



## EMN Ad-Hoc Query on Intra-Schengen border monitoring and border control

Requested by NL EMN NCP on 4th June 2018

### Border

Responses from [Austria](#), [Belgium](#), [Croatia](#), [Cyprus](#), [Czech Republic](#), [Estonia](#), [Finland](#), [Germany](#), [Hungary](#), [Italy](#), [Latvia](#), [Lithuania](#), [Luxembourg](#), [Netherlands](#), [Poland](#), [Slovak Republic](#), [Slovenia](#), [Sweden](#), [United Kingdom](#), [Norway](#) (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.*

### **Background information:**

Over the past couple of years, the Schengen area has come to face several challenges. In particular in response to a range of terrorist attacks as well as the so-called European refugee “crisis”. Member states have used a variety of measures to enhance the monitoring of cross border mobility. These measures are not exclusively taken at the external border of the European Union, but also increasingly at the physical borders between two Schengen States. By, for instance, temporarily reintroducing border checks under Article 29 of the Schengen Border Code (SBC) or by using the possibility to carry out police or immigration checks in a region around the physical border under Article 23 SBC. In the light of one of the core principles of the European Union and the Schengen Agreement, the principle of free movement, the temporary introduction of border checks under article 29 SBC is to be seen as a last resort that can only be justified by exceptional circumstances. While acknowledging the urge felt by Member States to nevertheless better monitor cross-border mobility, in May 2017 the European Commission issued a recommendation for the Member States to more effectively use the possibilities offered by article 23 SBC. Yet, whereas Member States have to inform the European Commission when temporarily reinstating border checks under article 29 SBC, the use of article 23 SBC is not registered anywhere.

As a result, a comprehensible EU wide overview of what actors are involved in the monitoring of intra-Schengen cross-border mobility is lacking, as is an overview of the different measures that are taken by the Member States. The limited CJEU case law on Article 23 SBC shows that the implementation or, perhaps better said, the translation of the article into actual national and/or local policing practices is something that deserves to be monitored as Article 23 SBC provides countries, and thus also those who are in charge of exercising the checks, with quite some discretionary space on the specifics. This could result in big differences between the ways in which Member States control and monitor intra-Schengen cross-border mobility. By means of these 5 questions, we aim to come to a first overview.

### **Questions**

1. What actor(s)/institution(s) is/are involved in the monitoring and control of intra-Schengen cross-border mobility in your country? Please also specify *how* the actor(s)/institution(s) is/are involved, so in other words, *what* is their role. Multiple answers are possible.
  - (National) police
  - Immigration Authorities
  - Army
  - Border Control Agency
  - Other, please specify
2. What measures are in place to monitor intra-Schengen cross border mobility in your country? Please specify your answer.
  - Physical barriers (e.g. fences, road blocks, barbed wire, etc)
  - Border checks at the border
  - Police checks in the border region

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- Immigration checks in the border region
  - Others, please specify
3. What is the aim of the measures identified under 2?
  4. Could you please indicate and specify under what legal mandate – criminal law, administrative law, other –the responsible agencies mentioned under question 1 perform their police and/or immigration checks.
  5. Are there landmark cases (administrative/criminal/constitutional) in your country?

Yes/no, if yes, could you list the cases?

\*\*\* A landmark case is an important case in (further) defining or refining the interpretation of laws. In the context of this question, a landmark case would be a case that discusses, in the light of article 23 of the Schengen Border Code, what national authorities can and cannot do in terms of crime control and/ or migration control in intra-Schengen border areas.

6. Have cases mentioned under 5 influenced or changed national policies or practices? Yes/no, if yes, could you include an explanation how these landmark cases influenced national policies or practices?



**Responses**

	<b>Country</b>	<b>Wider Dissemination</b>	<b>Response</b>
	<b>Austria</b>	Yes	<p><b>1.</b> The provincial police directorates, respectively the public security bodies (police) subordinated to it, are the competent bodies for surveillance of the (internal Schengen) borders (Art. 8 para. 1, Art. 9 para. 1 Border Control Act) in Austria. The authorities/public security bodies are responsible to carry out border controls. Equipment for recording audio and video material may be used (Art. 12 Border Control Act). The public security bodies are for checking reasons inter alia empowered to establish identities of persons concerned, to seize travel documents (owing to circumstances) or to refuse border crossing and impede it (Art. 12a Border Control Act, Art. 41 Alien Police Act 2005). The Austrian armed Forces are primarily used to monitor the “green border” within the framework of the assistance deployment decided by the Federal Government. --- Source: Ministry of the Interior</p>



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			<p><b>2.</b> Physical barriers like fences and border management infrastructure (containers and tents for facilitating border control) can partially be found at Austria's borders. Besides controls at point of entries (Art. 11 Border Control Act), the public security bodies are authorised to impede entry and onward travel of aliens (rejection at the border) in the border control zone. This applies for example in cases of illegal entry or if there is a prohibition of entry and/or stay and no visa has been issued for re-entry or in cases where no re-entry authorisation has been issued (Art. 41 Alien Police Act 2005). The border control zone comprises an inland area in the range of 10km around the point of entry (Art. 7 para. 1 Border Control Act). Besides border crossing controls (primarily visual checks at point of entries of the categories 1 and 2) so-called compensatory measures (Ausgleichsmaßnahmen/AGM) are in place in all of the Federal Territory on grounds of European Commission recommendations from May 2017. --- Source: Ministry of the Interior</p> <p><b>3.</b> Due to existing grave deficits in the protection of the external border and uncontrolled, illegal secondary migration a serious risk to the public safety and security persists. The installed measures therefore target, in light of a possible renewed increase of migration movements, the prevention of illegal migration for migration and security policy reasons – this in tangible case and as a pre-emptive measure. Reducing border controls in the current situation would send wrong signals to illegal migrants and organisations active in the field of human trafficking. --- Source: Ministry of the Interior</p> <p><b>4.</b> The public bodies mentioned under point 1 use their competencies on grounds of relevant provisions in administrative law (especially: Aliens Police Act 2005 and Border Control Act). These competencies are also based on pertinent European Union legal provisions like for instance the Schengen Border Codex. --- Source: Ministry of the Interior</p> <p><b>5.</b> The internal border controls at the border to Slovenia have been assessed as legally faultless by the provincial administrative court of Styria. --- Source: Ministry of the Interior</p> <p><b>6.</b> No. --- Source: Ministry of the Interior</p>
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	<p><b>Belgium</b></p>	<p>Yes</p>	<ol style="list-style-type: none"> <li><b>1.</b> In Belgium, it is the police and the Immigration authorities (Immigration Office) who are involved in the monitoring and control of intra-Schengen cross border mobility.</li> <li><b>2.</b> The federal police and the local police carry out monitoring activities in the border region within the framework of the fight against illegal and transit migration. Joint actions are held over the entire territory of Belgium, this in cooperation with all involved actors such as the federal police (railway police, maritime police, aviation police, federal judicial police), local police zones, the immigration office, guardianship service, etc.</li> <li><b>3.</b> The actions are aimed at keeping the phenomenon of illegal and transit migration manageable and controllable. The actions are also aimed at tracing human smugglers and traffickers and foreign nationals who pose a threat to public security, for example in the context of terrorism or other criminal acts. These people are apprehended and detained for the purpose of removal.</li> <li><b>4.</b> The Organic Law on Police Functions (5 August 1992) and the Belgian Immigration Act (15 December 1980).</li> <li><b>5.</b> No, but the Belgian Federal police and the Immigration Office take into account relevant case law of the Court of Justice such as the Judgement Melki and Abdeli (C-188/10 and C-89/10) and the Judgement Adil (C-278/12) for what concerns conditions and criteria for border controls and identity checks carried out by border police services.</li> <li><b>6.</b> See reply to question 5</li> </ol>
	<p><b>Croatia</b></p>	<p>Yes</p>	<ol style="list-style-type: none"> <li><b>1.</b> Croatia is still not a part of Schengen area. Supervision of passengers, vehicles, and things in the cross-border traffic is under the competence of the Border Police of the Ministry of the Interior, while the customs are responsible for the goods traffic at the external borders.</li> <li><b>2.</b> Given that the Republic of Croatia does not apply a fully Schengen acquis, supervision is primarily carried out by border police at border crossings. Apart from the surveillance at border crossings, surveillance is carried out at approach routes along the border through compensatory measures while the surveillance is conducted by the police officers responsible for managing illegal</li> </ol>

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			<p>migration.</p> <p><b>3.</b> 3. The aim is to prevent illegal crossings at the state border either through the so called "green" or "blue" border surveillance or by avoiding border controls over border crossings and controlling the legality of stay in the territory. It also aims to detect, and capture perpetrators of crime and offenses associated with all forms of cross-border crime, or by removing all forms of behavior endangering public order, national security or public health.</p> <p><b>4.</b> 4. Act on the Amendments to the State Border Surveillance Act (Official Gazette 146/08), Aliens Act (Official Gazette 130/11, 74/13, 69/17).</p> <p><b>5.</b> 5. N/A.</p> <p><b>6.</b> 6. N/A.</p>
	<b>Cyprus</b>	Yes	<p><b>1.</b> Not applicable</p> <p><b>2.</b> Not applicable</p> <p><b>3.</b> Not applicable</p> <p><b>4.</b> Not applicable</p> <p><b>5.</b> Not applicable</p> <p><b>6.</b> Not applicable</p>
	<b>Czech Republic</b>	Yes	<p><b>1.</b> • Police of the Czech Republic (in particular Foreign Police Service, Criminal Police and Investigation service, National Drug Headquarters) • Customs authorities. The mentioned authorities can exercise their powers on the whole territory of the Czech Republic, including border areas. Police checks in border areas focus mainly on prevention of smuggling of persons, narcotic substances and objects related to the crime, combatting human and drug trafficking, search for</p>

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			<p>persons and objects related to criminal activities as well as on prevention of illegal stay of third country nationals. Customs authorities The primary objective of checks carried out by the customs authorities is to monitor compliance with tax regulations, in particular the transport of selected products and the detection of breaches of the excise duty law, the search for goods which escaped customs supervision, inspections of ADR regime and violations of the transport of goods subject to prohibitions and restrictions (e.g. narcotic and psychotropic substances, endangered species of wildlife and plants) or special regulations governing the work of drivers). If, in the course of such checks, the customs authorities detect persons from third countries without proper documents, they shall hand over these persons to the Police of the Czech Republic for further action.</p> <p><b>2.</b> Police and Customs carry out checks mentioned in the answer to Q1 on the territory of the Czech Republic, including in border areas, bearing in mind the restrictions provided by the Schengen Borders Code (Article 23). There are no other special measures in place.</p> <p><b>3.</b> The aim of these measures is to maintain internal security and public order in the territory, including in border areas.</p> <p><b>4.</b> Act No. 273/2008 Coll., on the Police of the Czech Republic, as amended Act No. 326/1999 Coll., on stay of foreigners on the territory of the Czech Republic, as amended</p> <p><b>5.</b> No</p> <p><b>6.</b> No</p>
	<p><b>Estonia</b></p>	<p>Yes</p>	<p><b>1.</b> - (National) Police In Estonia, there is one authority, which withholds the main functions of internal security – Estonian Police and Border Guard Board. The main tasks of Police and Border Guard Board are the securing of the external border of the European Union; the determination of citizenship and issue of documents; security and public order in the state; and the investigation and prevention of offences. Among the tasks of Police and Border Guard Board there is also the task to carry out immigration controls inside the country (intra Schengen movement) - Immigration Authorities Reference to 1. Answer - Army No - Border Control Agency Reference to 1. answer -</p>

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			<p>Other, please specify None</p> <p><b>2.</b> - Physical barriers (e.g. fences, road blocks, barbed wire, etc.) Currently there are no physical barriers in place to control intra Schengen movement. - Border checks at the border Currently there are no border controls reinstated on Schengen internal border in Estonia. - Police checks in the border region There are police checks in the border region of internal Schengen borders. The police checks are carried out based on a risk analysis and withhold in them all the aspects of the tasks of Police and Border Guard Board. - Immigration checks in the border region See previous answer. - Other, please specify: None</p> <p><b>3.</b> The aim of the checks carried out is to prevent, detect and tackle any illicit activity or behaviour which would fall under the responsibilities of Police and Border Guard Board. The checks to not have a specific migration control nature and this is considered only as one of the elements controlled.</p> <p><b>4.</b> The checks are carried out based on a risk analysis and the legal mandate depends on the concrete control activity carried out. As general those checks are carried out as part of administrative law instrument.</p> <p><b>5.</b> No.</p> <p><b>6.</b> No.</p>
+	<b>Finland</b>	Yes	<p><b>1.</b> In Finland, the Police and the Border Guard perform immigrant monitoring control based on risk analyses.</p> <p><b>2.</b> - Immigration checks in the border region: the Border Guard performs immigrant monitoring control based on risk analysis in the area. Such as intra-Schengen flights and ferry connections. The Police can also perform immigrant monitoring control further inland. - Others: the Border Guard makes risk analyses on different levels (strategic, operational, tactical), illegal intra-Schengen migration is one of the risks.</p>



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			<p>3. To check the conditions for stay in the country. Risk analyses are made to help planning of resources needed and to perform operational activities effectively.</p> <p>4. The Alien's Act 301/2004, Sections 129 and 130.</p> <p>5. n/a</p> <p>6. n/a</p>
	<p><b>Germany</b></p>	<p>Yes</p>	<p>1. (National) Police forces of the Federal Länder: - prevention of cross-border property crime and crimes related to transportation; - joint patrols with the Federal Police in the internal border area. Police force of the Free State of Bavaria: - cross-border traffic controls at selected border crossing points on behalf of the Federal Police; - dragnet investigations in the internal border area Immigration Authorities: - none Army: - None Border Control Agency - Federal Police with their units at the country's internal land borders as part of the integrated performance of tasks; - deployment of task forces of the Federal Police at internal borders; - trilateral patrols with Austria, Italy and Hungary on their territories. Other, please specify Federal Customs Administration: - cross-border traffic controls at selected border crossing points on behalf of the Federal Police; - prevention of cross-border narcotics and money laundering crime, monitoring cash movements Federal Office for Goods Transport: - checks on heavy goods vehicles and their drivers for road safety</p> <p>2. Border checks at the border. No temporary checkpoints are set up on the borderline as a rule; there is visual surveillance of the cross-border traffic here at most. Police checks in the border region : - ad hoc establishment of mobile or stationary control points along cross-border traffic routes that are relevant in terms of migration, including using special technology, for example: license plate reading systems, - surveillance of the internal border area with patrols, using police helicopters, thermal imaging and night-vision technology, - temporary priority actions using special technology, such as technology to detect migrants in containers, - temporary checks on freight train traffic on railway routes from Italy using video technology, - cross-border task forces for surveillance and control on both sides of the internal border. Immigration checks in the border Region: - Mobile checks are carried out by the border police in the internal border area using semi-</p>



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			<p>stationary investigation equipment cases, or at the Federal Police office, in accordance with Articles 6 and 8 of the Schengen Border Code.</p> <p><b>3.</b> - to prevent and suppress illegal secondary migration, - to identify smugglers of migrants and other forms of organised unauthorised entry, - to avert risks to public safety and health risks, - to prevent property crime.</p> <p><b>4.</b> In order to prevent or suppress unauthorised entries and to prevent border-related criminal offences within the meaning of section 12 subsection (1) Nos. 1 to 4 of the Federal Police Act (BpolG), the Federal Police have in particular the power to determine identities in the internal border area (section 23 subsection (1) No. 3 of the Federal Police Act). This applies accordingly to measures relating to ferry traffic crossing internal borders in seaports that are located less than 50 km from the external border. The application of this power is aimed at preventing or suppressing illegal migration and preventing cross-border crime in accordance with section 12 subsection (1) Nos. 1 to 4 of the Federal Police Act, e.g. identification of persons who have entered the country without authorisation, or of violent individuals crossing borders. It is modified by Art. 23 SBC. The control measures must be designed in such a way that they clearly differ from systematic external border controls and do not have the same effect as border checks. The implementation of these control measures is subject to a framework stipulated by Art. 23 (a) SBC that ensures that such measures do not have an effect equivalent to border checks in terms of their intensity and frequency:</p> <ul style="list-style-type: none"><li>- The control measures are not to be established on a permanent basis, but take place irregularly at different times, in different places and on the basis of spot-checks, taking into account the volume of travellers.</li><li>- The control measures do not have border control as an objective. They are based on constantly-updated general situational (border) police information and experience that the Federal Police Office units develop on the basis of their own information on the situation, or on information that they obtain from other authorities. General or specific police information or experience of cross-border crime, such as regarding commonly-used means and routes of cross-border transport, certain types of behaviour, and the analysis of available information on cross-border crime originating from own sources or from other authorities, is thus the starting point of the exercise of police action and of its intensity and frequency.</li><li>- In order to avoid multiple checks, the control measures are to be coordinated with other authorities or carried out as part of joint forms of deployment or cooperation.</li></ul> <p>It is possible, under the same conditions, for items brought along, such as luggage or vehicles, to be</p>
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			<p>searched (section 44 subsection (2) of the Federal Police Act). This provision applies amongst other things if suspicion exists that vehicles are being used for human trafficking. Measures corresponding in intensity to border checks and which include the examination of all entry requirements are only permissible if there is a specific reason, such as actual indications of the use of a visa that has been obtained by fraudulent means or of abuse of Community residence rules. In the course of the establishment of identity in accordance with section 23 subsection (1) No. 3 of the Federal Police Act, an individual may in particular be required to present his or her passport or replacement passport, as well as a visa or residence permit (that is valid within the Schengen area). The personal data obtained may be compared with the search database (in particular INPOL, SIS, GGFB [Geschützter Grenzfindungsbestand – secured border search database]) (section 34 subsection (1) sentence 2 of the Federal Police Act). In accordance with section 34 subsection (1) No. 2 of the Federal Police Act, queries in other files, for instance in the Central Register of Foreigners and in the National Weapons Register, are permissible if this is necessary for the performance of border police duties. Articles 19 and 20 of the VIS Regulation permit queries to be made in the VIS for the purpose of verifying or identifying third-country nationals who are subject to a visa requirement. If there are indications of misuse of Schengen travel rights or of a Schengen visa, questions as to the destination and the purpose of travel, as well as regarding financial resources, are also permissible (section 22 subsection (1) of the Federal Police Act). If evidence emerges prior to the search of a sealed vehicle that the load is under customs surveillance, the seals may only be removed by the transport route control units at the main customs offices, and the vehicle may be sealed again after inspection. In addition, in accordance with section 22 subsection (1a) of the Federal Police Act, for the purpose of preventing or suppressing unauthorised entry into the Federal territory on trains, in the area of the railways of the Federation and at airports, the Federal Police may briefly stop and question any person and request him or her to present the identity or border-crossing papers that they are carrying for inspection if, on the basis of situational knowledge or border police experience, it is to be assumed that these locations are used for unauthorised entry. This empowerment provision serves the purpose of preventing unauthorised entry, and thus combating people smuggling. Such questioning in accordance with section 22 (1a) of the Federal Police Act is contingent on appropriate situation information or on border police experience. The underlying knowledge of the situation is based on concrete figures, data and facts.</p> <p><b>5.</b> - misuse of Schengen visas for the purpose of filing asylum applications in Germany, - repeated</p>
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			<p>requests for protection at the border despite rejection of an asylum request in the other EU Member State, - unauthorised entry of potential attackers with links to politically-motivated crime, - perilous unauthorised entry on freight trains (including in the winter months), - perilous people trafficking in closed containers (for example: lorries).</p> <p><b>6. No.</b></p>
	<b>Hungary</b>	Yes	<p><b>1.</b> In HU the National Police has overall responsibility in regard to monitoring and controlling intra-Schengen cross-border mobility.</p> <p><b>2.</b> Migration net and inland checks The HU National Police set up a complex system which provides a comprehensive screening system against illegal migration, with the aim of coordinating the tasks of law enforcement, involving transport and labor authorities as well. The net covers the areas next to Schengen internal borders as well. An Integrated Command Center was established under the National Police to coordinate these activities. The daily activity of the inland control units is supported by modern technical equipment, mobile command centers, ICT for inspections processes and rapid information exchange, adequate vehicles to tackle cases of human trafficking.</p> <p><b>3.</b> The aim of inland control measures is to effectively intervene illegal cross border activities by supporting the activities at the external borders.</p> <p><b>4.</b> Act XXXIV of 1994 on the Police</p> <p><b>5.</b> No</p> <p><b>6.</b> No</p>
	<b>Italy</b>	Yes	<p><b>1.</b> The Actors involved in the monitoring and control of intra-Schengen cross-border mobility in Italy are: As a specific task regarding patrolling and surveillance of the intra-Schengen border for illegal immigration matters, at central strategic level the responsibility is up to Ministry of Interior-Central Directorate for Immigration and Border Police, that coordinates, at local level, 10 Land Border Police Offices and some National Police Departments with border police duties. Alongside</p>


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			<p>the entire border line there are also law enforcement offices, namely National Police Departments, Carabinieri and Guardia di Finanza Offices, that carry out checks and criminal investigations to combat cross-border crimes.</p> <p><b>2.</b> According to Schengen Border Code, at intra-Schengen area both systematic checks and any kind of physical barriers are forbidden. The monitoring of cross border mobility is performed by random checks, based on risk analysis and carried out by the aforementioned bodies, and, in some sections of the border line, by video surveillance too.</p> <p><b>3.</b> The aim of these measures is to ensure prevention and tackling of secondary movements of illegal migrants in the Schengen area as well as cross-border crimes such as human smuggling, drugs trafficking and crimes against property.</p> <p><b>4.</b> The first legal base is the Schengen Border Code, articles 22-24, describing the type of checks allowed in the intra-Schengen border area. The main internal legislation concerning the tasks of law enforcement authorities is Law 121/1981.</p> <p><b>5.</b> Due to civil law judicial system, the interpretation of legislation performed by a national courts has limited effects beyond the trial. In Italy just the Constitutional Court is able to define or refine the interpretation of laws, but so far there has not been a specific intervention on the subject.</p> <p><b>6.</b> see question above</p>
	<p><b>Latvia</b></p>	<p>Yes</p>	<p><b>1.</b> - Border Control Agency The State Border Guard of the Republic of Latvia is in charge of guarding and control of the State border s well as of issues, which are associated with the control of the observance of the entry, residence, exit and transit of aliens and stateless persons regulations, and other issues within the competence thereof. The State Border Guard carries out control measures within the territory of the country and also near the border. There are joint patrols conducted by the officials of the border guard and police authorities of the neighbouring countries (Lithuania and Estonia) in the internal border regions.</p> <p><b>2.</b> - Physical barriers (e.g. fences, road blocks, barbed wire, etc.) There are no physical barriers at the</p>


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			<p>internal border. - Border checks at the border Latvia has not applied the provisions of Article 29 of SBC. - Police checks in the border region The State Police in Latvia does not carry out border checks. - Immigration checks in the border region State Border Guard of the Republic of Latvia carries out immigration checks in the border region.</p> <p><b>3.</b> The aim of the measures mentioned in Q2 is to provide the fulfilment of the State Border Guard commitments.</p> <p><b>4.</b> The State Border Guard fulfils functions defined in the Border Guard Law, Immigration Law and the Regulations of the Cabinet of Ministers.</p> <p><b>5.</b> There were no landmark cases in Latvia in the field mentioned.</p> <p><b>6.</b> Taking into account that there were no landmark cases, no changes have been initiated and made in the national policies and/or practices.</p>
	<p><b>Lithuania</b></p>	<p>Yes</p>	<p><b>1.</b> - (National) Police: ensures control of the Facilitated Kaliningrad transit (travel of the Russian Federation nationals from the territory of the Russian Federation to and from the Kaliningrad Area of the Russian Federation in transit through the territory of the Republic of Lithuania). - Border Control Agency: State Border Guard Service - ensures prevention and control of illegal migration. - Other: Joint patrol of the officials of the border and police agencies of the neighboring countries (Lithuania, Latvia and Poland) is conducted in the border regions.</p> <p><b>2.</b> - Police checks in the border region / Immigration checks in the border region: Based on available intelligence information in border regions and risk factors of illegal migration, inspections of vehicles arriving to and departing from the Republic of Lithuania are carried out, as well as other checks related to irregular migration prevention and control.</p> <p><b>3.</b> Ensuring control and prevention of irregular migration; prevention of other types of criminal acts and offences.</p> <p><b>4.</b> While carrying out border checks in border regions police and State Border Guard officials follow</p>

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			<p>the provisions of Law on Police Activity, Law on the State Border and its Protection, Law on the Legal Status of Aliens. If there are cases related to people smuggling (facilitation, transportation, harboring etc.), human trafficking or falsification of documents that are subject to criminal liability, the provisions of the Criminal Code and Criminal Procedure Code are applied; in cases of illegal stay or illegal travelling in transit through the territory of the Republic of Lithuania that are subject to administrative liability – the provisions of the Code of Administrative Offences are applied.</p> <p><b>5.</b> No.</p> <p><b>6.</b> No.</p>
	<p><b>Luxembourg</b></p>	<p>Yes</p>	<p><b>1.</b> In Luxembourg the authority which is involved in the monitoring and control of intra-Schengen cross-border mobility is the Grand-Ducal Police. The agents of the Grand-Ducal Police and of Customs and Excise in regard to their competences have jurisdiction over all the territory of the Grand-Duchy of Luxembourg (take into consideration that the distance from north to south is 80 km and 40 km from west to east). The border control unit at the airport of Luxembourg (the only EU-border in Luxembourg) is part of the Grand-Ducal Police.</p> <p><b>2.</b> As there are no active land border check points the Grand-Ducal Police and the agents of the Department of Customs and Excise can made random controls using road blocks in order to combat irregular migration and ID fraud. These random controls can be done in any part of the territory, but the border and police control can be done also at the border or in the border region. The same applies also for intra-Schengen flights.</p> <p><b>3.</b> See answer to Question 2.</p> <p><b>4.</b> The amended law of 29 August 2008 on the free movement of persons and immigration (Immigration Law) expressly establishes in article 133 (1) that the Minister in charge of Immigration may carry out checks and controls, or cause them to be carried out, with a view to verifying whether the conditions laid down for the entry and stay of aliens are fulfilled. According to article 133(3) of the Immigration Law the Minister may at any time carry out specific checks and controls, or cause them to be carried out, where fraud is suspected or where the marriage, partnership or adoption has</p>

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			<p>been concluded solely with a view to entry and stay on the territory. Article 134 states that without prejudice to the legislation empowering agents of the Department of Customs and Excise (Administration des Douanes et Accises) to exercise certain general policing powers, the monitoring and checking of aliens shall be carried out by the Grand-Ducal Police, in accordance with the Minister's instructions. Finally, article 136 (1) establishes that without prejudice to article 45 of the Code of Criminal Procedure, aliens must be in a position to produce, whenever requested so to do by the Grand-Ducal Police, the documents by virtue of which they are authorised to enter or stay on the territory. The officers of the Grand-Ducal Police shall be empowered, to retain the travel documents of persons in an irregular situation (article 136(2)).</p> <p><b>5.</b> No.</p> <p><b>6.</b> N/A.</p>
	<p><b>Netherlands</b></p>	<p>Yes</p>	<p><b>1.</b> - National Police: The Dutch National Police Force is responsible for dealing with and investigating cross border/ transnational crime. - The Royal Netherlands Marechaussee is in charge of monitoring intra-Schengen cross border mobility. The Royal Netherlands Marechaussee is a gendarmerie force, a police force with military status who are responsible for carrying out immigration checks in the intra-Schengen border regions, a practice that is also known as the Mobile Security Monitor (Mobiël Toezicht Veiligheid in Dutch).</p> <p><b>2.</b> - Immigration checks in the border region In the Netherlands, the Royal Netherlands Marechaussee is carrying out immigration checks in a 20-km region around the intra-Schengen borders with Belgium and Germany. These checks are carried out on intra-Schengen trains and on cars entering the Netherlands. The checks are also carried out on a limited number of intra-Schengen flights arriving at Dutch airports. The checks allow the Royal Netherlands Marechaussee also to actively combat the crime of identity and travel document fraud (using false ID's, passports and other paperwork) as well as the crime of human smuggling. - Technological measures (Camera's, etc.): The Royal Netherlands Marechaussee is making use of a smart camera system, amigo-boras.</p> <p><b>3.</b> The aim of the immigration checks is to combat irregular stay in the Netherlands as well as to combat the two forms of cross-border crime – ID fraud and human smuggling – that are seen to be</p>




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			<p>inextricably bound with irregular stay. The presence of the RNM in the border regions can also be seen to have a potential preventative effect. The primary goals of the cameras are the detection of illegal immigration, human trafficking, identity fraud and narcotics control through camera surveillance and profiling.</p> <p><b>4.</b> Article 50 Dutch Aliens Act (Vreemdelingenwet in Dutch), article 4.17a and 4.17b of the Dutch Aliens Decree (Vreemdelingenbesluit in Dutch), article 4 section 4 of the Dutch Police Act 2012 (Politiewet 2012).</p> <p><b>5.</b> Yes, there were several landmark cases in the Netherlands. These cases were dealt with by the Council of State, the highest Administrative Court: - The ruling of 28 December 2010 (ECLI:NL:RVS:2010: BP0427) - The ruling of 12 January 2011 LJN: BP 0947</p> <p><b>6.</b> 1. The ruling of December 28 December 2010 (ECLI:NL:RVS:2010: BP0427): In response to the ruling of the Court of Justice for the EU in the Melki/Abdeli Case, the Dutch Council of State ruled that the Dutch immigration checks as they were being carried out until then, were not in line with the framework set by the Court of Justice for the EU. 2. The ruling of 12 January 2011 LJN: BP 094: Whereas this ruling was about the checks that are being carried out on the highways, the Council of State also ruled the checks that were taking place on intra-Schengen trains in breach with the Schengen Border Code.</p>
	<p><b>Poland</b></p>	<p>Yes</p>	<p><b>1.</b> - Police – control of legalisation of stay, combating crime - Office for Foreigners – appeal institution from decisions on return - Border Guard – control of legalisation of stay, issuance of decisions on return, combating crime</p> <p><b>2.</b> - Physical barriers (e.g. fences, road blocks, barbed wire, etc.): Under the Schengen Border Code, the abolition of internal border controls also obliges Member States to remove obstacles to traffic at road crossing-points at internal borders, therefore physical barriers are not used - Border checks at the border: The SBC confirms that internal borders may be crossed at any point without border checks on persons, irrespective of their nationality, being carried out. Therefore, border checks at the border are not carried out - Police checks in the border region: We carry out non-systematic, random checks on the basis of risk assessments of the security situation (in particular, the risk of irregular</p>


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			<p>immigration or breaches of criminal, security or traffic law), information exchanged at national, regional or local level, and profiling. These checks are also the result of international cooperation between neighbouring countries (exchange of police information through contact points) or could be a consequence of planned joint international actions like JAD (joint action days) under the umbrella of EMPACT, or organized by Europol, Frontex as well as by regional organisations like Baltic Sea Task Force on Organaised Crime - Immigration checks in the border region: We carry out non-systematic, random checks on the basis of risk assessments of the security situation (in particular, the risk of irregular immigration or breaches of criminal, security or traffic law), information exchanged at national, regional or local level, and profiling. These checks are also the result of international cooperation between neighbouring countries (exchange of police information through contact points)</p> <p><b>3.</b> The checks must be targeted and based on concrete and factual police information and experience as regards threats to public security including illegal migration. The information is based on facts and constantly reassessed. Consequently, checks are carried out on non-systematic random basis according to the assessment of the risk. These checks are not strictly oriented at border zone and their frequency within the area of internal border zone is comparable to their number in other parts of the territory.</p> <p><b>4.</b> Criminal law, traffic law and administrative law</p> <p><b>5.</b> No</p> <p><b>6.</b> n/a</p>
	<p><b>Slovak Republic</b></p>	<p>Yes</p>	<p><b>1.</b> Within the implementation of the art. 23 SBC SR regularly carries out security-repressive activities in the territory of the SR on the regional as well as state level. Implementation of these activities is in the responsibility of Bureau of Border and Alien Police of the Presidium of Police Force (BBAP PFP) in cooperation with other police services (riot police, traffic police and railway police) and other subjects (e.g. labour inspectorates, financial management body), etc.).</p> <p><b>2.</b> -Physical barriers – temporarily put during the execution of the security- repressive activities, e.g.</p>



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			<p>during the control of the road communication -Police checks in the bordering regions – carried out as a part of the security-repressive activities based on assessing the risk analysis in the bordering regions of the SR -Immigration checks in bordering regions- carried out as a part of the security-repressive activities based on assessing the risk analysis in the bordering regions of the SR, especially in places and objects with suspected occurrence of TCNs staying in the SR without permission. -Other – carried out as a part of the security-repressive activities based on assessing the risk, e.g. in cases of the illegal labour of TCNs</p> <p><b>3.</b> - control of the legality of the residence of TCNs in the territory of the SR, - control of the residence regime, fulfilling the obligations in line with the Act on residence of aliens, control of adherence to art. 6 SBC, - controls of places and object with expected occurrence of TCNs who stay in the territory of the SR illegally. - prevention of the free movement of persons who constitute a threat to the security of the state, endanger the public order or public health - preventive effect on the potential violators of state security, public order or public health, - detection, clarification and dealing with offenses and other administrative delicts - collecting information on criminal offenses committed in connection with illegal stay or other criminal acts, - detection of false and altered travel documents and other documents.</p> <p><b>4.</b> -art 23 SBC, -internal regulation of the president of the police forces and director of the BBAP PFP – these regulate the type plans of the execution of security- repressive activities within the territory of the SR</p> <p><b>5.</b> SR has not recorded such cases.</p> <p><b>6.</b> See Q 5.</p>
	<p><b>Slovenia</b></p>	<p>Yes</p>	<p><b>1.</b> The responsible institution are the Police. The job is done by general police stations and specialised police stations. Each of the regional units has a highly specialised Police station for compensatory measures.</p> <p><b>2.</b> They are doing it within the concept of compensatory measures in accordance with the Schengen</p>

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			<p>Borders Code. It is done by police checks in the border regions and within all the country.</p> <p><b>3.</b> compensatory measures in accordance with risk analysis, to prevent illegal migration and cross-border crime, not systematic, but proportionate to threats</p> <p><b>4.</b> There are several legal backgrounds to perform above mentioned checks. The most important ones are the Schengen Borders Code and Police Organisation and Duties Act. The rest of legislation is related to criminal law, administrative law and other legal background.</p> <p><b>5.</b> no</p> <p><b>6.</b> not applicable</p>
	<b>Sweden</b>	Yes	<p><b>1.</b> - (National) Police Responsible authority for border checks and checks on territory. - Immigration Authorities No - Army No - Border Control Agency There is no specific Border Control Agency in Sweden - Other, please specify Coast Guard and Custom.</p> <p><b>2.</b> - Physical barriers (e.g. fences, road blocks, barbed wire, etc.) - Border checks at the border Reintroduced border-checks since November 2015 (Art 29 and followed by art 25) at the Öresundbridge and at the ferry connections with Denmark and Germany in the south of Sweden. The aim of the reintroduced border checks is to address the threat to public policy and internal order. Immigration checks in line with national legislation (Swedish Aliens Act) on the whole Swedish territory, including checks on profiled passengers in passenger flows at airports and harbours. Police checks in line with national legislation performed on the whole territory including border regions. - Police checks in the border region - Immigration checks in the border region - Other, please specify:</p> <p><b>3.</b> Immigrations checks – to establish if a person has the right to stay on the territory or not. Checks are based on suspicion, information and/or profiling. No systematic checks. No random checks Police checks – checks of persons or vehicles connected to suspicion of criminal activity, traffic controls, criminal investigations.</p>

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			<p><b>4.</b> See previous question</p> <p><b>5.</b> No</p> <p><b>6.</b> No</p>
	<p><b>United Kingdom</b></p>	<p>Yes</p>	<p><b>1.</b> The UK is not part of Schengen.</p> <p><b>2.</b> N/A</p> <p><b>3.</b> N/A</p> <p><b>4.</b> N/A</p> <p><b>5.</b> N/A</p> <p><b>6.</b> N/A</p>
	<p><b>Norway</b></p>	<p>Yes</p>	<p><b>1.</b> - The Norwegian police service have full responsibility for border control (border checks and border surveillance) with support from other relevant authorities. - The Norwegian Police are responsible for monitoring and control of intra-Schengen cross border mobility in Norway. - The Norwegian Customs can carry out identity checks during customs control at the internal Schengen border. - The Norwegian National Mobile Police Service is responsible for the police's traffic service. Immigration control and mobile organized crime are important focus areas in their line of duty. - The National Police Immigration Service and the Coast Guard may be requested to assist the police in their efforts to monitor and control intra-Schengen cross border mobility.</p> <p><b>2.</b> - The Norwegian Police carry out immigration controls in the border area, the internal Schengen border with Sweden, as well as in other parts of the country. Immigration controls are carried out on intra-Schengen trains and buses, as well as employment checks in retail trade and in the cleaning, restaurant and construction industry based on results from risk analyses. The list is not exhaustive. The controls are executed based on concrete information and experience related to a current threat.</p>

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			<p>There must be reason to assume that the person in question is a foreign national and the time, place and situation give grounds for such a check. The National Police Immigration Service and the Coast Guard (in the territorial sea) may be requested to assist the police in carrying out such immigration controls. - Norway is not a part of the European Union Customs Union (EUCU) and can therefore carry out custom controls at the internal Schengen borders. When executing such custom controls, The Norwegian Customs may carry out identity checks of foreign nationals in cases where the foreign national is not in possession of valid travel documents, or the foreign national seeks asylum or there are grounds for suspecting that the foreign national lacks legal access to the realm. - The Norwegian National Mobile Police Service can carry out immigration controls, when there is reason to assume that the person in question is a foreign national and the time, place and situation give grounds for such a check.</p> <p><b>3.</b> The aim of the immigration controls and identity checks, is to uncover and combat identity fraud as well as unlawful immigration, residence and labour. They are also an effective means to uncover and combat human trafficking and smuggling and cross border/transnational crime in general.</p> <p><b>4.</b> The Immigration Act article 21, gives legal mandate for execution of immigration controls. The Immigration Regulations section 4-30, second paragraph, gives The Norwegian Customs legal mandate to perform identity checks when carrying out custom controls.</p> <p><b>5.</b> Norway has no landmark cases that discusses, in the light of article 23 of the Schengen Border Code, what national authorities can and cannot do in terms of crime control and/or migration control in intra-Schengen border areas.</p> <p><b>6.</b> See answer to question 5. N/A</p>
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