



EMN Ad-Hoc Query on COM AHQ on the Existing legal framework on false documents

Requested by Salvatore SOFIA on 14th March 2016

Irregular Migration

Responses from Austria, Belgium, Blocked / Unknown, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom, Norway (23 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:

The Action Plan against migrant smuggling adopted on 27th May 2015 included as one of its key aims the enhancement of the EU's police and judicial response to tackling organised migrant smuggling. Within this is a commitment to evaluate EU legislation on migrant smuggling in view of possible modification by 2016. Work is currently underway to evaluate the potential to improve the so called "facilitators package" by examining Directive 2002/90/EC, which defines the facilitation of unauthorised entry, transit and residence; and Framework Decision 2002/946/JHA, that sets out the penal framework designed to prevent the facilitation of unauthorised entry, transit and residence.

Subsequent to the adoption of the Action Plan on migrant smuggling, Council conclusions of 10 March 2016 have also outlined the importance of the risk presented by the worrying increase in false or stolen identification documentation being used to facilitate unlawful entry into member States.

In this context, the Commission intends to gather updated information on the existing legal framework linked to the use, procurement, supply and production of false documents as well as administrative laws applied to commercial companies responsible for carrying passengers into the EU and between Member States. The information will provide the Commission with a broad view across Member States of the current judicial framework within which document fraud is dealt and will feed into the process of evaluation of the current legislation. In order to keep within the tight deadlines for finalising this process, your assistance is requested in responding to the following questions by April 4th.

Questions

1. 1. What criminal and/or administrative sanctions (please specify) do Member States have in place for:

a. Individuals using a false instrument -

Use of false Travel Document/National ID card etc. to enter MS countries or fraudulently apply for an extensions to stay in their country;

b. The provision and/or procurement of false instrument -

In order to assist the illegal crossing of someone into their state (migrant smuggling);

c. The production of false instruments -

Designed to be used by


organised crime groups, migrant smugglers or individuals to enter and/or reside in Member State irregularly;

d. The use of forged or counterfeit supporting documents -

The use of supporting documents to support fraudulent applications for genuine travel documents, visas or extensions to permission to remain in a Member State (FOGs – Fraudulently Obtained Genuine travel documents/visas/national ID cards etc.).

2. What administrative sanctions are applied in MS to Carrying Companies who allow passengers to board flights, trains, ferries and coaches using forged or counterfeit travel or identity documents?
3. Are any statistics on investigations, prosecutions and convictions for the above mentioned offenses available? If so, can you provide figures for 2014 and, if available, 2015?


Responses

	Country	Wider Dissemination	Response
	Austria	Yes	<p>1. a. Individuals using a false instrument Criminal sanctions Art. 223 Criminal Code (Forgery of Instruments) (1) Who produces a false instrument or forges a true instrument with the intent that the instrument be used in legal dealings in order to prove an entitlement, a legal relationship or a fact, is to be punished with prison sentence of up to one year or with a fine of up to 720 day's rates. (2) Likewise is to be punished, who uses a false or forged instrument in legal dealings in order to prove an entitlement, a legal relationship or a fact. Art. 224 Criminal Code (Forgery of Instruments enjoying Particular Protection) (1) Who commits a punishable act under Art. 223 in relation to a public Austrian instrument, a foreign public instrument, if it is equated to Austrian public instruments by statute or international treaty, a last will or a security paper not indicated in Art. 237, is to be punished with prison sentence of up to two years. b. The provision and/or procurement of false instrument Criminal sanctions Art. 224a Criminal Code Who takes over from someone else, obtains for himself or someone else, transports, leaves to someone else or otherwise possesses a false or forged instrument enjoying particular protection (Art. 224) with the intent that it be used in legal dealings in order to prove an entitlement, a legal relationship or a fact, is to be punished with prison sentence of up to one year or with a fine of up to 720 day's rates. c. The production of false instruments Criminal sanctions Art. 223 Criminal Code (Forgery of Instruments) (1) Who produces a false instrument or forges a true</p>

instrument with the intent that the instrument be used in legal dealings in order to prove an entitlement, a legal relationship or a fact, is to be punished with prison sentence of up to one year or with a fine of up to 720 day's rates. d. The use of forged or counterfeit supporting documents Criminal sanctions Art. 228 Criminal Code (1) Who causes an entitlement, a legal relationship or a fact to be falsely recorded in an Austrian public instrument or that a false public certification is attached to something, is to be punished with prison sentence of up to one year or with a fine of up to 720 day's rates, if he acts with the intent that the instrument be used in legal dealings in order to prove an entitlement, a legal relationship or a fact or that the thing is used in legal dealings. (2) Likewise is to be punished, who uses a false Austrian public instrument produced in good faith in legal dealings in order to prove an entitlement, a legal relationship or a fact if he or a third person intentionally caused the instrument to be false, or who uses something to which a false public certification has been attached in good faith in legal dealings, if the false attachment has been caused intentionally by him or a third person. Source: Federal Ministry of the Interior.

2. Art. 112 Aliens Police Act - Sanctions against carrying companies (1) Who as carrying entrepreneur 1. has allowed an alien without a travel document and without the necessary entitlement to enter Austria (Art. 111 para 1) or 2. has not fulfilled his obligations under Art. 111 para 2 or 3, commits an administrative offence and is to be punished with a fine ranging from EUR 5,000 to EUR 15,000. (2) A carrying entrepreneur is not to be punished under para 1, if the alien concerned is granted the status of refugee or of subsidiary protection under the Asylum Act 2005 or if it is determined that the removal of the alien is not admissible for the grounds stated in Art. 45a para 1 or Art. 50 para 1. Notes on para 1: This provision meets the requirements of Art 26 para 2 Convention implementing the Schengen Agreement respectively of Art 4 para 1 of the Directive 2004/82/EC. If a carrying entrepreneur brings an alien without a travel document or the necessary visa into Austria over the external border in violation of his duty to control documents under Art. 111 para 1, this constitutes an administrative offence under Art. 112 para 1 subpara 1. In assessing whether the carrying entrepreneur is punishable is has to be taken into account whether the carrying entrepreneur could have avoided the illegal transport by conducting adequate control measures. Accordingly, violations of the obligation under Art. 111 para 1 are not punished if the transportation of the alien without the necessary travel documents could not have been avoided exercising adequate and suitable control measures: Art. 111 para 1 Aliens Police Act - Obligations of Carrying Entrepreneurs states: Carrying entrepreneurs who transport persons over the external border to Austria by air or on the water or by an international line of bus transportation, are obliged to take all necessary measures to ascertain that the person possesses a travel document necessary for the entry into the federal territory and if necessary an entry permit. This provision meets the requirements of Art. 26 para 1 lit b Convention implementing the Schengen Agreement, according to which carriers shall be obliged to take all the necessary measures to ensure that an alien carried by air or sea is in possession of the travel documents

			<p>required for entry into the territories of the Contracting Parties. In the light of the principle of proportionality the carrier is required to take adequate, suitable (effective) control measures in order to avoid violations of the passport and visa obligation within the meaning of Art. 15 and to meet their obligations under Art. 111 para 1. With respect to transportations of aliens over the internal borders (land border or Schengen flight) the rules of Art. 111 on the obligations of carriers are not applicable, because these expressly require a transportation over the external border or the existence of a border control authority. In particular, the forgery of documents that may not be recognized by an "interested layman" involves violations that may not be avoided, but require the use of special instruments by experts. However, the transportation of aliens may in any case be avoided if in the travel document a required entry visa is missing or has been expired or if travel documents are not valid any more according to international agreements or international usages. A carrier who has carried an alien by air without a travel document over the external border to Austria, may avoid administrative punishment if he shows that the alien at the time of the latest possible control by the carrier (e.g. last-gate-checks during boarding) still possessed the required travel documents and has disposed of these instruments only at a later point in time. This can be shown by the production of a copy of the travel document or of the section of the boarding pass kept by the carrier, on which in the course of the last-gate-check the existence of the required travel documents has been noted in handwriting. Likewise, a carrier is not punished if he can show that the alien has been put on the list of passengers using another identity than in the course of the entry control at the external border. This can be shown by the production of the list of passengers in connection with a copy of the travel documents originally used by the alien. An exception applies with respect to citizens of the European Union (citizens of the EEA and Swiss citizens have an equal status under respective agreements) and privileged third-country nationals (see the definitions in Art 2 para 4 subpara 11) due to Art. 5 para 4 of the Free Movement Directive: These must be given every reasonable opportunity at the entry control, if they do not have the necessary travel documents or, if required, the necessary visas, to obtain the necessary documents or have them brought to them within a reasonable period of time or to corroborate or prove by other means that they are covered by the right of free movement and residence. Therefore, if an EEA citizen, a Swiss citizen or a privileged third-country national may show his/her identity and nationality with other documents (e.g. driving licence), he/she may enter the federal territory also without a travel document. In this case, the sanctions against carriers under Art. 112 para 1 do not apply. Notes on para 2: It should be stressed that only in airport proceedings under Art 31f Asylum Act the penal administrative decision under Art. 112 is not issued before the final decision on the asylum application. In all other cases, the penal decision is issued immediately, but may be lifted later on which means that the fine is refunded. Notice regarding the conclusion of the asylum proceedings: In order to facilitate the conclusion of the penal proceedings under Art. 112, the regional directorate of the Federal Office for Immigration</p>
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	Belgium	Yes	<p>1. a) In Belgium, the use of a false document is subject to criminal sanctions on the basis of articles 196 et seq. of the Penal Code. Article 196 of the Penal Code stipulates that : “Shall be punished by imprisonment of 5 to 10 years the other persons who have committed forgery of authentic and public documents, and any person who has committed forgery of a commercial document, of a banking document, or of private accounts, Either by means of false signatures, Or by counterfeit or alteration of records or signatures, Or by the fabrication of conventions, provisions, obligations or discharges or by insertion thereof in the documents afterwards, Or by the addition or alteration of clauses, declarations or facts that these documents aimed at receiving and establishing.” Furthermore, article 213 of the Penal Code provides sanctions for the use of false documents: “the enforcement of sentences against those who have used counterfeit, fabricated or falsified currency, instruments, coupons, bills, seals, stamps, proof marks, marks, telegraphic dispatches or documents, will only take place if these persons have used the false instrument with fraudulent intent or with the intention of causing injury”. b) Strictly speaking, there is no article that provides sanctions for the provision of a false document. However, it is worth mentioning that any person who has contributed to facilitating the commission of the offence of production or use of false instruments could fall under the criminal participation regime. Other provisions are also applicable, such as those on the facilitation of irregular entry, transit or residence or smuggling of human beings (this remark is also valid for questions a. and c. It always depends on the factual circumstances). It is worth mentioning that there is a provision dealing with the handing over of (unfalsified) documents for fraudulent use, that is to say article 199bis of the Penal Code: “Shall be punished by imprisonment of 8 days to 6 months and a fine of 26 to 500 euros, or one of these sanctions only, anyone who, with fraudulent intent, uses, hands over to a third party or accepts from a third party, a passport, a travel document, an identity card or another document serving as such, as well as the forms used for their issuing, or who does not respect the prohibitions and restrictions that are included in those (...).” c) Article 198 of the Penal Code stipulates: “anyone who has counterfeited or falsified a passport, (a document covered by the law on arms), or a work booklet, or has used a counterfeit or falsified passport, (a document covered by the law on arms) or work booklet, shall be punished by imprisonment of 1 month to 1 year.” What’s more, article 199 of the Penal Code punishes by imprisonment of 8 days to 6 months anyone who has taken a false name in a passport, (a document covered by the</p>


law on arms), or a work booklet, or who has contributed as a witness to have these instruments issued under the false name. Furthermore, article 199bis of the Penal Code stipulates that: “Shall be punished by imprisonment of 8 days to 6 months and a fine of 26 to 500 euros, or one of these sanctions only, 1° Anyone who, with fraudulent intent, uses, hands over to a third party or accepts from a third party, a passport, a travel document, an identity card or another document serving as such, as well as the forms used for their issuing, or who does not respect the prohibitions and restrictions that are included in those; 2° Anyone who does not comply, within the time set, with a decision from the competent authority to withdraw a passport or a document serving as such”. d) Article 207 of the Penal Code stipulates that anyone who has falsified a certificate, as well as anyone who has used a falsified, forged or fabricated certificate in the circumstances enumerated in the articles 203, 204, 205 and 206, shall be punished with the penalties provided by these articles and according to the distinctions they make. The text mostly targets those who have fabricated, using the name of a civil servant or a public officer, certificates of any kind which can jeopardize public or private interests. They shall be punished by imprisonment of 6 months to 5 years, and can also be punished by disqualification (in accordance with article 33 of the Penal Code). Furthermore, if the certificate is fabricated using the name of an individual, the culprit shall be punished by imprisonment from 2 months to 1 year. (See Belgian Penal Code:


http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=fr&caller=list&cn=1867060801&la=f&fromtab=loi&sql=dt=%27code%20penal%27&tri=dd+as+rank&rech=1&numero=1)


2. The Law of 15 December 1980 on the entry, residence, settlement, and removal of foreign nationals, punishes by a fine of 3.000 euros per transported passenger, the carriers (air, sea, road) who have transported towards Belgium at least 5 passengers, who do not have the documents required by article 2 (of the above mentioned law), without having taken the necessary precautions to ensure that these passengers have the necessary documents (...). Article 74/4/bis of the Law of 15 December 1980 stipulates that an administrative fine of 5.000 euros can be imposed on carriers (air, sea, road) who do not respect the provisions referred to in Title IIIbis of the law on “Obligations of carriers regarding the access of foreigners to the territory”. As stipulated in §1 of article 74/4/bis, the fine can be imposed on: “1° Public or private air carrier, for any passenger that it transports towards Belgium, who does not have the documents required by article 2; 2° Public or private sea carrier, for any passenger that it transports towards Belgium, who does not have the documents required by article 2; 3° Public or private carrier of persons who provides international road liaisons by bus, coach, or minibus - with the exception of border traffic – for any passenger that it transports towards Belgium, who does not have the documents required by article 2; 4° Public or private air carrier, for any passenger it transports to Belgium on the occasion of a journey to a third country, who does not have the documents required to transit through Belgium through the airport area or to enter this third

			<p>country; 5° Public or private sea carrier, for any passenger it transports to Belgium on the occasion of a journey to a third country, who does not have the documents required to enter this third country 6° Public or private carrier of persons who provides international road liaisons by bus, coach, or minibus - with the exception of border traffic - for any passenger that it transports towards Belgium on the occasion of a journey to a third country, who does not have the documents required to transit through Belgium or to enter this third country. (...)” The law refers to transported passengers who do not have the required documents, not to those using false documents. (See the Law of 15 December 1980: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1980121530&table_name=loi).</p> <p>3. The statistics could not be obtained within the set time. It is worth mentioning that the Belgian databanks do not distinguish between the use of false instruments in the framework of an issue linked to smuggling of human beings and the use of false instruments for other criminal activities.</p>
	Blocked / Unknown	Yes	<p>1. a) Use of false Travel Document/National ID card etc. to enter MS countries or fraudulently apply for an extensions to stay in their country Answer: Forgery of Public Documents Act C of 2012 on the Criminal Code Section 342. (1) Any person who: a)prepares a forged administrative document or falsifies the contents of an administrative document; b) uses a falsified or forged administrative document or an administrative document issued under the name of another person; c)collaborates in the inclusion of false data, facts or declarations in an administrative document regarding the existence, changing or termination of a right or obligation;is guilty of a felony punishable by imprisonment not exceeding three years. (2) Any person who engages in preparations for the forging of administrative documents as defined in Paragraph a)or b)of Subsection (1) is guilty of misdemeanor punishable by imprisonment not exceeding one year. (3) Any person who performs the forging of administrative documents under Paragraph c)of Subsection (1) by way of negligence shall be punishable for a misdemeanor by custodial arrest b) In order to assist the illegal crossing of someone into their state (migrant smuggling) Answer: Smuggling of Human Beings Act C of 2012 on the Criminal Code Section 353. (1) * Any person who provides aid to another person for crossing state borders in violation of statutory provisions is guilty of a felony punishable by imprisonment between one to five years. (2) * The penalty shall be imprisonment between two to eight years if illegal immigrant smuggling is carried out: a) for financial gain or advantage; b) involves several persons for crossing state borders; or c) by destroying or vandalizing the barrier or the means deployed for the protection of State borders. (3) * The penalty shall be imprisonment between five to ten years if illegal immigrant smuggling is carried out: a) by tormenting the smuggled person; b) by displaying a deadly weapon; c) by carrying a deadly</p>

		<p>weapon; d) on a commercial scale; or e) in criminal association with accomplices. (4) * The penalty shall be imprisonment between five to fifteen years if: a) illegal immigrant smuggling as referred to in Paragraph a) of Subsection (3) is committed in the manner defined in Paragraphs b)-e) thereof; b) illegal immigrant smuggling as referred to in Paragraph b) of Subsection (3) is committed in the manner defined in Paragraphs a), c)-e) thereof. (5) * Any person who is engaged in organizing or supervising the criminal offense defined in Subsection (3) or (4) is punishable by imprisonment between ten to twenty years. (6) * Any person who engages in preparations for illegal immigrant smuggling is punishable by imprisonment not exceeding three years. c) Answer: Aiding in Illegal Residence Act C of 2012 on the Criminal Code Section 354. (1) Any person who provides aid for financial gain to a foreign national to reside unlawfully in the territory of: a) any Member State of the European Union; b) any State that is a party to the Agreement on the European Economic Area; or c) any other country whose citizens are enjoying the same treatment as nationals of States who are parties to the Agreement on the European Economic Area; if such foreign national is not a citizen of any of these states, is guilty of misdemeanor punishable by imprisonment not exceeding two years, insofar as the act did not result in a more serious criminal offense. (2) Any person who provides aid for financial gain to a foreign national to reside unlawfully in the territory of Hungary shall be punishable in accordance with Subsection (1), insofar as the act did not result in a more serious criminal offense. d) Forgery of Public Documents or Use of a Forged Private Document Act C of 2012 on the Criminal Code Section 342 and Section 345. (1) Any person who: a) prepares a forged administrative document or falsifies the contents of an administrative document; b) uses a falsified or forged administrative document or an administrative document issued under the name of another person; c) collaborates in the inclusion of false data, facts or declarations in an administrative document regarding the existence, changing or termination of a right or obligation; is guilty of a felony punishable by imprisonment not exceeding three years. (2) Any person who engages in preparations for the forging of administrative documents as defined in Paragraph a) or b) of Subsection (1) is guilty of misdemeanor punishable by imprisonment not exceeding one year. (3) Any person who performs the forging of administrative documents under Paragraph c) of Subsection (1) by way of negligence shall be punishable for a misdemeanor by custodial arrest. Use of a Forged Private Document Section 345 Any person who uses a falsified or forged private document or a private document with untrue contents for providing evidence for the existence, the changing or termination of a right or obligation, is guilty of a misdemeanor punishable by imprisonment not exceeding one year. Criminal Offenses with Authentic Instruments Section 346 * (1) Any person who - as regards any authentic instrument which does not belong to him or which is not exclusively his own: a) unlawfully acquires such authentic instrument from another person, without the consent of such person; b) unlawfully destroys or damages such authentic instrument; c) unlawfully commandeers or conceals such authentic instrument from its rightful holder; is</p>
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			<p>guilty of a misdemeanor punishable by imprisonment not exceeding two years. (2) Any person who receives or transfers an authentic instrument for unlawful financial gain is punishable in accordance with Subsection (1), insofar as the act did not result in another criminal offense. (3) Any person who perpetrates the act defined in Subsection (1) in respect of a private document in order to gain unlawful advantage or to cause unlawful disadvantage is guilty of a misdemeanor punishable by imprisonment not exceeding one year.</p> <p>2. Q2. Answer: Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals Chapter VI Vested Responsibilities RRTN Section 69. (1) Carriers providing travel accommodations to third-country nationals by means of air, water or scheduled road transport shall be required to check the travel document and visa of their passengers before boarding for travelling to Hungary or to another country through the territory of Hungary to ensure that they have travel documents required for entry or for transit, or visas for an intended stay of no more than ninety days. (2) The carrier transporting any third-country national by means of air, water, road or railway transport shall provide for the return of such third-country national to the country of departure or to the country which is liable to accept him/her: a) if its passenger is refused admission to Hungary for lacking any of the requirements specified by law; b) if its passenger is refused admission to another country and is turned back to Hungary; or c) if the carrier to which the passenger was scheduled to be transferred refused to admit the passenger on his means of transport. (3) If return cannot be promptly executed, the carrier in question shall bear all costs incurred in connection with the stay of the third-country national until his/her return. (4) When a third-country national is refused admission and the carrier disputes its obligation to return the person in question or to finance his/her stay, the immigration authority shall adopt a formal resolution to order the carrier to comply. (5) For any failure to comply with the obligation specified in Subsection (1) as set out in specific other legislation, a penalty for the protection of public policy shall be imposed upon the carrier in question. (6) A carrier shall be exempted from the payment of penalty for the protection of public policy if able to verify of having proceeded with due care and diligence to ensure compliance with the obligation of control specified in Subsection (1).</p> <p>3. Yes, there are.</p>
	Croatia	Yes	<p>1. Type of “offence” All the cases are deemed to be criminal offenses according to the Croatian Criminal Code 2013 and attracted penalties. a. Individuals using a false instrument Prescribed by the Article 278 of the Criminal Code (criminal offense of Forgery of documents) unlawfulness of using a false or altered genuine document attracts the sentence for the perpetrator of up to three years of imprisonment. b. Illegality of a purchasing fake or altering a</p>

			<p>genuine document with the aim of using such a document as a genuine has been regulated by Article 278 of the Criminal Law (criminal offense of Forgery of documents), which prescribes that the perpetrator could be punished by imprisonment up to three years. Misdemeanor (Prohibition of helping an alien in illegal crossing of the state border is regulated by Article 43. and misdemeanor sanctions in Article 225. of the Aliens Act which stipulates that the offender for each aided alien could be sentenced for up to 60 days of imprisonment and with the fine of 23,000.00 Kuna). c. It has been prescribed by the Article 278. of the Criminal Code under criminal offense of Forgery of documents as pervious two acts, which stipulates that the perpetrator could be punished by imprisonment of up to three years. If the said criminal offense is committed by a criminal association a criminal sanction is prescribed by Article 329. of the Criminal Code which stipulates that in this case the perpetrator could be punished by imprisonment from 6 months to 5 years. d. Unlawfulness of the use of false or altered genuine document has been prescribed by Article 278. of the Criminal Law, which stipulates that the perpetrator could be punished by imprisonment up to three years.</p> <p>2. For this act the liability of the carrier is prescribed in Article 41 and the misdemeanor sanction is prescribed by Article 225 of the Aliens Act, which stipulates that the carrier could be subjected to a fine in the amount of 23 000 Kuna per transported alien.</p> <p>3. During 2015 , the border police at 315 people found 312 forged documents and 38 others people documents as compared to 2014. it was reduction of 4.5% . Passports are the most forged documents, which during 2015 were revealed 153, and ID cards, which is in the reporting period were revealed 49. It should be particularly noted that during 2015 it has been discovered 10 forged residence permits. For this type of document it is necessary to continue to pay special attention because it is a document that facilitates the entry, movement and residence in the EU, which has become desirable for illegal migrants and forgers - please see attached document for more details.</p>
	Cyprus	Yes	<p>1. a) Any person who forges any document is guilty of an offence and is liable to 3 years imprisonment (article 335 of Cap.154). Any person who forges judicial or official documents is guilty of an offence and is liable to 10 years imprisonment (article 337 of Cap.154). Any person who utters false documents is liable to the same punishments as if he forged the documents himself (article 339 of Cap.154). b) Assisting an illegal immigrant to enter, pass through or remain illegally in Cyprus, is an offence punishable with 8 years imprisonment or with CYP20.000 or both (article 19A of Cap.105). Also, under article 20 of Cap.154, every person who does or omits to do an act for the purpose of enabling another to commit the offence, or aids or counsels or procures a person to commit an offence,</p>

			<p>shall be liable to the same sentence as if he himself committed the offence. Any person who obtains registration by false pretences is liable to 1 year imprisonment (article 305 of Cap.154). c) See answer 1.b. d) See answer 1.b.</p> <p>2. According to the Council Directive 2001/51/EC, Article 4, and National Legislation Law 146(I) 2007 Article 4 and 5, it is provided that administrative sanctions may be imposed to Carrying Companies. In cases where Carrying Companies allow passengers to board without possessing the necessary travel documents and visas an administrative sanction of 3000€ is imposed to the carriers liability for each passenger.</p> <p>3. The number of cases of detected false/falsified travel documents at entry/exit points for the year 2014 was 159 and for 2015 was 97. Data concerning prosecution procedures and convictions cannot be extracted by the platform due to the fact that they are registered in the overall statistics in relation with Aliens and Immigration Law and not specifically for the particular offences of false/falsified documents.</p>
	<p>Czech Republic</p>	<p>Yes</p>	<p>1. 1) a) Regarding individuals using a false instrument (a fraudulently altered, or completely forged travel document, identification document or other document proving identification) – in such cases persons present in the Czech Republic commit a criminal act according to the section 348, Forgery and Fraudulent Alteration of an Official Document according to the Act No. 40/2009 Coll., Criminal Code. According to the merits of the mentioned criminal act, a person is punishable already at the time when this concerned person does use the mentioned document as genuine, or the person is in the possession of such a document and does intend to use it as a genuine document. The same wording applies to the person who presents a fraudulently altered or forged document as a part of the application for the extension of the stay in the Czech Republic. In the mentioned cases it is also necessary to prove a subjective side of a criminal act and its intentional fault. Factually and locally responsible courts are in charge of imposing usually suspended sentence – and in most of the cases, concerned persons are also being issued a judicial decision on expulsion. Term of punishment differs in the majority of cases according to legally-determined terms (see the explanation below). In some cases, unconditional sentence is also imposed. As for the administrative sanctions, the administrative decision on expulsion is issued by the Police with the re-entry ban in duration up to 5 years in case the foreigner concerned at border or residence check uses document that is forged or uses evidence of other persons as evidence of his/her own. (§ 119/1b)1.) Further an administrative offence is committed by a foreigner who (§156/1n),o): a) Carries out or has carried out unauthorized changes in documents entitling entry to the territory or in the documents issued by the Aliens Act. b) Presents a travel document issued to another alien or a travel document issued under a special law as proof of his/her own. The financial penalty could be imposed in</p>

amount up to EUR 370 (§156/4b). 1) b) Also in cases of the provision and/or procurement of false instrument in order to assist illegal crossing of another person into another state (migrant smuggling), criminal act according to the section 348, Forgery and Fraudulent Alteration of an Official Document of the Act No. 40/2009 Coll., Criminal Code, is applied. A person is punishable already from the time when the person does forge an official document or does significantly alter its content with the intention to use it as a genuine one or in cases when such documents are procured for the person himself/herself or for someone else. As in the previous situation, Factually and locally responsible courts are in charge of imposing usually suspended sentence – and in most of the cases, concerned persons are also being issued a judicial decision on expulsion. Term of punishment differs in the majority of cases according to legally-determined terms. In some cases, unconditional sentence is also imposed. 1) c) Also in cases of the production of false instruments, the same section 348 as above, is applied. A person is punishable already at the time when the person does produce, offer, sell, mediate or make accessible, or procure to himself/herself or to someone else or is in the possession of the instrument, device or its component, procedure, or other requisite, including computer programmes, which have been created or adjusted for the purposes of forging or fraudulent alteration of an official document. The same sanctions apply as in the cases 1) a) and b). 1) d) Regarding the use of forged or counterfeit supporting documents, they always have to represent public instruments (documents) in order to result in a criminal act according to the section 348 of the Criminal Code. The same as in the point a) apply. In such cases person who does use/present a forged or counterfeit supporting document commits a criminal act according to the section 348, Forgery and Fraudulent Alteration of an Official Document according to the Act No. 40/2009 Coll., Criminal Code. According to the basic merits of the mentioned criminal act, a person is punishable already at the time when this concerned person does use the mentioned supporting document as genuine. It is also necessary to prove a subjective side of a criminal act and its intentional fault. Factually and locally responsible courts are in charge of imposing usually suspended sentence – and in most of the cases, concerned persons are also being issued a judicial decision on expulsion. Term of punishment differs in the majority of cases according to legally-determined terms. In some cases, unconditional sentence is also imposed. Note: Legally-determined terms: prison sentence of up to 3 years (or prohibition of activity) or in more serious cases even up to ten years.

2. Sanctions which apply to Carrying Companies who allow passengers to board flights, trains, ferries and coaches using forged and counterfeit travel or identity documents are regulated either by the section 348, Forgery and Fraudulent Alteration of an Official Document according to the Act No. 40/2009 Coll., Criminal Code or by the section 340, Organization and Facilitation of Illegal Crossing of the State Border of the same Act. Also in this case it is necessary to prove a subjective side of criminal act and its intentional fault. As in the previous situations, suspended sanctions are usually imposed, and in most of the cases, concerned persons are also being issued judicial

			<p>decision on expulsion. Term of punishment differs in the majority of cases according to the legally-determined terms. In some cases, unconditional sentence is also imposed. Administrative sanctions to carrying companies fall under § 157 of the Alien Act. According to § 104 of the Alien Act carrying companies must not transfer to the territory a person who does not possess valid travel document or visa necessary according to her/his purpose of travel. The amount of financial penalty could be imposed in the range of approx. EUR 3700 – 18 500 per one carried person. (§ 104).</p> <p>3. According to the paragraph 348, Forgery and Fraudulent Alteration of an Official Document: 2015 Number of prosecutions: 550 Number of convictions: 329 2014 Number of prosecutions: 457 Number of convictions: 291</p>
	Estonia	Yes	<p>1. a. - Submission of false information or falsified documents with the purpose of obtaining a legal basis for an alien to stay in the territory of Estonia or a member state of the Schengen Convention is punishable by a fine of up to 300 fine units. - Use of a knowingly counterfeit document, seal or blank document form with the intention of obtaining rights or release from obligations is punishable by a pecuniary punishment or up to three years' imprisonment. - Knowing obtaining, use or granting of permission to use a falsified important identity Document is punishable by a pecuniary punishment or up to three years' imprisonment. - Use of an important identity document issued in the name of another person or granting of permission to another person to use an important identity document issued in his or her own name, with the intention of obtaining rights or release from obligations, is punishable by a pecuniary punishment. b. - Aiding the stay of aliens in Estonia without a legal basis for the purpose of proprietary benefits is punishable by a pecuniary punishment or up to one year of imprisonment. - Illegal transportation of an alien across the state border or temporary border line of the Republic of Estonia is punishable by a pecuniary punishment or up to three years' imprisonment. c. - Counterfeiting a document, seal or blank document form on the basis of which it is possible to obtain rights or release from obligations is punishable by a pecuniary punishment or up to one year of imprisonment. - Falsification of an important identity Document is punishable by a pecuniary punishment or up to three years' imprisonment. d. The sanctions listed under point a are also eligible in this matter.</p> <p>2. A transporter who transported or whose representative transported to the Estonian border an alien who, upon arrival at the Estonian border, lacked a legal basis for temporary stay or residence in Estonia or a document necessary for crossing the border, is required to transport an alien who is to be returned from the Estonian border, back to the same place where an alien boarded the means of transport of the transporter, or back to the country of location of an alien. Upon a failure of an alien to compensate for the costs of the compulsory enforcement of an</p>



			<p>obligation to leave and of the stay in the detention centre and police detention house relating to an alien, a transporter is required to compensate for the specified costs but not more than 32,000 euros. A direct delivery, by a natural person engaged in transport operations, of an alien who has no legal basis for the stay in Estonia or in the transit zone to the state border of Estonia, transit zone or temporary borderline is punishable by a fine of up to 300 fine units.</p> <p>3. Statistics added as supporting Document. Please note that not all criminal offenses listed are migration related as the use of falsified documents is not migration specific. Also be aware that based on the amendments of legal acts the statistics of 2014 and 2015 may not be comparable.</p>
+	Finland	Yes	<p>1. From the Criminal code of Finland (39/1889): Question 1. a. Chapter 33 Section 1 - Forgery (769/1990) (1) A person who prepares a false document or other item or falsifies such a document or item in order for it to be used as misleading evidence or uses a false or falsified item as misleading evidence shall be sentenced for forgery to a fine or imprisonment for at most two years. (2) An attempt is punishable. (514/2003) Section 2 - Aggravated forgery (769/1990) (1) If in the forgery (1) the item that is the object of the offence is an archival document stored by an authority or a general register kept by an authority and such a document or register is important from a general point of view, or the item otherwise has a particularly significant probative value, or (2) the offender uses technical equipment procured for the commission of forgery offences or otherwise acts in a particularly methodical manner and the forgery is aggravated also when assessed as a whole, the offender shall be sentenced for aggravated forgery to imprisonment for at least four months and at most four years. (2) An attempt is punishable. (514/2003) Section 3 - Petty forgery (769/1990) If the forgery, when assessed as a whole, with due consideration to the nature of the item or to the other circumstances connected with the offence, is to be deemed petty, the offender shall be sentenced for petty forgery to a fine. Section 4 - Possession of forgery materials (514/2003) A person who without acceptable reason (1) receives, procures, transports or possesses a false or falsified piece of evidence, or (2) prepares, receives, procures, sells, transfers or possesses an item or a device that can justifiably be suspected of being primarily used in the commission of forgery offences shall be sentenced for possession of forgery materials to a fine or to imprisonment for at most six months. b. Chapter 17 - Offences against public order (563/1998) Section 8 - Arrangement of illegal immigration (146/2014) (1) A person who (1) brings or attempts to bring to or transport through Finland a foreigner without a passport, visa, residence permit or other document comparable to a passport, that is necessary for entry into the country,(2) brings or attempts to bring to or transport through Finland a foreigner whose document referred to in paragraph 1 is false, forged, issued to another person or received from an authority on</p>


		<p>the basis of essential information that is false or misleading, or by bribing the authority or violent resistance of the authority, (3) arranges or, as an intermediary, provides transportation for a foreigner referred to in paragraph 1 or 2 to Finland, or (4) gives to another person a document referred to in paragraph 2 for use in entry into the country, shall be sentenced for arrangement of illegal immigration to a fine or imprisonment for at most two years. (2) An act which, when taking into account in particular the humanitarian motives of the person committing it or his or her motives relating to close family relations, and the circumstances pertaining to the safety of the foreigner in his or her home country or country of permanent residence, and when assessed as a whole, is to be deemed committed under vindicating circumstances, does not constitute arrangement of illegal immigration. Section 8(a) - Aggravated arrangement of illegal immigration (650/2004) If, in the arrangement of illegal immigration, (1) grievous bodily harm, a serious illness or a state of mortal danger or comparable particularly grave suffering is intentionally or through gross negligence inflicted on another person or (2) the offence has been committed within the framework of an organized criminal group referred to in Chapter 6, section 5, subsection 2 (564/2015) and the offence is aggravated also when assessed as whole, the offender shall be sentenced for aggravated arrangement of illegal immigration to imprisonment for at least four months and at most six years. c. (Refer to the answer a, paragraphs 1-4) d. Chapter 16 - Offences against the public authorities (563/1998) Section 5 – Giving false identifying information (563/1998) A person who in order to mislead a public authority provides a false name or otherwise provides false or misleading information on his or her identity, or for this purpose uses another person's identity card, passport, driver's license or other such certificate, shall be sentenced for giving false identifying information to a fine or to imprisonment for at most six months. Section 6 - Fine deception (808/2007) A person who in order to obtain economic benefit provides a public authority, for the purpose of imposing a fine, essentially false or misleading information on his or her income, maintenance liability or other circumstance affecting his or her solvency, shall be sentenced for fine deception to a fine or to imprisonment for at most three months. Section 7 - Registration offence (563/1998) (1) A person who (1) in order to cause a legally relevant error in a public register kept by a public authority, provides false information to that authority, or (2) in order to gain a benefit for himself or herself or another person, or in order to cause damage to another person, takes advantage of an error caused in the manner referred to in paragraph (1), shall be sentenced for a registration offence to a fine or to imprisonment for at most three years. (2) An attempt is punishable. Section 8 - Providing false documents to a public authority (563/1998) (1) A person who provides a public authority with a legally relevant false written document or a comparable technical recording or, after having produced such a document or recording, gives it to another person to be used for this purpose, shall, unless a more severe penalty has been provided elsewhere in law for the act, be sentenced for providing false documents to a public authority to a fine or to imprisonment for at most six months.</p>
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(2) Also a person pursuing an activity under the specific supervision of an authority, the representative or employee of such a person, and an auditor of the corporation under supervision, who during a statutory inspection or when otherwise fulfilling a statutory reporting duty provides the supervising authority with legally relevant false oral information, shall be sentenced for providing false documents to a public authority.


2. Carrier's supervisory and disclosure obligation According to Section 173 of the Aliens Act (301/2004), a carrier must ensure that any alien whom it brings into Finland and who is not an EU citizen or comparable must hold the travel document required for entry into the country, as well as any required visa or residence permit. Section 174 of the Aliens Act states that the driver of a vehicle, the master of a vessel or aircraft, or the representative of the carrier on board another vehicle is obliged to ensure that no-one who is not entitled to enter Finland enters the country without the permission of the border control authorities. The master of a vessel must give the border control authorities advance notification of any stowaway detected on board. Sections 19 and 20 of the Act on the Processing of Personal Data by the Border Guard (579/2005) define the disclosure obligation that applies to vehicle drivers and carriers. In accordance with Section 19 of the aforementioned Act, the master of a vessel must provide the border control authorities at either the entry or exit point with information about the crew, passengers and other people aboard the vessel, either as a passenger and crew list or in another acceptable format. This information can be submitted with the aid of a technical interface. The passenger and crew list should show every person's forename, surname, date of birth, gender and nationality. It should also show the arrival and departure point of the vessel or craft, as well as its nationality and registration. Carrier's infringement fine If a carrier fails to comply with the supervisory obligation laid down in Section 173 of the Aliens Act or the disclosure obligation laid down in Section 20 of the Act on the Processing of Personal Data by the Border Guard, the carrier will be liable to pay an infringement fine (carrier's infringement fine). The fine for failure to comply with Section 173 is EUR 3,000 per person transported. The fine for failure to comply with Section 20 of the Act on the Processing of Personal Data by the Border Guard is EUR 3,000 for each journey for which passenger information has either not been submitted at all or is incomplete or incorrect. Also according the API-directive "COUNCIL DIRECTIVE 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data", Article 4 Sanctions, 2 This Directive shall not prevent Member States from adopting or retaining, for carriers which infringe very seriously the obligations arising from the provisions of this Directive, other sanctions, such as immobilisation, seizure and confiscation of the means of transport, or temporary suspension or withdrawal of the operating licence.

3. 1. Counterfeit / false docs: 2014 2015 a) Travel documents (pasports etc) • Passports 106 77 • Visas/Residence permits 87 93 • ID's 98 188 • Stamps 179 80 b) N/A c) N/A d) Other counterfeit docs 36 122 Pseudo/Fantasy 9 3 2.

			Carrier's infringement fine: • Carrier's infringement fine confirmed: 168 148 • Carrier's infringement fine not confirmed: 84 150
	France	No	
	Germany	Yes	<p>1. Question 1: a. Individuals using a false instrument This offence is the object of § 267 StGB (Strafgesetzbuch - German criminal code) which sanctions the forgery or falsification of a document or documents as well as the use of a forged or falsified document or documents. § 267 StGB imposes up to five years of imprisonment or fine. It is a criminal sanction. The use of false documents is also prohibited by § 95 II Nr. 2 AufenthG (Aufenthaltsgesetz – German residence act). This paragraph is also a criminal sanction especially created for people using falsified or forged documents to enter MS countries or fraudulently apply for an extension to stay in their country. b. The provision and/or procurement of false instrument This offence is the object of § 267 StGB (Strafgesetzbuch - German criminal code) which sanctions the forgery or falsification of a document or documents as well as the use of a forged or falsified document or documents. § 267 StGB imposes up to five years of imprisonment or fine. It is a criminal sanction. The provision and/or procurement of false instrument is also prohibited by § 96 I Nr. 1 lit.b) AufenthG (German residence act). This sanction is also a criminal sanction. c. The production of false instruments This offence is the object of § 267 StGB (Strafgesetzbuch - German criminal code) which sanctions the forgery or falsification of a document or documents as well as the use of a forged or falsified document or documents. § 267 StGB imposes up to five years of imprisonment or fine. It is a criminal sanction. d. The use of forged or counterfeit supporting documents This offence is the object of § 267 StGB (Strafgesetzbuch - German criminal code) which sanctions the forgery or falsification of a document or documents as well as the use of a forged or falsified document or documents. § 267 StGB imposes up to five years of imprisonment or fine. It is a criminal sanction. The use of false documents is also prohibited by § 95 II Nr. 2 AufenthG (Aufenthaltsgesetz – German residence act). This paragraph is also a criminal sanction especially created for people using falsified or forged documents to enter MS countries or fraudulently apply for an extension to stay in their country.</p> <p>2. Question 2: § 63 III AufenthG (German residence act) contains an administrative sanction for Carrying companies which bring passengers illegally to Germany by allowing them to board flights, trains, ferries and coaches using forged or counterfeit travel or identity documents.</p>

			3. Question 3: No statistics available.
	Greece	Yes	<p>1. 1a) Article 29, paragraph 7 Law 4251/2014 "Immigration and Social Integration Code" provides the following: "A person who illegally holds or uses the genuine passport or other travel document of another person shall be sentenced to at least six (6) months of imprisonment and a fine of three thousand (3.000) euros as a minimum. The same sentence shall be imposed on any person that withholds the passport or other travel document of another person or refuses to hand it over to the competent authority. Further, the same penalty shall be imposed to any person that holds or uses a fake passport or other travel document". 1b and c) Article 216 paragraphs 1-3 of the Greek Criminal Code, concerning Forgery, provides the following: 1. Everyone who draws up a false or distorted document with intention to mislead another by using it, in a way of which may has legal consequences shall be punished with imprisonment of at least three months. The use of the document by him considered as an aggravating case. 2. Everyone who knowingly uses, for the above mentioned purpose, false or adulterated document, will be also punished with the same penalty. 3. (a) If the perpetrator of these acts (paragraphs 1-2) intended to procure himself or any other pecuniary advantage by harming or intended to harm a third person, will be punished with imprisonment up to ten years, if the total benefit or total loss exceeds the amount of 120.000 euros (after the amendment of paragraph 1b, article 24, Law 4055/2012). (b) The same penalty is also valid for the perpetrator who commits forgery by profession or habit and the total benefit or total loss exceeds the amount of 30.000 euros (after the amendment of paragraph 2a, article 24, Law 4055/2012). Besides these, Article 187 paragraph 1 of the Criminal Code, concerning criminal organization, provides the following: "With an imprisonment sentence up to ten years term is punished the person who establishes or integrates as member in a structured and with a continuous action group consisted from three or more persons (organization) which pursues the commitment of more than one crime provided by articles that the forgery (Article 216) is included (please find Article 187 in the additional document provided)". Article 187, paragraph 2 of the Criminal Code, provides the following: " Whoever provides substantial information or material means aiming to the facilitation or assistance of the preceding paragraph's organization in the commitment of the felonies pursued from it is punished with an imprisonment sentence up to ten year term". Article 187, paragraph 3 of the Criminal Code, provides the following: "Whoever manages the organization of the first paragraph is punished with an imprisonment sentence up to ten year term. With the same sentence is punished the member of the organization if at the time of the commitment of the crime of second section of the first paragraph was a public servant or employee in the meaning of article 263a". Finally, the paragraph 5, Article 187 of the Criminal Code provides: "Whoever other than in the case of paragraph 1 is unified with another order to commit a felony (gang) is punished with a jailing sentence of six at least month's term. With a jailing sentence of three at least</p>


			<p>months term is punished the offender if the provided by the preceding union has been created for a misdemeanor's commitment that is punished with a jailing sentence of one at least month term when it is pursued a financial or other material profit or the interference of life, corporal integrity or sex freedom". 1d) Article 29, paragraph 8, Law 4251/2014 "Immigration and Social Integration Code" provides the following: "The manager of the travel agency or immigration office, or any other person who submits to the competent authority supporting documents for the issue of a travel document for the account of a third person, stating details that do not correspond to the identification particulars of that person, shall be sentenced to at least one (1) year of imprisonment and a fine of ten thousand (10 000) euros as a minimum. The same penalty shall also be imposed to the person for whose account the supporting documents were submitted. By decision of the relevant head of region, the office shall be subject to three-month suspension of its operating permit and, in case of repeat violation, permanent withholding of that permit".</p> <p>2. -</p> <p>3. no data</p>
	Latvia	Yes	<p>1. See the attached document</p> <p>2. Administrative Violations Code defines the sanction only for carriage of third country nationals without necessary travel documents to Latvia. Article 114.2 Carriage of Persons to the Republic of Latvia without Travel Documentation In the case of the carriage of citizens of such state that is not a Member State of the European Union or European Economic Area, from such states to the Republic of Latvia, if the referred to persons do not have the necessary travel documentation to cross the border of the Republic of Latvia and if the carrier has performed it by sea, air or land transport – a fine shall be imposed on a natural or legal person in an amount from 3000 euro up to 5000 euro for every person carried. Section 114.3 Failure to Provide Passenger Information and Provision of Incomplete or Incorrect Information In the case of failure to provide the requested passenger information, provision of incomplete or incorrect information to the State Border Guard, if done by a carrier, who performs carriage by air transport from a country that is not a Member State of the European Union or European Economic Area to the Republic of Latvia – a fine shall be imposed on the carrier – a natural or legal person – in an amount from EUR 3100 up to EUR 5100.</p> <p>3. See the attached document</p>

	Lithuania	Yes	<p>1. A. In accordance with provisions of the Schengen Borders Code (SBC), the persons who seek to enter the Republic of Lithuania at border crossing points by presenting forged or other persons' travel documents, visas or residence permits (grounds B and D) are not allowed into the Schengen Area. In respect of such persons, pre-trial investigations over the use of forged documents are not initiated. In other cases, an alien using a forged document is subject to punishment by arrest or a custodial sentence for a term of up to four years under Article 300(1) and (2) of the Criminal Code of the Republic of Lithuania. Article 300. Forgery of a Document or Possession of a Forged Document 1. A person who produces a false document, forges a genuine document or stores, transports, forwards, uses or handles a document known to be false or a genuine document known to be forged shall be punished by a fine or by arrest or by a custodial sentence for a term of up to three years. 2. A person who produces a false identity card, passport, driving licence or state social insurance certificate or forges a genuine identity card, passport, driving licence or state social insurance certificate or stores, transports, forwards, uses or handles an identity card, passport, driving licence or state social insurance certificate known to be false or a genuine identity card, passport, driving licence or state social insurance certificate known to be forged shall be punished by arrest or by a custodial sentence for a term of up to four years. 3. A person who commits the acts provided for in paragraph 1 or 2 of this Article, where this incurs major damage, or produces a large quantity of false identity cards, passports, driving licences or state social insurance certificates or forges a large quantity of genuine identity cards, passports, driving licences or state social insurance certificates or stores, transports, forwards, uses or handles a large quantity of identity cards, passports, driving licences or state social insurance certificates known to be false or genuine identity cards, passports, driving licences or state social insurance certificates known to be forged shall be punished by a custodial sentence for a term of up to six years. 4. A legal entity shall also be held liable for the acts provided for in this Article. B. A person who engages in human smuggling is held liable under Article 292 of the Criminal Code of the Republic of Lithuania and is punished by a custodial sentence for a term of four up to ten years. Article 292. Unlawful Transportation of Persons across the State Border 1. A person who unlawfully transports across the state border of the Republic of Lithuania an alien not having a permanent place of residence in the Republic of Lithuania or transports or conceals in the territory of the Republic of Lithuania such an alien who has illegally crossed the state border of the Republic of Lithuania shall be punished by a fine or by arrest or by a custodial sentence for a term of up to six years. 2. A person who commits the acts provided for in paragraph 1 of this Article for mercenary reasons or where this poses a threat to human life, shall be punished by a custodial sentence for a term of up to eight years. 3. A person who organises the acts provided for in paragraph 1 of this Article shall be punished by a custodial sentence for a term of four up to ten years. 4. A legal entity shall also be held liable for the acts provided for in this Article. A person who illegally crosses the border is held liable under Article 291 of the Criminal Code of the</p>
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Republic of Lithuania and is punished by a fine or by arrest or by a custodial sentence for a term of up to two years. Article 291. Illegal Crossing of the State Border 1. A person who illegally crosses the state border of the Republic of Lithuania shall be punished by a fine or by arrest or by a custodial sentence for a term of up to two years. 2. An alien who unlawfully enters the Republic of Lithuania seeking to exercise the right of asylum shall be released from criminal liability under paragraph 1 of this Article. 3. An alien who commits the act provided for in paragraph 1 of this Article with the intent of illegally crossing into a third state from the Republic of Lithuania shall be released from criminal liability according to paragraph 1 of this Article where he is, in accordance with the established procedure, subject to deportation back to the state from the territory whereof he illegally crosses the state border of the Republic of Lithuania or to the state whose citizen he is. C. A person is held liable under Article 300 of the Criminal Code of the Republic of Lithuania and is punished by arrest or a custodial sentence for a term of up to four years. D. A person is held liable under Article 300 of the Criminal Code of the Republic of Lithuania and is punished by arrest or a custodial sentence for a term of up to four years.

2. According to Article 20 of the Law on Transport Activities, the carriers which are engaged in the carriage of passengers by air or sea or which carry groups of passengers by bus land transport on international special and charter routes have the duty to ensure that the passengers are in possession of the travel documents required for entry into the Republic of Lithuania. Where the State Border Guard Service establishes that an alien is not in possession of travel documents required for entry into the Republic of Lithuania, the carrier is imposed a fine in the amount from eleven thousand Litas (approx. 3200 EUR) up to eighteen thousand Litas (approx. 5200 EUR) for each alien transported without the necessary documents. Article 20(3) of the Law on Transport Activities stipulates that where the State Border Guard Service establishes that an alien's travel document which is required for entry into the Republic of Lithuania has been forged, a fine is not imposed. The carrier remains responsible for transporting the alien from the country.

3. Statistical information on pre-trial investigations. In 2015, 61 pre-trial investigations were initiated under "Unlawful Transportation of Persons across the State Border" over the smuggling of persons across the state border (254 aliens were smuggled by 98 persons). In 2014, 33 pre-trial investigations were initiated. In 2015, 159 pre-trial investigations were initiated under "Illegal Crossing of the State Border". In 2014, 263 investigations were initiated. In 2015, 93 pre-trial investigations were initiated under "Forgery of a Document or Possession of a Forged Document". In 2014, 106 investigations were initiated.




	Luxembourg	Yes	<p>1. a. Individuals using a false instrument - Use of false Travel Document/National ID card etc. to enter MS countries or fraudulently apply for an extensions to stay in their country; Article 198 of the Criminal Code establishes that any individual who fabricates, counterfeits, forges, falsifies or tampers or alters a passport, travel document, identity card, a nationality or birth certificate, which is issued by a national or foreign authority or any individual who made use of any of these counterfeited, falsified, forged or altered documents shall be punishable by imprisonment of between one month and three years and a fine of 251 euros up to 12.500 euros or only one of the sanctions. The administrative sanction for a third-country national using false documents to enter or fraudulently apply for an extension to stay in the country is established in article 101 (1) 3 and 4 of the amended Law of 29 August 2008 on free movement of persons and immigration, which states: “(1) A third-country national may be refused authorisation to stay, or his/her residence permit may be refused or withdrawn, or its renewal may be refused, if: ... 3. it is apparent that he/she has fabricated, forged, falsified or tampered with a travel document, an authorisation to stay or a residence permit, has made use of a travel document, authorisation to stay or residence permit other than the one belonging to him/her, or has handed his documents over to another person in order to enable that other person to make use thereof in any way whatever; 4. he/she has made use of false or misleading information or has had recourse to fraud or other illegal means in order either to enter and stay on the territory or to enable a third party to enter and/or stay there;”</p> <p>b. The provision and/or procurement of false instrument - In order to assist the illegal crossing of someone into their state (migrant smuggling); In Luxembourg article 199bis of the Criminal Code establishes that anyone who buys, sells, transfers even without receiving any remuneration in exchange a passport or travel document, identity card, nationality or birth certificate which is issued by a national or foreign authority, shall be punishable by imprisonment of between eight days and three years and a fine between 251 euros and 12.500 euros or only one of the sanctions. It is irrelevant in this case if the document is false or legitimate. Also article 382-4 establishes that any person who, provides direct or indirect assistance in order to facilitate or tries to facilitate the irregular entry, irregular transit or with a lucrative purpose, the irregular stay of a third-country national from a safe country into or through Luxembourgish territory, the territory of another Member State of the European Union or a State signatory of the Schengen Convention or a Member State which is part of the Protocol against the illegal traffic of migrants through land, air and sea of the United Nations Convention against transnational organized crime, shall be punishable by imprisonment of between three and five years and a fine between 10.000 euros and 50.000 euros or only one of the sanctions. In case of aggravated circumstances article 382-5 establishes that the individual shall be punishable by imprisonment of between five and ten years and a fine between 50.000 euros and 100.000 euros if: 1) committed by a person who has authority over the victim or by a person who has abused of the authority or facilities conferred by his/her function/position; 2) committed by an officer or public servant, a law enforcement</p>
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agent acting in connection with the pursuit of his duties; 3) committed against a minor; 4) committed by taking advantage of the particularly vulnerable situation in which the victim finds itself due to its precarious and illegal administrative condition, precarious social condition, pregnancy or any physical or mental disease or disability of the person, in a way that s/he had no real or acceptable choice than to submit to the abuse; 5) committed using, directly or indirectly, fraudulent manoeuvres, violence, threats or any other form of constraint; 6) the offence has deliberately or by gross negligence endangered the life of the victim; 7) the offence has caused an illness which appears incurable, permanent physical or mental incapacity, total loss of an organ or the use of an organ or serious mutilation; 8) the activity deployed is a current activity; 9) the offence constitutes a contributing act to a main activity or accessory of an association. It is not relevant whether the actor has a manager position in the organisation. These norms are complemented by article 506-1 (1) al. 3 of the Criminal Code establishing that anyone who had consciously facilitate, by any means, the deceitful justification of the nature, origin, location, disposal, movement or the property of goods which constitute the object or the product, directly or indirectly of the conducts established in articles 382-4 and 382-5, shall be punishable by imprisonment of between one and five years and a fine between 1.250 euros and 1.250.000 euros or only one of the sanctions. c. The production of false instruments - Designed to be used by organised crime groups, migrant smugglers or individuals to enter and/or reside in Member State irregularly; Articles 198 and 382-4 of the Criminal Code apply. See answers to question 1 a) and b). However, it is important to mention that outside of an organised crime group, article 141 of the amended Law of 29 August 2008 on free movement of persons and immigration expressly indicates that a foreigner who knowingly makes false statements to the competent authority, or who knowingly produces falsified or incorrect documents in order to enter onto the territory or to obtain an authorisation to stay or residence permit or work permit or a renewal of the residence permit or work permit, shall be liable to a term of imprisonment of between one month and two years or a fine of between 251 euros and 3.000 euros, or both. d. The use of forged or counterfeit supporting documents - The use of supporting documents to support fraudulent applications for genuine travel documents, visas or extensions to permission to remain in a Member State (FOGs – Fraudulently Obtained Genuine travel documents/visas/national ID cards etc.). Article 197 in accordance with article 196 of the Criminal Code apply in the sense that the forgery and falsification of private business and banking documents (including documents using electronic signatures) is punishable by imprisonment of between five and ten years. The use of this documents carries the same sanction. The administrative sanctions are established in article 101 (1) 3 and 4 of the amended Law of 29 August 2008. See answer to question 1.a.

2. The administrative sanctions that are applied in Luxembourg to air transport companies exclusively are established in articles 107, 108 (1), 147 and 148 of the amended law of 29 August 2008. Article 107 establishes: “(1)

An air transport undertaking which disembarks onto the territory a third-country national not in possession of a valid travel document and, where necessary, the requisite visa must escort him/her, or arrange for him/her to be escorted, to the country from whence he/she came or to any other country into which he/she may be admitted. (2) That escorting obligation shall also be incumbent on an air transport undertaking where a third-country national in transit is refused entry into the territory for the reasons set out in paragraph 1 of this Article, if: (a) the air transport undertaking which was to transport the person concerned to his/her country of destination refuses to allow him/her to board, or (b) the authorities in the country of destination have refused to allow the person concerned to enter the territory and have sent him/her back to the Grand Duchy of Luxembourg. (3) A carrier as referred to in paragraphs 1 and 2 of this Article shall in addition be bound to pay the costs of stay, including healthcare expenses, and of return of the person concerned.” Article 148 (1) says: (1) An air transport undertaking which disembarks into the territory a third-country national who is not in possession of a valid travel document and, where necessary, the requisite visa, or which fails to communicate the information referred to in Article 106 or to do so within the prescribed time-limit, or which communicates incomplete or incorrect information, shall be liable to the penalties provided for by Articles 147 and 148 respectively. Article 147 establishes that: “Art. 147. 1. An air transport undertaking as referred to in Article 108 shall be liable to a fine not exceeding 4 000 euros per passenger transported. The fine shall be imposed by the Minister as many times as there are passengers concerned. The amount thereof shall be paid into the State Treasury. 2. The fine provided for in paragraph 1 of this Article shall not be levied: (a) where the third-country national concerned has not been refused entry onto the territory or where, having lodged an application for international protection, he/she has been admitted on that basis onto the territory of the Grand Duchy of Luxembourg and that application has not been declared inadmissible or rejected in the context of an accelerated procedure, or (b) where the transporter establishes that the requisite documents were presented to it at the time of embarkation or where the documents presented show no signs of manifest irregularity.” It is clear that if the forgery is not manifest, the transport company cannot be sanctioned. Art. 148 mentions: An air transport undertaking as referred to in Article 108 shall be liable to a fine not exceeding 5 000 euros for each traveller in respect of whom the undertaking has wrongfully failed to send the information referred to therein, or has failed to do so within the prescribed time-limit, or has sent incomplete or incorrect information. The fine shall be imposed by the Minister. The amount thereof shall be paid into the State Treasury.

3. No information available.




	Malta	Yes	<p>1. Please refer to attached</p> <p>2. Please refer to attached</p> <p>3. Please refer to attached</p>
	Netherlands	Yes	<p>1. See attachment</p> <p>2. See attachment</p> <p>3. See attachment</p>
	Poland	Yes	<p>1. a. A person who uses forged, or counterfeit or altered document as authentic shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for a term of between 3 months to 5 years. This offence is penalized by Article 270 § 1 of the Penal Code. Additional administrative sanction for illegal stay on the territory of Poland is an obligation to return and a fine of up to 5.000 PLN (approx. 1.190 EUR). b. A person who unlawfully transports, carries across border or sends abroad a document certifying the identity of another person shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years (Article 275 § 2 of the Penal Code). c. A person who makes preparation to forge, counterfeit or to alter the document is subject to a fine, restriction of liberty or imprisonment for up to 2 years (Article 270 § 3 of the Penal Code). d. A person who uses forged or counterfeit supporting documents (i.e. invitation etc.) as authentic shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for a term of between 3 months to 5 years (Article 270 § 1 of the Penal Code).</p> <p>2. Carriers are subject to standard administrative sanctions referred to in Article 26 (1) of the Convention implementing the Schengen Agreement and specified in detail by the provisions of Directive 2001/51/EC of 28 June 2001 which supplement the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985. However, it should be noted that these sanctions (fines) do not refer to cases in which foreigners use falsified documents. Such actions are subject to criminal penalties (in accordance with Article 264 § 3 of the Polish Penal Code): whoever organises the crossing of the for other persons, in violation of the relevant regulations shall be subject to the penalty of deprivation of liberty for a term of between 6 months and 8 years.</p>

			<p>3. Number of preparatory proceedings initiated by the Border Guard: Article 270 of the Penal Code - in 2014 - 1 551, in 2015 - 2 852; Article 275 of the Penal Code - in 2014 - 42, in 2015 - 40.</p>
	Slovak Republic	Yes	<p>1. 1. (a) Individuals using a false instrument Sanctioning for the use of false documents is very much individual and depending on each case. In case a TCN/foreigner tries to enter the territory of the Slovak Republic through external Schengen border, while it is found out that the person possesses false travel documents or identity documents, such a person is refused the entry to the territory of the Slovak Republic and is imposed an entry ban to the whole Schengen area. In case a person enters the territory of the Slovak Republic in a different way and applies for a residence on the territory, while it is found out during processing the application that the person proves his/her identity by false travel documents or identity documents, the application for residence of this person is rejected. If a person submits such a document and it is proven that a person (TCN) had committed a crime of counterfeiting and altering, he or she shall be liable to a term of imprisonment of one to twelve years and at the same time expulsion of one to fifteen years. In case a court does not decide to impose a punishment of expulsion, it is possible to impose an entry ban to the territory of the Slovak Republic and administratively expel the person from the territory of the Slovak Republic. 1. (b) smuggling of migrants: According to the Criminal Code, any person who, with the intention of obtaining financial or other material benefit for himself or another either directly or indirectly, for a person who is neither a citizen of the Slovak Republic nor a person with permanent residence in the territory of the Slovak Republic, organises illegal crossing of the State Border of the Slovak Republic, or a transfer through its territory, or who enables such activity or aids and abets it, or for the purpose referred to in 1a above, manufactures, procures, provides or has in his possession a forged passport or a forged identity card, shall be liable to a term of imprisonment of three to eight years. The offender shall be liable to a term of imprisonment of seven to ten years if he commits the offences mentioned above, a) and obtains larger benefit for himself or another through its commission, b) by reason of specific motivation, c) in a manner that may pose a danger to lives and limbs of facilitated persons, or constitutes inhuman or degrading treatment or abuse of facilitated persons, or d) acting in a more serious manner. The offender shall be liable to a term of imprisonment of twelve to twenty years if he commits the offences mentioned above, a) and causes grievous bodily harm or death to several persons through its commission, b) and obtains large-scale benefit through its commission, or c) in a crisis situation. 1. (c) counterfeiting and altering a public instrument, official seal, official seal-off, official emblem and official mark: According to the Criminal Code, any person who counterfeits or substantially alters the content of a public instrument, official seal, official seal-off, official emblem, official mark or hallmark with the intention of using them as genuine, or who uses them as genuine, or has them executed with the intention of using them as genuine, shall be liable to a term of imprisonment of up to three years.</p>

The same sentence as referred above shall be imposed on any person who manages to be issued a public instrument, official seal, official seal-off, official emblem, official mark or hallmark based also on false data submitted. If the offender commits the offence mentioned above in a more serious manner, shall be liable to a term of imprisonment of one to five years. If the offender commits the offence mentioned above and causes substantial damage through its commission, shall be liable to a term of imprisonment of three to eight years. If the offender commits the offence and causes large-scale damage or other particularly serious consequence through its commission, shall be liable to a term of imprisonment of four to ten years. If the offender commits the offence mentioned above as a member of a dangerous grouping, he shall be liable to a term of imprisonment of seven to twelve years. 1. (d) the use of forged or counterfeit supporting documents: • supporting documents used in order to acquire a residence in the territory of the Slovak Republic: The application of a person applying for a residence in our territory will be rejected by the Police, if it is proven that he/she provided a false or altered supporting document (criminal record, birth certificate). Such a person shall be, if proven that he or she had committed a crime of counterfeiting and altering, liable to a term of imprisonment of one to twelve years and at the same time expulsion of one to fifteen years. In case a court does not decide to impose a punishment of expulsion, it is possible to impose an entry ban to the territory of the Slovak Republic and expel the person from the territory of the Slovak Republic administratively. If a person provides false document at an embassy, his/her application will be rejected. If he/she insists on the application claiming his/her document is authentic, a consular officer notifies the Foreign Police Department in a cover letter attached to the application. If a person provides false document as a supporting document to his visa application, his/her application will be rejected and the respective body will issue a decision stating a reason for such rejection. In a case of an appeal of the applicant, the case is handled by a director of the consular department based on the recommendation of the appeals commission. • support documents used in order to acquire ID cards or travel documents: Sanctions for the provision of false information in the application for ID cards are not regulated by the Slovak legislation. Provision of false information in the application for travel documents shall be sanctioned by a fine 331 euro. In terms of criminal responsibility, the sanctions for counterfeiting and altering a public instrument, official seal, official seal-off, official emblem and official mark could be considered which amount to up to three years of imprisonment (see the question 1c).

2. National legislation does not specify the sanctions against shipping or transportation companies in terms of the counterfeited and altered travel documents or identity documents.


3. See the document attached. In case we manage to obtain more information to this question, we will get back to


			you.
	Sloveni a	Yes	<p>1. All the cases are deemed to be criminal offenses.</p> <p>2. According to national legislation the carriers are obliged to carry the foreigners back to original place or country on its own costs. It is also considered to be an administrative offense (misdemeanor).</p> <p>3. Specific data on such offenses cannot be extracted. Only general statistics on cases of document forgeries in general regardless of modi operandi is available.</p>
	Spain	Yes	<p>1. a. The use of false documents (not specifically for illegal entry or stay) is sanctioned in the Penal Code with up to one year imprisonment b. Two different crimes would have to be considered in this case: -Provision of false documents (up to three years imprisonment). -Facilitation of illegal entry or stay (up to one year imprisonment, and up to eight years in qualified cases). c. The production of false documents (not specifically for those purposes) is sanctioned by the Penal Code with up to three years imprisonment. d. This would be the same case as a.</p> <p>2. Not checking the validity of travel documents involves an administrative sanction of 5.000-10.000 € per passenger, or a minimum lump sum of 750.000€. If, due to the quality of the falsification, the carrier cannot be expected to detect it, no sanction can be imposed. If the carrier knowingly allows passengers to travel with false documents, there would be room for a criminal sanction.</p> <p>3. Not available.</p>
	Sweden	Yes	<p>1. 1a. That is an offence according to the Swedish Penal Code, Chapter 14; Section 10: A person who invokes a false document (falsified or counterfeit) shall, if the act jeopardizes proof, be sentenced for the use of that which was falsified as if he himself had made the falsification. The sentence could be imprisonment for at most two (2) years. If the crime is defined petty a fine or imprisonment for at most six (6) months shall be imposed. If it is considered gross; imprisonment for at least six (6) months and at most six (6) years. 1b. Q1.b. That is an offence according to the Swedish Aliens act, Chapter 20; Section 8: Any person who intentionally assists an alien to unlawfully enter or pass through Sweden, a Member State of the European Union or Iceland, Norway or Switzerland shall be sentenced for human smuggling to imprisonment for at most two years. If the offence is to be regarded as gross, the sentence</p>

		<p>shall be imprisonment for gross human smuggling for at least six months and at most six years. In judging whether the offence is gross, special attention shall be paid to whether the act 1 was carried out in return for compensation, 2 was carried out as part of an activity that involved a large number of persons or 3 was carried out in forms that entail mortal danger for the alien or was otherwise carried out in ruthless forms. If the offence is regarded as minor the sentence shall be a fine or imprisonment for at most six months. An attempt or preparation to commit an offence under this Section shall be adjudged according to the provisions of Chapter 23 of the Penal Code. Section 9: Any person who, for financial gain, plans or organises activities designed to enable aliens to travel to Sweden without passports or the permits required for entry into Sweden shall be sentenced for organisation of human smuggling to imprisonment for at most two years. If the offence is gross the sentence shall be imprisonment for gross organisation of human smuggling for at least six months and at most six years. In judging whether the offence is gross, special attention shall be paid to whether the act involves the systematic exploitation of the vulnerable situation of aliens or involves mortal danger or other ruthlessness in relation to the aliens. If the offence is regarded as minor the sentence shall be a fine or imprisonment for at most six months. Any person assisting an alien to travel to Sweden without a passport or the permits required for entry into Sweden shall be sentenced for complicity under paragraphs one to three. This provision is applicable if the accomplice realised or had fair reason to assume that the journey was organised for financial gain through a said activity. - 1.c. That is an offence according to the Swedish Penal Code, Chapter 14; Section 1: A person who, by writing the name of another person, real or fictitious, or by deceit obtains another's signature or in other ways produces a false document or deceitfully alters or adds to a genuine document, shall, if the act jeopardizes proof, be sentenced for falsification of a document to imprisonment for at most two years. A document is to be considered as including a protocol, contract, promissory note, certificate or other record established as evidence or otherwise important as evidence and also an identification card, ticket or similar evidential token. Section 2: If the crime defined in Section 1 is regarded as petty a fine or imprisonment for at most six months shall be imposed for falsifying a document. In assessing whether a crime is petty, special attention shall be paid to whether the document was of little importance, such as a cash register receipt, counter token or like proof of receipt, or the Act was committed to aid a person to gain his right. Section 3: If the crime defined in Section 1 is considered gross, imprisonment for at least six months and at most six years shall be imposed for gross falsification of a document. In assessing whether the crime is gross, special attention shall be paid to whether the falsification involved a public authority's important archival document or a document of special importance in general commerce such as a bond, a share certificate or a mortgage or whether the act was in other ways of an especially harmful nature. 1.d. Depending on the circumstances one or more criminal sanctions could be applicable. First of all the same criminal sanction as mentioned in Q1a). Criminal sanctions could also be found in the Swedish Penal Code,</p>
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Chapter 15; Section 11: A person who gives untrue information about his identity or about other than his own affairs in a certificate or other document, or for the sake of appearances prepares a document concerning a legal document shall, if the act jeopardizes proof, be sentenced for false certification to a fine or imprisonment for at most six months. If the crime is considered gross because it involves misuse of official position or for other reasons, imprisonment for at most two years shall be imposed. A person who invokes or otherwise uses a false document referred to in the first paragraph, shall, if the act jeopardizes proof, be sentenced, as there provided, for using a false document. (Not to be confused with the sanction in the Swedish Penal Code, Chapter 14, Section 10) Furthermore criminal sanctions according to the Swedish Aliens act, Chapter 20; Section 6: A fine or, in aggravating circumstances, a sentence of imprisonment for at most six months shall be imposed on 1 a person who intentionally or through negligence does not make a report prescribed in an ordinance issued pursuant to this Act, 2 a person who knowingly supplies incorrect information or knowingly fails to mention a circumstance of importance in a report or in a case concerning an application under this Act or an ordinance issued pursuant to this Act. Impostors/Look-alike Since it is more and more common that genuine documents are used by “impostors”/”look-alikes” we would also like to inform about the criminal sanctions in place for that. Note that it is the same sanction for the impostor as it is for the original holder who sells or otherwise disclose the document to be abused by someone else. Anyone who invokes a passport or identity document issued to another individual as his/her own or disclose such documents to be abused by another person in that way is convicted, if the act jeopardizes proof, for misuse of document to a fine or imprisonment for at most six (6) months or, if the crime is gross, to imprisonment for at most two (2) years. (Swedish Penal Code, Chapter 15, Section 12)

2. The carriers are not expected to have expert knowledge about document security features/printing methods etc. but are expected to detect obvious falsifications/counterfeits (and impostors). The administrative sanctions are found in the Swedish Aliens act, Chapter 19; The carrier’s liability for costs Section 2: If an alien who has come to Sweden on a ship or aircraft direct from a state that is not covered in the Schengen Convention is refused entry because the alien does not have a passport or the permits required to enter the country or the funds for his or her journey home, the carrier is liable to reimburse the State for 1 the cost of the alien’s journey from Sweden, 2 the travel cost from Sweden and back again for the supervisory personnel who need to accompany the alien and 3 the cost of the alien’s subsistence here before the refusal of entry can be enforced, if the delay in enforcement is due to the carrier. The carrier (the owner or operator of the ship or aircraft) shall be exempted in full or in part from this liability if 1 the carrier shows that he or she had fair reason to assume that the alien was entitled to enter Sweden or 2 it appears clearly unreasonable to demand reimbursement of the cost on account of the size of the cost or other grounds. Section 4: The decision on the liability to reimburse costs is issued by the authority that enforces the refusal of entry.

			<p>Special Fee Section 5: A carrier that has not fulfilled its responsibility for controls under Chapter 9, Section 3 shall pay a special charge if the refusal-of-entry order is issued because the alien does not have a passport or the permits required for entry into Sweden and the decision has become final and nonappealable or has been enforced even though it has not entered into force. The carrier shall, however, not pay a special charge if 1 the carrier shows that he or she had fair reason to assume that the alien was entitled to enter Sweden or 2 it appears clearly unreasonable to levy the charge. Section 6: The special charge under Section 5 shall be set at no more than SEK 46 000 for each alien.(...)</p> <p>3. The statistics given below is based on forgery, change of an original document, serious forgery etc. In this sense regarding documents used for illegal immigration (illegal trip from or to enter Sweden): Swedish or foreign passports, travel documents, alien's passports, stickers for visa and residence permits etc. 2014 and 2015 During these two years a total of 247 cases were initiated. Of them 105 cases were handed over from the Police Authority to a prosecutor. 91 cases were closed by the Police Authority and no further action was taken. In 47 cases the investigation is still open and handled by the Police Authority. In four cases there is an uncertainty of the outcome. -</p>
	<p>United Kingdom</p>	<p>Yes</p>	<p>1. Under the Identity Cards Act (2006) (1) It is an offence for a person with the requisite intention to have in his possession or under his control: (a) an identity document that is false and that he knows or believes to be false (b) an identity document that was improperly obtained and that he knows or believes to have been improperly obtained or (c) an identity document that relates to someone else. (2) The requisite intention for the purposes of subsection (1) is: (a) the intention of using the document for establishing registrable facts about himself or (b) the intention of allowing or inducing another to use it for establishing, ascertaining or verifying registrable facts about himself or about any other person (with the exception, in the case of a document within paragraph (c) of that subsection, of the individual to whom it relates) (3) It is an offence for a person with the requisite intention to make, or to have in his possession or under his control: (a) any apparatus which, to his knowledge, is or has been specially designed the making of false identity documents or (b) any article or material which, to his knowledge, is or has been specially designed or adapted to be used in the making of false identity documents (4) The requisite intention for the purposes of subsection (3) is the intention: (a) that he or another will make a false identity document and (b) that the document will be used by somebody for establishing, ascertaining or verifying registrable facts about a person A person guilty of an offence under subsection (1) or (3) shall be liable, on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine, or to both.</p>

			<p>2. SECTION 40 OF THE IMMIGRATION AND ASYLUM ACT 1999, CHAPTER 33 SECTION 1 CARRIERS' LIABILITY: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262605/idi33section1.pdf states: Section 40 of the Immigration and Asylum Act 1999 (I&AA) (as amended) came into effect on 8 December 2002. It replaced the Immigration (Carriers' Liability) Act 1987 (ICLA) which has now been repealed. However, carriers will continue to be liable under the ICLA for charges incurred in respect of persons who arrived without the required documents prior to 8th December 2002. Section 40 of the I&AA provides for a charge (currently £2,000) to be imposed on the owners, agents or operators of a ship or aircraft where a person requiring leave to enter (i.e. not a British Citizen, or other national of the European Economic Area, or Switzerland) arrives in the U.K. and fails to produce: a valid "immigration document" which satisfactorily establishes his identity and nationality or citizenship. (An immigration document is defined as a passport or other document which relates to a national of a country other than the United Kingdom and which is designed to serve the same purpose as a passport.) and, if the individual requires a visa, a visa of the required kind. A person requires a visa if: under the Immigration Rules he requires a visa for entry to the United Kingdom; or under the Immigration Passenger Transit Visa Order 2003 (as amended) he requires a visa to pass through the United Kingdom without entering. However, a carrier is not liable to charge if it can show that what purported to be the required documents were produced to it when the passenger embarked for the United Kingdom. If a false document was produced or the passenger impersonated the rightful holder of a document, the carrier is only liable if the falsity of the document or the impersonation is "reasonably apparent".</p> <p>3. No.</p>
	Norway	Yes	<p>1. Criminal sanctions and administrative sanctions have their own set of rules. The Norwegian Immigration Act of 2008 stipulates provisions for administrative sanctions and is applicable for aliens in Norway. The Penal Code of 2005 stipulates provisions for criminal sanctions, and is applied on a general basis, apart from section 108 of the Immigration Act which is a criminal sanction. The National Police Immigration Service's area of work mainly concerns administrative sanctions according to the Immigration Act of 2008. Whereas it falls under the work of the local police districts' task to investigate and prosecute criminal cases according to the Penal Code, as well as criminal sanctions according to the Immigration Act Section 108. Norway does not have a complete overview of sanctions that have been imposed on foreign citizens as a consequence of fraudulent use of identity documents. But the 2015 Criminal Code specifies that offenders may be sentenced to a maximum of 2 years imprisonment for document fraud, including imposter use of an identity document (§ 361). Allowing someone else to use one's own</p>

		<p>identity document (to be used by an imposter) may be punishable by up to 6 months in jail (§ 366). Less serious cases may result in a fine. A residence permit may be revoked and the person may be expelled from Norway if it is discovered that a residence permit has been based on incorrect information about the person's identity. This also applies to children when the parents (or a parent) have/has given false information about their identity, even if the child was born in Norway. The Norwegian Ministry of Justice and Public Security (JD) has instructed the Norwegian Directorate of Immigration (UDI) to reconsider the need for protection when it has been discovered that a person was given protection on the basis of a false identity, and that if a new residence permit is issued, it should only be a temporary one, valid for one year. This will also be the case even if the person has previously been granted a permanent residence permit or citizenship on the basis of the fraudulent identity. There were 784 expulsion decisions based on fraudulent identities in 2015. Note that fraudulent identity information may also have been used even though an expulsion case is based on other criteria than fraudulent IDs. The number of court judgments based on the fraudulent use of identity information by foreigners is not available. Type of "offence" Detail a. Individuals using a false instrument Use of false Travel Document/National ID card etc. to enter MS countries or fraudulently apply for an extensions to stay in their country According to Norwegian law both criminal and administrative sanctions would be applicable for an individual who has used a false travel document, a National ID card etc to enter a Member State country or has fraudulently applied for an extension to stay in that country. Criminal sanctions The Penal Code (of 2005) paragraph 361 subsection one letter b provides that a person can be imprisoned for up to two years or obliged to pay a monetary fine if a person uses a false document. This is more of a general provision, applied to any individual that uses false documents. The prosecution, namely the police, will decide on which reaction to be applied in the actual case. Monetary fines are considered a criminal sanction according to the Penal Code. And the police can only choose one of the reactions. Administrative sanctions The Immigration authorities, namely the Norwegian Directorate of Immigration can, according to Immigration Act section 63, can retract a permit if it is proven that an individual has applied for asylum with false ID – documents, and that information, namely the identity, was decisive in granting the asylum. For instance, a person who provides ID –documents with citizenship, but is a stateless citizen of Palestine who is then granted asylum based on that very information, will risk having their asylum retracted because of the false ID- document. Furthermore, a person can risk being expelled from the country where he had used false ID-documentation, according to the Immigration Act section 66. One of the grounds for expulsion is giving false information in the asylum application. Other In Norway, presenting a false identity, or using fraudulent ID or refusing to cooperate in determining a person's correct identity, will normally be considered an offence and grounds for punishment (Norwegian Immigration Act § 108, the Penal Code § 333 and also § 166 (false statement/perjury) and § 182 (falsification of ID documents)). The Norwegian Director General of</p>
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Public Prosecutions (Riksadvokaten) has provided guidelines for the prosecution of punishable actions which are revealed through cases of violation of immigration law. The guidelines outline which conditions and situations require criminal proceedings in addition to addressing violations of the immigration law and which ones do not. The guidelines make it clear that use of fraudulent identity and falsification of travel documents shall be viewed as criminal actions and be treated accordingly.

<http://bora.uib.no/bitstream/handle/1956/5778/Fengsling%20m%20v%20etter%20utlendingsloven,endeleg-3,120520.pdf?sequence=2> "In early 2016 three court decisions related to the use of false identities resulted in prisons sentences of respectively 4 months' (2 cases) and 6 months' duration." (NID,2016) b. The provision and/or procurement of false instrument In order to assist the illegal crossing of someone into their state (migrant smuggling) The Norwegian Immigration Act Section 108 subsection four, provides that a person who helps another person to illegal entry to Norway or another Schengen state can be charged with a monetary fine or imprisonment for up to six years. The same applies for assistance to residing illegally in Norway or another Schengen state. c. The production of false instruments Designed to be used by organised crime groups, migrant smugglers or individuals to enter and/or reside in Member State irregularly There can be criminal and administrative sanctions for violations related to production of fraudulent ID documents. Migrant smugglers and organized crime groups can risk incarceration of up to six years according to the Norwegian Immigration Act Section 108 subsections four and five. The criminal sanction would be the same as for using false instruments, according to the Penal Code 2005 paragraph 361 subsection one, letter a, the perpetrator can face imprisonment of up to two years or a monetary fine. d. The use of forged or counterfeit supporting documents The use of supporting documents to support fraudulent applications for genuine travel documents, visas or extensions to permission to remain in a Member State (FOGs – Fraudulently Obtained Genuine travel documents/visas/national ID cards etc.) The Norwegian Immigration Act section 108 subsection two letter c stipulates that the perpetrator can be imprisoned for up to six months or has to pay a monetary fine for using supporting documenting to support fraudulent applications for genuine travel documents, visas or extensions to permission to remain in a Member State.

2. Norway does not have any administrative sanctions to be levered against carrier companies, with the exception of the general responsibility of a carrier (Norwegian Immigration Act § 91 (3)): (roughly translated) When an immigrant, who has arrived by ship or air carrier, or who is brought into the country by an overland carrier that transports people professionally, is refused entry, that carrier's owner or rental agent is responsible for either taking the person back on board again, or in some other way taking the person out of the country again, or potentially covering the costs the government must pay in order to insure that the person is removed from the country. In the

same way, there is a responsibility to take onboard and cover the expenses of security staff who have to escort the immigrant out of the country when the police determine that an escort is necessary. The driver or local agent have responsibilities similar to those of the owner or rental agent. There are no sanctions in this regard in either the Penal Code or the Immigration Section. The guidelines to the Norwegian Immigration Act §4-15 (Utlendingsforskriften) do stipulate that all Carrying Companies are obliged to ensure that the passengers hold travel documents necessary for the destination, and that those who are required to have a visa have a valid visa in their travel documents. The provision doesn't stipulate what the sanctions should be if the carrying companies fail to carry out this duty. The Carrying Companies don't have the mandate to check the veracity of travel documents, if they suspect a travel document is false they will have to report the offender to the police. There are however, consequences if the carrier fails this duty, see responsibilities of carriers in previous paragraph.

3. In 2015, 653 foreigners were reported for the misuse of 767 identity documents in Norway. The figures in 2014 were higher, with a total of 729 foreigners reported misusing 866 documents. Of the misused documents uncovered in 2015, 59 % were passports and national identity cards, as opposed to 62 % in 2014. During both years, the majority of misused documents were allegedly Iraqi, Italian and Syrian. Italian documents were the most frequently misused in 2014, while Iraqi documents topped the list in 2015. This was due in part to the priority given to checks on Iraqi identity documents by the Norwegian ID Centre in 2015, and may explain why the number of misused documents alleged to have come from EU/EFTA countries went from $\frac{2}{3}$ of the total in 2014 to less than $\frac{1}{2}$ in 2015. Forty-four imposters (people using genuine documents issued to someone else) were uncovered during routine controls in 2015, in contrast to 55 in 2014. This form of misuse is difficult to detect and there is reason to believe that it is far more widespread than the figures show. The most common nationalities involved in document misuse changed during the years 2012 to 2015. Most offenders claimed to come from Iraq in 2012 and 2015, whereas most claimed to be Syrian in 2013 and 2014. In 2012, many offenders claimed to come from Afghanistan, while in 2013 many claimed Eritrean origin. In 2014, the number of those claiming to be from Nigeria was greater than all other countries excepting Syria and Iraq. Statistics regarding ID abuse related to: 1. Citizenship The best registrations the UDI has are related to citizenship applications. In these cases, the ID requirement must be registered as an obligatory part of the case work. see attachment for table with statistics. Summary: Of 87,588 citizen applications, 12,401 were rejected, and of those 3,487 were rejected because of doubts about ID. About 4% of all of the decisions were negative because of doubts related to ID and 28% of rejections are based on doubts about ID with an estimated 1% margin of error. Expulsion Norway does not have the registrations needed for reliable statistics on the reason for expulsions prior to 2015. In 2015 the number of expulsions based on a violation of the Norwegian Immigration Act

			<p>(utl § 66 1) were 3 605. • Of these, 784 cases were expulsions because of fraudulent IDs; that is to say 22 percent.</p> <ul style="list-style-type: none">• Of the 3,605 expulsion decisions, 2,018 concerned persons who had at one time applied for asylum in Norway.• In 700 of the 2,018 cases from 2015, the expulsion decision was based on a fraudulent ID, i.e. 35 percent of all expulsion decisions involved a person who at one time had applied for asylum. Note that if the expulsion decision was made on another ground, a possible misuse of ID by this person may not have been registered. Asylum cases: We are unable to provide reliable information about these cases. Annulment / recall of cases: We are unable to provide reliable information about these cases. <p>https://www.nidsenter.no/Global/Publikasjoner/Misbruk_av_IDdokumenter2014.pdf (Norwegian language report; brief summary in English) These two links have to be pasted into your browser: Norwegian language only</p> <p>http://www.nidsenter.no/Global/Publikasjoner/EvalueringSluttrapport.pdf part I</p> <p>http://www.nidsenter.no/Global/Publikasjoner/Evaluering,%20del2.pdf part II</p>
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