



## Ad-Hoc Query on article 96 convention implementing Schengen agreement

Requested by PL EMN NCP on 15<sup>th</sup> February 2011

Compilation produced on 18 April 2011

Responses from [Belgium](#), [Czech Republic](#), [Estonia](#), [Finland](#), [France](#), [Germany](#), [Ireland](#), [Latvia](#), [Lithuania](#), [Luxembourg](#), [Netherlands](#), [Poland](#), [Portugal](#), [Slovenia](#), [Spain](#), [Sweden](#) plus [Norway](#) (17 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**










As it will be necessary for the Office For Foreigners in Poland to conduct a comparative analysis concerning the practices of the Member States relating to the Convention Implementing the Schengen Agreement, we would like to kindly ask you to provide us with the information on the following issue.

We would like to know in what way the obligation outlined in article 96 of the Convention Implementing the Schengen Agreement is performed in your country. Especially we would like to know whether it is necessary to issue a separate administrative decision concerning only the registration of a foreigner record in the SIS system for the foreigners whom an alert has been issued for the purposes of refusing entry (article 96 of the Convention Implementing the Schengen Agreement).

It would be very much appreciated if we could receive your answers by the **March 20th 2011**.

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## 2. Responses<sup>1</sup>












		Wider Dissemination? <sup>2</sup>	Is it necessary to issue a separate administrative decision concerning only the registration of a foreigner record in the sis system for the foreigners whom an alert has been issued for the purposes of refusing entry (article 96 of the convention implementing the Schengen agreement).
	Austria	Yes	
	Belgium	Yes	We do not issue a separate administrative decision concerning the registration of a foreigner record in the SIS system for the foreigners whom an alert has been issued for the purposes of refusing entry (article 96 of the Convention Implementing the Schengen Agreement). The registration of a foreigner record in the SIS system (art. 96) is related with an expulsion decision: only persons subject to permanent exclusion from Belgium (10 years) are entered in the SIS under art. 96
	Bulgaria	Yes	
	Cyprus	Yes	
	Czech Republic	Yes	No, a separate administrative decision for the registration is not issued.
	Denmark	Yes	
	Estonia	Yes	We do not issue a separate administrative decision concerning only the registration of a foreigner record in the SIS for foreigners for whom an alert has been issued for the purposes of refusing entry (article 96 of the Convention Implementing the Schengen Agreement). The registration of a foreigner record in the SIS (art. 96) is related to the expulsion decision. Also it is possible to register the person in SIS if the Minister of Interior has made a decision imposing an entry ban concerning the person and has not limited the entry ban with the territory of Estonia.
	Finland	Yes	According to the Finnish legislation (Chapter 9 of the Alien's act) an alien may be prohibited from entering the country only in a decision on refusal of entry or in a deportation decision (Section 150:1). Furthermore, it has been stipulated in the Section 144 that for the purposes of the Finnish Alien's Act, prohibition of entry means prohibiting entry into one or more Schengen States for a fixed term or until further notice. This decision will be sent as an Article 96 alert via Finnish Sirene office to the Schengen Information System. Consequently, the answer to the question is that in Finland it is always necessary to issue a separate administrative decision concerning a foreigner for the purposes of refusing entry before an Article 96 alert can be sent to the SIS.
	France	Yes	Article 24 of Regulation (EC) No. 1987/2006 of the European Parliament and the Council of 20-12-2006 - (SIS II). The data relating to nationals of third countries subject to an alert for non-entry or residence permits are made on the basis of a

<sup>1</sup> If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

<sup>2</sup> 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."









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			<p><b>national alert resulting from decisions taken by administrative authorities or courts competent in accordance with the procedural rules laid down by national legislation, based on individual assessment. The appeal against this decision are trained in accordance with national legislation.</b></p> <p><b>It should be noted that activation of the Schengen entry at the time of the creation of a form RPF automatically record the alert in the SIS for 3 years in accordance with Article 112 of the CISA. The report must be renewed every 3 years by the authority responsible for registration if applicable. Technically this is generated automatically renewed under the term of the form to the file of wanted persons (FPR) and not at the express request of the service listing.</b></p>
	<b>Germany</b>	<b>Yes</b>	No separate administrative act is required for the registration of a circulated data record in INPOL and SIS (or only in INPOL). The technical implementation, however, always requires an administrative act (in the form of an expulsion, deportation or refusal of entry order).
	<b>Greece</b>	<b>Yes</b>	
	<b>Hungary</b>	<b>Yes</b>	
	<b>Ireland</b>	<b>Yes</b>	Ireland's request to take part in some of the provisions of the Schengen acquis is set out in Council Decision 2002/192/EC. Ireland does not participate in Article 96 of the Schengen Convention.
	<b>Italy</b>	<b>Yes</b>	
	<b>Latvia</b>	<b>Yes</b>	<p>In Latvia according to the conditions of the Law on Operation of the Schengen Information System competent authority <u>makes a decision</u> on entering alien into the SIS system. That's mean that the administrative decision is issued.</p> <p>It should be noted that in nearest future new amendments to the Immigration Law related to the implementation of the rules of Returns Directive will be in force. The amendments define that in the case of person's removal in one decision the information about responsibility of return, national re-entry ban as well as persons inclusion into the SIS system should be included.</p> <p>In any case according to the national legislation the information about alien could be included into the SIS system only on the basis of administrative decision.</p>
	<b>Lithuania</b>	<b>Yes</b>	It is necessary to make a decision to register the alien in the SIS system, but this decision is taken together with the decision to put an entry ban to the alien (one administrative act with two decisions).
	<b>Luxembourg</b>	<b>Yes</b>	In Luxembourg, data on aliens for whom an alert has been issued for the purposes of refusing entry is entered into the Schengen Information System (Article 96 of the Convention implementing the Schengen Agreement) not on the basis of a separate administrative decision concerning the registration in the SIS but on grounds of a decision regarding the refusal to stay ('refus de séjour') in combination with a decision on the prohibition of entry to the territory ('interdiction d'entrée sur le territoire').
	<b>Malta</b>	<b>Yes</b>	
	<b>Netherlands</b>	<b>Yes</b>	No, it is not required to issue a separate administrative decision concerning only the entry in SIS of a foreigner for whom an alert has been issued for the purpose of refusing entry under article 96 SUO.
	<b>Poland</b>	<b>Yes</b>	<b>1. We do not issue a separate administrative decision concerning only the registration of a foreigner record in the SIS system for</b>

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			<b>the foreigners whom an alert has been issued for the purposes of refusing entry (article 96 of the Convention Implementing the Schengen Agreement). The registration of a foreigner record in the SIS system (art. 96) is related with an expulsion decision.</b>
	<b>Portugal</b>	<b>Yes</b>	No, but the expulsion decision must include the reference to the register at Schengen Information System and in the national register of non-admissible persons.
	<b>Romania</b>	<b>Yes</b>	
	<b>Slovak Republic</b>	<b>Yes</b>	
	<b>Slovenia</b>	<b>Yes</b>	<b>Registration of a foreigner record in the SIS system (art. 96) is related with an expulsion decision.</b>
	<b>Spain</b>	<b>Yes</b>	When a third country national is found to be included on SIS as non admissible, Spanish legislation foresees the opening of an administrative procedure for return as established on article 58.3 Organic Law 4/2000 on the basis of a return administrative resolution linked to an entry ban. If the SIS alert had been issued by Spain, calculation of entry ban period is reinitiated.
	<b>Sweden</b>	<b>Yes</b>	<b>The Swedish Migration Board issues an administrative decision regarding an expulsion order with a refusing entry (article 96). The decision is distributed to the Swedish Police which is responsible to insert the record in the SIS system. No additional administrative decision is necessary for this latter registration.</b>
	<b>United Kingdom</b>	<b>Yes</b>	
	<b>Norway</b>	<b>Yes</b>	<b>1. We do issue a separate administrative decision when registering a foreigner in the SIS system. The Norwegian Directorate of Immigration (UDI) is the responsible authority. The decision to register a foreigner in the SIS is included in the written expulsion decision made by UDI, which always precedes the decision to register a foreigner in the SIS.</b>

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