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PRACTICAL MEASURES FOR REDUCING IRREGULAR MIGRATION

Finland 2011
BACKGROUND TO THE STUDY

Irregular entry or migration is generally the result of a lack of legal migration channels and a lack of regulation of certain professions. In the literature, the term irregular migration is associated with a number of different phenomena and migrants. The term can be used to refer to third-country nationals who enter the EU by land, sea or air with the assistance of networks of human smugglers or organised groups of criminals. However, the term is also used for people who originally entered a country legally but subsequently stay longer than their residence permit or visa allows, and for people who have been refused asylum but have not left the country. The use of the term “irregular migrant” for people who have previously stayed in the country legally is questionable in cases where the person’s irregular status is the consequence of an extended residence permit process or an economic downturn that results in the termination of fixed term employment. In such cases, the irregular status cannot be considered to be due to the migrants themselves.1

Defining the term “irregular migrant” precisely has proved to be difficult in the legal literature. In a broad sense, the term covers all migrants who do not fulfil the conditions set for entering and staying in a country, either at the time of entry or thereafter. To make a rough categorisation, it could be said that a legal migrant is one that meets the conditions for immigration at the national level, while an irregular migrant is one that enters or stays in a country without meeting the conditions set for entry or residence. From the perspective of EU legislation, defining the term has been difficult due to irregular migration not having been defined in EU regulations or directives, unlike legal migration. The lack of a clear definition for irregular migration has also made it impossible to collect accurate statistical data on the phenomenon. Estimates of the number of irregular migrants in the EU in 2008 ranged from 1.9 to 3.8 persons. The authorities estimate the number of irregular migrants in Finland at 4,000, while the Clandestino project suggests that this number could, in fact, be as high as 10,000.2

At the EU level, irregular migrants generally cross the Schengen border either at their own initiative or with assistance from friends or relatives residing in the EU. Reinforced control of EU external borders, the adoption of travel documents that are harder to falsify and the target countries’ own measures at the national level to counter irregular migration have made it more difficult for individual migrants to illegally enter the EU. This has forced many migrants from third countries to turn to the services offered by organised crime groups.3

The organised crime groups’ modus operandi is to keep a close watch on the reinforcements at EU external borders and try to find new ways of crossing the border illegally without getting caught. These professionally operating criminal groups attract third-country nationals looking to migrate into the EU by offering them seemingly legal ways of obtaining entry. The organised crime groups employ forgery experts to produce and procure fake passports and other identification documents. Crime groups have also been known to set up bogus schools in order to obtain and abuse student visas. Other

1 For more, see e.g. Diego Acosta: Handling irregular migration in the EU. http://eurodialogue.org/Handling-Irregular-Immigration-in-the-EU
2 Clandestino: Stock Estimates for the EU: http://irregular-migration.hwwi.de/Stock-estimates.6170.0.html
groups have used legitimate business structures such as employment or shipping agencies as a cover for their operations. An emerging trend in facilitating illegal entry for migrants is the use of private airlines owned by criminal groups to transport third party citizens into the EU. The migrants make asylum applications upon arrival or attempt to pass through security checks with counterfeit or forged documents, or genuine documents issued to “lookalikes”.

In its annual report, Europol warns of the potential impacts of political instability in countries close to the borders of the EU and transit areas. Europol sees the political instability as having the potential to alter trafficking routes and create new illegal migration flows. The report mentions Egypt and Tunisia as examples of countries where regime change can lead to increased risk of trafficking and illegal migration. The power vacuum in such countries can also be filled by organised crime groups. The effects of illegal migration as a result of instability in North Africa - as already experienced by Italy according to Europol - are likely to spread if levels of unrest persist or increase. Should living conditions continue to deteriorate in the crisis area, the EU is likely to also see an increase in victims of human trafficking from this region. The economic crisis in Côte d’Ivoire is seen as already being highly attractive to organised crime groups. As the situation develops, the role of West Africa in drug trafficking and the trafficking of human beings to the EU may be subject to further expansion. Europol also highlights the role of the Western Balkans in migration and human trafficking. The region is already becoming a transit hub for migration. With the possible accession of Bulgaria and Romania to the Schengen area, irregular migration may increase and the current routes of irregular migration may shift north.

Europol’s annual Crime Report states that legislation aimed at safeguarding inalienable individual rights is manipulated by organised crime groups. Political asylum applications and family reunions following marriages of convenience with EU citizens are among the most frequently abused procedures. In addition, a prevalent tactic is to exploit loopholes in EU accession countries close to the borders of the EU and transit areas. Europol sees the political instability having the potential to alter trafficking routes and create new illegal migration flows. The report mentions Egypt and Tunisia as examples of countries where regime change can lead to increased risk of trafficking and illegal migration. The power vacuum in such countries can also be filled by organised crime groups. The effects of illegal migration as a result of instability in North Africa - as already experienced by Italy according to Europol - are likely to spread if levels of unrest persist or increase. Should living conditions continue to deteriorate in the crisis area, the EU is likely to also see an increase in victims of human trafficking from this region. The economic crisis in Côte d’Ivoire is seen as already being highly attractive to organised crime groups. As the situation develops, the role of West Africa in drug trafficking and the trafficking of human beings to the EU may be subject to further expansion. Europol also highlights the role of the Western Balkans in migration and human trafficking. The region is already becoming a transit hub for migration. With the possible accession of Bulgaria and Romania to the Schengen area, irregular migration may increase and the current routes of irregular migration may shift north.

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**By its very nature, irregular immigration is a phenomenon that is difficult to quantify or define.** Nevertheless, there are certain indicators that provide guidance. In 2009, some 570,000 third-country nationals residing illegally in the EU were apprehended (a decrease of 7% compared to 2008). Member states returned approximately 250,000 persons (up 4.5% from 2008). According to the EU Commission, dealing firmly and effectively with irregular migration is a requirement for a credible migration and mobility policy. The Commission suggests that a low probability of return for irregular migrants without a need for international protection is a pull factor for irregular migration and undermines public confidence in national and EU authorities. A more coordinated use at the European level of relevant tools and policies must be achieved.

Irregular migration into the European Union continued to decrease in the first half of 2010, but then levelled off and began to rise slightly in the third quarter of the year. This was almost exclusively the result of a rapid increase in irregular migration at the land border between Greece and Turkey, with a record 20,000 illegal border crossings detected in July-September. In 2010, the eastern Mediterranean route became the main channel of irregular migration into the EU and Turkey was the main transit country for irregular migrants.

According to Frontex, all indicators of irregular migration to the EU rose during the second quarter of 2011, compared to the first quarter. At the same time, illegal border crossings, clandestine entries and refusals of entry all increased significantly against a year earlier, as did the number of asylum applications received by Member States. The flows of irregular migration to the EU were typified by two main routes: via the Greek-Turkish land border and via the Central Mediterranean route from North Africa, particularly to the Italian mainland, Sicily and Malta. The main point of departure in North Africa was Libya, which underwent a regime change. Illegal entry via the EU external border as a whole reached a level not recorded since the third quarter of 2008. This took place despite the offset effect of a reduction in Albanian irregular migration following new visa-free travel rules. The total number of irregular entries to the EU in the second quarter of 2011 stood at over 40,000 - 50% up on the same period a year earlier.

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The Clandestino project, funded by the European Commission, was established to support the work against illegal migration. The purpose of the project was to collect and analyse statistical data on irregular migration and to develop the statistical methodologies used by EU countries. The results of the project, published in October 2009, indicate that irregular migration into the EU is on the decline. It has been suggested that one reason for the decline in irregular migrants in the EU is the implementation of regularisation processes in several countries to grant irregular residents the right to reside in the country and work, subject to certain conditions. However, the recent economic downturn has resulted in many third-country nationals with previous legal status becoming irregular residents due to their inability to earn a living by working.\(^\text{11}\)

The view of the European Commission is that the existence of an unofficial labour market contributes to higher irregular migration and the exploitation of third-country nationals. The Commission has emphasised the importance of the national implementation of the Directive providing for sanctions and measures against employers of illegally resident third-country nationals (known as the Employers’ Sanctions Directive) in full and on schedule.

Each year, hundreds of thousands of people enter the EU as victims of human trafficking, or become victims of human trafficking inside the EU. The recently approved Directive on trafficking in human beings\(^\text{12}\) emphasises the key role the EU has in supporting the international fight against this form of slavery and stipulates strict penalties for criminals found guilty of human trafficking. The Directive also covers the prevention of human trafficking and protection, assistance and support for victims, with particular consideration given to victims in the weakest positions.

The EU also aims to strengthen the external dimension of its policy against trafficking in human beings. Appointing an EU anti-trafficking coordinator also contributes to the fight against human trafficking. To contribute to a coherent, balanced and effective EU return policy the Commission will present a Communication in 2012 to take stock of progress on this front and make proposals on how further progress can be achieved. This should involve promoting voluntary return, enhancing capacity-building in Member States, fostering mutual recognition of return decisions and addressing the situation of irregular migrants who cannot be returned.

According to the European Commission, the Return Directive has put in place a solid and fair framework for preventing irregular migration and ensuring effective returns, in full respect of the fundamental rights of the migrants and the rule of law. The Directive ensures that a person is either legally present in the EU or is issued with a return decision. The Return Directive also allows the regularisation of persons who have been subject to a return decision.

The Commission has found the EU’s re-admission agreements to be a useful tool for the orderly return of irregular migrants. The EU’s ability to effectively conclude and implement re-admission agreements is impeded by the EU rarely offering third-country counterparts incentives, such as visa-related measures or financial assistance to strengthen the capacity of the third countries to correctly apply the agreement. In the future, the Commission is likely to look at re-admission agreements with third countries from a broader perspective of the overall relations of the EU with the particular partner country.\(^\text{13}\)

The aim of this study is to examine the policies in place for the prevention of irregular migration at the national level. It covers the political and regulatory environment at the national and EU levels for the detection and prevention of irregular migration. The objective is to provide a comprehensive description, based on national reports, of the best practices used in EU countries to reduce the number of irregular migrants in the EU. The study also focuses on the availability of data at the national level as well as the methodology of data collection. This study was produced by Senior Adviser Riikka Asa

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\(^\text{11}\) At least 1.8 million illegally resident third-country nationals were regularised in the EU in 2003-2008. Clandestino: Size and Development of Irregular Migration to the EU. http://clandestino-ekapmg.gr/comparative-policy-brief/10more-1686


\(^\text{13}\) Communication from the Commission on migration (2011) 248.
of the Finnish contact point of the European Migration Network (EMN) under the Euro-
pean Commission. Statistical information, except that provided by the National Bureau
of Investigation, was collected by Senior Adviser Rafael Bärlund.

PRACTICAL MEASURES FOR REDUCING
IRREGULAR MIGRATION IN FINLAND

The theme of this study, irregular migration, is considered in Finland to fall under illegal
migration. The various methods of illegal entry identified in Finland include: entry using
falsified documents or another person’s travel documentation, third-country nationals
entering the country either legally with a valid visa or on a visa-exempt basis and subse-
quently remaining in the country after their permit to stay expires, asylum seekers who
remain in the country or the Schengen area after being denied asylum, and third-country
nationals entering the country illegally with assistance from international crime groups.
In addition to the aforementioned methods, there are also cases of illegal entry on an
individual basis, frequently detected in the form of illegal border crossings, Section 185
violations of the Aliens Act or in conjunction with applying for asylum inside the country
without personal identification. 15

In Finland, there have been concerns expressed in public dialogue and by non-gov-
ernmental organisations regarding the prevailing categorisation in Finnish migration poli-
cy of people as legal and illegal migrants, particularly considering the fact that third-coun-
try nationals with illegal status often have that status for reasons beyond their control.
Labour unions have also expressed their concerns about the focus of this study, which
is on third-country nationals. Exploitation, such as extortionate work discrimination, is
an acknowledged problem with workers from other EU countries, whereas third-country
nationals in Finland are rarely found to be irregular migrants or victims of breaches of
collective bargaining agreements.

According to reports from labour unions, third-country nationals working illegally in
Finland are typically employed in the construction industry and as seasonal and do-
meric workers. However, the number of illegal workers in Finland appears small from
the perspective of the labour unions, as the unions are largely not made aware of such
cases. Persons residing in the country illegally are either not members of a labour union
or not actively in contact with their labour union. A group that has been highlighted as
particularly problematic by the labour unions is that of persons from former CIS countries
(some of which are now EU Member States) who are formerly Russian nationals but
presently neither nationals of Russia nor their country of residence. Background checks
on such persons have proved to be difficult and they often lack an employee’s residence
permit due to the fact that they are assumed to be Estonian nationals, for instance. A sig-
nificant factor preventing illegal workers from being detected is their fear of their employ-
ment not continuing after contacting the labour union representing workers in their field
regarding the terms of their employment. Financial and/or psychological dependence
on the employer is also an effective deterrent. In the service sector, there have been
suspicions of the use of illegal workers particularly the cleaning industry. The cleaning
industry is characterised by intense competition and, according to labour unions, con-
stant co-determination negotiations. Large cleaning service providers use subcontrac-
tors to win bids. There is no clear evidence of the use of illegal foreign workers, as such
information rarely reaches the labour unions. However, employee lists that do not reflect
a company’s actual employee reserve suggest that illegal workers may be used. The

14 This study was produced by the Finnish contact point of the European Migration Network (EMN) under the European
Commission. The Commission is not responsible for the views or conclusions presented herein.
labour unions argue that the approach taken in national migration policy of categorising immigrants as legal or illegal, combined with the lack of regularisation processes, contributes to illegal work being difficult for the authorities and labour unions to detect.16

The labour unions consider a system of using liaison officers to pre-screen visa applications to be an important part of suppressing irregular migration. The unions have emphasised the significance of advance information provided to third-country nationals. According to the unions, this communication effort is largely based on electronic communications (the Internet) rather than having separate campaigns aimed at third-country nationals to inform them of the real living conditions in Finland in their own language.

According to status reports on irregular migration, the number of irregular immigrants has been decreasing in 2011 and there have been no significant changes in irregular migration to Finland in recent years. The top three nationalities of irregular migrants entering Finland illegally in each of the past three years have been Somalis, Russians and Iraqis. Irregular migrants from Iraq and Somalia have typically used the asylum process as the channel for integrating in Finland, whereas Russians have generally registered as illegal residents after their visas have expired. The most common route of irregular migration to Finland is intra-Schengen traffic through Sweden. It has been the established route used by the largest irregular migrant groups, Somali and Iraqi nationals. Irregular migrants arriving in Finland on cruise ferries from Sweden typically do not have identification documents or they use passports of Nordic countries issued to other persons, alien’s passports or refugee’s travel documents. Irregular migrants often move in groups with a person of the same ethnic origin who has resided in Finland or Sweden for a long time. There are approximately ten illegal border crossings per year on the long green border between Finland and Russia. Only a few of these are committed with the intention of entering Finland illegally. The majority of the cases are accidental. The Border Guard estimates that the situation on the green border with regards to illegal entry in 2010 was very quiet. The report on illegal entry 1/2011 states that the air routes originating from outside the Schengen area presenting the greatest risks were those from Turkey, Russia and the Far East (China, Thailand). In intra-Schengen air traffic, the routes posing the greatest risks are those from Greece, Italy and Spain. Flights from Riga in Latvia are also mentioned in the report as an emerging risk.17

The action programme against illegal entry for 2010–2011 mentions Iraq and Somalia as high-risk countries. China, India, Ghana, Nigeria and Gambia are highlighted as risk countries.18

Like other Schengen countries, Finland has expressed concern over the loose visa policies of Eastern European countries outside the Schengen area, such as Bulgaria and Romania, and human trafficking operations in those countries. On 22 September 2011, Finland and the Netherlands vetoed Romania and Bulgaria’s bid to join the Schengen area in the EU Justice and Home Affairs Council.19 In the experience of visa officers in the Ministry for Foreign Affairs, Latvia’s liberal immigration policy to solve its labour short-age problems has made it a transit country for irregular migration. Nordic cooperation in fighting irregular migration has been close and effective, with a key role played by the Nordic police liaison officer and his assistants. However, the resources available to the police liaison officer are only a fraction of what is actually needed.20

The majority of illegal immigration to Finland takes place at the internal borders. The most significant routes are the passenger ports in Turku and Helsinki as well as Tornio. Illegal immigration from the Baltic countries to Finland has increased in recent years as a result of the expansion of the Schengen area and the weak economic conditions in the Baltic countries. The largest groups arriving in Finland have been Afghans and Russian nationals of Chechen origin.21

The primary routes of illegal immigration to Finland across the EU’s external borders are flights from Turkey and the Far East. Attempts by nationals of West and Central African countries to enter Finland illegally through Russia is an emerging phenomenon.

New direct flights between Finland and Asia regularly burden Border Guard officers at the airport. Helsinki-Vantaa airport has become a key location for cases of aggravated arrangement of illegal immigration. Finland has been used as a gateway for the professional trafficking of Chinese nationals, mainly young girls and boys, to Southern European countries. The illegal immigrants typically cross the border holding falsified Japanese, Korean or Malaysian passports. Police and Border Guard liaison officers posted in Beijing have played a significant role in stopping illegal immigrants before their journey to Finland begins.22

The Border Guard has investigated major cases of connected crimes in 2006–2007 2008–2009 related to the arranged illegal immigration of young Indian men using stolen blank residence permit stickers. Contrary to expectations, the launch of new direct flights from Delhi and Mumbai to Helsinki has not resulted in an increase in the number of illegal immigrants. In July 2011, a Border Guard officer was posted at the Embassy of Finland in Delhi to verify documents presented by visa and residence permit applicants. The Embassy in Delhi ranks second after the Consulate General in St. Petersburg in the number of residence permit applications received. In addition to those originating in India, the Embassy in Delhi also receives residence permit and visa applications from Sri Lanka, Bangladesh, Bhutan and the Maldives. The authorities are confident that posting a Border Guard officer specialising in falsified documents in India will be beneficial. In the future, checking for data on visa applicants’ previous visits to Finland can be done through direct connections to registers maintained by the authorities, whereas in the past such checks required the involvement of several officers. According to the Border Guard, human trafficking from India through Finland to the rest of Europe has increased ever since Finnair launched direct flights to India in 2006. The Border Guard highlights the United Kingdom and Germany as two common destinations for the irregular migrants attempting to use Finland as a gateway.

At times, there have also been various cases of arrangement of illegal immigration on the border between Finland and Russia. One third of the visa overstays cases detected by the Border Guard upon exiting the country involve Russian nationals. The largest cases of illegal immigrants being smuggled in vehicles have also been detected at the eastern border.23

One in every four illegal immigrants enters Finland through sea ports. Slightly over ten per cent of illegal immigration occurs across land borders or airports. Asylum seekers who apply for asylum at any police station inside the country are recorded in the statistics

18 Border Guard Headquarters, Crime Prevention Unit.
21 Border Guard Headquarters, Crime Prevention Unit.
22 The action programme against illegal entry for 2010–2011.
23 The action programme against illegal entry for 2010–2011.
according to the CIREFI definition as persons residing in Finland illegally\(^{23}\) if they fail to present valid travel and identification documents. The residence status of such persons is considered to become legal when they file an application for asylum, but they are considered to have resided in the country illegally for the period of time preceding the filing of the asylum application as the duration of their residence or date of entry is unknown.

A prejudicial inquiry was carried out in 2010 concerning a human trafficking case that was the largest in Finland’s history and the largest in Europe that year. The prejudicial inquiry was focused on persons of Latvian origin who were part of an organised crime ring and suspected of having smuggled 82 foreigners into Finland. The majority of the immigrants smuggled in were Afghan nationals, with a small number of Syrians and Iraqis also included. Based on the prejudicial inquiry, charges were pressed against the suspect; the application as subsequent found guilty by Helsinki District Court of arranging the illegal immigration of 62 foreign nationals. The case indicated that human trafficking by organised crime groups still uses Finland as a gateway. This creates pressure in Finland to focus the monitoring of foreign nationals inside the country in the vicinity of arrival points and public transport hubs.\(^{25}\)

The detailed inspection of visa applications prior to arrival has proved to be an effective method for preventing illegal immigration. The Border Guard has posted a number of liaison officers in countries with a high risk of illegal migration to Finland. Police liaison officers posted in Finland’s diplomatic missions abroad also participate in the effort to prevent illegal migration by supporting the process of making visa decisions. In 2010, Finland’s diplomatic missions granted a record number of over one million short stay Schengen visas. In 2010, a total of 1,020,400 visa applications were processed with 1,008,829 approved.\(^{26}\) The majority of the visas are granted to Russian nationals. Plans to implement a visa exemption between Finland and Russia have been received cautiously by the Finnish Border Guard. The impacts of visa exemption should be assessed by implementing a pilot project to identify potential problems and collect experience-based information for use in deciding on the issue of visa exemption. Opening a visa-exemption to Finland from Russia would likely result in an increase in the number of persons intending to remain in the Schengen area illegally. Passenger traffic at the Finland-Russia border has increased at a record rate since the financial crisis. A total of 8.4 million passengers crossed the border in 2010, representing an increase of 13.7 per cent on the previous year. Cross-border traffic increased at all international border crossing points except Vainikkala and Vartius. According to the Border Guard’s assessment, this increase in cross-border traffic is the result of improving economic growth in Russia, changes in customs regulations and Finland’s flexible visa policy.

The Finnish cooperation between the Police, Customs and the Border Guard (PCB cooperation\(^{27}\)) is an internationally unique form of cooperation used to prevent illegal immigration as part of pre-entry measures. The cooperation has been going on for decades, but in recent years it has been extended to criminal intelligence activities. Criminal intelligence activities under the PCB cooperation framework are focused on serious and cross-border crime. The aim of the PCB framework is to promote cooperation between the authorities to allow tasks related to internal security to be carried out in an effective and flexible manner.\(^{28}\) Finland’s diplomatic missions and consulates abroad also use assistance from the Nordic network of police and customs liaison officers (PTN) if there is no Finnish liaison officer at the embassy or consulate concerned. The Finnish Border Guard has been preparing since 2005 to receive API data (Advance Passenger Information on passengers and crew) from air carriers. This would strengthen the prevention of irregular immigration, particularly with regards to high-risk air routes. It is expected that the API interface will be implemented in spring 2012.

The Border Guard has implemented automatic border control systems at external border control points since December 2010. The automatic border control system is based on the biometric identification of passengers. For the time being, the system can only be used by EU, ETA and Swiss nationals with biometric passports. The Border Guard will develop the automatic border control system to make it available to all nationalities in the future.

DNA testing and the diligent review of applications based on family ties have proved to be essential elements in preventing irregular immigration both pre-arrival and during the immigrant’s residence in the country (residence permits based on family ties in certain cases, be applied for and granted in Finland). Identifying marriages of convenience and understanding the mechanisms behind them is an important part of combating irregular immigration. The Finnish Immigration Service is responsible for immigration-related decision making in Finland. In making its decisions, it takes into consideration the factors specified in the EU Council Resolution on marriages of convenience that may provide grounds for believing that a marriage is used exclusively to obtain a residence permit or circumvent immigration regulations. DNA testing is an integral part of the residence permit approval process of immediate family members where there is no reliable documentary evidence of family ties. The Finnish Immigration Service is responsible for the costs of testing. Foster children are a fairly new phenomenon in the Finnish residence permit process. As a result, asylum interviews are now more focused than before on the asylum seeker’s family and whether there are any foster children. If the sponsor has not mentioned a foster child in the initial asylum interview, subsequent residence permit applications based on such family ties are principally rejected.

Pursuant to Section 212 of the Aliens Act, the Finnish Immigration Service, Police and the Border Guard supervise compliance with any provisions issued under the Aliens Act. The supervision of compliance with the regulations regarding the entry and departure of foreign nationals is carried out by the Border Guard. Monitoring and effective removal are in-country measures for preventing irregular migration. The monitoring of aliens\(^{29}\) is carried out in Finland by the Police and the Border Guard as part of their regular duties. The monitoring of aliens is carried out as part of basic police operations as well as in the form of sweeps on the basis of prior analysis. Under a decision by the National Police Board, the Helsinki Police Department is responsible for the national coordination of the removal of persons who are refused asylum. The National Police Board also leads the intersectoral Lama working group comprising representatives from the Police, the Finnish Border Guard, the Finnish Customs, the Finnish Immigration Service, the Ministry of the Interior and the Ministry of Foreign Affairs. The tasks of the working group include monitoring the state of illegal entry on the basis of status reports prepared by the National Bureau of Investigation, for instance, hearing representatives of the authorities participating in co-operation as well as those of NGOs, making suggestions for the development of intersectoral co-operation methods and recommend actions for the development of intersectoral co-operation methods and recommend actions for the development of intervention in illegal residence or employment is also part of the monitoring of aliens.

\(^{23}\) The action programme against illegal entry for 2010–2011.
\(^{24}\) Laittoman maahantuon toimijamaan vihkimystölyönnit. Laittomon maahantuon avoinnintaapori 1/2011.
\(^{25}\) The number of applications in 2009 was 795,936.
\(^{27}\) The cooperation is based on the Act on Cooperation between the Police, Customs and the Border Guard (687/2009) and the Government Decree on Cooperation between the Police, Customs and the Border Guard (1126/2009).
\(^{28}\) The monitoring of aliens comprises monitoring compliance with the Aliens Act and regulations based on the Aliens Act, including verifying an alien’s identity, right of residence and right of employment. Intervention in illegal residence or employment is also part of the monitoring of aliens.
of co-operation with the authorities of neighbouring countries and third countries. The Police carries out national monitoring sweeps under selected themes a few times each year. The Lama working group can propose themes for the sweeps. The purpose of the monitoring campaigns related to special themes is to achieve more effective monitoring of persons entering, residing in and working in Finland.

Finland does not have a statutory regularisation procedure for third-country nationals residing in the country illegally. Granting a residence permit to an individual third-country national residing in Finland illegally is not a regularisation process, as the residence permit is granted through the standard application process initiated by the immigrant.

1. INTRODUCTION

1.1 Study Objectives

The subject of this study is a research theme approved by the European Migration Network Steering Group as part of the agenda for 2011.

The objective of this study is to examine the measures for preventing irregular migration at the national level from the historical and political perspectives. The study covers the political and regulatory environment at the national and EU levels for the detection and prevention of irregular migration. The objective is to provide a comprehensive description, based on national reports, of the best practices used in EU countries to reduce the number of irregular migrants in the EU. The study also focuses on the availability of data at the national level as well as the methodology of data collection.

There are four dimensions to this study:

1. Pre-entry detection of irregular migration
2. Identifying irregular migrants on arrival
3. In-country monitoring to prevent illegal stays
4. The legal status of irregular migrants and ways of resolving the status of irregularity

The study focuses on third-country nationals who have been found to be staying in the country illegally for one of the following reasons:

- the person has been smuggled into the country, has crossed the border using falsified identification documents or has concealed the actual purpose of their stay in the country
- persons who have overstayed their visas
- persons who are in breach of the conditions of their visa, work permit or other right of residence (e.g. the grounds on which the permit was granted is no longer valid)
- persons with a non-appealable return decision in addition to a negative asylum decision who have not left the country
- persons who have gone missing or are unaccounted for during the asylum process without having left the Member State or the EU

This study does not extend to victims of human trafficking or the measures to prevent human trafficking at the national level. The prevention of irregular immigration in conjunction with granting visas is also largely beyond the scope of this study.
The aim is to present conclusions on the impacts and efficacy of the measures that are currently in use to prevent and reduce irregular migration.

The target audience of this study are immigration policy makers at the national and EU levels, experts in various research bodies, non-governmental organisations and media representatives who may benefit from this study.

The reports by the national contact points of the European Migration Network will be published on the EMN’s international website. The national studies will be compiled into a synthesis report on the best practices to combat irregular migration.

**EU Policy Context for the study**

Tackling irregular migration constitutes an important element within the EU’s overall approach to effectively balance and manage migration flows, within a common immigration policy framework at EU level. It is important that EU legislation and policy in relation to irregular migration is understood within this wider context, which has evolved considerably over the last decade.

Irregular migration was a key element at the Tampere European Council (1999) and the five year Action Plan on ‘how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice’ (1999–2004), resulted in the adoption of legislation and non-legislative measures in three key areas: legal migration, integration and illegal immigration. The latter led to the adoption of an Action Plan to combat irregular migration and trafficking of human beings, encompassing areas such as visa policy, information exchange, readmission and repatriation policies and border management. In addition, a Green Paper on a Community Return Policy for illegal residents, focusing on forced and assisted return of illegally resident migrants in the EU, and the Proposal for a Return Action Programme were also adopted.

The Hague Programme (2004) built on Tampere’s achievements, focusing on strengthening efforts to reduce the informal economy, identified as a ‘pull factor’ for irregular migration, and on the development of common standards and procedures for the return of illegally staying third-country nationals. These key policy priorities were reflected in a number of legislative measures, such as the proposals for the Return Directive and the Employer Sanctions Directive (see also below). In addition, the Commission adopted a Communication on policy priorities in the fight against illegal immigration, proposing a set of concrete actions, including developing cooperation with third countries, further strengthening of external borders; stepping up the fight against human trafficking, tackling illegal employment, establishing an effective return policy, and improving information exchange.

The European Pact on Immigration and Asylum, adopted by the European Council in October 2008 includes five basic commitments focusing, inter alia, on organising legal immigration, making border controls more effective, improving the asylum system and developing partnerships with countries or origin and transit. One of the commitments focused specifically on the need to “control illegal immigration by ensuring that illegal immigrants return to their countries of origin or to a country of transit.” In this respect, the Pact outlines eight action points, which include: concluding readmission agreements and other forms of cooperation with third countries, devising incentive systems to assist voluntary return, and introducing dissuasive penalties against those who exploit irregular migrants.

In March 2009, the Commission published its third annual report on the development of a common policy on illegal immigration, smuggling and trafficking of human beings, external borders, and the return of illegal residents. The document outlined recent developments in EU Policy to reduce irregular migration including developments in control at external borders, visa policy, return policy, trafficking in human beings, mitigating ‘pull factors’ for irregular migration, such as access to irregular employment and increasing cooperation with third countries. The report also provides data on trends in irregular migration to the EU 2004–2008 and concludes that the evidence does not “support the idea that illegal immigration to the EU is increasing.” Indeed, the report shows that in 2004–2007 there were fewer refusals at the border than in previous years, and that levels of apprehensions and removals remained stable. The report, however, drew attention to the different experience of irregular migration in each of the Member States – i.e. that Mediterranean Member States had seen increases in numbers migrants found to be illegally present in the EU.

Articles 77 to 80 of the Treaty on the Functioning of the European Union (Lisbon Treaty) outline the European Union’s policies on border checks, asylum and immigration. Article 79 focuses on immigration and states that the Union “shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings” (Art. 79(1)). In addition, part 2c) states that the European Parliament and the Council “shall adopt measures (in the area of) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation”. Part 2d) refers to “combating trafficking in persons” and Article 79(3) refers to agreements with third countries for the readmission of third-country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in a Member State.

The Stockholm Programme, which was adopted in December 2009, commits to providing “an open and secure Europe serving and protecting citizens.” The goal of effective policies to combat illegal migration is specifically included as an essential item within a common immigration policy, and in consolidating and implementing the goals of the Global Approach to Migration. The specific commitments that the Programme outlines are, amongst others, that: the exchange of national information on regularisation should be improved; voluntary return encouraged; and Member States facing a disproportionate pressure due to large numbers of irregular migrants should be assisted by working closely with the Commission, FRONTEX and Member States on a voluntary basis to ensure the effectiveness of their return policies towards certain third countries.

The Action Plan Implementing the Stockholm Programme states that “the prevention and reduction of irregular immigration in line with the Charter of Fundamental Rights is equally important for the credibility and success of EU policies in this area (of migration).” The Action Plan outlines a number of specific actions to be undertaken between 2010
and 2014 in relation to the Programme’s commitments to combating irregular migration. These are as follows, with the envisaged year as given in the Action Plan:

- 2011: Communication on the evaluation of readmission agreements and on the development of a coherent strategy on readmission taking into account the overall relations with the country concerned, including a common approach towards third countries that do not cooperate in readmitting their own nationals (published as COM(2011) 76 )
- 2011: Communication on the evaluation on the common policy on return and on its future development (including support measures for return and reintegration of persons readmitted, capacity building in third countries; disseminating information in destination countries regarding returning and reintegration opportunities, network of liaison officers in countries of origin and transit)
- 2012: Legislative proposal amending Directive 2002/90/EC, defining the facilitation of unauthorised entry, transit and residence (and possibly merge with Framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence; and extending existing provisions);
- Ongoing: Further efforts on negotiating and concluding readmission agreements with relevant third countries and exploration of the possibilities of concluding readmission agreements with other third countries.

In the Stockholm Programme, the European Council states that effective action against illegal immigration is essential in developing a common immigration policy. The fight against trafficking in human beings and smuggling of persons, integrated border management and cooperation with countries of origin and of transit, supported by police and judicial cooperation, in particular, remains a key priority. Our aim must be to prevent the human tragedies which result from the activities of traffickers.

According to the Council, an effective and sustainable return policy is an essential element of a well-managed migration system within the Union. The Union and the Member States should intensify the efforts to return illegally residing third-country nationals. Necessary financing should be allocated for this purpose. Such a policy must be implemented with full respect for the principle of non-refoulement and for the fundamental rights and freedoms and the dignity of individual returnees. Voluntary return should be preferred, while acknowledging the inevitable need for efficient means to enforce returns where necessary.

In order to create a comprehensive approach on return and readmission, it is necessary to step up cooperation with countries of origin and of transit within the framework of the Global Approach to Migration and in line with the European Pact on Immigration and Asylum. At the same time, it should be recognised that all States are required to readmit their own nationals who are illegally staying on the territory of another State.

It is important to ensure that the implementation of the newly adopted instruments in the area of return and sanctions against employers, as well as the readmission agreements in force, is closely monitored in order to ensure their effective application.

The European Council believes that the focus should be placed on:

- encouraging voluntary returns, including through the development of incentive systems, training, reintegration and subsidies, and by using the possibilities offered by existing financial instruments,

- Member States:
  - to put into full effect the Union provisions pursuant to which a return decision issued by one Member State is applicable throughout the Union and the effective application of the principle of mutual recognition of return decisions by recording entry bans in SIS and facilitating exchange of information,
  - to improve the exchange of information on developments at national level in the area of regularisation, with a view to ensuring consistency with the principles of the European Pact on Immigration and Asylum,
  - assistance by the Commission, Frontex and Member States on a voluntary basis, to Member States which face specific and disproportionate pressures, in order to ensure the effectiveness of their return policies towards certain third countries,
  - more effective action against illegal immigration and trafficking in human beings and smuggling of persons by developing information on migration routes as well as aggregate and comprehensive information which improves our understanding of and response to migratory flows, promoting cooperation on surveillance and border controls, facilitating readmission by promoting support measures for return and reintegration, capacity building in third countries,
  - the conclusion of effective and operational readmission agreements, on a case-by-case basis at Union or bilateral level,
  - ensuring that the objective of the Union’s efforts on readmission should add value and increase the efficiency of return policies, including existing bilateral agreements and practices,
  - the presentation by the Commission of an evaluation, also of ongoing negotiations, during 2010 of the EC/EU readmission agreements and proposal of a mechanism to monitor their implementation. The Council should define a renewed, coherent strategy on readmission on that basis, taking into account the overall relations with the country concerned, including a common approach towards third countries that do not cooperate in readmitting their own nationals,
  - increased practical cooperation between Member States, for instance by regular chartering of joint return flights, financed by Frontex and the verification of the nationality of third-country nationals eligible for return, and the procurement from...
third countries of travel documents,
  • increased targeted training and equipment support,
  • a coordinated approach by Member States by developing the network of liaison
    officers in countries of origin and of transit.

Other recent developments have included the Justice and Home Affairs Council meet-
ing in 2010, where the Council concluded 29 measures for reinforcing the protection of
the external borders and combating illegal immigration. These comprise recommen-
dations to strengthen the abilities of the FRONTEX Agency and its Rapid Border In-
tervention Teams (RABIT); to develop a European Border surveillance system called
EUROSUR; to increase cooperation with third countries, in particular so as to increase
the effectiveness of return; to increase information exchange and to work with Europol,
Eurojust and Frontex to ensure the dismantling of networks of irregular immigration and
trafficking.

In a Communication of March 2011, the Commission outlines its approach to building
a “Partnership for Democracy and Shared Prosperity with the Southern Mediterranean”
and highlights EU actions undertaken in response to recent political changes in North
Africa. The document encourages Member States to create mobility partnerships. How-
ever it also states that, “in return for increased mobility […] partners must be prepared
to provide appropriate financial support for border management, preventing and fighting
against irregular migration and trafficking in human beings, including through […] the
return of irregular migrants (return arrangements and readmission agreements).”

More recently, on 4th May 2011, the Commission published a Communication on Mi-
gration, in part as a result of the events in the Southern Mediterranean. Sections 2.2 and
2.4 of this Communication respectively address external border controls and preventing
irregular migration. The JHA Council of 12th May 2011 [to be completed]. In June 2011,
the European Council also addressed the latest developments in respect to migration
policy, including inter alia irregular migration.

Furthermore, the issue of pathways into irregularity and the status of migrants has
received focus in European case law. A judgement of the European Court of Justice of
8th March 2011 has ruled that Citizenship of the Union requires a Member State to allow
third-country nationals who are parents of a child, who is a national of that Member State,
to reside and work there, where a refusal to do so would deprive that child of the genuine
enjoyment of the substance of the rights attached to the status of citizen of the Union.
On 14th April 2011, the Commission launched an EMN Ad-Hoc Query on this topic,
to investigate whether or not Member States grant nationality to a child born on its territory,
and if so, under which conditions.

Another related ECJ judgement in the case of Hassen El Dridi alias Soufi Karim of
15 and 16 thereof, must be interpreted as precluding a Member State’s legislation, such
as that in Italy which provides for a sentence of imprisonment to be imposed on an il-
legally staying third-country national on the sole ground that they remain, without valid
grounds, on the territory of that State, contrary to an order to leave that territory within a
given period.

The European Union has provided guidelines for combating irregular migration in the
form of decisions and Directives, which together with a common visa policy provide a
framework for actions at the national level.

The key EU-level legal instruments pertaining to irregular migration are as follows:31

- Directive 2008/115/EC on common standards and procedures in Member
  States for returning illegally staying third-country nationals;32
- Directive 2009/52/EC providing for sanctions against employers of illegally
  staying third-country nationals;33
  15 March 2006 establishing a Community Code on the rules governing the
  movement of persons across borders (Schengen Borders Code);34
- Council Decision 2006/816/EC on the conclusion, on behalf of the
  European Community, of the Protocol Against the Smuggling of Migrants by
  Land, Sea and Air;35
- Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to
  communicate passenger data;36
  for the purposes of removal by air;37
- Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an
  immigration liaison officers network;38
- Directive 2002/90/EC defining the facilitation of unauthorised entry, transit
  and residence;39
- Framework Decision 2002/946/JHA on the strengthening of the penal
  framework to prevent the facilitation of unauthorised entry, transit and
  residence;40
- Directive 2001/51/EC supplementing the provisions of Article 26 of the
  Convention implementing the Schengen Agreement of 14 June 1985;41
- Directive 2001/40/EC on the mutual recognition of decisions on the expulsion
  of third-country nationals;
- Directive 2001/51/EC supplementing the provisions of Article 26 of the
  Convention implementing the Schengen Agreement of 14 June 1985 on the
  obligations of carriers to return third-country nationals;

31 Not all the listed legal instruments are applicable to Norway.
41 This Directive introduces provisions clarifying Article 26 of the Schengen Convention in relation to obligations on car-
  riers to ensure the return of third-country nationals refused entry at Member State borders. Available from: http://eur-lex.
42 This Directive introduces provisions clarifying Article 26 of the Schengen Convention in relation to obligations on car-
  riers to ensure the return of third-country nationals refused entry at Member State borders.

Relevant financial instruments adopted are:

- Decision No 574/2007/EC establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme ‘Solidarity and Management of Migration Flows’;
- Decision No. 575/2007/EC establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme ‘Solidarity and Management of Migration Flows’.

1.2 Terminology

The following section discusses on the applicability of the term irregular migration in the context of this study.

The term “irregular” is not mentioned in the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community. According to Article 63 of the Treaty, “The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings”. The Treaty on European Union does not mention illegal immigration specifically.

Article 79, Paragraph 1 of the Treaty on the Functioning of the European Union states that “The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.”

The EU regulatory framework and the EC Regulation No 862/2007 on Community Statistics refer consistently to persons illegally resident in the Member States. Nevertheless, the term “irregular migration” has been adopted in EU immigration policy despite its absence from the regulatory framework, largely as a consequence of views put forth by international organisations (UNHCR, IOM, Council of Europe Directorate General of Human Rights). The aforementioned organisations suggest that persons should not be labelled illegal immigrants or illegal residents until the authorities have determined whether the person in question is guilty of a crime or misdemeanour.

Use of the terms “irregular immigration” and “irregular migration” in the EU has so far been unestablished and lacking in definition. Broadly referring to combating illegal migration gives an incorrect impression of the concerned persons’ legal status, as human rights accords state that everyone has the right to leave any country, including their own. Illegally leaving a country or entering a country may therefore be the only way an asylum seeker facing persecution can seek safety. According to Article 31, Paragraph 1 of the Geneva Convention relating to the Status of Refugees “the Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1 (Definition of the term "refugee"), enter or are present in their territory without authorisation, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.”

Translating the term “irregular migration” into the Finnish term corresponding to illegal migration (laiton maahantulo) and its variants such as “persons illegally resident” is justified under Finnish (Aliens Act, Section 40) and EU legislation; residence is either legal or, conversely, illegal. However, the Ministry recommends that use of the terms “legal” and “illegal” in conjunction with the term “migration” should be considered on a case-by-case basis depending on the context.

Irregular migration

Irregular migration refers to third-country nationals who enter a Member State without authorisation as well as persons who enter a Member State legally, but subsequently remain in the country longer than they are permitted or change the purpose of their stay without authorisation.

Illegal entry refers to activity that is in breach of international or national agreements, legislation or regulations concerning entry to, residence in or departure from a country on a temporary or long-term basis. Illegal entry and residence may refer to unauthorised entry and residence, in which case the foreign national does not have the travel document, visa, residence permit or other authorisation required under the Aliens Act to enter and/or reside in Finland.

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46 Aliens Act, Section 40 (Right of residence)

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Provisions on the right of residence of EU citizens and comparable persons are laid down in Chapter 10. An alien may reside legally in the country while his or her application is being processed until there is a final decision on the matter or an enforceable decision on his or her removal from the country.
Circumventing the regulations concerning entry and residence refers to obtaining the permit or authorisation to enter or reside in the country required under the Aliens Act on false grounds and by deceiving the authorities. An ostensibly legal entry into the country can be achieved by concealing information, providing false information, using falsified documents etc.

The following phenomena related to irregular migration have been identified in Finland:

- overstaying visas or irregularities in visa applications
- using false/falsified documents or authentic documents granted to a person other than the one using them
- unclear identity
- the person entering the country on the grounds of right of residence granted to another person
- untruthful employment agreements
- clandestine workers
- an asylum seeker going missing from a reception centre but remaining in Finland or the Schengen area without authorisation
- marriages of convenience
- the anchor child phenomenon

The term “persons illegally resident in the country” does not include foreign nationals who have submitted an asylum application. Such persons are considered to be staying in the country with authorisation. However, there are some cases with irregularities in the asylum process. The frequency of such cases can be monitored at a general level on the basis of the number of clearly groundless asylum applications, applicants from safe countries of origin and Dublin cases. In collecting data for statistical purposes, the number of persons residing in the country illegally is based on cases of foreign nationals detected in the country without travel documents and the total number of suspected violations of the Aliens Act in the country. When asylum seekers are without travel documents upon entering the country, they are recorded in the statistics as persons residing in the country without authorisation. However, once their asylum applications are being processed, they are no longer categorised as residing in the country without authorisation.

Preventing illegal immigration

The prevention of illegal immigration refers to action taken by the authorities to prevent, detect and investigate unauthorised entry and residence in the country as well as related phenomena, such as trafficking in human beings, and the various protective measures, serving of notifications and enforcement actions related to these. Decision-making on matters related to the visas, residence permits and removal of foreign nationals, as well as an effective asylum system, are part of combating illegal immigration.

In Finland, efforts are made to combat illegal immigration on four different levels of operation: in countries of origin and transit, in the neighbouring areas, at external borders and within the country. The measures include visa policy, immigration policy, effective border control, effective return policy, international police cooperation and information exchange, disseminating accurate information on Finnish immigration policy, monitoring aliens within the country and the effective administration of permits.

The monitoring of aliens

The monitoring of aliens comprises monitoring compliance with the Aliens Act and regulations based on the Aliens Act, including verifying an alien’s identity, right of residence and right of employment. It also includes measures to intervene in illegal residence or employment, protective measures to investigate such matters as well as enforcement measures related to monitoring and combating violations of the Aliens Act and related regulations.

The purpose of the monitoring of aliens is to monitor the entry and residence of foreign nationals in order to maintain public order and safety.

Monitoring compliance with the regulations regarding the entry and departure of foreign nationals is considered border control activity and therefore does not fall within the scope of the monitoring of aliens.

The monitoring of aliens is carried out through random checks, inspections based on advance information, planned sweep investigations, within the country as part of normal police work and as part of the Border Guard’s duties.

Definitions of terms according to the European Migration Network glossary

For the purposes of the Study, ‘irregular’ should always be used when referring to a person, as specified in Resolution 1509 (2006) of the Council of Europe Parliamentary Assembly. As stated in this Resolution, ‘illegal’ may be used when referring to a status. However, for the purpose of this Study, EMN NCPs should make efforts to use only the terms ‘irregular migrant / irregular migration.’

The EMN Glossary47 has a number of terms related to irregular migration, which have been taken from the EU Acquis and which should be used by EMN NCPs for their National Reports wherever possible in order to ensure a comparative description based on common definitions. Termit ovat seuraavat:

Employment of ILLEGALY resident third-country national (Illegal)

The employment of an illegally staying third-country national.

Broader Term: Illegal Employment

Related Term: Third-Country national found to be illegally present

47 http://emn.sarenet.es/Downloads/prepareShowFiles.do;?directoryID=117
Note: The Term itself has been slightly modified from the Employer Sanctions Directive definition in order to be more explicit.


**Employment of LEGALLY resident third-country national (Illegal)**

Employment of a legally staying third-country national working outside the conditions of their residence and/or without a work permit. This is subject to each Member States’ national law.

Broader Term: Illegal Employment

Source: Derived by EMN on basis of Employer Sanctions Directive (2009/52/EC)

**Entry (Illegal)**

In EU context, this means the entry of a third-country national into an EU Member State which does not satisfy Article 5 of Schengen Border Code.

In a global context, this means crossing borders without complying with the necessary requirements for legal entry into the receiving State.

Source: Regulation (EC) No 562/2006 (Schengen Border Code)

**Illegal Stay**

The presence on the territory of a Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Article 5 of the Schengen Borders Code or other conditions for entry, stay or residence in that Member State.

This definition is derived from, and is the same as, the definition of ‘Illegal Stay’ outlined in Article 3(2) of Directive 2008/115/EC of the European Parliament and of the Council (common standards and procedures in Member States for returning illegally staying third-country nationals).

**Migrant (Irregular)**

In EU context, a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Article 5 of the Schengen Borders Code or other conditions for entry, stay or residence in that Member State (from illegal stay, Return Directive); in global context, someone who, owing to illegal entry or the expiry of his or her legal basis for entering and residing, lacks legal status in a transit or host country. The term applies to migrants who infringe a country’s admission rules and any other person not authorized to remain in the host country.

Synonym: insufficiently documented/undocumented/illegal/clandestine/unauthorised migrant

Narrower Term: Third-country national found to be illegally present, illegally resident / staying Migrant

Related Terms: Illegal stay, illegal entry, illegal employment, Overstay(ER)

Notes:

1. European Commission tends to use the term Third-Country National found to be illegally present or illegally resident / staying Third-Country National in legislative acts.
2. This term is not commonly used in NL, used more often by NGOs.

**Migrant (Illegally resident/staying) / Third-country National found to be illegally present**

A third-country national who is officially found to be on the territory of a Member State and who does not fulfil, or no longer fulfils, the conditions for stay or residence in that Member State.

Source: Regulation (EC) No 852/2007 (Migration Statistics)

**Smuggling of migrants**

The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a Member State of which the person is not a national or a permanent resident.

Source: Council Decision 2006/616/EC

The EMN Glossary also lists the following definitions, which have relevance for this study on irregular migration, but which are not derived from the EU Acquis and may therefore not be used consistently across all Member States. They should rather be used by EMN NCPs as a guideline for the purpose of this study.

**Employment (illegal)**

Gainful occupation carried out in violation of provisions set by legislation

In the EU context, this covers both the illegal employment of a third-country national who is illegally staying on the territory of a Member State, and of a legally resident third-country national working outside the conditions of their residence and/or without a work permit.

Source: ILO Thesaurus
**Immigration (Illegal)**

The movement of a person to a new place of residence or transit using irregular or illegal means, without valid documents or carrying false documents.

*Source:* ILO Thesaurus

*Synonym:* Irregular immigration, clandestine immigration.

*Related Term:* Entry (Illegal)

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**Informal Economy**

All economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements. Their activities are not included in the law, which means that they are operating outside the formal reach of the law; or they are not covered in practice, which means that although they are operating within the formal reach of the law, the law is not applied or not enforced; or the law discourages compliance because it is inappropriate, burdensome, or imposes excessive costs.

*Source:* ILO Bureau of Library and Information Services

*Synonym:* Black Market, Clandestine Employment

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**Overstay(er)**

In the **EU context**, a person who has legally entered but then stayed in a Member State beyond the allowed duration of their permitted stay without needing a visa (typically 90 days or six months), or of their visa and/or residence permit.

- In a **global context**, to remain in a country beyond the period for which entry was granted.

*Source:* IOM Glossary on Migration

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### 1.3 Methodology

This study was produced by the Finnish contact point of the European Migration Network (EMN). Data collection consisted of meetings with various actors in the immigration administration involved with irregular migration. The primary partner facilitating the analysis of policy, strategies and various projects was the Ministry of the Interior, including offices and actors under it (National Bureau of Investigation, Finnish Immigration Service, Border Guard, Police). The Finnish EMN contact point was also in contact with experts from trade unions under the Central Organisation of Finnish Trade Unions – SAK (Finnish Construction Trade Union, Finnish Electrical Workers’ Union, Service Union United PAM) on matters related to clandestine employment and trafficking in human beings. To compile the statistics used in this report, the Finnish EMN contact point cooperated with the Finnish Immigration Service, the National Bureau of Investigation and the Police.

The literature used in conducting the study includes national legislation pertaining to illegal migration, Government Bills, Government programmes, Committee reports and case law from the highest court levels. The analysis of the political dialogue on the subject is based on the Finnish Immigration Service’s monitoring of news as well as interviews with trade union representatives. The news monitoring carried out by the Finnish Border Guard Headquarters Situation and Risk Analysis Department was also used as a reference.

This study complements the existing body of knowledge on illegal migration by providing a description of the authorities involved and the national immigration context in which the efforts against illegal immigration take place. This study purposely includes background information on i.a. EU legislation and the phenomenon of irregular migration in the EU to allow the study to better serve audiences such as media representatives.

There is little existing research on the subject of illegal migration in Finland. The only comprehensive publication on the measures to combat illegal migration in Finland is the current action plan against illegal migration for 2010–2011. There is no academic research on the subject of illegal migration in Finland.

It is impossible to accurately determine the number of persons illegally residing in Finland. The statistical data used in this study are based on information collected by the National Bureau of Investigation on the results of the monitoring of aliens carried out by the Police. However, it is likely that the actual magnitude of the phenomenon, particularly with regards to irregular foreign workers, is much greater than the statistics suggest.

49 The action programme against illegal entry for 2010–2011.
2. THE POLITICAL AND LEGISLATIVE FRAMEWORK FOR IRREGULAR MIGRATION

Finland’s new government took office on 22 June 2011. In Prime Minister Jyrki Katainen’s Government Programme, combating illegal migration is highlighted as part of internal security and immigration policy. According to the Government Programme, the government will enhance the investigation and prevention of the use of irregular foreign workers. This will be achieved through allocating increased resources to organised police work specialising in such activity. As part of its immigration policy, the government will combat irregular migration primarily with regard to the grey economy, i.e. irregular foreign workers, by increasing the resources of the supervising authorities (occupational health and safety authorities, the tax administration and the National Bureau of Investigation) and increasing the number of foreign workforce inspectors.50

According to the vision stated in the action plan against illegal migration, the objective is to “maintain a controlled situation in Finland with regards to illegal immigration through credible and effective measures against illegal migration. The measurement and monitoring of the prevention of illegal migration is organised in a manner that recognises the actual developments in the area and reacts appropriately. Measures to combat illegal migration are designed according to the demands of the situation.” 51

Public and political dialogue

The public dialogue on irregular migration in Finland in 2011 has primarily focused on the grey economy phenomenon and illegal workers. Factors contributing to this include the economic downturn, increasing unemployment and the 2011 parliamentary elections, which were preceded by dialogue on immigration policy highlighting problems related to the use of foreign workers. Irregular migration is also highlighted in public dialogue in the context of abusing the family reunification and asylum processes.

Finnish trade unions have expressed their concern over individual foreign workers generally not having the opportunity to exercise their rights when it comes to infringements by employers. It is estimated that the phenomenon of illegal foreign workers in Finland is approximately five to six years old. However, trade unions are unable to take action against illegal foreign workers, as their competence is limited to monitoring terms of employment and does not extend to establishing whether workers meet the statutory requirements for residing in the country. The use of illegal workers in Finland involves trafficking in human beings and extortions and work discrimination. The trade unions have recognised this and are developing tools such as batteries of questions to help their regional offices identify such phenomena.

One significant problem in recognising and preventing the use of illegal foreign workers is the lack of statistical data. The trade unions have proposed a special register of employers found guilty of extortions and work discrimination to give the authorities a clearer understanding of the magnitude of the phenomenon. Internal mobility in the EU and the principle of preventing national monitoring activities from becoming obstacles to internal mobility have the practical impact of making the monitoring of employees, for instance in the construction industry, more difficult. Workers arriving from another EU country are primarily not inspected for illegal entry, although it is known that the largest contractors do check their employees’ documents related to residence and employment.

Finland has been developing a “worker’s passport” system based on storing professional workers’ personal data and working history on a microchip. The data on the microchip on the personal worker’s passport could then be scanned by supervisors at work sites, making monitoring easier.52

The trade unions find that the public dialogue on combating the grey economy has developed in a positive direction. In Prime Minister Jyrki Katainen’s Government Programme, combating the grey economy is highlighted as one of the government’s priority projects. The government will examine the obstacles to information exchange between the authorities and make the necessary registers flexibly available, in order to enable contractors to more easily meet the obligations set out in the Act on the Contractor’s Obligations and Liability. The government will hold tripartite discussions to ensure the adequacy and appropriate allocation of resources for labour protection supervision, to establish mandates and to identify administrative development needs. Under the section on combating the grey economy, the Government Programme’s emphasises a review of the need to revise the Act on the Contractor’s Obligations and Liability and the imposition of heavier sanctions for recurring and intentional omissions. This has been particularly well received by trade union representatives.

Trade unions are critical of the ineffectiveness of Finland’s public prosecutors in matters related to clandestine workers and human trafficking as well as the inability of the authorities to recognise human trafficking. There are cases in which the process has taken several years, giving the employer accused of human trafficking the opportunity to leave the country. Finnish trade unions are aware of occasional cases of human trafficking in the context of clandestine workers, particularly in domestic and restaurant work, but the unions have limited resources and therefore focus on protecting the interests of their fee-paying members instead of actively looking for cases of human trafficking or the grey economy. Nevertheless, the unions have recognised the need to prevent the creation of a two-tier job market. The unions also highlight the threat of increasing xenophobia in Finland if foreign nationals continue to be employed at lower wages in relation to the domestic workforce. Trade unions are also critical of how decisions concerning Finnish immigration policy are made by different Ministries through separate processes, without taking the broader impacts of the decisions into consideration.53

The Government proposal on the Employers’ Sanctions Directive is still in its preparatory stages at the time of writing this report. Trade unions have expressed their concern over Finland implementing the Directive at the minimum level of requirements rather than adopting stricter regulations on e.g. monitoring subcontractor chains. According to the trade unions, the Directive’s most significant contribution to Finnish legislation is increased contractor’s liability. The main problem perceived by the unions in the implementation of the Directive concerns the legal protection of the individual. The working group responsible for the preparation of the Directive’s implementation has stated that individuals are already able to pursue their rights at a level that corresponds to the minimum requirement stated in the Directive, but the trade unions disagree. The trade

51 The action programme against illegal entry for 2010–2011.
52 Central organisation of Finnish Trade Unions 22.6.2011.
53 Central organisation of Finnish Trade Unions 22.06.2011.
unions have also voiced their concerns about the Finnish implementation process not taking the national context sufficiently into consideration before settling on the minimum level of implementation.

The ability of trade unions and individual employees to pursue their rights in Finland is significantly restricted by cost considerations. For instance, a business being issued a prohibition of transfer while an employee pursues wage receivables is subject to a counter-guarantee, meaning that the claimant must agree to pay the counterparty’s legal fees in disputes that are not settled in the claimant’s favour. In practice, this excludes claimants of limited financial means from the process. Trade unions have also proposed that illegal workers’ wage receivables be paid out of the state’s salary security system. The proposal has not been implemented, despite the fact that wage expenses are bound to keep growing if Finnish employers fail to comply with labour law. An individual employee’s opportunities to successfully pursue a claim are also limited, as trade unions with limited resources tend to focus on larger class actions instead of individual cases of employer infringements. Trade unions are trying to pay more attention to this matter by providing more training on identifying irregular labour. The unions also highlight the importance of union representatives taking an active role in identifying clandestine workers.

The administration of visas and permits has been widely discussed by authorities under the Ministry of the Interior. The administration of visa affairs was transferred on a temporary basis in 1990 from the unit then known as the Aliens Centre under the Ministry of the Interior to the Ministry for Foreign Affairs, primarily due to a shortage of resources. The Passport and Visa Unit under the Legal Service Department of the Ministry for Foreign Affairs is responsible for Finnish visa policy and the processing of individual visa applications. Visas are primarily applied for and granted at Finland’s diplomatic missions abroad. Visa policy in Finland involves several different actors. This has led to inconsistencies in practices, which could be improved through unifying the administration of visa policy by a single actor. The Finnish Border Guard approaches visa matters from the perspective of internal security, while the Ministry for Foreign Affairs, and the diplomatic missions abroad, approach visa matters from a foreign policy viewpoint. In a report published in 2008, rapporteur Ole Norrback proposed that the administration of visa matters be moved from the Passport and Visa Unit of the Legal Service Department under the Ministry for Foreign Affairs to the administration of internal affairs, specifically by moving the functions and officers concerned with visa matters to the Finnish Immigration Service. Norrback further proposed that the functions and persons related to visa policy be transferred to the Ministry of the Interior’s Migration Department, which would be responsible for the national steering of and legislation on visa policy.54

The Finnish Border Guard perceives Russia as a gateway for irregular immigration. The St. Petersburg and Leningrad region is particularly problematic, as the consulates there alone grant 750,000 visas per year. Thus far, there have been approximately 10,000 cases of denied visas. The visa exemption planned between Finland and Russia would result in further pressure on controls at the border, requiring improved border control processes.

The Finnish Border Guard has stated that one problem with current visa policy is the issue of the applicant’s primary destination, which in many cases does not reflect the actual purpose behind applying for the visas. The number of visas granted by the Finnish Consulate General in St. Petersburg is greater than the number of visas actually used at the Finnish border, which is evidence of a phenomenon known as “visa shopping”. In practice, this refers to using a Schengen visa granted by Finland to travel directly to another EU Member State instead of first entering the country at the external border of the Schengen area that has granted the visa. The Border Guard is concerned primarily from the concept of a primary destination country to having common EU representation to process visa applications. As a country located at the external border of the Schengen area, Finland is currently responsible for border control and monitoring on behalf of other EU Member States, which results in an increased work load for Finland’s diplomatic missions abroad. The Schengen Agreement is considered to be unclear and, in practice, even problematic. According to the Border Guard, irregular migration is not a significant problem for Finland. Inspection and monitoring operations at Finland’s external borders are effective. The majority of illegal migrants enter Finland from within the Schengen area (Sweden) and the phenomenon therefore manifests itself through abuse of the asylum process. As a result, the monitoring of foreign nationals inside the country is becoming increasingly significant in combating illegal immigration.

The Border Guard emphasises the importance of the competence and continuous training of border control officers in identifying illegal immigrants. A visa system is a preventive method for combating illegal immigration, but its effectiveness depends entirely on the competence of consular officers. New EU Member States and visa exemption are seen to be problematic and the grey economy phenomenon is already a reality, one that is likely to grow in magnitude as new EU Member States join the Schengen Agreement. In the view of the Finnish Border Guard, the free mobility in EU’s internal market is losing its meaning as the monitoring of aliens inside the country becomes increasingly significant. The different legal cultures among EU countries also put pressure on Member States. Schengen border regulations are applied differently in different Member States and the Schengen Agreement’s position as a source of law varies between countries.

The Ombudsman for Minorities has repeatedly expressed her public concern regarding, inter alia, human trafficking related to irregular migration and the low extent to which it is identified in Finland. A particular source for concern at present is trafficking in human beings related to sexual exploitation and prostitution. By September 2011, fewer than 10 victims of sexual abuse had been referred to the system established to assist victims of human trafficking in Finland. The number is exceptionally low by international comparison. According to a United Nations report published in 2009, the vast majority of victims of human trafficking identified globally are specifically victims of sexual exploitation.55

54 Selvitysten Ole Norrback: Maahanmuuttohallinnon ja Maahanmuuttoviraston toiminnan kehittäminen http://www. setTimeFinnmin liittokans.toitti.pdf


The Ombudsman for Minorities became the national human trafficking rapporteur in 2009. This appointment was based on the Act on the Ombudsman for Minorities and the Discrimination Board (600/2001, amended to include the rapporteur appointment 1109/2008). The Ombudsman for Minorities is an independent official with extensive authority to require disclosure of information. As the national human trafficking rapporteur, the Ombudsman for Minorities monitors human trafficking and related phenomena, monitors activities combating human trafficking and reports regularly to Parliament and the Government. Under the Act, the duties of the Ombudsman for Minorities are

- to monitor phenomena related to human trafficking, the fulfilment of international obligations
- to make proposals, recommendations, opinions and advice relevant to the fight against human trafficking and to the realisation of the rights of victims
- to keep in contact with international organisations
- to provide legal counselling and assistance to victims as required
- to report regularly to the Government and Parliament on human trafficking and related phenomena.
The Ombudsman for Minorities submitted her first report on human trafficking to Parliament in 2010. In this report, she explained the functioning of three key areas of action against human trafficking: the system for helping victims of human trafficking, the application of the Aliens Act, and the criminal process and the application and interpretation of the essential elements of human trafficking and related offences. The material on which the report was based was extensive, including a notable number of cases of human trafficking and related offences that had been tried in court, involving cases of employment exploitation or sexual exploitation. In the report, the Ombudsman for Minorities notes that there is probably more human trafficking going on in Finland than can be detected. She pointed to identifying the victims of human trafficking as the key challenge in combating human trafficking. If, as often is the case, human trafficking is not noticed at all, or exploitation is not identified as human trafficking, the victims are not necessarily referred to the aid system or guided to exercise their rights. In the report, the Ombudsman for Minorities listed almost 30 recommendations for improving the identification and helping of victims of human trafficking and for enhancing crime prevention. During the autumn, the Ombudsman for Minorities has testified for several Parliamentary committees.

In addition to this report, she has issued two other recommendations intended to improve access by victims of human trafficking to legal aid and counselling and to improve the referring of victims to the aid system.60

In January 2011, the media published news of a hidden clinic opened to give illegal immigrants the opportunity to seek medical care and receive medication for common illnesses. The doctors working at the clinic on a volunteer basis can request consultation by telephone from various medical specialists as necessary. Known by the name Global clinic, the hidden clinic is open once a week for a few hours at a time. The Deaconess Institute supports the clinic’s operation but does not organise it.61 The Finnish Medical Association also issued a statement in September 2011 regarding access to public health care for persons residing in Finland illegally.62 According to the statement approved by the Board of Directors of the Finnish Medical Association, society must not deny patients the right to adequate medical care, nor can society interfere with the doctor’s duty to care for patients based on clinical need. Financial reasons must also not prevent the provision of appropriate treatment to persons belonging to the relevant groups. Experiences from other Nordic countries indicate that the costs of care provided to such patients are very low. According to the statement, doctors must be provided with adequate resources to care for paperless patients as well as to assess the physical and mental state of asylum seekers as needed. Doctors may not be obliged to participate in the punishment of, or legal proceedings related to, refugees, asylum seekers or paperless immigrants. Persons belonging to such groups must not be given treatment that is not based on medical need. For instance, a doctor is not obliged to sedate a person to facilitate easier deportation.

There was another wave of public discussion regarding the risk of biometric passports being copied in spring 2011. Online IT magazine Tietovilkk63 published an article suggesting that passport data could be copied by using mobile telephones in the future as NFC technology becomes more widespread. Such technological developments could prove problematic for combating illegal immigration in the future as automatic border control systems are more widely adopted at border crossings. The National Police Board denied the rumours that biometric passports could be copied.64 According to the police, all data stored on the passport chip is adequately secure and the data security of the national passports is not at risk. The data on the chip includes a digital signature, which allows the authorities carrying out passport inspections to confirm that the data on the chip is original and unchanged and that the passport has been issued by the Finnish state.65

In August 2011, news broke of a dispute over the interpretation of Article 2 of the Schengen Agreement concerning traffic at the EU’s internal borders between St. Peter Line and the Finnish Border Guard. The dispute arose over the ship Princess Anastasia operated by St. Peter Line. The ship began operating a cruise on a new circular route of St. Petersburg - Helsinki - Mariehamn - Stockholm - Tallinn in the beginning of August. According to instructions issued by the Finnish authorities, the ship in question is engaged in external border traffic due to the fact that its stop in St. Petersburg is outside the EU. Passengers coming from St. Petersburg to Helsinki are subject to normal border inspections upon disembarking in Helsinki. According to the new instructions, passengers are also subject to a border inspection upon departure as they board the ship in Helsinki. The authorities state that the authorities at the next stop of Mariehamn must also conduct the same inspections on the passengers. The Border Guard argues that the new practice is required to ensure the reliability of the passenger list and avoid problems such as stowaways. Prior to the new instructions being issued, passengers on board the Anastasia were subject to inspection on arrival in Helsinki and inspection on departure in Tallinn. If the authorities in Sweden and Estonia adopted the same interpretation of the Schengen rules as their Finnish colleagues, the passengers would be subjected to a total of eight inspections on the cruise. The instructions issued by the Finnish authorities also mean that passengers holding single-entry visas could only leave the ship once. As a result, passengers would need multiple-entry visas. According to the Finnish Border Guard’s Border and Coast Guard Division, the instructions they have issued are not in conflict with the Schengen Agreement Article on traffic at the internal borders. As the ship in question is engaged in traffic across the EU’s external borders, the Border Guard rejects the shipping company’s view that the newly implemented instructions present an obstacle to traffic at internal borders.

After Prime Minister Jyrki Katainen’s government proposed a reduction of the maximum tax credit for domestic costs from 3000 to 2000 euros per year, the response from, inter alia, construction industry trade unions was one of concern as to how such a change might increase the size of the grey market. According to the Taxpayers’ Association of Finland, reducing the maximum tax credit would make paying workers under the table more appealing and weaken employees’ social security. A taxpayer in Finland is eligible for a tax credit for contracting a worker to carry out e.g. domestic work, care work, renovations or installations of information technology or communication devices.62
2.1 National policy and legislation towards irregular migration

Political framework

Finland’s national objective is to contribute to the effectiveness of the four-tiered border security model at all levels while supporting the priorities outlined for the EU’s integrated border control system. Finland has selected priorities 1, 3, 4 and 5 for its multiannual programme to implement the four-tiered border security model’s various perspectives in full. The selected priorities allow for the implementation of the four-tiered model at all operative levels. The implementation of the border security model is funded by the EU’s Border Fund.

1. Support the further gradual establishment of the common integrated border management system as regards the checks on persons at and the surveillance of the external borders.
   - Objective 1: Enhancing border control at land borders
   - Objective 2: Improving border inspections
   - Objective 3: Enhancing border control at maritime borders
   - Objective 4: Improving border control related to airborne vessels

2. Support the issuing of visas and the tackling of illegal immigration, including the detection of false or falsified documents by enhancing the activities organised by the consular and other services of the Member States in third countries.
   - Objective 1: Developing an international network of liaison officers in cooperation with other Member States
   - Objective 2: Developing national visa processing operations at key consulates
   - Objective 3: Initiating cooperation on visa processing with other Member States

3. Support the establishment of IT systems required for implementation of the Community legal instruments in the field of external borders and visas.
   - Objective 1: Controlled adoption of VIS
   - Objective 2: Maintaining and developing SIS

4. Support the establishment of IT systems required for implementation of the Community legal instruments in the field of external borders and visas.
   - Objective 1: Training border control officers
   - Objective 2: Training consular officers

5. Support the effective and efficient application of relevant Community legal instruments in the field of external borders and visas, in particular the Schengen Borders Code and the European Code on Visas.
   - Objective 1: Training border control officers
   - Objective 2: Training consular officers

The implementation of the operational objectives for developing the capacity to maintain border security will take into consideration national and international cooperation between the authorities and the obligations set for such cooperation. As such, a key aim of the development efforts is compatibility, which facilitates national and international joint operations and the mutual exchange of information.

Finland acknowledges that irregular immigration increasingly involves organised crime, including trafficking in human beings, smuggling and other crimes of such nature (including procuration and extortionate work discrimination). The Council of State approved a decision in principle regarding the Internal Security Programme on 8 May 2008, defining the priorities, objectives and actions for developing internal security on an intersectoral basis. The Programme also includes specific objectives and actions to prevent illegal immigration.

Among pre-entry measures, the Internal Security Programme specifies compensating for the effects of discontinuing border checks at the internal borders of the Schengen area, for instance, by obtaining passenger and cargo information beforehand. Finland has made a commitment in this regard in joining the Schengen Agreement. The Internal Security Programme calls for combating global illegal immigration making use of the Schengen area of free movement across the board by drawing up in an intersectoral plan of action against illegal immigration and illegal residence and determining the measures to be developed. With regard to measures to combat illegal immigration during stay in the country, the Internal Security Programme emphasises the importance of more effective cooperation between the authorities. Monitoring foreign nationals within the country is primarily the responsibility of the police, but the prevention of illegal immigration involves a wide range of actors from different branches of administration.

The planning of policy concerning the removal of third-country nationals in Finland is the responsibility of the Ministry of the Interior. Removal may take place on a voluntary return basis or against the person’s will through specific repatriation measures.

A working group responsible for repatriation issues and related guidelines has been established in the Finnish Immigration Service under the Ministry, while the Ministry itself is responsible for developing repatriation policy and regulations related to repatriation.

Finland’s repatriation policy does not include a specific repatriation dimension for employment based immigrants. According to a Council of State decision, repatriation benefits paid by the State at present only cover immigrants with refugee status and persons granted international or temporary asylum who wish to voluntarily return to their home countries.

Finland last issued new repatriation policy guidelines in 1997. At that time the Government’s immigration and refugee policy programme included the following provision concerning voluntary repatriation:

- Every refugee shall have the right to return to his or her home country and receive financial support for it.
- Where circumstances allow it, repatriation shall also be supported for those granted temporary asylum. The intention is not to integrate the persons in question into Finnish society, but rather support their repatriation in ways that develop their knowledge and abilities and improve their opportunities for finding gainful employment in their home countries.
- The right of minors to receive education must be secured during temporary asylum.

Drafting a comprehensive return policy was recorded as a key objective for 2010 in the Ministry of the Interior’s administrative branch’s action plan and financial plan for 2011–2014. The focus for 2010 in the plans was on including provisions concerning voluntary return in new Act on the Integration of Immigrants, the Act on the Reception of Asylum Seekers and the Aliens Act and making use of the experiences gained from return-related projects being implemented at the time. The drafting of a comprehensive return policy also takes into account cooperation between the Finnish Border Guard and the police and the role of Frontex, the European border security agency, in assisting Member States in organising joint return operations.46

A number of return projects are presently being implemented as part of the drafting of the comprehensive return policy. The Finnish Immigration Service and the IOM launched a project to develop a voluntary return programme in January 2010. The project is planned to have a duration of three years and is aimed at establishing a comprehensive and effective system for the voluntary repatriation of third country citizens in Finland. The objectives for 2010 are to develop and strengthen cooperation between the authorities and organisations working in the field of assisted voluntary return, to increase the availability of information on return possibilities among potential returnees, the authorities and the public and to assist 200 voluntary returnees with return arrangements and pay them an incentive (EUR 1,500 for adults and EUR 1,000 for children) to encourage repatriation.

The Immigration Police under the Helsinki Police Department launched a project to improve the effectiveness of deportation operations in August 2009. The project was scheduled to continue until the end of 2010. The aim of the project was to develop police operations related to the enforcement of deportation decisions in order to improve the ability of law enforcement to respond to the in creased number of persons to be deported and to better identify prospective voluntary returnees. The goal was to have an increasing number of persons who are being deported leave the country voluntarily. The emphasis of the project was on police operations to carry out deportation decisions, including notification of deportation decisions, enforcement of deportation including travel arrangements and providing transport as necessary, supervising departure from the country and, where needed, escorting deportees to the destination country. As a new development, those faced with a deportation decision will be provided information on the option of voluntary return and those who are interested will be directed to use the IOM’s services related to voluntary return. However, based on the tasks assigned to law enforcement, the police cannot take the role of an active promoter of voluntary return.

The Legal Affairs Unit of the Ministry of the Interior launched a project to develop a voluntary return model based on positive preferential treatment in May 2009. The project is aiming at planning, developing, spreading and establishing a comprehensive voluntary return model for refugees and asylum seekers. The primary functions are pre-return information provision and advisory services, preparing a return plan (including financial assistance and other forms of support), carrying out return in practice, supporting reintegration and monitoring the success of the return. The project involves special consideration for those returnees who are in a vulnerable position and the support functions directed at them. The project is carried out on a cooperative basis involving various organisations such as the authorities, refugee associations and other associations, reception centres and committees. All of the aforementioned projects are supported by the European Return Fund, which is part of the SOLID fund and related to the European Union Framework Programme on Solidarity and Management of Migration Flows. The SOLID Fund is part of an effort to respond to challenges faced by the EU with regard to the control of external borders and immigration and asylum policy. The Return Fund grants funding particularly for the adoption of a consistent return and repatriation system to be applied in the Member States. It also supports projects aimed at promoting the effective and consistent application of unified return procedures.

Supporting voluntary return is a central element of Memorandums of Understanding (MOU) signed with third countries. The Ministry of the Interior is presently preparing Memorandums of Understanding between Finland, Afghanistan and the United Nations High Commissioner for Refugees as well as between Finland and Iraq to agree on practical procedures for repatriation. The MOUs aim to promote the voluntary return of Afghan and Iraqi nationals residing in Finland to their countries of origin. The MOUs would form a basis for humane and controlled return that takes into account the significance of prioritising voluntary return, the prevailing circumstances in Afghanistan and Iraq and the importance of a safe, dignified and sustainable return.47

The target group of the MOUs would be Afghan and Iraqi nationals residing in Finland who have been refused asylum or a residence permit, are in the process of applying for asylum or have a residence permit. The return of Afghan and Iraqi nationals who have been refused asylum or residence permit would primarily be voluntary, but forced repatriation would also be possible after the asylum or other residence permit procedure and related appeal processes have been exhausted. The significance of an injunction against repatriation would also be assessed at that stage. Afghan and Iraqi nationals in the process of applying for asylum or residing in Finland with a valid residence permit would only be eligible for the return procedure on the basis of their free will. Voluntary return is the primary option in all cases. Persons are encouraged to return voluntarily and, before a forced repatriation process is initiated, all significant humanitarian and other aspects relevant to the case are taken into consideration.47

As part of the implementation of the Internal Security Programme, the Ministry of the Interior’s Police Department established a working group for 1 February - 30 September 2010.
2009 to prepare an action plan against illegal immigration. The working group was tasked with promoting practical cooperation and interaction between the authorities, NGOs and foreign nationals and clarifying the understanding of the illegal migration situation in Finland. The action plan is also intended to support the work carried out by NGOs to identify and assist victims of human trafficking.

The key priorities of the cross-sectoral action plan against illegal immigration are:

- Operations by Finnish authorities abroad support the prevention of illegal immigration to Finland.
- Finland’s foreign representations in key locations with regard to illegal immigration.
- The networks and expertise of Finland’s foreign representations will be made use of in preventing illegal immigration.

Legislation and legal praxis regarding illegal migration

The Aliens Act (301/2004) covers the requirements for entry, the grounds for granting and cancelling visas and residence permits, refusal of entry, deportation and prohibition of entry. The Border Guard Act (578/2005) covers the crossing of national borders and control thereof.

The Aliens Act was amended on 1 April 2011 with provisions based on the EU Return Directive. The amended provisions concern the option of voluntary return and the duration of detention. Persons subject to a decision on the refusal of entry or deportation are given 7–30 days to leave the country voluntarily. However, the option of voluntary return is not offered to persons considered by the authorities to be flight risks or threats to public order or security, for instance.

The Aliens Act was also amended with a provision specifying a maximum duration of detention of six months. Detention may be extended to 12 months in the presence of grounds for doing so. In practice, detention periods in Finland have been shorter than the maximum durations allowed and the implementation of a maximum duration is not intended to change existing practice regarding the duration of detention.

Decisions concerning removal or deportation must, under the Administrative Procedure Act (434/2003), be made in writing with the reasons for the decision clearly indicated. The modes of service of decisions are specified in Sections 204-206 of the Aliens Act. Under Section 203 of the Act, the authorities must provide interpretation or translation in matters pertaining to refusal of entry or deportation. Chapter 13 of the Aliens Act contains provisions on the right of appeal regarding decisions on refusal of entry or deportation. Under Section 32 of the Administrative Judicial Procedure Act, the appellate authority may prohibit the execution of a deportation decision or order a stay relating to the execution of the decision.

Section 8 of the Aliens Act contains provisions on using attorneys and counsels. When an administrative matter is filed or handled, the person concerned may use a counsel. When an administrative matter is filed and handled, the person concerned may also use an attorney when it is not necessary to hear him or her in person or if his or her appearance in person is not necessary for investigating the matter or establishing his or her identity. When an appeal under the Aliens Act is filed or handled, the person concerned may use a counsel or attorney. Section 9 of the Act contains provisions on legal aid. Provisions on aliens’ right to legal aid are laid down in the Legal Aid Act (257/2002).

However, when an administrative matter is being handled, the counsel assigned to an alien may also be a person with legal training other than a public legal aid attorney. When handling a matter referred to in this Act, a court may grant legal aid to an alien without requiring a statement on the financial position of the applicant for legal aid. The counsel’s fee is paid out of State funds as provided in the Legal Aid Act.

Chapter 5 of the Act on the Treatment of Aliens Placed in Detention and on Detention Units (116/2002) contains provisions on appeals. Detained foreign nationals may file an appeal regarding the refusal of requests for visitation, restriction or refusal of the use of a telephone or electronic communications, refusal of leave from detention and the confiscation of prohibited objects and substances. The competent court is the District Court of the municipality in whose jurisdiction the foreign nationals is being detained. Under Section 30 of the Act, a foreign national has the right to use a counsel and interpreter in matters related to the Act.

Removing persons staying in the country illegally

Chapter 9 of the Aliens Act contains provisions on the removal of third-country nationals. Section 148 covers refusal of entry, while Section 149 covers deportation. Under Paragraph 1 of Section 151, police or border control authorities must take action to refuse an alien entry or deport an alien who does not meet the requirements for entry into or residence in the country.

Third-country nationals are removed by means of deportation if they have resided in the country with a residence permit. In other cases, removal is carried out by refusal of entry. For instance, a person staying in the country illegally due to overstaying their visa is refused entry. Police and border control authorities may decide on refusal of entry within three months of the alien’s entry into the country. After that period, police or border control authorities must submit a proposal to the Finnish Immigration Service to the effect that the alien be refused entry or deported, unless the Finnish Immigration Service has already taken action to remove the alien from the country. The enforcement of the decision to refuse entry or deport an alien is not subject to a separate decision.

Section 147 of the Aliens Act concerns non-refoulement. No one may be refused entry and sent back or deported to an area where he or she could be subject to the death penalty, torture, persecution or other treatment violating human dignity, or from where he or she could be sent to such an area. The provision is in line with Section 9, Paragraph 4 of the Constitution of Finland and Finland’s obligations under international treaties. Non-refoulement must be taken into consideration in all phases of the removal process.
The exact time of removal from the country is determined by the police or border control authority enforcing the removal decision. The timing of removal may depend on matters related to non-refoulement or a decision by the Administrative Court to postpone enforcement. Removal may also be postponed due to the alien’s health or infrequent flights. The Captain of an aircraft may also refuse to carry a deportee under international air security regulations if the deportee’s identity is unclear.

Voluntary return

The right to leave the country is protected by the Constitution of Finland (731/1999). Finland is committed to the principle as a signatory to the European Convention on Human Rights and the International Covenant on Civil and Political Rights.

Pursuant to Section 147a of the Aliens Act, decisions on the refusal of entry or deportation shall specify a period of time, at a minimum 7 days and at a maximum 30 days, during which the alien may leave the country voluntarily. The period of time for voluntary return is counted from the date on which the decision becomes enforceable. The time period may be extended under special circumstances. No time period is specified in cases in which an alien is refused entry immediately having crossed the border, or in cases of refusal of entry or deportation due to criminal consequences.

A time period for voluntary return is also not specified in cases involving a person considered to be a flight risk or a threat to public order or safety, or a person whose residence permit application has been refused due to circumvention of the rules on entry, or cases involving the dismissal of applications and the application of an accelerated procedure pursuant to Section 103 of the Aliens Act.

Drafting a comprehensive return policy has been recorded as a key objective for 2010 in the Ministry of the Interior’s administrative branch’s action plan and financial plan for 2011–2014. The focus for 2010 in the plans is on including provisions concerning voluntary return in the new Act on the Integration of Immigrants, the Act on the Reception of Asylum Seekers and the Aliens Act and making use of the experiences gained from return-related projects being implemented at present. The drafting of a comprehensive return policy also takes into account cooperation between the Finnish Border Guard and police and the role of Frontex, the European border security agency. In assisting Member States in organising joint return operations.

A number of return projects are presently being implemented as part of the drafting of the comprehensive return policy. The Finnish Immigration Service and the IOM launched a project to develop a voluntary return programme in January 2010. The project is planned to have a duration of three years and is aimed at establishing a comprehensive and effective system for the voluntary repatriation of third-country nationals in Finland.

The objectives for 2010 are to develop and strengthen cooperation between the authorities and organisations working in the field of assisted voluntary return, to increase the availability of information on return possibilities among potential returnees, the authorities and the public and to assist 200 voluntary returnees with return arrangements and pay them an incentive (EUR 1,500 for adults and EUR 1,000 for children) to encourage repatriation.

The Immigration Police under the Helsinki Police Department launched a project to improve the effectiveness of deportation operations in August 2009 and the project is still ongoing. The aim of the project was to develop police operations related to the enforcement of deportation decisions in order to improve the ability of law enforcement to respond to the increased number of persons to be deported and to better identify prospective voluntary returnees. The goal is to have an increasing number of persons who are being deported leave the country voluntarily. The emphasis of the project is on police operations to carry out deportation decisions, including notification of deporta-tion decisions, enforcement of deportation including travel arrangements and providing transport as necessary, supervising departure from the country and, where needed, escorting deportees to the destination country. As a new development, those faced with a deportation decision will be provided information on the option of voluntary return and those who are interested will be directed to use the IOM’s services related to voluntary return. However, based on the tasks assigned to law enforcement, the police cannot take the role of an active promoter of voluntary return.

The Legal Affairs Unit of the Ministry of the Interior launched a project to develop a voluntary return model based on positive preferential treatment in May 2009. The project is aimed at planning, developing, spreading and establishing a comprehensive voluntary return model for refugees and asylum seekers. The primary functions are pre-return information provision and advisory services, preparing a return plan (including financial assistance and other forms of support), carrying out return in practice, supporting reintegration and monitoring the success of the return. The project involves special consideration for those returnees who are in a vulnerable position and the support functions directed at them. The project is carried out on a cooperative basis involving various organisations such as the authorities, refugee associations and other associations, reception centres and committees. All of the aforementioned projects are supported by the European Return Fund, which is part of the SOLID fund and related to the European Union Framework Programme on Solidarity and Management of Migration Flows. The SOLID Fund is part of an effort to respond to challenges faced by the EU with regard to the control of external borders and immigration and asylum policy. The Return Fund grants funding particularly for the adoption of a consistent return and repatriation system to be applied in the Member States. It also supports projects aimed at promoting the effective and consistent application of unified return procedures.

Supporting voluntary return is a central element of Memorandums of Understanding (MOU) signed with third countries. The Ministry of the Interior is presently preparing Memorandums of Understanding between Finland, Afghanistan and the United Nations High Commissioner for Refugees as well as between Finland and Iraq to agree on practical procedures for repatriation. The MOUs aim to promote the voluntary return of Afghan and Iraqi nationals residing in Finland to their countries of origin. The MOUs would form a basis for humane and controlled return that takes into account the significance of prioritising voluntary return, the prevailing circumstances in Afghanistan and Iraq and the importance of a safe, dignified and sustainable return.

The target group of the MOUs would be Afghan and Iraqi nationals residing in Finland who have been refused asylum or a residence permit, are in the process of applying for asylum or have a residence permit. The return of Afghan and Iraqi nationals who
have been refused asylum or residence permit would primarily be voluntary, but forced
repatriation would also be possible after the asylum or other residence permit procedure
and related appeal processes have been exhausted. The significance of an injunction
against repatriation would also be assessed at that stage. Afghan and Iraqi nationals in
the process of applying for asylum or residing in Finland with a valid residence permit
would only be eligible for the return procedure on the basis of their free will. Voluntary re-
turn is the primary option in all cases. Persons are encouraged to return voluntarily and,
before a forced repatriation process is initiated, all significant humanitarian and other
aspects relevant to the case are taken into consideration.

Enforcement of expulsion decisions

Under Section 200, Paragraph 1 of the Aliens Act, a decision on removal from the
country referred to in the Act may not be enforced until a final decision has been issued
on the matter, unless otherwise provided in the Act. Applying for leave to appeal from
the Finnish Administrative Court does not prevent the enforcement of a decision un-
less otherwise ordered by the Supreme Administrative Court. However, a final decision
or a decision that is otherwise enforceable under the Act may not be enforced if there is
reason to believe that returning the alien to his or her country of origin or another country
may expose him or her to the dangers referred to in Section 147 (non-refoulement).

A decision on refusal of entry may not be enforced under Section 147 within the time
period specified for voluntary return. However, enforcement is allowed when the case
involves a flight risk or the person concerned is determined to be a threat to public order
or security.

Under Section 201, Paragraph 1 of the Aliens Act, a decision on refusal of entry may
be enforced regardless of appeal, unless otherwise ordered by an administrative court.
However, a decision of the Finnish Immigration Service on refusal of entry concerning an
alien who has applied for a residence permit on the basis of international or temporary
protection may not be enforced until a final decision has been issued on the matter, un-
less otherwise provided in Paragraph 2 or 3. If the matter is subject to a leave to appeal
granted by the Supreme Administrative Court, the appeal does not prevent enforcement
unless otherwise ordered by the Supreme Administrative Court. This provision in Para-
graph 1 concerns refusal of entry decisions made by the Finnish Immigration Service as
part of the standard asylum process. Under Paragraph 2, in cases where the applicant
has cancelled his or her application for international protection, the applicant may be
sent to another State which, under the Council Regulation on determining the State re-
ponsible for examining an asylum application, is responsible for processing the asylum
application, or if the applicant has filed a subsequent application after a previous one
has been rejected, the decision may be enforced after service on the applicant, unless
otherwise ordered by an administrative court. Under Paragraph 3, a decision issued on
refusal of entry concerning an alien who has arrived from a safe country of asylum, or
whose application is considered manifestly unfounded, may be enforced at the earliest
on the eighth day from service of the decision on the applicant, unless otherwise ordered
by an administrative court. Before the enforcement, it must be ensured that the eight-day
period contains at least five working days.

A decree (2020/2011/2149) issued by the National Police Board on 7 July 2011 con-
cerns the division of responsibilities in enforcing decisions on the expulsion of aliens. It
contains procedural instructions for the enforcement of expulsion decisions. According
to the decree, an expulsion decree subject to the requirement of finality may not be en-
forced until the period for applying for leave to appeal from the Supreme Administrative
Court has expired, despite the fact that the provisions of Section 200, Paragraph 1 of
the Aliens Act allow enforcement of the decision before the period for applying for leave
to appeal has expired, if the appellant applies for leave to appeal from the Supreme
Administrative Court and the Supreme Administrative Court does not impose an injunc-
tion against the enforcement of the decision. Concerning the appeal for an injunction
against enforcement, the decree states that the law does not provide for an obligation
to wait for the appeal for an injunction to be processed by the Court. However, the decree
states that if it is known that an appeal for an injunction against enforcement has been
filed, prior to enforcing the expulsion decision the authorities must enquire of the court by
telephone or other means whether the court intends to pass an injunction on the enforce-
ment of the decision. The decree also states that the police must always comply with the
enforcement recommendations issued by the European Court of Human Rights and the
European Committee for the Prevention of Torture.

Prohibition of entry

Under Section 144 of the Aliens Act, prohibition of entry means prohibiting entry into
one or more Schengen States for a fixed term or until further notice. A prohibition of entry
may be imposed on an alien in decisions on refusal of entry or deportation. The prohibi-
tion of entry is imposed if a time period for voluntary return under Section 147, Paragraph
2 has expired, or if the alien has not left the country voluntarily within the specified time,
unless the provisions of Section 146 state otherwise. Prohibition of entry is not imposed
on persons who have previously been granted a residence permit under Section 52a and
subsequently have not been granted a new residence permit, or whose residence permit
has been cancelled, except in cases in which the person has failed to comply with the
requirement to return or poses a threat to public order or security. The prohibition of entry
may be imposed as a separate decision in cases where the alien has not left the country
voluntarily in the allotted period of time.

A prohibition of entry is ordered for a fixed term of a maximum of five years or until
further notice. An alien who has been sentenced for an offence of an aggravated or pro-
fessional nature may be prohibited entry until further notice in cases in which the person
is considered to pose a serious threat to public order or security. A prohibition of entry
is restricted to Finland if the alien has a residence permit in another Schengen State,
and the permit is not cancelled. A prohibition of entry may be revoked on the basis of a
change in circumstances or for important personal reasons.

In accordance with Section 147a of the Aliens Act, an alien arriving at the external bor-
der without a valid legal basis is issued a return decision without the option of voluntary
return. If there are suspicions of forged travel document or other, the case will be subject
to criminal investigation.

81 Section 147 of the Aliens Act concerns the principle of non-refoulement: No one may be refused entry and sent back
or deported to an area where he or she could be subject to the death penalty, torture, persecution or other treatment
violating human dignity, or from where he or she could be sent to such an area. www.finlex.fi
An entry ban will be imposed in accordance with Aliens act Section 150 by a Border Guard officer, the police or the Finnish Migration Service depending on the length of the ban and other circumstances. The maximum period is 5 years but under certain circumstances it can also be until further notice. If the alien has resided in Finland less than three months, the Police and the Border Guard are responsible for imposing the entry ban. The maximum period in these cases is two years. In other cases the Finnish Immigration Service imposes the entry ban which is served along with the decision on removal.

Decisions can be appealed to the Administrative Court. An entry ban imposed by the Border Guard is, however, effective once served and the alien may be removed from the country regardless of appeal unless the Administrative Court orders an injunction on the enforcement of the decision.

Overall consideration

Under Section 146 of the Aliens Act, when considering refusal of entry, deportation or prohibition of entry and the duration of the prohibition of entry, account must be taken of the facts on which the decision is based and the facts and circumstances affecting the matter as a whole. When considering the matter, particular attention must be paid to the best interest of the children and the protection of family life. Other facts to be considered must include the duration and purpose of the alien’s residence in Finland, the nature of the residence permit issued to him or her, the alien’s ties to Finland and the cultural and social ties to the home country of his or her family. Should the refusal of entry, deportation or related prohibition of entry be on the basis of the criminal activity of the alien, account must be taken of the seriousness of the act and the detriment, damage or danger caused to public or private security.

Under Section 5 of the Aliens Act, the application of the Act may not restrict aliens’ rights any more than necessary.

Child’s best interest

In addition to Section 146 of the Aliens Act, the interest of children is covered in Section 6 of the Act on applying the Act to minors. According to Section 6, in any decisions issued under the Act that concern a child under eighteen years of age, special attention shall be paid to the best interest of the child and to circumstances related to the child’s development and health. The Act also states that matters concerning minors must be processed with urgency. The importance of considering a child’s best interest is also noted in Article 3 of the Convention on the Rights of the Child (SopS 60/1991), which states that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

The preamble to the government proposal on the Aliens Act (HE 28/2003 vp) and the Administration Committee consultation document (HaVM 4/2004 vp) refer to the interest of the child and the obligation to hear children in cases concerning them. The interest of the child must be considered comprehensively, taking into account the child’s individual needs, wishes and opinions. It should be noted that the interest of a child is always an individual consideration related to the child’s situation at the time. It must also be determined whether the child’s interest is different from the guardian’s interest.

If an asylum seeker who enters the country as an unaccompanied minor does not meet the requirements referred to in the Aliens Act for being granted a residence permit, the child may only be returned to his or her country of origin if appropriate reception in that country can be ensured. This helps protect the continuity of protection and care essential to the child’s welfare. In evaluating the appropriateness of reception in the country of origin, the receiving party may be the child’s parents or other de facto guardian such as a relative. The conditions for a child’s return are assessed as part of the asylum process. When preparing the enforcement of the decision on refusal of entry, the authority responsible for enforcement must, under the Act on the Integration of Immigrants and Reception of Asylum Seekers (9.4.1999/493, hereinafter referred to as the Integration Act), communicate with the representative appointed for the child and the personnel at the group home responsible for the child’s accommodation. The enforcement process must take into account the child’s best interest, the child’s age and the possibility of having the child’s support person, such as a dedicated caregiver, counsellor or other social worker, present.

The Helsinki Regional Office of IOM, the International Organisation for Migration, assists unaccompanied underage asylum seekers in their voluntary return to the country of origin. However, the IOM is not able to provide assistance in all cases of voluntary return of asylum seekers who are unaccompanied minors. As a result, the organisation has stated that there should be a special return programme for minors, taking into consideration their special needs and the circumstances in their countries of origin.

The reception of asylum seekers, including unaccompanied minors, is regulated by the Integration Act. According to the Act, the reception of asylum seekers and beneficiaries of temporary protection means the provision of support and care at a reception centre or organising centre. Reception of asylum seekers covers persons who have applied for asylum in Finland until they have been granted a residence permit or have left the country.

The asylum and reception process guarantees certain special rights and advantages to asylum seekers who are unaccompanied minors. Under the Integration Act and the Child Welfare Act, asylum seekers who are unaccompanied minors are offered accommodation, education and care as well as other social and health services, interpretation services and recreational services. Services under the Child Welfare Act are always determined individually and based on a comprehensive assessment of the child’s best interest and the need for child protection. Social and health services offered to minors as asylum seekers are significantly more extensive than those offered to adult asylum seekers. In addition, the Integration Act stipulates that a representative may be appointed for a child applying for asylum who is in Finland without a guardian or other legal representative. The representative exercises a guardian’s right to be heard in matters pertaining to the child’s person as specified in other legislation. The Integration Act also states that, in the exercise of his or her duties, the representative must protect the child’s interests,
taking the child’s ethnic, linguistic, religious and educational background into account. Before making a decision in a matter pertaining to the child’s person or assets, the representative shall discuss the matter with the child, if this is possible in view of the child’s age and developmental level and the nature of the matter. When making decisions, the representative shall take the child’s opinions and wishes into account.

On 13 October 2009, the Ministry of the Interior established a project to prepare the Act on the Reception of Asylum Seekers. The aim of the project is to revise the legal provisions concerning the reception of asylum seekers into a separate Act. The necessary amendments concerning the treatment of detained aliens and detention units will also be made in conjunction with this. The project will propose a stronger child welfare perspective to the reception of asylum seekers who are unaccompanied minors. In the future, it is likely that transferring the responsibility for the reception of asylum seekers who are unaccompanied minors from the Ministry of the Interior’s branch of administration to the Ministry of Social Affairs and Health, under child protection, will also be discussed.

Detention for the purpose of removal
Chapter 7 of the Aliens Act covers security measures, including detention. The requirements for holding an alien in detention are specified in Section 121 of the Act. Instead of other, more lenient security measures, an alien may be ordered to be held in detention if, taking account of the alien’s personal and other circumstances, there are reasonable grounds to believe that the alien will prevent or considerably hinder the accomplishment of the decision concerning him or her or the enforcement of a decision on removing him or her from the country by hiding or in some other way. Before a person under 18 years of age is placed in detention, the representative of social welfare authorities must be heard.

The decision on holding an alien in detention is made by a police or Border Guard officer. A detained alien must, as soon as possible, be placed in a detention unit referred to in the Act on the Treatment of Aliens Placed in Detention and on Detention Units. A detained alien may be exceptionally placed in police detention facilities if the detention units are temporarily full or if the alien is being held in detention a long way from the nearest detention unit, in which case the detention in police detention may last for a maximum of four days. A person under 18 years of age may be placed in police and Border Guard detention facilities only if his or her parent or guardian or other adult member of his or her family is also held in detention in police or Border Guard detention facilities. The provisions of the Act on the Treatment of Persons in Police Detention (841/2006) apply to aliens placed in police or Border Guard detention facilities, taking account of the grounds for detaining a person. The provisions on appeal in Chapter 5 of the Act on the Treatment of Aliens Placed in Detention and on Detention Units apply, however, to the alien’s right of appeal.

Sections 124–129 of the Aliens Act concern the court proceedings related to detention. The District Court must be notified of the detention without delay and no later than the day after the one on which the alien is placed in detention. The District Court must hear a matter concerning the detention of an alien without delay. Hearings must always be repeated at intervals no longer than two weeks unless the detained alien has been ordered to be released.

The purpose of the Act on the Treatment of Aliens Placed in Detention and Detention Units is to provide for the treatment of aliens detained on the basis of Section 121 of the Aliens Act in detention units specifically reserved for that purpose. The operations of detention units are also governed by the provisions contained in the Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) regarding the reception of asylum seekers, where applicable. The Act includes provisions on the treatment of aliens held in detention, arrangements related to subsistence and care as well as restrictions, inspections and appeals.

In practice, the majority of detention cases in Finland are related to ensuring the enforcement of deportation decisions. Some of the cases involve persons removed from the country on the basis of crime, which may provide for added grounds for detention due to there being reason to suspect that the alien may commit a crime in Finland. In 2009, there were a total of 1249 cases of detention on the basis of the Aliens Act in Finland. The majority of the cases are overnight detentions or detentions for a period of one day. However, in cases where the alien has been moved to the Metsälä detention unit in Helsinki, the average duration is 28 days. District Courts have generally considered detentions in excess of four months as highly exceptional and requiring special grounds.10

Legal praxis
The Supreme Court of Finland has thus far handed down only one precedent concerning the arranging of illegal entry into the country. Precedent 2010/81 handed down by the Supreme Court on 1 February 2010 stated that bringing a visa-carrying foreign national into Finland did not meet the statutory definition of the arrangement of illegal immigration in Chapter 17, Section 8, Paragraph 1, Subparagraph 1, despite the fact that untruthful information had been provided regarding

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10 In its judgment in the case of Said Shamilovich Kadzoev, C-357/09, the Court of Justice of the European Communities provided the following guidelines on the application of the Return Directive: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62009D0357:FIN:HTML

1 Article 15(5) and (6) of Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals, issued on 16 December 2008, must be interpreted as meaning that the maximum duration of detention laid down in those provisions must include a period of detention completed in connection with a removal procedure commenced before the rules in that directive become applicable.

2 A period during which a person has been held in a detention centre on the basis of a decision taken pursuant to the provisions of national and Community law concerning asylum seekers may not be regarded as detention for the purpose of removal within the meaning of Article 15 of the Directive.

3 Article 15(5) and (6) of Directive 2008/115 must be interpreted as meaning that the period during which execution of the decree of deportation was suspended because of a judicial review procedure brought against that decree by the person concerned is to be taken into account in calculating the period of detention for the purpose of removal, where the person concerned continued to be held in a detention facility during that procedure.

4 Article 15(4) of Directive 2008/115 must be interpreted as not being applicable where the possibilities of extending the periods of detention provided for in Article 15(6) of Directive 2008/115 have been exhausted at the time a judicial review of the detention of the person concerned is conducted.

5 Article 15(4) of Directive 2008/115 must be interpreted as meaning that only a real prospect that removal can be carried out successfully, having regard to the periods laid down in Article 15(5) and (6), corresponds to a reasonable prospect of removal, and that that reasonable prospect does not exist where it appears unlikely that the person concerned will be admitted to a third country, having regard to those periods.

6 Article 15(4) and (6) of Directive 2008/115 on common standards and procedures in Member States for returning illegally staying third-country nationals must be interpreted as not allowing, where the maximum period of detention laid down by that directive has expired, the person concerned to be released immediately on the grounds that he is not in possession of valid documents, his conduct is aggressive, he has no means of supporting himself and no accommodation or means supplied by the Member State for that purpose.

ing the purpose of the trip at the time of applying for the visa. The public prosecutor had sought a sentence against Nana K for the arrangement of illegal immigration after the accused had brought three Russian Federation nationals under 18 years of age to Finland without the appropriate visa required for entry. Visas had been acquired for the three minors from the Finnish Embassy in Moscow for the purpose of participating in a youth ski camp in Saariselkä on 30 October - 10 November 2007. However, the three minors had no actual intention of participating in a ski camp, but instead intended to move on to Norway or Germany through Sweden and Finland. Nana K had escorted the three minors on a train from Moscow to Helsinki, aware of the fact that their visas had been granted under false pretences. Nana K had also received monetary compensation for escorting the minors and deceived the Border Guard officer at the Finnish-Russian border by stating that she was going to Saariselkä with them. At Helsinki Railway Station, Nana K had passed the minors on to Azman A, who was to take them to Kataja-nokka Harbour in Helsinki to board a cruise ferry to Sweden. Like Nana K, Azman A was aware that the minors had obtained their visas under false pretences and of their actual purpose for entering the country. The prosecutor sought a sentence against Azman A for the arrangement of illegal immigration.

In its statement of the reasons for the decision, the Supreme Court noted that the legal provision concerning the arrangement of illegal immigration was originally written into law through an amendment of Section 64 b of the Aliens Act (639/1993). The provision was moved to Chapter 17, Section 8 of the Penal Code of Finland in conjunction with the general reform of the Penal Code. Neither the original drafting of the legal provision nor the preparations for moving it to the Penal Code specify what is meant by a valid passport, visa or residence permit (italics: R.A.) in the legal provision in question. When Chapter 17, Paragraph 8 entered into force on 1 August 2004 (650/2004), the government proposal that led to the adoption of the law (HE34/2004 vp, p. 43–46 and p. 74) stated that a valid passport, visa or residence permit refers to documents required for entry into Finland (italics: R.A.). The Supreme Court based its interpretation on Section 11, Paragraph 1, Subparagraph 2 of the Aliens Act, which states that aliens may enter Finland if they hold a required valid visa, unless otherwise provided by European Community law or any agreement binding on Finland. Section 18 of the Aliens Act contains provisions on abolishing visas and visa requirements, while Section 20 covers the different types of Schengen visas. On the basis of these provisions, a visa required for entry refers to a valid visa of the required type being held by the person entering the country (italics: R.A.). Based on the aforementioned legal provisions, the Supreme Court’s judgment was that an alien must be considered to be holding a visa required for entry into the country, as referred to in Chapter 8, Paragraph 1, Subparagraph 1 of the Penal Code of Finland if the alien has a valid visa of the required type, even if false information regarding the purpose of the trip had been provided at the time of applying for the visa. Entering the country on a visa granted under such circumstances is not in breach of the legal provisions concerning entry into the country and, as a result, assisting aliens in entering the country under such circumstances is not a punishable offence.

The Supreme Court’s decision was that Nana K and Azman A were not guilty of the arrangement of illegal immigration.72

Supreme Administrative Court 14 October 2010 3086/1/09: on the meaning of illegal immigration in the context of the asylum process

The Supreme Administrative Court’s decision handed down on 14 October 2010 addressed the influence of the detection of illegal entry and recording of personal information in another Schengen State on whether an asylum application in Finland should be handled through the asylum process for minors.

In the case concerned, A had applied for asylum in Finland as a minor. Prior to entering Finland, A had been registered in Greece as an adult in conjunction with illegal entry. Under Article 6 of the EC Regulation on determining the Member State responsible for examining an asylum application, where the applicant for asylum is an unaccompanied minor who does not have a family member legally present in a Member State, the Member State responsible for examining the application is the one in which the minor has lodged his or her application for asylum. As A had not applied for asylum in Greece according to the documentation, but rather had done so in Finland, he could not be considered an adult at the time of applying for asylum in Finland simply on the basis of having previously been registered as an adult in Greece. As such, the Court stated that in A’s case all available methods and examinations must be used to determine responsibility under the EC Regulation.

Supreme Administrative Court 9 October 2009 1878/1/08: The anchor child phenomenon

The parents of A, a minor, had sent the unaccompanied child to Finland as an asylum seeker with the intention to have the child subsequently obtain a residence permit for himself and the rest of his family. A was granted a residence permit on individual human grounds. According to the Court, the family reunification request subsequently filed by A was subject to Section 36, Paragraph 2 of the Aliens Act on the evasion of provisions on entry into or residence in the country. The refusal of the residence permit on those grounds was valid.

Supreme Administrative Court 9 October 2009 2291/1/08: Providing false or inaccurate information when applying for a residence permit

A had been granted his first residence permit to Finland on the grounds of family ties. At the time, he was reported to be the sponsor’s unmarried brother. In the family reunification interview, A had failed to mention the fact that he was married and that his spouse had a child, which could have influenced the decision to grant a residence permit.

A subsequently applied for residence permits on the grounds of family ties on behalf of his spouse, three children and his spouse’s sister’s underaged son, who were all residing in another country. The matter was subject to Section 47, Paragraph 5 of the Aliens Act, which concerns cases in which the family tie that was the basis for issuing the permit is broken. Also relevant in the matter was the requirement of having secure means of support, and exemptions from that requirement, stated in the same provision of the Aliens Act.

72 For more, see Matti Tolvanen: oikeustapauskomentaari, Lakimies 2010/4, p. 672.
Helsinki Court of Appeal 23 September 2011: Entering Finland using a falsified Bulgarian passport not a punishable act

An asylum seeker who had entered Finland on a falsified Bulgarian passport could not, according to the Helsinki Court of Appeal, be sentenced for forgery. According to the Court of Appeal, Article 31 of the Convention relating to the Status of Refugees protects the accused from sentencing due to the fact that he had presented himself without delay to the Finnish authorities at Helsinki-Vantaa Airport to apply for asylum. The asylum seeker entered the country from Turkey through Ukraine in September 2009 using a passport and airline ticket purchased from a smuggler. Vantaa District Court had found in February 2010 that the act was justified and not subject to punishment.

Prior reporting of false information in the application process as grounds for refusing a subsequent residence permit application

In its decisions, the Finnish Immigration Service has considered prior refusal of a residence permit due to the provision of false information in the application process as grounds for refusing a new residence permit with the same contents, even though the documents enclosed with the subsequent application are not falsified. The Administrative Courts have confirmed the Finnish Immigration Service’s interpretation. In decision 06294/10/3102, Helsinki Administrative Court found that the Finnish Immigration Service was legally entitled to reject a student’s residence permit application due to the applicant having presented a falsified bank statement with a previous application and the fact that the new application did not suggest that his income in Finland could be considered secure.

Criminalisation of phenomena related to illegal immigration

Violation of the Aliens Act

Section 185 of the Aliens Act covers violation of the Aliens Act. According to Section 185, an alien who deliberately resides in the country without the required travel document, visa or residence permit, or through negligence fails to comply with the obligation to register his or her residence or apply for a residence card or permanent residence card, shall be sentenced to a fine for a violation of the Aliens Act. An alien who deliberately, without right to gainful employment, is gainfully employed or pursues a trade, or deliberately fails to comply with the obligation to report under Section 118, another obligation under Section 119, or a request under Section 130 to appear before the authorities to submit information on his or her residence or employment, is in violation of the Aliens Act. Furthermore, an alien who deliberately enters the country despite a prohibition of entry on grounds of public order, security or health, is in violation of the Aliens Act.

Arrangement of illegal immigration

Chapter 17, Section 8, Paragraph 1 of the Penal Code of Finland states that a person who brings or attempts to bring to Finland a foreigner without a valid passport, visa or residence permit shall be sentenced for arrangement of illegal immigration to a fine or to imprisonment for up to two years.

Aggravated arrangement of illegal immigration

According to Chapter 17, Section 8a of the Penal Code, if the arrangement of illegal immigration deliberately or through gross negligence causes another person grievous bodily harm, serious illness, a life-threatening situation or comparable severe suffering, or if the crime has been committed as part of the operations of an organised crime group and the crime is aggravated also when assessed as a whole, the offender must be sentenced for aggravated arrangement of illegal immigration to imprisonment for at least four months and up to six years.

Work permit offence

Under Chapter 47, Section 6a of the Penal Code of Finland, an employer of a representative thereof who hires or employs a foreigner not in possession with the requisite work permit shall be sentenced for a work permit offence to a fine or to imprisonment for up to one year.

A sentence for a work permit offence shall also be passed on a principal or a representative thereof who fails to make sure that the foreigners working for the foreign contractor, subcontractor or workforce rental agency hired by it have the requisite work permit.

Employer’s violation of the Aliens Act

According to Section 186, Paragraph 1 of the Aliens Act, an employer or his or her representative who deliberately or through negligence employs an alien who does not have the right to gainful employment, deliberately or through gross negligence gives false or misleading information to the authorities on the alien’s terms of employment or duties and the requirements of these duties, or deliberately or through gross negligence fails to fulfil the obligation provided in Section 73 (3) shall be sentenced for employer’s violation of the Aliens Act to a fine, unless a more severe punishment for the act is provided elsewhere in the law.

Border offence

Under Chapter 17, Section 7, Paragraph 1 of the Penal Code of Finland, a person who crosses the border of Finland without a valid passport or other travel documents, or otherwise than from a legal point of departure or to a legal point of arrival, or contrary to a statutory prohibition, or attempts the same, otherwise breaches the provisions on border crossing, or without permission stays, moves or undertakes prohibited measures in the border zone, as referred in the Border Zone Act (403/1947), shall be sentenced for a border offence to a fine or to imprisonment for up to one year.
According to Paragraph 2 of Section 7, a sentence for a border offence shall not be passed on a foreigner who is refused entry or deported because of an act referred to in Paragraph 1, nor on a foreigner who, as a refugee, seeks asylum or a residence permit in Finland. A sentence for a border offence shall also not be passed on a foreigner who is in violation of Paragraph 1 due to being a victim of trafficking in human beings.

Forgery offences

Under Chapter 33, Section 1 of the Penal Code, a person who prepares a false document or other item or falsifies such a document or item in order for it to be used as misleading evidence or uses a false or falsified item as misleading evidence shall be sentenced for forgery to a fine or imprisonment for up to two years. An attempt is punishable.

If, in the forgery, the item that is the object of the offence is an archival document stored by an authority or a general register kept by an authority and such a document or register is important from a general point of view, or the item otherwise has a particularly significant probative value, or the offender uses technical equipment procured for the commission of forgery offences or otherwise acts in a particularly methodical manner and the forgery is aggravated also when assessed as a whole, the offender shall be sentenced for aggravated forgery to imprisonment for at least four months and up to four years under Section 2 of the same Chapter. An attempt is punishable.

If the forgery, when assessed as a whole, with due consideration to the nature of the item or to the other circumstances connected with the offence, is to be deemed petty, the offender shall be sentenced under Section 3 of the same Chapter for petty forgery to a fine.

Under Section 4 of the same Chapter, a person who without acceptable reason receives, procures, transports or possesses a false or falsified piece of evidence, or prepares, receives, procures, sells, transfers or possesses an item or a device that can justifiably be suspected of being primarily used in the commission of forgery offences shall be sentenced for possession of forgery materials to a fine or to imprisonment for up to six months.

Offences against the public authorities

Chapter 16 of the Penal Code of Finland contains provisions on offences against the public authorities.

Recent changes to your policy and legislation

The Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) was replaced on 1 September 2011 with the Act on Promoting the Integration of Immigrants (1386/2010) and the Act on the Reception of Persons Seeking International Protection (746/2011). The reform aims to clarify the legislation concerning integration, the reception of persons seeking international protection and assisting victims of trafficking in human beings.

Other legislation related to irregular migration

Right to basic education

Pursuant to Section 25 of the Basic Education Act (1288/1999), children permanently residing in Finland must attend compulsory schooling. Under Section 4 of the Act, the local authority has the obligation to arrange basic education for children of compulsory school age residing in its area. Some local authorities have interpreted this as the municipalities not having the obligation to arrange basic education or pre-primary education for children who are asylum seekers, as they are not permanently residing in Finland until they are granted a residence permit.

According to Section 16 of the Constitution of Finland, everyone has the right to basic education free of charge. The Constitution does not restrict the right to basic education on the basis of nationality, permanent residence or such factors. According to the Ombudsman for Minorities (3369/665/2002), the basic rights do not apply to Finnish nationals alone, but to all persons within the Finnish legal system. The Ombudsman for Minorities states that children who are asylum seekers are covered by the Basic Education Act as ‘residents of the area’ and, as such, have the right to basic education. Further, the Ombudsman states that children who have been granted a residence permit and placed in a municipality are covered by both the right to basic education and the legislation on compulsory education.

Right to public health services

Pursuant to Section 19 of the Constitution of Finland, the public authorities must guarantee for everyone, as provided in more detail by an Act, adequate social, health and medical services and promote the health of the population. Everyone residing in Finland permanently has the right to use municipal health services. Health services arranged by local governments include, inter alia, health centre services, special medical care (hospitals), health education, child health clinics for expectant parents and newborn children, school health care for pupils, occupational health care for workers, student health care, dental health care, mental health services, rehabilitation and environmental health care (Health Care Act 1326/2010). Persons residing in the country without authorisation are offered acute health care, the costs of which are covered by the municipality concerned. Persons residing in the country without authorisation can also receive basic health care services from Global Clinic, a volunteer service that accepts anonymous patients. The Deaconess Institute supports the clinic’s operation but does not organise it.

Legal aid

Under Section 9, Paragraph 1 of the Aliens act, a person seeking international protection has the right to receive legal aid as laid down in the Legal Aid Act. According to Section 2, Paragraph 1 of the Legal Aid Act, legal aid shall be given to persons resident in Finland, as well as to citizens of a Member State of the European Union or the European Economic Area who are working or seeking work in Finland. According to Paragraph 2 of the same Section, legal aid shall also be given irrespective of the aforementioned criteria

if the person has a matter to be heard by a Finnish court of law or if there is otherwise a special reason for legal aid to be given. The preamble to Paragraph 2 states that such special reasons can include circumstances under which an alien who does not meet the requirements set forth in Paragraph 1, but nevertheless resides in Finland, requires legal advice or other legal aid in a matter related to his or her residence in Finland.

On the basis of the above, a person seeking international protection may be granted legal aid as referred to in the Legal Aid Act in the administrative proceedings stage of an application for international protection. In practice, this option has rarely been exercised. Other than that, the number of cases involving foreign nationals handled by Legal Aid Offices is increasing. Applications for legal aid are filed with the Public Legal Aid Office, which decides on the granting of legal aid. Pursuant to Section 8 of the Legal Aid Act, legal aid shall be given by public legal aid attorneys. Private attorneys may only provide legal aid as referred to in the Legal Aid Act in matters to be heard by a court of law and in situations referred to in Section 10 of the Act on State Legal Aid Offices (258/2002). For instance, in matters handled through administrative proceedings,

legal aid is provided by a public legal aid attorney instead of a private attorney. However, under the special provision contained in Section 9, Paragraph 2 of the Aliens Act, when an application is handled the counsel assigned to an alien may also be a person with legal training other than a public legal aid attorney, despite the fact that the Legal Aid Act indicates that a private attorney cannot be used in handling an administrative matter.

Under the Legal Aid Act, the provision of legal aid is linked to the need for legal assistance and the financial position of the person needing assistance. According to Section 1 of the Act, legal aid is given at the expense of the state to a person who needs expert assistance in a legal matter and who for lack of means cannot self-pay the expenses of having the matter dealt with. The key question in applying the Legal Aid Act is whether the applicant is able to appropriately protect his or her interest in a legal matter without a public legal aid attorney. In legal matters other than administrative proceedings, such as an extensive dispute handled by an ordinary court, the need for legal aid is obvious. If the legal matter is such that the person is able to handle the matter himself or herself, legal aid is not granted.

Legal aid is granted, for free or against a deductible, on the basis of the applicant’s income, necessary expenses, wealth and maintenance liability. If the applicant has the available means to cover the costs of handling a legal matter, legal aid is not granted.

The fees and expenses of legal aid attorneys used in the handling of appeals related to Finnish Immigration Service decisions in a court of law are covered pursuant to the Legal Aid Act. Under Section 9, Paragraph 3 of the Aliens Act, when handling a matter referred to in the Aliens Act a court may grant legal aid to an alien without requiring a statement on the financial position of the applicant for legal aid. However, it seems that this option is rarely exercised. The maximum number of hours of legal aid granted for appeal cases is generally 60–80 hours. The decision on the appropriate number of hours of legal aid and amount of expenses covered by legal aid is made by the court. In the case of persons seeking international protection, the decision is made by the Helsinki Administrative Court, which handles appeals filed by persons seeking international protection.

Reception centres also provide information and general legal assistance to applicants. This general legal assistance does not extend to assisting the applicant personally in their case, but rather is limited to the provision of general information on the asylum process. The general legal assistance covers, among other things, the applicant’s right to use counsel, the requirements of confidentiality concerning various actors involved, the phases of the asylum process and what the applicant should do. The provision of general assistance can also result in a principal-contractor relationship between the counsel and the applicant.

The Asylum Seeker’s Legal Info project underway at the Oulu reception centre, partly funded by the European Refugee Fund (ERF), is an effort to develop the legal assistance provided to persons seeking international protection. The objective of the project is to produce material (including a DVD) for use by reception centres and other authorities to make the provision of legal assistance more consistent and to have the legal assistance and legal aid provided to persons seeking international protection better take into consideration applicants in vulnerable positions, such as illiterate persons and victims of human trafficking.

According to information provided by the Finnish Refugee Advice Centre, in 2010 they arranged group information events twice a month at three reception centres and 1-2 times a month at two other reception centres. Once a week, the Finnish Refugee Advice Centre offers a half-hour initial information meeting at the Metsäälä Detention Unit for detained applicants who do not have personal counsel. The Finnish Refugee Advice Centre charges an hourly rate, currently EUR 96 per hour, for the service. Applicants attending the group information sessions also have the opportunity to reserve a personal appointment with a counsel.

2.2 Institutional framework

The main authorities in preventing irregular migration are the Ministry of the Interior, the Finnish Immigration Service, the Border Guard, the police, and the Ministry for Foreign Affairs and its representations abroad. In practice, prevention of irregular migration is managed according to the cross-sectoral action plan published in spring 2010. This action plan contains some 30 measures assigned to various authorities and implemented in accordance with the European unified border security model on all its four levels: measures in third countries of origin or transit, cooperation with neighbouring countries, border control at the external borders, control measures within the common area of free movement. Implementation focuses on cooperation between authorities and is monitored through a joint official monitoring mechanism.

The action plan against irregular migration for 2010–2011 has been confirmed. Its main points are an emphasis on front-loaded activities in preventing irregular migration and on developing and enhancing monitoring of aliens within the country.

• The Ministry for Foreign Affairs is the central authority responsible for Schengen visa matters. The foreign representations of Finland and other Schengen States carry out the prevention of irregular migration and human trafficking from third countries whose citizens require a visa to enter the Schengen area.

• The Finnish Border Guard is responsible for border control, participates in the monitoring of aliens and combats cross-border crime. Border control compris-
es not only checks on persons at border crossing points and surveillance between these border crossing points, but also an analysis of the risks for internal security and analysis of the threats that may affect the security of external borders. Fighting cross-border crime is one of the core functions of the Finnish Border Guard. The most grievous forms of cross-border crime include smuggling and trafficking in human beings and the arrangement of illegal immigration.

The Finnish Border Guard is authorised to carry out pretrial investigations if there is reason to believe that a suspected crime falls within the scope of the Border Guard’s investigative authorisation. In addition to the aforementioned forms of cross-border crime, the Finnish Border Guard investigates border offences, driving road or sea vehicles under the influence of intoxicants, forgeries, fishing and hunting offences and environmental offences.

- The Finnish Customs is responsible for monitoring goods traffic, carrying out separately defined border control activities and fighting customs crime as well as threats to health and security posed by international supply chains. The Customs carries out passport inspections on fishing and cargo vessels at ports as well as passport inspections on airborne vessels at airports determined by the Ministry of the Interior. The Customs also grants transit visas for seamen’s journeys home.

- The Finnish Police is the general authority charged with maintaining public order and security as well as preventing and investigating crimes. In addition, the Police carries out other assigned tasks such as monitoring compliance with the Aliens Act and related regulations. The Police also acts as an authority in matters related to alien’s permits and carries out separately assigned border inspections. Monitoring aliens within Finland is primarily the responsibility of the Police.

- The Ministry of Transport and Communications is, in cooperation with the Russian authorities, responsible for developing cross-border traffic arrangements.

- The Border Guard and the Customs are responsible for the fluidity of cross-border traffic and they participate in developing cross-border traffic arrangements.

- The Ministry of the Interior’s Migration Department plays a key role in combating illegal migration by preparing policy and legislation on illegal migration and human trafficking according to its political guidance. The Migration Department also carries out key tasks related to bilateral, international and EU cooperation related to illegal migration and trafficking in human beings.

- The Finnish Immigration Service is responsible for decision-making on immigration, international protection and citizenship. It also participates in monitoring aliens within the country and also makes decisions on matters related to deportations and prohibition of entry.

- Reception centres in Joutseno and Oulu coordinate the operation of the system for assisting victims of human trafficking.

- Metsälä Detention Unit is responsible for the detention of persons to be deported. (Persons to be deported may be detained in police facilities under special circumstances).

- Occupational safety and health authorities monitor foreign nationals’ work permits and maintain information related to employment.

- EU bodies such as Europol and Frontex participate in the monitoring of phenomena related to illegal migration and supporting related research.

3. PRACTICAL MEASURES TO REDUCE IRREGULAR MIGRATION

3.1 Pre-entry measures to identify irregular migration

Tackling irregular migration in conjunction with granting visas

A visa is an entry permit to the country for a short-term and temporary residence that lasts for a maximum of three months. Finland applies the Schengen Convention to visas. Together with other countries that have signed the Schengen Convention, Finland has decided which countries’ citizens can enter Finland and other Schengen countries without a visa, and which countries’ citizens need a visa. Those who do not need a visa when coming to Finland include citizens of EU member states, citizens of the Nordic countries and citizens of countries on the list of visa-free states, providing they possess other valid travel documents. Depending on the purpose of use, the visa can be either a single-entry, multiple-entry, re-entry, transit or airport transit visa. The main travel destination determines where a visa must be applied for. If the main travel destination in the Schengen area is Finland, the visa is applied for at a Finnish diplomatic mission abroad.

When processing visa applications, the authorities consider whether the applicant will leave the Schengen area before the expiration of the visa. The risk of a person’s illegal entry is assessed by reviewing ties with the home country (family, work, home), for instance. In addition, a visa applicant may be requested to present a ticket entitling him or her to a return journey as a requirement for being granted a visa.

Information on visa applications is entered into the Suvi visa system that contains not only visa application data but also direct, automatic connections to several official registers. If the visa applicant has committed a crime during a previous visit to Finland, the processor of the visa application will see this in the system. The visa application may also be sent to Finland to the Ministry of Foreign Affairs and/or the Finnish Security Intelligence Service for a statement, if necessary. The authenticity of the supporting documents is also verified as part of the processing of visa applications. Diplomatic mission personnel who handle visa applications are provided with training on the inspection of documents by the National Bureau of Investigation and the Finnish Border Guard. Furthermore, any suspicious documents can be submitted for inspection by a Police or Border Guard liaison officer working at the diplomatic mission, if such an officer exists.

The diplomatic mission can invite the applicant to a personal interview in order to determine the purpose of the journey. However, not all applicants are interviewed: the interviewees are determined by profiling them on the basis of their applications. For instance, persons applying for a visa for the first time or applicants from a region with a high risk of illegal entry are most likely to be interviewed.

Once a person has arrived in the Schengen area, violations of visa regulations are detected either at the border when the person tries to leave the country or in the country in connection with the Police’s inspection or supervision. At the external border, when a person is leaving the country, the Finnish Border Guard may examine whether the per-

76 The decision about whether a return ticket is required is usually made through local Schengen cooperation so in this aspect, the practices in different diplomatic missions vary.

77 The Ministry for Foreign Affairs’ Unit for Passports and Visas, 19 May 2011

78 The Ministry for Foreign Affairs’ Unit for Passports and Visas, 30 March 2011
son has indeed been in Finland for the purpose that they declared when applying for the visa. Any unclear issues related to the purpose of residence in the country may affect the issuance of subsequent visas. At present, exceeding the period of validity of a visa cannot be monitored. If a person enters Finland with a Schengen visa issued by Finland but leaves the Schengen area across another external border, the Finnish authorities do not receive any information about the departure.

In certain diplomatic missions, there are immigration specialists whose main task is to prevent illegal entry to the Schengen area. These immigration specialists are liaison officers sent by the Finnish Border Guard, the police and the Finnish Immigration Service. Immigration Liaison Officers, jointly used by various authorities and funded by aid from the European External Borders Fund, work in Addis Ababa and New Delhi. Liaison officers of the liaison officer network of the Finnish Border Guard work in St. Petersburg, Moscow, Petrozavodsk, Beijing, Tallinn and Riga.

In addition, a temporary liaison officer of the Finnish Border Guard works for part of the year in Abuja, Nigeria. The liaison officer operations of the Finnish Border Guard aim to support national crime prevention. The role of these liaison officers is to facilitate the prevention and suppression of irregular migration, the return of irregular migrants and the management of legal migration. The liaison officers provide support for the processing of visa and residence permit applications, inspect suspicious travel documents and other related documents as well as train and support the site employees in investigating the authenticity of travel documents. At the same time, the Finnish Border Guard liaison officers cooperate closely with the Police and Customs liaison officers assigned to Finnish diplomatic missions. On 1 July 2011, a representative of the Finnish Border Guard will travel to the Embassy of Finland in Delhi for a 6-month secondment and, at the same time, an adviser of the Immigration Unit of the Finnish Immigration Service will also travel there for a 1-month secondment to learn how to investigate the authenticity of documents.

The Police’s liaison officer operations are coordinated by the National Bureau of Investigation. In addition to taking care of various tasks related to international crime, the police liaison officers also help diplomatic missions in issues related to the prevention of illegal entry. The police liaison officers participate in the processing of visa applications, if necessary: they can help in the inspection of documents or take part in visa interviews. Visa refusals usually circulate through the Police if the reason for refusing a visa is the purpose of residence. Pursuant to Section 36 of the Aliens Act, a residence permit may not be granted to a person if, inter alia, a person has applied for a residence permit with a purpose other than that of normal family life. From the perspective of migration law, a marriage of convenience is one that is concluded on a formally lawful basis, but with a purpose other than that of normal family life. From the perspective of migration law, a marriage of convenience is one that is concluded with the sole aim of obtaining a residence permit or circumventing the rules on entry.

In making its decisions, the Finnish Immigration Service takes into account the following factors listed by the European Council as providing grounds for believing that a marriage has been concluded with the sole aim of obtaining a residence permit or circumventing the rules on entry:

- the spouses have not previously cohabited
- the lack of an appropriate contribution to the responsibilities arising from the marriage
- the spouses have never met before their marriage
- the spouses are inconsistent about their respective personal details, about the circumstances of their first meeting, or about other important personal information concerning them
- the spouses do not speak a language understood by both
- a sum of money has been handed over in order for the marriage to be contracted (with the exception of money given in the form of a dowry in the case of nationals of countries where the provision of a dowry is common practice)
- the past history of one or both of the spouses contains evidence of previous marriages of convenience or residence anomalies

When a marriage is suspected of being one of convenience, the Finnish Immigration Service and the Police as the authorities responsible for residence permits may decide to refuse residence. Pursuant to Section 36 of the Aliens Act, a residence permit may be refused if there are reasonable grounds to suspect that the alien intends to evade the provisions on entry into or residence in the country. A residence permit on the basis of family ties may be refused if there are reasonable grounds to suspect that the sponsor has obtained his or her residence permit by circumventing the rules on entry or residence by providing false information regarding his or her identity or family relation-ships.

On the basis of the Finnish Immigration Service’s previous practice, the most common reasons for refusing residence permit applications based on marriage have been:

- the lack of cohabitation and/or the provision of conflicting information. The lack of a common language has also been a frequent factor, particularly in the context of residence permits based on family ties applied for as part of the asylum process. Cases involving records of prior marriages of convenience have been rare, but the applicant’s own application history has often been considered an indicator of whether a marriage is one of convenience. This refers to cases where the applicant has a history of multiple attempts to obtain a Finnish residence permit, often with on varying grounds.

Marriages of convenience and their identification (pre-entry and stay)81

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81 Investigation to identify marriages of convenience may take place either prior to entry or during stay, as residence permit applications on the grounds of family ties to a foreign national residing in Finland or a Finnish citizen may, on certain conditions, also be filed within the country.
82 Council Resolution of 4 December 1997 on measures to be adopted on the combating of marriages of convenience (97/C/382/01 4.2.1997)
83 Aliens Act 301/2004 www.finlex.fi
On the basis of the Finnish Immigration Service’s previous practice, the persons involved typically meet online or through mutual friends, with the spouse residing in Finland subsequently travelling to the applicant’s home country to meet and possibly marry the applicant. The persons often get married during the first trip or on a subsequent trip, after which they apply for a Finnish residence permit for the applicant. Several refused applications involved a first meeting on a holiday trip and marriage within a short period of time of the first meeting.

Identifying marriages of convenience and the mechanisms behind them is an important aspect of combating irregular migration. As professional criminal activity related to the arrangement of marriages of convenience is increasing, more attention should be paid in the future to the links between marriages of convenience and organised crime. Marriages of convenience often involve bigamy and operations by facilitators. Understanding the modi operandi and organisations behind them would provide increased information on marriages of convenience and the arrangement of illegal immigration. An examination of the trends in cases of marriages of convenience by nationality in 2009–2010 reveals that the largest groups of nationalities where marriages of convenience have been identified are Somalis, Vietnamese and Nigerians. Somali and Vietnamese nationals have also represented large shares in the past, while the proportion of Nigerians has increased from a few isolated cases to over 10% of all cases of marriages of convenience.

Identifying other cases of irregularities related to family ties

The strategy employed in cases of irregularities related to family unification processes is primarily as follows: a third-country national is smuggled to the Schengen area and subsequently applies for asylum. After being granted refugee status or some other type of residence permit that allows for family reunification, the person files a residence permit application on behalf of his or her family in the country of origin.

The Finnish Immigration Service currently receives over 10,000 family reunification applications each year seeking to bring one or more family members to Finland. Statistics on family reunification applications by foreign nationals who have entered the country as minors are only maintained on an unofficial basis. It is worth noting that the family reunification applications made by persons granted asylum or a residence permit based on the need for international protection are recorded in a different document category from those of persons who have been granted a residence permit for other reasons. This distorts the statistics on the total number of family reunification applications, resulting in a failure to reliably assess the actual number of family reunification applications and their success rate. In 2003–2009, the Finnish Immigration Service received a total of 229 family reunification applications made by minors. The highest number of family reunification applications by minors was seen in 2008, which was a record year for asylum seekers entering the country as unaccompanied minors. The total number of applications in 2008 was 46 and the number of family members per application ranged from 1 to 13. It is estimated that the success rate of family reunification applications made by minors is 80–85%. In applications concerning family members, DNA testing is an integral part of granting residence permits in the absence of reliable documentary proof of family ties, such as birth or marriage certificates. A residence permit based on biological family ties is only granted if the DNA test is positive. As DNA testing is conducted in all cases of residence permit applications involving biological family members, conflicts are occasionally seen between the reported biological family members and the results of the DNA testing. If DNA testing proves that the person concerned is not the child’s biological parent, and if there is no evidence of guardianship or prior common family life (e.g. foster children), the application for a residence permit on the basis of family ties may be refused. The authorities are also seeing an increasing number of applications made by minors regarding foster children in their families. A residence permit may be granted to a minor’s non-biological sibling if the family tie can be sufficiently verified through interviews.

The number unaccompanied minors applying for asylum multiplied in 2008. This has naturally led to an increase in the family reunification applications filed by unaccompanied minor asylum seekers. More complex family relationships lead to longer interviews to determine family ties. The lack of travel documents may also make the granting of a residence permit more difficult if it prevents the family member from travelling to a country in which Finland has foreign representation.

Uncertainty factors related to residence permit applications for foster children

There have been numerous problems in Finland related to residence permit applications based on family ties involving foster children. Several applications have given cause for suspicion of illegal residence (circumvention of residence permit rules). Granting residence permits without the presence of reliable documentary evidence always involves a risk of abuse of the system, including human trafficking and kidnapping. In the case of foster children, it is often impossible to verify the true status of a child as part of the family. For example, a girl residing with a family may be a domestic worker or the father’s second wife. The actual ages of foster children may also differ from what is written in the application.

The Finnish Immigration Service’s interpretation of Section 37 of the Aliens Act, which contains the definition of family member, is that a foster child is considered to be a family member if sufficient evidence of guardianship is provided. A further requirement applied is that the foster child must have lived with the family before the foster parent enters Finland and that the child’s biological parents are either deceased or missing. This has become an established practice primarily in deciding on residence permit applications filed by persons from countries where long-term instability has resulted in a lack of an effectively operational central administration. Residence permit applicants from countries without a central administration may be unable to obtain reliable documentary evidence

84 Pursuant to Section 37 of the Aliens Act, the spouse of a person residing in Finland, and unmarried children under 18 years of age over whom the person residing in Finland or his or her spouse has guardianship are considered family members. If the person residing in Finland is a minor, his or her guardian is considered a family member. If the person residing in Finland is a minor, his or her guardian is considered a family member. A person of the same sex in a nationally registered partnership is also considered a family member. Persons living continuously in a marriage-like relationship within the same household regardless of their sex are comparable to a married couple. The requirement is that they have lived together for at least two years. This is not required if the persons have a child in their joint custody or if there is some other weighty reason for it.

An unmarried child under 18 years of age who is in the de facto care of his or her guardian and requires de facto care on the date the decision on the residence permit application is made, but whose guardianship relationship with the parent has no official evidence (foster child) is comparable to children referred to in Paragraph 1 above. Considering such foster children to be comparable to biological children in the residence permit process further requires reliable evidence of the child’s prior guardians having deceased or gone missing and of the child having had a de facto guardianship relationship with the sponsor or his or her spouse prior to the sponsor entering Finland. If the sponsor is a foster child residing in Finland, considering foster family members comparable to biological family members requires reliable evidence of there having been a de facto guardianship relationship prior to the sponsor entering Finland.
of their identity and family relations from the national authorities. In the absence of such documentary evidence, the Finnish authority responsible for processing the residence permit application must try to determine the applicant’s and sponsor’s family relationships by other methods. The biological relationship between a child and a parent can be verified by DNA testing, which is already used in the case of applications missing documentary evidence.86

In recent years, families applying for residence permits on the basis of family ties have increasingly reported foster children. The majority of such cases involve the families of aliens who have entered the country seeking international protection. Residence permit applications for foster children generally concern children who have been part of the sponsor’s family even before his or her entry into Finland. The authorities have also observed an emerging phenomenon of cases in which the applicant is the new spouse of the sponsor, the two having been married in Finland, and the applicant also has foster children applying for residence permits at the same time. Approximately one out of five such families report foster children in their applications.

Most applicants report that the foster children are relatives whose parents are deceased or missing. The family relationship can be verified by DNA testing, but blood ties alone do not indicate that the persons concerned have lived as a family and the sponsor has been the child’s guardian. In such cases, the question of guardianship is assessed on the basis of interviewing the persons concerned. Determining the relationships between foster children and parents through interviews is problematic. Small children may not be interviewed at all due to their young age, or such interviews may not be of much help in determining the relationship. It is commonplace that interviewed children do not remember, or otherwise fail to describe, their family relations and daily life in the past. Help in determining the relationship is problematic. It is commonplace that interviewed children do not remember, or otherwise fail to describe, their family relations and daily life in the past. The assessment of whether there is a genuine foster child-parent relationship is mainly based on interviewing the foster parent or parents.87

The majority of foster children are issued residence permits. Determining the true relationship between a child reported as a foster child and the foster parents is difficult. While some children reported to be foster children are children who have genuinely been part of the family prior to their migration, the authorities also suspect that some children are taken in by families for the purpose of bringing them to Finland as family members. It is also believed that some children reported to be foster children have, in fact, never been genuine members of the family sponsoring their residence permit application. The possibility of trafficking in children must also be considered. There are also indications that the position of some teenage girls in supposed foster families is actually that of a domestic worker rather than a child. In some cases, families have fostered children as secondary family members who can be shipped back to the country of origin if their conduct is not satisfactory. The Finnish Immigration Service has also learned of some cases of minors obtaining residence permits as foster children and subsequently going on to live independent lives in Finland, separate from the family. In such cases, the applicants have planned from the beginning to abuse the provisions on foster children to obtain a residence permit with no genuine intention of living together as a family.88

The best practices applied by the Finnish Immigration Service for assessing foster child relationships are:

- The burden of proof regarding foster child-parent relationships lies with the foster parents. The parents must be able to provide sufficient proof of the existence of the foster child-parent relationship. In the absence of documentary evidence of the relationship, the authorities may require detailed and unconflicting descriptions of family life and matters characteristic of a foster child-parent relationship.
- As a rule, a foster child may only be granted a residence permit if he or she has lived in the family prior to the sponsor’s entry into Finland, unless the application meets the criteria for granting a residence permit to another kind of family member. The requirement is that there has been an actual and established foster child-parent relationship and family life.
- The inability of a foster child to remember details of family life will be increasingly taken into consideration, accounting for the child’s age and developmental level. A child who is 12 years or older can be expected to remember and describe more than a younger child.
- If the sponsor has not mentioned a foster child in the initial asylum interview, subsequent residence permit applications based on family ties are generally refused. Assessing family life and the existence of foster children are increasingly focused on in asylum interviews.
- The use of methods to determine a person’s age in association with applications based on family ties will be proposed and assessing the foster child’s age in the interview will be required.

Under Section 6a of the Aliens Act, forensic testing may be used to determine the age of an alien applying for a residence permit or sponsoring an application if there are distinct grounds for questioning the reliability of the information provided by the applicant or sponsor regarding his or her age. The use of forensic testing is subject to the applicant or sponsor giving his or her written consent for it with understanding and out of free will. The written consent of the subject’s guardian or other legal representative is also required. Persons who refuse to have their age determined by forensic testing are treated as adults unless there is are acceptable grounds for the refusal. Refusing forensic testing alone cannot be grounds for dismissing an application for international protection. Applications involving circumvention of the rules on entry often require a lot of work to resolve them. A legislative amendment that entered into force on 11 June 2010 was intended to have a preventive effect on the number of such applications. This would allow the authorities to allocate more resources to processing applications not involving such circumstances. This would allow applicants for international protection and residence permits on the basis of family ties whose cases do not involve any circumvention of the rules to have their applications processed faster.88

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89 For more, see Government Bill 240/2009.
Border Guard liaison officer operations

The police, the Border Guard and the Finnish Immigration Service have some 20 liaison officers at Finnish foreign representations in key locations with regard to irregular migration. Nordic and European cooperation is also made use of. ILO activities will be continued in Africa and if necessary strengthened, and the appointment of new liaison officers in countries in the Middle East and Asia that have emerged as major countries of origin or transit for irregular migration to or through Finland will be considered. Support from the External Borders Fund will be used in the appointment of liaison officers.

The Finnish Border Guard has liaison officers at the following diplomatic missions: St. Petersburg (since 2002); Murmansk (since 2005, one week per month); Petrozavodsk (since 2005, one week per month); Beijing (since 2006); Moscow (since 2007); Tallinn (since 2008); Riga (since 7/2011); New Delhi (7/2011). There have also been temporary liaison officers at locations including Abuja, Damascus, New Delhi and Istanbul.

The liaison officer’s tasks may include, for instance, assisting the Visa Unit of the diplomatic mission in decision-making on residence permits by giving statements on the travel documents and other documentation enclosed with visa applications. The liaison officers may also provide training to visa officers on identifying security issues related to travel documents and assume responsibility for developing such training according to instructions provided by the head of the diplomatic mission. The liaison officer also maintains contact with the Finnish Border Guard and submits information on illegal migration and human trafficking to the Border Guard, and from the Border Guard to the diplomatic mission for processing visa and residence permit applications. The liaison officer may also participate in anti-crime operations jointly with police and liaison officers from other EU countries. The focus of the anti-crime operations is on illegal migration and human trafficking.

Exchange of API information with air carriers

The Finnish Border Guard has been preparing since 2005 to receive API information from air carriers. The interface-based exchange of API information with air carriers has been delayed due to technical problems, but it is expected that the system will be implemented in spring 2012.91

The collection of API information is based on the Act on the Processing of Personal Data by the Border Guard.92

Section 19 (11 September 2009/689)

Information on persons in a vehicle crossing the external border

The Border Guard shall, irrespective of regulations concerning the confidentiality of information, have the right to receive information that is necessary for preventing, investigating and prosecuting crimes subject to investigation by the Border Guard and maintaining border security from organisations and corporations regarding registers pertaining to the passengers and crew of a vehicle. This right shall also extend to the receiving of information through technical interfaces in the manner agreed upon with the party maintaining the register.

The driver of a vehicle that enters or leaves the country and crosses an external border shall provide information on the persons inside the vehicle to the border control authorities at the point of entry or departure. The captain of a ship or airborne vessel and the owner, operator or representative of a train or other vehicle used for transport shall provide a passenger and crew list, or other information on the crew, passengers and other persons in the vehicle to the border control authorities at the point of entry or departure. The information may be provided using a technical interface.

The passenger and crew list must indicate the first and last name, date of birth, gender and nationality of each person listed, the country of origin and registration of the vessel and the point of entry and departure.

20 §

The transport operator’s obligation to provide information. In addition to the provisions laid out in Section 19, a natural or legal person professionally operating air passenger transport (air carrier) shall provide the border control authorities upon request with the passenger information specified in this Section on passengers transported by the air carrier to an official border crossing point used by the passengers to enter an EU Member State or depart an EU Member State (air traffic passenger data).

Air traffic passenger data shall include the identification number and type of travel document used, the passenger’s nationality or lack thereof, full name, date of birth, the border crossing point where the person enters or departs the EU Member State, the flight number, departure and arrival time, the total number of persons on board and the original point of departure. This information shall be provided electronically or, in the event that electronic transmission is not possible, by another appropriate method. The border control authorities shall have the right to process the information referred to in this Section and Section 19 to facilitate border inspections, prevent illegal entry and illegal immigration and carry out other border control tasks stipulated by law.

The information must be provided immediately after check-in procedures are completed. The border control authorities shall dispose of the information within 24 hours of receiving it and the passengers entering or departing the country, unless the information is required to carry out another statutory border control task. Unless otherwise stipulated by law, the party disclosing the information shall dispose of the personal data acquired and subsequently submitted to the border control authorities within 24 hours of the vehicle or vessel arriving at its destination.

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91 Laki henkilötietojen käsittelystä rajavartiolaitoksessa 579/2005 www.finlex.fi
92 Sosiaaliset ja taloudelliset ohjelmat ja toimintayleistys

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8 The action plan against illegal immigration 2010–2011 lists a joint project with air carriers to improve the determination of passenger identities as one pilot project to be carried out by the National Police Board and the National Bureau of Investigation, but the project has not started yet.
3.2 Entry: practical measures undertaken to identify and detect irregular migrants at borders

Combating cross-border crime through cooperation between the authorities

Fighting cross-border crime is one of the core functions of the Finnish Border Guard. The most grievous forms of cross-border crime include smuggling and trafficking in human beings and the arrangement of illegal immigration.

The Finnish Border Guard is authorised to carry out pretrial investigations if there is reason to believe that a suspected crime falls within the scope of the Border Guard’s investigatory authorisation. In addition to the aforementioned forms of cross-border crime, the Finnish Border Guard investigates border offences, driving road or sea vehicles under the influence of intoxicants, forgeries, fishing and hunting offences and environmental offences.

The Finnish cooperation between the Police, Customs and the Border Guard (PCB cooperation) is an internationally unique form of cooperation. The cooperation has been going on for decades, but in recent years it has been extended to criminal intelligence activities. Criminal intelligence activities under the PCB cooperation framework are focused on serious and cross-border crime. The aim of the PCB framework is to promote cooperation between the authorities to allow tasks related to internal security to be carried out in an effective and flexible manner.

The three law enforcement authorities, namely the Police, the Customs, and the Border Guard, have cooperated in some form or the other since their establishment. Gradually, the cooperation has evolved to include various functions such as mutual patrolling/monitoring operations to joint-investigation teams.

Today, the central purpose of PCB operations is to support these authorities’ preliminary investigations and to advance joint operations with a help of a uniform criminal intelligence system. The PCB Criminal Intelligence and Analysis Structure and the target selection procedure (in which the PCB structure has a special role) are the primary tools for promoting cooperation between and among the law-enforcement authorities, especially in combating the serious and organized crime.

PCB co-ordination and integration helps in agreeing on the roles of various authorities in serious crime prevention and avoiding overlapping functions and inefficient resource allocation. This is of particular importance today, as the Finnish government’s productivity programmes aim to downsize the public sector.

The Act concerning cooperation between the Police, Customs and the Border Guard is the highest order document regulating the joint operations of these authorities. This enhances legal grounds and competences in crime prevention, lays out instructions for establishing joint groups for gathering criminal intelligence and for pre-trial investigation in particular cases. The act grants the three law-enforcement authorities to use each others’ competencies under defined circumstances. Furthermore, this law sets the principles by which the expenses are distributed between the PCB-authorities. This act came into force in 01.01.2010.

The second-order directions stem from the national joint-operations agreement between the PCB-authorities. This document complements the above-mentioned law by defining the central structures and operations of the PCB-joint operations. The document lays out the management structure for the PCB-joint operations and it also covers areas in crime prevention/investigation, maintenance of public order (monitoring / patrolling), cooperation in international affairs, and cooperation concerning the use and integration of information systems.

PCB Criminal Intelligence and Analysis Structure is - as its name suggests - an entity focusing on intelligence work and serious crime in particular. The structure consists of region level units that cover different geographical areas of Finland and one analysis centre. One region level unit covers several police departments and units from the Customs and the Border Guard.

The basic set up of this PCB criminal intelligence and analysis structure includes National PCB Crime Intelligence and Analysis Centre and 8 PCB Crime Intelligence and Analysis units.

The PCB Crime Intelligence and Analysis units either cover a geographical area, closely matching with the provincial boundaries (6 units). The remaining units relate to specific functions: one is responsible for monitoring air traffic and is established at the Finland’s main airport and the other is responsible for sea traffic and is based in the Port of Helsinki.

These units serve as the focal points in the criminal intelligence and analysis activities in their respective areas. Each PCB unit covers several departments from the police, the customs, and the border guard - each of which typically has specialized criminal intelligence and analysis functions. The (regional level) PCB Crime Intelligence and Analysis units consequently maintain contacts with the network of regional law-enforcement actors and make sure that possible overlaps in ongoing investigations are spotted.

The target selection procedure, the second important tool in serious crime prevention, stands for the administrative arrangement where criminal groups or individuals may receive the status of a ‘target for serious crime’. The prerequisite for assigning the individual or the group with such a status is the need for multiple law-enforcement units to participate in the investigations. The participating units may receive additional finance where they need to devote resources outside of their pre-defined primary responsibilities. PCB Criminal Intelligence and Analysis Structure adds value to this administrative arrangement by assessing the interests of the respective law-enforcement authorities and their units in participating in the investigations.

Automatic border control checkpoints at the external borders

In December 2010, the Finnish Border Guard opened ten new automatic border control checkpoints at Helsinki-Vantaa for flights arriving from outside the Schengen area. With ten automatic border control checkpoints in use for departing flights, the total number of automatic checkpoints at Helsinki-Vantaa is now 20. By July 2011, over...
120,000 passengers had used the automatic border control checkpoints for departures.

The automatic border control system is based on the biometric identification of passengers. Biometric passports contain a microchip, whose data is verified by a reader. The automatic checkpoint also compares individual facial proportions in real-time passenger images with those stored in the microchip. At present, only citizens of European Union and European Economic Community Member States and Swiss nationals holding biometric passports may use the automatic checkpoints. In the future, the Finnish Border Guard will develop its automatic border control checkpoints to serve passengers of all nationalities.

3.3 Stay: practical measures undertaken to control irregular migration in the (Member) State’s territory.

The authorities have identified a phenomenon related to illegal immigration involving foreigners who have been granted Finnish citizenship intentionally losing their passports abroad. The authorities suspect that the passports are sold for use by criminals, as an authentic passport book can be falsified relatively easily by inserting a new personal data page. These falsified passports are not, however, primarily used to try to enter Finland or the other Nordic countries. Thus far in 2011, a total of 56 have been apprehended at Finnish borders for using a forged passport. At the current rate, the total for 2011 will exceed the numbers for previous years, 75 in 2010 and 48 in 2009. More than half of those apprehended for using a forged passport were from West Africa.

In August 2011, the national monitoring week focused particularly on seasonal workers and the construction sector. In addition to local police departments, the Finnish Border Guard, the Regional State Administrative Agencies and the Finnish Customs were actively involved in the monitoring week. The National Traffic Police also carried out extensive monitoring both independently and in cooperation with local police departments. During the monitoring sweep, the permits of a total of 1906 persons were inspected, 553 at construction sites and 716 in traffic inspections. The inspections found a total of 11 persons residing in the country illegally. 18 illegal workers, 8 other third-country nationals who failed to meet the requirements for residing in the country and 2 persons with a warrant for the enforcement of deportation. The police also recorded reports of extortionate work discrimination, human trafficking and procurement.

The monitoring of aliens comprises monitoring compliance with the Aliens Act and regulations based on the Aliens Act, including verifying an alien’s identity, right of residence and right of employment. It also includes measures to intervene in illegal residence or employment, protective measures to investigate such matters as well as enforcement measures related to removal and combating violations of the Aliens Act and related regulations.

A one-week monitoring sweep by the police in mid-August 2011 found some forty foreign nationals residing or working in Finland without authorisation. Police inspected foreign berry pickers, gardeners and agricultural workers, among others, to determine whether they met the requirements for staying in the country. The regions where the most violations were found were Pirkanmaa, Southwest Finland and South Karelia. As a result of the monitoring sweep, the police reported offences including extortionate work discrimination and procurement. In addition, the police found tens of EU nationals who had neglected their responsibility to register their residence in Finland, particularly in the construction industry. The objective of the one-week monitoring sweep was to achieve more effective monitoring of persons entering, residing in and working in Finland. The intensified monitoring efforts coordinated by the National Bureau of Investigation are aimed particularly at combating human trafficking and procurement related to illegal immigration.

In August 2011, the police inspected a large number of construction sites in the Helsinki metropolitan area. The raids uncovered work permit and right of residence issues related to one hundred foreign workers. The construction site raids carried out by Helsinki Police Department focused particularly on foreign nationals’ authorisation to reside and work in Finland. In total, the police inspected the residence permits of some 500 foreign workers at 13 sites. The police report that they found cases of ambiguity and neglect related to EU citizens’ registration of the right of residence related to 101 workers. The workers concerned were urged to resolve the issues at their local police department. The police also recorded reports of 16 offences and issued fines for neglecting to register the right of residence. Two workers who had warrants for their arrest were also found in the raids. The foreign workers were, with a few exceptions, EU citizens or third-country nationals residing in another EU Member State with a valid residence permit. The monitoring sweep was carried out in cooperation with economic crime investigators and the Regional State Administrative Agency’s occupational health and safety inspectors.
Effective removal

Effective removal plays an important role in the prevention of irregular migration. Maintaining a high rate of enforcement of removal decisions despite an increased number of applications and decisions would send out a strong signal that Finland does not allow persons without legal grounds to stay in the country.

The meaning of effectiveness in the context of removal has not been defined in much detail at the strategic level. In the Action Plan Against Illegal Immigration 2010–2011 published by the Supreme Police Command, the stated goals related to the effectiveness of removal are:

Maintaining an effective removal system administered by the Helsinki Police Department. The effective removal of persons found to be residing in the country illegally sends out a strong signal that Finland does not allow persons without legal grounds to stay in the country.

Helsinki Police Department has carried out two removal-related projects. The ULHA2007 project funded by the Supreme Police Command was operational from 1 April 2007 to 31 December 2010. A project to improve the effectiveness of removal, funded by the EU Return Fund, has been operational since 1 August 2009 and will end on 31 December 2011.95

The ULHA 2007 project aimed at standardising the operating models related to the enforcement of removal decisions by assigning the duties of escorting aliens out of the country and the responsibility for coordinating removal operations to the Helsinki Police Department on a centralised basis. A further aim of the project was to reduce delays in enforcement. A total of some 34,000 man hours, or approximately 21 man years, were recorded in the ULHA 2007 project.

The increased volume of removal decisions in 2009 and 2010 nevertheless resulted in the ULHA2007 goals not being met despite the resources allocated to the project. However, the additional resources introduced through the project have helped maintain the rate of enforcement at an effective level despite the steep increase in the number of removal decisions. Calculated on the basis of the removal database maintained by the Helsinki Police Department, the rate of enforcement of removal decisions was 81% in 2007, 74% in 2008, 68% in 2009, 73% in 2010 and 78% in 2011/9. The chart below illustrates removal decisions and enforcements for the period of 2007–2011/9.96

The annual data on removal and enforcement suggests that the measures taken to improve the effectiveness of removal have led to a decrease in Dublin cases, which can be considered one indicator of irregular migration.97

In addition to improving the effectiveness of operations, the project funded by the Return Fund also aimed to increase the proportion of voluntary returns among third-country nationals who are refused entry. Efforts to activate this target group became more successful after the joint project on voluntary return between the Ministry of the Interior, the Finnish Immigration Service and the IOM began. This year, 10% of all foreign nationals removed from the country returned voluntarily through the voluntary return programme.

The table below shows the number of people subject to a removal decision who left the country through arrangements made by the IOM in 2007–2011/9.

<table>
<thead>
<tr>
<th>Year</th>
<th>Voluntary Returns</th>
</tr>
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<tbody>
<tr>
<td>2007</td>
<td>21</td>
</tr>
<tr>
<td>2008</td>
<td>9</td>
</tr>
<tr>
<td>2009</td>
<td>203</td>
</tr>
<tr>
<td>2010</td>
<td>223</td>
</tr>
<tr>
<td>2011/9</td>
<td>172</td>
</tr>
</tbody>
</table>

95 Helsinki Police Department, 14.10.2011
96 Helsinki Police Department, 14.10.2011
97 In Finland, the examination of each asylum application begins with determining the country responsible for it. This is based on the EU Regulation on determining the country responsible for processing an asylum application. Known as the Dublin Regulation, it has been adopted by all EU Member States as well as Iceland, Norway and Switzerland. Like the other countries that have implemented the Regulation, Finland has adopted the principle that only one country should examine an applicant’s grounds for international protection.
If an asylum seeker enters Finland through another country that has adopted the Dublin Regulation, or has filed a first asylum application in a Dublin country other than Finland, his or her application is generally not processed in Finland. Such applicants are subject to a Dublin decision and deportation to the responsible country.
3.4 Pathways out of irregularity

Finland does not have a statutory regularisation procedure for third-country nationals residing in the country without authorisation. However, in a broad sense, granting legal status based on national legislation, i.e., a residence permit, to remove a person from the status of irregularity, can be seen as regularisation. In countries with a statutory regularisation procedure, the conditions for regularisation are generally 1) staying in the country without committing criminal offences, 2) employment and 3) evidence of integration into society. Granting a residence permit on individual humane grounds to a third-country national residing in Finland illegally is not regularisation, as the residence permit is granted through the standard application process.

The police authorities are responsible for deportation, but they do not file a residence permit application on behalf of the deportee, even when several attempts at deportation have failed. When the person concerned has applied for a residence permit, the Finnish Immigration Service may request a statement from the police on the measures taken to enforce the deportation decision and what measures are still available. The Aliens Act of Finland does not contain provisions on abandoning efforts to enforce such measures, except in cases involving non-refoulement due to e.g., changes in the security conditions in the person’s country of origin. In the majority of the cases where the deportation procedure has been extended, the person concerned files a new residence permit application and is granted residence. In certain individual cases the person concerned is refused subsequent residence permit applications as well, which may result in the deportation case remaining pending for several years. There is no statistical data on the number of cases of failed enforcement of deportation decisions per year.

Underage third-country nationals residing in Finland without authorisation generally apply for asylum after they have been discovered to be staying in the country illegally.

Pursuant to Section 6 of the Aliens Act and the Ministry of the Interior’s asylum regulations, applications filed by unaccompanied minors are processed with urgency. The Finnish Immigration Service’s target time for processing an asylum application filed by an unaccompanied minor is 120 days. If resolving the matter requires finding the family members of the minor, the target processing time is 180 days. The general principles concerning decisions on applications for international protection naturally also apply to underage asylum seekers.

According to Section 98 of the Aliens Act, the requirements for issuing a residence permit are assessed individually for each applicant and the applicants must be given the benefit of the doubt. This means that under certain conditions, the authorities must decide on the matter in favour of the applicant on the basis of his or her statement.

Due to the nature of the matter, it is uncommon for unaccompanied minors to be recognised as refugees and granted asylum pursuant to Section 87 of the Aliens Act. Refugee status is conditional on individual threat of persecution, which generally does not apply to children. Instead, minors applying for asylum often meet the conditions for subsidiary protection based on the general circumstances in their country of origin or permanent residence, even in the absence of evidence of individual persecution or threat of serious human rights violations (Section 88 of the Aliens Act). Some asylum seekers who are unaccompanied minors are permitted to stay in Finland on grounds of recognisability (now referred to as compassionate grounds under Section 52 of the Aliens Act) or family ties.

Residence permits have been granted on the grounds of recognisability to, among others, minors whose parents have not been found during the asylum procedure or who have developed ties to Finland during an extended stay in the country. In 2004, the Finnish Immigration Service granted residence permits in a well-publicised case to young Sierra Leone nationals who had applied for asylum when participating in the World Youth Football Championship in August 2003. The Finnish Immigration Service cited the lack of success in tracing the applicants’ family members as one reason for the positive deci-
Difficulties related to return

According to the police, the difficulties related to the repatriation of special groups involve certain practical difficulties. For instance, families should be allowed to return together, which may be impossible due to e.g. airline security policy. Airlines classify deportees in the risk passenger category and as a result, only a limited number are allowed on any given flight. Persons resisting enforcement of repatriation, who through physical resistance or other disturbance try to prevent the enforcement of refusal of entry or deportation, are a problem group that has grown slightly in recent years. This phenomenon, combined with the airlines taking a tougher stance on deportees, has resulted in an increased need for joint return flights on chartered aircraft. Joint return flights are carried out both on the national level and coordinated by Frontex.

The largest problem related to return is the identification of persons to be returned. This primarily applies to those who are refused asylum. The difficulties concern obtaining travel documents from the persons to be returned. They often use false documents, which makes their identification by the domestic authorities more difficult. In addition, some third countries take a negative stance towards forced repatriation and may require their citizen to make an application on their own initiative before granting the travel documents required for return. According to the police, third countries problematic in this sense have included Iran, India, Vietnam and nearly all countries in Northern and Central Africa. There are no statistics on cases in which a person being returned is not accepted by the destination country, but their number is estimated to be approximately 10 per year.

Deportation is particularly difficult in cases in which the person to be deported is unable to get a repatriation certificate from the diplomatic mission of their country of origin. This situation is particularly typical of third-country nationals who are refused asylum and have no proof of their identity. Even in such cases, the aim is to try to enforce deportation in regular intervals. There is no statutory time limit for enforcement. However, in practice many persons under a deportation order later file a new residence permit application on different grounds. If the subsequent application is approved, the earlier decision on refusal of entry or deportation becomes void.

Removal from the country may be temporarily prevented due to a reason that is expected to only apply for a limited time. Under Section 51 of the Aliens Act, aliens residing in Finland are issued with a temporary residence permit if they cannot be returned to their home country or country of permanent residence for temporary reasons of health or if they cannot actually be removed from the country. Issuing a residence permit does not require the alien to have secure means of support. If aliens are issued with a residence permit under Paragraph 1, their family members residing abroad are not issued with a residence permit on the basis of family ties. Temporary residence permits pursuant to Section 51 of the Aliens Act are granted for a period of one year at a time. Aliens granted temporary residence permits on such grounds have a restricted right to employment under Section 80, Paragraph 1, Subparagraph 6 of the Aliens Act.

According to the Police, who handle the removal of persons illegally residing in Finland, the lower the threshold for third-country nationals to enter Finland, the lower the threshold for removing illegal residents should be. It is challenging to return a person residing illegally in the country to their home country if the person has lost travel documents on purpose when entering the Schengen area. Proving such a person’s citizenship may be difficult, and the diplomatic mission of their home country will not necessarily issue a certificate for the return journey if it has not been possible to prove citizenship. In these cases it would helpful if the archives of the diplomatic mission that issued the Schengen visa contained, in addition to a photograph, copies of the documents (a passport, various documents, bank statements, etc.) that were presented with when the visa was applied for.

Such documents could subsequently be referred to as evidence of the person’s nationality in applying for a repatriation certificate. Another problem related to repatriation is cost. Finland has not adopted any arrangements for collecting the costs of repatriation from the sponsor of the visa application, for instance by requiring the sponsor to make a deposit against possible repatriation costs.


Pursuant to Section 54, Paragraph 5 of the Aliens Act, aliens who have been issued with a temporary residence permit under Section 51 because he or she cannot be removed from the country and victims of trafficking in human beings who have been issued with a temporary residence permit are issued with a continuous residence permit after a continuous residence of two years in the country if the circumstances on the basis of which the alien was issued with the previous fixed-term permit are still valid. www.finlex.fi.

Aliens Police Helsinki 8.4.2011.
4. TRANSNATIONAL COOPERATION IN REDUCING IRREGULAR MIGRATION

4.1 Cooperation agreements

Finland has not concluded bilateral agreements with other countries concerning irregular migration. However, Finland has signed bilateral re-admission agreement with Switzerland and Russia.

4.2 Other forms of (non-legislative) cooperation with countries

Cooperation with the countries of origin and transit focuses, as per the risk analysis, on directions where the pressures for irregular migration are greatest. Positive and close cooperation with border control authorities in neighbouring countries constitutes a good basis for cooperation, and there are existing cooperation agreements or memoranda in place for this. This cooperation enables analysis of irregular migration threats together with border control authorities in other countries, and modes of cooperation can be agreed upon and the communications required for practical operations established.

Cooperation with principal countries of origin depends mainly on the liaison officers stationed there. Liaison officers may be stationed in countries of origin and transit permanently, on a part-time basis or for a fixed term in case of a sudden surge of irregular migration, as was done in late 2009 and in 2010 due to an increase in irregular migration from Istanbul airport in Turkey.

Finland has continued to participate in a border security training project in Kazakhstan in Central Asia and has launched a Twinning project in Turkey.\textsuperscript{104}

4.3 Cooperation with EU or international organisations

Under the Aliens Act, in Finland the police are responsible for enforcing expulsion decisions. Some 60% to 70% of all expulsion decisions annually are enforced by the police. The police have not enforced any expulsion decisions on the basis of EU readmission agreements; enforcement is based on international police cooperation. The police also do not have experience of bilateral readmission agreements. For some countries (e.g. Iraq, Afghanistan and some countries in northern Africa) it has been found that the enforcement of expulsion orders would be easier if there were an agreement in place regarding this with those countries.

Finland has organized one joint Return Flight coordinated by Frontex so far but has joined other Member States’ flights a few times only. One reason is Finland’s distant location compared to other European countries. Finland also attends meetings with the Member States organized by Frontex regularly and utilises different kinds of regular contacts in operational matters coordinated by Frontex and also direct contacts with other Member States.

Border Guard participation in international cooperation to combat irregular migration

Currently the Finnish Border Guard participates in the regulation of irregular migration and specifically in the fight against illegal immigration within the broader framework of EU’s civilian-crisis-management and other assistance activities, and under the EU’s Common Security and Defence Policy (CSDP). These activities provide broad-ranging assistance for host countries’ border management agencies; thus, assistance related to irregular migration and illegal immigration is not covered via any specific project just on immigration issues, but via general capacity-building efforts, and in the broader context of legal/illegal cross-border movement.

Participation takes place through the provision of expert assistance. This takes the form both of long term secondments and of contracted (short and long term) expert consultancies; in the case of Turkey, there is also an EU Twinning-project run by the Finnish Border Guard.\textsuperscript{105}

In 2011, the Finnish Border Guard experts serve in the following EU assistance missions/programmes:

- EU Police Mission in Afghanistan (EUPOL Afghanistan) which aims to contribute to the establishment of sustainable and effective policing arrangements (including Border Police) in all parts of Afghanistan through monitoring, mentoring and training;
- The European Union Rule of Law Mission in Kosovo (EULEX) which aims to assist and support the Kosovo authorities in the rule of law area, specifically in the police, judiciary and customs areas through monitoring, mentoring and advising whilst retaining a number of limited executive powers;
- European Union Border Assistance Mission to Moldova and Ukraine (EUBAM) which aims at enhancing the capacities of the Ukrainian and Moldovan Customs and Border Guard in countering illegal cross-border movement and in enhancing movement of legitimate trade and travel at the joint Ukrainian-Moldovan border;
- Development of the Border Management in Turkey is a programme run under the guidance of the Delegation of the European Union to Turkey and its main objective is to assist Turkish authorities to achieve an integrated border management system in line with EU standards. In addition, one component of this programme is a Finnish-Turkish Twinning-project on risk management and analysis.

\textsuperscript{104} European Migration Network: Annual Policy Report 2010, Finland.

5. IMPACT OF EU POLICY AND LEGISLATION

In most of the cases the national laws corresponded to a great extend with the implemented directives, so only minor changes were required and the debates on these subjects remained on a minimal scale.


- Transposition required by: 20 July 2011
- Status: Government proposal currently being prepared, expected to be issued in December 2011


- Transposition required by: 24 December 2010
- Status: law amendments came into force on 1 April 2011

Experiences of the impacts of EU return agreements on the phenomenon of irregular migration

Under the Aliens Act, in Finland the police are responsible for enforcing expulsion decisions. Some 60% to 70% of all expulsion decisions annually are enforced by the police. The police have not enforced any expulsion decisions on the basis of EU readmission agreements; enforcement is based on international police cooperation. The police also do not have experience of bilateral readmission agreements. For some countries (e.g. Iraq, Afghanistan and some countries in northern Africa) it has been found that the enforcement of expulsion orders would be easier if there were an agreement in place regarding this with those countries.

Finland has concluded a bilateral re-admission agreement with Switzerland. Third-country nationals as well as citizens of Finland and Switzerland have been re-admitted under the agreement. Finland and Russia carried out negotiations regarding a re-admission agreement in 2010.

Projects related to combating irregular migration partially funded by the EU External Borders Fund in 2007–2010

- Project: 022008 Upgrading the technical surveillance system for land borders/ Finnish Border Guard
  Description: In 2007, the effectiveness, operational capacity and coverage of the technical surveillance system for land borders was upgraded at specifically selected areas in the Kainuu and Southeast Finland Border Guard Districts. The project objectives specified in the 2008 annual programme was to upgrade the software and interfaces related to the technical surveillance system for land borders. Further aims include improving the coverage, reliability and operational capacity of the technical surveillance system for land borders at specifically selected areas on the eastern border and to develop, test and acquire new sensor technology to improve the operational capacity of the technical surveillance system.

- Project: 052008 Maintaining and developing border control equipment/ Finnish Border Guard
  Description: The project is a follow-up to a project funded under the 2007 annual programme. The project is aimed at ensuring the effectiveness of the current technical surveillance system for sea borders and improving its operational capacity. The project involves upgrading the operational capacity of the technical surveillance system for sea borders with regard to data transmission and the integrated presentation of sensor data.

- Project: 082008 Maintaining and developing the Border Guard’s liaison officer network
  Description: The project is a continuation of the 2007 annual programme. The aim of the project is to reinforce the current liaison officer system. The liaison officer operations support the operations of all national authorities as well as other EU Member States. The project also aims to develop cooperation between the liaison officers and liaison officers from other Member States to improve their capacity to work in the interest of all Member States.

- Project: 092008 Developing visa processing at key foreign embassies and consulates/ Ministry for Foreign Affairs
  Description: In the first year (2007), the project’s aim was to analyse the current situation, future challenges and to prepare a comprehensive plan for the operating model. Preparations for the implementation of biometric identification through the acquisition of the required technical equipment are also made as part of the project. In its second year (2008), the project’s aim was to recruit an expert to analyse the visa handling processes at Finland’s diplomatic missions in Russia and prepare proposals for improving process efficiency based on the analysis. The necessary measures will be taken based on the proposals made.

- Project: 122008 Acquisition of equipment related to the processing and granting of visas for use by the National Board of Customs at Finnish ports to facilitate the processing and granting of visas, primarily to ships’ replacement crews/National Board of Customs
  Description: The Customs has granted close to 2000 visas per year to replacement crews for cargo ships in carrying out border checks at Finnish cargo ports. In the past, the visas were hand-written
stickers with the required information and the Customs stamp. The processing and granting of appli-
cations was carried out according to Ministry for Foreign Affairs guidelines, including a background
check of the applicants based on joint information systems used by the authorities. The Customs is
the sole authority carrying out this task, as the Customs is responsible for customs inspections of
ships arriving at cargo ports as well as customs surveillance, collecting fairway taxes, monitoring
notifications made by ships, monitoring the provisioning of ships, carrying out border checks and
passport inspections for crew, and other statutory responsibilities. These measures are effective
in preventing illegal immigration. The hand-written visa stickers will be replaced by 31 December
2008 by machine-printed visas, complete with photographs, under the instructions of the Ministry
for Foreign Affairs. After the changes have been implemented, the MFA’s SUVI system will be used
to check the applicant’s right to be granted a visa through the Schengen SIS system, the applicant
is photographed and the photograph is recorded on the SUVI system. The visa, complete with the
photograph, is then printed on a sticker using a special printer. Pursuant to instructions issued by the
Ministry for Foreign Affairs, hand-written visas will no longer be accepted after 5 April 2010.

- **Project: Patrol boat replacement/Finnish Border Guard**
  The aim of the project is to improve the performance of border security operations at the sea borders
  by purchasing the first in a new line of patrol boats. The new patrol boats have significantly better
  operational and surveillance capacity and they have been developed for use in border security op-
  erations and sea rescue missions along Finland’s entire coastline as well as the open seas all year
  round.

- **Project: Improving the operational capacity of aircraft/Finnish Border Guard**
  The aim of the project is to improve the operational capacity of aircraft used in monitoring the
  external borders as well as international operations through upgrading surveillance technology
  and other technical systems. The project will improve the operational capacity of AS 332 helicop-
  ters through the installation of VIRVE radio equipment. NVG calibration equipment will also be
  purchased.

- **Project: Liaison officer for immigration affairs posted in Addis Ababa/Finnish Immigration Service**
  The aim of the project is to better respond to the challenges of combating irregular migration and
  other cross-border crime by appointing a joint liaison officer for the Finnish Immigration Service, the
  Ministry for Foreign Affairs, the Finnish Border Guard and the Police to handle immigration affairs
  in Addis Ababa. The project will collect information on legal and irregular migration and prepare risk
  analyses.

- **Project: Developing and maintaining a situation awareness and management system/other**
  The aim of the project is to revamp the Border Guard’s situation awareness system, which will be
  part of the Border Guard’s operational information system. The aim is to produce system specifica-
  tions for use as the basis of the design and implementation of the system.

- **Project: Upgrading the technical surveillance system for land borders/Finnish Border Guard**
  The aim of the project is to upgrade the software and user interfaces related to the current technical
  surveillance system for land borders. Further aims include improving the coverage, reliability and
  operational capacity of the technical surveillance system for land borders at specifically selected
  areas on the eastern border and to develop, test and acquire new sensor technology to improve the
  operational capacity of the technical surveillance system.

- **Project: Maintaining and developing operational readiness and execution ability/Finnish Border Guard**
  The project is funded through the 2007 and 2008 annual programmes. The aim in the first funding
  period (2007) is to upgrade the equipment of the Border Guard’s rapid deployment teams to improve
  their ability to manage situations in demanding circumstances, special circumstances and circum-
  stances involving cooperative action. In the second funding period (2008), the aim is to develop the
  operational capacity of the Border Guard’s rapid deployment teams by acquiring mobile computers
  suitable for use in the field to access the tactical management system and perform other tasks and
  to acquire monitoring and surveillance systems for the teams.

- **Project: Procurement of patrol vehicles/Finnish Border Guard**
  The project is funded through two annual programmes (2007, 2008). The aim of the project is to
  improve the performance of border security operations by procuring new patrol vehicles to replace
  aging vehicles used by border patrol teams. The vehicles will be equipped according to operational
  requirements.

- **Project: Maintaining and developing border inspection equipment/Finnish Border Guard**
  The project is funded through the 2007 and 2008 annual programmes. In the first funding period
  (2007), the aim of the project was to acquire biometrics-based equipment for border checks and to
  develop the information systems used in border checks to be compatible with future EU require-
  ments and systems for border checks. The aim of the project in the second funding period (2008)
  was to acquire equipment used for border checks at border crossings, to develop and improve the
  usability and reliability of information systems used in border checks and to pilot an automatic border
  control system at Helsinki-Vantaa Airport.

- **Project: Upgrading the technical surveillance system for sea borders/Finnish Border Guard**
  The project is funded through the 2007 and 2008 annual programmes. The aim of the project is en-
  suring the effectiveness of the current technical surveillance system for sea borders and improving
  its operational capacity. The project involves improving the reliability of the system through, among
  other things, implementing redundant servers and increasing the system’s data storage capacity.
  The project will also involve improving the system user’s operating environment, replacing radar
  data digitisation units, improving the low-light operating capacity of sea surveillance cameras and
  replacing swivelling camera platforms.

- **Project: Maintaining and developing the Border Guard’s liaison officer network/Finnish Border Guard**
  The project is funded through the 2007 and 2008 annual programmes. The aim is to maintain the
  operational requirements of the Border Guard’s current liaison officer system and analyse opportuni-
  ties for expanding the system based on the risk analysis. The liaison officer operations support the
  operations of all national authorities as well as other EU Member States. The project also aims to
  develop cooperation between the liaison officers and liaison officers from other Member States to
  improve their capacity to work in the interest of all Member States.

- **Project: Joining the EU’s common visa information system VIS**
  The project is funded through the 2007 and 2008 annual programmes. It supports the objective to
  implement the common visa system by the end of 2011 at all Finnish diplomatic missions granting
  visas and other authorities entitled to use the system pursuant to the VIS Regulation. The project
  involves system design, specification, modifications and development.

- **Project: Acquisition of equipment related to the processing and granting of visas for use by**
  the National Board of Customs at Finnish ports to facilitate the processing and granting of
  visas, primarily to ships’ replacement crews/National Board of Customs
  The Customs has granted close to 2000 visas per year to replacement crews for cargo ships in
  carrying out border checks at Finnish cargo ports. In the past, the visas were hand-written stick-
  ers with the required information and the Customs stamp. The processing and granting of ap-
• Project: Replacing boats by four new patrol boats/Finnish Border Guard

The aim of the project is to improve the performance of the Finnish Border Guard’s border security operations at the sea borders by replacing aging patrol boats with new, higher-performance patrol boats.

• Project: Replacement of helicopters/Finnish Border Guard

The project is funded through the 2008 and 2009 annual programmes. The aim of the project is to acquire four fully equipped AW 119Ke helicopters including the required training, spare parts, tools and instruction manuals. The three-year project runs from 2008 to 2010.

Funding period 2008: signing the purchase agreement and beginning planning and production.

Funding period 2009–2010: Production and delivery inspections of helicopters 1 and 2, type training for the pilots and mechanics for three helicopters, deliveries of spare parts and tools.

Funding period 2010: Production and delivery inspections of helicopter 3.

Approving the option for a fourth helicopter by the end of 2010.

• Project: Developing the Border Guard’s liaison officer network/Finnish Border Guard

The aim of the project is to develop the current system of liaison officers and improve border security throughout the Schengen area. The liaison officer operations support the operations of all national authorities (Police, Customs, Ministry for Foreign Affairs, Finnish Immigration Service) as well as other EU Member States. The project also aims to develop cooperation between the liaison officers and liaison officers from other Member States to improve their capacity to work in the interest of all Member States.

• Project: Liaison officer for immigration affairs posted in Addis Ababa/Finnish Immigration Service

The project aims to establish the position and develop the operations of the joint liaison officer for the Finnish Immigration Service, the Ministry for Foreign Affairs, the Finnish Border Guard and the Police handling immigration affairs in Addis Ababa. In the second year, the situation in Addis Ababa will continue to be assessed from the perspective of cooperation between national authorities. Assessment of the benefits of the liaison officer handling immigration affairs for other Member States will also continue. Further focus will be on how the information collected by the liaison officer will benefit other Member States and how the liaison officer can act in the interest of other Member States. The general aim is to prevent illegal entry to the Schengen area through Finland or using visas or residence permits granted by Finland.

• Project: Developing national visa processing operations at key consulates/Ministry for Foreign Affairs

The project is funded through the 2007, 2008 and 2009 annual programmes. The first year involves an analysis of the current situation and future challenges related to visa processing operations and the development of a comprehensive plan to be used as the operating model. Preparations for the implementation of biometric identification through the acquisition of the required technical equipment are also made as part of the project.

In the second year, an expert will be recruited to analyse the visa handling processes at Finland’s diplomatic missions in Russia and prepare proposals for improving process efficiency based on the analysis. The necessary measures will be taken based on the proposals made.

The third year of the project will involve an analysis of outsourcing opportunities and the procurement of an appointment booking system for use by the visa units at the diplomatic missions.

• Project: Developing Schengen representation arrangements/Ministry for Foreign Affairs

The project is funded through the 2008 and 2009 annual programmes. In the first year (2008), the project involves analysing the current situation and future challenges, preparing a comprehensive plan for the operating model and starting negotiations regarding consular premises.

In the first half of the second year (2009), the visa office at the Finnish Embassy in Belgrade will be renovated. For Murmansk and Petrozavodsk, negotiations are continued and renovations will begin. Planning will start for Lima, Singapore, New Delhi, Addis Ababa and Los Angeles. The aim is to improve and maintain the operations under existing foreign representation agreements and to expand the base of foreign representation.

• Project: National development of visa information system/Ministry for Foreign Affairs

The project covers preparations for implementing the visa system. The project involves system development, VIS testing and implementation of the required technical architecture.

• Project: Acquisition of fingerprint scanners and passport inspection devices for the National Board of Customs for use at cargo ports and airports for the processing and granting of visa applications. (SOPATA)/National Board of Customs

Hand-written visa stickers will be replaced by 31 December 2009 by machine-printed visas, complete with photographs, under the instructions of the Ministry for Foreign Affairs. Subsequent developments will include using rapid passport scanning devices to read the applicant’s travel documents, check and store fingerprint data and carry out searches for background checks using the computers purchased under project 122008. For reasons related to the External Borders Fund, the project will be implemented in 2010 despite its inclusion in the 2009 annual programme.

• Project: Developing the Schengen information system/Ministry of the Interior/Police Department

The ultimate goal of the national development project for the Schengen Information System is a national SIS II information system (N. SIS II) that communicates with the SIS II central information system (Central SIS II). The aims of the second-generation Schengen Information System (SIS II) include connecting new Member States to the Schengen Information System, making use of modern information technology and implementing new functionality.

• Project: Training consular employees on migration-related issues/Ministry for Foreign Affairs

The objective of the project is to manage information systems to ensure their implementation according to the schedule set for the EU’s common information system. The project also aims to strengthen awareness, recognition and reporting of phenomena related to irregular migration.

• Project: Scanning devices for border control documents/Finnish Border Guard

The aim of the project is to develop border checks by purchasing devices used to verify travel documents used in border checks in a manner that is compatible with EU requirements and
systems related to border checks.

The purchases will improve the Border Guard’s capacity to identify and scan biometric passport data and check its veracity. This facilitates improved identification of counterfeit or false travel documents during border checks. Travel document scanning devices will be placed at border crossing points at the EU’s external borders.

The travel document scanning devices and equipment used to check the veracity of travel documents will improve border control officers’ capacity to detect attempts to enter the country illegally and identify counterfeit and false documents during border checks. The purchased equipment will replace the rest of the ageing scanning devices that are incompatible with electronic documents.

- **Hanke: RAMASO (Border checks, travel document reading and fingerprint scanning)**/National Board of Customs
  The Customs carries out passport inspections of lorry drivers at the major border crossings on the eastern border jointly with the Finnish Border Guard, in the manner agreed upon between the two authorities. The NULJA project is used to facilitate this cooperation at Nujamaa border crossing. The Finnish Customs has been responsible for carrying out border checks at small seaports and airports in the past, but it is increasingly also carrying out border checks of lorry drivers at the major border crossings on the eastern border jointly with the Finnish Border guard, in the manner agreed upon between the two authorities.

- **Project: Patrol boat camera systems/Finnish Border Guard**
  The aim of the project is to maintain and improve Finland’s capacity to monitor the EU’s external sea borders and improve Finland’s preparedness to implement a common European Border surveillance system. The project will improve border security. By developing the patrol boats’ camera surveillance capability, objects can be identified from a greater distance in the surveillance of sea borders in all visibility and weather conditions throughout the year. Equipping the patrol boats appropriately serves to ensure the necessary operational performance and better operational capacity across a more extensive area. The upgrades will also allow Finland to allocate high-performance equipment to operations coordinated by Frontex without significantly compromising the level of Finland’s border surveillance.

  The replacement of the camera systems also helps reduce repair needs and provide redundancy for the technical surveillance of the entire maritime area.

- **Project: Replacing surveillance sensors at the sea border/Finnish Border Guard**
  The aim is to maintain and improve the operating capacity of the surveillance system. The current surveillance radars, cameras, digitalisation units and radio links used at the sea border are ageing and error prone. The replacement devices will improve the system’s operating capacity and reliability, reduce the time equipment is offline and result in lower maintenance costs.

  The new radar data digitalisation units will also provide increased resolution for surveillance images, improving surveillance effectiveness particularly with regards to small objects (boats). New digital radio links provide improved data security (digital data transfer enables effective encryption of data). The daylight cameras currently in use are suitable for surveillance during daylight, dawn and dusk. The new twin-operational cameras also provide night vision functionality, enabling around-the-clock surveillance.

- **Hanke: Patrol boats 10 and 11/Finnish Border Guard**
  The aim is to improve the Finnish Border Guard’s capacity to carry out border security tasks at sea borders by replacing ageing patrol boats with new, higher-performance patrol boats. The objective is to improve the effectiveness of border security operations at the sea border, resulting in improved border security. The project involves procurement of patrol boats 9 and 10. The new patrol boats offer higher performance and patrol capacity compared to their predecessors, which provides significant added value in border security operations. The patrol boats will also offer better compatibility with other Member States and their usability in joint Baltic Sea operations coordinated by Frontex will be improved.

- **Hanke: KAVASA (Camera surveillance at ports)/National Board of Customs**
  The aim of the project is to prevent illegal immigration at small unmanned ports. The Finnish Customs is the authority responsible for carrying out passport control operations at cargo ports and as in conjunction with special events. The Finnish Customs carries out both customs and border inspections at small ports. The project involves equipping the areas and gates of small unmanned ports with remote-controlled camera surveillance devices and monitoring the movements of crew.

- **Project: Biometric residence permit card system/Finnish Immigration Service**
  The aim of the project is to integrate an information system used to issue biometric residence permit cards into the Finnish electronic case management system for immigration affairs (UMA). Integrating the information system used to issue biometric residence permit cards into the UMA system will improve the efficiency of all processes related to immigrants. The UMA system is used for e.g. granting residence permits, entering decisions on the refusal of entry and issuing prohibitions on entry. In addition to the Finnish Immigration Service, the system is used by the Police, the Finnish Border Guard, Finland’s foreign representatives and certain other authorities. Integration with the UMA system will provide significant support for the effective management of passenger flows at the external borders and improve the operations of Finland’s officers handling immigration-related matters in third countries.

- **Project: VIS fingerprint scanners/Finnish Border Guard**
  The aim of the project is to promote the implementation of VIS to effectively implement common visa policy and to achieve the goals of both visa policy and the VIS. The objective of the project is to purchase and roll out fingerprint scanners required for the Visa Information System (VIS) in the Finnish Border Guard. The aim of the project is to promote the implementation of VIS to effectively implement common visa policy and to achieve visa policy objectives. The objective of the project is to purchase and roll out fingerprint scanners required for the Visa Information System (VIS) in the Finnish Border Guard.

  In border inspections at the EU’s external borders, the fingerprints of passengers who require a visa must be compared with the fingerprint data on a centralised database. Fingerprint scanners will be purchased for use by border control officers for this purpose. The fingerprint devices to be purchased and their software meet the EU Visa information System requirements and are compatible with the system. This procurement project will meet the EU requirements described above.

- **Project: VIMYJA (Visa granting follow-up project)/National Board of Customs**
  The aim of the project is to achieve the technical and operational capacity to process visa applications and grant visas, as defined at the EU level. The project also involves expanding the C-CIS system to cover finger-print identification. This requires the installation of fingerprint scanners and software at all locations where visas are granted. Mobile versions used by mobile teams are based on a single-finger scanner. Fixed locations will use the faster four-finger scanners.

- **Project: Vitja project, external border control/National Police Board**
  The aim is to implement an information system to expedite information exchange on international and cross-sectoral systems and to improve the effectiveness of monitoring at the external borders. The Police will carry out a subproject as part of its information system reform to facilitate PCB co-operation. The aim of the External Border Control subproject of the Vitja information system project is to implement and maintain an information system facilitating the exchange of information and pretrial investigation data between the authorities responsible for pretrial investigations along with analysis, a register of distinctive marks as well as national and international warrants for arrests. As part of its Vitja system implementation, the Police will develop functionality that directly supports operations related to the monitoring of external borders.
• Project: Developing the training environment/ Finnish Border Guard

The aim of the project is to construct a building to be used as the setting for the tactical training of situation management by Border Guard officers and special units. The aim is to construct a building suitable for both the basic training of Border Guard officers as well as inservice training sessions related to the management of specific border security situations. The building’s room configuration can be modified through movable wall elements. The building will be one part of a training system for operational field activities at the location in question.

The project’s impacts will include improved border security, enhanced skills and situation management related cooperation for Border Guard officers and special units as well as improving operational capacity for situation management in EU joint operations.

• Project: Training personnel and cooperative authorities handling migration-related matters/ Ministry for Foreign Affairs

The aim of the project is to improve the Schengen-related knowledge of personnel, enhance their ability to detect phenomena related to illegal immigration and counterfeited documents, build cooperation networks, improve customer service and enhance occupational safety. The project aims to improve EU competencies, build increased awareness of migration-related matters and improve customer service and safety.

The project will be carried out by organizing training related to the national visa system SUVI, basic and advanced courses on migration-related affairs, regional training in Africa on migration-related matters and an illegal immigration seminar in Addis Ababa.

Training related to the joint EU Visa Information System is postponed to 2011 due to the system’s implementation being pushed forward. Training to improve customer service safety will be arranged six times during the project period. Safety training for high-risk operating environments will be carried out on an outsourced basis in the United Kingdom.

The project includes one training session on crisis communications, with a practical training session related to a visa case. The training session is carried out by Puhe Productions Oy in cooperation with the Ministry’s training unit.

The following projects to combat irregular migration have been financed by the EU Return Fund:

• Improving the effectiveness of removal 2009–2010. The project involves improving the effectiveness and development of police operations in enforcing removal decisions. In the project, persons subject to a removal decision are provided with information on voluntary return opportunities under a new operating model. The aim is to respond to the additional work load caused by an increase in the number of return decisions and to better identify potential candidates for voluntary return.

• 0310C4 - Iraq country of origin information system (2010) The aim of the project is to develop a country of origin information system on Iraq for the Finnish Immigration Service for use in disseminating information to other authorities, return organisations and returning persons. The project involves developing a country of origin information system on Iraq to create the conditions for voluntary, sustainable, stable and safe return by creating a network of local contacts in Iraq to acquire current and reliable information. The country of origin information system will provide information for use by the police, non-governmental organisations that arrange returns, persons set to return and the administrative courts. Information will be disseminated through the Tellus database, the migri.fi website and through reporting activities. The project will also promote national and international cooperation and the exchange of information and produce information for use in preparing a return agreement between Finland and Iraq.

6. ESTIMATES AND STATISTICS ON THE IRREGULAR MIGRANT POPULATION IN FINLAND

The methods used to prevent illegal entry include the collection and distribution of information among authorities. In June 2011, an assessment report on illegal entry was published and the aim is that the official working group on prevention of illegal entry will update it semi-annually. This intersectoral report describes illegal entry as a phenomenon by presenting figures from various administrative sectors.

Statistics about illegal entry are gathered by the National Bureau of Investigation. In addition, police liaison officers working in diplomatic missions provide the National Bureau of Investigation with information on suspicious events that come up in the processing of visa and residence permit applications.

Eurostat collects Community statistics on migration and international protection pursuant to Regulation 862/2007/EC. EU Member States have been submitting statistics to Eurostat according to the requirements stated in the Regulation since 2008. The figures presented in the statistical section of this report are primarily the figures submitted to Eurostat, as recommended in the report guidelines to allow comparisons at the EU level. National statistics have also been used in this report, but the source of statistics is always specified. There are some discrepancies between the national and Eurostat statistics due to factors such as compilation basis, time and the Eurostat practice of rounding figures to the nearest five, which should be taken into consideration in examining the statistics.

6.1 National statistics on irregular migration

The statistical data presented in this section primarily consists of data for 2008–2010 collected pursuant to the aforementioned statistics Regulation 862/2007/EC. More comprehensive statistical tables are included in the statistical appendix to this report.

Third-country nationals found to be illegally present in Finland

The number of third-country nationals found to be illegally present in Finland has shown considerable fluctuations during the period under review. This is primarily due to changes in the number of asylum seekers. The table below shows the total amounts for 2005–2010.

<table>
<thead>
<tr>
<th>Year</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2,757</td>
<td>1,689</td>
<td>1,966</td>
<td>5,375</td>
<td>6,660</td>
<td>3,755</td>
</tr>
</tbody>
</table>


Over 70% of the third-country nationals found to be illegally present in Finland in
2008-2010 were male. The largest age group was 18–34 years. There has been a notable decline in the under-17 age group since 2008, which correlates with the number of asylum seekers entering the country as unaccompanied minors.

Citizens of Somalia, Iraq and the Russian Federation were the three nationalities most frequently found to be illegally present in Finland in 2008–2010.

The diagram below depicts police statistics on illegally present aliens detected from 2003 to 2011 (January-September) to illustrate trends over a longer time period.

Third-country nationals refused entry at Finland’s external borders

According to Eurostat data, the number of third-country nationals refused entry at Finland’s external borders has remained relatively stable, with a noticeable decline in 2009–2010.

<table>
<thead>
<tr>
<th>Year</th>
<th>Eastern border</th>
<th>Airports</th>
<th>Sea borders</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>1,185</td>
<td>1,407</td>
<td>1,424</td>
</tr>
<tr>
<td>2006</td>
<td>1,175</td>
<td>1,300</td>
<td>1,389</td>
</tr>
<tr>
<td>2007</td>
<td>1,300</td>
<td>1,424</td>
<td>2,077</td>
</tr>
<tr>
<td>2008</td>
<td>2,077</td>
<td>3,388</td>
<td>5,335</td>
</tr>
<tr>
<td>2009</td>
<td>3,044</td>
<td>3,335</td>
<td>3,388</td>
</tr>
<tr>
<td>2010</td>
<td>1,185</td>
<td>1,011</td>
<td>890</td>
</tr>
</tbody>
</table>


Among the reasons for refused entry at external borders, the most frequent category based on Eurostat classification is “No sufficient means of subsistence”, followed by “No valid visa or residence permit” and “Person considered to be a public threat”. The remaining categories are presented in the statistical appendix and based on the Schengen border rules governed by Regulation 562/2006/EC.

Refused entries at Finland’s external borders in 2004–2010 according to Finnish Border Guard statistics

For comparison, the table below shows the Finnish Border Guard’s statistics on persons refused entry at external borders. As stated in the introduction to Chapter 6, there are discrepancies between the national statistics and Eurostat data, primarily due to statistical definitions and processing issues.

According to the Finnish Border Guard, the number of persons refused entry at the external borders in 2010 remained largely unchanged from the previous year. In 2010, the number of persons refused entry at Finland’s external borders was 1,169 (2009: 1,190). This number includes 1,011 persons refused entry at the Finnish-Russian border (2009: 941) and 147 persons refused entry at airports (2009: 247). The most frequently cited reasons for refused entry were the lack of a valid visa or residence permit (33%), earning income by dishonest means (23%) and giving false information during a border inspection (13%).

<table>
<thead>
<tr>
<th>Year</th>
<th>Eastern border</th>
<th>Airports</th>
<th>Sea borders</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>910</td>
<td>212</td>
<td>219</td>
</tr>
<tr>
<td>2006</td>
<td>952</td>
<td>380</td>
<td>277</td>
</tr>
<tr>
<td>2007</td>
<td>1,158</td>
<td>340</td>
<td>108</td>
</tr>
<tr>
<td>2008</td>
<td>1,145</td>
<td>315</td>
<td>25</td>
</tr>
<tr>
<td>2009</td>
<td>941</td>
<td>247</td>
<td>2</td>
</tr>
<tr>
<td>2010</td>
<td>1,011</td>
<td>147</td>
<td>11</td>
</tr>
<tr>
<td>2011</td>
<td>890</td>
<td>148</td>
<td>23</td>
</tr>
</tbody>
</table>

Source: The Finnish Border Guard

Third-country nationals under an administrative or judicial decision to leave the country (return decision, deportation decision)

This section covers third-country nationals under an administrative or judicial decision to leave the country, i.e. a return decision or deportation decision.

The total figures for 2008–2010 are shown below:

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1,775</td>
<td>3,125</td>
<td>3,835</td>
</tr>
</tbody>
</table>

Source: Eurostat 2008–2010
The data shows a considerable increase, which is partly explained by the large numbers of asylum seekers in 2008 and 2009. The figures comprise persons who do not meet the requirements under the Aliens Act to reside in Finland and are therefore subject to a return decision. The three largest groups by nationality are Iraqi, Somali and Russian Federation citizens. More detailed data on nationalities and quantities is included in the statistical appendix.

The chart below, based on figures provided by the National Bureau of Investigation, shows total volumes and trends in refused entries and deportations based on national statistics. The data is based on slightly broader definitions than the numbers reported to Eurostat.

![Decisions on removal and deportation](chart)

**Third-country nationals removed from the country after a deportation decision**

According to Eurostat data, the total numbers of removals in 2008–2010 are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>910</td>
<td>1,720</td>
<td>1,930</td>
</tr>
</tbody>
</table>

Source: Eurostat 2008–2010

The top three nationalities are again the Russian Federation, Somalia and Iraq.

![Enforcement of removals](chart)

**Third-country nationals whose application for asylum was rejected, 2008–2010**

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>in the first instance</td>
<td>100</td>
<td>305</td>
<td>620</td>
</tr>
<tr>
<td>following a final decision</td>
<td>10</td>
<td>15</td>
<td>45</td>
</tr>
</tbody>
</table>

Source: The National Bureau of Investigation

6.2 Other statistics

**Asylum applications at the border**

In 2010, the number of asylum applications filed at the border in conjunction with entry into the country was 101, considerably lower than the corresponding figure of 408 in 2009. The 2010 statistic is a record low. Of these applications, 81 (2009: 375) were filed at Helsinki-Vantaa Airport and 20 (2009: 33) at the eastern border. The nationalities with the most asylum applications at the border were Afghanistan (11), Russia (9), Iraq (7), Iran (7) and Turkey (7).

In total, approximately 4,018 persons applied for asylum in Finland during the year. This represents a decrease of one third on the previous year (2009: 5,988). The nationalities with the most asylum applications were Bulgaria, Somalia, Iraq and Russia.
According to the Finnish Immigration Service, there is no single reason for this decline in asylum applications. Rather, the number of applications is affected by, among other things, international crises, European policies and Finland’s own immigration policy. One change that has resulted in a decline in asylum applications is a legislative amendment that entered into force in July. Under the amendment, a citizen of an EU Member State applying for asylum may only remain in a reception centre until he or she is notified of the Finnish Immigration Service’s negative decision on his or her application. In addition, the asylum seeker only receives income support for the days he or she spends at the reception centre, and income support for those days is paid at a reduced rate. After the legislative amendment, the number of Bulgarians applying for asylum in Finland has fallen to just a few.

Asylum applications in the EU as a whole decreased as a result of the financial crisis. However, the number of asylum applications began to again rise slightly in the third quarter of 2010.

The Stock of Irregular Migrants in Finland

The National Bureau of Investigation has collected statistics since 2003 on the number of persons found to be residing in Finland illegally. The average in 2003–2010 was approximately 3,500 per year. The figures for 2008, 2009 and 2010 were much higher than average, reaching nearly 7,000 in 2009. The 2011 figure is expected to be approximately 3,000. Since the year 2008, most of the persons come from Somalia, Iraq and Russia. In 2010, compared to previous years, the number of Somalis and Iraqis has declined by over 60% and is now close to that of Russians. Somalis and Iraqis enter Finland as asylum seekers, while Russians who are in Finland illegally have generally overstayed their visas.

According to public estimates by the authorities, there are approximately four thousand illegal immigrants residing in Finland. However, the European CLANDESTINO project in 2008 estimated the actual figure to be 8,000–12,000 (7–10% of all foreign nationals residing in Finland). The CLANDESTINO project estimate is based on academic estimates collected in Finland under the POLITIS project. The estimate made in the POLITIS project was based on a Finnish researcher’s estimate made in 2003 that put the number of illegal immigrants in the country at 10,000. The figure has since been often quoted by Finnish media.

When reading the statistics, the background of the data collection must be taken into consideration. From the perspective of action taken by the authorities, illegal immigration can be categorised into illegal immigration using illegal means and illegal immigration using legal means. Cases involving the use of criminal means are recorded in the registers maintained by the authorities as suspected crimes, whereas attempts to abuse the permit system are recorded as negative decisions on permit applications. The collection of statistical data on irregular migration in Finland is based on the common European practice of collecting statistics on persons found to be present in the country illegally. The number of persons present in the country illegally is based on cases of foreign nationals detected in the country without travel documents and the total number of suspected violations of the Aliens Act in the country. As asylum seekers are primarily without travel documents upon entering the country, they are recorded in the statistics as persons present in the country illegally. However, once their asylum applications are being processed, they are no longer categorised as residing in the country without authorisation.

http://www.politis-europe.uni-oldenburg.de/download/Finland.pdf

Entry bans issued by the Finnish Immigration Service and the Police, 2005–2010

<table>
<thead>
<tr>
<th>Top ten nationalities</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>1,444</td>
<td>882</td>
<td>846</td>
<td>660</td>
<td>941</td>
<td>1,018</td>
<td>5,791</td>
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<tr>
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<td>362</td>
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<td>348</td>
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<td>1</td>
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<td>40</td>
<td>53</td>
<td>35</td>
<td>380</td>
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<tr>
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<td>51</td>
<td>38</td>
<td>52</td>
<td>48</td>
<td>46</td>
<td>111</td>
<td>346</td>
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<td>91</td>
<td>33</td>
<td>20</td>
<td>32</td>
<td>47</td>
<td>122</td>
<td>345</td>
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<tr>
<td>Botswana</td>
<td>17</td>
<td>52</td>
<td>55</td>
<td>44</td>
<td>77</td>
<td>70</td>
<td>315</td>
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<tr>
<td>Nigeria</td>
<td>27</td>
<td>22</td>
<td>25</td>
<td>25</td>
<td>87</td>
<td>40</td>
<td>226</td>
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<tr>
<td>Serbia and Montenegro</td>
<td>80</td>
<td>32</td>
<td>41</td>
<td>1</td>
<td>1</td>
<td>155</td>
<td>155</td>
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<tr>
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<td>22</td>
<td>13</td>
<td>11</td>
<td>15</td>
<td>136</td>
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<tr>
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<td>7</td>
<td>24</td>
<td>9</td>
<td>16</td>
<td>20</td>
<td>33</td>
<td>109</td>
</tr>
</tbody>
</table>

Entry bans have increased markedly since 2008. This is partly explained by an increase in refusals of entry on the basis of crimes. Persons refused entry under such conditions are generally also banned from entering the country for a given period of time. The most typical reasons for refusing third-country nationals entry on the basis of crimes have been thefts and robberies. The number of entry bans on the basis of violations related to illegal immigration such as arranging illegal immigration, forgery, fraud and illegal residence has not changed much. Based on the 2010 figures, persons refused entry on the basis of illegal residence were typically issued an entry ban for two (2) or five (5) years (a total of 91 entry bans). Also in 2010, entry bans were issued for five (5) years or until further notice for arranging illegal immigration (a total of 9 entry bans). Persons who had committed forgery or fraud were primarily issued a five (5) year entry ban (a total of 15 entry bans).

So far there are no carriers sanctioned in line with Article 4 of the Carriers Directive (for failing to transmit data as outlined in Article 3 of the same Directive, or for transmitting incomplete or false data).

There are no accurate and official statistics on suspected marriages of convenience. Negative residence permit decisions on the grounds of suspected marriages of convenience are filed under the same statistical category as all other negative decisions issued to spouses.

The Finnish Immigration Service estimates the number of negative residence permits on the grounds of suspected marriages of convenience to be 100-200 per year. Decisions made by the police are not included in this figure.

Operational costs on implementing practical measures to address irregular migration

According to the financial statements of the Ministry of the Interior’s branch of administration, a total of €2.5 million was spent on removal and related transportation in 2010. There has been a proposal to increase the budget for 2011 to €3.5 million. In 2010, the Police used approximately 12.0 man years on monitoring immigrants, up from 9.5 man years in 2009. The proposed budget for the Police for monitoring immigrants in 2011
corresponds to 12 man years. The Finnish Border Guard used €77.4 million on border checks in 2009. In 2010, the costs increased to €89.2 million. The budget for 2011 was set at €87.5 million. The Finnish Border Guard recorded 78 instances of monitoring actions related to the prevention of illegal immigration in 2009. The number for 2010 was estimated to be 80.108

The Police incurred total costs of €2,132,000 from enforcing the repatriation of foreign nationals in 2009. The total cost of interpreter services used during asylum investigations109 was €1,040,000. The promotion of voluntary return programmes is expected to result in savings through a reduced need for escorts. Further savings are likely to result from asylum seekers placing a shorter-lived burden on the reception system due to voluntary return. The annual costs of detention units are €66,300 per detention room. There are 40 detention rooms in the Metsälä detention centre and they are generally fully occupied. Illegal residence in the country may also involve working without authorisation, which is unwelcome from the perspective of combating the grey economy.110

7. CONCLUSIONS

Since 25 March 2001, Finland has been a member of the Schengen area governed by the Schengen rules. The Schengen rules are intended to facilitate the free movement of people inside the European Union. In practice, this refers to the elimination of border inspections at the internal borders, i.e. borders between Schengen countries. The land border between Finland and Russia is the EU’s longest external border.

Passenger traffic at the Finland-Russia border has increased at a record rate since the financial crisis. A total of 8.4 million passengers crossed the border in 2010, representing an increase of 13.7 per cent on the previous year. Cross-border traffic increased at all international border crossing points except Vainikkala and Vartiok. According to the Border Guard’s assessment, this increase in cross-border traffic is the result of improving economic growth in Russia, changes in customs regulations and Finland’s flexible visa policy. The assessment of illegal migration routes across the internal borders is difficult due to the fact that information on a person’s movements after crossing the Schengen external border and entering the EU is not registered. Similarly, there is no trace of a person leaving the country unless he or she crosses an external border to leave the EU. The measures used to combat illegal migration across internal borders include, among other things, passenger lists (API data) provided by passenger transport operators. Persons who have entered the country without authorisation are, however, typically detected through the monitoring of immigrants within the country.

The majority of illegal immigration to Finland takes place at the internal borders. The most significant routes are the passenger ports in Turku and Helsinki as well as Tornio. Illegal immigration from the Baltic countries to Finland has increased in recent years as a result of the expansion of the Schengen area and the weak economic conditions in the Baltic countries. The largest groups arriving in Finland have been Afghans and Russian nationals of Chechen origin.111

The following phenomena related to illegal immigration have been identified in Finland:

- overstaying visas or irregularities in visa applications
- using false/falsified documents or authentic documents granted to a person other than the one using them
- unclear identity
- the person entering the country on the grounds of right of residence granted to another person
- untruthful employment agreements
- clandestine workers
- an asylum seeker going missing from a reception centre but remaining in Finland or the Schengen area without authorisation
- marriages of convenience
- the anchor child phenomenon

109 In accordance with Section 4 of the Aliens Act the Police conduct asylum interviews in order to establish asylum seeker’s identity.

111 Border Guard Headquarters, Crime Prevention Unit.
The term “persons illegally resident in the country” does not include foreign nationals who have submitted an asylum application. Such persons are considered to be staying in the country with authorisation. However, there are some cases with irregularities in the asylum process. The frequency of such cases can be monitored at a general level on the basis of the number of clearly groundless asylum applications, applicants from safe countries of origin and Dublin cases. In collecting data for statistical purposes, the number of persons residing in the country illegally is based on cases of foreign nationals detected in the country without travel documents and the total number of suspected violations of the Aliens Act in the country. When asylum seekers are without travel documents upon entering the country, they are recorded in the statistics as persons residing in the country without authorisation. However, once their asylum applications are being processed, they are no longer categorised as residing in the country without authorisation.

Factors that influence the phenomenon of irregular migration to Finland include e.g. unregulated seasonal work and the students’ residence permit system. The policy of granting asylum seekers who are unaccompanied minors a Finnish residence permit has also led to the anchor child phenomenon, which has previously been exacerbated by Finland’s tolerant family reunification policy. The students’ residence permit system has become a pull factor primarily due to the opportunity to study for free. Student applications to universities of applied sciences, in particular, have included falsified academic certificates and bank statements. Efforts have been made to stop such cases at the visa application stage. However, there are several other factors that also play a role in the phenomenon of irregular migration. As such, it is difficult to highlight a single pull factor for Finland.

On the whole, irregular migration to Finland has been decreasing in 2011 and it is not presently perceived as a significant problem in Finland. This decrease is partly explained by the decline in global migration caused by the economic downturn, although Frontex has reported that the effects of the Arab Spring are evident in the statistics for the second quarter of 2011. According to Frontex, the number of illegal border crossings has risen back to the levels seen in 2008. Statistics on irregular migration collected by the National Bureau of Investigation indicate that the number of persons found to be staying in Finland without authorisation in September 2011 had risen to the levels seen in 2010 after a slight decrease during the summer months.
The most effective pre-entry measure against irregular migration has proven to be screening during the visa application stage. The Border Guard has posted a number of liaison officers in countries with a high risk of illegal migration to Finland. In 2010, Finland’s diplomatic missions granted a record number of over one million short stay Schengen visas. In 2010, a total of 1,020,400 visa applications were processed with 1,008,829 approved.112 The majority of the visas are granted to Russian nationals. Cooperation between the authorities from different countries is a significant part of the screening of visa applications. Finland uses joint Nordic PTN liaison officers113 in countries where there is no Finnish liaison officer. The effective advance screening also plays a key role in family reunification cases involving ambiguous regarding aspects such as the truthfulness of family relationships and the true age of the minor sponsoring the application. In processing applications based on family ties, the Finnish Immigration Service uses the network of liaison officers (interviews to assess family ties), DNA testing and forensic methods to determine the age of the person concerned in cases involving suspicions regarding the reported age of the sponsor or other foreign national applying for a residence permit in Finland. The Aliens Act was amended in 2010 to give the Police, the Border Guard and the Finnish Immigration Service the right to request the use of forensic methods to determine an applicant’s age. The purpose of the amendment is to prevent circumvention of the rules on entry when applying for residence permits.

The national cooperation between the Police, Customs and the Border Guard (PCB cooperation) in Finland is an internationally unique form of cooperation that has been developed over several decades. In recent years, PCB cooperation has been extended to criminal intelligence activities. The cooperation focuses particularly on preventing, detecting and investigating crime, monitoring the legality of the import and export of goods, monitoring the legality of persons entering, leaving and staying in the country as well as common tasks related to the international cooperation between the PCB authorities. The objective of PCB cooperation is combating serious cross-border crime. Different sectors of criminal activity are becoming increasingly interlinked, with the same groups operating across multiple sectors. This trend makes PCB cooperation in fighting crime more and more significant.

The elimination of border checks at the internal borders increases the threat of cross-border crime and the entry into Finland of third-country nationals residing in the EU without authorisation. This threat is bound to increase as the Baltic countries join the Schengen Area Agreement. In response to this, the authorities responsible for internal security must increase their level of cooperation and require sufficient authorisation related to, among other things, the monitoring of immigrants within the country and the joint use of information systems. Operations related to the monitoring of immigrants must be increased at least in major cities and in the vicinity of internal border crossing points.114

As crime becomes increasingly organised, the threats faced by witnesses and the authorities are expected to increase and become more serious. The enforcement of discipline within criminal groups is also likely to become more decisive. As a result, the investigation of crimes may become more difficult and witnesses may be exposed to grave danger due to fulfilling their civic duties. The operating methods of organised crime based in Estonia and Russia, in particular, are harsher than what has been seen thus far among international crime groups in Finland.115

112 The number of applications in 2009 was 795,936.
113 The Nordic police and customs authorities have a network of liaison officers (PTN, short for Polis och Tull i Norden) covering approximately 20 countries around the world. The network’s liaison officers are available to all Nordic countries. They are located in Albania, several countries in the Baltic region, Poland, Turkey, Thailand, Laos, Vietnam, Pakistan and United Arab Emirates, for instance. PTN co-operation was launched in 1972 mainly to prevent drug crimes. Later, the network’s operations have expanded to the prevention of other organised crime as well.

Monitoring and effective removal are in-country measures for preventing irregular migration. The monitoring of aliens116 is carried out in Finland by the Police and the Border Guard as part of their regular duties. The monitoring of aliens is carried out through random checks, inspections based on advance information as well as planned sweep investigations.

Effective removal plays an important role in the prevention of irregular migration. Maintaining a high rate of enforcement of removal decisions despite an increased number of applications and decisions would send a strong signal that Finland does not allow persons without legal grounds to stay in the country. Under a decision by the Ministry of the Interior, the Helsinki Police Department is responsible for the national coordination of the removal of irregular immigrants. During the project to improve the effectiveness of removal measures carried out by the Helsinki Police Department, the number of decisions handed down by the Finnish Immigration Service has increased from just over 1,000 decisions in 2007 to 4,000 in 2010. The project to improve the effectiveness of removal measures has helped maintain a high rate of enforcement of negative decisions, which in turn has resulted in a marked decrease in Dublin cases in 2010 and 2011. This suggests that effective removal has a strong preventive effect on irregular migration.

Finland does not have a statutory regularisation process for persons who enter or stay in the country without authorisation. Many third-country nationals who have entered the country illegally file an asylum application after their illegal status has been discovered. In such cases, their illegal status can be said to expire if they are granted international protection or a residence permit on other grounds pursuant to the Aliens Act. A person subject to a removal decision can also file a residence permit application, in which case the grounds for remaining in the country are investigated in a separate process. In cases in which removal has not been successful, Finland has granted residence permits based on a status of national protection, such as residence permits on compassionate grounds (Aliens Act, Section 52) and temporary residence permits for persons who cannot be removed from the country (Aliens Act, Section 51).117

The political steering of the prevention of irregular migration in Finland is the responsibility of the Ministry of the Interior. The practical measures are carried out independently by the authorities involved in combating irregular migration. The action plan against illegal immigration for 2010–2011 states that the Ministry of the Interior’s Migration Department plays an important role in operations against illegal immigration through its preparation of policy and legislation on illegal immigration and human trafficking according to its political steering. The Migration Department also carries out key tasks related to bilateral, international and EU cooperation related to illegal migration and trafficking in human beings. The monitoring and assessment of the action plan against illegal immigration is carried out on a cooperative basis by various actors. The working group that prepared the action plan continues its work as the steering group for the action plan against illegal immigration. Led by the Ministry of the Interior, each ministry and responsible party involved is responsible for the monitoring and implementation of measures under their own branch of administration.118 Based on this study, the aforementioned division of responsibilities in combating irregular migration may involve some negative impacts, mainly related to reporting and the flow of information.

114 The action programme against illegal entry for 2010–2011, p. 10.
116 The monitoring of aliens comprises monitoring compliance with the Aliens Act and regulations based on the Aliens Act, including verifying an alien’s identity, right of residence and right of employment. Intervention in illegal residence or employment is also part of the monitoring of aliens.
A particular challenge in the prevention of illegal immigration is the Member States’ different interpretations of visa regulations and different administrative cultures. Despite local Schengen cooperation, there are differences in the issuing of visas for different Schengen States. Based on practical observations, some EU Member States are more lax in granting entry permits than others, which leads to criminal organisations at the border, using the foreign representations of such countries to arrange illegal entry. It is clear that the effective prevention of illegal immigration requires consistent policies across all Schengen diplomatic missions.

In practical border control activities, problems are caused by the fact that not all Schengen States have approved the same travel documents and there are national differences (e.g. Iraqi passports). In addition, Schengen States have various bilateral agreements with third countries in which also causes confusion at the border. Visa regulations and various agreements create different interpretations regarding which regulation should be applied in each case and how the length of residence in the Schengen area should be calculated, for instance. Occasionally similar problems are encountered even between different authorities.

It is a challenge to return a person residing illegally in the country to their home country if the person has lost travel documents on purpose when entering the Schengen area. Proving such a person’s citizenship may be difficult, and the diplomatic mission of their home country will not necessarily issue a certificate for the return journey if it has not been possible to prove citizenship. In these cases it would help if the archives of the diplomatic mission that issued the Schengen visa contained, in addition to a photograph, copies of the documents (a passport, various documents, bank statements, etc.) that were presented when the visa was applied for. These documents could be used as reference when proving a person’s citizenship. On 11 October 2011, Finland joined the other Schengen countries in starting to record fingerprints of visa applicants in North Africa. The recording of fingerprints is related to VIS implementation, which is being carried out in several phases geographically, starting from North Africa and moving to the Middle East and the Persian Gulf in the coming months. The system is scheduled to be in use globally by autumn 2014. Another problem related to returns, besides identity verification, is cost. Finland has not adopted any arrangements for collecting the costs of repatriation from the sponsor of the visa application, for instance by requiring the sponsor to make a deposit against possible repatriation costs.

The modus operandi used in illegal migration is based on keeping a close watch on the reinforcements at EU external borders and trying to exploit internal passenger traffic in the Schengen area to enter and leave Finland without authorisation. The increasing traffic between Estonia and Finland and Estonia joining the Schengen Agreement in late 2007 have resulted in an emerging phenomenon of “hit and run” crime in Finland. Mobile groups of foreign criminals use Lääni-satama Port in Helsinki, the Port of Turku and border crossing points in Northern Finland in conducting their criminal operations. Members of such crime groups are typically caught at border crossing points with stolen goods and/or stowaways. Persons arriving from the Baltic countries and, in particular, Romania, Poland and Bulgaria, have in recent times been apprehended for crimes, including aggravated theft. The Police, Customs and the Finnish Border Guard maintain constant cooperation to combat mobile international crime.

The elimination of border checks between Finland and Estonia in 2007 was quickly reflected in the number of crimes against property. There was a marked increase in crimes involving forced entry into residences and entry into shopping centres through roofs. According to the Finnish Customs, foreign criminal groups carry out meticulously planned and well organised criminal strikes in Finland. The criminals enter the country in the evening, carry out multiple crimes during the night and then leave the country on the first ship in the morning or as soon as possible. The organised nature of such criminal activities is evidenced by the fact that factors taken into account in courts of law have quickly resulted in changes in the operating methods used by subsequent criminals entering Finland.

The authorities have increased both national and international cooperation as the extent of the phenomenon has become clear. The Finnish authorities recommend tighter international cooperation to control the phenomenon of mobile crime. The KOPPI project, led by the National Police Board, was established in 2010 to implement more effective measures against foreign criminal groups and the crimes committed by them. In addition to various police departments, the project involved the Finnish Customs and the Finnish Border Guard. The Office of the Prosecutor General participated in the project steering group, primarily with regard to the arrangement of prosecution-related matters. Estonian and Latvian authorities were also involved in the project through a commitment to more effective exchange of information. The national PCB crime investigation centre was responsible, together with other PCB units and police departments, for profiling persons in the target groups and identifying serial crimes. The PCB authorities cooperated and exchanged information with liaison officers posted abroad as well as Europol and law enforcement authorities in various countries. The aim of the KOPPI project was to initiate a broad-based response to the phenomenon and prevent crimes in a manner that would result in information on the measures taken by the authorities being passed to the criminals’ countries of origin. The conditions for staying in Finland of persons profiled as being in the target group were assessed and, where necessary, they were returned through the appropriate processes to prevent criminal activity. Intensified and highly visible monitoring activities were employed to impede criminal activity. A similar period of intensified monitoring was implemented in 2011, based on the experiences gained from the KOPPI project. The emphasis in 2011 was on proactive measures, including the effective acquisition of information. National and international cooperation between the authorities was intensified, which allowed the authorities to focus their operations on foreign criminals posing the highest threats. The preliminary results of the intensified monitoring period in 2011 indicate that the objectives were achieved as planned.

Closer cooperation between the Finnish Immigration Service, the Police and the Border Guard is also planned under a new cooperation model. Prime Minister Jyrki Katainen’s Government Programme states that a cooperative model involving the Finnish Immigration Service, the Police and the Border Guard will be implemented to speed up the processing of asylum applications. The aim is to increase the effective exchange of information. The national PCB crime investigation centre was re-established and Latvian authorities were also involved in the project through a commitment to more effective exchange of information. National and international cooperation between the authorities was intensified, which allowed the authorities to focus their operations on foreign criminals posing the highest threats. The preliminary results of the intensified monitoring period in 2011 indicate that the objectives were achieved as planned.

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The elimination of border checks between Finland and Estonia in 2007 was quickly reflected in the number of crimes against property. There was a marked increase in
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**Case law**

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The Ministry of Foreign Affairs 19.5.2011.
The Ministry of Foreign Affairs 30.3.2011.
The National Bureau of Investigation 11.3.2011.

<table>
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<tr>
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<tr>
<td>2008</td>
</tr>
<tr>
<td>Fewer than 14 years</td>
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<tr>
<td>From 14 to 17 years</td>
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<tr>
<td>From 18 to 34 years</td>
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<tr>
<td>35 years or over</td>
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Source: Eurostat 2008-2010

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<tr>
<th>Table 1.3: Sex of migrant found to be illegally present</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
</tr>
<tr>
<td>Male</td>
</tr>
<tr>
<td>Female</td>
</tr>
</tbody>
</table>

Source: Eurostat 2008-2010
### Table 1.4: Main 10 countries of citizenship

<table>
<thead>
<tr>
<th>Position of the country of citizenship</th>
<th>Name of the country of citizenship</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Bulgaria</td>
<td>413</td>
</tr>
<tr>
<td>1st main</td>
<td>Somalia</td>
<td>295</td>
</tr>
<tr>
<td>2nd main</td>
<td>Serbia and Montenegro</td>
<td>291</td>
</tr>
<tr>
<td>3rd main</td>
<td>Iraq</td>
<td>247</td>
</tr>
<tr>
<td>4th main</td>
<td>Afghanistan</td>
<td>314</td>
</tr>
<tr>
<td>5th main</td>
<td>Russia</td>
<td>222</td>
</tr>
<tr>
<td>6th main</td>
<td>FYR of Macedonia</td>
<td>150</td>
</tr>
<tr>
<td>7th main</td>
<td>Unknown</td>
<td>109</td>
</tr>
<tr>
<td>8th main</td>
<td>Russia</td>
<td>106</td>
</tr>
<tr>
<td>9th main</td>
<td>Turkey</td>
<td>78</td>
</tr>
<tr>
<td>10th main</td>
<td>Azerbaijan</td>
<td>77</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Position of the country of citizenship</th>
<th>Name of the country of citizenship</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>Bulgaria</td>
<td>309</td>
</tr>
<tr>
<td>2006</td>
<td>Russia</td>
<td>363</td>
</tr>
<tr>
<td>2007</td>
<td>Iraq</td>
<td>207</td>
</tr>
<tr>
<td></td>
<td>Iraq</td>
<td>305</td>
</tr>
<tr>
<td></td>
<td>Serbia and Montenegro</td>
<td>184</td>
</tr>
<tr>
<td></td>
<td>Unknown</td>
<td>176</td>
</tr>
<tr>
<td></td>
<td>Afghanistan</td>
<td>84</td>
</tr>
<tr>
<td></td>
<td>Serbia and Montenegro</td>
<td>120</td>
</tr>
<tr>
<td></td>
<td>Russia</td>
<td>76</td>
</tr>
<tr>
<td></td>
<td>Somalia</td>
<td>91</td>
</tr>
<tr>
<td></td>
<td>China</td>
<td>84</td>
</tr>
<tr>
<td></td>
<td>Belarus</td>
<td>63</td>
</tr>
<tr>
<td></td>
<td>Turkey</td>
<td>72</td>
</tr>
<tr>
<td></td>
<td>Nigeria</td>
<td>68</td>
</tr>
<tr>
<td></td>
<td>Iran</td>
<td>51</td>
</tr>
<tr>
<td></td>
<td>Belarus</td>
<td>45</td>
</tr>
</tbody>
</table>


### Table 2.2: Grounds for refusal

<table>
<thead>
<tr>
<th>Grounds for refusal</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>No valid travel document</td>
<td>50</td>
<td>35</td>
<td>30</td>
</tr>
<tr>
<td>False/counterfeit travel document</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>No valid visa/residence permit</td>
<td>300</td>
<td>320</td>
<td>420</td>
</tr>
<tr>
<td>False visa/residence permit</td>
<td>270</td>
<td>95</td>
<td>75</td>
</tr>
<tr>
<td>Purpose and conditions of stay not justified</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Person already stayed 3 months in a 6-months period</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>No sufficient means of subsistence</td>
<td>755</td>
<td>630</td>
<td>445</td>
</tr>
<tr>
<td>An alert has been issued</td>
<td>30</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Person considered to be a public threat</td>
<td>375</td>
<td>200</td>
<td>195</td>
</tr>
</tbody>
</table>

Source: Eurostat 2008-2010

### Table 2.3: Type of border where refused entry

<table>
<thead>
<tr>
<th>Type of border</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>910</td>
<td>952</td>
<td>1 158</td>
<td>1 455</td>
<td>1 060</td>
<td>995</td>
</tr>
<tr>
<td>Sea</td>
<td>219</td>
<td>277</td>
<td>108</td>
<td>25</td>
<td>0</td>
<td>15</td>
</tr>
<tr>
<td>Air</td>
<td>212</td>
<td>380</td>
<td>340</td>
<td>295</td>
<td>235</td>
<td>180</td>
</tr>
</tbody>
</table>

**TOTAL**


* Includes all refusals at the border

---

Table 2: Third country nationals refused entry at the external borders

Please use Eurostat data whenever possible. For the years 2008 and 2009, the following Eurostat table can be used: migr_eirfs.

---

Table 2.1: Overall trend

<table>
<thead>
<tr>
<th>Total number of third-country nationals refused entry</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 341</td>
<td>1 609</td>
<td>1 606</td>
<td>1 775</td>
<td>1 300</td>
<td>1 185</td>
</tr>
</tbody>
</table>


* Includes all refusals at the border
### Table 2.4: Main 10 countries of citizenship of third-country nationals refused entry

<table>
<thead>
<tr>
<th>Position of the country of citizenship</th>
<th>Name of the country of citizenship</th>
<th>Total 2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st main</td>
<td>Russia</td>
<td>918</td>
<td>1,051</td>
<td>1228</td>
</tr>
<tr>
<td>2nd main</td>
<td>Georgia</td>
<td>53</td>
<td>77</td>
<td>26</td>
</tr>
<tr>
<td>3rd main</td>
<td>China</td>
<td>47</td>
<td>30</td>
<td>22</td>
</tr>
<tr>
<td>4th main</td>
<td>Romania</td>
<td>16</td>
<td>22</td>
<td>12</td>
</tr>
<tr>
<td>5th main</td>
<td>Kazakhstan</td>
<td>11</td>
<td>18</td>
<td>6</td>
</tr>
<tr>
<td>6th main</td>
<td>Iraq</td>
<td>10</td>
<td>16</td>
<td>6</td>
</tr>
<tr>
<td>7th main</td>
<td>Ukraine</td>
<td>10</td>
<td>16</td>
<td>6</td>
</tr>
<tr>
<td>8th main</td>
<td>Somalia</td>
<td>8</td>
<td>16</td>
<td>5</td>
</tr>
<tr>
<td>9th main</td>
<td>Croatia</td>
<td>7</td>
<td>15</td>
<td>5</td>
</tr>
<tr>
<td>10th main</td>
<td>Iran</td>
<td>7</td>
<td>15</td>
<td>5</td>
</tr>
</tbody>
</table>

### Table 3.2: Main 10 countries of citizenship of third-country national ordered to leave

<table>
<thead>
<tr>
<th>Position of the country of citizenship</th>
<th>Name of the country of citizenship</th>
<th>Total 2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st main</td>
<td>Russia</td>
<td>405</td>
<td>615</td>
<td>615</td>
</tr>
<tr>
<td>2nd main</td>
<td>Somalia</td>
<td>300</td>
<td>485</td>
<td>495</td>
</tr>
<tr>
<td>3rd main</td>
<td>Somalia</td>
<td>175</td>
<td>465</td>
<td>375</td>
</tr>
<tr>
<td>4th main</td>
<td>Unknown</td>
<td>80</td>
<td>165</td>
<td>230</td>
</tr>
<tr>
<td>5th main</td>
<td>Serbia</td>
<td>75</td>
<td>125</td>
<td>180</td>
</tr>
<tr>
<td>6th main</td>
<td>Nigeria</td>
<td>70</td>
<td>90</td>
<td>100</td>
</tr>
<tr>
<td>7th main</td>
<td>Turkey</td>
<td>70</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>8th main</td>
<td>Belarus</td>
<td>150</td>
<td>130</td>
<td>130</td>
</tr>
<tr>
<td>9th main</td>
<td>China (including Hong Kong)</td>
<td>50</td>
<td>75</td>
<td>110</td>
</tr>
<tr>
<td>10th main</td>
<td>Iran</td>
<td>50</td>
<td>50</td>
<td>100</td>
</tr>
</tbody>
</table>


### Table 3.3: Third country nationals ordered to leave (after being found illegally present)

<table>
<thead>
<tr>
<th>Position of the country of citizenship</th>
<th>Name of the country of citizenship</th>
<th>Total 2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st main</td>
<td>Russia</td>
<td>1,355</td>
<td>1,095</td>
<td>1,045</td>
</tr>
<tr>
<td>2nd main</td>
<td>India</td>
<td>60</td>
<td>25</td>
<td>20</td>
</tr>
<tr>
<td>3rd main</td>
<td>Ukraine</td>
<td>30</td>
<td>20</td>
<td>15</td>
</tr>
<tr>
<td>4th main</td>
<td>China</td>
<td>25</td>
<td>15</td>
<td>10</td>
</tr>
<tr>
<td>5th main</td>
<td>Belarus</td>
<td>20</td>
<td>15</td>
<td>10</td>
</tr>
<tr>
<td>6th main</td>
<td>Moldova</td>
<td>10</td>
<td>15</td>
<td>5</td>
</tr>
<tr>
<td>7th main</td>
<td>Turkey</td>
<td>5</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>8th main</td>
<td>Albania</td>
<td>5</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>9th main</td>
<td>Angola</td>
<td>5</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>10th main</td>
<td>Nigeria</td>
<td>5</td>
<td>10</td>
<td>5</td>
</tr>
</tbody>
</table>

Source: Eurostat 2008-2010

### Table 3.4: Third country nationals returned following an order to leave (after being found to be illegally present)

<table>
<thead>
<tr>
<th>Position of the country of citizenship</th>
<th>Name of the country of citizenship</th>
<th>Total 2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st main</td>
<td>Russia</td>
<td>910</td>
<td>1,720</td>
<td>1,930</td>
</tr>
<tr>
<td>2nd main</td>
<td>Somalia</td>
<td>n/a</td>
<td>695</td>
<td>960</td>
</tr>
</tbody>
</table>

Source: Eurostat 2008-2010

### Table 3.1: Overall trend

<table>
<thead>
<tr>
<th>Year</th>
<th>Total number of third-country nationals ordered to leave (after being found to be illegally present)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>1,775</td>
</tr>
<tr>
<td>2009</td>
<td>3,125</td>
</tr>
<tr>
<td>2010</td>
<td>3,835</td>
</tr>
</tbody>
</table>

Source: Eurostat 2008-2010
Table 4.2: Main 10 countries of citizenship of person returned

Please note that Eurostat does not collect information on the countries to which third-country nationals are returned following an order to leave. If your Member State has this data available, please provide this in Table 4.3.

<table>
<thead>
<tr>
<th>Position of the country of citizenship</th>
<th>Name of the country of citizenship</th>
<th>Total</th>
<th>Name of the country of citizenship</th>
<th>Total</th>
<th>Name of the country of citizenship</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st main</td>
<td>Russia</td>
<td>265</td>
<td>Somalia</td>
<td>385</td>
<td>Russia</td>
<td>420</td>
</tr>
<tr>
<td>2nd main</td>
<td>Iraq</td>
<td>130</td>
<td>Russia</td>
<td>335</td>
<td>Somalia</td>
<td>210</td>
</tr>
<tr>
<td>3rd main</td>
<td>Somalia</td>
<td>60</td>
<td>Iraq</td>
<td>292</td>
<td>Somalia</td>
<td>190</td>
</tr>
<tr>
<td>4th main</td>
<td>Belarus</td>
<td>50</td>
<td>Nigeria</td>
<td>79</td>
<td>Kosovo</td>
<td>140</td>
</tr>
<tr>
<td>5th main</td>
<td>Belarus</td>
<td>35</td>
<td>Belarus</td>
<td>70</td>
<td>Unknown</td>
<td>100</td>
</tr>
<tr>
<td>6th main</td>
<td>Nigeria</td>
<td>30</td>
<td>China</td>
<td>50</td>
<td>Nigeria</td>
<td>85</td>
</tr>
<tr>
<td>7th main</td>
<td>Unknown</td>
<td>30</td>
<td>Stateless</td>
<td>49</td>
<td>Belarus</td>
<td>70</td>
</tr>
<tr>
<td>8th main</td>
<td>China (including Taiwan Reunion)</td>
<td>25</td>
<td>Unknown</td>
<td>40</td>
<td>Afghanistan</td>
<td>60</td>
</tr>
<tr>
<td>9th main</td>
<td>Iran</td>
<td>25</td>
<td>Afghanistan</td>
<td>30</td>
<td>Stateless</td>
<td>55</td>
</tr>
<tr>
<td>10th main</td>
<td>Turkey</td>
<td>20</td>
<td>Turkey</td>
<td>30</td>
<td>Serbia</td>
<td>50</td>
</tr>
</tbody>
</table>

Source: Eurostat 2008-2010

Table 5: Third country nationals whose application for asylum has been rejected

Please use Eurostat data whenever possible. For the years 2008, 2009 and 2010 the following Eurostat tables can be used: migr_asydcfsta (for applications rejected at the first instance) and migr_asydcfina (for applications rejected following a final decision)

Table 5.1: Overall trend

<table>
<thead>
<tr>
<th>Total number of third country nationals whose application for asylum has been rejected</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>in the first instance</td>
<td>100</td>
<td>305</td>
<td>620</td>
</tr>
<tr>
<td>following a final decision</td>
<td>10</td>
<td>15</td>
<td>45</td>
</tr>
</tbody>
</table>

Source: Eurostat 2008-2010

Table 5.2: Sex of migrant whose application for asylum has been rejected...

| Applications rejected in the first instance | 2008 | 2009 | 2010 |
| Male                                    | 65   | 170  | 320  |
| Female                                  | 35   | 135  | 300  |
| Unknown Male                            | 0    | 0    | 0    |
| Male Unknown                            | 0    | 0    | 0    |
| Female Unknown                          | 5    | 10   | 35   |
| Unknown Female                          | 5    | 5    | 10   |
| Unknown                                 | 0    | 0    | 0    |

Source: Eurostat 2008-2010

Table 5.3a: Main 10 countries of citizenship of applicants whose application has been rejected in the first instance

<table>
<thead>
<tr>
<th>Position of the country of citizenship</th>
<th>Name of the country of citizenship</th>
<th>Total</th>
<th>Name of the country of citizenship</th>
<th>Total</th>
<th>Name of the country of citizenship</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st main</td>
<td>Iraq</td>
<td>420</td>
<td>Somalia</td>
<td>965</td>
<td>Iraq</td>
<td>1,030</td>
</tr>
<tr>
<td>2nd main</td>
<td>Somalia</td>
<td>315</td>
<td>Iraq</td>
<td>710</td>
<td>Somalia</td>
<td>955</td>
</tr>
<tr>
<td>3rd main</td>
<td>Russia</td>
<td>145</td>
<td>Bulgaria</td>
<td>285</td>
<td>Bulgaria</td>
<td>545</td>
</tr>
<tr>
<td>4th main</td>
<td>Serbia</td>
<td>90</td>
<td>Afghanistan</td>
<td>190</td>
<td>Russia</td>
<td>405</td>
</tr>
<tr>
<td>5th main</td>
<td>Bulgaria</td>
<td>80</td>
<td>Russia</td>
<td>160</td>
<td>Afghanistan</td>
<td>390</td>
</tr>
<tr>
<td>6th main</td>
<td>Afghanistan</td>
<td>70</td>
<td>Iran</td>
<td>90</td>
<td>Kosovo</td>
<td>215</td>
</tr>
<tr>
<td>7th main</td>
<td>Iran</td>
<td>65</td>
<td>Kosovo (ur)</td>
<td>85</td>
<td>Iran</td>
<td>150</td>
</tr>
<tr>
<td>8th main</td>
<td>Turkey</td>
<td>65</td>
<td>Nigeria</td>
<td>60</td>
<td>Turkey</td>
<td>135</td>
</tr>
<tr>
<td>9th main</td>
<td>Belarus</td>
<td>40</td>
<td>Belarus</td>
<td>30</td>
<td>Nigeria</td>
<td>100</td>
</tr>
<tr>
<td>10th main</td>
<td>Nigeria</td>
<td>40</td>
<td>Serbia</td>
<td>30</td>
<td>Serbia</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Eurostat 2008-2010

Table 5.3b: Main 10 countries of citizenship of applicants whose application has been rejected following a final decision

<table>
<thead>
<tr>
<th>Position of the country of citizenship</th>
<th>Name of the country of citizenship</th>
<th>Total</th>
<th>Name of the country of citizenship</th>
<th>Total</th>
<th>Name of the country of citizenship</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st main</td>
<td>n/a</td>
<td>n/a</td>
<td>Bulgaria</td>
<td>5</td>
<td>Somalia</td>
<td>10</td>
</tr>
<tr>
<td>2nd main</td>
<td>n/a</td>
<td>n/a</td>
<td>Belarus</td>
<td>5</td>
<td>Iraq</td>
<td>10</td>
</tr>
<tr>
<td>3rd main</td>
<td>n/a</td>
<td>n/a</td>
<td>Somalia</td>
<td>5</td>
<td>Russia</td>
<td>5</td>
</tr>
<tr>
<td>4th main</td>
<td>Afghanstaff</td>
<td>5</td>
<td>Afghanistan</td>
<td>5</td>
<td>Iran</td>
<td>5</td>
</tr>
<tr>
<td>5th main</td>
<td>n/a</td>
<td>n/a</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6th main</td>
<td>n/a</td>
<td>n/a</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7th main</td>
<td>n/a</td>
<td>n/a</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8th main</td>
<td>n/a</td>
<td>n/a</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9th main</td>
<td>n/a</td>
<td>n/a</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10th main</td>
<td>n/a</td>
<td>n/a</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Eurostat 2008-2010
Table 6: Third country nationals whose status has been withdrawn (following a final decision)

Please use Eurostat data whenever possible. For the years 2008, 2009 and 2010, the following Eurostat table can be used: migr_asywitfin

Table 6.1: Overall trend

<table>
<thead>
<tr>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of third country nationals whose status has been withdrawn</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: Eurostat 2008-2010

Table 6.2: Main 10 countries of citizenship of migrant whose status has been withdrawn

<table>
<thead>
<tr>
<th>Position of the country of citizenship</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of the country of citizenship</td>
<td>Total</td>
<td>Total</td>
<td>Total</td>
</tr>
<tr>
<td>1st main</td>
<td>0</td>
<td>0</td>
<td>n/a</td>
</tr>
<tr>
<td>2nd main</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3rd main</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4th main</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5th main</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6th main</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7th main</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8th main</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9th main</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10th main</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Eurostat 2008-2010
The EMN has been established by Council Decision 2008/381/EC and is financially supported by the European Commission. The objective of the EMN is to meet the information needs of Community institutions and of Member States’ authorities and institutions by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the European Union in these areas. The EMN also serves to provide the general public with such information.