provide his or her own medical certificate (see e.g. *Cosma v Minister for Justice* [2006] IESC 44).¹⁰³

100 Comments received from EMN legal consultant, August 2017.

101 Comments received from EMN legal consultant, August 2017.

102 Comments received from EMN legal consultant, August 2017.

103 Comments received from EMN legal consultant, August 2017.

Q46. When returnees suffer from health problems does your Member State take into account the accessibility of medical treatment in the country of return?

Yes.¹⁰⁴

If Yes, which authority is responsible for this assessment of the accessibility?

In deciding whether to make a deportation order in respect of a person with health problems, the Minister for Justice will consider the availability and accessibility of medical treatment in the country of return. However, it is only where the non-availability of medical treatment would violate the prohibition on torture or inhuman and degrading treatment under Article 3 ECHR that the Minister will refrain from making a deportation order: see e.g. *DE v Minister for Justice and Equality* [2016] IEHC 650.¹⁰⁵

Q47. When returnees suffer from health problems, does your Member States make provision for the supply of the necessary medication in the country of return?

No.¹⁰⁶

If Yes, for how long is the medication provided?

Q.48. Does your Member State postpone return if the third-country national concerned is pregnant? Please specify (e.g. pregnancy as such is not a cause for postponement, but can be if pregnancy is already advanced, e.g. after eight months)

There is no formal legislation or policy providing for postponement of deportation if the non-national is pregnant. However, as a matter of practicality if the pregnancy is so advanced that travel is not possible, the deportation order cannot be enforced.¹⁰⁷

104 Comments received from EMN legal consultant, August 2017.

105 Comments received from EMN legal consultant, August 2017.

106 Comments received from EMN legal consultant, August 2017.

107 Comments received from EMN legal consultant, August 2017.

Q49a. [EC Recommendation (14)] In your Member State, is it possible to detain persons belonging to vulnerable groups, including minors, families with children, pregnant women or persons with special needs? Please indicate whether persons belonging to vulnerable groups are exempt from detention, or whether they can be detained in certain circumstances.

All children under the age of 18, whether accompanied or unaccompanied, are exempted from detention for deportation purposes in Irish law: section 5(6) of the Immigration Act 1999 (as amended). There is no exemption from detention for deportation purposes for any other groups in Irish law such as pregnant women or persons with special needs.¹⁰⁸

Q49b. If applicable, under which conditions can vulnerable persons be detained? NCPs are asked in particular to distinguish whether children can be detained who are (a) accompanied by parents and (b) unaccompanied.

As noted above, all children are exempted from detention for deportation purposes in Irish law. In cases of families with children, Irish law provides that the parents may be detained in which cases the children may be taken into State care: section 5(6) (c) of the Immigration Act 1999 (as amended).¹⁰⁹

Q50. Please indicate any challenges associated with the implementation of the return of vulnerable persons in your Member State. In replying to this question please specify for whom the issue identified constitutes a challenge and specify the sources of the information provided (e.g. existing studies/evaluations, information received from competent authorities or case law)

Q51. Please describe any examples of good practice in your Member State concerning the return of vulnerable persons, identifying as far as possible by whom the practice in question is considered successful, since when has the practice been in place, its relevance and whether its effectiveness has been proved through an (independent) evaluation. Please reference any sources of information supporting the identification of the practice in question as a 'good practice' (e.g. evaluation reports, academic studies, studies by NGOs and International Organisations, etc.)

¹⁰⁸ Comments received from EMN legal consultant, August 2017.

¹⁰⁹ A legal challenge to this practice was rejected in *PO & GE v Minister for Justice* [2016] IEHC 557.

SECTION 7: VOLUNTARY DEPARTURE

Q52a. [EC Recommendation (17)] In your Member State, is a period of voluntary departure granted:

Automatically with the return decision? OR Only following an application by the third-country national concerned for a period for voluntary departure? Please briefly elaborate on important exceptions to the general rule stated above

Not applicable. While a return decision issued in accordance with the EU Return Directive has a period for voluntary departure built into it, in the Irish system the period for availing of voluntary return expires once the deportation order is issued (Sheridan, 2017). Rejected applicants for international protection are given five days from the date of receipt of the Minister's notice rejecting their protection application to confirm that they will voluntarily return to their country of origin (Sheridan 2017). If the person does not confirm within five days that they will voluntarily return to the country of origin, the Minister may then proceed to issue a deportation order. For non-protection applicants, the Minister may issue a notice of intention to deport (known as a '15-day letter') which sets out three options (voluntary return, consent to the deportation order, or assessment of leave to remain) which are available for 15 days before a deportation order can be issued.

Q52b. If Yes to b), how does your Member State inform the third-country nationals concerned of the possibility of submitting such an application? Please specify:

- a) The legal/ policy provisions regulating the facilitation of such information;
- b) The actors involved / responsible;
- c) The content of the information provided (e.g. the application procedure, the deadlines for applying, the length of the period for voluntary departure, etc.);
- d) The timing of the information provision (e.g. on being issued a decision ending legal stay/return decision);
- e) The tools of dissemination (in person (written), in person (oral), via post, via email, in a telephone call, in public spaces, etc.),
- f) The language(s) in which the information must be given and any accessibility / quality criteria (visual presentation, style of language to be used, etc.),
- g) Any particular provisions for vulnerable groups (e.g. victims of trafficking, unaccompanied minors, elderly people) and other specific groups (e.g. specific nationalities).

Not applicable.

Q53. In your Member State is there a possibility to refrain from granting a period of voluntary departure/ grant a period for voluntary departure shorter than seven days in specific circumstances in accordance with Article 7(4) of the Return Directive?

- a) Yes, to refrain from granting a period of voluntary departure;
- b) Yes, to grant a period for voluntary departure shorter than seven days;
- c) No.

Not applicable.

If Yes, when does your Member State refrain from granting a period of voluntary departure/ grant a period for voluntary departure shorter than seven days? Please select all that apply:

- a) When there is a risk of absconding; Yes/No
- b) When an application for a legal stay has been dismissed as manifestly unfounded or fraudulent; Yes/No
- c) When the person concerned poses a risk to public policy, public security or national security; Yes/No
- d) Other (please specify)

Not applicable.

Q54. [EC Recommendation (18)] In your Member State, how long is the period granted for voluntary departure?

Not applicable.

Q55. [EC Recommendation (19)] In determining the duration of the period for voluntary departure, does your Member State assess the individual circumstances of the case?

If Yes, which circumstances are taken into consideration in the decision to determine the duration of the period for voluntary departure? Please indicate all that apply:

- a) The prospects of return
- b) The willingness of the irregularly staying third-country national to cooperate with competent authorities in view of return
- c) Other (please specify)

Not applicable.

Q56. Is it part of your Member State's policy on return to extend the period for voluntary departure where necessary taking into account the specific circumstances of the individual case?

Not applicable.

If Yes, which circumstances are taken into consideration in the decision to extend the period for voluntary departure? Please indicate all that apply:

- a) The length of stay**
- b) The existence of children attending school**
- c) The existence of other family and social links**
- d) Other (please specify)**

Q57. [EC Recommendation (24) (b)] In your Member State, is there a mechanism in place to verify if a third-country national staying irregularly has effectively left the country during the period for voluntary departure? Yes/No

If Yes, please describe:

Not applicable.

Q58. Please indicate whether your Member State has encountered any of the following challenges associated to the provision of a period for voluntary departure and briefly explain how they affect the ability of the period for voluntary departure to contribute to effective returns.

TABLE 6: CHALLENGES ASSOCIATED WITH THE PERIOD FOR VOLUNTARY DEPARTURE

Not applicable.

Challenges associated with the period for voluntary departure	Yes/No/In some cases	Reasons
Insufficient length of the period for voluntary departure		
Absconding during the period for voluntary departure		
Verification of the departure within the period of voluntary departure		
Other challenges (please specify and add rows as necessary)		

Q59. Please describe any examples of good practice in your Member State in connection with the period of voluntary departure, identifying as far as possible by whom the practice in question is considered successful, its relevance and whether its effectiveness has been proved through an (independent) evaluation. Please reference any sources of information supporting the identification of the practice in question as a 'good practice' (e.g. evaluation reports, academic studies, studies by NGOs and International Organisations, etc.)

Not applicable.

SECTION 8: ENTRY BANS

Q60. In your Member State, which scenario applies to the imposition of entry bans?

a) Entry bans are automatically imposed in case the return obligation has not been complied with OR no period of voluntary departure has been granted

Yes, see below.

b) Entry-bans are automatically imposed on all return decisions other than under a):

Yes/No

c) Entry bans are issued on a case by case basis on all return decisions other than a):

Yes/ No

A deportation order requires the person specified in the order to leave the State within the period specified in the notice given under Section 51(3) of the International Protection Act 2015 and thereafter to remain out of the State (Sheridan 2017). Therefore each deportation order issued contains an inherent entry ban of indefinite duration. Entry bans are not issued independently of deportation orders in Ireland (Quinn and Gusciute 2015).

Q61. What are according to national legislation in your Member State the grounds for imposing entry bans? Please answer this question by indicating whether the grounds defined in national law include the following listed in the table below

Not applicable. Entry bans are not issued independently of deportation orders in Ireland (Quinn and Gusciute 2015).

TABLE 7: GROUNDS FOR IMPOSING AN ENTRY BAN

Grounds for imposing entry bans	Yes/No	Comments
Risk of absconding		Not Applicable
The third-country national concerned poses a risk to public policy, public security or national security		
The application for legal stay was dismissed as manifestly unfounded or fraudulent		
The obligation to return has not been complied with		
Other (e.g. please indicate and add rows as appropriate)		

Q62a. In your Member State, which is the maximum period of validity of an entry ban?

Indefinite – an entry ban is in force unless the deportation order is revoked.

Q62b. Does legislation in your Member State provide for different periods of validity for the entry bans?

No

If Yes, what is the most common period of validity?

Not applicable.

Q62c Does national legislation and case law in your Member State establish a link between the grounds on which an entry ban was imposed and the time limit of the prohibition of entry?

No.

If Yes, please specify (for example, if the third-country national concerned poses a threat to public order or national security a five-year entry ban is imposed; if the third-country national concerned has not complied with the obligation to return a three-year entry ban is imposed, etc.):

Not applicable.

Q63. [EC Recommendation (24)(a)] In your Member State, when does an entry ban start applying?

- a) On the day the return decision is issued Yes
- b) On the day in which the third-country national leave the EU
- c) Other (please specify)

On the day the deportation order is issued.

Q64. [EC Recommendation (24)(c)] Does your Member State enter an alert into the Schengen Information System (SIS) when an entry ban has been imposed on a third-country national? (e.g. see Article 24 (3) of Regulation No 1987/2006 – SIS)?

SIS is not available to Irish officials. Ireland is progressing with its implementation of the national SIS II project.¹¹⁰

Please specify whether;

a) Alerts are entered into the SIS systematically; Yes/No

b) Alerts are entered into the SIS on a regular basis; Yes/No

c) Alerts are entered into the SIS on a case-by-case basis; Yes/No

d) Other (please specify)

Q65. [EC Recommendation (24)(d)] If a return decision is issued when irregular stay is detected on exit (see Q4c above), does your Member State also issue an entry ban? Yes/No

Not applicable.

Please briefly elaborate on important exceptions to the general rule stated above

Q66. If a TCN ignores an entry ban, does your Member State qualify that fact as a misdemeanour or a criminal offence?

a) Yes, a misdemeanour:

b) Yes, a criminal offence: Yes.¹¹¹

c) No.

110 Department of Justice (June, 2017).

111 The Immigration Act 1999, s 4 (2).

Q67. Has your Member State conducted any evaluations of the effectiveness of entry bans?

No.

If Yes, please provide any results pertaining to the issues listed in Table 7 below. The full bibliographical references of the evaluations can be included in an Annex to the national report.

TABLE 8: THE EFFECTIVENESS OF ENTRY BANS

Aspects of the effectiveness of entry bans	Explored in national evaluations (Yes/No)	Main findings
Contribute to preventing re-entry		
Contribute to ensuring compliance with voluntary return		
Cost-effectiveness of entry bans		
Other aspects of effectiveness (please specify)		

Q68. Please indicate whether your Member State has encountered any of the following challenges in the implementation of entry bans and briefly explain how they affect the ability of entry bans to contribute to effective returns.

TABLE 9: PRACTICAL CHALLENGES FOR THE IMPLEMENTATION OF ENTRY BANS

Challenges associated with entry bans	Yes/No/In some cases	Reasons
Compliance with entry bans on the part of the third-country national concerned		Not Applicable
Monitoring of the compliance with entry bans		
Cooperation with other Member States in the implementation of entry bans		
Cooperation with the country of origin in the implementation of entry bans		
Other challenges (please specify and add rows as necessary)		

Q69. Please describe any examples of good practice in your Member State in relation to the implementation of entry bans, identifying as far as possible by whom the practice in question is considered successful, since when it has been in place, its relevance and whether its effectiveness has been proved through an (independent) evaluation. Please reference any sources of information supporting the identification of the practice in question as a 'good practice' (e.g. evaluation reports, academic studies, studies by NGOs and International Organisations, etc.)

SECTION 9: CONCLUSIONS

Q70. With regard to the aims of this study, what conclusions would you draw from your findings?

See National Contribution (page 2) and Q71 (below).

Q71. What overall importance do EU rules have for the effectiveness of return in the national context?

INIS officials noted that Ireland is cognisant of EU rules and co-operates to build common standards and methods to improve the effectiveness of return.¹¹²

The existence of the Common Travel Area (CTA) largely influences Ireland's policy regarding return and most information-sharing occurs between Ireland and the UK. However INIS has stated that the policy priorities of the EU and Ireland are becoming increasingly aligned as regards return and readmission policy. As from July 2014 Ireland participates in 12 EU Readmission Agreements, which have had no practical impact (no returns have been made under the agreements) but are deemed by INIS to be an important sign of solidarity with other Member States, and of closer alignment of Ireland's irregular migration policies and priorities with other EU states. Over recent years the Irish immigration service has become increasingly involved in joint return operations with other Member States and operations led by Frontex; INIS indicated that return operations are now more European-focused (Quinn and Gusciute, 2015).

112 Interview with INIS, August 2017.

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