



# Annual Policy Report 2009

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**European Migration Network**

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The purpose of EMN Annual Policy Reports is to provide an overview into the most significant political and legislative (including EU) developments, as well as public debates, in the area of asylum and migration, with the focus on third-country nationals rather than EU nationals. The report was also used in the elaboration of the Commission's Tracking Method Report on the implementation of the European Pact on Immigration and Asylum.

This EMN Synthesis Report summarises the main findings of National Reports produced by twenty-four of the EMN National Contact Points (EMN NCPs) from **Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom.**

The EMN Synthesis Report, as well as the twenty-four National Reports upon which the synthesis is based, may be downloaded from <http://emn.sarenet.es/Downloads/prepareShowFiles.do?directoryID=125>. Several of the National Reports are also available in the Member States' national language, as well as in English.

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## Disclaimer

This Report has been produced by the European Migration Network (EMN), and was completed by GHK-COWI and the European Commission, in co-operation with the 24 EMN National Contact Points participating in this activity. This report does not necessarily reflect the opinions and views of the European Commission, GHK-COWI or of the EMN National Contact Points, nor are they bound by its conclusions.

## Explanatory Note

The 24 EMN National Contact Points who participated in this activity were from **Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom.**

It is important to note that the comments of this Report refer to the situation in the above-mentioned Member States and specifically the contributions from their EMN National Contact Points. More detailed information on the topics addressed here may be found in the available National Reports<sup>1</sup> and one is strongly recommended to consult them also.

The Member States mentioned above are given in **bold** when mentioned in the report and when reference to "Member States" is made, this is specifically for these Member States.

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<sup>1</sup> Available from <http://emn.sarenet.es/Downloads/prepareShowFiles.do?directoryID=125>

## Executive Summary

This EMN Synthesis Report provides an overall insight into the most significant political and legislative (including EU) developments, as well as public debates, in the area of migration and asylum in **Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden** and the **United Kingdom** for the period 1<sup>st</sup> January 2009 to 31<sup>st</sup> December 2009. The Synthesis Report has been produced on the basis of National Reports from each National Contact Point of the European Migration Network (EMN NCPs) in these Member States.

As outlined in the Introduction ([Section 1.1](#)), the EMN NCPs were requested to report on all five *Commitments* included in the [European Pact on Immigration and Asylum](#). This obligation therefore shaped the structure of the Annual Policy Report, with information provided firstly on the Member States' actions to the Pact commitments, in each sector of asylum and migration, as well as additional and complementary developments which occurred in 2009.

The general structure of the political system changed in the area of migration and asylum during 2009 in **Belgium, Estonia, Finland, France, Ireland and Sweden** ([Section 2.1](#)). This included the establishment of an *Office for Immigration and Integration* in **France**, as well as an *Agency for the Welfare of Asylum Seekers* in **Malta**. The general structure of the legal system ([Section 2.2](#)) was subsequently outlined with **Austria, Bulgaria, Estonia, Finland, Germany, Italy, Latvia, Luxembourg, Malta, Portugal, Slovak Republic and United Kingdom** reporting on changes to their legislative structure.

New governments, following national elections in **Bulgaria, Germany, Greece, Portugal** were formed ([Section 3.1](#)), with the European Parliament elections also taking place. There were several national policy and legislative developments concerning the transposition of EU legislation which were, in many cases, undertaken in conjunction with additional national amendments or provisions; publication of draft Bills and national Strategies and/or entry into force of new legislation. Several new entities and/or Ministerial portfolios addressing different facets of asylum, migration and/or integration, complementing the political and legislative developments, were also created. There were several policy and legislative debates occurring in 2009 in the context of reception and accommodation, labour migration, regularisation and naturalisation, illegal immigration, legal migration, and integration ([Section 3.2](#)). Institutional developments ([Section 3.3](#)) including the reorganisation of administrative

bodies in **Latvia** and the restructuring of state institutions in **Lithuania** occurred also in 2009. **Czech Republic, Hungary, Latvia and Slovenia** also highlighted the organisational changes which were foreseen in the coming years in the area of asylum and migration. The **Czech Republic** and **Sweden** respectively held the Presidency of the EU during 2009 ([Section 3.4](#)), with the Stockholm Programme<sup>2</sup> being adopted during that time, outlining the programme for the next five years in the area of Justice and Home Affairs.

All Member States reported, to varying degrees, on significant developments within specific areas of asylum and migration. In the *Control and Monitoring of Immigration* ([Section 4.1](#)) the use of the SIS for expulsion decisions was of relevance for **Estonia, France, Greece, Lithuania, Portugal, and Slovak Republic**. Border controls and visa policies were also increasingly exercised in 2009. Developments in *Refugee Protection and Asylum* ([Section 4.2](#)) included assistance initiatives undertaken by **Belgium, Latvia, Luxembourg, Netherlands and United Kingdom**, such as the provision of support through Frontex operations, as well as the number of asylum applications during 2009, which varied greatly depending on the Member State. *Unaccompanied Minors* ([Section 4.3](#)) were deemed to be a major policy aim for many Member States (**Belgium, Czech Republic, Finland, France, Greece, Hungary, Lithuania, Latvia, Poland, Portugal, Sweden, Slovak Republic**), with Member States undertaking measures concerning their reception, as well as the assistance provided to this (and other) vulnerable group(s). *Economic Migration* ([Section 4.4](#)) concerned the labour shortages in the Member States as well as actions undertaken for the reception of students and researchers. *Family Reunification* ([Section 4.5](#)) included the regulation of family migration, as well as actions undertaken by **Austria, Belgium, France, Italy, Lithuania and Netherlands** concerning marriages of convenience. Applications and procedures facilitating long-term residence in **Belgium, Estonia and Portugal** were outlined in *Other Legal Migration* ([Section 4.6](#)), with the information strategies of Member States to inform third-country nationals of the possibilities of legal migration also being provided. Several Member States reported on national strategies and plans for *Integration* ([Section 4.7](#)) including information exchange on best practice and the provision of language and education courses. Legislation with regard to *Citizenship and Naturalisation* ([Section 4.8](#)) with preconditions which had to be met (e.g. language competence) was planned, adopted or entered into force in **Belgium, Czech Republic, Finland, France, Hungary, Lithuania, Portugal, Slovak**

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<sup>2</sup> The Stockholm Programme – An open and secure Europe serving and protecting the citizens, Council of the European Union 17024/09, available at [http://www.se2009.eu/polopoly\\_fs/1.26419!menu/standard/file/Klar\\_Stockholmsprogram.pdf](http://www.se2009.eu/polopoly_fs/1.26419!menu/standard/file/Klar_Stockholmsprogram.pdf)

**Republic, Slovenia, Spain.** Policies implementing the repealing of naturalisation were also outlined by **Belgium, Germany, Netherlands and Slovenia.**

There were many developments in addressing *Illegal Immigration* ([Section 4.9](#)), including cooperation arrangements put in place to prevent and combat illegal immigration in **Belgium** and **Germany**, as well as actions undertaken to impose penalties against those who exploit illegal immigrants. *Actions against Human Trafficking* ([Section 4.10](#)) concerned Member States' bilateral agreements/projects with third countries as well as the systems in place in **Austria, Finland, Latvia, Netherlands and Slovak Republic** to benefit victims of human trafficking including identification procedures. On *Return Migration* ([Section 4.11](#)) emphasis continued to increase on promoting (Assisted) Voluntary Return, often including (financial) support for re-integration. Bilateral readmission agreements were also concluded with specific third countries. Mobility Partnership agreements with third countries in **Bulgaria, Czech Republic, Estonia, France, Germany, Greece, Hungary, Latvia, Lithuania, Poland, Portugal, Slovak Republic, Spain, Sweden** were outlined in *External Relations/Global Approach* ([Section 4.12](#)), while projects and/or agreements encouraging temporary or circular migration were also undertaken by **Estonia, France, Netherlands, Spain and Portugal.** *Other Policy areas/topics* ([Section 4.13](#)) included gender equality policy developments in **Sweden**, as well as the development of education provisions for third-country nationals in **Ireland.**

Finally, an overview of the *Implementation of EU Legislation* ([Section 5](#)), including the transposition of EU legislation in 2009, as well as the experiences, debates in the (non-) implementation of EU legislation, is given. The impact of the *Metock* judgment in **Austria, Bulgaria** and **Finland**, as well as the implementation/adoption of national legislation to transpose the necessary EU legislation is outlined.

## 1. INTRODUCTION

The [European Migration Network \(EMN\)](#)<sup>3</sup> was established through [Council Decision 2008/381/EC](#)<sup>4</sup> and serves to provide up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the EU. It provides this information also to the general public.

The purpose of EMN Annual Policy Reports is to provide an overview into the most significant political and legislative (including EU) developments, as well as public debates, in the area of asylum and migration, with the focus on third-country nationals rather than EU nationals. This is the sixth in a series of such reports,<sup>5</sup> this time covering the period 1<sup>st</sup> January 2009 to 31<sup>st</sup> December 2009 and including contributions from 24 EMN National Contact Points (EMN NCPs) (**Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom**). Each EMN NCP has produced a National Report detailing developments in their Member State, which then forms the basis of this Synthesis Report. The aim of the Synthesis Report is to summarise and compare the findings within an EU perspective in order to provide a useful overview for policymakers in particular.

The Annual Policy Report 2009, served, for the first time, an additional purpose, namely to provide a significant contribution to the *Commission's Staff Working Paper* accompanying the *1<sup>st</sup> Annual Report on Immigration and Asylum*,<sup>6</sup> which reviews the implementation of the [European Pact on Immigration and Asylum](#)<sup>7</sup> and proposes recommendations on the implementation by both the Union and its Member States of the Pact and of the [Stockholm Programme](#). The Commission's report was adopted in May 2010, with [Justice and Home Affairs \(JHA\) Council Conclusions](#)<sup>8</sup> subsequently adopted on 3<sup>rd</sup>/4<sup>th</sup> June 2010 on the follow-

<sup>3</sup>More information on the EMN, including its outputs, is available from <http://emn.sarenet.es>.

<sup>4</sup>Available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008D0381:EN:NOT>.

<sup>5</sup>Previous versions ranging from 2004 onwards available from <http://emn.sarenet.es/Downloads/prepareShowFiles.do?directoryID=14>

<sup>6</sup>COM(2010) 214 of 6th May 2010 available from the Commission Staff Working Paper in SEC(2010)535 available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2010:0535:FIN:EN:PDF>

<sup>7</sup>European Pact on Migration and Asylum, available at <http://register.consilium.europa.eu/pdf/en/08/st13/st13440.en08.pdf>

<sup>8</sup>Council Conclusions on the follow-up of the European Pact on Immigration and Asylum, 3018<sup>th</sup> Justice and Home Affairs Council meeting, Luxembourg, 3 June 2010, available at [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/jha/114881.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/114881.pdf)

up of the European Pact on Immigration and Asylum. These conclusions were then endorsed by the European Council in June 2010.

### **1.1 Methodology followed**

Each National Report was produced following common specifications, developed by the EMN, in order to facilitate comparability between the findings from the Member States. With respect to the earlier versions of the Annual Policy Reports produced by the EMN, the Study Specifications for the 2009 version introduced some significant changes to the structure, as the EMN NCPs were requested to report on all five *Commitments* included in the European Pact on Immigration and Asylum.

Some EMN NCPs provided information not only about developments in 2009, but also about relevant ongoing Member State policies and actions. The Synthesis Report includes both types of information, where possible identifying the specific developments in 2009.

Various sources of information were used and analysed in order to produce a National Report, including from the applicable legislation related to asylum and migration, contributions from public administrators (legal and managerial experts), published proceedings of parliamentary debates, Ministry Press Releases, news media (including internet), official documents published in, for example, official gazettes, and case law reporting. The Annex of each National Report details more the specific methodology followed by each Member State, giving also any further refinements of the common approach outlined above.

## **2. GENERAL STRUCTURE OF POLITICAL AND LEGAL SYSTEM IN THE MEMBER STATES<sup>9</sup>**

This Section outlines the general structure of the Political and Legal systems in the Member States, providing an overview of systems relevant for migration and asylum, with an emphasis on general developments occurring in 2009. [Section 2.1](#) outlines the general structure of the political system and institutional context relevant for migration and asylum, with Member States providing a synopsis of relevant bodies. [Section 2.2](#) briefly outlines the general structure of the legal system in the area of migration and asylum regarding the relevant laws, as well as the main actors involved.

### **2.1 General Structure of Political System and Institutional Context relevant for migration and asylum**

With regard to the general structure of the political system relevant for migration and asylum, all Member States outlined the principle Ministries responsible for policies in this area. Since more detailed information on the institutional contexts can be found in the EMN Study: “[The Organisation of Asylum and Migration Policies in the EU Member States](#)” only a brief overview is given here.

In relation to judicial aspects of asylum procedures, a few Member States (**Belgium, Finland, France, Ireland, Sweden**), outlined recent developments in relation to the court systems in place on their territory to deal with asylum and migration claims, with particular reference to asylum appeals. In **France**, the *National Court of Asylum* has been linked to the Council of State since 2009, while in **Belgium**, the *Aliens Litigation Council* continued to act as an Appeal Court in 2009 competent to hear appeals in asylum cases. Additionally, in **Finland** the *National Discrimination Tribunal* examined cases of discrimination based on ethnicity, while the *Ombudsman for Minorities* supervised compliance with the prohibition of ethnic discrimination.

Some major developments concerning migration and asylum systems during 2009 were the establishment in **France** of the *l'Office français de l'immigration et de l'intégration* (*Office for Immigration and Integration*), as well as in **Estonia** the transfer of competences to different Ministries responsible for population and integration policies (*Ministry of Social*

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<sup>9</sup>More details on the structure of the Asylum and Migration Systems in the Member States are given in the EMN Study on the ‘Organisation of Asylum and Migration Policies in the EU Member States’ available from <http://emn.sarenet.es/Downloads/prepareShowFiles.do?directoryID=114>

*Affairs (population policies), Ministry of Culture (integration policies)*. Structural changes occurred in **Latvia**, including the merging of two departments to create a *Ministry of Children, Family and Integration Affairs*, though functions were then taken over by three other Ministries in order to improve functionality. Furthermore the *Ministry of Interior* took control of the *Naturalisation Board* in **Latvia** in 2009 and in **Slovenia** the *Migration and Integration Directorate* became responsible for policies. In **Malta**, the *Agency for the Welfare of Asylum Seekers (AWAS)* was established which took over from the Organisation for the Integration and Welfare of Asylum Seekers (OIWAS).

## 2.2 General Structure of Legal System in the Area of Migration and Asylum

Though legislative amendments did not occur in all Member States during 2009, all National Reports outline the general structure of their legal system in the area of migration and asylum. The majority of the Member States made reference to international conventions which were applied in their legislative acquis and again more details on the general structure of the legal system is provided in the aforementioned EMN Study: “The Organisation of Asylum and Migration Policies in the EU Member States.”

A few Member States (**Austria, Bulgaria, Estonia, Finland, Germany, Italy, Latvia, Luxembourg, Malta, Portugal, Slovak Republic, United Kingdom**) outlined changes to their legislation or legislative structure during 2009 which affected Migration and Asylum policy. In **Austria**, amendments were made to the *Aliens’ Law*. The first amendments revised the system of humanitarian residence permits, while the second amendment tackled a wide range of issues, such as subsequent asylum applications, detention pending removal, introduction of a reporting obligation and extension of the residence requirement for asylum applicants,<sup>10</sup> residence permit for researchers. The second amendment also reformulated the terms under which EU nationals can reside in **Austria**. In **Germany**, a *General Administrative Regulation* relating to the *Residence Act* was decreed by the *Federal Minister of the Interior* and approved by the *German Assembly of the Federal State Governments (Bundesrat)*. It aims to harmonise administrative practices in the application of the *Residence Act*, both in Germany and at the embassies which grant visas, and to guarantee minimum standards. In **Luxembourg**, a law of the 28<sup>th</sup> May 2009 was adopted which provided for the creation and organisation of the *Centre for Retention*. In **Malta**, new Regulations under the

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<sup>10</sup> In the AT National Report on p.18, it is stated that the new Law establishes ‘a reporting obligation for asylum applicants during the admission procedure if a negative decision is likely and if asylum applicants are homeless.[...] Both violation of the reporting obligation and unauthorised absence from the district constitute an administrative offence and a ground for imposing detention pending deportation on the asylum applicant’.

*Immigration Act* established the *Agency for the Welfare of Asylum Seekers (AWAS)*, which became responsible for the implementation of national legislation and policy concerning the welfare of persons enjoying international protection and asylum seekers. An ordinance was passed in **Portugal** which adopted exception measures to the regime that established the means of subsistence that non-nationals must possess to be able to enter and stay. In the **Slovak Republic**, the amendments to the *Act on Stay of Aliens* introduced changes to three areas: issuance of visas, changes in issuance of individual types of residence permits and changes related to the removal and apprehension of third-country nationals. The amendments to this Act were also planned in connection with the transposition of Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly-qualified employment.<sup>11</sup>

In relation to the adoption of new legislation, **Bulgaria, Estonia, Finland, Germany, Latvia, United Kingdom** explained how these resulted from overall policy changes at national and EU levels, with, for example, a new *Aliens Act* passed in **Estonia** and a new *Asylum Law* in **Latvia**, with the former foreseeing substantial measures, such as amending the visa regulation for the purpose of the *Visa Information System (VIS)*. The *Law on the Ministry of the Interior* was amended in **Bulgaria** in 2009, although the main difficulty related to the constant amendment to the legal framework, the *Law on the Ministry of the Interior* was amended in 2009, as well as other legislation relating to foreigners and identity documents. In the **Netherlands**, two important policy intentions were announced at the end of 2009, specifically the deletion of group protection of asylum applicants from the *Aliens Act*, as well as abolition of the residence permit for unaccompanied minors. Furthermore, a *Border, Citizenship and Immigration Act* was adopted in the **United Kingdom** which included key measures such as the integration of customs powers and functions into the *United Kingdom Border Agency (UKBA)*. The **United Kingdom** government also continued in its work on the consolidation and simplification of legislation into one new *Immigration Act*, due to the complexities raised by the current separate acts governing the area of migration and asylum. The **United Kingdom** also remained committed to the reform of the *Common Travel Area*.<sup>12</sup>

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<sup>11</sup> Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:155:0017:0029:en:PDF>

<sup>12</sup> The Common Travel Area (CTA) is a 'free movement' area comprising the UK, the Republic of Ireland, the Bailiwick of Guernsey, the Bailiwick of Jersey and the Isle of Man. Further information is available at <http://www.ukba.homeoffice.gov.uk/travellingtotheuk/Enteringtheuk/arrivingatukborder/travellingtocommontraveledarea/>

### **3. POLITICAL, POLICY AND LEGISLATIVE; AND INSTITUTIONAL DEVELOPMENTS**

The following Sections describe the overall political, policy and legislative and institutional developments which occurred during 2009 concerning migration and asylum in order to provide the context for the specific trends and developments in [Section 4](#). The first [Section 3.1](#) summarises the Member States' general political developments of 2009, including parliamentary and local elections, as well as changes at ministerial level. Following on from this, [Section 3.2](#) provides a general overview of the main policy and legislative debates that occurred, in order to provide a general context for subsequent sections of this Report. Finally, [Section 3.3](#) describes institutional developments, which includes organisational changes that occurred and which had an effect on migration and asylum.

#### **3.1 General Political Developments**

Elections occurred in many Member States (**Austria, Belgium, Bulgaria, Estonia, Hungary, Ireland, Lithuania, Luxembourg, Malta, Portugal, Slovak Republic**) at local, regional and/or national level, and the results of the European Parliament elections were outlined by **Austria, Bulgaria, Estonia, Germany, Luxembourg, Poland, Portugal, Slovak Republic**. Furthermore, Parliamentary elections were held in **Bulgaria, Germany, Greece, Portugal** in 2009, with an interim government being appointed in **Czech Republic**, with elections due in 2010 after the Constitutional Court struck down the mechanisms used to announce elections. Both **Lithuania** and the **Slovak Republic** held presidential elections during this period. In **Latvia**, a change of government occurred due to the resignation of the Prime Minister, with the next parliamentary elections foreseen to be held in October 2010. In the **Czech Republic, Germany, Latvia, Portugal** and **Slovak Republic** there were also changes in ministerial posts.

#### **3.2 General Overview of main policy and/or legislative debates**

The main policy or legislative debates were held on the following topics: Reception and Accommodation ([Section 3.2.1](#)), Labour Migration ([Section 3.2.2](#)), Regularisation and Naturalisation ([Section 3.2.3](#)), Illegal Immigration ([Section 3.2.4](#)), Legal Migration ([Section 3.2.5](#)) and Integration ([Section 3.2.6](#)), a brief resume of which is now given.

### 3.2.1 *Reception and Accommodation*

The reception and accommodation of third-country nationals was a heavily debated issue in a number of Member States (**Austria, Belgium, Finland, Greece, Italy, Malta, Sweden, Slovenia**). In **Austria**, the creation of a new *Initial Reception Centre* for asylum applicants in one of its southern provinces made headlines due to the strong opposition against its building by Municipal councils, local populations and the governor of the province. In **Belgium**, the debate centred on the crisis of the country's reception capacity of asylum applicants, which was attributed to an increase in the number of asylum applicants in 2009, as well as, amongst other reasons, difficulties to find affordable housing for recognised refugees. Extra funding was provided in order to address this problem in a sustainable way. The debate in **Finland** not only focused on the reception of asylum applicants, but also on unaccompanied minors and age assessment. Part of the debate included the funding required for the accommodation and protection of these asylum applicants, in particular with regard to the subsistence allowance provided to them.

The interpretation and application of Search and Rescue obligations, in particular the disembarkation of those rescued at sea, were extensively discussed in **Malta** due to the different interpretations of applicable international law in **Malta** and **Italy**. Debates also arose concerning **Malta**'s capacity to receive migrants.

**Slovenia** cited economic difficulties as the reason why adequate accommodation and the question of adequate residence had become a topic of debate, particularly due to the number of non-nationals entering **Slovenia**. The debate concerning reception and accommodation conditions in **Sweden** and **Slovenia** was appeased in 2009 through actions undertaken by both Member States to review their policy. This included the establishment of an interdepartmental working group in **Slovenia** in order to examine the actual situation in the field of accommodation, as well as the drafting of recommendations referring to accommodation conditions for asylum applicants. In **Sweden**, a report on reform evaluation was presented in 2009 which outlined problems such as a shortage of interpreters for third-country nationals.

### 3.2.2 *Labour Migration*

Particularly due to the effects of the economic crisis, labour migration was a key topic of debate in a few Member States (**Austria, Czech Republic, Greece, Portugal**), with labour migration (**Czech Republic**) and illegal migrant labour (**Greece**) the main points of focus. In

**Austria**, a working group of representatives of the social partners and the *Federation of the Austrian Industries* was established in order to develop parameters for a new immigration system for highly qualified migrants. This Red-White-Red Card scheme received criticism from two opposition parties (FPÖ and BZÖ) who portrayed this scheme as leading to wage dumping and satisfying industrial interests.<sup>13</sup> In **Czech Republic**, the debate on the dismissal of foreign workers reached local, as well as national level. In light of the severe economic situation in **Latvia**, political debates began regarding the opportunity for third-country nationals to receive residence permits on the condition that they would invest funds in the Latvian economy. Actions undertaken in this respect are outlined further in [Section 4.4.1](#) regarding policies implemented for labour migration.

In **Portugal**, the debate focused on the establishment of quotas for a subordinate professional activity due to the reduction of quotas to allow third-country nationals to work in posts not filled by nationals. The reduction in quota led to immigrant associations and human rights organisations opposing the measure, accusing the government of trying to obtain electoral gains by reducing the entry of immigrants.

### 3.2.3 Regularisation and Naturalisation

**Belgium, France and Italy** introduced programmes for the regularisation of illegally-staying migrants for economic or humanitarian reasons during 2009. While **France** reaffirmed the refusal to systematically regularise illegally resident non-nationals who were working, by introducing three new conditions<sup>14</sup> to be fulfilled, the debates in **Belgium**, in the media, Parliament and civil society, focused on social cohesion and economic arguments, relating to social welfare. The examination of possible mechanisms to grant a residence status to stateless persons was also discussed by **Belgium**.

Nationality and citizenship was a further point of debate for **Germany, Lithuania**, the latter highlighting that the issue of regulation of legal relations of Lithuanian citizenship remained among those most discussed by politicians and different communities. A draft law on Citizenship was submitted during 2009, which took into account proposals from different stakeholders and experts. In **Germany**, the so-called “option provision” in the *Nationality*

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<sup>13</sup>Red-White-Red Card represents a flexible immigration system that is based on objective criteria, such as knowledge of the German language, educational and professional qualifications, criminal record and labour market demand. The model was to replace the current quota system and was foreseen to enter into force in 2010.

<sup>14</sup>The three new conditions to be fulfilled concern firstly the requirement for a ‘considerable period of habitual residence in France’, secondly a ‘testified willingness by the applicant to integrate into a working environment’ and thirdly the requirement that previous residence of at least one year’s service in the same company.

*Law*, which stipulates that young adults holding two nationalities have to decide upon one of them before the age of 23, was subject to discussion. In **Estonia**, the issue of granting Estonian citizenship to children of the parents with undefined citizenship was discussed. It was recommended by the *Estonian Chancellor of Justice* to move from nationality-focused thinking to citizenship-focused thinking.

Multiculturalism was a matter of key discussion in **Finland**, **France** and **Luxembourg** with the *Minister for Immigration (France)* launching a public debate on the definition and base for values relating to national identity. In **Luxembourg**, the political parties discussed the idea of multiculturalism. The views of political parties stretched from those arguing that foreign cultures played a role in enriching national culture, to those emphasising the key importance of Luxembourg's languages to national identity. Trends and substantial developments concerning citizenship and naturalisation are discussed further in [Section 4.8](#) below.

### 3.2.4 *Illegal Immigration*

The **Czech Republic**, **Italy**, **Spain** had specific concerns arising from illegal immigration, with the **Czech Republic** outlining initiatives undertaken to combat illegal immigration. For **Lithuania**, prevalent countries of origin with regard to illegal immigration since they joined the Schengen area, were Georgia and India. Especially during the summer months, the issues of immigration and asylum consistently occupied the front pages of newspapers in **Italy** and, on some occasions, gave rise to controversies at international level, for example, between **Italy** and the *United Nations High Commission for Refugees (UNHCR)*. Consequently, these controversies triggered a debate concerning the need to develop and agree upon standards at both European and international levels.<sup>15</sup>

Debates emerged in **Belgium**, **Czech Republic**, **Luxembourg** in relation to return policies. This resulted in the further development of policies of voluntary return in **Belgium** and the **Czech Republic**. Assisted Voluntary Return became a priority in **Belgium** due to the practical difficulties encountered to forcibly return third-country nationals to their country of origin, as well as criticism received for detaining illegally-staying migrants. In the **Czech Republic**, the greatest attention was paid to the introduction of temporary projects of

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<sup>15</sup>The case of *Pinar*, a Turkish merchantman that had 140 migrants on his boat, which remained in open waters for three days since both Maltese and Italian authorities denied them consent to dock, highlighted that, at EU level problems, still remain concerning the allocation of responsibility among the Member States.

voluntary return in 2009, adding that the reasons for voluntary return were also of a security nature, since non-nationals might become victims of illegal employment, crime and organised crime, due to the severe impact of the crisis.

The new *Federal Government* in **Germany** had aspirations to create access to education and healthcare for illegally-staying migrants. This would, for example, benefit children who would be able to go to school without the fear of being detected and removed.

The **Czech Republic** and **Finland** reported on extremism in their Member States with a rise of extremism against the Roma population in the former, while in **Finland**, an independent member of the Helsinki Council was charged with blasphemy and ethnic agitation, and a new party was formed which was critical of immigration and arguing for migration policy to be decided by direct popular vote.

In **Malta**, a debate was sparked by the high incidence of migrants arriving illegally between January and May, as up to 859 immigrants had entered the country illegally by boat compared to 321 for the same period in 2008. Separate Action Plans containing measures to address illegal immigration and asylum were proposed to the Government by two political parties.<sup>16</sup>

The removal of non-nationals, particularly elderly people and children had become a point of public discussion in **Finland**, while the detention of illegally-staying migrants was an issue of debate in **Belgium** and **Greece**, owing to its highly contentious effects. For the **Netherlands**, its policies regarding unaccompanied minors became a point of contention during 2009 due to the abolition of assigning minors a residence permit. Trends and substantial developments in this area are further outlined in [Sections 4.3](#) and [4.9](#) below.

### 3.2.5 *Legal Migration*

Emigration from **Lithuania** has increased, due to the economic downturn, with data showing the largest volumes since 1990, with half a million persons emigrating from **Lithuania** in the past 18 years. Additionally, the ‘brain drain’ of educated nationals, such as scientists, researchers and academic youth, was a point of significant concern. Similarly, **Ireland** noted a decrease in overall net immigration together with increased emigration, which resulted in a return to net outward migration for the first time since 1995. The total number of immigrants into the State in the year to April 2009 fell by 26 500 to 57 300, while the number of

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<sup>16</sup> 20-point action plan by *Partit Laburista*, and the 10-point action plan by *Azzjoni Nazzjonali*.

emigrants showed a marked increase of almost 40 per cent on the previous year to 65 100. As a result, net migration was estimated to have fallen from a net inward migration of 38 500 in 2007-2008 to a net outflow of 7 800 by April 2009. Immigration of all non-Irish national groups showed a decline during this time, with those from EU-10+2 countries showing the largest decrease of almost 60 per cent.

Marriages of convenience were a primary point of discussion in **Belgium, France, Hungary** and **Lithuania**. In **Belgium**, marriages of convenience had been a source of national debate, while marriages between nationals of **Hungary** and Nigeria were perceived to be a particular problem. In **France**, this type of marriage represented the principal source of immigration, with an average of approximately 50 000 long-term residence permits issued annually. In addition, 80% of annulments of marriage in court in **France** represented mixed marriages.<sup>17</sup> The media in **Lithuania** reported on cases of marriages of convenience,<sup>18</sup> with seven such marriages registered in Vilnius in 2009, and a strong suspicion of at least five other such arrangements concluded in other Lithuanian towns between Lithuanian women and third-country nationals. Whilst legislation did not provide for any criminal liability for concluding such fictitious marriages, a possibility to do so was considered.

The **Netherlands** received heavy criticism from at least one NGO with regard to its asylum policy, particularly the abolition of categorical protection<sup>19</sup> for Somali asylum applicants, which is further outlined in [Section 4.2.2](#).

### 3.2.6 Integration

There was an increased focus on integration by **Austria, Estonia, Germany, Luxembourg, Netherlands, Slovak Republic, Slovenia** and **Spain**, with **Estonia** focussing more on integration, rather than migration issues, and media attention paying great attention to the implementation of integration measures in **Slovenia**.

In **Austria**, special attention was given to the elaboration of the [National Action Plan on Integration](#).<sup>20</sup> In **Hungary** the organisation of asylum and migration policies in the first five-

<sup>17</sup>Mixed marriages were considered to be marriages between a French national and a non-French national

<sup>18</sup>Also known as ‘fictitious marriages’. Data of the Statistics Lithuania under the Government of the Republic of Lithuania includes only the marriages officially concluded and those concluded abroad if reported by the person to a Lithuanian authority; [http://m.lrytas.lt/?data=20100120&id=akt20\\_a1100120&p=4&sk\\_id=&view=2](http://m.lrytas.lt/?data=20100120&id=akt20_a1100120&p=4&sk_id=&view=2)

<sup>19</sup>Categorical Protection is a policy of protection for certain categories which is considered in the Netherlands as a national “safety net” to prevent people being sent back to unsafe situations.

<sup>20</sup>Austrian Integration Fund, Nationaler Aktionsplan für Integration 2009, available at

year [Strategy on the Cooperation in the Area of Freedom, Security and Justice of the Republic of Hungary](#)<sup>21</sup> was a significant development. A [Concept of Foreigner Integration in the Slovak Republic](#)<sup>22</sup> was elaborated by the **Slovak Republic** in 2009, which proposed legislative, organisational, conceptual and practical measures, and defined main goals and tools for their national integration policy. Further developments in the area of Integration are described in [Section 4.7](#) below.

### 3.3 Institutional Developments

**Bulgaria, Czech Republic, Estonia, Finland, France, Greece, Hungary, Latvia, Lithuania, Luxembourg** provided information on institutional changes for issues relating to asylum and migration at State level. The biggest change in **Bulgaria** was making the *Migration Directorate* directly responsible to the *Minister of Interior*. New administrative functions were introduced in the *Ministry of Interior* in **Latvia**, along with the reorganisation of the *Office of Citizenship and Migration Affairs*. Additionally, the *Provision State Agency* was made responsible for the management of asylum applicants' accommodation centres. The restructuring of state institutions began in **Lithuania**, with an aim to reduce public expenditures, leading to structural changes in the Ministries responsible for migration management. For instance, in the *Ministry of the Interior*, the *Migration Policy department* was dissolved and in the *Ministry of Social Security and Labour*, the *Economic Migration division* was also dissolved. A new *Minister of the Interior* was nominated in **France**, along with a new Minister responsible for *Immigration, Integration, National Identity and Solidarity Development*. In **Luxembourg**, the *Law on the Integration of Foreigners* of the 1<sup>st</sup> June 2009 was accompanied by substantial institutional changes, including the extension of competences for the *Luxembourg Office for the Reception and Integration of Foreigners*, which included the development of the fight against discrimination.

For the **Czech Republic, Hungary, Latvia, Slovenia**, organisational changes are expected to occur in the coming years. In the **Czech Republic**, substantial organisational changes took place, beginning in 2009 with the shifting of competence for issuing all permanent residence permits from the *Aliens Police Service* to the *Ministry of the Interior*. This was planned as a part of a wider process through which the *Aliens Police Service* would undergo substantial

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[http://www.integrationsfonds.at/nap/nationaler\\_aktionsplan\\_fuer\\_integration/](http://www.integrationsfonds.at/nap/nationaler_aktionsplan_fuer_integration/)

<sup>21</sup> 1057/2009. (IV. 24.) Korm. határozata Magyar Köztársaságnak a szabadság, biztonság és a jog érvényesülése térségében való együttműködésére vonatkozó 2009-2014 közötti kormányzati stratégiájáról

<sup>22</sup> Available from <http://www.employment.gov.sk/index.php?id=17641>.

organisational changes over the next few years. In **Hungary**, the *Migration Department of the Law Enforcement Academic Association* was formed for the scientific analysis of issues of migration. A new Regulation in **Latvia** developed the policy of internal affairs in fields such as social order and safety, border guards, border control and illegal immigration, citizenship and migration. In **Slovenia**, the *Migration and Integration Directorate* was established at the *Ministry of the Interior*, in order to provide efficient management of migration, as well as relevant organisation and coordination work in the area of migration.

In early 2009, an Alliance for Labour was established in **Germany** in order to advise the federal government concerning the demand for labour, providing a long-term platform for open dialogue regarding foreign labour needs.<sup>23</sup>

In **Greece**, the new government in 2009 recommended that the *Ministry of Citizen Protection*, under which exists the Port Authority House, be converted into an operational power with high operational capability for coastguard functions, protection of sea borders and the combating of criminality at sea. Additionally, a Working Group was established, headed by the *Secretary General of the Ministry for the Protection of the Citizen*, in order to begin a radical reform of the asylum system.

### 3.4 Presidency of the European Union

**Belgium, Czech Republic, Spain, Sweden** outlined actions undertaken or planned under the Presidency of the EU, including the Stockholm Programme<sup>24</sup> and the next five years in the area of migration, integration and asylum (**Sweden**). Under its Presidency, the **Czech Republic** outlined the EU legislation adopted in the first semester of 2009, including Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly-qualified employment, known as the '[Blue Card Directive](#)'<sup>25</sup> and the [Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals](#),<sup>26</sup> whilst **Spain** started preparation for

<sup>23</sup>See [Resolution by the alliance to advise the federal government concerning the demand for labour](#), 1 July 2009, available at [http://www.bmas.de/portal/40904/property=pdf/2009\\_12\\_04\\_beschluss\\_allianz\\_arbeitskraeftebedarf.pdf](http://www.bmas.de/portal/40904/property=pdf/2009_12_04_beschluss_allianz_arbeitskraeftebedarf.pdf)

<sup>24</sup>The Stockholm Programme – An open and secure Europe serving and protection the citizens, Council of the European Union 17024/09, available at [http://www.se2009.eu/polopoly\\_fs/1.26419!menu/standard/file/Klar\\_Stockholmsprogram.pdf](http://www.se2009.eu/polopoly_fs/1.26419!menu/standard/file/Klar_Stockholmsprogram.pdf)

<sup>25</sup>Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly-qualified employment, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:155:0017:0029:en:PDF>

<sup>26</sup>Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF>

the Zaragoza Conference, taking place in April 2010, on integration policy in the EU. Priorities for **Belgium**, during its Presidency of the EU in the second semester of 2010, included the harmonisation of EU Asylum policy, as well as developing contacts with the Swedish and the Spanish Presidencies in order to organise together the necessary initiatives for finding common standards on age determination, family tracing and return with regard to unaccompanied minors.<sup>27</sup>

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<sup>27</sup>Action Plan on Unaccompanied Minors, available at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/534&format=HTML&aged=0&language=EN&guiLanguage=en>  
Council Conclusions on Unaccompanied Minors, available at [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/jha/114887.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/114887.pdf)

#### **4. SPECIFIC DEVELOPMENTS IN ASYLUM AND MIGRATION**

This Section gives an informative overview of Member States' policies in the area of migration and asylum in 2009, with information provided regarding actions undertaken by Member States in accordance with the Pact commitments, as well as complementary activities and developments in this field. Each sub-section summarises the policies exercised under the following headings: Control and Monitoring of Immigration ([Section 4.1](#)), Refugee Protection and Asylum ([Section 4.2](#)), Unaccompanied Minors (and other vulnerable groups) ([Section 4.3](#)), Economic Migration ([Section 4.4](#)), Family Reunification ([Section 4.5](#)), Other legal migration ([Section 4.6](#)), Integration ([Section 4.7](#)), Citizenship and Naturalisation ([Section 4.8](#)), Illegal Immigration ([Section 4.9](#)), Actions against human trafficking ([Section 4.10](#)), Return Migration ([Section 4.11](#)), External Relations/Global Approach ([Section 4.12](#)) and Other policy areas/topics ([Section 4.13](#)). These sub-sections include the Pact commitments as presented in the Commission Staff Working Paper *First Annual Report on Immigration and Asylum 2009*<sup>28</sup>.

##### **4.1 Control and Monitoring of Immigration**

The main issues regarding the control and monitoring of immigration included commitments outlined in the [European Pact on Immigration and Asylum](#) on combating risks of illegal migration, the removal of third-country nationals; the control of land, sea and air borders; and co-operation with countries of origin and of transit ([Section 4.1.1](#)). Furthermore, Member States provided complementary information regarding data accumulation and distribution, as well as statistics on the number of illegally-staying migrants detained on national territory ([Section 4.1.2](#)).

##### ***4.1.1 European Pact on Immigration and Asylum***

***Commitment: II.(c)*** *to ensure that the risks of irregular migration are prevented within the framework of the modalities of the policies for the entry and residence of third-country nationals or, where appropriate, other policies, including the modalities of the framework for freedom of movement;*

Member States provided information on other commitments of the Pact, which have been synthesised under commitments II (g) (penalties imposed against those who exploit illegal

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<sup>28</sup> Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0214:FIN:EN:PDF>

immigrants)<sup>29</sup> and III (e) (employment of technological means to ensure that systems are inoperable)<sup>30</sup>

In **Belgium**, a new Bill modifying the *Aliens Act* was being elaborated in order to give a legal ground to the introduction of individual data on third-country nationals, who are the subject of a restrictive measure, for the purpose of entry refusal or refusal of issuing a residence permit.

In **Italy**, a new restrictive legislation on public safety concerning mainly (but not limited to) illegal immigration came into force: the so-called “Security Package,” discussed below.

In **Slovak Republic**, the amendment to the *Act on Stay of Aliens* regulated the issuance of the temporary residence permit for business purposes to the third-country nationals.

**Commitment: II.(h)** *to put into full effect the Community provisions pursuant to which an expulsion decision taken by one Member State is applicable throughout the EU, and, within that framework, an alert for such a decision entered in the Schengen Information System (SIS) obliges other Member States to prevent the person concerned from entering or residing within their territory.*

Some Member States reported that they entered all expulsion decisions in SIS (**Italy, Malta, Sweden**). Other Member States indicated that they only entered part of their decisions (**Estonia, France, Greece, Lithuania, Portugal, Slovak Republic**). **France**, for example, reported that their system was more elaborated, as it included five categories of expulsion decisions (to date, two expulsion decisions were entered in SIS, one concerning an expulsion order and another one concerning a judicial territory ban). **Greece** reported that about 20% of its expulsion orders were entered into SIS (13 452 out of 65 339 expulsion decisions taken were entered during the first eleven months of 2009) as they only entered data of persons whose identity they had been able to determine. The majority of persons were arrested without identity documents or a verifiable identity.

Several Member States reported that they were planning to make better use of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals

<sup>29</sup> *Commitment II (g) to invite Member States to take rigorous action, also in the interest of the immigrants, by way of dissuasive and proportionate penalties against those who exploit illegal immigrants (employers, etc.)*

<sup>30</sup> *Commitment III (e) deploy modern technological means to ensure that systems are interoperable and to enable the effective integrated management of the external border, in line with the conclusions of the European Council on 19 and 20 June 2008 and of the Council on 5 and 6 June 2008. From 2012, depending on the Commission's proposals, the focus should be on establishing electronic recording of entry and exit, together with a fast-track procedure for European citizens and other travellers*

(**Belgium, Bulgaria, Czech Republic, France, Greece, Italy, Poland**). A few Member States, however, expressed their concerns with regard to the consequences of expulsion decisions entered in SIS (**Sweden, United Kingdom**). **United Kingdom**, which is party to the law enforcement element of SIS, indicated that it would assess the individual situation (and any recent changes to it) of the person when Member States called upon **United Kingdom** to enforce expulsion decisions it had taken. **Sweden** changed its criteria for expelling persons, due to the potentially grave consequences tied to the entering of expulsion decisions in SIS.

A few Member States reported on the transposition of the Return Directive (**France, Netherlands, Slovak Republic, Sweden**).

Several Member States (**Bulgaria, Estonia, France, Greece, Latvia, Lithuania, Luxembourg, Portugal**) reported on the number of expulsion decisions they had taken during the reporting period, ranging from 22 in **Latvia** (2009) to 65,339 in **Greece**. Additionally, case law arose in **Ireland** on this topic ([Section 4.11.2](#)).

***Commitment: III. (a)** invite Member States and the Commission to mobilise all their available resources to ensure **more effective control of the external land, sea and air borders**;*

Most Member States (**Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovenia, Slovak Republic, Spain, United Kingdom**) reported to have increased their efforts to ensure more effective border controls. At least two countries explicitly linked these efforts also to increased illegal immigration (**Greece, Hungary**). Whilst very few referred to an increase in financial resources (**Estonia, France**), several described increases in the number of staff employed (**France, Greece, Italy, Spain**). **Spain**, for example, reported a 53.4% increase in the number of police officers dealing with immigration and border control between 2003 and 2008. In April 2009, the **United Kingdom** launched the United Kingdom Border Agency, with 25,000 staff and a presence in 135 countries world-wide.

Several Member States implemented measures to increase the capacity of existing staff working at the external borders (**Belgium, Finland, France, Italy, Latvia, Lithuania,**

**Netherlands, Portugal, Slovak Republic, Slovenia,**) through training. Such training was provided in different formats (e.g. ad-hoc, workshops, basic training), including both theoretical and practical components. The focus of the training ranged from ‘general’ training covering all aspects of border control to training on very specific topics, including detection, detention, use of (new) equipment and software, alien legislation, professional quality standards. The beneficiaries of the training included border guards, detention staff, immigration officials, police officers and other relevant personnel. **Latvia**, for example, tested the practical skills and capacity of the State Border Guard to organise border guard services and control, including detection and detention method and techniques, as well as the level of cooperation between territorial units. **Slovenia** stated that 99 new police officers, who are supervisors of the state border, successfully completed their educational programme in 2009.

Other Member States reported on the acquisition of new equipment (ranging from ICT equipment and detection devices to aircrafts and vessels) and the use of new technologies (**Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Lithuania, Malta, Poland, Slovak Republic, United Kingdom**), as well as on the renewal of the current border control system and the development of new systems (**Estonia, Ireland, Lithuania, Slovak Republic**). **Slovak Republic**, for example, described the development of the RALEN system, which is used to detect humans at railway and motorway border crossing points. **Netherlands** continued the Port-Related Supervision of Foreign Nationals, established in 2008, to detect illegal entries in and round docks in the harbour and on the coastline. In 2008, the **United Kingdom** established the Risks and Liaison Overseas Network (RALON), a network of 100 dedicated risk and liaison officers who provide risk-assessment support to visa services. The **United Kingdom** also assisted the Frontex Research and Development team by organising a visit to demonstrate its Automated Border Controls technology. Many countries referred to the use of the External Border Fund in increasing their capacity and know-how with regard to border control (**Belgium, Czech Republic, Estonia, Hungary, Lithuania, Poland**) and to their participation in FRONTEX operations (**Austria, Belgium, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Luxembourg, Malta, Poland, Slovak Republic, United Kingdom**). Other actions of interest launched by the Member States to reinforce external border controls include the continued involvement of **Bulgaria** in the Black Sea Border Coordination and Information Centre (BSBCIC) and the reorganisation of the Border Police in **France**.

***Commitment: III.(b)*** generalise the issue of biometric visas as from 1 January 2012 at the latest, as a result of the Visa Information System (VIS),

Several Member States confirmed that they would implement the registration of biometric data for the issuing of visas in the near future<sup>31</sup> (**Austria, Belgium, Czech Republic, Greece, Hungary, Italy, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal**). Many indicated that the relevant systems should be in place in 2010 and confirmed that they were focusing on the first regions mentioned in the draft decision. Some Member States referred to preparatory measures, including pilot tests of the system, being planned or undertaken (**Austria, Italy, Lithuania, Netherlands, Poland, Portugal**).

At least three Member States described the successful testing and implementation of biometric visas within their own national systems (**France, Finland, United Kingdom**). France reported that, through the VISABIO programme which covered 160 out of the 194 French consulates authorised to deliver visas, as well as 389 border points (representing 80% of the total entry/exit traffic), at the end of 2009 half of all visas issued were expected to be biometric. While the **United Kingdom** does not participate in the VIS, it had a global visa biometric programme in place since the end of 2007 which had so far enrolled over 4 million sets of fingerprints and detected over 4,000 false identities: All visa applicants (save a few who were exempt) had to provide fingerprints and a digital photograph.

*Immediately improve cooperation between Member States' consulates,*

Several Member States reported on increased and improved consular cooperation (**Austria, Finland, Germany, Greece, Latvia, Lithuania, Poland**). In addition, **Poland** referred to the development of a VIS pilot project with **Hungary** and **Slovenia** in Turkey and Thailand, possibly expanding such cooperation to other Member States in the near future.

*Pool resources as far as possible and gradually set up, on a voluntary basis, joint consular services for visas;*

Member States reported on a high number of visa representation agreements signed with the purpose of issuing Schengen visas on behalf of other Member States (**Austria, Estonia, Finland, France, Germany, Hungary, Latvia, Lithuania, Poland**), or of having other Member States issuing such visas on their behalf (**Estonia, Finland, France, Germany,**

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<sup>31</sup> See [Section 5.1](#) Transposition of EU legislation

**Hungary, Latvia, Lithuania, Luxembourg, Malta, Poland, Slovak Republic**). Some Member States confirmed that these had been concluded in 2009 or are negotiated (**Estonia, Germany, Latvia, Lithuania**).

**Estonia** indicated, for example, that it had concluded visa representations with nine Schengen Member States (**Austria, Finland, Germany, Hungary, Latvia, Lithuania, Netherlands, Slovenia, Spain**) to represent **Estonia** in a total of 58 third countries. The country issued visas on behalf of four Member States (**Bulgaria, Finland, Netherlands, Slovenia**). **Latvia** described that it was represented by 38 diplomatic and consular representations of five Member States. At the same time, **Latvia** itself represented six other Member States in eight of its diplomatic or consular representations. **Finland**, in turn, was being represented by other Member States in 57 representations, whilst it represented other Schengen countries in a total of 16 places. Visa representation agreements were mainly signed with other Nordic countries. **France** indicated that it was represented by nine Member States in 17 countries, and that it represented 20 other Member States in the world. **Germany** indicated that it had concluded 233 Schengen representation agreements with 18 Member States. It was furthermore reported that **Lithuania** represented **Denmark, Estonia** and Norway in issuing visas in Kaliningrad in the Russian Federation.

Some Member States also referred to future plans to sign visa representation agreements (**Czech Republic, Estonia, Germany, Lithuania, Malta**). **Germany** indicated that agreements with two Member States were about to be concluded. **Estonia** referred to consultations with **France, Poland** and **Slovak Republic**. Finally, **Czech Republic** mentioned that it had approached other Member States with diplomatic or consular representations in third countries where **Czech Republic** itself did not have a presence, to negotiate possible representation agreements.

***Commitment: III.(d)** give fuller consideration, in a spirit of solidarity, to the difficulties of those Member States subjected to disproportionate influxes of immigrants and, to that end, invite the Commission to submit proposals;*

In addition to the pilot project further described under IV(c) below, several Member States (**Czech Republic, Germany, Greece, Italy, Malta, Netherlands, Slovak Republic, United Kingdom**) reported on other initiatives taken. **Italy** reported on a common initiative undertaken with **Greece, Cyprus** and **Malta**, aimed at reinforcing practical cooperation

measures and coordinated synergies in order to enhance the capacity of the Member States to protect the lives of those entering the territory illegally and to regulate migratory flows entering from sea or land borders. **Czech Republic, Netherlands and United Kingdom** referred to a project for tackling the particular pressures of illegal migration and other activities within the framework of GDISC. Finally, **Germany, Hungary, Luxembourg, Malta, Portugal, Slovak Republic and United Kingdom** referred to Frontex operations, such as Nautilus, which involved the provision of equipment and the secondment of staff.

***Commitment: III.(e)** deploy modern technological means to ensure that systems are interoperable and to enable the effective integrated management of the external border, in line with the conclusions of the European Council on 19 and 20 June 2008 and of the Council on 5 and 6 June 2008.*

Many Member States referred to the deployment of modern technological means, in particular in view of the EU entry / exit system and the EU Registered Traveller Programme (which are described below), but also to implement national initiatives aimed at rendering border control systems effective and interoperable (**Austria, Bulgaria, Estonia, France, Greece, Ireland, Latvia, Netherlands, Portugal, Sweden**).

**Estonia**, for example, reported that it had set up an ICT agency to improve exchanges between relevant national agencies. **Ireland** mentioned that, in order to renew their border control system, new technological equipment had been purchased and put in place. **Netherlands**, as part of their Border Management Renewal Programme, indicated that it was implementing a project on Passenger Related Data Exchange (the PARDEX project), to enable quicker and improved collection, analysis and dissemination of passenger data. **Bulgaria**, as part of a pilot project, was setting up a ‘unified information system’ in one of its ports, to track in and outgoing ships and to verify their accompanying documents. **Portugal**, which had been equipped with an automatic border control system (RAPID) based on the recognition of biometric data of passengers (facial) and cross-referencing these with their biographical data, extended it in 2009 to border posts of two airports in the Azores. **Spain**, which closely followed the implementation of the EUROSUR integrated surveillance system for external borders, deployed a large amount of human and material resources to extend an effective system for external border control at the national level, known as the Integrated External Surveillance System (SIVE), to other areas of the Mediterranean. With regard to visas, **Germany** introduced plans to establish a central visa-warning file during 2009. The

database is to support, in particular, the German visa authorities in their work and speed up the visa procedure. It was agreed however that data on hosts, guarantors or corroborators should only be recorded as a necessary addendum to data sets if there are warning elements in the file.

Other Member States (**Austria, France, Greece, Latvia, Lithuania, Slovak Republic, Slovenia, Sweden**) referred to a range of technological devices and equipment acquired for checks at border crossing points, including equipment for scanning and storing fingerprints, hand-held scanners, etc. **France**, for example, installed readers to control and verify the identity of persons, which also facilitated consultation of national databases and international police records (Interpol). **Slovenia** purchased three manual thermal imaging systems to be used at the border crossings. **Latvia** introduced an automated fingerprint identification system. In order to monitor immigration and to effectively collect and distribute data, **Belgium, Finland, Slovenia**) outlined provisions for creating databases relevant to the administration of aliens. For example, in **Belgium** this included the examination of the opportunity to create a database for sponsors<sup>32</sup> in order to be able to identify abuses as well as facilitate the reimbursement of costs caused by the sponsored third-country national, who had been supported by the State. In **Slovenia**, the functionality of the database on third-country nationals was updated, so that the body competent for the issuing of residence permits could, at any desired moment, check the validity of a foreigner's work permit and, if required, repeal the already issued residence permit. **Belgium, Portugal** provided electronic documents to foreigners during the reference period, with **Portugal** introducing a new electronic residence document in 2009. Since 2009 identity cards have also been provided in **Estonia** to third-country nationals who have applied for a temporary residence permit or temporary right of residence at a foreign representation of Estonia. In addition to this, **Estonia stated** that digital fingerprints are now required to be entered into documents since 2009.

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<sup>32</sup>This database would centralise data on all individuals who have signed a sponsorship agreement in the sense of Article 3bis (short stay, less than 90 days) or article 60 (stay for the purpose of studies) of the Belgian Aliens Act.; and individuals who are sponsoring their partner in the framework of a stable and sustainable relation (legally registered partnership).

*From 2012, depending on the Commission's proposals, the focus should be on establishing electronic recording of entry and exit, together with a fast-track procedure for European citizens and other travellers;*

Several Member States made reference to preparations relevant to the future Entry/Exit System and the Registered Traveller Programme (**Austria, Czech Republic, Estonia, France, Hungary, Ireland, Netherlands, Finland, Slovak Republic, Spain, United Kingdom**). In a number of cases, they also reported on the development of automated border crossing points, also often called 'e-borders', which should facilitate the implementation of the two EU initiatives.

**Finland** confirmed that it was preparing for the introduction of the Entry/Exit System. Two other Member States (**Czech Republic, Hungary**) indicated that they were currently examining how to establish the Entry/Exit system. Some Member States (**Estonia, France, Slovak Republic**) referred to the data collection exercise which was carried out at all external border crossing points.

As to the Registered Traveller Programme, one Member State (**Netherlands**) reported on a pilot project called FLUX, launched in 2008. The project consisted of the creation of a group of 'bona fide' frequent travellers, US and Dutch nationals, who, following registration of personal details and biometric characteristics, as well as a background check, should benefit from facilitated crossing of the border points. **Finland** confirmed that the Border Guards Strategy on automated border checks already took into account the future implementation of the fast-track procedure.

Some Member States (**Finland, France, Hungary, Portugal, Spain, United Kingdom**) reported on the implementation of automated border crossing points or e-borders, which in the future could support the Entry/Exit System and fast-track procedures. E-borders were reported to be in place in some Member States, including **France** and **Finland**. The **United Kingdom** began an e-Borders pilot project in 2005. In **France**, since November 2009, 15 specific exit points have been set up for EU citizens in the Roissy and Orly airports. Twelve additional ones will be added in provincial airports in 2010. Other Member States (**Hungary, Spain**) were in the process of developing such systems. **Netherlands**, with a project entitled NO-Q included in their Border Management Renewal Programme, used ICT to allow for automated border crossings of EU citizens via the national airport, Schiphol. **Spain** aimed to introduce a

national automated border control system for EU citizens with a biometric passport, while **Hungary** examined the possibility of an e-border at the Budapest airport.

**Estonia** referred to its participation in EU working groups on ESTA. **Ireland** described a similar national measure, namely their Border Information System (IBIS) which would ensure that all passenger information collected by carriers prior to travel was sent to an Irish Border Operations Centre (I-BOC) for screening against immigration, police, customs and other lists. The **United Kingdom**, finally, indicated that it collected and processed Passenger Name Records (PNR) through its e-Borders programme. It also referred to its Automated Clearance System, which allowed eligible passengers (adult British and EEA citizens who held new biometric e-Passports) to pass through immigration controls via a secure automated gate.

***Commitment: III.(f)** intensify cooperation with the countries of origin and of transit in order to strengthen control of the external border and to combat illegal immigration by increasing the European Union's aid for the training and equipping of those countries' staff responsible for managing migration flows;*

Member States have also developed agreements, and other forms of bilateral and multilateral cooperation, with third countries of origin and of transit in order to strengthen the external border and to combat illegal immigration.

Some focussed exclusively on border control and illegal immigration, while in others, these aspects were embedded in wider cooperation agreements, projects and other measures (**Austria, Bulgaria, Finland, France, Greece, Italy, Latvia, Netherlands, Sweden, United Kingdom**), for example as part of readmission agreements, the activities of Immigration Liaison Officers (**France, Netherlands, Sweden**), EU funded projects such as AENEAS (**Greece**), joint operations with third countries (**Bulgaria, Slovak Republic**) and participation in international and EU networks and platforms, such as TAIEX and the EU Border Assistance Mission (e.g. **Estonia, Latvia, Lithuania**). These, at the same time, also covered issues such as human trafficking, cross-border and organised crime, administrative capacity building, international protection, rescue operations and development. In the summer of 2009, the *Finnish Immigration Service* placed its first liaison officer in migration issues in Ethiopia.

Agreements and other forms of cooperation focusing exclusively on border control and illegal immigration included bilateral cooperation agreements with third countries (**Bulgaria, Estonia, Hungary, Slovenia, Slovak Republic**), joint projects and operations (**Czech**

**Republic, Finland, Lithuania, Portugal, United Kingdom**), twinning (**Finland, Hungary, Slovenia, United Kingdom**) and technical services and support (**France**). Measures included in these agreements and other forms of cooperation primarily covered capacity building of border control and surveillance authorities and their operational staff in countries of origin and transit (**Austria, Bulgaria, France, Hungary, Italy, Netherlands, Spain, United Kingdom**). **Italy**, for example, reported on training of Libyan officials and on mutual training between Italian and Algerian police forces. **Netherlands** referred to the provision of advice and sharing of experiences on border control with relevant authorities in third countries. **United Kingdom** referred to the training of border guards and provision of technical equipment in Ethiopia. **Spain** established specialised cooperation teams. Some Member States also deployed resources (**Italy**) such as dogs, trucks, patrol boats and ICT equipment or provided other forms of technical support (**Czech Republic, Portugal**). **Lithuania** reported on a development cooperation project concerning the training of Georgian border police members and their dogs. The importance of intergovernmental agreements with regard to border guards was outlined by **Lithuania**, as it implemented priority border security policies, including the fight against illegal migration. Such agreements were fundamental due to a total of 15% more border violations in **Lithuania** than in the preceding year, with a total of 395 violations reported during 2009.

Two multilateral forms of cooperation were mentioned. **France** referred to the Conference of Interior Ministries of Occidental Mediterranean (CIMO), which included the participation of **France, Italy, Malta, Portugal** and **Spain**. CIMO aimed to exchange operational information on illegal migration and organised crime among border staff operating in the harbours of the Mediterranean. **Bulgaria** reported on the Black Sea Littoral States Border/Coast Guard Cooperation Forum, in which countries also exchanged experiences. The Seahorse project, undertaken with Frontex, was also highlighted by some Member States (**France, Portugal, Slovak Republic, Spain**).

#### *4.1.2 Additional/Complementary developments*

The **Czech Republic, Estonia, Ireland** and **United Kingdom** made improvements and amendments to their visa systems. In order to improve the administration of visas, the **Czech Republic** introduced a new visa reservation system, entitled ‘Visapoint’, at 16 selected consulates/embassies in order to make the issuing of visas more transparent, while in **Estonia**, nationals of Russia were provided with a separate system to apply for a visa. The procedure

for issuing of visas for minors was also amended for minors travelling with parents, with a separate application now required for minors under the age of 15 years. The Automated Visa Application Tracking System (AVATS) was completed in **Ireland** with all visas now applied for online.

A few Member States provided data on non-nationals entering their territory, whether by obtaining a residence/work permit (**Austria, Czech Republic, Ireland, Malta, Lithuania**) or by illegally-entering and -staying by other means (**Slovak Republic**). Some also outlined their main countries of origin (**Austria, Czech Republic, Ireland, Lithuania, Slovak Republic**). Both **Czech Republic** and **Ireland** experienced a decrease in the number of work permits issued, although the number of permits for family reunification rose significantly in the **Czech Republic**.

In order to improve the control and monitoring of immigration in **Germany**, the *Federal States' Ministers and Senators of the Interior* adopted a *Programme for Internal Security* in 2009. The programme included, among other things, the topic of 'Border security after the abolishment of border controls' following Switzerland joining the Schengen area in December 2009.

## 4.2 Refugee Protection and Asylum

[Section 4.2.1](#) outlines certain policies covered by the Pact, including the procedures to deal with the influx of asylum applicants, as well as border control systems which have been put in place. Further complementary information is provided in [Section 4.2.2](#) regarding data on the number of asylum applicants, legislative amendments and projects undertaken in 2009 in the area of refugee protection and asylum.

### 4.2.1 European Pact on Immigration and Asylum

***Commitment: IV.(c)*** *establish procedures, in the case of crisis in a Member State faced with a massive influx of asylum-seekers, to enable the secondment of officials from other Member States to help that State and the demonstration of effective solidarity with that State by mobilising existing EU programmes more rapidly.*

*Specific funding under existing EU financial instruments should be provided for this reallocation, in accordance with budgetary procedures;*

Several Member States (**Belgium, Latvia, Luxembourg, Netherlands, United Kingdom**) reported having set up or taken part in initiatives to help other Member States facing a

considerable influx of asylum applicants. These included establishing specific procedures for such assistance (**Latvia, United Kingdom**), the provision of support through Frontex operations (**Luxembourg, United Kingdom**) and participation in the High Level Working Group on Particular Pressures within the framework of the GDISC (**Belgium, Czech Republic, Netherlands, United Kingdom**). Member States involved in the GDISC Working Group referred to the development of a Catalogue of Services which described the different types and methods of practical support, both onsite and from a distance, which members of this working group could offer to EU Member States facing particular pressures. One Member State (**Netherlands**) indicated that services offered within the GDISC framework ranged from an interpreters' pool to training and advice on the reception modalities and asylum procedure.

Two Member States (**Netherlands, United Kingdom**) mentioned that they had already provided practical support to Member States facing a considerable influx of asylum applicants in 2009 (Cyprus, **Greece, Malta**). Within the GDISC framework, **Netherlands** and **United Kingdom** participated in a pilot project on particular pressures in **Malta**. **Netherlands** provided expertise and training with regard to medical advice, age testing, language analysis (to identify cases of possible 'nationality swapping'), return and document analysis. **United Kingdom** delivered support in relation to language analysis. **Malta** reported that this project offered a relevant form of assistance. **United Kingdom**, in cooperation with **Netherlands**, also seconded two quality assurance officers to **Greece** to provide training to the national police on asylum decision-making and on language analysis. In addition, **Netherlands** reported having carried out a GDISC pilot project in Cyprus which provided advice on the reception of asylum applicants and on the organisation of the asylum application procedure. It confirmed that discussions were taking place to launch a similar project in **Greece**. **Latvia** indicated that it had not yet used the national existing procedure put in place for this purpose.

Another Member State (**Austria**) mentioned its involvement in practical cooperation with other Member States' asylum authorities by means of working visits, exchange of information and through institutionalised networks such as Eurasil.

On the basis of amendments in **Slovenia** regarding relocation, the status of refugee can be conferred on citizens of third countries and stateless citizens who were accepted into **Slovenia** on the basis of annual quotas. On the basis of this annual quota, refugee status can be conferred on a third-country national or to a stateless citizen under the condition that they meet the requirements for the recognition of refugee status under the *International Protection*

Act and that he/she located in the country, where he/she is safe from persecution but the living conditions are not suitable for integration.

*For those Member States which are faced with specific and disproportionate pressures on their national asylum systems, due in particular to their geographical or demographic situation, solidarity shall also aim to promote, on a voluntary and coordinated basis, better reallocation of beneficiaries of international protection from such Member States to others, while ensuring that asylum systems are not abused. In accordance with those principles, the Commission, in consultation with the Office of the United Nations High Commissioner for Refugees where appropriate, will facilitate such voluntary and coordinated reallocation.*

Some Member States reported that their asylum systems were under particular pressure (**Greece, Malta**). Another Member State (**Belgium**) reported a saturation of its reception centres for asylum applicants due to a structural lack of capacity. **Italy** indicated that the Shared Action Plan to fight illegal immigration in the Mediterranean, signed by Greece, Italy, Cyprus and Malta, urged other Member States to consider relocating beneficiaries of international protection from Member States facing specific and disproportionate pressures due to their geographical or demographic circumstances.

In 2009, **France** and **Germany** provided support to **Malta** by voluntarily relocating beneficiaries of international protection. **Germany** relocated 11 beneficiaries of international protection as part of a bilateral agreement, while **France** relocated 96 beneficiaries of international protection, as part of a project co-financed by the ERF Community Actions.

As to future measures, **Malta** indicated that ten Member States had confirmed their participation in the intra-EU relocation pilot project concerning about 250 beneficiaries of international protection currently present in **Malta** to be implemented in 2010 (**France, Germany, Hungary, Luxembourg, Poland, Portugal, Romania, Slovak Republic, Slovenia, United Kingdom**). Two other Member States (**Belgium, Bulgaria, Lithuania**) reported that their participation in the pilot project was being discussed. Member States also referred to the usefulness of accessing EU funding for relocation projects, with **Slovenia** stating that the project will draw finances from the European Refugee Fund. **France** in particular mentioned that their 2009 relocation project under the Community Actions received up to 90% co-financing.

With regard to resettlement, actions were undertaken in 2009 by **Belgium, Germany, Netherlands, Slovak Republic, Slovenia**. **Belgium** established ad hoc resettlement programmes, with a pilot project set up in 2009 for the resettlement of Iraqi refugees. The **Slovak Republic** set-up a scheme which allowed them to accept 98 Palestinian refugees for a period of 6 months, in accordance with a tripartite agreement, with resettlement to third countries occurring at the end of this period. Furthermore, the resettlement of 2 500 Iraqi refugees in **Germany** from Syria and Jordan began during 2009 and was concluded in April 2010. The **Netherlands** continued its resettlement activities in 2009, as part of the Cabinet's decision to receive on average 500 refugees to be resettled each year during the period of 2008-2011 (with a maximum of 2 000 persons for the entire period). Also **Sweden** continued its resettlement program in 2009. The goal is to resettle 1900 refugees yearly and during the year 1882 refugees were resettled to the Member State.

***Commitment: IV.(e)** invite the Member States to **provide the personnel responsible for external border controls with training in the rights and obligations pertaining to international protection.***

Most of the Member States confirmed that they were providing training to personnel responsible for external border control on international protection and protection sensitivity (**Austria, Belgium, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Netherlands, Poland, Portugal, Slovak Republic, Spain, Sweden, United Kingdom**).

With regard to the categories of staff trained, most of the Member States referred to training of border officials (**Austria, Belgium, Czech Republic, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Netherlands, Poland, Portugal, Slovak Republic, United Kingdom**). Others mentioned the training of other officials involved in field of asylum and immigration (**Austria, France, Ireland, Malta, Slovak Republic, Sweden**), such as immigration officers (**Ireland**), immigration police (**Malta**), national police (**Sweden**), detention centre staff (**France, Malta, Slovak Republic**) and asylum department staff (**Slovak Republic**). Other groups mentioned included NGOs, social workers and lawyers (**Greece**). One Member State (**Spain**) stated that all public employees and others working with applicants for international protection, refugees and beneficiaries of subsidiary protection should receive proper training, as stipulated in national asylum law. The content of the training varies, covering issues such as rights and obligations under international

protection (**France, Netherlands, Portugal**), fundamental rights (**Germany, Hungary, Lithuania, Malta, Portugal, Sweden, United Kingdom**), asylum law (**France, Hungary, Italy, Lithuania, Portugal, Slovak Republic**), detention (**Slovak Republic**), reception conditions (**Greece**), profiling and risk analysis when conducting border monitoring (**Lithuania**) and cooperation with representatives of the third sector (**Slovak Republic**). Several Member States referred to the involvement of UNHCR in the delivery of training (**Belgium, Germany, Hungary, Ireland, Lithuania, Portugal, Slovak Republic**), while two Member States (**Belgium, Germany**) referred to Frontex Border Guard training programmes.

#### *4.2.2 Additional/Complementary developments*

**Austria, Belgium, Czech Republic, Estonia, France, Finland, Germany, Ireland, Italy, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovak Republic** provided data on the number of asylum applicants in their territory during 2009.<sup>33</sup> The following data are a ‘snapshot’ of the situation in these Member States only.

The number of new asylum applications varied greatly depending on the Member State. For example, where data were available, 40 asylum applications were received in **Estonia** in 2009, 27 649 in **Germany** and 2 389 in **Malta**.<sup>34</sup> In **Czech Republic, Ireland, Italy**<sup>35</sup>, **Luxembourg** and **Slovak Republic** there was a decrease in the number of applications submitted compared to 2008, the **Czech Republic** having a decrease of - 24% and **Ireland** having a decrease of -30%. **Austria, Estonia, France, Germany** and **Netherlands** reported an increase in asylum applications in 2009, with, for example, an increase of +25.2% of first-time applicants in **Germany** as opposed to 2008. **Estonia** stated that this increase in asylum applicants seemed to be due to increased illegal immigration and the number of persons readmitted from other Member States due to the Dublin process. **Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Ireland, Lithuania, Malta, Poland, Slovak Republic** also presented data on the countries of origin of asylum applicants, with a prominent number coming from Georgia and Russia. **Poland** observed a sharp increase from 2008 and, in 2009, had 5 726 asylum applicants who were nationals of Russia, with 4 217 asylum applications submitted by nationals of Georgia. For **Estonia**, 6 applicants were nationals of Georgia out of a total of 36 asylum applicants overall.

<sup>33</sup>For more detailed statistical information, please consult the EMN “Annual Reports on Asylum and Migration Statistics Available at <http://emn.sarenet.es/Downloads/prepareShowFiles.do?directoryID=15>

<sup>34</sup>In France, the number of asylum applications was not specified, though it was reported that between December 2008 to November 2009 there were 10 683 protection statuses granted, an increase of 24.5% compared to period between December 2006 and November 2007

<sup>35</sup>Data latches in September 2009.

**Austria, Belgium, Ireland and Estonia** have (planned) amendments to current legislation governing asylum. In **Austria**, amendments to the *Asylum Act* in 2009 touched on several fields of asylum legislation. This included, for example, acceleration of the asylum procedure in case of subsequent/serial asylum application, as well as the introduction of a reporting obligation for asylum applicants during the admission procedure if a negative decision is likely and if asylum applicants are homeless. **Belgium** introduced amendments to its *Aliens Act*, which provided for some technical adjustments and adapted provisions on the accelerated procedure, with certain technical grounds for refusal being abolished. Additionally, it was expected that a proposition to modify the law regarding reception conditions would soon be put forward in the area of asylum. In addition, those asylum applicants in the procedure would soon be entitled to a Work Permit C<sup>36</sup> six months after having lodged their pending asylum application. Legislation in **Ireland** in 2009 introduced amendments to the Habitual Residence Condition (HRC) related to access to social welfare payments and regarding individuals either seeking or having been granted a protection status.

The administration costs relating to asylum in 2009 were provided by **Belgium, Finland and Ireland**, which were often proportional to the increase in asylum applications. In 2009, **Finland** aimed to reduce costs on asylum matters by intensifying the procedures undertaken, with this policy being evaluated at regular intervals due to the ongoing changes occurring in policy- and decision-making level in the EU. More money was provided for age assessment and language analysis in order to intensify the asylum process. A new ‘fast track’ section was set up in the Immigration Service’s Asylum Unit to process manifestly unfounded asylum applications and asylum applications lodged by EU citizens.<sup>37</sup> In **Ireland**, the cost of accommodation for asylum applicants in direct provision accommodation centres was cited as being €91.5 million during 2009.

In **Luxembourg**, two studies published in 2009 concerning the access to work and apprenticeships by asylum applicants, as well as the jurisprudence concerning the application for refugee status, assisted the authorities to recognise the main problems met by their asylum

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<sup>36</sup>The Work Permit C is valid for any kind of employment, with any employer: its validity and duration is directly dependent on the validity and duration of the residence permit of the worker. The proposition of Royal Decree foresees that the work permit C delivered to asylum seekers whose claim is pending, will be valid until a decision is taken or until a decision in appeal is taken.

<sup>37</sup>The Immigration Service recruited temporarily 80 new employees in order to intensify processing of asylum applications – the number of asylum applications skyrocketed in 2009 comparing to previous years.

applicants.<sup>38</sup> These reports subsequently allowed Luxembourg to ameliorate the situation, including widening the definition of ‘refugee’ after recommendations made by the UNHCR.

In **Malta**, the *Office of the Refugee Commissioner* succeeded in addressing the backlog<sup>39</sup> in applications which had accumulated in previous years by implementing various measures, including an increase in personnel. Furthermore, a UNHCR-Malta Country Agreement was signed in 2009 which aimed to officially open a UNHCR office in **Malta**, from which the UNHCR would carry out its international protection and humanitarian assistance functions in favour of refugees and other persons of concern.

**Hungary** and **Latvia** introduced programmes to provide education to minor asylum applicants. This included the introduction of a new programme in **Hungary** to meet the special needs of minors aged of 6-14 years who did not have the skills or previous experiences of basic cultural and educational requirements. Additionally, a project was developed in **Latvia**, in accordance with the *Asylum Law*, by which the possibility to acquire education was ensured to minor asylum applicants. This provision ensured education to seven minors.

With regard to categorical protection, in the **Netherlands** this ended for asylum applicants from Somalia in 2009, as neighbouring Member States did not pursue similar policies for preventing the return of Somali asylum applicants, as well as there being an observed increase in fraud and abuse by applicants. The government also established that, due to fraud and abuse, a situation had arisen whereby it proved to be impossible, in too many cases of Somali asylum applications, to verify whether another country – Member State or otherwise – was responsible for the application or whether the applicant originated from another country or from a part of Somalia that did not need protection. However, case law of the Council of State in 2009 considered that Somali asylum seekers belonging to the Reer Hamar would not be required to demonstrate any individual characteristics in order to fall within the scope of protection of Article 3 of the ECHR.

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<sup>38</sup>UNHCR, Etude de jurisprudence du tribunal administratif du Grand-Duché de Luxembourg en matière de protection internationale, in : Gerkrath, Jörg (ed.): Droit d’asile au Grand-Duché de Luxembourg et en Europe. Développements récents. Editions Larcier, Belgique, Collection de la Faculté de Droit, d’Economie et de Finance de l’Université du Luxembourg, pp. 61-132. Besch, Sylvain (2009) : *Etude sur l’accès à l’emploi et à l’apprentissage des DPI et des bénéficiaires d’une attestation de tolérance*,. In : Gerkrath, Jörg (ed.): Droit d’asile au Grand-Duché de Luxembourg et en Europe. Développements récents. Editions Larcier, Belgique, Collection de la Faculté de Droit, d’Economie et de Finance de l’Université du Luxembourg, p. 29-48.

<sup>39</sup> The backlog included 503 applications pending from 2008

In **Italy**, the SPRAR ([System of Protection for Refugee and Asylum applicants](#)) put into action projects to host asylum applicants without means of livelihood, and who have completed their stay in the centres after the first phase of identification and who have also begun the procedure to obtain international protection status. In 2009, over 3 000 places were offered to asylum applicants and vulnerable groups, with the SPRAR system being considered as a best practice due to its high quality of work and its ability to welcome and to host.

### 4.3 Unaccompanied Minors (and other vulnerable groups)

Since no explicit reference is made to unaccompanied minors in the Pact commitments, this Section summarises Member States' policies relating to unaccompanied minors and other vulnerable groups, particularly with regard to the reception process, identification and tracing. It also includes data concerning the entry of unaccompanied minors into the EU during 2009.<sup>40</sup>

Almost all Member States undertook actions relating to unaccompanied minors and other vulnerable persons. These included reception facilities, legal assistance, guardianship, identification procedures, family tracing, and protection of victims. In **Austria**, for example, the amendments to the *Aliens' Law* in 2009 dealt with the issue of unaccompanied minors and set out a number of new provisions for this group, which included the facilitation of the application procedure for unaccompanied minors, the introduction of a special residence permit, as well as provisions for age assessment procedures.

The provision of assistance of minors upon arrival was deemed to be a major policy aim for many Member States (**Belgium, Czech Republic, Finland, France, Greece, Hungary, Lithuania, Latvia, Poland, Portugal, Sweden, Slovak Republic**), with most (**Belgium, Bulgaria, Czech Republic, France, Greece, Portugal, Slovak Republic, Slovenia, Spain**) outlining their approach for the appointment of a legal representative or guardian for child protection measures for unaccompanied minors. In **France**, certain recommendations were made in order to facilitate the right to information and assistance of unaccompanied minors arriving at borders and to ensure better representation when they were present on the territory for a longer period of time. A children's helpline was established in **Estonia** in 2009, in order to assist minors in distress.

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<sup>40</sup>EMN Synthesis Report on 'Policies on Reception, Return and Integration Arrangements for, and numbers of, Unaccompanied Minors – an EU Comparative Study', published on 6<sup>th</sup> May 2010, available at <http://emn.sarenet.es/Downloads/prepareShowFiles.do?directoryID=115>

In order to ensure the protection of minors, and the prevention of absconding, **Belgium, Czech Republic, Greece, Hungary, Italy**<sup>41</sup> ensured that children were kept in specially created accommodation facilities, under special hospitality and protection arrangements, such as specialist housing in reception centres with specific infrastructure for minors (**Greece**). In **Hungary**, the facilities in place for young adult asylum applicants include the Centre for Young Adults, which was established in 2009 to meet the needs of young adult asylum applicants who reached 18 years of age before their recognition as a beneficiary of international protection. In **Italy**, in the two first months of 2009, the *Minister of the Interior* reimbursed €3 million to the regions which hosted unaccompanied minors, with €5.4 million being reimbursed the previous year. The protection of minors continued to be a matter of debate in **Ireland** with the signing of a *Joint Protocol on Missing Children* between the Health Service Executive and An Garda Síochána.<sup>42</sup> This Protocol outlines arrangements for addressing issues relating to children in State care who go missing, and sets out the actions to be taken by both organisations when a missing child in care report is made to An Garda Síochána. During 2009, 48 unaccompanied minors were reported as missing from State care.

Regarding the identification procedures for unaccompanied minors, in **Bulgaria, Czech Republic, Finland** and **Greece** priority was placed on age determination and identification. For example, in **Finland** a government bill on age determination was presented to the Parliament in 2009, which aimed to add provisions for age determination in the *Aliens Act* in order to regulate who could request or perform age determination.

To ensure the integration of minors in their host country, **Bulgaria, Finland, Hungary, Spain** have developed their policies for minors through the development of education and reception measures. For example, in **Bulgaria** minors are entitled to education and vocational training under the conditions and following the procedure applicable to its nationals, while in **Finland**, measures are undertaken to support young asylum applicants and refugees and to provide them with possibilities for further studies. The **Netherlands**, faced with the reality that unaccompanied minors cannot always be returned to their countries of origin, have developed their national procedures in these instances, which includes the issuance of a residence permit to the unaccompanied minor, subject to the restriction ‘residence as a foreign national who cannot leave, through no fault of his or her own’. A conference to discuss the

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<sup>41</sup>In **Italy**, the necessity at local level to install a specialised section at the Prefecture dedicated solely to unaccompanied minors was outlined once again in 2009.

<sup>42</sup> An Garda Síochána is the Gaelic term for the Police in Ireland.

‘legal status and possibilities of integration’ for minors was held in 2009 in the **Slovak Republic**.

Concerning the education of unaccompanied minors, the *Ministry of Education, Culture, Youth and Sport* in **Malta** set up an advisory group to ensure educational entitlement for unaccompanied minors and children of asylum seekers<sup>43</sup>. Furthermore, a support teacher was deployed for unaccompanied minors in order to plan and implement a transition programme to support students for entry into mainstream schools, as well as plan the academic work for each student in relation to his/her individual needs and year group.

**Austria, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Italy** and **Sweden** provided data on the number of unaccompanied minors on their territory in 2009. This data is a ‘snapshot’ of the situation in these Member States. Most of these Member States collected data with regard to the number of unaccompanied minors who applied for international protection. These ranged from 3 applications (**Bulgaria, Estonia**) to 1 304 (**Germany**) in 2009. In **Austria**, about 90% of all unaccompanied minor asylum applicants (1 041) in 2009 were male. In the **Czech Republic**, 58% of the unaccompanied minors were over 15 years old when lodging the application. In **Sweden**, there was an increase in the number of unaccompanied minors seeking asylum which led to a public debate about the division of responsibility between central and local government. **Sweden** also experienced a major influx in unaccompanied minors arriving in their territory, with 500 unaccompanied minors awaiting reception in a municipality in November 2009.

**Bulgaria, Estonia, Finland, France, Germany** also provided information on the most common origin countries of unaccompanied minors, with, for **Germany** the five main countries of origin being Afghanistan, Iraq, Vietnam, Guinea and Ethiopia.

The family tracing of unaccompanied minors was a priority action for **Bulgaria, Czech Republic, France** and **Greece**. A Methodical Recommendation for authorities involved in the social and legal protection of unaccompanied minors was declared in the **Czech Republic**, in order to resolve problems such as with family tracing. Additionally, **France, Greece, Spain** developed policies regarding the return of minors, with **France** outlining that the average cost of returning a minor amounted to €1 245 per individual.

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<sup>43</sup> The Board is responsible to ensure that the educational entitlement for all unaccompanied minors and children of asylum seekers is equitably accessible and that students are provided with the support necessary in order for them to benefit from such entitlement.

Practices concerning the family reunification of minors who had been granted refugee or humanitarian status were outlined by **Bulgaria** and **Finland**, the latter stating that there may be a possible amendment to legislation, introducing an exception relating to the possible family reunification of children over 18 years of age, if still in need of parental care.

**Belgium, Germany, Spain** took measures to promote the rights of the child at national level, through the promotion of the *International Convention on the Rights of the Child* (**Spain**) and by the inclusion of the Rights of the Child in the Constitution of **Belgium**. The new coalition government in **Germany** aimed to withdraw the official German reservation against certain provisions of the International Convention on the Rights of the Child.

With regard to other vulnerable persons, **Belgium, Estonia, Greece, Netherlands** and **Spain** outlined the development of policies and legislation regarding their protection. In addition to providing services to illegally staying families and their children, **Belgium** developed a bill that would allow illegally-staying third-country nationals to receive damages from public victim's funds. 'Guidelines for identifying and assisting victims of trafficking in human beings'<sup>44</sup> were prepared in **Estonia**, and with regard to the removal of vulnerable groups, a project 'Material assistance to deported persons' was undertaken in order to establish special measures for removing vulnerable groups.

**Germany, Greece, Slovenia** and **Spain** undertook activities to ensure that asylum applicants with special needs were adequately treated. **Germany** and **Slovenia** extended their infrastructure to facilitate these individuals with a project in **Slovenia** ensuring the regular provision of individual and group psychological and psychotherapeutic assistance to vulnerable persons with special needs. **Greece** elaborated an agreement with Albania to protect unaccompanied minors, including return, rehabilitation and care for the Albanian children who are victims of trafficking.

#### 4.4 Economic Migration

The following section refers to economic migration policy developments occurring during 2009. Firstly, [Section 4.4.1](#) indicates actions undertaken through Pact commitments in relation to the implementation of policies for labour migration, the increase in attractiveness of the EU for highly-qualified workers and the facilitation of the reception of students and

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<sup>44</sup> This document is not meant for public use but only for a limited circle of authorities

researchers and the brain drain phenomenon. Complementary developments in 2009 are then summarised in [Section 4.4.2](#), including legislation and data relating to labour migration.

#### **4.4.1 European Pact on Immigration and Asylum**

***Commitment: I.(a)*** to invite Member States and the Commission to **implement policies for labour migration**, with due regard to the *acquis communautaire* and Community preference, bearing in mind potential human resources within the EU, and using the most appropriate resources, which take account of all the needs of the labour market of each Member State, pursuant to the conclusions of the European Council of 13 and 14 March 2008;

Most Member States reported on labour migration policies to address labour shortages (**Austria, Belgium, Bulgaria, Czech Republic, Estonia, France, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovenia, Spain, Sweden, United Kingdom**).

To ensure that labour migration meets the various needs of the labour market, several countries referred to a labour immigration system that was predominantly employer-led and demand driven, whereby it was up to the individual employer to demonstrate a vacancy could not be filled by national or EU labour force and therefore called for the recruitment of a third-country national (**Czech Republic, Finland, Greece, Ireland, Lithuania, Malta, Netherlands, Spain, Sweden, United Kingdom**). This system is independent of his/her country of origin or of the number of work permits already issued (i.e. quota).

Other Member States drew up, or drew up in addition, a list of professions and/or sectors where labour shortages existed (**Estonia, France, Ireland, Italy, Lithuania, Portugal, Slovenia, Spain, United Kingdom**), or considered to do so (**Malta**). **Lithuania** reported that an occupation was added to the list when the demand for labour was twice as high as the existing labour supply for a specific occupation and work places had remained unfilled for three months. The recruitment of third-country nationals to work in these listed professions or sectors was facilitated as their application would not be subjected to an individual labour market test (**France, Italy, Spain**) or would be prioritised (**Lithuania**). The **United Kingdom** Points Based System (PBS) aims to provide a framework in which migration policy can be adjusted to respond to economic and labour market circumstances, and links decisions to admit migrants to objective tests and the awarding of points for attributes that are closely linked with labour market needs.

Furthermore, to address the labour shortages identified in the set list of professions and sectors, some Member States concluded bilateral agreements with third countries establishing quota for labour migration (**Finland, France, Greece, Italy**) or identified source countries which were eligible for a work permit/visa (**Czech Republic, Lithuania**) or for work without a work permit (**Poland**).

**Sweden** and **Estonia** set wage thresholds in relation to labour migration. **Estonia** stated that the offer made to third-country nationals was to include earning a quarter more than the average salary. **Sweden** examined in each case whether employment conditions – including wages, social insurance coverage and other terms of employment – were equivalent to conditions that applied to employees already resident in Sweden. Hereto trade unions gave consultative opinions to the Migration Board. While the Migration Board had no legal obligation to comply with trade union opinions concerning terms of employment, it was reported that the Board generally attached great importance to them as one way of ensuring that social and wage dumping did not occur. In 85 percent of cases, employers sought such consultative opinions before the actual application process was started, which substantially reduced processing time.

Improvements to the governance of legal migration were reported, including the adoption of new policy concepts (e.g. **Czech Republic, Ireland**– Green Card system), better coordination of government agencies or set up of new bodies to implement policies (**Belgium, Finland, Germany, Latvia, Luxembourg, Sweden, United Kingdom**), the development of comprehensive strategies (**France, Hungary, Lithuania**), and the simplification and shortening of procedures (**Belgium, Czech Republic, Estonia, Greece, Hungary, Lithuania, Netherlands, Spain, Sweden, United Kingdom**). Concerning the Green Card System in place in the **Czech Republic**, it was indicated that 51 foreign nationals had used this system by the end of the reference period. **Ireland** witnessed great changes to labour market needs during the period of reference. This resulted in an increase in the majority of fees for employment permits as well as the announcement of a Green Card scheme. Additionally, employment permit holders of more than five consecutive years would now be provided with permission to reside and permission to work without the need for an employment permit. With regard to comprehensive strategies, **Lithuania** referred to the

implementation of two resolutions, passed end 2008, regarding a long-term strategy in the migration area.<sup>45</sup>

**Belgium** launched the Economic Migration service to facilitate and speed up the visa delivering process for third-country nationals with an “economically interesting” project and to avoid that third-country nationals working in the Member State were hampered in the execution of their professional activities by an administrative slow down for which they were not responsible. Measures to refine the identification and matching of labour market needs were put forward by some, including the establishment of centres, committees and/or agencies with the right economic and labour market expertise (**Finland, Germany, Luxembourg, United Kingdom**), and planned for the near future by others (**Hungary, Malta**). For example, in **Germany**, the *Federal Ministry of Labour and Social Affairs* created an alliance to advise the Federal government concerning the demand for labour (“alliance for labour”). Its aim was to develop measures to close gaps and effectively prevent a lack of skilled labour in the future, such as steering migration flows.

With regard to the principle of Union preference, several Member States (**Austria, Bulgaria, Estonia, Germany, Hungary, Ireland, Italy, Lithuania, Luxembourg, Latvia, Malta, Poland, Portugal, Slovak Republic, Spain, Sweden, United Kingdom**) reported on measures in place to verify that labour demand could not be satisfied by national and EU manpower or by non-EU manpower lawfully resident on a permanent basis in that Member State, and subsequently to attract third-country national workers. Some stated that the job vacancy was advertised with the national Public Employment Service (PES) and sometimes EURES for a reasonable period of time (**Ireland, Lithuania, Luxembourg, Latvia, Malta, Sweden, United Kingdom**). Others referred to an individual labour market test (**Austria**) or to a requirement for employers to ask permission to recruit a third-country national from the government agency dealing with unemployment (**Estonia**). **Germany** introduced legal steps in 2009 to lift the requirement of testing preferential access with regard to labour market access of distinct groups of third-country nationals (e.g. qualified and well-integrated foreigners whose deportation had been temporarily suspended, family members of highly qualified workers with a residence title) as well as for highly qualified workers from the new EU Member States and their families. Both **Italy** and **Portugal** reported that this principle

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<sup>45</sup>Economic Migration Regulation Strategy 2007 – 2012 (State Gazette, 2007, No. 49-1897) and Guidelines on the Lithuanian Immigration Policy (State Gazette, 2008, Nr. 143-5706).

was taken into account when the annual quota for issuing work and/or residence permits were set.

Due to the economic crisis, a few Member States had tightened entry or permit renewal criteria (**Czech Republic, Ireland, Lithuania**), quota (**Italy, Portugal**) or reduced professions eligible for work permits (**Ireland**). In the case of **Spain** and **Lithuania**, the number of occupations included in the ‘Catalogue of Shortage Occupations’ (**Spain**) or the ‘list of occupations that are understaffed’ was reduced (**Lithuania**: from 60 occupations in 2007 to 7 occupations in 2009). In **Spain**, the number of occupations was reduced as a result of adjustments to labour market trends. Additionally, in order to address the difficult situation of labour migrants employed through employment agencies, **Czech Republic** tightened the regulation of these agencies to limit exploitation of third-country national workers.

These restrictive measures in relation to labour migration were generally meant to be of a temporary nature. **Bulgaria, Hungary** considered similar measures for the foreseeable future, while others (**Austria, Finland, Lithuania, Malta, Sweden, Spain, United Kingdom**.) claimed that their demand-driven labour migration systems were sufficiently flexible to adjust to labour market dynamics. The latter were portrayed as self-regulatory, resulting in fewer vacancies, fewer applications and more rejections / fewer permits issued. **Ireland** introduced a scheme that allows migrant workers made redundant to remain for a period to search for a new job and, once alternative employment is found, exempts their application for a work permit from the standard individual labour market test. Elsewhere, **Czech Republic** indicated that the impact of the crisis was also visible by the number of trading licences issued to foreign nationals. It was suspected that many third-country nationals, who lost their employment due to the economic crisis, became self-employed by establishing a business in order to be able to remain in the country.

As to statistics, some Member States reported on the number of applications for work permits (**Czech Republic, Finland, Ireland, Lithuania, Spain**), of decisions taken (**Estonia, United Kingdom**), of permits issued (**Czech Republic, Greece, Hungary, Ireland, Lithuania, Luxembourg, Poland, Slovenia, Slovak Republic, Spain**), or of newly hired third-country nationals (**Italy**), rendering comparisons between Member States difficult at this stage in time. This ranged from 2 239 (**Lithuania**) to 2 656 (**Slovak Republic**) to 73 666 in **Czech Republic**. However, a decrease in the number of applications for work permits (**Belgium, Spain**) and of permits granted (**Czech Republic, Ireland, France, Lithuania, Malta**) was an

emerging trend across the EU, which may be related to the economic crisis. For example, **Czech Republic, Ireland and Lithuania** provided data demonstrating a decrease in the number of work permits issued in 2009, with 7 962 permits in **Ireland**, a decrease of 41% compared to 2008, while **Czech Republic** observed a decrease of 43% in comparison with the preceding year. In **Lithuania**, the number of work permits issued in 2009 constituted less than a third of those granted in 2008, i.e. from 7 819 to 2 239 work permits. In **Italy**, the number of newly hired third-country nationals decreased from 167 800 in 2008 to 89 140 in 2009. Data was also provided on the number of foreigners employed through agencies (**Czech Republic**), with signs of a sharp decrease. The **Czech Republic** further outlined that 27 700 foreign nationals lost their jobs in 2008-2009, with 8% returning to their country of origin under an assisted voluntary return programme.

**Commitment: I.(b)** *to increase the attractiveness of the EU for highly qualified workers*

Many MS reported having taken steps to increase the attractiveness of the EU for highly qualified workers (**Austria, Belgium, Czech Republic, France, Germany, Greece, Italy, Lithuania, Luxembourg, Netherlands, Spain, Sweden, United Kingdom**). With regard to the transposition of the Blue Card Directive, some Member States were in the process of transposing the Blue Card Directive (**Belgium, Italy, Luxembourg, Netherlands, Slovenia, Spain, Sweden**); others had undertaken preparatory work for transposition (**Bulgaria, Estonia, Lithuania, Malta**); still others planned to do so in 2010 (**Austria, Czech Republic, Finland, France, Greece, Hungary, Lithuania, Poland, Portugal, Slovak Republic**). **United Kingdom** and **Ireland** did not opt into the Blue Card Directive, but the **United Kingdom** reported that it provided attractive labour migration opportunities for highly qualified third-country nationals under Tier 1 of its 'Points Based System'.

Measures were aimed at simplifying, and hereby accelerating, procedures and relaxing conditions for entry or renewal of permits in some Member States (**Austria, Germany, Ireland, Italy, Lithuania, Luxembourg, Slovak Republic, Spain**). Hereto, **France** introduced new types of permits (e.g. "Skills and talents" permit and "Exceptional economic contribution" permit). Commitment I(a) provides an overview of the steps that Member States undertook to improve the governance of legal migration. Some Member States specified as to who benefited from measures put in place (**Belgium, Germany, Slovak Republic, Spain, United Kingdom**), for example: individuals with university degrees from third countries

(**Germany**), senior staff members (e.g. CEO) (**Belgium**), those active in particular sectors or professions (**Spain**) (see the second part of I(b) below for further details).

As to the results of the measures undertaken, a few Member States reported an increase in permits granted to highly qualified migrants (**France, Germany, Greece**). For example, a 30% increase in permits granted was reflected in the figures provided by **Germany** (from 227 in the first half of 2008 to 350 in the first half of 2009) and **France** (from 1 664 "workers on assignment" in 2008 to 1 954 in 2009). Others stated that the economic crisis had resulted in a reduction of the number of highly-skilled workers applying for a work permit (**Spain**). As to the simplification and acceleration of procedures, **Spain** reported that the average time for processing an application in 2008 was 12.93 days; in 2009 it fell to 11.21 days. **Lithuania** reported that the aim was to issue documents to highly-skilled workers within 3-4 weeks, compared to a normal duration of two months for skilled workers.

*And take new measures to further facilitate the reception of students and researchers and their movement within the EU;*

Two countries put forward proposals for future changes to this policy area (**Hungary, Ireland**). **Ireland** published a set of proposals for reform of non-EEA student immigration and launched a public consultation process on the issue. The proposals contained more than 20 discussion items including capping the length of time a person can spend in Ireland as a student at no more than five years or two years in further education or English language classes; introducing a two-tier system to facilitate the targeting of incentives towards the upper end of the academic spectrum; a stronger inspection process; possible changes in respect of visas; and new guidelines on work placement or internship. **Hungary's** 2009 Strategy focused in particular on facilitating international mobility and employment of researchers and scientists.

As to students, **Latvia, Lithuania, Netherlands, Poland,** and **United Kingdom** reported on modifications of the procedures for the admission of third-country nationals wishing to study in the Member State during the reporting period. **Latvia**, for example, no longer required candidates to interact with, and visit, its embassies, which was costly in time and financial resources, but allowed higher educational establishments to directly submit the third-country national's documents relating to his/her application for a residence permit to the Office of Citizenship and Migration Affairs. The **United Kingdom** announced a policy review of the

student visa tier of its point-based system, which would consider raising the minimum level of courses for which foreign students could get a visa, introducing mandatory English language testing for student visas other than for English courses and changing the rules under which students on lower qualification courses worked part-time. In **Lithuania**, a decree modifying the procedure of admission and facilitating access to the state-funded studies at high education institutions for third-country nationals was adopted in 2009. This enabled these institutions to introduce more study programmes available in foreign languages.

In 2009, **Portugal** adopted a decree expanding the social rights available to students at higher education to foreign students who held a permanent residence permit or who benefited from the status of long-term resident.

In 2009, a few Member States also facilitated access to the labour market for third-country nationals who graduated from education establishments in the Member State (**Austria, Czech Republic, France, Ireland, Italy, Latvia**) and **Slovak Republic** planned to do so in the near future. **Italy** introduced the possibility for doctorate or postgraduate students to convert a residence permit for reason of study into a work permit, as some other Member States already had (**Spain**). **France** required that, in order to grant this facilitation, the revenue offered to the third-country national graduate was at least 1.5 times the national minimum revenue.

**Finland** mentioned measures to facilitate the naturalisation of students and graduates.

As to researchers, some Member States removed the requirement for a work permit (**Belgium, Bulgaria**). **Austria** amended legislation to allow the “residence permit – researcher” to be issued for two years (instead of one year). After two years of residence it is possible to change for the “settlement permit – unrestricted” which grants free access to the labour market.

Some German universities established “Welcome Centres,” giving advice on work, studying, living and family issues to foreign researchers, with the aim of strengthening their international competitiveness and attractiveness. Several Member States provided data as to the number of researchers and/or students that were issued a permit in 2009 (**Estonia, France, Finland, Germany, Greece, Hungary, Lithuania, Malta, Poland, Spain**). These ranged from 3 “research residence permits” for employment specifically concerned with research in **Lithuania** to 2,330 “long-stay scientific visas” for researchers in **France** and

from 68 permits for study purpose in **Greece** to 63,571 “long-stay students visas” for students in **France**. These constitute tentative data.

**Commitment: I.(c)** *to ensure, in encouraging temporary or circular migration, pursuant to the conclusions of the European Council of 14 December 2007, that those policies **do not aggravate the brain drain**;*

Many Member States reported on measures to prevent or not aggravate the brain drain (**Austria, Belgium, Bulgaria, Czech Republic, Estonia, France, Lithuania, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom**). These included allowing migrants to return temporarily to the country of origin through, for example, multiple entry visas (see also I(d) below), hereby creating a sense of security that they had the option to return to the EU and the opportunity for co-nationals to benefit from the migrant’s skills and knowledge gained from the job (training) in the EU (**Belgium, Portugal, Spain, Sweden**).

The link between migration and development, in general, and the need to maximise the positive contribution of migrants and migration to the development of third countries, in particular, was mentioned by many Member States (**Austria, Belgium, Bulgaria, Czech Republic, France, Netherlands, Portugal, Spain, Sweden, United Kingdom**) (see also information under commitments V(d) and V(e) below<sup>46</sup>). Some Member States set up co-development projects tied to circular or temporary migration programmes or pilot projects to promote the skills and knowledge transfer to local people (**Belgium, Netherlands, Portugal, Spain**). Others referred to development programmes or projects to support the education system (**Austria**) or the public health service of third countries (**Sweden, United Kingdom**), with the aim of rendering the labour market in the country of origin more attractive to existing or potential migrants. A few opted for restricting the issuing or renewal of work permits for those originating from countries or professional sectors which were the specific target of development projects or programmes (**France, United Kingdom**). **Sweden** also

<sup>46</sup>*Commitment V(d) : **integrate migration and development policies** more effectively by examining how such policies may benefit the regions of origin of immigration, in coherence with other aspects of development policy and the Millennium Development Goals.*

*The European Council invites Member States and the Commission in this context to focus, within the sectoral priorities identified with the partner countries, on **solidarity development projects** that raise the living standards of citizens, for example in the areas of nutrition, health care, education, vocational training and employment;*

*Commitment V(e): **promote co-development actions** that enable migrants to take part in the development of their home countries.*

*The European Council recommends that Member States support the adoption of specific financial instruments for **transferring migrants' remittances** securely and more cheaply to their countries for the purposes of investment and welfare insurance;*

referred to the importance of setting up portable social benefits (e.g. pensions) for temporary migrants working in the EU.

In relation to the objective of not aggravating the brain drain, a few countries referred to legislative measures limiting the duration of work permits issued to third-country nationals to two years (**Lithuania, Luxembourg**) and, upon the expiry of the work permit, obliging third-country nationals to return to their country of origin (**Lithuania**) and only allowing them to take up a new position after a waiting period of minimum one month (**Lithuania**).

#### **4.4.2 Additional/Complementary developments**

Regarding legislation to better facilitate labour migration, proposed changes occurred in **Estonia, Finland, Greece, Ireland** and **Latvia** including a *Government Bill* in **Finland** which, if adopted, would foresee that a residence permit would always automatically provide the right to work. A draft law was developed in **Latvia** which would impose a limitation to an inviting party who provides false information about the payment of state taxes or violates the procedure of employment of third-country nationals.

There was an amendment to the maximum period for which unqualified or low-qualified seasonal workers could be employed in **Germany**, changing from 4 to 6 months per year, with 294 828 seasonal workers employed in **Germany** during 2009, 9 611 more than in 2008.

There were 3 114 applications for residence permits for an employed person in **Finland**, which was 44.3% less than in 2008. In **Lithuania** 22 000 nationals emigrated in 2009.<sup>47</sup>

**Finland** set up a project to draft an *Action Plan for Labour Migration*, which would be compatible with their Migration Policy Programme. Co-operation with China was also initiated in order to determine how both States could exchange information in the future on issues related to recruiting work force and on recruitment abuse. The tentative plan is to sign a co-operation protocol between Finland and China in 2010 concerning the immigration of labour. The *Admission and Residence Procedure (known as TEV Procedure)*, where the application for a regular provisional residence permit and the application for a residence permit were processed simultaneously was considered to be extremely beneficial in the **Netherlands**. The result of this is that the total procedure time may be shortened<sup>48</sup> and the

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<sup>47</sup>It is important to note in this regard that this number represents the number of declared emigration in Lithuania. The number of undeclared emigrants is considered to be much higher.

<sup>48</sup> As this procedure is only a Pilot Project, a time span has yet to be given.

administrative burden for the third-country national and the sponsor will be reduced. The main advantage of this procedure is that only one application is required to be lodged by the third-country national entering the **Netherlands**. The **United Kingdom** changed its policy in 2009 regarding the dependants of Turkish nationals who are already legally residing there by expanding the definition of family members under the points-based system for immigration.

#### 4.5 Family Reunification

This section describes policies and actions undertaken by Member States regarding family reunification during 2009. Firstly, [Section 4.5.1](#) refers to commitments made under the Pact concerning the effective regulation of family migration. Additionally, [Section 4.5.2](#) refers to the additional development undertaken by Member States in order to improve family reunification policy, including provisions relating to public policy and security, as well as the introduction of DNA testing to prove family ties.

##### 4.5.1 European Pact on Immigration and Asylum

**Commitment: I.(d)** *to regulate family migration more effectively by inviting each Member State, in compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms, to take into consideration in its national legislation, except for certain specific categories, its own reception capacities and families' capacity to integrate, as evaluated by their resources and accommodation in the country of destination and, for example, their knowledge of that country's language;*

Several Member States documented changes to existing policies during the reporting period (**Austria, Belgium, Greece, Italy, Lithuania, Netherlands, Poland, Spain**). These included modifications to the (set of) conditions for family reunification, to the categories of persons exempted from fulfilling these conditions for family reunification, and to the procedures for applying for or renewing residence permits within the framework of family reunification.

As to the (set of) conditions for family reunification, Member States presented the following as elements of existing regimes. In order to better take account of families' capacity to integrate when considering applications for family reunification, many Member States stipulated that sponsors were required to have a stable and regular income to support the family member(s) (**Austria, Belgium, Bulgaria, Finland, Italy, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Spain**), suitable accommodation (**Austria, Belgium, Bulgaria, Italy, Lithuania, Luxembourg, Spain, Sweden**) and/or a previous period of

residence (**Lithuania, Spain**). Some demanded that family members were to attain a specific level of language proficiency (**France, Netherlands, Portugal**), some after issuance of a residence title (**Austria**), and/or sign an integration contract or agreement (**Austria, France**). **Belgium** undertook steps to negotiate agreement protocols with the Communities, i.e. the entities competent for the integration of foreign nationals, with the objective of tying the issuance of a residence permit for family reunification to a commitment to integrate and/or integration in the host society. **Austria** set in certain cases quota regarding family reunification with the aim of respecting its national reception capacities. **Germany** outlined a judgment in 2009 concerning family reunification where it was held that the legal requirement of a “secure livelihood” when applying for family reunification cannot be waived by discretion for spouses of third-country nationals.

Some of these elements were added to national regimes during the reported period. For example, previous to 2009, **Belgium** required sponsors to have a health insurance and sufficient accommodation. However, legislation was amended to include sufficient, stable and regular income as a precondition for family reunification. **Sweden** put forward proposals to introduce the requirement of a minimum income. In light of the impact of economic crisis, **Portugal** reduced by half the means of subsistence that third-country nationals require in order to apply for family reunification. The Security Package adopted by **Italy** in 2009 stipulated that accommodation was to comply with health standards and to be certified by municipal authorities. The growing emphasis on integration commitments (e.g. through contract) also reflected Member State concerns (**Belgium**) about integration of family members. During 2009, the **Netherlands** presented a report regarding the income and age requirements for family reunification. It was indicated that the increased income requirement for migration to the Netherlands had resulted in a substantial decrease in the number of partners coming to the Netherlands. However, the stricter income and age requirements did not result in a clear contribution to the improvement of socio-economic positions of persons of foreign heritage in the Netherlands.

Some countries reported on legislative changes introducing exemptions concerning categories of persons who did not have to fulfil conditions set for family reunification (**Austria, Greece, Lithuania, Poland**). Enhanced protection of family unity, of children and of those granted international protection seemed to be at heart of this. **Spain** approved a reform of its legislation on family reunification stipulating that only long-term residents can apply for the

reunification of ascendants, aged 65 and over, and granting direct access to the labour market for reunited spouses and children from the age of 16. **Lithuania** facilitated family reunification for highly qualified workers, for third-country nationals who arrive to lecture or perform an internship at national research and study institutions and for persons who have invested substantially in projects of importance to the State.

In **Italy**, changes were made to the procedure for granting a permit within the framework of family reunification. The *Ministry of the Interior* decided that Prefects were allowed to sign protocols of understanding with single municipalities, hereby simplifying the family reunification process.

A few Member States referred to the need to step up action against marriages of convenience (**Austria, Belgium, France, Italy, Lithuania, Netherlands**). **Belgium** reported that legally registered partnerships could be introduced in the *Aliens Act* (i.e. the core of Belgian immigration legislation). This would imply that, if there are serious doubts on the genuine nature of the relationship, the legally registered partnership would only be concluded, and the first temporary residence permit only issued, once the stable and sustainable nature of the relation had been investigated and verified. In 2009, **Belgium** also put measures in place to promote better cooperation between the different actors involved, such as the production of a “road book on marriages of convenience” targeting all official authorities involved in the issue (e.g. the Immigration Department, municipalities, the judiciary) and the creation of a federal database to be used by local authorities (i.e. civil servants in charge of marriages). In both **Belgium** and **Lithuania**, a higher number of investigations into (potential) marriages of conveniences were opened. In **France**, a national debate was launched about the problem of marriages of convenience, which were coined “grey marriages” highlighting the potential exploitation by one of the parties involved.

**Estonia, Spain, United Kingdom** documented changes to existing policies relating to family and legal migration during the reporting period, with **Estonia, Spain** outlining changes in their legislation, in relation to the distribution of independent residence permits. Such permits could be distributed in order to protect victims of domestic violence (**Spain**). Additionally, with regard to victims in the area of family reunification, some Member States (**Germany, United Kingdom**) commented on the better protection of victims of forced marriages. A *Code of Practice* was published during the reference period in the **United Kingdom**, setting out the approach to be taken if an individual is identified as vulnerable to forced marriage. In

**Germany**, the *Assembly of the Federal State Governments (Bundesrat)* called for better protection and asked the *Federal Government* to offer victims of forced marriages better opportunities to return to **Germany**.

#### **4.5.2 Additional/Complementary developments**

In order to identify family members, when no other means were available to prove a family relationship between the sponsor and the third-country national, DNA testing in 33 diplomatic or consular posts abroad was made available by **Belgium** in 2009. With regard to family reunification applications, legislation for refusing a residence permit in **Estonia** and **Slovenia** was used in cases where there was a risk that the applicant would endanger moral standards in the Member State (**Estonia**) or cause a threat to public order and security (**Slovenia**).

The *Aliens Act Implementation Guidelines 2009* in the **Netherlands** entered into force, ensuring continued residence on compelling humanitarian grounds if a number of conditions are fulfilled, including the proof of ties with the Netherlands and whether the child has Dutch nationality. One of the compelling humanitarian reasons in the Netherlands is domestic violence, which in itself constitutes a sufficient ground to grant a continued residence permit, if the relationship has been terminated by the victim in connection with this violence within three years of legal residence with their partner.

#### **4.6 Other legal migration**

With regard to other legal migration, which has not been dealt with previously, this Section summarises actions undertaken firstly in accordance with the Pact ([Section 4.6.1](#)), particularly concerning the improvement of information on the possibilities and conditions of legal migration. [Section 4.6.2](#) then outlines the complementary developments made by Member States in 2009, in particular with regard to the facilitation of application procedures for long-term residence, the access to medical treatment for third-country nationals and actions undertaken regarding the re-integration of returnees.

#### 4.6.1 *European Pact on Immigration and Asylum*

***Commitment: I.(f)*** *to improve information on the possibilities and conditions of legal migration, particularly by putting in place the instruments needed for that purpose as soon as possible;*

Most Member States (**Austria, Bulgaria, Czech Republic, Estonia, France, Finland, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Spain, Sweden, United Kingdom**) reported that information on the possibilities and conditions of legal migration was available on the official websites of Ministries and/or employment agencies. For example, the [\*Residence Wizard\*](#), implemented by the Dutch Immigration and Naturalisation Service, provides information on staying in **Netherlands** and on residence permits. The client can customise his/her application to his/her particular case, in order to find out whether he/she is eligible and to learn about the specific conditions and requirements that apply.

**Lithuania** also reported that legislative acts concerning “Aliens” and “Citizenship” were translated into Russian and English.

**Germany, Netherlands, Portugal** also referred to the websites of welcome or business centres. Other measures for disseminating relevant information included brochures (**Austria, Czech Republic, Greece, Lithuania, Poland, Slovenia, Spain**), manuals (**Greece, Italy, Lithuania**) available in different languages, portals for labour supply and demand supporting the right of access of citizens to available positions (**Greece**), or free advice hotline for migrants in need of counselling (**Lithuania**). Several Member States set up projects to raise awareness in third countries (**Bulgaria, Czech Republic, Lithuania, Luxembourg, Poland, Portugal, Spain, United Kingdom**). For example, **Luxembourg** set up the project "Migrate with eyes open" in Cape Verde in 2006, extended into 2009 and 2010, with the aim of enabling Cape-Verde nationals to decide whether to migrate or not, being aware of the legal conditions to do so. The “CAMPO - Centre to Support Immigrants in their Country of Origin Project,” which has been running since 2008, was established by **Portugal** for similar reasons. **Spain** includes information about legal migration and prevention against the risk of the illegal immigration in all its bilateral agreements with countries of origin on migratory issues.

#### 4.6.2 *Additional/Complementary developments*

In order to facilitate applications and procedures for long-term residence, **Belgium**, **Estonia** and **Portugal** introduced provisions to simplify procedures. In **Belgium**, long-term residents are entitled to work in all sectors without restrictions after a one year delay. Controversial case law also arose in **Belgium**, concerning the expulsion of a third-country national student due to forged identification, even though his student residence permit was genuine and valid. In **Estonia**, a new *Aliens Act* is expected to allow applicants to spend time outside Estonia while awaiting a decision on their application for long-term residence status. In the context of the status of long term residence in **Portugal**, national legislation envisaged granting residence permits without the requirement of a visa in special circumstances when the foreign national was suffering from an illness requiring prolonged medical care. **Portugal** issued a temporary consular visa, with a limit of three months, for those who required medical treatment, as well as to the family members who were accompanying or assisting them.

In relation to access to medical treatment, **Belgium**, **Luxembourg** and **Netherlands** envisaged special circumstances for non-nationals receiving treatment on their territory, with **Belgium** allowing for the regularisation of third-country nationals on medical grounds, when they could not leave the Member State due to serious illness.

There was an increasing trend in hiring Ingrian Finn returnees in **Finland**<sup>49</sup> as a result of a 2009 project set up with that purpose. In **Germany**, the procedures for the steered, qualified immigration of Jewish persons from the former Soviet Union (excluding the Baltic states) in order to strengthen Jewish communities and German society as a whole were developed further. **Germany** also slightly revised procedures imposed for ethnic German repatriates, which aimed to clarify the legal situation, simplify administrative practice and increase the speed of the procedure.

**Lithuania** signed an agreement with Canada on Youth Exchange in 2009, and an agreement with Brazil on the abolition of visa requirements also came into effect.

An *Au Pair Laboratory* was established in the **Netherlands**, as part of its modern migration policy, in order to gain experience with the au pair agencies and their envisaged future role as

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<sup>49</sup>Ingrian Finns are the Finnish population of Ingria (now the central part of Leningrad Oblast of Russia) descending from Lutheran Finnish immigrants introduced to the area in the 17<sup>th</sup> century, when Finland and Ingria were both part of the Swedish empire. The Ingrian Finns constitute the largest part of the Finnish population of the Russian Federation.

recognised sponsors. Changes to the *Regular Provisional Residence Permit* requirement also entered into force in the **Netherlands** which exempted a number of categories of individuals from having to receive this permit, including family members of an asylum applicant that has been admitted, as well as minor foreign nationals who have actually had a residence permit for three years.

## 4.7 Integration

This section summarises the actions undertaken concerning integration policy. Firstly, [Section 4.7.1](#) indicates the commitments under the Pact concerning the promotion of harmonious integration in line with common basic principles, as well as the promotion of information exchange on best practices in terms of reception and integration. [Section 4.7.2](#) then summarises additional developments, with particular reference to educational and language facilities provided to third-country nationals, as well as projects undertaken to facilitate the integration of non-nationals on EU territory.

### 4.7.1 European Pact on Immigration and Asylum

***Commitment: I.(g)*** to invite Member States, ***in line with the common principles approved by the Council in 2004, to establish ambitious policies, in a manner and with resources that they deem appropriate, to promote the harmonious integration in their host countries of immigrants who are likely to settle permanently;***

*Those policies, the implementation of which will call for a genuine effort on the part of the host countries, should be based on a balance between migrants' rights (in particular to education, work, security, and public and social services) and duties (compliance with the host country's laws).*

*They will include specific measures to promote language-learning and access to employment, essential factors for integration;*

*They will stress respect for the identities of the Member States and the EU and for their fundamental values, such as human rights, freedom of opinion, democracy, tolerance, equality between men and women, and the compulsory schooling of children.*

*The European Council also calls upon the Member States to take into account, by means of appropriate measures, the need to combat any forms of discrimination to which migrants may be exposed;*

Many Member States reported on a national strategy or plan on integration (**Bulgaria, Czech Republic, Estonia, Germany, Hungary, Ireland, Italy, Luxembourg, Netherlands, Slovenia, Slovak Republic, Spain, Sweden, United Kingdom**). Others reported that this national strategy was in the course of being revised (**Belgium, Finland, France, Sweden**), or developed (**Austria, Latvia, Poland**). Legislation amended in Wallonia (**Belgium**) allowed for the set up of local integration plans. As to institutional changes, the set up or better coordination of centres and agencies concerned with integration was mentioned by a few (**Belgium, Czech Republic**). Furthermore, **Germany** outlined the future establishment of a federal advisory committee for integration. In **Slovenia** the Council for the integration of aliens was founded, during the reference period, with the purpose of inter-institutional cooperation.

Most Member States reported having measures in place to enable migrants to learn the language of the host country (**Austria, Belgium, Bulgaria, Czech Republic, Estonia, France, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovenia, Spain, Sweden, United Kingdom**) and to acquire knowledge of the host society's history and culture (**Belgium, Bulgaria, France, Greece, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Slovenia, Spain, Sweden, United Kingdom**). However, **Germany** also introduced legislation to further safeguard the employment of consular teachers in schools in order to teach pupils their native language (for example in Turkish). Additionally, as an important step in the development of the integration of third-country nationals, the German *Federal Government* announced the introduction of integration agreements between the migrant and the State in order to underline the binding character of individual integration promotion, which would be gradually introduced from 2010. The **Slovak Republic** established the third-country nationals' migration and integration Steering Board. Furthermore, in **Slovenia**, for the purpose of promoting understanding between different cultures and mutual respect, the Ministry of the Interior financed projects of intercultural dialogue in 2009, which are being implemented in various locations throughout Slovenia.

Several Member States also referred to support services to enhance migrants' access to employment (**Austria, Estonia, France, Italy, Latvia, Luxembourg, Portugal, Spain, Sweden**), including skills assessment (**France**), job orienteering (**Austria, Italy, Portugal, Spain**), qualification measures and mentoring programmes (**Austria, Portugal**), projects to

promote immigrant entrepreneurship (**Portugal**) and partnerships with industries (**Austria, France**). **Sweden** undertook steps to boost migrants' personal motivation to learn the Swedish language and find a job through a bonus system, ultimately speeding up the “social introduction of migrants.” Some countries mentioned general integration programmes (**Austria, Germany, Italy, Netherlands, Poland, Portugal**), some of which ended with an integration test.

**France, Ireland, Italy, Portugal, Spain, United Kingdom** also reported on measures to facilitate migrants' access to public and social services, such as access to online website resources (**Ireland**), cultural mediators (**Italy, Malta, Portugal, Spain**), a project to familiarise parents with the national school system (**France, Spain**), and a funding mechanism for local public services to manage the transitional impacts and pressures of migration (**United Kingdom**) or to finance integration actions at local level (**Spain**). In **Malta**, the *Migrant Health Unit* undertook work in the translation of health information leaflets covering topics such as chicken pox and medical health. In 2009, **Portugal** launched a circular stipulating that access to the National Health Service by regular and irregular immigrants was a fundamental human right. Others referred to civic orientation courses as helping migrants in accessing public and social services (see paragraph above). Additionally, the **Slovak Republic** launched a website in coordination with the ‘feel at home’ project in order to orientate and integrate foreigners into Slovak society. This website complemented other websites established in preceding years.

**Austria, Belgium, Bulgaria, Hungary, Italy, Latvia, Lithuania, Luxembourg, Portugal, Slovak Republic, Spain, United Kingdom** reported that some of these activities, projects or programmes received funds from the European Fund for the Integration of Third-Country Nationals or the European Social Fund (**Spain**). In **Lithuania**, it was reported that the implementation of the programme of the European Fund for the Integration of Third-Country Nationals was considered as the most important tool in the development of integration processes for third-country nationals.

Expectations were that, through the measures put in place, migrants would gain a particular level of language proficiency in a set time period (**Austria, Czech Republic, France, Italy**) and/or of knowledge of, and respect for, national values (**France**) or common/fundamental values (**Austria, Bulgaria, Estonia, France, Germany, Italy, Netherlands, Spain, Sweden**). Respect for human rights (**Bulgaria**), rule of law (**Italy, Netherlands**), gender

equality (**Bulgaria, France, Germany, Spain**), democracy (**Netherlands**), compulsory education (**France**), religious diversity (**Germany**) or other “basic values of Europe” (**Estonia**) were the main fundamental values reported by Member States.

**Austria, France, Greece and Italy**<sup>50</sup> developed integration contracts or agreements to lay down the conditions for integration in the host society and to ascertain the migrant’s commitment to, and active participation in, the integration process, or planned to do so (**Luxembourg**). Others referred to language tests as a condition for acquiring long-term EC residency (**Italy**) or permanent residency (**Czech Republic**). **Greece, Lithuania, Slovak Republic, United Kingdom** also developed a guide for migrants on their rights and duties, available in several languages, or launched projects with that aim (**Bulgaria, Hungary, Slovak Republic**). In general, the balance between migrants’ rights and duties featured in many national policies promoting integration of migrants (**Austria, Bulgaria, Czech Republic, France, Germany, Greece, Hungary, Italy, Luxembourg, Netherlands, Sweden, Spain, United Kingdom**).

Many Member States reported on measures to combat discrimination to which migrants may be exposed (**Austria, Belgium, Bulgaria, Czech Republic, Estonia, France, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Spain, Sweden**). These predominantly included anti-discrimination legislation (**Austria, Belgium, Bulgaria, Czech Republic, Estonia, Ireland, Portugal, Spain, Sweden**), awareness raising campaigns (**Bulgaria, Czech Republic, Greece, Hungary, Luxembourg, Latvia, Malta, Portugal, Spain**), training of personnel dealing with the target group (**Greece, Malta, Portugal**) and the set up or further development of an equality body (**Austria, Belgium, Hungary, Italy**). In **Luxembourg**, the mission of the Office for Reception and Integration was widened to include the fight against discrimination. In addition, **France** established a Diversity Charter and a Diversity Label that could be attributed to companies and **Greece** undertook research into the matter. **Portugal** organised competitions, such as the “Posters Against Discrimination Competition” and the “Award for Journalism, Human Rights and Integration,” which recognises the contribution of media professionals in promoting tolerance and integration and combating all forms of racism and discrimination. In **Lithuania**, the government, in its resolution of 15 April 2009, approved the National Anti-discrimination programme for the period 2009 – 2011.

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<sup>50</sup> It is a norm which will become operational with the adoption of the implementing regulation.

**France** and **Germany** referred to participation with a selected number of Member States in a working group on indicators for integration<sup>51</sup>. In **Germany**, a working group on “Indicator Development and Monitoring” identified seven key data sets, referring to the socio-demographic data on immigration and population structures in the federal states, and 28 core indicators defined. The indicators refer to the areas “Early training and language promotion,” “School and vocational training,” “Employment and income,” “Health,” “Living” and “Crime, violence and discrimination.” **Germany** and **Sweden** indicated their aim of releasing reports on indicators in 2010, one of which (**Germany**) would include results on a pilot study to test indicators undertaken during 2009. **Latvia** the need to develop an indicator system for assessing expected integration policy results.

***Commitment: I.(h)** to promote information exchange on best practice implemented, in line with the common principles approved by the Council in 2004, in terms of reception and integration, and on EU measures to support national integration policies.*

Most Member States (**Austria, Belgium, Bulgaria, France, Finland, Germany, Greece, Hungary, Italy, Lithuania, Latvia, Malta, Netherlands, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom**) promoted information exchange on best practices implemented in terms of reception and integration.

**Austria, Bulgaria, Latvia, Malta, United Kingdom** established or further developed national websites enabling the exchange on integration matters, often within the framework of the *European Fund for the Integration of Third-Country Nationals (EIF)*. Next to this on-line forum, stakeholders in four Member States had the opportunity to meet each other in inter-institutional working groups to discuss integration (**Austria, Bulgaria, Hungary, Italy**). Some Member States organised events (e.g. conferences, seminars) (**Austria, Greece, Spain, Slovak Republic**), dialogue initiatives (**Belgium, Luxembourg, Sweden**), consultations with Muslim representatives (**Germany**) or awareness raising campaigns (**Austria, Spain**) with integration as topical focus. Others issued newsletters or quarterly journals (**Austria, Portugal, Sweden**), and/or funded knowledge institutes that had as objective to collect and disseminate information on integration (**Netherlands, Portugal**). **Lithuania** referred to the development of a manual on intercultural communication and training courses on cultural

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<sup>51</sup>The Swedish Presidency Conference conclusions on this matter are available at [http://www.se2009.eu/polopoly\\_fs/1.28600!menu/standard/file/Indicators%20and%20monitoring%20of%20outcome%20of%20integration%20policies.pdf](http://www.se2009.eu/polopoly_fs/1.28600!menu/standard/file/Indicators%20and%20monitoring%20of%20outcome%20of%20integration%20policies.pdf)

diversity, as well as other activities in the area of integration<sup>52</sup>, undertaken in cooperation with IOM and other relevant NGOs. **Germany** organised the fourth plenary session of the Islam Conference in 2009. The conference's final declaration included the promotion of a consensus on social values, finding solutions for practical, religion-related issues in schools and establishing faculties for Muslim theology in Germany. .

In addition, several Member States reported on their participation in the National Contact Points on Integration and the European Website on Integration and European Integration Forum. Bilateral meetings or cooperation in relation to integration were reported between **France** and **Germany**, and between **Netherlands** and **Belgium**.

#### **4.7.2 Additional/Complementary developments**

In order to better facilitate the integration of third-country nationals, the **Czech Republic**, **Estonia**, **Italy**, **Lithuania** and **Spain** provided access to language and educational courses through compensatory (**Estonia**, **Lithuania**, **Spain**) or other measures (**Czech Republic**, **Luxembourg**, **Malta**). This included widening the compensation policy of language studies to include all persons taking the language proficiency examination, not solely those applying for citizenship (**Estonia**), with overall 3.2 million EEK (approximately €205 000) paid to 752 candidates. With regard to the allocation of resources in education, **Spain** allocated €200 million to the support fund for the Reception and Integration of Immigrants and their Educational Fund, and migrant pupils in **Lithuania** were allocated 30% more resources than national pupils. In **Italy**, the Minister of the Interior published a notice for 'innovative programmes in matters of integration' in the schools of the Lazio province. In **Luxembourg**, further language courses were introduced in the Member State in order to promote the learning of the Luxembourgish language to further the integration of third-country nationals.

Elsewhere, in **Austria**, in addition to the development of the *National Action Plan* on Integration and of *Integration Indicators* at national level, integration initiatives were fostered in 2009 on provincial and municipal levels, such as the development of integration concepts or the establishment of integration councils, integration resorts or delegates. One of the results of such initiatives was the establishment of an *Integration, Asylum and Basic Welfare Department* established in the federal province of Salzburg. The Statute of third-country national migration and integration Steering Board was approved in 2009 in the **Slovak**

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<sup>52</sup> This included a webpage for third-country nationals : [www.livingin.lt](http://www.livingin.lt)

**Republic** and was considered as a step forward in the area of integration. The Immigration Platform, which included the introduction of an award for the ‘Immigration Entrepreneur of the Year’, was developed in **Portugal**. A re-organisation of the Ombudsmen bodies in **Sweden** resulted in the creation of the position of an *Ombudsman for Equality* responsible for monitoring the *Anti-discrimination Act* with regard to integration. Ongoing legal procedures necessary for the entry into force of the *Convention on the Participation of Foreigners in Public Life* at local level were outlined by **Lithuania**. In the **Netherlands**, an [Integration Barometer](#) was published in 2009 which surveyed the degree of integration of refugees and highlighted the lengthy process for effective integration.

#### 4.8 Citizenship and Naturalisation

The developments in 2009 concerning citizenship and naturalisation policies are outlined in this Section, noting that the Pact makes no explicit mention of citizenship and naturalisation. Developments included legislative amendments made by Member States, as well as projects established which benefit the system of citizenship and naturalisation.

In **Czech Republic, France, Germany, Lithuania, Portugal** and **Spain** legislative amendments or proposals were in the process of being debated with regard to citizenship, whilst **Belgium, Finland, Hungary, Lithuania, Slovak Republic, Slovenia** envisaged reforms of their legislation concerning nationality. **Austria, Estonia, Italy, Netherlands, Poland** documented changes to existing policies during 2009. These included the modification of the examination procedure in **Estonia** to include knowledge testing on the role of the constitution in daily life, while bearing in mind the applicant’s limited knowledge of the Estonian language. In **Italy**, the innovations introduced by the Security Package provided for the payment of a €200 to those acquiring Italian citizenship<sup>53</sup> and stipulates that a spouse, whether a foreigner or stateless, of an Italian citizen may obtain Italian citizenship only after having lived two years as a legal resident on Italian soil.

**Belgium** and **Finland** outlined the minimum time period in which an individual was expected to reside in a Member State. For the former, a residence permit of unlimited duration and evidence that the foreigner had bonds with the country would be required to acquire nationality, while, for the latter, it is required that the applicant has been permanently resident and domiciled in **Finland** for the last six years without interruption. **Czech Republic** and **Finland** envisaged reforms, with **Finland** reporting on its plans to shorten the required time

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<sup>53</sup> Law no.94/2009 dated 15<sup>th</sup> July 2009, better known as the ‘Security Package’

of residency with reforms aiming to make the acquiring of citizenship easier for those who have studied in **Finland**. **Finland**, **Belgium** and the **Slovak Republic** also envisaged amendments regarding conditions for acquiring citizenship. Language was deemed to be an important factor with regard to citizenship applications (**Estonia**, **Lithuania**, **Slovak Republic**), with the **Slovak Republic** wanting to institutionalise the requirements in relation to the level of “general knowledge” of the language.

Relevant case law in **Belgium**<sup>54</sup> concerned the duration of legal stay and the principle of equal treatment and non-discrimination.

There had been a clear increase in **Bulgaria** in the restoration of citizenship (persons with Bulgarian origins (re-)applying for citizenship), and **Poland** adopted legislation regarding the restoration of lost citizenship. In the **Netherlands**, minor children, who are acknowledged by a Dutch citizen after birth and who are younger than 7 years of age, would now acquire Dutch nationality immediately.

Policies were in place in **Belgium**, **Germany**, **Netherlands** and **Slovenia** with regard to repealing naturalisation. In **Belgium**, loss of nationality would be possible in the case of serious crimes (sentence of at least five years imprisonment) or, in **Slovenia**, if the applicant constituted a threat to public order. Legislation in **Germany** introduced rules on repealing naturalisation decisions or permissions to keep German citizenship, if these decisions or permissions were obtained by fraud.

**Austria**, **Bulgaria**, **Estonia**, **France**, **Greece**, **Hungary**, **Ireland**, **Malta**, **Poland** and **Portugal** provided data on the number of individuals applying for naturalisation and/or citizenship, with applications for citizenship ranging from 1 728 (**Poland**) to 18 026 (**Greece**) and 27 765 (**Ireland**). For many, there had been a continuous tendency of decrease in the number of applications over recent years (**Bulgaria**, **Estonia**, **France**), which was considered to be partly due to the economic crisis. **Portugal** observed an increase of registry facilities in 2009, which could process applications for naturalisation, with 21 397 naturalisation applications processed. In order to answer queries on issues of nationality and citizenship, a telephone helpdesk was introduced during 2009.

The requirement regarding the submission of documents was tightened in the **Netherlands** in order to remove any inconsistencies in procedure. Furthermore, the possibility of a

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<sup>54</sup> Grondwettelijk Hof, arrest 2009/85 van 14 mei 2009 and Hof van Cassatie, arresten van 20 februari 2009

Memorandum of Understanding in order to provide better information on how to acquire or regain Dutch or Surinam nationality was outlined. With regard to stateless persons, a UNHCR roundtable discussion took place in the **Slovak Republic**, with regard to the need for clear and uniform rules in assessing a person as a stateless person.

#### **4.9 Illegal Immigration**

The following subsections describe the developments in Member States' policies with regard to illegal immigration. Developments in the context of the Pact commitments, outlined in [Section 4.9.1](#) concern case-by-case regularisation, as well as actions and penalties taken against those who exploit illegal immigrants. In [Section 4.9.2](#), complementary developments are then outlined regarding data on illegally-staying migrants, as well as visa and cooperation schemes entered into during the reference period.

##### **4.9.1 European Pact on Immigration and Asylum**

***Commitment: II.(a)*** to use ***only case-by-case regularisation, rather than generalised regularisation, under national law, for humanitarian or economic reasons;***

Many Member States reported that they had used case-by case regularisation during the reporting period (**Austria, Belgium, Estonia, Finland, France, Germany, Greece, Italy, Lithuania, Netherlands, Portugal, Spain**). Several other Member States indicated that they had not undertaken any form of regularisation (**Bulgaria, Czech Republic, Hungary, Ireland, Malta, Slovak Republic, Sweden**).

The reasons reported for regularisation varied. In some Member States the reasons for regularisation were of humanitarian nature (**Austria, Belgium**) whilst in others the reasons were linked to the economy and employment (**Belgium, France, Greece, Italy**), or both (**Germany, Portugal**). Other Member States used grounds such as close ties to the Member State, study and integration reasons, health reasons or extraordinary reasons justified by a competent authority (**Estonia, Germany, Greece, Lithuania, Netherlands, Portugal, Spain**).

**Belgium** and **Italy** described that in 2009 new regularisation schemes were undertaken. **Belgium** introduced measures with regard to long lasting asylum procedures and urgent humanitarian situations taking into consideration current practice related to international conventions and the ECHR. **Italy** had launched a large-scale regularisation process for those irregularly employed in the area of domestic work or in activities related to the care for the

sick and/or disabled. Almost 300,000 applications were received (180 408 for domestic workers and 114 336 for assistants to the sick/disabled), the main nationalities represented being from Ukraine and Morocco<sup>55</sup>.

**Germany** indicated that it was not taking any measures to legalise the residence of immigrants staying illegally and that it continued to look at this critically in light of the current economic crisis. However, the *Residence Act* provided that third-country nationals who were subject to an enforceable obligation to leave the country, but who had resided in the Federal territory for several years on grounds of an exceptional leave to remain („Duldung“) and who had integrated themselves, could – under specific circumstances – be granted a permanent perspective in Germany.

**Lithuania** and **Portugal** provided figures as to the number of illegally-staying third-country nationals who were regularised on a case-by-case basis during the reporting period. The figures ranged from 11 in **Lithuania** (in 2009), to 20 664 in **Portugal** (in 2009).

***Commitment: II.(g)*** to invite Member States to take rigorous action, also in the interest of the immigrants, by way of dissuasive and proportionate ***penalties against those who exploit illegal immigrants (employers, etc.)***;

**Spain** reported that it had transposed the Employer Sanctions Directive into national legislation. Some Member States indicated they were preparing for its future transposition (**Belgium, France, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Sweden**). The **United Kingdom** did not opt in to the Employers Sanctions Directive. However, it reported that introduction of civil penalties in February 2008 meant that the **United Kingdom** had a number of measures already in place to deal effectively with illegal employment issues.

Some Member States reported stepping up action in this area (**Austria, Italy, Lithuania, Poland, Portugal**). In **Poland**, since January 2009, the Border Guards were allowed to verify the legality of foreigners' employment on the whole national territory. In **Italy** and **Portugal**, more severe penalties were introduced for those who exploit illegal immigration. In **Austria**, different sanctions were in force concerning exploitation of illegally-staying immigrants, human smuggling and aiding and abetting illegal immigration.

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<sup>55</sup> The decision process for these applications is still ongoing.

A few Member States (**France, Latvia, Lithuania, Portugal**) provided data relating to enforcement. As to the number of businesses checked for the employment of illegally-staying third-country nationals, 628 raids were reported by **Latvia** for 2009. In **Lithuania**, the State Labour Inspectorate performed 730 checks for illegal employment, with 15 third-country nationals found to be working illegally.

With regard to the number of employers or entities that had been sanctioned for the employment of illegally-staying third-country nationals, ten were given administrative penalties in **Latvia**. In **Portugal**, 791 entities were penalised administratively for employing third-country nationals in an irregular situation. **France** mentioned the submission of 17 lawsuits against employers over the period of October 2008-October 2009 and the issuing of one fine.

#### **4.9.2 Additional/Complementary developments**

Cooperation arrangements to prevent and combat illegal immigration are in place in **Belgium** and **Germany**, both among national authorities (**Germany**) and with other Member States (**Belgium**). For **Belgium** actions undertaken to tackle the flow of migrants due to an upsurge, particularly from Calais, included bilateral agreements with **France** regarding rapid information exchange and possible common police controls. Procedures to identify third-country nationals who arrive undocumented were also initiated.

The mechanism for the quick exchange and comprehensive analysis of all available and relevant information and knowledge concerning illegal immigration between the competent authorities at both federal and Lander levels was newly conceptualised in **Germany**. With regard to the possibility for illegally staying migrants to receive medical treatment, **Germany** introduced administrative regulations implementing the *Residence Act*, inter alia, allowing such individuals to receive treatment in hospitals without having to fear detection and removal.

In **Estonia**, research was undertaken in order to receive information on how visa schemes were being violated by individuals in order to enable third-country nationals to enter illegally. Such violations occur, for example, in instances where legal possibilities such as tourism, transit, studies, business or personal contacts are used for illegal immigration. In **Luxembourg**, the *Minister for Immigration* was requested, in 2009, to further define the criteria used for deciding the regularisation of illegally staying migrants in light of the

political debates on this topic. This was particularly the case for nationals from Kosovo who were not entitled to a prolongation of their stay in Luxembourg.

For the **Netherlands**, an extension of powers in the context of supervision was proposed, through legislative reform, in order to ensure that the police and related authorities can perform their tasks in respect of the identification of third-country nationals more efficiently and effectively.

#### **4.10 Actions against human trafficking**

This section outlines Member States' policy concerning actions against human trafficking. In [Section 4.10.1](#), the commitments made under the Pact relating to human trafficking are addressed, which concern in particular cooperation with the countries of origin and transit. In [Section 4.10.2](#) complementary information is provided on additional developments in the Member States, including the criminalisation of human trafficking, as well as national programmes introduced in 2009 to combat this phenomenon.

##### ***4.10.1 European Pact on Immigration and Asylum***

***Commitment: II.(e)*** *to step up cooperation with the countries of origin and of transit, under the Global Approach to Migration, in order to control illegal immigration, in particular to follow with them an ambitious policy on police and judicial cooperation to combat international criminal organisations engaged in trafficking migrants and in human trafficking,*

Most Member States listed bilateral agreements/projects with third countries (**Austria, Belgium, Bulgaria, Czech Republic, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Hungary, Netherlands, Poland, Portugal, Slovak Republic, Spain, United Kingdom**), some of which expected to conclude additional agreements in the near future (**Ireland, Poland**). **Sweden** reported that they had not concluded any bilateral agreements with third states although it had been active at political level in the course of the Swedish EU Presidency. The **Netherlands** received criticism from international organisations, such as UNICEF and Defence for Children regarding the *Swift Action Teams* in Nigeria. These *Swift Action Teams* were criticised, specifically regarding minor victims of trafficking, as it was reported that the problem of trafficking in human beings is not tackled at the source, as the only thing that is realised is that it is made more difficult for traffickers in human beings to let their victims travel through the Netherlands.

As to the focus of the bilateral agreements with third countries, Member States reported that the agreements and cooperation focused on information exchange, police and border guard cooperation, such as conducting joint crime investigations and cross-border operations against illegal immigration and human trafficking, as well as on institutional capacity building of third states (**Austria, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Poland, Portugal, Slovak Republic, Spain, United Kingdom**). Regarding the latter, **United Kingdom** for example, reported that it had contributed to capacity building of relevant authorities in a number of jurisdictions by helping to improve the investigation and prosecution of offences. **Italy** referred to the training of law enforcement units in Iraq and **Portugal** to capacity-building of Brazilian federal police and consular staff. **Spain** created contacts with key African countries to achieve closer cooperation in tackling illegal immigration and human trafficking, based on cooperation agreements and memoranda of understanding. In **Lithuania**, bilateral cooperation was being developed on state border security issues with the Republic of Belarus, the Russian Federation (Kaliningrad area), Georgia, Moldova and Azerbaijan.

Some Member States also referred to close cooperation with regional and international organisations (**France, Greece, Ireland, Italy, Latvia, Lithuania, Slovak Republic**). Some of these mentioned that they cooperated and exchanged information with Europol and/or Interpol, (**France, Greece, Italy, Latvia, Luxembourg, Slovak Republic**) whilst others (**Ireland, France**) referred to agreements with ILO including concerning, for example, actions against forced labour, human trafficking and the elimination of child labour (**Ireland**). **Hungary** referred to its cooperation within the framework of the Söderköping process and the Budapest process. The participation of **Lithuania** in the Council of the Baltic Sea States in the field of the Baltic Sea Region Border Control Cooperation was outlined.

*And to provide better information to communities under threat so as to avoid the tragedies that can occur, particularly at sea;*

Some Member States reported on information campaigns targeting communities under threat of illegal immigration and/or exploitation in third states (**Belgium, Estonia, Finland, Greece, Italy, Poland, Portugal, Spain, United Kingdom**). The **United Kingdom**, in Nairobi, for example, reported that it had been working with the producers of a popular Kenyan soap opera to promote messages about the dangers of illegal immigration. **Belgium** had organised campaigns against illegal immigration in North Punjab, India by means of posters, brochures,

filmed documentaries, plays, etc. It also referred to an information campaign in the Democratic Republic of Congo and one concerning Brazilian illegally-staying migrants under threat of economic exploitation in **Belgium**. **Spain** set up an awareness campaign on illegal immigration in Senegal, during 2007, in collaboration with the IOM and the EU.

#### **4.10.2 Additional/Complementary developments**

In **Austria**, the residence permits for victims of human trafficking were revised in view of the humanitarian right to residence. A key element of the reform was the right of victims of human trafficking to apply for a temporary residence permit and that the granting of the permit did not solely depend on the discretionary power of the authorities. **Latvia** and **Portugal** introduced legislation criminalising human trafficking in accordance with the *Additional Protocol on Trafficking in Human Beings of the UN*, with **Latvia** imposing penalties on individuals who sent persons for sexual exploitation, even with the consent of the trafficked individual. In **Estonia**, a *Penal Code* has been drafted with explicit reference to human trafficking. The first conviction for human trafficking was made in **Portugal** in 2009, with two human trafficking cases brought before the Court of Appeal. With regard to the *Council of Europe Convention on Action against Trafficking in Human Beings*, both **Spain** and **Slovenia** ratified this Convention during 2009.

Some information on human trafficking was provided by **Finland** and **Germany**, with **Finland** having three suspected cases of human trafficking and **Germany** observing a possible decrease in human trafficking for labour exploitation, since its criminalisation in 2005. For both **Finland** and **Germany** the prominent countries of origin were from South East Asia.

In **Austria**, **Belgium**, **Finland**, **Latvia**, **Netherlands** and the **Slovak Republic**, systems were in place benefiting victims of human trafficking, including a project working with experts to identify victims of human trafficking among asylum applicants (**Slovak Republic**). Initiatives were undertaken by **Belgium** to increase awareness concerning child victims of trafficking. These initiatives included a list of signs that could indicate to border guards, when in contact with children, that a child might be the victim of human trafficking. A National Anti-Trafficking Hotline continued functioning in the **Slovak Republic**, resulting in the identification of five past victims of trafficking. The government of the **Netherlands**

announced that actions to combat trafficking in human beings were a key objective of national policy.

**Ireland, Latvia, Lithuania** and **Spain** introduced national strategies in place to combat human trafficking, such as the [Human Trafficking Prevention Programme 2009-2013](#)<sup>56</sup> in **Latvia** and the Integral Plan to Combat Human Trafficking for the Purposes of Sexual Exploitation (2009-2012) in **Spain**. Similarly in **Lithuania**, the Human Trafficking Prevention and Control Programme 2009 – 2013 was approved<sup>57</sup> by the Lithuania Government and **Ireland** published *A National Action Plan to Prevent and Combat Trafficking of Human Beings in Ireland 2009 – 2012*. **Finland** experienced difficult cases, which could be regarded as human trafficking, related to individuals entering the country on a visitor's visa. In order to combat this problem of trafficking in human beings, the *Ombudsman for Minorities* was appointed as the National Rapporteur on trafficking in human beings in order to undertake tasks which include following trafficking in human beings, issuing recommendations and providing legal counselling and legal aid to potential trafficking victims. The actual operations of the National Rapporteur started at the beginning of 2009 with a first report on its activities to be submitted in 2010. **Portugal** published a first report on the [Plan to Combat Human Trafficking](#) along with the first plan of activities of the [Observatory for Human Trafficking](#).

#### 4.11 Return Migration

Member States provided information regarding their implemented policies of Return Migration in 2009. Firstly, [Section 4.11.1](#) outlines developments in respect of the two commitments made in the Pact concerning return migration, particularly the conclusion of readmission agreements at EU, or bilateral level, as well as the introduction of incentive systems to assist voluntary return and to keep Member States informed of activities. [Section 4.11.2](#) consequently refers to additional and complementary information with regard to Return Migration, such as the modification of return legislation, as well as jurisprudence concerning Return Policy.

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<sup>56</sup>Cabinet Order No.590 of August 27, 2009 “On Human Trafficking Prevention Programme 2009–2013”.// The Latvian Herald, No.138, 01.09.2009

<sup>57</sup>Official Gazette, 2009, No 112-4761

#### ***4.11.1 European Pact on Immigration and Asylum***

The relevant commitments in this Pact for this sub-section are in particular:

***Commitment: II.(b)*** *to conclude readmission agreements at EU or bilateral level with those countries with which this is necessary, so that each Member State has the legal instruments to ensure that illegal immigrants are expelled; The effectiveness of EU readmission agreements will be evaluated; Negotiating directives that have not succeeded should be reviewed; Member States and the Commission will consult closely when future EU readmission agreements are negotiated;*

Some Member States reported that bilateral readmission agreements with third countries were concluded or entered into force in 2009 (**Belgium, Germany, Hungary, Luxembourg, Finland**). Other Member States referred to bilateral agreements in general (**Austria, Bulgaria, Czech Republic, Estonia, France, Greece, Ireland, Italy, Lithuania, Latvia, Poland, Slovak Republic, Spain, Sweden, United Kingdom**). Many Member States also stated that they were in the process of negotiating bilateral readmission agreements with third countries (**Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Netherlands, Poland, United Kingdom**). **Luxembourg** referred to earlier cooperation with third countries in the field of readmission through, for example, a memorandum of understanding with Nigeria. **Malta** reported that it had consulted the European Commission with regard to a potential readmission agreement with Libya.

Several Member States also referred to EU readmission agreements with third states (**Austria, Belgium, Czech Republic, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Netherlands, Poland, Portugal, Finland**). Within the framework of these EU readmission agreements, some Member States reported that they concluded or were in the process of negotiating the required implementation protocols with countries such as Albania (**Greece, Hungary, Malta, Poland, Slovak Republic**), Armenia (**Luxembourg**), Bosnia-Herzegovina (**Estonia, Malta, Netherlands**), the former Yugoslav Republic of Macedonia (**Estonia, Hungary, Lithuania, Latvia, Netherlands, Slovak Republic**), Hong Kong (**Malta**), Macao (**Malta**), Moldova (**Greece, Hungary, Latvia, Malta, Netherlands, Poland, Portugal, Slovak Republic**), Montenegro (**Malta, Slovak Republic**), Serbia (**Greece, Lithuania, Hungary, Latvia, Malta, Netherlands, Slovak Republic**), Russia

(Estonia, Finland, Greece, Hungary, Lithuania, Latvia, Malta, Netherlands, Poland, Portugal, Slovak Republic), Sri Lanka (Malta) and/or Ukraine (Hungary, Malta, Netherlands, Poland, Portugal, Slovak Republic).

In order to ensure readmission by third countries, France drew upon the practice of consular ‘laissez-passer’ and to readmission clauses adopted in agreements related to Concerted Management of Migration Flows.

***Commitment: II.(f)*** to invite Member States, specifically with the support of Community instruments, to devise ***incentive systems to assist voluntary return;***

*And to keep each other informed on this point in order to prevent the fraudulent return to the EU of those who receive such aid;*

Most Member States reported that incentive systems to assist voluntary return of illegally-staying immigrants were in place (Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Spain, Sweden, United Kingdom). From the information provided, it appears that increasingly, Member States were providing reintegration assistance to ensure successful and permanent return, rather than merely focusing on repatriating the individual to his/her country of origin.

The European Return Fund was also perceived as an important instrument to finance return incentives. In this respect, several Member States reported that they set up an incentive system or implemented return activities with the assistance of the European Return Fund (Austria, Belgium, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Slovak Republic). Greece, for example, reported on an ongoing programme involving collaboration between government and NGOs. Italy also cooperated with NGOs as part of EU funded projects.

Several Member States (Austria, Czech Republic, Hungary, Ireland, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, Spain, United Kingdom) referred to voluntary return programmes, which were set up in collaboration with/carried out by IOM. Some gave details on the content of these programmes (Austria, Belgium, Czech Republic, France, Germany, Hungary, Ireland, Lithuania, Luxembourg, Malta, Portugal, Spain, Sweden, United Kingdom). A few of these Member

States indicated providing different types of incentives depending on the category of the potential returnee (**Austria, Belgium, France, Ireland, Sweden, United Kingdom**). In **Belgium, Austria, Sweden** and the **United Kingdom**, persons who had applied for international protection were also eligible for reintegration grants. The **United Kingdom** provides assistance mainly “in kind” such as education, vocational training or job placements and offers added incentives to Iraqi and Afghan nationals specifically for rebuilding homes destroyed in conflict. **France** differentiated between voluntary and humanitarian return assistance and referred to the provision of reintegration assistance. Reintegration assistance was also mentioned by **Lithuania, Luxembourg** and **Slovak Republic**. **Hungary** and **Slovak Republic** referred to measures such as information campaigns, brochures, websites, toll free phone numbers and capacity building of those who worked on return, whilst **Poland** also reported on specific information measures for groups under threat of trafficking and exploitation.

Some Member States reported on new return schemes for legally residing immigrants who lost their job due to the current economic crisis (**Czech Republic, Spain**). In **Spain**, a new return scheme called APRE- Program was approved by Royal Decree 1800/2008. It foresees that unemployed migrant workers who desire to return to their countries have the opportunity of receiving in advance the complete amount of unemployment benefits to which they are entitled. Forty per cent of the amount would be paid in Spain and 60 per cent in the country of origin. Social Security contributions portability is also foreseen.

**France** and **Luxembourg** reported on the total budget for 2009 for return and reintegration assistance, i.e. 9,000,000 Euro and 185,000 Euro respectively. As to the maximum amount of financial help that individuals could be given, **France** reported on 2,000 Euro for a single adult, 3,000 Euro for a couple and 1,000 Euro per minor child (500 Euro from the fourth child onwards) within the context of voluntary return. Within the framework of humanitarian return, the amounts were limited to 300 Euro per adult and 100 Euro per minor child. Reintegration assistance, in the form of financial help with the start up of a business project, was provided by **France** up to 7,000 Euro. **Luxembourg** referred to a “reintegration stipend” (e.g. accommodation, clothing) of maximum 1 500 Euro and an “additional reintegration stipend” for setting up an activity that generated revenue, i.e. 1 500 Euro, and for job search, i.e. 600 Euro. **Belgium** also reported providing up to 2 000 Euro for persons starting a small-scale self-employed activity in the country of origin.

Many Member States provided data on the number of third-country nationals who voluntarily returned with assistance through nationally organised programmes in 2009 (**Austria, Bulgaria, Czech Republic, Estonia, France, Germany, Ireland, Luxembourg, Portugal, Spain, United Kingdom**). Figures ranged from 3 voluntarily returned in **Estonia** to 3 549 in **Spain**. **Greece** outlined that 464 persons were prepared for voluntary return in 2009.

Only one Member States reported on additional national measures to prevent abuse of voluntary return programmes (**France**). The Member State had set up a computer-based registration system to ensure a proper administrative and financial follow-up of return assistance, which also enabled identification of possible fraudulent returns to **France**.

#### **4.11.2 Additional/Complementary developments**

**Belgium** modified legislation on return, which included in particular amendments regarding the terms of appeal. This legislation distinguishes between two groups of third-country nationals; non-nationals who are not detained can lodge an appeal within thirty days of receiving the decision, whereas non-nationals detained in closed centres have fifteen days to appeal such a decision.

Case law regarding the effect of *Deportation Orders* on family life in **Ireland** was decided. This jurisprudence confirmed the appropriate test<sup>58</sup> to be applied by the authorities when issuing a Deportation Order in respect of non-EEA national parents of Irish citizens. Similarly, it confirmed the appropriate test to be used for a non-parental family member of a child (who is a national of Ireland) which may be considered within the remit of cancelling a *Deportation Order* that would otherwise have the effect of splitting a family.<sup>59</sup>

The government of the **Netherlands** committed itself to improving the possibilities to make third-country nationals return and made commitments to this end. These were in the areas of co-operation with countries of origin, improvement of co-operation with local authorities, the adoption of a more effective approach for the individual third-country national, the extension of possibilities for co-operating organisations to effectively work at realising return and the prioritisation of measures to deal with third-country national criminals.

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<sup>58</sup>*Alli v. Minister for Justice, Equality and Law Reform and B (A) & Ors v Refugee Applications Commissioner & Ors*

<sup>59</sup>*O (Y) v Minister for Justice, Equality and Law Reform*

#### 4.12 External Relations/Global Approach

The following sub-sections describe the developments regarding External Relations and the Global Approach. [Section 4.12.1](#) outlines the commitments made in the context of the Pact relating to bilateral agreements with countries of origin and transit, partnership countries and their opportunities for legal migration in the EU, capacity-building in third countries, the promotion of co-development actions, partnership between the EU and Africa, the deployment of the key tools of the Global Approach to Migration and other policies regarding the EU's development cooperation policy. [Section 4.12.2](#) then outlines additional information provided by Member States regarding the Global Approach.

##### *4.12.1 European Pact on Immigration and Asylum*

***Commitment: V.(a)*** *conclude EU-level or bilateral agreements with the countries of origin and of transit containing, as appropriate, clauses on the opportunities for legal migration adapted to the labour market situation in the Member States, the control of illegal immigration, readmission, and the development of the countries of origin and of transit;*

*The European Council invites the Member States and the Commission to inform and consult each other on the objectives and limits of such bilateral agreements, and on readmission agreements;*

Several Member States reported on their participation in the Mobility Partnership with Moldova (**Bulgaria, Czech Republic, Germany, Greece, Hungary, Lithuania, Poland, Portugal, Slovak Republic, Sweden**), Georgia (**Bulgaria, Estonia, France, Lithuania, Latvia**) and Cape Verde (**Spain, Luxembourg, Portugal**).

Two Member States mentioned the setting up of new, more comprehensive and integrated agreements regulating legal migration, the fight against illegal immigration, cooperation to development and integration (**Spain**: Framework Agreements for Cooperation on Immigration; **France**: Agreement related to Concerted Management of Migration Flows). These agreements included provisions concerning the movement of persons and students, labour migration, the fight against illegal immigration (i.e. readmission provisions and police cooperation) and development (i.e. social and economic reintegration, development projects with underdeveloped regions). **Spain** had signed these new agreements with six countries (Cape Verde, Gambia, Guinea-Bissau, Guinea, Mali and Niger), while **France** had concluded these with nine countries (Gabon, Benin, Congo, Senegal, Tunisia, Mauritius, Cape Verde,

Burkina Faso, Cameroon) and was negotiating with three other countries (Mali, Egypt, Equatorial Guinea).

Under this commitment, many Member States referred to bilateral agreements which, however, did not necessarily reflect the concept of an integrated and comprehensive approach, such as readmission agreements (**Belgium, Estonia, Finland, Italy, Luxembourg, Austria, United Kingdom**), police cooperation agreements (**Austria**), visa facilitation agreements (**Austria**), agreements with third countries to combat illegal immigration (**Hungary**) and/or agreements or pilot projects related to temporary migration (**Lithuania, Portugal**). One Member State reported (**Greece**) on its involvement in an AENEAS project focusing on readmission and reintegration. **Germany** reported on a draft framework agreement on cooperation in migration issues with the Republic of Ghana.

***Commitment: V.(b)** encourage Member States, as far as they are able, to offer the **nationals of partner countries to the East and South of Europe opportunities for legal immigration adapted to the labour market situation in Member States, enabling those nationals to acquire training or professional experience and accumulate savings that they can use for the benefit of their home countries.***

In order to ensure that nationals of partner countries to the East and South of Europe had opportunities for legal migration, two types of approaches were identified amongst the Member States reporting on this commitment (**Germany, Greece, France, Hungary, Italy, Lithuania, Poland, Spain, Sweden**). One group of Member States referred implicitly to and/or repeated their national labour policy as described under Commitment I(a), as offering specific opportunities for citizens from countries in East and South Europe (**Greece, France, Italy, Poland, Spain, Sweden**). One Member State (**Italy**) reported on the establishment of preferred entry quotas for citizens from certain countries of East and South Europe (e.g. Moldova, Albania) and another (**Greece**) mentioned agreements favouring labour migration of seasonal workers (e.g. Albania and Egypt). Two countries (**Poland, Sweden**) reported on their labour migration reform which facilitated the recruitment and work possibilities of foreigners in general (**Sweden**) and from specific countries (i.e. Ukraine, Belarus, Russian Federation, Moldova) (**Poland**) on their territory. One Member State (**Lithuania**) reported on the existence of policy guidelines which gave priority to highly-skilled workers from source countries (i.e. Belarus, Ukraine, Moldova and South Caucasus countries).

A second group of Member States referred to initiatives and/or projects developed within the framework of the Mobility Partnership with Moldova (**Germany, Hungary**), which encouraged the legal migration of Moldovans by providing them with information on opportunities for legal migration (**Hungary**). **Portugal** reported on a 2009 protocol proposal for admitting Cape Verde citizens for temporary or permanent subordinate professional activities, as well as professional internships within the framework of the Mobility Partnership with Cape Verde.

In addition to the new, comprehensive and integrated agreements regulating legal migration, the fight against illegal immigration, readmission, reintegration and development (see V.(a) above), **France** also reported on the negotiation of agreements related to mobility of young people and labour migration with countries of East and South Europe (e.g. the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Russia). **Spain** mentioned the signature of Agreements regulating and managing Employment Migration Flows (e.g. with Morocco, Mauritania, Ukraine) which offered seasonal and stable legal migration opportunities. Finally, another Member State (**Hungary**) referred to trans-border cooperation to favour legal migration of ethnic national communities living in adjacent countries.

*The European Council invites Member States to encourage in this context forms of temporary or circular migration, in order to prevent a brain drain;*

Several Member States set up projects and/or agreements encouraging temporary or circular migration (**Estonia, France, Netherlands, Spain and Portugal**) or indicated that they were planning to do so or were open to considering such projects (**Sweden, United Kingdom**).

Two Member States (**France, Spain**) referred to the new, more comprehensive and integrated agreements (see V.(a) above) which favoured temporary and circular migration, including a commitment to return. **France** provided the example of specific provisions aimed at facilitating entry of young nationals from signatory countries, offering them the possibility to have their first professional experience in France in view of increasing their employability in their country of origin once returned.

In addition, **Netherlands** mentioned the launch of a pilot project on circular migration aimed at encouraging trained labour migrants from Indonesia and South Africa to work and learn in **Netherlands** for a maximum of two years. The project included, for example, measures to facilitate the recognition of skills and competences acquired in **Netherlands**, in order to

favour return and reintegration in the home countries. **Estonia** also indicated the simplification of legal requirements to work in Estonia as a short term temporary migrant. **Portugal** referred to a pilot project which offered Ukrainian citizens the opportunity to work for six months in Portugal in very specific sectors of the economy (i.e. hotel, agriculture and restaurant) on a temporary visa. The project included reintegration support measures for those migrants returning to Ukraine, such as the set up of professional projects.

*The European Council invites Member States to encourage in this context forms of temporary or circular migration, in order to prevent a brain drain;*

**Estonia, France, Netherlands, Portugal, Spain** set up projects and/or agreements encouraging temporary or circular migration or indicated that they were planning to do so or were open to considering such projects (**Sweden, United Kingdom**).

Two Member States (**France, Spain**) referred to the new, more comprehensive and integrated agreements (see V. (a) above) which favoured temporary and circular migration, including a commitment to return. **France** provided the example of specific provisions aimed at facilitating entry of young nationals from signatory countries, offering them the possibility to have their first professional experience in France in view of increasing their employability in their country of origin once returned.

As to future measures, one Member State (**Sweden**) mentioned the creation of a parliamentary committee to explore and propose measures to facilitate circular migration. Another country (**United Kingdom**) also indicated its intention to develop the concept of circular migration. One Member State (**Luxembourg**) reported on a provision related to circular migration within the framework of the Mobility Partnership with Cape Verde and on the possibility to activate it in the future.

***Commitment: V.(c)*** *pursue policies of cooperation with the countries of origin and of transit in order to deter or prevent illegal immigration, in particular by capacity-building in those countries;*

Several Member States reported that they supported capacity building in third countries, including countries of origin and/or countries of transit (**Austria, Belgium, Finland, France, Germany, Greece, Hungary, Italy, Malta, Netherlands, Poland, Portugal, Slovak Republic, Spain, Sweden, United Kingdom**). Some of the reported capacity building and

cooperation measures with third countries included assistance to border control authorities, which have been listed under commitment III (f) above.

***Commitment: V.(d) integrate migration and development policies more effectively by examining how such policies may benefit the regions of origin of immigration, in coherence with other aspects of development policy and the Millennium Development Goals.***

Several Member States stressed the importance of integrating migration into development policies (**Belgium, Finland, France, Germany, Italy, Netherlands, Slovak Republic, Portugal, Sweden, United Kingdom**).

**United Kingdom**, for example, referred to its support for the remittances sector, and its general policy on reducing poverty in developing countries through recognising the link between migration and development. **Germany** reported that it played an active role in the EU cooperation platform on migration and development in Ethiopia. **France** referred to the Rabat action plan and the development of a three-year operational cooperation programme for 2009-2011, which included various measures to enhance the synergies between migration and development. These focused on, for example, support to policy-making in the areas of employment and socio-economic development, promoting circular migration, encouraging the use of remittances for development and enhancing the links between diasporas and their countries of origin.

**Austria, Belgium, Finland, Hungary, Slovak Republic, Sweden and United Kingdom** indicated that their development framework / strategies took into account the migration and development nexus. **Belgium, Portugal and Finland** reported on the importance of enhancing the synergies between migration and development and of their active role in the Global Forum on Migration and Development (GFMD). In this respect, **Belgium** organised the first GFMD in 2007. **Finland** reported that it seconded its first liaison officer to the Finnish embassy in Addis Ababa, Ethiopia in 2009, whose terms of reference included migration and development issues.

Some Member States reported that they planned to integrate migration further into their development cooperation policies (**Netherlands, Spain**). **Netherlands**, for example, reported that it was interested in further developing cooperation with third countries on circular migration, whilst **Spain** was including migration issues into the strategies of its decentralised development agencies.

*The European Council invites Member States and the Commission in this context to focus, within the sectoral priorities identified with the partner countries, on **solidarity development projects** that raise the living standards of citizens, for example in the areas of nutrition, health care, education, vocational training and employment;*

Several Member States referred to solidarity development projects with third countries (**Finland, Luxembourg, Malta, Portugal, Spain, Sweden**). Some of these projects related to health care (**Luxembourg, Sweden**) and water and sanitation (**Malta**), while other projects focused on education (**Luxembourg, Malta, Spain**), vocational training (**Luxembourg, Spain**), employment (**Finland, Luxembourg**), and local development (**Luxembourg**). A few Member States also reported on other solidarity cooperation projects in the field of strengthening institutions in third countries (**Spain**), providing support to vulnerable groups (**Spain**) and offering support to transformation and reform processes.

***Commitment: V.(e)*** *promote co-development actions that enable migrants to take part in the development of their home countries.*

Several Member States reported on their involvement in co-development actions aimed at enabling migrants to take part in the development of their home countries (**Austria, Germany, France, Hungary, Italy, Luxembourg, Portugal, Spain**).

**Germany** referred to its involvement in projects aimed at maximising the investment of remittances in the development of countries of origin, such as creating and strengthening small and medium-sized enterprises. **Spain** also financed projects in Latin America, the Caribbean and Africa focusing on the effective use of migrant remittances as an instrument for generating employment and promoting local development and social integration. Other Member States (**France, Spain**) mentioned their cooperation, for example through co-development projects, with migrant associations in order to help improving living conditions in the region and/or countries the latter represented. Another Member State (**Luxembourg**) referred to cooperation with certain Balkan States and regions (i.e. Montenegro, Kosovo and Serbian Sandjak) to enable rejected asylum-seekers and returned persons to take part in the development of their own countries.

In addition, two Member States (**Germany, Hungary**) referred to projects developed within the framework of the Mobility Partnership with Moldova, aimed at strengthening the link between the Moldovan diaspora and its home country and promoting co-development

projects. Two other Member States (**Luxembourg, Portugal**) mentioned projects developed within the framework of the Mobility Partnership with Cape-Verde, aimed at developing the sector of micro-finance by mobilising savings of the migrants' diaspora and/or by involving, in a more general way, the migrants' diaspora in the development of its country of origin.

*The European Council recommends that Member States support the adoption of specific financial instruments for **transferring migrants' remittances** securely and more cheaply to their countries for the purposes of investment and welfare insurance;*

Several Member States developed initiatives aiming at facilitating the transfer of migrants' remittances to their country of origin (**Germany, Greece, France, Italy, Netherlands, Portugal, Spain, United Kingdom**).

Some Member States helped to establish websites to improve clarity and transparency of information on remittances. These websites allow migrants to identify which financial institution offers the most favourable conditions for the transfer of money to their respective home countries (**France, Germany, Netherlands, Portugal, United Kingdom**). At least one Member State (**Spain**) signed agreements of intention with banks to reduce the costs of sending remittances. **Italy** indicated to have established a political roadmap to reduce costs of remittances, from the current 10% to 5% within five years.

In addition, several Member States reported on their participation in global initiatives, such as the G8 working group on remittances (**United Kingdom**) and the World Bank's work programme on remittances (**France**).

As to future measures, one Member State (**Sweden**) indicated that it planned to address the issue of cheaper and safer transfer of remittances as part of its national policy for global development. It envisaged organising a series of hearings with key stakeholders.

**Commitment: V.(f)** *firmly implement the **partnership between the EU and Africa** agreed in Lisbon in December 2007, the conclusions of the first **Euro-Mediterranean ministerial meeting** on migration held in Albufeira in November 2007 and the **Rabat action plan** and to that end call on the second Euro African ministerial conference on migration and development in Paris in autumn 2008 to decide on practical measures;*

*develop, in accordance with its conclusions of June 2007, the **Global Approach to Migration to the East and South-east of Europe**, and, in this respect, welcome the initiative of a ministerial conference on this topic in April 2009 in Prague;*

*continue to make **use of the existing political and sectoral dialogues, particularly with the countries of Latin America, the Caribbean and Asia**, in order to consolidate mutual understanding of what is at stake in the field of migration and intensify current cooperation;*

**France** indicated that it had organised the second Euro-African ministerial conference on migration and development. **France** also referred to the adoption of a three-year cooperation programme (2009-2011) during this conference, which aimed at converting the Rabat action plan into operational measures and confirmed that its national development policy was in line with this cooperation programme.

**Spain** reported that it was an active promoter of the Global Approach to Migration which in turn was the main driver of the Rabat Process and that it had promoted from the start of the Rabat Process political dialogue, links for friendship and cooperation between the EU and the African countries.

Most of the Member States did not provide any input related to this particular commitment, except **Czech Republic** which indicated that it organised the ministerial conference entitled “Building Migration Partnerships.” The aim of the conference was to reinforce the implementation of the Global Approach to Migration with east and southeast EU neighbouring countries by approving the Joint Declaration defining concrete areas of co-operation.

#### **4.12.2 Additional/Complementary developments**

In **Estonia**, the supplemented *Estonian Development Cooperation and Humanitarian Aid Development Plan 2006-2010* and its 2010 implementation plan was approved by the government. Afghanistan, Georgia, Ukraine and Moldova were the four priority countries,

receiving the largest volume of assistance. These priority countries were selected on the basis of their needs and the additional value of assistance to their development. The volume of development assistance in 2009 was 198 million EEK (approximately €12.7 million).

*A Medium Term Strategy for Official Development Assistance of the Slovak Republic for the years 2009 – 2013* was approved in the **Slovak Republic** in 2009. This Strategy serves as the basis for further planning and programming documents for the next five years in the area of official development assistance. One of the basic principles of the Strategy is to strengthen the coherence of Slovak development policy with the country's priorities in foreign, security, economic and migration policies.

#### **4.13 Other Policy areas/topics**

Some Member States provided information on other policy areas and topics which were deemed to be relevant, including policies concerning gender equality, as well as reports published in 2009 which impacted on migration and asylum policy.

In relation to the educational provisions for third-country nationals in **Ireland** a number of relevant reports were published, highlighting that there was an achievement gap between those pupils who spoke English at home and those who did not. Furthermore the *Refugee Immigration Service* released a position paper regarding access to post-secondary level education for refugees.

With regard to medical testing, **Netherlands** introduced a new procedure for the testing of TB for the purposes of receiving a residence permit. This new procedure allows the issuance of a residence permit on the basis of the third-country national's preparedness to undergo such a medical examination.

Gender equality was an issue of primary concern in **Sweden's** *Policy for Global Development*.<sup>60</sup> On the prevention of domestic violence, **Spain** approved a plan to deal with and prevent domestic violence within the migrant population for the period 2009-2012.

**Spain** entered into agreements in 2009 with Colombia, Peru, Argentina, Iceland, Trinidad and Tobago, Ecuador, Cape Verde, Chile, Paraguay, New Zealand, Bolivia and Uruguay in order to ensure the participation of third-country nationals in Municipal elections.

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<sup>60</sup> Government Bill 2002/03:122; Government Communication 2007/08:89).

## 5. IMPLEMENTATION OF EU LEGISLATION

This chapter outlines the developments that have taken place regarding EU legislation in 2009. Adopted EU legislation in 2009 is initially outlined ([Section 5.1](#)), as well as proposed EU legislation ([Section 5.2](#)). Details of Member States' transposition are then given ([Section 5.3](#)), followed by experiences and debates which have arisen in some Member States ([Section 5.4](#)).

### 5.1 Adopted EU Legislation 2009

In terms of EU asylum and immigration legislation adopted in 2009, these were:

#### 5.1.1 External Borders

- [Regulation \(EC\) No 444/2009](#)<sup>61</sup> of the European Parliament and of the Council of 28 May 2009 amending Council Regulation (EC) No 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States
- [Regulation \(EC\) No 81/2009](#)<sup>62</sup> of the European Parliament and of the Council of 14 January 2009 amending Regulation (EC) No 562/2006 as regards the use of the Visa Information System (VIS) under the Schengen Borders Code.

#### 5.1.2 Visas

- [Council Decision \(2009/171/EC\)](#)<sup>63</sup> of 10 February 2009 amending Annex 2, Schedule A, to the Common Consular Instructions on the visa for the diplomatic missions and consular posts, in relation to visa requirements for holders of Indonesian diplomatic and service passports.
- [Regulation \(EC\) No 390/2009](#)<sup>64</sup> of the European Parliament and of the Council of 23 April 2009 amending the Common Consular Instructions on visas for diplomatic missions and consular posts in relation to the introduction of biometric including provisions on the organisation of the reception and processing of visa applications.
- [Commission Decision 2009/377/EC of 5 May 2009](#)<sup>65</sup> adopting implementing measures for the consultation mechanism and the other procedures referred to in article 16 of Regulation (EC) No 767/2008 of the European Parliament and of the Council

<sup>61</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:142:0001:0004:EN:PDF>

<sup>62</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:035:0056:0058:EN:PDF>

<sup>63</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:061:0017:0018:EN:PDF>

<sup>64</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:131:0001:0010:EN:PDF>

<sup>65</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009D0377:EN:NOT>

concerning the Visa Information System (VIS) and the exchange of data between Member States on short stay visas (VIS Regulation).

### 5.1.3 *Immigration*

- [Commission Decision 2009/350/EC of 28 April 2009](#)<sup>66</sup> on the request by Ireland to accept Council Decision 2008/381/EC establishing a European Migration Network
- [Council Directive 2009/50/EC of 25 May 2009](#)<sup>67</sup> on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

### 5.1.4 *Fight against illegal immigration*

- [Council Directive 2009/52/EC of 18 June 2009](#)<sup>68</sup> providing for minimum standards on sanctions and measures against employers of illegally-staying third country nationals

## 5.2 **Proposed EU Legislation 2009**

The following legislation was proposed in 2009:

- [COM\(2009\) 554 final](#).<sup>69</sup> Proposal for a Directive of the European Parliament and of the Council on minimum standards on procedures in Member States for granting and withdrawing international protection (Recast)
- [COM\(2009\) 551 final](#).<sup>70</sup> Proposal for a Directive of the European Parliament and of the Council on minimum standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted (Recast)
- [COM\(2009\) 342 final](#).<sup>71</sup> Amended proposal for a Regulation of the European Parliament and of the Council concerning the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...] [establishing the criteria and mechanisms determining the Member State responsible

<sup>66</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:108:0053:0053:EN:PDF>

<sup>67</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:155:0017:0029:en:PDF>

<sup>68</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF>

<sup>69</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009PC0554:EN:NOT>.

<sup>70</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009PC0551:EN:NOT>

<sup>71</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009PC0342:EN:NOT>

for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person]

- [COM\(2009\) 456 final](#).<sup>72</sup> Proposal for a Decision of the European Parliament and of the Council amending Decision No 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' and repealing Council Decision 2004/904/EC
- [COM\(2009\) 66 final](#).<sup>73</sup> Proposal for a Regulation of the European Parliament and of the Council establishing a European Asylum Support Office
- [COM\(2009\) 67 final](#).<sup>74</sup> Proposal for a Decision of the European Parliament and of the Council amending Decision No 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 by removing funding for certain Community actions and altering the limit for funding such actions

### 5.3 Member States' Transposition of Immigration and Asylum Acquis

This Section outlines developments in the transposition by the Member States of EU acquis in 2009 only. An overview of all transposition in 2009 is provided in [Annex 1](#).

In **Estonia**, the new *Aliens Act 2009* foresaw amendments arising from *Regulation 810/2009/EC*<sup>75</sup> concerning the Visa Code, while also transposing *Directive 2003/86/EC*<sup>76</sup> on the right to family reunification and *Directive 2004/114/EC*<sup>77</sup> on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service into national law.

<sup>72</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009PC0456:EN:NOT>

<sup>73</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009PC0066:EN:NOT>

<sup>74</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009PC0067:EN:NOT>

<sup>75</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:243:0001:0058:EN:PDF>

<sup>76</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:251:0012:0018:EN:PDF>

<sup>77</sup> Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:375:0012:0018:EN:PDF>

Amendments were also proposed by **Bulgaria** to legislation which had additionally transposed *Regulation 1030/2002/EC*<sup>78</sup> and *Regulation 380/2008/EC* laying down a uniform format for residence permits for third-country nationals<sup>79</sup> and *Regulation 2252/2002/EC*.<sup>80</sup> Both the **Czech Republic** and **Hungary** were preparing to transpose *Regulation 810/2009/EC* concerning the Visa Code, whilst for *Directive 2009/50/EC* on the conditions of entry and residence of third-country nationals for the purposes of highly-qualified employment<sup>81</sup> and *Directive 2009/52/EC* providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals,<sup>82</sup> **Belgium, Czech Republic, France, Lithuania Netherlands** and **Portugal**, had begun the transposition process.

**Slovenia** additionally utilised its amended legislation in 2009 in order to transpose *Council Regulation 2252/2004/EC*<sup>83</sup> on the standards for security features and biometrics in passports and travel documents, as well as *Regulation 380/2008/EC* laying down a uniform format for residence permits for third-country nationals.<sup>84</sup>

The **Czech Republic, France, Greece, Lithuania, Luxembourg**, and the **Netherlands** started preparations to fully transpose *Directive 2008/115/EC on common standards and procedures for illegally staying third-country nationals*<sup>85</sup> into national law, while **Bulgaria** and **Slovak Republic** transposed this directive in 2009.

<sup>78</sup> Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:157:0001:0007:EN:PDF>

<sup>79</sup> Council Regulation (EC) No 380/2008 of 18 April 2008 amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:115:0001:0007:EN:PDF>

<sup>80</sup> Commission Regulation (EC) No 2252/2002 of 17 December 2002 concerning applications for export licences for rice and broken rice with advance fixing of the refund, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:343:0010:0010:EN:PDF>

<sup>81</sup> Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:155:0017:0029:EN:PDF>

<sup>82</sup> Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF>

<sup>83</sup> Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issues by Member States, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:385:0001:0006:EN:PDF>

<sup>84</sup> Council Regulation (EC) No 380/2008 of 18 April 2008 amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:115:0001:0007:EN:PDF>

<sup>85</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally-staying third-country nationals, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>

In order to assure the better implementation of legislation into national law, **Germany, Greece, Hungary, Ireland, Portugal, Slovak Republic** proposed, or undertook, a reform of their national legislation. With regard to the Visa Information System (VIS), the authorities in **Germany** adopted a law granting police and prosecution authorities, as well as the secret services, access to the system. Though **Portugal** did not transpose any EU legislation into its legal framework during 2009, decisions were adopted concerning the implementation of the VIS, as well as *Commission Decision 2009/756/EC* laying down specifications for the resolution and use of fingerprints for biometric identification and verification in the Visa Information System<sup>86</sup> and *Regulation 1104/2008/EC* on migration from the Schengen Information System.<sup>87</sup> The **Slovak Republic** introduced changes relating to the adoption of the visa code, while a circular was issued by **Greece** in order to clarify the application of *Directive 2003/109/EC* concerning the status of third-country nationals who are long-term residents.<sup>88</sup> Both **Hungary** and **Ireland** tabled draft legislation which, when adopted, would transpose a number of EU legislation, including *Regulation 767/2008/EC* concerning the Visa Information System,<sup>89</sup> *Council Decision 2008/633/EC* concerning access for consultation of the Visa Information System<sup>90</sup> (**Hungary**) and *Directive 2001/55/EC* on minimum standards for giving temporary protection<sup>91</sup> (**Ireland**).

In addition to the transposition of EU acquis, **Germany** undertook technical implementation and fine-tuning for the *EU Regulation on Community Statistics on Migration and International Protection*. In **Slovenia** rules were adopted on the issue, content and format of

<sup>86</sup>Commission Decision of 9 October 2009 laying down specifications for the resolution and use of fingerprints for biometric identification and verification in the Visa Information System, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:270:0014:0017:EN:PDF>

<sup>87</sup>Council Regulation (EC) No 1104/2008 of 24 October 2008 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:299:0001:0008:EN:PDF>

<sup>88</sup>Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0109:en:NOT>

<sup>89</sup>Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:218:0060:0081:EN:PDF>

<sup>90</sup>Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (Vis) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:218:0129:0136:EN:PDF>

<sup>91</sup>Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:212:0012:0023:EN:PDF>

residence permits for Citizens of the Swiss Confederation and their family members and residence permits began to be issued to those persons.<sup>92</sup>

#### 5.4 Experiences, debates in the (non-) implementation of EU legislation

Debates occurred in 2009 concerning both the implementation of different EU legislation ([Section 5.4.1](#)), as well as the effects of case law on both EU and national legislation ([Section 5.4.2](#)).

##### 5.4.1 Debates related to EU legislation

Several Member States (**Czech Republic, Finland, Germany, Greece, Ireland, Slovak Republic, Spain**), outlined debates which occurred in 2009 regarding the implementation of EU legislation, such as legislation in the **Slovak Republic** regarding highly-skilled workers.

**Finland, Germany, Netherlands** outlined difficulties and clarifications regarding *Directive 2004/83/EC* (Qualification Directive)<sup>93</sup>, with the Federal Administrative Court in **Germany** analysing the conditions under which asylum applicants may be recognised as refugees for religious reasons.

The implementation of *Directive 2005/36/EC on Professional Qualifications*<sup>94</sup> proved difficult in **Germany** as it required the amendment of more than 100 laws and ordinances at both Federal and Lander level. **Hungary** referred a legal issue on legal interpretation difficulties to the *European Court of Justice* for preliminary ruling regarding this directive.

The results of a study published in 2009 in the **Netherlands** on the use of Community family reunification law, showed that in three quarters of the cases, family reunification on the basis of Community Law concerned nationals of other Member States residing in the Netherlands (in particular nationals from **Germany, Portugal** and the **United Kingdom**).<sup>95</sup>

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<sup>92</sup>Temporary residence permits are not issued to the aforementioned category of aliens on the basis of the Slovene Aliens Act, but on the basis of provisions of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons.

<sup>93</sup>Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML>

<sup>94</sup>Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:255:0022:0142:EN:PDF>

<sup>95</sup>This is considered to be the ‘Belgian route’

The question of asylum was a matter of debate in the **Czech Republic, Germany, Greece, Spain**. For the **Czech Republic**, this was due to critical comments made by non-governmental organisations regarding the [Common European Asylum System](#) and new proposals for EU legislation. In **Germany**, although 1 855 take charge requests were made to **Greece** by invoking the Dublin procedure, there were a number of temporary suspensions resulted from decisions taken by the Constitutional Court, taking the refugees' reception facilities in **Greece** into account. In **Spain**, debate centred around the application of the *Return Directive*, along with the reform of law on asylum and foreign nationals.

In **Greece**, measures extending the detention time of migrants awaiting removal was a matter of increasing discussion. In addition to this, the establishment of the new procedure for the examination of applications for asylum was criticised, as it was considered by the *UN High Commission for Refugees* as not sufficiently ensuring a fair and effective procedure for the recognition of refugee status.

#### 5.4.2 Debates related to EU Case Law

**Finland, Germany, Ireland, Netherlands** had a number of cases in their Member States, regarding the implementation of different EU legislation. **Germany** in particular outlined the debate which occurred due to the *Soysal* judgment from the European Court of Justice regarding visa policy towards Turkish nationals providing cross border services.<sup>96</sup>

With regard to *Directive 2004/38/EC*<sup>97</sup> on the free movement of EU citizens, **Austria, Bulgaria** and **Finland** made attempts to further amend their legislation, which had initially transposed the Directive, owing to the outcome of the *Metock* judgment<sup>98</sup> in 2008. In **Austria**, it was considered necessary to apply further control and restriction mechanisms on this Directive in order to balance the impact of new provisions. **Finland**, following a 2008 project,

<sup>96</sup>C-228/06 Judgment of the Court (First Chamber) of 19 February 2009 (reference for a preliminary ruling from the Oberverwaltungsgericht Berlin-Brandenburg (Germany)) — Mehmet Soysal, Ibrahim Savatli v Bundesrepublik Deutschland, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:090:0002:0002:EN:PDF>

<sup>97</sup>Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:158:0077:0123:EN:PDF>

<sup>98</sup>Case C-127/08 Blaise Behetan Metock and Others v Minister for Justice, Equality and Law Reform: This case concerned the right of free movement and residence of Union citizens and their spouses in the territory of Member States. The European Court of Justice held that third-country national spouses of Union citizens did not have to be legally resident in another Member State of the EU before exercising free movement with their EU-citizen spouse. The European Court of Justice applied Directive 2004/38/EC and held that restricting the third-country national spouse from moving to another Member State of the EU would hinder the EU citizen's right to free movement.

undertook to make the section of their *Aliens Act*, concerning the free movement of EU citizen's family member, correspond to the European Court of Justice's new interpretation of the content of this directive and a bill concerning these amendments was presented to the Parliament in 2009.

Directive 2004/38/EC proved to be a controversial topic, not only in case law, in **Belgium** and **Ireland** also. In **Ireland**, following on from the debate regarding the *Metock* judgment, there was further litigation in the High Court regarding not only the transposition of *Directive 2004/38/EC* on the free movement of EU citizens and their families, but also on *Directive 2004/83/EC* (Qualification Directive).<sup>99</sup> Due to the *Metock* judgment, some Member States have called for an amendment to this Directive due to its broad scope of application and interpretation by the European Court of Justice, particularly regarding the issuance of residence permits to third-country national spouses who were not legally resident in another EU Member State, before exercising free movement with their EU national spouse. Similarly, the Commission published guidance for better transposition and application of Directive 2004/38/EC.<sup>100</sup>

The *European Court of Human Rights* (ECHR) imposed interim measures on the **Netherlands** in several individual cases, suspending the transfer of the asylum applicants until 'further notice'.

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<sup>99</sup>Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML>

<sup>100</sup> COM(2009) 313, available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009DC0313:EN:NOT>.

**Overview of equivalent national laws which have been (in force), or steps taken in order to begin to be (not yet passed), implemented during 2009 in order to transpose EU legislation<sup>101</sup>**

EU Legislation	Equivalent National Law (status)
<a href="#">Directive 2001/40/EC</a> (mutual recognition of decisions of expulsion)	<p><b>Malta:</b> Amendment to Immigration Act through Bill number 20 of 2009 (<i>in force</i>)</p> <p><b>Poland:</b> Amendment to Act on Foreigners 2003 (<i>in force</i> 1<sup>st</sup> January 2009)</p> <p><b>Spain:</b> Amendment to Organic Law 4/2000 through Organic Law 2/2009 (<i>in force</i>)</p>
<a href="#">Directive 2003/86/EC</a> (Family Reunification Directive)	<p><b>Spain:</b> Law 12/2009 (<i>in force</i>)</p> <p><b>Estonia:</b> Aliens Act 2009 (<i>in force</i>)</p>
<a href="#">Directive 2003/109/EC</a> (Long-term residents Directive)	<p><b>Belgium:</b> Royal Decree 23<sup>rd</sup> December 2008 (<i>in force</i> on 1<sup>st</sup> January 2009, complementing set of laws and decrees transposing the directive)</p> <p><b>Lithuania:</b> Ordinance 10<sup>th</sup> April 2009 (<i>not yet passed</i> - work group instructed to develop and submit to Government a draft law on the Legal Status of Aliens to adjust Law to compliance with Directive)</p> <p><b>Spain:</b> Amendment to Organic Law 4/2000 through Organic Law 2/2009 (fully incorporated)</p>
<a href="#">Directive 2003/110/EC</a> (Assistance in cases of transit removal by air)	<p><b>Belgium:</b> Law 15<sup>th</sup> December 2008 (<i>in force</i> - law pertaining to assistance during transit in the framework of removals by air published in Belgian Official Journal in January 2009)</p> <p><b>Spain:</b> Amendment to Organic Law 4/2000 through Organic Law 2/2009 (<i>in force</i>)</p>
<a href="#">Directive 2004/38/EC</a> (Free Movement Directive)	<p><b>Austria:</b> Settlement and Residence Act (<i>in force</i> - changes as a consequence of the outcomes of the <i>Metock</i> and <i>Sahin</i> judgments)</p> <p><b>Bulgaria:</b> Proposed amendments to Law on entering, residing and leaving Bulgaria 2007 (<i>not yet incorporated</i> - to include further mechanisms for application of this Directive)</p> <p><b>Lithuania:</b> Ordinance 10<sup>th</sup> April 2009 (<i>not yet incorporated</i> - work group instructed to develop and submit to Government a draft law on the Legal Status of Aliens to revise existing provisions of law implementing Directive)</p>
<a href="#">Directive 2004/82/EC</a> (obligation of carriers to communicate passenger data)	<p><b>Spain:</b> Amendment to Organic Law 4/2000 through Organic Law 2/2009 (<i>in force</i>)</p>

<sup>101</sup> Note that this only summarises the changes or developments which **occurred in 2009 only**.

EU Legislation	Equivalent National Law (status)
<p><a href="#">Directive 2004/83/EC</a> (Qualifications Directive)</p>	<p><b>Finland:</b> Aliens Act (<i>in force</i> 1<sup>st</sup> June 2009)  <b>Netherlands:</b> Bill of 8<sup>th</sup> July 2009 (<i>not yet incorporated</i> - to implement Article 15 (a) and (c) of Directive by incorporating paragraphs into Aliens Act 2000)  <b>Spain:</b> Law 12/2009 (<i>in force</i>)</p>
<p><a href="#">Directive 2005/71/EC</a> (Admitting third-country nationals for the purposes of scientific research Directive)</p>	<p><b>Finland:</b> Aliens Act (<i>in force</i> 1<sup>st</sup> January 2009)</p>
<p><a href="#">Directive 2005/85/EC</a> (Minimum Standards for granting and withdrawing refugee status Directive)</p>	<p><b>Finland:</b> Aliens Act (<i>in force</i> 1<sup>st</sup> July 2009)  <b>Greece:</b> Amendment of P.D 90/08 with P.D. 81/2009 (<i>in force</i> - establishment of a decentralised system for examination of applications for asylum). Greece experienced difficulties in implementing this Directive, particularly with regard to time-consuming handling of asylum requests.  <b>Spain:</b> Law 12/2009 (<i>in force</i>)</p>
<p><a href="#">Directive 2008/115/EC</a> (Return Directive)</p>	<p><b>Belgium:</b> Royal Decree 8<sup>th</sup> June 2009 (<i>not yet incorporated</i> - partial transposition in Belgian legislation regulating detention procedure and work procedures)  <b>Bulgaria:</b> Law on Foreigners 2009 (<i>in force</i>)  <b>Czech Republic:</b> Preparation of bill amending Alien Act and Asylum Act (<i>not yet incorporated</i>)  <b>France:</b> In process of transposition (<i>not yet incorporated</i>)  <b>Greece:</b> Law 3772/2009 (<i>not yet incorporated</i> – partial transposition)  <b>Lithuania:</b> Ordinance 10<sup>th</sup> April 2009 (<i>not yet incorporated</i> - work group instructed to develop and submit to Government a draft law on the Legal Status of Aliens to transpose Directive)  <b>Luxembourg:</b> Law 28<sup>th</sup> May 2009 (<i>not yet incorporated</i> - partial transposition)  <b>Netherlands:</b> Bill under preparation (<i>not yet incorporated</i>)  <b>Slovak Republic:</b> Act on Stay of Aliens (<i>in force</i>)</p>
<p><a href="#">Directive 2009/50/EC</a> (Blue Card Directive)</p>	<p><b>Belgium:</b> Transposition process begun in 2009 (<i>not yet incorporated</i>)  <b>Czech Republic:</b> Preparation of <i>bill amending Alien Act and Asylum Act</i> (<i>not yet incorporated</i>)  <b>France:</b> In process of transposition (<i>not yet incorporated</i>)  <b>Greece:</b> In process of transposition (<i>not yet incorporated</i>)  <b>Lithuania:</b> Ordinance 10<sup>th</sup> April 2009 (<i>not yet incorporated</i> - work group</p>

EU Legislation	Equivalent National Law (status)
	<p>instructed to develop and submit to Government a draft law on the Legal Status of Aliens to transpose Directive)</p> <p><b>Spain:</b> Amendment to Organic Law 4/2000 through Organic Law 2/2009 (<i>in force</i>)</p>
<p><a href="#">Directive 2009/52/EC</a> (Sanctions Directive)</p>	<p><b>Belgium:</b> Transposition process begun in 2009 (<i>not yet incorporated</i>)</p> <p><b>Czech Republic:</b> Preparation of bill amending Alien Act and Asylum Act (<i>not yet incorporated</i>)</p> <p><b>France:</b> In process of transposition (<i>not yet incorporated</i>)</p> <p><b>Greece:</b> In process of transposition (<i>not yet incorporated</i>)</p> <p><b>Lithuania:</b> Ordinance 10<sup>th</sup> April 2009 (<i>not yet incorporated</i> - work group instructed to develop and submit to Government a draft law on the Legal Status of Aliens to transpose Directive)</p> <p><b>Netherlands:</b> Bill under preparation (<i>not yet incorporated</i>)</p> <p><b>Spain:</b> Amendment to Organic Law 4/2000 through Organic Law 2/2009 (<i>in force</i>)</p>
<p><a href="#">Regulation 1030/2002/EC</a> (uniform format for residence permits)</p>	<p><b>Bulgaria:</b> Law on Bulgarian Personal Documents 2009 (<i>in force</i>)</p>
<p><a href="#">Regulation 2252/2004/EC</a> (Standards for Security features and biometrics in passports)</p>	<p><b>Bulgaria:</b> Law on Bulgarian Personal Documents 2009 (<i>in force</i>)</p> <p><b>Finland:</b> Amendments to Finnish legislation (<i>in force</i> 29<sup>th</sup> June 2009)</p> <p><b>Poland:</b> Act 21<sup>st</sup> May 2009 on granting protection to aliens (<i>in force</i> 29<sup>th</sup> May 2009) ; Act 21<sup>st</sup> May 2009 on Passport documents ( <i>in force</i> 27<sup>th</sup> June 2009)</p> <p><b>Slovenia:</b> Legislation amended (<i>in force</i>)</p>
<p><a href="#">Regulation 1931/2006/EC</a> (Rules on local border traffic at external borders)</p>	<p><b>Lithuania:</b> Order 21<sup>st</sup> May 2009 (<i>in force</i> - approval of binding form of local border traffic permit)</p> <p><b>Poland:</b> Amendment to Act on Foreigners 2003 (<i>in force</i> 1<sup>st</sup> January 2009)</p>
<p><a href="#">Regulation 862/2007/EC</a> (Community statistics on migration and international protection)</p>	<p><b>Germany:</b> Technical implementation measures and fine-tuning (<i>in force</i>)</p>
<p><a href="#">Regulation 380/2008/EC</a> (Uniform format for residence permits)</p>	<p><b>Bulgaria:</b> Law on Bulgarian Personal Documents 2009 (<i>in force</i>)</p> <p><b>Czech Republic:</b> Preparation of bill amending Alien Act and Asylum Act (<i>not yet incorporated</i>)</p> <p><b>Lithuania:</b> Ordinance 10<sup>th</sup> April 2009 (<i>not yet incorporated</i> - work group instructed to develop and submit to Government a draft law on the Legal Status of Aliens to implement Regulation)</p>

EU Legislation	Equivalent National Law (status)
	<b>Slovenia:</b> Legislation amended ( <i>in force</i> )
<a href="#">Regulation 767/2008/EC</a> (Visa Information System)	<b>Hungary:</b> Draft Act 2009 ( <i>not yet incorporated</i> - once adopted, will ensure implementation of Regulation) <b>Lithuania:</b> Ordinance 10 <sup>th</sup> April 2009 ( <i>not yet incorporated</i> - work group instructed to develop and submit to Government a draft law on the Legal Status of Aliens to implement Regulation)
<a href="#">Regulation 390/2009/EC</a> (visas for diplomatic missions and consular posts)	<b>Bulgaria:</b> Law on Foreigners 2009 ( <i>in force</i> )
<a href="#">Regulation 444/2009/EC</a> (standards for security features and biometrics in passports)	<b>Lithuania:</b> Ordinance 10 <sup>th</sup> April 2009 ( <i>not yet incorporated</i> - work group instructed to develop and submit to Government a draft law on the Legal Status of Aliens to implement Regulation) <b>Sweden:</b> Amendment of Passport Act and Passport Ordinance 28 <sup>th</sup> June 2009 ( <i>in force</i> )
<a href="#">Regulation 810/2009/EC</a> (Visa Code)	<b>Czech Republic:</b> Preparation of bill amending Alien Act and Asylum Act ( <i>not yet incorporated</i> ) <b>Hungary:</b> Draft Act 2009 ( <i>not yet incorporated</i> - once adopted, will ensure implementation of regulation) <b>Lithuania:</b> Ordinance 10 <sup>th</sup> April 2009 ( <i>not yet incorporated</i> - work group instructed to develop and submit to Government a draft law on the Legal Status of Aliens to transpose Regulation)