

EMN

# ANNUAL POLICY REPORT ON MIGRATION AND ASYLUM

SPAIN  
2010



GOBIERNO  
DE ESPAÑA

MINISTERIO  
DE ASUNTOS EXTERIORES  
Y DE COOPERACIÓN

MINISTERIO  
DE JUSTICIA

MINISTERIO  
DEL INTERIOR

MINISTERIO  
DE TRABAJO  
E INMIGRACIÓN

The European Migration Network (EMN) is an initiative of the European Commission. The EMN has been established via Council Decision 2008/381/EC and is financially supported by the European Union.

Its objective is to meet the information needs of Community institutions and of Member States' authorities and institutions by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the European Union in these areas. The EMN also serves to provide the general public with such information.

To that end, the EMN has a network of National Contact Points (NCPs).

In Spain, the NCP is composed of experts from four ministries (Ministry of Labour and Immigration, Ministry of the Interior, Ministry for Foreign Affairs and Cooperation and Ministry of Justice) and is coordinated by the Permanent Observatory for Immigration, a collegial body attached to the Ministry of Labour and Immigration. The NCP also collaborates with independent experts for the elaboration of EMN studies and reports.

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# Annual Policy Report on Migration and Asylum

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**Spain  
2010**

This Nacional Report provides an overall insight into the most significant political and legislative developments, as well as public debates in the area of immigration and asylum that took place in Spain during the year 2010.

This Report has been developed by the Spanish National Contact Point of the European Migration Network and the Instituto Universitario de Estudios sobre Migraciones of the Universidad Pontificia Comillas of Madrid.

December 2010



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## Executive summary

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**I**n 2010, for the first time since it became a destination for migration, Spain has witnessed a slight reduction in the number of immigrants entering the country. It has also recorded an increase in voluntary returns of migrants to their home countries, both independently and as part of support programmes. The economic crisis has clearly played a role in these changes.

There has been a significant reduction in illegal migratory flows, which confirms the positive results of the cooperation with countries of origin and transit and the joint efforts of cooperative border management together with effective measures on returns and readmissions.

A package of extraordinary actions was adopted over the year to reduce the public deficit, the measures of which include an austerity plan for general government. These adjustments have affected all spending policies and programmes, including immigration and asylum policies.

Furthermore, during the first half of 2010, Spain took over the rotating Presidency of the Council of the European Union, with the ensuing responsibility of implementing the new developments under the Treaty of Lisbon and of ensuring the new institutional balance brought in by the latter.

The migration issue has been a focal point of the political programme of the Spanish Presidency, being one of the topics regarded as priorities. The goal has been to make

headway on a common policy on immigration and asylum, paying special attention to issues of legal immigration and integration, while also seeking joint solutions to the problem of unaccompanied minors. The actions and proposals have been developed along the lines of the European Pact on Immigration and Asylum and the Stockholm Programme.

The most relevant accomplishments include the hosting of a discussion on the first evaluation report on compliance with the commitments of the European Pact on Immigration and Asylum, the adoption of the Action Plan implementing the Stockholm Programme and the approval of the Action Plan on Unaccompanied Minors.

Summits and ministerial meetings have also been held over the six months, including the Fourth European Ministerial Conference in Zaragoza, entitled "Integration as an engine for development and social cohesion", which has addressed various aspects of integration policy.

In relation to the external dimension of migration, Spain has been very active in implementing the Global Approach to Migration in all its geographical areas but particularly in Africa (Rabat Process and 7th Partnership of the Africa-EU Strategy), Latin America and the Caribbean (EU-LAC Structured Dialogue) and Eastern Europe (Prague Process).

In the context of Spain's international commitments, 2010 has seen the entry into force of the arrangements for reciprocal participation in Spain's municipal elections with Colombia, Chile, Peru, Paraguay, Iceland, Bolivia, Ecuador and New Zealand, all of which join the current agreement with Norway.

With regard to public debate, immigration has found an echo in the media, politics and general public opinion in matters directly linked to the integration of immigrants: from the requirements for entry on municipal registers of inhabitants to the increase in their political rights (voting in municipal elections). Another prominent issue – due to the general unemployment rate – has been unemployment among immigrants, with the primary concern being to maintain or seek new employment.

To round off this summary, the regulation developing the latest reform of the Organic Law and the regulation of the Asylum Act are currently underway. Work has been carried out on the development of these implementing provisions throughout 2010 and the delay in their approval is due precisely to the rigour applied and the desire to produce regulations with the greatest possible consensus.

# 1 Introduction: Aims and methodology

Pursuant to Article 9.1 of Council Decision 2008/381/EC establishing the European Migration Network (EMN), each National Contact Point (NCP) must produce an annual report on the political developments in migration and asylum in each Member State.

This Annual Report on Immigration and Asylum covers the period from 1 January to 31 December 2010. The report provides a legal and political overview of immigration and asylum in Spain and makes special reference to the progress, changes and other developments that have taken place in the two issues over 2010. The report also reviews the progress made under the European Pact on Immigration and Asylum (European Pact on Immigration and Asylum), included in the 2009 Annual Report on Immigration and Asylum<sup>1</sup> and, for the first time this year, incorporates the elements of the Stockholm Programme and its Action Plan.

In relation to the above political and legislative developments, the report examines, firstly, the progress made based on regulations and internal policy, i.e. at national level, and, secondly, the changes that have been introduced as a result of the implementation of EU law. In addition to political and legislative developments, this report covers administrative and institutional changes and the most relevant public debates on immigration and asylum.

## 1.1. Methodology

The report structure used in previous reports has been modified for greater clarity of the information contained. Thus, the three general sections (including this introduction) are followed by thematic sections covering specific issues of migration and asylum. These sections begin with a brief reference, where appropriate, to the context before 2010 to give the reader some background. Although this has not proved necessary for all of the thematic sections, they each have a subsection on political and legislative developments from a national perspective and another subsection containing the developments that have taken place as a result of the implementation of the regulation and policy of the European Union.

<sup>1</sup> *Annual Report on Immigration and Asylum. Spain 2009*, Observatorio Permanente de la Inmigración, Madrid, Ministerio de Trabajo e Inmigración, 2010, 72 p. Available at [http://extranjeros.mtin.es/es/RedEuropeaMigraciones/Informe\\_Anual\\_Politicas\\_Inmigracion\\_Asilo/EMN-ES\\_Informe\\_Anual\\_de\\_Politicas2009.pdf](http://extranjeros.mtin.es/es/RedEuropeaMigraciones/Informe_Anual_Politicas_Inmigracion_Asilo/EMN-ES_Informe_Anual_de_Politicas2009.pdf)

This report has been drawn up by members of the Spanish EMN NCP based on a preliminary report drafted by the Instituto Universitario de Estudios sobre Migraciones (IUEM-Comillas) of the Universidad Pontificia Comillas, Madrid.

The documentation used to prepare the report consisted of primary and secondary sources, depending on the relevant topics to be included. Numerous electronic sources accessible to all citizens have been used, both from institutional sites and from specialised institutions and think tanks, migrant associations, blogs and online newspapers offering opinions and information on topical issues.

The primary sources were taken mainly from government literature, especially from the Ministry of Labour and Immigration and the Official State Gazette (*Boletín Oficial del Estado*). Primary sources from EU institutions and the Official Journal of the European Union have also been used, and the national, European and international legislation in force and pending approval have been taken into account.

The secondary sources are from academic articles, i.e. information in both electronic and paper form, produced by experts on immigration and asylum. Information has been collected from media (news publications in electronic and paper form), government press releases and reports by public or private entities on immigration or asylum issues.

This variety of sources has provided a rich and authoritative corpus of information with a range of perspectives, offering a more rigorous view of the current state of affairs in relation to immigration and asylum. The sources also include opinions from reports or articles – by organisations and individuals – that logically reflect the views of their authors.

Lastly, the statistical data have been taken from the annual and quarterly reports of the Ministry of Labour and Immigration, the Register of Spanish Residents Abroad (Spanish National Statistical Institute) and documentation supplied by the various ministries in matters that concern them.

## 2 General structure of the legal and political system in Spain

### 2.1. General structure of the political system and institutional context

The political system and institutional context in Spain still maintain the same general structure, although they have undergone changes in their design, more than in the foundations of their institutional architecture. In other words, during 2010, Spain has restructured certain ministries with the aim of addressing the economic situation and challenges ahead. The focal point of media and institutional attention in 2010 has been the economic crisis. To address the situation, we have identified two pillars of action: employment and institutions. For the first, a labour reform has been passed to deal with the problems associated with unemployment, working conditions and other related matters. Institutionally, steps have been taken to capitalise on existing human and financial resources.

Institutional, political and media attention has also focused on a very different matter during 2010: the Spanish Presidency of the European Union, which took place in the first half of this year. As far as concerns this report, immigration matters, among other issues, have been tackled with vigour during the Presidency, with the hosting of two ministerial summits and several meetings.

As explained above, the Government has made a series of changes to the organisational structure of its ministerial departments in 2010, as part of the austerity plan and government spending cuts. This restructuring process has been carried out in several stages and implemented mainly through the following regulatory measures:

- Royal Decree 495/2010, of 30 April, amending the basic structure of all ministerial departments except for the Ministry of Foreign Affairs and Cooperation due to its special responsibility for the development of the Presidency of the Council of the European Union.
- Royal Decree 1313/2010, of 20 October, restructuring certain ministerial departments. This regulation eliminates two government departments and modifies the name and increases the responsibilities of others. Thus, the structure of the General State Government is now organised into fifteen ministerial departments.

Pursuant to the above Royal Decrees, the Ministry of Labour and Immigration has undergone organisational changes that have primarily affected the area of employment.

The Ministry of Labour and Immigration maintains its overall responsibility for the development of migration policy and the social issues arising from asylum policies, while the State Secretary for Immigration and Emigration is still the highest authority responsible for implementing these policies. The organisational structure of this department has not changed and still has three directorates general: the Directorate General for Immigration, the Directorate General for Immigrant Integration and the Directorate General for Spanish Citizenship Abroad. Moreover, the following remain as collegial bodies: the Permanent Observatory on Immigration, the Interministerial Commission on Foreign Affairs, the Forum for the Social Integration of Immigrants, and the Tripartite Labour Commission on Immigration. The Sectorial Conference on Immigration also continues its duties as the coordinating body between Central Government and the regional governments in immigration matters.

These structural reforms have, in turn, led in some cases to changes in ministerial teams. These include the change affecting the Ministry of Labour and Immigration, whose Minister changed in October with the appointment of Valeriano Gómez Sánchez. An earlier change was implemented when the State Secretary for Immigration and Emigration was replaced by Anna Terrón i Cusí.

A few months later, with the same goal of administrative streamlining, the Ministry of Foreign Affairs and Cooperation undertook a major overhaul of its organisation, as set out in Royal Decree 1748/2010 of 23 December. The Ministry is currently structured into four senior bodies: three State Secretariats and one Under-Secretariat. The most relevant of these for immigration and asylum is the transformation of the Secretariat General for Consular and Migration Affairs into the Directorate General for Consular and Migration Affairs, reporting to the Under-Secretariat of Foreign Affairs and Cooperation. The Subdirector General of Migration Affairs has also been set up within this Directorate General.

As above, these changes have led to the replacement of the ministers overseeing the departments. In this regard, Trinidad Jiménez García-Herrera has replaced Miguel Ángel Moratinos Cuyaubé as the Minister of Foreign Affairs and Cooperation.

No significant changes relevant to immigration and asylum have been made to the structure of the Ministry of the Interior. The Directorate General for International Relations and Aliens, under the State Secretariat for Security, is maintained.

Lastly, the changes in the Ministry of Justice have included the elimination of the Directorate General for International Legal Cooperation and the structuring of the Ministry into the State Secretariat for Justice and the Under-Secretariat for Justice. The latter is the body

to which the Directorate General for Registries and Notaries reports, whose duties include the management of procedures to obtain Spanish nationality.

Lastly, it should be noted that the process of streamlining administrative structures in the context of austerity and spending cuts has also been extended to the regional governments.

## 2.2. General structure of the legal system

The structure of Spain's legal system has been maintained, since two laws were passed at the end of 2009: a new Law on Asylum and subsidiary protection and a law to reform the Organic Law. Both were already mentioned in the 2009 Annual Report on Immigration and Asylum – supra Note 1 – and there have been no significant changes in this regard. Hence, the legal framework of migration and asylum has been maintained and the regulations on these areas are currently under development.

The regulation to implement the latest reform of the Organic Law and the regulation developing the Asylum Act are currently underway. Work on these developing regulations has been ongoing throughout 2010.

Nonetheless, on the day after the entry into force of the reform of the Organic Law, the Directorate General for Immigration issued two instructions, one on family reunification (Instruction DGI/SGRJ/08/2009) and one on long-term residence (Instruction DGI/SGRJ/09/2009).

Moreover, in that same month, a joint instruction was issued by the Directorate General for Immigration and the Directorate General for the Police and Civil Guard on residence and work permits for foreign-born women who are victims of gender violence (pursuant to Article 31 bis of the Organic Law). Lastly, in March 2010, the State Secretariat for Security issued an Instruction on aliens victims of human trafficking, pursuant to Article 59 bis of the Organic Law.

Thus, without prejudice to their subsequent treatment in the regulation required to fully develop the new content of the Organic Law, it may be concluded that the necessary regulatory measures have been adopted in matters considered of particular importance and sensitivity, in relation to which the reform has been intensive or they constitute the first legislative regulation in this area.

With regard to the future Aliens Regulation, the Minister of Labour and Immigration has highlighted the following as key objectives and strategic lines:

- Reinforcement of the concerted and consensual nature of the immigration policy.
- Improvement of the mechanisms for managing migration flows under the new labour market scenario.
- Development of instruments to prevent situations of overstaying (facilitating the renewal of permits).
- Promotion of the integration of the foreign-born population in Spain.
- Protection to victims of gender violence and human trafficking.<sup>2</sup>
- Reinforcement of the legal guarantees of the regulation in relation to unaccompanied minors (MENA).
- Promotion of voluntary return policies.
- Better management through regulatory and administrative streamlining.

## 3 Relevant general developments in migration and asylum

### 3.1. General political developments

As indicated above, the Ministry of Labour and Immigration has not undergone significant structural changes in 2010, but some of the individuals in charge of its various bodies were replaced. One of the most relevant changes was the appointment of Anna Terrón i Cusí in February as the new State Secretary for Immigration and Emigration, replacing María Consuelo Rumí Ibáñez. Likewise, in early March 2010, Agustín Torres Herrero ceased in office as Director General of Immigration and was replaced by Markus González Beilfuss.

<sup>2</sup> "Trabajo anuncia que el reglamento de extranjería no estará listo hasta el primer trimestre de 2011" (Ministry of Labour announces that Aliens Regulation will not be ready until first quarter of 2011), Lex Nova, available at [http://portaljuridico.lexnova.es/public/asp/contenidos/noticias/ficha.asp?portal=JURIDICO&cn\\_id=35449](http://portaljuridico.lexnova.es/public/asp/contenidos/noticias/ficha.asp?portal=JURIDICO&cn_id=35449)

Changes also took place in other ministries. In the Ministry of the Interior, Julián Prieto Hergueta ceased in office as Deputy-Director General for Asylum due to his transfer elsewhere, and was replaced by Joaquín Támara Espot.

The Ministry of Foreign Affairs and Cooperation, Juan Antonio Yáñez-Barnuevo García replaced Juan Pablo de Laiglesia y González de Peredo as State Secretary for Foreign and Latin American Affairs.

In April, Joaquín Arango Vila-Belda was appointed the new President of the Forum for the Social Integration of Immigrants. In February, in line with the decision taken following the selection competition, new Forum delegates were proposed to represent Associations of Immigrants and Refugees<sup>3</sup> and Social Support Organisations.<sup>4</sup>

In the political arena, regional elections were held in Catalonia on 28 November 2010, in which the *Convergència i Unió* party obtained the best results and Artur Mas was appointed President of the Generalitat of Catalonia. This is relevant since Catalonia is an autonomous region that has been delegated powers in the field of initial work permits.

### 3.2. Main political and legislative debates

The focal point of public attention during 2010 was the economic situation and its impact on employment. In the struggle for economic recovery, the Spanish Government has undertaken structural reforms. The measures taken have primarily tackled the restructuring of general government and labour reform.

Institutionally, Spain has made major efforts in 2010 to reduce the public deficit by streamlining general government.

<sup>3</sup> Asociación de Trabajadores Inmigrantes Marroquíes en España (ATIME), América-España Solidaridad y Cooperación (AESCO), Asociación de Cooperación Bolivia-España (ACOBEB), Asociación de Refugiados e Inmigrantes Peruanos (ARI-PERÚ), Asociación Socio-Cultural Ibn-Batuta (ASCIB), Asociación Rumiñahui Hispano-Ecuatoriana para colaboración al desarrollo de África y América Latina, Asociación de Chinos en España (ACHE), Asociación de Inmigrantes Búlgaros en España (AIBE-BALCAN), Federación de Asociaciones de Inmigrantes Rumanos en España (FEDROM), Asociación Nacional de Asociaciones de Ecuatorianos en España (FENADEE).

<sup>4</sup> Cruz Roja Española, Consorcio de Entidades para la Acción Integral con Inmigrantes (CEPAIM), Cáritas Española, Asociación Comisión Católica Española de Migración (ACCEM), Red Acoge, Movimiento por la Paz, el Desarme y la Libertad (MPDL), Unión General de Trabajadores (UGT), Comisiones Obreras (CC.OO), Confederación Española de Organizaciones Empresariales (CEOE), Confederación Española de la Pequeña y Mediana Empresa (CEPYME).

The other pillar of government action has been the development of the necessary conditions for job creation. This has included a labour reform aimed at combining flexibility and confidence in the labour market.

One of the most important initiatives undertaken has been the reform of active employment policies. Its main lines are: *“To develop a model of counselling for the unemployed based on a personalised career itinerary; to strengthen the Public Employment Services by improving their organisation and operation and complementing the latter with formulas of public/private partnerships for intermediation; to undertake a thorough review of current Employment Schemes for unemployed people, to bring them into line with the current labour market situation and enhance their efficiency; to reinforce the link between active and passive employment policies; to strengthen the mechanisms of information between the State and the autonomous regions, and to set up goal-based management systems for the different schemes, to ensure the rigorous assessment of their effectiveness”*.<sup>5</sup>

These measures affect the working population as a whole, which includes migrant workers.

On this subject, the high unemployment among the foreign population of working age is a matter of concern. The unemployment rate among the foreign population in 2010 stands at around 30%, almost 12 points above the rate for Spanish nationals. According to data compiled by the National Statistical Institute, unemployment has continued to rise since 2008, up to the total figure of 4,696,600 unemployed persons in the fourth quarter of 2010 (an unemployment rate of 20.33%).<sup>6</sup>

In immigration policy, the main opposition party has advocated heightened controls over illegal immigration. Taking their lead from this position, certain councils controlled by this party have blocked the entry of irregular immigrants on their municipal registers. The State Legal Service has been consulted on this issue<sup>7</sup> and concludes in its report that the entry of foreigners on the municipal register is independent of whether or not they are legally resident in Spain.

<sup>5</sup> See: Eduardo Rojo, “La reforma de las políticas activas de empleo (I)”, <http://eduardorjoblog.blogspot.com/2010/11/la-reforma-de-las-politicas-activas-de.html>, accessed on 2 December 2010.

<sup>6</sup> Press release from the National Statistical Institute dated 28 January 2011, available at <http://www.ine.es/daco/daco42/daco4211/epa0410.pdf>.

<sup>7</sup> Report by the State Legal Service in relation to the consultation received by the Ministry of the Interior from the Mayor of Vic regarding the criteria used by the latter council for the registration of foreigners. Madrid, 10 January 2010. [http://www.el9nou.cat/complements/11316\\_1825.pdf](http://www.el9nou.cat/complements/11316_1825.pdf).

With regard to Spain's Presidency of the European Union, attention must be drawn to several key issues.

As outlined above, Spain took over the rotating presidency of the Council of the European Union during the first half of 2010. The Spanish Presidency began at the same time as the Treaty of Lisbon entered into force. From the outset, the Government has prioritised the initial implementation of the Treaty and its changes.

The priority in immigration and asylum has been to drive the integrated policy of the Union, promoting progress towards a common policy aligned with the European Pact on Immigration and Asylum and Stockholm Programme.

Under the Spanish Presidency, the first annual debate of the Council was hosted to evaluate compliance with the European Pact on Immigration and Asylum. In May, the Commission produced the first Annual Report on Immigration and Asylum, detailing the progress made as a result of compliance with the commitments undertaken in the European Pact on Immigration and Asylum on issues of legal immigration and integration, illegal immigration, border control, asylum and partnership with countries of origin and transit.

Regarding legal immigration, negotiations on the draft directive on the single permit and the rights of migrant workers were given a boost under the Spanish Presidency.

The informal meeting of Ministers of Justice and Interior, held in Toledo on 21 and 22 January under the title *"Legal immigration and integration under the Treaty of Lisbon: the road ahead"*, discussed the foundations of the future European policy on immigration and asylum, highlighting the importance of an integrated approach to the treatment of immigration and asylum.

The proposed measures for illegal immigration included the intensification of return and readmission agreements for irregular migrants and cooperation with countries of origin and transit for the control of migration flows. The absolute priority given to the control and surveillance of external borders was also tackled, primarily by bolstering the role of the FRONTEX agency and border control and surveillance initiatives such as EUROSUR.<sup>8</sup> The Council developed and adopted conclusions with a programme of 29 urgent measures for strengthening external borders, divided into 5 main areas: FRONTEX; the development of the European Border Surveillance System (EUROSUR); combating illegal immigration and trafficking in human beings; solidarity and shared management of external borders, and cooperation with third countries.

<sup>8</sup> "Balance 50 acciones en el ámbito de interior. IV Presidencia Española de la Unión Europea", Ministry of the Interior, Madrid, July 2010.

On the issue of asylum, the Spanish Presidency has been very active at all levels, both technically and politically, with a view to making headway in discussions on the second-generation legislative proposals made by the Commission for a Common European Asylum System (CEAS). Along these lines, during the six months in which it held the presidency, Spain pushed ahead with negotiations on the proposed amendments to asylum legislation in the Asylum Working Group, within the Council, with a total of 11 meetings being held over the period. This effort has been continued by the Belgian Presidency as part of a coordinated strategy by the trio of presidencies.

Also under the Spanish Presidency, Regulation No 439/2010 of the European Parliament and of the Council establishing the European Asylum Support Office (EASO)<sup>9</sup> was approved on 19 May 2010. The main purpose of this regulation is to strengthen practical cooperation on asylum between Member States and to provide operational support or to coordinate the operational support provided to Member States, especially those who are facing specific and disproportionate pressures on their national asylum systems.

Likewise, progress has been made in the development of the European information sharing systems, with the second generation of the Schengen Information System (SIS II)<sup>10</sup> and VIS.<sup>11</sup>

Moreover, the conclusions of the Action Plan on Unaccompanied Minors (MENA) 2010-2014 were adopted at the JHA Council of 3-4 June 2010. The approval of this Action Plan is the result of intensive efforts by Spain to address the issue of MENA at EU level. With this Plan, it is the first time that the specific problems of unaccompanied minors in EU territory have been dealt with. It sets down four main lines of action: prevention, regional protection programmes, assistance to minors and the identification of lasting solutions.

The adoption of this Action Plan will allow for an integrated and specific approach to tackling the problem of unaccompanied minors, providing solutions to a problem that affects both Spain and the other Member States, and, most importantly, ensuring the best interests of these minors at the same time.

During its Presidency, Spain has been active in implementing the Global Approach to Migration in all its geographical areas: in Africa, as part of the Rabat Process and under the Africa-EU Strategy; in Eastern Europe, with the adoption of the Terms of Reference

<sup>9</sup> Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132 of 29.5.2010).

<sup>10</sup> "Balance 50 acciones en el ámbito de interior. IV Presidencia Española de la Unión Europea", Ministry of the Interior, Madrid, July 2010.

<sup>11</sup> Idem, Note 10.

of the migration dialogue with Russia and through its participation in seminars organised by “Building Migration Partnerships” and the Prague Process; in Latin America and the Caribbean, by convening two EU-LAC High-Level Structured Dialogue Meetings in Madrid on 17 and 18 February 2010 and on 15 and 16 March 2010 and the completion of the first EU mission on immigration issues to a Latin American country – Peru being the chosen country. Romania, Portugal and Belgium all took part in this mission.

In addition to applying the Global Approach to Migration, Spain has worked actively on implementing the EU-US migration dialogue, the bases of which were adopted at the EU-US JHA meeting on 9 April 2010.

Lastly, results have been obtained with regard to visas during the Spanish Presidency. Specifically, this Presidency saw the approval of Regulation (EC) No 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the Convention Implementing the Schengen Agreement and of Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa,<sup>12</sup> which facilitates the movement of long-term residents in the Schengen Area without the need for additional visa processing while the long-stay visa remains in force. Reforms have also been processed for the Regulation laying down the list of third countries whose nationals must be in possession of short-stay visas and those whose nationals are exempt from that requirement, and visa facilitation agreements with Russia, Ukraine and Moldova. The visa facilitation agreement and subsequent readmission agreement were signed with Georgia.<sup>13</sup> And, lastly, a boost was given to negotiations on a visa facilitation agreement with Kazakhstan and to the visa dialogue with Russia. All of these actions culminated in the adoption in May of the notion of regional coherence in visa dialogues, applicable to Ukraine and the Eastern Partnership countries. The Presidency has also encouraged the effective use of biometric passports with two pilot projects at the airports of Barcelona and Madrid, together with rapid and automated border controls.

In summary, Spain has sought to strengthen the common immigration and asylum policy during its EU presidency as it has done in the past and will continue to do in the future, to ensure better management of migration flows and a framework for dialogue between all countries affected by migration.

<sup>12</sup> Official Journal of the European Union, L 85/1, 31 March 2010.

<sup>13</sup> The agreement between the EU and Georgia was signed on 25 November 2009. Its signature was agreed under the Spanish Presidency on 17 June 2010 and the agreement was ratified on 18 January 2011 and come into force on 1 March 2011.

### 3.3. Further developments in asylum and migration

There have been no new developments in immigration or asylum during 2010. The political action of the Government has concentrated on maintaining the structural instruments of its integrated immigration policy, guaranteeing integration and social cohesion policies, supporting the return of migrants, making further progress in the improvement of management tools and integrated border control and stepping up the dialogue with countries of transit and destination. Following the recent legislative reforms in relation to aliens and asylum, adopted in 2009, the development of their implementing regulations has been made a priority.

### 3.4. Institutional developments

The Ministry of Labour and Immigration is divided into five senior and executive bodies: the State Secretariat for Social Security; the State Secretariat for Immigration and Emigration; the Under-Secretariat for Labour and Immigration; the Secretariat General for Employment, which became a State Secretariat in October,<sup>14</sup> and the Office for Social Dialogue, which was abolished in the ministerial restructuring of October. The second ministerial change<sup>15</sup> restructured the Ministry of Labour and Immigration into three senior bodies: the State Secretariat for Social Security; the State Secretariat for Immigration and Emigration, and the State Secretariat for Employment.

As explained earlier, the State Secretariat for Immigration and Emigration has maintained its division into three Directorate Generals. Both the Technical Secretariat General and the Directorate General for Labour Inspection and Social Security report to the Under-Secretariat for Labour and Immigration.

In October, the Government Delegations were created<sup>16</sup> for the purpose of their adaptation to the new ministerial organisation and alignment with Government priorities. The Government Delegations are collegial government bodies that research issues affecting several departments, as is the case of the Government Delegation for Immigration Policy. This Delegation is composed of the First Vice-President of the Government, the Minister of

<sup>14</sup> Royal Decree 1313/2010, of 20 October 2010, restructuring the ministerial departments, BOE No. 255 of 21 October 2010.

<sup>15</sup> Royal Decree 1313/2010, of 20 October 2010, restructuring the ministerial departments, BOE No. 255 of 21 October 2010, and Royal Decree 1366/2010, of 29 October 2010, approving the basic organisational structure of the ministerial departments, BOE No. 267, 4 November 2010.

<sup>16</sup> Royal Decree 1331/2010, of 22 October 2010, establishing the Government Delegations, BOE No. 257, of 23 October 2010.

the Interior (who chairs the Delegation), the ministers of Foreign Affairs and Cooperation, Development, and Labour and Immigration; the Director of the Office of the President of the Government, and the state secretaries for Foreign and Latin American Affairs, the European Union, Defence, Security, Immigration and Emigration and Equality. The State Secretariat for Immigration and Emigration performs the duties of Secretary of the Delegation.

In 2010, the updating of all State institutions was completed, with the creation of e-governments for easier access to information, procedures and services by citizens.

January 2010 saw the adoption of the Order creating the Ministerial e-Government Committee of the Ministry of Labour and Immigration.

## 4 Legal immigration and integration

### 4.1. Economic migration

#### 4.1.1. Specific context

See the 2009 Annual Report on Immigration and Asylum for information on the most recent legislative reform and how it affects this issue.

#### 4.1.2. Developments from the national perspective

As at 31 December 2010, the number of aliens with a registration certificate or valid residence permit is 4,926,608, of which 2,401,632 are citizens under the Community Regime<sup>17</sup> and 2,524,976 under the General Regime.<sup>18</sup>

The immigration policies have continued to use the tools for managing migration flows: the Lists of occupations that are difficult to fill and the Collective management procedure

<sup>17</sup> The Community Regime is the legal system governing foreign citizens applicable to nationals of EU countries and the EFTA and their families and the relatives of Spaniards who are nationals of third countries.

<sup>18</sup> The General Regime is the legal system applicable to nationals of third countries, except for those to which the Community Regime applies.

for recruitment in country of origin, whose operation has been strengthened and enhanced following the improvements introduced by the new aliens regulation. These instruments have proved their efficiency as a means for the automatic adjustment of the supply and demand of foreign workers during the crisis.

The Lists of occupations that are difficult to fill are published quarterly and allow employers to begin processing residence and work permits for foreign workers when the jobs they need to fill are occupations included in this List. Over the year and especially in the first quarter, these jobs were mainly in the health sector, although there was a diversity of occupations.

As for the collective management of recruitment in country of origin, Order TIN/3498/2009, of 23 December, regulating the collective management of recruitment in country of origin for 2010 contains an estimate of stable job offers for 2010. This year, the job vacancies have mainly been for professionals of the health sector, although there have been others in different industries. The provisional figure on foreign workers in the stable non-Community Regime for 2010 is down to 168,<sup>19</sup> compared to the 901 estimated for 2009 and more than 15,000 for 2008. Hence, the impact of the economic situation has led to a much lower recruitment figure than in the immediately preceding years.

Recruitments for seasonal work have continued, although the volume of the demand has fallen. The Directorate General for Immigration announced the granting of public subsidies for 2010, through a competitive procedure, for actions relating to recruitment processes for foreign workers not resident in Spain, the organisation and coordination of worker movement and recruitment, collective worker displacement, and advice and information on social aspects and employment.

#### **4.1.3. Developments from the perspective of the European Union**

There have been no relevant national developments in relation to the European Union context. On this point, as elsewhere, the relevant directives – and the most important issues – were transposed by the legislation passed in 2009.

<sup>19</sup> Order TIN/3498/2009, of 23 December 2009, regulating the collective management of recruitment in country of origin for 2010, BOE No. 313 of 29 December 2009.

## 4.2. Family reunification

### 4.2.1. Specific context

As indicated in the 2009 Annual Report on Immigration and Asylum, Instruction DGI/SGRJ/08/2009 on the implementation of Organic Law 4/2000 on the rights and freedoms of foreigners in Spain and their social integration, was issued as a result of the reforms implemented in matters of family reunification by Organic Law 2/2009, of 11 December 2009. The Instruction covers family members eligible for reunification, explaining aspects of their access to the labour market and the conditions of access to independent residence permits in respect of the person being reunited, together with a special reference developing the situation for victims of gender violence.

A Note, also from the Directorate General for Immigration, accompanies this Instruction to explain that it is not necessary to request a new work permit for reunited spouses and children once they reach working age, since the law allows them to work as well as reside in Spain without the need for this renewal, which will be done in due course at the end of the period indicated on their permit.

### 4.2.2. Developments from the national perspective

Under the General Regime, as at 31 December 2010, 224,812 nationals of third countries hold a temporary residence permit due to family reunification. A further 363,772 nationals of third countries reside in Spain under the Community Regime as relatives of EU citizens.

There have been no significant changes in legislation; rather the change was brought about by a Supreme Court ruling dated 1 June 2010.<sup>20</sup> This sentence overrides several expressions of Articles 2, 3, 4, 9 and 18 and the third final provision of Royal Decree 240/2007, of 16 February 2007, on the entry, free movement and residence in Spain of citizens of EU Member States and of other Member States in the Agreement on the European Economic Area.

The Ruling of the Spanish Supreme Court recognised that all aliens with Spanish children, regardless of their place of origin, have the same right to enter, reside and travel freely in Spain, provided that they meet the rest of the requirements.

The Supreme Court ruling determined:

<sup>20</sup> Published in BOE No. 266, of 3 November 2010.

- The application of the Community Aliens Regime to parents of a Spanish citizen or his/her spouse or registered co-habiting partner.
- The lack of effect of legal separation on the application of the Community Regime to the spouse of an EU citizen.
- The application of this Regime to the registered co-habiting partner of an EU citizen, regardless of whether or not the civil system concerned allows for the possibility of two simultaneous entries.
- The right to work of children over the age of 21 and of parents.
- The maintenance of residence under the Community Regime by the family in the event of the death of the EU citizen, provided that they had previously resided with him/her in Spain.
- The duty of setting a voluntary departure period when a person residing under the Community Regime is expelled.
- The application of the regulation on facilitating the entry and residence of family members not included under the Community Regime, without limitations based on the degree of kinship linking them to the EU citizen.

On 4 November 2010, the Directorate General for Immigration issued an Instruction<sup>21</sup> clarifying the legal regime applicable after the Ruling, indicating its scope and the provisions of Royal Decree 240/2007 that have been annulled.

#### **4.2.3. Developments from the perspective of the European Union**

There have been no relevant national developments in relation to the European Union context.

<sup>21</sup> Instruction DGI/SGRJ/03/2010 on implementing the Supreme Court Judgement of 1 June 2010 relating to the annulment of several sections of Royal Decree 240/2007, of 16 February 2007, on the entry, free movement and residence in Spain of citizens of the Member States of the European Union and of other States party to the agreement on the European Economic Area.

### 4.3. Other aspects of legal migration

#### 4.3.1. Specific context

There are no significant developments to note. For references prior to 2010, please see the previous Annual Reports.

#### 4.3.2. Developments from the national perspective

In September 2010, the Directorate General for Immigration approved an Instruction<sup>22</sup> to clarify doubts regarding the interpretation of Article 32 of the Organic Law, in relation to Article 8.2 of Directive 2003/109/EC. Thus, it clarifies that Article 32 of the Organic Law provides for long-term residence for an indefinite term, although the Identity Card for Foreign Nationals must be renewed every five years.

In October 2010, the Directorate General for Immigration approved another Instruction<sup>23</sup> to determine the requirements and documentation for the admission and residence of young Canadians between the ages of 18 and 35 seeking to obtain specific professional experience, work experience, or for language-learning. This instruction implements the provisions of the Agreement between Canada and Spain on youth mobility, signed in March 2009 and published in the Official State Gazette on 2 February 2010.

#### 4.3.3. Developments from the perspective of the European Union

There have been no relevant national developments in relation to the European Union context.

### 4.4. Integration

#### 4.4.1. Specific context

There are no significant developments to note. For references prior to 2010, please see the previous Annual Reports.

<sup>22</sup> Instruction DGI/SGRJ/01/2010 on the validity of long-stay EC residence permits granted in Spain and the renewal of the Identity Card for Foreign Nationals of their holder.

<sup>23</sup> Instruction DGI/SGRJ/02/2010 on the implementation of the Agreement between Canada and Spain on Youth Mobility Programmes.

#### 4.4.2. Developments from the national perspective

In March 2010, the procedure was laid down for access to official university degrees by students from foreign education systems with studies comparable to the Spanish Secondary Education Level.<sup>24</sup> This access is obtained through an examination held at the UNED (National University of Distance Learning) for these students.

Also in March, the General Directorate for the Integration of Immigrants announced the granting of subsidies to non-governmental organisations and bodies in the area of the integration of immigrants, asylum seekers and other persons under international protection.<sup>25</sup> This call for proposals also included aid from the European Fund for the Integration of Third-country Nationals. Two calls were subsequently made, in May and September, respectively, for the granting of subsidies to municipalities, associations of municipalities and districts for the development of innovative programmes for immigrant integration.<sup>26</sup> The aim is to launch innovative programmes of care and social intervention with immigrants for their social inclusion (with a special focus on women and young immigrants), integrated social intervention programmes in neighbourhoods or areas with large immigrant populations to prevent urban segregation, programmes for the prevention of discriminatory, racist and xenophobic attitudes, and awareness programmes for the general population.

The fund for support to the reception and integration of foreign nationals, and educational measures on their behalf was allocated EUR 70,000,000 in 2010,<sup>27</sup> of which 41,208,600 were allocated to reception and integration, 27,472,400 to educational measures, and EUR 1,319,999 to the care of unaccompanied minors transferred from the Canary Islands. These sums were distributed among the autonomous regions and the autonomous cities of Ceuta and Melilla for performance of the different programmes,

<sup>24</sup> Order EDU/473/2010, of 26 February 2010, laying down the procedure for access to official university degrees by students from foreign education systems with studies comparable to the Spanish Secondary Education Level, BOE No. 54, 3 March 2010.

<sup>25</sup> Decision of 17 March 2010, of the Directorate General for Immigrant Integration, calling for the granting of subsidies in the area of integration of immigrants, asylum seekers and other persons under international protection, BOE No. 70, 22 March 2010. This aid was subsequently modified in June, BOE No. 136, 4 June 2010.

<sup>26</sup> Decision of 6 May 2010, of the Directorate General for Immigrant Integration, calling for the granting of subsidies to municipalities, associations of municipalities and districts for the development of innovative programmes for immigrant integration, BOE No. 116 of 12 May 2010. Decision of 16 September (BOE No. 227 of 16 September), calling for the granting of subsidies to municipalities, associations of municipalities and districts for the development of innovative programmes for immigrant integration, funded by the EIF.

<sup>27</sup> Decision of 18 May 2010, of the Technical Secretariat General, publishing the Agreement by the Council of Ministers of 14 May 2010, formalising the objective distribution criteria for 2010 and the distribution resulting from the budgetary provision, for a total of EUR 70,000,000, of the fund for support to the reception and integration of aliens, and educational measures on their behalf, BOE No. 127, of 25 May 2010.

extending cooperation agreements, and carrying out a range of activities to promote integration, particularly those seeking to develop actions for the reception and integration of immigrants and to provide educational support.

In addition to these agreements with the autonomous regions, another two have been signed with Andalusia and Catalonia for the development of integrated pilot action plans in towns with large immigrant populations.<sup>28</sup>

Moreover, the General Directorate for the Integration of Immigrants, through the Spanish Observatory on Racism and Xenophobia, has launched the following actions:

- Report entitled “Evolution of racism and xenophobia in Spain”, which analyses the survey of the Centre for Sociological Research, “Attitudes towards immigration”, conducted each year to study the development of attitudes towards immigration among the Spanish population.
- For the sufficient and accurate recording of any act that could be described as racist or xenophobic, the Office of Internal Security Studies of the State Secretariat for Security, Ministry of the Interior, has incorporated a number of changes to the Criminal Statistics System, following technical consultations made by the Ministry of Labour and Immigration to the Spanish Observatory on Racism and Xenophobia. The purpose of the above is to comply with international requirements on collecting and publishing statistics on racist incidents.
- European project “Living Together: European Citizenship against Racism and Xenophobia”. This project seeks to promote a European discourse of tolerance by generating arguments for coexistence and respect, recognising differences and the construction of a European citizenship without racism and xenophobia in any shape or form, and, more specifically, to detect and compile discourses on tolerance, models and mechanisms for coexistence being developed in different European countries in order to discover different strategies to combat racism, xenophobia and discrimination on grounds of origin, and to identify good practices fostering dialogue between different communities and sensitivities. This project has produced a list of common arguments to neutralise racist discourses and create a transnational mechanism of supervision and

<sup>28</sup> Resolution of 26 April 2010, of the Technical Secretariat General, publishing the Protocol extending the cooperation agreement between the Ministry of Labour and Immigration and the Government of Andalusia, for the development of an integrated pilot action plan in sensitive areas of Andalusia with large immigrant populations, BOE No. 110, 6 May 2010. *Resolution of 30 November 2010, of the Technical Secretariat General, publishing the cooperation agreement with the Generalitat of Catalonia for the development of an integrated pilot action plan in neighbourhoods of Catalonia with large immigrant populations.*

reaction to new racist discourses. Five other European countries besides Spain have participated in this project, together with diverse institutions and social organisations.

- The European ESCI III project “Local Awareness Plans” has been designed, developed and launched in a bid to encourage public debate on the benefits of diversity and integration. The project seeks to make headway in promoting equality of opportunity and treatment by incorporating and involving public and private institutions and local agencies – a total of 27 local agencies have taken part – in the discussion and reaching of agreements on priority issues and appropriate and feasible methodologies for the development of local awareness plans, identifying good practices and experiences carried out locally (in Spain and the rest of the EU) to raise awareness of equal treatment. One of its outcomes has been the production of a methodological guide for the formulation and implementation of local awareness plans for equal treatment, which was made into an end product and distributed to over 2,000 town and city councils.

#### 4.4.3. Developments from the perspective of the European Union

“Integration as an engine for development and social cohesion” is the theme and title of the Ministerial Conference held in Zaragoza on 15 and 16 April. The conclusions of this conference included the agreement reached by the Ministers to: take an integrated and cross-cutting approach to integration; emphasise the need for a new agenda on integration that incorporates a mechanism of coordination like the one proposed in the Stockholm Programme; consider cultural diversity as an opportunity for the social and economic progress of Europe and as a means of combating discrimination; develop the concept of “human capital” by ensuring a cross-sectoral approach that includes, inter alia, programmes on education, employment...; recognise the positive aspects of migration, especially in the context of the recession in Europe, and continue to promote ways of helping to combat racism and xenophobia and all forms of discrimination in our societies; develop common European modules to define integration policies; involve civil society by recognising its active role in the two-way process of mutual interaction between all immigrants and citizens of Member States and promoting networking and the establishment of dialogue and exchange with the participation of organisations of civil society; strengthen local initiatives and those of citizen participation, and promote the launch of a pilot project to review integration policies, including the study of the indicators proposed in the appendix of the approved document.

## 4.5. Citizenship and nationality

### 4.5.1. Specific context

There are no significant developments to note. For references prior to 2010, please see the previous Annual Reports.

### 4.5.2. Developments from the national perspective

In 2010, the Official State Gazette published several exchanges of letters constituting the agreement between Spain and third countries on the participation in municipal elections of the nationals of the different countries residing in the territory of the other country, based on reciprocity. The countries with which Spain has concluded reciprocity agreements are Ecuador,<sup>29</sup> Colombia,<sup>30</sup> Chile,<sup>31</sup> Peru,<sup>32</sup> Paraguay,<sup>33</sup> Iceland<sup>34</sup> and Bolivia.<sup>35</sup> In addition to these arrangements, reciprocal agreements were also signed with New Zealand and Cape Verde<sup>36</sup> in 2009 (although the former was published in January 2010 and the second was published in January 2011). These, together with the agreement signed with

<sup>29</sup> Exchange of letters constituting the Agreement between the Kingdom of Spain and the Republic of Ecuador on participation in the municipal elections by the nationals of either country residing in the territory of the other, made in Quito on 25 February 2009, BOE of 5 January 2010.

<sup>30</sup> Exchange of letters constituting the Agreement between the Kingdom of Spain and the Republic of Colombia on participation in the municipal elections by the nationals of either country residing in the territory of the other, made in Madrid on 5 February 2009, BOE No. 18, 21 January 2010.

<sup>31</sup> Exchange of letters, dated 12 May 2009, constituting the Agreement between the Kingdom of Spain and the Republic of Chile on participation in the municipal elections by the nationals of either country residing in the territory of the other, BOE No. 35 of 9 February 2010.

<sup>32</sup> Exchange of letters, dated 6 February 2009 constituting the Agreement between the Kingdom of Spain and the Republic of Peru on participation in the municipal elections by the nationals of either country residing in the territory of the other. BOE No. 122 of 19 May 2010.

<sup>33</sup> Exchange of letters constituting the Agreement between the Kingdom of Spain and the Republic of Paraguay on participation in the municipal elections by the nationals of either country residing in the territory of the other, made in Madrid and Asunción on 13 May 2009, BOE No. 150 of 21 June 2010.

<sup>34</sup> Exchange of letters constituting the Agreement between the Kingdom of Spain and the Republic of Iceland on participation in the municipal elections by the nationals of either country residing in the territory of the other, made in Madrid and Paris on 31 March 2009, BOE No. 305 of 16 December 2010.

<sup>35</sup> Exchange of letters constituting the Agreement between the Kingdom of Spain and the Republic of Bolivia on participation in the municipal elections by the nationals of either country residing in the territory of the other, made in Madrid on 15 September 2009, BOE No. 306 of 17 December 2010.

<sup>36</sup> Exchange of letters constituting the Agreement between the Kingdom of Spain and the Republic of Cape Verde on participation in the municipal elections by the nationals of either country residing in the territory of the other, made in Praia, on 8 April 2009, BOE No. 11 of 13 January 2011.

Norway in 1990, mean that citizens of ten different nationalities may now exercise their right to vote in municipal elections in Spain.

Thus, on 5 November, the application form was approved for the entry on the electoral roll of those Spanish residents who are nationals of countries with signed agreements, for the municipal elections to be held in May 2011.

The requirements for exercising this right are: to be over 18 years of age; to hold the relevant permit for residence in Spain; to have legally and continuously resided in Spain for at least five years prior to the application for entry on the electoral roll (three years for nationals of Norway); to exercise the right to vote in the municipality of his/her habitual residence, in whose municipal register they must figure and, finally, to fulfill the last requirement of being registered on the Electoral census of foreign nationals resident in Spain, which is essential for exercise of the right to vote and shall be carried out at the request of the town or city council in whose municipal register he/she figures.<sup>37</sup>

On this point, this report refers back to the contents of the Report of the State Legal Service on the implementation of the regulations of the Municipal Register.<sup>38</sup> The latter concludes that the “entry of foreigners on the municipal register is independent of whether or not they are legally resident in Spain” and that, for this purpose, “a passport should be deemed valid and sufficient even if the subject does not have the mandatory visa”.

On the issue of nationality, an agreement has been approved to extend by one year the deadline for exercising the right to opt for Spanish nationality enshrined in the seventh additional provision of Law 52/2007, of 26 December 2007, recognising and extending rights and laying down measures for those who suffered persecution or violence during the civil war and dictatorship.<sup>39</sup>

<sup>37</sup> 350,000 letters were sent to residents meeting the requirements and the deadline for registration was extended to 25 January 2011.

<sup>38</sup> Report by the State Legal Service in relation to the consultation received by the Ministry of the Interior from the Mayor of Vic regarding the criteria used by this council for the registration of foreigners. Madrid, 10 January 2010. [http://www.el9nou.cat/complements/11316\\_1825.pdf](http://www.el9nou.cat/complements/11316_1825.pdf).

<sup>39</sup> Resolution of 17 March 2010, of the Under-Secretariat, providing for the publication of the Agreement of the Council of Ministers of 22 January 2010, extending by one year the deadline for exercising the right to opt for Spanish nationality enshrined in the seventh additional provision of Law 52/2007, of 26 December 2007, recognising and extending rights and laying down measures for those who suffered persecution or violence during the civil war and dictatorship, BOE No. 72, 24 March 2010.

### 4.5.3. Developments from the perspective of the European Union

There have been no relevant national developments in relation to the European Union context.

## 5 Illegal immigration and returns

### 5.1. Illegal immigration

#### 5.1.1. Specific context

There are no significant developments to note. For references prior to 2010, please see the previous Annual Reports.

#### 5.1.2. Developments from the national perspective

In June 2010, Article 89 of the Penal Code<sup>40</sup> was amended to declare a priority the removal, in the event of any other punishment and save in exceptional cases, of any alien not legally resident in Spain sentenced to imprisonment for a term of less than six years.

The removal from Spain of aliens not legally resident in the country is also intended as a non-custodial security measure (Article 96.3). In the event of multiple punishments and detention orders, the judge or court shall order the application of the measure, which will be in addition to the punishment. Once the security measure has been lifted, the judge or court may, if the execution of the sentence would be detrimental to the effects achieved through it, suspend enforcement of the rest of the sentence for a period not exceeding the duration of the latter, or apply any of the measures provided for in Article 96.3.

Article 108 states:

1. If the subject were an alien not legally resident in Spain, the judge or court shall, after hearing the party, sentence him/her to deportation from Spanish territory in substitution

<sup>40</sup> Organic Law 5/2010 of 22 June 2010, amending Organic Law 10/1995, of 23 November 1995, of the Penal Code, BOE No. 152 of 23 June 2010.

of the applicable security measures, unless the judge or court, after hearing the Public Prosecutor, exceptionally and giving reasons, considers that the nature of the crime justifies the execution of the sentence in Spain.

The agreed deportation will entail the archiving of any administrative procedure seeking authorisation to reside or work in Spain.

In the event that the security measure is replaced by deportation and the latter is not carried into effect, fulfilment of the security measure originally imposed shall be required.

2. Said alien may not return to Spain within a period of 10 years from the date of his/her deportation.

3. Any alien attempting to breach a judicial decision of deportation and prohibition of entry, as stipulated in the preceding paragraphs, shall be returned by the government authority and the period of prohibition of entry will begin anew.

### **5.1.3. Developments from the perspective of the European Union**

There have been no relevant national developments in relation to the European Union context.

## **5.2. Returns**

### **5.2.1. Specific context**

There are no significant developments to note. For references prior to 2010, please see the previous Annual Reports.

### **5.2.2. Developments from the national perspective**

During 2010, the Directorate General for Immigrant Integration made two calls for subsidies for the return of immigrants.<sup>41</sup> The purpose of the subsidies is to give preference to voluntary as opposed to forced returns, as it is in the interests of both the migrants (for

<sup>41</sup> Resolution of 11 March 2010, of the Directorate General for Immigrant Integration, calling for the granting of subsidies for the voluntary return of migrants, BOE No. 64 of 15 March 2010, and Resolution of 21

their dignified return) and the authorities of the host countries. There are three subsidised programmes, each with its own requirements: the voluntary return programme for social care, the voluntary return programme for social care co-funded by the European Return Fund, and the programme of supplementary aid to the accumulated and advance payment of contributory unemployment benefit for non-EU workers who voluntarily return to their countries of origin (APRE).

Returns have fallen by 20.89% compared to 2009, although expulsions of irregular aliens with criminal ties have increased by 47.3% (repatriation of repeat offenders with links to terrorism, organised crime, gender violence or other especially serious offences posing a threat to public security).

### 5.2.3. Developments from the perspective of the European Union

There have been no relevant national developments in relation to the European Union context.

## 5.3. Action against human trafficking

### 5.3.1. Specific context

There are no significant developments to note. For references prior to 2010, please see the previous Annual Reports.

### 5.3.2. Developments from the national perspective

In June 2010, paragraph 4 of Article 282 bis of the Criminal Code was amended<sup>42</sup> to consider organised crime as the association of three or more persons for the permanent or reiterated performance of a number of behaviours, including trafficking and related crimes that may be deemed trafficking, under the Palermo Protocol, and which require

October 2010, of the Directorate General for Immigrant Integration, calling for the granting of subsidies for the voluntary return of migrants, BOE No. 260 of 27 October.

Resolution of 27 April 2010, of the Directorate General for Immigrant Integration, amending that of 11 March 2010, calling for the granting of subsidies for the voluntary return of migrants and extending the term for submitting applications for participation in the same, BOE No. 102 of 28 April 2010.

<sup>42</sup> Organic Law 5/2010 of 22 June 2010, amending Organic Law 10/1995, of 23 November 1995, of the Penal Code, BOE No. 152 of 23 June 2010.

a clear judicial response in relation to legal persons, especially in offences where the possible involvement of the latter is more evident.

Along these lines, in March 2010, the State Secretariat for Security issued an Instruction on foreign victims of human trafficking, pursuant to the new Article 59 bis inserted into the Organic Law.

Likewise, the recent reform of the Penal Code has created Title VII bis and its article, specifically on human trafficking in all its forms (177 bis) as an independent concept of the crimes related to illegal immigration and people-trafficking listed in Title XV bis as crimes against the rights of foreign citizens (Article 318 bis), including a special aggravation in the case of victims who are minors or legally incapable.

### **5.3.3. Developments from the perspective of the European Union**

In relation to the Spanish Presidency of the EU and in the area of external relations with Eastern European countries, especially as an observer on the Council of the Baltic Sea States, the Spanish Ministries of Foreign Affairs and Cooperation, Interior, Equality, and Justice organised a seminar in June 2010 on the "Fight against the Smuggling and Trafficking in Human Beings" for diplomatic and consular staff.

In the framework of the presidency trio, a commitment was made by the three Member States to implement the provisions of the Stockholm Programme to prevent and combat human trafficking, especially as regards cooperation with third countries and the protection of unaccompanied minors in the European Union.

A Conference on Human Trafficking took place (Madrid, 4 and 5 March 2010), to reflect on the continuity of the recommendations set down in the action-oriented paper on trafficking in human beings, adopted under the Swedish Presidency, and to identify the next steps in this area.

Representatives of the Ministry of Equality, Interior and the Spanish International Cooperation Agency for Development actively participated in the co-presidency of the Second Meeting of National Rapporteurs on Trafficking in Human Beings, which reflected on how this informal network of rapporteurs could implement the conclusions that led to its creation, approved under the Swedish Presidency in the second half of 2009.

## 6 Border Control

### 6.1. Control and surveillance of external borders

#### 6.1.1. Specific context

In December 2009, the General Commissariat for Immigration and Border Police, under the Directorate General for Police and Civil Guard of the Ministry of the Interior, drafted a document entitled “Documentary requirements for border crossings” to provide the agents responsible for external border control with information on the subject.

In order to implement the priorities and objectives of the national security strategy of the Ministry of the Interior in the context of border control and the struggle against illegal immigration, the National Police and the Civil Guard, in the scope of their powers, have drawn up their respective Integrated Border Management Plans, based on a dual line of action: effective border control in collaboration with EU Member States and the countries of origin and transit of immigrants and an effective returns policy, aligned with the following general objectives common to the State Security Forces in relation to the struggle against illegal immigration:

- Cooperate in reducing illegal immigration and preventing the loss of human lives.
- Improve and strengthen border controls, particularly the main Schengen points.
- Expedite repatriation and expulsion procedures.
- Increase the operational capacity of FRONTEX.
- Combat illegal immigration networks and improve international police cooperation.

#### 6.1.2. Developments from the national perspective

Besides the proposals made under the Spanish Presidency of the EU for enhanced control of borders and passports, several internal initiatives have been put forward.

In a bid to focus the initiatives planned under the EU presidency programme on citizens, an attempt has been made to increase freedom of movement for European citizens in

order to facilitate external border crossings. This has required the implementation of new technologies in border management and a commitment to innovation. The Presidency has promoted the effective use of biometric passports and rapid and automated border controls. Coinciding with the processing of this initiative, two pilot projects have been launched for automated border crossings at airports in Madrid and Barcelona using the European biometric passport. Other initiatives have also been launched to ensure document security and combat forgery.

### 6.1.3. Developments from the perspective of the European Union

In the framework of the implementation of European Union law and its directives, including the European Pact on Immigration and Asylum and the Stockholm programme, this year saw the approval of Council Decision of 26 April 2010 supplementing the Schengen Borders Code as regards the surveillance of the sea external borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.<sup>43</sup>

Conscious of the need to strengthen the role of the FRONTEX agency, the Spanish Presidency prioritised the presentation of the legislative proposal to amend the FRONTEX Regulation, which will adapt its operation to the needs of the organisation, in accordance with the recommendations of the first evaluation of the agency. The document has completed its second reading in the Council during this Presidency.

The Council developed and adopted a number of conclusions, which include a programme of 29 urgent measures for strengthening external borders, divided into five main areas: FRONTEX; the development of the European Border Surveillance System (EUROSUR); the fight against illegal immigration and trafficking in human beings; solidarity and shared management of external borders, and cooperation with third countries.

In the area of borders and forged documents, as part of the Council's structural adjustments to the provisions of the Treaty of Lisbon, a reflection was undertaken during the Spanish Presidency on the future exchange of information on illegal immigration and borders. The following initiatives were also developed: creation of a common format of alerts on

<sup>43</sup> Council Decision of 26 April 2010 supplementing the Schengen Borders Code as regards the surveillance of the sea external borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (2010/252/EU), (OJ L.111/20, 4/5/2010).

genuine and forged documents for the Member States of the European Union; collection of information on the current status of identity cards in the Member States, and the creation of a specific Europol file for the exchange of information on criminal organisations linked to counterfeit identity and travel documents.

## **6.2. Border control cooperation**

### **6.2.1. Specific context**

There are no significant developments to note. For references prior to 2010, please see the previous Annual Reports.

### **6.2.2. Developments from the national perspective**

In the context of the Atlantic Sea Horse project, a communication network equipped with up-to-the-minute satellite communication technology for ongoing and secure coordination and information exchange between countries of the European Union and Africa to combat illegal immigration and other criminal activities carried out at sea, the network has been expanded to 10 coordination centres in Mauritania, Morocco, Senegal, Gambia, Guinea Bissau, Cape Verde, Portugal and Spain. In parallel, training has been given on illegal immigration and for boatmasters, sea mechanics, specialists in underwater activities and network operators. Courses have also been taught and equipment supplied for border surveillance.

### **6.2.3. Developments from the perspective of the European Union**

There have been no relevant developments in relation to the European Union context.

## 7 International protection

### 7.1. Specific context

Law 12/2009, of 30 October 2009, regulating the right of asylum and subsidiary protection came into force at the end of 2009, so 2010 was a year for adapting to this new regulatory framework. The Asylum Act has introduced significant developments to the procedure for granting international protection:

- International protection status, refugee status and subsidiary protection have been equated.
- The elements of the classic definition of “refugee” have been detailed and listed for the first time in Spanish law.
- Explicit reference is made to aspects of sexual orientation or gender as reasons, where applicable, for the recognition of refugee status on the grounds of membership of a particular social group, making Spain’s legislation internationally pioneering.
- The procedure is unique for the two types of protection.
- The guarantees of international protection for applicants are reinforced throughout the procedure. These include the senior role afforded to the intervention of the United Nations High Commissioner for Refugees (UNHCR) throughout the procedure.
- Special attention is paid to vulnerable people, including unaccompanied minors.
- It provides for the training of all public employees and other persons dealing with applicants for international protection as a government duty.
- It also provides for an annual resettlement programme.

These developments have been accompanied by a major change in the internal structure of the Subdirectorate General for Asylum, to adapt the latter to the new model and ensure the continued provision of a quality service.

## 7.2. Developments from the national perspective

The year ended with a slightly lower number of requests for international protection than 2009, with a total of 2,744 formalised applications, down 8% on last year's figures. Nonetheless, despite the decline in the total number of applications made, almost 85% have been declared admissible since the entry into force of the new Asylum Act.

On detailed analysis, the number of applications for international protection formalised by Cuban citizens is seen to have increased considerably in 2010, with this national group becoming the largest to apply for protection (406 applications), followed by nationals of Nigeria (238), Algeria (176), Guinea (166) and Cameroon (156)<sup>44</sup> – the latter becoming, for the first time, one of the top five most numerous groups of applicants for international protection.

In 2010, there has been a significant increase in the number of positive decisions (granting of refugee status, subsidiary protection and residence permits for humanitarian reasons), compared to previous years. Based on data from the Statistical Office of the European Union (Eurostat) for 2010, the average rate of protection in the EU amounted to 25% of the total, while the rate of international protection granted by Spain during 2010 was 22%, approaching the levels of other European countries.<sup>45</sup>

Moreover, the high level of consistency between UNHCR criteria and the criteria of the Interministerial Committee for Asylum and Refuge (CIAR), applied to the granting of international protection (asylum or subsidiary protection), has been maintained over 2010, with figures of 99.42%. Specifically, 2,896 decisions were adopted in 2010 and on just 17 occasions the UNHCR was in favour of granting international protection while the decision was unfavourable.

There were also few differences in approach between the UNHCR and the resolutions adopted. Specifically, the UNHCR coincided with the approach taken in 99% of the resolutions agreed at the proposal of the CIAR (Interministerial Committee on Asylum and Refuge) and in 95% of the decisions taken at the first stage of the procedure.

Lastly, this report draws attention to the Agreement approving the Programme for Refugee Resettlement in Spain for 2010, whereby the Council of Ministers authorises the reception

<sup>44</sup> EUROSTAT data.

<sup>45</sup> The protection rate is calculated as the number of positive decisions out of the total decisions taken that year. The total number of decisions includes both positive (refugee status, subsidiary protection, humanitarian reasons) and negative decisions (deemed inadmissible or rejected at the first stage of the procedure and unfavourable decisions adopted by the CIAR).

of 75 refugees by Spain as a sign of solidarity with states that receive massive influxes of refugees and pursuant to the First Additional Provision of the Asylum Act.

### 7.3. Developments from the perspective of the European Union

In the European Pact on Immigration and Asylum, adopted in October 2008 under the French Presidency of the European Union, and in the Stockholm Programme, adopted under the Swedish Presidency, the Member States expressed their willingness to implement a Common European Asylum System (CEAS) to avoid the discrepancies that occur, even now, between the different European countries, making headway towards procedures for the granting of international protection. It was agreed to set 2012 as the deadline for implementing this Common European Asylum System.

To reach this goal, the Commission proposed to the Member States a second generation of legislative initiatives entailing a comprehensive review of the current system of international protection. In 2010, under the Spanish and Belgian Presidencies, progress has been made in negotiations on these instruments within the Council and meetings have been held with the European Parliament to reach a consensus on positions and ensure the swift adoption of the proposals.

Also under the Spanish Presidency, the Regulation establishing the European Asylum Support Office (EASO) was signed on 19 May, thus completing the regulatory development of the Office. The EASO will play a key role within Europe, carrying out important tasks of coordination and practical cooperation among Member States. The specific functions that the future Support Office will assume once it is fully operational include that of organising and coordinating activities to allow Member States to exchange information and best practices on asylum, activities relating to information on countries of origin, training and joint actions to support Community Member States who are facing specific and disproportionate pressures on their national asylum and reception systems.

To ensure sufficient financial resources for the operation of the EASO, the Decision establishing the European Refugee Fund for the period 2008-2013 has been amended to allow the Office to transfer the funds it requires to carry out the actions entrusted to it.

## 8 Unaccompanied minors (and other vulnerable groups)

### 8.1. Specific context

There are no significant developments to note. For references prior to 2010, please see the previous Annual Reports.

### 8.2. Developments from the national perspective

In February, the Cooperation Agreement between the Ministry of Labour and Immigration and the Regional Government of Andalusia on the care of unaccompanied minors was approved,<sup>46</sup> which seeks cooperation between the two institutions for the care of these minors, particularly for their guidance, psychosocial support and socio-professional insertion. Two separate cooperation agreements were subsequently approved with Ceuta and Melilla,<sup>47</sup> autonomous cities requiring special attention in this area due to their geographical location.

Another autonomous region hit particularly hard by the problem of unaccompanied minors is the Canary Islands, which has been granted a direct subsidy of EUR 15 million for the transfer and reception of unaccompanied minors.<sup>48</sup>

On a separate issue, Spain co-chaired a seminar on vulnerable groups on 27, 28 and 29 July, held in Rabat as a preparatory event for the Third Ministerial Conference on Migration and Development to be held in Dakar in 2011, within the Rabat process being promoted by Spain, as a member of its steering committee. The meeting was co-chaired by Spain and attended by representatives from 18 African countries, 11 European countries, the European Union, ECOWAS, UNFPA, UNHCR, IOM and UNDP. The three central themes of the meeting were:

<sup>46</sup> Resolution of 15 February 2010, of the Technical Secretariat General, publishing the cooperation agreement between the Ministry of Labour and Immigration and the Regional Government of Andalusia, on the care of unaccompanied minors, BOE No. 48, 24 February 2010.

<sup>47</sup> Resolution of 21 September 2010, of the Technical Secretariat General, publishing the cooperation agreement with the City of Melilla, on the care of unaccompanied minors, BOE No. 237 of 30 September 2010.

Resolution of 8 November 2010, of the Technical Secretariat General, September publishing the cooperation agreement with the City of Ceuta, on the care of unaccompanied minors, BOE No. 280 of 19 November 2010.

<sup>48</sup> Royal Decree 793/2010 of 16 June, regulating the granting of a direct subsidy to the autonomous region of the Canary Islands for the transfer and reception of unaccompanied minors, BOE No. 149 of 19 June 2010.

- Trafficking in human beings, with a special emphasis on children and women.
- Unaccompanied minors.
- Women and migration.

### 8.3. Developments from the perspective of the European Union

As proof of the importance and concern for the care of MENA, in addition to the Council Conclusions on the Action Plan developed by the European Commission presented in May 2010 and promoted during the Spanish Presidency, several seminars have been held on the subject in Norway and Brussels, including the most recent one, organised in December by the Belgian Presidency.

## 9 Global approach to migration

### 9.1. Specific context

There are no significant developments to note. For references prior to 2010, please see the previous Annual Reports.

### 9.2. Developments from the national perspective

Spain has been active in implementing the Global Approach to Migration in all geographical areas:

In Africa, as part of the Rabat Process, Spain convened and chaired a meeting (19 January 2010) of the Steering Committee of the Rabat Process to begin preparations for the Third Euro-African Ministerial Conference to be held in Dakar in 2011 and participated in a technical seminar in Bamako (Mali) on the contribution of the diaspora to the development of these countries. It also took part in the review seminar on the implementation of the Rabat Process in Tunisia.

In addition, Spain participated in the steering committee of the Rabat process held in Ouagadougou in October 2010.

It also co-chaired a seminar on vulnerable groups on 27, 28 and 29 July in Rabat, organised as a preparatory event for the Third Ministerial Conference on Migration and Development to be held in Dakar in 2011, within the Rabat process being promoted by Spain as a member of its steering committee.

In relation to the EU-Africa Strategy, Spain played a key role as European coordinator of the VII Strategic Partnership (called MME – Migration, Mobility and Employment),<sup>49</sup> which has included a series of pan-African initiatives in its road map that will enhance mutual understanding and cooperation between the two continents in three key areas: migration, mobility (visas) and employment, with an emphasis in the latter case on the need to adopt an ethical code for worker recruitment, paying special attention to workers in the informal sector of the economy.

In Eastern Europe, during the Spanish Presidency, negotiations began between Member States and the Commission to approve the Terms of Reference of the migration dialogue with Russia. An agreement has been reached on the content and topics of this dialogue, although the format of the dialogue has yet to be decided. Spain has also attended the seminars organised by “Building Migration Partnerships” and the Prague Process.

Spain has been very active in implementing the Global Approach to Latin America and the Caribbean area during its Presidency and consequently convened two EU-LAC High-Level Structured Dialogue Meetings in Madrid on 17 and 18 February 2010 and on 15 and 16 March 2010. The Political Declaration of the EU-LAC Summit in Madrid on 18 May 2010 and its Action Plan and the Joint Declarations of EU-Mexico (16 May 2010), EU-Andean Countries (19 May 2010), and EU-Central America (19 May 2010) successfully reflect the progress made in the Structured Dialogue mentioned above, reinforcing the positive relations in migration by maximising the points of convergence. These Declarations also underline the need to further explore areas of practical cooperation and common interest, and highlight the synergies between migration and development.

The first EU mission on immigration issues to a Latin American country has been completed, this time to Peru. The mission was headed by the Secretary General for Consular and Migration Affairs, Ambassador Elorza, and by Ms Belén Martínez Carbonell of DGRELEX (European Commission). Romania, Portugal and Belgium all took part in this mission.

In addition to applying the Global Approach to Migration, Spain has worked actively on implementing the EU-US migration dialogue, the bases of which were adopted at the

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<sup>49</sup> The Action Plan on the VII Partnership of the EU-Africa Strategy on Migration, Mobility and Employment (MME), which runs from 2011 to 2013, was adopted in Tripoli on 29 November 2010.

EU-USA JHA meeting on 9 April 2010. The first Steering Committee meeting took place in June 2010 in Brussels and adopted an Action Plan for the areas initially identified as priorities: migrant returns and readmissions, resettlement of asylum seekers and refugees, training in the management of migration flows in countries of origin and transit, and document fraud.

With regard to cooperation agreements, 2010 saw approval of the implementation of the Agreement with Cambodia.<sup>50</sup>

In other matters, agreements have been concluded with Morocco<sup>51</sup> and Ukraine<sup>52</sup> for mutual recognition and the exchange of driving licences.

### 9.3. Developments from the perspective of the European Union

There have been no relevant national developments in relation to the European Union context.

## 10 Implementation of European Union legislation

### 10.1. Transposition of European Union legislation in 2010

The reform of Organic Law 4/2000 carried out at the end of 2009 implements all directives on immigration passed to date, including Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on standards and common procedures in Member States for returning illegally staying third-country nationals, Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third country nationals for the purposes of highly qualified employment and Directive

<sup>50</sup> Provisional application of the Basic Cooperation Agreement between the Kingdom of Spain and the Kingdom of Cambodia, made in Phnom Penh on 25 February 2010, BOE No. 109 of 5 May 2010.

<sup>51</sup> Entry into force of the Exchange of Letters constituting an Agreement between the Kingdom of Spain and the Kingdom of Morocco on mutual recognition and exchange of national driving licences, made in Madrid on 8 March 2004, BOE No. 101 of 27 April 2010.

<sup>52</sup> Exchange of Letters dated 11 January 2010, constituting an Agreement between Spain and Ukraine on mutual recognition and the exchange of national driving licences, BOE No. 235, 28 September 2010.

2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

This regulation and Law 12/2009 of 30 October, regulating the right of asylum and subsidiary protection have incorporated into our system all of the directives that were not yet transposed. Thus, the Spanish regulatory framework now complies with all European directives.

## **10.2. Experiences and discussions on the (non) implementation of European Union legislation**

The aid and subsidies offered by the Spanish government for the performance of actions in this political area have been reduced in amount due to the austerity measures adopted this year.

# Annex to National Annual Policy Report 2010 on Commitments in the European Pact and Stockholm Programme

## Legal immigration and integration

### 1. Economic migration

#### 1.1. European Pact on Immigration and Asylum

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

#### I(a) Implement policies for labour migration

The period covered by this report is marked by the context of economic crisis, which has meant a **drop in the demand for workers in the labour market** and, by extension, a **reduction in migratory flows**.

Between June and September 2010 reductions took place in relation to the previous quarter in the number of third-country national migrants holding a valid residence permit in Spain.

In this context, the Spanish Government's priority has been to **maintain the structural instruments of its integral migration policy**, assure the social integration and cohesion policies, support return policies, continue advancing in the improvement of management tools and comprehensive border control and strengthen the processes of dialogue with the transit and destination countries.

In this respect, the migration management instruments have been consolidated and perfected, mainly by means of passing, towards the end of 2009, of Organic Law 2/2009, of 11 December 2009, amending Organic Law 4/2000, of 11 January 2000, on the rights and freedoms of foreign nationals in Spain and their social integration.

The migratory flow planning instruments have demonstrated their **suitability and flexibility for tailoring to the new economic setting**, through reflecting

automatically the trend in the labour market in these last few years. The improvements introduced in the new legal regulation have reinforced and adjusted the current instruments for measuring the needs of the labour market, such as the **Catalogue of Occupations in Short Supply** and the **procedure for Group Management of Hiring in the Countries of Origin**.

Since the end of 2008 the Catalogue has been reduced considerably due to the economic crisis. The Catalogue of Occupations in Short Supply in the first quarter of 2010, for example, practically only contains two occupations in most provinces: general practitioners and general nurses, owing to the shortage of health professionals; whereas in the second quarter it already shows a slight enlargement, which reflects a change in some regions.

**I(b) Increase the attractiveness of the EU for highly qualified workers and further facilitate the reception of students and researchers**

Throughout 2010, the measures planned to facilitate access of **highly qualified workers** have warranted special attention. There has been a reinforcement of the present model of centralized management implemented through the **Large Company Unit**, as the entity responsible for handling residence, temporary residence and employment permits and temporary residence and work permits in the framework of a transnational services provision, which are applied for on behalf of highly qualified executives and engineers, technicians and scientists, Spanish public university lecturers and artists of recognized international repute, hired on the grounds of economic, social, occupational or cultural interest, as well as their families. We should point out that permits applied for those individuals or companies with the status of employers, established in Spain, for these foreign employees and processed by way of this procedure are characterized by **shorter expiration times**. Applications for residence permits on the grounds of family reunification may also be submitted **at the same time** as the application relating to the foreign worker or else at a later date.

Furthermore, after the reform introduced at the end of 2009, Act 4/2000 **transposes** certain EU rules in the area, including Directive 2009/50/EC, on the conditions of entry and residence of third-country nationals for the purposes of **highly qualified employment**.

Thus, art. 38 ter of the aforementioned Act regulates the residence and employment of highly qualified professionals. These workers will obtain a residence and work permit documented with an EU blue card.

Lastly, it should be emphasized that the present article 40.2 b) of Act 4/2000 states exemption from the national employment situation of highly qualified professionals, including technical and scientific staff engaged by public bodies, universities or research, development and innovation centres operated by companies, without detriment to application of the specific authorization system applicable in compliance with the Law.

As regards **researchers and scientists**, we should underline the fact that article 25 bis of the Act creates a new kind of visa, called a “research visa” and art. 38 bis of this Act defines the “special regime for researchers”. The rule envisages the granting of residence and work permits to workers engaged in activities of this kind. At the expiry of the hosting agreement, both the researcher and his or her reunified relatives may also be authorized to reside and engage in a gainful activity without the need for a new visa.

Insofar as **students** are concerned, the aforementioned Act (art. 33) regulates the “Regime for admission for study, student exchange, unremunerated trainee or volunteer services”, which establishes stay permits for these cases. In addition, they may be authorized to undertake a remunerated activity providing that this does not restrict the pursuit of their studies. Lastly, facilities are recognized for foreign students taking part in European Union programmes aimed at promoting mobility towards the Union or within it.

### **I(c) Do not aggravate the brain drain**

Spanish legislation on aliens includes clauses promoting circular migration by means of hiring in the countries of origin for seasonal jobs, requiring an undertaking to go back to their country but permitting return to Spain in subsequent years, without being subject to the national employment situation or to industry or geographical limitations.

In addition, this legislation for the granting of permits to highly qualified professionals may take into account the need to protect the pool of human resources in the country of origin.

In this respect, Spain has continued to promote **circular migration** projects entailing the undertaking to return and facilitating successive hiring processes, whilst advantage is taken of the training and experience acquired in Spain on the part of the foreign workers.

In order to facilitate orderly mobility, Spain also continues to develop initiatives aimed at supporting a productive voluntary return process. The productive return programme and the return programme based on the capitalization of the unemployment benefit of migrant workers are geared to this objective.

## 1.2. Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

### 1(b) Improving skills recognition and labour matching

The **Bilateral Agreements** for coordination and management of migratory flows, as well as Framework Agreements in the area of immigration signed by Spain with numerous countries, contain precise instruments for announcing job vacancies, assessment of migrant worker professional, travel and reception requirements, as well as for the return of these workers.

The application and coordination of these Agreements are assured by the periodic meetings of the Coordination Committees set up for that purpose.

In the internal context, the **Catalogue of Occupations in Short Supply** is the main instrument for measuring the national employment situation. Spain is evaluating the development of this mechanism with a view to improving its flexibility, transparency and adaptability to the situation of the labour market. This development will be carried out in coordination with the National Public Employment Service for in-depth study of the criteria used for its preparation, bringing it into line with the current and future situation of the labour market in our country.

Social dialogue and the Tripartite Labour Commission on Immigration, involving the employer and trade union organizations, as well as coordination with local authorities,

assure that the implementation of these instruments meets the actual needs of the labour market in Spain.

The employment services have continued to make major efforts in the areas of professional and occupational training throughout 2010, so that workers in Spain can build up their occupational skills and abilities, matching their aptitudes to the job market.

Regarding the recognition of qualifications and diplomas, no changes are foreseen in the present regulation on certification of studies and validation of university and non- university qualifications.

### 1.3. Key statistics

#### *First residence permits, by reason (2009)*

	Total	Education reasons	Remunerated activities reasons	Other reasons*
First permits	290,813	22,068	26,706	242,039

\* Include first permits granted for family reasons.

Source: Eurostat.

#### *All valid residence permits, by duration (31-12-2010, provisional data)*

	Total	3-5 months	6-11 months	12 months and over
All permits	2,960,984	n.a.	n.a.	n.a.

Source: Ministry of Labour and Immigration.

#### *Unemployment rates of Member State citizens versus third-country nationals residing in the Member State*

	Member State citizens	Third-country nationals
Unemployment rate (%)	18,5	31,0

Source: Labour Force Survey, 2010, 4th Quarter (National Statistics Institute).

## 2. Family Reunification

### 2.1. European Pact on Immigration and Asylum

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

#### I(d) To regulate family migration more effectively

Reform of Act 4/2000 introduced some fundamental innovations in the area of family migration.

Thus, with regard to **determining which family members were candidates for reunification**, reunification of ascendants can only take place in the case of individuals who are at least 65 years old. For this reason long-term resident status is a prerequisite (although there is the possibility that the requirement of being 65 years old may be waived on humanitarian grounds).

Furthermore, in this context the figure of spouse may be equated that of the person with whom the resident alien maintains a relation of affection analogous to that of marriage (article 17.4 of Act 4/2000).

However, in order to comply with the stipulations of this commitment relating to a more efficient regulation of family migration, emphasis should be placed on the requirements laid down in article 17.4 of Act 4/2000, which makes reference to the following considerations:

- The relationship must be duly accredited and meet the requirements necessary to take effect in Spain.
- The situation of marriage and of a similar affective relationship are considered incompatible with each other.
- No more than one individual in such an analogous relation of affectivity may be reunified, even if the Law in the alien's country of origin accepts such family relationships.

Emphasis should also be laid on the new contents of article 18 of Act 4/2000, with regard to the **requirements necessary for the exercise of the right to family reunification**. In this way, the following stipulations apply:

- The sponsor must submit evidence, pursuant to the terms established in the enacting regulations, that he has **adequate housing and sufficient financial means** to cover his needs and those of the reunified family members. In evaluating the applicant's income, for the purposes of reunification, those funds obtained from the system of social assistance shall not be taken into account, but other forms of income received by the spouse who lives in Spain and cohabits with the sponsor shall be considered for this purpose.
- Public Administrations shall promote the participation of reunified family members in programmes of socio-cultural integration and of language learning.
- Requirement that, when the family members to be reunified are minors, and within the age of compulsory schooling, the Administration receiving the reunification application shall notify to the competent educational authorities notice of the procedures initiated for family reunification, so that the places necessary in the relevant schools may be made available.

Lastly, the Act provides for the reunified spouse, partner and the children of working age to have direct access to the labour market.

In implementation of this rule, on 14 December 2009, Instruction DGI/SGRJ/08/2009 on family reunification was issued to ensure **uniform interpretation and application of the legal changes operated**.

## 2.2. Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

### 2(b) The Directive on family reunification, the importance of integration measures

With regard to specific measures to facilitate the integration of newly reunified families, during 2010, in the framework of the announcements of grants aimed at local authorities for the development of innovative migrant integration programmes, aids were given to reunified persons to assist their inclusion into the host community.

The total amount of these subsidies is one million euros and 30 local councils have taken part.

## 2.3. Key statistics

<i>First residence permits for family reasons (2009)</i>	
<b>Total</b>	<b>100,620</b>
Number of first permits granted to a third country national joining an EU citizen	42,767
Number of first permits granted to a third country national joining a non-EU citizen	57,853

Source: Eurostat.

## 3. Other legal migration

### 3.1. European Pact on Immigration and Asylum

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

#### **I(e) To strengthen mutual information on migration by improving existing instruments where necessary**

The aim of the European Migration Network (EMN) is to meet the information needs of institutions of the Union and authorities and institutions of Member States, providing up-to-date, objective, reliable and comparable information in the area of migration and asylum, in order to reinforce the European Union decision-making process in these matters. The EMN also places this information at the disposal of the general public.

The information produced by the EMN is made public via its website: <http://emn.sarenet.es>, as well as through the website of the State Secretariat for Immigration and Emigration: <http://extranjeros.mtin.es/es/RedEuropeaMigraciones/>.

#### **I(f) Improve information on the possibilities and conditions of legal migration**

As stated above, at this time the economic crisis is bringing about a drop in entry of migrant workers. For this reason, the information that is provided on the admission

requirements and the situation of the Spanish labour market is of great importance so as not to create false expectations in the potential emigrant, to promote the channelling of immigration along legal paths, and to prevent illegal immigration.

In this respect, the website of the State Secretariat for Immigration and Emigration (**extranjeros.mtin.es**) offers detailed up-to-date information on the conditions for admission and the procedures to be followed in order to live and work in Spain.

The **REDTRABAJ@ portal**, which has promoted the transparency and distribution of information **on the Internet on employment and hiring**, was also put into operation towards the end of 2009. It represents a meeting point for facilitating the management of job offers and demands, mobility, and awareness of the training opportunities available in Spain and other European Economic Area countries.

Both instruments will be linked to the **European Migration Portal**.

### 3.2. Stockholm Programme

The relevant commitments in the Stockholm Programme are similar to the Pact objective above, hence no further information required.

## 4. Integration

### 4.1. European Pact on Immigration and Asylum

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

#### **I(g) Promote harmonious integration in line with the common basic principles**

The common basic principles may be found in the JHA Council Conclusions of 19 November 2004, doc. 14615/05<sup>53</sup>, as well as the Commission Communication COM(2005) 389.<sup>54</sup>

<sup>53</sup> Available from [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/jha/82745.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/82745.pdf)

<sup>54</sup> Available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0389:EN:NOT>.

The integration policy has continued its development during 2010, within the framework of the "Strategic Citizenship and Integration Plan 2007-2010", by way of four financial and cooperation instruments specified by this Plan:

Support Fund for the Reception and Integration of Immigrants, as well as for their educational support:

In 2010 this Fund has permitted the distribution of €70 million amongst the different regional authorities and Local Councils for the implementation of measures in the area of migrant integration. To this contribution we have to add what corresponds to the actual regional authorities that co-fund the actions envisaged in a proportion of more than 30%. The budget for the total cost of the measures scheduled for implementation this year amounts to €148 million.

In 2010, besides Educational Support, to which over €31 million has been assigned, the priorities relating to the measures to be implemented in the area of integration have been:

- Adult training.
- Intercultural community living management programmes: social and neighbourhood mediation; conflict handling and prevention.
- Measures aimed at increasing employment.
- Measures aimed at facilitating care for female victims of domestic violence and trafficking for sexual exploitation.

As in previous years, the two main areas have been maintained in which the measures under the Fund are implemented, namely Reception and Integration, and Educational Support. A requirement of this Fund is that 55% of the endowment should be allocated to reception and integration, while 45% goes to educational support.

For the management of the Fund the commitment is accepted that 40% should be executed by means of measures promoted by the local authorities. In this way, institutional cooperation is maintained in the implementation of migrant integration policy, where responsibility is shared by the different authorities.

Announcement of grants for non-governmental bodies:

The object of this announcement is to support the running of programmes that increase the social and labour integration of the immigrant group, asylum seekers and other people with international protection. It is aimed at non-profit bodies.

Amongst others, these grants finance employment programmes, introductory comprehensive reception programmes, extracurricular education and health programmes, and programmes raising awareness and promoting equal treatment and non-discrimination in the work environment.

During 2010, 296 programmes corresponding to the 2009 grant announcement have been run, with the cooperation of 105 non-profit organizations. The amount of the grants awarded stands at €19,636,153.

In 2010 €19,862,327 has been assigned to this grant announcement, under which the aim is to undertake over 300 programmes in the course of 2011.

Announcement of grants for the voluntary return of immigrants:

The object of this grant announcement is to promote the voluntary return to their countries of origin for immigrants who are in a situation of vulnerability, so as to encourage productive return or provide financial assistance supplementary to the advance cumulative payment of unemployment benefit. All this sets out to meet a dual objective: assure the decent return of people and facilitate their resettlement in the society from which they originated.

This year €10,000,000 has been assigned and the number of beneficiary bodies was 12.

Announcement of grants to local authorities for the running of innovative programmes aimed at integration:

In 2010 the measures for the implementation of programmes of an innovative nature that further the integration of immigrants lie within the framework of two grant announcements that took place in 2009, one of which is co-financed by the European Fund for the Integration of Immigrants. Social intervention programmes are subsidized, with a special focus on women and young people, programmes aimed at preventing discriminatory, racist, and xenophobic behaviour and awareness-raising programmes

aimed at the general public. The programmes co-financed by the EIF lay emphasis on the family reunification process by means of introduction programmes to the host society and programmes increasing the active participation of third-party nationals in neighbourhood, school, sporting and leisure organizations, in the local context. Over €10 million has been allotted to the funding of these programmes.

In 2010 the number of programmes subsidized amounted to 353 and the number of local authorities benefiting from the grants was 255.

In 2010, the Official State Gazette published several exchanges of letters constituting the agreement between Spain and third countries on the participation in municipal elections of the nationals of the different countries residing in the territory of the other country, based on reciprocity. The countries with which Spain has concluded reciprocity agreements are Colombia<sup>55</sup>, Chile<sup>56</sup>, Peru<sup>57</sup>, Paraguay<sup>58</sup>, Islandia<sup>59</sup>, Bolivia<sup>60</sup> y Ecuador.<sup>61</sup> In addition to these arrangements, reciprocal agreements were also signed with New Zealand, Cape Verde and Norway.

Introductory or Integral Reception Programmes, are voluntary, free of charge for migrants, and supported by public bodies at national, regional or local level; they do not follow a uniform model. Language courses are provided as a part of them.

<sup>55</sup> Exchange of letters constituting the Agreement between the Kingdom of Spain and the Republic of Colombia on participation in the municipal elections by the nationals of either country residing in the territory of the other, made in Madrid on 5 February 2009, BOE No. 18, 21 January 2010.

<sup>56</sup> Exchange of letters, dated 12 May 2009, constituting the Agreement between the Kingdom of Spain and the Republic of Chile on participation in the municipal elections by the nationals of either country residing in the territory of the other, BOE No. 35 of 9 February 2010.

<sup>57</sup> Exchange of letters, dated 6 February 2009 constituting the Agreement between the Kingdom of Spain and the Republic of Peru on participation in the municipal elections by the nationals of either country residing in the territory of the other. BOE No. 122 of 19 May 2010.

<sup>58</sup> Exchange of letters constituting the Agreement between the Kingdom of Spain and the Republic of Paraguay on participation in the municipal elections by the nationals of either country residing in the territory of the other, made in Madrid and Asunción on 13 May 2009, BOE No. 150 of 21 June 2010.

<sup>59</sup> Exchange of letters constituting the Agreement between the Kingdom of Spain and the Republic of Iceland on participation in the municipal elections by the nationals of either country residing in the territory of the other, made in Madrid and Paris on 31 March 2009, BOE No. 305 of 16 December 2010.

<sup>60</sup> Exchange of letters constituting the Agreement between the Kingdom of Spain and the Republic of Bolivia on participation in the municipal elections by the nationals of either country residing in the territory of the other, made in Madrid on 15 September 2009, BOE No. 306 of 17 December 2010.

<sup>61</sup> Exchange of letters constituting the Agreement between the Kingdom of Spain and the Republic of Ecuador on participation in the municipal elections by the nationals of either country residing in the territory of the other, made in Quito on 25 February 2009, BOE of 5 January 2010.

Spanish immigration policy is strongly linked to the needs of the labour market, and this means that language learning is encouraged and supported by the government as this will improve labour opportunities and social integration. Spain does not require migrants entering the country to have a minimum level of proficiency in Spanish or another official language and national policy implies neither compulsory courses nor compulsory tests.

The Spanish Organic Law 4/2000, of 11th January<sup>62</sup> on the rights and freedoms of foreigners and their social integration, as drafted by the last reform of Organic Law 2/2009, of 11th December, establishes a new article 2 Ter, entitled “Immigrants Integration”. It states:

1. The public authorities shall promote the full integration of aliens into Spanish society, within a framework of peaceful coexistence of diverse identities and cultures with no further limit than that of respect for the Constitution and the law.
2. The Public Administrations shall incorporate the goal of integration between immigrants and host society, with a cross-cutting nature, to all public policies and services, promoting the economic, social, cultural and political participation of immigrants, in the terms specified in the Constitution, in the Statutes of Autonomy and in the Laws, under conditions of equality of treatment.

Special attention shall be paid, via educational actions, to promoting knowledge of and respect for the Constitution and statutes of autonomy of Spain, for the values of the European Union, and for human rights, public freedoms, democracy, tolerance, and equality between woman and men; specific measures shall be implemented to favour migrants’ incorporation into the educational system, guaranteeing in any case the schooling of children into compulsory education, the learning of the official languages as a whole and access to employment, in the understanding that these are essential factors, in the process of integration.

The same article 2. Ter in its fourth paragraph, states:

4. In accordance with the criteria and priorities of the Strategic Plan on Immigration, the Government and the Autonomous Communities shall, at the Sectorial Conference on Immigration, agree biennial action programmes aimed at reinforcing immigrants’ social integration. Such programmes shall be financed by means of

<sup>62</sup> Available in Spanish at: [http://extranjeros.mtin.es/es/NormativaJurisprudencia/Ley\\_Organica\\_4\\_2000.pdf](http://extranjeros.mtin.es/es/NormativaJurisprudencia/Ley_Organica_4_2000.pdf)

national fund for the integration of immigrants, which shall be endowed with annual budgetary allowances, and which may include co-funding formulas in conjunction with the Administrations receiving sums from this fund.

The Spanish government has implemented the Strategic Plan for Citizenship and Integration (2007-2010).<sup>63</sup> Nowadays it is under evaluation and in process of elaboration of the new one.

We consider good practices in the field of **Public perception of migration and immigrants**, the following:

- The Spanish government launched a major awareness-raising campaign through TV spots, radio clips and advertisements in written media and public spaces based on the many different social needs of immigrants, with the message: **'With the integration of immigrants, we all win'** subtitled: **'All different, all necessary'**.<sup>64</sup>
- Surveys are regularly conducted in order to identify basic trends of public opinion on immigration and to track the evolution of xenophobic and racist tendencies. So it is the national survey conducted by the National Statistic Institute called National Enquiry on Immigration, and the survey conducted by the Sociological Investigations Centre, whose evolution and longitudinal tendencies and findings on the causes have been analyzed by the Complutense University of Madrid, at the report: **Evolution of Racism and Xenophobia in Spain** 2009, (soon available 2010).<sup>65</sup>
- Awareness raising actions are one of our priorities (Strategic Plan: Area of action nº 11). They have been realized through funding regional and local governments, NGOs... Of all the actions realized, maybe we could highlight the elaboration of the "Guide to build and apply local plans on raising awareness", in order to improve policies at the local level in raising awareness on equal treatment and non discrimination.<sup>66</sup>

In 2010 the project has continued by putting the Guide into practice, evaluating projects of local governments in order to search good practices, with mainstreaming principles: citizenship engagement, gender, access to services and age perspective;

<sup>63</sup> English summary available at: [http://www.mtin.es/es/sec\\_emi/Integralinmigrantes/PlanEstrategico/Docs/PECingles.pdf](http://www.mtin.es/es/sec_emi/Integralinmigrantes/PlanEstrategico/Docs/PECingles.pdf)

<sup>64</sup> Accessible at: <http://www.youtube.com/watch?v=H90Jld5-MsU>

<sup>65</sup> It is accessible in Spanish at <http://www.oberaxe.es/files/datos/4b26574eb2f66/Informe2009.pdf>

<sup>66</sup> Available in English at: <http://www.oberaxe.es/files/datos/4b31ffd5682be/Ging.pdf>

the result of the project was the '**Compendium of best practices cases in the improvement of local plans on raising awareness on equal treatment and non discrimination**'.

- In order to avoid the negative representation of immigrants in the media, the Spanish Monitoring Centre on Racism and Xenophobia has developed, in cooperation with the Universidad Rey Juan Carlos, and the most relevant mainstream and migrant media, the "Practical Guide for Media Professionals: media treatment of immigration issues". It includes, an analysis of the challenges of the media professionals, the most relevant recommendations, analysis of good and bad practices, key recommendations when dealing with immigration, practical tools and advice on how to implement them in everyday work and a list of relevant civil society, public sector, investigation centres, foundations contacts and web-pages for media professionals.<sup>67</sup>

Good practices on **Equal Treatment**:

- In order to prevent institutional discrimination: the Spanish Monitoring Centre on Racism and Xenophobia has worked closely with Universities and the different police forces in Spain, in order to develop the '**Handbook for Security Forces Training in Equal Treatment and Non Discrimination**'. Its aim is to promote an adequate management of the cultural diversity and ethnicity from the police forces, in order to reach this goal; an impartial treatment relating the different ethnic and cultural groups is fostered.<sup>68</sup>
- In order to prevent everyday discrimination by the general public: the Spanish Monitoring Centre on Racism and Xenophobia has developed a web page, CREADI: "Resources Centre on anti-discrimination", where everyone can search for institutions dealing with several kinds of discrimination issues and equal treatment, in order to have information about discrimination, legal assistance and psychological attention, if needed.<sup>69</sup>
- **The Spanish Integration Fund** was provided by the Spanish government. Its aim is to provide funds to the actions developed by the regional and local authorities under the Strategic Plan for Citizenship and Integration. It establishes a cooperation framework, in order to add up efforts between the different Spanish public

<sup>67</sup> Available, in Spanish at: <http://www.oberaxe.es/files/datos/47d1394b65cc8/GUIA%20MEDIOS%20ELECTRONICANIPO.pdf>

<sup>68</sup> The Handbook is available (Spanish) at: <http://www.oberaxe.es/files/datos/47d1386e4af25/GUIA%20POLICIA%20ELECTRONICANIPO.pdf>

<sup>69</sup> The data base is accessible at: <http://www.oberaxe.es/creadi/>

administrations (central, regional and local) enhancing public policies in the fields of reception of immigrants and education, advancing towards the goal of social cohesion. The fund is distributed according to the reception and social integration criteria (percentage of non EU population in the autonomous region...) or the educational reinforcement of non EU students, non Spanish speaking students.

#### **I(h) Promote information exchange on best practices in terms of reception and integration**

The lines of intervention of the Support Fund for Reception and Integration of Immigrants include the "Transfer of know-how and good practices" with a view to sharing learning. All the guidelines for measures specified in the management framework of this Fund envisage actions for the transfer of know-how and good practices, which take the form of workshops, seminars and training measures. The regional authorities, therefore, have been developing various measures of this kind.

In relation to the grant announcements corresponding to 2009 for the development of innovative programmes for the integration of immigrants, aimed at local authorities, with implementation scheduled for 2010, a follow-up and training seminar has been held with the authorities subsidized. The main subject chosen was measures to promote integrated living in the local environment. Previously, a series of programmes and authorities were chosen that represent good practices and act as a benchmark for the transfer of experiences. The local authorities selected were the town councils of Arrecife, Leganés, Sant Feliu de Llobregat, Terrassa y Vilanova and la Geltrú. The representatives of these authorities explained in detail the features and content of these programmes to the participants.

The Spanish Observatory of Racism and Xenophobia has published a compendium of cases of successful application of local awareness-raising and equal treatment and non-discrimination plans. Six cases have been selected comprising a set of awareness-raising measures, taking into consideration in these the gender approach, youth, the use of public spaces, integrated neighbourhood living, and access to public services. This compendium is the end product of the ESCI III Project forming part of the Community Programme for employment and social solidarity Progress (2007-2013).

To identify and analyze the main 'social believes' (prejudices, stereotypes, fears of the citizenship) that are generating racist and xenophobic discourses, discriminatory actions

and the legitimization of racist attitudes in European countries, the Spanish Monitoring Centre on Racism And Xenophobia has coordinated the transnational project '**Living Together: European citizenship against Racism and Xenophobia**', that has been developed during 2009-2010.

Elaborated through a participative procedure in Spain, Portugal, Finland, The Netherlands, Sweden and Ireland (National, regional and local governments representatives, Mass Media, NGOs, Trade Unions, Universities, entrepreneurship) a Decalogue of citizenship, tolerance and dialogue that summarizes common arguments of conviviality was elaborated in order to promote a European discourse of tolerance, based on the generation of a rationale for harmony and respect, on recognition of differences, and on building European citizenship free of any kind of racism and xenophobia.<sup>70</sup>

Other good practices in **mainstreaming immigrants integration policies**:

- The **Strategic Plan for Citizenship and Integration** 2007-2010<sup>71</sup> put into practice by the Spanish government in order to improve coordination in integration policies at all public levels (state, regional and local) establishes in one of its premises that: "the promotion of integration policies must be instrumented by mainstreaming immigrant integration issues in all relevant public policies", so mainstreaming becomes a principle in all the areas of action: Reception, Education, Employment, Housing, Social Services, Health Childhood and Youth, Equal Treatment, Gender, Participation, Awareness raising and Co-development.

Reception:

Objective 1. To provide immigrants the tools they need to attain the autonomy required in order to access goods and services, exercise their rights and perform their duties in equal conditions to those of the autochthonous population.

- A. Implementation and application of introductory programmes to the host society
- B. Implementation and application of comprehensive reception projects.

<sup>70</sup> Accessible in English at: <http://www.oberaxe.es/files/datos/4cdd055bcf3ff/LTingles.pdf>

<sup>71</sup> A summary in English of this Strategic Plan is available at: [http://www.mtin.es/es/sec\\_emi/Integralnmigrantes/PlanEstrategico/Docs/PEClingles.pdf](http://www.mtin.es/es/sec_emi/Integralnmigrantes/PlanEstrategico/Docs/PEClingles.pdf)

## 4.2. Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

### 3(b) To incorporate integration issues in a comprehensive way in all relevant policy areas

Act 2/2009, of 11 December 2009, reforming Act 4/2000, of 11 January 2000, on rights and freedoms of foreign nationals in Spain and their social integration, in line with the provisions of the European Pact on Immigration and Asylum, reinforces the integration policy developed by the Spanish Public Administrations by way of a series of measures, including the transverse incorporation of the objective of integration between immigrants and the host society into all major policies and public services.

In accordance with this, the General Directorate for the Integration of Immigrants (DGII), of the Ministry of Labour and Immigration, is developing a Strategic Plan (PECI 2007-2010) viewed as a framework for orienting the courses of action of the public administrations and social agents, the non-governmental organizations working in the field of immigration, and the immigrant associations, with a view to defining and assuring the consistency of the immigrant population integration policy in Spain.

This Plan benefits from the cooperation of various ministerial, regional authority and local council departments.

In that respect, General Directorate for the Integration of Immigrants also cooperates in the development of the following national plans that are promoted and coordinated by other ministerial departments and which enable immigrant integration to be incorporated into other policies:

- II Alliance of the Civilizations Plan.
- Strategic Plan for Childhood and Adolescence 2010-2013.
- III Plan of Action against the Sexual Exploitation of Childhood and Adolescence 2010-2013.

- Comprehensive Plan to Combat Trafficking of Human Beings for Sexual Exploitation.
- Plan for Care and Prevention of Gender Violence in the Foreign Migrant Population 2009-2012.
- Annual International Cooperation Plan 2010.
- Human Rights Plan.

### **3(e) Improved consultation with and involvement of civil society**

The process of consultation with the civil society in the area of integration takes place mainly through the Forum for the Social Integration of Immigrants, which is a collegiate body framed within DGII. It is the body for consultation, information and advice in the migrant integration area.

Its purpose is to act as an avenue for participation and dialogue, channelling the aspirations and demands of the immigrant population and involving the whole of society in the search for the solutions and alternatives required by integration. This advisory body has to be consulted in relation to a draft law or the design of policies relating to the integration of the immigrant population.

It is constituted on a tripartite basis and balanced out by representatives of the public administrations, immigrant associations and other organizations of interest and implementation in the migration context, including amongst these the most representative employer and trade union organizations.

Furthermore, the Tripartite Labour Commission on Immigration, which is structured on a nationwide scale - although it may also be constituted in regional authorities and in provinces - is the body for ongoing dialogue between the General State Administration, the trade union organizations and the most representative employer organizations of a state nature, in the area of management of migratory flows.

### 3(f) To enhance democratic values and social cohesion in relation to immigration and integration of immigrants and to promote intercultural dialogue and contacts

Act 2/2009, of 11 December 2009, reforming Act 4/2000, of 11 January 2000, on rights and freedoms of foreign nationals in Spain and their social integration, in line with the provisions of the European Pact on Immigration and Asylum, reinforces the integration policy developed by the Spanish Public Administrations. It establishes that the public administrations should assure the provision of educational programmes that further knowledge of and respect for the constitutional and statutory values of Spain, the values of the European Union, as well as for human rights.

One of the “Basic common principles on integration of the EU”, on which the Strategic Plan for Citizenship and Integration 2007-2010 is founded, is the conception of integration as a two-way process in which both immigrants and natives recognize their rights and obligations and in which everyone has to respect the basic values in force in Spain and in the European Union. Regular interaction between immigrants and citizens of the Member States is a key mechanism for integration. Shared forums, intercultural dialogue, education relating to immigrants and their cultures and stimulating living conditions in urban environments improve the interactions between immigrants and citizens of the Member States.

In accordance with the above, the cooperation framework for the management of the “Support Fund for Reception and Integration of Immigrants and their Educational Support” includes amongst its mainsprings of action “reception”, “education” and “social services”. These mainsprings of action comprise measures of introduction to the host society, promotion of the teaching of the languages of the host society, promotion of intercultural civic education and management of intercultural community living through social and neighbourhood mediation and prevention of conflicts.

Similarly, in the grant announcements, the programmes eligible for subsidizing include educational and reception programmes in which measures are developed to encourage the learning of the language and knowledge of the Spanish society and culture.

The public foundation ‘**Pluralismo y Convivencia**’ operates as a dialogue platform with representatives of different minority religious communities and then supports the projects they develop in the cultural, educational and social integration fields. Another action is to spread information about these religious communities within the Spanish society with the aim of fighting public stereotypes and prejudices.<sup>72</sup>

<sup>72</sup> Web page: [www.pluralismoyconvivencia.es](http://www.pluralismoyconvivencia.es)

### 4.3. Key statistics

#### *Long-term third-country national residents (Stock, 31-12-2010, provisional data)*

<b>Total</b>	<b>1,591,28</b>
Number of EU long-term third-country national residents (Directive 2003/109)	31,170
Number of long-term third-country national residents (national legislation)	1,560,358

Source: Ministry of Labour and Immigration.

#### *Acquisition of citizenship (2010, provisional data)*

Number of third-country national nationals taking up citizenship*	121,879
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\* Citizens of countries other than of EU-27, EFTA and Candidate countries.

Note: it only refers to the acquisition of nationality on grounds of residence in Spain during the period required by law.

Source: Ministry of Justice.

## Illegal immigration and return

### 5. Illegal Immigration

#### 5.1. European Pact on Immigration and Asylum

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

##### **II(a) Only case-by-case regularisation**

No regularisation has taken place in 2010.

##### **II(c) Ensure that risks of irregular migration are prevented**

In the context of the fight against the trafficking of human beings, the Comprehensive Plan to Combat Trafficking of Human Beings is the leading instrument in Spain that plans to combat the trafficking of human beings for sexual exploitation. Adopted by

the Council of Ministers of 12 December 2008, it is scheduled to have a validity of 3 years as of its entry into force in January 2009. This instrument is integrated in the Spanish Government's Human Rights Plan and its first balance sheet was presented in 2010.

Its main aims are:

Protection and assistance for victims.

Pursuit of the crime.

Prevention and awareness-raising

Its adoption has permitted the implementation of new instruments of a different kind:

Technical-operational:

Implementation of the System of Management of Data on the Trafficking of Human Beings.

Planning and intensification of local risk administrative inspections.

Special rules for the effective application of the reflection period conferred on victims in line with the European Directive and the new national legislation.

Institutional coordination:

Interministerial Group for the Coordination and Fight against Trafficking.

Social Forum against Trafficking.

In the sphere of prevention and cooperation in the fight against illegal immigration, the Spanish Presidency endeavoured to strengthen the common immigration and asylum policy. Council Conclusions were elaborated and adopted containing **29 urgent measures for the strengthening of the external frontiers**, distributed in five main areas: Frontex; development of the European system of border surveillance (EUROSUR); fight against illegal immigration and trafficking of human beings; solidarity and shared management of external frontiers and cooperation with third countries. Initiatives have in turn been promoted to assure the security of documents and assist the fight against falsification.

As for prevention activities in the **fight against the trafficking of human beings in third countries**, various projects have been implemented and managed by the Spanish Agency for International Cooperation in Latin America and the Asia-Pacific Region. There has also been participation in other measures promoted by such international organizations as UNIFEM (United Nations Development Fund for Women), INSTRAW (United Nations International Research and Training Institute for the Advancement of Women), **UNFPA** (United Nations Population Fund), **UNPD** (United Nations Programme for Development) or **UNHCHR** (United Nations High Commissioner's Office for Human Rights).

**II(d) To develop cooperation between Member States, using, on a voluntary basis and where necessary, common arrangements to ensure the expulsion of illegal immigrants**

**II(g) Take rigorous actions and penalties against those who exploit illegal immigrants**

The recent amendment of the Spanish Organic Law classes as a very serious infringement the hiring of foreign workers without having first obtained the respective residence and work permit, an infringement that is incurred for each foreign-born worker engaged, providing that the fact does not constitute an offence. In those cases in which such conduct may be typified as an offence the new or amended articles of the Criminal Code will be applied, namely article 312.1 (those trafficking illegally with labour shall be punished with prison terms of two to five years and a fine of six to twelve months, arts. 515, 517 and 518 on the penalties associated with such conduct and other forms of participation in these offences).

**II(h) An Expulsion Decision taken by one Member State (MS) should be applicable throughout the EU and entered into the SIS obliging other MSs to prevent the person concerned from entering or residing**

## **5.2. Stockholm Programme**

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

**4(j) More effective action against illegal immigration and trafficking in human beings and smuggling of persons by developing information on migration routes as well as aggregate and comprehensive information which improves our understanding of and response to migratory flows**

In the sphere of the Comprehensive Plan to Combat the Trafficking of Human Beings, the System for Management of Data on the Trafficking of Human Beings (BDTRATA) has been implemented. For the description, assessment and real knowledge of the Trafficking dimensions, three studies have been conducted:

- Description of the trafficking phenomenon in Spain.
- Map of existing resources.
- Analysis of the judicial treatment of criminal processes.

In addition, the Organized Crime Intelligence Centre (CICO) has conducted a diagnostic and prospective study on Organized Crime and Trafficking and its relation to prostitution.

**4(k) Increased targeted training and equipment support**

Spain hosted in Melilla one of the Mid Level Course training sessions delivered by the Frontex Agency.

A basic training module has been started up in relation to the Trafficking of Human Beings for attachés, liaison officials and officers of the National Police Corps (CNP) officers and the Asylum and Refugee Offices and another training course about the trafficking of human beings for sexual exploitation purposes for all National Police Corps officers taking part in peace missions.

#### 4(l) A coordinated approach by Member States by developing the network of liaison officers in countries of origin and transit

In the programme of Spanish Presidency activities **two meetings of liaison officer networks were held in Dakar (Senegal) and Bogotá (Colombia)**, on the agendas of which the fight against the trafficking of human beings occupied a prominent position. They were attended by the Europol and Frontex Agencies, besides experts on the subject. Furthermore, Spain is one of the Member States taking part in ILU or the liaison officer platform, established in **Accra (Ghana), and in the Dakar platform (Senegal)**. The measures foreseen for the **fight against organized crime and the peddling of drugs from Western Africa** include the trafficking of human beings amongst the offences requiring special follow-up; and the measures proposed for improving operational coordination comprise the further development of liaison officer networks and platforms in the region and reflection on the establishment of new ones if need be.

### 5.3. Key statistics

<i>Third-country nationals apprehended (2010)</i>	
Third-country nationals apprehended	71,452
<i>Third-country nationals regularised</i>	
Third-country nationals regularised	0

Source: Ministry of the Interior.

## 6. Return

### 6.1. European Pact on Immigration and Asylum

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

#### II(b) To conclude readmission agreements at EU or bilateral level

Type of readmission agreement	Third countries involved	Main purpose of the agreement
<ul style="list-style-type: none"> <li>• AGREEMENT approving the signature and referendum of the Execution Protocol between the Government of the Kingdom of Spain and the Government of the Russian Federation for the application of the Agreement of 25 May 2006 between the European Community and the Russian Federation on re-admission, and orders its forwarding to Parliament.</li> </ul>	Russia, Bosnia-Herzegovina	The bilateral protocol is an instrument associated with the EU readmission agreements that have to be negotiated and signed by all the MSs with the Third State concerned.
<ul style="list-style-type: none"> <li>• AGREEMENT ordering the forwarding to Parliament of the Execution Protocol between the Kingdom of Spain and the Russian Federation relating to the time limits for answering applications for readmission in compliance with the Agreement between the European Community and the Russian Federation on re-admission, of 25 May 2006.</li> </ul>		
<ul style="list-style-type: none"> <li>• In process of negotiation, the Execution Protocol between the Governments of Bosnia and Herzegovina and of Spain for the application of the EU - Bosnia and Herzegovina re-admission agreements.</li> </ul>		

**II(f) o devise incentive systems to assist voluntary return and to keep each other informed**

There are four types of programmes for promoting voluntary return:

SOCIAL CARE PROGRAMME

Their aim is facilitate for especially vulnerable foreign nationals the possibility of returning voluntarily from Spain to their countries of origin, for their reintegration. This programme offers information on formalities, financial assistance and return ticket for the interested party and family members up to the second degree of kinship.

PRODUCTIVE RETURN PROGRAMME

Its aim is to facilitate productive return by preparing interested parties for the creation of small family firm business projects prior to their departure from Spain.

Beneficiaries undertake to take part in a project for the establishment of a small business in their country. This programme offers advice, guidance and assessment of candidates and projects, accompaniment if required, instruction and training, follow-up and technical assistance, ticket and financial assistance.

ADVANCE CUMULATIVE PAYMENT OF UNEMPLOYMENT BENEFIT (APRE)

APRE is a modality of payment of contributory unemployment benefit and consists of payment of the benefit being made to third country workers who return voluntarily to their countries of origin and who meet a series of requirements, on a cumulative advance basis.

PROGRAMME OF FINANCIAL AIDS SUPPLEMENTARY TO APRE

Their aim is to assign assistance supplementary to APRE to third country nationals wishing to return to their country.

The beneficiaries are persons entitled to payment of unemployment benefit. It offers: information on formalities, financial assistance and a return ticket for the interested party and family members up to the second degree of kinship.

## 6.2. Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

- 4(c) Ensuring that the objective of the EU's efforts on readmission should add value and increase the efficiency of return policies, including existing bilateral agreements and practices**
- 4(e) Assistance be the Commission and Frontex and Member States on a voluntary basis, to Member States which face specific and disproportionate pressures, in order to ensure the effectiveness of their return policies towards certain third states**

Spain takes part in the first RABIT operation undertaken in November and December 2010 at the Greek land frontiers (Poseidon and Attica Operation). The operation has been extended until March 2011 and Spain will continue to take part.

- 4(f) Increased practical cooperation between Member States, for instance by regular chartering of joint return flights**

Spain has continued to support the work of the Frontex Agency in the coordination of joint return flights. Of the total number of flights handled by the Frontex Agency, Spain has taken part in five in the status of organizing Member State, with end destination in Colombia, Ecuador, Georgia and Ukraine (a total of 308 returned irregular immigrants), and in another 5 as a participating Member State.

## 6.3. Key statistics

*Third-country nationals ordered to leave and returned (2010)*

	Ordered to leave	Returned following an order to leave	Returned as part of forced return measures	Returned through an Assisted Return Programme
Third-country nationals	79,699	22,921	n.a.	6,780

Source: Ministry of the Interior and Ministry of Labour and Immigration.

## 7. Actions against human trafficking

### 7.1. European Pact on Immigration and Asylum

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

#### **II(e) Cooperation with the countries of origin and of transit, in particular to combat human trafficking and to provide better information to communities under threat**

Promoting the exchange of police information with the countries of origin, transit and destination: in the period of development of the exchange system the number of intelligence notes collected from countries of origin and transit of the routes of networks for the trafficking of human beings for sexual exploitation networks is expected to have increased by 8%.

Speeding up the procedures for identification and documentation of victims in cooperation with the countries of origin and with the NGOs: the number of victims that have had their situation regularised is expected to increase by 100% in the period of development of the Plan.

In compliance with the Plan for Human Trafficking for Sexual Exploitation purposes, the Ministry of Foreign Affairs and Cooperation offers training courses for Consuls General, Consuls and Chargés d’Affaires (this is what was done on the course that took place between 22-26 June 2010), and on the specialized courses for officials responsible for issuing visas, in order to prevent this phenomenon right from its outset in the countries of origin.

A specific three-day seminar was also held on this question at the Diplomatic School with the Baltic Council.

Information and awareness-raising actions have also been conducted in the countries of origin to prevent the capture of victims. Specifically, within the planning framework of the Spanish Cooperation Master Plan (2009-2012), in the part corresponding to the defence of the rights of women and girls who suffer greater discrimination and vulnerability in the face of poverty, Spanish Cooperation has supported programmes and measures to fight against the trafficking of humans for sexual exploitation purposes, especially women and girls, by means of:

- a) Economic Contributions to multilateral organizations: UNIFEM, INSTRAW, UNFPA, UNPD, UNHCHR, IOM and Global Forum on International Migration and Development.
- b) The inclusion of measures / actions in the "Action Plan for women and building of peace in order to apply Resolution 1325" aimed at prevention, protection and care of women and girls who suffer or may suffer trafficking for sexual exploitation in conflict and post-conflict situations.

Spanish Cooperation has devoted special attention to the Latin American region, as well as to the Asia-Pacific region, though to a lesser extent:

A) Latin America:

- Central America Regional Cooperation Programme: Support for the Plan of Action against Trafficking of Women of the Central American Council of Ministers of Women's Affairs (COMMCA), through the conduct by the IOM of seven national studies. Open workshops have also been held for the presentation of these national studies on the experience of women victims of trafficking and the response of the institutions, as well as national studies on legislation relating to the trafficking of humans and its application.
- Creation of a Regional Centre for care of trafficking victims in Tapachula, and training for Mexico and Central America with a budget of €400,000, €200,000 of which was provided by Spanish Cooperation (the rest comes from the Secretariat of Public Security of Mexico).
- Specialized Technical Training Courses delivered at Spanish Cooperation centres in Latin America on the "Fight against trafficking of human beings; Repression and protection of victims; and Creation of specialized public prosecutor offices" in Antigua in March 2009; "Trafficking of women and girls for sexual exploitation purposes" in Cartagena in November 2009; and "Migrations, gender and development", in Santa Cruz in March 2009.
- Project for the strengthening of national and regional capacities to prevent and combat trafficking of humans in Central America by means of the United Nations Office against Drugs and Crime (2007-2010), in order to identify the judicial, institutional, technical, operational and financial capacities of the Central American

countries to prevent, investigate and judge the crime of trafficking and to protect victims and witnesses.

- Agreement for the Strengthening of the Capacities of the Echelons of Government and the Civil Society for the comprehensive protection of childhood and adolescence with special incidence on trafficking of girls, boys and adolescents in Ecuador, El Salvador, Guatemala, Honduras and Nicaragua (2007-2010).

In relation to the contribution to the Millennium Development Objectives (MDO) in the migrations and development sector, the Spanish Cooperation Master Plan has a strategic guideline to “establish or reinforce the regulatory frameworks in the area of the social protection of migrants on a bilateral or regional scale in order to combat the trafficking and exploitation of migrants with special attention to women and girls”.

B) Asia and Pacific:

- Multidisciplinary project to combat the trafficking for sexual exploitation purposes, its causes and consequences, and care and integration of victims, in the sub-region of the Mekong, with the main aim of eradicating trafficking and sexual exploitation in this region by means of the rescue, rehabilitation and social integration of women and girls who are the victims of sexual exploitation; reinforcement of governmental and non-governmental policies and strategies on trafficking at national and regional level.

In addition, the Comprehensive Plan for Trafficking of Human Beings for Sexual Exploitation was distributed at the following embassies: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Uruguay, Venezuela, Algeria, Cameroon, Ivory Coast, Gabon, Gambia, Equatorial Guinea, Guinea Bissau, Guinea, Mali, Morocco, Mauritania, Niger, Nigeria, Senegal, Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Slovakia, Estonia, Georgia, Hungary, Latvia, Lithuania, Macedonia, Poland, Czech Republic, Romania, Russia, Serbia, Turkey, Ukraine, Bangladesh, Philippines, India, Indonesia, Pakistan, Thailand.

Furthermore, in compliance with the Comprehensive Plan for Trafficking of Human Beings for Sexual Exploitation, the priority countries of origin of trafficking victims have been identified and included in the respective country strategy documents so as to propitiate the generation of agreements and projects by the agents of Spanish Cooperation.

Spanish Cooperation is updating its strategic planning procedures and the operational scheduling of its courses of action, designing the new frameworks of association with partner countries that will be renewing their country strategy documents within the framework of the Master Plan 2009-2012.

In 2009 started a Cooperation Agreement between the Brazilian Government and the Government of Spain focused on prevention and stopping the return of human beings female trafficking victims taking part in a social insertion programme, in conjunction with Spanish Cooperation, to address prevention and protection of vulnerable boys, girls and adolescents and/or trafficking victims in Central America and the protection of childhood, for the prevention of violence, and the rights of adolescent workers in Andean region.

During 2010, 76,000 euros have been allocated to this project, which this year has seen the "development of a protocol of direct care to victims of forced prostitution and trafficking of human beings in Brazil and Spain.

## 7.2. Stockholm Programme

The relevant commitments in the Stockholm are similar to the Pact commitments, hence no further description is required.

## 7.3. Key statistics

### *Third-country nationals receiving a residence permit as victims of human trafficking (2010)*

Third-country nationals	37
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### *Traffickers arrested and convicted (2010)*

	Arrested / otherwise involved in a criminal proceeding	Convicted
Traffickers	1,631	n.a.

Source: Ministry of the Interior.

## Border control

### 8. Control and surveillance at external borders

#### 8.1. European Pact on Immigration and Asylum

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

##### III(a) More effective control of the external land, sea and air borders:

In their area of responsibilities the National Police Corps and Civil Guard have prepared a **Comprehensive Border Management Plan** which follows the four-layer model specified in the IBM (comprehensive border management model).

##### III(e) Deploy modern technological means for border control

In order to propitiate the establishment of electronic EU external frontier crossing systems, interoperable between one another, based on the use of the European biometric passport, the Ministry of the Interior has started up the pilot project for the Spanish accelerated border crossing (ABC) system at the airports of Barcelona-El Prat and Madrid-Barajas, rolled out on 13 and 19 May 2010, respectively. In relation to these technological developments, Spain hosted the Automated Border Control Seminar promoted by Frontex, which followed on from the studies of the expert group in the field set up under the aegis of the Frontex Agency. Furthermore, Spain has offered its resources for the holding of one of the meetings of the **Big Pilot Project** within the framework of the Eurosur border surveillance system developments.

Throughout 2010 studies have been conducted that will enable deployment of the Sea Border Surveillance System (**SIVE**) to be extended to Pontevedra and Tarragona in 2011.

## 8.2. Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

- 7(i) Invites the Member States and the Commission to explore how the different types of checks carried out at the external border can be better coordinated, integrated and rationalised with a view to the twin objective of facilitating access and improving security**

Under the Spanish Presidency the **Council Conclusions** were adopted **on facilitation of access across External Frontiers** by citizens of European Union Member States, which promotes the development of Fast-Track or ABC type systems for European Union citizens holding biometric passports and thereby facilitates their access to the EU area.

## 8.3. Key statistics

### *Third-country nationals refused entry (2010)*

	Total refused	Refused at the land border	Refused at the sea border	Refused at the air border
Third-country nationals refused entry	290,088	281,751	231	8,106

Source: Ministry of the Interior.

Note: Data on people who are refused entry into the Spanish-Moroccan land borders of Ceuta and Melilla include:

1. The number of people who were refused entry to a reasoned resolution: 1,096.
2. The number of people who were not allowed entry and they were not given the refusal decision in writing: 280,635.

### *Visas issued (2009)*

	Total Visas	Schengen Visas	National Visas
Visas	920,284	762,822	157,462

Source: Ministry of Labour and Immigration.

## 9. Cooperation with respect to border control

### 9.1. European Pact on Immigration and Asylum

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

#### **III(b) Generalise the issue of biometric visas, improve cooperation between MSs' consulates and set up joint consular services for visas**

Since 2006 all Spanish visa labels incorporate as a biometric item the holder's photograph, which is digitalized on the actual label. The entry into force of the obligations stemming from the VIS system in the area of inclusion of biometric identifiers will resolve this question, as it will mean that prints of all ten fingers will be collected from all visa applicants. An initial entry into force for certain geographic areas is expected around May 2011.

As regards preparatory jobs oriented at the actual implementation of the Visa Information System (VIS) at borders, 7 Spanish airport frontier posts and 29 maritime frontier posts are provided with the necessary equipment (software and computer terminals) to be able to monitor the alphanumeric data and the visa sticker number. Spain, moreover, forms part of the group of 16 Member States which are conducting PSAT tests.

As of 24 June 2011 it is scheduled to start off deployment of the Visa Information System (VIS), the operational development and working of which is basically set forth in the European Parliament and Council Regulation (EC) No 767/2008 of 9 July 2008 on the VIS and exchange of data on short-term visas among Member States. The aim of the VIS is to permit the exchange of information in the area of short-term visas among the Schengen States, in response to the need to fight against "visa shopping" and to improve security within the Schengen area. The VIS is going to be a database on visa applications granted and denied. The VIS is planned to contain information of various kinds relating to applicants, including their digitalized photograph and their ten flat fingerprints, besides data of the person who, when applicable, has filed an invitation. Art. 48 of the Regulation (EC) No 767/2008 envisages gradual implementation of the VIS on a regional basis. It is planned that the VIS should be deployed first of all in North Africa (December 2010) and, afterwards, in the Near East and the Gulf Region, to continue later with the other regions (up to a total of eighteen in a period of 24-36 months). The VIS will involve basic changes in the computer applications and way of working of the Consular Offices.

**III(d) Solidarity with MS subjected to disproportionate influxes of immigrants**

During 2010 Spain has taken part in various joint operations and activities managed by the Frontex Agency at different external borders, either as a Member State hosting the operation or as a guest:

a) Operations in which Spain is the host country:

- HERA 2011 (European Patrol Network Programme - EPN). Throughout 2010. Western Atlantic Waters.
- INDALO (EPN Programme). 1 June - 30 September. Almería and Murcia Waters.
- MINERVA (EPN Programme) Ports of Algeciras, Tarifa and Ceuta. 28 July to 2 September 2010.

b) Operations conducted outside Spain with Spanish participation:

A - Sea borders

- HERMES (ITA).
- CRONOS (Italy and Malta) Spain undertook to take part but it did not take place in the end.

B - Land borders. Outside Spain

- JUPITER 2010 (Pilot Programme). Hosts: Bulgaria and Greece.
- NEPTUNO 2010 (Pluto Programme). Hosts: Finland, Estonia, Latvia, Lithuania, Poland, Slovakia, Hungary and Romania. Third States: Russia, Belarus, Ukraine and Moldova.

C - Air borders. PULSAR Programme

- HUBBEL, HAMMER, HYDRA (at the latter by remitting data only) and AGELAU. All of them conducted at various European airports.
- Presence of Focal Points of other States during 2010 in Barcelona and Madrid.
- Presence of Spanish officials as Focal Points in Athens, Amsterdam, Lisbon and Rome.

Various Spanish cities hosted the following meetings promoted by the Agency: Eurosur Big Pilot Group; Four-monthly meeting of the Frontex Risk Analysis Network (FRAN) and of the FRAN with representatives of African countries and Spanish Attachés of the Interior at Spanish embassies posted in participating third countries; Meeting on the FRONTEX pool of resources; Meeting of the Operational Supervisors responsible for border control at airports; Seminar of experts on automated border control systems; Conference of senior coastguard service officers; Euro-Africa conference on irregular immigration and Mid Level Course training sessions.

### III(f) Intensify cooperation with the countries of origin and of transit in order to strengthen border control

On the occasion of the **Euro-Africa Conference on irregular immigration**, which was attended by various delegations from third countries, such as the United States, key African countries (Angola, Algeria, Cape Verde, Chad, Ethiopia, Egypt, Gambia, Guinea Bissau, Equatorial Guinea, Liberia, Mali, Mauritania, Morocco, Senegal, Sierra Leone and Togo), various EU Member States, as well as Europol and Frontex, an analysis was conducted of the development of policies to combat irregular immigration, which should lie within the framework of a course of global transnational action. A key conclusion was the need for Coordination Centres to be equipped with suitable means to permit secure exchange of information and permanent ongoing contact, for operational purposes, between the States affected. These centres have to be interconnected, like those making up the Atlantic Seahorse (ASH) network. In 2010 the countries participating in the Atlantic Seahorse network are Spain, Portugal, Morocco, Mauritania, Senegal, Gambia, Cape Verde and Guinea Bissau.

The Ministry of the Interior is set to roll out a cooperation project with third countries in the Western Sahel region. The project will count on the participation of Mali, Niger, Mauritania and Senegal. The aim of the project is to reinforce land border control between them: police training, information campaigns to discourage illegal immigration, purchase of vehicles and their delivery to these countries, and the holding of a Conference attended by all of them and the other sub-Saharan countries.

On the occasion of the four-monthly meeting in Madrid of the **Frontex Risk Analysis Network (FRAN)** and of the **FRAN with representatives of African countries** and Spanish liaison officers posted in the third countries attending, cooperation with these third countries and the possible forms of exchange of information were examined.

**Cape Verde Mobility Association:** with the support of Spain, Cape Verde has taken measures in the areas of air and sea border control (within the scope of the SEAHORSE Network) which have brought about a considerable reduction in illegal immigration. The figure of ten thousand irregular immigrants detected in 2005 has dropped to just eight thousand in 2010.

## 9.2. Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

### 6(a) The European Council encourages the Commission and Member States to take advantage of the entry into force of the Visa Code and the gradual roll-out of the VIS

Like the rest of the Member States, Spain is implementing all the mechanisms needed to roll out the VIS in June 2011. In this respect, preparations for the PSAT are under way. The different units of the Administration involved in this start-up process are coordinated between one another and with the European Commission for the running of the respective tests.

## Asylum

## 10. International Protection

### 10.1. European Pact on Immigration and Asylum

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

#### **IV(b) Single asylum procedure: uniform status for refugees and the beneficiaries of subsidiary protection**

Although the objective of this proposal at European level has 2012 as its target, it is necessary to point out that Law 12/2009, of 30 October 2009, governing the right of asylum and the subsidiary protection, has been brought forward to this date and has regulated a single procedure for applying for international protection in Spain, while at the same time it has equalized the two refugee and subsidiary protection statutes.

#### **IV(c) Solidarity with MS which are faced with specific and disproportionate pressures on their national asylum systems**

Although this commitment refers to the area of European Union action, it is important to note that the European Asylum Support Office (EASO) will be responsible to coordinate actions to support Member States subject to particular pressure on their asylum and reception systems. In this framework, Spain is willing to support those countries that are facing special pressures in their asylum system under the principle of European solidarity.

There has not been actions undertaken with regard to the resettlement in 2010.

#### **IV(d) Strengthen cooperation with the Office of the United Nations High Commissioner for Refugees to ensure better protection for people outside the territory of European Union Member States who request protection, in particular by moving, on a voluntary basis, towards the resettlement within the European Union**

The Spanish Asylum Act stated, in its First Additional Provision, the commitment engaged by the Spanish authorities to elaborate annual resettlement programmes in cooperation with the Office of the United Nations High Commissioner for Refugees as well as others NGOs. To that end, there is a mandate in the Asylum Law addressed to the Council of Ministers – under the proposal of the Ministries of Interior and Labour – to adopt every year the number of persons that can be subject to the

resettlement programmes. In 2010 the Council of Ministers agreed that 75 persons will be resettled in Spain under this annual programme.

**IV(e) MS are invited to provide the personnel responsible for external border controls with training in the rights and obligations pertaining to international protection**

The Spanish International Protection System following the objectives of the CEAS, in order to enhance the capacity and quality of the asylum process as well as strengthen practical cooperation among the European asylum systems, has implemented the European training programme, coordinated by GDISC and under the umbrella of the EASO. To introduce these principles and guidance in our asylum system, the Spanish Asylum Act, passed in October 2009, established that the personnel of the determining authority should have the appropriate knowledge and skills to deal with the applications of International Protection. To comply with this mandate, the Spanish Asylum Office has elaborated training programmes in aspects related to the asylum procedure such as gender, use of country of origin information (COI), interview techniques, etc.

The aim of this training is to provide the staff involved in the asylum procedure with the adequate knowledge that European Asylum Curriculum (EAC) offers for managing a practical approach in the field of asylum with an interaction between training in knowledge (theory related to international European legal instruments) and skills (the necessary practical competence for a case officer).

Furthermore, during 2010 Spain has been involved in some of the EAC modules programmed such as Dublin Regulation, and the Asylum Procedures Directive as well as COI and is fully engaged to follow up the training given by the EAC in other aspects related to the asylum.

It is important to note that once the EASO is fully operational, all training activities will be coordinated by this Support Office.

## 10.2. Key statistics

### *Asylum applications and decisions (Jan - September 2010, provisional data)*

	Appli- cations	First instance decisions on asylum applications					
	Total applications under consideration	Total positive	Rejected	Geneva Convention	Subsidiary protection	Temporary protection	Humanitarian status
Asylum applications	2,240	405	1,600	185	215	0	5

Source: EUROSTAT.

### *Third-country nationals relocated and resettled to Spain*

	Total	Relocated	Resettled
Third-country nationals	0	0	0

### *Training of border guards on asylum*

	Total number of border guards	Border guards who received training
Border guards	n.a.	35

Source: Ministry of the Interior.

## Unaccompanied minors

## 11. Unaccompanied Minors (and other vulnerable groups)

### 11.1. European Pact on Immigration and Asylum

No specific commitments are included.

## 11.2. Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

### **5(a) Develop an action plan, to be adopted by the Council, on unaccompanied minors which underpins and supplements the relevant legislative and financial instruments and combines measures directed at prevention, protection and assisted return**

One of the priorities of the Spanish Presidency of the Council of the European Union was the approval of a Plan of Action on unaccompanied minors. This was fulfilled in a European Commission Communication and subsequent approval by the Ministers of Justice and the Interior of conclusions with 32 measures based on five spheres of action: knowledge of the phenomenon, prevention, protection and guarantees of procedure, relations with third countries, and return and reintegration at origin.

Bearing in mind that responsibilities in the area of protection of unaccompanied minors (UAM) lie with the regional authorities, various measures have been developed by DGII to improve the care of unaccompanied foreign minors (UAM) in Spain. These include:

- Support for the regional authorities, through the 'Support Fund for the Reception and Integration of Immigrants', financing the reception places made available by the regional authorities under the 'Special Programme for the Care of Unaccompanied Foreign Minors displaced from the Canary Islands in 2006'.
- Cooperation with the Cities of Ceuta and Melilla and the regional authorities of Andalusia and the Canary Islands by way of agreements.
- Coordination of the Interministerial Working Group (Min. of Labour and Immigration, Min. of the Interior, Min. of Foreign Affairs and Cooperation, Vice-Presidency of the Government, Public Prosecutor's Office) to improve the return procedure.
- Participation in the Inter-Regional Commission for Childhood.
- Participation in European forums on UAMs in order to make progress in matters of common concern in which shortcomings have been detected; amongst others, availability of statistical data on UAMs, determination of age and location of families in countries of origin.

- Support in the area of prevention by means of agreements for funding projects carried on in countries of origin.
- Spain has signed bilateral agreements with Morocco and Senegal on Cooperation in the field of prevention of migration of unaccompanied minors, protection, return and reintegration. In the case of Senegal the agreement came into force on July 1, 2008. Morocco has yet to ratify it.

### 11.3. Key statistics

<i>Unaccompanied minors</i>	
Number of unaccompanied minors	3,800
Number of asylum applicants considered to be unaccompanied minors	n.a.

Note: Estimated data at 30/06/2010 provided by the regional authorities to the Ministry of Labour and Immigration.

## Global approach to migration

### 12. External cooperation / global approach to migration

#### 12.1. European Pact on Immigration and Asylum

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

#### **V(a) Conclude EU-level or bilateral agreements with the countries of origin and of transit containing clause on legal and illegal migration as well as development**

In 2010 no cooperation framework agreement in the area of immigration has been signed, ratified or come into force in Spain.

In the dimension of cooperation with countries of origin, Spain is participating, along with France, Luxembourg and Portugal, in the Mobility Partnership established between the European Union and Cape Verde.

## V(b) Offer the nationals of partner countries to the East and South of Europe opportunities for the legal immigration

Spain has continued the hiring of seasonal workers arrived in the procedure of collective management of workers in origin. These workers acquire the commitment to return to the country of origin. Moreover, a series of incentives to improve the qualifications of these workers are established. These programs pursue the professional experiences and skills acquired can be utilized and beneficial to the development of the country of origin.

## V(c) Cooperation with the countries of origin and of transit in order to deter or prevent illegal immigration

As stated in paragraph 9.1, commitment III(f), through the **Cape Verde Mobility Association**: with the support of Spain, Cape Verde has taken measures in the areas of air and sea border control (in the sphere of the SEAHORSE Network). These measures have brought about a considerable reduction in illegal immigration.

In the sphere of **EU-USA relations**, during its Presidency, Spain made a decisive contribution to the roll-out of a Plan of Action for dialogue between the EU and the United States in the area of migration and refugees, managed by way of an ad hoc steering committee.

On the occasion of the ministerial meeting of the **EU-Russia** PPC in Justice and Home Affairs, held under the Spanish Presidency last May in Kazan, certain advances were made, particularly in the area of dialogue on the liberalisation of visas. At this meeting it was agreed to move on to an operational phase by means of the determination by the EU of "common steps". These would lead to a stage of negotiation on full visa liberalisation between Russia and the EU. These "common steps" were identified at the meeting of the PPC held in November in Brussels. In other respects, a reminder was given at the Kazan meeting of the importance of full compliance with the agreements on facilitation of visas and re-admission between the EU and Russia in this context. In this respect, on the margins of the Kazan meeting, the bilateral protocol between Spain and Russia of the EU re-admission agreement was signed. Spain has already concluded this process of ratification.

It was not possible, however, to make progress on a migratory dialogue similar to that set up with the United States, as requested by Russia.

As regards **EU-Ukraine relations**, under the Spanish Presidency the most significant question was undoubtedly the launch of an operational phase in the visa dialogue. The framework of a Plan of Action, which was presented recently, includes the relationship between the visa dialogue and the four pillars of the Dialogue identified in the Plan of Action: Travel document security, including biometric aspects; Illegal immigration, including re-admission; Foreign Relations; and Fundamental Rights, Security and Public Order.

In the area of bilateral relations with countries of origin and transit priorities do not vary substantially, yet some third countries require greater attention and effort in the sphere of re-admission, especially in Asia and Central Africa.

#### **V(d) More effective integration of migration and development policies**

The incorporation of migration issues to national development strategies is one of the action lines defined in the 2009-2012 Master Plan for Spanish Cooperation. In 2010, a new methodology to set up Association Frameworks with partner countries has been developed and implemented in some countries, being completed the whole process of geographic planning in 2011. Within this methodological framework, migration issues will be dealt with as part of an overall process of socioeconomic development.

Furthermore, following EU guidance on Policy Coherence for Development (PCD), migration policies will be reviewed as part of the yearly report on PCD assessing the implementation of the measures established for each sector in the framework of the III Master Plan. This overall report will be fed by the PCD focal points network in each Department.

Spain co – chairs on behalf of the EU the MME EU - Africa VII Partnership, plays a major role in it and has shown an outstanding commitment with this initiative.

Spain is one of the key partners in the Mobility Partnership with Cape Verde.

Spain was substantially involved at the GFMD Puerto Vallarta meeting, as co-chair of the 3.3 Round table and as rapporteur of Table 3.

The Spanish International Cooperation Agency for Development has undertaken projects for the amount of €29,300. They include the following:

- Exhibition of Spanish architecture, immigration and fashion.
- Seminar 'The immigrant's fingerprint in the conformation of Chilean identity'.
- Cycle of conferences on emigration from Latin America to Spain and the United States.
- Workshop 'We Are All Migrants' and Meeting 'The Voice of Migrants'.
- Casa de América Immigration Programme.

#### **V(e) Promote co-development actions and support instrument for transferring migrants' remittances**

In relation to remittances transfer costs, the Spanish Government has adopted a new regulation following the approval of the EU Payment Services Directive. This new regulation will allow for a further liberalization of the money transfer market, as it reduces the amount of capital needed to set up a company. This will push the cost of money transfers down further still.

In the co-development field, 2010 has mainly been dedicated to assessing the performance of past programmes funded by the AECID. In particular, the evaluation of the results of pilot projects promoted in 2006 in order to explore ways of channelling remittances towards productive investment. This monitoring exercise raised an interesting debate on the limited impact of remittances on development in the present Spanish situation.

The Spanish International Cooperation Agency for Development completed the project 'Architecture of Remittances. Dreams of return, signs of success' at the Cultural Centres of Spain in Guatemala, El Salvador and in Tegucigalpa between 2009 and 2010 for €23,386 in order to study and show the remittance phenomenon in publication and visual exhibition form.

The project, which is based on 'the influence of remittances in architecture, family and community', conducted an anthropological and architectural research study with photographic support, analyzing communities and dwellings resulting from transnational migration. From that aesthetic standpoint more profound reflections are generated

on the changes arising as a consequence of legal and illegal migration, altering the traditional and generating new life patterns both in the country of origin and in the host country. The research study has given rise to an exhibition and a publication.

## 12.2. Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

### **11(h) How diaspora groups may be further involved in EU development initiatives, and how EU Member States may support diaspora groups in their efforts to enhance development in their countries of origin**

The evaluation of pilot projects on remittances led to a number of conclusions regarding the characteristics of migrant communities in Spain and their relationship with their country of origin. As most of the immigrant population arrived in the last decade, we cannot speak of consolidated and well-off diaspora groups, but of migrant workers made more fragile by the present economic crisis. Actions tend to promote further research on migrant communities and to support capacity-building of migrants associations in order to enable them to engage in development initiatives.



