



POLICY REPORT ON MIGRATION AND
ASYLUM SITUATION IN LATVIA
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EXECUTIVE SUMMARY

In accordance with the 1st part of the Article 9 of the European Union Council Decision No.2008/381/EC of May 14, 2008 establishing the European Migration Network¹, each national contact point of the European Migration Network shall submit a report on an annual basis, by providing detailed description of the situation in the field of migration and asylum in the relevant Member State by including political developments and statistical data.

The Policy report on the migration and asylum situation in Latvia in the year 2009 gives the overview on development and changes of policy and legislation of migration and asylum in Latvia in the year 2009.

This Policy report is the fourth overview prepared by the Office of Citizenship and Migration Affairs as the Latvian contact point of the European Migration Network (hereinafter – the Network). The Policy report on the migration and asylum situation in Latvia in the years 2006, 2007, and 2008 can be downloaded from the homepage of the Network Latvian contact point www.emnlatvia.lv.

The purpose of this report is to disclose the major political changes in the field of migration and asylum in Latvia. The report has three principal objectives – to describe changes in national legislation, administrative practice and political and public debates in the field of migration and asylum, to include information regarding the implementation of the European Pact on Immigration and Asylum in Latvia, and to document the situation of European legislation and effect of European political events in Latvia.

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

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

The results of reports of 26 Network Member States involved in the development of the report will be summarized in the synthesis report by making comparison to define tendencies and to monitor the political events in the field of migration and asylum in the European Union (hereinafter – the EU). The synthesis report will be used in the annual debates of the European Council in June 2010.

In the first section of this report, the political and legal structure of Latvia is examined by mentioning the main changes in the general structure of the political and legal system in the migration and asylum field.

In the second section, the political, legal and institutional developments in the field of migration and asylum of Latvia is described by including the main political, institutional changes and the main debates regarding improvement of policy and legislation in the field of migration and asylum of Latvia.

In the third section, changes in the policy and legislation of Latvia in the field of migration and asylum is examined, by including the progress of the implementation of the European Pact on Immigration and Asylum by responsible institutions of Latvia.

In the fourth section, the progress of adoption of legislation of the EU into national legislation and administrative practice is examined.

In the annex to the report, the work methodology is described: methods used for information selection and choosing of information sources, the authorities mentioned in the sources which gave the support in obtaining and summarization of information, as well as the problems faced when making the information analysis.

¹ European Union Council Decision No.2008/381/EC of May 14, 2008 establishing the European Migration Network.// Official Journal, L 131, 21.05.2008.

1. GENERAL STRUCTURE OF POLITICAL AND LEGAL SYSTEM

1.1. Structure of the Political System

The Policy report on the migration and asylum situation in Latvia in the year 2006 and research study “The Organization of Migration and Asylum Policy in Latvia” gave a detailed overview on the structure of the political system of Latvia in the field of migration and asylum. The Ministry of Interior is the main state administration institution in the field of internal affairs, which also develops and implements the policy in the field of migration. Besides the Ministry of Interior, the Ministry of Foreign Affairs, Ministry of Welfare, Ministry of Economics, Ministry of Health, Ministry of Education and Science, Ministry of Justice, as well as state security institutions and local governments are also dealing with questions of migration and asylum. The mentioned state administration institutions within their competence are mutually cooperating to implement the principles of good governance.

However it must be noted that important structural changes have occurred in Latvia in 2009 in those institutions responsible for the matters of migration and asylum. Namely, in accordance with Cabinet Order No.650 of October 29, 2008 “On Reorganization of the Secretariat of the Special Assignments Minister for Social Integration Affairs”², the Secretariat of the Special Assignments Minister for Social Integration Affairs has been merged with the Ministry of Children and Family Affairs from January 1, 2009 and its new name is the Ministry of Children, Family and Integration Affairs.

On April 28, 2009, the Government made a decision on reorganization of the Ministry of Children, Family and Integration Affairs.³ The aim of the reorganisation of the Ministry of Children, Family and Integration Affairs was to improve system of the state administration institutions and to ensure efficient operation.⁴ The Government decided that the functions of the Ministry of Children, Family and Integration Affairs will be taken over by three ministries: Ministry of Welfare, Ministry of Justice, and Ministry of Education and Science. The Ministry of Welfare took over the development of the state policy in the field of protection of children rights and the children and family law. The Ministry of Justice took over the development of the state policy in the field of integration as well as organisation and coordination of the implementation of the same. State policy in the field of integration

² Cabinet Order No.650 of October 29, 2008 “On Reorganization of the Secretariat of the Special Assignments Minister for Social Integration Affairs”// The Latvian Herald, No.169, 30.10.2008.

³ Valdība vienojas reorganizēt Baštika vadīto ministriju (The Government agrees on reorganisation of the Ministry lead by Mr.Baštiks).// <http://www.diena.lv/lat/politics/hot/bastiks-uzskata-ka-sai-valdibai-berni-neinterese> - [see: 28.04.2009.]

⁴ In accordance with Cabinet Order No.281 of May 6, 2009 “On the Ministry of Children, Family and Integration Affairs”// The Latvian Herald, No.71, 08.05.2009. [valid from 06.05.2009.]

includes promoting of the development of civic society and cross-culture dialogue, participation in improvement of the support system by facilitating successful integration of immigrants in the society, as well as implementation of supervision of the European Fund for the Integration of Third Country Nationals. The Ministry of Education and Science, in its turn, took over the development of state policy in the field of youth.

In accordance with the Protocol No.88 of the Cabinet meeting of December 15, 2009⁵, the Cabinet decided to transfer the Naturalisation Board under the supervision of the Ministry of Interior. The amendments to the statutes of the Ministry of Interior, the Ministry of Justice, as well as the Naturalisation Board implemented by the Cabinet stipulate that the Naturalisation Board further will be a separate institution under the Ministry of Interior, and wherewith a new competence assigned to the Ministry of the Interior: development and implementation of the legal policy in the field of citizenship. The executive summary of the amendments to the statutes of the Naturalisation Board provides that the functions of the Naturalisation Board shall be transferred to the Office of Citizenship and Migration Affairs.

The Policy report on the migration and asylum situation in Latvia in the year 2006 and research study “The Organization of Migration and Asylum Policy in Latvia” are available and can be downloaded from the homepage of the Latvian contact point of the Network www.emnlatvia.lv.

1.2. Structure of the Legal System

The Policy report on the migration and asylum situation in Latvia in the year 2006 and the research study “The Organization of Migration and Asylum Policy in Latvia” reflects information about the legal system in the field of migration and asylum.

In the year 2009, the legal system in the field of migration and asylum has not changed substantially. The *Immigration Law*⁶ and its subordinate Cabinet Regulations still define procedure of entry, residence, transit, departure and detention of a third-country national, as well as procedure according to which third-country nationals are held in guard in the Republic of Latvia and expelled from it, in order to ensure the execution of migration policy according to rules of international law and state interests of Latvia. It should be noted that, on June 15, 2009 Saeima of the Republic of Latvia (hereinafter – Saeima⁷) adopted new *Asylum Law*⁸ which entered into force on July 14, 2009. During 2009, after the entering into force of the Asylum Law, the responsible ministries have drafted Cabinet Regulations that are

⁵ Protocol No.88 of the Meeting of the Cabinet of Ministers at December 15, 2009.// <http://www.likumi.lv/doc.php?id=202334>

⁶ Immigration Law.// The Latvian Herald, No.169, 20.11.2002.

⁷ Saeima - the Parliament of the Republic of Latvia..

⁸ Asylum Law.// The Latvian Herald, No.100, 30.06.2009.

envisaged for the implementation of the authorisation granted to the Cabinet by the Asylum Law. In accordance with Clause 3 of the Transitional Provisions of the Asylum Law, the Cabinet of Ministers shall issue relevant regulations by January 14, 2010. Law “***On Status of Permanent Resident of the European Community in the Republic of Latvia***”⁹ determines the procedure of granting and losing of the status of permanent resident of the European Community in the Republic of Latvia according to Council Directive 2003/109/EC of November 25, 2003 concerning the status of third-country nationals who are long-term residents of a Member State¹⁰.

⁹ Law „On Status of Permanent Resident of the European Community in the Republic of Latvia”.// The Latvian Herald, No.107, 07.07.2006.

¹⁰ Council Directive 2003/109/EC of November 25, 2003 concerning the status of third-country nationals who are long-term residents.// Official Journal, L 016, 23.01.2004.

2. POLITICAL, LEGAL AND INSTITUTIONAL DEVELOPMENTS IN LATVIA IN THE FIELD OF MIGRATION AND ASYLUM

2.1. General political developments

On February 20, 2009, after the request of the Chairman of the Board of Tautas partija (People's Party)¹¹, the Prime Minister Ivars Godmanis¹² announced to the State President Valdis Zatlers his resignation from the position of the Prime Minister. President accepted the resignation of I. Godmanis and announced that he would commence negotiation with all parties represented in Saeima regarding formation of government.¹³

On March 12, 2009, Saeima in its extraordinary meeting approved the new government lead by Prime Minister Valdis Dombrovskis.¹⁴ The new Government is formed by political parties: Jaunais laiks (New Era Party), Tautas partija (People's Party), Zaļo and zemnieku savienība (Union of Greens and Farmers), Pilsoniskā savienība (Civic Union), and union Tēvzemei un Brīvībai/LNNK (For Fatherland and Freedom/LNNK) that totally have 64 votes in Saeima.

There are seven new ministers in the newly formed Government: Minister of Defence Imants Lieģis, Minister of Economics Artis Kampars, Minister of Finance Einars Repše, Minister of Internal Affairs Linda Mūrniece, Minister of Culture Ints Dālderis, Minister of Welfare Uldis Augulis, and Minister of Agriculture Jānis Dūklavs.

New Minister of Interior Linda Mūrniece represents political party Jaunais laiks (New Era Party). Linda Mūrniece has worked in the field of internal affairs from 1992 till 1997.

Five ministers have retained their positions from the previous government that was lead by the Prime Minister Ivars Godmanis: Minister of Foreign Affairs, Minister of Education and Science, Minister of Regional Development and Local Government, Minister of Transport, and Minister of Environment, but former Minister of Interior Mareks Segliņš who represents political party Tautas partija (People's Party) was approved in the position of the Minister of Justice.

Essential changes were made also among the highest officials of state institutions, for instance, in the previous position of the Chief of the State Border Guard, General Gunārs Dāboliņš, in accordance with Cabinet Order No.234 of April 9, 2009 "On N.Garbars", Chief

¹¹ Melbārzde L. Tautas partija prasa valdības demisiju, premjers dodas pie prezidenta (People's party demands resignation of the government; the Prime Minister to meet with to the President).// http://www.db.lv/a/2009/02/20/Tautas_partija_prasa_vald?open=sec. – [see: 20.02.2009.]

¹² Government of I. Godmanis was approved by Saeima on December 20, 2007.

¹³ Fridrihsone M. Godmanis aiziet (Godmanis leaves).// http://www.db.lv/a/2009/02/20/Godmanis_aiziet?open=sec – [see: 20.02.2009.]

¹⁴ Jauce S. Apstiprina Valda Dombrovskā valdību (Government of Valdis Dombrovskis is approved).// <http://www.lv.lv/index.php?menu=fotoreportazas&fid=513> – [see: 22.09.2009.]

of Riga Department of the State Border Guards, Colonel Normunds Garbars was approved, and in the previous position of Chief of the Naturalisation Board of the Ministry of Justice Eiženija Aldermane, in accordance with Cabinet Order No.588 of August 27, 2009 “On Ē.Baranovskis”, Ēriks Baranovskis was approved who previously was the Deputy Chief of the Naturalisation Board. Simultaneously with the two above-mentioned changes in two important institutions related to the field of migration, certain changes are planned also in operation of the said institutions.

2.2. Main Policy and Legislative Improvement Debates

As it was mentioned in subsection 2.1 of the present Report, on March 12, 2009, the extraordinary meeting of the Saeima of the Republic of Latvia approved the new government of Prime Minister Valdis Dombrovskis, which according to Section 5 of the Law on the Structure of the Cabinet of Ministers¹⁵ and Clause 1, Section 27 of the Law “Rules of the Parliamentary Procedure”¹⁶ of July 28, 1994 have developed the governmental declaration that defines the working priorities and objectives of the government.

Comparing the objectives and tasks of the Declaration of the Cabinet of Ministers of Valdis Dombrovskis with the objectives and tasks of the previous government, the migration affairs have not lost their topicality in the current declaration. The government plans to act in order to regain the confidence of the society in the state power, to create preconditions for overcoming the economic crisis and lay stable foundation to the growth of Latvia, welfare and security of the society.¹⁷ The field of migration is not mentioned among the tasks set to the government.

By taking into account the severe economic situation in the country, debates started in the political environment of Latvia regarding an opportunity for third-country citizens to receive residence permits on a condition that they would invest considerable funds in the Latvian economy. The first proposals to Prime Minister Valdis Dombrovskis were submitted by Riga City Mayor Nils Ušakovs¹⁸ who represents alliance of political parties “Saskaņas centrs”¹⁹ (Harmony Centre). The debates of politicians are supported also among entrepreneurs, which is evidenced by the opinion of owner of real estate company Latio – Edgars Šīns that “in situation when inhabitants are leaving Latvia, issue of temporary

¹⁵ Law on the Structure of the Cabinet of Ministers.// The Latvian Herald, No.64, 11.04.2002.

¹⁶ Rules of the Parliamentary Procedure.// The Latvian Herald, No.96, 18.08.1994.

¹⁷ Declaration on planned activity of the Cabinet of Ministers of Valdis Dombrovskis.// The Latvian Herald, No.40, 12.03.2009.

¹⁸ Elected on July 1, 2009.

¹⁹ Varētu izvērtēt uzturēšanās atļauju piešķiršanu investoriem (Granting of Residence Permits to Investors Could be Evaluated).// <http://www.delfi.lv/news/national/politics/varetu-izvertet-uzturesanas-atlauju-pieskirsanu.d?id=27020699> – [see: 24.09.2009.]

residence permits would give an opportunity to several tens of wealthy foreigners to reside in their purchased dwellings in Latvia and to pay taxes.”²⁰

As a result of political debates at various levels, on October 15, 2009 the Commission for National Economy, Agrarian, Environmental and Regional Policy of Saeima supported the conception of simplified issuance of residence permits to third-country nationals who purchase one or several real estates in Latvia for a value of at least LVL 50,000 (app. EUR 70,000) or who have invested to equity capital of a company at least LVL 10,000 (app. EUR 14,000) and employ at least three employees. The above-mentioned commission supported the concept by reviewing the amendments to the Immigration Law by Saeima in the second reading. Chairman of the Commission Vents Armands Krauklis who represents political party “Tautas partija” (People’Party) explained that the aim of the amendment is to attract investments, create new working places and to move the real estate market from “the death point”.

The amendment provides that third-country nationals will have an opportunity to receive a residence permit for a period not exceeding five years, if they have invested to equity capital of a company at least LVL 10,000 (app. EUR 14,000), employ at least three employees full time from whom at least one half is comprised of citizens or non-citizens of Latvia, EU citizens or citizens of the states of the European Economic Area, and who have paid to the state or local government budget in taxes at least LVL 50,000 (app. EUR 70,000). The amendment also stipulates that a residence permit for period not exceeding five years can also be issued in case if a person has purchased and he or she owns one or several real estates in Latvia with total amount of transaction or market value at least LVL 100,000 (app. EUR 140,000) but in specially supported territories: LVL 50,000 (app. EUR 70,000).²¹ It is important to note that until now, the Immigration Law provided that a residence permit in Latvia can be received for a period not exceeding five years if a person is an individual merchant registered with the commercial register.

After a month, the opinion of Edgars Šīns was also supported by Chairman of the Board of Joint-stock company “Rīgas elektromašīnbūves rūpnīca” (Riga Electric Machine Building Works) Grigorijs Uspenskis who deems that “granting of temporary residence permits to third-country nationals is unambiguously sufficient reason to be able to attract

²⁰ Iljinska K. Šīns: uzturēšanās atļauju pārdošana ir laba ideja (Šīns: Sale of Residence Permits is a Good Idea).// http://www.db.lv/2/a/2009/09/11/SHins_uztureshanas_atlauju - [see: 11.09.2009.]

²¹ Plāno atvieglot uzturēšanās atļauju izsniegšanu investoriem and nekustamo īpašumu pircējiem (Plans Easier Issue of Residence Permits to Investors and Buyers of Real Estates).// <http://www.delfi.lv/news/national/politics/plano-atvieglot-uzturesanas-atlauju-izsniegšanu.d?id=27408919> – [see: 15.10.2009.]

considerable investments. Inhabitants of the former U.S.S.R.²² countries are interested in receiving of temporary residence permits when commencing business in Latvia, besides Latvia attracts potential investors because it opens new business opportunities in the EU.”²³

On November 10, 2009 the Commission for National Economy, Agrarian, Environmental and Regional Policy of Saeima decided to review its proposals of October 15, 2009 by increasing the requirements to investors. The Commission for Defence, Internal Affairs and Corruption Prevention of Saeima suggested repeated assessment of potential security risks and economic advantage of the proposals. The Commission for National Economy, Agrarian, Environmental and Regional Policy plans that an entrepreneur will have to invest at least LVL 25,000 (app. EUR 35,000) to equity capital, create at least five places of employment, pay to the state in taxes at least LVL 10,000 (app. EUR 14,000) annually it is planned to determine that at least one half of the employees must be citizens or non-citizens of Latvia, EU citizens or citizens of the European Economic Area. According to estimates of the Commission for National Economy, Agrarian, Environmental and Regional Policy, about 2,500 new working places could be created upon adoption of the said proposals, and tax revenue could reach five million lats. By taking into account negotiations with representatives of the bank sector, the Commission for National Economy, Agrarian, Environmental and Regional Policy proposes also a new standard: a person will have an opportunity to apply for residence permit if the person will invest at least LVL 200,000 (app. EUR 281,000) in subordinated capital.²⁴

Kārlis Šadurskis who represents political party “Pilsoniskā savienība” (Civic Union) in the Commission for Defence, Internal Affairs and Corruption Prevention of Saeima objects to the above-mentioned amendments to the Immigration Law. He emphasises that political party “Pilsoniskā savienība” (Civic Union) does not object against the idea that a temporary residence permit in Latvia could be granted for important contribution to the Latvian economy. The parliament member is of the opinion that, if an entrepreneur has entered the market with it’s own capital, formed an enterprise, he or she has the right to supervise the business here; however such investment must be of at least half a million. At least 50 places of employment for Latvian people must be created. However no privileges at all should be introduced in relation to acquisition of real estate. By opening the border for a few thousand

²² U.S.S.R. – the Union of Soviet Socialist Republics.

²³ Iļinska K. Uzņēmējs: termiņuzturēšanās atļaujas ir labs iemesls investīcijām (Entrepreneur: Temporary Residence Permits is a Good Reason for Investments).// http://www.db.lv/2/a/2009/10/15/Uznemejs_terminuztureshan - [see: 15.10.2009.]

²⁴ Tomēr paaugstina latīņu investoru uzturēšanās atļauju saņemšanai (The Threshold for Receipt of Residence Permits by Investors is However Raised).// <http://www.diena.lv/lat/business/hotnews/tomer-parskata-nosacijumus-investoriem-uzturesanas-atlauju-sanemsanai> - [see: 10.11.2009.]

lats, it is not written anywhere that this green zone will be crossed only by “calm and decent” Russian businessmen. Such an opportunity might be used by people from the Middle East or other countries who sometimes are forced to search for and take much more complicated paths to ‘infiltrate’ in the West. The member of “Pilsoniskā savienība” (Civic Union) emphasised also that the Security Police supports the position of “Pilsoniskā savienība” (Civic Union) and agrees that the said amendment to the Immigration Law could cause additional risks of increased money laundering and illegal immigration.²⁵ Diversity of opinions can be observed among the parliament members in the question regarding conditions for issue of temporary residence permit which, in its turn, has considerable effect on the progress of the amendment to the Immigration Law in Saeima.

Members of the Commission for Defence, Internal Affairs and Corruption Prevention of Saeima, in collaboration with state security authorities and officials of the Office of Citizenship and Migration Affairs drafted a new wording of amendments to the Immigration Law which stipulated that a third-country national has the right to apply for a temporary residence permit according to the procedure provided for in the said Law:

- for a period not exceeding five years if he or she has invested equity capital in a capital company at least 25,000 lats, creates five new places of employment where employees are working full time, from those at least one half is citizens of Latvia, non-citizens of Latvia, citizens of Member States of the European Union or citizens of the states of the European Economic Area, and at least 10,000 lats are paid in taxes to the state or local government budget in an economic year;
- for a period not exceeding five years if he or she has purchased in the Republic of Latvia or he or she owns one or several real estates in Riga, Riga planning region or cities of the Republic, for a total amount of the transaction at least 100,000 lats, or one or several real estate outside Riga, Riga planning region or cities of the Republic for a total amount of the transaction at least 50,000 lats, as well as in case if he or she has never had any delayed payments for the immovable property tax;
- for a period not exceeding five years if he or she has made financial investments to a credit institution of the Republic of Latvia for at least 200,000 lats in type of subordinated capital of the credit institution (subordinated loan or subordinated bonds)

²⁵ Līcītis E. Biļete uz Eiropu – 10 000 latu, izglītība „kaktu” augstskolās (Ticket to Europe: 10,000 lats, Education in ‘Sham’ Universities).// http://www2.la.lv/lat/latvijas_avize/jaunakaja_numura/redakcijas.viesis/?doc=67287 – [see: 13.11.2009.]

for the term of at least five years and where there is no entitlement to terminate it prior to deposit maturity term, in accordance with terms and conditions of deposit.²⁶

The Commission for Defence, Internal Affairs and Corruption Prevention of Saeima reviewed the above-mentioned amendment to the Immigration Law at the meeting of December 16, 2009.²⁷

2.3. General Institutional Developments

Starting from July 1, 2009, new administrative structure has been introduced in the central apparatus of the Ministry of Interior where instead of the previously four deputy state secretaries, two deputies are envisaged, but instead of the previously sixteen independent structural units there will be only nine. New Department for Sectorial Policy²⁸ has been established instead of the former Planning, Coordination and Control Department, and in accordance with Regulations No.46 of the Ministry of Interior of July 10, 2009 “Statutes of the Department of the Sectorial Policy” it develops policy of internal affairs in the field of social order and safety, border guard, border control and illegal migration, fire extinguishing and rescue, civil defence, citizenship and migration, as well as security policy.²⁹

On the basis of Cabinet Order No.319 of May 9, 2006 “On the Concept of Joint Management of State Immovable Property”³⁰, as well as the conclusions made during the optimization of functions for reception of asylum seekers under the project of the European Refugee Fund, decision was made that the most proper solution currently would be to entrust the management and maintenance of the buildings of the asylum seekers’ accommodation centre to the Provision State Agency. Thus, on the basis of Cabinet Order No.2404 of November 9, 2009 “On Change of the Manager of Immovable Property Jaunceltne-2, Ropaži region, Asylum Seekers’ Accommodation Centre “Mucenieki””, starting from January 1, 2010, the Office of Citizenship and Migration Affairs delivers the management of the Asylum Seekers’ Accommodation Centre “Mucenieki” to the Provision State Agency of the Ministry of Interior. Simultaneously, the Office of Citizenship and Migration Affairs still remains the responsible institution for the development and implementation of the asylum policy however

²⁶ Information provided by the officials of the Office of Citizenship and Migration Affairs.

²⁷ Agenda of the meeting of December 16, 2009 of the Commission for Defence, Internal Affairs and Corruption Prevention of Saeima.// http://www.saeima.lv/pages/AIeK/komisija-darbiba.jsp?chapter_id=6

²⁸ Laganovskis G. Ministre: iekšlietu reformas bijušas vērienīgas and savlaicīgas (Minister: Reforms of Internal Affairs have been of Wide Scope and Well Timed).// <http://www.lv.lv/?menu=doc&id=199975> – [see: 03.11.2009.]

²⁹ Structure of the Ministry of the Interiors.// <http://www.iem.gov.lv/lat/ministrija/struktura/> - [see: 03.11.2009.]

³⁰ Patvēruma meklētāju centru „Mucenieki” nodod IeM aģentūras apsaimniekošanā (Asylum Seekers’ Accommodation Centre “Mucenieki” is transferred for management to the Agency of the Ministry of Interior).// <http://www.iem.gov.lv/lat/aktualitates/jaunumi/?doc=17563> – [see: 12.11.2009.]

it would not need any more to deal with solving operational activities that are not included in its basic functions.

In order to optimize implementation of the functions of the Office of Citizenship and Migration Affairs and to comply with the requirements of the government to noticeably reduce expenditures of the budget, on the basis of the first paragraph of the section 17 of the State Administration Structure Law on June 8, 2009 the structure of the Office of Citizenship and Migration Affairs was reorganised. As a result of restructuring of the Office of Citizenship and Migration Affairs three departments were established – Population Register Department, Persons Identification Documents Department, as well as six divisions which will be responsible for the questions related to the migration policy, asylum policy, European affairs and legal matters as well as with the establishment of the persons legal status – Migration Division, Asylum Affairs Division, Residence Permit Division, Legal and European Affairs Division, Project and International Cooperation Division, and Persons Status Control Division.

3. POLICY AND LEGISLATIVE DEVELOPMENTS IN THE FIELD OF MIGRATION AND ASYLUM

3.1. Control and Monitoring of Immigration

3.1.1. European Pact on Immigration and Asylum

In 2009, the Office of Citizenship and Migration Affairs, on the basis of decisions of competent institutions, has entered reports in Schengen Information System (hereinafter – the SIS) regarding 409 persons for the purpose of refusing entry in the territory of Schengen member states, where in 25 cases registration of reports was related to a decision of forced removal.³¹

In 2008 the State Border Guard made 164 decisions about inclusion of persons in the SIS, in 40 cases inclusion of the report was related to the decision of forced removal.

In 2009 the State Border Guard made 329 decisions about inclusion of persons in the SIS, in 6 cases inclusion of the report was related to the decision of forced removal.

Provisions of Council Directive 2001/40/EC³² of May 28, 2001 on the mutual recognition of decisions on the expulsion of third-country nationals have been adopted in regulatory enactments of Latvia with the *Amendments to the Immigration Law*³³ of December 20, 2007, which enter into force on January 23, 2008. Until the present moment, the competent institutions of the Republic of Latvia have not encountered any need to apply the requirements of the said Directive in practice.

Activities performed by the State Border Guard in 2009 for monitoring and control of external land, sea and air borders:

- On May 27-28, 2009, the College of the State Border Guard of the Republic of Latvia in cooperation with Ludza Department of the State Border Guard and the Aviation Administration of the State Border Guard (hereinafter – the Aviation Administration) organised tactical training “Robeža 2009” (“Border 2009”) the objective of which was testing and improvement of practical skills of the State Border Guard in organising the border guard service in relation to methods for detection and detention of trespassers and illegal immigrants, as well as studying of various aids for state border control,

³¹ Information provided by the officials of the Office of Citizenship and Migration Affairs.

³² Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third-country nationals.// Official Journal, L 149, 02.06.2001.

³³ Law “Amendment to the Immigration Law”.// The Latvian Herald, No.4, 09.01.2008. [valid from 23.01.2008].

studying the possible application and tactics in detection and detention of offenders of the state border.

- On July 22-23, 2009, Daugavpils Department of the State Border Guard in cooperation with the Aviation Administration organised tactical training to improve the methods, techniques for detection and detention of trespassers and illegal immigrants as well as mutual cooperation among territorial structural units of the State Border Guard and improve cooperation among Daugavpils Department of the State Border Guard, the Aviation Administration and border guards of the neighbouring counties in activities of searching for trespassers and emergency situations.
- On November 16, 2009, Ventspils Department of the State Border Guard in cooperation with the Aviation Administration organised tactical training “RONIS 2009” with the purpose to test theoretical and practical knowledge of the crews of ship vessels of Ventspils Department of the State Border Guard in carrying out tasks of various levels of difficulty.
- Involvement of service dogs and attendants of service dogs of the State Border Guard has always been one of the most efficient methods of the border zone control and detection of recent trespassing cases as well as determination of direction of trespassers’ movement, but in case of favourably circumstances: also one of the methods for tracking and detention of trespassers. Regulations of the State Border Guard provide 8 staff positions for service dogs (with individual exceptions) at each unit of border guard.
- Since the risk of illegal immigration on the state border has increased, the territorial offices of the State Border Guard increased the involvement of criminal investigation services and immigration services in monitoring of the state border. In 2009, 49 third-country nationals who attempted illegal crossing of the state border (“green border”) outside border crossing points by avoiding the border control were detained.
- Upon completion of the development of regulations of the State Border Guard that regulate the functions of the Aviation Administration, its involvement in monitoring the state border was also increased, including the fight against illegal immigration and carriage of illegal and non-declared commodities across the state border, and works of rescue and search. In 2009, officials of the Aviation Administration detained 12 persons due to transportation of illegal non-declared commodities.

- The State Border Guard has drafted a regulatory enactment which enables the College of the State Border Guard to participate in fulfilment of tasks delegated to the State Border Guard, namely, by involving resources of the College of the State Border Guard in guarding the state border, border control and immigration control, prevention of emergency situation and elimination of consequences of such situations.
- Professional skills of officials at structural units of territorial offices of the State Border Guard were improved regarding technical equipment purchased within the framework of *Schengen Facility*³⁴ projects (for instance, training for work with AFIS, BiomIS³⁵). In 2009, new technical equipment was not purchased. The State Border Guard develops and improves the software of electronic information system REIS-2002 of the State Border Guard.³⁶

The Ministry of Interior developed and, on July 13, 2009, submitted to Saeima its draft law “Amendments to the Immigration Law”³⁷, which was approved by Saeima in its first reading on August 27, 2009. In the mentioned draft law the regulation, that relates to prohibition for third-country nationals to enter and reside in the Republic of Latvia not only in the cases when the third-country national has been included in the list of those persons to whom the entry into the Republic of Latvia is prohibited, but also if a report, that prohibits entry and residence in the member states of Schengen agreement, on this person has been included in SIS, has been clarified.³⁸

In the draft law also entry restriction has been determined to third-country national who has received a new travel document and who has a valid residence permit in the Republic of Latvia, namely, third-country national can use the old travel document with a valid residence permit for single entry into the Republic of Latvia in order to receive new residence permit.

In accordance with Cabinet Regulations No.217 of April 29, 2003 “Visa Regulations”³⁹, state competent institutions do not issue and do not plan to issue biometric inserts in visas that would include fingerprints. A visa insert includes a photograph of the

³⁴ *Schengen Facility* – Schengen Convention financial programme.

³⁵ BiomIS - face image recognition system.

³⁶ Information provided by officials of the State Border Guard.

³⁷ Draft law “Amendment to the Immigration Law”//

<http://titania.saeima.lv/LIVS/SaeimaLIVS.nsf/0/A4AE4F3C05CC28E2C22575F2004311B3?OpenDocument> – [see: 27.08.2009.]

³⁸ Executive Summary to Draft Law “Amendment to the Immigration Law”//

<http://titania.saeima.lv/LIVS/SaeimaLIVS.nsf/0/A4AE4F3C05CC28E2C22575F2004311B3?OpenDocument> – [see: 27.08.2009.]

³⁹ Cabinet Regulations No.217 of April 29, 2003 “Visa Regulations”// The Latvian Herald, No.65, 30.04.2003. [valid from 01.05.2003.]

individual and only in rare cases, due to objective technical reasons; a visa insert may not contain a photograph of a person.⁴⁰

Already before accession to the Schengen Agreement, Latvia as an EU Member State has been involved in consular cooperation with consular missions of other EU Member States. Since Latvia has become a member state to the Schengen Agreement, consular representations of the Republic of Latvia abroad are paying increased attention to the local consular cooperation, and particularly it pertains to missions outside the Schengen zone where continued harmonisation of the visa issue practice is necessary, as well as efficient information exchange among missions of Member States. Responsible officials take active part in the cooperation by using the opportunities provided by local consular cooperation of quick exchange of information and detect those who submit visa applications without good faith.

In 2009, Latvia has used the opportunity to conclude representation agreements in the field of visa issuance in those countries where Latvia does not have its diplomatic or consular representations, as well as to represent other member states of the Schengen Agreement in issuance of visa. Currently, Latvia is represented in issuance of common or Schengen visas in 37 countries by 5 EU Member States (Germany, Hungary, Slovenia, France, the Netherlands) at 38 diplomatic and consular representations of the EU Member States. At the same time, in issuance of common or Schengen visas Latvia represents in 6 countries 6 different EU Member States (Hungary, Estonia, Sweden, Slovenia, the Netherlands, France) in 8 diplomatic or consular representations of the Republic of Latvia. Latvia has established good cooperation with other EU Member States in issuance of common or Schengen visas. In 2009, Latvia has cooperated in issuance of common or Schengen visas with the following EU Member States: Germany, France, the Netherlands, Hungary, Slovenia, and Estonia. Ministry of Foreign Affairs plans to continue and to expand the initiated cooperation with other EU Member States in issuance of common or Schengen visas also in 2010.⁴¹

The Cabinet of Ministers decided in its meeting of October 27, 2009⁴² that Latvia supports the strengthening of solidarity among Member States. Simultaneously, Latvia strongly supports the principle of the EU that transfer of persons who have received international protection from one EU Member State to another depends on the reception capacity of each Member State; the Republic of Latvia currently does not plan to involve in

⁴⁰ Information provided by officials of the Office of Citizenship and Migration Affairs.

⁴¹ Information provided by officials of the Ministry of Foreign Affairs.

⁴² Protocol No.76 of the Meeting of the Cabinet of Ministers at October 27, 2009.// <http://www.likumi.lv/doc.php?id=199964> – [see: 22.12.2009.]

the implementation of the activities under the pilot project planned in 2010 regarding transfer of persons who have received international protection from Malta to other EU Member States.⁴³ Currently, Latvia can offer its participation in the joint missions in the region organised by the FRONTEX as a support for solving the Mediterranean Sea migration problems.⁴⁴

On February 7, 2009, Cabinet Regulations No.99 of February 3, 2009 “Regulations on Amount of Data to be Included in the Automated Fingerprint Identification System (AFIS) and the Procedure of Application”⁴⁵ issued in accordance with Paragraph three, Section 3 of the Immigration Law came into force. The Regulation provides the amount of data to be included in the Automated Fingerprint Identification System (hereinafter – the AFIS) and the procedure for application of the same. The AFIS is a state information system which includes data on asylum seekers in the Republic of Latvia and third-country nationals detained by the State Border Guard. The AFIS data is used for identification of persons, by making inspections related to control of the observance of the rules for persons’ entry, residence, leave and transit. The manager of the AFIS is the State Border Guard. By entering into force of the above-mentioned regulations, starting from March 23, 2009, the State Border Guard gradually introduced the AFIS, totally 3 (cardscan) and 9 (livescan) AFIS data entry workstations, 14 AFIS data verification workstations, 1 (RapID) AFIS data entry workstation, and 1 AFIS expert workstation.⁴⁶

Cooperation between the State Border Guard and countries of origin and transit of immigrants, provision of technical support for strengthening the border control:

- Within the framework of the project financed by the EU, 3 communication officers were transferred to work in Georgia (immigration communication officer, air line coordinator, and document expert) to summarise information and provide support to state institutions of Georgia in matters related to combating illegal immigration and use of forged documents. The communication officers fulfil their duties on behalf of Latvia, Lithuania, and Estonia.
- Within the framework of the project financed by the EU, an immigration communication officer of the State Border Guard was transferred to work in Belarus to

⁴³ National position of Latvia regarding the Pilot Project: transfer of persons who have received international protection from Malta to other Member States of the European Union.//

<http://www.mk.gov.lv/lv/mk/tap/?pid=40149774&mode=mk&date=2009-10-27> – [see: 21.12.2009.]

⁴⁴ Information provided by officials of the Ministry of Interior.

⁴⁵ Cabinet Regulations No.99 of February 3, 2009 “Regulations on Amount of Data to be Included in the Automated Fingerprint Identification System (AFIS) and the Procedure of Application”// The Latvian Herald, No.21, 06.02.2009. [valid from 07.02.2009.]

⁴⁶ Information provided by the officials of the State Border Guard.

summarise information and provide support to state institutions of Belarus in matters related to combating illegal immigration. The immigration communication officer fulfils his duties on behalf of Latvia, Lithuania, and Estonia.

- Participation at seminar organised by EU BOMCA⁴⁷ “Institutional Reforms”- Principles and Practice of Introduction of the European Integrated Border Management Concept. Beneficiaries: Tajikistan, Uzbekistan, Kirgizstan, Kazakhstan, Turkmenistan.
- The attaché of the Ministry of Interior in Ukraine and Moldova summarises information about the trends in illegal immigration and, if necessary, ensures information exchange between the State Border Guard and the Border Service of Ukraine.
- Participation at the seminar organised by the TAIEX⁴⁸ of the European Commission: International Cooperation among Border Control Institutions. Beneficiary: Belarus.
- The following activities have been performed within the framework of bilateral cooperation with the Border Service of the Russian Federation:
 - trainings of border guards of the Russian Federation in the field of detection of forged documents, inspection of common state border, visits of attendants of service dogs. Meetings of the border working party organised by institutions. Regular meetings of authorised border representatives;
 - within the framework of bilateral cooperation with the Federal Migration Service of the Russian Federation, two meetings have been organised, also an agreement of cooperation has been signed.
- The following agreements and understandings with third countries regulate the cooperation of the State Border Guard with countries of transit of illegal migration:
 - *Agreement between the Government of the Republic of Latvia and the Government of the Republic of Belarus regarding cooperation in the matters of border guarding, signed on August 18, 1996;*
 - *Agreement between the Government of the Republic of Latvia and the Government of the Russian Federation regarding cooperation in the matters of*

⁴⁷ BOMCA - Border Management in Central Asia Programme.

⁴⁸ TAIEX - Technical Assistance and Information Exchange.

border guarding, signed in the Russian Federation (St. Petersburg) on February 26, 1996;

- *Agreement between the State Border Guard of the Republic of Latvia and the State Committee in the Border Guard Matters of Ukraine regarding cooperation in the matters of state border guarding*, signed in the Republic of Latvia (Riga) on July 13, 1999;
- *Agreement between the State Border Guard of the Republic of Latvia and the Border Guard Service of the Republic of Moldova*, signed on August 26, 2005;
- *Agreement between the State Border Guard of the Republic of Latvia and the Border Guard Service of the Republic of Azerbaijan*, signed on February 27, 2008 in the Republic of Azerbaijan;
- *Agreement between the State Border Guard of the Republic of Latvia and the Border Guard of the Republic of Georgia regarding Cooperation*, signed on October 15, 2008.⁴⁹

Agreements regarding the cooperation in the field of prevention and combating of organised crime mostly envisage also cooperation possibilities in the field of prevention and combating of illegal immigration. Such agreements have been signed with Azerbaijan, Belarus, Georgia, Israel, Kazakhstan, Moldova, Slovakia, Slovenia, Turkey, Ukraine, and Uzbekistan.⁵⁰

Currently, draft bilateral agreements are being processed regarding cooperation in the field of prevention and combating of organised crime with the following countries: Albania, Argentina, Armenia, Ecuador, Canada, China, Kirgizstan, Columbia, and Russia.

On June 28, 2006, the Protocol of the Government of the Republic of Latvia and the Government of the Russian Federation regarding the establishment of the joint working group of Latvia and Russia for fight against illegal immigration entered into force.⁵¹ The purpose of the above-mentioned Protocol is to improve the coordination of activities of the Republic of Latvia and the Russian Federation in the field of prevention and combating of illegal migration, including strengthening of the cooperation among competent institutions of both countries.

⁴⁹ Information provided by officials of the State Border Guard.

⁵⁰ Information provided by officials of the Ministry of Interior and the State Border Guard.

⁵¹ Protocol of the Government of the Republic of Latvia and the Government of the Russian Federation "Establishing the joint working party of Latvia and Russia for fight against illegal immigration".// The Latvian Herald, No.147, 15.09.2005.

On July 9, 2009 in Moscow fourth meeting of the joint working group of Latvia and Russia for fight against illegal immigration took place. During the meeting following questions were discussed:

- exchange of information on legislation in the field of citizenship and on persons who have Latvian/Russian citizenship;
- Latvian side provided information on marriage of convenience;
- Latvian side provided information on discovered outs of illegal immigrants, on persons involved in the illegal immigration, and on forms of illegal immigration;
- organisation of traineeship trips for officials of the State Border Guard of the Republic of Latvia and Federal Migration Service of the Russian Federation with an aim to exchange experience on best practices in combating of illegal immigration;
- during the meeting agreement was signed between the State Border Guard of the Republic of Latvia and the migration services of the Russian Federation in the field of combating of illegal immigration.

3.1.2. Additional Developments

On September 1, 2009, Cabinet Regulations No.733 of July 7, 2009 “Regulations of the Level of Proficiency in the Official Language and the Procedure of Testing the Level of Language Proficiency for Professional and Craft Duties for Receiving of Permanent Residence Permit, and Obtaining the Status of Permanent Resident of the European Community, and State Fee for Examination of Skills of the State Language”⁵² issued in accordance with Paragraph five, Section 6 of the Law on the State Language, Paragraphs five and 5.¹ of Section 24 of the Immigration Law, Paragraphs four and five of Section 3 of the Law “On the Status of Permanent Resident of the European Community in the Republic of Latvia”. The above-mentioned Regulation provides:

- level of proficiency in the official language and the procedure of testing the level of language proficiency required to fulfill professional and craft duties for persons indicated in Paragraphs one, two and three of the Law on the State Language;
- level of proficiency in the official language and the procedure of testing the level of language proficiency required to receive a permanent residence permit, privileges in

⁵² Cabinet Regulations No.733 of July 7, 2009 “Regulations of the Level of Proficiency in the Official Language and the Procedure of Testing the Level of Language Proficiency for Professional and Craft Duties for Receiving of Permanent Residence Permit, and Obtaining the Status of Permanent Resident of the European Community, and State Fee for Examination of Skills of the State Language”// The Latvian Herald, No.110, 14.07.2009. [valid from 01.09.2009.]

passing examination of skills of the state language, exemption from passing examination of skills of the state language for the persons indicated in Clauses 2, 3, 6, and 7 of Paragraph one, Section 24 of the Immigration Law;

- level of proficiency in the official language and the procedure of testing the level of language proficiency required to obtain the status of permanent resident of the European Community, privileges in passing examination of skills of the state language, exemption from passing examination of skills of the state language for the persons indicated in Paragraph one, Section 3 of the Law “On the Status of Permanent Resident of the European Community in the Republic of Latvia”;
- level of proficiency in the official language and the procedure of testing the level of language proficiency required to receive a permanent residence permit and obtain the status of a permanent resident of the European Community, as well as the procedure for payment of the state fee

The changes in the regulatory enactments that regulate such examination have been made with the purpose to combine in one regulatory enactment all previously valid regulations regarding examinations of skills of the state language and with the purpose to coordinate the current markings of levels and categories of the state language skills with the markings adopted for state language skills in the EU.

On December 16, 2009, the new *Law on the State Border of the Republic of Latvia*⁵³ entered into force which was adopted by Saeima on November 12, 2009. The purpose of the Law is to determine the state border and the border guarding system as well as to ensure the immunity of the state border on land, in sea and air space.

The new Law on the State Border has been developed in order to fully apply the provisions of the *acquis* of the Schengen Agreement in regulatory enactments of Latvia. Upon accession of Latvia to the Schengen Agreement zone, the previous regulation under the Law on the State Border has become invalid in respect to several fields related to determination, equipping and maintaining in nature of the state border, border zone and the frontier zone.⁵⁴

Draft Law “Amendments to the Immigration Law” includes provision which determines that a third-country national has the right to enter the Republic of Latvia by presenting simultaneously a new travel document and the previous travel document which contains a valid residence permit in the Republic of Latvia, only once.

⁵³ Law on the State Border of the Republic of Latvia.// The Latvian Herald, No.189, 02.12.2009.

⁵⁴ Saeima atbalsta jaunu Latvijas Republikas Valsts robežu likumu (Saeima accepts new law on the State Border of the Republic of Latvia // <http://www.saeima.lv/pages/aktualitates.jsp?page=info-medijiem&id=15512> – [see: 12.11.2009.]

By taking into account the importance of comparing of biometric data in detection of illegal immigration, the above-mentioned Draft Law determines that a third-country national shall have the duty to comply with the requirement of the state institutions for comparison of biometric data during border control and immigration control.⁵⁵

The Draft Law also determines that the residence permit shall be cancelled if a third-country national has not registered it. Thus, officials of the Office of Citizenship and Migration Affairs will be able to cancel residence permits of those third-country nationals who do not reside in Latvia for long term or who have moved for residence to another country by not informing the Office of Citizenship and Migration Affairs thereabout. The said amendments to the Immigration Law will ensure more accurate information in the Population Register regarding third-country nationals living in the country.⁵⁶

3.2. Refugee Protection and Asylum

3.2.1. European Pact on Immigration and Asylum

On July 14, 2009, the Asylum Law has entered into force which, inter alia, provides the implementation of the conditions of the Council Directive 2001/55/EC⁵⁷ of July 20, 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.

The State Border Guard has developed procedures that shall be applied in case of crises if there is a mass influx of asylum seekers in some EU Member State, in order it would be possible to send officials of the State Border Guard to the relevant Member State as assistants and thus implement more efficient solidarity with the relevant country.

Until now, Latvia has not been involved in activities of resettlement and in the implementation of the resettlement programmes and also does not plan such participation within the nearest future, therefore no specific cooperation with the United Nations High Commissioner for Refugees – UNHCR is planned, in order to ensure better protection to persons who request it outside the territory of the EU.⁵⁸

On the basis of Council Regulation No.2007/2004 of October 26, 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders

⁵⁵ Draft law “Amendments to the Immigration Law”.

⁵⁶ Executive Summary to Draft Law “Amendment to the Immigration Law”.

⁵⁷ Council Directive 2001/55/EC of July 20, 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.// Official Journal, L 212, 07.08.2001.

⁵⁸ Information provided by officials of the Office of Citizenship and Migration Affairs.

of the Member States of the European Union⁵⁹, the State Border Guard on a regular basis participates in common operations and in other activities in the Member States, where the risk of illegal immigration has increased or where influx of asylum seekers can be expected. In such a case and upon a request of the FRONTEX⁶⁰, well-prepared and experienced border guards are selected for the participation. Moreover, upon a request of the FRONTEX, the State Border Guard can provide technical support which includes a mobile video surveillance kit, fibro scopes, metal detectors and other technical aids. A helicopter of the State Border Guard provided active assistance to the Police of Greece near the Greek shores in 2009.

On the basis of Regulation (EC) No.863/2007 of the European Parliament and of the Council of July 11, 2007⁶¹ establishing a mechanism for the creation of Rapid Border Intervention Teams (hereinafter – the RABIT) and amending Council Regulation (EC) No.2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers, the State Border Guard has assigned 21 border guard who upon a request of the FRONTEX, according to emergency, are ready to be involved in procedures of border control as well as interviewing of asylum seekers in Member States with increased risk of illegal immigration.

In 2009, for training of employees involved in border control in the field of international protection rights and duties, the State Border Guard has implemented the following qualification improvement and professional improvement courses:

- Land border module: from November 10, 2008 till February 25, 2009, participants: 16 border guards;
- Operator of the AFIS: April 22, 2009 and April 20-22, 2009, participants: 6 border guards; April 27-29, 2009 participants: 6 border guards; June 17-19, 2009 participants: 6 border guards; July 14-16, 2009 participants: 6 border guards;
- Training of sea video surveillance system maintenance and technical staff: 11 border guards (TIC);

⁵⁹ Regulation (EC) No.863/2007 of the European Parliament and of the Council of July 11, 2007, establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No.2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers.// Official Journal, L 199, 31.07.2007.

⁶⁰ FRONTEX – European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

⁶¹ Regulation (EC) No.863/2007 of the European Parliament and of the Council of July 11, 2007.

- Landing training programme for officials of the State Border Guard on June 1-17, 2009, participants: 20 border guards; on July 23-24, 2009 participants: 20 border guards and officials of the OMEGA⁶² unit;
- Document fraud: from September 28 till October 2, 2009, participants: 15 border guards;
- First aid training on October 6-7, 2009, participants: 9 border guards, on October 26-30, 2009, participants: 14 border guards;
- Programme for improvement of qualification of sea border guard staff on March 23–April 3, 2009, participants: 20 border guards, on April 6-21, 2009, participants: 23 border guards (TIC).

Participation by officials of the State Border Guard in RABIT training organised by the FRONTEX agency in 2009:

- RABIT basic training in one course;
- RABIT in three working parties;
- In 2009, the State Border Guard participated in one course of the FRONTEX middle-level officers.

Within the framework of project of the European Refugee Fund “Improvement of Quality of the Asylum Procedure”, officials of the Office of Citizenship and Migration Affairs organised a training seminar regarding application of the new Asylum Law. Employees of the State Border Guard, Office of Citizenship and Migration Affairs, and courts participated in the seminar. During the project, comments to the new Asylum Law were prepared and an asylum procedure manual was developed. In order to improve conceptually the quality of interviews of asylum seekers, interview questions have been reworked in collaboration with the Office of Citizenship and Migration Affairs and the State Border Guard.

3.2.2. Additional Developments

As already mentioned in subsection 1.2 of the report, on June 15, 2009, Saeima of the Republic of Latvia adopted the new Asylum Law⁶³ which entered into force on July 4, 2009. In order to fulfil the authorisation given in the Asylum Law to the Cabinet of Ministers, the Ministry of Interior has drafted the following Cabinet Regulations during 2009:

⁶² OMEGA - Anti-terrorism unit of the State Police.

⁶³ Asylum Law // The Latvian Herald, No.100, 30.06.2009.

- Regulations on the allowed expenditures on food, hygiene products and other basic necessities for asylum seekers, and the procedures of reimbursing those expenses;⁶⁴
- Regulations regarding allowances to refugees and persons who have been granted alternative status;⁶⁵
- Internal regulation of the asylum seekers' accommodation centre;⁶⁶
- Procedure in accordance with which family of a refugee or a person with granted alternative status or temporary protection is reunified in the Republic of Latvia;
- Regulations on the transfer document template for a person who has been granted temporary protection, procedure of issuance of the transfer document and amount of information necessary for exchange among Member States;⁶⁷
- Regulations regarding a personal document form of an asylum seeker and the procedure for issue thereof;
- Standards for accommodation of an asylum seeker at the asylum seekers' accommodation premises of the State Border Guard, as well as on the amount of hygiene and basic necessities items.⁶⁸

In accordance with the Asylum law the Ministry of Education and Science has developed a project of the Cabinet Regulations "Procedure by which possibility to acquire education is ensured to minor asylum seekers". Acquisition of education for a minor asylum seekers is ensured on the basis of the Cabinet Regulations of August 9, 2005 No.586 "Procedure by which Education is to be Ensured for Minor Children of Asylum Seekers or Minor Asylum Seekers". From January 2008 till December 2009 acquisition of secondary school education has been ensured to 7 minor asylum seekers.

3.3. Unaccompanied minors

⁶⁴ Protocol No.37 of the Meeting of the State Secretaries of October 1, 2009.//

<http://www.mk.gov.lv/lv/mk/vssanaksmes/saraksts/protokols/?protokols=2009-10-01> – [see: 22.12.2009.]

⁶⁵ Protocol No.39 of the Meeting of the State Secretaries of October 15, 2009.//

<http://www.mk.gov.lv/lv/mk/vssanaksmes/saraksts/protokols/?protokols=2009-10-15> – [see: 22.12.2009.]

⁶⁶ Protocol No.37 of the Meeting of the State Secretaries of October 1, 2009.

⁶⁷ Protocol No.42 of the Meeting of the State Secretaries of November 5, 2009.//

<http://www.mk.gov.lv/lv/mk/vssanaksmes/saraksts/protokols/?protokols=2009-11-05> - [see: 22.12.2009.]

⁶⁸ Protocol No.41 of the Meeting of the State Secretaries of October 29, 2009.//

<http://www.mk.gov.lv/lv/mk/vssanaksmes/saraksts/protokols/?protokols=2009-10-29> - [see: 18.12.2009.]

On January 1, 2010 the Cabinet Regulations „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 and on the amount of these Expenses”⁶⁹ adopted on December 22, 2009 came into force. The regulations define the procedure how the expenses of the local authorities for the maintenance of unaccompanied minor in the day-care centre are reimbursed form the State budget by the Ministry of Welfare.

⁶⁹ Cabinet Regulations No.1580 „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 and on the amount of these Expenses”// The Latvian Herald, No.204, 29.12.2009. [valid from 01.01.2010.]

3.4. Economic Migration

3.4.1. European Pact on Immigration and Asylum

Competent state institutions of Latvia have not started the transposition of Council Directive 2009/50/EC of May 25, 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment⁷⁰, in regulatory enactment of Latvia yet. Experts of the Office of Citizenship and Migration Affairs are of the opinion that a new Immigration Law will be required in order to transpose the said Directive.

On April 1, 2009, the *Amendments of the Immigration Law* approved by Saeima on February 26, 2009 entered into force, which stipulate faster, better quality and more transparent procedure of document submission for third-country nationals who want to study in the state accredited educational establishment. In the development of the Amendments also representatives of the concerned higher educational establishments were involved. As a result of the said Amendments, higher educational establishments can submit corresponding documents to apply for a residence permit to the Office of Citizenship and Migration Affairs themselves, and there is no need to forward the documents from embassies of relevant countries and the Republic of Latvia to the Office of Citizenship and Migration Affairs and back⁷¹. Before entering into force of the said Amendments, the procedure of document review for third-country nationals was comparatively long process of resending the documents between various institutions of the Republic of Latvia and required considerable financial investment because – in order to fully complete all documents – third-country nationals from countries of residence where there is no embassy of the Republic of Latvia had to travel to the closest embassy of the Republic of Latvia several times. Often, it made potential students to choose studies in some other country and thus higher educational establishments of the Republic of Latvia lost potential students. It must be noted that the amendments are not applied to countries of high risk of terrorism or countries with a risk of illegal immigration.

As a result of the Amendments to the Immigration Law, state competent institutions forecast that the number of foreign students in higher educational establishments of Latvia will increase considerably that, in its turn, could balance the reduced number of local students thus ensuring well paid place of employment as well as flow of foreign finance in the country.

Draft law “Amendments to the Immigration Law” stipulates revocation of the provision specifying that pupils of educational establishments and students during the validity

⁷⁰ Council Directive 2009/50/EC of May 25, 2009, on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.// Official Journal, L 155, 18.06.2009.

⁷¹ Executive Summary to the Amendments to the Immigration Law.// http://www.saeima.lv/saeima9/lasa?dd=LP1001_0 – [see: 10.03.2009.]

of the residence permit are not entitled to submit documents to the Office of Citizenship and Migration Affairs to apply for residence permit on the basis of another reason of residence, namely, due to concluded marriage, employment, entrepreneurship, etc. Thus, pupils of educational establishments and students will be entitled to continue their residence in Latvia after graduation due to any of the above-mentioned reasons, by submitting documents to the Office of Citizenship and Migration Affairs instead of leaving the territory of the Schengen area member states and submitting documents to any of diplomatic or consular missions of the Republic of Latvia.⁷² The said Draft Law has been adopted by the Saeima in the 1st reading on August 27, 2009. Commissions of the Saeima summarise amendments to the Draft Law and Saeima plans to review them in the 2nd reading on January 2010.

In the Policy report on “Migration and Asylum Situation in Latvia: Reference Year 2008”, it is mentioned that in accordance with Clause 2 of the Cabinet Regulations No.263 of May 19, 2008 “Plan for the Improvement of the Environment of the Entrepreneurship for 2008”⁷³ and Clause 12 of the activity plan “Plan for the Improvement of the Environment of the Entrepreneurship 2008”, it was envisaged to introduce “**One Stop Agency Principle**” to receive work permits and residence permits. Thus, it was planned that starting from spring 2010, the Office of Citizenship and Migration Affairs when taking decisions on issuance of work permit will review also all documents related to approval of work invitation letter and coordination of company contract, and an employer would no longer need to apply to two state administration institutions: State Employment Agency of the Ministry of Welfare, and the Office of Citizenship and Migration Affairs in order to confirm a work invitation letter and an invitation letter for residence permit application, instead the employer will be able to apply only to the Office of Citizenship and Migration Affairs thus shortening the time spent for such administrative procedure.

By taking into account the complicated financial situation in the country which arose in the end of 2008 and that the Office of Citizenship and Migration Affairs was unable to undertake new functions without additional financing, the task was included in *Plan for the Improvement of the Environment of the Entrepreneurship 2009*, by setting December 20, 2009, as the term of fulfilment.

By implementing the policy of labour force migration and in order to improve the process for reception of work permits by third-country nationals, by reducing administrative obstacles, competent institutions of Latvia have elaborated proposals to Draft Law

⁷² Executive summary to Draft Law “Amendment to the Immigration Law”.

⁷³ Cabinet Regulations No.263 of May 19, 2008 “Plan for the Improvement of the Environment of the Entrepreneurship for 2008”.// The Latvian Herald, No.78, 21.05.2008.

“*Amendments to the Immigration Law*” for review by the Saeima in the 2nd reading, in relation to the introduction of one stop agency: 1) the proposal is related to cases when the purpose of entry of a third-country national is employment in the Republic of Latvia; further, it is envisaged to include a state fee which until now was charged for examination of documents required for work permit application in the state fee payable for request of an invitation letter for a residence permit due to confirmation of employments; due to the fact that starting from January 1, 2010 the Office of Citizenship and Migration Affairs will take over the function from the State Employment Agency: examination of documents in relation not only to entry of a person but also in relation to employment, there is no basis anymore to charge a separate fee for examination of documents submitted for work permit application; 2) by supplementing the Sections of the Law with new reasons of refusal of visa issuance in case when entry of a third-country national is related to employment, and an invitation letter approved by the Office of Citizenship and Migration Affairs is not required for visa application.⁷⁴

By taking into account the fact that the Amendments to the Immigration Law have not been adopted by Saeima in the 2nd reading yet, it is envisaged that the principle of One Stop Agency can be introduced not earlier than May 1, 2010.⁷⁵

Latvia is not a country promoting emigration of qualified labour force because the total number of immigrants is very small and persons who enter the country for employment do not have high qualification. In 2009, the highest demand in the Latvian labour market was for ship repair locksmiths and truck drivers. Largest flows of immigrants to the Republic of Latvia are from Russia, Ukraine, and Belarus.⁷⁶

3.4.2. Additional Developments

Draft Law “Amendments to the Immigration Law” determine limitation to an inviting party who provides false information about payment of state taxes or violates the procedure of employment of third-country nationals to invite third-country nationals for six months or one year. The current wording of the Immigration Law does not provide any limitation in inviting third-country nationals to an inviting party who provides false information about payment of state taxes or violates the procedure of employment of third-country nationals.⁷⁷

⁷⁴ Executive summary to Draft Law “Amendments to the Immigration Law”.

⁷⁵ Information provided by the officials of the Office of Citizenship and Migration Affairs.

⁷⁶ Information provided by the officials of the Office of Citizenship and Migration Affairs.

⁷⁷ Executive summary to Draft Law “Amendment to the Immigration Law”.

On October 29, 2009, Saeima adopted the amendment to the *Law on Declaration of Place of Residence*⁷⁸, in accordance with which a citizen of an EU Member State, a member state of the European Economic Area or the Swiss Confederation and his or her family members who have received a registration certification or permanent residence certificate issued in the Republic of Latvia, a third-country national who has received a residence permit issued in the Republic of Latvia and a stateless person who has received a residence permit issued in the Republic of Latvia, will be able to declare their place of residence at the Office of Citizenship and Migration Affairs. The above-mentioned amendment will enter into force on January 1, 2010. The amendment to the Law on Declaration of Place of Residence will reduce administrative burden because a person will have an opportunity, when receiving a residence permit or registration certificate to declare their place of residence at the Office of Citizenship and Migration Affairs. Before entering into force of the amendment, persons had to declare their place of residence at relevant local government after receiving a residence permit or registration certificate.

3.5. Other Legal Migration

3.5.1. European Pact on Immigration and Asylum

The external homepage of the Office of Citizenship and Migration Affairs provides comprehensive information about legal immigration in the country. Available data is updated on a regular basis, particularly when amendment to any regulatory enactment of Latvia enters into force. The information is available in English and in Russian. It is possible to submit a question on the homepage in the forum section where officials of the Office of Citizenship and Migration Affairs provide an answer within one working day. It is an excellent way to receive quick and updated information in case if a person does not orientate well in the information placed on the homepage.⁷⁹

Within the framework of project co-financed by the European Fund for the Integration of Third-Country Nationals “Evaluation of Needs of Repatriates of Third-Countries”, a brochure for the needs of third-country nationals was developed and issued which includes all necessary information about the state institutions and organisations that can give the most

⁷⁸ Law “Amendments to the Law on Declaration of Place of Residence”// The Latvian Herald, No.182, 17.11.2009. [valid from 01.01.2010.]

⁷⁹ Information provided by the officials of the Office of Citizenship and Migration Affairs.

needed support to those persons who have just entered Latvia for permanent residence and who arrange matters of employment, education, dwelling and other.⁸⁰

In 2009 Union of Latvian Ukrainian societies, civic organisations “Dialogi.lv” and “transport Effectivity Centre” with the support of Latvian Maritime Academy and Ukrainian Embassy in Latvia implemented a project “Establishment of resource center for Ukrainian immigrants”, this was financed by the European Fund for the Integration of Third-country nationals with 20% co funding from the Latvian state. Both labour migrants from Ukraine and those who have enter into Latvia for family reunification benefit from the results of this project.⁸¹

3.5.2. Additional Developments

Cabinet Regulations No.226 “Regulations Regarding Procedures for the Completion, Storage and Delivery of Third-Country National Declaration Form” which entered into force on June 20, 2009 and provides the procedure that upon a written request of the State Police or the State Border Guard businessman or performer of economic activity must immediately submit a third-country national’s declaration (hotel) to the relevant institution. Before entering into force of the above-mentioned amendment, a merchant had the duty to deliver requested documentation to the State Police within 24 hours (electronically in the Internet or deliver in person to the nearest office of the State Police). The said procedure is required in order to implement the provisions of Sub-clause b, Clause 1, Article 45 of the Schengen Convention.

⁸⁰ Pārvalde veiksmīgi apgūst Eiropas Savienības piešķirto finansējumu (The Office Successfully Acquires Financing Granted by the European Union).// http://www.pmlp.gov.lv/lv/par_pmlp/projekti/projekti_06.html - [see: 21.12.2009.]

⁸¹ Stroja A. Biedrība „Dialogi.lv” uzsāk divus Eiropas Trešo valstu valstspiederīgo integrācijas fonda atbalstītus projektus (Civic organisation „Dialogi.lv” starts the implementation of two projects supported by the European Fund for the Integration of Third-country nationals).// http://www.dialogi.lv/article_new.php?id=2851 – [see: 13.01.2010.]

3.6. Integration

3.6.1. European Pact on Immigration and Asylum

Formation of the political, legislative and institutional framework of immigrant integration in Latvia currently is in its initial development period.

On April 23, 2009, the meeting of State Secretaries announced international policy development document “Main Positions of Integration Policy 2010-2016”⁸² which was developed by the Ministry of the Interior and which defines the main issues and gives description of the situation also in the field of immigrant integration. The document provides results of the policy and resultant indicators for achievement of the same, tasks and measures for fulfilment of the tasks, and the institutional and legislative framework of the policy implementation has been defined.

The Ministry of Justice is the leading institution of the European Fund for the Integration of Third-Country Nationals under the Programme of Solidarity and Management of Migration Flows in Latvia. Within the scope of the above-mentioned Fund, multiannual programme is implemented which provides four strategic priorities of the Fund:

- implementation of the common basic principles of the EU immigrant integration policy into practice;
- development of indicators and assessment methodology in order to assess progress, adjust policy and measures and to promote coordination of comparative training;
- development and coordination of policy potential and development of cross-cultural competence in Member States and in state administration institutions at various levels;
- exchange of experience, best practice and information among Member States in the field of integration.

Thus, activities implemented within the framework of annual programmes of the European Fund for the Integration of Third-Country Nationals under the Programme of Solidarity and Management of Migration Flows promotes access of third-country national immigrants to language training, labour market and public services.

In accordance with the multiannual programme of the European Fund for the Integration of Third-Country Nationals under the Programme of Solidarity and Management of Migration Flows, several projects are being implemented at the moment, within the scope of which measures are provided for enforcing the fundamental rights of immigrants and

⁸² Izsludina sabiedrības integrācijas politikas pamatnostādnes 2010.-2019.gadam (Main principles for the integration policy 2010-2019 announced).// http://www.bm.gov.lv/lat/sabiedribas_integracija/aktualitates/?doc=11890 – [see: 05.05.2009.]

introduction of common basic principles of integration. Within the scope of the multiannual programme, activities are planned for improvement of language learning, as well as informative activities about labour law. One of the tasks of the established national integration centre is to include immigrants in re-qualification programmes and implementation of social adaptation programmes.

Within the framework of the European Integration Fund Programme 2008, it is planned to implement a broad campaign for education and information of society in order to prevent any discriminating attitude towards immigrants.

In accordance with Clause 3.1.2 of the European Fund for the Integration of Third-Country Nationals under the Programme of Solidarity and Management of Migration Flows 2007, the Ministry of Justice is the implementing institution of programme activity 4.1.1 “Acquisition of experience and example practice regarding development of third-country nationals’ integration system among various responsible institutions in other Member States” and, within the scope of the same, will implement project “Acquisition of Experience of Third-Country Nationals’ Integration in EU Member States”. Within the framework of the project, experience exchange visits are organised to Finland, Sweden, the Netherlands, Hungary, and Slovenia. Delegation of 8 persons is organised to each of the said countries, including experts of state institutions, representatives of local governments and non-governmental organisations. Information obtained during such visits of experience exchange will be used for development of recommendations regarding the direction of the development of third-country national integration policy in Latvia. In conclusion of the project, seminar will be organised where broader audience will be introduced to the main conclusions about integration policy in the visited EU Member States as well as recommendations developed by the project expert.⁸³

In accordance with the multiannual programme of the European Fund for the Integration of Third-country nationals of the Solidarity and Management of Migration Flows Programme on the basis of the agreement signed between the Ministry of Justice and Ministry of Education and Science the Latvian Language Agency till June 30, 2010 will develop “adaptation programmes for pupils, guidelines for teachers and informative materials for third-country nationals parents of children from 6 to 12 years of age”.⁸⁴

On a regular basis a representative of the Ministry of Justice participates in the meetings of the National Contact Points on Integration in Brussels, Belgium. Within the

⁸³ Information provided by the officials of the Ministry of Justice.

⁸⁴ Project „Development of Adaptation Programmes and Materials for Children of Third-country Nationals from 6 to 12 Years of Age”.// <http://izm.izm.gov.lv/nozares-politika/izglitiba/vispareja-izglitiba/aktualitates/4719.html> - [see: 18.02.2010.]

framework of the cooperation network of the EU Member States' National Contact Points on Integration, regular exchange of information is ensured, as well as information for implementing new initiatives of EU level policy (for instance, establishment of system for evaluation and monitoring of EU immigrant integration policy which is the objective of the presidency of Sweden in the field of development of immigrant integration policy).

Non-governmental organisation "Asylum "Secure House""⁸⁵ has created a special section to immigrants on its homepage. This web site provides broad information about various social matters that are important to third-country nationals when they enter Latvia and start their living in Latvia. Information is available in four languages: Latvian, Russian, English, and French.

Information is provided about several themes: visas and residence permits, health care system in Latvia and availability of the same, access to education in Latvia, employment, dwelling and entrepreneurship.⁸⁶

3.7. Illegal Immigration

3.7.1. European Pact on Immigration and Asylum

Ministry of Welfare has commenced work for transposition of Directive 2009/52/EC⁸⁷ of the European Parliament and of the Council of June 18, 2009 providing for minimum standards on sanctions and measures against employers of illegally residing third-country nationals (hereinafter – Directive 2009/52/EC), in national legislation.

Ministry of Welfare organises meetings of the working group on a regular basis and such meetings are attended by experts of the involved institutions (Ministry of Welfare, Ministry of Interior, Ministry of Justice, Ministry of Finance, Office of Citizenship and Migration Affairs, State Border Guard, and State Revenue Service), and debates about required amendments to regulatory enactments of Latvia due to transposition of Directive 2009/52/EC. Currently, amendment to Section 41 of the Labour Law has been developed and reviewed by Saeima on October 8, 2009 in the 2nd reading, which stipulate addition to Paragraph three of the Section with presumption regarding employment legal relations of three months in case if a written employment contract has not been concluded. There is no

⁸⁵ <http://www.patverums-dm.lv>

⁸⁶ On-line informative material for immigrants has been prepared.// <http://zinass.nra.lv/latvija/11712-izveidots-tiessaiste-pieejams-informativs-materials-immigrantiem.htm> - [see: 18.12.2009.]

⁸⁷ Directive 2009/52/EC of the European Parliament and of the Council of June 18, 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.// Official Journal, L 168, 30.06.2009.

information in disposal of the Ministry of Welfare about examples of initiating specific cases in relation to the provisions of Directive 2009/52/EC.

Competent institutions of the Republic of Latvia apply corresponding sanctions to employers who employ illegal immigrants. Fine shall be applied for employment of one or several persons, if the person or persons do not hold a work permit according to regulatory enactments, and the amount of such fine is determined by Section 189 of the *Administrative Violations Code of Latvia*. Employing without a passport or work permit⁸⁸ stipulates the person's liability in accordance with Section 280 of the Criminal Law which provides that for a person who commits a violation of restrictions or provisions, as provided for by law, regarding employment of persons, where commission thereof is by the employer and repeated within a one year period, the applicable sentence is deprivation of liberty for a term not exceeding one year, or custodial arrest, or community service, or a fine not exceeding fifty times the minimum monthly wage.⁸⁹

In 10 months of the year 2009, the State Border Guard has applied administrative penalty in 10 cases to employers for employment of illegal immigrants. During the said period, 628 raids were made in the territory of Latvia, mainly in collaboration with the State Employment Inspectorate, the State Revenue Service, and if necessary, officials of the State Police. 23 persons were detained for violations in the regulation of employment legal relations.⁹⁰

On February 24, 2009, communication officers of the State Border Guard by representing the interests of Latvia, Lithuania and Estonia, visited the Republic of Georgia and the Republic of Belarus in order to establish and to start operation of the points of communication officers of the State Border Guard. Points of communication officers in the Republic of Georgia and the Republic of Belarus are established in order to provide support to the State Border Guard of the Republic of Latvia, the State Border Guard Service of the Republic of Lithuania, and the Border Guard Administration of the Republic of Estonia in combating illegal immigration. Points of communication officers were placed within the scope of projects "Establishment of the point of communication officers of the Republic of Latvia, the Republic of Lithuania and the Republic of Estonia in the Republic of Georgia" and "Establishment of the point of communication officers of the Republic of Latvia, the Republic of Lithuania and the Republic of Estonia in the Republic of Belarus" which are co-financed by the External Border Fund of the EU Solidarity and Migration Flow Management Basic

⁸⁸ Administrative Violations Code of Latvia.// The Messenger, No.51, 20.12.1984. [valid from 01.07.1985]. – Available: <http://www.likumi.lv/doc.php?id=89648>

⁸⁹ Information provided by officials of the Ministry of Interior.

⁹⁰ Information provided by officials of the State Border Guard.

Programme 2007-2013.⁹¹ As a result of implementation of the above-mentioned projects, the cooperation coordinator network related to the EU external border safety will be expanded and its establishment will be ensured that will facilitate better results in fulfilment of work tasks in the migration flow control, by representing the interests of the Republic of Latvia, the Republic of Lithuania and the Republic of Estonia, as well as the EU interests in immigration matters, by establishing and maintaining direct contacts, by obtaining, analysing and giving necessary information within their competence and in matters of prevention and combating of illegal immigration.⁹²

3.8. Actions Against Human Trafficking

3.8.1. European Pact on Immigration and Asylum

Latvia can still be deemed as the country of origin of victims in human trafficking and there are no grounds to maintain that Latvia has become a country of transit and/or destination of victims of human trafficking. In 2009, no case of human trafficking transit was detected in Latvia, same as human trafficking in the meaning of Palermo Protocol⁹³ (*UN Convention Against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*) to Latvia or in the state.

The State Border Guard in cooperation with countries of origin and transit of third-country citizens, in the field of prevention of human trafficking:

- in accordance with “Programme for Prevention of Human Trafficking 2009-2013”, within its competence, has activated and improved operative data exchange between the State Border Guard and law enforcement institutions of Latvia, as well as operational services and other law enforcement institutions of the neighbouring countries;
- within its competence, collaborated with relevant border guard structural units of EU Member States, particularly those of the neighbouring countries, and strengthened its professional cooperation with relevant services of Russia and Belarus, in order to prevent attempts of criminal formations to create new transit channels to EU Member States;

⁹¹ Robežsardzes sakaru virsnieki dodas uz Gruziju un Baltkrieviju (Communication Officers of the Border Guard Visit Georgia and Belarus).// <http://www.rs.gov.lv/index.php?id=35&sa=&top=-1&rel=768> – [see: 24.02.2009.]

⁹² External Border Fund.// <http://www.rs.gov.lv/index.php?doc=4536> – [see: 19.10.2009.]

⁹³ Law “On the United Nations Convention Against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children”.// The Latvian Herald, No.66, 28.04.2004. [valid from 29.04.2004.]

- continued cooperation with the Latvian national offices of Europol⁹⁴ and Interpol⁹⁵ including exchange of service information about criminal offences and organised criminal groups, also groups the members of which are involved in human trafficking;
- In 2009, representatives of the State Border Guard participated, on a regular basis once a quarter, in meetings of coordinators of the Operational Committee (OPC) of the Special Commission Task Force, the countries of the Baltic Sea Region, where also questions in the field of prevention of human trafficking were discussed;
- Officials of relevant services of the State Border Guard constantly use informative materials of the European Safety and Cooperation Organisation, United Nations Office on Drugs and Crime (UNODC), Europol, Interpol, International Migration Organization, and the FRONTEX, including information regarding routes of transit of illegal immigrants and human trafficking in order to forecast the situation development in the future.

In accordance with Section 154¹ “Human Trafficking” of the Criminal Law⁹⁶, in 2009, 2 criminal procedures were initiated (2 men and 2 women admitted as suspects), which is by 2 criminal procedures less than in 2008 when 4 criminal procedures were initiated.

In accordance with Section 165¹ “Sending a Person for Sexual Exploitation” of the Criminal Law, 17 criminal procedures were investigated, 25 persons were detained and 6 of them were women. Two citizens of Lithuania and one Russian and one Israel citizen were detained during the above-mentioned procedures.

Comparing to the previous years, the number of criminal procedures for criminal offences under Section 165¹ “Sending a Person for Sexual Exploitation” of the Criminal Law has increased considerably. In 2009, 30 procedures were initiated under Section 165¹ of the Criminal Law (32 persons were detained and from those 3 were Lithuanians, 1 Russian, and 1 Israel citizen and 9 were women), which is by 17 criminal procedures more than in 2008 when 13 criminal procedures were initiated.⁹⁷

According to the data of court administration of the Ministry of Justice, in 2008 and in 2009 until November 25, two persons have been convicted under Section 154¹ of the Law regarding human trafficking (one woman in 2008 and one man in 2009). In 2008 and in 2009

⁹⁴ Europol – European Police Bureau.

⁹⁵ Interpol – International Organisation of Criminal Police.

⁹⁶ Criminal Law.// The Latvian Herald, No.199/200, 08.07.1998. [valid from 01.04.1999.]

⁹⁷ Information provided by the officials of the Ministry of Interior.

until November 25, totally 20 persons have been convicted under Section 165¹ regarding sending a person for sexual exploitation of the Criminal Law (10 persons convicted each year, from those every year – one person with previous criminal record, every year – 8 persons who have committed a criminal offence in a group; in 2008, from the said persons 5 were women, in 2009 – 2 women). In 2009, 2 criminal procedures have been initiated (4 men are admitted as suspected (1 Denmark's citizen and one Poland's citizen) and 2 women) and 25 criminal offences have been registered under Section 154¹ of the Criminal Law; one criminal procedure was initiated under Section 164 of the Criminal Law which has been completed on the basis of Clause 2, Paragraph one, Section 377 of the Criminal Procedure Law. In 2009, prosecutors have sent to court for review totally 14 criminal procedures against 30 persons for criminal offences for which criminal liability is stipulated in Sections 154¹, 165, 165¹ of the Criminal Law. In 7 cases of the said criminal procedures, victims were minor. Three criminal procedures are in the records department of the prosecutor's office and 18 persons were called to criminal liability in such procedures.⁹⁸

In 2009, responsible institutions of the Republic of Latvia continued the work for improvement of regulatory enactments of Latvia in order to assist the law enforcement institutions in the state to address human trafficking and sexual exploitation more actively and targeted. Regulatory enactments of the Republic of Latvia contain a wider range of offences comparing with the meaning of the UN Convention against transnational organized crime, because even recruitment with wilful consent of the victim of human trafficking is subject to penalty since 2000.⁹⁹

Resource centre for women "Marta"¹⁰⁰ and the Aland Islands Peace Institute¹⁰¹ plan to reduce the number of victims of human trafficking in a joint project. The purpose of the project is to draw better attention from the society and to reduce risks to get involved in human trafficking. The project is financed by the EU European Regional Development Fund, within the framework of the Central Baltic Sea Region INTERREG IV A Programme 2007-2013¹⁰². Target audience of the project are youth organisations, youngsters, employees working in the social field in state or local government institutions as well as politicians.¹⁰³

⁹⁸ Information provided by the officials of the Ministry of Interior.

⁹⁹ Information provided by the officials of the Organised Crime Combating Department of the Chief Criminal Police Board of the State Police of the Ministry of Interior.

¹⁰⁰ www.marta.lv

¹⁰¹ www.peace.aland.fi

¹⁰² Plāno mazināt cilvēku tirdzniecības upuru skaitu (Plans to Reduce Number of Victims of Human Trafficking).// <http://zinas.nra.lv/latvija/7896-plano-mazinat-cilveku-tirdzniecibas-upuru-skaitu.htm> - [see: 12.11.2009.]

¹⁰³ Project "Change the traditional roles of genders: prevent human trafficking!"// <http://www.marta.lv/vpage.php?lang=lv&id=14&lapa=283> - [see: 13.11.2009.]

3.8.2. Additional Developments

On May 21, 2009, Saeima adopted the Amendment to the Criminal Law¹⁰⁴ which enters into force on July 1, 2009. The amendment was made to Section 165¹ “Sending a Person for Sexual Exploitation”, which stipulates penalty for sending a person for sexual exploitation with its consent, i.e., for any act which promotes legal or illegal movement of a person in this respect, transit or residence in the territory of state or several states. The said amendment stipulates liability for establishing, keeping, management and financing of a brothel.

In accordance with Cabinet Order No.590 of August 27, 2009 “On Human Trafficking Prevention Programme 2009–2013¹⁰⁵”, the Cabinet approved the action programme prepared by the Ministry of Interior for prevention of human trafficking in 2009-2013. The purpose of the said programme is to promote prevention of human trafficking by improving the education level of the society regarding the form of the said organised crime and by providing support to victims of human trafficking as well as by improvement work of law enforcement institutions and cooperation between state institutions and non-governmental organisation.

3.9. Return Migration

3.9.1. European Pact on Immigration and Asylum

In order to prevent illegal immigration, the State Border Guard cooperates with countries of origin and transit of immigrants by applying readmission agreements.

The State Border Guard applies the following concluded bilateral agreements:

3.8.1.1. Readmission agreements concluded by the Republic of Latvia

Country	Date of agreement
Armenia	26.06.2002
Austria	06.06.2000
Benelux countries ¹⁰⁶	09.06.1999
Baltic States ¹⁰⁷	01.07.1995
Bulgaria	05.07.2002
Denmark	18.12.1996

¹⁰⁴ Law “Amendment to the Criminal Law” // The Latvian Herald, No.90, 10.06.2009. [valid from 01.07.2009.]

¹⁰⁵ Cabinet Order No.590 of August 27, 2009 “On Human Trafficking Prevention Programme 2009–2013” // The Latvian Herald, No.138, 01.09.2009. [valid from 27.08.2009.]

¹⁰⁶ Belgium, the Netherlands, Luxembourg.

¹⁰⁷ Estonia, Latvia, Lithuania.

France	05.12.1997
Greece	17.03.1999
Georgia	11.07.2008
Croatia	21.08.1998
Italy	21.05.1997
Lichtenstein	23.12.1997
Norway	15.05.1997
Poland	29.03.2006
Portugal	08.11.1999
Rumania	05.07.2002
Slovenia	05.03.1998
Finland	02.12.1996
Spain	30.03.1999
Ukraine	24.07.1997
Hungary	17.10.2001
Uzbekistan	07.04.2007
Germany	16.12.1998
Sweden	09.04.1997
Switzerland	23.12.1997
Iceland	14.04.1997

Currently, draft bilateral readmission agreements are being prepared with the following countries: Kazakhstan, Kirgizstan, Tajikistan, Mexico, Tunis, Ghana, Nigeria, Togo, South Africa, Syria, Bangladesh, Peru, Senegal, Israel, and Belarus.

Readmission agreements signed between the Republic of Latvia and the European Community provide cooperation of state competent institutions in matters regarding delivery and acceptance of their citizens, third-country nationals and stateless persons who enter or reside illegally in the territory of the other state, and also provide transit conditions for return. The agreements provide the mechanism for readmission and sending transit requests, terms for sending a request and providing an answer, as well as powers of state competent institutions. One of the important questions which are already included in readmission agreements is personal data protection.

The State Border Guard applies agreements signed by the European Community with the following third countries: Albania, Bosnia and Herzegovina, Macedonia, Hong Kong – China, Russia, Macau SPR – China, Montenegro, Moldova, Serbia, Sri Lanka, and Ukraine.

By taking into account the breakdown per country of origin of illegal immigrant found illegal during their entry or residence in the Republic of Latvia, namely, in most cases those

are citizens of the Russian Federation, officials of the State Border Guard most often apply the readmission agreement signed between the European Community and the Russian Federation.

Readmission agreement enforcement protocols are signed for efficient application of the agreements signed by the European Community, and such protocols provide in detail documents of proving one's citizenship and nationality, competent institutions of the parties and their contact information, as well as the conditions for place of border crossing, transit and readmission with escort and the procedure for covering of expenses.

On July 9, 2009, the Protocol with the Russian Federation was signed; on October 3, 2009, an agreement was reached in Moldova regarding the text of the protocol of Moldova-Latvia, and correspondence is maintained regarding the text of a protocol with Serbia and Macedonia.

For cooperation with the neighbouring countries of Latvia who are EU Member States and which illegal immigrants have used as transit countries, the State Border Guard uses contact points in Lithuania and Estonia.

Law of April 2, 2009 "*Law on Management of Funds Established within Framework of General Programme "Solidarity and Management of Migration Flows"*"¹⁰⁸ regulates the procedure for enforcement, management and control of the said fund, which implements Decision No.575/2007/EC¹⁰⁹ of the European Parliament and of the Council of May 23, 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme "Solidarity and Management of Migration Flows". The said Law entered into force on April 29, 2009. The following regulatory enactments have been elaborated in the field of management of the funds established under General Programme "Solidarity and Management of Migration Flows":

- Cabinet Regulations No.167 of March 10, 2008 "Procedure for implementation, management, control and monitoring of funds of General Programme "Solidarity and Management of Migration Flows" for 2007–2013".¹¹⁰

¹⁰⁸ Law on the Management of Funds Established under General Programme "Solidarity and Management of Migration Flows".// The Latvian Herald, No.57, 15.04.2009.

¹⁰⁹ Decision No.575/2007/EC of the European Parliament and of the Council of May 23, 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programmed "Solidarity and Management of Migration Flows".// Official Journal, L 144, 06.06.2007.

¹¹⁰ Cabinet Regulations No.425 of June 10, 2008 "Procedure for selection of projects and implementation of technical aid activity of the External Borders Fund, the European Return Fund and the European Refugee Fund of General Programme "Solidarity and Management of Migration Flows" for 2007–2013".// The Latvian Herald, No.96, 20.06.2008.

- Cabinet Regulations No.425 of June 10, 2008 “Procedure for selection of projects and implementation of technical aid activity of the External Borders Fund, the European Return Fund and the European Refugee Fund of General Programme “Solidarity and Management of Migration Flows” for 2007–2013”.¹¹¹

Employees of the Office of Citizenship and Migration Affairs participated in the experience exchange visit organised by Riga office of the International Migration Organisation to Norway, the Netherlands, Moldova, Ukraine, and Belarus, within the scope of the European Return Fund project “Preparation of Return and Reintegration System in Latvia”.

Employees of the Office of Citizenship and Migration Affairs participated in seminar organised by Riga office of the International Migration Organisation “Improved and integrated approach to Return and Reintegration of third-country citizens in countries of origin (Irrico II)”, which was held in Belgium.

Employees of the Office of Citizenship and Migration Affairs and the State Border Guard participated in the seminar organised by Riga office of the International Migration Organisation for employees of state institutions regarding “Practice of voluntary return and reintegration in the European Union”. The said seminar was organised within the framework of the European Return Fund project “Preparation of Return and Reintegration System in Latvia”.

On May 28, 2009, at the College of the State Border Guard, within the framework of project “Seminars about legal and practical aspects of return events” under the European Return Fund Programme 2008 of the General Programme “Solidarity and Management of Migration Flows” for 2007–2013, one day seminar “Good practice of the Member States in application of voluntary return, forced return of illegal immigrants and fulfilment of readmission agreements” was held. 30 officials of the State Border Guard participated in the seminar, as well as foreign experts from Poland, Holland and Sweden.

On October 13-16, 2009, 23 border guards of Latvia participated in seminar for exchange of experience, in Poland, in accordance with agreement No. EAF/2008/2 regarding project “Exchange of experience about example practice in the field of return management”, which has been concluded between the State Border Guard and the Ministry of Interior within the framework of European Return Fund Programme 2008 of the General Programme “Solidarity and Management of Migration Flows” for 2007–2013. The aim of the visit was to

¹¹¹ Cabinet Regulations No.167 of March 10, 2008 “Procedure for implementation, management, control and monitoring of funds of General Programme “Solidarity and Management of Migration Flows” for 2007–2013”// The Latvian Herald, No.44, 19.03.2008.

promote improvements in the field of returns by improving the professional level of immigration officials of the State Border Guard of Latvia.

Riga office of the International Migration Organisation, within the framework of „Development of Voluntary Return and Re-integration System” cofinanced by the European Return Fund makes a research the purpose of which is to submit a report on the current situation in Latvia and about the best practice in the EU Member States in the field asylum seekers, refugees, persons with granted alternative status (other type of international protection). The objective of the said research is, according to obtained results, to develop proposals for voluntary return management system which would be introduced in Latvia.

The Office of Citizenship and Migration Affairs and the State Border Guard are the internal affairs institutions responsible for registration, updating and maintenance of data in the field of migration and asylum.

Figure 3.8.1.1
Number of persons who have used the
voluntary return principle (2004-2008)

Country	Number	%
Ukraine	88	31
Russia	72	25
Armenia	36	13
Belarus	17	6
Azerbaijan	12	4
Georgia	5	2
Uzbekistan	3	1
Moldova	1	0.3
Unknown nationality	7	2

Figure 3.8.1.2
Number of persons for who decision on forced return was taken
(2004-2008)

Country	Decision on forced return	%
Russia	215	26
Ukraine	136	16
Moldova	132	16
Belarus	39	5
Georgia	34	4
Uzbekistan	28	3
Armenia	24	3
Azerbaijan	14	2
Unknown nationality	41	5

Statistics evidence that most often decisions on forced return were taken for citizens of the former republics of the U.S.S.R.

Figure 3.8.1.3
Number of persons for whom return assistance has been provided
(2009)

Nationality	Number
Syria	4
Moldova	3
Ghana	2
Armenia	1
Russia	1
Bangladesh	1
Turkey	1
Uzbekistan	1
TOTAL	14

Since January 2009, Riga office of the International Migration Organisation has started the implementation of project “Preparation of return and reintegration system in Latvia” which is co-financed by the European Return Fund, within the framework of which return and reintegration of persons to be returned voluntarily is ensured. Within the framework of the said project (from March till August 2009) return assistance was provided to 26 persons. Riga office of the International Migration Organisation implemented voluntary

return projects from 1998 till 2002.¹¹² In the period from 2002 till 2008, voluntary return of third-country citizens was not implemented in Latvia.

3.9.2. Additional Developments

The State Border Guard has been appointed as the responsible institution for implementation of Directive 2008/115/EC¹¹³ of the European Parliament and of the Council of December 16, 2008 (hereinafter – Directive 2008/115/EC) on common standards and procedures in Member States for returning illegally staying third-country nationals. Latvia must transpose the provisions of the Directive in legislation of the Republic of Latvia by December 24, 2010.

Responsible institutions have started work for transposition of the Directive: they familiarise themselves with the requirements of the Directive and compare them with the current situation in legislation of the Republic of Latvia in order to make quality specifications and amendments. The main principles of the Directive are already active in the practice of enforcement of the legislation of the Republic of Latvia however standards need to be reviewed in the legislation regulating the fields of return, apprehension of and entry ban for third-country nationals.¹¹⁴ After making amendments to the legislation, changes will be introduced in the practical work of the State Border Guard but accurate identification of such changes is not possible yet because the work for the implementation of Directive 2008/115/EC of December 16, 2008 has just began.¹¹⁵

3.10. Global Approach to Migration

3.10.1. European Pact on Immigration and Asylum

By taking into account the fact that Latvia has been involved in EU Mobility partnership with Georgia which is one of the priority countries for Latvia within the framework of the EU Neighbour Policy and the Development Cooperation Policy, it is planned to implement experience exchange project in December 2009, for strengthening the internal affairs system of Georgia. In the scope of the project, in cooperation with the Office of Citizenship and Migration Affairs, the State Border Guard and the Ministry of Foreign Affairs, it is planned to introduce the Consular Department with the Georgian party regarding

¹¹² More information: in research of the Network Latvian contact point “Return”, year 2006.// Available: <http://emn.lv/lv/pdf/2006/05AtgrieshanaLR.pdf>

¹¹³ Directive 2008/115/EC of the European Parliament and of the Council of December 16, 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.// Official Journal, L 348, 24.12.2008.

¹¹⁴ Information provided by the Office of Citizenship and Migration Affairs.

¹¹⁵ Information provided by the State Border Guard.

experience of Latvia in establishing a passports and entry system, as well as consular register and consular manual.

Policy of attraction of foreign labour force in Latvia is focused on protection of the domestic labour force market and, prior to approval of work permits, test of the local labour market is made by announcing a vacancy; thus it is checked whether the required employee is not available among citizens, non-citizens of Latvia, citizens of other EU Member States, citizens of the member states of the European Economic Area and the Swiss Confederation, permanent residents of the European Community, as well as third-country nationals to whom permanent residence permit has been issued. Policy of attraction of foreign labour force in Latvia, which ensures protection of the internal labour market, at the same time does not limit maximum number of guest workers to be admitted to Latvia (quota system does not exist) and it is sufficiently flexible according to the changing situation in the labour market which is influenced by economic situation, supply and demand in the labour market.¹¹⁶

It must be acknowledged that cooperation among countries of origin, transit and destination – both in the East and in the West from the EU – is necessary for efficient management of migration flows, and confidence must be expressed that migration must become an integral part of the external policy of the EU.

In 2009, within the EU and Georgia Mobility partnership, the Development Cooperation Policy Department of the Ministry of Foreign Affairs organised project of exchange of experience which was held in Riga on December 13-18. Five experts from the party of Georgia who work with the population register participated in the project, consular register and register of voters, as well as the passport and entry system; accordingly the Latvian party included the Office of Citizenship and Migration Affairs, the Consular Department of the Ministry of Foreign Affairs, the State Border Guard and the Central Election Commission.¹¹⁷

¹¹⁶ Information provided by officials of the Office of Citizenship and Migration Affairs.

¹¹⁷ Information provided by officials of the Ministry of Foreign Affairs.

4. IMPLEMENTATION OF EUROPEAN UNION LEGISLATION

Also in the year 2009, Saeima and the Cabinet of Ministers, within their competence, developed and adopted new regulatory enactments, as well as made amendments to the existing regulatory enactments by ensuring inclusion of specific EU legal acts in national regulatory enactments.

This section continues to describe the process of implementation of the EU legal acts in the Latvian legal system, which supplemented the collection of legal acts of the EU after the year 2007, as well as progress of those legal acts, which transposition began in the year 2008 and ended or continued in the year 2009.

Information about the process of transposition of the EU legal acts in legislation of Latvia that are issued in 2006, 2007, and 2008, is available in the policy reports on the migration and asylum situation in Latvia: reference years 2006, 2007, and 2008 that can be found and downloaded from the homepage of the Latvian contact point of the Network¹¹⁸.

In 2009, 8 new legal acts were added to the collection of the EU legal acts: 3 regulations, 2 directives, and 3 decisions. From those, 2 - in the field of external orders, 3 - in the field of visas, 2 - in the field of immigration, and 1- in the field of illegal immigration.

In 2009, large in numbers transposition of legislation containing EU legal acts was not performed in regulatory enactments of Latvia because contrary to the previous years, for only few EU legal acts term of transposition was 2009.

Adoption of the *Council Regulation (EC) No.2725/2000 of December 11, 2000, concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention*¹¹⁹ in regulatory enactments of Latvia was important in 2009.

According to the provisions of the said Regulation, which was transposed upon accession of Latvia to the European Union, starting from February 7, 2009, the State Border Guard ensures exchange of information with Eurodac system for the comparison of fingerprints, by using the Automated Fingerprint Identification System.

¹¹⁸ www.emn.lv

¹¹⁹ Council Regulation (EC) No.2725/2000 of December 11, 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention.// Official Journal, L 316, 15.12.2000.

METHODOLOGY

Overview on migration and asylum situation in Latvia in the year 2009 is developed according to the specification and structure developed by the European Commission and adopted by the national contact point of the Network.

To display most substantial changes and improvement of policy and legislation in the field of migration and asylum in Latvia, as well as information about implementation of the European Pact on Immigration and Asylum in Latvia, the experts of the Ministry of Interior, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Welfare, the State Border Guard, Court Administration, the Organized Crime Combating Division of the Main Criminal Police Board of the State Police, and the Office of Citizenship and Migration Affairs 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, state institutions, non-governmental organisations, academics and media mostly use the web. Therefore in the development of the report mostly the web was used, to oversee and appraise latest articles, opinions and debates on the matters on migration and asylum in Latvia. News portals www.apollo.lv, www.delfi.lv, www.tvnet.lv, www.diena.lv, www.la.lv, www.db.lv, www.nra.lv, www.lv.lv, were used in the development of the report, as well as legislation portal of the Republic of Latvia www.likumi.lv, specialised information portal for refugees and asylum seekers www.patverums-dm.lv, portal of social policy www.politika.lv, and information available and provided on the external homepages of Saeima www.saeima.lv, the Cabinet of Ministers www.mk.gov.lv, and all ministries.

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

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