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ESTONIAN ACADEMY OF SECURITY SCIENCES
CENTRE FOR MIGRATION STUDIES
EUROPEAN MIGRATION NETWORK

Migration and Asylum Policy 2011– Estonian Report



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Tallinn 2012

The European Migration Network (EMN) is a network founded by the European Commission in 2003 and is financially supported by the Commission. According to the Council Decision 2008/381/EC, the aim of the EMN is to provide for the Community institutions and authorities as well as organisations of the Member States, updated, objective, reliable and comparable data on migration and asylum issues with the purpose of supporting the European Union policy-making in these areas. Furthermore, disseminate information on these issues to the public. The documents prepared by the Estonian Contact Point for the European Migration Network are based on public and available data and might not always represent Estonia's national position. Estonian National Contact Point for communicating with the European Commission is located at the Centre for Migration Studies at the Estonian Academy of Security Sciences.

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Summary

In 2011, the most discussed issue in the field of immigration was the problems related to the misuse of residence permits. This brought along parliamentary debates as well as initiatives for amending the Aliens Act. Namely, in 2011, an unusually large number of residence permit applications were submitted for employment as a member of a managing body of a company and applications for residence permits in case of a sufficient legal income. After analysing the situation, it appeared that due to the fact that it is easy to meet the conditions for granting residence permits under these grounds, the obtained residence permits were not used for their intended purpose.

Granting residence permits in Estonia is limited with the immigration quota and the number of applications for residence permits increased drastically in 2011, exceeding the immigration quota established by the Government of the Republic for the year 2011 (1,008), whereas a disproportionately large number of residence permits were granted for employment as a member of a managing body of a company. An unusually large number of applications were also submitted on the basis of sufficient legal income (2010: 58 applications, in 2011: 152 applications). When the problem arose, the Minister of the Interior established with his regulation that entered into force on 11 July, that the residence permits for employment as a member of a managing body of a company that are subject to the immigration quota would no longer be granted in 2011. Additionally, the Government of the Republic considered it to be necessary to increase the immigration quota up to the maximum rate established in the Aliens Act, which is 0.1% of the permanent population of Estonia. Thus, the new immigration quota established was 1,344.

Although parliamentary elections also took place in Estonia in 2011, the migration and asylum issues were not a focus of any party during the pre-election debates and therefore these elections did not bring along any significant changes in the Estonian migration and asylum policy. The coalition was formed by the Estonian Reform Party and the Pro Patria and Res Publica Union that had been in power together already since the year 2009 and their new governance program did not foresee significant changes in the migration and naturalisation policy of the country. Coming of international students and top specialists to Estonia is still favoured and the policy is against mass importing of unskilled workers.

In order to facilitate bringing highly qualified employees to Estonia, Estonia transposed into its legislation the Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (the so-called EU Blue Card Directive). In order to prevent illegal employment, Estonia transposed into its legislation the Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals. This brought along changes in the Penal Code that from now allows imposing a criminal penalty on employers that repeatedly allow illegal employment. Although the events in North Africa that took place in 2011 have not posed a threat to the Estonian external border, the number of persons of African origin has significantly increased among the irregular immigrants also in Estonia. While during the years 2007-2009, the majority of irregular immigrants were of Asian (Afghanistan, Palestine) origin and citizens of the CIS countries,

then in 2011, 34% of the irregular immigrants were of CIS origin, 31% of African origin, 16% were citizens of the Russian Federation and 19% of Asian origin.

The main types of irregular immigration were the misuse of visa and submission of falsified documents. While in 2010, 16 cases of a person wishing to enter the country with a falsified document were discovered, then in 2011, there were already 52 cases. The falsified travel documents are used first and foremost by aliens of African origin. Generally, they try to enter by using a falsified EU residence permit and in the event the falsification is discovered, an application for asylum is filed to the border guard officials. In 2011, asylum was applied for at the border in 33 cases, which 64% more than in 2010.

According to the Police and Border Guard Board, in total 66 persons applied for international protection in Estonia – this is over twice as much as during the previous year (30). The largest number of asylum applicants came to Estonia from the Democratic Republic of the Congo (11 persons). In general, the applicants from African countries formed one third of the total number of applicants. International protection was granted to 11 persons – 8 persons were granted the status of refugee and subsidiary protection was given to 3 persons.

In the field of border security, Estonia continued implementing the integrated border management and solidarity principles in guarding the European Union external border. In integrated border management, Estonia contributed first and foremost into the development of the European Union external border in 2011, using the funds of the European external border fund. Furthermore, contributions were made to international cooperation and eliminating border crossing queues.

New type of surveillance technology (Smartdec) was installed at the temporary control line between Estonia and Russia. The technology consists of portable sensors and software equipped with different transmitters. The new technology adapts easily to the environment, is cost-effective and does not require frequent maintenance. With the help of the new surveillance technology 14 border incidents were discovered and more than 250,000 smuggled cigarettes were seized in 2011.

In order to alleviate the long border queues at the Eastern border of Estonia, a common border crossing queue information system was introduced on 1 August 2011. The information system allows planning the time of crossing the border and the border crossers no longer have to wait in the live queue.

In the field of return, one of the most important events for Estonia in 2011 was the signing of the bilateral readmission agreement implementation protocol with the Russian Federation. The implementing protocol also concerns the bilateral cooperation between Estonia and Russia in sending aliens back to the country of his or her citizenship or residence. The implementation protocol of the readmission agreement was additionally concluded with Serbia in 2011.

In the field of visa policy, implementation of Articles 32(3) and 34(7) of the European Union Common Visa Code from 5 April 2011 brought to the Aliens Act provisions foreseeing the visa contestation proceedings. Additionally, as of 11 October, Estonia joined the Schengen common visa information system's (VIS) central database.

1. Introduction: Purpose and Methodology Followed

In accordance with Article 9(1) of Council Decision 2008/381/EC¹ establishing the European Migration Network (EMN), each EMN National Contact Point is required to provide a report describing the migration and asylum situation in the relevant member state, give an overview of the policy developments and statistical data of the area in question. The EMN report shall provide an overview of the most significant political and legislative (including EU) developments, as well as public debates, in the area of migration and asylum. Each Member State shall document the state of implementation of European Union (hereinafter the EU) legislation and the impact of European policy developments at national level. Secondly, country-specific significant developments (political, legal, administrative, etc.) in the area of migration and asylum shall be described by each Member State. Thirdly, Member States are asked to comment on relevant debates.

This report is the 2011 report on migration and asylum policy of Estonia prepared within the framework of EMN the aim of which is to give an overview of Estonian migration and asylum policy – the most important legal, administrative and political changes. The main focus lies on the performance of the goals set forth for the member states in the European Pact on Immigration and Asylum² (Pact) and the Stockholm program³ in Estonian context.

This report is the sixth migration and asylum policy report prepared by the EMN Estonian National Contact Point. Therefore this report also gives a brief overview of the institutions and legal acts that regulate migration and asylum issues in Estonia, more detailed overview is presented in the reports of previous years and in the study “Organisations involved in migration and asylum issues in Estonia”.⁴

This report enables policy-makers, researchers as well as broader public to understand better the events in Estonia and to analyse them, to obtain a better overview of the situation and thereby make better decisions when forming Estonian migration and asylum policy.

This report consists of ten chapters according to the specifications of *MIGRAPOL Doc 208* compiled by the European Commission and EMN. The first part of the report describes the aim of the report and the methodology of its compilation. The next two chapters give an overview of the main political and legal changes in the year 2011 and the most important institutional changes in institutions involved in migration and asylum issues. Additionally, the third chapter discusses debates in the media on migration issues. Chapters four to ten set forth the most important developments in the field of legal as well as irregular migration in Estonia in the light of the Euro-

¹ OJ L 131, 21.5.2008, p. 7–12

² European Pact on Immigration and Asylum, Brussels 24.09.2008, <http://register.consilium.europa.eu/pdf/en/08/st13/st13440.en08.pdf>

³ OJ C 115, 4.5.2010, p. 1–38

⁴ Organisations involved in migration and asylum issues in Estonia. Academy of Security Sciences EMN Estonian Contact Point, Tallinn 2012, www.sisekaitse.ee/erv

pean Pact on Immigration and Asylum and goals set forth in the Stockholm programme. The fourth chapter focuses on legal migration and integration, fifth chapter on irregular immigration and return, sixth chapter on border control and co-operation with other countries. Issues related to international protection and unaccompanied minors are discussed in chapters seven and eight. The ninth chapter gives an overview of co-operation with third countries for the purposes of favouring legal migration and preventing irregular migration. The last chapter sets forth Estonia's activities in harmonising the European Union legal acts to national legislation.

1.1 Methodology

Methodologically, this report is the so called *secondary desk-research* document, which uses mainly already existing public information. This policy report was compiled on the basis of the information received from different authorities in the field of asylum and migration, such as the Ministry of the Interior, Police and Border Guard Board, Ministry of Justice, Ministry of Culture and Ministry of Foreign Affairs. Furthermore, official public documents and newspaper articles were used. Another important source was the report "Security Policy 2012. Summary of the performance of the "Main Directions of the Security Policy Until 2015"".

The information published in this report is a summary and reflects the most important events in the field of asylum and international protection in Estonia during the reporting period. Therefore, in the interest of clarity, it is recommended to review the Estonian migration and policy reports of the previous periods. Furthermore, the report includes statistical data that is preliminary and may differ from the official statistics, which will be published by institutions later.

1.2 Terminology

The terminology of this report is used in accordance with the respective *acquis* of the EU. The terminology used in this report is in line with the terminology of the EMN Glossary.⁵

⁵ Asylum and Migration Glossary 2.0- A tool for better comparability- produced by the European Migration Network. January 2012. Can be found at : <http://www.emnt.europa.eu>

2. General Structure of Political and Legal System in Estonia

2.1 General Structure of the Political System and Institutional Context

An elaborate overview of organisations involved in managing and organising the migration and asylum policy in Estonia is given in the study “Organisations involved in migration and asylum issues in Estonia” as well as in the migration and asylum policy reports of previous years. These reports can be downloaded from the home page of the Estonian National Contact Point www.sisekaitse.ee/erv. Therefore this chapter sets forth only a summarised list of the main institutions that are involved in the issues of migration and international protection in Estonia.

The migration and asylum policy system and the institutional context in Estonia have generally remained unchanged as compared to the previous years. The migration and asylum policy of Estonia is developed by the Ministry of the Interior, which implements it through the bodies in its area of administration. Since the year 2010 all the migration, international protection and border control issues are handled by one organisation under the administration of the Ministry of the Interior - Police and Border Guard Board (PBGB). The latter was established by joining the Board of Border Guard, Citizenship and Migration Board, Police Board, Central Criminal Police and Personal Protection Service.

The Ministry of Foreign Affairs in co-operation with the Ministry of the Interior develops the visa policy of the country and co-operates with the PBGB in applications for and issue of residence permits and documents in foreign representations of Estonia. The Ministry of Social Affairs with its divisions is responsible for issues related to the accommodation of asylum applicants. The Estonian Unemployment Insurance Fund that is within the area of administration of the Ministry of Social Affairs is responsible for issuing the employers permits for employing citizens of third countries. Issues related to human trafficking continue to be within the capacity of the Ministry of Justice and since the summer of 2009, the integration issues are within the area of responsibility of the Ministry of Culture.

In addition to the governmental authorities, several non-governmental (international) organisations continued their activities with migration, asylum and integration issues in 2011. The Tallinn office of the International Organisation for Migration (IOM) continued with the project “Implementation of voluntary return and re-integration programme in Estonia” (VARRE), which aims to support return of third-country national staying illegally in Estonia to their country of origin. Integration and Migration Foundation Our People (MISA) continues its activities in consultation activities and financial support to migrants. The principal activity of the NGO Omapäi, which was founded in 2010 is ensuring the rights of unaccompanied and/or trafficked children, offering safe reception system and necessary support until the life of the child is organised or he/she leaves the Republic of Estonia.

2.2 General Structure of the Legal System

As compared to the previous years, no significant structural changes took place in the Estonian legal system. The Ministry of the Interior in cooperation with its subdivisions continues to work on the development of legal acts concerning the migration and asylum issues, which are submitted for passing to the Riigikogu. The Constitutional Committee of the Riigikogu is involved in processing all legislation concerning migration, international protection and naturalisation. The Acts passed by the Riigikogu enter into force after the President of the Republic has declared them and they have been published in the State Gazette (Riigi Teataja).

The most important legal acts regulating migration and international protection issues in Estonia are: Aliens Act⁶ that regulates arrival to, stay, residence and employment in Estonia of third-country nationals and the bases for the legal liability of aliens; Granting Aliens International Protection Act⁷ that regulates the bases for granting aliens international protection and the legal status of aliens; Obligation to Leave and Prohibition on Entry Act⁸ that provides for the bases and procedure for deporting aliens from Estonia and establishing a prohibition on entry; and Citizenship Act⁹ that establishes the procedures for obtaining, restoring and surrendering Estonian citizenship. The conditions for stay and residence in Estonia of the citizens of the European Union and their family members are regulated with the Citizen of the European Union Act.¹⁰

⁶ RT I 2010, 3, 4

⁷ RT I 2006, 2, 3

⁸ RT I 1998, 98, 1575

⁹ RT I 1995, 12, 122

¹⁰ RT I 2006, 26, 191

3. General Developments Relevant to Asylum and Migration

3.1. General Political Developments

Two elections took place in Estonia in 2011 – on 6 March 2011 the new Parliament was elected and on 29 August 2011 the President of the Republic of Estonia was elected. During the pre-election debates the migration and asylum issues were not in the focus of any of the parties and therefore these elections did not bring any changes to the Estonian migration and asylum policy.

The Parliamentary elections were won by the party currently in power – the Estonian Reform Party that won 33 mandates in the 101-member Parliament. Three other parties managed to win mandates to the Riigikogu: Estonian Centre Party (26 mandates), Pro Patria and Res Publica Union (23 mandates) and the Social-Democratic Party (19 mandates).

As a result of the parliamentary elections a coalition was formed between the Estonian Reform Party and the Pro Patria and Res Publica Union – these parties have been in power already since May 2009. As a result of the elections, Andrus Ansip from the Reform Party continued as the Prime Minister, the head of the Ministry of the Interior responsible for the migration and asylum issues is Ken-Marti Vaher from the Pro Patria and Res Publica Union and the Ministry of Culture responsible for the integration issues is now lead by Rein Lang from the Estonian Reform Party. The new Government has not foreseen significant changes in the country's migration and naturalisation policy in its activity aims set for the years 2011-2015¹¹. They rather continue current citizenship and immigration policy. The following points have been set forth as important activities in the citizenship and immigration area in the activity program of the coalition for the years 2011-2015:

- 1) In order to improve competitiveness of Estonian economy, we will create a favourable environment for bringing foreign students and top specialists to Estonia. This will facilitate creating research and competence centres in Estonia and ensuring high-quality labour force for the companies;
- 2) we are against massive import of low-skilled foreign labour force;
- 3) the principles of the citizenship policy are not changed.

3.2. Main Political and/or Legislative Debates

The main political and legal debates held during the reporting period concerned misuse of the temporary residence permits. Namely, in the spring of 2011 it was discovered that the annual immigration quota that for the year of 2011 was 1,008 was filled unusually fast. This was due to the reason that an extraordinarily large amount of applications for residence permits were submitted for employment as a member of a managing body of a company. As compared to the year 2010 the number of persons who applied for residence permit for employment as a mem-

¹¹ Pro Patria and Res Publica Union and Estonian Reform Party coalition program. Can be found at: <https://valitsus.ee/UserFiles/valitsus/et/valitsus/tegevusprogramm/valitsuse-tegevusprogramm/Valitsusliidu%20programm%202011-2015.pdf>

ber of a managing body of a legal entity registered in Estonia more than doubled in 2011. While during the previous years approximately 20% of the persons coming to Estonia on the basis of employment migration applied for a temporary residence permit for working as a member of a managing body of a company, then in 2011 the share of applicants under the mentioned conditions rose to 60%.¹² During the supervisory activities by the Police and Border Guard Board, it was discovered that the type of the mentioned temporary residence permit is misused in order to obtain a basis for settling in Estonia or staying in the Schengen area in an easier manner. It was discovered that in many cases, a company is established only for the purpose to obtain the right to apply for the residence permit and there are no actual activities.

During the second half of the year 2011 there were suspicions that there are also cases of misuse of residence permits issued in case of sufficient legal income. As compared to the year 2010, the number of applications for residence permits on that basis had significantly increased in 2011: in 2010 - 58 applications and in 2011- 152 applications.¹³

Additionally, in December 2011, a weekly magazine *Eesti Ekspress* published¹⁴ a list of persons who have obtained a residence permit for enterprise in Estonia, but who might not really be involved in entrepreneurship here. The Police and Border Guard Board carried out a posteriori checks for their residence permits.¹⁵ During the checks the Police and Border Guard Board had a suspicion in 61 cases that the persons do not meet the requirements and obligations established in the law and therefore the Police and Border Guard Board initiated proceedings for declaring the residence permits of these persons invalid.

Due to the above, the Ministry of the Interior initiated amendments to the Aliens Act that should decrease the risk of misuse of residence permits in the coming years in an integral manner, establishing conditions for granting residence permits that allow more efficient preliminary control.¹⁶ Due to the fact that the legal changes take time and the risk of misuse of residence permits still exists, the Minister of the Interior established with his regulation,¹⁷ that during the first half year of 2012 no temporary residence permits for employment as a member of a managing body of a company and temporary residence permits in the case of sufficient legal income will not be granted on the basis of the immigration quota.

¹² Explanatory Memorandum to the Draft Decree of the Government of the Republic "Establishing the immigration quota for 2011." Can be found at :<https://eelnoud.valitsus.ee/main>

¹³ Explanatory Memorandum to the Draft Aliens Act and State Fee Act Amendment Act (12-0238/01). Can be found at :<https://eelnoud.valitsus.ee/main/mount/docList/af30a676-7a6b-424c-b53b-78218abd2455>

¹⁴ "LIST: 147 golden clients of the unbuyables from the Kooli street apartment". *Eesti Ekspress*, 6.12.2011. Can be found at: <http://www.ekspress.ee/news/paevauudised/eestiudised/nimekiri-araostmatute-147-kuldklienti-kooli-tanava-korterist.d?id=62823136>

¹⁵ "Full control of residence permits was started on the basis of the list of *Ekspress*". *Eesti Ekspress*, 6.12.2011. Can be found at: <http://www.ekspress.ee/news/paevauudised/eestiudised/ekspressi-nimekirja-alusel-kaivitati-elamislubade-lauskontroll.d?id=62844216>

¹⁶ Explanatory Memorandum to the Draft "Establishing the time distribution of the 2012 immigration quota within the year by the reason for application for the residence permit and granting the residence permit". Can be found at : <https://eelnoud.valitsus.ee/main>

¹⁷ Regulation No. 5 of the Minister of the Interior dated 01.03.2012 "Establishing the time distribution of the 2012 immigration quota within the year by the reason for application for the residence permit and granting the residence permit". RT I, 07.03.2012, 7

The matter of misuse of the residence permits was also investigated by the special committee of the Riigikogu (Parliament) that will make its conclusions and proposals for improving the system by the summer of 2012.

4. Legal Immigration and Integration

4.1. Economic Migration

4.1.1 National Developments

Misuse of Residence Permits for Employment

In 2011, a massive misuse of residence permits for labour migration was discovered in Estonia. Estonia has established an annual immigration quota, which includes mostly citizens of third countries that come to work in Estonia. For the year 2011, the Government of the Republic established 1,008 persons as the immigration quota, which equals to 0.075% of the permanent population of Estonia (the maximum allowed by the law is 0.1% of the permanent population).

Already in spring the Police and Border Guard Board noticed that the immigration quota is filled unusually fast due to the fact that there have been an exceptional number of applications for residence permits for employment as a member of a managing body. According to the data of the Ministry of the Interior, 338 temporary residence permits for employment as a member of a management body of a company were granted in 2009, in 2010 the number was already 612. As on July 2011, there were already 580 persons who had been granted a residence permit for employment as a member of a management body of a company on the basis of the immigration quota.

Due to that there was a risk that due to the fast reaching of the immigration quota with the members of managing bodies, there would have been no opportunity to apply for a temporary residence permit on other grounds. When the problem was discovered, the Minister of the Interior established with his regulation that entered into force on 11 July, 580 as the limit for the residence permits for employment as a member of a management body, due to which no more residence permits for employment were granted under these grounds in 2011. Additionally, the Government of the Republic considered it necessary to increase the immigration quota up to the maximum established in the Aliens Act, which is 0.1% of the permanent population of Estonia. Thus the new immigration quota was established as 1,344 (increased by 336 or 33%).

During the a posteriori control of the residence permits the Police and Border Guard Board discovered several cases of misuse of the law, where a company had been founded for the purposes of obtaining a residence permit for employment as a member of its managing body. Typically, such company is founded immediately before submitting an application for residence permit and it has no actual business activities. The Police and Border Guard Board initiated the declaration of invalidity of in total 65 residence permits for employment as a member of a managing body of a company due to the fact that it was discovered that holding a residence permit is not justified.¹⁸

Due to the misuse of the residence permits, the Ministry of the Interior started developing the draft of the Aliens Act amendment act the aim of which is to minimize the risk of misuse of the

¹⁸ Vihtla, E. "The PBGB has started proceedings for declaring 65 residence permits invalid". The Police and Boarder Guard Board press release 06.12.2011, www.politsei.ee

residence permits in the future, establish terms and conditions for granting residence permits that allow more efficient preliminary control. According to the assessment of the Ministry of the Interior, it must also be possible to assess the economic activities of the company already during the course of processing the application. Therefore the Ministry of the Interior is considering establishing requirements for the size of the membership fee of the managing body and the previous activities of the person as well as previous economic activities of the company.¹⁹

Additionally, the Ministry of the Interior decided that within the first six months of the year 2012 no residence permits for employment as a member of a managing body of a company or in the case of sufficient legal income will be issued within the framework of the immigration quota due to the fact that issuing the residence permits under such bases is not in public interest. On 19 January 2012, the Government established 0.075% of the permanent population of Estonia as the immigration quota, which is 1,008. During the first half year the immigration quota is 504. During the first half year the planned immigration quota for residence permits for employment, except employment as a member of a managing body of a company is 394, for enterprise 85 and on the basis of international agreements 25.²⁰ The Ministry of the Interior found that entrepreneurs who wish to work in Estonia as members of a managing body of a company may apply for a long-term visa, which gives them the right to stay and work in Estonia for up to six months during a year.

Amendments to the Aliens Act

The amendments to the Aliens Act that entered into force on 19 June 2011 foresee among other things a change with which the requirement for the permit from the Estonian Unemployment Insurance Fund is not applied upon extending the temporary residence permit granted for employment.²¹ Thus the employers are no longer required to contact the Estonian Unemployment Insurance Fund for obtaining a permit if they wish to continue an employment relationship with an alien who has obtained a residence permit for employment at the mentioned employer and whose residence permit must now be extended.

On 1 July 2011, amendment of section 285 of the Aliens Act entered into force. The amendment updated the notification obligation of employers in the event an alien has obtained a temporary residence permit for employment. Namely, the employer is from now on required to inform the Police and Border Guard Board also if the alien starts work or if the alien fails to start work. Previously the Act provided that if an alien has acquired a temporary residence permit for employment, the employer has the obligation to notify the PBGB in writing within one week: 1) of the changes in the conditions of employment; 2) of the premature termination of the contract and 3) of the termination of the employment relationship.

¹⁹ Explanatory Memorandum to the Draft Aliens Act and State Fee Act Amendment Act (12-0238/01). Can be found at :<https://eelnoud.valitsus.ee/main/mount/docList/af30a676-7a6b-424c-b53b-78218abd2455>

²⁰ "Establishing the time distribution of the 2012 immigration quota within the year by the reason for application for the residence permit and granting the residence permit". RT I, 07.03.2012, 7

²¹ Aliens Act § 177 (3), RT I 2010, 3, 4

4.1.2 Developments from the Perspective of the European Union

The European Pact on Immigration and Asylum establishes that one of the aims of the member states related to economic migration must be improving the attractiveness of the EU for highly qualified employees and increase facilitating of accepting students and scientists. In its immigration policy Estonia follows that principle. The Action programme of the Government 2011-2015 states as one of the activities creating a favourable environment for bringing international students and top specialists for the purposes of improving competitiveness of Estonian economy²². As one of the measures for achieving that aim, Estonia transposed the Council Directive 2009/50/EC²³ (so called EU Blue Card Directive). The EU Blue Card Directive was adopted with the purpose of promoting a more competitive and dynamic and knowledge-based European Union economy by attracting highly qualified employees from third countries.

The changes arising from the EU Blue Card entered into force within the Aliens Act on 19 June 2011 i.e. on the date established in the Directive. The amendments of the law updated the conditions for the residence permit for employment and allowed bringing highly qualified professionals to the country under special conditions. This is an additional basis for inviting highly qualified professionals to Estonia, because the current regulation that was updated and simplified in 2008 was aimed at bringing skilled workers to Estonia.

The EU Blue Card is granted for employment in a position that requires high professional qualification. Citizens of third countries have the right to submit the application for the EU Blue Card in Estonia directly to the Police and Border Guard Board. Thus the person has a possibility to come to Estonia on the basis of a visa and start applying for a residence permit here by doing it during no later than one month after entering Estonia. In 2011, the Police and Border Guard Board issued one EU Blue Card.

Conditions for the EU Blue Card:

1. An alien must have higher professional qualification or at least 5 years of professional experience.
 - The compliance of the professional qualification is assessed by the ENIC/NARIC Centre or in the case of regulated positions, another competent authority according to the Recognition of Foreign Professional Qualifications Act. Assessment of the professional qualification must be applied for by an alien or employer before submitting the application for residence permit.
 - The sufficient professional experience is assessed by the Police and Border Guard Board during the course of processing the application for the residence permit.
2. Place of employment where the alien will work must require higher professional qualification.
3. The employer must previously organise a public competition and apply for the permit of the Estonian Unemployment Insurance fund for employing the alien.
4. The employer is required to conclude an employment contract with the period of validity of at least one year or make an employment offer in writing that is binding.

²² Pro Patria and Res Publica Union and Estonian Reform Party coalition program. Can be found at: <http://valitsus.ee/en/government/Programme>

²³ OJ L 155, 18.6.2009, p. 17–29

5. A salary criterion is applied – a fee the amount of which is at least equal to 1.5 times the annual average gross monthly salary, as last published by Statistics Estonia.
 - For the special category of aliens, a regular salary criterion with the coefficient 1.24 is applied²⁴:
 - employment as a top specialist or a supervisor;
 - employment as a top specialist in natural or technical science;
 - employment as a top specialist in health service;
 - employment as a specialist in pedagogics;
 - employment as a specialist in business or administration;
 - employment as a specialist in information or communication or
 - employment as a specialist in legal, cultural or social sphere.
6. The EU Blue Card is issued to an alien for a period that exceeds the period employment ensured by the employer by 3 months, but not for a period longer than 2 years and 3 months. The residence permit can be extended for the maximum period of 4 years and 3 months.

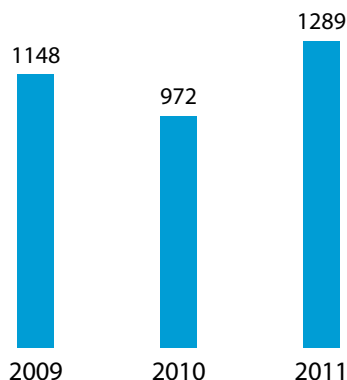
Unlike other citizens of third countries applying for the residence permit for employment in Estonia, the holders of the EU Blue Card have the right to be unemployed for the period of up to three months during the validity of the residence permit. Furthermore, the spouse and children of the holder of the EU Blue Card have the immediate right to submit an application for residence permit for settling in Estonia. In the case of the EU Blue Card holders, the changing of the employer is regulated – if the holder of the EU Blue Card wishes to change the employer within the first 2 years, the new employer needs the consent of the Estonian Unemployment Insurance Fund for employing the alien (the consent of the Unemployment Insurance Fund is not required if the employer is changed later). Upon changing the employer, a new residence permit needs to be applied for. After five years of permanent residence in the EU, of which the last two years have been in Estonia on the basis of the EU Blue Card, the person shall have the right to apply for the long-term resident residence permit as an exception.

4.2 Family Reunification

4.2.1 National Developments

No significant political and legal changes were made to the regulation regarding settling in Estonia for the purposes of family migration in 2011. The family migration policy has been stable throughout the years. Similarly to the previous years, family migration is the most prominent type of migration to Estonia in 2011. In 2011, in total 1289 residence permits were issued for the purposes of family reunification, which is quarter more than the year before (972) (Diagram 1). There is no specific reason for such increase.

²⁴ Aliens Act § 1907 (2), RT I 2010, 3, 4

Diagram 1. Residence permits granted for family migration 2009-2011

Source: Eurostat

4.2.2 Developments from the Perspective of the European Union

The European Pact on Immigration and Asylum emphasises the need for regulating family migration in a more efficient manner, considering the reception possibilities and immigrants' integration possibilities of each member state. In order to regulate family migration better, Estonia has transposed into its national legislation the EU Council Directive 2003/86/EC²⁵ on the right to family reunification, which provides for the rights of the family members who are citizens of third countries to live and stay in a Member State. This directive was transposed to Estonian legislation already in 2006, although many of the principles set forth in the Directive had been in use already earlier. Additional changes arising from that Directive were made to the Aliens Act in 2010.

As is mentioned in the Pact, one of the most important aspects regarding the legal migration is successful integration of the new migrants to the society of the target country. The Stockholm program also sets forth the need to assess and review the EU Council Directive 2003/86/EC, considering the importance of integration measures. Although Estonia has not foreseen special integration measures for immigrants who have obtained a residence permit for the purposes of family migration, these persons have an opportunity to participate in the new immigrants' adaptation program offered by the MISA.

4.3 Other Legal Migration

Since 1 January 2011, Estonia issues a new document to third-country nationals living in Estonia – the residence permit card that verifies a person's right of residence and employment in Estonia. Introduction of the new document is due to application of the new document verifying the right of residence with a new common format in the member states of the EU. The format of the document is established in the Council Regulation 380/2008²⁶ dated 18th April 2008. Due to that the third-country nationals are no longer issued ID cards and residence permit stickers.

²⁵ OJ L 251, 3.10.2003, p. 12–18

²⁶ OJ L 115, 29.4.2008, p. 1–7

Similarly to the ID card that was issued to aliens (including EU citizens) living in Estonia before the year 2011, the residence permit card is a mandatory identity document. The residence permit card is issued to each third-country national that applies for Estonian residence permit, work permit or right of residence, or who are living in Estonia on the basis of a residence permit or right of residence. The residence permit card contains the personal data of the user, data on the residence and work permit, a photo and fingerprints. Principally, the residence permit card has the same functions that the ID card that was issued before, i.e. it can be used for establishing identity and giving a digital signature in an electronic environment.²⁷

The residence permit card is valid up to five years, but not longer than the residence permit or right of residence issued for the person. In order to apply for it, a person needs to contact the Police and Border Guard Board, because the person needs to be fingerprinted for issuing the card. In 2011, in total 25,780 residence permit cards were issued.²⁸

4.4 Integration

4.4.1 National Developments

In 2011, implementing the principles and vision set forth in the Estonian Integration Plan 2008-2013²⁹ was continued in the field of integration. The Estonian Integration Plan 2008-2013 is a development plan that sets forth the bases and goals of the Estonian integration policy and the measures to achieve these goals. The development plan also has an implementation plan that is based on the vision and principles formulated in the Integration Plan, where specific activities are described.

The priorities of the Integration Plan for the years 2011-2013 were approved by the Government of the Republic on 30 June 2011. During the years 2011-2013, the general priority, in addition to the continuing activities, is improving Estonian language learning in schools as well as in informal environment, facilitating contacts and cooperation between people with different mother tongues in order to increase involvement and activeness of people, especially young people in Estonian society. More attention is paid to supporting citizen associations and career counselling of young people. Developing of the common Estonian information space with the aim of decreasing lack of information among non-Estonian speaking population is continuously supported.³⁰ In order to plan the activities aimed at immigrants in a better manner for the coming years and to take their needs into account, monitoring of the Estonian society was carried out, the analysis of which will be prepared in 2012.

The Government is paying an increasing amount of attention to decrease the circumstances that cause high unemployment among ethnic minorities (providing language courses in order to improve competitiveness at the labour market, career counselling for young people etc.).

²⁷ Identity Documents Act § 341-343. RT I 1999, 25, 365

²⁸ Pello, N. "Security policy 2011. Summary of performance of "Main directions of the Estonian security policy until the year 2015". Ministry of the Interior, Tallinn 2012.

²⁹ Estonian Integration Plan 2008-2013, approved with the Decree No 172 of the Government of the Republic dated 10.04.2008, http://www.kul.ee/webeditor/files/integratsioon/Loimumiskava_2008_2013.pdf

³⁰ Cultural Diversity Department Information letter 8/2011. Can be found at :www.kul.ee

This is due to the reason that the unemployment rate among ethnic non-Estonians in the ages of 15-74 continues to be more than twice as high as among Estonians and other EU citizens. Unemployment among third-country nationals and persons with undetermined citizenship has decreased from 21.7% (2010 4th quarter) to 18.3% (2011 4th quarter), but remains *ca* twice as high as among (EU) citizens.

Table 1. Unemployment rate, 2010-2011 (%)

	2010	2011	2010	2011	2010	2011	2010	2011
	1 st quarter		2 nd quarter		3 rd quarter		4 th quarter	
EU citizens	16,5	12,7	15,7	11,2	12,5	9,3	11,9	9,9
... Estonian citizens	16,6	12,6	15,8	11,2	12,5	9,3	11,9	9,9
Third-country nationals and persons with undetermined citizenship	34,5	23,5	32,4	25,2	29,1	19,7	21,7	18,3
TOTAL	19,8	14,4	18,6	13,3	15,5	10,9	13,6	11,4

Source: Data of Statistics Estonia, Labour Force Survey

To improve the competitiveness of non-Estonian speaking population, in 2011, language study opportunities were offered to immigrants living in Estonia (free studies as well as compensation of expenses). The young people are offered, in addition to Estonian studies of the curriculum, additional language learning opportunities in language camps and Estonian language families. As a joint activity between schools, students with immigrant background have the opportunity to visit Estonian cultural and historical locations together with young people with Estonian citizenship in order to obtain knowledge regarding Estonian state, society, culture and history.

4.4.2 Developments from the Perspective of the European Union

Successful integration of third- country nationals living legally in the member states is a key element in bringing the benefit arising from immigration to maximum. In the Stockholm program, the European Council calls to supporting the efforts of the Member States the aim of which is to add the integration issues to all the relevant policy areas in an integral manner and to support integration processes, covering such key issues as introduction and language courses, comprehensive involvement of the receiving community and active participation of the immigrants in all aspects of life. For many years Estonia has been dedicated to integrating third-country nationals into the society, in 2011 those activities continued.

In its activities the Government relies on the Estonian Integration Plan 2008-2013, which is based on the main integration principles of the European Union – by following the main principles of the EU, strengthening the identity of the country, involving inhabitants, providing equal opportunities (in work life and education) and decreasing ethnic isolation, especially in the case of new immigrants. The measures of the Integration Plan are related to 20 different development plans in different areas of activity (education, labour market etc.). Connection with other areas of activity is ensured by the lead group and steering committee of the Integration Plan, which consist of the representatives of the ministries (Ministry of Culture, Ministry of Education and

Research, Ministry of the Interior, Ministry of Social Affairs, Ministry of Finance, Ministry of Foreign Affairs) and representatives of the State Chancellery and implementing institutions such as Estonian Unemployment Insurance Fund, Police and Border Guard Board and MISA.³¹

During the course of preparing the new implementation plan for the Integration Plan for the years 2011-2013, consultations were held with the target groups from different regions of Estonia. In order to involve and consult with the ethnic minorities, the state partners with the Ethnic Minorities Culture Council and Youth Council. A round table works at the Estonian Cooperation Assembly and there are consultation round tables working at the larger municipalities of Estonia.

In 2011, trainings for the adaptation program for new immigrants (citizens of third countries who have settled in Estonia during the last three years) continued. In addition to the Estonian language studies, the program includes the state, society and culture modules. Due to the fact that the demand for the trainings is high, the volume of the program will be increased in the coming years.

Immigrants who have lived in Estonia for more than three years are offered an opportunity to study Estonian free of charge or to obtain compensation for the language study expenses after passing the language exam, and to practice the language in the labour exchange program. In 2011, the MISA compensated the expenses of Estonian studies of 828 persons in the sum of nearly 205,000 Euros with the help of the European Social Fund. Nearly a third of the paid compensations were compensations paid after the B1 level exam, which is required for obtaining Estonian citizenship.³²

Additionally, training program for the support persons of the new immigrants from third countries was organised in 2011. In total 20 mentors were trained, at least one in each county and more in larger cities. Together with the trainings, guidelines for providing the mentors service for the new immigrants were developed. The guidelines will be implemented in 2012.

In addition to languages studies, attempts are made to include people with immigrant background better into the processes of the society. In order to better participate in the society and provide information on such opportunities various cooperative activities and web portals (e.g. etnoweb.ee) of different citizen unions were supported. For example, translation into Russian of the analyses of the election platforms of the political parties was supported from the Integration Plan during the 2011 Riigikogu elections with the aim of informing and including non-Estonian speaking residents into the political debates.³³

³¹ Response letter of the Ministry of Culture to the Academy of Security Sciences EMN Estonian Contact Point dated 21.12.2011

³² With the support of the ESF, the expenses of more than 800 Estonian learners were compensated. The MISA News, 10.02.2012, www.meis.ee

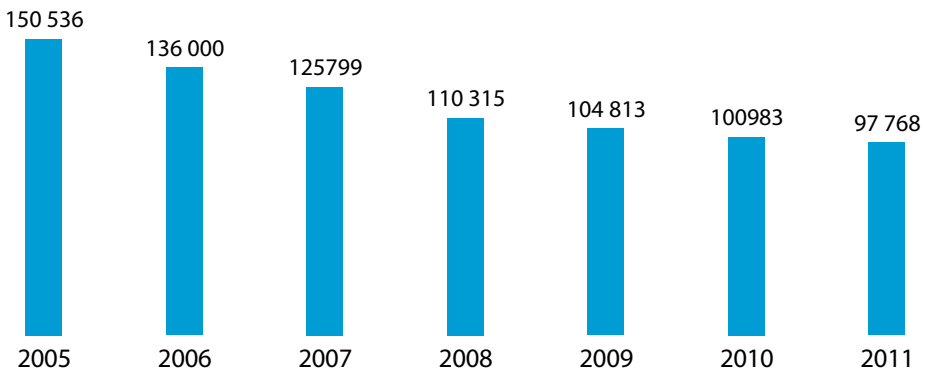
³³ Response letter of the Ministry of Culture to the Academy of Security Sciences EMN Estonian Contact Point dated 21.12.2011

4.5 Citizenship and Naturalisation

The naturalisation policy of Estonia is first and foremost focused on decreasing the number of stateless persons (i.e. persons with undetermined citizenship) living permanently in Estonia – by granting them citizenship through naturalisation. The coalition program of the Res Publica and Pro Patria Union and Estonian Reform Party prepared after the parliamentary elections³⁴ states clearly that the principles of the Estonian citizenship policy will not be changed. They continue to focus on notifying the persons of other countries and stateless persons living in Estonia of the benefits and opportunities of having Estonian citizenship.

Active informing activities regarding the opportunities for obtaining the Estonian citizenship have been carried out already since the year 2008, and one can say that the different information events have served their purpose. By the end of the year 2011, the number of stateless persons living in Estonia on the basis of a valid right of residence or residence permit had decreased to 97,827 persons and this number continues to fall (Diagram 2). In a year, the number of stateless persons decreased by 3,215 persons. 28% of them obtained Estonian citizenship, 23% obtained the citizenship of another country, in the case of 48% the person died and 1% was for other reasons.³⁵

Diagram 2. Number of stateless persons 2007-2011



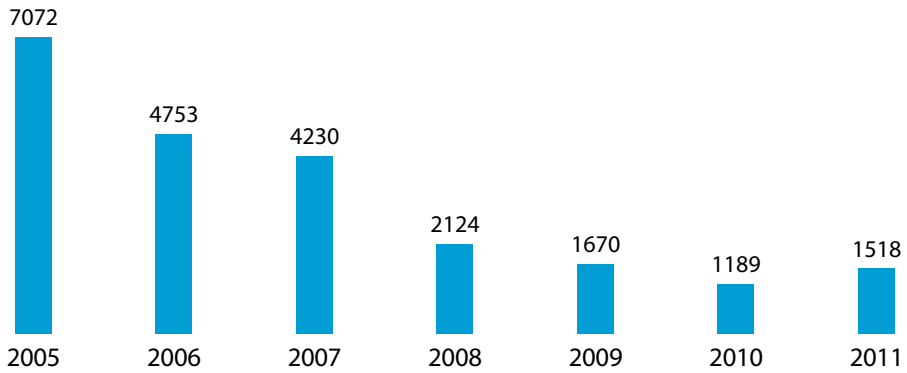
Source: Police and Border Guard Board

In 2011, the Government gave Estonian citizenship to 1,518 persons through naturalisation, which is *ca* 325 more than in the year before (Diagram 3). The overwhelming majority or 1,341 persons were stateless persons before obtaining Estonian citizenship. In total 156 new citizens had previously the citizenship of Russia, 10 of Ukraine and 3 of Kazakhstan. One person who obtained Estonian citizenship had previously been the citizen of Belarus, one of Latvia, one of Lithuania, one of Spain, one of Georgia and one of Ethiopia.

³⁴ Pro Patria and Res Publica Union and Estonian Reform Party coalition program. Can be found at: <http://valitsus.ee/en/government/Programme>

³⁵ Küüt, R. 2011 Overview Police and Border Guard Board. Can be found at : www.politsei.ee

Diagram 3. The number of persons who have obtained Estonian citizenship through naturalisation during the years 2005-2011



Source: Police and Border Guard Board

In 2011, no significant changes were made to the Estonian citizenship policy. However, the Chancellor of Justice proposed the Parliament to change the Citizenship Act in order to bring clarity to cases where a person has erroneously been given the Estonian citizenship. Currently the Citizenship Act states that if the Estonian citizenship has been given erroneously before the year 1995, the person can keep the citizenship, but in the events that occurred after that year, the officials are required to revoke the citizenship. The Chancellor of Justice initiated proceedings after two persons contacted him with that problem in 2011. Furthermore, the media spoke extensively of a case where the state revoked the citizenship of a 15-year-old person who had been given the citizenship due to the mistake of officials. The Constitution Committee of the Parliament supported the proposal of the Chancellor of Justice and found that it is necessary to start proceedings for amending the Citizenship Act. The respective draft act was taken for discussion by the Parliament at the beginning of the year 2012.

5. Irregular Immigration and Return

5.1 Irregular immigration

5.1.1 National Developments

The area of irregular immigration is regulated by the Aliens Act, Obligation to Leave and Prohibition on Entry Act, Citizen of the European Union Act, Granting Aliens International Protection Act and implementing acts established on the basis thereof. The Ministry of the Interior is involved in formulating the irregular immigration policy and the Police and Border Guard Board and the Security Police Board are involved in implementing this policy.

The main activity in combating irregular immigration in the country concerns checking companies operating in different areas of activity (e.g. catering, accommodation, construction etc.), organising patrol raids, checking aliens during the course of processing the residence permit applications and checking information received through other channels regarding aliens potentially staying in Estonia illegally. In order to carry out efficient control, risk analysis of the respective area is prepared and the possible risk sectors are charted to pay more attention to their checking. All proceedings regarding irregular immigrants involve an interview the aim of which is to obtain information on these persons, their origin, route of travelling and means of travelling as well as potential helpers. The aforementioned components are summarised, as necessary, to the relevant products such as risk profiles, travelling routes, means and methods. According to the activity level, these are divided into weekly, monthly, quarterly or half year analyses, risk assessments and overviews. Collecting and analysing such information is systematic and takes place on local, regional and national level, whereas the exchange of information is both vertical and horizontal.³⁶

Although the 2011 events in North Africa have not posed an immediate risk on the external border of Estonia, the number of irregular immigrants of African origin who come to Estonia has significantly increased. While during the years 2007-2009, the majority of the irregular immigrants came from Asia (Afghanistan, Palestine) and the CIS countries, then in 2011, 34% of the immigrants were of CIS origin, 31% of African origin, 16% citizens of the Russian Federation and 19% were of Asian origin.³⁷

In 2011, there were 186 illegal border crossings, 82 of which were related to entering Estonia for the purposes of irregular immigration. As compared to the previous year, the number of border crossings for the purposes of irregular immigration increased by a quarter (61 cases in 2010). Furthermore, the number of irregular immigrants increased from 109 persons in 2010 to 132 persons in 2011 (+17%). By countries of origin the largest number of persons apprehended for illegal border crossing came from Russia (21), Georgia (18) and the Congo DR (16)³⁸.

³⁶ Response letter of the Border Guard Board to the EMN Estonian Contact Point, 9.01.2012

³⁷ Pello, N. "Security policy 2011. Summary of performance of "Main directions of the Estonian security policy until the year 2015". Ministry of the Interior, Tallinn 2012.

³⁸ Ibid.

The main methods of irregular immigration concerned misuse of visa and presenting falsified documents. While in 2010 in total 16 cases where a person wanted to enter the country with a falsified document were discovered, then in 2011, there were already 52 cases (+69%)³⁹. The falsified travel documents are first and foremost used by aliens of African origin. Generally they try to enter by using a falsified EU residence permit and if the falsification is discovered, they submit an asylum application to the border guard officials.⁴⁰ In 2011, asylum was applied for at the border in 33 cases, which is 64% more than in 2010.

5.1.2 Developments from the Perspective of the European Union

The European Pact on Immigration and Asylum has set forth several measures that help ensuring efficient control over irregular immigration. Cooperation, between the Member States as well as with the countries of origin and transit of the immigrant is considered important. Furthermore, each Member State is required to ensure leaving of the immigrant staying illegally in a Member State from the territory of the EU. Voluntary leaving of immigrants is favoured in comparison to forced leaving.

Cooperating and exchange of information in combating against irregular immigration takes place between different organisations in Estonia (with the PBGB, Security Police Board, Criminal Police Board) as well as with the border guard services of the Member States and third countries of the region. For example, in October 2011 a memorandum of mutual understanding was concluded between the Finnish migration service and Estonian Police and Border Guard Board for the purposes of intensifying cooperation in the field of migration and international protection. In September the heads of police of Estonia, Latvia and Lithuania met at Pühajärve to discuss cooperation directions and to establish the priorities for joint activities for the next year. The main topic of discussion of the meeting was exchange of information and cooperation in combating irregular immigration and cross-border crime.⁴¹

In order to improve cooperation with the main source countries of irregular immigration, the bilateral border guard cooperation agreements were renewed in 2011 with the border guards of the Russian Federation and Georgia. The agreements lay grounds for exchange of information and improving activities in preventing irregular immigration. In 2011, Estonia concluded the following cooperation agreements:⁴²

- On 16.08.2011 a border guard cooperation protocol was signed between the Police and Border Guard Board of the Republic of Estonia and the Federal Security Service of the Russian Federation, agreeing among other things on joint activities in the field of irregular migration.
- On 06.10.2011 the 2011-2012 cooperation plan of the Police and Border Guard Board of the Republic of Estonia and the National Border Guard Committee of the Belarus was approved. This document provides among other issues also activities for operative exchange of information and exchanging experiences in cases related to irregular migration.

³⁹ Küt, R. 2011 Overview. Police and Border Guard Board. Can be found at: www.politsei.ee

⁴⁰ Pello, N. "Security policy 2011. Summary of performance of "Main directions of the Estonian security policy until the year 2015". Ministry of the Interior, Tallinn 2012.

⁴¹ Overview of the realization of the activities of the 2011-2015 activity program of the Government of the Republic. Can be found at : http://www.valitsus.ee/UserFiles/valitsus/et/valitsus/tegevusprogramm/valitsuse-tegevusprogramm/Aruanne_2011.pdf

⁴² PBGB response letter to the Academy of Security Sciences EMN Estonian Contact Point, 9.01.2012

- On 05.12.2011 the Police and Border Guard Board of the Republic of Estonia and the Georgian Ministry of the Interior concluded a border guard cooperation agreement the aim of which is to improve exchange of experiences and information with the purpose of preventing irregular migration.
- On 05.12.2011 the border guard department of the Police and Border Guard Board of the Republic of Estonia and the patrol police department of the Ministry of the Interior of Georgia signed a cooperation protocol on return of persons and exchange of information regarding readmission.

An important measure in preventing and combating irregular immigration includes activities of the liaison officers in the countries of origin of illegal immigration. Although the Estonian border guard has no ILOs (*immigration liaison officers*) in other member states or third countries, the interests and needs of Estonia with respect to third countries have been covered in Belarus and Georgia with the joint ILO office of Estonia, Latvia and Lithuania that is represented by an official of the Latvian border service. Sending additional ILOs/ALOs temporarily or permanently to the main source and transit countries of irregular immigration is being considered. So far sending an Estonian representative to these countries has not been possible due to strenuous budget.⁴³

In addition to activities related to cooperation and efficient return mechanisms, the Pact also foresees strict activities and fines for those that abuse immigrants staying illegally in the country. For that purpose Estonia transposed to its national legislation Directive 2009/52/EC⁴⁴ providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals. The amendments arising from the directive entered into force in the Aliens Act, Penal Code and Individual Labour Dispute Resolution Act on 20 July 2011.

Directive 2009/52/EC brought along the following amendments:

- Aliens Act: the law now allows granting temporary residence permit to an illegally working alien to participate in criminal proceedings to assist the clarification of the circumstances of the criminal offence.⁴⁵
- Penal Code: the law establishes the possibility of applying criminal punishment for the employers for enabling employment for aliens staying in Estonia without a legal basis. This is applicable in cases if it has been committed for at least second time during 12 consecutive months, this allowed employment for three or more aliens, this allowed employment for minor aliens, this allowed employment in crime related to trafficking in humans for an alien victim, this has placed the life or health of an alien at risk or the alien has been treated in a manner that is degrading to human dignity. A pecuniary punishment or imprisonment for up to three years has been foreseen as a punishment.⁴⁶
- Individual Labour Dispute Resolution Act: the law enables the third-country nationals who have been employed illegally to obtain all of the unpaid salary from the employer even he has returned to his country of origin. Thus, the provision states, if an alien was employed in Estonia without a legal basis and the alien has left Estonia by the time of the labour dispute,

⁴³ Ibid.

⁴⁴ OJ L 168, 30.6.2009, p. 24–32

⁴⁵ Aliens Act § 203, RT I 2010, 3, 4

⁴⁶ Penal Code § 2601, RT I 2001, 61, 364

leaves Estonia during the course of the labour dispute or the alien is deported from Estonia during the course of the labour dispute, the labour dispute is reviewed without his or her presence.⁴⁷

5.2 Return

5.2.1 National Developments

An integral part of combating against irregular immigration are also the expulsion measures, a precondition of which is efficient implementation of the readmission agreements. Estonia has concluded bi- or multilateral readmission agreements with 22 countries. The majority of them have been concluded with the EU and Schengen Member States (Latvia, Lithuania, Finland, Norway, Sweden, Island, Slovenia, Italy, Switzerland, France, Germany, Benelux countries (Belgium, Holland, Luxembourg), Spain, Austria, Portugal, Hungary, Bulgaria, and Romania). In the case of other countries the data obtained regarding the returnee and good practice is taken as the basis or the readmission agreement concluded by the EU with a third country is applied (the EU has concluded readmission agreements with: Albania, Bosnia and Herzegovina, Macedonia, Hong Kong, Macao, Moldova, Montenegro, Russia, Serbia, Sri Lanka, Pakistan, Ukraine, Georgia).

Although Estonia did not sign any bi- or multilateral readmission agreement in 2011, implementation protocols of bilateral readmission agreements were signed with the Russian Federation and Serbia. The implementation protocol of the readmission agreement was signed with the Russian Federation on 19 September and it entered into force on 28 November 2011. The implementation protocol of the readmission agreement with Serbia was signed on 9 November. A proposal for concluding an implementing protocol was also made to Georgia with whom the EU concluded a readmission agreement on 1 March 2011.⁴⁸

In 2011, the Police and Border Guard Board applied forced return from Estonia on *ca* 100 aliens. The highest number of expelled persons was persons with the citizenship of the Russian Federation and Latvia, which were followed by stateless persons. According to Eurostat data in total 415 persons returned from Estonia either voluntarily or forcefully in 2011.

The forced return as well as voluntary return was partially funded from the funds of the European Return Fund. In 2011, 50 third-country nationals were supported from the European Return Fund in their return to their country of origin. Eight third-country nationals left within the framework of the supported voluntary return program carried out by IOM Tallinn. In total 42 third-country nationals were subject to forced expulsion.⁴⁹

5.2.2 Developments from the Perspective of the European Union

The Pact emphasises that each alien staying illegally in the country must leave the country and each Member State must apply return of immigrants in as human and efficient manner as possible in line with the applicable law. An important development in this field was implement-

⁴⁷ Individual Labour Dispute Resolution Act § 18 (12), RT I 1996, 3, 57

⁴⁸ Pello, N. "Security policy 2011. Summary of performance of "Main directions of the Estonian security policy until the year 2015". Ministry of the Interior, Tallinn 2012

⁴⁹ Ibid.

ing Directive 2008/115/EC⁵⁰ in the Member States from 24 December 2010. Estonia transposed Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (so called “Return Directive”) to its national legislation in due time. This brought along amendments to the Obligation to Leave and Prohibition on Entry Act that entered into force on 24 December 2010. This Directive provides for common rules for return, expulsion, apprehension of and applying prohibition on entry for third-country nationals by ensuring protection of persons recognised with the EU and international law.

As a result of the transposing of the Return Directive to the national legislation, each person discovered illegally staying in the country is now issued a precept to leave, which generally also brings along the prohibition on entry. The prohibition on entry imposed and enforced by Estonia is forwarded to the Schengen information system (SIS). In 2011, there were more than 222 decisions on prohibition on entry entered in the system. Likewise, Estonia accepts the precepts to leave issued by other Member States and upon a person entering the Schengen area, control of the person is carried out through the SIS information system.

Estonia assists the Member States that are suffering from disproportionately high irregular immigration pressure through the Frontex operations. For example, in 2011, Estonia participated in the activities of the Attica joint operation organised by Frontex, the aim of which was to assist Greece in organising returns within 133 operation days. Other Member States have not requested assistance for expulsions directly from Estonia. However, Estonia has cooperated with other Member States in the field of returns in transit flights (placing the expelled person under the control of the authorities of the transit country during transit, sending the expelled person to the next flight etc.).⁵¹

Furthermore, Estonia has not participated in the expulsion flights initiated by other member states. This is due to the reason that expulsions via air from Estonia have generally been to countries to which no joint expulsion flights have been organised. The necessary knowledge is obtained from expulsion trainings organised by the Frontex as well as workshops and through participating in the network.⁵²

The officials are improving their knowledge in the field of return during the course of different trainings. In 2011, a project lead by the IOM and financed from the European Return Fund “Improving capacities of the employees of authorities involved in third country returns: cultural differences, psychological behaviour and best practices in the return process” was carried out. Within the framework of the project different countries, their culture, traditions and return practices were introduced. Furthermore, study trips to the EU Member States are organised for the migration supervision officials in order for them to become acquainted with the best practices and standards of return. Additionally, in 2010 and 2011, readiness of officials is ensured through the training projects of the European Return Fund in order to deal with persons who have illegally crossed the border and in order to obtain experience in the field of expulsion. Further-

⁵⁰ OJ L 348, 24.12.2008, p. 98–107

⁵¹ PBGB response letter to the Academy of Security Sciences EMN Estonian Contact Point, 9.01.2012

⁵² Ibid.

more, the officials participated in the field training on mass immigration of refugees organised within the framework of the MINAS-5 project lead by the IOM and financed by the European Refugee Fund. Within the framework of the training the work of the Police and Border Guard Board and other authorities involved in illegal immigration issues was tested in solving emergencies caused by mass immigration of refugees, including teamwork, cooperation, communication and functioning of the chain of command on different levels as well as functioning of the plan for solving emergencies.⁵³

Assisted Voluntary Return

Since the year 2010, the Estonian representation of the IOM (International Organization for Migration) organises the voluntary return and reintegration program⁵⁴ (VARRE project). The aim of the program is to help the asylum applicants and other migrants staying illegally in the country in their voluntary return to their home country, should they wish to do so. The project is financed by the European Union through the European Return Fund and the Ministry of the Interior of the Republic of Estonia.

In 2011, return of 8 persons to the countries of their citizenship was supported within the framework of the VARRE project. The persons returned to Russia, Ukraine, Belarus, Georgia, Armenia, Egypt and the Republic of South Africa.

5.3 Actions Against Trafficking in Human Beings

The Government of Estonia considers combating against trafficking in human beings to be an important priority. In December, the Government approved changes which transpose new necessary elements constituting a crime, which criminalise trafficking in human beings into the Penal Code. The draft supplements to the Penal Code with three offences regarding trafficking in human beings: trafficking in human beings for the purposes of sexual abuse, enslaving and removal of an organ. Upon entry into force of the Act, it will be possible to obtain a clearer overview of the number of cases of trafficking in human beings, victims of trafficking in human beings, persons involved in human trafficking, comparison of punishment data (including with other countries) and changes in the manners of exploitation over time. This in turn should create a better basis for assisting victims of human trafficking and financing the provision of support services.⁵⁵

At the moment the statistics related to human trafficking do not reflect the situation in Estonia adequately. The Penal Code currently includes 12 sections that to a larger or lesser extent are related to human trafficking. In 2011, in total 121 crimes were registered (Table 2) that could be related to human trafficking; this is 21% less than in 2010 (153 registered crimes). Presumably, each year approximately a tenth of the registered cases are directly related to human trafficking⁵⁶.

⁵³ Ibid.

⁵⁴ Voluntary Assisted Return and Reintegration Programme for Estonia. Can be found at : <http://iom.ee/varre/>

⁵⁵ Overview of the realisation of the 2011-2015 activities of the activity program of the Government of the Republic. Can be found at: http://valitsus.ee/UserFiles/valitsus/et/uudised/taustamaterjalid/Tegevusprogrammi%20aruanne_2011.pdf

⁵⁶ Development Plan for Decreasing Violence for the Years 2010-2014: 2010 Performance Report <http://www.just.ee/orb.aw/class=file/action=preview/id=54162/V%E4givalla+v%E4hendamise+arengukava+2010.+aasta+t%E4itmise+aruanne.pdf>

Table 2. The registered offences by sections of the Penal Code related to human trafficking in 2010 and 2011

Crime/year	2010	2011
§ 133 Enslaving	1	2
§ 136 Unlawful deprivation of liberty	44	33
§ 138 Illegal conduct of human research	0	0
§ 143 Compelling person to engage in sexual intercourse	1	4
§ 143 ¹ Compelling person to satisfy sexual desire	3	3
§ 172 Child theft	2	1
§ 175 Inclining minors to engage in prostitution	1	0
§ 176 Aiding prostitution involving minors	0	0
§ 177 Use of minors in manufacturing of pornographic works	2	40
§ 178 Manufacturing of works involving child pornography or making child pornography available	76	
§ 259 Illegal transportation of aliens across state border or temporary border line of Republic of Estonia	8	6
§ 268 ¹ Aiding prostitution	15	15
Total	153	121

Source: Crime statistics 2011, Ministry of Justice

With the first 10 months of the year 2011, in total 55 persons were convicted in crimes related to human trafficking. During the same period 491 cases were in pre-trial proceedings.⁵⁷ Similarly to previous years, there were no applications submitted for granting a residence permit for victims of human trafficking.

⁵⁷ Response letter of the Ministry of Justice to the EMN Estonian National Contact Point dated 18.12.2011

6. Border Control

6.1 Control and Surveillance at External Borders

6.1.1 National Developments

After a certain decrease in 2010, the crossings of external borders have yet again started to increase. While in 2010, *ca* 6.6 million persons crossed the Estonian external border, then in 2011 the number was already *ca* 7.4 (+11%). Furthermore, the crossing of borders by transport vehicles increased from 1.2 million to 1.3 million (+9%). The majority of persons crossing the border are residents of Estonia or Russia, but there are also many travellers from Belarus and Ukraine.

In 2011 according to Eurostat, the number of persons sent back from the Estonian border increased from 1665 in 2010 to 2545 in 2011 (+35%). The reasons here do not lie on the pressure of illegal immigration on the Estonian external border but rather in the fact that when comparing the years, the total number of crossings of the external borders has increased by 10% - at land border 9%, air border 38% and sea border 14%. The second reason is the fact that on 26.02.2010 the Russian Federation terminated its membership in the convention of the International Labour Organisation (ILO) C.108 Seafarer's Identity Document Convention and ratified the ILO convention C.185. Due to the mentioned fact the exceptions for entering the territory of the Republic of Estonia, including as transit passenger arising from the ILO convention C.108 no longer extend to the Russian seafarers. Therefore a person needs a passport with a visa in order to travel through Estonia in transit.⁵⁸ Thus, if a person had no visa in his or her travel document, he or she was sent back from the border.

6.1.2 Developments from the Perspective of the European Union

In 2011, Estonia continued implementing the integrated border management and solidarity principles for guarding the EU external border. In integrated border management Estonia contributed first and foremost into developing the external border of the EU, by using the finances of the European External Borders Fund. Furthermore, efforts were made for international cooperation and eliminating border crossing queues.⁵⁹

Estonia, being one of the external border countries of the EU is responsible for ensuring the external border security. For that purpose Estonia has constantly developed and introduced new technological measures. For that the Police and Border Guard Board concluded an agreement with Defendec OÜ in 2011, as a result of which new type of monitoring equipment is being installed at the temporary control border between Estonia and Russia, which is the external border of the European Union. The new wireless perimeter monitoring system Smartdec consists of portative sensors and software equipped with different sensors. The equipment that identifies border violations and related crimes with the help of the unique identification algorithm is easily adaptable to the environment, cost-efficient and does not require frequent maintenance.

⁵⁸ Pello, N. "Security policy 2011. Summary of performance of "Main directions of the Estonian security policy until the year 2015". Ministry of the Interior, Tallinn 2012.

⁵⁹ Ibid.

With the help of the new monitoring equipment 14 border incidents were discovered and more than 250,000 smuggled cigarettes were caught in 2011.⁶⁰

Furthermore, from November 2011 to the end of January 2012, the officials of Estonia used the border management software provided by the US company Raytheon, which allows analysing the data on passengers between Estonia and third countries. The aim of the software solution was to identify persons related to organised crime in a more efficient manner. Within the framework of the pilot project, the same information held and forwarded on the passengers by flight and travel companies was used for analysing the internal security risks (booking information PNR and preliminary information on passengers API). The border management software of Raytheon allows speeding up the analysis of data and carrying out a more thorough risk analysis. This will help to save on the law enforcement resources and it will be simpler for the passengers to cross the borders.⁶¹

In 2011, active efforts continued to develop the EU external border with the financial support from the External Borders Fund. The main emphasis of the efforts were on the preparation and starting of multi-annual projects (renovation of the integrated monitoring system of Lake Peipsi, second stage of the sea surveillance information system, replacing the platform of the software and database of border control information system, implementation of SIS II). Upon realising the initiated projects, the EU external border monitoring systems that are outdated and no longer meet the requirements will be partially modernised and the information systems will also be updated. Additionally, mobile equipment allowing using the databases operatively and performing the necessary procedures at the border were acquired.⁶²

In order to alleviate the long border queues at the Eastern border of Estonia, the Ministry of the Interior initiated the amendment of the State Borders Act in 2010. The aim of the amendments was to speed up border crossing by the transport vehicles at the land border crossing points and decrease the waiting times of controls. As a result a common border crossing queue information system was introduced on 1 August 2011. This information system allows planning the border crossing time and the persons who want to cross the border no longer have to wait in live queue.⁶³

60 Kohv, U. "Additional new surveillance technology is installed at the Estonian external border." Police and Border Guard Board, News, 6.01.2012. Can be found at : www.politsei.ee

61 Lunt, K. "Ministry of the Interior is testing new border management software" Ministry of the Interior, press releases 1.11.2011 Can be found at : <http://www.MinistryoftheInterior.ee/MinistryoftheInterior-testib-uu-piirihaldustarkvara/>

62 Pello, N. "Security policy 2011. Summary of performance of "Main directions of the Estonian security policy until the year 2015". Ministry of the Interior, Tallinn 2012.

63 Ibid.

6.2 Cooperation with Respect to Border Control and visas

6.2.1 National Developments

In 2011, the foreign representations of Estonia and the Police and Border Guard Board received in total 146,395 visa applications, which is 17% more than in 2010 (121,288).⁶⁴ Most of the visas were issued in Estonian representations in Russia. Since November 2009 the citizens of Russia have the possibility to apply for the visa through a company providing courier service without having to go to the Estonian Embassy. In the end of 2010 this service was extended to Ukrainian citizens also. In 2011 Estonia has increased cooperation with the external service provider in Russia in order to apply for visas, in addition to the regional centres, also in Moscow and St. Petersburg and in North East Russia (Arhangelsk, Murmansk, Petroskoi, Veliki Novgorod, Vologda and Kingissepp) (the agreement allows contacting 80 service centres in Russia).⁶⁵

As of 4 April 2011, Estonia implements Regulation No. 810/2009 of the Parliament and of the Council⁶⁶ (Visa Code) to its full extent, including the provisions that foresee the visa appeal proceedings. The Visa Code entered into force from 5 April 2010, except for the provisions that concern reasons for refusal to grant a visa and the right to appeal. These provisions were obligatory for the member states from 5 April 2011. As a result, several important amendments entered into force in the Aliens Act from the point of view of visa proceedings – the Aliens Act was updated with provisions regarding the right of aliens to contest the refusal to grant a visa, revocation of a visa, declaration of invalidity of a visa, refusal to extend the period of stay and premature termination of the right of stay.

Within the framework of developing the amendments to the Act it was found that for the purposes of keeping the regulation compact, it would be wise to extend the same appeal proceedings to all visa proceedings (i.e. decisions regarding refusal to grant a visa, revocation of a visa, extending the right of stay, premature termination of the right of stay).

Table 3. Filed and approved contestations regarding refusal to grant a visa⁶⁷

	Citizenship and migration department of the PBGB	Criminal police department of the PBGB	Border guard department of the PBGB	Security Police Board	Ministry of the Interior (contestations proceedings in the second instance)
Appeals filed	0	52	6	7	9
Approved appeals	0	7	0	2	0

In issuing visas, Estonia gives importance to improving cooperation between the consulates of the Member States and creating a common consular service for visas. In order to simplify appli-

⁶⁴ Implementation of the Action Programme of the Government of Estonia. Can be found at: <http://valitsus.ee/et/valitsus/tegevusprogramm/valispoliitika>

⁶⁵ Pello, N. "Security policy 2011. Summary of performance of "Main directions of the Estonian security policy until the year 2015". Ministry of the Interior, Tallinn 2012.

⁶⁶ OJ L 243, 15.9.2009, p. 1-58

⁶⁷ Pello, N. "Security policy 2011. Summary of performance of "Main directions of the Estonian security policy until the year 2015". Ministry of the Interior, Tallinn 2012.

cation for visas in countries where Estonia does not have its own foreign representation, visa representation agreements have been concluded with 14 Schengen member states. Through these agreements the respective countries represent Estonia in issuing visas (except long-term visas) in 84 countries. Estonia has concluded agreements with Austria, Hungary, Finland, Germany, Slovenia, Latvia, Lithuania, Holland, Poland, France, Denmark, Spain, Sweden and Switzerland. With the last two countries, the visa representation agreements entered into force in January 2011 - Sweden represents Estonia in Cuba and the Republic of South Africa; and Switzerland represents Estonia in Palestine. In November 2011 the Estonian Government concluded a visa representation agreement with the Czech Republic to represent Estonia in Iraq, Malaysia and Mongolia (the agreement should enter into force in 2012).

Estonia continues to represent six Schengen member states in other countries, mainly in Russia (representing Finland, Holland and Poland), in Bulgaria (representing Latvia and Slovenia), in Belarus (representing Finland) and in Georgia (representing Denmark).

On 11 October 2011 Estonia joined the central database of the Schengen common visa information system (VIS). The data of all visa applications and decisions are forwarded to the VIS and it includes, in addition to biographical data, also the fingerprints and facial images of all applicants. Estonia fingerprints visa applicants at the border crossing points, upon applying for the extension of the period of stay at the Police and Border Guard Board and at the Estonian Embassy in the Arab Republic of Egypt. Other foreign representations of Estonia forward the digital personal data and the photo of the visa applicants to the VIS.⁶⁸

Due to the fact that Estonia has a common process for processing the short-term and long-term visas as well as extension of the legal period of stay, fingerprints are taken upon applying for the short-term as well as long-term visas. Until now, Estonia fingerprinted only upon granting or extending of long-term residence permits from the beginning of 2011.

6.2.2 Developments from the Perspective of the European Union

Efficient border control is related to continuous international connections and tight cooperation with the main source and transit countries of irregular immigration. The same purpose is also set forth in the III part of the Pact that speaks of measures for making the border control more efficient. For that purpose the Estonian border guard has annually increased international cooperation with other third countries from where the risk of illegal immigration to our region is higher. The Estonian border guard has concluded bilateral as well as multilateral cooperation agreements with the European Union and third countries that all contain the special provision providing for cooperation and exchange of information with respect to cross-border crime. In certain cases separate protocols have been concluded for the exchange of information. The following cooperation agreements were concluded or renewed in 2011:

- On 16.08.2011 a border guard cooperation protocol was signed between the Police and Border Guard Board of the Republic of Estonia and the Federal Security Service of the Russian Federation, agreeing among other things on joint activities in the field of irregular migration.
- On 06.10.2011 the 2011-2012 cooperation plan of the Police and Border Guard Board of the

⁶⁸ Ibid.

Republic of Estonia and the National Border Guard Committee of the Belarus was approved. This document provides among other issues also activities for operative exchange of information and exchanging experiences in cases related to irregular migration.

- On 05.12.2011 the Police and Border Guard Board of the Republic of Estonia and the Georgian Ministry of the Interior concluded a border guard cooperation agreement the aim of which is to improve exchange of experiences and information with the purpose of preventing irregular migration.
- On 05.12.2011 the border guard department of the Police and Border Guard Board of the Republic of Estonia and the patrol police department of the Ministry of the Interior of Georgia signed a cooperation protocol on return of persons and exchange of information regarding readmission.

In addition to the national and international cooperation in the field of integrated border guarding, cooperation in the field of training and joint operations has been actively organised. This is one of the opportunities to be in solidarity with these Member States that have disproportionate influx of immigrants. In 2011, Estonia contributed to joint operations of border control of the European Union Member States and those coordinated by Frontex. Furthermore Estonia participates in the trainings organised for the implementation of the border guard fast response units. Estonian experts participated in three civil missions of the European Union in total with six experts. Additionally, Estonia contributed to supporting Member States under the pressure of illegal immigration through participating in the joint operations coordinated by Frontex. Estonian border guards took part in five land, four air and three sea border operations. In total 93 officials, a plane and an observation van took part in border control. 77.5% of the operations were operations at land borders, of that 70% was land operations in guarding the external border in Greece. The air border operations took 14% and sea border operations 8.5% of the total volume of operations. Additionally, the contributions included using a plane in observation activities with 30 operation days and with the observation van – 235 operation days.⁶⁹

⁶⁹ Response letter of the Police and Border Guard Board to the EMN Estonian Contact Point dated 02.01.2012

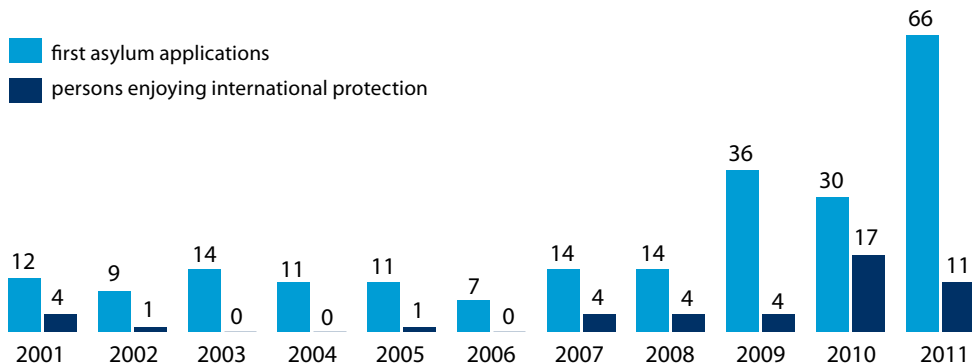
7. International Protection, Including Asylum

7.1 National Developments

Although the number of asylum applicants arriving in Estonia is smaller than in any other EU country, the number of persons applying for asylum here has steadily increased during the past three years. While during the years 2001–2008 7–14 applications were submitted in a year, in 2009 the number had already increased to 36 and in 2010 in total 30 first asylum applications were submitted. In 2011, this number doubled and 66 persons applied for international protection in Estonia (Diagram 4).

While during the earlier years, the majority of asylum applications have been submitted within the country after the person was apprehended during his or her illegal stay in the country, then in 2011, nearly half of the applications were submitted at the external border. In total 34 applications were submitted at the external border while 33 were submitted within the country. The majority of the persons applying for asylum at the border came to Estonia through Russia – they had the visa of the Russian Federation.⁷⁰

Diagram 4. Asylum applications and decisions on granting asylum or subsidiary protection 2001–2011



Source: Police and Border Guard Board

While during the two previous year the largest number of asylum seekers came from Afghanistan and Russia, in 2011 the highest number of asylum applicants came from the Congo (11 persons). In general, the applicants from African countries made up one third of the total number of applicants. Asylum application was also submitted by persons from Afghanistan (8), Armenia (7), Georgia (6), Russia (4), Cameroon (3), Libya (3), Uzbekistan (3), Somalia (3), Iraq (2), Ukraine (2), Palestine (2), Bangladesh (1), Côte d'Ivoire (1), Guinea (1), India (1), Kyrgyzstan (1), and Turkey (1). In 2011, international protection was granted to 11 persons – 8 persons received the status of refugee and supplementary protection was granted to 3 persons. Additionally, 6 residence permits

⁷⁰ Pello, N. "Security policy 2011. Summary of performance of "Main directions of the Estonian security policy until the year 2015". Ministry of the Interior, Tallinn 2012.

for family members of aliens who received international protection were issued. In most cases, however, granting asylum is not justified and in such case the application was rejected. In 2011, the Police and Border Guard Board rejected 57 asylum applications.

Estonia also prepared an action plan that regulates the activities of different governmental bodies and cooperation in the event of the possible mass immigration of refugees. This is a national contingency plan the need for the drawing up of which arises from the new Emergency Act.⁷¹ The action plan includes different activities the aim of which is to organise reception of refugees who have travelled to the country, processing applications for international protection, housing and satisfying the essential needs of refugees. Previously each authority had its own plan for solving an emergency.

7.2 Developments from the Perspective of the European Union

The Stockholm programme as well as the Pact call the Member States to share responsibility and solidarity with these Member States that are facing with exceptional migration pressure, including disproportionate pressure to the asylum system of the country. In issues related to international protection, this means that in addition to managing the regular flows of asylum applicants, the Member States should also help third countries resettlement and/or intra-EU relocation programmes.

The Government and the Parliament of Estonia published their positions regarding the communication from the Commission regarding the establishment of a joint European Union resettlement programme (COM(2009) 447)⁷² already in 2009. The Government of Estonia decided not to participate in the resettlement programmes of the persons receiving international protection or in the resettlement programmes inside the European Union – mainly due to limited resources. Regardless of that, Estonia has continued training persons responsible for the control of external borders in respect of the rights and obligations related to international protection, using the support of the European Refugee Fund (ERF). In 2011, six projects were carried out with the support of the ERF funds, facilitating the improvement of the quality of asylum proceedings, reception conditions for the asylum applicants, readiness for the mass immigration of asylum applicants and awareness of the public in topics related to asylum⁷³. For example, the Estonian Human Rights Centre started free of charge legal counselling of asylum applicants with the financial support of the ERF in September 2011.⁷⁴

⁷¹ Pors, M. "The state has prepared a plan for handling mass immigration". Postimees, 03.08.2011. Can be found at: <http://www.postimees.ee/518750/riigil-valmis-plaan-massilise-sisserandega-toimetulekuks/>

⁷² Communication from the Commission to the Council and the European Parliament on the establishment of a joint EU resettlement programme, 02.09.2009 <http://register.consilium.europa.eu/pdf/et/09/st12/st12986.et09.pdf>

⁷³ Pello, N. "Security policy 2011. Summary of performance of "Main directions of the Estonian security policy until the year 2015". Ministry of the Interior, Tallinn 2012.

⁷⁴ Pilot project for providing legal assistance to asylum applicants in 2011. Human Rights Centre, 20.12.2011. Can be found at: <http://humanrights.ee/2011/12/varjupaigataotlejatele-oigusabi-osutamise-pilootprojekt-aastal-2011/>

8. Unaccompanied Minors (and other Risk Groups)

Estonia has minimum experience with unaccompanied minors. Since the year 1997 (there is no respective statistics and legal regulation regarding the periods before that year) less than ten unaccompanied minors have submitted an asylum application in Estonia. In the majority of cases the applicants have proved to be adults or left the country without authorisation before the end of the asylum proceedings. In 2011, in total four unaccompanied minors applied for asylum in Estonia, after the expertise of establishing their age, three of them proved to be adults. Regardless of the lack of experience of Estonia in the field of unaccompanied minors, attention is paid to this issue and preparations for the readiness for the situation if the number of unaccompanied minors should rise, is carried out.

In order to develop the asylum system for unaccompanied minors, Estonia is implementing/about to implement the following projects:

- 1) Within the framework of the project MINAS-5 the expert group consisting of the representatives of the Ministry of Social Affairs, Police and Border Guard Board, Ministry of Education and Research, NGO Omapäi and IOM Tallinn compiled in 2011 in cooperation with Czech, Danish and Lithuanian colleagues a report "Reception in Estonia of unaccompanied children and asylum applicants separated from parents: Mapping the existing system and proposals", which is the basis for developing the system of reception of unaccompanied minors in Estonia. The report is a result of the work of the expert group mapping the reception system of unaccompanied minors from third countries to Estonia. The report discusses: reception of unaccompanied children in Estonia (at state border, in the territory), the question of their representation in procedures, aspects of asylum proceedings and accommodation of unaccompanied children and access to education as well as the process of return of the unaccompanied minors to the country of their origin. The report sets forth problems related to the minor asylum applicants and specific proposals as well as guidelines for more efficient development of the asylum system for unaccompanied minors for all the parties concerned;
- 2) In 2012 the Ministry of the Interior (with the financing of the European Union Refugee Fund) is carrying out a project (Increasing the capacity of participants in the asylum process: from the asylum procedure to cultural orientation or CAP-CO), the aim of which is increasing professionalism of the officials participating in the asylum proceedings (including those dealing with unaccompanied minor asylum applicants). Within the framework of this project, the representatives of the unaccompanied minor asylum applicants and related officials are provided with study visits, trainings and information days with the aim of ensuring absolute protection of the fundamental rights of unaccompanied minor asylum applicants.⁷⁵

⁷⁵ Response letter of the Police and Border Guard Board to the EMN Estonian Contact Point dated 02.01.2012

9. Global Approach to Migration

In December 2005, the European Council adopted a global approach to migration⁷⁶ that joins migration, foreign relations and development policies with the purpose of handling the wide migration topic in an integrated, comprehensive and balanced manner through partnership with third countries. Initially it focused on Africa and the Mediterranean region, but in 2008 the European Union Eastern and South Eastern neighbours were included into this approach.

Due to its geographical position and history, Estonia carries out bilateral development co-operation first and foremost with countries to which Estonia can offer additional value on the basis of its experiences and that are ready to develop democratic society based on human rights. Due to that the priority partners for the bilateral development co-operation of Estonia are the EU Eastern Partnership countries Armenia, Azerbaijan, Georgia Moldova, Ukraine and Belarus as well as Afghanistan. Estonia also co-operates with other developing countries and partners that have interest in a specific experience Estonia has.

It is also in the interests of Estonia to support free movement of people from the EU Eastern Partnership countries and favour/promote legal immigration from these countries. For that purpose, the Government of the Republic decided in 2011 to grant the citizens of Belarus exemption from the payment of the state tax when applying for a long-term visa. The reason for it was promoting cooperation in the fields of development, education and research as well as simplifying contacts between people, but also facilitating bilateral business relations and trade⁷⁷. The same exemption was granted to the citizens of Ukraine in 2010.

Additionally, regular meetings on all levels are held with the Eastern partnership countries. The Eastern partnership countries are a priority for Estonia in political, economic as well as development cooperation sense. For that purpose Estonia opened the Centre of Eastern Partnership⁷⁸ on 26 January 2011 in order to train the young diplomats and other civil servants of the Eastern partnership countries.

Further to Eastern partnership countries Estonia values good bi- or multi-lateral co-operation with the neighbouring countries and the most important source countries of irregular immigration. Here, Estonia considers important good bi-lateral co-operation with the Russian Federation, which is the main country of origin for the immigrants arriving and staying in Estonia. On 28 November 2011, the implementation protocol of the readmission agreement between Estonia and Russia entered into force. The protocol was signed at the Embassy of Estonia in Moscow on 19 September 2011. The readmission agreement implementation protocol speeds up readmission of the people who do not meet the conditions for entering the territory of Estonia or Russia, staying or living there. On 20 October 2011, the Government approved the conclusion

⁷⁶ Global Approach to Migration: Priority actions focusing on Africa and the Mediterranean, Brussels 13.12.2005, <http://register.consilium.europa.eu/pdf/en/05/st15/st15744.en05.pdf>

⁷⁷ Decree No. 46 of the Government of the Republic dated 03.02.2011 "Exempting citizens of the Republic of Belarus from the obligation to pay state fee for the review of applications for long-term visas". RT III, 07.02.2011, 9

⁷⁸ Estonian Centre of Eastern Partnership http://www.eceap.eu/client/default.asp?wa_site_id=4

of the readmission agreement implementation protocol with Serbia. In addition to Russia and Serbia, Estonia has concluded readmission agreement implementation protocols with Moldova, Macedonia and Bosnia and Herzegovina.

10. Implementation of EU Legislation

In 2011, Estonia transposed to its legislation several EU directives and several regulations entered into force. In the summer of 2011, amendments arising from the implementation of the provisions of the European Union Blue Card Directive (2009/50/EC) and Directive on applying sanctions on employers (2009/52/EC) entered into force in the Aliens Act.

In addition to the Directives, the European Union common Visa Code (810/2009) was implemented fully, including the provisions regarding visa appeal; and the visa information system was applied (767/2008). Furthermore, Estonia started the implementation of the European Union Regulation (380/2008) on the European Union common residence permit cards.

Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment⁷⁹

- Date of transposition of the Directive: 19 June 2011
- Status: the Directive was transposed to Estonian legislation with the Aliens Act on 19 June 2011

This Directive establishes common rules for third-country nationals for their entry and stay in the territory of the member states for the purposes of highly qualified employment. The Directive establishes the European Union Blue Card (hereinafter the EU Blue Card) system that allows highly qualified employment and moving to another member state for the same purpose. Furthermore, The Directive establishes more favourable conditions for family reunification for the family members of the third-country nationals with high professional qualifications. The specific amendments that were brought along for the Estonian legislation with the EU Blue Card Directive are set forth in section 4.1.2.

Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals⁸⁰

- Date of transposition of the Directive: 20 July 2011
- Status: the Directive was transposed to Estonian legislation with the Aliens Act, Penal Code, Individual Labour Disputes Resolution Act etc. on 20 July 2011.

The aforementioned Directive establishes general prohibition on employment of third-country nationals who have no legal basis for staying in the European Union, establishing sanctions for the employers who violate this prohibition. Amendments that that were brought along for the Estonian legislation with the transposing of this Directive are set forth in section 5.1.2.

⁷⁹ OJ L 155, 18.6.2009

⁸⁰ OJ L 168, 30.6.2009, p. 24-32

Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code)⁸¹

- Date of implementation of the Regulation: 5 April 2011
- Status: the Regulation was implemented in due time, the provisions of the Regulation have been transposed to Estonian legislation with the Aliens Act.

Pursuant to the Visa Code, the Member States are required to ensure the aliens with the possibility to contest the refusal to grant a visa, revocation of a visa and decision to declare a visa invalid. For the purposes of the regulation of the contestation procedure, the second chapter of the Aliens Act was supplemented with the respective divisions “Contestation” and “Appeal of the decision made during the course of contestation”.

The contestation proceedings were established as contestation in two instances – in the first instance the decision made on the basis of the application of an alien is reviewed by the administrative body who made the decision (foreign representation, Police and Border Guard Board or Security Police Board) and in the second instance the second decision made on the basis of the application of an alien is reviewed by the administrative body conducting supervisory control over the administrative body that made the decision (Ministry of Foreign Affairs or Ministry of the Interior).

In both instances the aliens have the right to submit an application for contesting the respective decision during 30 calendar days and in both cases the mentioned term is not restored. In the first instance the application is submitted according to which administrative body made the decision. Neither the decision made in the first instance or that made in the second instance is justified and the circumstances underlying the decision, the reason of the decision or information related to that are not disclosed to the alien or any other person.

The second review is the second instance of the contestation proceedings and the application submitted in the second instance is reviewed by the Ministry of Foreign Affairs or Ministry of the Interior, depending on which administrative body made the decision – a foreign representation, Police and Border Guard Board or the Security Police.⁸²

Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation)⁸³

- Date of implementation of the Regulation: 11 October 2011
- Status: the Regulation was implemented in due time, the provisions of the Regulation have been transposed to Estonian legislation with the Aliens Act.

The aforementioned Regulation foresees implementation of the VIS visa information system, which is mandatory for the Member States. The VIS Regulation establishes the list of the data that are forwarded to the VIS from the data processed during the proceedings of the European

⁸¹ OJ L 243, 15.9.2009, p. 1-58

⁸² Draft Aliens Act Amendment Act (1-6/3749). Can be found at : <http://eelnoud.valitsus.ee/main#wxGWZGkc>

⁸³ OJ L 218, 13.8.2008, p. 60-81

Union common visa, as well as the requirements for the VIS database. Implementation of the VIS brought along fingerprinting of the persons applying for the Schengen visa.

Estonia carried out the legal changes necessary for implementing the VIS already during the previous years and in 2011 the necessary implementing provisions were updated when the VIS was launched – i.e. “The procedure for fingerprinting applicants in the process of granting visa and extending the period of stay”⁸⁴, “Establishing the list of competent authorities for processing data in the European Union common visa information system (VIS)”⁸⁵, “Statutes of the visa register”⁸⁶ and “Establishing the list of requirements for the submission of data submitted upon granting long-term visa and applying for the extension of the period of stay and the proof attached to the application; and the terms for granting a visa and refusal to grant a visa, extension of the period of stay and refusal to extend the period of stay and the premature termination of the period of stay and the cancellation of a visa and declaring a visa invalid; and establishing the level of sufficient financial means for covering the costs required for applying for and holding a visa and the rate of the sum insured of the health insurance contract”⁸⁷ were established.

Council Regulation (EC) No 380/2008 of 18 April 2008 amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals⁸⁸

- Date of implementation of the Regulation: no later than on 20 May 2011
- Status: the Regulation was implemented from 1 January 2011; the provisions of the Regulation have been transposed to the Estonian legislation with the Identity Documents Act.

The mentioned Regulation provides for uniform format for residence permits for third-country nationals. The Council Regulation No. 380/2008 dated 18.04.2008 amending the mentioned Regulation foresees that the residence permits of third-country nationals are issued only as cards as separate documents carrying biometric data – facial image and two fingerprints that are saved on contact-free chip. Estonia started issuing residence permit cards complying with the Regulation from 1 January 2011. Pursuant to the amendment of the Identity Documents Act introduction of European Union uniform residence permit card was foreseen for the third-country nationals as of 1 January 2011. The residence permit card issued by the Republic of Estonia contains, in addition to the biometric data (both facial and fingerprint biometry data) also the functionality of identification and signing in electronic environments, similarly to the identity card.

⁸⁴ RT I, 08.10.2011, 3

⁸⁵ RT I, 08.10.2011, 1

⁸⁶ RT I 2010, 45, 271

⁸⁷ RT I 2010, 45, 268

⁸⁸ OJ L 115, 29.4.2008, p. 1-7

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