ANNUAL POLICY REPORT ON MIGRATION AND ASYLUM

SPAIN

2011
The European Migration Network (EMN) is an initiative of the European Commission. The EMN has been established via Council Decision 2008/381/EC and is financially supported by the European Union.

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

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

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

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Annual Policy Report on Migration and Asylum

Spain 2011

This Nacional Report provides an overall insight into the most significant political and legislative developments, as well as public debates in the area of immigration and asylum that took place in Spain during the year 2011.

This Report has been developed by the Spanish National Contact Point of the European Migration Network and the researchers Cristina Gortázar Rotaecho and Carolina Parra Cartagena.

December 2011
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Economic and Social Panorama in Spain in 2011

The economic and social panorama in Spain in 2011 was marked by a worsening of the economic crisis, and immigrants have not been spared its impact and consequences. Indeed, during 2011, the number of immigrant arrivals in Spain fell. In 2010, the registered foreign population increased at a slower pace than in previous years (0.07%), but in 2011, according to figures published by the National Statistics Institute (hereinafter INE, its Spanish acronym), there was actually for the first time a reduction in the number of foreign nationals (~0.7%). There has also been an increase in the number of voluntary returns of immigrants to their respective countries of origin, with these returns being linked (or not linked) to existing return support programmes. According to figures from the INE, during the fourth quarter of 2011 the unemployment rate was 22.85%, with the figure being even higher for non-EU nationals (36.83%)\(^1\).

However, despite this declining trend in the flow of people into Spain, the number of those seeking international protection in 2011 rose considerably, more than 25%\(^2\) with respect to applications received in 2010.

Regarding the legislative field, it is worth highlighting the approval of Royal Decree 557/2011\(^3\), of 20 April, resulting in the approval of the Aliens Act Implementing Regulation or RLOEX of 2011.

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2. Source: Eurostat.
Regulation. The Regulation expands on the aforesaid Aliens Act in line with the already initiated consolidation in Spain of an immigration regulation model based on legal, orderly and job market-related migration. It is a model which also promotes social integration and equal rights and duties, and encourages close collaboration between central, regional and local administrations. The new Aliens Act Implementing Regulation explains and simplifies administrative procedures on foreign nationals, adapting Spanish law to the EU acquis. The main changes concerning legally established migration and its promotion include improvement and transparency in the renewal of (temporary and long-term) residence and work permits and measures to promote the integration of the immigrant population.

Furthermore, 27 July 2011 saw the approval of the Organic Law amending articles 31 bis and 59 bis of the Aliens Act. This reform aims to advance the protection of victims against migration-related gender violence and human trafficking.

Political debates and institutional changes in Spain were marked, during 2011, by the Regional and Municipal Elections of 22 May and, in particular, the General Elections of 20 November. The latter were won with an absolute majority by the Popular Party, resulting in the formation of a new government led by Mariano Rajoy.

1 Introduction: purpose and methodology followed

This is the fifth report prepared in accordance with Article 9.1 of Council Decision 2008/381/EC establishing the European Migration Network (EMN), an article which provides that each National Contact Point (NCP) must prepare each year a report on political and regulatory developments and the most important political debates that have taken place on migration and asylum in each Member State. The various national reports are designed to contribute to the drafting of the Annual Report of the European Commission and the EMN’s Annual Synthesis Report, which set out the implementation of the European Pact on Immigration and Asylum and the application of the Stockholm Programme and its respective Action Plan. The Annual Policy Report on Migration and Asylum 2011 covers from 1 January to 31 December 2011.


5 Spanish State Gazette no. 180, 28 July 2011.
1.1. Methodology

The structure of the report follows the specifications established by the European Migration Network.

Regulatory, case law, information and opinion sources have being used to prepare this report. In other words the given information is based on different sources, predominantly from public administrations, particularly the Ministry of Employment and Social Security and the Spanish State Gazette. Similarly, it is important to note the use of sources of EU institutions and the Official Journal of the EU. Besides, the report takes into account national, European and international legislation and draft laws pending approval. The document refers to numerous electronic sources, institutional websites and research centres or specialised institutions, immigrants’ associations, blogs or newspapers published electronically. Information published in the media, government press releases and reports from private and public bodies were also used. Statistical data comes from annual and quarterly public administration reports, such as data published by the National Statistics Institute, the Permanent Observatory for Immigration and the National Public Employment Service. Eurostat statistical data were equally used.

This report was prepared by members of the EMN National Contact Point in Spain based on a report produced by Cristina Gortázar Rotaeché and Carolina Parra Cartagena, researchers from the Institute of Migration Studies (IUEM-Comillas) at the Comillas Pontifical University of Madrid.

1.2. Terms and definitions

This report uses the terms and definitions established in the European Migration Network Glossary. Set out below is a clarification of those terms not included in this glossary and which are covered by national legislation:

The National Shortage Occupation List

This is a list of those occupations in which Public Employment Services have had difficulty managing job offers sent to them by employers wanting to cover vacancies.

This list is split into provinces, islands in the case of the regional authorities of the Balearic Islands and Canary Islands, and the autonomous cities of Ceuta and Melilla.
It is quarterly and covers the first working day to the last working day of the calendar quarter following its publication.

The presence of an occupation in the list of the geographical area in question means that the employer is able to process the foreign worker’s residence and work permit.

If the occupation is not included in the list, the employer must submit an offer to the job office.

**Collective Management of Hiring in the Countries of Origin**

Collective management enables the hiring of workers not resident in Spain, selected in their countries of origin from the general offers sent by employers.

Article 39 of Organic Law 4/2000, of 11 January, on the rights and freedoms of foreign nationals in Spain and their social integration (hereinafter LOEX), authorises the current Ministry of Employment and Social Security to approve, based on the domestic employment situation, an annual occupations forecast and, where appropriate, the number of jobs expected to be covered through the collective management of hiring in countries of origin during a certain period, which can only be accessed by foreign workers not residing in Spain.

**IPREM**

The Public Indicator of Multiple Effect Income (IPREM) is the index used to calculate income in any area outside the actual work area: for example, IPREM is used for granting applications, housing aids, establishing fiscal limits, calculating and accessing social benefits, etc. The monthly amount of €532.51 set in the Law on the National Budget for 2011 is still the same for 2012 and has remained frozen since 2010. It is below the minimum wage whose amount for the same period was €633.30 a month.

For immigrants, this index is used to determine economic requirements when granting certain types of visas and permits.

**Immigration Offices**

Units covering the Government’s different services on alien affairs and immigration in each province which objectives are to ensure administrative efficiency and coordination. They are
normally located in provincial capitals, but may also have local offices in capital districts and provincial municipalities to facilitate the administrative processes of interested parties.

**Research body**

Any natural person or public or private legal entity, with their main or secondary establishment in Spain, which carries out research and technological development activities and complies with the legal requirements.

Article 38 bis on the special regime for researchers, introduced by the LOEX, gave rise to the approval of Order CIN/1795/2011, of 28 June, which regulates the authorisation requirements for research bodies for signing reception agreements with foreign researchers and the rules for preparing, updating and publishing the list of authorised research bodies\(^6\).

**Municipal Register**

Administrative register containing data on the residents of a municipality. Their data provide proof of residence in the municipality and proof of habitual residence there.

# 2 General structure of political and legal system in Spain

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

The year 2011 was marked by the Regional and Municipal Elections (in 13 out of the 17 regional authorities) of 22 May and, especially, the general elections of 20 November which saw the Popular Party secure an absolute majority leading to the formation of a new central government led by Mariano Rajoy.

In addition, and with regard to changes in the Government’s structure, it should be pointed out that during 2011 several ministerial restructurings were carried out to tackle the economic situation and future challenges. These changes were mainly implemented through the following regulatory measures:

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\(^6\) Spanish State Gazette no. 155 of 30 June 2011.
— Royal Decree 1748/2010, of 23 December, establishing the basic organic structure of the Ministry of Foreign Affairs and Co-operation\(^7\).

— Decision of 5 April 2011, of the General Directorate for Immigration, revoking the powers that had been delegated to the General Deputy Director for Management and Coordination of Migration Flows and delegating said powers to the General Deputy Director of Management Modernisation\(^8\).

— Royal Decree 777/2011, of 3 June, establishing the basic organic structure of the Ministry of Labour and Immigration\(^9\). Likewise, on 28 July 2011 Order TIN/2254/2011 was approved delegating powers to the administrative bodies of the Ministry of Labour and Immigration and its dependent government agencies\(^10\).

Moreover, there were important changes in the political and institutional scene at the end of the year owing to the change of government that took place after the General Elections of 20 November 2011. The restructuring of the government was through Royal Decree 1823/2011, of 21 December, resulting in the restructuring of ministerial departments and reduction in ministries from 15 to 13\(^11\). Royal Decree 1887/2011 was subsequently approved on 30 December 2011, establishing the basic organic structure of the ministerial departments\(^12\).

### 2.2. General structure of legal system

The two legal regulations on immigration and asylum are referred to in the 2010 report: i.e., the law governing the right of asylum and subsidiary protection\(^13\) and the Aliens Act\(^14\).

The main change during the year was the approval of Royal Decree 557/2011, of 20 April, resulting in the approval of the Regulations of the Aliens Act (hereinafter RLOEX).

\(^7\) Spanish State Gazette no. 12 of 14 January 2011.
\(^8\) Spanish State Gazette no. 94 of 20 April 2011.
\(^9\) Spanish State Gazette no. 133 of 4 June 2011.
\(^10\) Spanish State Gazette no. 191 of 10 August 2011.
\(^12\) Spanish State Gazette no. 15 of 31 December 2011.
\(^14\) See supra, note 4.
3 General developments relevant to asylum and migration

3.1. General political developments

See supra 2.1

3.2. Main policy and legislative debates

The severe economic crisis has dominated both civil society and political debates. These debates provided the focus for the regional and municipal election campaigns and general election campaigns of political parties.

One of the debates is focused on the impact of the economic crisis on immigration, particularly the immigrant unemployment rate. According to figures from the INE, during the fourth quarter of 2011 the unemployment rate in Spain was 22.85%, with the figure being even higher for third-country nationals: 36.83% 15.

The crisis has led to a change in the migration cycle, due to the slowdown in the arrival of immigrants. At the same time, the issue of the emigration of Spanish nationals has attracted increasing media coverage.

The crisis has also further affected asylum and migration budget items. Cuts have been made to immigrant integration budgets in Spain as shown in the Fund to support the Reception and Integration of Immigrants and Educational Support. In 2011, allocation to this fund decreased by 5% down to €66.6 million (in 2010 it was €70 million). These budget cuts affect immigration programmes.

The media also reported on Ministry of the Interior figures 16 at the beginning of 2011. These figures show how arrivals on the Spanish coast have dropped by more than 80% in a decade 17.

15 http://www.ine.es/jaxiBD/tabla.do?per=03&type=db&divi=EPA&idtab=304
3.3. Broader developments in asylum and migration

As previously mentioned, the approval of the Aliens Act Implementing Regulation (RLOEX) is the most important piece of new legislation on immigration during the year covered by this report. On 15 April 2011 the Spanish Council of Ministers approved those Regulations\(^{18}\), which came into force on 30 June 2011. Its recitals justify its approval for the following reasons:

— Developing and optimising migration policy rules and principles for the first time through the LOEX amended in 2009; these principles include: the management of labour migration flows in line with the national employment situation; the social integration of immigrants; the fight against irregular immigration and functioning relations with third countries of origin and transit.

— Simplifying and ordering complex procedures making improvements in the processing from the perspective of timeliness and legal certainty. Particularly important for this, it is the introduction of new technologies and the use of a common application which helps the integration of different procedural phases and enables the management by the various competent administrations. The 2011 RLOEX also includes a part on “electronic reporting” (fourth additional provision).

— Finally, making material amendments in response to legal changes and, especially, the increasing importance of the relevant EU acquis in the area of immigration.

The main changes concerning legally established migration and its promotion include improvement and transparency in the renewal of (temporary and long-term) residence and work permits and measures to promote the integration of the immigrant population. The RLOEX, in line with its legal and orderly immigration model, together with the defence of people's rights, is especially designed to promote mechanisms that prevent or reduce the situation of overstay.

In relation to integration measures for legally established immigrants in Spain, of note is the encouragement of the participation of civil society in different areas of migration management and integration, such as non-governmental organisations, foundations or other non-profit associations. The RLOEX also specifically takes into account rights of persons, especially those in a particularly vulnerable situation (minors, female victims of gender violence, victims of human trafficking, etc.) to ensure their protection. In addition, the RLOEX is clearly committed to providing rigour and legal certainty by covering in the

procedures the right to legal assistance and, where appropriate, the right to free legal assistance.

In other matters, the RLOEX stresses collaboration with local and regional authorities on immigration; indeed, one of the important areas concern the reports established by the LOEX (which we will return to infra), through which these authorities can participate, by exercising their powers, in procedures to be decided by national authorities.

Concerning the prevention of irregular immigration, the emphasis is on improvements to external border control mechanisms in collaboration with EU institutions and the European agency created for this purpose (FRONTEX). Great strides have also been made in the fight against the curse of hiring foreign workers staying illegally, providing for offences and tougher sanctions for employers that commit such an offence. There is also promotion of both voluntary and obligatory return measures, in accordance with the transposition of EU rules on this matter.

Furthermore, 27 July 2011 saw the approval of Organic Law 10/2011 amending articles 31 bis and 59 bis of the Aliens Act\textsuperscript{19}. That approval represented a major step in the fight against gender violence and human trafficking, and their link to immigration.

The new aspects of the LOEX introduced in 2011 are:

— Regarding the gender violence victims: possibility of residence and work permit covering both children over or under legal age who are in Spain when the offence is reported; it is also established that the granting of the temporary permit shall be automatic and not optional.

— With regard to victims of human trafficking: protection is extended to ensure the safety of the victim’s children and any other person with family ties or any other type of ties to the victim. It also states that grounds must be given to justify the revocation or denial of the reflection and recovery period for the victim.

Said amendments seek to highlight the importance and priority of protecting the physical and moral safety of the woman in these situations, as well as their right to effective legal protection against a sanction due to their illegal stay.

Worth pointing out too are the powers acquired by contentious-administrative courts on foreign nationals under Law 37/2011, of 10 October, on procedural facilitation

\textsuperscript{19} See supra, note 6.
measures (which amends Law 29/1998, of 13 July, governing contentious-administrative restriction law, specifically section 4 of article 8). This Law 37/2011, of 10 October, entitles contentious-administrative courts to decisions on foreign nationals issued by the Peripheral Administration of the State, as well as those issued by competent regional authorities.

Royal Decree 1497/2011 was also approved on 24 October 2011, determining the responsible officials and authorities for the sole legalisation or Apostille provided by the 12th Convention of the Hague Conference on Private International Law of 5 October, 1961.

Another relevant step was the approval of Order PRE/1833/2011, of 29 June, resulting in the creation of the Immigration Offices of Álava, Castellón, Ciudad Real, Cuenca, Granada, Guipúzcoa, León, Madrid, Navarra, Salamanca, Segovia, Soria, Tarragona, Teruel, Vizcaya and Zamora, which completed compliance with the provisions of Article 67.2 of the Aliens Act. This provision urges the government to unify the dependent services of its various agencies responsible for immigration into provincial Immigration Offices in order to adequately coordinate their administrative actions. That concludes the map of Immigration Offices in Spain.

3.4. Institutional developments

See supra point 2.1.

4 Legal immigration and integration

4.1. Economic migration

4.1.1. Specific context

During 2011, the economic crisis continued to have serious unemployment consequences in Spain for both Spanish and foreign workers. According to the data published by the Ministry of Employment and Social Security, the number of foreign workers out of work on 31 December 2011 was 625,903; of whom 198,997 were EU citizens and 426,906 non-EU nationals. The services sector has the highest number of foreign unemployed workers with 326,214 people out of work, followed by the construction industry with 141,478.

On 30 November 2011, the State Secretariat for Immigration and Emigration published the “Foreign Residents in Spain: Main Results” report. This document highlights the reduction in foreign nationals in 5 of the 15 main nationalities living in Spain and belonging to the general regime (which excludes EU citizens and their family members). The number of residents from Ecuador, Colombia, Peru, Cuba and Argentina went down during the third quarter of 2011. The statistical analysis showed that the number of Ecuadorians, the second highest non-EU nationality in Spain, fell by 3,234 people. The number of Colombians, the third highest nationality, went down by 1,751 citizens and Peruvians, by 1,511.

4.1.2. Developments within the national perspective

In terms of migration policies, 2011 followed the same path as previous years; orderly migration flow management instruments remained in place: National Shortage Occupation List and the Collective Management of Hiring in the Countries of Origin Procedure.

The National Shortage Occupation List, published quarterly, keeps a record of those occupations in which Public Employment Services have had difficulty managing job offers sent to them by employers wanting to cover vacancies. A significant part of the demands for occupations recorded during 2011 were in the following professions: doctors, engineers, technicians and operators in various areas, plus sports and merchant navy-related professions.

As already indicated, the RLOEX aims to consolidate a legal model linking the arrival of foreigners with job market needs (already part of the 2004 Regulation) through the improved control of national employment situation measurement instruments which help to support the system for the legal and orderly channelling of migration flows.

As regards the collective management of hiring in countries of origin, Article 39 of the LOEX authorises the current Ministry of Employment and Social Security to approve, in line with the national employment situation, an annual occupations forecast and, where appropriate, the expected number of jobs to be covered through the collective management of hiring in countries of origin during a certain period, which can only be accessed by foreign workers present or living in Spain. This resulted in the approval

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Another mechanism used during 2011 illustrating the commitment to orderly labour migration flows was the approval of Order TIN/1610/2011, of 3 June\textsuperscript{24}, establishing the rules for granting public subsidies to control the labour migration flows of migrant workers for seasonal agricultural campaigns\textsuperscript{25}.

It is also worth highlighting Order PRE/1803/2011, of 30 June\textsuperscript{26}, which establishes the fees for processing administrative permits, border visa applications and immigration ID documents.

Furthermore and with regard to different measures approved for tackling the economic crisis, Royal Decree-Law 1/2011 of 11 February, came into effect providing urgent measures to promote the transition to stable employment and professional retraining of the unemployed\textsuperscript{27}. Of importance too was the approval of Royal Decree Law 3/2011, of 18 February, covering urgent measures for improving the employability and reform of active employment policies, resulting in significant amendments to current employment law under Law 56/2003, of 16 December\textsuperscript{28}. The main points are the regulation of groups with special job market integration difficulties, which include immigrants. Under the new provisions, public employment services must include in their action plans the design of individual and personal employment itineraries for these groups. There is also emphasis on training and retraining as one of the actions that integrates active employment policies (Article 25); this was implemented with the Ministry of Labour and Immigration retraining programmes during 2011, such as the Professional Retraining Programme (PREPARA)\textsuperscript{29}.

\textsuperscript{24} Spanish State Gazette no. 141 of 14 June 2011.
\textsuperscript{25} This Order specifies that the following actions can be subsidised: participation in the selection processes of foreign workers not resident in Spain; organisation and coordination of hiring and posting of seasonal workers; promotion and support of successive seasonal campaigns; provision of accommodation; visit to accommodation and preparation of reports on its conditions; preparation of an accommodation register; social and labour advice and information and the carrying out of studies and research on the social, health, labour and economic conditions of seasonal workers.
\textsuperscript{26} Spanish State Gazette no. 156 of 1 July 2011.
\textsuperscript{27} Spanish State Gazette no. 37 of 12 February 2011.
\textsuperscript{28} Spanish State Gazette no. 43 of 19 February 2011.
4.1.3. Developments from the EU perspective

Regarding economic migration, it should be remembered that although the EU has powers in this matter, determining immigrant admission volumes for either self-employed work or paid employment, falls within the exclusive sphere of competence of Member States as provided in Article 79.5 of the TFEU\textsuperscript{30}.

Due to the lack of skilled labour and competition to attract people to Spain that make up this shortfall, the RLOEX has paid special attention to encouraging the hiring of skilled labour abroad, trying to incorporate a flexible mechanism for attracting such workers to favour the competitiveness of the Spanish economy in the international market and within the framework of European immigration policy.

The new regulation of this matter resulted in the creation of a new admission procedure for foreign researchers in accordance with the provisions in Article 38 bis of the LOEX and the Researchers Directive\textsuperscript{31}.

One of the main features of this procedure is its speed (maximum of 45 days for terminating the procedure, when in general it is 3 months), the regulation of the specific aspects of family reunification (family members may be reunited without the worker having to wait the previous one-year residence period generally required for these purposes) and researcher mobility within the European Union.

For highly qualified workers, the RLOEX creates an admission procedure based on provisions in Article 38 of the LOEX and the EU Blue Card Directive\textsuperscript{32}.

This procedure is also noteworthy for its speed (maximum of 45 days for terminating the procedure), the establishment of favourable conditions for the mobility of highly qualified workers within the European Union, the regulation of the mobility of the worker’s family members already established in another EU Member State and the regulation of the specific aspects of family reunification (family members may be reunited without the worker having to wait the previous one-year residence period generally required for these purposes).

\textsuperscript{30} Treaty on the Functioning of the European Union which replaced the Treaty of the European Community after the entry into effect of the Treaty of Lisbon.


Along these lines, special mention should be made of enabling legislation on hiring workers in countries of origin, when reasons of economic, social, labour or cultural interest are present, to help broaden the spectrum of companies that might benefit from this possibility. In this respect, it is worth pointing out that small to mid-sized companies can benefit from this hiring procedure if they belong to strategic sectors and if they require foreign management or highly qualified personnel.

In any case, as indicated above, during 2011 Spain made progress in consolidating an orderly flow management system which takes into account the national employment situation, the preference for EU and equivalent citizens, and which also encourages the integration of immigrant workers. So, both the LOEX amended in 2009 and RLOEX are ab initio designed regulations in alignment with the commitments set out in the European Pact on Immigration and Asylum and the Stockholm Programme.

On hiring in countries of origin, the RLOEX of 2011 expands on the provisions of the LOEX amended in 2009 with regard to the approval, by Ministerial Order, of an occupations forecast and, where appropriate, the number of jobs that can be covered through the collective management of hiring in countries of origin over a one year period. The national employment situation supplied by the Public Employment Service and proposals made by regional authorities will be taken into account for this, after consulting the most representative trade unions and business organisations in the relevant field.\(^{33}\)

Another of the commitments of the Pact on legal migration is to prevent the brain drain through circular migration. Therefore, for highly qualified workers, EU Blue Card holders, the permit application may be denied, as provided in Article 90.1.f) of the RLOEX, if the hiring affects sectors which in the worker’s country of origin are short on labour under the provisions of an international agreement on this matter.\(^ {34} \) Circular migration is currently governed by Articles 142 and following of the RLOEX on the temporary residence of the foreign national who has voluntarily returned to their country, and by Articles 158 and following on regaining possession of long-term residence status by the foreign national who has voluntarily returned to their country.

An important decision on immigration concerns the restoration of the moratorium on Romanian citizens for working in Spain. Said restoration of the provisional period only establishes limitations on access to the paid employment job market for Romanian workers in certain situations, imposing the obligation on them to acquire the appropriate administrative permit to carry out paid employment activities (with said obligation in

\(^{33}\) Article 168 RLOEX.

\(^{34}\) Article 90.1 f) of the RLOEX.
no case being required for self-employed activities). The system of entry and residence in Spain for Romanian citizens is, always and irrespective of the date when Romanian citizens are actually in Spain, that established by EU law as transposed by Royal Decree 240/2007, of 16 February. The measure received the legal backing of the European Commission, as on 12 August 2011 the Commission’s Decision of 11 August 2011 was published in the Official Journal of the European Union, authorising Spain to temporarily suspend the application of articles 1 to 6 of Regulation (EU) 492/2011, of the European Parliament and Council, on the free circulation of workers within the Union, with regard to Romanian workers.

Noteworthy is the ongoing collaboration with the Romanian administration to ensure the correct observance of the provisional period. For such purposes, a bilateral working party has been created to monitor the application of the system established in Spain based on point 7 of Annex VII.1 of the Act of Accession of 2005.

4.2. Family reunification

4.2.1. Specific context

The LOEX, amended in 2009, reformed the conditions for exercising the right to family reunification for foreign nationals, a reform subsequently expanded on by the RLOEX of 2011. The most important changes are:

— Considering an unmarried couple equal to a married couple for family reunification purposes.

— Limitation of reunification to ascendants over 65 years old.

— Objectifying criteria to determine the necessary economic resources to proceed with family reunification.

— Granting family reunification allows the reunified spouse, the unmarried partner and the children (of working age) to work without having to apply for a work permit.

Royal Decree 240/2007, of 16 February, on the entry, free movement and residence in Spain of citizens of the Member States of the European Union and of the other States that are a party to the Agreement on the European Economic Area.
4.2.2. Developments within the national perspective

In terms of material conditions necessary for reunification, it should be stressed that in line with the amended LOEX and RLOEX of 2011, the sponsor must demonstrate that they have sufficient economic resources to meet the family’s needs, including healthcare if not covered by Social Security for the following amounts:

- The sponsor and a family member will need an equivalent monthly amount of 150% of the IPREM (Public Indicator of Multiple Effect Income). In 2011, the IPREM was €532.51. So, €798.77 a month is required to reunify the first family member (150% IPREM).

- A monthly amount of 50% of the IPREM for each additional member (€266 a month for each additional member).

Authorisation will not be granted if the economic resources are not likely to be maintained for one year after the request submission date. That likelihood is ascertained by assessing sponsor’s resources in the six months leading up to the request submission date. It should be remembered that economic solvency can be demonstrated by adding the sponsor’s income to that of their spouse or partner, as well as any other direct, first-degree family member resident in Spain and living with them.

Article 61.7 of the RLOEX of 2011, on renewing residence permits due to the reunification of foreign nationals, states that the foreign national's efforts to integrate will be assessed based on a positive report received from the regional government of their place of residence. That integration effort can be asserted by the foreign national as information to be assessed in the absence of demonstrating compliance with any of the requirements provided for permit renewal. The report will take into account active participation in training actions focused on awareness of and respect for the constitutional values of Spain and the EU, and the learning of the official languages of their place of residence, amongst others.

It should also be pointed out that Article 18.2 of the LOEX, amended in 2009, states that any foreign national who wants to reunify their family members must prove that they have suitable housing according to the terms of the regulations. Likewise, Article 55 of the RLOEX provides that the regional government, which may delegate that function to local corporations, shall prepare a living conditions report which the foreign national requesting the family reunification residence permit must attach when submitting their application. The established period for its issue is 30 days, regardless of the Administration responsible for it.
Finally, the RLOEX of 2011 includes, for greater legal certainty and to avoid having to refer to other regulations, the provisions of Article 19.1 of the LOEX on the family reunification residence permit held by the spouse and reunified children when they reach employment age, allowing them to work without the need for any other administrative procedure.

4.2.3. Developments from the EU perspective

The commitments of the European Pact on Immigration and Asylum include the need for Member States to have effective regulation on family reunification and that said regulation is fully respectful of the European Convention on Human Rights. It also requires that the sponsor complies with the adequate economic and housing conditions for proceeding with the reunification and that they can request that their family members comply with conditions for integration in the host Member State (including requirements such as knowledge of the host country’s language).

The amendments introduced by the LOEX amended in 2009 and the RLOEX of 2011 (vid supra) are understood in fulfilling that commitment, given that they establish a system for testing economic resources more objectively than the previous system (helping to improve legal certainty).

Regarding the commitment to enhancing the attraction of the EU to skilled immigration 36, as highlighted previously by the RLOEX, in Articles 85 and following, it transposes the provisions of the EU Blue Card Directive 37, and with respect to the reunification of family members of EU blue card holders; it establishes that they can process their entry together with the sponsor’s initial application (while the sponsor’s family members in the general system must wait until the sponsor has been resident for one year and renewed their residence permit). In relation to the Directive on Researchers 38, family reunification is also facilitated in these cases by simultaneously submitting the residence and work permit application for research and family reunification.

36 In the recent EUROSTAT publication «Migrants in Europe - A statistical portrait of the first and second generation» it was shown how immigrants have more difficulties in finding a job that matches their educational level. It was also noted that people with a high educational level work in unskilled jobs. It was concluded that immigrants aged between 25 and 54 suffer higher unemployment than European citizens in the same age bracket. The publication is available on the Eurostat website. http://epp.eurostat.ec.europa.eu/portal/page/portal/product_details/publication?p_product_code=KS-31-10-539
37 See supra, note 42.
38 See supra, note 39.
The Stockholm Programme stresses family reunification integration measures. The LOEX amended in 2009 and the RLOEX of 2011 do not require compliance with integration measures prior to the entry of reunited family members (as some Member States do which request language tests in the country of origin prior to entry), but they do include measures in Spain so that public authorities promote learning the language (official languages, where appropriate). Integration measures under family reunification legislation take on very special importance when requesting the renewal of that permit, which is when the following must be shown:

— If they have children of compulsory school age they are responsible for in school during the residence of said children in Spain.

— They may submit the report on the integration effort being made to rectify the non-accreditation of some of the requirements and terms referred to in the DGI/SGRJ/8/2011 Instruction of 14 December.

According to the provisions of Article 61.7 of the RLOEX, the effort report will at least certify, where appropriate, the foreign national’s active participation in training actions to promote awareness of and respect for Spain’s constitutional values, the statutory values of the regional authority where they live, the values of the European Union, human rights, civil liberties, democracy, tolerance and equal status of women and men, as well as the learning of the official languages in their place of residence.

4.3. Other legal migration

4.3.1. Specific context

In this section we will briefly look at the situation of students from third countries that come to Spain and their treatment under the RLOEX of 2011.

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39 Regarding the CJEU, of note is the Bibi Mohammad Imran versus Minister Buitnlandse Zaken ruling of 10 June 2011. This refers to a preliminary ruling which was withdrawn because the complainant was given a temporary residence permit, but the question concerned the compatibility with EU Law of certain pre-integration conditions provided in internal state legislation to be fulfilled in the country of origin prior to entry into the European state under the family reunification procedure. Case C 155/11 PPU. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62011CO0155:ES:HTML
4.3.2. Developments within the national perspective

The RLOEX of 2011 devotes Chapter II of Title III to the “stay authorisation for study purposes, student mobility, unpaid work experience or voluntary work”. The new aspects refer to both participation in a student mobility programme and unremunerated training and voluntary service.

Therefore the Directive on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service has been transposed. Procedural rules are also simplified and renewals are also established for study purposes, as well as the possibility of carrying out self-employed activities and paid employment. However, as provided in the previous regulations and maintained in the RLOEX of 2011, income earned cannot be considered a necessary resource for their maintenance or stay, nor shall it be considered within the framework of the renewals procedure.

4.3.3. Developments from the EU perspective

There are only two regulations in the EU on the legal admission of third-country nationals for non-economic reasons and for more than three months (i.e., excluding tourism): Directive 2003/86 on family reunification dealt with in another section of this report and Directive 2004/114 governing admission for study purposes, pupil exchange, unremunerated training and voluntary service.

It is important to remember that the exclusive powers reserved by Member States for determining the volume of admission of third-country nationals cannot be applied to these non-economic immigration cases.

However, said Directive 2004/114 allows Member States to determine the criteria to be met by Higher Education Centres or professional training bodies in order to be recognised as such. Likewise Member States are free to determine admission conditions, specific requirements for students, pupils, unpaid trainees, specific requirements for volunteers and fees. However, many of the admission conditions and provisions on mobility between Member States are mandatory and create common regulations. The RLOEX of 2011 outlines in Articles 37 to 42 the provisions for studies, student mobility, unremunerated training or voluntary service following the minimum rules of the directive. Mobility is

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encouraged allowing the student’s family members to remain with them during their studies from the student’s arrival on Spanish territory and under the same stay conditions as them.

4.4. Integration

4.4.1. Developments within the national perspective

The Strategic Citizenship and Integration Plan 2011-2014\(^\text{41}\) (approved on 23 September 2011 by the Spanish Council of Ministers) underlines the need to look beyond the current situation and to tackle the medium and long-term challenges. The second Plan has established ten priorities that constitute cross-cutting points of action: rights and duties, positive management of diversity, anti-discrimination, inclusion, local development, intercultural civic coexistence; neighbourhoods as key areas of cohesion, social participation and training and multilevel governance. The areas of intervention are of two types: specific (reception, employment and promoting economic development, education, health, social services and inclusion, mobility and development) and cross-cutting (coexistence, equal treatment and combating discrimination, childhood, youth and families, gender, participation and civic education).

During 2011, the evaluation of the Strategic Citizenship and Integration Plan (PECI I) 2007-2010 was published. This evaluation showed the different lessons learned and highlighted the involvement of civil society organizations in the process of developing the “PECI I” and their involvement in its implementation, in co-operation with different public administrations (creation of a governance model).

Also relevant is Title IV of the RLOEX of 2011, which mentions the important role that the regional governments play in integration issues, since they have the power to draft the integration effort report and the report on suitable housing for family reunification purposes. This consideration, derived from the legal reform, also envisages the role of local councils in the event that the regional authority delegates its powers to them.

In the field of immigrant integration policy, throughout 2011 the regional authorities, local councils and the Central Government launched a series of initiatives with the aim of promoting the social cohesion and integration of the foreign population. The co-operation agreement dated 12 December 2009 between the Ministry of Labour and Immigration and the Andalusia Regional Government, to develop a pilot integrated action plan in

sensitive areas of Andalusia with a significant presence of immigrant population, was extended in January 2011.42

Also, in late 2010 the Government approved the pilot plan for strengthening community relations and social cohesion in neighbourhoods with a high rate of immigrant population, which has been developed under the agreement signed between the Catalonia Regional Government and the Ministry of Labour and Immigration.43

Furthermore, regarding the provision of public funds for the integration of immigrants in Spain, on 6 June 2011 the Government adopted the resolution by announcing the awarding of grants in the immigrant integration field.44 The former General Directorate for the Integration of Immigrants announced the award of grants in the immigrant integration field for 2011. The three lines of funding provided for awarding grants are: General system funded solely with State Budget; programmes co-financed by the European Social Fund (ESF) under the operational programme “Fight against Discrimination” and programmes co-financed by the European Fund for the Integration of third-country nationals (EIF).

On 11 March 2011, the Spanish Council of Ministers agreed the objective distribution criteria and the resulting distribution of the €66,600,000 budget appropriation of the Fund to support the reception and integration of immigrants, and their educational support.45 This is intended to fund activities carried out by regional authorities to promote the development of immigrant integration policies in their reception, integration at different levels and educational reinforcement. The budget total item of €66,600,000 was distributed among the regional authorities in three items: €39,637,824 for “Reception and integration”, €26,425,216 for “Educational reinforcement” and €536,960 for “Attention to unaccompanied foreign minors” transferred from the Canary Islands.

Another point to highlight is the issue of the Toledo Agreement proposals on immigration. On 25 January 2011, the Spanish Parliament approved the Report for the evaluation and reform of the Toledo Agreement on the pension and allowance system and the impact that migration flows to Spain have in this context. The document stresses that to achieve the objective of promoting orderly and legal immigration, there should be mechanisms that allow immigrants to join the job market properly, and their social protection, with full rights and obligations. In parallel, it recalls the need to strengthen inspection and

42 Spanish State Gazette no. 14 of 17 January 2011.
43 Spanish State Gazette no. 300 of 10 December 2011.
44 Spanish State Gazette no. 138 of 10 June 2011.
45 Spanish State Gazette no. 78 of 1 April 2011.
monitoring tools to prevent migrants from falling into the informal economy, exclusion or exploitation. Finally, it notes that the Social Security Authorities must provide equal treatment to the Spanish and legal foreign nationals both in access to benefits and their continued receipt.

As for the measures in place to combat xenophobia and discrimination, one of the most important was the approval on 4 November 2011—by the Spanish Council of Ministers—of the Comprehensive Strategy to combat racism, racial discrimination, xenophobia and related forms of intolerance.46

Following the development of this Strategy, it is worth highlighting a recent initiative: the Action Protocol signed on 14 November 2011 between the Ministry of the Interior and the Ministry of Labour and Immigration (now the Ministry of Employment and Social Security) on racism and xenophobia-related incident information systems. The Protocol’s main objective is to promote a level playing field and collaboration between the two Ministries in the fight against racism and xenophobia.47

4.5. Citizenship and naturalization

4.5.1. Specific context

Immigrants’ participation in the local and regional elections held on 22 May 2011 has been highly important, as it was the first time many immigrants exercised the right to vote in Spain under reciprocity agreements on participation in municipal elections concluded with Norway, Ecuador, New Zealand, Colombia, Chile, Peru, Paraguay, Iceland and Bolivia.

4.5.2. Developments within the national perspective

In 2011, two new agreements on reciprocal participation in municipal elections came into force: Cape Verde48 and Republic of Korea49, adding to those already in force and cited above.

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48 Spanish State Gazette no. 11 of 13 January 2011.
49 Spanish State Gazette no. 160 of 6 July 2011.
These agreements together with the Government’s decision to extend the deadline for submitting applications by nationals of countries that have agreements with Spain on the electoral register, resulted in the Electoral Roll for Foreign Residents in Spain (CERE) increasing by around 50,000 citizens.

Order EHA/3/2011 of 13 January 2011 amended the deadline for residents in Spain who are nationals of countries with Agreements for the municipal elections of 22 May 2011 to apply to be registered on the electoral roll. Therefore the deadline for submitting applications for registration on the electoral roll referred to in Article 3 of Order EHA/2264/2010 of 20 July, which issued rules and technical instructions for forming the electoral roll of residents in Spain who are nationals of countries with agreements for the municipal elections, i.e., those who are entitled to vote, was extended until 25 January 2011, inclusive.\(^{50}\)

According to data compiled by the INE, the highest number of foreign voters came from Romania (103,355) and Britain (102,663), which are the largest groups entitled to vote, followed by 47,031 Germans, 40,277 Italians, 32,949 French, 25,694 Ecuadorians, 21,189 Portuguese and 19,047 Bulgarians. They are followed by 14,660 voters from the Netherlands, 12,657 Colombians, 9,077 Belgians, 7,667 Poles, 5,908 Peruvians, 5,412 Swedes, 5,044 Bolivians, 4,128 Irish, 3,350 Danish, 2,732 Finns, 2,185 Austrians, 1,671 Lithuanians and 1,254 Chileans.\(^{51}\)

On the other hand, regarding the acquisition of Spanish nationality, it should be noted that statistics show a clear increase in a number of nationalized aliens: a total of 123,721 foreign nationals obtained Spanish nationality by residence in 2010 and 53,790 in the first half of 2011, according to the General Directorate of Registries and Notaries. This has led to increased voter registration for the 2011 municipal, regional and general elections.

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\(^{50}\) Spanish State Gazette no. 12 of 14 January 2011.


\(^{52}\) For further information, see “Granting of Spanish citizenship due to Residence”, Permanent Observatory for Immigration, available at: http://extranjeros.meyss.es/es/Estadisticas/operaciones/concesiones/index.html
5 Irregular immigration and return

5.1. Irregular immigration

5.1.1. Specific context

With regard to irregular immigration in Spain, worth noting are the figures provided by the Government in the “Review of the fight against irregular immigration” at the start of 2011 in terms of reducing the arrival of irregular immigrants. The figures point to a decline in arrivals of irregular immigrants in a decade. This decline is very significant in the case of the Canary Islands. Along with the lower number of irregular immigrants arriving, attention must be drawn to Spain’s efforts to comply with the Return Directive and other European obligations on the matter (i.e. the effective implementation of the policy of imposing sanctions on employers for hiring irregular immigrants, etc.).

Indeed, the drop in the numbers of irregular immigrants in Spain is a result of extra human and material resources made available for this purpose (in line with the fulfilment of European commitments on the matter to be discussed later in this report), as well as increasing collaboration between the Spanish Government, African countries and FRONTEX in external border control and prevention of irregular immigration.

5.1.2. Developments within the national perspective

As mentioned, national developments regarding irregular migration are mirrored, in part, by strict compliance with the Return Directive and the subsequent expulsion of illegally staying third-country nationals, if they are not eligible to receive any type of Spanish residence permit. The RLOEX has gone a step further than Organic Law 2/2009, which transposed this directive because:

— It places special emphasis on cases where the procedure will take priority, when the
offense is illegally staying on Spanish territory (risk of failure to appear of the alien
avoiding or hampering the expulsion; or the alien being considered a risk to public
order, public safety or national security).

— It establishes that the sanction must be determined in response to proportionality
criteria and taking into consideration the degree of guilt of the offender and the
harm or risk created by the commission of the offense.

— It states that a report from the General Commissariat for Alien Affairs and Borders will
be required to impose an entry ban period, after an expulsion, of more than five years.

— Foreigner detention arrangements are governed by another regulation that has yet to
be approved. However, although this matter will be regulated in a separate regulation,
the 2011 Regulation devotes an article to the detention decision-making process
and the general conditions of detention, and includes a provision on the situation of
foreign detainees.

Moreover, these advances in the fight against irregular immigration are closely linked
to the more sophisticated and effective measures that are steadily being brought in to
enhance border control. These advances are addressed in section 6 of this Report.

### 5.1.3. Developments from the EU perspective

One of the related commitments set out in the Pact on Immigration and Asylum is the
collaboration between Member States for the purposes of expelling irregular immigrants.
In this respect, Spain has continued to arrange joint flights for the expulsion of irregular
immigrants (it has organized one flight to Georgia, another to Ukraine and two flights with
a stopover in both countries; it also participated in 7 flights to Nigeria). In addition, during
2011 Spain authorized 202 airport transits of third-country nationals, thus facilitating
expulsion proceedings.

The Pact also includes the need to punish those who illegally hire an immigrant —which
is the objective of the Directive on sanctions against employers—: consequently, the
articles of both the LOEX amended in 2009 and the RLOEX of 2011 include substantial
economic penalties.

57 From €10,001 to €100,000 for each worker hired without first obtaining the residence and work permit,
and closure of the premises for six months to five years (obviously the Penal Code would be applied if it
were a criminal offense involving human trafficking or migrant smuggling).
As for the mutual recognition of decisions on the expulsion of third-country nationals, Article 64.4 of the LOEX recognizes the expulsion orders issued by other Member States (under Directive 2001/40/EC). As regards expulsion decisions made by Spain, Article 89 of the Penal Code, amended by Organic Law 5/2010 (in force since 23 December 2010), extends the cases in which there is the expulsion of an illegally staying third-country national convicted of a criminal offense.

5.2. Return

5.2.1. Specific context

In early 2012, the figures for repatriations, returns and refusals of entry were published, showing that the number of repatriations in 2011 was 30,792 immigrants, 629 more than in 2010. Refusals of entry (people denied entry at the border) rose by 17.30% in 2011, and readmissions by 34.76%. The number of people returned when they tried to enter the Spanish territory through non-authorised border crossing points dropped 3.19% in 2011, while the number of expulsions of illegally staying third-country nationals fell by 0.84% in 2011.

Also, throughout 2011 the Government has continued to develop the Voluntary Return Plan for immigrants who wish to return to their countries of origin.

5.2.2. Developments within the national perspective

In order to follow the provisions on voluntary return laid down in the LOEX amended in 2009 and in the RLOEX of 2011, the General Directorates of Immigration and Migration Consular Affairs jointly issued on 17 October 2011 the Instruction DGI/SGRJ/7/2011 on residence of aliens who have returned voluntarily to their country. This instruction specifies the requirements under the different voluntary return programmes, approved by law, regarding the residence of aliens who have returned voluntarily to their country (Chapter X of Title IV of the RLOEX of 2011), and the recovery of a long-term residence permit (section 1 of Chapter IV of Title VI of the RLOEX of 2011).

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5.2.3. Developments from the EU perspective

With respect to return, the Pact encourages the conclusion of readmission agreements at EU or bilateral level by Member States. Although Spain has not concluded any new readmission agreements during 2011, it is bound by a number of them and obviously by all the ones that are concluded by the EU. Thus, for the period covered by this Report, it should be noted that the readmission agreement between the EU and Georgia entered into force in February 2011.61

5.3. Actions against human trafficking

5.3.1. Specific context

Regarding the fight against human trafficking, 2011 saw further advances in the application of the Comprehensive Plan to Combat Human Trafficking for Sexual Exploitation 2009-2012, adopted in 2008, which involves actions by several ministerial departments. The Comprehensive Plan includes sixty-one measures divided into three main areas that seek to raise public awareness to trafficking, fight against its causes through active policies of co-operation with countries of origin, transit and destination; involve NGOs in the development of measures from a comprehensive perspective; ensure assistance and protection for the victim, and step up the fight against traffickers and pimps.

5.3.2. Developments within the national perspective

The Comprehensive Plan to Combat Human Trafficking for Sexual Exploitation, which runs from 2009 to 2012, has already issued two reports on its implementation. The first refers to 2009 and was published in April 2010; and the second, for 2010, was published in June 2011 under the name of 2nd Report on the status of the Comprehensive Plan to Combat Human Trafficking for Sexual Exploitation. In parallel and to develop the measures envisaged in the Plan, the following courses of action have been taken:

62 http://www.seigualdad.gob.es/igualdad/luchaTrata/planIntegral.htm
1) Awareness-raising and training: identification and design of training activities for staff of Temporary Immigrant Reception Facilities (CETI) in Ceuta and Melilla, 2) assistance and protection measures to victims: to this end, materials with information on rights and existing resources for trafficking victims have been distributed to professionals and victims alike.

The year 2011 also saw significant regulatory developments related to the fight against human trafficking. Firstly, as mentioned earlier in this report, on 27 July 2011 the Organic Law 10/2011, amending articles 31 bis and 59 bis of the Organic Law on Foreign Nationals, was passed\textsuperscript{65}. Specifically, under the amendment to Article 59 bis, proceedings to expel human trafficking victims will be stopped provided that the victim reports the authors, cooperates or collaborates with the authorities providing relevant information. Among others, the following changes have been made to the protection offered to this group of people:

— The protection given by law is extended to the children of the victim who are minors or have a disability, and they will be granted (provisional and/or definitive) temporary residence permits due to exceptional circumstances (temporary residence and work permits due to exceptional circumstances if they are of working age).

— During the victim’s recovery and reflection period, their minor or disabled children will be granted temporary residence permits. During that time the competent authorities will ensure the subsistence and, if necessary, the safety and security of not only the victim but also their minor or disabled children.

— The obligation to provide security and protection will be extended in extraordinary cases to other relatives of the victim or people to whom they are related in any way, when the vulnerability of such individuals represents an insurmountable hindrance to the victim agreeing to cooperate.

— The law expressly states that the decision regarding the victim’s recovery and reflection period must be substantiated and may be appealed.

Another important development was the adoption, on 28 October 2011, of the Framework Protocol for the Protection of Victims of Trafficking between the Government, the Attorney General and the General Council of the Judiciary (CGPJ)\textsuperscript{66}, which establishes a procedure

\textsuperscript{65} See supra, note 5.
\textsuperscript{66} http://www.poderjudicial.es/stfis/CGPJ/RELACIONES%20INSTITUCIONALES/CONVENIOS/FICHERO/2011-(51).pdf
for the detection, identification and referral of potential human trafficking victims with
due guarantees, and provides assistance and protection in all stages of the process and
favours the simultaneous prosecution of the crime. It also facilitates coordination between
the Spanish Law Enforcement Authorities, the Employment Inspectorate, the judiciary, the
Office of the District Attorney and the specialized institutions that provide protection to
victims.

The Ministry of the Interior has also worked extensively in this regard. Specifically, the
Asylum and Refuge Office has made major procedural changes in order to introduce
greater guarantees for international protection proceedings so as to better detect potential
trafficking victims who apply for asylum.

In this sense, the Framework Protocol establishes the basis for the coordination and
actions of the competent institutions and authorities in this matter and, with regard to
the sphere of action of the Asylum and Refuge Office, outlines the Office’s courses of
action whenever there are signs that the person applying for international protection
could be a human trafficking victim, improving the coordination and actions of all the
players involved in the process.

On the issue of the training of personnel dealing with applicants for international
protection, and following the provisions of the Third Additional Provision to the Asylum
Law, the Fifth European Day Against Trafficking in Human Beings, on 18 October 2011,
was marked by the organization of the Conference “Together Against Trafficking in
Human Beings” with the participation of the heads of the competent European agencies
(EUROPOL, CEPOL, FRONTEX, EASO, FRA, EIGE and EUROJUST), the European Commission
and the European Parliament, to address this reality from a cross-disciplinary approach,
examining its different aspects. Personnel from the Ministry of the Interior’s Asylum and
Refuge Office attended the conference.

Also worth underscoring are the actions attributed to and carried out by the Ministry of
Foreign Affairs and Co-operation in this field:

— It has sought to include trafficking in human beings as a point on the agenda of the
  Schengen Consular Co-operation meetings held at the Consulates General, Consulates
  and Consular Sections of Spain in the countries of origin of victims of this phenomenon.

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67 Commemoration of the European Day against human trafficking. Seminar on the fight against human
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ne&blobkey=id&blobtable=MungoBlobs&blobwhere=1244656600051&ssbinary=true
This ministry has also made this phenomenon part of its training schemes, as the issue has been added to the courses that are given every year to its staff based in Spain’s Embassies and Consulates (consuls, heads of visas and other staff).

It organizes actions to provide information and raise awareness on human trafficking in countries of origin under the International Development Co-operation framework. Spain’s actions in this respect take the form of contributions to multilateral agencies such as UNIFEM, INSTRAW, UNFPA, UNDP and OHCHR, as well as bilateral activities in Latin America and Asia-Pacific.

Finally, the fight against human trafficking has been included in the Country Strategy Papers (CSP) —of Spanish Co-operation— of the priority countries of origin.

5.3.3. Developments from the EU perspective

On 4 July 2011, the European Council adopted the first report on “Oriented Paper on strengthening the EU external dimension on action against trafficking in human beings.”

As far as EU rules are concerned, 2011 saw the approval of Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings, which the Member States must have transposed by 6 April 2012 and will be studied in the next Annual Report.

As is well-known, the Pact commitments include the need for co-operation with the countries of origin and transit of international human trafficking networks. Thus, following the provisions of the Master Plan for Spanish Co-operation 2009-2012, Spain carries out information and awareness-raising actions in the countries of origin to prevent the recruitment of victims. Spain’s actions take the form (see supra) of contributions to multilateral organizations like the United Nations Fund for Women (UNIFEM), the International Research and Training Institute for the Advancement of Women (INSTRAW), the United Nations Population Fund (UNFPA), the United Nations Development Programme (UNDP) and the Office of the High Commissioner for Human Rights (OHCHR), as well as bilateral activities in Latin America and Asia Pacific mainly.

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68 Examples of actions in these two regions include: setting up of a regional trafficking victim care centre in Tapachula, México; support for the Plan of Action against Trafficking and Trafficking of Women of the Council of Ministers for Women’s Affairs of Central America (COMMCA); specialized technical training courses offered at training centres run by Spanish Co-operation in Latin America on this phenomenon. PNC


Also during 2011, Spain has concluded bilateral agreements to combat transnational crime, particularly trafficking in human beings, with the following third countries: Agreement between the Kingdom of Spain and the Republic of Cameroon on co-operation in the fight against crime (signed in Madrid on 26 January 2011), Agreement between the Kingdom of Spain and Bosnia and Herzegovina on co-operation in the fight against crime, particularly terrorism, illegal drugs trafficking and organised crime (signed in Madrid on 3 March 2011), Agreement between the Kingdom of Spain and the Republic of Croatia on combating crime and other matters of security (signed in Madrid on 24 October 2011), Agreement between the Kingdom of Spain and the Hashemite Kingdom of Jordan on Co-operation on combating crime (signed in Amman on 15 March 2011). Another agreement that has entered into force is the Agreement between the Kingdom of Spain and the Federative Republic of Brazil on co-operation in the fight against organized crime (signed in 2007, entered into force in 2011).

6 Border control

6.1. Control and surveillance of external borders

6.1.1. Specific context

In 2011, border control efforts continued and were stepped up along the same line as described in the 2010 Report, namely, improving the Ministry of the Interior’s national security strategy regarding combating irregular immigration and border control. As a result, in 2011 the Integrated External Surveillance System (SIVE) was further deployed, the Advanced Passenger Information (API) system continued to be used successfully and is now being rolled out to control regular passenger transport by sea in addition to passengers by land, and further work has gone into rolling out the Automated Border Control (ABC) system which was first deployed in May 2010 in the Madrid and Barcelona airports.

6.1.2. Developments within the national perspective

One of the major security-related developments that has impacted alien-related issues and, more specifically, border control, is the adoption of the “Spanish Security Strategy,
everyone’s responsibility” by the Spanish Council of Ministers on 24 June 2011. According to this document, “analyzing the threats and risks to our security, identifying lines of response and defining coordination mechanisms are the main objectives of this first Spanish Security Strategy (ESS). The useful horizon of the Strategy is one decade. It will be reviewed every five years or whenever circumstances so require”. The main threats and risks detected include uncontrolled migration flows, for which there are different courses of action:

— Close co-operation between the Public Administrations, NGOs and the private sector.

— Policies to be developed: legal immigration, co-operation with countries of origin and transit, defence of the legality and preservation of public security, control and effective surveillance of access to external borders, social integration and human rights.

As part of the Government’s border control-related actions, in 2011 the Ministry of the Interior carried on deploying the Integrated External Surveillance System (SIVE). This technology facilitates better control of the Spanish coastline and has reinforced the fight against crime and irregular immigration. During 2011, the Ministry of the Interior awarded the contract to roll out the SIVE along the Tarragona coastline and in Pontevedra. It has also awarded a tender for the deployment of the Algeciras Maritime Surveillance Coordination Centre. Another highlight was the contract that the Spanish Council of Ministers authorized on 18 November 2011, for maintaining the SIVE’s fixed and mobile units to ensure coverage of the European Union’s southern border against irregular immigration, mafia networks and drug trafficking. The contract will last three years (from 1 July 2012 to 30 June 2015) and has been allocated a budget of €24,949,006.52. The Ministry of the Interior has been working on the SIVE project since 2000.

Another tool that the Ministry has carried on using successfully is the aforementioned API system, which requires transportation companies to submit information on any of their passengers whose flight of origin is outside the Schengen area. The Ministry of the Interior has continued working on the ABC system since its first deployment in May 2010 at the Madrid and Barcelona airports with the aim of modernizing the passenger control.

71 http://www.lamoncloa.gob.es/NR/rdonlyres/D0D9A8EB-17D0-45A5-ADFF-46A8AF4C2931/0/EstrategiaEspanolaDeSeguridad.pdf
73 http://www.amper.es/pdfs/noticia15055252.pdf?CFID=5282919&CFTOKEN=87113579
74 http://www.infodefensa.com/?noticia-interior-autorizado-a-contratar-el-mantenimiento-del-sive-por-casi-25-millones-de-euros&categoria=defensa
6.1.3. Developments from the EU perspective

The Pact and the Stockholm Programme propose a more effective control of external borders (whether by land, sea and air) and the use of new technologies for this purpose. As mentioned above, as well as the advances regarding the SIVE, Spain has begun implementing the Automated Border Control (ABC) system and the Advanced Passenger Information (API) is also being rolled out.

The Pact also proposes collaboration on visa issues, as well as the issue of biometric visas and co-operation between consulates on visas. On 11 October 2011, 13 consular posts in North Africa began using the Visa Information System (VIS) for the collection of biometric data for visa issuance and delivery, access and archiving at the VIS central database in Strasbourg. Ministerial Order AEC/240/2011, which created the personal data file of the Visa National Information System and of the National Visa Information System Authority, was approved on 4 January 2011.

On 12 December 2011 the European Commission proposed to establish a European Border Surveillance System (EUROSUR) which will help detect and fight criminal networks’ activities and will be a crucial tool for saving migrants who put their lives at risk trying to reach EU shores. Spain and the other Southern European countries will have an important role to play within the framework of this system. This is bound to be an interesting topic that will feature in the 2012 Report.

6.2. Cooperation with respect to border control

6.2.1. Specific context

In February 2011 Cecilia Malmström, EU Home Affairs Commissioner, emphasized that the pressure produced by the arrival of immigrants on the shores of Italy and Malta as a result of the “Arab Spring” not only concerned southern Member States but was

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75 The operational development and functioning of which is set forth primarily in Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the VIS and the exchange of data between Member States on short-stay visas.
76 Spanish State Gazette no. 38 of 14 February 2011.
a matter of responsibility of the entire EU and that a joint FRONTEX operation was necessary (Hermes 2011).

The Spanish authorities cooperate with the FRONTEX Agency on an ongoing basis and, in particular, Spain offered airplanes and experts to the Hermes 2011 border control mission. Spain has also collaborated in many other ways with joint European external border control actions.

6.2.2. Developments within the national perspective

In this section, it should be noted that the developments from the national and European perspective constitute a single perspective for obvious reasons. By way of example, Spain has taken part in operation HERMES 2011 on the Italian coast, and also on the land border between Greece and Turkey, under the ATTICA project, in the mission sent in March 2011 to Greece to verify the improvements requested from Greece in its border control after unfavourable reports had been received in the Schengen evaluations, and much more.

6.2.3. Developments from the EU perspective

One of the major developments in 2011 has to do with the start, on 1 January 2011, of the European Union’s project PERSEUS (Protection of European seas and borders through the intelligent use of surveillance), which will be spearheaded by Spain, through its Civil Guard (Guardia Civil) and, from the technological perspective, the participation of INDRA. This Spanish company won this project following a competitive tender with other EU coastline surveillance operators and is one of the first major initiatives funded by the EU’s Seventh Framework Programme for R&D in the maritime safety. The project will enable the integration of existing national and transnational systems and incorporate the latest technologies. It will also benefit both the national coordination centres, and FRONTEX and the European Maritime Safety Agency (EMSA). This pilot project has a budget of €43.7 million and will run for four years.

From May to December 2011, the Spanish Civil Guard ran Operation Indalo, which was implemented under the coordination of FRONTEX off the coast of Almeria, Granada and


80 http://www.indracompany.com/noticia/arranca-el-proyecto-europeo-perseus,-liderado-por-indra,-para-desarrollar-y-probar-un-sistema-de-vigilancia-
Murcia. 9 countries took part, namely Slovakia, Finland, France, Italy, Iceland, Luxembourg, Netherlands, Portugal and Spain. The operation resulted in a total of 2,671 irregular immigrants and 101 vessels being intercepted, and 38 people smugglers and crossing organisers being arrested. The operation involved close to 5,500 hours of maritime surveillance and 770 hours of aerial surveillance. The main goal was to provide on-the-ground coordination of the methods adopted by the various police forces taking part in the operation in order to produce effective aerial and maritime border control in the south-east of the Iberian Peninsula to avoid the illegal practice of people smuggling. Additional activities associated with the fight against drug trafficking, marine pollution and cross-border crimes were also carried out.

The WEST SAHEL Project, signed in late 2010, was approved by the European Commission under the “Thematic Programme for co-operation with third countries in the area of immigration” and will run during 2011 and 2012. The project aims to strengthen relations with the Project SEAHORSE countries. The third countries in the project are Mauritania, Senegal, Mali and Niger, although Cape Verde, Gambia, Guinea-Bissau, Guinea and Burkina Faso will also take part in some of the planned activities.

The reform of the FRONTEX Regulation was one of the EU’s main concerns regarding its policy on external border control in 2011, with the reform being designed to expand its own powers and activities. The European Parliament has insisted that the reform includes specific safeguards and obligations regarding due compliance with the International Law on Human Rights, in particular everyone’s right to leave their country, to return to it, the prohibition of refoulement and right to seek asylum.

In connection with these operations and interception at sea, Hirsi vs. Italy, pending before the European Court of Human Rights, is considered a crucial case in terms of the outsourcing of European border controls and co-operation between FRONTEX and the Member States in this regard.

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81 http://www.mir.es/press/colmata-la-intercetacion-de-mas-de-2600-inmigrantes-irregulares-y-el-detencion-de-38-traficantes-de-personas-13219?locale=es
83 Hirsi v Italy 2009 Appl. 27765/09.
7 International protection

7.1. Specific context

Spanish Law 12/2009 of 30 October, regulating the right of asylum and subsidiary protection (the “Asylum Act”), came into force at the end of 2009, and ever since the Asylum and Refuge Office has been busy adapting to this new regulatory framework and the new procedures set out herein. Indeed, the Asylum Act introduced important changes in the procedure for granting international protection that have had to be implemented and to which the Asylum and Refuge Office has had to adapt.

7.2. Developments within the national perspective

2011 has ended with a significant rise in the number of applications received for international protection with respect to those submitted in 2010. Specifically, a total of 3,422 applications were filed, 25% more than in 2010.

Continuing the previous year’s trend, and as a result of new grounds, set out in the Asylum Act, on which an application for international protection can be allowed to proceed or rejected, over 81% of the applications submitted in Spain have been allowed to proceed.

A detailed analysis of these applications shows how the number of requests for international protection made by Ivory Coast citizens has risen significantly over the previous year (550 applications compared to 119 applications recorded in 2010), making it the first country in origin of applicants for international protection in 2011, followed by nationals of Cuba with 444 requests, Nigerians (259 applications) and Guineans (with a total of 150 applications) and applicants from the Palestinian territories, who filed 125 requests, making them the fifth largest group to seek international protection in Spain. Also of special note is the significant decline in 2011 in the number of requests filed by Algerians with respect to previous years (there were only 122 requests, compared to 176 in 2010).

As occurred in 2010, the year 2011 ended with a remarkable increase in the number of positive decisions agreed by the Minister of the Interior (337 decisions granting refugee status, 630 granting subsidiary protection and 21 authorizations for humanitarian reasons), taking this rate to more than 26% of all resolutions adopted. Once again, the recognition rate in Spain is similar to the figures for the recognition of protection granted by EU countries.
In the Asylum Act 12/2009, training is given a priority role in international protection proceedings, emphasizing the importance of having a trained workforce that is able to effectively perform its duties in all phases of the procedure.

Pursuant to the provisions of the Third Additional Provision of the Act, the Asylum and Refuge Office has engaged in training activities at two levels: on the one hand, it has focused on in-house training activities, and it has also taken part in training activities organized at European level.

Regarding the in-house training of staff dealing with applicants for international protection, different training activities have been carried out in 2011:

— As part of the 2011 ongoing training programme organized by the Ministry of the Interior, the «Course on the Asylum and International Protection Act» was held in November. The 25-hour course was designed for public staff whose work involves them dealing with applicants for international protection in Spain.

— In order to adequately train the Asylum and Refuge Office’s own personnel on gender-related issues (instructors, interpreters, social workers, etc.), in February and March 2011, in collaboration with the Secretariat of State for Equality, the Office organized a conference on «International Protection: Gender-Related Persecution» which was also attended by the United Nations High Commissioner for Refugees.

— To foster the training of university students and graduates in international protection-related matters, the Ministry of the Interior has signed several collaboration agreements with universities in Madrid involving annual training activities that are held at the Asylum and Refuge Office:

  • with the Carlos III University: a collaboration agreement that allows law student trainees to attend a two-day training course on international protection in Spain and on the functioning of the Asylum and Refuge Office;

  • with the University of Alcala de Henares: an educational collaboration agreement, under which, in 2011, six students of the Master’s Degree in communication, mediation, interpretation and translation in public services gained more than 125 hours’ work experience in the Asylum and Refuge Office.

At European level, taking into account that the objective pursued within the European Union is to train the staff of the different Member States with uniform and common asylum practices and procedures to put all protection international systems on an equal
footing, special attention has been paid to the training given within the European Asylum Curriculum and the future inclusion of training in the tasks to be undertaken by the European Asylum Support Office (EASO).

7.3. Developments from the EU perspective

Following the events in Northern Africa since the end of 2010 and the current flows towards neighbouring countries (both to African countries and to European States) of people who may be in need of international protection, European countries have shown their solidarity and support for the actions relating to the reception of refugees from Northern Africa conflict areas.

Spain is fully aware of the instability that some North African countries are going through at present, particularly Libya, as well as the migratory movements that are occurring, as a result of the conflict, towards the closest European countries such as Malta and Italy. Therefore Spain has publicly expressed its concern about this situation and its solidarity with the European partners who are supporting the influx of these refugees and cannot properly manage these flows.

To embody these statements, on 7 October 2011 the Spanish Council of Ministers approved, at the joint proposal by the Ministers of the Interior and Labour and Immigration, and after a report from the Inter-ministerial Commission for Asylum and Refuge, the Refugee Resettlement Programme for 2011, authorizing the resettlement of up to 100 refugees in Spain. This Annual Resettlement Programme was approved in compliance with the provisions of the First Additional Provision of the Asylum Act in collaboration with the United Nations High Commissioner for Refugees, echoing the conclusions of the European Council of 24 and 25 March 2011, which stressed the seriousness of the humanitarian situation in Libya and its borders and the European Union's strong commitment to provide humanitarian assistance to all concerned.

To develop this programme, in December 2011, a joint mission formed by officials from the Sub-Directorate General for Asylum and the Sub-Directorate General for Social Intervention travelled to Malta to resettle people who had received international protection in that country, which, as a result of the massive influx of refugees since the start of the year after the riots that occurred in the North African countries, could no longer look after them properly because its asylum and reception system was overloaded.

The Asylum and Refugee Office has participated in 4 meetings of the Board of Directors of the EASO held during 2011 in Malta, during which those present discussed international
protection-related issues entrusted to the Agency, such as the Greece Action Plan, projects for training and improving the quality of procedures, country of origin information (EU COI Portal), the early warning system, etc.

8. Unaccompanied minors and other vulnerable groups

8.1. Specific context

Worth mentioning in this regard is the March 2011 report of the United Nations Committee on the Elimination of Racial Discrimination\(^{84}\), in which it welcomes the agreements on assistance to and return of unaccompanied minors that Spain has signed with Romania\(^{85}\) and Senegal\(^{86}\).

As for other vulnerable groups, actions have been taken to protect immigrant women victims of gender violence. All the actions carried out in this field are part of the Plan for care and prevention of gender violence in immigrant population 2009-2012\(^{87}\).

8.2. Developments within the national perspective

The RLOEX of 2011 includes, for the first time, detailed regulations on the procedure for determining the age of unaccompanied foreign minors, as well as the return procedure with respect to the child’s right to a hearing and intervention in the return process, on the basis of respect for the child’s best interests. It also provides for the adoption of a framework protocol for unaccompanied foreign minors designed to coordinate the involvement of all institutions and authorities concerned, from the location of the child to his/her identification, determination of his/her age and handing over to the public minors protection services.

\(^{84}\) http://www.idhc.org/esp/18111_UN.asp

\(^{85}\) Agreement between Romania and Spain on co-operation in the field of protection of unaccompanied Romanian minors in Spain, their return and the fight against their exploitation, signed in Madrid on 15 December, 2005.

\(^{86}\) Agreement between the Republic of Senegal and the Kingdom of Spain on co-operation in the field of prevention of emigration of unaccompanied Senegalese minors, their protection, return and reintegration, signed ad referendum in Dakar on 5 December 2006.

\(^{87}\) http://www.inmujer.es/ss/Satellite?cid=1193050058286&pagename=MinisterioGualdad%2FPage%2FMIGU_contenidoFinal
The actions to protect unaccompanied minors, for which regional authorities are responsible, have been maintained in 2011 through the signing of agreements with the cities of Ceuta and Melilla to improve care for unaccompanied foreign minors, with a budget allocation of €1,590,003 for Ceuta and €1,943,337 for Melilla. In 2011, the Fund for the Support of the Reception and Integration of Immigrants allocated €536,000 to fund places for looking after these minors, who were transferred in 2007 from the Canary Islands to reception centres in run by different regional authorities and who are still in the system today.

8.3. Developments from the EU perspective

The Stockholm Programme emphasizes the need to improve prevention in irregular migration of unaccompanied minors. In this regard, the “Prevention of Irregular Emigration of Unaccompanied Minors of less than 18 years-old from Senegal to the European Union” project was carried out in Senegal for the third and final year. The project, co-funded by the European Commission (80%) and the Spanish Ministry of Labour and Immigration (20%) has been run by the International and Ibero-American Foundation for Public Administration and Public Policies (FIIAPP) in partnership with the Andalusia Public Employment Service. Moreover, in the framework of the Permanent Hispano-Moroccan Working Group on Immigration, the ad hoc committee on unaccompanied minors has met twice in 2011 to discuss the situation of Moroccan children. A visit was arranged to the Beni Mallel centre for minors, built with funds from the Spanish Agency for International Development Co-operation (AECI), which opened its doors in 2011 to look after vulnerable street children in order to prevent them leaving the country.

9 Global Approach to Migration

9.1. Specific context

The Global Approach to Migration, which was adopted in 2005, represents the fundamental basis and general framework of European migration policy. The main highlight of the evaluation of the Global Approach, which took place in the first half of 2011, is its enormous added value as well as the need for greater policy coherence and a better thematic and geographical balance so as to take into account the strategic objectives of the EU. Now, the new Global Approach to Migration

and Mobility sets a path towards a more consistent, systematic and strategic policy framework, giving priority to the Union’s neighbourhood as a whole. This new approach is based on a series of thematic priorities divided into four pillars: organizing legal migration and mobility, preventing and reducing irregular migration and human trafficking, promoting international protection and enhancing the external dimension of asylum policy and maximising the development impact of migration and mobility. It also establishes a series of geographical priorities, which include regional and bilateral dialogues (candidate countries, strategic partners). The Dialogues on Migration and Mobility constitute the fundamental process and basis for the operational co-operation of this new approach.

9.2. Developments within the national perspective

On 15 October 2011, the 13th Meeting of the Permanent Hispano-Moroccan Working Party on Immigration was held in Barcelona. At the meeting, which was attended by a numerous representation of high-ranking Moroccan officials, the parties proceeded to analyze the headway made by both countries to ensure co-responsible management of migration flows, as well as noting that strict border controls were being maintained. Special emphasis was placed on the importance of collaboration and dialogue between both countries, both in the field of combating irregular immigration and in human trafficking. The meeting also highlighted the achievements of this regular dialogue between both countries’ authorities with regard to the ability to react quickly and efficiently to any situation. The parties also stressed that co-operation with immigrants’ countries of origin is essential to ensuring the return of irregular migrants.

On 10 August 2011, the Spanish State Gazette published the Agreement between Spain and Ukraine on regulation and arrangement of labour migration flows between both States that had been signed in Madrid on 12 May 2009. On account of its contents, this new agreement can be classified among Spain’s bilateral agreements on labour migration. 

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88 For further information, please read the Communication from the Commission (COM(2011) 743 final) to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Global Approach to Migration and Mobility.

89 Spanish State Gazette no. 191, of 10.08.2011.

90 Today Spain has bilateral agreements on the regulation and management of labour flows with the following third countries (to which must now be added the Agreement with Ukraine): Colombia (signed in Madrid on 21 May 2001, Spanish State Gazette no. 159 of 4.07.2001); Ecuador (signed in Madrid on 29 May 2001, Spanish State Gazette no. 164 of 10.07.2001); Morocco (signed in Madrid on 25 July 2001, Spanish State Gazette no. 226 of 20.09.2001); the Dominican Republic (signed in Madrid on 17 December 2001, Spanish State Gazette no. 31 of 5.02.2002); Mauritania (signed in Nouakchott on 25 July 2007, Spanish State Gazette no. 260 of 30.10.2007).
and therefore, in part, somewhat further from the Global Approach. By contrast, Spain’s bilateral agreements with third countries referred to as “new generation” countries\(^{91}\) are conceived \textit{ab initio} as parts of the so-called Global Approach and its philosophy, yet during 2011 Spain has not signed new generation agreements with third countries (nor have any come into force).

It should be noted that Spain has also signed with Russia the Implementing Protocols for implementing the Agreement between the European Community and the Russian Federation on Readmission of 25 May 2006: the last Implementing Protocol between Spain and Russia was published in the Official Gazette of the Spanish Parliament in late 2010\(^{92}\).

### 9.3. Developments from the EU perspective

In 2011, the European Commission published a Global Approach evaluation document entitled “
\textit{Public Consultation on the Global Approach to Migration: background document}” that evaluates the actions taken and makes proposals about the future of the Global Approach. Also noteworthy is the launch of the Dialogues on Migration, Mobility and Security with Tunisia and Morocco on 5 and 13 October 2011, respectively. The main aims of these thematic discussions are to improve and simplify legal channels of migration and mobility of citizens between the southern Mediterranean countries and the EU. Another goal is to set up Mobility Associations with an approach specifically tailored to each country, in which the associations cover all aspects of co-operation and with guarantees of gradually facilitating the movement of people in safe and legal conditions.

\(^{91}\) At present, “Framework Co-operation Agreements on immigration matters” (new generation: global approach) are in force between Spain and the following third countries: Gambia (Banjul, 9 October 2006, Spanish State Gazette no. 310 of 28.12.2006); Guinea-Conakry (Conakry, 9 October 2006, Spanish State Gazette no. 26 of 30.01.2007); Mali (Madrid, 23 January 2007, Spanish State Gazette no. 135 of 4.06.2008); Cape Verde (Madrid, 20 March 2007, Spanish State Gazette no. 39 of 14.02.2008); Guinea Bissau (Bissau, 27 January 2008, Spanish State Gazette no. 134 of 3.06.2009); Niger (Niamey, 10 May 2008, Spanish State Gazette no. 160 of 3.07.2008). Although it not a framework co-operation agreement on migratory matters but a framework co-operation agreement, also worth mentioning is the Agreement with Senegal, made in Dakar on 10 October 2006 (Spanish State Gazette no. 170, of 15.07.2008). From times prior to the Global Approach, Spain has agreements that should be classified as merely for the “readmission” of illegally arrived foreign nationals with: Morocco (Spanish State Gazette no. 100 of 25.04.1992); Nigeria (Official Gazette of the Spanish Parliament no. 232 of 21.12.2001); Algeria (Spanish State Gazette no. 37 of 12.02.2004; Guinea Bissau (Spanish State Gazette no. 74 of 27.03.2003); Mauritania (Spanish State Gazette no. 185 of 4.08.2003); Macedonia (Spanish State Gazette no. 280 of 23.11.2006). It is interesting to note which of these agreements have been replaced by «next generation» (Global Focus) agreements, and which ones not.

\(^{92}\) Official Gazette of the Spanish Parliament no. 269-1 of 15.11.2010 (This reference is not included in the 2010 Annual Policy Report on Immigration and Asylum).
As far as Spain is concerned, worth noting is the adoption of the Agreement between the Kingdom of Spain and the Republic of Cameroon on co-operation in the fight against crime, signed *ad referendum* and provisionally applied. Approved by the Spanish Council of Ministers on 18 June 2011\(^{93}\), this Agreement governs the most important aspects of co-operation in the fight against crime through the security and protection of public order forces, with three main areas of co-operation: terrorism, organised crime and irregular immigration.

The Working Party on Migration and Development of the Spanish Co-operation Council drew up a methodological proposal for establishing migration issues within the new country planning instruments (Country Association Frameworks - MAP in its Spanish acronym), which were approved and sent to the General Directorate for Evaluation and Coordination of Development Policies (Ministry of Foreign Affairs and Co-operation) for their implementation. Also, on the issue of treatment of remittances, Spain participated in the remittances subgroup in the G20 development group and called for a reduction in remittance costs.

During 2011, Spain has played an active role in consolidating the Rabat Process. Spain has taken part very significantly in the experts’ meetings that have been held in this process:

- Seminar on the portability of social rights for migrants, held in Rabat (31 March and 1 April 2011).

- Meeting of Experts on documentary fraud and civil registration, held in Warsaw (9-11 May 2011).

Likewise, on 22-23 November 2011 the 3\(^{rd}\) Euro-African Ministerial Conference on Migration and Development was held in Dakar, the most significant outcome being the approval of the Dakar Strategy for the period 2012-2014. Spain has participated with a large delegation that represented the Ministries of Foreign Affairs and Co-operation, Interior and Labour and Immigration. In this regard, a Rabat Process steering committee meeting, chaired by Spain, was held in Madrid on 2 September 2011. Subsequently Spain took part in the Senior Officials Meeting held in Paris on 17 October 2011, which was accompanied by another Steering Committee meeting on 18 October, also in Paris.

Spain and Libya co-chair the MME Partnership on Migration, Mobility and Employment in the EU-Africa Joint Strategy. The political instability and civil war in Libya has made it difficult to carry out the activities planned for 2011 in the framework of this partnership,

\(^{93}\) Spanish State Gazette of 15 June 2011.
and in the end they have not taken place. However, on 1 and 2 December, a workshop on combating human trafficking was organized within the partnership, and co-chaired by Spain, in Johannesburg.

In addition, the Action Plan of the EU-U.S. Platform for Co-operation on Migration and Refugee Issues, adopted in 2009, expressed both parties’ interest in the perspectives and experiences in the field of unaccompanied foreign minors (UAM). Under this Plan, Spain offered to host a seminar addressing good practices in this area, which finally took place on 31 May 2011 in Madrid entitled “Knowledge of the reality of unaccompanied foreign minors in the U.S. and the EU and sharing best practices.” The organization of this Seminar demonstrates Spain’s interest and willingness to advance the Platform for Co-operation between the EU and U.S. in an area which is of mutual interest to both, namely UAMs. The Seminar highlighted the challenges facing the European authorities (11,000 UAMs applied for asylum in the EU in 2010) and U.S. authorities in the management of flows in which there are UAMs.

10 Implementation of EU legislation

10.1. Transposition of EU legislation in 2011

One of the objectives of the RLOEX is to include any provisions necessary for transposing EU directives into Spanish law.

By way of example, Title III (Articles 28 to 44) about stays in Spain continues with the transposition of Directive 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, student exchange, unremunerated training or voluntary service94 which was carried out with the reform of Article 33 of the LOEX. Specifically, Articles 42 and 43 refer to the “work of holders of a residence permit” and “special arrangements for specialized studies in the health field”.

In Title IV (Articles 45 to 122) on temporary residence, Chapter IV, on temporary residence and work for research purposes, develops Article 38 bis of the LOEX, and transposes Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research95.

In addition, Chapter V (Articles 85 to 96) on the temporary residence and work of highly qualified professionals holding a EU Blue Card, which implements Article 38 ter of the LOEX, transposes Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.6

Equally notable is the amendment of Royal Decree 240/2007, regulating the conditions for the exercise of the rights of entry and exit, free movement, residence, and work in Spain of citizens of other Member States of the European Union and of the countries that are part of the Agreement on the European Economic Area, as well as limitations to these rights on grounds of public policy, public security or public health. This amendment is embodied in Royal Decree 1710/2011 of 18 November, which extends the scope of application to the family members of European Union citizens who are nationals of third countries. The amendment responds to the need to adjust the text to European regulations. Thus, it states that for non-EU relatives of European Union citizens, the residential status will be deemed in force from the accredited date of entry in Spain and not from the date of the application for a residence permit, as occurred until the amendment was made. The text also establishes the continued right of residence in Spain for third-country nationals in specific cases, such as for those who have been married to a European Union citizen, or been their unmarried partner, for three years, who have custody of children in common or are victims of gender violence or human trafficking. The reform also establishes greater legal guarantees in the process of expulsion of EU citizens and their relatives.

Legal immigration and integration

1. Economic migration

1.1. European Pact on Immigration and Asylum

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

I(a) Implement policies for labour migration

This paragraph describes the changes to the existing labour migration policy, taking into account regulatory and legislative modifications and special measures taken due to the effect of the economic crisis on labour migration.

1. General considerations

The period which is the subject of this report has been marked, as the previous year was, by the economic crisis, which has resulted in a reduction in the demand for workers in the labour market.

Throughout this year, the number of foreigners in Spain, both from the EU and from third countries, has increased, although the pace of growth has declined significantly. During the first three quarters of the year, the quarterly numbers increased, with a slight increase in the number of foreigners, both from the EU and from non-EU countries holding current residence permits or registration certificates.

In this complex economic situation, the Government’s immigration policy has been based on two principles: firstly, the consolidation of the Spanish migratory model, which has demonstrated its effectiveness in appropriately managing immigration in different economic circumstances; and secondly, significant reforms have been
undertaken which are aimed at stimulating the labour market and tackling the high level of unemployment.

The strategic objectives are aimed at maintaining and improving the instruments and mechanisms for regulating, managing and channelling labour immigration, strengthening integration and social cohesion policies, promoting development mechanisms and guaranteeing mobility and voluntary return, making progress in improving tools for the management and comprehensive control of borders, preventing and combating irregular immigration and reinforcing processes of dialogue with transit and destination countries.

2. Modification of the Organic Law 4/2000 on the rights and freedoms of aliens in Spain and their social integration, as regards to the protection of victims from gender-based violence and human trafficking

Specific mention should be made to the new regulations on the situation of both victims of gender-based violence and human trafficking included in the Organic Law 10/2011, of the 27th of July, which modifies articles 31 bis and 59 bis of the Organic Law 4/2000.

This reform aims to extend the protection afforded to these victims, by establishing certain legal and material conditions which make it easier to report cases of violence and exploitation. To this end, it lays down that the protective measures will be enacted without taking into consideration the victims’ illegal stay.

In this sense, and with respect to the victims of gender-based violence who report it, the Authorities will not take any punitive measure based on those victims’ illegal stay. Additionally, the victim will be able to request a residence and work permit on the basis of exceptional circumstances. This legal option also extends to the victim’s children, whether they are minors or adults, provided that, if adult, they are in Spain at the time the report is filed. It is important to emphasise that, while the procedure to grant the said permit is completed, (and this cannot take place until the criminal proceedings are completed), provisional residence and work permits will be granted to the victim and her children.

With respect to victims of human trafficking, the reform also states that any punitive measure arising from the victim’s illegal stay will not be instigated or, where appropriate, will be suspended any sanction linked to the victim’s illegal stay. Victims
will be offered comprehensive support, and this will not be conditional on their collaboration with the authorities’ investigation of the incidents. The law also provides for measures aimed at ensuring the safety and protection of the victims and their minor children. These measures will also be adopted for other persons, who have family or other relevant family ties or other, and whose vulnerability may be taken advantage of by the traffickers with the aim of preventing the victims from collaborating with the investigation of these crimes.

3. Approval of a new Aliens Regulation

The most significant development in this field is the approval of the Royal Decree 557/2011, of 20th April, which approves the Regulation implementing the Organic Law 4/2000, on the rights and freedoms of aliens in Spain and their social integration, after the said law was reformed by the Organic Law 2/2009.

The decision to approve a new Aliens Regulation, which fully adapts the regulations to the most recent reform of the Organic Law 4/2000, is aimed at achieving several objectives.

On the one hand, the regulation is intended to provide a response to the development of the phenomenon of migration in Spain. This has been an ongoing reason for the successive reforms of the Organic Law. The said development has, in recent years, given rise to various trends, including a reduction in the number of requests for entry permits for reasons of employment, and also an increase in the number of procedures initiated by foreigners in Spain who intend to renew or extend their permits or exercise the rights granted by the Organic Law. This has been taken into account in drafting the Regulation which implements the provisions of Aliens Act.

On the other hand, the new Regulation aims at improving, in this new context, the migration policy principles provided for the reform of the aliens legal framework with the approval of the Organic Law 2/2009 which recognizes for the very first time these principles. The Regulation deepens the consolidation of the Spanish migratory model, underpinned by the principles of management of labour migration flows according to the national labour market, social integration of migrants, preventing and combating irregular immigration and cooperation with third countries concerning migratory matters.
Additionally, the Regulation implements the new aspects introduced by the Organic Law, especially those related to the transposition of EU legislation into Spanish law, and introduces changes aimed at improving the regulation of all the procedures, and thus contributes to strengthening legal certainty. Certain European Directives have therefore been transposed specifically, the Directives on students, researchers or highly qualified workers which had already been transposed in the reform of the Organic Law.

The reform of the Aliens Regulation has also provided an opportunity to clarify, simplify and reorganise those complex procedures for which the process could be improved from the point of view of speed and legal certainty. The systematic inclusion and reorganisation of certain procedures, the distinction between requirements and those documents which provide proof of them, making certain procedures more specific and simplifying them, as well as more clearly regulating the relation between permits and visas so as to avoid the need for double checks, undoubtedly contribute to improve the management and legal certainty of procedures relating to third country nationals.

The Regulation thus clearly aims to make procedures relating to third country nationals more rigorous, transparent and objective. To summarise, the improvement in legal certainty due to more detailed and specific provisions which reduce referrals (renvoi) to other laws, and the introduction of new technologies into the procedures, are developments which will undoubtedly contribute to improve the management and thus satisfy the needs of all actors involved in this field.

In the same manner, it should be also mentioned the introduction of new technologies in a field where the volumes to be managed are high. In particular, the use of a common computer application will enable the integration of the various phases of the procedure and their management by the Administrations responsible in such matters. It will also improve the relationship with the public, in line with the provisions on electronic access to public services.

Finally, it is important to highlight that the process leading to the legislative reform itself has reinforced another basic principle of the Spanish migration policy: the willingness to involve as many political forces, social stakeholders and non-governmental organisations as possible on it. Beyond the institutional channels for participation, an overall agreement with social partners was achieved through the Social Dialogue Forum. Special attention should also be paid to the contributions made by those organisations which are most involved in such matters. This process of dialogue and
consensus has resulted in their participation in the drafting of the regulation. Therefore the channels for collaboration between the different Administrations and between the Central Administration and civil society have been reinforced. The broad consensus on the content of the Regulation is an essential guarantee for a successful implementation.

The approval of the new Aliens Regulation has also introduced **material modifications** which not only respond to legal changes and the growing role of EU legislation in this field, but also aim to reflect the extensive experience of the Aliens Affairs Offices.

From a material perspective, the Regulation has consolidated a model based on legal migration which is linked to the labour market.

In the field of **labour migration**, the Regulation introduces considerable improvements in management through administrative simplification and by the detailed implementation of the procedures and processes related to residence and work permits. It also strengthens the links between the actions of the various Administrations and promotes the use of new technologies in these procedures. The Regulation also unifies provisions which were dispersed throughout many statutory instruments.

In addition, the new Regulation encourages integration and equal rights and duties, thus strengthening social cohesion and integration in a culturally diverse context, based on the principle of equal rights and duties.

In line with the most recent reform of the Aliens Act, the Regulation also strengthens the **collaboration with local and regional Administrations** in many areas, and especially in those related to integration matters. The local and regional Administrations reports included as a part of the Central Administration procedure are one of the most important collaboration mechanisms between Administrations. The regulation on the **reports on integration efforts** in the field of permit renewals and suitable housing to allow family reunification and social integration provides a clear example of this collaboration.

This cooperation has also extended to reporting statistical data on the fields of reunification and to evaluating the national employment situation.

With respect to **initial work and residence permits**, the new text places limits on the initial residence and work permits, except in those cases provided for by Spanish Law and International Agreements signed by Spain, to a specific geographical area, and, in
the case of work permits as an employee, to a specific occupation. When the permit is renewed or extended, this geographical restriction will be lifted and, (in the case of working as an employee), the restriction to specific occupation will also be lifted.

When certain permits are renewed, these are made conditional on any children who are of school age being in education. The regulation introduces a clear control which is aimed to provide an incentive to ensure compulsory schooling.

Concerning the temporary residence permits on the basis of exceptional circumstances, the Regulation reinforces some cases in which this permit will be granted: having social, labour and family roots, international protection, humanitarian reasons and collaboration with public authorities, or for reasons of national security and public interest. When a temporary residence permit is issued for reasons of family reunification; social or labour roots, due to exceptional circumstances, or for reasons of international protection, this includes a work permit in Spain while the residence permit is in force, except when the residence is granted to minors who are not allowed to work.

With respect to cases in which having labour roots are taken into account in order to grant a residence and work permit, the period to prove an effective work relationship is reduced from 12 to 6 months. Additionally, in line with the rulings of our Courts and those of the European Union Court of Justice, the concept of family bond is introduced for the parents of children of Spanish nationality, provided that the parent is the minor child’s guardian or is requesting residence to fulfil his/her parental duties.

Special attention is paid to regulating residence permits for victims of human trafficking or gender-based violence.

With respect to the situation of a victim of gender-based violence, the Regulation provides for a provisional work and residence permit to be granted until there is a court ruling in favour of the victim and her minor children who are in Spain. The permit entitles to work as an employee or self-employed person, and no geographical or occupational restrictions are applied. If, as a result of the ruling, the foreign woman is considered to be a victim of gender-based violence, she will be granted a 5-year work and residence permit. Her children will be granted residence permits or, if they are old enough to work, residence and work permits. The national employment situation will not be taken into account when granting these permits, nor will any other aspect of a labour-related nature, since the work permit is part of the protection given to the victim.
The regulation governing the situation of a victim of human trafficking has also been implemented. There is a provision for granting provisional residence and work permits, allowing the holder to work as an employee or self-employed person, with no geographical or occupation restrictions. The national employment situation will not be taken into account in this case, either, when granting these permits, nor will any other aspect of a labour-related nature, since the work permit is part of the protection given to the victim. It should be stated that, as in the case of a victim of gender-based violence, this protection extends to those minor children of the victim of human trafficking who are in Spain.

The case of a person collaborating with police, judicial, prosecuting and/or administrative authorities in the fight against organised crime is also included. The granting of work and residence permits is not modified by these regulations, and these permits continue to be free from geographical or occupational restrictions since they are, once again, considered to be a form of protection.

Similarly, the Aliens Regulation introduces improvements in respect of the migration management instruments, which aim to establish a more stable and better developed legal framework, since their effectiveness has been proven, as has the fact that their results automatically adapt to the various scenarios of the Spanish labour market.

In this respect, a provision has been introduced relating to the Catalogue of Occupations in Short Supply. This Catalogue is produced quarterly, and determines the occupations for which staff may be hired directly from overseas, since the posts cannot be filled from Spain. There is therefore a provision for not including in this Catalogue those jobs which, as a result of their nature, could be filled by people who are registered job seekers, by training them appropriately. It is important to note that this measure converges with the Spanish Employment Strategy 2012-2014. These mechanisms aim at hiring the existing labour force in the market, taking thus, priority over the replacement of this labour force.

For those occupations which are not included in the said Catalogue, guidelines have been laid down to standardize, throughout Spain, the content of certificates issued by National Public Employment Services. These certificates must state that an attempt has been made to hire from within the country, but workers who were available, suitable for the post, and sufficient in number, were not found.

Combating illegal employment is another relevant aspect of the new Regulation. Two sides are taken into account: overstay and illegal employment of immigrants.
The regulation therefore aims to prevent situations of overstay which arise as a result of loss of employment. It does so by firstly making it easier to renew work and residence permits and thus maintain a legal stay, and secondly by promoting the employability of immigrant workers.

With respect to combating illegal employment, it should be emphasised that punitive procedures have been strengthened and, within them, the forms of collaboration between the various administrative bodies in this field.

4. Measures in the fields of employment and inspection

4.1. Inspection measures to combat illegal employment

In addition to the laws and regulations on combating illegal employment, there have also been operational measures. Throughout 2011, more staff has been employed by the Labour and Social Security Inspection body, and between January and June this year, 31,416 labour or Social Security inspections have been carried out relating to third country nationals, and 2,596 infringement certificates were issued. The reform of the Labour Inspection Law also has the same aim.

4.2. Measures to stimulate employment

The other Government policy priority this year has been to stimulate employment by the reform of active employment policies, introduced by Royal Decree-law 3/2011, of 18th February, on urgent measures to improve employability and to reform active employment policies.

A battery of measures has been adopted, aimed at promoting the employment of —amongst others— unemployed immigrants who had jobs in industries which have been particularly badly affected by the crisis, such as construction. A model of personalised support for unemployed immigrants has been laid down. This is based on an “individual and personalised employment itinerary”, which is the responsibility of the National Public Employment Services. This itinerary establishes an organised series of measures which are adapted to fit the professional profile of the workers and their specific needs, and include: professional guidance and informative measures, support, motivation and advice, professional retraining and qualification. Specific programmes are carried out, which are aimed at encouraging the employment of persons with special difficulties in finding work, and immigrants fit into this category.
To the same end, programmes to help those people whose unemployment benefit is reaching its termination have been established. These are within the Professional Re-qualification Programme, which was included in the Royal Decree-law 1/2011, of 11 February on urgent measures to promote the transition to stable employment and professional re-qualification of unemployed persons. Unemployed immigrant workers are also eligible for this Programme.

All these measures come under the Spanish Employment Strategy for 2012-2014.

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

In this paragraph measures taken to facilitate access of highly qualified workers, students and researchers are outlined. Specific mention is made to the implementation of the Blue Card Directive.

**Highly qualified workers**

Articles 85 to 96 of the Aliens Regulation regulate the special regime which is applicable to highly qualified workers who hold EU Blue Cards, which establishes a preferential and privileged procedure. Hiring these workers, as in the case of other foreign workers not resident in Spain, is subject to prior considerations to the national employment situation.

Additionally, article 148 of the Regulation lays down that, to be eligible for long-term residence, the general requirement of continuous and regular residence in Spain for five years is applicable. However, in making this calculation, periods of residence in other member states of the EU will be taken into account, provided that the person has resided in Spain for two years prior to the application.

The Regulation also facilitates family reunification for holders of the EU Blue Card, and this can be processed at the same time as the initial request for work and residence permits. In these cases, therefore, the requirement that the person whose family is to be unified has previously resided in Spain for one year and is authorised to reside here for at least one more year, is not applicable.

The Regulation also encourages the mobility of highly qualified persons who hold this EU Blue Card.
The new Regulation, articles 178 to 181, also regulates the granting of work and residence permits to workers whose jobs are of economic, social or labour-related interest, or are related to research or teaching work requiring highly qualified profiles, or are artistic activities of special cultural interest. In general, the Strategic Groups and Major Companies Unit in the General Directorate for Immigration will provide centralised management of these applications, in such a way that a decision must be taken within one month. Along the same lines, small and medium-sized companies are allowed to hire this type of staff in their country of origin, provided that our country’s economic, social, labour-related or cultural interests allow it. This type of permit will not be subject to the situation of national employment.

**Researchers**

The new Regulation encourages researchers to relocate to Spain, through a series of provisions in articles 73 to 84 of the Regulation. A new and specific regime has been introduced for work and residence permits which enable foreigners residing outside Spain to initiate a research project under a hosting agreement with a research body.

The planned incentives to attract this type of worker are similar to those for other highly qualified workers. However, it should be pointed out that a researcher coming to Spain is not subject to prior considerations to the national employment situation. On the other hand, in the case of foreign researchers, the requirement for continuous residence in Spain for five years in order to be eligible for long-term residence is maintained (unlike the case of holders of an EU Blue Card).

**Students**

With respect to students, the articles 37 to 42 of the Aliens Regulation implement the provisions for the following cases: studying, student mobility, unremunerated internships and voluntary work.

The regulation provides for a permit to stay in Spain in order to study or extend their studies in an authorised learning establishment, full-time, and leading to a degree or certificate of studies.

In addition, students may enjoy permits for paid employment or self-employment, provided that the work is part-time and compatible with their studies or for a period
of no more than 3 months if it is a full-time job. Additionally, the income obtained for that job must not be the main resource for their support or stay.

This type of mobility is encouraged by allowing the students’ family members to stay with them from the moment of the students’ arrival in Spain, and under the same permit conditions.

I(c) Do not aggravate the brain drain

This paragraph describes regulatory and operational measures to favour circular or temporary migration, as well as other measures taken to avoid brain drain.

Spain has consolidated the implementation of measures aimed at favouring circular migration and mobility as part of its migration policy, by trying not to aggravate the consequences of the brain drain.

Both regulatory and operational measures have been used to this end.

1. Regulatory measures

Spanish legislation includes clauses which favour circular migration through recruitment from country of origin for seasonal work. This type of recruitment, fundamentally through the system for collective management of hiring from origin, allows for those workers who are not in Spain to be recruited in a programmed and orderly manner, with the commitment from them to return to their country of origin.

The Aliens Regulation which was approved in 2011 aims at consolidating this circular migration model in two ways: by clarifying and speeding up the procedure and by guaranteeing its use in different economic and labour market scenarios.

With respect to the first point, the regulation implements in detail the special aspects of the procedure, listing and clarifying the various administrative processes, and strengthening the links between the actions of the different administrations and bodies involved. In addition to the ordinary regime for the arrival of seasonal workers, the Regulation provides for specific procedures to be laid down when the Ministry of Labour and Immigration so decides, after it has consulted the Tripartite Labour Commission, with the aim of speeding up collective recruitment management. This Commission
is the body for political participation which is made up of representatives of the Administration and of the most important trade unions and employers organisations.

Additionally, the new Regulation strengthens the rights of those workers who choose this option. In the case of seasonal/harvest work, the Regulation lays down provisions relating to the components of the work contract and to the employer’s obligations to provide decent accommodation for the workers and to organise the arrival and return journeys, paying the cost of the incoming journey. The employer’s obligation to cover the cost of the round trip journey between the port of arrival/departure and the accommodation is also laid down.

As a result of the high level of unemployment in Spain, the Regulation strengthens the instrument used to evaluate the national employment situation prior to recruiting overseas for seasonal or harvest work. The employer is therefore required to submit the job opportunity to the National Public Employment Services, which must advertise the said job opportunity throughout the whole country for a period of twenty-five days. Previously, it was for a period of fifteen days.

It should be stressed that the workers who are hired from their country of origin for seasonal or harvest work must return to that country once the harvest or seasonal work has been completed. If they fulfil this commitment to return home, they will receive preferential treatment in future recruitments, by being offered jobs directly. If they do not return home, this may result in any future applications for temporary work and residence permits being denied.

Finally, the provisions on the regime for students, researchers and trainees also introduce components aimed at preventing brain drain. A person with this kind of permit cannot change it into a normal residence and work permit if his/her studies have been subsidised by private or public bodies under Spanish or country of origin cooperation or development programmes. Likewise, in the case of highly qualified workers who hold EU Blue Cards, application for a permit may be denied if this recruitment is for sectors for which there is a shortage of personnel in the workers’ country of origin, as per the provisions of an International Agreement on this subject.

2. Operational measures

Firstly, in order to improve the organisation of harvests in the agricultural sector, the collaboration between the administrations involved and the industry’s most
important employers and trade union organisations has continued throughout 2011. In this respect, the application of the Framework Agreement on the organisation, coordination and social-labour integration of migratory workers for seasonal agricultural work has continued throughout this year. This agreement was signed by the Central Administration, the Spanish Federation of Municipalities and Provinces, and the main employers and trade union organisations in the agricultural sector. Within this framework, its Central Commission has met regularly, and the tasks of tripartite working groups responsible of different aspects have been promoted, such as the planning of large harvest campaigns, linking of campaigns or accommodation for seasonal workers.

Secondly, the voluntary return programmes have received a considerable stimulus through the application of the strategy to favour mobility and circular migration. The Aliens Regulation contains provisions on workers’ residence permits for those workers who have entered a voluntary return programme or have returned voluntarily without using such a programme. In 2011, a joint Instruction issued by the General Directorate for Immigration (Ministry of Labour and Immigration) and the General Directorate for Consular and Migratory Affairs (Ministry of Foreign Affairs and Cooperation) was approved. This was published as Instruction DGI/SGRI/7/2011. This joint Instruction implements the said provisions, which state that the worker must make a commitment not to return to Spain for three years and must surrender the residence permit he/she held. After this period of time, the third country national may once again request a residence permit or a residence and a work permit. The national employment situation will not be taken into account when consideration is given to granting these permits. This new permit will allow the residence situation to be understood to have been continuous for the purposes of calculations made to obtain a long-term residence permit. In any case, this stay will have been materially interrupted during the period of voluntary return. Therefore, nor will the time between the said return and the person once again arriving in Spain count for this calculation. If the person concerned has held a long-term residence permit, there are provisions covering the option of regaining that status.

Additionally, the productive return programme, based on capitalising the unemployment benefit payable to immigrant workers, has continued. Participants in this programme also benefit from the conditions described in the previous paragraph. Besides, by returning, these workers will be contributing to the development of their countries of origin, will be able to work close to their families, with better employment options and/or the chance to create a business as a result of the experience and qualifications they have gained through their work in Spain.
1.2. Stockholm Programme

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

1(b) Improving skills recognition and labour matching

This paragraph outlines the measures taken to better analyse the labour market shortages, and to improve the skills recognition and the match between the skills of third-country nationals and labour needs.

Concerning the **instruments used to analyse labour market needs**, it should be mentioned that, in 2011, two tools have been reinforced: the Catalogue of Occupations in Short Supply, and the system of recruiting from abroad which is based on the existence of Bilateral Agreements on migratory flows and of pilot projects set up with other countries.

The **Catalogue of Occupations in Short Supply** is produced quarterly, and lists the occupations in each province for which staff may be hired directly from overseas. In this case, the employer will not have to previously submit the job opportunity to the National Public Employment Services. This Catalogue is prepared on the basis of the situation of national employment. As a consequence of changes in the Spanish labour market, the number of occupations in the Catalogue has dropped to 36 in the fourth quarter of 2011, which is a reduction of 40% when compared to the fourth quarter of 2010.

Improvements to the process of preparing the information used for making the estimates on which the Catalogue is based have been introduced with the new Regulation. Likewise, the Regulation strengthens the role of the Tripartite Labour Commission on Immigration as the channel for social actors’ participation (trade unions and employers organisations).

The sources used to elaborate the Catalogue of Occupations in Short Supply are one of the main innovations. Article 65 of the new Regulation expressly states that, in addition to the information on the management of job opportunities submitted, the statistics prepared by public administrations may be analysed, especially the statistics on persons registered as job seekers in the National Public Employment Services.
In the field of recruitment abroad, article 167 of the new Regulation implements the legal provision that the annual forecast of positions to be recruited from abroad must be approved simply through a Ministerial Order issued by the Ministry of Labour and Immigration. This provision will speed up the process. Additionally, article 168.1 increased the number of sources of information used in preparing the annual forecast, to make this estimate more precise. The Regulation therefore states that in addition to proposals from employers’ organisations and information on the national employment situation which is prepared by the National Public Employment Service, proposals made by trade union organisations should also be analysed. This increases the participation in this process of the Tripartite Labour Commission on Immigration.

A considerable improvement in the selection processes has been achieved due to the increasing experience in adopting and applying bilateral agreements on migration matters and the broad experience in recruiting abroad. The relevant administrations in the country of origin are involved in managing the process as Spain requires, for example, by involving them in the pre-selection of workers and in advertising the information on job opportunities, the profiles required and the working conditions. These are key elements, together with the fact of establishing permanent channels of communication to improve the matching process between the profiles of the recruited workers and the labour market needs. Training courses also contribute to this matching process. The fact that a high percentage of workers hired abroad are recruited through collective management is a good indicator of the level of satisfaction with this process amongst both employers and employees.

In order to respond more precisely to shortages in the labour market, the Regulation enables the representatives of employers’ organisations and trade unions in both Spain and the country of origin to participate in the selection process as advisers, when the relevant administrations request so.

The Regulation also clarifies the procedure, by organising and specifying its specific aspects.

As indicated in the 2010 Annual Policy Report on Migration and Asylum, the bilateral agreements on migration matters, signed by Spain, contain the instruments required for advertising job opportunities and for evaluating the professional requirements.

It can therefore be concluded that social dialogue and the level of agreement which supports the whole process of recruiting non-EU workers from their countries of origin, through the permanently-established participatory bodies, constitute the basis for meeting the needs of the labour market.
With respect to the **recognition of professional skills and competences**, Royal Decree 1224/2009, of 17\(^{th}\) July, which recognises professional skills and competences acquired through work experience, volunteer work and/or non-formal training, is still applicable. Recognition is obtained through a process of evaluation and accreditation. Resident third country nationals are eligible for this procedure. The Administrations regularly announce accreditation procedures.

Another important measure for promoting the employment of immigrant workers is the **professional retraining of the unemployed**. Given the high level of unemployment among immigrant workers, providing training opportunities in order to ensure they find another job is a priority. These training courses, which are given under the auspices of the public system for ongoing occupational training, lead to Certificates in professional skills. This measure is especially useful to combat unemployment and for matching the labour market needs.

Concerning the recognition of skills and diplomas, no changes are foreseen in the current provisions on recognising educational studies, university degrees or other higher qualifications.

### 1.3. Key statistics

#### First residence permits, by reason 2011

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Family reasons(^{(1)})</th>
<th>Education reasons</th>
<th>Remunerated activities reasons</th>
<th>Education reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>First permits</td>
<td>n.a.</td>
<td>n.a.</td>
<td>n.a.</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
</tbody>
</table>

Notes: «n.a.» means data are not available at the time this report was published.

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

<table>
<thead>
<tr>
<th></th>
<th>Third-country nationals</th>
<th>Nationals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unemployment rate (%)</td>
<td>35.34</td>
<td>19.50</td>
</tr>
</tbody>
</table>

2. Family Reunification

2.1. European Pact on Immigration and Asylum

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

I(d) To regulate family migration more effectively

This paragraph describes new developments of the legislation regulating family migration.

The previous Annual Report listed fundamental changes in matters of family reunification which were introduced by the Organic Law 2/2009.

The Regulation approved in 2011 implements the provisions on the procedures, administrative processes, requirements and means of proof. With respect to the latter point and in order to prevent legal uncertainty, the financial and housing requirements are clarified. Regarding the requirement of suitable accommodation, approval has been given to Instruction DGI/SRJ/4/2011 issued by the Directorate General for Immigration on proving that a home is suitable for family reunification procedures.

The Regulation also implements the way in which the existence of a previous close personal relationship analogous to marriage must be proven. For this, there are two options: the relationship must either have been registered with a public registry established for that purpose, or else proof must be given of an unregistered relationship by any means which is acceptable in Law. In the latter case, it is required that the relationship already existed when the sponsor (resident seeking reunification) emigrated to Spain.

2.2. Stockholm Programme

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

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

In this paragraph measures to further promote the integration of third-country nationals who migrate for the purpose of family reunification are outlined.
The new Regulation implements the provisions of the Law. The main new provisions on family reunification are: a) to include, within the family members who can be reunited, the person with whom the sponsor has a close personal relationship analogous to marriage, and b) that those who are sponsored and of working age are given immediate access to the labour market (the previous regulations only mentioned a temporary residence permit which did not allow the holder to work). Additionally, situations of gender-based violence are taken into account when processing permits independently of the sponsor’s permit. Besides, as pointed out above, a fast-tracked reunification procedure is laid down for family members of researchers and highly qualified workers.

Another requirement for renewing family reunification permits is that any minors under the sponsor’s care, who are of school age, must go to school while staying in Spain. This measure is intended to facilitate the families’ integration through their children’s education.

3. Other legal migration

3.1. European Pact on Immigration and Asylum

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

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

This paragraph provides an overview of the mechanisms to share and exchange information on migration with other Member States, mainly through existing networks.

As mentioned in the 2010 Report, Spain plays an active role in the European Migration Network. The website of the Secretary of State for Immigration and Emigration (extranjeros.mtin.es) provides exhaustive information on this Network’s activities and outputs.

Spain plays an active role in the Mutual Information Mechanism for national asylum and immigration measures (MIM).
I(f) Improve information on the possibilities and conditions of legal migration

This paragraph describes the measures to improve the provision of information on the possibilities and conditions of legal migration. These include maintenance of websites, development of informative leaflets and a specific mention to the Immigration Portal.

The State Secretariat for Immigration and Emigration's website (extranjeros.mtin.es) provides detailed information on conditions of entry and the procedures to be followed in order to live and work in Spain.

Since the new Regulation introduced significant modifications to the previous provisions, the Ministry of Labour and Immigration has taken several initiatives in order to coordinate the information on the new regulatory framework which is provided to immigrants and employers. These include the following:

a) The information on the website has been expanded and made more accessible. Specifically, information sheets have been published which bring together the most important information for each of the types of permits – short stay, residence, work and residence. These sheets explain the requirements and conditions which must be fulfilled in order to obtain the permit, the applicable legislation and regulations, the documentation to be submitted and all the information on administrative processes (where the applications must be submitted, deadlines, fees, etc.). These sheets can be downloaded from:


b) Similarly, additional information has been included in the website on the competences of other Ministries, in order to ensure that the competency framework does not affect the information obtained by citizens. Other information added includes: relevant links, specific information sheets on administrative procedures at Spanish consulates and, once in Spanish territory, information on authenticating and translating documents, etc.:


The site also includes reports which, in accordance with the regulations, must be prepared by other Administrations, such as Regional or Local Authorities: http://extranjeros.mtin.es/es/InformacionInteres/Informes_CCAA_Entidades_locales/
Information is also provided on the administrative procedures that can be completed online, and access is given to relevant information from other competent bodies: http://extranjeros.mtin.es/es/InformacionInteres/ServiciosInmigracionExtranjeria/

On the other hand, more application forms are now available through the site, and its content has been adapted to make them more accessible and clearer for applicants. These forms are available and can be filled online and then downloaded from the State Secretariat for Immigration and Emigration’s website:

http://extranjeros.mtin.es/es/ModelosSolicitudes/Mod_solicitudes2/index.html

A series of forms have been added which can be used by applicants for the administrative communications they need to use while contacting the competent administration during the process:

(http://extranjeros.mtin.es/es/ModelosSolicitudes/Modelos_comunicaciones/).

c) For internal use, several instructions implementing the Regulation have been prepared for the use of the Aliens Affairs Offices in provinces, aimed at ensuring that the regulation is applied uniformly in all provinces and that a high quality service and information to the public is provided.

d) Lastly, informational leaflets have been prepared for the most common types of permit (for studies, recruitment of workers and family reunification). They also explain the new roles included in the Regulation (researchers, EU Blue Card). These informational leaflets are available in Spanish, English and French from the Aliens Affairs Offices and on the Internet:


At the EU level, Spain has strongly supported the launch of the European Immigration Portal. To this end, Spain has actively cooperated with the European Commission, and regularly reviews and updates the information it must provide as a member state.

As indicated in the previous Annual Report, the REDTRABAJ@ portal was set up at the end of 2009. This has promoted transparency the publication of information about employment and recruitment on the Internet. It constitutes a meeting point for facilitating the management of work offers and requests, mobility and information on the training opportunities available throughout the Spanish territory and in the
other countries of the European Economic Area. This portal has been improved and consolidated during 2011.

With respect to the accreditation of competencies, the Ministry of Education has set up the portal Todo FP Acreditación de competencias profesionales (http://todofp.es/todofp/formacion/acreditacion-de-competencias.html).

This is a tool that has been specially designed to make it easy to find, in a case by case basis, non-binding information on the professional competencies that can be accredited on the basis of a specific work experience. It also includes all the information on the courses that must be followed to obtain formal qualification.

3.2. Stockholm Programme

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

4. Integration

4.1. European Pact on Immigration and Asylum

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

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

This paragraph describes measures taken for the integration of third-country nationals, like enabling immigrants to acquire a basic knowledge of the host society’s language, history, and institutions, participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, access to education, employment and public and social services, policy development on integration, etc.

The common basic principles may be found in the JHA Council Conclusions of 19 November 2004, doc. 14615/05,\(^\text{97}\) as well as the Commission Communication COM(2005) 389\(^\text{98}\).


The main feature this year is that, in its meeting of 23 September 2011, the 2nd Strategic Plan for Citizenship and Integration 2011-2014, as proposed by the Minister of Labour and Immigration was approved. The main objective of this plan is to increase social cohesion in this new migratory context, characterised by a reduction in the flows of immigrants entering the country.

The approved new Plan—which will follow on from the one for the 2007-2010 period—will be an improvement on the previous migration policy, as it is based on integration and normalisation of coexistence in a diverse society. It seeks to strengthen the integration policies and instruments as well as the public and participatory services, in order to guarantee public access to these services on equal terms for all citizens.

Central Administration will provide an initial budget of 1,284,335,576 Euros for the four years for which the Plan is in force. This budget will be jointly provided by the following ministries: Labour and Immigration; Health, Social Policy and Equality; Education; and Foreign Affairs and Cooperation (Spanish International Co-operation Agency for Development).

The Strategic Plan for Citizenship and Integration 2011-2014 considers that integration is a process of mutual adaptation, and has designed a policy based on actions which are directed to the whole population, including both immigrants and nationals. It provides for six priority action areas: Reception; Employment and Economic Development; Education; Health; Social Services and Inclusion; and Mobility and Development. It also provides for five cross-cutting areas: Peaceful Coexistence; Equal Treatment and Combating Discrimination; Childhood, Youth and Families; Gender; and Participation and Civic Education.

The General Directorate for the Integration of Immigrants, through the OBERAXE (Spanish Observatory of Racism and Xenophobia), has implemented the GESDI European Project (Management of Diversity in the World of Work). This project has been co-financed, under the Anti-discrimination Progress Programme, by the European Commission’s DG for Employment, Social Affairs and Equal Opportunities. The outputs from this project are a Guide for managing diversity in work environments (Guide for Managing Ethnic and Racial Diversity in Organisations) and a Final Conference which took place in Madrid on the 17th of November 2011.

Another key milestone in the implementation of integration policies during 2011 has been the completion of the process of evaluating the Strategic Plan for Citizenship and Integration 2007-2010 (hereinafter the PECI, Spanish acronym). For
the first time, an evaluation of the actions organized by the different stakeholders involved in the policies on integration of immigrants at a national level has taken place. Never before has an evaluation process of this scope been carried out. In this process, data was collected from national, regional or local public authorities, social organisations, immigrant associations, trade unions and employers associations, universities and other institutions, and the results and impacts of their activities were evaluated.

This evaluation found that a significant volume of funds (an average of 581,334,997 € / year) had been used under the auspices of the PECI. This amount was spent transversally on twelve intervention areas, the most significant of which were Education, Employment and Reception (which accounted together for 81.5% of all funds spent in the 2007-2010 period). At a second level of importance in budget terms came the areas of Childhood/Youth and Social Services. In overall terms, the amount spent meant a 16% increase over the initially planned budget.

The PECI has encouraged progress in both Spanish society and Public Administrations through studies and awareness-raising activities which have provided a better understanding of migratory phenomena and processes; encouraging meeting places and opportunities for peaceful coexistence between immigrants and nationals; support for projects aimed at improving the way in which communication media deal with immigration issues; and the promotion of the transfer of knowledge and good practices. An effort has also been made to ensure that Public Administrations take an inter-cultural perspective, through training professionals (teachers, social workers, public employees, inter-cultural mediators, etc.) working in different fields of public services such as education, employment, housing and health, and with awareness actions aimed at promoting inter-cultural attitudes, preventing discrimination, and encouraging equal treatment.

The Plan has had a considerable impact on the public agenda. The PECI has made progress in changing and advancing Spain’s migration policy, since it has given a definite boost to policies of cooperation, agreement and co-responsibility amongst all the different administrations. On the one hand, this has been a process of joint action, with other ministerial departments, led by the DGII (General Directorate for the Integration of Immigrants). This directorate managed 46.5% of the budget during this period. Other departments in the Ministry of Labour and Immigration (MTIN, Spanish acronym), have also carried out important activities. In budget terms, the most significant of these was the National Public Employment Service (SPEE, Spanish acronym) with 31% of the total. Other ministries, most notably the Ministry
of Education, have contributed on a 16.4%. A condition for renewal of certain permits is that any children who are of school age must be enrolled in school. The regulation introduces clear provisions aimed at ensuring that these children receive education.

It should be pointed out that a considerable part of these budgets have provided financial funding which has had a decisive impact on the development of regional and local policies and programmes, especially through the distribution between them of the Fund to Support Reception, Integration and Educational Reinforcement (FAIRE, Spanish acronym) and of a line of subsidies to directly support municipalities in implementing innovative programmes. Both of these funds were managed by the DGII.

Additionally, and in the area of immigrant participation in the democratic process, during 2011 two new agreements on reciprocal participation in municipal elections came into force: one with Cape Verde (which came into force on 1/1/2011 and was published in the Official Government Bulletin —BOE— on 13/01/2011) and one with the Republic of Korea (which came into force on 01/07/2011 and was published in BOE on 05/07/2011). These agreements are in addition to the existing ones with Colombia, Peru, Iceland, Ecuador, Chile, Paraguay, New Zealand, Bolivia and Norway.

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

In this paragraph relevant initiatives regarding development of information exchange on reception and integration between institutions and other stakeholders, mainly at local level, are outlined.

In 2011, the General Directorate for the Integration of Immigrants (DGII), which is part of the Ministry of Labour and Immigration, in collaboration with the Carlos III University of Madrid, continued to update the INTEGRA LOCAL web portal. This Portal constitutes a channel for information of use and interest to Local Entities, bringing together information about these entities’ activities, programmes and initiatives aimed at increasing the integration of immigrants, as well as publicising other integration-related activities. Another of its objectives is to provide links to other online resources and portals and to encourage local stakeholders to share their solutions and experiences, in order to make it easier for these entities to elaborate their own projects.
In addition to the update of the portal sections on Projects, News, Documentation, Organisations and Calls for Subsidies available from the DGII, in 2011 a campaign was launched to involve further town and city councils and experts on integration. The objective of this campaign was to contact those town and city councils which are carrying out integration programmes supported by other types of grants, such as the Fund to Support Reception, Integration and Educational Reinforcement (FAIRE), and add them to the database of INTEGRA LOCAL. Follow-up and monitoring of registered Local Entities has also been carried out. Similarly, some of the content of the portal has been translated into English, and these translations have been made available through the internet.

In November 2011, the portal contained 2,305 projects on integration of immigrants, 731 registered Local Entities and 1,150 experts from these entities who are in charge of the said projects. In the short term, the number of projects and registered entities is expected to increase by 100% as a consequence of this recent campaign.

4.2. Stockholm Programme

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

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

This paragraph gives an overview on how integration issues are integrated on other national policies.

One of the cross-sectional areas of the 2nd Strategic Plan for Citizenship and Integration (2011-2014) is Equality of treatment and combating discrimination. Its main objective is to ensure the approval and implementation of a Comprehensive Strategy to combat racism, racial discrimination, xenophobia and other related forms of intolerance. It includes seven priority areas for action: education, employment, health, housing, mass media, Internet, sports and awareness-raising. The DGII, through OBERAXE, has prepared this Strategy, which was approved by the Council of Ministers on the 4th of November 2011.
Favourable reports on this Strategy were given by the following consultative bodies: The Forum for the Integration of Immigrants, the Council for the Promotion of Equal Treatment and the Prevention of Discrimination against persons on the grounds of their Racial or Ethnic Origin, and the State Council of Roma people.

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

This paragraph describes consultation processes with civil society and their involvement in integration policymaking and measures.

The Strategic Plan for Citizenship and Integration 2011-2014 is backed by a drafting process based on consensus and on the participation of all the actors involved in the integration process management. Autonomous Regions, Town and City Councils, social actors, immigrants’ associations, non-governmental organisations and academic experts on these matters have participated in the elaboration of the plan. Additionally, prior to the final draft, a consultative process open to the general public was launched and the document was submitted for consideration by consultative bodies on integration matters.

Additionally, the Forum for the Integration of Immigrants, which has a balanced and tripartite constitution between representatives of Public Administrations, representatives associations of immigrants and refugees, and representatives of social support organisations (including trade unions and employers organisations), continues to be the consultative, informative and advisory body for issues of immigrants integration. During 2011, the said Forum has produced 5 advisory opinions:


— On the draft of the 2nd Strategic Plan for Citizenship and Integration 2011-2014.

— On the Draft of the Royal Decree modifying Royal Decree 240/2007, of 16th February, on the entry, free movement and residence in Spain of citizens of Member States of the European Union and of other States who are part of the Agreement on the European Economic Area.
— On the National Comprehensive Strategy to combat racism, racial discrimination, xenophobia and other related forms of intolerance.

The Forum also drafted and approved two Reports on the situation with respect to the social integration of immigrants and refugees in Spain in 2010 and 2011. These reports include the following Monographs:

- Changes in society’s attitudes.
- Evolution of employment of foreign workers in Spain: from the boom to the crisis.
- About the Regulation.
- Impact of return measures.
- Housing, integration and diversity.
- Political participation of immigrants.
- Public policies on integration and the citizens’ commitment.
- Employment-orientated education and training.
- Increase of vulnerability situations in the immigrant population as a result of the current crisis.

In addition to producing these advisory opinions and reports, the Forum launched an information campaign on the participation in municipal elections of nationals of those countries with which have signed the Agreements mentioned in point I(g). The Forum followed up on the information campaign and held several meetings with representatives of the Ministry of the Interior and the Electoral Census Office, for the purpose of detecting gaps and seeking solutions.
3(f) To enhance democratic values and social cohesion in relation to immigration and integration of immigrants and to promote intercultural dialogue and contacts

In this paragraph specific measures taken to promote democratic values and social cohesion in relation to integration and intercultural dialogue are outlined.

During 2011, 178 local entities (municipalities and districts) have implemented 325 innovative programmes aimed at promoting immigrant integration, at a total cost of 7,419,060 Euros. These were subsidised through two calls for grants: one was charged to the annual budgets of the General Directorate for the Integration of Immigrants, and the other was co-funded by the European Integration Fund (EIF).

A programme is considered to be innovative when its activities introduce new forms of social intervention, facilitate social inclusion, prevent situations of risk and promote peaceful coexistence at the local level.

In the EIF call, most of the subsidised programmes (whose total cost was 4,516,500 Euros), emphasised the following aspects: family reunification; peaceful coexistence; and participation. In the DGII call (whose total cost was 2,902,560 Euros), the programmes were aimed at ensuring integration at the local level, in order to prevent exclusion risks, encourage participation and increase awareness. Both calls include programmes aimed at youth.

It is estimated that the programmes under the DGII call reached 36.5% of the immigrant population, including Bulgarians and Romanians – i.e. over a million and a half immigrants. On the other hand, the decisions taken in the EIF call have resulted in programmes which have reached 38% of third country nationals – i.e. around a million and a quarter immigrants.

Since 2008, there has been ongoing collaboration with the autonomous regions of Catalonia and Andalusia on the development of Pilot Plans for Comprehensive Actions in districts where there is a significant immigrant presence. In 2011, the agreements signed in 2010 are being implemented for an amount of 3,271,656 Euros. These pilot schemes have launched actions aimed at bringing the Spanish and immigrant populations closer, at preventing undesirable conflict, and at achieving a suitable level of inter-relation between citizens of different cultures in city districts with a significant immigrant population. These actions are being implemented in districts which have been selected because their special characteristics in social, demographic, economic and housing terms make them especially sensitive.
The budget for the **Fund to Support Reception, Integration and Educational Reinforcement** was 66,600,000 Euros in 2011. These funds have been distributed between the 17 autonomous regions and the autonomous cities of Ceuta and Melilla, with a commitment of fund derivation of at least 40% to the town and city councils which will implement these actions. The autonomous regions will have to co-fund 30% of the Action Plan which brings together the actions to be implemented. The action areas of previous years are maintained: reception, integration, and educational reinforcement measures. Priority will be given to actions in the fields of employment, women in especially vulnerable situations, and youth.

Additionally, in line with the most recent amendment of the Organic Law, the Regulation that has been approved also strengthens the collaboration with Local and Regional Authorities in many areas, and especially in those which are related to issues of the integration of foreigners in our country. One of the most important features is the issuing of reports through which Local and Regional Authorities can participate in those procedures that are competence of the Central Administration. The regulation on the reports on integration efforts in the field of permit renewals and of suitable housing to allow family reunification and social integration in cases of having social, labour or family roots provides a clear example of this collaboration.

**Illegal immigration and return**

5. **Illegal Immigration**

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

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

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

This paragraph indicates whether any regularisation took place and how.

No regularisation took place in 2011.
II(c) Ensure that risks of irregular migration are prevented

In this paragraph national policy concerning preventing irregular migration is outlined.

The new Aliens Regulation, which came into force in 2011, has given a boost to applying the new sanctions to be imposed for illegal immigration methods which constitute an abuse of the legal options:

- Fake work contracts which, once the work and residence permit has been obtained, do not result in workers being registered in the Social Security System.
- Pretend marriages or marriages of convenience.
- Purporting oneself as the legal representative of a minor.
- Promoting a third country national’s irregular stay in Spain, when his legal entry has taken place at the express invitation of the offender and when said alien remains at his charge following expiry of the period of time established in the alien’s visa or permit.
- Facilitating fraudulent registration\(^{99}\) in the municipal population register.

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

This paragraph describes cooperation with other Member States, with regard to the expulsion of persons found to be staying illegally on the territory.

Cooperation between Member States for the purposes of return has translated into a series of joint \textit{flights}, all of which were funded by FRONTEX. In 2011, Spain’s involvement has been as follows:

- As the organiser of a flight to Georgia, a flight to the Ukraine, and two flights with stopover in both countries.
- As a participant in seven flights to Nigeria.

\(^{99}\) A census registration is fraudulent when the home address at which the person is registered is not the foreigner’s true domicile.
Another form of cooperation which is aimed at facilitating expulsion procedures consists of arranging **airport transits** for the aliens expelled from other Member States (Directive 110/2003/EC on assistance in cases of transit for the purposes of removal by air). During 2011, there have been 202 transits through Spanish airports of third-country nationals being returned from other Member States.

Lastly, in October 2011, the **Visa Information System (VIS)** was launched, and this will contribute in the future —as a result of the inclusion biometric data (fingerprints)— to the identification of third-country nationals found to be illegally present who have no identity documents. The value of this system will be demonstrated in coming years.

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

This paragraph gives an overview on the transposition and operational execution of the Employer Sanctions Directive, as well as other relevant actions and developments.

On the one hand, the Aliens Act includes the following as offences:

— Hiring workers whose permits do not allow them to work in such occupation or geographical area (minor offence: fine up to 500 Euros for each worker).

— Hiring foreign workers without having previously obtained the appropriate work and residence permit, provided that such a hiring does not constitute a criminal offence (very serious offence: fine between 10,001 to 100,000 Euros for each worker and closure of the business or premises for between six months and five years).

On the other hand, in those cases in which the behaviour can be considered a criminal offence, the following articles of the Penal Code will be applicable: article 312 (this punishes, amongst others, those who illegally traffic and those who employ foreign workers who have no work permits in conditions which prejudice, nullify or restrict those workers’ legally recognised rights under legal provisions, collective agreements or individual contracts) and article 313 (this punishes anyone who decides upon or promotes the emigration of any person to another country by a simulation of hiring or placing them, or by using some other similar deception). In both cases, the penalty is two to five years of prison.
The above indicates that employing foreigners whose situation is “irregular” is not a crime in Spain (but rather a very serious administrative offence), and as a result, it cannot be said that articles 9 and 10 of Directive 2009/52/EC have been transposed into Spanish law. The Penal Code punishes those who impose working conditions which can be defined as “labour exploitation” in article 312.2. In the field of human trafficking for the purposes of labour exploitation, the Spanish Security and Police Forces have taken action in 18 cases and have detained and charged 37 people between January and September 2011.

Article 124 of the Aliens Regulation facilitates reporting an illegal employment situation, since it allows a residence permit to be authorised by reason of having labour roots to those foreigners who can prove continuous stay in Spain for at least two years, provided that they have no criminal record in Spain, in their country or origin, or in those countries in which they have resided during the last five years, and that they can demonstrate a work relation which has lasted at least six months. For the purposes of proving the existence of the work relation and its duration, the interested party must present a judicial decision which recognises the said relation, or the administrative decision which confirms the infringement certificate issued by the Employment and Social Security Inspectorate which accredits it.

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

In this paragraph relevant developments with regard to expulsion decisions and the principle of mutual recognition of these decisions are outlined.

In the field of expulsion decisions, at a national level, article 89 of the Penal Code, amended by the Organic Law 5/2010 which came into force on the 23rd of September 2010, extends the cases in which foreigners without work permits who have been sentenced for criminal offences can be returned. The recent Circular 5/2011 of the National Prosecutor’s Office analyses this provision and establishes interpretation rules, in order to prevent sentenced foreigners to remain in Spain, except in cases of especially serious crimes or in those cases in which having a social roots in Spain have been proven.
With respect to mutual recognition of third-country nationals expulsion decisions, article 64.4 of Organic Law 4/2000 recognises expulsion decisions issued by other Member States (applying Directive 2001/40/EC) as it states that when an alien is arrested in Spanish territory and it is observed that an expulsion order has been issued against him by a European Union Member State, the decision shall be implemented immediately, and no new removal proceedings need to be initiated.

However, it is worth noting that Regulation No 1987/2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) provides for the recording of entry bans and not for expulsion decisions. The Member States follow various practices on recording entry bans, but, since the period for which a ban starts being in force is usually once the expulsion has taken place, it would be logical that the recording should be made at that time. Therefore, the SIS does not normally contain information on those expulsion decisions made by the Member States which have not yet been implemented. The consequence is that the mutual recognition of expulsion decisions can only be applied if the person whose situation is irregular is carrying documentation stating that he/she is subject to an expulsion decision issued by another Member State, or if, in those cases in which the local authorities know in which Member State he/she previously stayed, they then consult its authorities.

In other respects, it is also important to note that, in Spain, all expulsion decisions are accompanied by an entry ban, except in those cases in which the foreigner voluntarily complies with the expulsion order before the deadline and with the conditions stated in it (voluntary departure). This entry ban is recorded in the SIS when the expulsion is implemented.

Since the SIS is systematically consulted for third-country nationals when border inspections are made, the result is a high number of refusals of entry based on entry bans which have been entered into the system by virtue of article 96 of the Convention implementing the Schengen Agreement. In 2010, Spain banned the entry of 900 persons for whom there was an alert registered in the databases. Most of these alerts corresponded to article 96.

5.2. Stockholm Programme

The relevant commitments in the Stockholm Programme for this sub-section are in particular:
4(j) More effective action against illegal immigration and trafficking in human beings and smuggling of persons by developing information on migration routes as well as aggregate and comprehensive information which improves our understanding of and response to migratory flows

This paragraph describes information collection activities undertaken to identify migration routes, patterns and other relevant factors relevant to illegal immigration.

Since 2010, the Intelligence and Risk Analysis Agency has been operating in the Commissariat for Alien Affairs and Borders of the National Police Force. This service receives and disseminates information on irregular immigration routes on a daily basis. Such information covers both the points of entry into the Spanish territory and the passage through successive transit countries. The Agency is in constant contact with: other national units investigating irregular immigration and people trafficking or on frontier control; Spanish liaison officers and attachés abroad; foreign liaison officers and attachés in Spain; and the authorities of other Member States and third-countries working in these fields.

As part of the Guardia Civil, and in close contact with the National Police Force, the Canary Islands Regional Coordination Centre centralises information on irregular immigration routes which use the Atlantic Ocean and the Canary Islands as their access point. This Centre is supported by the Madrid Maritime Surveillance Coordination Centre, and its work is part of the SEAHORSE project for information exchange between Member States and countries of origin and transit.

Lastly, on 28th October 2011, the Framework Protocol on the Protection of Victims of Human Trafficking was signed. This protocol aims to lay down coordinated guidelines for detecting, identifying, assisting and protecting these victims and to promote the coordination of the institutions involved in the said processes, while defining the mechanisms for relations between the authorities with responsibilities in these matters as well as defining the processes for communicating and cooperating with NGOs and with bodies with accredited experience in assisting these victims. This Protocol has been signed by the Ministries of the Interior, Labour and Immigration, Health, Justice, and by the General Judicial Council and the National Prosecutor’s Office, and was issued in compliance with the provisions of article 140 of the Aliens Regulation which implements article 59 bis of the Aliens Act, in order to incorporate into Spanish law the provisions of the Council of Europe’s Convention against human trafficking, and also Directive 2011/36/EU of the European Parliament and the Council.
4(k) Increased targeted training and equipment support

This paragraph gives an overview on training measures and equipment support to combat irregular immigration not linked to border control.

In 2011, the Spanish National Police organised two courses on irregular immigration for senior police officers from Morocco, Mali, Guinea, Nigeria, the Gambia and Ghana.

Computer equipment designed for migration control tasks have been delivered to Mali, Guinea and the Gambia.

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

In this paragraph developments with regard to national liaison officers in countries of origin and transit are outlined.

The Ministry of the Interior has deployed new Interior Attachés with immigration competences to Niger, Yemen and Cameroon.

6. Return

6.1. European Pact on Immigration and Asylum

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

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

This paragraph provides information on the bilateral readmission agreements negotiated and achieved during 2011, specifying their purpose and with which third country, together with the EU readmission agreements in which Spain took part.

No new bilateral readmission agreements have been concluded.
It is expected that negotiations for bilateral Protocols to implement the EU readmission agreements with Bosnia-Herzegovina, Serbia and Montenegro will begin soon.

Spain is bound by the new EU readmission agreement with Georgia. It is also monitoring the ongoing negotiations with Belarus, Turkey, Morocco, Cape Verde, Armenia and Azerbaijan.

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

This paragraph describes measures taken to promote voluntary return.

In 2011 the programmes for promoting voluntary return have been maintained:

**Social Care Programme**

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

**Productive Return Programme**

Its aim is to facilitate productive return by preparing interested parties for the creation of small family firm business projects prior to their departure from Spain. Beneficiaries undertake to take part in a project for the establishment of a small business in their country. This programme offers advice, guidance and assessment of candidates and projects, accompaniment if required, instruction and training, follow-up and technical assistance, ticket and financial assistance.

**Advance Cumulative Payment of Unemployment Benefit (APRE, Spanish acronym)**

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

Their aim is to assign assistance supplementary to APRE to third country nationals wishing to return to their country. The beneficiaries are persons entitled to the payment of unemployment benefit. It offers: information on formalities, financial assistance and a return ticket for the interested party and family members up to the second degree of kinship.

Voluntary Return Programmes have received a remarkable impulse in light of the strategy to promote mobility and circular migration. The Aliens Regulation sets up several provisions concerning foreign workers’ residence which have either signed in a voluntary return programme or returned without any assistance. For additional information on this regulation, see section 1 Economic Migration, commitment I(c) in this Appendix.

6.2. Stockholm Programme

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

4(c) Ensuring that the objective of the EU’s efforts on readmission should add value and increase the efficiency of return policies, including existing bilateral agreements and practices

This paragraph describes how the bilateral and EU readmission agreements are contributing to the implementation of national return policy.

According to Spain’s experience, the most important factor which determines whether readmission to a specific third country will work well is the attitude of the country’s authorities, irrespective of whether or not there is an EU readmission agreement, a bilateral agreement or no agreement at all.

The EU readmission agreements therefore work to the extent to which the above criterion is fulfilled. Uncooperative third countries put up obstacles which can only be overcome gradually, even though greater pressure can be exerted at EU level, as a block, than when applying bilateral agreements. The greatest problems are concentrated in the area of the readmission of undocumented persons, who must
therefore first be identified. These cases can only be handled fully satisfactorily with third countries which have biometric records of their nationals.

There is still a long way to go before existing EU readmission agreements will function perfectly, and their coverage is extended to other third parties from which there is significant irregular immigration and whose collaboration is currently poor or irregular.

4(e) **Assistance by the Commission and Frontex and Member States on a voluntary basis, to Member States which face specific and disproportionate pressures, in order to ensure the effectiveness of their return policies towards certain third states**

This paragraph describes the Spanish participation on measures to support return in case of specific and disproportionate pressures in other Member States.

Within the joint operations coordinated by FRONTEX, the actions intended to identify and return persons intercepted when illegally crossing the border are becoming increasingly important.

In 2011, the Schengen area was under greatest pressure in the central Mediterranean and the land frontier between Greece and Turkey.

In the central Mediterranean area, Spanish experts have taken part in HERMES Operation, identifying the irregular immigrants landing on the Italian coast.

On the land frontier between Greece and Turkey, in the framework of the ATTICA Project, which runs in parallel with POSEIDON Operation and is focussed on identifying the persons intercepted, Spanish officials have also participated, and their work has been important, for example, in ensuring the return of nationals of the Dominican Republic.

Spain has also participated in the inter-governmental peer review mission which was sent to Greece in March 2011 to check on the progress Greece has made in improving border controls. This was after unfavourable reports came out of the 2010 Schengen evaluation process. Capacity to process persons intercepted and asylum applicants is of fundamental importance, and is closely linked to border control in this part of the Schengen area.
The number of irregular immigrants reaching Spain has not significantly increased in 2010. However, Spain continues to place great value on the support received in previous years from other Member States in HERA Operation in debriefing the irregular immigrants rescued from the sea, especially taking into account both that migratory pressure from the African continent continues, and the possibility that the eastern routes are reactivated, which cannot be discounted.

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

In this paragraph practical cooperation with other Member States in the area of return, is outlined.

See section 5.1 of this Appendix, on point II (d) of the European Pact on Immigration and Asylum.

6.3. Key statistics

<table>
<thead>
<tr>
<th>Third-country nationals ordered to leave and returned</th>
<th>Returned as part of forced return measures (2010)</th>
<th>Returned voluntarily</th>
<th>Within the third-country nationals returned voluntarily, number of third-country nationals returned as part of an assisted return programme (until 7th December 2011)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third-country nationals</td>
<td>21,955</td>
<td>n.a.</td>
<td>6,768, which can be disaggregated as follows:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1,918: Social Care Return Programme</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>96: Productive Return Programme</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>4,754: Advance Cumulative Payment of Unemployment Benefit Programme (APRE Programme in Spanish)</td>
</tr>
</tbody>
</table>

Source: Eurostat and Ministry of Labour and Immigration.

100 This refers to an in-depth interview which aims to ascertain all the details and circumstances of the journey from leaving the place of origin up to the point of interception. One of the purposes is to identify those who facilitated the journey, if such persons exist.
7. Actions against human trafficking

7.1. European Pact on Immigration and Asylum

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

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

This paragraph describes actions developed at national level to fight human trafficking and the incorporation of third countries within them, awareness raising actions in third countries addressing communities at risk, etc.

The reference framework in Spain is the Comprehensive Plan to Combat Human Trafficking for the Purpose of Sexual Exploitation, approved by the Council of Ministers on 12th December 2008. This plan is in line with the international legal context and specifically with the Council of Europe’s Convention against human trafficking. This plan is expected to be in force for 3 years, as from January 2009.

The main objectives of the Plan are:

— Victim protection and assistance.
— Prosecution of crime.
— Prevention and awareness-raising.

A Database Management System has been set up for data on human trafficking, and an Inter-ministerial Group to coordinate the fight against human trafficking has been created. This Group is supported by the Social Forum against Human Trafficking.

The Plan covers actions carried out at both the national and international levels. The balance sheets for 2009 and 2010 have already been submitted. The balance sheet for 2011 is expected to be submitted in April 2012.

The new Regulation for Organic Law 4/2000 implement the Law’s provisions on victims of human trafficking: their identification as such; the conceding of a period
of recovery and reflection; exempting the victims of any liability for illegal residence; the granting of work and residence permits; and assisted return.

Similarly, and as mentioned above, the Organic Law 4/2000 was amended by Organic Law 10/2011, in order to be extended to those of the victim’s children who are in Spain, the same right she has to request appropriate measures to guarantee their safety. This right is also extended to any other person who has family links or links of any other nature with the victim, in order for the trafficking networks not to be able to prevent the victim cooperating by making serious threats against those close to her. This law also specifies that any decision to deny or revoke the period of recovery and reflection must be duly reasoned, and the right to lodge an administrative appeal against the said decision will be subject to the rules regulating common administrative procedures. This most recent modification to the Aliens Act also corrects the procedures previously laid down, so that any proceedings to return illegally-resident victims are not initiated at this point (only to immediately suspend them), but rather, that the start of proceedings is delayed—in those cases when they continue to be necessary—until the other proceedings have concluded.

In the field of human trafficking for the purposes of sexual exploitation, the Spanish Security and Police Forces have taken action in 99 cases and have detained and charged 206 people between January and September 2011.

Within the context of the international framework, and following the provisions of the Master Plan for Spanish Cooperation 2009-2012, Spain performs activities to provide information and increase awareness in the countries of origin, in order prevent possible future victims being “recruited”. Spain contributes to multi-lateral bodies, such as: the United Nations Development Fund for Women (UNIFEM); the International Institute for Training and Research to Advance Women (INSTRAW); the United Nations Population Fund (UNFPA); the United Nations Development Programme (UNPD); and the United Nations High Commission for Human Rights (UNHCHR). Spain also takes part in bilateral actions, mainly in Latin America and the Asia-Pacific region. Some examples of these bilateral actions are:

— The creation of a Regional Centre, in Tapachula, Mexico, for the assistance of victims of human trafficking.

— The Regional Cooperation Programme with Central America: Supporting the Action Plan against Trafficking in Women, of the Council of Central American Ministers
for Women (COMMCA), through seven national studies which were carried out by the International Organisation for Migrations (IOM).

— Specialised technical training courses given in the training centres of the Spanish Cooperation in Latin America on these matters, such as the course given in 2011, “Development of measures by police forces to protect and assist victims of human trafficking: strategic intelligence tools in the fight against Human Trafficking”.

Additionally, human trafficking has been included in the Country Strategy Documents (DEP in Spanish) for the priority countries of origin of human trafficking victims, in order to encourage the main stakeholders in Spain’s international cooperation efforts to generate agreements and projects. For example, in Paraguay, human trafficking has been included in the violence against women programme, and in Uruguay a Trafficking Board has been created, in which the various stakeholders in these matters in that country participate.

At the 2nd Ibero-American Summit of Public Prosecutors against Human Trafficking, which took place in Santiago de Chile in September 2011, a Protocol was signed by the National Prosecutors on inter-institutional cooperation to strengthen and increase research, assistance and protection for victims of human trafficking. This Protocol is a result of an agreement reached by the Public Prosecutors which are members of the Ibero-American Association of Public Prosecutors (AIAMP) and the Specialised Meeting of the MERCOSUR Public Prosecutors (REMPM).

Under this Protocol, the parties undertake to exchange information —where possible— on the victims’ countries of origin and destination. Additionally, they undertake to carry out various activities and to follow clear guidelines on investigating the crime and protecting the victims.

At the summit, an agreement was also reached on creating an Ibero-American Network of Prosecutors specialised in combating human trafficking. This network will facilitate transnational investigation of this crime and to this end the Spanish Prosecutor to be part of this network has already been designated on 14th of October 2011.

7.2. Stockholm Programme

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

<table>
<thead>
<tr>
<th>Third-country nationals receiving a residence permit as victims of human trafficking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third-country nationals</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Traffickers arrested and convicted (Jan – Sept 2011)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arrested / otherwise involved in a criminal proceeding</td>
</tr>
<tr>
<td>Traffickers</td>
</tr>
</tbody>
</table>

Source: Ministry of the Interior.

**Border Control**

8. **Control and surveillance at external borders**

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

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

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

This paragraph describes developments to ensure more effective border control, mainly through providing training to border control staff.

The National Police Force has reviewed the training system for border control matters in order to make a major quantitative and qualitative change in 2012, when the implementation of the new plans will begin. The intention is that all police officers involved in border inspections receive this new training programme. This will be achieved by making it a compulsory requirement to take online courses on border control and false documents. Additionally, there will be both centralised (training of trainers) and local courses. Those officers specialised in false documentation who are stationed at borders will be retrained, and special emphasis will be placed on taking maximum advantage of the technical resources available.
III(e) Deploy modern technological means for border control

Following the paragraph below, this paragraph gives an overview on new technological equipment purchased and used during the reference period, together with developments relevant to the EU entry/exit system, the Schengen Information System (SIS II) and European Border Surveillance System.

Development of the **Automated Border Control System** (ABC) is ongoing, in order to optimise its software functioning. Staff is frequently placed at the beginning of the system queues, in order to promote its use and help passengers to adapt to it.

The **Advanced Passenger Information System** (API) is being modified in order to improve the transmission of information from its reception point to the officers in charge of carrying out border inspections at the front line, after passing through the processing points. Work is simultaneously being carried out on the automated database queries, in order to reduce the numbers of false negatives and false positives. A new feature is that API is also being implemented for scheduled passenger journeys by sea. Given the high number of persons transported every day by ferries between Morocco and Spain, this clearly constitutes a very important step.

In 2011, Spain, like the other Schengen States, has prepared for the introduction of the **Visa Information System (VIS)** at its border posts. This has involved the deployment of mechanical resources and the adaptation of the ICT systems to make it possible the C-VIS consultation for all visas by using alphanumeric visa data. Work continues to meet the deadline on using finger prints checks and to use VIS to issue visas at the border. To this end, there are already kiosks to collect a person’s details, photograph and fingerprints.

In the field of maritime borders, the Spanish-led **PERSEUS project** (Protecting European seas and borders through the intelligent use of surveillance) started on the 1st of January 2011. PERSEUS has a budget of over 42 million euro, approved by the European Commission, and its aim is the surveillance of Europe’s maritime borders, focusing on the southern borders (the near Atlantic, Mediterranean and the Black Sea) as the main areas of interest. Its priority objectives are to combat smuggling and irregular immigration. It deals with two action priorities:

— Cooperation or integration of national systems within a European system of systems.

— Optimized management of current and future platforms for maritime surveillance (sensors, platforms, tools and systems) that will ensure full coverage of the maritime scenario.
The **EUROSUR pilot project** is also being developed and implemented in Spain, chosen country (together with Finland, Italy, Poland, France and the Slovak Republic) to develop the system. A communications node has already been installed in Spain (as well as in Poland, Finland and the FRONTEX agency). Document MIGRAPOL 186 (Appendix 2 of the Commission Communication COM (2008) 68), states that EUROSUR can be seen as a “system of systems” to support national authorities in charge of border surveillance at EU southern maritime borders and eastern land borders, in order to detect, identify, track and intercept persons attempting to enter the EU illegally outside border crossing points.

8.2. **Stockholm Programme**

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

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

This paragraph describes actions taken to better coordinate different types of border checks at the external borders.

The Schengen Borders Code sets the guidelines for border checks at external border crossing points. However, the different Schengen States apply these common provisions in different ways. The **Schengen Evaluations System**, the future of which is currently uncertain, has been a very useful mechanism for establishing unified standard interpretation and proceeding implementation criteria. Until now, the Schengen Evaluations have been based on an inter-governmental peer review mechanism which promoted the provision of resources and personnel, staff training, the correct application of the provisions, the establishing of common criteria and the general use of best practices. In 2011, Spain has continued to participate in evaluations of the external borders of other Schengen States, in some cases as a continuation

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of its leadership during the Spanish Presidency of the EU in the first half of 2010. At the same time, Spain is currently undergoing the monitoring process as a result of the reports on evaluations carried out at its air, land and sea borders during the second half of 2010.

Another procedure which improves the uniformity and coordination of border checks throughout the Schengen space are the joint operations coordinated by FRONTEX. It is worth noting, without prejudice to the operations already mentioned, the operation at focal points, which consists of the constant rotating exchange of personnel at the most important border posts (in Spain, these are the Madrid-Barajas and Barcelona-El Prat airports).

8.3. Key statistics

<table>
<thead>
<tr>
<th>Visas issued (2010)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Visas</strong></td>
</tr>
<tr>
<td>---------------------</td>
</tr>
<tr>
<td>1,116,179</td>
</tr>
</tbody>
</table>

Source: European Commission, D.G. HOME, based on data provided by the Ministry of Foreign Affairs and Cooperation.

*This includes the LTV (limited territorial validity) visas, which are only valid in the Member State(s) for which the visa is valid.

9. Cooperation with respect to border control

9.1. European Pact on Immigration and Asylum

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

**III(b) Generalise the issue of biometric visas, improve cooperation between Member States’ consulates and set up joint consular services for visas**

This paragraph outlines developments in relation to biometric visas, also referring to the Visa Information System (VIS).

On 11th of October 2011, the Visa Information System (VIS) was set up in 13 Consular Offices in North Africa, in order to collect biometric data for issuing visas,
and transmit them the Central VIS database in Strasbourg for consultation and request. The operational management and functioning of this database is stated in 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). The purpose of VIS is to facilitate the exchange of data between Member States on short-stay visas, in order to facilitate the visa application procedure to prevent “visa shopping” and to improve security inside the Schengen Area. VIS will be a database of visa applications, both issued and refused. The Visa Information System should keep several categories of data about visa applicants, including a scanned photograph and their 10 flat fingerprints, and details of the person who issued an invitation, if applicable. Article 48 of the Regulation (EC) No. 767/2008 determines that VIS will be implemented gradually, with a regional approach. It is planned that the system will be deployed afterwards in the Middle East and the Gulf Region, and later on implementation will continue in other regions and all Schengen borders (up to a total of eighteen within a period of 24 and 36 months). The VIS will lead to major changes in the ICT applications and in the way of working of the Consular Offices.

On the 15th of September 2011, an agreement to outsource the processing of visas was signed with VFS Global. This will provide full outsourcing for 50 consular offices and limited outsourcing for another 17.

III(d) Solidarity with Member States subjected to disproportionate influxes of immigrants

This paragraph describes Spanish participation in FRONTEX, by type of activity.

During 2011 Spain took part in several joint operations and activities managed by the FRONTEX Agency on the various external borders, both as the member state hosting the operation and as a participating state:

a) Operations for which Spain was the host country or one of the host countries:

— HERA. Atlantic Waters.
— INDALO. Western Mediterranean Waters.
— MINERVA. Ports on the Strait of Gibraltar.
— FOCAL POINTS.
— HAMMER. Airports.
— HUBBLE. Airports.

b) Operations carried out outside Spain with Spanish participation:
— HERMES.
— FOCAL POINTS.
— POSEIDON.

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

This paragraph gives information on other forms of cooperation with third countries in order to strengthen the control of external borders and to combat illegal immigration.

(Also see section 4 (k) in points 5.2 of this Appendix).

The **WEST SAHEL project**, which was signed at the end of 2010, has been approved by the European Commission under the “Thematic programme for cooperation with third countries in the area of immigration”, for implementation in 2011 and 2012.

Its objective is to continue along the path already taken, thus consolidating relations and cooperation with the countries which took part in the SEAHORSE project.

This project’s beneficiaries will be the countries in the Western Sahel, mainly Mauritania, Senegal, Mali and Niger, although Cape Verde, the Gambia, Guinea-Bissau, Guinea and Burkina Faso will also take part in some of the planned activities.
Asylum

10. International Protection

10.1. European Pact on Immigration and Asylum

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

IV(c) Solidarity with Member States which are faced with specific and disproportionate pressures on their national asylum systems

This paragraph is divided in two parts, the first one provides information on support to Member States experiencing specific and disproportionate pressures on their national asylum systems, with regard to the processing of requests for international protection.

There have not been activities regarding this issue during 2011.

The second part describes actions undertaken with regard to the reallocation from Member States experiencing specific and disproportionate pressures of beneficiaries of international protection to Spain.

The Refugee Resettlement Program in Spain for 2011 was approved by the Council of Ministers on October 7th, 2011 as a joint proposal from the Ministry of the Interior and the Ministry of Labour and Immigration.

The three-year programme, of which execution has been launched in December 2011, is divided in three phases:

PHASE I: Accommodation in centres for asylum seekers and refugees. The main objective of the Reception Centre is to provide the new arrivals with the opportunity to adjust life in Spain before living independently in the community.

PHASE II: Financial assistance for renting a house and living expenses. The main objective is to live independently in the host community. Financial assistance for renting a house and living expenses is granted.

PHASE III: Financial assistance for renting a house and living expenses with the purpose of completing the pathway of integration developed over the previous two phases.
and taking into account the provision of specific assistance in particularly vulnerable situations.

The selection of refugees to be resettled in Spain will be carried out, preferably, by sending missions with officials from General Directorate for Domestic Policy - DGPI (Ministry of the Interior) and General Directorate for Integration DGII (Ministry of Labour and Immigration) to the countries of first admittance of the refugees. Such missions will be supported by the Embassies and Consulates in those countries. The reception of refugees will fall within the competences of General Directorate for Integration - DGII.

From an economic point of view, the expenses arisen from the resettlement of the refugees provided for in the Agreement will be practically paid for by the Ministry of Labour and Immigration, except for an estimated amount of €23,353.18 that accounts for the expenses generated by the official’s selection mission to be set out by the Asylum and Refuge Office - OAR (Ministry of the Interior).

During that 3-year period, the Ministry of Labour and Immigration itself, or throughout the NGOs that collaborate in the Spanish integration programme for asylum seekers and refugees by receiving financial support from the Ministry, will provide all necessary assistance to the beneficiaries.

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

This paragraph describes national resettlement activities concerning people placed under the protection of the Office of the UNHCR in third countries.

Law 12/2009, of 30th October, which regulates the right to asylum and to subsidiary protection, establishes in its first additional provision, the Spanish Authorities’ commitment to prepare Annual Resettlement Programmes. In cooperation with the United Nations High Commissioner for Refugees and, when appropriate, with other relevant international organisations, the Council of Ministers, following a proposal by the Ministers of the Interior and of Labour and Immigration, will, after hearing the Inter-ministerial Commission on Refugees and Asylum, agree on the number of persons who may be resettled in Spain that year.
As mentioned, the Council of Ministers has agreed to resettle up to 100 people in Spain in 2011.

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

This paragraph mainly outlines the provision and planning of provision of staff training in this particular issue.

Training on international protection is fundamental, and is included in the Common Core Curriculum, which the members of National Police Force and the Guardia Civil are taught in their basic police training and in their specialised studies for border control.

The Spanish Protection System for International Human Rights, in accordance with the objectives of the Common European Asylum System, and with the aim of improving the capabilities and quality of the asylum procedures and strengthening practical cooperation between the European Asylum Systems, has introduced the European Training Programme. This Programme is coordinated by the GDISC and comes under the umbrella of the EASO (European Asylum Support Office). In order to introduce these principles and directives into the Spanish protection system, Law 12/2009, of 30th October, establishes that the staff of the competent authority must have appropriate knowledge and skills to deal with applicants for international protection. In order to comply with this order, the Spanish Office of Refugees and Asylum has prepared training programmes on aspects of asylum procedures such as: gender; use of the country of origin information; interview techniques; etc.

This training aims to provide the staff involved in the procedure with the appropriate knowledge contained in the European Asylum Curriculum (EAC). This is the EU's most significant training project on asylum matters, and its objectives are to ensure that Member States apply the same practices in their procedures and to contribute to improving cooperation between them.

In 2011, the Asylum and Refugee Office, as part of the annual continuous training programme of the Ministry of the Interior, organised a 25-hour course on legislation on international protection for staff from all over the country who were involved in this procedure.
10.2. Key statistics

<table>
<thead>
<tr>
<th>Third-country nationals reallocated and resettled to your (Member) States</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
</tr>
<tr>
<td>Third-country nationals</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Training of border guards on asylum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of border guards</td>
</tr>
<tr>
<td>----------------------------------</td>
</tr>
<tr>
<td>Border guards</td>
</tr>
</tbody>
</table>

Unaccompanied Minors and other vulnerable groups

11. Unaccompanied Minors

11.1. European Pact on Immigration and Asylum

No specific commitments are included.

11.2. Stockholm Programme

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

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

This paragraph describes relevant actions taken in relation to unaccompanied minors at national and international levels.

On matters of prevention, in 2011 the “Prevention of illegal migration by unaccompanied minors (under 18 years old) from Senegal into the European Union” project was run.
for the third and last time in Senegal. The project, which was co-funded by the European Commission (80%) and the Spanish Ministry of Labour and Immigration (20%), has been managed by the International and Ibero-American Foundation for Administration and Public Policies, partnered with the Andalusia Public Employment Service. In 2011, the Ministry of Labour and Immigration provided 106,732.50 Euros for this project. The project collaborates with three Senegalese partners who have five occupational training centres. The tools for achieving the objects are focussed on awareness-raising (Awareness-Raising Plan to Prevent the Illegal Emigration of Minors), career and educational guidance, occupational training and insertion in the labour market. The project seeks to strengthen the Senegalese national system for the protection of the rights of minors, and to this end, it establishes as an objective to train, both educationally and occupationally, 1,500 Senegalese minors aged between 14 and 18, to assist them in finding employment. In February 2011 the Self-employment Resource Unit (UniR, Spanish acronym) of the National Agency for the Employment of Young People (ANEJ, Spanish acronym) was therefore opened in Dakar, as an activity which is part of the project “Prevention of illegal migration by unaccompanied minors (under 18 years old) from Senegal into the European Union”. The purpose of this Unit is to provide information and guidance, support and training on how to create and run a company, to Senegalese young people. The technical staff of ANEJ is responsible for fulfilling this function and, to do so, has received a 40-hour training course on “Advice and support on self-employment matters”. In December 2011, an international conference was organised to present the results of the project and debate public contributions linking occupational training with the phenomenon of migration.

Activities related to the protection of unaccompanied minors, which come within the remit of the autonomous regions, have continued in 2011 with the signature of agreements with the autonomous cities of Ceuta and Melilla to improve the assistance of unaccompanied foreign minors. The funds assigned were 1,590,003 Euros for Ceuta and 1,943,337 Euros for Melilla.

Within the framework of the Fund to Support the Reception and Integration of Immigrants, in 2011 the sum of 536,000 Euros was assigned to fund places for the assistance of these unaccompanied foreign minors, who were transferred in 2007 from the Canary Islands to reception centres in various autonomous regions, and who are still within the system.

Also in 2010 a subsidy of 10,000,000 Euros was granted to the autonomous region of the Canary Islands for the reception and transfer of unaccompanied foreign minors.
Lastly, the new Aliens Regulation (2011) provides detailed provisions, for the first time, on the procedure to determine the age of unaccompanied foreign minors and the repatriation procedure with respect to the minor’s right to a hearing and intervention in the repatriation proceedings, on the basis of the minor’s best interests. It is also planned that a Framework protocol for unaccompanied foreign minors will be adopted. This will aim to coordinate the involvement of all the related institutions and administrations, from locating the minors to identifying them, determining their ages, placing them in the care of the public service for the protection of minors, and documenting them.

11.3. Key statistics

<table>
<thead>
<tr>
<th>Unaccompanied minors (Provisional data, October 2011)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of unaccompanied minors</td>
</tr>
</tbody>
</table>

Source: Ministerio de Trabajo e Inmigración based on data provided by the autonomous regions responsible for the minors reception.

Global approach to migration

12. External cooperation / global approach to migration

12.1. European Pact on Immigration and Asylum

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

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

This paragraph provides information on bilateral agreements in addition to those mentioned under sections above.

Concerning the Third Euro-African Ministerial Conference on Migration and Development, Spain has played a major role in the elaboration of the strategy, which contains the following objectives for cooperation and dialogue:
Pillar 1 – Organising legal migration:

— To boost the creation of opportunities for legal migration.

— To assess the needs of the partner countries with a view to defining migratory policy.

— To adapt existing legal frameworks to facilitate opportunities for legal migration.

— To support opportunities for legal intra-African integration.

— To work to develop networks of migration observatories.

All these previous actions include:

— The implementation of circular migration programmes.

— Exchange projects.

— The simplification of long-stay visa formalities for workers and students.

— The improvement of social protection of migrants.

— The promotion of decent work.

— Support to upgrade the capacities of the partner countries.

Pillar 2 – Fight against irregular migration:

— To set up a coordinated management and operations cooperation framework designed to combat irregular migration.

— To back the efforts of African countries in their fight against networks involved in irregular migration and trafficking human beings and smuggling of migrants.

— To increase awareness in origin countries of the risks and consequences inherent in irregular migration.

— To improve the quality of civil registration systems.

— To combat document fraud.
— To boost border control and the campaign against human trafficking and migrant smuggling.

— The promotion of the concept of integrated border management.

— The development of relevant legal frameworks.

— To upgrade the effectiveness of readmission procedures and to improve aid in the area of return and reintegration.

**Pillar 3 – Strengthening the synergies between migration and development:**

There have been initiatives implemented by the partners in mobilising the diasporas and lowering the cost of remittances.

In order to support economic and social development and employment policies in the countries of origin:

— To reinforce and draw on the understanding of the connection between migration and development.

— To support the understanding of the connection between migration and development.

— To encourage alternatives to the ‘brain drain’.

— To facilitate the lowering of the cost of remittances and to contribute to securing them, particularly within the framework of partnerships with the African Remittances Institute and the World Bank.

— To improve the use of remittances for the benefit of the economic and social development of the countries of origin.

— To recognise the transnational dimension of diasporas as well as their role in the economic, social and cultural development of their countries of origin and the necessity to protect the free movement of skills.

An Official Senior Meeting will be held in Spain during the second quarter of 2012 to define concrete priority initiatives aimed at supporting the existing actions and allowing the successful achievement of the objectives set in the Dakar strategy and to identify funding sources.
<table>
<thead>
<tr>
<th>Type of agreement</th>
<th>Third countries involved</th>
<th>Main purpose of the agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreement between the Kingdom of Spain and the Republic of Cameroon on cooperation in matters of combating criminality (Madrid, 26th January 2011)</td>
<td>Cameroon</td>
<td>Combating criminality, including human trafficking</td>
</tr>
<tr>
<td>Agreement between the Kingdom of Spain and the Federal Republic of Brazil on cooperation in matters of combating organised crime (signed in 2007, came into effect in 2011)</td>
<td>Brazil</td>
<td>Combating criminality, including human trafficking</td>
</tr>
<tr>
<td>Cooperation Agreement between the Kingdom of Spain and Bosnia-Herzegovina on combating criminality, especially terrorism, drug trafficking and organised crime (Madrid, 3rd March 2011)</td>
<td>Bosnia-Herzegovina</td>
<td>Includes human trafficking</td>
</tr>
<tr>
<td>Agreement between the Kingdom of Spain and the Republic of Croatia on matters of combating criminality and security concerns (Madrid, 24th October 2011)</td>
<td>Croatia</td>
<td>Combating criminality, including human trafficking</td>
</tr>
<tr>
<td>Agreement between the Kingdom of Spain and the Hashemite Kingdom of Jordan on cooperation in matters of combating criminality (Amman, 15th March 2011)</td>
<td>Jordan</td>
<td>Combating criminality, including human trafficking</td>
</tr>
</tbody>
</table>

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

This paragraph indicates whether developments to favour labour and circular migration with third countries from the East and South of Europe have taken place.

There have been no developments in this field.

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

This paragraph describes any cooperation, in addition to the cooperation outlined above, to combat human trafficking and deterring or preventing illegal immigration.

This Agreement regulates the most important aspects of cooperation in combating criminality through the forces of public order and security, with three major areas of cooperation: terrorism, organised crime and illegal immigration.

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

This paragraph outlines other relevant activities regarding migration and development.

The Migration and Development Working Group of the Spanish Cooperation Council developed a methodological proposal in order to mainstream migration issues into the Spanish Agency for International Cooperation and Development - AECID new country planning instruments (MAP), which was approved and sent to the General Directorate of Evaluation and Coordination of Development Policies - DG POLDE (Ministry of Foreign Affairs and Cooperation) for implementation.

Another issue is the Spain-ECOWAS Migration Development Fund that earmarks 10 million euro to boost the positive effects of migration and to alleviate the negative ones through financing projects for civil society and strengthening institutions of the Member States and the ECOWAS Commission in their management of the migration phenomenon. The Fund involves two main lines of financing: on the one hand, grants to civil society and, on the other hand, grants to strengthen institutions of the Member States as well as of the ECOWAS Commission itself. A number of projects have been carried out in the framework of this Fund. For instance: “Return Migration and Development in Nigeria: global best practices in particular migration perspectives” or “Promotion of development nexus of migration in the ECOWAS region”.

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

This paragraph describes relevant activities in the area of remittances, including financial support to such actions.
Spain has participated in the remittances subgroup at the development group of the G20, advocating for reducing costs of transfers for migrants. The result of that group was the following sentence at the final declaration of the G20 summit: “We will work to reduce the average cost of transferring remittances from 10% to 5% by 2014, contributing to release and additional 15 billion USD per year for recipient families”

12.2. **Stockholm Programme**

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

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

In this paragraph information on a possible national policy or actions with regard to supporting diaspora groups in enhancing development in their countries of origin is provided.

There have been no developments in this field.