



Annual Policy Report 2006

produced by the

European Migration Network

October 2007

EMN Annual Policy Reports provide an overall insight into the most significant political and legislative (including EU) developments, as well as public debates in the area of migration and asylum. This is the third in a series of such reports, this time covering the period 1st January 2006 to 31st December 2006.

EMN National Contact Points (NCPs) from **Austria, Belgium, Estonia, Germany, Greece, Ireland, Latvia, Portugal, Sweden, The Netherlands** and the **United Kingdom**, have each produced a Country Study report detailing developments in their Member State, which then forms the basis of this Synthesis Report. The aim of the Synthesis Report is to summarise and compare the findings, in order to provide a useful overview to policy- and decision-makers.

The EMN NCP Country Study reports upon which this Synthesis Report is based may be obtained directly from the EMN NCPs concerned themselves or by contacting Stephen DAVIES (Stephen.Davies@ec.europa.eu).

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Disclaimer

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

Explanatory Note

The eleven EMN National Contact Points who participated in this study were from **Austria, Belgium, Estonia, Germany, Greece, Ireland, Latvia, Portugal, Sweden, The Netherlands** and the **United Kingdom**. Therefore, reference to "Member States" in this report is specifically only for these Member States.

Executive Summary

This EMN Synthesis Report provides an overall insight into the most significant political and legislative (including EU) developments, as well as public debates in the area of migration and asylum, in **Austria, Belgium, Estonia, Germany, Greece, Ireland, Latvia, Portugal, Sweden, The Netherlands** and the **United Kingdom** for the period 1st January 2006 to 31st December 2006. The report has been produced on the basis of Country Study reports from each National Contact Point of the European Migration Network (EMN) in these Member States.

An overview of political developments during 2006 ([Section 2](#)) highlights the continuing topicality of migration and asylum in both local (regional) and national elections. In **Belgium**, it was whether the *cordon sanitaire* against far right parties could still be maintained ([Section 2.1](#)), whilst in **The Netherlands**, a crisis resulting from revelations as to how Ms. Ayaan Hirsi Ali, a prominent Member of Parliament, gained Dutch citizenship resulted in early elections ([Section 2.2](#)). For **Austria**, a very wide spectrum of views were expressed by the various parties participating in their national elections ([Section 2.2](#)). A number of institutional changes occurred ([Section 2.3](#) and [Table 1](#)), as well as changes of Ministers and portfolios ([Section 2.4](#)).

Policy and legislative developments are then presented ([Section 3](#)). In some cases, legislation was developed in view of transposing EU legislation, as well as to incorporate national (Member State specific) measures. For **Estonia** and **Latvia**, developments were more dominated by the significant lack of labour, whilst for **Austria**, it was the entering into force of new legislation. For **Belgium, Germany, Ireland, Portugal, The Netherlands** and the **United Kingdom** it was the formal presentation of new proposals which dominated much of the political (and wider civil society) debate.

Specific developments within the context of *Refugee Protection and Asylum* ([Section 3.1](#)), *Unaccompanied Minors* ([Section 3.2](#)); *Migration Control* ([Section 3.3](#)); *Economic Migration*, including *Highly-Skilled* and *Labour shortages* ([Section 3.4](#)); *Family Reunification* ([Section 3.5](#)); *Citizenship and Naturalisation* ([Section 3.6](#)); *Integration* ([Section 3.7](#)); *Illegal Immigration, including Trafficking and Regularisations* ([Section 3.8](#)) and finally *Return Migration* ([Section 3.9](#)) follow. All Member States report developments in most of these topics, to varying degrees. For example, **Germany** undertook significant developments in respect to integration, whereas **Greece** executed its third regularisation programme for illegally-resident migrants. Highly-skilled workers ([Section 3.4.1](#)) were of particular relevance for **Estonia, Ireland, Sweden, The Netherlands** and the **United Kingdom**. Developments in naturalisation courses, including (compulsory) tests and (formalised) ceremonies, are described for **Austria, Estonia, Germany** and **The Netherlands**. Many Member States report on the (formal) necessity for a migrant to acquire sufficient knowledge of the national language of the Member State in which they reside ([Section 3.7.1](#)), demonstrating that this is becoming increasingly common.

Finally, developments in transposition and/or experience in implementation of relevant EU legislation are outlined ([Section 4](#)). On the whole, all Member States were very active in the transposition of EU legislation, the exception being Germany as a result of the Bundestag elections. To some extent, it is somewhat early days to fully evaluate the impact of EU legislation, as even some directives adopted in the year 2001 are still to be transposed into national law by all Member States. The overview of equivalent national laws ([Table 2](#)) indicates the status of transposition as reported by the Member States during 2006.

1. INTRODUCTION

EMN Annual Policy Reports provide an overall insight into the most significant political and legislative (including EU) developments, as well as public debates in the area of migration and asylum. This is the third in a series of such reports, this time covering the period 1st January 2006 to 31st December 2006. EMN National Contact Points (NCPs) from **Austria, Belgium, Estonia, Germany, Greece, Ireland, Latvia, Portugal, Sweden, The Netherlands** and the **United Kingdom**, have each produced a Country Study report detailing developments in their Member State, which then forms the basis of this Synthesis Report. The aim of the Synthesis Report is to summarise and compare the findings, in order to provide a useful overview to policy- and decision-makers.

Note that comments in this report refer to the situation in the above-mentioned Member States and specifically the findings from the Country Study's undertaken by their EMN National Contact Points. More detailed information on the topics addressed here may be found in the relevant Country Study report(s)¹ and one is strongly recommended to consult them also.

2. POLITICAL DEVELOPMENTS

In this section, the main political developments that have occurred in the year 2006 are presented. Details of the general structure of the political system in each Member State may be found in the respective Country Study, along with the main (governmental) institutions responsible for asylum, migration and increasingly, for some Member States, integration related issues.

2.1 Local elections

One of the main issues during the local elections in **Belgium** (October 2006) was how successful far right parties – whose main platform was an anti-immigrant discourse – would be, and if the so-called *cordon sanitaire* – an agreement, dating from the early nineties, among all the other (democratic) parties not to form a coalition with a (extreme) right party at any level would hold. Such far right parties made progress nationally, but in the most important cities and municipalities they stagnated or even lost some ground, with the result

¹ Available upon request from Stephen.Davies@ec.europa.eu.

that not one single Belgian municipality has a ruling council comprising a far right party, instead elected representatives of such parties are part of the opposition.

Five regional elections to federal state parliaments occurred in **Germany**, with changes to the state government occurring in Saxony-Anhalt (coalition of *Christian Democratic Union* (CDU), holding also the position of Federal Minister, and *Social Democrats* (SPD)) and in Mecklenburg-Vorpommern (grand coalition formed, since previous SPD and PDS coalition's majority was much reduced). Municipal council elections took place in March 2006 in **The Netherlands** with the then governing parties suffering major losses and the main winners being the *Partij van de Arbeid* (PvdA, social-democrat) and *Socialistische Partij* (SP, socialist). The leader of the governing *Volkspartij voor Vrijheid en Democratie* (VVD, liberal) in the House of Representatives subsequently resigned. Municipal and prefectural elections also occurred in **Greece, Sweden** (at the same time as a national election) and the **United Kingdom**.

2.2 National elections

Presidential elections occurred in **Estonia** and in **Portugal**, with a new President elected in both cases. Parliamentary (*Saeima*) elections took place in **Latvia** in November 2006, with the result that the right wing-centrist coalition remained in government.

The most important event in **Austria** was the elections to the [*National Council of the Austrian Parliament*](#),² which took place in October 2006, and provided the dominant framework for the main migration policy debates, particularly on asylum, integration and immigration. Approaches towards immigration ranged from the explicit acknowledgment that Austria needs further immigration by the *Die Grünen* (Green Party); to controlled immigration according to Austrian interests from the *Sozialdemokratische Partei Oesterreichs* (SPOE, Social Democratic Party of Austria) and the *Oesterreichische Volkspartei* (OEVN, Austrian People's Party); to a decrease of the number of foreigners residing in Austria by 30% by the *Buendnis Zukunft Oesterreich* (BZOE, Alliance for Austria's Future); to an "immigration stop" by the *Freiheitliche Partei Oesterreichs* (FPÖ, Austrian Freedom Party). On integration, the SPOE considered this to involve rights and obligations for the host society and the immigrants, *Die Grünen* proposed replacing the integration agreement by a so-called "integration

² Information available at <http://www.parlinkom.gv.at/>.

accompaniment” (*Integrationsbegleitung*) and the FPOE wished to introduce the possibility of an administrative penalty for immigrants who refuse to adapt. In the asylum field, the SPOE supported the establishment of an Asylum Court (also OEVP and BZOE); the acceleration of asylum proceedings (also for *Die Grünen* and *BZOE*); as well as the promotion of a common EU asylum law. The *FPOE* stood for stricter asylum laws, no access for asylum seekers to the labour market and expulsion of delinquent asylum seekers. Only in January 2007 was a new government formed, consisting of a coalition between the *SPOE* and *OEVP*.

The Balkenende II Cabinet in **The Netherlands** fell on 30th June 2006 as a result of a crisis surrounding the Dutch citizenship of the prominent VVD Member of Parliament, Ms. Ayaan Hirsi Ali.³ Early elections for the House of Representatives, moved forward because of this crisis, took place in November 2006, and resulted in a substantial victory for the *Socialistische Partij*. Other successes were scored by the *Partij Voor de Vrijheid* (PVV, Freedom Party), a conservative right-wing party, the *ChristenUnie* (Christian Union), a protestant Christian party and the *Partij voor de Dieren* (Animal Rights Party). The *Lijst Pim Fortuyn* (LFP) disappeared from the House of Representatives altogether. The CDA, as the largest party, was tasked with forming a new Cabinet, which ultimately became a coalition of the CDA, PvdA and Christian Union.

The regional and national elections in **Sweden** in September 2006, resulted in a change of Government, as well as the Parliament. The “Alliance for Sweden”, consisting of the Conservative Party (*Moderaterna*), the Center Party, the Liberal Peoples Party and the Christian Democratic Party, won the election with 48,2% of the votes and now holds a parliamentary majority of 178 against 171.

2.3 Institutional developments

As part of the reforms and implementation of new laws, detailed in the following section, there have been changes to and/or creation of institutions responsible for implementing asylum and migration policy, which are summarised in the following Table 1.

³ The legitimacy of Ms. Hirsi Ali's Dutch citizenship was called into question after she revealed that she had given false personal details in her application for asylum. In the end, she kept her citizenship, but has since moved to the U.S.A.

Member State	Institutional Development
Belgium	Creation of an Aliens Litigation Council ⁴ in order to guarantee a faster administration of justice.
Germany	Common Analysis and Strategy Centre on Illegal Migration (Gemeinsames Analyse- und Strategiezentrum illegale Migration – GASIM), ⁵ bringing together a number of Federal agencies to combat illegal migration and crime related to this. Council for Repatriates' Affairs ⁶ which provides expert advice to the Federal government on issues relating to the reception and integration of ethnic German repatriates, primarily from the former USSR.
Estonia	Changed status, re-organisation and renaming of the Ministry of Interior Aliens Department to be the Citizenship and Migration Policy Department (CMPD). ⁷
Ireland	Re-entry visa office has transferred from the Department of Foreign Affairs to the Irish Naturalisation and Immigration Service (INIS), ⁸ under the aegis of the Department of Justice, Equality & Law Reform, which was established in order to bring together the immigration functions of different Departments.
Portugal	The <u>obtaining of Portuguese nationality by naturalization</u> is now an attribution of the Minister of Justice, and the proceedings are instructed at the Central Registers (Conservatória dos Registos Centrais). Following Law 37/2006 ⁹ of August 2007, <u>Municipal Councils</u> obtained new legal competencies, related to the <u>registration of EU citizens</u> , although third country nationals will continue to be registered by the Aliens and Borders Service. The High Commission for Immigration and Ethnic Minorities (ACIME) (responsible for the reception and integration of immigrants) was restructured, becoming a Public Institute and changing its name to High Commission for Immigration and Intercultural Dialogue ¹⁰ (ACIDI), so as to reinforce the role of the High Commissioner and to have more flexibility in its actions. A number of <u>protocol agreements</u> have been established by the Aliens and Border Services with NGOs, the IOM and migrant associations in order to assist/advise in the execution of the migrants' duties. The <u>National Commission for Refugees</u> (Comissariado Nacional para os Refugiados) was disbanded.
Sweden	Aliens Appeals Board has been replaced by Migration Courts , situated at the County Administrative Courts in Stockholm, Gothenburg and Malmo.
The Netherlands	Work continued on the establishment of the Repatriation and Departure Service (Dienst Terugkeer en Vertrek (DT&V)), ¹¹ which became operational in January 2007. Its purpose is to ensure the actual departure of all illegal aliens held in the context of the supervision of foreign nationals or border control, and of all asylum seekers who have to leave the country, with a focus on encouraging independent return.
United Kingdom	Announcement of the creation of an executive Border and Immigration Agency , ¹² to supersede the current Home Office Immigration and Nationality Directorate (IND) and which will become established initially as a shadow agency in April 2007. Proposal for establishing a Migration Advisory Committee , ¹³ which would play a vital role in helping to attract people with the right skills by providing the Government with independent advice on where in the economy, migration might sensibly fill occupational shortages.

Table 1: Overview of institutional developments which occurred in 2006

⁴ See <http://www.vbv.fgov.be/>

⁵ http://www.bmi.bund.de/nn_662928/Internet/Content/Nachrichten/Pressemitteilungen/2006/07/Gemeinsames_Analyse_20und_Strategiezentrum_20illegale_Migration_GASIM.html.

⁶ http://www.bmi.bund.de/nn_662928/Internet/Content/Nachrichten/Pressemitteilungen/2006/04/Beirat_fuer_Spaetaussiedlerfragen_konstituiert.html.

⁷ See <http://www.siseministerium.ee>

⁸ See <http://www.inis.gov.ie/en/INIS/Pages/WP07000014>.

⁹ This Law regulates the right of free movement and residence of EU citizens and their family in Portugal, transposing Directive 2004/38.

¹⁰ See <http://www.acime.gov.pt/>.

¹¹ See <http://www.dienstterugkeerenvertrek.nl/>.

¹² See <http://www.bia.homeoffice.gov.uk/>.

¹³ Details available from <http://www.ind.homeoffice.gov.uk/6353/6356/17715/macconsultation.pdf>.

2.4 Other developments

A governmental reshuffle in **Greece** resulted in a change in the Minister of Public Order, responsible for asylum and forced migration, and in the Ministry of Interior, Public Administration & Decentralisation, a new Secretary General was appointed following the resignation of the previous incumbent. Changes also occurred in the **United Kingdom**, with the appointment of a new Home Secretary and a new Immigration Minister.

Following the election in **The Netherlands**, in December 2006, the outgoing Cabinet again encountered political difficulties, as a result of a conflict between the majority in the new House of Representatives and the Minister for Immigration & Integration, supported by the governing coalition parties. This was in relation to Parliament wishing to stop removals, in anticipation of a possible pardon to be granted to asylum applicants who had lodged their application prior to 1 April 2001¹⁴ and who were still in The Netherlands. The solution ultimately arrived at involved an exchange of several portfolios between the Minister of Justice and the Minister for Immigration and Integration, whereupon the motion to stop removals was adopted.¹⁵

3. POLICY DEVELOPMENTS INCLUDING RELATED LEGISLATION

In this section, an overview is first given of policy proposals launched and/or legislation that came into effect during 2006. Whilst it is often the case that legislation follows such policy proposals, the remainder of the section presents developments encompassing both of these elements within specific migration and asylum topics.

For many Member States, debates, both at political level and in wider society, took place during 2006, emphasising once again the high topicality of asylum and migration-related issues. Whilst in **Estonia** this focussed more on the lack of a significant labour force owing to emigration to other Member States, in **Latvia**, which also is experiencing a reduction in its labour force, the reformed Cabinet identified three main objectives, namely; to define a clear immigration and re-immigration policy that would comply with the state interests and help mitigate demographic issues; support for ensuring efficient measures against illegal

¹⁴ The date on which the new, current Aliens Act (the Aliens Act 2000) came into operation.

¹⁵ Further details given in Ongekende crisis met een ongekend slot [Unprecedented crisis with unprecedented end], *NRC Handelsblad*, available from http://www.nrc.nl/binnenland/article574228.ece/Ongekende_crisis_met_een_ongekend_slot.

immigration; and assessing the risks and devising the state policy regarding legal immigrants and refugees. Consequently, several medium-term policy planning documents were drafted during 2006.

As well as the elections, the entering into force in **Austria** in January 2006 of the *Niederlassungs- und Aufenthaltsgesetz* (NAG, the Settlement and Residence Act), the *Fremdenpolizeigesetz* (FPG, Aliens' Police Act) and the *Asylgesetz* (AsylG, Asylum Act)¹⁶ also influenced the discussions on migration and asylum, with much criticism from civil society and the opposition, particularly *Die Grünen*. The main points of criticisms were in respect to detention pending deportation and disrespecting the right to family life.¹⁷ In **Belgium**, a reform of the *Aliens Act* occupied much of the political and wider society debate. The aim was to further implement part of the government coalition agreement concerning a more humane and realistic policy on asylum, to reform the Council of State, and, at the same time, to transpose a number of European directives, most notably 2003/86, 2004/81, 2004/83 and 2005/85. It became fully into force in Spring 2007. The development of a coherent managed migration policy in **Ireland** progressed significantly with the publication of a [*Scheme for an Immigration, Residence and Protection Bill*](#)¹⁸ in September 2006. Whilst in **Sweden**, the new Government presented its 2007 Budget Bill in October 2006, which included a fourth goal for migration policy that expressed a need to “introduce increased opportunities for labour migration”. This goal outlines a new approach, different from the policy of the previous government.

The most important development in the area of managed migration in **The Netherlands** was the proposal to modernise the admission policy using five ‘residence columns’, which the government argued combines the existing restrictive admission policy with a larger element of selectivity, whereby the need for migrants in Dutch society will play a larger part. A new [*Points-Based System*](#) (PBS)¹⁹ to enable the **United Kingdom** to control migration more effectively, tackle abuse and identify the most talented workers was launched by the Home Secretary in March 2006, which represented the most significant change to managing migration in the United Kingdom in the past 40 years. It is expected to enter into force from April 2008. Similarly, some of the political parties (Die Grünen, BZOE) in **Austria** wished to implement a

¹⁶ These laws were already described in the Annual Policy Report 2005 from **Austria**, available from <http://www.emn.at/News-article-folder-159.phtml>.

¹⁷ See, for example, http://www.wik-vernetzungsbuero.at/index.php?option=com_content&task=view&id=89&Itemid=71.

¹⁸ Details available from <http://www.inis.gov.ie>.

¹⁹ See http://www.ukvisaservices.co.uk/immigration/uk/points_based_system_pbs/.

points-based system for the admission of migrants, in order to have a more selective admission procedure to better reflect needs.

In **Germany**, the most comprehensive amendment of the German Basic Law (*Grundgesetz*) since 1949 occurred, above all regulating the legislative relation between the federal and state government authorities in the areas of education, Civil Service law, interior policy, environment, finances and Europe. It entered into force in September 2006. In **Portugal**, the socialist government approved a Bill relating to a new [Immigration Law](#).²⁰ The main debate on migration policy in **Greece** focussed on the implementation of Law 3386/2005, from January 2006, especially the process and problems encountered in the regularisation programme it envisioned (detailed in Section 3.8). The main axes of this law covered combating illegal immigration, the integration of illegal workers into the formal labour market, the overall integration of migrants into Greek society and the transposition of recent European legislation into national legislation.

3.1 Refugee Protection and Asylum

With the entry into force of the previously-mentioned *Fremdenpolizeigesetz* in **Austria**, the possibilities to detain asylum applicants pending deportation were extended. The new practices, especially the fact that the number of persons in detention has increased, were particularly criticised by NGOs, as well as by *Die Grünen*. Another issue, raised by the media in late 2006, concerned the long asylum procedures and negative asylum decisions, as well as expulsion orders, which affected asylum applicants who had already stayed for years in Austria and proved to be well integrated. In some Austrian cities, civil initiatives were formed arguing for the right to residence for these individual cases.

The first part of the Aliens Act in **Belgium** entered into force in September 2006 and covered provisions for a fast and efficient asylum procedure, the introduction of the subsidiary protection status, a more rigorous policy towards abuses in family reunification and the protection of victims of human trafficking. The real innovation in the processing of asylum claims is the screening procedure enabling the Council of State to determine, within a few days, if there are arguments worth examining. This filter constitutes the linchpin of the new Asylum Act. According to the Office of the Commissioner General for Refugees and

²⁰ Available from <http://www.imigrante.pt>

Stateless Persons (CGRS), the degree of complexity of processing a file has actually increased because, among other things, asylum seekers are much better prepared and informed now and also because more asylum applicants are coming from clearly problematic (in the sense of, for example, genuine persecution) countries. The intention is for the total processing time to be at most one year. Faster processing of asylum applications were also reported for **Greece** and the **United Kingdom**, the latter partly as a result of the implementation of its *New Asylum Model*,²¹ which introduced a new end-to-end process with "Case Owners" responsible for all aspects of the asylum claim from first point of contact through to integration, voluntary return or removal.

In **Ireland**, a reformed system for processing asylum applications using a single protection determination procedure was proposed in a Scheme for new Immigration, Residence and Protection legislation published in 2006. Even though the number of asylum applications in **Greece** rose to 12.267 in 2006 (from 9.050 in 2005), at the same time, the number of examined applications in 2006 climbed to 10.468 from 4.624 in the previous year. This acceleration in the examination procedure was mainly due to the employment of additional personnel in the Asylum Department of the Aliens Sub-directorate of Athens and the establishment of an online computerised link to the Asylum Department of the Police headquarters. Moreover, personnel from the aforementioned Asylum Department were trained by the UNHCR in aspects of asylum. **Austria** also reported on an increase in personnel in its *Unabhängiger Bundesasylsenat, UBAS* (Independent Federal Asylum Review Board), including of asylum judges, and had 27.000 pending asylum applications at the beginning of 2006. Overall, however, the number of asylum applicants in **Austria** has decreased in recent years.

A significant development in asylum legislation in **Estonia** was the replacement of the Refugees Act by the *Granting Aliens International Protection Act*.²² The most important changes in this new act were that the granting of temporary protection for aliens was regulated in Estonian law and that asylum applicants were granted access to the labour market. The Act also ensures access to the labour market in cases where the *Citizenship and Migration Board* (CMB) has not yet made a decision regarding the application for asylum within one year from the submission of the application for asylum. Also the compulsory

²¹ Details given at <http://www.ind.homeoffice.gov.uk/aboutus/newsarchive/nam>.

²² Available from <http://soderkopning.org.ua/page11357.html>.

execution of the percept to leave of those migrants who have been refused a residence permit was speeded-up.

A number of protests and demonstrations by/in support of asylum applicants have occurred, which attracted a large amount of media and public interest. Church occupations and hunger strikes by asylum seekers (and illegally-residing immigrants) in **Belgium** mainly pressed for a change in the regularisation and removal policy, a demand which was not acceded to. A difference with actions in previous years was the size, with at one time, tens of churches, mosques and schools occupied and hundreds of people involved. These actions had the support of civil society organisations, such as trade unions and church leaders. In April 2006, a group of Afghan nationals, including minors, staged a one week hunger strike in a prominent Dublin cathedral in **Ireland**. They included migrants who were appealing initial negative asylum determinations and those who had already secured leave to remain in Ireland.

In **The Netherlands**, much attention was paid by politicians and the media to the position of homosexual and Christian asylum applicants from Iran, particularly in respect to prolonging a moratorium on decisions and departures. There were also discussions in connection to national policy towards Iraq, particularly on whether or not to maintain a policy of categorical protection for asylum applicants coming from central Iraq. In **Sweden** also, much attention was paid to Iraqi asylum applicants, since there has been a large increase in their numbers.

3.2 Unaccompanied Minors

Specific concerns were highlighted in **Ireland** and **The Netherlands** in connection to unaccompanied minors (children). The Irish Refugee Council drew attention to a number of shortcomings in **Ireland**'s system for dealing with children who come into the state alone. Particular problems were identified around education, accommodation, trafficking, the asylum interview process and the provision of adequate guidance, support and protection and it is stated that more than 300 children have gone missing from care since 2001. Aspects in which minors were considered to be most vulnerable were the absence of any follow-up checks upon being reunited with their family; their accommodation in homeless hostels or other inappropriate accommodation if they arrive outside office hours, instead of care centres or hostels; and the lack of any national standards or inspection system in privately managed hostels where a majority of separated children live.

The winding up of a human trafficking network by police and the [Royal Marechaussee](#) in April 2006, resulted in much media attention and debate in the House of Representatives on the disappearance in **The Netherlands** of some unaccompanied Indian minors from asylum reception centres, which had been occurring since October 2004. The disappearance of these minors was a result of a human trafficking network bringing Indian youngsters into Europe illegally for payment. Later in the year, the disappearance of Nigerian minors led to renewed attention on the issue. In response to these events, unaccompanied minors can now be placed in more enclosed reception centres, in a small-scale setting with intensive and personal attention, although they are not locked, detention-type facilities.

3.3 Migration Control

3.3.1 *Schengen acquis*

With the announced delay in the development of the Schengen Information System (SIS II), **Estonia** and **Latvia** are now likely to accede to Schengen in early 2008. In the meantime, other related activities for this accession have occurred, including evaluation of the Border Guard and steps towards accession into the [Visa Information System](#)²³ (VIS) and pan-European electronic system for the identification of asylum-seekers ([EURODAC](#)²⁴).

3.3.2 *Identity establishment*

In **Ireland**, the establishment of a new electronic fingerprint system for the Irish immigration authorities has started. Innovative aspects of this new system include electronically taking fingerprints to more effectively use the EURODAC database; the storing of fingerprints on electronic registration cards issued to non-EU/EEA nationals; and to have a mobile fingerprinting capture and search capability. Meanwhile, in the **United Kingdom**, many initiatives are described, including the launching of the [Iris Recognition Immigration System \(IRIS\)](#),²⁵ a biometrically controlled automated border entry system for pre-registered travellers at selected ports.

²³ See Commission Staff Working document SEC(2007) 833 for 2006 Progress Report, available from <http://register.consilium.europa.eu/pdf/en/07/st10/st10979.en07.pdf>.

²⁴ Details available from http://ec.europa.eu/justice_home/fsj/asylum/identification/fsj_asylum_identification_en.htm/.

²⁵ Details available at <http://www.ind.homeoffice.gov.uk/applying/iris/>.

3.3.3 Health screening

Whilst it is noted that overall in the **United Kingdom** migrants do not have a very high prevalence of infectious diseases, infection rates for some conditions, notably tuberculosis (TB), were found to be far higher among non-UK born residents. Consequently, the programme of pre-entry TB screening for prospective visa applicants was extended to more countries with a high incidence of TB, as defined by the World Health Organization. Passengers from other countries with high TB incidence coming to the **United Kingdom** for more than six months continue to be referred for medical examination on arrival, together with people claiming asylum at ports of entry.

3.3.4 Identity documents

The pilot phase of the project to provide "electronic residence card for aliens" in **Belgium** was launched at the end of 2006. The introduction of such cards fits in with administrative simplification, the modernising of administration and the combating of burglaries²⁶ and abuses, since the current cards are inadequately protected. The project is also meant to meet the requirements of the European Council Regulation 1030/2002 laying down a uniform format for residence permits for third-country nationals. Ultimately, such cards will also incorporate biometric features (photographs and fingerprints). A new electronic passport was introduced in **Portugal**, which was part of the adoption of the new system of border control (SCF), covering persons and documents, including the control of electronic documents. Another project of high significance was the development of **RAPID** (Automatic Identification of Passengers Holding Travelling Documents).²⁷

3.3.5 Residence Permits

One of the main changes in **Austria**, following the entering into force of the previously mentioned *Niederlassungs- und Aufenthaltsgesetz* (NAG), was that application for the right to residence now has to be filed in the country of origin and not just from outside of Austria, as was the case before. Exempted from this rule are dependants of Austrian, EU/EEA and Swiss nationals who entered Austria legally. This rule affects in particular asylum applicants who are married to Austrian citizens and wishing to obtain a settlement permit according to the NAG. A clear aim of the law was to fight fictitious marriages more effectively, as well as to reduce the

²⁶ Since 1995, municipalities in **Belgium** have been burgled some 190 times and almost 45,000 blank residence documents have been stolen.

²⁷ Details available at http://www.sef.pt/portal/v10/PT.aspx/noticias/Noticias_Detalhe.aspx?id_linha=4704.

number of admissions of dependants of Austrian nationals, which has grown in recent years. Another change in this regard was that the minimum financial income, per couple and month, must exceed €1.055. Since third country national spouses are not entitled to work before obtaining a settlement permit, it was thus left to the Austrian partner to earn the requested amount. As a consequence of these stricter conditions, couples were affected by expulsions and deportations. An initiative *Ehe ohne Grenzen*²⁸ (Marriage without Borders) started in early 2006 to highlight the difficulties faced by bi-national couples in this respect.

In **Estonia**, the amendment of the Aliens Act introduced the concept of a third country national long-term residency that replaced a permanent residence permit. The change of the Act did not have direct consequences for the holder of the permits - as all migrants holding the permanent residence permit were considered as long-term residents – except for retired military personnel of the Soviet Army who can now also apply for the long-term residence permit.

A number of decisions, primarily within the context of Law 3386/2005, were taken in **Greece** with regard to the procedure and conditions for the acquisition of residence permits by third country nationals, who are students or graduates of public educational institutes. With regard to the renewal of residence permits issued on condition of a third country national being employed, conditions were relaxed in order to allow a third country national to purchase up to 20% of the required social security stamps. The Law also abolished restrictions of movement to other regions in Greece for those with an employment related residence permit after one year of the initial issue of the permit. The submission of a work contract for residence permit renewal was also abolished for third country nationals who are employed by more than one employer. In this way, the obligation of employers to appoint a third country national using a formalised work contract, is in practice weakened.

3.4 Economic Migration

3.4.1 Highly-skilled workers²⁹

The *Employment Permits Act*³⁰ in **Ireland** was enacted in July 2006, coming into force in January 2007. Key features of the system are a type of “Green Card” for occupations where

²⁸ See <http://www.ehe-ohne-grenzen.at>.

²⁹ This has been the topic also of a recently completed study by the EMN.

there are skills shortages; a re-established *Intra-Company Transfer* scheme; and a revised *Work Permit* scheme for non-green card occupations. The aim of such a system is to develop further Ireland's policy of limiting non-EU/EEA labour migration to skills or labour shortages that cannot be met from within the EU.

In **The Netherlands**, a number of changes occurred in the context of its [Highly-skilled Migrant](#)³¹ scheme. This included the so-called *Bakker motion*,³² which resulted in abandoning the obligatory five-week period for reporting vacancies, if it was clear in advance that there was no priority supply available. The motion also resulted in the extension of the category of highly-skilled migrants excluded from the salary criterion, to include every foreign national working as a scientific researcher, or as a doctor training as a specialist. At the same time, the age limit of 30 years for university lecturers and post-doctoral workers was scrapped and a facility introduced to allow start-up companies to use the highly-skilled migrant scheme.

In **Sweden**, the Parliamentary [Committee on Labour Immigration](#)³³ appointed in February 2004 to review existing regulations concerning labour migration to Sweden from third countries, presented its recommendations to the Government. The Committee's task was to propose possible changes to the existing laws in order to facilitate increased labour migration from third countries in order to fill labour market shortages within certain sectors. In the Committee's view, the basic condition for a third country national to be granted a work permit should be that they have been offered employment because there is a labour shortage in the occupation to which the employment refers. A consultative process has now begun, after which the Government will present a proposal for new legislation to the Parliament, which would come into effect in 2008 at the earliest.

New revised criteria for the **United Kingdom's** [Highly Skilled Migration Programme \(HSMP\)](#),³⁴ based on the previously mentioned points based system, were announced. The criteria now being based on qualifications; previous earnings; prior UK experience as a student or employee; age; and participation in an MBA scheme. A mandatory English

³⁰ Available at <http://www.entemp.ie/publications/labour/2006/emppermitsact2006.pdf>.

³¹ Details available at <http://www.ind.nl/en/inbedrijf/wonenenwerken/standvanzakenkennismigranten.asp>.

³² Parliamentary Papers 2005/06, 30300 XIII, no. 30, House of Representatives, Adoption of the budget for the Ministry of Economic Affairs (XIII) for 2006; Motion with a request to resolve bottlenecks in relation to internationalisation in the economy and learning.

³³ Report available at <http://www.regeringen.se/sb/d/108/a/71158>.

³⁴ Details available at www.workingintheuk.gov.uk.

language requirement has also been added to the programme, when an initial application is made and again at extension stage, which applicants must pass.

3.4.2 Labour shortages in Austria, Estonia and Latvia

Another important topic in **Austria's** election campaign was the so-called “*Pflegenotstand*” (State of emergency concerning care of the elderly). On the one hand, Austria is confronted with a lack of care personnel, yet, on the other hand, many citizens can not afford care for the elderly according to Austrian social and labour law standards. The consequence is the employment of illegally working care personnel, mainly from Eastern European countries, including from some of the new EU-10 Member States. It is estimated that there are some 40.000 illegally employed persons working in the care sector and a call not to prosecute these employees has been made, as the current system would then not work without them. A number of initiatives have been proposed to resolve this situation, such as reducing the minimum salary for foreign care personnel; creating a new type of employment named “care at home”; and a labour law contract, which stipulates *inter alia* the rights and duties of the employees, the hours of work, the remuneration. The processing of such contacts would be done by charitable organizations, like *Caritas* or *Volkshilfe*, who would function as an employer.

As previously mentioned, **Estonia** and **Latvia** have undertaken initiatives to address a national lack of labour, owing primarily to a significant number of their nationals moving to other EU(-15) Member States, following accession. In **Estonia**, discussions on this matter highlighted very different opinions and positions, ranging from mass import of foreign labour to its full negation. The Government were of the view that it would welcome foreign labour, as long as the migrants, and their close relatives, would not be a burden to the social welfare system. The opposition was, however, strongly opposed to the mass import of foreign labour from third countries, being in favour of a simplified entry system for highly-qualified specialists only, whereas Estonian entrepreneurs would simplify the import of all foreign labour, independent of their skills level. State authorities (Ministry of Social Affairs, Labour Market Board) and the trade unions considered that only importing highly-qualified and skilled labour is justified. A Working Group has now been established by the Ministry of Economic Affairs and Communications, to consider the possibilities for simplifying, from 2007 onwards, the procedures for bringing in short-term labour recruited from third countries.

Although the number of economic migrants to **Latvia** is currently low, a well-managed approach to attracting workers from third countries is declared to be one solution to resolving labour force shortages. To this end, an inter-institutional work group was established in 2006 tasked with “assessing the need for facilitating entry of third country citizens into Latvia for employment and devising possible solutions for increasing labour force, if there is a notable labour shortage that might threaten the growth rate of the national economy”. The work group developed the *[Concept of Migration Policy Regarding Employment](#)*³⁵ that gives a detailed description of the problem and offers three possible solutions. Based on this policy planning document, further discussions regarding the role of migration in solving labour force issues were foreseen during 2007.

3.4.3 Other related aspects

The spousal work permit scheme³⁶ in **Ireland** was introduced to facilitate the entry of spouses of certain categories of migrant workers to the Irish labour market. Such spouses may apply for work permits while in Ireland without the employer needing to advertise the job with the *[National Training and Employment Authority](#)* (FÁS)³⁷, and no work permit fee is levied. They may also apply for work permits in jobs deemed ineligible to other applicants. In 2006 this scheme was extended to the spouses of all employment permit holders and 1,718 spousal work permits were issued. Some NGOs have claimed that take up of the scheme is low, perhaps because immigrants and employers are not sufficiently aware of the scheme.

In fact, **Ireland** has seen an 8% drop in the number of Work Permits issued during 2006 compared with the previous year. A large proportion (38%) were issued to non-EU Eastern European nationals or nationals of the Philippines, and primarily within the Service sector (86%). The overall decrease in the number of work permits issued is attributed to the policy of encouraging employers to make use of the expanded pool of labour from the EU-25 following accession in 2004. Quantitative research published in 2006 found that generally migrant workers (including from EU-10 Member States) were employed in occupations that did not fully reflect their level of education; and that they earned 18% less than their Irish national peers. Other qualitative research also published in 2006 suggested that women

³⁵ Details available from http://www.pmlp.gov.lv/?p=70&news_id=1111&news_pos=0&menu_id=20.

³⁶ See <http://www.entemp.ie/>.

³⁷ Details available from <http://www.fas.ie/>.

migrant workers experience a double burden of racism and sexism, both in the workplace and in accessing services.³⁸

In a similar vein, the Federal and Regional Ministers of Employment in **Belgium** have commissioned a feasibility study for installing an administrative and anonymous ethnic monitoring system capable of presenting the socio-economic situation of ‘autochthonous and allochthonous workers’³⁹ in the private and public sectors. This followed a number of studies which revealed the unequal position of migrants in the labour market, some of which clearly demonstrated the existence of discrimination. The proposed screening would take place every five years and would serve to monitor the impact of labour market diversity policies that have a long-standing tradition in the Flemish Region and have recently been introduced in the Brussels-Capital and Walloon Region.

Belgium also reports on the changes to the entry conditions for EU-8 nationals following EU enlargement.⁴⁰ During the second transition period (expiring May 2009), the “free movement” principle will not yet be fully applied to nationals of these Member States, but a number of rules have already become more flexible: a work permit B will still be needed, but for some “bottleneck vacancies” (i.e. shortage of available labour) they can be more easily obtained. The transitional measure is also extended with regard to residence: EU-8 nationals still get a temporary residence permit and only after having worked for twelve months are they able to apply for permanent settlement. In **Austria**, these transitional arrangements were unchanged, although it was suggested that, following a substantial decrease in unemployment, the lifting of restrictions might be possible in 2009. In **Ireland**, a debate took place as to whether the policy of allowing EU-8 nationals free access to the labour markets proved to be beneficial, in particular as to whether it displaced Irish national workers. Research suggested that this was probably not the case as employment among Irish nationals continued to grow and unemployment rates remained low. **Austria, Ireland** and the **United Kingdom** also report on the work permit conditions which were to be imposed on nationals from Bulgaria and Romania, following their accession to the EU.

³⁸ See report available from <http://www.equality.ie/index.asp?locID=106&docID=577>.

³⁹ "Autochthonous" refers to a native-born national whose parents were also native-born, whilst "allochthonous" refers to a national of whom one or both of their parents was not native-born.

⁴⁰ Details of the transitional arrangements in place are available from http://ec.europa.eu/employment_social/free_movement/enlargement_en.htm#access2004.

3.5 Family Reunification⁴¹

Family reunification provisions were included in the Law reforming the *Aliens Act* in **Belgium**. A distinction is made between migrants admitted or authorised to reside for an unlimited period, and those having the right to reside for a limited period only. Which migrants are entitled to family reunification is also extended (to harmonise with European Directive 2003/86/EC), so the former ban on chain reunification is lifted. Among the conditions which must be satisfied is an increase in the age (from 18 to 21 years) at which a migrant after a marriage may enter through family reunification, in order to combat marriages of convenience and forced marriages.⁴² However, some doubts are expressed, since the most important group of migrants subject to such marriages have Belgian nationality or the nationality of one of the countries Belgium has entered into a bilateral agreement with (Algeria, countries originating from the former Yugoslavia, Morocco, Tunisia, Turkey).

Currently there is no legislation⁴³ in **Ireland** which sets out entitlements to family reunification for non-EEA migrants or Irish citizens with non-EU relatives, and NGOs have continued to campaign for improved transparency in the system. A report from one of these NGOs⁴⁴ made several recommendations, including that family reunification should be included in the previously mentioned *Scheme for an Immigration, Residence and Protection Bill*; that the definition of family should be broadened to include partners (opposite and same sex) and dependent family members; that the best interests of children should be prioritised; and that partners of migrants who are admitted on family reunification grounds should be granted automatic access to the labour market. A particularly contentious issue relates to family reunification applications from parents of Irish born children who applied for permission to reside in Ireland under the 2005 Irish Born Child Scheme.⁴⁵ It has been argued that the State's refusal to consider family reunification for such individuals may be contrary to the State's obligations under the Irish Constitution or European Convention of Human Rights. Legal challenges in this respect have been launched.

⁴¹ This has been the topic also of a recent study by the EMN.

⁴² It is worthwhile to note here that in July 2006, amendments of the *Strafgesetzbuch, StGB* (Criminal Law) in **Austria** came into force for the protection of victims of Forced Marriage and Female Genital Mutilation, making the former a public offence (*Offizialdelikt*).

⁴³ Note that, like for the **United Kingdom, Ireland** did not participate in the adoption of the Family Reunification directive 2003/86/EC.

⁴⁴ Immigrant Council of Ireland, report available from <http://www.immigrantcouncil.ie/familymatters.htm>.

⁴⁵ A special scheme under which non-national parents of Irish born children could apply for permission to remain in the State, also known as IBC/05. As part of the application, individuals signed a declaration to the effect that they are aware that if granted permission to remain their status does not confer "any entitlement or legitimate expectation" of family reunification.

The judgment of the European Court of Human Rights (ECHR) on 1st December 2005 in the case of “Tuquabo-Tekle and others versus **The Netherlands**”⁴⁶ required an amendment of the policy for family reunification with effect from September 2006. This amendment concerned changing the criteria establishing whether or not the condition was met that a child(ren) had to belong to the family of their parents, since previously, if the child(ren) had lived apart from their parents for more than five years, it was assumed that the family tie had been broken. The judgment meant that it was no longer possible to apply this time limit, instead it was necessary to follow more closely the case law in relation to the expression "family life" as defined in Article 8, ECHR.

3.6 Citizenship and Naturalisation

In 2006, the Nationality Code of **Belgium** was adapted slightly, the main change being that in case of fraudulent application, Belgian nationality can be withdrawn.⁴⁷ Another change was to clarify the situation with regard to children born in Belgium from parents of foreign citizenship, following cases in which third country parents sometimes deliberately failed to register their newly born child at their embassy, because, in this way, the child was granted Belgian nationality by the Ministry of Justice in order to avoid the child becoming stateless. Afterwards, the illegally residing parents tried to enforce regularisation, as they were “parents of a Belgian child”. The law now stipulates that children born in Belgium from parents of foreign citizenship should not be considered as stateless, if the child can acquire the nationality of its parents by carrying out an administrative formality, although case-law is divided on this issue. The rules for obtaining nationality⁴⁸ in **Portugal** were also modified, by strengthening the principle of *ius solis* when granting Portuguese nationality, and by extending the concession of nationality to second generation migrants, if one of the parents has been legally resident for five or more years. This establishes, for the first time, a subjective right to naturalisation of children of such migrants.

Naturalisation courses, (compulsory) tests and (formalised) ceremonies were paid great attention in **Austria**, **Germany** and **The Netherlands**. In **Austria**, the amendment of the *Staatsbürgerschaftsgesetz* (Citizenship Act, StbG) entered into force. The most important changes concern the duration of residence and other conditions, such as knowledge of German

⁴⁶ Tuquabo-Tekle and Others v. the Netherlands, 1st December 2005, no. 60665/00.

⁴⁷ As was the case initially in **The Netherlands** for Ayaan Hirsi Ali, a prominent VVD Member of Parliament (see Footnote 1 also).

⁴⁸ Information and clarifications on the new Law and its application are available at www.nacionalidade.pt.

and on applied geography. This is assessed through a citizenship exam specified by the Ministry of the Interior in a special decree (*Staatsbürgerschaftsprüfungsverordnung*,⁴⁹ StbP-V). In the case of **Germany**, the interior ministers of federal and local state governments (IMK) agreed to employ in principle a number of naturalisation standards⁵⁰ throughout Germany, including a formalised naturalisation ceremony. The Federal Government was requested to charge the *Federal Office for Migration and Refugees*⁵¹ with the preparation of a concept for naturalisation courses, of a naturalisation guide and of the standards to be employed for the provision of proofs, based on the contents of integration/orientation courses.

For a number of years now, in order to become a naturalised citizen in **The Netherlands** an applicant has to demonstrate that they are sufficiently integrated into Dutch society. This can be done by passing the naturalisation test, which assesses knowledge of the Dutch language and society. The most important development in 2006 was the introduction of the compulsory naturalisation ceremony as an element of the procedure for obtaining Dutch citizenship. The Government considered that the ceremony should express the conviction that acquiring Dutch citizenship was the pinnacle of the integration process and should confirm the fact that the new citizen was accepting all of the rights and obligations associated with becoming a Dutch citizen. In fact, attendance at a naturalisation ceremony became a condition for acquiring Dutch citizenship. Whilst other dates may also be chosen, municipal authorities must in any event hold a ceremony on 24th August (the day on which the Dutch Constitution came into effect in 1815) and this is now *National Naturalisation Day*.⁵²

3.7 Integration⁵³

In July 2006, for the first time in the history of **Germany**, an *Integration Summit*⁵⁴ was held in the Federal Chancellery, involving a wide range of actors involved in the integration process. The need for such a summit followed reporting in the media on the violent situation at a Berlin school⁵⁵ and marked the beginning of an ongoing process of dialogue with

⁴⁹ For more information on the legal basis, scripts and questions of the citizenship exam, see:

<http://www.bmi.gv.at/staatsbuergerschaftswesen/>

⁵⁰ See <http://www.bgblportal.de/BGBL/bgbl1f/bgbl106s2034.pdf>.

⁵¹ See <http://www.bamf.de>.

⁵² See <http://www.ind.nl/en/inbedrijf/nederlanderworden/naturalisatieceremonie.asp> for further details.

⁵³ This section should also be considered within the context of the *Common Agenda for Integration* (COM(2005) 389final), available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0389:EN:NOT>.

⁵⁴ Available from <http://www.bundesregierung.de/Content/DE/Artikel/2006/07/2006-07-12-integrationsgipfel-papier.html>.

⁵⁵ The Police had to step in at the Rütli school, in the Berlin suburb of Neukölln, after teachers sent a letter to the Berlin Education Senator stating that the school was out of control and requesting assistance. See <http://www.dw-world.de/dw/article/0,2144,1950087,00.html> for more details.

migrants in Germany. The resulting declaration of the Federal Government, *Gutes Zusammenleben – klare Regeln*⁵⁶ (Living with one another in harmony on the basis of clear rules) identified the key issues and pointed the way for further work by six Working Groups established after this event, which would then feed into the development of a *National Integration Plan*,⁵⁷ published in the Summer of 2007.

Meanwhile, it is the Residence Act in **Germany** which *inter alia* regulates the minimum framework to promote integration. New migrants residing on a permanent basis are entitled to participate in integration courses and in case of an insufficient command of German, they are obliged to participate in such courses. The consequences of not complying can be a refusal to renew the residence permit and/or a cut in social welfare benefits. The successful completion of an integration course can, however, reduce, from eight to seven years, the minimum time of residence required for naturalisation. A report by the Federal Ministry of the Interior on the evaluation of the Immigration Act considered also the inclusion of provisions on integration into the Residence Act, concluding that it has been an important step in the right direction. An appraisal⁵⁸ of integration courses was also conducted, which acknowledged that the previously observed gaps and deficits in language support have been closed and remedied. However, the investigation also revealed weak points, with only 40% of participants sitting for the voluntary final exam. It also concluded that the provisions of the Residence Act on the termination of residences would in principle be sufficient, but it is recommended to further conclude readmission agreements with countries of origin and to promote voluntary return.

Elsewhere, in **Estonia**, the *National Programme for Integration in Estonian Society 2000-2007*,⁵⁹ covers education, culture of ethnic minorities, language and social competence. Its focus is on the integration of second and third generation migrants and their children. The development of a new national programme, *Integration in Estonian Society 2008-2013*,⁶⁰ also started, addressing in addition the measures for adaptation in Estonia of new immigrants (previously it was directed towards Soviet-era immigrants). In **Greece**, publication of a law on the regulation of migration policy and other issues, which was put into force at the

⁵⁶ Details available at <http://www.bundesregierung.de/Content/DE/Artikel/2006/07/2006-07-12-integrationsgipfel-papier.html>.

⁵⁷ Available from <http://www.bundestkanzlerin.de/Content/DE/Artikel/2007/07/Anlage/2007-07-12-nationaler-integrationsplan.property=publicationFile.pdf>.

⁵⁸ http://www.bmi.bund.de/Internet/Content/Common/Anlagen/Themen/Zuwanderung/DatenundFakten/Evaluation_Integrationskurse_de.templateId=raw.property=publicationFile.pdf/Evaluation_Integrationskurse_de.pdf.

⁵⁹ Further details available from <http://www.meis.ee/book.php?ID=163>.

⁶⁰ Information available at <http://www.meis.ee/eng/Foundation/activityplan>.

beginning of 2007 (Law 3536), included the establishment of a [*National Committee for the Social Integration of Immigrants*](#).⁶¹ This Committee, supervised by the Ministry of Interior, consisted of high-level representatives of Ministries and social partners, with its main mission being to undertake a social dialogue with civil society on integration policies for migrants.

Until recently, integration policy in **Ireland** was relevant to recognised refugees only. For example, the annual World Refugee Day Award Ceremony was used to highlight the contribution made by refugees, asylum seekers and local communities who actively promote a positive model of integration in Ireland. During 2006, there were signs that this position is changing, with integration policy being developed for all legally resident non-Irish nationals and, in July 2006, the Minister for Justice, Equality and Law Reform announced the allocation of € million for integration-related activities and projects. The fund is being organised by the [*Reception and Integration Agency \(RIA\)*](#)⁶² and it is targeted to include assistance in employment, language, sport and community activities.

Much debate occurred in relation to a new bill presented in **The Netherlands** to amend the previous Integration Act for Newcomers ([*Wet inburgering nieuwkomers \(WIN\)*](#)),⁶³ incorporating a general integration duty for foreign nationals. In addition, there was also a facility for obliging some specific groups of naturalised Dutch citizens (those in receipt of benefit payments, spiritual leaders, or those raising young children) to pass the integration examination, if this was regarded as necessary from a social perspective. It was argued, however, that this latter aspect was discriminatory, since individuals of native Dutch heritage were exempted from any obligatory integration, and indeed the Council of State found that this obligation was in conflict with "general provisions on equal treatment, but also with more specific international rules prohibiting any unjustified distinction according to origin or ethnicity". The bill was subsequently amended to accommodate this criticism. Other aspects of the Act were also criticised, but the Act was finally passed, coming into effect in January 2007.

The Netherlands' [*Civic Integration Abroad Act*](#)⁶⁴ also came into effect in 2006. For foreign nationals between the ages of 16 and 65 coming to The Netherlands for family reunification

⁶¹ See http://www.ypes.gr/allodapoi/content/GR/nomoi/N3536_23.2.2007.doc.

⁶² See <http://www.ria.gov.ie/>.

⁶³ Details available at <http://www.st-ab.nl/wetwin.htm>.

⁶⁴ Details available from <http://www.ind.nl/en/inbedrijf/wonenenwerken/basisexamen15maart.asp>.

or family formation purposes, or to reside here as a spiritual leader or religious teacher (although there are some exceptions to the rule), a basic level of knowledge of the Dutch language and Dutch society are now conditions for admission, and this is tested (in Dutch) by means of a civic integration examination abroad. Another integration topic debated during 2006, partly following particular incidents, were the problems caused by certain groups of juveniles of foreign heritage, particularly in the larger cities. The Minister for Immigration and Integration launched a plan to address problems identified with one of these groups, namely juveniles from the Dutch Antilles and Aruba,⁶⁵ which included sending criminals back to the Dutch Antilles and Aruba and to introduce compulsory integration for Antilleans and Arubans settling in The Netherlands. Whilst considered quite controversial, they were supported by the majority in Parliament and also a majority of the most directly involved municipalities.

In **Portugal**, the extension of social insertion income (minimum guaranteed income) to foreigners holding a residence permit, work visa and temporary stay visa and who have remained in Portugal for the previous three years was considered to be a significant contribution to integration (previously it was granted to foreigners holding a residence permit only). Another event was the public launching of a Bill for a Plan for Immigrants Integration (*Anteprojecto do Plano para a Integração de Imigrantes – PII*).⁶⁶ This plan, which will be implemented up to 2009, incorporates the national strategic plan and targets of the State regarding the reception and integration of immigrants, combined with a control of the migratory flows, and with development aid to countries of origin. Within the context of celebrating certain dates, the ACIME also promoted a reflection upon immigration and interculturalism, with particular emphasis on the *Cultural Diversity Week* in co-operation with UNESCO; the *International Day for Tolerance* (16 November); *Integration Day* in schools (24 October), and the *International Migrants Day* (18 December). Journalists from all sectors of the media were distinguished by the prize *Imigração e Minorias Étnicas: Jornalismo pela Tolerância* (Immigration and Ethnical Minorities: Journalism pro Tolerance). This award is granted by the *Alto Comissariado para a Imigração e Minorias Étnicas*⁶⁷ (ACIME) in order

⁶⁵ The Dutch Antilles and Aruba are part of the Kingdom of the Netherlands (for more information: <http://www.minbzk.nl/bzk2006uk/subjects/aruba-and-the>).

⁶⁶ Available from http://www.portugal.gov.pt/NR/rdonlyres/5DB5196E-3B33-4316-BB9E-C3E98A031757/0/Plano_Integracao_Imigrantes_Anteprojecto.pdf.

⁶⁷ Details available at <http://www.acime.gov.pt/>.

to acknowledge positive contributions to the visibility of the migration phenomenon, the promotion of tolerance, the integration of immigrants and the combat to discrimination.

The new Government in **Sweden** has focussed on the possibilities for migrants to work as the most important issue for integration. A new labour market programme was launched, which gives long-term unemployed, including migrants, a possibility to be employed with reduced costs for the employer. The Government also proposed that the Swedish Integration Board should cease to exist, instead it should be mainstreamed and carried out by other authorities within fields, such as labour market and education. This bill was approved in December 2006, with the closure planned to be implemented by 30th June 2007.

In the **United Kingdom**, the Home Office announced plans for a complete overhaul of the way in which refugee integration services are structured and funded in England, moving beyond the structures set out in *Integration Matters*.⁶⁸ As part of this, and in line with wider IND reform, the National Refugee Integration Forum and its sub groups were disbanded. In October 2006, IND launched a public consultation on the Government's proposals on the establishment of a core set of services to be made available to refugees across England (it will be for the devolved administrations to decide on the case for analogous changes for Scotland, Wales and Northern Ireland).

3.7.1 Language training⁶⁹

As previously outlined for **Germany** and **The Netherlands**, more and more emphasis is also being placed in other Member States on the acquisition to a suitable level of the national language. Language immersion is the approach followed in **Estonia**, for the better acquisition of Estonian as a second language, and is applied as a national programme with the financing and support of the Ministry of Education and Research.⁷⁰ In **Ireland** too, the importance of providing English language courses, particularly in schools, has been highlighted and a commitment to add additional support teachers was agreed as part of the Social Partnership Agreement *Towards 2016*.⁷¹ The integration at schools and language acquisition of children was also one of the main integration-related debates in **Austria**. Children who were deemed

⁶⁸ Details available at <http://www.ind.homeoffice.gov.uk/6353/6356/17715/closedconsultationsrefinteg1.pdf>.

⁶⁹ This is contained within Common Basic Principle No. 4 of the Common Agenda for Integration.

⁷⁰ From June 2007, one of the main integration requirements introduced in **Estonia** is that a long-term residing migrant is able to speak Estonian at least on a basic level.

⁷¹ See http://www.taoiseach.gov.ie/attached_files/Pdf%20files/Towards2016PartnershipAgreement.pdf.

to speak too little German were granted so-called "language tickets", entitling them to 120 hours of language classes supported (€80/child) by the provinces. In addition, the SPOE and OEVP agreed during the coalition negotiations on further developing measures to support children who are considered in need of better knowledge of German before they attend school. Discussions on introducing a pre-school year on a voluntary or a compulsory basis are ongoing. Also a new-form of language classes specifically for mothers was developed in Vienna (*Mama is Learning German*⁷²), as well as a system of vouchers for language training (€100 per person in 2006, increasing to €300 per person in 2007).

With regard to the acquisition of the national language outside of a school, in **Austria**, the *Integrationsvereinbarung*⁷³ (Integration Agreement) was modified as part of the previously mentioned *Niederlassungs- und Aufenthaltsgesetz (NAG)*. It is now composed of two modules, the first focuses on literacy skills, if needed (75 hours of classes), and the second contains a language course (300 hours of classes) and classes on applied geography. In **Greece**, the requirement of knowledge of Greek language and culture is regulated by legislation (Law 3536) and is fulfilled upon the completion of a 150 hours course on Greek language and a 25 hours course on Greek history and culture, with examination. In **Latvia**, amendments to regulations have occurred outlining the procedures to be followed to achieve the required knowledge of Latvian and the consequences to the naturalisation procedure if this is not achieved after the third attempt, or if the applicant fails to come to the official language proficiency and knowledge test.

There is an ongoing discussion in **Sweden** concerning whether or not language skills should be a requirement for gaining citizenship. No decisions in this matter have yet been made, but the Government has commissioned a special committee on globalisation and its effects, to consider the issue. Currently, there is no politically significant discussion on other changes concerning the acquisition/granting of Swedish citizenship. In the **United Kingdom**, IND announced that, as from April 2007, all those seeking to live permanently will have to pass English language and knowledge of life in the United Kingdom tests⁷⁴ before being granted permanent settlement rights. These requirements were introduced in order to strengthen the Government's commitment to integration. Introducing such mandatory tests brings the

⁷² See <http://www.wieninternational.at/en/node/1258>.

⁷³ Details available at <http://www.wien.gv.at/english/administration/civilstatus/immigration/agreement.html>.

⁷⁴ See <http://www.lifeintheuktest.gov.uk/> for further information on these tests.

requirements more into line with the existing requirements for those applying for British nationality. It is also considered to help maximise the migrants' contribution to the economy by increasing their job prospects, assist their integration into local communities and generate a greater understanding of the rights and responsibilities that come with living in the United Kingdom.

3.7.2 Specific Measures to support Muslim integration⁷⁵

A first step in implementing the declared mission of intensifying inter-religious and inter-cultural dialogue with the Muslim population in **Germany** started with the [*German Islam Conference*](#).⁷⁶ This was seen as the first step in providing for an institutionalised dialogue between the state and the Muslim community, the aim being to achieve better integration of its Muslim nationals and to increase the visibility to the wider public of the diversity of Islamic life existing in Germany. The conference was held at a time when Islam was the focus of attention in politics and society owing to a number of events, *inter alia* the controversies on the Muhammad cartoons, the failed suitcase bomb attacks and the temporary suspension of a Mozart opera in Berlin, which triggered a debate on the position of Islam within a free democracy. Discussions at this conference included *inter alia* how religious customs and traditions of Islam can be brought in line with the German constitutional order and how Islam as a religion can meet the organisational requirements of the German religious constitutional law.

The integration of Muslims was again the subject of frequent debate in **The Netherlands**. What this often involved was the issue of how to deal with manifestations of fundamental factions within Islam, such as clothing that covers the face and the refusal to shake hands with people of the opposite gender. A great deal of attention was also paid to Muslim radicalisation and the resulting threat of terrorism. Discussions on the possible introduction of a ban on the burka continued, finally resulting in the government expressing its intention to formulate a Bill for a general ban against clothing that covers the face in (semi-) public spaces. Publication of a report entitled "Dynamics in Islamic activism. Points of contact for promoting democracy and human rights" [[*Dynamiiek in islamitisch activisme. Aankopingspunten voor democratisering en mensenrechten*](#)],⁷⁷ also generated much debate.

⁷⁵ This is contained within Common Basic Principle No. 8 of the Common Agenda for Integration.

⁷⁶ http://www.bmi.bund.de/cln_028/nn_1018358/Internet/Content/Nachrichten/Pressemitteilungen/2006/Einzelseiten/Islamkonferenz_Kurzinfo%2CtemplateId%3DrenderPrint.html.

⁷⁷ Available from <http://www.wrr.nl/english/content.jsp?objectid=3708>.

Muslim integration also played its part in the campaign for the House of Representatives elections, with a stop to non-Western immigrants being an important part of the *Partij voor de Vrijheid* (Freedom Party) manifesto.

3.7.3 Healthcare⁷⁸

In **Ireland**, the [Health Service Executive](#)⁷⁹ began developing a *National Intercultural Strategy* with the aim of providing a framework within which the healthcare needs of people from diverse ethnic backgrounds and cultures can be appropriately met. Specific priorities identified include the development of a national interpretation service, staff training and support, ongoing consultation and participation with minority ethnic communities, and the provision of community-based services run in partnership with ethnic minority groups and communities. Likewise, *The Health Protection Agency*⁸⁰ in the **United Kingdom** reiterated that improving the health of migrants is important because they represent a small but diverse proportion of the population that contributes a great deal to the economy and culture. It emphasised also the need for health services for infectious diseases to reflect the needs of the population groups most affected by these diseases, and that healthcare professionals require support to meet those needs.

3.7.4 Racism

The experience in **Ireland**, within the context of a wider European survey commissioned by the *Fundamental Rights Agency*,⁸¹ indicated that over one-third of migrants had experienced race related harassment on the street, in public places or on public transport. A similar proportion experienced harassment at work.⁸² Black Africans and asylum applicants were found to be the most at risk. In general, however, the reported experience of racism in Ireland was lower than in other countries, especially Southern European Countries, although racism experienced on the street was high in all countries.

⁷⁸ This is contained within Common Basic Principle No. 6 of the Common Agenda for Integration. The EMN has recently completed a study on the situation and needs for migrant healthcare workers (ISBN 978-92-79-05519-5).

⁷⁹ The Health Service Executive (<http://www.hse.ie/en/>) has full operational responsibility for the running of the health services in Ireland.

⁸⁰ See report available from http://www.hpa.org.uk/publications/2006/migrant_health/default.htm.

⁸¹ See http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=4520e6a4a53ec&contentid=4520e6daf3d41.

⁸² This was also supported by The Equality Tribunal in their Annual Report 2005, available from www.equality.ie/index.asp?locID=136&docID=536.

3.8 Illegal Immigration - Trafficking and Regularisations

There is a concern in **Estonia** that it might very soon be a potential transit country for the uncontrolled flow of refugees coming from the South and East, where economic chaos and unemployment might motivate people to cross the border illegally or submit an application for asylum. In January 2006, the Government approved a development plan setting forth strategic goals for the fight against human trafficking, as well as defining the main measures and activities for achieving these goals in the period 2006–2009. In 2006 these activities were mainly concentrated on better organisation of the work against human trafficking, informing the public and international cooperation. For **Portugal**, the debate on illegal immigration was given special emphasis at two Portuguese-Brazilian Seminars regarding the *Trafficking in Human Beings* and *Illegal Immigration*. The conclusions of these Seminars identified a number of actions which should be taken to address this aspect of migration. In a similar vein, the project [Cooperação, Acção, Investigação e Mundivisão](#)⁸³ (CAIM, Cooperation, Action, Investigation and Worldly Vision), adopted various measures for preventing and combating the trafficking in women, with particular focus on the women trafficked for prostitution in Portugal.

The reality of the problem of human trafficking became increasingly clear in **Ireland**, with Gardai operations identifying in particular cases involving nationals of Bulgaria, Romania and Lithuania. A "Crimestoppers"⁸⁴ information campaign on trafficking in human beings was launched in May 2006. [Research](#)⁸⁵ presented by the *Migrant Rights Centre of Ireland* showed that trafficking for forced labour was occurring and stressed that an essential feature for identifying the trafficking victim is fear.

The federal parliament in **Belgium** shared the Minister's opinion that no regulatory text can ever cover each and every individual humanitarian situation. As a consequence, the Minister continues to keep his discretionary power and uses as a starting point the rule that refusing to grant an alien a residence permit would contravene the provisions of the ECHR or be obviously contrary to the Council of State's constant case-law. The three criteria used are: lengthy asylum procedure, medical grounds, and (other) humanitarian situations. There was

⁸³ See <http://caim.com.pt/>. This project is also supported by the EU's EQUAL initiative.

⁸⁴ Crimestoppers is a partnership between the Gardai, the business community and the Department of Justice, Equality and Law Reform which operates a confidential free-phone number by which the public can offer information to the Gardai in relation to ongoing criminal investigations.

⁸⁵ See <http://www.mrci.ie/publications/documents/NoWayForwardNoGoingBack.Foreword.ExecSummary.pdf>.

also a call to include migrants without residence permits (*sans papiers*) who have been residing already for a long time but once had a – temporary – legal residence status and have young children. In a similar vein, the [Migrant Rights Centre of Ireland](#) (MRCI),⁸⁶ continued their campaign for the introduction of bridging visas for undocumented workers during the period. Specifically they want the Department of Justice, Equality and Law Reform to provide a temporary six-month residency stamp for third country nationals who have entered Ireland lawfully but have become undocumented for reasons beyond their control.

As provisioned in Law 3386/2005, the third regularisation programme was widely welcome in **Greece**. This programme aimed at the transfer of migrant employment from the irregular to the regular economy, and also the general improvement of living conditions for irregular migrants. Moreover, certain administrative requirements were relaxed, notably the unification of work and residence permits into a single residence permit and its issue thereafter by a single state authority, the Region. The Law also introduced new provisions regulating long-term residence, revised the provisions on family reunification, as well as included a whole section on the integration of immigrants, while imposing stiffer penalties on employers and traffickers of illegally-entering immigrants. The implementation of this regularisation programme did, however, meet serious difficulties and the number of applications was remarkably lower than previous regularisations. By the end of 2006, 76.952 residence permits were granted to illegal immigrants applying for the first time, out of a total 92.449 initial applications. The experience of this regularisation led to the drafting of a new Law (3536/2007), which included also other new provisions agreed upon with the European Community.

By contrast, an amnesty for illegally-residing immigrants to regularise their stay was ruled out by the **United Kingdom** Government. The rationale given was that an amnesty would undermine public confidence in the immigration system at a time when the Immigration and Nationality Directorate (IND) had succeeded in removing more people in 2006 than the number of unfounded asylum applications. An amnesty would, therefore, have only countered these achievements by acting as a "pull factor" and weaken efforts to remove those who have not been granted permission to stay. It would also be unfair to those who had sought to enter and regularise their status legally through the appropriate routes and concessions available.

⁸⁶ An organisation concerned with the rights of migrant workers and their families, see <http://www.mrci.ie/>.

The lengthy political and social debates, which started already in 2004, concerning a possible pardon scheme for asylum seekers who were still residing in **The Netherlands**, had submitted their request for asylum before the new Aliens Act (2000) came into operation, and whose applications had not yet been approved, continued throughout 2006. As outlined in Section 2.4, this also had consequences at political level following the elections, which resulted in a majority in Parliament in favour of a pardon.

3.9 Return Migration⁸⁷

In **Ireland**, **The Netherlands**, **Portugal** and the **United Kingdom**, funding for Assisted Voluntary Return and Reintegration projects run by the International Organization for Migration (IOM) was provided by their respective governments, as well as by the [European Refugee Fund](#).⁸⁸ In **Ireland**, the programme targets non-EU/EEA nationals who are asylum applicants or illegally-residing migrants and aims to return up to 300 over a period of twelve months. For the first time, a reintegration assistance payment of €600 will be made available to all returnees on this programme in their country of origin. The main objectives of the SURRIA Project in **Portugal**, a joint partnership between the *Serviço de Estrangeiros e Fronteiras* (SEF) and IOM, are the creation of an information and support network to advise those immigrants who wish to return voluntarily, and also to produce a manual of best practices regarding the setting up of networks for promoting voluntary return. As a supplement to **The Netherlands'** *Return and Emigration of Aliens from the Netherlands (REAN)* programme, the Return and Reintegration Regulation ([Herintegratieregeling Terugkeer](#))⁸⁹ came into effect in June 2006, offering an additional financial incentive for leaving the country to all foreign nationals who had lodged an initial application for an asylum residence permit before June 2006. In the **United Kingdom**, the Home Office asked the IOM to launch a pilot scheme to enhance the value of the reintegration package available to those returning through the *Voluntary Assisted Return and Reintegration Programme (VARRP)*. With this enhanced package, returnees received the standard reintegration assistance of £1.000 (approx. €1.500) “in kind” assistance in the country of return and £500 cash at either the airport of departure or return. A further £1.500 could be taken as either additional assistance “in kind” or cash payments phased over six months. Standard reintegration assistance is provided “in kind” in the country of return in the form of direct

⁸⁷ This has also been the topic of a recently completed EMN study.

⁸⁸ See http://ec.europa.eu/justice_home/funding/refugee/funding_refugee_en.htm.

⁸⁹ Details available at <http://www.iom-nederland.nl/programmas/index.asp?treeId=112>.

help with starting a small business (e.g. purchasing equipment or supplies against an approved business plan) or help with vocational training or further education or schooling. The number of returnees applying under this enhanced scheme increased markedly on previous years, although it is not yet clear if this is directly attributable to the package only.

In **Sweden**, a main goal of government policy is to uphold the integrity of the asylum-process. This presupposes that migrants eligible for return also leave the country. The number of returns from Sweden was comparatively low during 2006 as a result of the temporary law, in force from 15th November 2005 – 31st March 2006, giving persons with return decisions the possibility to have their cases re-assessed. During 2006, the government assigned the Swedish Migration Board to develop and improve cooperation with other relevant authorities in order to make the return-process more efficient. The Migration Board was also granted additional funding in order to finance measures for return in cooperation with national and international organisations. In the **United Kingdom**, the Prime Minister's "[Tipping the Balance](#)"⁹⁰ target, which is to remove more failed asylum seekers than had entered and had made unfounded claims, was met for the first time over the full year of 2006, with a total of 18.235 asylum seekers, including dependants, removed.

4. IMPLEMENTATION OF EU LEGISLATION

Generally, all Member States were very active also in the transposition of EU legislation. In some cases (e.g. **Belgium, Greece**), the transposition of EU legislation into national law included also other national measures incorporated into the same Bill, whilst, for others (e.g. **Germany, The Netherlands, United Kingdom**) new national legislation was sometimes not required as the EU measures were already incorporated in existing legislation. In **Austria**, it was the new *Niederlassungs- und Aufenthaltsgesetz*, the *Fremdenpolizeigesetz* and the *Asylgesetz*, which transposed relevant EU legislation into national law. For **Germany**, whilst preparatory works on a bill to implement eleven directives had begun and a first draft bill presented in March 2005, the dissolution of the German Bundestag and the subsequent elections, resulted in a suspension. The European Commission, who had begun infringement proceedings on a number of directives, were also formally requested to suspend the

⁹⁰ See <http://press.homeoffice.gov.uk/press-releases/asylum-removals-figures?version=1>.

proceedings in light of the elections. Following the establishment of a new Federal government, this was re-initiated but was not yet completed by the end of 2006.

In terms of EU legislation concluded in 2006, of particular note are:

- Council Decision [2006/688/EC](#) of 5 October 2006 on the establishment of a **mutual information mechanism** concerning Member States' measures in the areas of asylum and immigration; and
- Council Decision [2006/188/EC](#) of 21 February 2006 on the conclusion of the Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for **determining the Member State responsible for examining an asylum application** lodged in one of the Member States by a third-country national and Council Regulation (EC) No 2725/2000 concerning the establishment of Eurodac for the comparison of fingerprints for the effective application of the Dublin Convention.

The re-admission agreement with Albania⁹¹ also entered into force on 1st May 2006, and negotiations with Russia and Ukraine were concluded, entering into force during 2007.

This section will focus only on [EU legislation](#)⁹² for which there have been developments, either in its transportation and/or experience in its implementation during 2006. This is then followed by [Table 2](#), which provides an overview of the reported developments during 2006 in transpositions and its equivalence in national law. To begin with, an outline of either the transposition and/or the experience in its implementation for some directives, as reported by a Member State(s), is given.

⁹¹ Details available at [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:22005A0517\(02\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:22005A0517(02):EN:NOT).

⁹² A complete listing of the EU Immigration/Asylum acquis is available from http://ec.europa.eu/justice_home/doc_centre/intro/docs/acquis_1006_en.pdf.

4.1 Council Directives [2000/43/EC](#) of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Council Directive [2000/78/EC](#) of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

These two EU directives on anti-discrimination were finally transposed into law in **Austria** during 2006 and the [Rassismus-Report](#)⁹³ (Report on Racism), published by the NGO ZARA (*Zivilcourage und Anti-Rassismus-Arbeit*), comments on the implementation of EU anti-discrimination legislations. The institutions responsible for the implementation of the directives are the *Gleichbehandlungskommission* (Commission on Equal Treatment), the *Bundesgleichbehandlungskommission* (Federal Commission on Equal Treatment) and the *Gleichbehandlungsanwaltschaft* (Equal Treatment Advocacy). By the end of 2006, only one case of a terminated lawsuit according to the new legislation had been documented. **Greece**, which transposed these directives in 2005 as Law 3304, considers them as a useful tool towards a migrants' gradual social and labour market integration.

4.2 Council Directive [2003/9/EC](#) of 27 January 2003 laying down minimum standards for the reception of asylum seekers

In **Belgium**, the government bill on the reception of asylum seekers and certain other categories of aliens (reception law) has been adopted by the Chamber of Representatives on 23rd November 2006 and referred to the Senate on 25th November 2006 for confirmation. This brings together, for the first time since the creation of the first reception centre, the rules on material assistance in one single law. Until its final adoption, the rules for rendering material assistance to asylum applicants is given in the Public Social Welfare Act (Law of 8 July 1976).

4.3 Council Directive [2003/86/EC](#) of 22 September 2003 on the right to family reunification

The most important change in transposing this Directive in **Estonia** was in an amendment to its *Aliens Act*, modifying the conditions for issuing a residence permit for settling with a spouse. This amendment came into effect in June 2006. A temporary residence permit is now issued to a third country national either (i) to settle with their spouse who resides in Estonia permanently and who is an Estonian citizen; or (ii) to settle with their spouse who also is a

⁹³ Available from <http://www.zara.or.at/materialien/rassismus-report/rassismus-report-2006.pdf>.

third country national but who has resided in Estonia for at least two years (previously five years) on the basis of a residence permit, as long as they have a stable, and not fictitious, (marital) relationship, and that the application for a residence permit is justified.

In **Germany**, many of the provisions on family reunification in the *Immigration Act* are already based on the Directive. A few marginal additions to the *Residence Act* are necessary, such as a specification of the length of validity of residence permits for family members, which is currently provided by administrative practice. The pending change in the Residence Act is intended primarily to provide better protection against forced marriage for young migrants by specifying a minimum age for subsequent immigration of spouses.

4.4 Council Directive [2003/109/EC](#) of 25 November 2003 concerning the status of third-country nationals who are long-term residents

This became directly effective in **Belgium** as from 24th January 2006. In practice, this entitles migrants, who have been continuously and legally residing within the territory for at least five years, to reside for an indefinite period. The main advantage is considered to be that the migrant concerned is then able to acquire residence status in another Member State and has access to its labour market and social rights. A government bill inserted a new Article 15b into the *Aliens Act*, in which the conditions and the field of application regarding the new status are defined. Its full transposition was expected to occur only in the Spring of 2007.

With the adoption of this directive in **Estonia**, the concept of long-term residency replaced a permanent residence permit. One of the main changes was that retired military personnel of the Soviet Army could now also apply for a long-term residence permit, which was not the case previously.

In **The Netherlands**, the necessary amendments to the *Aliens Act 2000*, the *Aliens Decree 2000* and the *Aliens Act Implementation Guidelines 2000* in order to implement this Directive in national primary and secondary legislation was delayed. The factors that caused the delay included the lengthy process of obtaining opinions and other legislative projects with greater priority. The temporary Regulation for third country nationals who are long-term residents (*tijdelijke regeling langdurig ingezetenen derdelanders*) was published in the State Bulletin of Acts and Decrees on 3rd October 2006, and the Directive was finally implemented in Dutch legislation on 1st December 2006.

4.5 Directive [2004/38/EC](#) of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

This became directly effective in **Belgium** as from 1st May 2006. A circular letter from 10th May 2005 (published in the Belgian Official Gazette on 26 May 2006) regulates practical matters concerning this directive, until its legal transposition. In **Germany**, this is contained within the *Freedom of Movement Act for EU Nationals* (since promulgated into Article 2 of the *Immigration Act*) where also other adjustments were incorporated; namely, relating to the definition of family members, expansion of the right of permanent residence, the creation of provisions on its continuation during long-term absence from German territory, and the continuation of the right of residence for family members after the person concerned dies or moves away (EU citizens), while simultaneously avoiding “chains” of subsequent immigration by family members.

For **Ireland**, non-EU family members (defined as spouse, child, dependant relative, other family member requiring the personal care of the EU citizen on health grounds, member of the household of the EU citizen, partners of European Union citizens who are in a 'durable relationship'⁹⁴) must apply for a Residence Card. The *Immigrant Council of Ireland* and the *Migrant Rights Centre Ireland* both reported that many applications for residence made by non-EU/EEA family members of EU citizens have been refused since the introduction of the EC (Freedom of Movement of Persons) Regulations 2006. The applications were refused on the grounds that the family member did not previously reside legally in another Member State with the EU citizen prior to applying for residence in Ireland (as is a requirement under article 3(2) of the 2006 Regulations). A number of High Court challenges have been lodged, arguing that the requirement is not valid in EC law and that the 2006 Regulations have not correctly transposed the Directive.

The Netherlands implemented this Directive into national legislation by amendments to the Aliens Decree 2000. The necessary amendments were published in the State Bulletin of Acts and Decrees on 29th April 2006. For citizens of the EU who want to reside for more than 3 months, a registration duty was introduced to implement this Directive, with registration taking place within the *Immigratie- en Naturalisatiedienst* (Immigration and Naturalisation

⁹⁴ The Immigrant Council of Ireland has expressed its concern over the lack of definition as to what constitutes a durable duly attested relationship under the 2006 Regulations.

Service). Family members who are not themselves nationals of the EU/EEA or Switzerland are still obliged to lodge an application for obtaining a residence permit for a family member of an EU citizen. With regard to the provisions in the Directive for acquiring permanent residence rights, the facility has been created to lodge an application for the granting of a permanent residence permit for family members of EU nationals.

4.6 Council Directive [2004/83/EC](#) of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted

In **Germany**, the core elements of this so-called *Qualification Directive* have already been included in the Immigration Act. They include taking into account non-state and gender-specific persecution within the framework of recognising refugees and the use of exclusion clauses in the case of liability to punishment within the framework of the provision of subsidiary protection. However, complete transposition of the Directive still requires a series of specific amendments to the *Asylum Procedure Act* and the *Residence Act*. Among other things, standards must be set for the recognition of refugee status and the provision of subsidiary protection. These include the concept of internal protection and rules for interpreting grounds for persecution. However, because the majority of the provisions in the Directive correspond to the German legal situation, which is based on case law, enshrining them in laws tends to be declaratory.

This Directive resulted in a range of judgments in **The Netherlands** from the District Courts, particularly with regard to whether this Directive had to be viewed as a relevant amendment of the law; and how Article 15c of the Directive had to be interpreted, including its precise scope, i.e. what defines a domestic or international armed conflict. In December 2006, the Council of State issued an opinion in relation to the required amendments to primary and secondary legislation. Once the Council of State and the Minister had applied themselves to the most efficient method of implementation, the legislative bill was submitted to the House of Representatives in January 2007.

4.7 Council Directive [2004/114/EC](#) of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service

The vast majority of the provisions within this Directive have no consequences for the existing system in **The Netherlands**, as they already coincide with existing primary and secondary legislation. The main reason for this is that a code of conduct for international students in Dutch higher education came into effect on 16th May 2006, as a supplement to the existing statutory framework (the law relating to foreign nationals). In light of the aims of the Directive, the government no longer considers which institutions qualify for admission of foreign students, but rather the vocational group itself, through a system of self-regulation. However, the code of conduct does oblige the educational institutions to check, in advance of the admission for educational purposes, whether the international student has the requisite level of linguistic skills for the educational programme. With regard to the optional provisions in the directive, **The Netherlands** has chosen not to implement these.

Table 2: Overview of equivalent national laws which have been (*in force*), or steps taken in order to begin to be (*not yet passed*), implemented during 2006 in order to transpose EU legislation. Note that this summarises only the changes or developments which occurred in 2006.

EU legislation	Equivalent National Law (status)
Directive 2001/51/EC (Schengen Agreement)	<p>Austria: Aliens' Police Act 2005 (<i>in force</i>)</p> <p>Latvia: amendments to the Immigration Law; to the Latvia Code of Administrative Offences and the Regulations on "Procedures by which Expenses Related to the Expulsion, Detention and Keeping under Guard of an Alien shall be Determined and Recovered" (<i>in force</i>)</p>
Directive 2001/55/EC (Temporary Protection)	<p>Austria: Asylum Act 2005 (<i>in force</i>)</p> <p>Estonia: Granting Aliens International Protection Act (<i>in force</i>)</p> <p>Greece: Presidential Decree 80/2006 (<i>in force</i>)</p> <p>Latvia: amendments to the Asylum Law and to the "Regulations Regarding Work Permits to Foreign Nationals" (<i>in force</i>); plus amendments to the "Law of Protecting Children's Rights"; and "Regulations on Identification Documents for an Individual having been Granted Alternative Status, and Identification Certificates for an Individual having been Granted Temporary Protection." (<i>not yet passed</i>)</p>
Directive 2003/9/EC (Reception Conditions)	<p>Austria: Asylum Act 2005 (<i>in force</i>)</p> <p>Belgium: Reception Law (<i>not yet passed</i>)</p> <p>Estonia: Granting Aliens International Protection Act (<i>in force</i>)</p> <p>Germany: Asylum Procedure Act (two changes required to Act, <i>not yet passed</i>)</p> <p>Latvia: The Asylum Law; "Regulations regarding Personal Identity Documents of Asylum Seekers and Procedures for Issuance Thereof"; "Regulations on the Amount to Cover the Cost of Food, Hygiene and Basic Necessities Items for Asylum Seekers and the Procedure of Reimbursement" (<i>in force</i>); draft law "Amendments to the Law of Protecting Children's Rights" (<i>not yet passed</i>)</p> <p>Portugal: Law 20/2006 (<i>in force</i>)</p>
Directive 2003/86/EC (Family reunification)	<p>Austria: Residence and Settlement Act, plus Asylum Act 2005 (<i>in force</i>)</p> <p>Belgium: Reform of Aliens Act, Laws of 15 September 2006 (<i>in force</i>)</p> <p>Estonia: Aliens Act (<i>in force</i>)/Granting Aliens International Protection Act (<i>in force</i>)</p> <p>Germany: Immigration and Residence Acts (once adopted)</p> <p>Greece: Presidential Decree 131/2006 (<i>in force</i>)</p> <p>Latvia: draft law "On Asylum in the Republic of Latvia"; plus amendments to the Immigration Law; and to the Regulation "Procedures by which Refugee Family Reunification, as well as Family Reunification of Such Person who has been Granted Alternative Status is Performed in the Republic of Latvia" (<i>in force</i>)</p> <p>Portugal: Bill on Immigration (<i>not yet passed</i>)</p> <p>Sweden: Aliens Act 2006 (<i>in force</i>)</p>
Directive 2003/109/EC (Long-term residents)	<p>Austria: Residence and Settlement Act 2005 (<i>in force</i>)</p> <p>Belgium: Article 15b Aliens Act (<i>Law has passed but not yet the implementing orders</i>)</p> <p>Estonia: Aliens Act (<i>in force</i>)</p> <p>Germany: Residence Act (<i>not yet passed</i>)</p> <p>Greece: Presidential Decree 150/2006 (<i>in force</i>)</p> <p>Latvia: amendments to the "Law on Support for the Unemployed and Job Seekers"; to the Immigration Law; "On the Status of a Permanent Resident of the European Union in the Republic of Latvia"; plus amendments to the Regulations regarding "Work Permits to Foreign Nationals"; "State Fees for the Examination of Documents necessary for an Application for a Visa, a Residence Permit or a Long-term Resident Status of the European Community in the Republic of Latvia and Services related" (<i>in force</i>).</p> <p>The Netherlands: amendments to the Aliens Act 2000, the Aliens Decree 2000 and the Aliens Act Implementation Guidelines 2000 (<i>in force</i>)</p> <p>Portugal: Bill on Immigration (<i>not yet passed</i>)</p> <p>Sweden: Aliens Act 2006 (<i>in force</i>)</p>
Directive 2003/110/EC (Removal by air)	<p>Austria: Aliens Police Act 2005 (<i>in force</i>)</p> <p>Estonia: Obligation to Leave and Prohibition on Entry Act (<i>in force</i>)</p> <p>Latvia: "Regulations regarding Procedures by which the Republic of Latvia Receives and Renders Assistance to Member States of the European Union and the Schengen Treaty Countries and Cases of Forced Return by Air, Amount of Assistance Thereof and Procedures for Organisation of Joint Flights"</p>

	among Member States of the European Union and the Schengen Treaty Countries” (<i>in force</i>). Portugal: Bill on Immigration (<i>not yet passed</i>)
Directive 2004/38/EC (Free movement)	Austria: Aliens Police Act 2005 (<i>in force</i>) Belgium: <i>In force</i> Estonia: Citizen of the EU Act (<i>in force</i>) Germany: Article 2 of Immigration Act (<i>not yet passed</i>) Ireland: European Communities (Free Movement of Persons) Regulations 2006 (<i>in force</i>) Latvia: Regulation “Procedures by which Citizens of the Member States of the European Union, the European Economic Area Countries, the Swiss Confederation and Their Family Members shall Enter and Stay in the Republic of Latvia”; Amendments to the "Medical Treatment Law"; and to the Regulations on “Procedure for Granting, Repaying and Forgiving Student Loans if Credit Institutions Receive Assurance from the State”; "On the State Fees for the Examination of Documents necessary for an Application for a Visa, a Residence Permit or a Long-term Resident Status of the European Community in the Republic of Latvia and Services related” (<i>in force</i>); plus amendments to the "Immigration Law”; and the "Law on Support for the Unemployed and Job Seekers” (<i>not yet passed</i>). The Netherlands: Amendments to the Aliens Act 2000 and the Aliens Decree 2000, plus the Social Security Act, Education Credit Facilities Act 2000 and the Education Reimbursement Act (<i>in force</i>). Portugal: Law 37/2006 (<i>in force</i>) Sweden: Aliens Act 2006 (<i>in force</i>)
Directive 2004/81/EC (Trafficking)	Austria: Residence and Settlement Act 2005 (<i>in force</i>) Belgium: Reform of Aliens Act, Laws of 15 September 2006 (<i>in force</i>) Estonia: <i>Not yet passed</i> Germany: Residence Act (<i>not yet passed</i>) Greece: Law 3386/2005 (<i>in force</i>) Latvia: amendments to the Law “On Stay of the Victims of Human Trafficking in Latvia”; to the Immigration Law; to the “Regulations Regarding Work Permits to Foreign Nationals”; and “Residence Permit Regulations” (<i>in force</i>). Portugal: Bill on Immigration (<i>not yet passed</i>)
Directive 2004/82/EC (Passenger data)	Austria: Aliens Police Act 2005 (<i>in force</i>) Estonia: State Borders Act (<i>in force</i>) Latvia: amendments to "Latvia Code of Administrative Offences" and to the "Law On Aviation" (<i>in force</i>) The Netherlands: amendments to the Aliens Act 2000, the Aliens Decree 2000 and the Aliens Act Implementation Guidelines 2000 (<i>not yet passed</i>) Portugal: Bill on Immigration (<i>not yet passed</i>) Sweden: Aliens Act 2006 plus new law on passenger registers (<i>in force</i>).
Directive 2004/83/EC (Qualification directive)	Austria: Asylum Act 2005 (<i>in force</i>) Belgium: Reform of Aliens Act, Laws of 15 September 2006 (<i>in force</i>) Estonia: Granting Aliens International Protection Act (<i>in force</i>) Germany: Immigration/Asylum Procedure/Residence Acts (<i>not yet passed</i>) Ireland: Refugee Act 1996 and S.I. No. 518 of the European Communities (Eligibility for Protection) Regulations, 2006 give interim effect to the provisions of the Qualification Directive. It is expected that the forthcoming Immigration, Residence and Protection Bill will incorporate the Qualification Directive into primary legislation. Latvia: Draft Law “On Asylum in the Republic of Latvia”; and amendments to the "Law on Social Services and Social Assistance"; "Law on Support for the Unemployed and Job Seekers"; "Law of Protecting Children’s Rights" (<i>not yet passed</i>); plus amendments to "Medical Treatment Law" and to the Regulation regarding "Work Permits for Foreign Nationals." (<i>in force</i>) The Netherlands: Amendments to Aliens Act 2000 and the Aliens Decree 2000 (<i>not yet passed</i>) Portugal: In preparation, <i>not yet passed</i> . Sweden: In preparation, <i>not yet passed</i> . United Kingdom: The Refugee or Person in need of International Protection (Qualification) Regulations 2006 and the Statement of Changes to the Immigration Rules, Cm 6918.
Directive 2004/114/EC (Students directive)	Austria: Residence and Settlement Act 2005 (<i>in force</i>) Belgium: No changes required. Estonia: In preparation, <i>not yet passed</i> .

	<p>Germany: Residence Act (<i>not yet passed</i>)</p> <p>Latvia: amendments to the Regulations regarding "Work Permits to Foreign Nationals"; to the "Immigration law" and to the "Law on General Education".</p> <p>The Netherlands: No changes required.</p> <p>Portugal: Bill on Immigration (<i>not yet passed</i>)</p> <p>Sweden: Aliens Act 2006 (<i>in force</i>)</p>
<p>Directive 2005/71/EC (Researchers directive)</p>	<p>Austria: Residence and Settlement Act 2005 (<i>in force</i>)</p> <p>Estonia: In preparation, <i>not yet passed</i>.</p> <p>Germany: Residence Act (<i>not yet passed</i>)</p> <p>Latvia: amendments to the "Law on Science Activity" (<i>in force</i>) and "Immigration Law" (<i>not yet passed</i>).</p> <p>The Netherlands: Regulations for Highly-Skilled Migrants, <i>Kennismigrantenregeling</i> (<i>in force</i>)</p> <p>Portugal: Bill on Immigration (<i>not yet passed</i>)</p>
<p>Directive 2005/85/EC (Refugee status)</p>	<p>Austria: Asylum Act 2005 (<i>in force</i>)</p> <p>Belgium: Reform of Aliens Act, Laws of 15 September 2006 (<i>in force</i>)</p> <p>Estonia: Granting Aliens International Protection Act (<i>in force</i>)</p> <p>Germany: Included in German law, some changes to Asylum Procedure Act.</p> <p>Ireland: Opted-in, full transposition expected December 2007.</p> <p>Latvia: Drafts on "Law On Asylum in the Republic of Latvia" and Regulation on "Responsibilities of an Individual Representing a Minor Unaccompanied by Parents, Procedure for Appointing and Removing as well as Reimbursing such a Representative, and the Amount of Reimbursement and Accountability Expected." (<i>not yet passed</i>)</p> <p>The Netherlands: Amendments to Aliens Act 2000 and the Aliens Decree 2000 (<i>not yet passed</i>)</p> <p>Portugal: In preparation, <i>Not yet passed</i>.</p> <p>United Kingdom: EU measures are already incorporated in existing national legislation.</p>
<p>Regulation 562/2006 (Schengen Border Code)</p>	<p>The Netherlands: Amendment to The Aliens Act Implementation Guidelines (<i>in force</i>)</p> <p>Sweden: Entered into force October 2006.</p>