Research

PROGRAMMES AND STRATEGIES FOSTERING ASSISTED RETURN AND REINTEGRATION TO THIRD COUNTRIES

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EXECUTIVE SUMMARY

The purpose of this study is to provide an insight into the approach taken by Slovenia with respect to the return of third-country nationals to their country of origin, country of transit or another third country. Additionally, the study will serve as the base for a comparative study prepared by the European Commission within the European Migration Network (EMN).

Slovenia’s immigration policy was largely established at the time of the declaration of the country’s independence in 1991. Prior to this, the migration policy was part of the federal policy of the Republic of Yugoslavia. Currently, Slovenia is mostly a transit country for irregular migrants from the Balkans, but is also becoming a destination country due to its favourable economic situation and membership of the EU, principally to labour migrants from Bosnia and Herzegovina, Montenegro and Serbia. Furthermore, Slovenia has become a destination country for irregular seasonal migration due to its thriving tourist industry.

Slovenia is identified by EU states as a safe third country, and transiting asylum seekers can be, and are, pushed back to Slovenia by countries of destination. Thus, despite the decreasing numbers of applications for international protection and irregular migrants, there is a lingering problem with migrants returned from other countries. Irregular migration, particularly trafficking and smuggling of migrants, is one of the main concerns of the Government of Slovenia (GoS).

The most important feature of the organization of the asylum and migration policies in Slovenia is the detailed set of regulations and procedures for the acquisition of various statuses, the differentiated treatment of foreigners in accordance with their statuses and consequently the different rights they are entitled to.

All the competences in the field of Return migration in Slovenia fall under the Ministry of Interior (MoI). Within it, the institution responsible for the removal of foreigners from the country is the Centre for Foreigners in Postojna. The Centre is a part of the police, organized within the framework of the Administration of Uniformed Police. Its main tasks are to accommodate and provide care for foreigners in its facilities for the period that is necessary for the deportation procedure.

The regulation of return policies in Slovenia differs depending on whether return is voluntary or involuntary (forced). While forced return is well regulated within the domestic legislation and interstate readmission agreements, there is a certain level of confusion and misunderstanding in the field of voluntary return, especially regarding the definition for voluntary return. In Slovenia, voluntary returns are considered to be all the returns by which the foreigners cooperate with the state organs so that it is not necessary to escort them and/or use restrictive measures in the deportation process. This definition is quite broad and is not strictly comparable to the ones set by the European Migration Network (EMN) for “Assisted Return” (or “voluntary return”) or to the one defined by the International Organization for Migration (IOM) for “Assisted Voluntary Return”. The main difference is that the Slovenian definition does not include the reintegration assistance component, which should be part of the return policy especially for the establishment and development of sustainable returns, and
also the different conceptualization of “voluntariness”, as a decision of expulsion is usually issued also in cases of voluntary return. Slovenia is currently not implementing “Assisted Voluntary Returns” but only voluntary returns as defined by the current legislation.

Furthermore, the foreigners accommodated in the Centre for Foreigners awaiting deportation are: foreigners who do not leave the country within the prescribed time limit and cannot be immediately deported from the country; foreigners whose identity is unknown; foreigners under the deportation order; unaccompanied minors illegally staying in Slovenia; foreigners illegally staying in the RS waiting for deportation pursuant to bilateral agreement until they are extradited to foreign security authorities; foreigners in deportation procedures or foreigners who have not left Slovenia and have reapplied for international protection; applicants for international protection whose movement is restricted by decision pursuant to the International Protection Act; applicants for international protection issued with a decision based on the Council Regulation (EC) – Dublin procedures. In recent years, the number of foreigners accommodated in the Centre for foreigners has been constantly diminishing and consequently so has the number of deportations.

After the EU accession, the development of asylum and migration law at the national level has been considerably influenced by the EU legislation in this area. The adopted policies are predominantly in accordance with the European Directives in this area, while often, as a consequence of harmonization, the changes in the national policies do not necessarily reflect the actual local needs. For instance, the main legal act in the field of return migration, the Aliens Act, has been amended five times after its adoption in 1999, namely on 27 September 2002, 29 September 2005, 14 July 2006, 22 April 2008 and 10 August 2009, as a result of the transposition of European migration policy directives, such as the Council Directives 2003/86/EC (Directive on Family reunification), 2003/109/EC (Directive on Long-Term Residents) and 2004/81/EC (Directive on Victims of Human Trafficking) in the National legislation. Currently, Slovenia has incorporated most of the acquis in the field, except the “Return Directive” (Directive 2008/115/EC) for transposition of which all Member States have time until 24 December 2010.

As said, Slovenia has not yet implemented any Assisted Voluntary Return Programmes till now, except in the year 2001-2002 with a pilot Assisted Voluntary Return (AVR) project implemented by IOM Ljubljana and in 2004 with two individual voluntary return cases also with IOM’s assistance. An important milestone in the field of Voluntary Assisted Return was 25 July 2005 when the GoS and the IOM signed a Memorandum between the Government of the Republic of Slovenia and the International Organization for Migration on Cooperation in the Programme of Voluntary Return of Migrants. With this Memorandum the RS recognized the importance of Slovenia’s international commitments and conviction that AVR will contribute to the fulfillment of the country’s migration policy objectives. Nevertheless, a sustainable return programme has not yet been implemented in Slovenia.

A new step forward in this field was taken by the RS with a recent call for proposals from non-governmental and international organizations for the implementation of “Voluntary Return programmes from Slovenia and Reintegration programmes”, published in the Official Gazette on 15 May 2009. In August 2009, IOM Ljubljana was selected as a partner in the implementation of Assisted Return programmes in cooperation with the Centre for Foreigners. This programme will be financed by the European Return Fund and co-funded by the MoI. With this partnership, the MoI also achieved one of the main goals set in the
Multiyear Programme 2008-2013 of the European Return Fund, i.e. to include an international or non-governmental organization in the return policy of the RS.
1 INTRODUCTION

This study on Assisted Return and Reintegration was approved by the European Migration Network (EMN) Steering Board as part of the EMN Work Programme 2009.

The aim of the study is to share up-to-date knowledge across the Member States and thus assist in the development of the policy and programmes intended to facilitate the assisted return of inter alia asylum applicants whose claim has failed or migrants with a different status who have decided to return home. This study will include a comprehensive overview of programmes and strategies for assisted return in EU Member States; analysis of strategies on how assisted return is being promoted and obstacles to return are being overcome in EU Member States, as well as ways and experiences in fostering the sustainability of assisted return; analysis of incentives and motivations to participate in assisted return and reintegration programmes; a review of evaluation of assisted return programmes and their effectiveness/sustainability.

The study aims to contribute to an overview of the practices of assisted return that are in place in EU Member States. It could also be a step forward in achieving enhanced co-operation synergies between EU Member States and the development of a consistent view of best practice in Assisted Return in the EU, as well as in relation to return policy in general.

Despite the fact that several studies of the topic have already been carried out in past years and that the Centre for Foreigners, currently the main actor in the field of migrant return in Slovenia, submits regular reports to the MoI and also to the EMN, this study will be undoubtedly useful to all bodies that influence policy making, as well as to all services and organizations that are dealing with return migration and reintegration programmes. In fact, the study will comprehensively and systematically analyze the field of migrant return and reintegration programmes in Slovenia, with special emphasis given to AVR perspectives.

The methods used in this study are the following:
- questionnaires distributed to the Slovene Philanthropy, Association Ključ and Centre for Foreigners with the aim of collecting statistics and information on the current situation in RS and presentation of the current work in the field;
- interview with a representative of the relevant state institution in this field of work (i.e. Centre for Foreigners in Postojna);
- overview of the relevant legislation;
- overview of previous reports and studies;
- information taken from various reports (of the Human Rights Ombudsman, Slovenian Philanthropy (SP), Legal-information Centre for non-governmental organizations (PIC), Interdepartmental Working group for the Fight against Trafficking in Human Beings).

Organizations and institutions that have provided information for this study:
- within the Uniformed Police Directorate of the Ministry of Interior: Centre for Foreigners (CIF) in Postojna;
- intergovernmental organizations: International Organization for Migration (IOM), the author of the study;
- non-governmental organizations: Slovene Philanthropy (SP), Association Ključ, Peace Institute (PI)

The following data has been used in the study:

- statistical data gathered by the National EMN Research on “Policies on reception, return, integration arrangements for, and number of, unaccompanied minors in the Republic of Slovenia”\(^1\), July 2009: for the period 2004 – 2008 on the number of unaccompanied minors accommodated at the CfF, the number of appointed guardians, the duration of the minors’ accommodation at the CfF and the number of cases of family reunification;

- statistical data gathered by the National EMN Research on “The Organisation of Asylum and Migration Policies in the EU Member States. Slovenia National Report”\(^2\), February 2009: the number of minors accommodated in the CfF for the period 2002 – 2007, the number of forcefully returned foreigners for the period 2002 – 2007;

- statistical data gathered by the official web page of the police\(^3\): the number of foreigners accommodated in the CfF for the period 1998 – 2007, the nationality of foreigners accommodated at the CfF for the period 2005 – 2007, the percentage of migrants accommodated in the CfF in 2007 per gender; the number of asylum or international protection applications, the number of approved statuses, the number of rejected applications and the number of cases with suspended procedures from 1995 until 2007;


- statistical data received on 7 August 2009 from the responsible from the Centre for Foreigners who provided updated information on return trends: the number of foreigners accommodated in the CfF between 2004 and 2008, the number of minors accommodated in the CfF in 2008, the percentage of foreigners accommodated in the CfF by gender in the period between 2004 and 2008.

Statistical data that could not be obtained:

- in certain cases, it was not possible to obtain data for 2008, either because it was not available on the public sites or because the relevant counterpart was not able to send the information on time;

- regarding the demographic characteristic of returnees, there were no available records about the age of foreigners accommodated in the CfF nor about their qualifications or type of employment or at least not in a systematic and formal way;

- there were no known cases of returnees registered to travel to “unknown destinations” or at least there is no official evidence of that. The only data available in this regard is

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\(^1\) The research is available also at: [http://emn.sarenet.es/Downloads/prepareShowFiles.do;jsessionid=A52F89C7BF21E0121CC1C73B64C9EB9D?directoryID=115](http://emn.sarenet.es/Downloads/prepareShowFiles.do;jsessionid=A52F89C7BF21E0121CC1C73B64C9EB9D?directoryID=115).

\(^2\) Available also at: [http://emn.sarenet.es/Downloads/prepareShowFiles.do;jsessionid=A52F89C7BF21E0121CC1C73B64C9EB9D?directoryID=114](http://emn.sarenet.es/Downloads/prepareShowFiles.do;jsessionid=A52F89C7BF21E0121CC1C73B64C9EB9D?directoryID=114).

\(^3\) More information available at: [www.policija.si](http://www.policija.si).

the information about withdrawn applications submitted for international protection, where the applicants most probably left Slovenia for another (“not known”) country of destination.

The main limitation of the research is the tight time frame for the production of the National Report. In addition, Slovenia, just as other non-English speaking countries, needed at least two additional weeks to have the report translated. Consequently, all the relevant publications and researches may not have been reviewed and some data were unintentionally not included in the current study.
2 DEFINITIONS, CATEGORIES OF RETURNEES AND AVAILABLE DATA

In order to have a clear picture of the organization of the return procedures in Slovenia and consequently of the terminology used in this regard, it is important to present the key actor in this field.

The governmental institution responsible for the field of return migration is the Ministry of Interior, which is the competent authority for perusal and harmonization of asylum and migration policies in the Republic of Slovenia. The Ministry is divided into Directorates, which are subdivided into Sectors and further down into Departments with different competences according to individual fields within the asylum and migration system. Another highly important body in the field of migration is the police, the body under the responsibility of the Ministry of Interior, managed by the General Police Administration. The Border Police Sector and the CfF are the responsible agents in the field of migration and both are organized in the framework of Administration of the Uniformed Police. The CfF is divided into the Unit for Security and Strict Police Control and the Section for Social and Health care.

2.1 Definitions of Assisted Return

The Police is presently the only body responsible for the return of migrants in the Republic of Slovenia. Consequently, all current definitions and terminology in the field of migrant returns are strictly connected to their work and to the national legislation. The Migration policy of the Republic of Slovenia is mainly regulated by the Aliens Act, which defines the conditions for and methods of the entry into, departure from and residence of aliens in the country. The processing of foreigners, who have to leave the country within legally defined deadlines and have not left it freely, is within the domain of the police as defined by the national legislation.

The Aliens Act stipulates that aliens who reside in the Republic of Slovenia illegally shall be deported from the country. Aliens are considered to be residing in Slovenia illegally:
- if they entered the country without permission;
- if their visa was annulled or if the period for which it was issued has expired, or they reside in the Republic of Slovenia in contravention of the entry entitlement, or if the time for which they were allowed to reside in the Republic of Slovenia on the base of the law or an international agreement has expired;
- if they are not in possession of a residence permit, or if the permit has expired.

The deportation can be voluntary or forced. An alien shall be deported from the country only after such a decision becomes enforceable. A legally binding document for the deportation is the decision or sentence of expulsion. In this case the police bring the alien to the state border.

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5 EMN NCP Research »The Organisation of Asylum and Migration Policies in the EU Member States. Slovenia National Report«, February 2009, p. 5-7; and Official website of the Ministry of Interior: http://www.mnz.gov.si/en/about_the_ministry/
7 Article 47/1 of the Aliens Act no. 64-2009.
8 Article 50/1 of the Aliens Act no. 64-2009.
where he/she is directed across the border and handed over to the authorities of the country of origin or transit. According to the national legislation this is considered a **forced return**. Meanwhile, based on the same article of the Aliens Act (Article 50), a **voluntary return** is considered as such when an alien cooperates with the police in the return process and no police escort to the country of origin or restrictive measures are used. In this case the alien is well aware of his/her status and of the fact that he/she will be deported when all the procedure of obtaining documents will be concluded and the proper sentence will be issued, and agrees with that; so he/she accepts the fact and decides to cooperate. In this case the return is made on voluntary basis and it is considered legally as a *removal* and not as a deportation from the country. In this kind of returns the police can also cooperate with other governmental, international or non-governmental organizations. The voluntary return is not applicable if an accessory sentence of expulsion from the country has been issued or if a security measure of deportation from the country has been passed. However, this voluntary return is not to be confused with the ones implemented by other non-governmental or international organizations (as IOM, Karitas), because it does not include the reintegration component. This kind of voluntary return programmes are not yet implemented in Slovenia.

The national definition of voluntary return is quite broad as it includes all the return situations except the ones where returnees explicitly refuse the deportation and where (rarely) it is also necessary to use certain restrictive methods defined within the legal framework. This causes confusion and doubt especially in an international environment and for comparative purposes, because the distinction between forced and voluntary return based on the above-mentioned terminology is not always clear, especially in light of other international definitions of these terms in use. To clarify the issue and to highlight the differences with various other frequently used definitions of return, a review of other stances is provided below.

In a wider context the International Organization for Migration (IOM)\(^9\) uses the term **return** to define a movement of a person returning to his/her country of origin, country of nationality or habitual residence, usually after spending a significant period of time (i.e. excluding holiday visits and business meetings, typically considered to be a period of time longer than three months) in another country. This return may or may not be voluntary. **Voluntary return**\(^10\) is based on a decision freely taken by the individual in question. A voluntary decision embraces two elements: freedom of choice, which is defined by the absence of any physical, psychological or material coercion; and an informed decision which requires enough accurate and objective information available upon which to base the decision. The concept of “voluntary return” goes further than simply demanding an absence of coercive measures. In some cases, an assessment may need to be made about the extent to which a person is mentally and psychologically able to take such a free, informed decision, and who could legally take the decision on his/her behalf. Meanwhile **assisted voluntary return** includes organizational and financial assistance for the return and, where possible, reintegration measures offered to the individual. IOM considers that AVR, where feasible, is the most desirable form of return because it takes heed of the person’s decision, allows the returnee to prepare for the return and avoids the stigma of deportation and its negative repercussions for successful reintegration. Governments increasingly prefer AVR as a more humane and cost effective alternative to deportation/removal and a means of strengthening the integrity of regular asylum and immigration programmes. It can also offer support to cooperative efforts among countries of origin, transit and destinations in managing migration jointly.

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\(^10\) Ibid.
Compared to the national definition, IOM’s understanding of “voluntariness” does not include any compulsory elements, least of all the decision of expulsion. Thus, in case of such a previously issued decision, IOM may help the Government with its AVR services only if such a decision is revoked, otherwise this is not considered an assisted voluntary return. In some instances IOM can provide humanitarian and/or reintegration assistance to deported migrants once the returnees are back in the country of origin. Meanwhile, in the national context, a certain coercive element is present in the voluntary option as well (i.e. the decision of expulsion).

In the context of the “Return Directive” \(^{11}\), the **return** means the process of going back – whether in voluntary compliance with the obligation to return, or enforced – to:

- one’s country of origin; or
- a country of transit in accordance with Community or bilateral readmission agreements or other arrangements; or
- another third country, to which the third-country national concerned voluntarily decides to return and in which he/she will be accepted.

In this context, **voluntary departure** means compliance with the obligation to return within the time-limit determined for that purpose in a Return Decision.

Another definition is set by the EMN in particular for **assisted voluntary return**, with which it refers specifically to the provision of (logistical, financial and/or other material) assistance for the Voluntary Return of a returnee. Assisted Voluntary Return is a narrow term of Voluntary Return. Often (financial) support is provided by a Member State, either directly or via funding of other entities. Another source of funding is the European Return Fund.

In this report, reference is made to the term “voluntary return” as defined by the Slovenian legislation. Only in the section “Overview of assisted return measure” we refer also to IOM’s definition, as it describes the possibility for future cooperation between the government of the RS and IOM in the field of assisted voluntary return of migrants.

Also, the term alien/foreigner is used in the report as a synonym in order to refer to any person who does not have the nationality of the Republic of Slovenia. In fact, in the national legal terminology the term “alien” is more often used, while in practice it is more common to use the term “foreigner”. However, we are well aware that a more appropriate and neutral term in this regard would be “non-national”.

### 2.2 Categorisation of returning migrants

As defined in the previous sub-chapter, the implementation of return migration is delegated to the police as an autonomous part of the MoI, specifically to a specialized unit within it – the CfF.

The CfF mainly accommodates all foreigners, who are staying in Slovenia illegally and whom the police units, for any reasons, were unable to deport from the Country immediately. The CfF is also, by means of the national legislation, the only institution in Slovenia which is currently responsible for the returns\(^{12}\). In fact, all the categories of foreigners that are

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accommodated in its premises are waiting to be returned from the country immediately after a proper process of identification and preparation for the return has been carried out. The categories of foreigners accommodated in the CfF are\textsuperscript{13}:

1. Foreigners staying in the Republic of Slovenia illegally:
   - foreigners who do not leave the country within the prescribed time limit and cannot be immediately deported from the country (Article 56, 93.z of Aliens Act),
   - foreigners whose identity is unknown (Article 56 of Aliens Act),
   - foreigners under the deportation order (Article 50, 93.z of Aliens Act),
   - unaccompanied minors (Article 60 of Aliens Act),
   - foreigners illegally staying in the Republic of Slovenia waiting for deportation pursuant to a bilateral agreement, until they are extradited to foreign security authorities (accommodated up to 48 hours; Article 5 of the Rules on special residence conditions and movement of foreigners in the Centre and requirements and procedures for enforcing lenient measures),
   - foreigners in deportation procedure or foreigners who have not left Slovenia and have reapplied for international protection (Article 56 of the International Protection Act).

2. Applicants for international protection:
   - applicants for international protection whose movement is restricted by decision pursuant to the International Protection Act (Article 51 of the International Protection Act),
   - applicants for international protection issued with a decision based on Council Regulation (EC) - Dublin procedures (Article 51 of the International Protection Act).

The main categories of migrants which are included in the official national return programme are described below.

2.2.1 Irregular migrants

As mentioned above, the return of foreigners is regulated by the Aliens Act\textsuperscript{14}, which in the Article 47 stipulates that aliens who reside in the Republic of Slovenia illegally or without any kind of status must leave the country immediately or until the date set by the Ministry of Interior (here is considered also the time needed for the alien to be able to leave the country, however it must not exceed three months).

A foreigner is considered to be residing in the Republic of Slovenia illegally if he/she has entered the country illegally, if his/her visa has been annulled or has expired, if he/she resides in the country in violation of the entry address or if the period in which he/she is allowed to reside in the country in accordance with the law or international agreement has expired, if he/she does not have a residence permit or if the permit has expired (Article 47/2). A

\textsuperscript{13} Published on the official web page of the Police: http://www.policija.si/index.php/o-policiji/organiziranost/244, on 30 July 2009

\textsuperscript{14} Article 47 of the Aliens Act no. 64-2009 (ZTuj-1-UPB6).
foreigner, who does not leave the RS despite falling into one of the above-stated categories, can be deported from the country. Deportation, as per Slovenian legislation, can be forced or voluntary. Forced expulsion is only possible if the decision (sentence of expulsion), with which it was ordered, is final and binding (Article 50/3 and 50/4 of the Aliens Act). The procedure of deportation of a foreigner is carried out by handing him/her over to the authorities of the country in question. A foreigner is handed over to authorities of the other country if he/she is being returned on the basis of an international agreement (Article 50/3 and 50/6 of the Aliens Act). The deportation can be carried out by land or air. The costs of sustenance, accommodation and deportation shall be covered by the foreigner to the extent of his/her own funds. In case that the foreigner has no funds, those costs shall be covered from the budget of the RS. The person who transferred the foreigner across the border in an illegal manner or helped him/her procure illegal documents to reside in Slovenia, shall be obliged to bear the costs related to the deportation of the foreigner as well (Article 62).

The term “illegal migration” is sometimes used as being synonymous with “irregular migration”; however, some convergence seems to be emerging in the use of irregular migration as the most appropriate term to refer to migrants whose status does not conform to the norms of the host countries. Utilizing the term “illegal migrant” may have criminalizing effects on persons who may not have actually committed a breach of criminal law. Additionally, the use of this term could have important consequences for the way such persons are treated by the host community, thereby negatively influencing public perception of international migration. In the absence of an internationally accepted definition that would distinguish these two terms, IOM\textsuperscript{15} uses a broad working definition to include certain sub-categories such as:

- persons deemed by the law of the host country to have no legal status in that country, or whose status has expired, and;
- migration that, while possibly in conflict with migration laws or regularizations when it occurs, might eventually nevertheless be deemed to be acceptable and justifiable by the receiving state, e.g.:  
  - persons found to be refugees, who were compelled to migrate to a country of safe heaven and who, in the process, break migration laws and regulations;
  - persons compelled to cross the nearest safe border without proper clearance while fleeing massive disruptions such as war and natural disasters; some later found to be refugees, other not;
  - persons trafficked into or through a country. In some countries, it is possible for trafficked persons to be given legitimate status, despite violations of Immigration laws (entry and/or residence). This is in accordance with the provisions on protection of victims of the Protocol to Prevent, Suppress and Punish Trafficking in Persons (supplementing the UN Convention against Transnational organized Crime, 2000).

The problem with both of these terms is mainly in the way they translate to the national language, as it may lead to misinterpretations and misunderstandings. Its politically correct translation is “a migrant without a regular status in RS”.

2.2.2 Expulsion of foreign nationals

An alien, against whom the sentence of expulsion from the country has been issued in case of a minor offence resulted in greater consequences or if a higher degree of culpability was established, is also deported from the country.\(^{16}\) The sentence of expulsion of an alien from the Republic of Slovenia is defined in Article 24 of Minor Offences Act\(^{17}\) of the Republic of Slovenia. Namely the court may issue an expulsion order of an alien from the territory of the Republic of Slovenia for the period from six months to five years. The duration of the expulsion starts from the day of the execution of the sentence. The time spent in detention is not included in the duration of the expulsion. The procedure for deportation in such cases is the same as for irregular migrants and is carried out in accordance with the Aliens Act.

2.2.3 Refugees

An applicant for international protection\(^ {18}\) whose application has been rejected by final decision and who does not leave the territory of the Republic of Slovenia within the prescribed time is deported from the state pursuant to the Aliens Act (Article 76/1 of Law of International Protection), unless he/she enjoys a special form of protection under this law (with respect to the principle of non-refoulement\(^ {19}\)). Refugees or persons with subsidiary protection\(^ {20}\) to whom Slovenia has granted protection are not allowed to be deported into their country of origin during the period of validity of their status. The rights and duties arising from their status are valid until the day a refugee or person with subsidiary protection leaves the country. The expenses of the return have to be paid for by the foreigner alone. If he/she has no own means, the expenses are paid for by the Ministry of Interior. If a refugee or person with subsidiary protection voluntarily returns into the country he/she abandoned from fear of prosecution, the international protection is suspended (Article 104 ZMZ).

The deportation of applicants for international protection is also possible if they withdraw the application and/or if they freely decide that they want to return home before the whole process is concluded. In both cases a legal statement is issued confirming that they are no longer applicants for international protection. Consequently they fall under the regulations of the Aliens Act and are removed as stipulated by the law\(^ {21}\).

The procedure for international protection can also be terminated if it is considered that the applicant withdrew the asylum application. The application is also considered to be withdrawn if (Article 50, ZMZ):
- the applicant has not responded to the invitation for a hearing or oral proceedings without prior excuse;


\(^{17}\) Ibid.

\(^{18}\) This term substituted the previous one – asylum seeker – valid until 4 January 2008, following the enactment of the International Protection Act (ZMZ) published in the Official Gazette, no. 111/2007.


\(^{20}\) In the field of asylum the adoption of the International Protection Act (ZMZ) in 2008 brought about changes in the terminology, due to which the asylum seekers are now called applicants for international protection, where international protection covers the status of the refugee as well as the subsidiary protection. Additionally, persons who massively flee from a certain area due to armed conflict, occupation or mass human rights violation, are called persons with temporary protection.

\(^{21}\) Interview with Andrej Casar, Assistant Head of the Centre for Foreigners, on 28 July 2009.
- the applicant has not informed the competent authority about a change of address and it was thus impossible to hand in the invitation and/or other post mail despite a repeated attempt to do so;
- it is clear from the public register of the competent authority that the applicant voluntarily left the Asylum Centre or its department and has not returned to the Centre or its department within three days;
- the applicant has not returned to his/her private address for three days after the notice of absence of his/her landlord or the head of the institution to the competent authority.

The termination of the procedure for international protection can therefore occur due to circumstances from which the competent authority can deduct that the applicant has not been diligent or that the applicant has already left Slovenia and does not intend to continue the procedure.

Furthermore, in case an alien voluntary leaves the reception premises of the Asylum Centre (AC), where he/she was accommodated because he/she submitted the application for international protection for the first time, he/she shall be treated according to the provisions of the Aliens Act. The person is informed about this provision immediately after he/she is accommodated in the reception premises of the AC in a language the persons understands, which is acknowledged by signature (Article 37 of the Law of International protection). This Article was strongly criticized by various non-governmental organizations as the applicant for international protection shall thus be deported from the country during the ongoing process of recognizing his/her status. In fact, even a “cigarette break” outside the hours defined in the House rules regarding the free entry and exit from the Centre can be considered a voluntary leave.

The applicant for international protection cannot be deported/removed while his/her application is pending. The return is allowed only in the case of a negative decision issued at the first instance court, against which the applicant does not file an appeal on the Administrative Court or does not file the appeal on time, (Article 74 ZMZ). The applicant also has the possibility to appeal to the Supreme Court (Article 75 ZMZ) and in final instance to the Constitutional Court (Article 77 ZMZ). In the case of a negative decision at all instances, a period is determined in which a person (former applicant) must leave the country. If the person does not reside in the Asylum Centre but at a private address, the Asylum Centre has to inform the police of the fact that the decision has become enforceable (Paragraph 3 Article 52 ZMZ). If the person is accommodated in the Asylum Centre, he/she has to turn himself/herself in to the police once the decision is final. If the person does not leave the territory of the RS immediately or within the determined period after the decision was issued, he/she has to be deported from the country in accordance with the Aliens Act.

There is a lack of regulation for the cases when a recognized refugee with insufficient means for the travel decides to return home voluntarily. The current practice in such cases is that the refugee is addressed to a humanitarian organization (Karitas, Red Cross, IOM, etc.) to ask for some help for his/her return. If he/she receives some financial aid for his travel expenses, he/she is allowed to go back.

### 2.2.4 Victims of Trafficking

In Slovenia there are no special legal provisions regulating the return of victims of trafficking (VoTs). Moreover, there is a lack of legally established criteria for determining the “status” of
a VoT as well as a lack of procedure for such determination. When there is a suspicion that a person might be a VoT, the police immediately informs the non-governmental organization specialized for victims of trafficking, the Association Ključ. Until 2008 the NGO Ključ implemented a project called PATS (Project against Human Trafficking and Sex and Gender Based Violence), which was performed in the AC and CfF. In this project the individuals that fall into the risk population (unaccompanied minors, women) were informed about the issues of trafficking in human beings and violence. The purpose of the project was to empower its beneficiaries with information on the traps of trafficking in human beings and means and places of assistance. Nonetheless, Ključ did not implement special procedures for the return of the victims. PATS was just an awareness raising program. However, with the assistance of Ključ, the CfF assessed if the person might be a VoT. If this was the case, the VoT was no longer within the domain of the CfF but was transferred to a Safe House and processed by a Criminal Police Directorate.

Ključ recently signed a contract with the MoI for the project of “Care for Victims of Trafficking in Human Beings – Accommodation in Safe Houses” for the year 2008 – 2009. In the scope of this project the MoI covers the accommodation fees for the victims who decide to cooperate in the penal proceedings in court for trafficking in human beings. Otherwise those costs are not eligible. However, according to an annex added to this contract for co-funding, signed by the Municipality of Ljubljana (MOL) – Sector for healthcare and social security, also the victims who are not willing to cooperate in the proceedings will be assisted.

The safe house offers the victims housing, food and care, psychological help, help with the regularization of their status in the RS, informational material, etc. The victims may leave the accommodation facility whenever they want. The financial aid of MOL also provides the possibility to return home if the victims want or decide so. In the case of return, Ključ contacts the relevant NGO in the victim’s country of origin and also the police of the RS, in order to organize a safe travel and inform the VoT about the possibility to take part in the relevant reintegration programmes in his/her country of origin. However, after the return, Ključ usually did not receive any feedback about the reintegration process of the returned VoTs nor information if the victim took part in such a programme at all.

A specific regulation applies to victims of trafficking in human beings who are residing illegally in the RS. This regulation was introduced into Slovene legislation after the transposition of the European Council Directive 2004/81/EC (Directive on Victims of Trafficking in Human Beings). On their request, VoTs are granted permission to remain for the time of consideration by the police, during which they decide if they are to cooperate as witnesses in criminal procedure of trafficking in human beings. On the basis of grounded reasons the permission to remain can be extended for three months. Permission to remain can be rejected if:
- the VoT is considered to be a threat for the public order, security and international relations of the RS;

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23 Interview with Andrej Casar, Assistant Head of the Centre for Foreigners, on 28 July 2009.
24 Currently the project is on stand-by because of a lack of funds.
26 Data obtained through a questionnaire sent to the NGO Ključ about their involvements in the return activities in RS. The questionnaire was received on 03 August 2009 via email.
- if there is a suspicion that the person’s residence in the country could be connected to execution of terrorist and other violent acts, illegal intelligence activities and execution of other criminal acts;
- the VoT comes from a region where there is an outbreak of contagious disease which may cause an epidemic, listed in the international health rules of the World Health Organisation, or from a region where there are contagious diseases which could threaten people’s health and for whom prescribed measures should be introduced on the basis of the law regulating contagious diseases.

This and other terms for VoTs are defined in the Article 38.a of the Aliens Act\textsuperscript{27}.

### 2.2.5 Displaced Persons with temporary protection

There are special provisions regulating the return of displaced persons. In 2005, a new Temporary Refuge of Displaced Persons Act was adopted.\textsuperscript{28} The Act includes the provisions of return and repatriation of persons under temporary refugee protection, taking into account the specific situation of this group of people. If the situation in the displaced persons’ country of origin allows for their return, the temporary protection is terminated and they are obliged to leave the country. The deadline until which they are obliged to do so is determined by a decision of GoS at the introduction of temporary protection (Article 19 ZZZRO).

In order to facilitate the decision to voluntarily return to the country of origin, the MoI provides information on the conditions in the country of origin and on the possibilities to return (Article 45/1 of ZZZRO). Furthermore, the Ministry may organize informative visits in the country of origin for displaced persons that decide to voluntarily return (Article 45/2 of ZZZRO). The Ministry can enable the persons who have already voluntarily returned to come back to Slovenia due to exceptional conditions prevailing in the country or region of origin and provide a safe and permanent return for the period when the temporary protection is still valid under the decision of the GoS. Prior to this step, the Ministry follows the recommendations of the UNHCR regarding the conditions in the country or region of origin.

If a person who decided to return voluntarily cannot return yet due to health reasons, his/her temporary refugee status may be extended (Article 46/1 of ZZZRO). Extended stay may be permitted to unaccompanied minors and families with minor children until the end of the school year, if they are attending school in Slovenia (Article 46/2 of ZZZRO). Both groups of people (i.e. minors and their families as well as persons with health problems) enjoy equal rights as other persons under temporary refugee protection (Article 55 of ZZZRO).

The provision on forced return states that a person whose temporary refuge was terminated and who did not receive status permitting them to stay in Slovenia must leave the country in due time, otherwise the provisions of Aliens Act will apply (Article 47 of ZZZRO).

\textsuperscript{27} Official Gazette, no. 64-2009.
\textsuperscript{28} Official Gazette, no. 65/2008 (ZZZRO). The Act is the result of the implementation of the Council Directive 2001/55/EC (Directive on Temporary Protection). In accordance with this Act the temporary protection is granted in the case of mass arrivals of displaced persons from third countries in the RS, particularly when there is a danger that the asylum system would not be able to appropriately process the increased amount of asylum applicants.
Currently, there are no displaced persons under temporary refuge in Slovenia. In 2002, the remaining 2,000 Bosnian refugees were given the option to either return voluntarily to Bosnia and Herzegovina or to acquire permanent residence permits.\(^{29}\)

Altogether 9,058 persons were returned from Slovenia to Bosnia and Herzegovina and 1,056 to Croatia in the period from 1993 to 2003. While there is no evidence in the statistics of the Immigration Sector of how many of them returned voluntarily and how many involuntarily (with an exception of 130 out of 9,058 who did return voluntarily to Bosnia and Herzegovina with the assistance of IOM), it can be maintained that all Bosnian refugees returned voluntarily since those who did not want to return had an option to stay in the Republic of Slovenia and obtain permanent residence.\(^{30}\)

### 2.2.6 Unaccompanied minors\(^{31}\)

The treatment of alien minors is set out in article 60 of the Aliens Act. The law does not define different procedures with regard to the minors’ age. In CfF the unaccompanied minors (UAMs) are accommodated in a special department, while the minors accompanied by their parents are accommodated in the department for vulnerable groups together with their parents. An UAM can be granted different, more appropriate accommodation if, during the procedure, the police establishes that an accommodation under the social care supervision is more suitable for the minor. On the other hand, an UAM cannot be held under more strict police surveillance. This regulation is already in line with subparagraph 2 of article 17 of the Return Directive, which defines that families with minors shall be provided with separate accommodation guaranteeing adequate privacy.

The CfF is the only facility in RS accommodating UAMs who are considered irregular migrants. In spite of the Aliens Act provisions, the possibility of accommodation of UAMs outside the CfF is not being implemented in practice, since in Slovenia there is no alternative housing for this population. UAMs and families with minor children are accommodated in the CfF. Since the subparagraph 1 of article 17 of the Return Directive sets out a different regulation (unaccompanied minors and families with minor children shall be detained as a measure of last resort) the current regulation in RS should be harmonized with the Directive by December 2010.

Upon the minor’s accommodation at CfF the police issues him/her an order of accommodation and not an order of limitation of movement, even though CfF is an institution where the movement of aliens is limited to the centre’s facility and to the surrounding area according to the house rules. It can thus be concluded that the minors’ movement is de facto limited.\(^{32}\) According to the Aliens Act, the accommodation period in the CfF or outside it lasts until the person is removed, but not longer than six months. If the removal is not possible, the

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\(^{30}\) Ibid.

\(^{31}\) The information in this section was obtained from the recent research »Policies on reception, return, integration arrangements for, and number of, unaccompanied minors in the Republic of Slovenia«, July 2009, made by the Slovenian Philanthropy and PIC (Legal Information Centre for non-governmental organization) for the EMN.

\(^{32}\) EMN NCP Research »Policies on reception, return, integration arrangements for, and number of, unaccompanied minors in the Republic of Slovenia«, July 2009, p. 16.
accommodation in the CfF can be prolonged for further six months or an alternative place of stay is determined until the removal is performed.\(^{33}\)

When the police place the UAM in the CfF, it has to notify the Centre for Social Work (CSW, within the Ministry for Labour, Family and Social Affairs) about this. The latter immediately appoints a legal guardian to the minor.\(^{34}\) The designated centre in these cases is CSW Postojna, yet its role is merely a formal one, i.e. it issues the decisions of appointment of legal guardians. The CSW Postojna does not engage in seeking long-term solutions for concrete cases of minors, this is therefore left to the guardian. The guardian’s task is to represent the minor in procedures and protect his/her rights and interests. This guardian’s duty is voluntary and honourable\(^{35}\). Based on the data from the CfF it can be established that in the period 2004 – 2008 not all of the accommodated UAMs were appointed a legal guardian; out of a total of 323 only 231 unaccompanied minors were appointed a guardian (71.5 %). In the remaining 92 cases (28.5 %) unaccompanied minors were processed without a guardian. The legal guardian is usually also the person who escorts the UAM in the deportation/removal phase. In this case additional police escort is not required. If the legal guardian cannot accompany the UAM, the UAM has to be appointed another responsible and adequate person to do this (often from the NGO SP).

However there are two main criteria for deciding whether a UAM will be returned to his/her country of origin or a country ready to accept him/her\(^{36}\):

- that a suitable reception is provided for the minor in the country which he/she is being returned to,
- that the return is not incongruent with the Convention on the Protection of Human Rights and Fundamental Freedoms and its amending Protocols No. 2, 3, 5 and 8 and its protocols 4, 6, 7, 9, 10 and 11; the European Convention on Prevention of Torture and Inhumane or Degrading Treatment or Punishment; the Convention on the Rights of the Child (Official Gazette RS-MP, no. 9/92) and the European Convention on the Exercise of the Children’s Rights.

### 2.3 Data on Assisted Return

The number of foreigners who were accommodated in the CfF from 1998 to 2008 has been decreasing since 1999, which is evident from the following chart:

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\(^{33}\) Ibid.

\(^{34}\) In most of the cases concerning legal guardians the CSW Postojna cooperates with Slovenian Philanthropy. Very few cases with UAM are carried out without the involvement of SP in the process.

\(^{35}\) Ibid.

\(^{36}\) EMN NCP Research »Policies on reception, return, integration arrangements for, and number of, unaccompanied minors in the Republic of Slovenia«, July 2009, prepared by the Slovenian Philanthropy and the Legal-Information Centre for non-governmental organizations (PIC).
The number of minor foreigners who were accommodated in the Aliens Centre from 2002 to 2008 has oscillated, as shown in charts 2 and 3 below.

**Chart 2: Number of minors accommodated in the CfF from 2002 to 2008**

Source: Data submitted by Mr Andrej Casar, Assistant Head of the CfF on 7 August 2009 by mail.
Chart 3: Number of foreigners accommodated in the CfF per gender (in %) in the period from 2004 to 2008

Source: Ibid.

Chart 3 also shows that the majority of foreigners in the CfF are men, while the percentage of women, children, and UAM oscillates. This is also the only data available for the demographic characteristic of returnees, as there are no separate records of their age, qualification or type of employment.

Chart 4 reveal that the number of UAMs accommodated in the CfF in the period from 2004 to 2008 is decreasing. It is noteworthy that the CfF does not keep records on UAMs registered as trafficked, kidnapped or missing from state care.

Chart 4: Number of UAMs accommodated in the CfF from 2004 to 2008

Source: EMN NCP Research »Policies on reception, return, integration arrangements for, and number of, unaccompanied minors in the Republic of Slovenia«, July 2009, prepared by the Slovenian Philanthropy and the Legal-Information Centre for non-governmental organizations (PIC).

The nationality of the accommodated foreigners in the Centre for Foreigners in Postojna from 2005 – 2007 is depicted in Table 1. From 2005 there is a notable decrease in the number of the accommodated foreigners. However, it is becoming increasingly difficult to identify them.
The majority of the foreigners originated from the South-East Europe. The common history, knowledge of the language and customs, as well as established networks in this region enable the CfF to perform the processing of foreigners faster and more efficiently. However, in the last years an increase in the number of foreigners originating from Africa and Asia can be observed, which prolongs their processing due to the problems in the identification process.

Table 1: Number of accommodated foreigners in the CfF based on nationality, in the year 2005 - 2007

<table>
<thead>
<tr>
<th>Country</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serbia</td>
<td>564</td>
<td>489</td>
<td>298</td>
</tr>
<tr>
<td>Albania</td>
<td>287</td>
<td>240</td>
<td>133</td>
</tr>
<tr>
<td>BiH</td>
<td>127</td>
<td>104</td>
<td>80</td>
</tr>
<tr>
<td>Turkey</td>
<td>171</td>
<td>88</td>
<td>74</td>
</tr>
<tr>
<td>FYR Macedonia</td>
<td>102</td>
<td>37</td>
<td>37</td>
</tr>
<tr>
<td>Iraq</td>
<td>10</td>
<td>2</td>
<td>16</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>5</td>
<td>4</td>
<td>14</td>
</tr>
<tr>
<td>Pakistan</td>
<td>14</td>
<td>4</td>
<td>12</td>
</tr>
<tr>
<td>Montenegro</td>
<td>0</td>
<td>0</td>
<td>12</td>
</tr>
<tr>
<td>Georgia</td>
<td>13</td>
<td>5</td>
<td>11</td>
</tr>
<tr>
<td>Ukraine</td>
<td>16</td>
<td>20</td>
<td>10</td>
</tr>
<tr>
<td>Moldova</td>
<td>159</td>
<td>34</td>
<td>9</td>
</tr>
<tr>
<td>India</td>
<td>19</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Egypt</td>
<td>1</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>Russia</td>
<td>10</td>
<td>10</td>
<td>6</td>
</tr>
<tr>
<td>Iran</td>
<td>6</td>
<td>7</td>
<td>4</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>2</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>16</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>China</td>
<td>0</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>Other</td>
<td>117</td>
<td>62</td>
<td>37</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>1639</strong></td>
<td><strong>1117</strong></td>
<td><strong>781</strong></td>
</tr>
</tbody>
</table>


Based on the information received from Mr. Casar, Assistant Head of the Centre for Foreigners, in 2008 there were 512 foreigners accommodated, mainly from Kosovo\(^{37}\)/UNSC 1244, Serbia, Bosnia and Herzegovina and Turkey. 388 of them were deported from Slovenia. There was no more detailed data for 2008 available during the preparation of the study.

Table 2: Number of deported foreigners based on nationality in the period from 2005 to 2007

<table>
<thead>
<tr>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Country</strong></td>
<td><strong>Number</strong></td>
<td><strong>Country</strong></td>
</tr>
<tr>
<td>Serbia and Montenegro</td>
<td>275</td>
<td>Serbia</td>
</tr>
<tr>
<td>Moldova</td>
<td>125</td>
<td>Albania</td>
</tr>
<tr>
<td>Albania</td>
<td>96</td>
<td>Turkey</td>
</tr>
<tr>
<td>Turkey</td>
<td>92</td>
<td>BiH</td>
</tr>
<tr>
<td>BiH</td>
<td>68</td>
<td>Moldova</td>
</tr>
<tr>
<td>FYR Macedonia</td>
<td>40</td>
<td>FYR Macedonia</td>
</tr>
<tr>
<td>Romania</td>
<td>27</td>
<td>Ukraine</td>
</tr>
<tr>
<td>Ukraine</td>
<td>17</td>
<td>Romania</td>
</tr>
</tbody>
</table>

\(^{37}\) Here it would be more appropriate to use the valid UN terminology for Kosovo, this is Kosovo/UNSC 1244, as per the Resolution 1244 (1999) of the Security Council of UN adopted on the 10th June 1999.
As mentioned above, the return of foreigners is regulated by the Aliens Act. Foreigners, who are located in the RS without any kind of status and reside in the country irregularly, must leave the country immediately or until the set date. A state organ sets the foreigner a period in which he/she must leave the country. This period should not exceed three months (Article 47 of the ZTuj-1-UPB6). A foreigner who does not leave the RS despite the above can be deported/removed from the country. Expulsion can be carried out on the basis of agreements the RS has signed with its partner countries. On the basis of readmission agreements a foreigner is returned to a country with which the RS has signed a readmission agreement (Article 50/6 ZTuj-1-UPB6), if it can be concluded on the basis of evidence that the foreigner has arrived via the territory of this third country (i.e. on the basis of a stamp in the passport).

Chart 5 below presents the data concerning forced returns from Slovenia in the period from 2000 to 2008. The number of forcefully returned foreigners from Slovenia changes every year, but a decreasing trend has become apparent in the last decade.

Detailed data for voluntarily deported foreigners is not available. Based on the interview made with Mr. Andrej Casar, Assistant Head of the Centre for Foreigners, in 90% of the cases the returns are voluntary, i.e. carried out in full cooperation of the foreigners and without the usage of restrictive measures and/or police escorts to the country of origin.

Another important information in the below chart is that not all returnees are returned by plane. One of the priorities set out in the Multiyear Programme 2008-2013 for the European Return Fund is also to increase the number of returned persons by plane. This guarantees the success of the return, as flying as a means of transport is more direct and faster than any transport by land.

**Chart 5: Number of forcefully returned foreigners from Slovenia in the period from 2000 to 2008**

<table>
<thead>
<tr>
<th>Country</th>
<th>Returnees</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Russia</td>
<td>5</td>
<td>767</td>
</tr>
<tr>
<td>Georgia</td>
<td>8</td>
<td>797</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>5</td>
<td>569</td>
</tr>
<tr>
<td>Other</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>767</td>
<td>797</td>
</tr>
</tbody>
</table>
Refugees or persons with subsidiary protection to whom Slovenia has granted protection status are not allowed to be deported into their country of origin during the period of validity of their status (which is also a residence permit in RS). If they wish to, they can return voluntarily and the MoI has to support them in doing so. The rights and duties arising from their status are valid until the day a refugee or person with subsidiary protection leaves the country. The expenses of the return have to be paid for by the refugee alone. If he/she has no own means, the expenses are covered by the MoI. If a refugee or a person with subsidiary protection voluntarily returns into the country he/she abandoned from fear of prosecution, international protection is suspended (Article 104 ZMZ). International protection applicants who were not granted international protection in the RS because their application has been rejected must leave the RS immediately after the decision of the asylum sector at the MoI has become enforceable (Article 52/2 ZMZ). If the person does not leave the territory of the RS immediately or in the period set by the final decision, he/she has to be removed from the country in accordance with the Aliens Act (Article 76/1 ZMZ). The table below presents the status of submitted applications, recognized status, rejected application and terminated procedures for international protection for the period from 1995 to 2007.

Table 3: The number of asylum or international protection applications, the number of approved statuses, the number of rejected applications and the number of cases with suspended procedures from 1995 to 2007

<table>
<thead>
<tr>
<th>YEAR</th>
<th>NUMBER OF APPLICATIONS</th>
<th>RECOGNIZED STATUS</th>
<th>REJECTED APPLICATIONS</th>
<th>TERMINATED PROCEDURES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>6</td>
<td>2</td>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td>1996</td>
<td>35</td>
<td>0</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>1997</td>
<td>72</td>
<td>0</td>
<td>8</td>
<td>15</td>
</tr>
<tr>
<td>1998</td>
<td>337</td>
<td>1</td>
<td>27</td>
<td>13</td>
</tr>
<tr>
<td>1999</td>
<td>744</td>
<td>0</td>
<td>87</td>
<td>237</td>
</tr>
<tr>
<td>2000</td>
<td>9244</td>
<td>11</td>
<td>46</td>
<td>831</td>
</tr>
<tr>
<td>2001</td>
<td>1511</td>
<td>25</td>
<td>97</td>
<td>9911</td>
</tr>
<tr>
<td>2002</td>
<td>640</td>
<td>3</td>
<td>105</td>
<td>619</td>
</tr>
<tr>
<td>2003</td>
<td>1101</td>
<td>37</td>
<td>123</td>
<td>964</td>
</tr>
<tr>
<td>2004</td>
<td>1208</td>
<td>39</td>
<td>317</td>
<td>737</td>
</tr>
<tr>
<td>2005</td>
<td>1674</td>
<td>26</td>
<td>661</td>
<td>1120</td>
</tr>
<tr>
<td>2006</td>
<td>579</td>
<td>9</td>
<td>561</td>
<td>288</td>
</tr>
<tr>
<td>2007</td>
<td>434</td>
<td>9</td>
<td>276</td>
<td>238</td>
</tr>
</tbody>
</table>

Source: Ibid.

Based on the information in Table 3 it is clear that some foreigners who applied for the international protection most probably used this instrument to proceed to another country of destination. In fact, based on article 50 of ZMZ the application is suspended if the claimant refuses the invitation for a hearing, or they have not informed the competent authority about the change of address, or if it is clear from the public register of the competent authority that the applicant voluntarily left the Asylum Centre and not returned in three following days, or the applicant has not returned to the private address for three days since the notice of absence of the landlord or the head of the institution of the competent authority. Shortly, the termination of the procedure for international protection may occur due to the circumstances from which the competent authority can deduct that the applicant has not been diligent or that the applicant has already left Slovenia and does not intend to continue the procedure. Most
probably we can consider these cases to be the ones in which foreigners departed to “unknown destinations” and are thus out of the control of the competent institution. In case they will try to submit a new application for international protection in another country they will be sent back to the country of the first application, i.e. Slovenia.

In the light of these facts, certain special procedures have been adopted beside the regular and accelerated procedures. These are regulated by the International Protection Act. They are the procedure for repeated application, procedure at airports and in ports and the Dublin procedure implementation (its inclusion is the result of Regulation 323/2003/EC – Dublin II Regulation).

As mentioned in the previous chapter, one the main activities of the CfF is the identification of foreigners and arranging for travel documents for anyone who is in the process of removal from the country and does not posses the appropriate documents to return to one’s country of origin. The below table shows that in most of the cases the return of the foreigner is carried out without police escort to the country of origin. The police escort is necessary only in case the foreigners resist the deportation or in case the flight company explicitly requires this kind of escort (very rarely). As seen from the data below there were six (6) police escorts performed in 2005, nine (9) in 2006 and nineteen (19) in 2007.

Table 4: Activities of the Centre for Foreigners for the period 2005 - 2007

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contacts with embassies</td>
<td>375</td>
<td>220</td>
<td>160</td>
</tr>
<tr>
<td>Arranged travel documents for the return (Emergency travel documents)</td>
<td>268</td>
<td>143</td>
<td>90</td>
</tr>
<tr>
<td>Organized charter removals</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Police Escort Assistance</td>
<td>6</td>
<td>9</td>
<td>19</td>
</tr>
</tbody>
</table>


In 2006, 684,802 EUR were allocated from the state budget for the need of the CfF. Out of this amount, 576,498 EUR were spent on accommodation and return of foreigners. In 2007, the approved budget was 668,831 EUR, and 448,549 EUR were spent for removal purposes. In Table 5 (below) only the costs for the purchase of travel tickets for the returned foreigners are shown. But it does not include other costs connected with the preparatory phase, such as accommodation, acquiring of documents for foreigners, costs for interpreters/translators, medical care, travel costs and per diems of escorts.

Table 5: Costs of deportation of foreigners from Slovenia for the period 2005 - 2007

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costs of deportation of foreigners</td>
<td>161,696 €</td>
<td>207,316 €</td>
<td>130,879 €</td>
</tr>
</tbody>
</table>

3 THE POLITICAL AND LEGAL FRAMEWORK

The main formal document which set the bases for the Slovenian migration policy is the Resolution of Immigration Policy in the RS adopted by the national assembly in 1999 and then confirmed and amended in 2002. The Resolution defined the three constituent parts of the migration policy, which are: the immigration regulation, asylum policy and integration policy. Since the first Resolution, three laws have been adopted to systematically regulate this area; those were the Asylum Act (1999), the Aliens Act (1999) and the Temporary Asylum Act (2002). However, all these acts lack provisions for the concrete realisation and terms of integration. This clearly indicates that the Slovene migration policy gives priority to the last two of its constituent parts38.

From a policy point of view, the migration policy is highly efficient as the number of irregular migrants in Slovenia has been diminishing in the last years, which is the result of great efforts of the police and border control mechanisms; also, the asylum policy is highly harmonized with EU directives.

However, independent researchers noted that the current migration policy is trapped in the so called “Paradox of Human Rights”. In fact, on the one hand it is grounded in the human rights perspective, while on the other hand it consists of restrictive measures that not only point to divisions between societies or statuses, but reproduce and stimulate the building of “internal borders and boundaries”39, promoting repressive methods.

Although the European Convention of Human Rights in principle applies to all residents, the naturalisation procedures keep migrants with limited civil, domicile and employment rights that are strictly regulated across the Schengen and Dublin borders. The United Nations’ Universal Declaration of Human Rights (1948) recognises the right of freedom of movement, interpreted as a right to emigrate, but it does not recognise the right to immigrate. If, on the one hand, human rights grant protection to the individual citizen, their implementation, on the other hand, results in the emergence of situations that do not envision the development favourable to the citizen, but instead to the state as an administrative body. The Universal Declaration does not mention any obligations to grant entry to migrants. Contradictions between universal human rights and territorial sovereignty are built into the law itself, and current migration policies that adopt human rights mechanisms also leave not only legitimate but also legal space to practice restriction and reproduce border regimes40.

Researchers suggested that a change in the territorially bounded state-centric models of migration management (oriented in the self-preservation policies of a nation) is needed in order to overcome the paradoxes in migration policies. This should comprise the integration of the dualist understanding of the nation-state, where one pole is reserved for the inner territoriality bounded politics and the other to the outer foreign, military and diplomatic relations. A new kind of deterritorialised politics, although it might appear as a vague suggestion, has the potential to generate new modalities of political membership, which evolves beyond the ideals of privileged membership of a nation-state41.

The Slovenian migration policy is stuck in its dual, contradictive role. On the one hand, it must lead a restrictive policy toward irregular migration as a guardian of the outer EU border,
on the other, it is well aware of the importance of immigration for the maintenance of the current social and economic system in light of the demographic situation in the country and in the EU. Immigration policy will surely play a key role in the field of migration, but for now there are no specific amendments or legal proposals oriented toward this kind of changes, neither is there a clear national strategy of immigration being developed in the country.

Meanwhile, from the point of view of the return policy, the main national goals are described in the below subchapter 3.2 as part of the Multiyear Programme 2008-2013 for the European Return Fund.

3.1 The political and legal framework in Slovenia

The relevant legislation – domestic and international – regulating the return policies in Slovenia is as follows:

1. National legislation
   - Constitution of the Republic of Slovenia (Official Gazette of the RS, no. 33/91);
   - Aliens Act (ZTuj-1-UPB6) (Official Gazette of the RS, no. 64/2009);
   - International Protection Act (ZMZ) (Official Gazette of the RS, no. 111/2007);
   - Temporary Refuge of Displaced Persons Act (ZZZRO) (Official Gazette of the RS, no. 65/2005);
   - Penal Code (KZ-UPB1) (Official Gazette of the RS, no. 95/2004);
   - Regulating the Status of Citizens of the Other Republic of the Former Yugoslavia Act (Official Gazette of the RS, no. 61/1999, 54/2000, 36/2003);

2. International Agreements:
   - The Convention for the Protection of Human Rights and Fundamental Freedoms;
   - The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;
   - The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,
   - United Nations Convention against Organized Crime;
     - Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;
     - Protocol against the Smuggling of Migrants by Land, Sea and Air;
   - Council Directive 2003/110/EC on assistance in cases of transit for the purposes of removal by air;
   - Council Decision 2004/573/EC on the organization of joint flight for removal from the territory of two or more Member States of third country nationals who are subjects of individual removal orders;
General Programme “Solidarity and Management of Migration Flows” and related Implementing Acts;

Most of the current developments of the asylum and migration policy were facilitated by harmonization of the Slovene legislation with the EU legislation and after Slovenia's entry into the EU on 1 May 2004 with the implementation and transposition of EU legislation into the Slovenian domestic law. The Slovene asylum law was developed during the period of temporary asylum and the Asylum Act was adopted on July 8, 1999 and consequently modified four times (21 December 2000, 25 July 2001, 9 September 2003 and on 6 February 2006). The Asylum Act was replaced by the International Protection Act, adopted on 21 November 2007, introducing new provisions of the Council Directives 2004/83/EC (Qualification Directive), 2005/85/EC (Procedure Directive) and 2003/9/EC (Directive on Reception Conditions) into the domestic law. After its adoption in 1999, the Aliens Act had also been amended five times, namely on 27 September 2002, 29 September 2005, 14 July 2006, 22 April 2008 and 10 August 2009, changes being the result of the transposition of European migration policy directives, such as the Council Directives 2003/86/EC (Directive on Family Reunification), 2003/109/EC (Directive on Long-Term Residents) and 2004/81/EC (Directive on Victims of Human Trafficking). Although the Temporary Protection Act was officially and legally not abolished to date, the Temporary Protection of Displaced Persons Act, adopted on 22 June 2005, transposing the European Council Directive 2001/55 on Temporary Protection, would apply for the needs of granting temporary protection to a large number of displaced persons.

When Slovene authorities began to manage migration after the independence, they opened the Transit Centre for Aliens in Šiška, Ljubljana, on the basis of the Aliens Act of 1991. It provided accommodation and care for asylum seekers, for aliens awaiting deportation from the country and for minor foreigners, who could not be immediately returned to their country of origin. The Aliens and Asylum Acts of 1999 provided the basis for the establishment of the Centre for Foreigners and the Asylum Centre on the premises of the Transit Centre, taking on the tasks of the Transit Centre on January 1, 2000. Currently, the Centre for Foreigners is located in Postojna (Veliki Otok). The Asylum Centre had been located in the premises of the former Transit Centre for Aliens for four following years until the Ministry of Interior opened a new Asylum Centre in Ljubljana, Vič in September 2004.

As explained in Chapter 2, the CfF is currently the only institution in Slovenia responsible for the voluntary and forced return of migrants. Their work is mainly regulated by the Aliens Act, where all the legal constraints and procedures for removals from the country are defined. Although there is no specific law on AVR, the general policy has been to allow persons issued with expulsion orders to leave the country voluntarily (within the legal framework this means in cooperation with the police) before the decision is enforced. According to Article 47 of the Aliens Act, irregular migrants apprehended in Slovenia will be requested to leave the country.

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42 The legal status “temporary asylum” was used during the Balkan wars in the 90s for refugees from Croatia, Bosnia and Herzegovina and later also from Kosovo who fled to Slovenia. This status was intended to provide a temporary solution for an expected temporary situation (maybe 3-6 months). In the end, for some of the refugees this temporary situation continued for 7 years, until the adoption of a more durable solution with the new asylum system in 1999. They have never been recognized as refugees as per the Geneva Convention.

43 EMN NCP Research »The Organisation of Asylum and Migration Policies in the EU Member States. Slovenia National Report«, February 2009.
voluntarily within a specific period, which cannot exceed three months. Beside this, there is no legal basis for the implementation of reintegration programmes in the country of origin.

According to the specific needs of the migrants assisted, the returns are operated in cooperation with a number of organizations including UNHCR\(^{44}\), Slovene NGOs such as Slovene Philanthropy, Legal Information Centre for non-governmental organizations (PIC), Association Ključ, Jesuit Refugee Service (JRS) and Slovenian Karitas (Karitas).

An important step toward the implementation of AVR was taken on 25 July 2005, when the Government of the RS and the IOM Ljubljana signed a Memorandum between the Government of the Republic of Slovenia and the International Organization for Migration and Cooperation in the Programme of Voluntary Return of Migrants\(^{45}\) (Memorandum). The Memorandum was signed after two years of negotiations recognizing the importance of Slovenia’s international commitments and the conviction that AVR will contribute to attaining Slovenian migration policy objectives set in the Resolution of the Immigration Policy of the RS\(^{46}\).

The Resolution on Immigration Policies in the Republic of Slovenia (adopted in 1999) and the Resolution on Migration Policies of the Republic of Slovenia (adopted in 2002) present the two founding documents of the Slovenian migration policy. Chapter 5 of the Resolution on the Migration Policies defines the bases of the Slovenian migration policy, i.e.: world solidarity and active engagement in prevention of causes of mass migration, Slovenian active policy in Europe, Slovenian active policy with regard to the neighbouring countries of the Central and South-Eastern Europe; protection and assistance to refugees and other asylum seekers and focus on the possibility of a voluntary return; regulation of immigration; prevention of irregular migration; integration and continuing update on the situation in Slovenia and worldwide.

The purpose of the mentioned Memorandum is to set forth the cooperation between the two parties and particularly to define the framework of the implementation of the AVR programme for certain categories of migrants (Article 1/1 of the Memorandum\(^{47}\)). The parties also agreed that a special attention will be given to vulnerable groups of migrants, specifically to persons with special needs and notably victims of trafficking in human beings, unaccompanied minors, unaccompanied women, the disabled, the elderly, pregnant women, single parents with minor children, victims of sexual abuse and victims of torture or organized violence (Article 1/2 of the Memorandum). According to the Memorandum, voluntary return means a person’s free and informed decision to return to the home country of origin freely and on his/her own will. If such return is not possible, or if a person is stateless, a voluntary return means that a person, based on his/her own will, freely returns to the country of his/her last permanent residence or to a country willing to receive him/her (Article 4/1 of the Memorandum).

The Memorandum comprehensively regulates all aspects of voluntary return since it includes the following beneficiaries (Article 4/2 of the Memorandum):

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\(^{44}\) The liaison mission responsible for the activities in Slovenia has been located in Budapest, Hungary since 2004, as its presence was no longer needed as Slovenia became a Member State of the European Union.

\(^{45}\) Accessible at: [http://www.uradni-list.si/1/objava.jsp?urlmpid=200624](http://www.uradni-list.si/1/objava.jsp?urlmpid=200624).


- persons irregularly staying in the Republic of Slovenia;
- applicants for international protection who join the programme on their own wish before the asylum procedure is concluded;
- persons enjoying subsidiary protection;
- victims of trafficking in human beings and unaccompanied minors;
- refugees who join the programme voluntarily.

The basic provisions of the memorandum establish the obligation of the Ministry of Interior to inform the beneficiaries of the contents of the program carried out by the IOM (Article 5 of the Memorandum), the responsibilities of IOM Ljubljana such as counselling the beneficiaries in cooperation with the government bodies, providing information on the country of origin conditions and on persons/entities which the returnees can contact if they need additional advice or counselling (Article 6/1 of the Memorandum).

Moreover, the Memorandum specifies the content of the assistance that the IOM will provide to the beneficiaries in agreement with the competent bodies (Article 6/2 of the Memorandum):
- assistance in obtaining valid travel documents;
- organizing transport if requested by the competent authority;
- assistance in organizing the departure, transit and arrival to the country of origin whenever it is possible;
- other forms of assistance in relation to the preceding points of this paragraph and in accordance with its competencies and capabilities.

Besides the legal framework established by the above-mentioned Memorandum, by 2009 there was no sustainable AVR framework in Slovenia.

A new step forward however was taken in August 2009. The Ministry of Interior opened a public Call for proposals from non-governmental and international organizations for the implementation of “Voluntary Return programmes from Slovenia and Reintegration programmes”, published in the Official Gazette on 15 May 2009. On 3 August 2009 IOM Ljubljana’s application was chosen among all the bids received. The project will be financed by the European Return Fund and co-financed by the Ministry of Interior of RS.

### 3.2 The influence of European Policy, legislation and funding

In the context of EU membership and its consequent adoption of the *acquis communautaire*, Slovenia has been strongly influenced by EU policies, as is the case for all acceding countries. From 2006 on, the Aliens Act enables the cooperation of international or non-governmental organization in the field of voluntary return of foreigners from RS. The RS is aware that only cooperation with international organizations can guarantee a successful implementation of reintegration processes in the countries of origin. In sight of this, the RS has set the legal framework for the implementation of reintegration programmes of returned foreigners.

In the light of some important EU directives in the field of return migration, the following section presents the main influences in the Slovenian legislation.

Aliens Act, no. 71/2008, approved on the 27 June 2008: In Article 50.a it defines the procedure of removal of a foreigner from the RS if a legally binding decision of return to another EU Member State has already been issued (Paragraphs 1 to 3 of the Article);

- Council Directive 2003/110/EC on assistance in cases of transit for the purposes of removal by air: this Directive is also already incorporated in the currently valid Aliens Act no. 71/2008, specifically in Article 50.b. This Article is used mainly for cases of air removals through a transit country (the police of that country usually has to be informed 24 hours prior to the departure) which has to approve it and provide pre-departure assistance at the airport if necessary;

- Council Decision 2004/191/EC on the setting out of criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC on mutual recognition of decision on the expulsion of third country nationals: incorporated in the Paragraph 5 of Article 50.a of the Aliens Act no. 71/2008, where it is defined that in case the deportation is done upon the statement of deportation from another EU Member State, the country performing the deportation may request the reimbursements of the costs related to the return from the country which issued such a statement;

- Council Decision 2004/573/EC on the organization of joint flights for removal from the territory of two or more Member States of third country nationals who are subject to individual removal orders: this Directive is also already implemented in Slovenia, and it is used mainly for joint flights organized by FRONTEX48 or by any other EU Member States for charter removals of foreigners. In such cases all the EU Member States are informed about the flight and the number of unoccupied seats on the plane, so they can use the same flight and share the costs in case they have any cases returning to the same country. In 2008 the CfF cooperated in a common removal action to Pakistan, initiated by France with the support of FRONTEX;

Upon accession to the EU and thereafter, the legislation defining the activities of the main return facility of the RS, the CfF, changed. The Aliens Act was amended several times to reflect the new European directives. Concomitantly, CfF developed its practices basing on the experiences of other Member States. This enabled it to fully implement the normative regulation of the EU in the field of return and the provisions regarding the returns of third-country nationals. Among the return activities of the Centre special attention is dedicated to respecting international standards of human rights and privileges. In this regard, in 2001 the CfF initiated the renewal process of the current facility with the help of the PHARE financial mechanism. The aim of the reconstruction was to improve the living conditions of foreigners subject to restricted movement and to improve the working conditions. The reconstruction was finished in 2005.

Compared to similar institutions in the EU, it is specific to the CfF that, beside its main tasks of housing and care for foreigners irregularly staying in the RS, it also implements return activities and escort services when there is a security requirement for that. Additionally, the CfF provides assistance in obtaining travel documents for unidentified foreigners.

48 FRONTEX is the EU agency, based in Warsaw, created as a specialized and independent body tasked to coordinate the operational cooperation between Member States in the field of border security. Last year the CfF actively cooperated with FRONTEX to establish common good practices within EU Member States in the field of Returns and also in educational processes. The FRONTEX National Contact point in Slovenia is represented by the experts of the CfF. More information about FRONTEX is available online at: http://www.frontex.europa.eu/.
Consequently it cooperates closely with representatives of the diplomatic-consular institutions. The methods of work selected by the Centre contributed to the shortening of the time of accommodation of foreigners and also to the fact that in most of the cases it was not necessary to use special (security) methods in the return phase.

The Centre also organizes regular educational seminars for all of its employees regarding all phases of return activities, with special emphasis on the respect of human rights and privileges for both the accommodation period and the return process.

In this regard and in respect to the Council Decision 575/2007/EC of the European Parliament regarding the establishment of the European Return Fund, the Ministry of Interior of the RS approved the necessary goals to be achieved or improved within the Multiyear Programme 2008-2013 European Return Fund in the field of Return and Reintegration. They can be summarized in the following points:

- to strengthen the cooperation with diplomatic-consular institutions with the aim to shorten the time of acquiring documents for foreigners;
- to ensure foreigners the maximal possible psychosocial help in the preparatory phase of the return in order to improve their cooperation in the process;
- to improve the sustainability of returns in the country of origin;
- to maintain and improve the professional level of the employed in the Centre and to establish a good network of workers in the field;
- to include international and non-governmental organizations in the field of returns.

The monitoring of the successful achievement of these goals will be possible through reports which the Ministry will regularly submit to the European Parliament and with the set of activities which will be implemented in this regard during the mentioned period in the country.

Regarding the Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, the RS will incorporate it in the national legislation within the legal deadline specified in the Article 20, namely the 24 December 2010. Certain articles have already been incorporated in the national legislation.

As mentioned before, expulsion can be carried out on the basis of agreements the RS has signed with partner countries. A foreigner is returned into a country with which the RS has signed a Readmission Agreement (Article 50/6 ZTuıl-1-UPB5), if it can be concluded on the basis of evidence that the foreigner has arrived via the territory of that country (i.e. on the basis of a stamp in the passport). Slovenia has signed bilateral readmission agreements with the following countries: Austria, Benelux (Belgium, Luxemburg and The Netherlands), Bosnia and Herzegovina, Bulgaria, Czech Republic, Montenegro, Denmark, Estonia, France, Greece, Croatia, Italy, Canada, Latvia, Lithuania, Hungary, Macedonia, Poland, Romania, Slovakia, Serbia, and Switzerland. In practice, the readmission agreements facilitate the process of obtaining the documents for foreigners, as there already exist established connections with specific countries as well as certain good practices implemented in the field. However, the process of obtaining documents is mainly an individual, case-by-case process,
not always facilitated by readmission agreements. In fact, the duration of the whole process depends on the good cooperation between the Slovenian Consular Department of the Ministry for Foreign Affairs and the embassies in respective countries.

Regarding the RETURN programmes, Slovenia has not yet participated in any of the funding possibilities. In 2005 there was a proposal made from IOM Budapest to include Slovenian IOM mission in cooperation with the Ministry of Interior into the Regional RETURN 2005 program, together with the Czech Republic, Hungary, Poland and Slovakia, but Slovenia did not choose to join the programme at the time.
4 OVERVIEW OF ASSISTED RETURN MEASURES

Based on the national legislation, the CfF has monopoly status in the field of returns in the RS, which means that it implements all the activities for both voluntary of forced return. The main tasks of the CfF are:

- reception, accommodation and providing for foreigners;
- restriction of foreigners’ movements;
- implementation of stricter police surveillance;
- preparation of foreigners for deportation;
- deportation of foreigners.

In short, this means that all the foreigners who shall be forcibly deported from the country can choose the possibility of voluntary return only by cooperating with the authorities in the field.

The International Organization for Migration (IOM)51 in the RS also plays a minor but important role in the field of migration. Despite its role in the field of migration and its many AVR programmes implemented worldwide, IOM did not participate actively in this field in Slovenia due to a lack of programmes in this service area and consequently a lack of funds. The only IOM AVR programme implemented in Slovenia was organized and carried out in the period 2001-2002 within a Pilot Assisted Voluntary Return scheme in cooperation with the MoI. Additional two individual returns were assisted by IOM upon request of the MoI in 2004. Beside these, no additional AVR activities were done in the RS.

The persons who were entitled to those IOM AVR programmes were52:

- irregular migrants;
- victims of trafficking;
- applicant for international protection whose application was withdrawn before the final decision or who were not granted status for international protection or refugee status;
- displaced persons under temporary refuge;
- in case of the AVR scheme 2001-2002 it was extended also to refugees from Bosnia and Herzegovina with recognized temporary protection status, rejected asylum seekers, victims of trafficking and other irregular migrants.

Those were also the only projects done in accordance with the IOM definition of Assisted Voluntary Return including the reintegration component. Aside from these, the voluntary return activities were developed and implemented by the police governmental institution, the CfF.

52 Voluntariness is a precondition for commencing any IOM AVR programme. It is essential for the credibility of AVR programmes. IOM is bound by the voluntariness imperative according to its Constitution (especially Article 1). IOM is therefore unable to become involved in forced returns. Where it is clear that physical force will have to be used to effect a return movement, national law enforcement authorities must handle that situation. As a rule, to the extent possible, IOM secures a written confirmation of voluntariness of return from the migrant or his/her legal guardian.
As mentioned above, some changes in the field might happen in the very near future, with the implementation of the “Voluntary Return programmes from Slovenia and Reintegration Programmes” project approved for the period 2009-2010, which will be done in close cooperation with IOM and under the supervision of the Ministry of Interior.

In light of the newly joint AVR activity between IOM and the Ministry of Interior (within it the CfF) funded by the European Return Fund, and of the absence of currently implemented “Assisted Returns” in the RS, the system used by IOM is described below, to a certain extent reflecting the EMN definition.

### 4.1 Motives for (and Perceptions of) Assisted Return

One of the main motivations to improve the field of returns in the RS, as defined also in the Multiyear Programme 2008-2013 of the European Return Fund, is to develop more sustainable return by including comprehensive pre-departure information and counselling of potential returnees and the reintegration component in the related activities. This goal can only be realised by including one of international or non-governmental organization in the return process. Allegedly, these can offer certain social and economic reintegration services in the country of origin which are not implemented in the current National Voluntary Return activities.

From IOM point of view, Assisted Voluntary Return, rather than forced return, is beneficial to migrants and Governments, as it:
- is more humane, dignified and it allows the migrant legal immigration in the future;
- is more politically palatable and cost effective for host Governments than deportation/removal;
- ensures the integrity of regular migration programmes and fair procedures for international protection;
- can often be a quicker solution for migrants and Governments than the forced removal option;
- can minimize the risks of human rights violations and facilitate respect of international principles/standards regarding migrants in irregular situations;
- can allow migrants to prepare for their return and facilitate sustainable returns of migrants;
- safeguards migrants’ dignity;
- reinforces the responsibility of countries vis-à-vis their returning nationals;
- enhances cooperation between sending and receiving countries;
- assists in assessing the root causes underlying irregular migration;
- can support development efforts in countries/region of origin, through the targeted return, reintegration, and job placement of qualified expatriates;
- can support migrant labour management exchanges and assist in the socio-economic reinsertion of return workers.

An important element in Assisted Return programmes is the information and counselling services about the AVR option, which can be a key to obtaining the informed consent of migrants. The counselling phase could help convince migrants to consider a voluntary return option, particularly if they have been denied international protection. The counselling should involve clear, thorough and objective information based on facts collected in the countries of
origin, transit and intended destination. The information should be tailored to the needs of the potential returnees, which in turn supports the reintegration assistance.

The representative of the CfF asserted that one of the most effective incentives to stimulate voluntary return of foreigners and also to convince them to cooperate in the whole process is to offer them assistance in kind and subsistence allowance for the local transportation in the country of origin and for their initial costs (the purchase of some food and some clothes, temporary rental, etc.). The amount allocated can vary based on individual cases and based on the conditions in the country of origin. This way the returnees have the possibility to overcome the initial difficulties in resettling and starting to live again in the country of origin. In the statistics of the CfF it is notable that 90% of the returns were implemented in complete cooperation of the returnees and thus in a voluntary way.

The CfF ascertains that an appropriate amount to be given to the returnees can be up to 1,500 EUR. The amount was calculated basing on previous experiences in the field and on the returnees’ needs upon returning to the country of origin. It was set during the preparation of the Multiyear Programme 2008-2013 for the European Return Fund and defined in the current Call for proposals from international and non-governmental organization for the implementation of Assisted Return and Reintegration programmes in Slovenia.

There have been no surveys/interviews carried out regarding the perceptions of returnees about their return to the country of origin.

4.2 Obstacles to Assisted Return

As highlighted in the previous subchapters, there have been no sustainable AVR programmes implemented to date. The main problem which should be emphasized in this section is the absence of the reintegration component in the current return policy which impedes the realization of sustainable Assisted Returns. In fact, the GoS will not be able to perform Assisted Returns properly without assistance from international or non-governmental organizations because of a lack of personnel capabilities and a proper network of institutions in the countries of origin. The legal bases for this kind of cooperation already exist, it is only necessary to formalize them and to implement them. In light of the above mentioned new project for Return and Reintegration activities, IOM will be included in this phase of return activities. Additionally, IOM will contribute to the new conceptualization of voluntariness, which should not signify mere cooperation with the authorities, but rather to have a free and informed choice of voluntary return.

Beside this, the major difficulties in both voluntary and forced returns present the obtaining of documents and/or consequently scarce cooperation from the countries of origin. Where readmission agreements exist, the returns are generally less time-consuming and more easily implemented. Based on the discussion with the representative of the CfF, the procedures of obtaining documents are becoming more complicated and long lasting due to the increasing number of foreigners coming from Asia and Africa. In fact, currently there is a lack of good practices with these new countries and their consular representatives; on the other hand the foreigners themselves in some cases decline to cooperate with the authorities (i.e. they try to hide their identities). Apart from this, other obstacles to returns have not been noted. The current system is well organized, efficient, with solid legal bases, and it functions smoothly.
4.3 Organization of Assisted Return

Voluntary return is currently implemented only by the CfF and is considered as such if the foreigner cooperates with the State organs. The only assisted return cases performed, as mentioned before, happened in the years 2001-2002 within a pilot Assisted Voluntary Return programme implemented by IOM, and in 2004 with the Assisted Voluntary Return of two individual cases organized in assistance with IOM upon request of the MoI.

Currently, in the process of voluntary (and also forced) returns, emphasis is placed on the preparation of the foreigners for their return. This part is performed with expertise from both the CfF and the non-governmental organizations which are constantly present in its facilities to guarantee the foreigners a better stay. The NGOs involved are the Slovenian Philanthropy, Association Ključ, Legal Information Centre for non-governmental organization (PIC), the Jesuit Refugee Service and Karitas. This preparation process includes information about their status in Slovenia, their rights (which are quite limited compared to the rights of migrants legally staying in Slovenia), the obligation to leave the country, health care, social care, and psycho-therapeutic services. Beside this, upon request, they are also given information about the situation in their home countries to mitigate their return. Psychological preparation, particularly through enhanced communication with the returnee before and during the return, has proven in practice to be of great significance for the escorting police officers.

After all the procedures have been followed and the returnee is ready, the return takes place. In order to ensure that the foreigner leaves the country, the police escort the foreigner to the border or to the airport without the use of restrictive measures. Police makes a decision based on individual proceeding, if the foreigner receives also a small cash grant to cover the basic needs upon arrival (local transportation, food, and some basic needs) for a more successful return. Once the foreigner is in the country of origin, the return process is concluded from the current national point of view. No reintegration services are included here.

On the other hand, IOM’s Assisted Voluntary Return approach consists of a multilevel process: provision of information, pre-departure and post arrival complementary services (promotion, pre-counselling, outreach and reintegration of migrants also through capacity building measures). More specifically, the programme integrates the following sets of activities:

I. Pre-departure stage
   A) Outreach, promotion and return counselling & informing: dissemination of leaflets, brochures and other information material and personal counselling about the possibilities of voluntary return in Slovenia. This part includes close cooperation with other NGOs in the field and with the main return facility, the Centre for Foreigners. With the help of local IOM missions in other countries, it is also possible to give the foreigners detailed information about the situation in their countries of origin which may help them decide to return within such programme;
   B) Pre-departure screening: medical cases, possible cases of VoTs, etc.;

II. Transportation Stage
   C) Travel and departure assistance: travel arrangements and organization of the return (IOM can avail of the numerous cooperation agreements with flight carriers at discounted prices and better travel conditions worldwide), departure and transit assistance of migrants (migrants can be assisted by IOM personnel also in transit countries);
III. Post-arrival stage

D) Secondary transportation: financial or direct support of the secondary transportation in the country of origin;
E) Reception at the airport: when requested, an IOM representative may help the migrants in all the formalities at the destination airport and can also organize the onward transportation to the selected destination;
F) Health assistance: in case of special needs there is the possibility of a medical check of the returnee prior to the departure and also medical assistance or a medical escort when necessary;
G) Cash grant: pocket money delivered to the returnees in order to allow them to cover the basic initial costs in the country of origin (local transportation, food, initial accommodation);
H) Reintegration component: assisting the migrants in their reintegration process through various financial packages, either as small business start-up assistance or as training/educational support. The local IOM mission in the country of origin can monitor the expenditure and reintegration of the returnees;
I) Capacity building: Organization of training or study tours for the relevant worker involved in the return process;
J) Monitoring and evaluation.
Currently, there are no reintegration measures implemented within the national voluntary return programmes. The only “reintegration element” of the current system of voluntary return implemented by the Centre for Foreigners is the petty cash grant given to the returnees to cover their initial post-return costs. This petty cash is supposed to be used more as travel assistance and a small fund for the purchase of some basic necessities such as food, clothes, initial temporary shelter upon arrival and local transportation. This way it will diminish the pressure exercised upon arrival. However, this system lacks a monitoring element. In fact, returnees can spend this money however they want and it does not mean that it will be spent on their settlement in their place of origin.

The only exception is in the cases of Victims of Trafficking where an informal approach is taken by the Association KLJUČ. However, this cannot be considered as reintegration approach to return cases. Rather it is an explanation of current practices in the RS. In fact, when a VoT expresses a wish to return home voluntarily, KLJUČ may organize the return with the financial aid from the Municipality of Ljubljana and in cooperation with the CfF. Prior to the departure, KLJUČ contacts one of the NGO partners existing in the country of return (if there are any) and establish communication between them and the returning Victim. The main partners of KLJUČ in this regard are: Astra – Antitrafficking Action (Serbia), Animus Association (Bulgaria), FIZ (Switzerland), Penisola Donne (Italia), Esperanza (Spain), Petra meža and Red Cross (Croatia), Sigurna ženska kuća (Montenegro), LARA and BH inicijativa žena (BiH), LaStrada (Macedonia) and other intergovernmental organizations like UNHCR, UNODC, IOM, etc.53

KLJUČ is aware of the fact that in certain countries partner organizations have developed reintegration programmes for VoTs, but they do not have any details about their operational capacity. Once the victim leaves the RS, KLJUČ is only rarely informed about the situation of the victim they have returned/helped. While the victim is still in Slovenia, KLJUČ helps the victim to establish communication with the NGO in the country where the VoT will return. This way the VoT has the possibility to acknowledge the possible assistance he/she might receive once returned. In most cases KLJUČ is not informed whether upon return the victim has received the long-term help or care from that particular NGO or governmental institution or not. KLJUČ also informs the victims that they might help them (with various statements, documents…) or the local NGOs after the return as well. Cases of victims maintaining periodical contact with KLJUČ are very rare54.

Apart from that, there are no other reintegration programmes available for returnees.

In light of the already mentioned project, approved in August 2009 by the MoI of the RS, IOM will provide reintegration assistance to the migrants who voluntarily decide to return to their countries of origin during the period from September 2009 to November 2010. For this purpose, reintegration services provided to migrants by IOM are described bellow.

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53 Questionnaire answer received by the Association KLJUČ on 3 August 2009 via email.
54 Ibid.
Within IOM’s Assisted Voluntary Return and Reintegration Programme (AVR) migrants are offered a small business start-up assistance or training/educational support. The purpose of this assistance is to allow migrants to reintegrate into their society better after they return. Migrants who decide to apply for assistance/support have to do so prior to the departure from RS. The funding of small business projects will be granted exclusively on the bases of a viable and realistic business plan. Information about market opportunities, prices, availability of goods, etc. can be obtained from the IOM mission in Slovenia and the IOM mission in the country of origin in order to improve the viability of the projects. In relevant cases, cooperation with local partners, NGOs, business support centres, etc. will be established. The final decision to finance an income-generating project is in the hands of IOM, which has to assess the pertinence and viability of the business plan. As an alternative to supporting the start-up of the business, IOM may grant financial and referral assistance for public education in a school or university or vocational training where relevant. The IOM mission in the country of origin will monitor the use of the grant and ensure that the funds are disbursed in a transparent manner. IOM does not give cash for these purposes, but pays the invoices of goods and/or services purchased in relation to the starting up of the small business or enrolment in training or learning courses. An additional monitoring tool is a field trip by the project manager to assess the use of funds in situ.

The purpose of such a reintegration scheme is to allow migrants who adhere to it to gain a sustainable return and help them to start again with a small financial aid. This way they will have the possibility to start a new revenue granted activity or to start a study training which will give them better chances for their future working possibilities.

The return can be more sustainable and cost-effective if linked to assistance for the creation of new opportunities in the country of origin, i.e. incentives to stay home. Such a comprehensive approach makes voluntary return more attractive and acceptable to the migrant and Governments of countries of origin, transit and destination alike. IOM sees AVR as an indispensable part of a comprehensive approach to migration management, which combines quick, efficient border management, effective asylum processing and speedy, humane return and reintegration. IOM also advocates for partnership approaches to managing return migration, involving countries of origin, transit and destinations, and the opening of some opportunities for legal migration to countries of destination as a way of reducing the pressures on persons to resort to irregular form of immigration, such as smuggling, or falling prey to migrant trafficking.

IOM locates its policy and practice of AVR within the context of international cooperation – with the affected Governments, other international organizations, NGOs and the migrants. Its AVR programmes take account of the needs and concerns of all affected Governments in the migration spectrum. As migration becomes more complex and multi-directional, with increasing interaction between different facets – humanitarian, social, political, states are increasingly resorting to partnership in order to manage it. IOM sees this as a key to a comprehensive approach. One of such efforts has been the “Cluster” initiative, which brought countries of origin, transit and destination to the negotiating table to find common and practical solutions to irregular and

55 «Cluster» simply referring to a small grouping of countries along a particular migration route with a mutual interest in resolving migration challenges. One of such efforts brought together a group of European countries of destination with the South Caucasus countries of origin and transit (Armenia, Azerbaijan, Georgia). This kind of forum is expanding, e.g. with the »5 plus 5« initiative between the Maghreb and European States, to find mutually beneficial solutions to the labour migrations between the two regions, etc.
return migration. It is a consultative process, result-oriented and focused on real solutions. “Clusters” can help establish mechanisms for working together to prevent irregular migration, open up more regular migration avenues, facilitate voluntary return and reintegrate persons returning home. By offering a supportive and voluntary reintegration framework, the cluster approach can directly contribute to the voluntariness of return migration (IOM, 2003).

Based on the data received from the Assistant Head of the Centre for Foreigners, there are very few cases of re-entry of migrants who were already returned. In such circumstances the police conclude the case immediately as the foreigner is already in the database and can be returned quickly.

In case of re-entry, the foreigner is also no longer an eligible candidate for Assisted Voluntary Return and Reintegration assistance provided by IOM. It is important to note that IOM informs potential returnees about this eventuality in the counselling sessions which take place before the departure.
6 CONCLUSIONS

Based on the review of current return activities in the RS, it is possible to say that the system is well organized and the returns are successfully and effectively implemented with respect to the national legislation, EU directives and human rights and privileges of returnees. The main institution responsible for this field of return migration activities is the Centre for Foreigners, an autonomous body within the police, supervised by the Ministry of Interior. As per the current legislation, they have the monopoly position in the management of both voluntary and forced returns of foreigners to their countries of origin. Within its premises, the CfF cooperates with various NGO organizations which provide for the well being of foreigners, provide them all the information needed, offer legal counselling, psycho-social help, etc.

With regard to definitions, the ones being used are defined in the national legislation which differentiates voluntary return from forced return. However, in an international environment and especially in light of other definitions used in this field, especially the ones used by IOM and EMN, this distinction appears quite vague and unclear. In fact, in the context of the national legislation the only difference between forced and voluntary return is that in the second case foreigners cooperate with the authorities in the process and there is no need to use restrictive methods in the phase of return, nor a police escort to the country of origin. This definition is quite different to the one used by IOM, especially concerning the conceptualization of “voluntariness”, which should be based on informed and free decision without the presence of coercive elements.

The national system also lacks the reintegration component for returnees to allow for a sustainable return and prevent their re-migration, especially in an irregular manner. This part is missing mainly because of the lack of personnel capabilities and a proper network of institutions in the country of origin. The Ministry of Interior recognized the gap in the return policy and also the need for the involvement of an international or non-governmental organization which should coordinate the implementation of a more sustainable return system. This need has already been formalized in the currently valid Aliens Act, which is the pillar Act in the field of return policy of the RS and is also set down as a priority task within the Multiyear Programme 2008-2013 of the European Return Fund in the RS.

An important step toward the implementation of Assisted Return in the RS was made in 2005 with the signing of the Memorandum between the Government of the Republic of Slovenia and the International Organization for Migration on Cooperation in the Programme of Voluntary Return of Migrants. With this Memorandum the Government of Slovenia formally recognized that AVR will contribute to the attaining of the goals of Slovenia’s migration policy. Beside this formal document no AVR programme has been implemented in Slovenia until now. The only exception was a pilot AVR programme in 2001-2002 implemented by IOM and two return cases in 2004 organized by the MoI with the assistance of IOM. Despite the strong demand for an enhanced AVR mechanism, a lack of programmes and consequently of funding hampered the implementation of sustainable AVR activity in the RS.

Some changes may occur in the near future, as in August 2009 a joint project between the MoI (specifically the Centre for Foreigners) and IOM regarding the Slovenian AVR was approved. The project will be funded by the European Return Fund and the MoI. Within this
project, reintegration assistance will be provided to the returnees, a component that is missing in the current Slovenian return system.

In light of the current analysis of Slovenian Return policy, the following points can be highlighted in order to improve the current system:

- Plan the operations for new programmes based on the experiences and informations from previous return programmes and also using them for counselling to persons considering voluntary return;
- pre-departure information dissemination and counselling has proven to be effective in preparing the returnee for the travel to their countries of origin. This way the returnee is prepared for his return and for a new start in the country of origin;
- cooperation among government authorities, IOM, NGOs and migrant communities is essential for effective implementation of the AVR programmes;
- adequate reintegration assistance is crucial for the sustainability of return;
- considering the establishment of partnerships with countries of origin regarding labour migration movements for durable solutions to irregular migrations.
7 ANNEXES

Legislation:

- Aliens Act (ZTuji-1-UPB6), Off. Gazette of RS, No. 64/2009;
- Constitution of the Republic of Slovenia (Official Gazette of the RS, no. 33/91);
- Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders,
- Council Decision 2004/573/EC on the organization of joint flight for removal from the territory of two or more Member States of third country nationals who are subjects of individual removal orders;
- Council Directive 2003/110/EC on assistance in cases of transit for the purposes of removal by air;
- Council Directive 2003/83/EC of 22 September 2003 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;
- Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;
- Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted;
• European Convention on Human Rights; 
• Memorandum between the Government of the Republic of Slovenia and the International Organization for Migration (IOM) on cooperation in the Programme of Voluntary Return of Migrants, Official Gazette, no. 25/2006 from the date 09.03.2006, accessible at the web page: http://www.uradni-list.si/1/objava.jsp?urlmpid=200624; 
• National Border Control Act (NBCA-2), Off. Gazette of RS No. 60/2007; 
• Regulating the Status of Citizens of the Other Republic of the Former Yugoslavia Act (Official Gazette of the RS, no. 61/1999, 54/2000, 36/2003); 
• Temporary Refuge of Displaced Persons Act (ZZZRO), Official Gazette no. 65/2005. 

Other sources: 

- EMN NCP Research »Policies on reception, return, integration arrangements for, and number of, unaccompanied minors in the Republic of Slovenia«, July 2009, submitted
via email on the 23.07.2009 by the Slovenian Philanthropy, accessible also at http://emn.sarenet.es/Downloads/prepareShowFiles.do;jsessionid=A52F89C7BF21E0121CC1C73B64C9EB9D?directoryID=115;

Questionnaires and Interviews:

- Interview with Andrej Casar, Assistant Head of the Center for Foreigners, made on the date 28.07.2009;
- Questionnaire answer received by the Association Ključ on the date 03.08.2009 via email.