

EMN Focussed Study 2020

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

National Contribution from Slovenia

2020

The study has been prepared by Legal-Informational Centre for Non-Governmental Organisations (Pravnoinformacijski center nevladnih organizacij – PIC) in cooperation with the European Migration Network National Focal Point in the Republic of Slovenia. European Migration Network has been established due to the need for exchange of information on all aspects of migrations and for the establishment of common asylum and migration policy. The European Migration Network reviews migration policies of third-country nationals or non-EU citizens, the scope of EU citizens is considered only supplementary to the European Migration Network' studies and other documents. The Council Decision 2008/381/EC, which provides a legal basis for the establishment of the European Migration Network, was adopted on May 14, 2008. More information on the European Migration Network is available at: www.emm.si.

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

Top-line fact sheet

In Slovenia, the entry, residence and rights of migrants are regulated by the Aliens Act¹, which is the umbrella law in this area. In 2019, the Government's Migration Strategy² was adopted, which consists of six pillars: legal migration, international protection, illegal migration and return, the security component, integration and the external dimension of migration. Each pillar is made up of individual goals within a pillar that are interconnected and together form a whole.

The strategy defines the key objectives of the Government of the Republic of Slovenia in the management of migration, including the detection and prevention of illegal migration and the effective return and removal of aliens. The strategy is though not addressing the situation of long-term irregularly staying migrants. Regarding the regulation of the status of these migrants, the government adopted the position³ that by amending the Aliens Act⁴ it regulated the status of those migrants who were allowed to stay (tolerated stay) in the Republic of Slovenia for at least 24 months and their removal from the country is not possible; this migrants also need to prove also other substantiated reasons and special personal circumstances that justify their residence in the Republic of Slovenia. According to the Government, this has extended the possibility of issuing a temporary residence permit to migrants whose removal from the country is not possible not only due to respect of the non-refoulement principle, but also for other reasons. The government estimates that the possibilities for regulating the status of migrants are appropriately regulated and enable the regulation of the status of a wide range of persons.

In his reports⁵, the Ombudsman, on the other hand, insists that the government take the necessary measures to ensure that persons residing in the Republic of Slovenia for several years have access to an effective procedure for regulating their residence permits and consequently access to the most basic rights. In doing so, it highlights the position of the so called The Erased⁶ since Slovenia has not yet ratified the 1961 Convention on the Reduction of Statelessness. The definition of a stateless person in this Convention is broader than the definition of a stateless person in the 1954 Convention relating to the Status of Stateless Persons to which the Republic of Slovenia is a party. Only a person who is de jure stateless is defined, while the 1961 Convention also offers protection to persons who are de facto stateless. Namely, in Slovenia, erased persons should be classified as de facto stateless and offered adequate protection, but now they are treated as citizens of other republics of the former (SFR) Yugoslavia and cannot regulate their status due to legal and practical obstacles.

Outside the group of the erased, which in Slovenia represent a specific issue in the regularization of residence, irregularly staying migrants can be classified into three groups:

- a) migrants who enter and reside in Slovenia irregularly and are not known to the authorities;
- b) migrants who regularly enter Slovenia and remain within the country after the expiry of the residence permit or visa.
- c) rejected asylum seekers leaving official accommodation without knowing whether they have also left the country.

Monitoring these groups of migrants is difficult because, as the description shows, they are either not known to the authorities or entry and the duration of the entry are not systematically monitored. A

¹ Aliens Act, Zakon o tujcih – Ztuj (Official Gazette of the Republic of Slovenia, No. 1/18 – official consolidated text, 9/18 – coo. in 62/19 – Const. Court decision)

² Government Strategy on Migration - Strategija vlade na področju migracij, July 2019:

<https://www.gov.si/novice/2019-07-18-vlada-sprejela-strategijo-na-podrocju-migracij/>

³ Information available at: <https://www.gov.si/novice/2020-01-23-58-redna-seja-vlade-republike-slovenije/>

⁴ Article 51 of the Aliens Act

⁵ Ombudsman Report for 2019 - Letno poročilo Varuha človekovih pravic za leto 2019, page. 134, document available at: https://www.varuhrs.si/fileadmin/user_upload/pdf/lp/LP_2019/Letno_porocilo_Varuh19.pdf

⁶ <https://www.mirovni-institut.si/en/the-erased-information-and-documents/>

group of migrants residing in Slovenia without a residence permit, without distinguishing whether it is a long-term or short-term irregular stay, can be monitored only indirectly by monitoring static reports of the police and administrative units that carry out validation procedures of residence permits.

The data thus show that in 2015, 2,818 migrants were detected as irregularly staying, then 2,638 in 2016, and then the number was increasing and in 2019, 5,919 migrants irregularly staying in Slovenia were detected⁷. The increase in the number of detected migrants is the result of the efforts and activities of the police to detect irregular stay and return them. Most of them are citizens of the former Yugoslav republics and Albania. From statistical reports and monitored data it cannot be extracted whether it is a short-term or long-term irregular stay, as nowhere is it specified what one or the other would be (eg when a short-term irregular stay becomes long-term). This data is followed by data on return decisions issued, which show that, given the number of irregular stays detected, a return decision was issued in 35% of cases (voluntary or forced).

The rights to medical services, social assistance, primary education and legal aid may be exercised only by persons who are permitted to stay (tolerated stay) after the return decision has been issued; permission to stay is issued in cases where return is not possible for legal or practical reasons. Persons residing irregularly in the territory of Slovenia have only the right to emergency medical care, all other rights are linked to the residence status, with the permission to stay representing the minimum of recognized rights. The only way to regularize stay comes through permission to stay, but this does not represent a solution for all (or majority) of long-term irregularly staying migrants.

Migration management in Slovenia is centralized, so local authorities do not participate in the preparation of measures or policies that would specifically address the situation of long-term irregularly staying migrants. The topic is not part of the political agenda and there are no specific plans to address the specific situation of this group of migrants; attention to the situation and fundamental rights of this group is drawn by the Ombudsman and non-governmental organizations⁸.

⁷ Yearly Police reports - Letna poročila o delu policije, reports available at: <https://www.policija.si/o-slovenski-policiji/statistika>

⁸ Comments and proposals to the Act on changing and amending Aliens Act jointly prepared by NGOs, draft proposal of the law available at: <https://e-uprava.gov.si/drzava-in-druzba/e-demokracija/predlogi-predpisov/predlog-predpisa.html?id=7126>

Section 1: National legal and policy framework

The primary questions addressed in this section are:

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

SECTION 1.1: CATEGORIES OF LONG-TERM IRREGULAR MIGRANTS AT NATIONAL LEVEL

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

Yes

No

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

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

Yes

No

Q1c. If **yes to Q1b**, are these:

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

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

former (rejected) applicants for international protection who absconded?

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

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

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

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

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

The existing statistical reports of the Police and the Directorate for Migration do not contain data or estimates on the number of individual groups of these persons. The annual reports of the competent authorities provide information on the number and nationality of persons detected in irregular stay, the number of decisions renouncing or revoking the stay, and the reasons for the revocation are not specifically explained.

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

As above.

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

Tick as many boxes as applicable in your (Member) State and use the box below to briefly describe the situation (e.g. procedure followed, conditions of application).

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

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

For clarifications on categories below, please refer to section 2.

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

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

In cases when the return of a migrant is not possible for legal or practical reasons, the migrant may be allowed to stay in the Republic of Slovenia. Permission to stay means permission to stay temporarily in the Republic of Slovenia. A migrant' stay in the Republic of Slovenia is permitted/tolerated if:

- the migrant's removal from the country is not permitted in accordance with non-refoulement principle,
- the migrant does not have and cannot obtain a valid travel document of the country of which he/she is a national,
- the doctor advises against immediate removal from the country due to the migrant's health condition,
- due to the death or serious illness of a family member residing in the Republic of Slovenia,
- it is necessary to ensure the participation of the migrant in the proceedings before the state body of the Republic of Slovenia,
- a minor attends primary school in the Republic of Slovenia until the end of the school year,

- the state of which he/she is a national or the state in which the stateless person had his/her last residence is not willing to admit the migrant,
- removal is not possible because it is not possible to ensure the transport of from the country by land, air or water,
- removal is not possible because circumstances such as natural and other disasters that prevent return have occurred in the country of which the migrant is a national or in the country where the stateless person had his or her last residence,
- for an unaccompanied minor, this is required by his/her legal guardian.

The procedure of issuing a permission to stay is initiated by the police upon a request of a migrant or ex officio but only after the migrant has already received a return decision on return without a deadline for voluntary return or a decision prohibiting the migrant from entering the country or a court judgment an ancillary penalty imposed on a migrant or a collateral sanction of expulsion of a migrant from the country. A residence permit is issued to a migrant for a maximum of six months. The permit may be extended at the request of a migrant or ex officio as long as the reasons last, but not for more than 24 months. A migrant who is allowed to stay in the Republic of Slovenia is issued a certificate of permission to stay in the Republic of Slovenia by the police.

The migrant's obligation to leave the country does not end and does not change with the permission to stay. If there are reasons to suspect that a migrant will try to avoid removal from the country, he may be required to report regularly to the nearest police station, to provide an appropriate financial guarantee, to submit documents or to stay in a certain place.

Notwithstanding the fact that, under European law, a residence document means any permit issued by the authorities of a Member State which allows a third-country national or a stateless person to reside in its territory, Slovenia does not consider a permission to stay as a residence permit. The scope of rights to which migrants are entitled with such permission is significantly smaller in comparison to those third-country nationals who obtain temporary or permanent residence.

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

Extension of the short-stay visa

Extension of the voluntary departure period

If there are objective circumstances that prevent a migrant from returning voluntarily within a certain period, the police may extend the period for voluntary return by decision at the request of the migrant before the expiry of the period for voluntary return, taking into account the circumstances of the individual case. This period is in practise extended for maximum of 30 days.

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

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

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

Tick as many boxes as applicable in your (Member) State and use the box below to briefly describe the situation (e.g. procedure followed, conditions of application).

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

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

For clarifications on categories below, please refer to section 2

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

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

As described in Q2.

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

- An extension of the short-stay visa

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

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

Decision on extension of the deadline for voluntary return, as described in Q2.

SECTION 1.2: PRIORITIES AND DEBATES AT A NATIONAL LEVEL

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

- Yes

- No

If yes, (i) what was the debate about and (ii) how has the debate evolved since 2015 (include debates related to Covid-19)?

Please provide a brief explanation of the main focus (i.e. main aspects discussed) and the evolution since 2015. Please indicate the main stakeholders involved. Please provide qualitative evidence to support your answer (e.g. national parliamentary debates, strategies, other policy documents).

Political or other public debate is not directly focused on the situation of long-term irregularly staying migrants, but on the broader context of illegal/irregular migration. At the same time, it is important to emphasize that neither legislation nor practice differentiates short-term and long-term irregular stay, so the discussion does not explicitly focus on the category of migrants that the study addresses. Rejected asylum seekers and citizens of the former Yugoslav republics whose any form of residence permit has expired and who do not meet the conditions for renewal are most often exposed in connection to the topic of the study.

A more extensive discussion at the political and professional level took place during the preparation of the Government Strategy in the field of migration, which specifically addresses the field of illegal migration and within this sets the effective return and removal of migrants who entered irregularly or do not have a valid residence permit. The document states that after Croatia's entry into the Schengen system, the Slovenian Police will tighten control over the legality of the stay of migrants in the interior of the country and strive for an effective return policy.

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

Yes

No

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

~~**Q5b.** If yes to Q5a, (i) what was the debate about and (ii) how has it evolved since 2015?~~

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

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

~~Yes~~

~~No~~

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

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

Yes

No

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

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

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

In connection with the topic of this study, NGOs mainly addressed open issues of erasure: after gaining its independence in 1991, Slovenia determined that citizens of other republics of the former Socialist Federal Republic of Yugoslavia who did not apply for citizenship of the Republic of Slovenia within six months of the entry into force of the Citizenship of the Republic of Slovenia Act shall be subject to the Aliens Act. As a result, citizens of other republics of the former Socialist Federal Republic of Yugoslavia who had registered permanent residence in the Republic of Slovenia were deleted from the register of permanent residents. Namely, the Act did not stipulate special or different conditions for them to obtain a permanent residence permit in the Republic of Slovenia than for other foreigners. In 2003, the Constitutional Court of the Republic of Slovenia found that the erasure was illegal. There were around 25.000 persons who found themselves as the erased.⁹

Following further rulings by the Constitutional Court and a ruling by the European Court of Human Rights, status regulation is still impossible for many of them. Many of them regulated their statuses, but due to the war many could not go to the countries of the former SFRY to get new documents (identity cards, passports ...), which they needed for a properly completed application in Slovenia. In addition, the Slovene authorities destroyed Slovene or Yugoslav documents for most of the erased, so they could not even cross the border physically.

The current data do not provide insight into how many erased persons who do not yet have their status are still in Slovenia and how many live abroad, but it is assumed that most of the erased without status are not in Slovenia as they were forcibly removed because they could not return or because they left the country due to an unsettled legal situation or the consequences of erasure. In any case, this is one of the groups of migrants who have been living in Slovenia for a long time without a regulated status.

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

No.

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

⁹ <https://www.mirovni-institut.si/en/the-erased-information-and-documents/>

- Yes, there are planned changes in law. Please explain below:
- Yes, there are planned changes in policy. Please explain below:
- Yes, there are planned changes in practice. Please explain below:
- No.

In the Act on Amendments to the Aliens Act, the provisions related to the return of this category of migrants will be changed, namely the possibilities or the reasons for which the person whose return is not feasible will be granted a permission to stay will be narrowed. The migrant to whom the return decision has been issued will have to assert these reasons as a request for an extension of the period for voluntary departure. Permission to stay will be possible only ex officio that is at the discretion of the police and no longer upon the request of a migrant. An appeal against a return decision will not delay the execution of the return. The law is currently still in the inter-ministerial harmonization process.

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

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

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

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

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

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

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

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

Table 1: Rights and services available to long-term irregularly staying migrants who have been issued a return decision				
Type of stay or status as identified in Q2 and/or Q3: [<u>PERMISSION TO STAY</u>]				
Type of service	Service provided? (Y/N)	Is the provision of service mandatory or discretionary ? ¹⁰	Brief description Please consider for each type of services the long-term irregular migrants are entitled or have access to: i. Does this access stem from national law or practice? Does it stem from local (regional, municipal) rules or practice? ii. Which authorities are competent to provide access to services? Please indicate if access is provided by other entities (NGO, charities, private entities, etc) as service providers on behalf of the national or local authorities?	Please briefly assess and explain if the rights and access to services are more limited, same or more favourable than those of legal migrants or of nationals?
Accommodation				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Accommodation <i>If yes, please briefly describe</i>	<i>NO</i>			<i>No access to non-profit lease.</i>
Special accommodation facilities (i.e. shelter for victims of violence, children)	<i>YES</i>	<i>Mandatory</i>		

¹⁰ For example, in some cases a service can be accessed but the costs must be met by the individual rather than the State/national authorities.

etc.) <i>If yes, please briefly describe</i>				
Other forms of accommodation or shelter or specialised centre	YES	Mandatory	<i>In the case of a migrant with special needs or vulnerabilities, he/she may be placed in social security or other institutions at the expense of the state for the period until the removal or return is carried out, ie for the duration of the permission to stay.</i>	
Healthcare				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Emergency healthcare <i>If yes please describe, as this notion can be understood in a large or restrictive way</i>	YES		<i>Emergency medical care, in accordance with the law governing health care and health insurance, means urgent action necessary to maintain vital functions or to prevent irreparable and severe deterioration of the patient's health.</i>	
Basic medical care <i>If yes, please briefly describe</i>	YES		<i>In the City of Ljubljana, there is an outpatient clinic for persons without health insurance, which includes persons without permanent residence and without basic insurance (the example described below).</i>	
Specialised care <i>If yes, please briefly describe</i>	NE			
Other healthcare services <i>If yes, please briefly describe</i>			<i>A minor who is permitted to stay in the Republic of Slovenia is entitled to health care to the same extent as a child who is insured as a family member of citizens or, persons with permanent residence. To the same extent, a school-age child after the age of 18 is also entitled to health care, until the end of schooling, but no later than the age of 26.</i>	
Social assistance				Less <input type="checkbox"/> Same <input checked="" type="checkbox"/> More <input type="checkbox"/>

<p>Are long-term irregularly staying migrants entitled to receive social benefits?¹¹</p> <p><i>If yes, please briefly describe what these benefits are</i></p>	<p>YES</p>	<p>Mandatory</p>	<p><i>Pursuant to the Aliens Act, persons who are permitted to stay and do not have their own means of subsistence are entitled to basic care, which means receiving cash social assistance if they meet the conditions.</i></p>	
<p>Employment</p>				<p>Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/></p>
<p>Are there circumstances in your MS where long-term irregularly staying migrants are entitled to access to the labour market?</p> <p><i>If yes, please describe any specific conditions attached to their employment.</i></p>	<p>NO</p>			
<p>Education</p>				<p>Less <input type="checkbox"/> Same <input checked="" type="checkbox"/> More <input type="checkbox"/></p>
<p>Do (long-term irregular migrant) children have access to compulsory education?</p> <p><i>If yes, please briefly describe access.</i></p>	<p>YES</p>	<p>Obligatory</p>	<p><i>Every child, regardless to legal (migrant) status has a right to primary education.</i></p>	
<p>Are adult long-term irregularly staying migrants entitled to participate in educational programmes and/or professional training?</p> <p><i>If yes, what types of education and under which conditions?</i></p>	<p>NO</p>			

¹¹ Please consider the definition of 'core benefits' as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum - income support, assistance in the case of illness, or pregnancy, and parental assistance.

Legal aid or assistance				Less <input type="checkbox"/> Same <input checked="" type="checkbox"/> More <input type="checkbox"/>
<p>Do long-term irregular migrants have access to legal aid or assistance type of services?</p> <p><i>If yes, please briefly enumerate and explain</i></p>	YES	Discretionary	<p><i>Migrants who have received a return decision are entitled to free legal aid provided by a non-governmental organization under a cooperation agreement with the Police. If other conditions (reciprocity) are also met, foreigners can also access legal aid (including representation in court proceedings) on the basis of the Free Legal Aid Act¹².</i></p> <p><i>Legal aid for migrants without return decision is not available or only as a service that may be provided by non-governmental organizations.</i></p>	
Other?				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are any other rights relevant to mention here? Please describe				

¹² Free Legal Aid Act - Zakon o brezplačni pravni pomoči – ZBPP (Official Gazette of the Republic of Slovenia, No. 96/04, 23/08, 15/14, 19/15)

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

Table 2: Services available to long-term irregularly staying migrants who were unknown to migration authorities (e.g. overstayers, irregular entry)

Type of stay or status as identified in Q2 and/or Q3: [<u>IRREGULAR STAY</u>]				
Type of service	Service provided? (Y/N)	Is the provision of service mandatory or discretionary ? ¹³	Brief description Please consider for each type of services the long-term irregular migrants are entitled or have access to: i. Does this access stem from national law or practice? Does it stem from local (regional, municipal) rules or practice? ii. Which authorities are competent to provide access to services? Please indicate if access is provided by other entities (NGO, charities, private entities, etc) as service providers on behalf of the national or local authorities?	Please briefly assess and explain if the rights and access to services are more limited, same or more favourable than those of legal migrants or of nationals?
Accommodation				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Accommodation <i>If yes, please briefly describe</i>	<i>NO</i>			
Special accommodation facilities (i.e. shelter for victims of violence, children etc.) <i>If yes, please briefly describe</i>	<i>YES</i>	<i>OBLIGATORY</i>	<i>Regardless of the legality of residence, a woman or child victim of domestic violence is entitled to accommodation in a crisis center or safe house. Most often, they are victims of human trafficking. If they decide to take part in criminal proceedings against the perpetrator, they may be issued a temporary residence permit. The same goes for victims of illegal employment.</i>	
Other forms of accommodation or shelter or specialised centre	<i>NO</i>			

¹³ For example, in some cases a service can be accessed but the costs must be met by the individual rather than the State/national authorities.

Healthcare				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Emergency healthcare <i>If yes please describe, as this notion can be understood in a large or restrictive way</i>	YES	OBLIGATORY	Emergency medical care, in accordance with the law governing health care and health insurance, means urgent action necessary to maintain vital functions or to prevent irreparable and severe deterioration of the patient's health.	
Basic medical care <i>If yes, please briefly describe</i>	YES	DISCRETIONARY	In the City of Ljubljana, there is an outpatient clinic for persons without health insurance, which includes persons without permanent residence and without basic insurance (the example described below).	
Specialised care <i>If yes, please briefly describe</i>	NO			
Other healthcare services <i>If yes, please briefly describe</i>	NO			
Social assistance				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are long-term irregularly staying migrants entitled to receive social benefits?¹⁴ <i>If yes, please briefly describe what these benefits are</i>	NO			
Employment				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are there circumstances in your MS where long-term irregularly staying migrants are entitled to access to the	NO			

¹⁴ Please consider the definition of 'core benefits' as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum - income support, assistance in the case of illness, or pregnancy, and parental assistance.

labour market? <i>If yes, please describe any specific conditions attached to their employment.</i>				
Education				Less <input type="checkbox"/> Same <input checked="" type="checkbox"/> More <input type="checkbox"/>
Do (long-term irregular migrant) children have access to compulsory education? <i>If yes, please briefly describe access.</i>	YES	OBLIGATORY	<i>Minors are entitled to compulsory education regardless the legality of their stay.</i>	
Are adult long-term irregularly staying migrants entitled to participate in educational programmes and/or professional training? <i>If yes, what types of education and under which conditions?</i>	NO			
Legal aid or assistance				Less <input checked="" type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Do long-term irregular migrants have access to legal aid or assistance type of services? <i>If yes, please briefly enumerate and explain</i>	NO			
Other?				Less <input type="checkbox"/> Same <input type="checkbox"/> More <input type="checkbox"/>
Are any other rights relevant to mention here? Please describe				

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

There is no legal obligation on the part of service providers to check the validity of a residence permit or permission to stay in the case of the provision of emergency medical care or the right to primary education. When exercising the right to financial social assistance, this is a precondition.

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

Yes

No

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

If the migrant does not actively participate in the return procedure or his/her identity is unknown, he/she may be denied the right to social assistance for this reason.

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

Yes

No

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

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

Yes

No

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

Assistance and services are in most cases provided by non-governmental organizations, either as state-funded service providers or from other public and private funds. NGOs provide safe accommodation (safe houses, accommodation for victims of trafficking), free legal aid, and the assistance of cultural mediators for more effective access to medical care and other services. In addition to financial assistance from the municipality (Maribor, Ljubljana), non-governmental organizations also provide a health clinic for persons without health insurance, where services are provided to persons without regulated residence status and health insurance.

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

No.

Q16. If a long-term irregular migrant is **a victim of or witness to an offence** (e.g. labour exploitation, domestic violence, etc), are there any available '**safe reporting**'¹⁵ channels between the TCN concerned and public authorities to report the incident without divulging their situation of illegal stay?

Yes

No

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

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

Yes

No

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

The project is supported by the Ministry of the Interior and is implemented within the activities of the Center for Aliens, where migrants are accommodated, whose return is forced, without possibility for voluntary return. The same person can only be involved in a project once. The purpose of the project is to provide the possibility of voluntary return after the issuance of a decision on forced return. The project implements:

- direct provision of information to migrants about the project of voluntary return and the situation in the country to which they are returning;
- obtaining personal documents for themigrants, which are necessary for the return to the homeland;
- reservation and purchase of air and other tickets for migrants returning to their homeland;
- payment of cash (pocket money), which the migrant urgently needs after return to cover the costs of transport, pocket money;
- escorting and assisting the migrant returning to the country of origin.

¹⁵ <https://www.compas.ox.ac.uk/project/safe-reporting-of-crime-for-victims-and-witnesses-with-irregular-migration-status-in-the-usa-and-europe/>

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

Example: A health clinic for people without health insurance, pro.bono clinic

Background

In 2002, the City of Ljubljana, in cooperation with the Primary Health Center (Zdravstveni dom Ljubljana - Bežigrad) and the non-governmental organizations Karitas Štepanja Village and Slovene Philnthyropy , supported the project of health clinic with a consultation for people without health insurance. The free clinic and consultation center is intended for all citizens of the City of Ljubljana, without regulated health insurance, the homeless and migrants without regulated status. In the clinic, doctors, nurses, psychotherapists, physiotherapists, pharmacists and lawyers work as volunteers and provide medical and other services to the users. The program is co-financed by the City of Ljubljana, and Slovenian Philanthropy collects donations from individuals and companies to help support the health and life situations of users. In designing this project, the initiators were inspired by the experience of similar projects of assistance and care for such persons abroad (Austria, France and other Western European countries).

Process

Within the limits of possibilities of this clinic with a consultation set up for the needs of people, they offer assistance mainly to persons without residence and basic health insurance and to those who need other forms of assistance. It acts as a pro-bono clinic at the primary and secondary levels, together with a consultation room for these people. If necessary, the patient is referred to a specialist doctor (pulmonologist, gynecologist, pediatrician, psychiatrist, dentist, etc.) or psychologist, social worker or to another professional - all services are available free of charge. Great emphasis is also placed on counseling, advocacy and psycho-social assistance to users. In addition to medical and social care, users in the clinic can also take a shower and receive the most necessary material assistance - laundry, hygiene items, clothing, footwear and more.

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

Yes

No

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

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

Yes

No

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

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

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

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

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

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

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

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

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

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

Information exchange on long-term irregularly staying migrants is primarily intended to prevent illegal employment, human trafficking etc. The exchange of information is therefore not intended to take regularize their stay or return them, but to prevent violations.

Other measure(s)

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

The Slovenian migration management is centralized and only at the level of a limited scope of social services at the discretion of municipalities. Measures that would address this group of migrants are not developed or planned even on the national level, except those concerning detection of irregularly staying migrants.

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

Yes

No

If yes, please provide examples.

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

Yes

No

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

SECTION 2.3: GOOD PRACTICES

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

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

Providing services (housing, health care, other measures)

Please provide a brief explanation:

/

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

Please provide a brief explanation:

/

Exchanging information between Member States?

Please provide a brief explanation:

/

Other good practices

Please provide a brief explanation:

/

Section 3: Responses to end long term irregular stay

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

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

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

Long-term irregular stay of a migrant may be regularized through return to the country of origin or by regularizing the stay through the permission to stay, if there are justified reasons for this. Namely, the Aliens Act stipulates that a person who has a residence permit issued in Slovenia may only extend it every six months and after two years may apply for a temporary residence permit. No other measures or legal channels are currently available to regulate residence. Slovenia also does not have regulated access to humanitarian visa or other instruments for the regularization of residence.

The exception is provided only for victims of domestic violence, victims of trafficking and victims of illegal employment, subject to participation in criminal proceedings, with the issuance of a temporary residence permit at the discretion of the prosecutor conducting the criminal proceedings and deciding whether the victim's presence is necessary. A victim of illegal employment may also be issued a temporary residence permit if she/he has filed a lawsuit against the employer for exercising employment rights and his/her presence in the territory of the Republic of Slovenia is important for court proceedings, which is confirmed by the competent court.

SECTION 3.1. MEASURES TO PROMOTE RETURN OR DISCOURAGE ILLEGAL STAY

Q26. What measures to **promote return or discourage illegal stay** are in place in your Member (State) specifically for long term irregular migrants (as identified in this study)?

e.g. restricted access to mainstream services or specific programmes geared towards third-country nationals in a prolonged situation of irregular stay, specific cooperation measures between national, regional and local authorities.

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

Ministry of the Interior support sthe program of free legal aid to migrants in return procedure from the Republic of Slovenia, the purpose of which is for them to better understand their current legal status, their (limited) possibilities and consequences of non-compliance with the decision and prevention of unauthorized re-entry.

There are no measures that would otherwise encourage return outside the AVVR program. In this context, the entry ban seems primarily a negative measure, as many migrants fear that they will not be able to re-enter the country (even if they obtain permission to enter) due to the ban itself. Migrants who have

been staying in Slovenia for a long time are already integrated to a certain extent, they have social and family ties here, so they do not want to risk issuing a return decision, which could also prohibit them from re-entering. The fact is that the assessment on issuing a voluntary or forced return decision is in the discretion of the police and thus also the determination of the imposing and duration of the entry ban.

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

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

/

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

Yes

No

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

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

/

SECTION 3.2: LEGALISATION OF STAY OPEN SPECIFICALLY TO LONG-TERM IRREGULAR MIGRANTS

Q29. Are options for legalisation of stay open specifically to long-term irregular migrants in your Member (State)?

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

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

No, such options are not specifically open to long-term irregular migrants. The Ombudsman and non-governmental organizations propose to regulate this area upon the amendment of the Aliens Act.

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

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

/

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

Yes

No

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

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

/

SECTION 3.3.: MEASURES TAKEN IN RESPONSE TO THE COVID-19 PANDEMIC

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

No

Section 4: Challenges and future actions

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

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

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

Please provide a brief explanation:

N/A

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

Please provide a brief explanation:

N/A

Challenges exchanging information between Member States?

Please provide a brief explanation:

N/A

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

The general challenge Slovenia is facing or it is up to the Slovenian authorities to decide whether and how to address the issue of regularization of long-term irregular stay of migrants; with the new Act on Amendments to the Aliens Act, the possibilities of the only way to regularize are being narrowed.

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

N/A

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

The Government's migration strategy as the only measure to encourage return foresees cooperation in the AVRR programs.¹⁶

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

N/A

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

¹⁶ Page 49 of the Government Strategy on Migration.

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

The issue of regularizing the stay long-term irregularly staying migrants is not the subject of discussions or measures, so strategy and policy papers are not allowing any conclusions what measures at EU level would help to cooperate more effectively and overcome challenges in this area.

Section 5: Conclusions

This section of the Synthesis Report will draw conclusions as to the Member States' existing policies, practices and case law related to long-term irregularly staying migrants.

Q38. With regard to the aims of this study (policy responses to long-term irregular migrants), what conclusions would you draw from your findings reached in elaborating your national contribution?

With reference to the primary research question, please elaborate your conclusions highlighting the relevance of your findings to (national and/or EU level) policy-makers. You may cover the following points:

- The size of the problem of long-term irregular migrants in your country
- the most topical issues raised in the political and policy debate on the situation of long-term irregularly staying migrants
- The main concerns and issues related to providing access to public services to long-term irregularly staying migrants
- The main concerns and issues related to implementing measures to bring protracted situations of illegal stay to an end

In the last five years, around 175,000 foreigners with various forms of residence permits have resided in Slovenia annually, of which approx. 148,000 third-country nationals. However, the number of detected irregular stays does currently not exceed 6,000 in one year; the share of migrants whose irregular stay has been detected or whose residence has been cancelled or annulled is around 4 per cent. It is extremely difficult to estimate how many cases remain undiscovered and what is approximate number of long-term irregularly staying migrants in Slovenia.

The issue of regulating the status and rights of persons who were erased from the register of permanent residents after Slovenian independence and who have still failed to regulate their residence and related rights due to practical and legal obstacles remains open.

The state does not specifically address the situation of long-term irregularly staying migrants and currently offers one legal way to regularize their stay. As the Ombudsman has been pointing out in his reports for many years, regulating the residence status of foreigners and creating effective ways to regularize those who have been here for many years is essential for the protection of their fundamental rights.

In connection with irregular stay, Slovenia mainly carries out activities to detect migrants who are irregularly staying in Slovenia and strives to implement measures for their effective return. Within this (forced return), the only measure to encourage return is the AVR program (together with reintegration in the country of origin) and the provision of free legal aid to migrants in return procedures. In other parts, the competent authorities do not implement incentives or measures that would provide access to basic rights and services or open up possibilities for the regularization of stay.