



# Spotlight on Parliaments in Europe

Issued by the EP Directorate for Relations with National Parliaments

N° 18 - December 2017

---

## **Majority of EU Member States punish irregular entry and stay. Sentences vary considerably.**

**On 14 August 2017, the Swedish Riksdag submitted to the ECPRD a request (N. 3491) concerning the criminal penalties in EU Member States' legislation on irregular entry and stay. The Riksdag addressed questions on what criminal law measures other EU Member States have resorted to in order to deter migrants from entering or staying in their territory in an irregular manner and to deter others from facilitating/assisting such irregular entry or stay. The replies given from 19 national Parliaments/Chambers show that legislation in 17 of the 19 Member States punishes irregular entry with sanctions in the form of a fine or imprisonment and/or a fine in addition to the coercive measures that may be taken to ensure the removal of the person from the territory of the state. This summary, based on the answers of the national Parliaments/Chambers includes both penal and, where reported, administrative sanctions, but does not include sanctions against legal persons (e.g. carriers' liability).**

**Irregular Entry:** The replies show that legislation in 17 of the 19 Member States (all except Spain and Portugal) punishes irregular entry with sanctions in the form of a fine (5 states: Austria, Czech Republic, Finland, Hungary and Slovakia) or imprisonment and/or a fine (12 countries: Croatia, Denmark, Estonia, France, Germany, Greece, Latvia, Lithuania, Poland, Romania, Sweden and United Kingdom) in addition to the coercive measures that may be taken to ensure the removal of the person from the territory of the state. In case of aggravated circumstances, the punishment may be imprisonment in all 17 states. Penalty scales vary greatly. For instance, the minimum fine for irregular entry in Poland is 5 euro, while in Lithuania it can be up to 19,000 euro<sup>1</sup>. Stipulated prison terms also vary greatly, from 30 days to several years.

**Irregular Stay:** In similar manner to irregular entry, legislation in 15 of the 19 Member States (all except Netherlands, Spain-only administrative sanctions-, France and Portugal) punishes irregular stay, with 4 applying a fine ( Finland, Hungary, Poland and Slovakia) and 11 a fine and/or imprisonment ( Austria, Croatia, Czech Republic, Denmark, Estonia, Germany, Greece, Lithuania, Romania, Sweden and United Kingdom). Minimum and maximum fines vary greatly and some countries apply day fines that are determined by the court, taking into account personal conditions of the perpetrator. Prison terms, given that there are no aggravating circumstances, are normally between 6 and 12 months. According to Danish legislation, an alien is liable to a fine or imprisonment for up to 6 months if he stays in Denmark without the requisite permit. In the

---

<sup>1</sup> Where fines have been reported in national currency, they have been converted into euros at current exchanges rates.

determination of the sentence, it is considered an aggravating circumstance if the contravention has been committed repeatedly. According to Finnish legislation, if a person resides in Finland without permission, he or she violates Finnish Aliens Act, from which fines can be ordered.

**Facilitation of irregular entry:** As far as fines are concerned in Finland, a day fine is one sixtieth of the average monthly income of the person fined. The minimum is one day fine and the maximum is 120. As far as prison in the scale of penalties for facilitating irregular entry is concerned, it is included in all 19 Member States. Most countries apply imprisonment and/or a fine. The maximum fine varies from 5.000 euro (Austria) to 57.000 euro (Lithuania). Most countries, however, apply day fines. The maximum prison term also varies considerably between the countries, from a few weeks (Austria) to 8-14 years (Poland, Greece, United Kingdom). It should be noted, however, that the longer prison terms include such aggravated circumstances that are generally regulated in separate penal provisions in other countries, for instance that the act of facilitation was proven to be for profit or gain. In 8 of the Member States (Austria, Czech Republic, Denmark, Greece, Poland, Slovakia, Spain and Sweden), facilitating irregular entry is punishable only if carried out for profit. Again, maximum fines and prison terms vary considerably, similarly to facilitating irregular entry.

**Facilitation of irregular stay:** Similarly, imprisonment is included in the scale of penalties for facilitating irregular stay in 18 of 19 Member States (all except Netherlands). Austria, Croatia, Denmark, France, Greece, Lithuania and United Kingdom apply imprisonment and/or a fine. Finland and Latvia apply a fine only.

For example, according to Swedish legislation, criminal penalties for a person assisting – or attempting/preparing to assist – an alien in illegally entering, passing through or remaining in Sweden are imprisonment up to 2 years and fine or imprisonment up to 6 months if it is a minor offence, or imprisonment from 6 months up to 6 years if it is a gross offence. There is no exception for humanitarian assistance with regard to facilitation of entry in Swedish legislation, but the courts may take the humanity of an act into account. With regard to facilitation of stay, it is considered criminal only if committed for profit.

As another example, according to Greek legislation, whoever facilitates the entry or exit from the Greek territory of third-country nationals shall be punished with imprisonment up to ten years and a fine of at least 20.000 Euros. In case of aggravating circumstances (the act was carried in order to make profit or by profession of habit or by two or more persons) the perpetrator shall be sentenced to at least ten years of imprisonment and a fine of at least 50.000 Euros. Furthermore, whoever facilitates the illegal residence or obstructs the police investigation to locate, arrest and deport a third-country national shall be sentenced to at least one year of imprisonment and a fine of at least five thousand euro. In case of aggravating circumstances, the perpetrator shall be punished with at least two years of imprisonment and a fine of at least ten thousand euros.

Directorate for Relations with National Parliaments - Institutional Co-operation Unit  
[www.europarl.europa.eu/relnatparl](http://www.europarl.europa.eu/relnatparl)

Author-Contact: Despoina Stylianidou, [despoina.stylianidou@europarl.europa.eu](mailto:despoina.stylianidou@europarl.europa.eu)

