



European Migration Network

Ad-hoc query on the status of foreigners who have no grounds to reside on the territory of a Member State but who cannot be returned to their country of origin

Requested by EMN NCP BG on 4th May 2010

Compilation produced on 11 June 2010

Responses from Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Latvia, Lithuania, Hungary, Italy, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom (20 in Total)


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

1. Background Information

The following Ad-Hoc Query was requested by the Director of the Registration-and-Reception Centre of the Bulgarian State Agency for Refugees.

It would be very much appreciated if we could receive our answers by **25 May 2010**.

2. Responses

		Wider Dissemination? ¹	<ol style="list-style-type: none"> 1. What is the legal status/what is the status of foreigners who have no grounds to reside on the territory of a Member State (including aliens whose application for international protection has been denied) but who cannot be returned to their country of origin due to various reasons? 2. What legal act (which law) settles this issue? 3. What are the grounds and requirements in order to be granted such status? 4. Is such status granted often in practice?
	Belgium	Yes	<p>- For more detailed information, we refer to the EMN-study non EU-harmonised protection statuses and to the ad-hoc query from Greece dd. 8 January 2010</p> <p>1+2+3</p> <p>For the moment, non removable persons in Belgium (e.g. de facto elements prevent the expulsion, for instance when there is no possibility of identification or where there are technical impediments, such as a lack of transport capacity or closed airports; cases with a negative advice on the conformity of a removal order with the Geneva Convention, subsidiary protection or article 3 ECHR in the case of an asylum seeker e.g. when exclusion clauses apply / no access granted to asylum procedure because of public order or national security; where an exclusion clause or public order/national security is applied during the examination of an application for a residence permit on medical grounds or humanitarian grounds,...) will not receive a residence permit. Some categories will be able to get a suspension of their removal order. During their “tolerated” stay, they will only benefit from very minimal and basic rights: in principle, foreign nationals illegally residing in Belgium do not have a right to social aid. However, Belgian social policy legislation does contain certain exceptions to this principle. Granting material or financial aid to foreign nationals without residence documents follows from case law which has stated that social aid cannot be denied to foreign nationals who cannot leave the country due to reasons or circumstances beyond their control.</p> <p>URGENT MEDICAL CARE</p>

¹ A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

First and foremost, all undocumented foreign nationals have a right to “urgent medical care” (both preventative and curative aid).

MATERIAL AID

Certain categories of illegally residing foreign nationals have a more “expanded” right to aid and can receive material aid housing in a community centre (food, social, psychological and medical care, access to legal aid, help with voluntary return, right to education and professional training), including:

1) Failed asylum seekers who have requested the suspension of removal measures due to school attending children. The material aid ends when the request is not granted or when the suspension of the removal measure has ended.

2) Failed asylum seekers who cannot give heed to the removal order due to a pregnancy of more than six months. The material aid ends maximum two months after giving birth.

3) Failed asylum seekers who cannot leave the territory because of medical reasons and consequently apply for a residence permit on the basis of article 9ter Aliens Act and who can prove that it is medically not possible for them to leave the open reception centre (through a medical certificate).


4) Children who are staying illegally in Belgium with their parents and where the Local Public Welfare Centre has determined that the parents are not able to provide for their children.


5) *Failed asylum seekers who cannot leave the territory and return to their country of origin due to circumstances beyond their control and who have introduced a request for suspension of the removal order. This can be the case when the political situation in the country of origin impedes every possibility of return. Examples:*




- *when the Belgian authorities cannot determine the nationality of the foreign national and consequently neither the country of origin to which the foreign national must be returned;*
- *when the authorities of the country of origin refuse to issue the necessary travel documents.*




6) Failed asylum seekers who cannot give heed to the removal order because they are the parent of a Belgian child and have introduced an application of authorization of residence on the basis of article 9bis Aliens Act. The right to material aid ends when the ID has taken a decision on the application for authorization of residence.

7) Failed asylum seekers who have signed a commitment of voluntary departure. The right of material aid will last until departure, unless the departure is delayed due to the behaviour of the asylum seeker.

			<p>MEDICAL FORCE MAJEURE</p> <p>Foreign nationals who have never applied for asylum or who have never benefited from a right to material aid, and who are staying illegally on the territory, must be given financial aid when due to medical reasons it is absolutely impossible for them to obey a removal order. This principle was set out, on discrimination grounds by the Constitutional Court Later on, the Court clarified that the impossibility to receive an adequate treatment in the country of origin or the fact that this country does not take back its nationals, also constitute a case of “medical force majeure”.</p> <p><i>However, the above mentioned social protection does not establish any sort of residence status.</i> Nevertheless, the combination of certain elements can become building stones for an eventual claim to a residence status, for instance an application for humanitarian regularisation or a medical residence permit.</p> <p>4. No real status is provided in Belgian Law, so no numbers available.</p>
	Bulgaria	Yes	The possibility to include in our national legislation a status regarding foreigners who have no grounds to reside on the territory of a Member State (including aliens whose application for international protection has been denied) but who cannot be returned to their country of origin is being examined.
	Czech Republic	Yes	<p>1) Three legal statuses are possible in such case:</p> <ul style="list-style-type: none"> • visa for residence of over 90 days for the purpose of leave to remain in the Czech Republic • long-term residence permit for the purpose of leave to remain in the Czech Republic • subsidiary protection <p>2) Alien Act, No. 326/1999 Coll. Asylum Act, No. 325/1999 Coll.</p> <p>3) The abovementioned statuses may be granted in case that the departure of a foreign national is not possible since there are reasonable concerns that if such foreign national is returned to the country of origin he/she would be under threat of serious harm.</p> <p>Serious harm shall be:</p> <ul style="list-style-type: none"> • imposition or execution of a death penalty

			<ul style="list-style-type: none"> • the danger of torture, inhuman or humiliating treatment or sanctions • immediate danger to life or human dignity due to wanton violence in the situation of an international or domestic armed conflict • if such departure were contrary to international obligations and commitments of the Czech Republic <p>These provisions shall not apply if there is reasonable suspicion that the foreign national has committed a crime against peace, a war crime or a crime against humanity, or an especially grave criminal offence, incites or is an accessory to such criminal acts, or acts contrary to principles and objectives of the UNO, or endangers the security of the state, or has committed, outside the Czech Republic, other criminal offences and has left the country of origin with the aim of avoiding prosecution for the criminal acts, provided that those are crimes for which a sentence of imprisonment may be imposed in the Czech Republic.</p> <p>The foreign national shall be obliged to prove existence of the obstacle to depart from the Czech Republic; if presentation of such proof is prevented by an obstacle beyond the foreign national's control, such proof can be substituted with a statutory declaration.</p> <p>4) Number of applications (including for status renewals) / number of statuses granted:</p> <table border="1" data-bbox="658 783 1883 1010"> <thead> <tr> <th>year</th> <th>visa for residence of over 90 days for the purpose of leave to remain</th> <th>long-term residence permit</th> <th>subsidiary protection</th> </tr> </thead> <tbody> <tr> <td>2006</td> <td>967 / 855</td> <td>38 / 37</td> <td>- / 37</td> </tr> <tr> <td>2007</td> <td>872 / 777</td> <td>18 / 18</td> <td>- / 191</td> </tr> <tr> <td>2008</td> <td>877 / 698</td> <td>26 / 20</td> <td>- / 134</td> </tr> </tbody> </table>	year	visa for residence of over 90 days for the purpose of leave to remain	long-term residence permit	subsidiary protection	2006	967 / 855	38 / 37	- / 37	2007	872 / 777	18 / 18	- / 191	2008	877 / 698	26 / 20	- / 134
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	Germany	Yes	<ol style="list-style-type: none"> 1. The deportation of such foreigner shall be suspended temporarily, but he remains obliged to leave the Federal territory (Section 60a subsection 3 of the Residence Act). 2. The foreigner is to be issued with a certificate confirming the suspension of deportation, the so-called temporary suspension of deportation (Section 60a subsection 4 of the Residence Act). 3. The deportation of a foreigner shall be suspended for as long as deportation is impossible in fact or in law and no residence permit is granted. (Section 60a subsection 2 sentence 1 of the Residence Act). 4. On the cut-off date 31 December 2009, around 89,500 foreigners were registered in the Central Register of Foreigners whose deportation had been temporarily suspended. <p>Reference is also made to the comprehensive response given to the ad-hoc query on <i>Practices followed</i></p>																

			<i>concerning TCNs whose compulsory removal is impossible</i> requested by GR EMN NCP on 8 January 2010.
	Estonia	Yes	<p>In Estonia according to the Obligation to Leave and Prohibition on Entry Act an alien is required to leave Estonia if his/her basis for stay expires or there is no legal ground to stay. The Estonian Police- and Boarder Guard Board will issue in this cases a precept to leave or precept to legalise his/her stay in Estonia. If there is no possibility to expel the person staying in country illegally then he will get also perception to legalise his stay. An alien is obliged to fulfil a perception during the shortest possible time.</p> <p>The possible bases to stay legally in Estonia are described in Aliens Act.</p> <p>This is not a status; the person must apply for a residence permit.</p>
	France	Yes	<p>1. In France, foreigners who have no grounds to reside on the territory but who cannot be returned to their country of origin are under house compelled to reside in France in a place determined by the Administration. If the foreigner does not comply with this obligation, he/she commits an offence and is liable to imprisonment. The foreigner is, in principle, under arrest until can be found a country that welcomes him/her.</p> <p>2. The legal act that settles this issue is the CESEDA (Code for Entry and Residence of Foreign Persons and the Right of Asylum), Articles L 511-1 to L 511-624-4.</p> <p>3. Grounds to be granted this status:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Humanitarian grounds relating to the situation in the country of origin <input type="checkbox"/> Medical reasons <input type="checkbox"/> Pregnancy <input type="checkbox"/> Technical obstacles to removal <input type="checkbox"/> Statelessness or disputed nationality <input type="checkbox"/> State or public interest <p>4. Number of decisions to grant suspension of removal during the course of the year: 2008: 133 2009: 222</p>
	Italy	Yes	<p>Article 5, paragraph 6, of Legislative Decree 25 July 1998, No 286 (the "Consolidated Text on immigration") provides for the possibility of issuing a residence permit in favour of non-EU nationals for "humanitarian reasons" when serious reasons are encountered, in particular on a humanitarian ground or arising from constitutional or international obligations. As the provision does not define "serious humanitarian reasons" that limit the discretion to refuse or revoke a residence permit to TC nationals without the requirements foreseen by international conventions or agreements.</p> <p>In the implementation of case law, the Constitutional Court, in September 2009, stated that the humanitarian</p>

			<p>reasons should be identified by reference to the cases provided for by universal or regional conventions that authorize or require our country to adopt protective measures to guarantee fundamental human rights and that find expression and guarantee in the Italian Constitution.</p> <p>Article 19 of Legislative Decree 25 July 1998, No 286 further provides that in no case can be disposed to expel or refuse entry to a State in which the alien may be persecuted for reasons of race, sex, language, nationality, religion, political opinion, personal or social conditions, or it might be the risk to be postponed to another State where not protected from persecution.</p> <p>Under these rules, Police Headquarters, on its own motion - but more frequently after a court decision or a request by a Territorial Commission for the recognition of refugee status - issue a stay permit that gives the alien also the possibility to work.</p>
	Cyprus	Yes	
	Latvia	Yes	<ol style="list-style-type: none"> 1. The legal status of foreigner who has no grounds to reside in Latvia and who cannot be removed from the state is not specified and his residence in the state is illegal. 2., 3. The Immigration Law provides, that, if a third-country national who has been issued a return decision does not have a valid travel document and it is impossible to obtain it through consular services, a travel document shall be issued to him or her according to the European Council 30 November, 1994 Recommendation „Concerning the Adoption of a Standard Travel Document for Removal/Expulsion of Third-country Nationals”. Unfortunately, this document does not resolve the question of alien’s exit, because other countries do not recognize this document as a valid for travelling, as well as the issuance of this document does not specified alien legal status in Latvia. In some cases, particularly if a person has resided for a long time in Latvia, it has established a social relationship with Latvia and no one state has not recognized it as its citizen, is considered a possibility to grant to person a stateless person status according to the requirements of 28 September, 1954 Convention on the Status of Stateless Persons. 4. Those cases when foreigner cannot be removed from the state is rarely, in 2008 issued four exit documents, while in 2009 - two exit documents.
	Lithuania	Yes	<ol style="list-style-type: none"> 1. Foreigners who have no legal grounds to reside on the territory of Lithuania and who cannot be removed from it, after 1 year of such suspension of removal obtain a temporary residence permit. This residence permit is valid for 1 year and can be renewed. If the state authorities find out that the removal can be carried out (that those reasons which hindered removal ceased to exist), the temporary residence permit is revoked

- or one refuses to renew it, and the foreigner is removed from the territory of Lithuania.
2. This issue is settled by the Law on the Legal Status of Aliens.
 3. Article 128 par. 2 and 3 of this law states:

“Article 128. Circumstances Taken into Account when Making a Decision to Expel an Alien or Due to Which the Implementation of the Decision to Expel an Alien from the Republic of Lithuania May Be Suspended

<...>

2. The implementation of the decision to expel an alien from the Republic of Lithuania shall be suspended if:
 - 1) the decision regarding the expulsion of the alien from the Republic of Lithuania is appealed against in court, except in cases where the alien must be expelled due to a threat he constitutes to national security or public policy;
 - 2) the foreign country to which the alien may be expelled refuses to accept him;
 - 3) the alien is in need of basic medical aid, the necessity of which is confirmed by a consulting panel of a health care institution;
 - 4) the alien cannot be expelled due to objective reasons (the alien is not in possession of a valid travel document, there are no possibilities to obtain travel tickets, etc.).
3. Upon the disappearance of the reasons indicated in paragraph 2 of this Article, the decision to expel an alien from the Republic of Lithuania must be implemented immediately.”


Article 132:


“Article 132. Issue of a Temporary Residence Permit to an Alien Whose Expulsion from the Republic of Lithuania Has Been Suspended




If an alien’s expulsion from the Republic of Lithuania has been suspended due to the circumstances provided for in subparagraphs 2 to 4 of paragraph 2 of Article 128 of this Law and these circumstances have not disappeared within one year from the suspension of the implementation of the decision to expel the alien from the Republic of Lithuania, he shall be issued a temporary residence permit on the grounds set in subparagraph 8 of paragraph 1 of Article 40 of this Law. “

The full text of the Law can be found here:



http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=356478



			<p>4. No, such status is granted very seldom.</p> <p><i>Residence permits, issued to aliens whose removal has been suspended or who cannot be removed from Lithuania</i></p> <table border="1"> <thead> <tr> <th></th> <th>2005</th> <th>2006</th> <th>2007</th> <th>2008</th> <th>2009</th> </tr> </thead> <tbody> <tr> <td>New permits</td> <td>n/a</td> <td>n/a</td> <td>n/a</td> <td>1</td> <td>7</td> </tr> <tr> <td>Renewed permits</td> <td>n/a</td> <td>n/a</td> <td>n/a</td> <td>6</td> <td>44</td> </tr> <tr> <td>Total</td> <td>3</td> <td>15</td> <td>4</td> <td>7</td> <td>51</td> </tr> </tbody> </table> <p><i>Migration yearbooks' data.</i></p>		2005	2006	2007	2008	2009	New permits	n/a	n/a	n/a	1	7	Renewed permits	n/a	n/a	n/a	6	44	Total	3	15	4	7	51
	2005	2006	2007	2008	2009																						
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	Hungary	Yes	<p>1) There is a tolerated, non-EU harmonized protection status in the national legislation, namely the status of “persons authorized to stay”.</p> <p>2) This kind of protection is based on the one hand on the asylum legislation, and on the other hand, on the immigration legislation. The status of persons authorized to stay is regulated in Act II of 2007 on the admission and right of residence of third-country nationals. Aids and support granted to persons with tolerated status are laid down in Government Decree 114/2007 on the implementation of Act II of 2007. Regulations can also be found in the Asylum Act (Act LXXX of 2007) and also in some sectoral acts.</p> <p>3) The status can either be granted in alien policing or in asylum procedure, in both kinds of procedures the authorities have to respect the principle of non-refoulement. The Asylum Act provides that in the asylum procedure the principle of non-refoulement has to be taken into consideration. The prohibition of refoulement prevails if the person seeking recognition is exposed to the risk of persecution due to reasons of race, religion, nationality, membership of a particular social group or political opinion or to death penalty, torture, cruel, inhuman or degrading treatment or punishment in her/his country of origin, and there is no safe third country which would admit her/him. In its decision on the refusal of an application for recognition or the revocation of recognition, the asylum authority shall establish whether the prohibition of refoulement prevails or not. In the event of the existence of non-refoulement, based on the proposal of the asylum authority, the alien policing authority shall grant the foreigner tolerated status.</p> <p>According to Act II of 2007, the requirements and grounds for granting this status are the following: this status can be granted to a person who temporarily cannot be returned to the country of his/her nationality, or in the case of a stateless person to the</p>																								



			<p>country of domicile, because of the threat of death penalty, torture or any other form of inhumane or humiliating treatment, and there is no safe third country offering refuge, and who is not entitled to asylum or to the status of a stateless persons, nor to any subsidiary form of protection or temporary protection. Persons authorized to stay are granted a so-called residence permit issued on humanitarian grounds.</p> <p>4) Statistics related to the number of persons having been granted the tolerated status (persons authorized to stay) show the following tendency: 177 in 2004, 95 in 2005, 99 in 2006, 83 in 2007, 42 in 2008, 155 in 2009. The decrease in 2008 is due to the fact that the new asylum legislation (which entered into force on 1 January 2008) introduced the status of beneficiary of subsidiary protection.</p>
	<p>Malta</p>	<p>Yes</p>	<p>1. What is the legal status/what is the status of foreigners who have no grounds to reside on the territory of a Member State (including aliens whose application for international protection has been denied) but who cannot be returned to their country of origin due to various reasons?</p> <p>These are allowed to remain temporarily until such time as their repatriation can be effected.</p> <p>2. What legal act (which law) settles this issue?</p> <p>The Immigration Act empowers the Principal Immigration Officers to authorize temporary stay.</p> <p>3. What are the grounds and requirements in order to be granted such status?</p> <p>The migrants would not be granted any status - they are allowed to stay only until such time as the necessary documentation is procured and arrangements for removal are completed.</p> <p>Is such status granted often in practice?</p> <p>As explained above, no actual status is given. All migrants who have no right to reside in Malta but whose removal is delayed due to practical or logistical difficulties are allowed to stay until such difficulties are overcome. As soon as the repatriation becomes possible, the authorization to stay is terminated.</p>

	<p>Netherlands</p>	<p>Yes</p>	<p>Illegal aliens, whether they are third country nationals for whom the compulsory removal from the Netherlands has not been effected yet or other aliens who are no longer lawfully residing in the Netherlands, have no legal status nor 'tolerance' status. The obligation to leave the Netherlands has been formulated as follows in section 61 of the Alien Act 2000: "An alien who is not or no longer lawfully residing should leave the Netherlands of his own volition within 28 days." The duty to leave the Netherlands arises at the moment when lawful residence ends. An alien who has never been lawfully resident is therefore obliged to leave the Netherlands immediately (according to section 62, subsection 3 of the Alien Act 2000). There are no numbers available of these illegal aliens.</p>
	<p>Austria</p>	<p>No</p>	<p>This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.</p>
	<p>Poland</p>	<p>Yes</p>	<p>1. As far as asylum procedure is concerned, if a foreigner does not fulfill the terms and conditions to be granted an international protection (refugee status and supplementary protection) but if his/her expulsion: may be effected only to a country where his/her right to life, to freedom and personal safety could be under threat, where he/she could be subjected to tortures or inhumane or degrading treatment or punishment, or could be forced to work or deprived the right to fair trial, or could be punished without any legal grounds – within the meaning of the Convention on Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950; would violate the right to family life within the meaning of Convention for Human Rights and Fundamental Freedoms signed in Rome on November 4, 1950 or would violate the child's right determined in the Convention on Child's Rights adopted by General Assembly of the United Nations on November 20, 1989, to the extent making threat to psychophysical development of such child (the provision does not apply in the event in which further stay of foreigner on the territory of the Republic of Poland makes threat to state security or defence or for public safety and public order); - he/she shall be granted the permit for tolerated stay on the territory of the Republic of Poland (Article 97 sec. 1 point 1 or 1a of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland).</p> <p>Additionally, on the basis of the Article 89 sec. 1 point 1 of the Act of 13 June 2003 on aliens, the decision on expulsion of a foreigner shall not be rendered, and the decision rendered shall not be executed if there are grounds to grant permit for tolerated stay. This means that before a decision on expulsion will be issued to a foreigner, a body in charge of issuing this decision (voivod) is required to examine whether there are circumstances justifying</p>

			<p>granting the permit for tolerated stay (conditions for granting a permit for tolerated stay in above-mentioned circumstances are the same as those examined in the proceedings for granting the refugee status).</p> <p>Furthermore, in every situation when a decision on expulsion has been already issued to a foreigner (this refers also to a decision in which the applicant shall be refused granting the refugee status also awards their expulsion) but his/her expulsion is unenforceable due to reasons beyond the authority executing the decision on expulsion or beyond this foreigner, it is possible to issue to him/her the permit for tolerated stay. This refers most frequently to the situations when it's impossible to obtain for a foreigner a travel document in order to expel him/her to the country of origin or to verify and confirm him/her identity.</p> <p>Finally, a foreigner may be granted the permit for tolerated stay on the territory of the Republic of Poland if his/her expulsion might be effected only to a country to which the extradition is inadmissible on the basis of the court's judgment on the inadmissibility of a foreigner's extradition or on the basis of the decision of the Minister of Justice on refusing to extradite that foreigner. This decision shall be taking with due regard to the reasons for refusing a foreigner's extradition as well as the to the interest of the Republic of Poland.</p> <p>It is also possible to grant the foreigner staying in Poland illegally a residence permit for a fixed period if an exceptional personal situation that requires the presence of a foreigner on the territory of the Republic of Poland has occurred (Article 53a sec.2 point 2 of the Act of 13 June 2003 on aliens). In addition to the above, it should be mentioned that the maximum period for which the permit is issued may not exceed 2 years.</p> <p>2. Legal acts settling the above-mentioned issues are: Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland and Act of 13 June 2003 on aliens.</p> <p>3. See the answer to question no. 1.</p> <p>4. With regard to the permit for tolerated stay issued in the course of the proceedings for granting the refugee status it has to be noted that the number of decisions granting this type of protection continued to gradually increase since this legislation has been introduced in 2003. While in 2004 under the refugee procedure 840 permits for tolerated stay was granted, in 2007 the figure increased up to 2910 permits. The situation has changed in 2008 which recorded a significant decline in permits issued. This phenomenon should be associated with the introduction in May 2008 into the polish legal order new institution of supplementary protection (due to implementation of the</p>
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			<p>Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted). As a result of adopting this type of protection, significant decrease in the number of permits for tolerated stay in the course of refugee procedure was noted. These decisions are being in most cases replaced through the decisions granting supplementary protection (in 2009 - 82 permits for tolerated stay were granted).</p> <p>As for other circumstances in which permit for tolerated stay is issued to a foreigner (expulsion is unenforceable due to reasons beyond the authority executing the decision on expulsion or beyond this foreigner, court rendered judgment on the inadmissibility of a foreigner's extradition, Minister of Justice issued a decision on refusing to extradite that foreigner), the aforementioned permit is granted more frequently than in the course of refugee procedure (excluding the period 2003-2008). In 2009 - 122 such permits were rendered.</p> <p>As far as expulsion procedure is concerned, voivods used to grant annually around 40-60 permits for tolerated stay.</p>
	Portugal	Yes	<p>In fact, in some exceptional situations the Portuguese the legal framework (Act n.º 23/2007, of 4th of July) in the Article 123.º “Exceptional Framework” considers some situations that may arise which do not fall into the scope of the arrangements foreseen in article 122.º (Residence permit with exemption of residence visa), as well as for the cases where residence permit is granted for humanitarian reasons in accordance with the asylum law which rules the right to asylum, through a proposition of the Director General of SEF or by initiative of the Ministry of Internal Affairs a temporary residence permit can be granted to foreign citizens who do not fulfil the requirements of the present law:</p> <p>a) For reasons of national interest;</p> <p>b) For humanitarian reasons;</p> <p>c) For public interest reasons resulting from the exercise of a relevant activity in science, culture, sports, economical or social activities.</p> <p>2- The decisions of the Ministry of Internal Affairs over the requests for residence permit made under the exceptional regime foreseen in the present article must be duly founded.</p> <p>We should stress that this practice is exceptional, the other situations can fall under the general legal framework in matters of removal of foreigners.</p>
	Slovenia	Yes	<p>Permission to stay in the Republic of Slovenia shall be granted if deportation or return of an alien to a country in which his/her life or freedom would be endangered on the basis of race, religion, nationality, membership of a special social group or political conviction, or to a country in which the alien would be exposed to torture or to</p>

			<p>inhumane and humiliating treatment or punishment, or if removal is not possible for other reasons.</p> <p>An alien who has been granted a temporary stay in the Republic of Slovenia shall have the right to emergency health insurance pursuant to the act governing healthcare and health insurance and basic treatment, while minor alien schoolchildren shall also have the right to basic education.</p> <p>Permission to stay is provided for in Aliens act (Zakon o tujcih (uradno prečiščeno besedilo) (ZTuj UPB6), available at: http://www.uradni-list.si/1/content?id=93562</p> <p>Please note that ICMPD has just recently collected data in a special questionnaire. Please refer to them if any further information is required.</p>
	Slovak Republic	Yes	<p>Foreigners who are on the territory of the Slovak Republic illegally (without a permit) and their return is not possible from objective reasons independent of their will (e.g. medical reasons, theft of the travel document, need to secure the emergency travel document, cancellation or postponement of the planned flight, or other serious obstacles) can apply for the tolerated residence permit. The conditions for granting the tolerated stay permit for reasons that the departure is not possible are regulated in the Act on Stay of Aliens (No. 48/2002), Article 43, paragraph 1 letter c); Article 43 paragraph. 3, 4, 5,; Article 44.</p> <p>As for the reasons which prevent the foreigner to leave these are reviewed on an individual basis. The tolerated stay permit has only a temporary character, i.e. after the expiration of the reasons for which the stay permit has been granted the foreigner has to leave the Slovak Republic.</p>
	Finland	Yes	<p>1. Alien residing in Finland is issued with a temporary residence permit if he or she cannot be returned to his or her country of origin or country of permanent residence. The residence permit type is B which excludes the person from e.g. subsistence allowance system.</p> <p>2. + 3. Aliens Act, Section 51: Section 51 Issuing residence permits in cases where aliens cannot be removed from the country (1) Aliens residing in Finland are issued with a temporary residence permit if they cannot be returned to their home country or country of permanent residence for temporary reasons of health or if they cannot actually be removed from the country. (2) Issuing a residence permit does not require that the alien have secure means of support. (3) If aliens are issued with a residence permit under subsection 1, their family members residing abroad are not issued with a residence permit on the basis of family ties.</p>

			4. In 2009 19 asylum applicants were issued temporary residence permit due to hindered removal. In 2008 the number was 38.
	Sweden	Yes	<p>1. In accordance with the Swedish Aliens Act, the decision-making authority/ies shall – <i>before</i> deciding that the individual shall be removed from the country – take into account any possible impediments for removal that may occur. In cases in which permanent impediment for removal/enforcement is demonstrated, a decision on a residence permit will usually be granted.</p> <p>It is however possible to grant a residence permit if it turns out that the decision on removal is impossible to enforce – despite the above forethought and consideration in the decision-making. Such situations can for instance occur when the country to which the individual should be returned to refuses to receive him/her.</p> <p>2. The Swedish Aliens Act.</p> <p>3. It must have been examined/investigated that the individual won't be received by any other country – neither if he/she returns voluntarily or by force/coercion.</p> <p>No, it is not usual but it does happen – for instance regarding Cubans who have exceeded the time for their permit to travel out of the country.</p>
	United Kingdom	Yes	<p>All those who have no legal basis to remain in the UK are liable for removal and therefore do not have any legal status in the UK. We prefer them to return home voluntarily, but if they choose not to do so we enforce their removal. Whilst in some cases the forcible removal of an individual with no legal basis to remain here may be temporarily deferred for various reasons, we would not confer on them any formal status while their removal is suspended. This is because it remains open to the individual concerned to leave the UK voluntarily. Illegal Entrants include: i. those who entered the UK without leave; ii. those who used deception (verbal or document) to enter the UK; iii. where there is no evidence of lawful entry; iv. those who have entered the UK in breach of a Deportation Order. Overstayers ie people who have overstayed in the UK beyond their lawful leave would also fall into the illegal entrant category.</p> <p>The position outlined above is based on the Immigration Act 1971 and subsequent Acts to amend the 1971 Act. For example, illegal entrants are defined by Section 33(1) of the Immigration Act 1971 (and amended by the Asylum and Immigration Act 1996). For overstayers, it is an offence under section 24(1)(b) of the 1971 Act to knowingly overstay or knowingly fail to observe a condition of leave.</p>

