



POLICY REPORT ON THE MIGRATION  
AND ASYLUM POLICY IN LATVIA  
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The Office of Citizenship and Migration Affairs is the Latvian contact point of the European Migration Network

Authors of the report:

Māra Prā, coordinator of the Latvian contact point of the European Migration Network

Ilze Siliņa-Osmāne, expert of the Latvian contact point of the European Migration Network

Reviewers:

Iveta Muceniece, JHA counsellor (migration, asylum, visa)

Ilze Briede, Head of the Migration Policy Division

Līga Vijupe, Director of the Refugee Affairs Department

Contacts:

Čiekurkalna 1<sup>st</sup> line 1, B-3

Riga, Latvia, LV-1026

Phone: +371 67219492

Fax: +371 67219431

E-mail: [emn@pmlp.gov.lv](mailto:emn@pmlp.gov.lv)

Web: [www.emnlatvia.lv](http://www.emnlatvia.lv)

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## ANOTATION

In accordance with the 1<sup>st</sup> part of the Article 9 of the Council Decision of the European Union of May 14, 2008 establishing a European Migration Network (No 2008/381/EC)<sup>1</sup> each National Contact Point of the European Migration Network shall provide every year a report describing the migration and asylum situation in the Member State, which shall include policy developments and statistical data.

The Policy report on the migration and asylum situation in Latvia in the year 2008 provides an overview on the development and changes of policy and legislation of migration and asylum in Latvia in the year 2008.

This Policy report is the third report prepared by the Office of Citizenship and Migration Affairs as the Latvian contact point of the European Migration Network (hereinafter – the Network). The Policy reports about the situation of the migration and asylum policy in Latvia in the year 2006 and 2007 can be found and downloaded in the webpage of the Latvian contact point of the Network [www.emnlatvia.lv](http://www.emnlatvia.lv).

The purpose of this report is to reflect the **relevant** political changes in the field of migration and asylum in Latvia. The report has two main objectives – to reflect the development of national legislation, administrative practice and political and public debates in the field of migration and asylum, as well as to document the situation of the European Union legislation and the influence of the European political events in Latvia.

The report is developed on the basis of the specification produced by the

European Commission and adopted by the national contact points of the Network.

The results of the reports of 26 Network Member States involved in the development of the report will be summarized in a synthesis report, performing comparison in order to establish trends and to oversee political events in the migration and asylum field in the European Union. Provisionally the synthesis report will be published in the last quarter of 2009.

In the first part of this report the political progress in the field of migration and asylum in Latvia is examined, including the general structure of the political system, major political and institutional changes.

In the second section the fulfilment of policy and legislation in the field of migration and asylum in Latvia is examined, including the general structure of the legal system, as well as progress of policy and legislation and changes in the national legislation.

In the third part progress of enactment of the European Union legislation into the national legislation and administrative practice is examined.

In the Annex of the report work methodology is described: methods used for information determination and choosing of information sources, institutions, which provided support in obtaining and summarization of information are mentioned, as well as the problems faced, when performing the information analysis are described.

The total volume of the work is 26 pages.

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<sup>1</sup> Council Decision of 14 May 2008 establishing a European Migration Network (2008/381/EC), Official Journal, 21.05.2008., L 131, p. 7 – 12

# **1. POLITICAL DEVELOPMENTS IN LATVIA IN THE FIELD OF MIGRATION AND ASYLUM**

## **1.1. General structure of the political system**

The policy report on the migration and asylum policy in Latvia in 2006 and research study “The Organization of Migration and Asylum Policy in Latvia” provide a detailed overview about the structure of the migration and asylum policy in Latvia, therefore in this report structure of political system will not be reflected repeatedly, as in the year 2008 no structural changes occurred in the institutions that are responsible for the migration and asylum matters.

The policy report on the migration and asylum policy in Latvia in 2006 and research study “The Organization of Migration and Asylum Policy in Latvia” can be found and downloaded in the web page of the Latvian contact point of the Network [www.emnlatvia.lv](http://www.emnlatvia.lv) .

Same as in 2006 and 2007 also in 2008 the Ministry of Interior is the leading state administration institution in the field of internal affairs whose one of the sub areas is migration. Besides the Ministry of Interior also the Ministry of Foreign Affairs, Ministry of Welfare, Ministry of Economics, Ministry of Health, Ministry of Education and Science, Ministry of Justice, Ministry of Children, Family and Integration Affairs as well as the State security institutions and local authorities are dealing with the matters of migration and asylum. The mentioned state administration institutions in accordance with their competences mutually cooperate in order to implement principles of good management.

## **1.2. General political developments**

In the end of the year 2008 the Latvian government performed a row of measures in order to diminish the expenditures of the State budget. This also affected the Minister of the Secretariat of the Special Assignment for Social Integration Mr. Oskars Kastēns (representative of the Union of Latvia's First Party and Party Latvian Way) who returned to work in the Saeima<sup>2</sup> in January 2009 as with the January 2 the Secretariat of the Special Assignment Minister for Social Integration was incorporated within the Ministry for Children and Family Affairs, creating the Ministry of Children, Family and Integration Affairs.

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<sup>2</sup> Titova N. „Kastēns atgriezīsies Saeimā”, Diena, 28.10.2008., seen online <http://www.diena.lv/lat/politics/politika/iumsils-vieta-neveidos-valsts-agenturu>

### **1.3. Institutional developments**

In accordance with the Cabinet Order on October 29, 2008 No.650 „On Reorganisation of the Secretariat of the Special Assignment Minister for Social Integration”<sup>3</sup> with the January 1, 2009 the Secretariat of the Special Assignment Minister for Social Integration was incorporated within the Ministry of Children and Family Affairs and the new title is the **Ministry of Children, Family and Integration Affairs**.

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<sup>3</sup> Cabinet Order on October 29, 2008 No. 650 „On Reorganisation of the Secretariat of the Special Assignment Minister for Social Integration”, the Latvian Herald No.169, 30.10.2008.

## 2. POLICY AND LEGISLATIVE DEVELOPMENTS IN THE FIELD OF MIGRATION AND ASYLUM

### 2.1. General structure of the legal system

Information about the legal system of the migration and asylum field is reflected in the Policy report on the migration and asylum policy in Latvia in 2006 and in the research study “The Organization of Migration and Asylum Policy in Latvia”. This policy report and the research study can be found and downloaded in the web page of the Latvian contact point of the Network [www.emnlatvia.lv](http://www.emnlatvia.lv).

In 2008 the legal system in the field of migration and asylum has had no relevant changes. Still in order to ensure the implementation of migration policy according to the rules of international law and state interests of Latvia *the Immigration Law*<sup>4</sup> and its subordinate regulations of the Cabinet of Ministers determine the procedures for the entry, residence, transit, exit and detention of third country nationals, as well as procedure by which third country nationals are kept under temporary custody in the Republic of Latvia and are expelled from it. *The Asylum Law*<sup>5</sup> and its subordinate regulations of the Cabinet of Ministers ensure the rights of the persons to receive the asylum in the Republic of Latvia, the refugee’s status, temporary protection or alternative status. In its turn „*the Law on the Status of Permanent Residents of the European Community in the Republic of Latvia*”<sup>6</sup> determines the procedures for granting and withdrawing the status of a long-term resident of the European Community in the Republic of Latvia in accordance with the Council Directive 2003/109/EC of November 25, 2003 concerning the status of third-country nationals who are long-term residents<sup>7</sup> of a Member State.

### 2.2. Main discussions about the development of policy and legislation

In the sitting of the Cabinet of Ministers on April 29, 2008 *Informative Report about the Economical Migration in the Baltic States* developed by the Ministry of Interior was considered. In the conclusions of the report it is indicated “If the tasks set for the Ministry of Interior and Ministry of Welfare: to establish one-step agency for the reception of work permits and residence permits, diminish time for the issuance of the residence permits and work permits, as well as to diminish the State fee for the issuance of the work and residence

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<sup>4</sup> Immigration Law, the Latvian Herald No.169, 20.11.2002.

<sup>5</sup> Asylum Law, the Latvian Herald No.48, 27.03.2002.

<sup>6</sup> Law on the Status of Permanent Residents of the European Community in the Republic of Latvia, the Latvian Herald No.107, 07.07.2006.

<sup>7</sup> Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, the Official Journal L 016, 23.01.2004.

permits (..) in the clause 11 of the project for the Improvement of the environment of entrepreneurship plan for 2008 developed by the Ministry of Economics and announced in February 14, 2008 at the meeting of State Secretaries will be implemented the administrative procedure of Latvia in the field of reception of guest workers will be improved substantially and will be competitive in comparison to other Baltic States”. In this sitting of the Cabinet of Ministers the informative report of the Ministry of Welfare about the *results of the short term forecasting of the labour market and professions in which it is necessary to provide professional trainings, retraining and raise of qualification for unemployed*<sup>8</sup> was considered and it was decided: “in order to reduce the expenses for applying for residence permit and work permit and the prices would be commensurable with the corresponding prices in Lithuania and Estonia the Ministry of Welfare (the State Employment Agency) together with the Ministry of Interior (the Office of Citizenship and Migration Affairs) should prepare and in a one months time submit to the Cabinet of Ministers in a certain order amendments to the Regulations of the Cabinet of Ministers of January 20, 2004 No.44 “On Work Permits for Foreign Nationals”<sup>9,10</sup>.

In the sitting of the Cabinet of Minister on June 3, 2008 amendments to the Regulations of the Cabinet of Ministers of January 20, 2004 No.44 “On Work Permits for Foreign Nationals”<sup>11</sup> were adopted, they came into force on July 1, 2008 and caused discussions in the political environment about the effectiveness of the amendments. The mentioned amendments define that the State fee for the examination of the documents necessary to request a work permit for employment of one third-country national in the Republic of Latvia is 35 lats (~50 euros) per year. Until the moment when the amendments came into force the State fee for the examination of the documents necessary to request a work permit for employment of one third-country national in the Republic of Latvia was 35 lats per calendar month.

The discussion was mainly started by the representatives of the right political wing from the party “For Fatherland and Freedom/LNNK”. Members of the party started the discussion even before the mentioned amendments were considered at the Cabinet of Ministers. Chairman of the party Mr.Māris Grīnblats stressed that “*Latvia can not give light weighted*

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<sup>8</sup> LMZino\_100408; Informative report on the results of the short term forecasting of the labour market and professions in which it is necessary to provide professional trainings, retraining and raise of qualification for unemployed, seen online 07.05.2009. <http://www.lm.gov.lv/text/664>

<sup>9</sup> Regulations of the Cabinet of Ministers on January 20, 2004 No.44 „On Work Permits for Foreign Nationals”, the Latvian Herald No.12, 23.01.2004.

<sup>10</sup> Minutes of the sitting of the Cabinet of Ministers on April 29, 2008 No.28, Riga, seen online 07.05.2009. <http://www.mk.gov.lv/lv/mk/mksedes/saraksts/protokols/?protokols=2008-04-29>

<sup>11</sup> Regulations of the Cabinet of Ministers on June 3, 2008 No.403 „ Amendments to the Regulations of the Cabinet of Ministers of January 20, 2004 No.44 „On Work Permits for Foreign Nationals””, the Latvian Herald Nr.90, 11.06.2008.

*promises about quick introduction of guest workers from third-countries. I consider that it is acceptable to bring in highly skilled workers for a defined period of time. What concerns the reduction of the State fee for bringing in the guest workers – if we want to level it up with Lithuania and Estonia we have to carefully explore whether everything else is more or less concordant”<sup>12</sup>.*

Also the members of the party „New Era” were certain that the government should focus on the possibilities how to acquire the resources of the inhabitants of Latvia who at the moment are working abroad and not on the guest workers<sup>13</sup>.

At the same time the Union of Latvia’s First Party and Party Latvian Way represented by the Prime Minister Mr. Ivars Godmanis considered that in order to increase the competitiveness and simplify the flow of labour force this State fee must be reduced. Also the party Concord Centre who represents the left political wing in the Saeima agreed with the opinion of the Prime Minister, considering that guest workers are necessary as the demographical crisis in Latvia is not yet over – death-rate still is higher than the birth-rate, besides people are still leaving Latvia, going to other countries for profit<sup>14</sup>.

## **2.3. Policy and legislative changes in the field of migration and asylum**

### **2.3.1. Control and monitoring of immigration**

On **January 23, 2008** *amendments in the Immigration Law*<sup>15</sup> adopted by the Saeima on December 20, 2007 came into force. The amendments were developed so that the Republic of Latvia could fully implement the requirements of the Schengen *acquis*. The amendments widen the range of persons who have the right to request a visa without an invitation. The amendments state the types of visas and the procedure how they are issued after Latvia fully joined the Schengen Agreement, as well as it is clarified that the invitation is not the main document for requesting a visa, but one of the possibilities how a person can prove his purpose of entry and residence and place of residence in the Republic of Latvia. In the amendments a possibility is foreseen for a person to enter the Republic of Latvia with a travel document that does not have a sticker about the place of residence if the person has received a new passport and when crossing the border can present the previous travel document with a valid residence permit in it.

<sup>12</sup> Rūtenberga-Bērziņa I. „*Migranti-Eiropā par daudz, Latvijā - ...?*”, Latvijas Avīze, Rīga, 29.05.2008., seen online [http://www2.la.lv/lat/latvijas\\_avize/la\\_pielikumi/Saimnieciba/jaunakaja\\_numura/?doc=3896](http://www2.la.lv/lat/latvijas_avize/la_pielikumi/Saimnieciba/jaunakaja_numura/?doc=3896)

<sup>13</sup> Rūtenberga-Bērziņa I. „*Migranti-Eiropā par daudz, Latvijā - ...?*”, Latvijas Avīze, Rīga, 29.05.2008., seen online [http://www2.la.lv/lat/latvijas\\_avize/la\\_pielikumi/Saimnieciba/jaunakaja\\_numura/?doc=3896](http://www2.la.lv/lat/latvijas_avize/la_pielikumi/Saimnieciba/jaunakaja_numura/?doc=3896)

<sup>14</sup> Rūtenberga-Bērziņa I. „*Migranti-Eiropā par daudz, Latvijā - ...?*”, Latvijas Avīze, Rīga, 29.05.2008., seen online [http://www2.la.lv/lat/latvijas\\_avize/la\\_pielikumi/Saimnieciba/jaunakaja\\_numura/?doc=3896](http://www2.la.lv/lat/latvijas_avize/la_pielikumi/Saimnieciba/jaunakaja_numura/?doc=3896)

<sup>15</sup> Amendments to the Immigration Law, the Latvian Herald No.4, 09.01.2008.

On **February 9, 2008** regulations of the Cabinet of Ministers February 5, 2008 No.69 „Amendments to the regulations of the Cabinet of Ministers of April 15, 2003 No.183 „Procedure for Approval of Invitations”<sup>16</sup> came into force, they were issued in accordance with the part 3 of the 3<sup>rd</sup> section and part 1 of the 13<sup>th</sup> section of the Immigration Law. The amendments were carried out in order to provide officials of diplomatic or consular representations of other Member States of the Schengen Agreement representing the Republic of Latvia with an access to certain data in the information system Database of Invitations. To fully implement the requirements of the Schengen *acquis* a provision was included in the amendments about not approving the invitation or revoking of approved invitation to those third-country nationals whose data is included in the Schengen information system with aim to refuse the entry, also the provision about the need for recognised travel document was defined more accurately.

On **March 14, 2008** law adopted by the Saeima on February 21, 2008 “*Agreement between the Government of the Republic of Latvia and the Government of Hungary on the Mutual Representation by their Diplomatic and Consular Missions in Processing Visas and Collecting Biometric*”<sup>17</sup> came into force. The mentioned agreement was signed in Riga on November 22, 2007. In accordance with the agreement the Republic of Latvia and the Republic of Hungary represents each other in processing of uniform visas (airport transit visas, transit visas, short-stay visas) in accordance with the provisions of the Schengen *acquis*.

Since joining the Schengen Agreement Latvia has been very actively using the possibilities acknowledged by the Schengen *acquis* to sign agreements about mutual representation in processing of Schengen visas. Latvia has signed agreements about mutual representation in processing of Schengen visas with France, Estonia, the Netherlands, Slovenia, Germany and Sweden.

On **April 4, 2008** regulations of the Cabinet of Ministers of April 1, 2008 No.222 „Regulations Regarding State Fees for Examination of Documents Necessary for Application for Visa, Residence Permit or Long-term Resident Status of the European Community in the Republic of Latvia and Services Related thereto”<sup>18</sup> came into force, issued in accordance with

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<sup>16</sup> Regulations of the Cabinet of Ministers on February 5, 2008 No.183 „Amendments to the Regulations of the Cabinet of Ministers of April, 15, 2003 „Procedure for Approval of Invitations”, the Latvian Herald No.22, 09.02.2008.

<sup>17</sup> Law „Agreement between the Government of the Republic of Latvia and the Government of Hungary on the Mutual Representation by their Diplomatic and Consular Missions in Processing Visas and Collecting Biometric”, the Latvian Herald No.41, 13.03.2008.

<sup>18</sup> Regulations of the Cabinet of Ministers on April 1, 2008 No.222 „Regulations Regarding State Fees for Examination of Documents Necessary for Application for Visa, Residence Permit or Long-term Resident Status of the European Community in the Republic of Latvia and Services Related thereto”, the Latvian Herald No.52, 03.04.2008.

section 6 of the Immigration Law and the second paragraph of section 4 of the “Law on the Status of Permanent Residents of the European Community in the Republic of Latvia”. The regulations define the rates of the State fees for examination of documents necessary for application for long term visa or long term visa that at the same time is valid as a short term visa, residence permits or long-term resident status of the European Community in the Republic of Latvia and services related thereto, as well as the procedure in which the State fee should be paid and categories of persons who are released from paying the State fee.

**On April 9, 2008** amendments of the Saeima of March 6, 2008 “*Amendments to the Border Guard Law*”<sup>19</sup> came into force. These amendments entrust to the State Border Guard to supervise implementation of the regulations on the traffic of sailing vehicles in the inland waters in the sea ports where the State border crossing points are located as well as in the inland waters through which in accordance with the binding international legal norms and international agreements the land border of the Republic of Latvia is set.

**On My 30, 2008** regulations of the Cabinet of Ministers of May 26, 2008 No.365 “Procedures by which the Examination of the Information Available is Performed Examining the Documents of a Foreigner Submitted for an Application for a Visa or a Residence Permit”<sup>20</sup> came into force, issued in accordance with the paragraph 8 of section 4 of the Immigration Law. The regulations define the procedures by which the available information is examined in respect of whether the entry of the third-country national will not cause a threat to national security or public order and safety (hereinafter – additional examination) while issuing a visa or a residence permit to a third-country national who is a citizen of a state for the citizens of which additional examination shall be performed when issuing a visa or a residence permit, or a third-country national who has had stateless person or refugee status granted in a foreign state. During the additional examination the Security Police and the Constitution Protection Bureau provides information on whether the entry and residence of a third-country national into the Republic of Latvia will create a threat to the State security or public policy and safety.

**On June 6, 2008** amendments of the Saeima of May 8, 2008 to *the Immigration Law*<sup>21</sup> came into force, these amendments define that a work permit in Latvia is not necessary if the third-country national<sup>22</sup> is legally working in another Member State of the European

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<sup>19</sup> „Amendments to the Border Guard Law”, the Latvian Herald No.47, 26.03.2008.

<sup>20</sup> Regulations of the Cabinet of Ministers on May 26, 2008 No.365 „Procedures by which the Examination of the Information Available is Performed Examining the Documents of a Foreigner Submitted for an Application for a Visa or a Residence Permit”, the Latvian Herald No.83, 29.05.2008.

<sup>21</sup> Amendments to the Immigration Law, the Latvian Herald No.80, 23.05.2008.

<sup>22</sup> In accordance with the Immigration Law third country national is a person who is not a Latvian citizen or a non-citizen of Latvia.

Union, in the country of European Economic Area or Swiss Confederation and employer appoints him/her to provide services in Latvia.

**On August 1, 2008** regulations No.592 adopted in the Sitting of the Cabinet of Ministers on July 28, 2008 „Amendments of the Regulations of the Cabinet of Ministers on April 3, 2007 „Regulations on Procedures for the Completion, Signing and Storage of the Foreigners Declaration Forms””<sup>23</sup> these regulations were issued in accordance with the paragraph 7 of the section 11 of the *Tourism Law*<sup>24</sup>.

Regulations define:

- the sample of the foreigners declaration form;
- procedures and the time periods for completion, signing and storage of the declaration;
- procedures by which the declaration is transferred to the law enforcement institutions.

The amendments were performed in order to fulfil the demands of the Schengen Convention. Namely, the Schengen Convention obligates the Member States of the European Union to take measures to ensure that the heads or employees of those enterprises that provide accommodation shall ensure that the foreigners accommodated in tourist accommodation personally complete and sign a declaration form and prove their identity, by presenting a valid identification document.

**On August 1, 2008** regulations No.591 „Health Insurance Regulations for Foreign Nationals”<sup>25</sup> approved in the Sitting of the Cabinet of Ministers on July 28, 2008 came into force. Regulations are issued in accordance with the clause 3 of first paragraph of section 4 and paragraph 6 and clause 4 of first paragraph of section 12 of the Immigration Law.

Regulations define the cases when a third-country national can enter and reside in the Republic of Latvia without health insurance policy as well as cases when a visa or residence permit can be issued to a third-country national without insurance policy, procedure of insurance for third-country nationals, minimum sum of insurance, minimum amount of pre-paid services, and procedure in which third-country national receives health care services in the Republic of Latvia.

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<sup>23</sup> Regulations of the Cabinet of Ministers on July 28, 2008 No.592 „Amendments of the Regulations of the Cabinet of Ministers on April 3, 2007 No.226 „Regulations on Procedures for the Completion, Signing and Storage of the Foreigners Declaration Forms””, the Latvian Herald No.117, 31.07.2008.

<sup>24</sup> Tourism Law, the Latvian Herald No.287, 07.10.1998.

<sup>25</sup> Regulations of the Cabinet of Ministers on July 28, 2008 No.591 „Health Insurance Regulations for Foreign Nationals”, the Latvian Herald No.117, 31.07.2008.

**On August 30, 2008** regulations No.679 „Amendments to the Regulations of the Cabinet of Ministers on April 29, 2003 No.217 „Visa Regulations”<sup>26</sup> approved in the Sitting of the Cabinet of Ministers on August 25, 2008 came into force. Regulations are issued in accordance with the third paragraph of section 3 and fourth paragraph of the section 13 of the Immigration Law. Amendments were developed to clarify the border crossing points of the Republic of Latvia where visas are issued by the State Border Guard.

**On December 17, 2008** amendments to *the Border Guard Law*<sup>27</sup> came into force adapted by the Saeima on November 13, 2008. The amendments were developed in order to define the rights of border guards to place a detained person into the premises of temporary detention (specially equipped premises where the detained person is placed and kept under the guard). Person can be placed in the temporary detention facility if:

- the identity of the person has not been established;
- there are grounded suspicion about the possible escape of the person;
- the person is disobeying legal demands of the State Border Guard;
- there are grounded suspicion that the person might hurt himself, border guards or other physical person or property;
- the person is announced in search.

In accordance with the clause 2 of the order of the Cabinet of Ministers No.263 on May 19, 2008 “Plan for the Improvement of the Environment of the Entrepreneurship for 2008”<sup>28</sup> and clause 12 of the activity plan “Plan for the Improvement of the Environment of the Entrepreneurship for 2008” it is scheduled to introduce a **“principle of one stop agency”** to receive work permits and residence permits.

In order to implement the “principle of one stop agency” it is necessary to improve the procedures of confirmation of work invitation and issuance of residence permits performing these procedures within the framework of one institution and visit. Wherewith it was planned that starting from the **January 1, 2009** the Office of Citizenship and Migration Affairs when making a decision on the issuance of the work permit would also examine all the documents in relation to the confirmation of work invitation and coordination of the agreements of enterprises, thereby it would not be necessary for the employer to address two state

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<sup>26</sup> Regulations of the Cabinet of Ministers on August 25, 2008 No.679 „Amendments to the Regulations of the Cabinet of Ministers on April 29, 2003 No.217 „Visa Regulations””, the Latvian Herald No.134, 29.08.2008.

<sup>27</sup> Amendments to the Border Guard Law, the Latvian Herald No.188, 03.12.2008.

<sup>28</sup> Order of the Cabinet of Ministers on May 19, 2008 No.263 „Plan for the Improvement of the Environment of the Entrepreneurship for 2008”, the Latvian Herald No.78, 21.05.2008.

administration institutions to confirm the work invitation and invitation to apply for residence permit – the State Employment Agency and the Office of Citizenship and Migration Affairs, but it would be possible to address only the Office of Citizenship and Migration Affairs, shortening the time that is consumed by the performance of this administrative procedure.

Taking into consideration the complicated financial situation of the State that developed in the end of 2008 and that the Office of Citizenship and Migration Affairs was not able to undertake the new duties without additional financial support the task has been included in the “Plan for the Improvement of the Environment of the Entrepreneurship for 2009” December 20, 2009 has been set as the deadline for the implementation of this plan.

**On December 3, 2008** the Foreign Commission of the Saeima suggested to make amendments to *the Immigration Law*, in order to simplify the procedure for foreign students to apply for residence permits, the universities, chosen by foreign students, are allowed to submit the documents to request residence permits for students.

The author of the amendments to the draft law and deputy chairman of the Foreign Commission Mr. Janis Eglitis stressed that *“the education is an export product with high added value. More simple and fast procedure for the submission of the documents is one of the ways how to attract students from abroad”*<sup>29</sup>.

In the beginning of 2008 the State Border Guard developed a project “Work Strategies of the State Border Guard for 2009. – 2011.” that is going to be placed on the web page of the Ministry of Interior after confirmed by the Minister of Interior and in due terms submitted to the Prime Minister<sup>30</sup>.

### **2.3.2. Refugee protection and asylum**

Also in 2008 the Saeima Committee of Human Rights and Public Affairs continued to work on the new *Asylum Law*, which was adopted by Saeima in the second reading on January 29, 2009<sup>31</sup>. Till February 16, 2009 it was possible to submit suggestions to the draft law before it is examined by Saeima in the third reading.

To remind, the aim of the draft law was in accordance with the international human right development tendencies provide a possibility for persons to receive an asylum in Latvia,

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<sup>29</sup> Commission of Saeima suggests simplifying the procedure for foreign students to apply for residence permits, LETA, Riga, 03.12.2008.

<sup>30</sup> Implementation of the urgent activities plan of the Cabinet of Ministers governed by Ivars Godmanis, seen online 2008.14.05., <http://www.iem.gov.lv/iem/2nd/?cat=4512>

<sup>31</sup> Saeima transcript on January 29, 2009 No. LP0753\_2, seen online 09.02.2009., <http://titania.saeima.lv/LIVS/SaeimaLIVS.nsf/0/0D62AEF5A3553B15C2257555004CCA29?OpenDocument>

receive an alternative status or temporary protection, providing complete conformity with the demands of the legal regulations of the European Union in the asylum field.

### **2.3.3. Unaccompanied minors**

**On January 1, 2009** regulations No.360 of the Cabinet of Ministers came into force “On the Procedure how the Expense of the Local Authorities are Reimbursed from the State Budget for Maintenance of Unaccompanied Minors in the Day-care Centre”<sup>32</sup> that are issued in accordance with the paragraph eight of the section 11 of the Asylum Law.

Regulations define the procedure how the expenses of the local authorities are reimbursed from the State budget by [the Ministry of Children, Family and Integration Affairs](#) for maintenance of unaccompanied minor asylum seeker in the day-care centre. **14 lats** (~ 20 euros) per every day that unaccompanied minor asylum seeker spends in the day-care centre that is financed by the local authority are reimbursed from the State budget to the local authority.

### **2.3.4. Economic migration**

**On June 3, 2008** in the sitting of the Cabinet of Ministers regulations No.403 “Amendments to the regulations of the Cabinet of Ministers of January 20, 2004 No.44 “On Work Permits for Foreign Nationals””<sup>33</sup> that came into force on July 1, 2008. Amendments define that the State fee for the examination of the documents necessary to request a work permit for the employment of one third-country national in the Republic of Latvia shall be **35 lats per year** (~ 50 euros). If the time of employment is shorter than one year, the State fee shall be determined for the full year. Initially the State fee for the examination of the documents necessary to request a work permit for employment of one third-country national was **35 lats per calendar month**.

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<sup>32</sup> Regulations of the Cabinet of Ministers on May 26, 2008 No.360 „On the Procedure how the Expense of the Local Authorities are Reimbursed from the State Budget for Maintenance of Unaccompanied Minors in the Day-care Centre”, the Latvian Herald No.83, 29.05.2008.

<sup>33</sup> Regulations of the Cabinet of Ministers on June 3, 2008 No.403 „Amendments to the regulations of the Cabinet of Ministers of January 20, 2004 No.44 “On Work Permits for Foreign Nationals””, the Latvian Herald No.90, 11.06.2008.

### 2.3.5. Other legal migration

**On March 12, 2008** the Ministry of Interior of the Republic of Latvia and the Department of Homeland Security of the United States of America (hereinafter – the USA) signed a Memorandum of Understanding Regarding the United States Visa Waiver Program and Related Enhanced Security Measures<sup>34</sup>.

To implement the memorandum of understanding on March 14, 2008 regulations of the Cabinet of Ministers No.171 “On Memorandum of Understanding between the Ministry of Interior of the Republic of Latvia and the Department of Homeland and Security of the United States of America Regarding the United States Visa Waiver Programme and Related Enhanced Security Measures”<sup>35</sup> adopted on March 11, 2008 came into force.

From November 17, 2008 Latvia is a member state of the Visa Waiver Programme, which enables citizens of Latvia to travel to the USA without a visa for tourism and business purposes. Citizens of the Republic of Latvia who have received biometrical passports and a confirmation from the Electronic System for the Travel Authorization can go to the USA without a visa. The citizens of Latvia can stay in the USA without visa for 90 days. When going to the USA for other purposes, for example, study, work, etc. it is still necessary to apply for visa at the embassy of the USA.

**On December 24, 2008** “Law on the Agreement between the Government of the Republic of Latvia and the Government of New Zealand on Working Holiday Scheme”<sup>36</sup> adapted by the Saeima on December 2, 2008 came into force.

The **aim** of the agreement signed by the government of the Republic of Latvia and the government of New Zealand on September 10, 2008 in Riga on working holiday scheme is to foster the mobility, cooperation, and partnership of youth of both countries. The agreement simplifies procedures for Latvian youth to reside in New Zealand and for New Zealand youth to reside in Latvia. Agreement gives a possibility for countries to issue documents to youth that allows them to reside in the territory of the corresponding state. In Latvia this document is going to be a decision issued by the Office of Citizenship and Migration Affairs, but in New Zealand – short term visa. In accordance with the agreement both countries can issue not more than 100 special permits per year to citizens from 18 till 30 years of age.

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<sup>34</sup> Memorandum of Understanding between Latvia and the USA Regarding the United States Visa Waiver Programme and Related Enhanced Security Measures has been signed (12.03.2008.), seen online 14.03.2008., <http://www.mfa.gov.lv/lv/helsinki/jaunumi/latvijas/ZinasNoLatvijas-Template/?pg=13603>

<sup>35</sup> Regulations of the Cabinet of Ministers on March 11, 2008 No.171 „On Memorandum of Understanding between the Ministry of Interior of the Republic of Latvia and the Department of Homeland and Security of the United States of America Regarding the United States Visa Waiver Programme and Related Enhanced Security Measures”, the Latvian Herald No.41, 13.03.2008.

<sup>36</sup> Law „On the Agreement between the Government of the Republic of Latvia and the Government of New Zealand on Working Holiday Scheme”, the Latvian Herald No.200, 23.12.2008.

### 2.3.6. Integration

**On November 1, 2008** regulations of the Cabinet of Ministers No.884 of October 28, 2008 „Procedure for Project Selection and Technical Support Activity Implementation in the European Fund for the Integration of Third-Country nationals in Framework Programme on Solidarity and Management of Migration Flows for the Period 2007-2013”<sup>37</sup> came into force, these regulations were issued in accordance with the 3<sup>rd</sup> clause of first paragraph of section 31 of the Cabinet of Ministers Structure Law.

Regulations define the procedure for project selection and technical support activity implementation for the European Fund for the Integration of Third-Country nationals that was created within the Framework Programme on Solidarity and Management of Migration Flows for the Period 2007-2013. Within the framework of the fund project selection is organized by the [Ministry of Children, Family and Integration Affairs](#) who is the leading institution for the fund.

### 2.3.7. Citizenship and naturalisation

**On December 6, 2008** regulations of the Cabinet of Ministers No.996 of December 2, 2008 “Amendments to the Regulations of the Cabinet of Ministers on June 5, 2001 No.234 “Regulations on the State Fee for Examination of the Application for Naturalization””<sup>38</sup> that were issued in accordance with the paragraph 5 of the section 12 of the Immigration Law came into force. Amendments were developed as the State Employment Service was renamed into the State Employment Agency.

### 2.3.8. Illegal immigration

**On June 20, 2008** regulations of the Cabinet of Ministers No.434 “On the Subsistence Standards for the Foreigners Placed in the Reception Centre as well as on the Procedures of Reception and Amount of Health Care Services”<sup>39</sup> came into force. Regulations were issued in accordance with the third paragraph of section 59 of the Immigration Law.

Regulations define residential standards of third-country national accommodated in accommodation centre of the State Border Guard, as well as the amount of guaranteed health

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<sup>37</sup> Regulations of the Cabinet of Ministers on October 28, 2008 No.884 „Procedure for Project Selection and Technical Support Activity Implementation in the European Fund for the Integration of Third-Country nationals in Framework Programme on Solidarity and Management of Migration Flows for the Period 2007-2013”, the Latvian Herald No.170, 31.10.2008.

<sup>38</sup> Regulations of the Cabinet of Ministers on December 2, 2008 No.996 „Amendments to the Regulations of the Cabinet of Ministers on June 5, 2001 No.234 “Regulations on the State Fee for Examination of the Application for Naturalization””, the Latvian Herald No.190, 05.12.2008.

<sup>39</sup> Regulations of the Cabinet of Ministers on June 17, 2008 No.434 “On the Subsistence Standards for the Foreigners Placed in the Reception Centre as well as on the Procedures of Reception and Amount of Health Care Services”, the Latvian Herald No.95, 19.06.2008.

care services and the procedures for the receipt. Different residential norms are defined in the regulations; that allows complying with the needs of the detained third country national depending on the age and state of health. 14 281 lats (~20 001 euros) per year are allocated to the State Border Guard to cover the expenses of catering and purchase of medication.

**On June 21, 2008** regulations of the Cabinet of Ministers No.435 of June 17, 2008 “Regulations on Requirements for Arrangement and Equipment of the Reception Centre”<sup>40</sup> came into force, regulations are issued in accordance with the second paragraph of section 59 of the Immigration Law.

Regulations define the requirements for the installation and equipping of the accommodation centre. In the regulations things necessary for the equipping of the accommodation are listed in detail, including the equipment that is necessary to meet the needs of the detained third country nationals. In the list of the necessary equipment also detailed lists of equipment necessary for the staff of the reception centre to fulfil their duties is provided.

**On July 12, 2008** Regulations of the Cabinet of Minister of July 7, 2008 No.502 “Maintenance and Utilization of the Illegal Immigration Register”<sup>41</sup> came into force. Regulations were issued in accordance with the third paragraph of third section of the Immigration Law. Regulations define the procedure of usage and the amount of information included in the Illegal Immigration Register.

As a result of increase of illegal migration flow in the European Union as well as Latvia fully joining the Schengen Agreement legal dimension, the State Border Guard developed a necessity for more detailed and specialized control of immigration in the State in order to perform more effective identification and removal of third country nationals, including return in accordance with binding agreements of readmission for the Republic of Latvia.

The register is the State information system where data on detained and removed third country nationals is included in the procedure prescribed in the Immigration Law in order to secure effective identification of persons and to prevent illegal immigration. The State Border Guard secures the maintenance of the register and use of the data included in the register.

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<sup>40</sup> Regulations of the Cabinet of Ministers on June 17, 2008 No.435 “Regulations on Requirements for Arrangement and Equipment of the Reception Centre”, the Latvian Herald No.96, 20.06.2008.

<sup>41</sup> Regulations of the Cabinet of Ministers on July 7, 2008 No.502 “Maintenance and Utilization of the Illegal Immigration Register”, the Latvian Herald No.106, 11.07.2008.

**On September 20, 2008** regulations of the Cabinet of Ministers No.742 of September 15, 2008 “Internal Regulations of the Reception Centre”<sup>42</sup> came into force. The regulations were issued in accordance with forth paragraph of section 59, second paragraph of section 59<sup>1</sup> and forth paragraph of section 59<sup>2</sup> of the Immigration Law. Regulations define internal procedures of an accommodation centre, procedures for health examination and sanitary treatment of the detained third-country national as well as the list of articles which a detained third-country national is prohibited from storing in an accommodation centre.

The Regulations of the Cabinet of Ministers prescribe that the State Border Guard sets up an accommodation centre in a consistent hotel type building and there are living accommodations meant for third country nationals, premises for common use meant for third country nationals, working premises for maintenance staff, pass office, and ground for walks. Regulations envisage that the living space in the centre can not be less than 4 square meters per one detainee.

At this point in Latvia there is one place where detained third country nationals are accommodated in a long term – in the State Border Guard Riga Board accommodation centre for third country nationals “Olaine”.

### **2.3.9. Actions against human trafficking**

**On February 13, 2008** a law „On the Council of Europe Convention, on Action against Trafficking in Human Beings”<sup>43</sup> that was adopted by Saeima on January 24, 2008 came into force.

With this law the Council of Europe Convention, on Action against Trafficking in Human Beings is adopted and ratified. With signing the convention Latvia accepts to perform all the necessary measures to develop overall policy, programmes and to perform other arrangements in order to prevent and to combat trafficking in human beings and to protect victims of such trafficking from repeated involvement in trafficking in human beings<sup>44</sup>. The task of the Ministry of Interior is to coordinate execution of liabilities prescribed in the convention.

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<sup>42</sup> Regulations of the Cabinet of Ministers on September 15, 2008 No.742 „Internal Regulations of the Reception Centre”, the Latvian Herald No.146, 19.09.2008.

<sup>43</sup> Law „On the Council of Europe Convention, on Action against Trafficking in Human Beings”, the Latvian Herald No.23, 12.02.2008.

<sup>44</sup> Annotation of the draft law „On the Council of Europe Convention, on Action against Trafficking in Human Beings”, seen online 24.04.2009. [http://www.saeima.lv/saeima9/lasa?dd=LP0559\\_0](http://www.saeima.lv/saeima9/lasa?dd=LP0559_0)

### **2.3.10. Return migration**

**On November 28, 2008** a law came into force „Agreement between the government of the Republic of Latvia and the government of Georgia on the Readmission of persons, who do not fulfil conditions for entry or residence in the territory of the other state”<sup>45</sup> that was adopted by the Saeima on November 13, 2008.

The governments of the Republic of Latvia and Georgia made a decision to sign an agreement between governments that would establish a legal basis to receive and transfer persons who are residing illegally on the territory of other country as the readmission agreements with third countries allow to provide control over the migration processes, as the readmission agreements provision mechanisms and sanctions to prevent and fight against illegal migration.

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<sup>45</sup> Law „Agreement between the government of the Republic of Latvia and the government of Georgia on the Readmission of persons, who do not fulfil conditions for entry or residence in the territory on the other state”, the Latvian Herald No.185, 27.11.2008.

### 3. IMPLEMENTATION OF THE EUROPEAN UNION LEGISLATION

In the year 2008 to incorporate the legal acts of the European Union into the national legislation the Saeima of the Republic of Latvia and the Cabinet of Ministers have worked out and adopted series of new draft laws, amendments of existing laws, new regulations of the Cabinet of Ministers, as well as amendments of existing regulations of the Cabinet of Ministers.

This section describes those legal acts of the European Union and their implementation process into the Latvian legal system, which supplemented the collection of legal acts of the European Union after the year 2007, as well as progress of those legal acts, whose transposition began in the year 2007 and ended or continued in the year 2008.

The progress of transposition of legal acts of the European Union, which are published in the year 2006 and 2007, can be found in the Policy report on the migration and asylum situation in Latvia in the year 2006 and 2007, which can be downloaded in the web page of the Latvian contact point [www.emnlatvia.lv](http://www.emnlatvia.lv).

In 2008 32 new legal acts have been added to the collection of the European Union legal acts: 6 regulations, 1 directive, 23 decisions, 1 international agreement and 1 recommendation from the Commission; 14 of which in the field of migration, 2 in the field of asylum and 16 in the field of illegal migration.

Statistically in 2008 transposition of the European Union legal acts into the national legislation was not significant because unlike in the previous years only for some legal acts the transposition deadline was in 2008.

Further we will reflect on the transposition of the legal acts of the European Union into the national legal system that were topical in the year 2008.

- ✓ ***Regulation (EC) No 562/2006 of the European Parliament and of the Council on March 15, 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)***<sup>46</sup>

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<sup>46</sup> Regulation (EC) No 562/2006 of the European Parliament and of the Council on March 15, 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), the Official Journal L 105, 13.04.2006. page 1./32.

From January 23, 2008 the officials of the State Border Guard make the decision about the refusal of entry into the Republic of Latvia in accordance with the above mentioned regulation.

- ✓ *Council Regulation (EC) no 415/2003 of February 27, 2003 on the issue of visas at the border, including of issue of such visas to seamen in transit*<sup>47</sup>.

In order to implement the requirements of the Regulation necessary amendments to the Immigration Law were made (amendments in force from 23.01.2008.)

- ✓ *Council Directive 2001/40/EC of May 28, 2001 on the mutual recognition of decisions on the expulsion of third country nationals*<sup>48</sup> (hereinafter – *the Directive 2001/40/EC*).

On January 23, 2008 amendments to the *Immigration Law*<sup>49</sup> came into force, in the amendments norms from the directives 2005/71/EC, directive 2004/114/EC, directive 2004/38/EC, directive 96/71/EC and directive 2001/40/EC are implied.

Besides law “On Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community”<sup>50</sup> should be mentioned, it was adopted by the Saeima on May 8, 2008 and came into force on **May 29, 2008**.

The Treaty of Lisbon is amending two basic contracts of the European Union – the Treaty on European Union and the Treaty establishing the European Community. The Amendments were made in accordance with the results of the intergovernmental conference (Treaty on the project Constitution for Europe) in 2004 and the mandate confirmed at the European Council on June 2007. The [Ministry of Foreign Affairs](#) is coordinating the implementation of the obligations scheduled in the Treaty.

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<sup>47</sup> Council Regulation (EC) no 415/2003 of February 27, 2003 on the issue of visas at the border, including of issue of such visas to seamen in transit, the Official Journal L 64, 07.03.2003. page 1./8

<sup>48</sup> Council Directive 2001/40/EC of May 28, 2001 on the mutual recognition of decisions on the expulsion of third country nationals, the Official Journal L 149, 02.06.2001., page 34./36.

<sup>49</sup> Amendments to the Immigration Law, the Latvian Herald, 09.01.2008.

<sup>50</sup> Law „On Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community”, the Latvian Herald No.82, 28.05.2008.

## METHODOLOGY

The report about the migration and asylum situation in Latvia in the year 2008 is developed on the basis of the specification and structure produced by the European Commission and adopted by the national contact points of the Network.

To reflect upon the most important legal and political changes and developments in the field of migration and asylum in Latvia the Consular Department of the Ministry of Foreign Affairs, Ministry of Interior, the Office of Citizenship and Migration Affairs and its experts were involved in the development of the report.

To reach the society in political and public debates, as well as in evolution of national legislation in the field of migration and asylum governmental authorities, nongovernmental organizations, academics and media mostly use the web. Therefore in the development of the Report mostly was used web, to oversee and appraise latest articles, opinions and debates on the questions on migration and asylum in Latvia. In the work largely are used news portals [www.apollo.lv](http://www.apollo.lv), [www.delfi.lv](http://www.delfi.lv), [www.tvnet.lv](http://www.tvnet.lv), [www.diena.lv](http://www.diena.lv), [www.la.lv](http://www.la.lv), portal of social policy [www.politika.lv](http://www.politika.lv), as well as the external home page of the Saeima and of all Ministries.

When preparing the Report, special criteria were not used to verify significance of articles, publications, opinions, and debates.

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