THE ORGANISATION OF ASYLUM AND MIGRATION POLICIES IN SLOVENIA

Summary

The most important features of the organisation of asylum and migration policies in Slovenia lie in detailed regulation of procedures for acquisition of available statuses, differentiated treatment of foreigners in accordance with their status and consequently different levels of rights they are entitled to and the concentration of competencies in the field of asylum and migration almost fully falling under the Ministry of Interior, except for the area of work migrations, which are in the competency of Ministry of Labour, Family and Social Affairs.

Since joining the EU, the development of asylum and migration law on the national level is sharing the same fate as the asylum and migration law on the EU level. The adopted policies are predominantly in accordance with the European directives in this area, while the consequences of harmonization are also that changes in Slovene national policies do not necessarily reflect the actual local needs, but also the needs of other EU member states.

Migration is divided into legal and illegal migration. In the area of legal migration the precise conditions for acquiring a visa, residence permit or citizenship of the Republic of Slovenia were defined due to reasons of public order, public security and security of international relations. Prevention of illegal migrations encourages the state to strengthen increasingly efficient procedure of voluntary and forced return.

Independent researchers note increasing criminalisation of migrations (Zimic, 2003), which is evident from penalisation of migrants, who are illegally residing in RS or have crossed the national border illegally; from accommodation of migrants into Aliens Centre, which is a closed institution where their movement is limited, from numerous antiterrorist regulations in the Aliens Act and from the increasing number of reasons due to which the applicants for international protection may be deprived of their freedom, which are otherwise in accordance with the European directives. Consequently, the development of policies is mainly focusing on border control policies, which resulted in Slovenia as strengthening of border control, with entry into the Schengen area and the abolition of internal borders with Austria, Italy and Hungary, while strengthening the control over Croatian border, sea and air border, which are at the same time an external EU border (Zimic, 2003).

In spite of notable development of integration policies this area remains insufficiently defined, while integration exists rather as a legal option and loosely defined commitment of the state towards migrants, while in practice migrants are encountering exclusion and discrimination by landlords and employers (Zimic 2003). Intensive focus on integration of the majority and migrants is going to be necessary for further development of migration and asylum policies, which should consequently decrease illegal migrations, greatly originating from highly restrictive border and migration policy (Zimic 2003).

In specific fields of asylum and migration policy implementation good practices and challenges can be detected, calling for further consideration on regulation in this field.
1. **INTRODUCTION: PURPOSE AND METHODOLOGY FOLLOWED**

The aim of the study is to present the organisation of asylum and migration policies in the Republic of Slovenia to the European Commission and the European migration network's national contact points, to present their development and show how European asylum and migration policies have been transposed into the national legislation, to analyse the organisation of policies, to highlight examples of good practices in the field as well as challenges which point at the elements of migration policies, which could be further improved. The study contains an overview of organisation of asylum and migration policies in Slovenia, an overview of elements, which influenced their development and the benefits and shortcomings of the current system. The study is therefore intended for internal and international readership, wishing to acquire a general insight into the organisation of policies in this field as well as for the most demanding audience, oriented towards specific questions from the fields the study is covering.

Besides offering an overview of legislation, the study includes data and opinions, contributed by the Directorate for Administrative Internal Affairs of the Ministry of Interior and the Police, while in the course of preparation of the study some comments received from the Ministry of Interior, the Police and the Ministry of Labour, Family and Social Affairs have been taken into account. Evaluation of organisation of asylum and migration policy has also been contributed by Legal-informational Centre of Non-Governmental Organisations (PIC) and Slovene Philanthropy, the most visible Slovene non-governmental organisations in the field of asylum and migrations.

Studies and research reports in the field of asylum and migration included in the sources listed in the annex to present study have already been published. They are mostly publications in the field of migrations (such as publications of the Peace Institute, the European Parliament and International Organisation for Migrations), while publications in the field of asylum policies are scarce (one of the existing publications being European Commission's Report on the reception conditions, written by the Odysseus Academic network for the Commission). There is also a deficit of publications which assess fields of asylum and migration policies jointly in order to facilitate their comparison, which present study should provide. The study unites numerous findings and considerations on organisation of asylum and migration policies, which should be taken into account in their further development, in one place.

Various methodologies have been used to prepare the present study. The first step included review of legislation in the field of migrations, asylum, international protection, entry into country, access to labour market and returns and legislation from other fields, relevant for foreigners residing in Slovenia, such as employment, health, social protection, education and accommodation. In addition to the review of the existing legislation an overview of its progressive development has been drafted for the needs of the present study with particular emphasis paid to the developments, which were the consequences of implementation and transposition of European legislation into Slovenian national law.

With this intention we reviewed the following pieces of legislation (listed in greater detail in the annex at the end of the study): the Aliens Act - Official consolidated version (ZTuj-1-UPB5), the International Protection Act (ZMZ), the Temporary Asylum Act (ZZZat), the Temporary Protection of Displaced Persons Act (ZZZRO), the Schengen Borders Code, the National Border Control Act (ZNDM-2), the Employment and Work of Aliens Act (ZZDT) and its amendments, the Social Protection Act and its amendments (ZSV), the Housing Act
(SZ-1) and its amendments, the Elementary School Act (ZOsn) and its amendments, the Vocational Education Act (ZPSI) and its amendments and other laws and relevant implementing regulations, adopted on the basis of implementation of thereof legislation.

The second part of methodology is the collection of statistic data. In order to collect relevant statistic data, which could show the situation and the trends in the field of asylum and migration, we acquired data from the Directorate of Administrative Internal Affairs at the Ministry of Interior (DUNZ MNZ) and from the Police. In order to show the realistic condition and trends in the field of asylum and migration, both bodies responded by sending numerous data on granted permits for temporary residence, permanent residence, granted refugee statuses and subsidiary protection statuses, the permissions to remain in the country and number of forced removals from the country. In order to come up with conclusions on trends from the statistical data we requested all data since 1998, which should allow trend analysis in the field of asylum and migration in the past decade. For this period, we were only able to acquire data for the field of citizenships, while data on temporary and permanent residence permits was only acquired for the period between 1998 and 2006 (9 years), for the period between 1995 and 2007 (13 years) for international protection, regarding the field of forced removal only for the period between 2000 and 2007, since before that this data has not been collected centrally. Considering the fact that institutes have been changing from 1998 onwards, the analysis has been adapted appropriately (i.e. in the field of issuing visas, subsidiary forms of protection in the case of applicants for international protection, which replaced the asylum for humanitarian reasons, new institutes in the field of permits for temporary residence and reasons for research, etc.) We requested individual annual data for each year in the period between 1998 and 2007. We also requested data on how many persons were minors.

The third part of methodology comprises of interviews with non-governmental organisations active in the field of asylum, topical inquiries in the institutions and taking into account of some comments of the competent institutions to the first draft of the study. The aim of the interviews was to gain insight into the implementation of legislation in practice. With the help of evaluations given by the interviewees we were able to highlight the examples of good practices in the analytical part of the study. We were able to detect points, which function very well and those, which call for additional measures to improve the current situation and the efficiency of procedures. In inquiries we also asked the institutions to give their evaluation on which areas of their activities they perceive as well functioning (in the sense of good practices).

Before beginning with the content analysis of migration and asylum policies we need to explain the terminological definitions of persons the asylum and migration policy is addressing. For the needs of present study, the term foreigner depicts explicitly the residents of third world countries or persons without citizenship (stateless persons). In the field of asylum policies the adoption of the International Protection Act brought about changes in terminology, due to which the asylum seekers are named applicants for international protection, where international protection covers the status of the refugee as well as the subsidiary protection. If we wish to denominate persons who massively fled from a certain area due to armed conflict, occupation or mass human rights violations, they are called persons with temporary protection.
2. OVERVIEW OF ORGANISATION OF POLITICAL, LEGISLATIVE AND INSTITUTIONAL FRAMEWORK IN SLOVENIA

The Ministry of Interior is the competent authority for perusal and harmonisation of asylum and migration policies in the Republic of Slovenia. The Ministry is then organised into Directorates, these are divided into Sectors and Sectors into Departments with different competences according to individual fields within the asylum and migration system. Within the Directorate the Sector for Migration and Integration and the Sector for Asylum are responsible for asylum and migration in the narrow sense. The Sector for Migration and Integration is responsible for drafting legislative proposals, implementing acts and other regulations, it cooperates in the work of expert bodies of governmental and non-governmental organisations within the Council of Europe, with international intergovernmental and non-governmental organisations, it cooperates and issues opinions in preparation of international agreements, it executes policies and legislation in the field of migrations and integration of Aliens and refugees, it cooperates in the EU working bodies in the field, it guides and provides expert assistance to Administrative Units and carries out expert control of their work in the field of migrations, it coordinates activities in the field and collects and processes data. The Sector for Migration and Integration of Refugees and Aliens is further divided into The Department of Migration and The Department for Integration of Refugees, each carrying out their activities in their fields. The Sector for Personal Status, Official Documents and Registration of Residence, under the Directorate for Administrative Internal Affairs, is responsible for access of aliens into citizenship and registration of residence in Slovenia. Asylum Sector (also organised under the Directorate for Administrative Internal Affairs), responsible for the field of asylum, is further divided into the Asylum Centre, accommodating the applicants for international protection and the Department for Asylum, carrying out the procedure for international protection. One of the competencies of the Asylum Sector is also to draft legal acts and implementing acts in this field, cooperation in expert governmental and non-governmental bodies, cooperation with human rights non-governmental organisations, cooperation and sharing of opinions in draft of international agreements, preparation and implementation of asylum policies and legislation, cooperation in Council of Europe's and EU asylum working bodies, cooperation with United Nation's High Commissioner for Refugees and other relevant international organisations, such as International Organisation for Migrations (IOM), coordination of activities of non-governmental organisations and cooperation in their projects, preparation of projects and public calls from European funds, etc.

Diplomatic Consular Representation Offices also share certain competencies in the field of migrations and asylum. They issue visas, accept asylum applications and applications for issuing a residence permits for foreigners in RS (unless the law clearly states, that these may also be submitted at the Administrative Unit) and carry out other consular tasks (Article 64 ZTuji-1).

Other Ministries only have certain specific competencies in this field, when the implementation of asylum and migration policies stretches into their fields of work. The Ministry of Education and Sport is namely responsible for questions regarding asylum,

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1 Legislation is generally adopted by the National Assembly, while implementation acts are adopted by the Minister of interior (rules, instructions) and the Government (decrees, decisions).
3 Id.
migration and schooling; the Ministry of Culture shares competencies in the field of integration and cultural, historical and legally-constitutional affairs of the Republic of Slovenia with the Ministry of Interior; the Ministry of Health provides funding for health care of refugees and persons with subsidiary protection. Persons who acquire the permission for permanent residence automatically receive certain social protection rights and benefits (for example social support, child benefit, benefit for unemployment) and these areas are covered by institutions in the framework of Ministry covering these specific fields, namely Ministry of Labour, Family and Social Affairs and Centres for Social work and RS Employment Agency.

Another highly important body in the field of migrations is also the Police. The Police are a body under the responsibility of the Ministry of Interior, managed by the General Police Administration. The Border Police Sector and the Aliens Centre are responsible for the field of migrations and both are organised in the framework of Administration of the Uniformed Police. The Border Police Sector is further divided into the Department for the National Border, the Specialised National Border Control Unit, the Department for Illegal migrations and Aliens and the Compensatory Measures Department. The Aliens Centre which accommodates aliens awaiting removal from the country is divided into the Unit for Security and Strict Police Control and the Section for Social and Health care.4

The **Constitutional arrangement** of the asylum and migration field in Slovenia is based on the Constitution of the Republic of Slovenia (Constitution). Human rights protected by the constitution are stated in the second chapter of the Constitution, certain provisions also cover the fields of legal basis of asylum and migrations. Article 48 of the Constitution states that foreign citizens and persons without citizenship, who are being prosecuted for advocating human rights and fundamental freedoms, have the right, within the limits of the law, to refuge in Slovenia. Despite the fact that the concept of refuge is narrower than the concept of international protection, as defined in Slovenian and European legislation on asylum, it still represents the basis for further regulations in this field. On the legislative level, the right to refuge is further regulated by the International Protection Act and the Temporary Protection of Displaced Persons Act (previously by the Asylum Act and the Temporary Asylum Act and their amendments).

In the field of the status of foreigners, numerous articles define constitutional basis for further regulations. Article 13 of the Constitution is the widest of these and states that in accordance with international agreements all rights are granted to foreigners with the Constitution and other laws, except for the rights only the national citizens of RS are entitled to with the Constitution and the law. This means that in individual cases there is an assumption, that foreigners are entitled to certain rights, except for the cases where it is clearly stated that a right can only be granted on the basis of RS citizenship. Article 32 of the Constitution further states that on the legal basis foreigners may have limited access to enter the country and limited permission for residence in the country, on this legal basis, the entry and residence are further regulated by the Aliens Act (and since 2006 also by the European Schengen Border Code). The Constitution further states other limitations of foreigner’s rights, such as a limit to the right to vote in Article 43, the limitation of extradition of foreigners to other countries in article 47, while Article 79 states that foreigners employed in Slovenia enjoy special rights, as determined by law. This constitutional clause is further regulated by the Employment and Work of Foreigners Act.

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4 The official website of the Police is available at: [http://www.policija.si/portal/](http://www.policija.si/portal/).
The constitution is the legal basis for further development of asylum and migration policies, as seen above. Classification and implementation of asylum and migration policies is separated in legislation and in practice, in certain cases, however, the two overlap in particular cases as well as on the systematic level. The main guiding document in the field of migrations is the Resolution on Migration Policy of the RS, adopted by the National Assembly on the Government's proposal. Two resolutions have so far been adopted, the first in 1999 and the second in 2002. In addition to that, a proposal of the Strategy on Economic Migration has been prepared in 2008.\(^5\) The Aliens Act (ZTuj-1-UPB5) is the umbrella act for the field of migration policies, which states the conditions and modes of entry, departure and residence of foreigners in the Republic of Slovenia. It determines the conditions for approval of entry, the issuing of visas, temporary and permanent residence permits and permissions to remain, to leave the country, competencies of individual bodies and the procedures, the rules of processing and keeping of personal data and establishment of the identity of an alien, regulations on passports and other permits and the chapter on integration of foreigners (the integration of foreigners is further regulated by the Decree on Aliens Integration). The Aliens Act also contains specialised chapters on travelling documents, registration of residence and the register and a special chapter in the end of the Act regulating entry and residence of citizens of EU member states and their family members and family members of Slovene citizens, to whom different rules apply than to the family members of Aliens. The mode of implementation of certain parts of the Act is further regulated by various implementing acts (decrees, instructions, codes and decisions).

The Aliens Act does not apply to applicants for international protection, to persons with temporary protection, and, with the exception of certain cases, to persons who are entitled to privileges and immunity on the basis of International Law. The International Protection Act (ZMZ) applies to the applicants for international protection, which revises the conditions for international protection, the procedure for acquisition of international protection (the first instance procedure and specialised procedures such as repeated applications for asylum, procedures in airports and ports, the Dublin Procedure). The Act lays down the concepts of safe countries and other institutes, such as safe third country, safe European third country, safe country of origin, the first asylum country, internal protection and refugees sur place. The Act also contains a chapter on third country citizens or citizens without citizenship, who fulfil the criteria for the refugee status and are received in the RS on the basis of annual quota (»resettlement«). The Act also defines the rights and duties of applicants for international protection as well as of those, who have not been granted international protection. The concept of international protection contains the refugee status as well as subsidiary protection, an annual status, and the Act also regulates the procedure for extension and rejection for the extension of subsidiary protection. The last part of the Act regulates the procedure for cessation and withdrawal of international protection and contains a chapter on documents, management of registers on applicants and beneficiaries of international protection and on protection of their personal data.

In the case of mass arrival of persons, who are unable to permanently return into their country of origin due to armed conflicts, occupation or mass violation of human rights the Temporary Protection of Displaced Persons Act (ZZZRO) applies in accordance with European directives, but it has not been applied in practice in Slovenia to date (the Temporary Asylum Act adopted in 1997 was being applied during the arrival of refugees from Bosnia.

and Herzegovina to Slovenia). The main feature of temporary protection is its cessation, when the situation, causing mass departure of persons from the country of origin stops. Temporary protection can only be granted for the duration of one year with the possibility of two six-month renewals.

On the basis of the Aliens Act and the Schengen Borders Code, entry into the Republic of Slovenia is equal for all the third world country citizens. If a person does not enter the Republic of Slovenia in accordance with regulations in the Aliens Act and the National Border Control Act (ZNDM-2) (i.e. does not enter on a national border crossing, does not possess a passport, etc.), he or she commits the illegal border trespassing, for which he or she is not penalized, when applying for international protection under the International Protection Act.

The Employment and Work of Aliens Act (ZZDT) regulates the field of employment and work of third world country nationals in the Republic of Slovenia, defines the conditions for acquisition of personal work permits, employment permits and permits for work and defines the conditions for self-employment. The Act also functions as the legal basis for determination of quotas (maximum number) of newly issued work permits, annually adopted by the government of the RS. The Act applies to foreigners who have acquired the work permit as well as to certain persons granted international protection and the displaced persons with temporary protection. The Act therefore unites both groups of foreigners in the Republic of Slovenia, those who arrive in Slovenia in the framework of the migration policy and those who are addressed under the asylum policy.

International asylum and migration organisations are no longer present in Slovenia. IOM had its offices in Slovenia, which closed in 2004, while UNHCR closed its Slovenian office in 2006. The Regional Representation of UNHCRS for Central Europe located in Budapest has since been responsible for the Slovenian state. In the meanwhile the regional office has its Slovene implementing partner (Legal-informational Centre for Non-Governmental Organisations – PIC), carrying out certain UNHCR competences under its authority.

The fore mentioned Legal-informational Centre for Non-Governmental organisations – PIC provides legal support to international protection applicants, it gives legal counselling and carries out various advocacy projects for applicants. The Slovene Philanthropy – Association for the Promotion of Voluntary Work is active in the field of psycho-social support for applicants and persons with international protection. One of its core activities is representation of unaccompanied minors, who have been granted international protection and of unaccompanied minors, who entered the RS illegally and do not apply for protection (the latter is, however, carried out very rarely). In addition to Slovene Philanthropy, the Jesuit Refugee Service is also active in the field of psycho-social support, organising leisure time activities and computer and Slovene language classes on the premises of the Asylum Centre and Aliens Centre. The Mozaik association is active in the field of children’s’ rights and leisure activities for children while the Ključ association works in the field of protection of victims of human trafficking and raises awareness about this phenomenon.

6 www.pic.si.
www.rkc.si/jrs.
http://drustvo-kljuc.si.
International Slovenia\(^{11}\) is active in the field of advocating for persons falling under the system of international protection, as well as the Institute of African Studies. These non-governmental organisations hold joint monthly meetings with representatives of the Asylum Sector also known as coordination meetings to exchange information and opinions on current situation in the Asylum Centre and the Aliens Centre.

There are also certain research organisations working in the field of migrations and asylum. The Peace Institute is a research and a non-governmental organisation. It carries out research in the fields of sociology, legal affairs and policies including the field of migrations and policies, cooperates in revision of harmonisation between Slovene national legislation and the European Acquis in this field and cooperates with other non-governmental organisations in coordination meetings and in other advocacy activities.\(^{12}\) The remaining two research organisations, which should be mentioned in this place are the Institute for Ethnic Studies, whose founding rights are carried out by the Government of the RS, which studies the Slovene ethnic question, the position of Slovene minorities in neighbouring countries and in the countries of the former Yugoslavia, the position of Hungarian and Italian minorities and the Roma community in Slovenia and the situation of migrants in Slovenia;\(^{13}\) and the Institute for Slovenian Emigration at the Scientific Research Centre of the Slovenian Academy of Arts and Sciences, which deals with emigration and immigration studies, ethnicity, migration policies and the study of migrations.\(^{14}\)

3. DEVELOPMENT OF THE ASYLUM AND MIGRATION SYSTEMS

The development of the asylum and migrations system in the RS has been influenced by numerous factors, the migration flows, independence and entering the EU being among the most crucial ones. Until the end of Second World War and for a decade later Slovenia had mostly been an emigrant country. Between 1945 and 1990 it had mostly been marked by immigration of workers from other Republics of the former Yugoslavia and by work emigration of Slovene citizens into the nearby western European countries such as Austria, Germany and Italy (Pajnik, 2003). After independence of 1991 Slovenia became an attractive destination for wider group of migrants, not only from the countries of the former Yugoslavia, while the foundations of migration law, as we know it, reach back into this very period. The Aliens Act (ZTuji), the Citizenship of the Republic of Slovenia Act (ZDRS) and State Border Control Act (ZNDM) entered into force on 25 June 1991, newly defining the conditions for the formation of the body of citizens of the RS and the relation between the state and the Aliens, residing in Slovenia.

The Aliens Act of 1991 regulated the acquisition of residence permit and work visa. After legislative amendments of the Act in 1999 and 2000 these could be only acquired on the basis of two separate Acts: the new Aliens Act (ZTuji-1), adopted on 8 July 1999, which laid down the procedure and the conditions for acquisition of residency permits, while the Employment and Work of Aliens Act (ZZDT), adopted on 14 July 2000 laid down the procedure and conditions for acquisition of work permits.

\(^{11}\) www.amnesty.si.
\(^{12}\) www.mirovni-institut.si.
\(^{13}\) www.inv.si.
\(^{14}\) http://isi.zrc-sazu.si.
The development of asylum related legislation has mostly been facilitated by developments in the proximity of the RS. Because of the mass arrival of refugees from Croatia and Bosnia and Herzegovina into Slovenia – according to the Red Cross' estimations approx. 70,000 in 1992 – the institution of temporary asylum was the first to be developed with the assistance of UNHCR and granted to 31,118 persons after the registration procedure in 1993 (Pajnik, 2003). It was not until some years later that the authorities began to address the legal regulation of their status, which led to adoption of the Temporary Asylum Act (ZZZat) on March 26, 1997. The Act stated that the Government of the RS provides temporary asylum for persons arriving from certain foreign countries where the situation of warfare, occupation and mass human rights violation occurred. The Government could also determine the exact number of persons to be granted temporary asylum, on the basis of economic and other capacities in Slovenia. On the basis of this Act the persons with temporary asylum, who were later commonly known as »temporary refugees« acquired the right to reside in accommodation centres and were entitled to provision of care in accordance with the capacities of the state, the right to health care, education, occasional and part-time work, benefit of humanitarian assistance and assistance in exercising their rights. The majority of temporary refugees managed to return to their country of origin after the end of the war in Croatia and Bosnia, a few thousand (from Bosnia and Herzegovina), were however unable to return on the grounds of objective reasons. After eleven years of their residence in Slovenia the Act on Changes and Amendments to the Temporary Asylum Act was adopted on July 12, 2002, which stipulated that temporary refugees acquired the permit for permanent residence, regardless of the Aliens Act provisions (which did not allow, nor does it today, that the period, during which a person resided in the RS on the basis of temporary protection or asylum is included into the period, necessary for the acquisition of permit for permanent residence in the RS). 3,000 temporary refugees took advantage of this opportunity (Pajnik, 2003) and by acquiring the permanent residence their residence in Slovenia also became legally and officially permanent.

Further development of asylum and migration legislation was facilitated mostly by harmonisation of the Slovene legislation with the EU legislation and after Slovenia's entry into the EU on May 1 2004 with the implementation and transposition of EU legislation into the Slovenian domestic law. The Slovene asylum law began to develop during the period of temporary asylum and the Asylum Act was adopted on July 8, 1999 and consequently changed four times (December 21, 2000, July 25, 2001, September 9, 2003 and on February 6, 2006). The Asylum Act was replaced by International Protection Act, adopted on 21, November 2007, introducing new provisions of the Council Directives 2004/83/EC (Qualification Directive), 2005/85/EC (Procedure Directive) and 2003/9/EC (Directive on Reception Conditions) into the Slovene domestic law. After its adoption in 1999, the Aliens Act had also been changed four times, namely on September 27, 2002, September 29, 2005, July 14, 2006 and April 22, 2008, changes being the result of the transposition of European migration policy directives, such as the Council Directives 2003/86/EC (Directive on Family reunification), 2003/109/EC (Directive on Long-Term Residents) and 2004/81/EC (Directive on Victims of Human Trafficking). Although the Temporary Protection Act officially and legally never came out of force, today the Temporary Protection of Displaced Persons Act, adopted on June 22, 2005 as a consequence Council Directive 2001/55/EC transposition (Directive on Temporary Protection), would apply for the needs of granting temporary protection to a larger number of displaced persons.

When Slovene authorities began to manage migrations after the independence, they opened the Transit Centre for Aliens in Šiška, Ljubljana, on the basis of the Aliens Act of 1991. It
provided accommodation and care of asylum seekers, of foreigners awaiting deportation from the country and minor foreigners, who could not be immediately returned to the country of origin.\textsuperscript{15} The Aliens and Asylum Acts of 1999 provided the basis for establishment of Aliens Centre and Asylum Centre on the premises of the Transit Centre, taking on the Transit Centre’s tasks on January 1, 2000. Currently the Aliens Centre is located in Postojna (Veliki Otok). The Asylum Centre was located on the premises of the former Transit Centre for Aliens for four following years and in September 2004, the Ministry of Interior opened a new Asylum Centre in Ljubljana, Vič.

Before the beginning of rapid development of common European asylum and migration policy and its transposition into domestic law, the Slovene asylum law was based on provisions of the Convention on the Status of Refugees (The Geneva Convention) of 1951 and the procedure was based on administrative procedure. The asylum procedure included certain particularities in comparison to the standard administrative procedure, but was nevertheless largely followed according to provisions of the General Administrative Procedure Act. Currently the international protection procedure (previously the asylum procedure) is organised as specialised administrative procedure with fewer features of general administrative procedure, while each amendment to relevant legislation brings new proposals for decrease of procedural guarantees (such example is (non)suspensive effect of the lawsuits, since all new variations of legislative proposals contain regulations, according to which lawsuits would no longer guarantee the postponement of execution and consequently deportation from the country).\textsuperscript{16}

It should not be overlooked that before Slovenia's entry into the EU, the UNHCR played an important role in defining asylum policies, advocating standards which protected the applicants and provided high level of asylum procedure guarantees. With the transposition of EU acquis into Slovene domestic legislation and with UNHCR's withdrawal from the country, many changes occurred in this field as a consequence of the nature of EU asylum law Directives, which have a tendency to protect the interests of the host country.

Slovenia's entry into the Schengen Area on December 21, 2007 was an important milestone of the asylum and migration policy, abolishment of control over the Slovenian and Italian, Austrian and Hungarian borders on the one hand and strengthen control on the border between Slovenia and Croatia, sea and air border, which became the external EU borders on the other.\textsuperscript{17}

The field of integration has been developing gradually. The first measures with integration content were the measures applying to persons with temporary protection. They were first only implemented in practice and on the legislative level after the adoption of the Temporary Asylum Act, providing certain rights to temporary refugees. The first integration measure that truly allowed integration of temporary refugees into the majority society was the possibility to apply for Slovenian permanent residence permit. The foundations for implementation of integration of refugees and applicants for international protection was later set with adoption of Decree on the rights and duties of refugees and the Decree on the methods and conditions for ensuring rights of persons with international protection, which is an implementing act of

\textsuperscript{15} Official website of the Police and the Aliens Centre: \url{http://www.policija.si/portal/organiziranost/uup/CenterZaTujce/index.php}.

\textsuperscript{16} Compare Proposal of the amendments to the Asylum Act of 24.11.2005.

\textsuperscript{17} The notification on Slovenia on the website of the Ministry of the RS for Foreign Affairs: \url{http://www.mzz.gov.si/si/vizne_informacije/novosti/21122007_vstop_slovenije_v_schengen}.
the International Protection Act. The foundations of integration of foreigners in a wider sense, applying to other foreigners were laid down with the adoption of the Resolution on Migration Policies of 1999 and 2002 and with Articles 82 of the 1999 Aliens Act, which explicitly defined the content of integration measures the foreigners are entitled to. Detailed forms of access to integration measures for foreigners were only adopted in 2008 by the Decree on Aliens Integration.

4. ORGANISATION OF POLICY

4.1. Asylum and Migration

4.1.1. Entry Procedures

4.1.1.1. Asylum

International protection applicant is a person, who submits an application for international protection regardless of whether he or she entered the country legally or illegally. Formally the Rules of Entry, described in detail in Chapter 4.1.1.2., apply to all foreigners regardless of whether they apply for protection or not. However, a special provision of Paragraph 2 of Article 35 of the International Protection Act stipulates that a foreigner showing an intention to submit the application for international protection shall not be penalized for committing an offence of illegal border crossing. This provision is highly relevant, since a vast majority of asylum applicants tends to enter the country illegally. During the act they are captured by border police, who performs the procedure described in Chapter 4.1.2.1. and, considering the circumstances of entry relocates them either to the Aliens Centre, under the competence of the Police, or to the Asylum Centre, under the competence of the Ministry of Interior.

4.1.1.2. Migrations

The conditions of entry into Slovenia are regulated by the Aliens Act, The National Border Control Act, The Schengen Border Code and the Rules on the refusal of entry to the Republic of Slovenia relating to the third country citizens, on issuing visas at the border and on the modalities of visas withdrawal (implementing act). On the basis of the Aliens Act the entry into country and departure from the country are only allowed on certain border crossings (the exception being near-border traffic and special categories of marine transport, determined by the Government with a decree). Restraining a foreigner in transit on an airport or in a port is not entry into a country (Article 6 ZTuj-1-UPB5).

A foreigner must fulfil certain conditions in order to be able to leave a country. The first is that he or she must possess a valid passport\(^{18}\), except in the case of exceptions, laid down by a law or an international agreement (Article 7 ZTuj-1-UPB5). The second condition for

\(^{18}\) In accordance with the article 8 Rules on the refusal of entry to the Republic of Slovenia relating to the third country citizens, on issuing visas at the border and on the modalities of visas withdrawal it is considered that alien does not have a valid traveling document for entry if the date of its validity has expired, with the exception of cases defined in international treaties; if he of she attempts to use the document of another person; if the documents are counterfeited or altered; if he or she uses documents, which are not valid for the crossing of the border; if the document is torn, falling apart to the extent when it no longer represents a compact document or if identity of the owner of the document cannot be clearly evident from the document. Aliens, whom Slovenia is obliged to receive in accordance with adopted international agreements are allowed to enter Slovenia without a traveling document (Article 7 Aliens Act).
entering (and departing from) the country is, that foreigners must possess a visa or residence permit (Article 8 ZTuj-1-UPB5). The list of the countries whose citizens do not need a visa for entering Slovenia is determined by the EU Acquis. Third country nationals, residing in the EU may enter Slovenia with a valid passport and residence permit, issued in another member state. The entry of students, who are in Slovenia on a school excursion and might need a visa due to their citizenship, is regulated in a special way. They do not need a visa to enter the country, if they are travelling as members of a group of students on a field excursion; if the group is accompanied by a member of the educational institution who has a list of students on a pre-described form the Annex to the Council's Conclusion of November 30, 1994 on joint action, adopted by the Council on the basis of Article K.3(2)(b) of Treaty on European Union relating to the transport of students from third world countries residing in one of the member states (94/795/JHA), filled in by the educational institution; if he or she has a valid passport or other entering document, determined by an international agreement or a Government of Slovenia's resolution. If a foreigner does not have a valid passport or another entry document, the list counts as an entry document, if the student from the list has a valid document with a photo which proves his identity or if a photo showing his real identity is enclosed to the list. In addition, the legal residence of a student from the list has to be confirmed on the list by the competent authority of the member state. (Article 8a ZTuj-1-UPB5)

Entering the country, foreigners must undergo the border control. Besides the control of passengers, means of transport and things on the basis of State Border Control Act (ZNDM-2) it also includes a check-up of possible reasons for rejecting the entry into the country (Article 10 ZTuj-1-UPB5). Possession of residence permit or a visa and a valid passport does not automatically mean that a foreigner is going to be granted entry into the RS. Even if a foreigner is fulfilling these two criteria, his or her entry can be rejected on the basis of reasons laid down in the Schengen Border Code. In accordance with authorisation granted by law the Minister of Interior defined reasons for rejection of foreigners, relating to his or her danger for public order, internal security in the RS and to the public health. The reasons for denial of

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19 Aliens from the countries, whose citizens require a visa to enter the country, are allowed to stay in the RS for the period stated in the visa, while aliens who have been issued a residence permit are allowed to stay as long as the period stated in the permit. In other cases, residence is allowed for the period determined by a resolution of the Government of the RS or by the international agreement. Aliens of the countries who do not need a visa to enter the country, can enter Slovenia and reside in it for a maximum period of 90 days in six months, starting from the day of the first entry, under the same intentions as the ones valid for the aliens, who are required to have a visa. Alien, who is allowed to move and reside for three month period in six months, in the territory of the countries, which signed the Convention of Schengen Agreement Implementation of July 14 1985, is allowed to enter the country and remain in for as long as the length of stay of stay does not exceed three months in a period of six months, starting from the day of first entry into any of the State Parties. A long-term resident and his closest family members who have a residence permit in another EU member state are allowed to stay in Slovenia for a period of three months starting from the day of entry into the country or until the expiration of the permit, if it be shorter. (Article 13 ZTuj-1-UPB5)

20 Residence of students, who are on a school excursion, is limited to 90 days or five days in the case that they are traveling through Slovenia in transit. If a pupil or a student is traveling to an excursion in another EU member state, an alien with a valid residence permit in the RS and is enrolled into a general education institution in the RS, the education institute fills in a prescribed official form, if he or she fulfills all the conditions, while the administrative unit approves the legality of his residence in the RS.

21 Border control of aliens is also carried out when aliens leave the country. This control is necessary because of the internal and international interests of the RS, public order and peace and it includes verification of existence of reasons, which may prevent alien's departure from the state. An alien cannot be allowed to exit the country if he is in a criminal procedure, a procedure of violation or another procedure, which requires his or her presence, required by the authority, which leads the procedure. (Paragraph 3 Article 10, and Paragraph 2 of Article 12 ZTuj-1-UPB5)
entry are determined with the Rules on the refusal of entry to the Republic of Slovenia relating to the third country citizens, on issuing visas at the border and on the modalities of visas withdrawal (the Rules hereafter), and which are applied when there are reasons to suspect:

- Execution of terrorist and other violent acts in the RS (Article 3 of the Rules);
- Execution of illegal intelligence activities in the RS (Article 4 of the Rules);
- Execution of criminal acts in the RS (article 5 of the Rules);
- Threats to public order (Article 6 of the Rules).

A third country national can also be rejected at the border for reasons which may pose a threat for public health in the RS, if he or she is arriving from regions with epidemic of contagious diseases, which could cause an epidemic, as listed in international health rules of the World Health Organisation or from regions with contagious diseases, which could pose a threat to healthy people and for which under the law stipulating the field of contagious diseases certain prescribed conditions must be applied (Article 7 of the Rules). Detailed definition of reasons for denying an entry in the Slovenian internal legislation is a direct result of implementation of the Schengen Border Code in the RS and earlier of the Convention on Implementation of Schengen Agreement of June 14, 1985, which states that the penalties have to be deterring.

The border control authority (Border Police) is the body responsible to decide on rejection and the decision made on the basis of a procedure, described in the Schengen Border Code. A complaint does not have suspensive effect. In this way, an entry can only be denied to a foreigner, who does not have a residency permit. A foreigner entering the RS on the basis of residency permit can only be denied the entry into the country, if his or her permit is cancelled, if he or she is prohibited to enter the country by a decision of the competent authority and if his or her residency permit is annulled. The rejection of entry is marked into the foreigner's passport and recorded into the register of rejected persons on the basis of Schengen Borders Code. If a foreigner manages to enter the country despite this measure, his or her entry is considered illegal (Article 9 ZTuj-1-UPB5). Other instances of illegal entry are entry during which a foreigner avoids the border control or entry upon which a foreigner uses counterfeited, other people's or otherwise altered travelling and other documents, necessary for the entry or if he or she states false data to the border control authorities (Article 11 ZTuj-1-UPB5).

Persons wishing to enter the RS for personal or business reasons must acquire a visa before entering the country (unless the country they are citizens of is included in the before mentioned list of countries whose citizens do not need visa for entry). Visa is a permit, issued to a foreigner by a competent authority of the RS, on the basis of which, if there are no reasons for his or her rejection, he or she may enter and reside in a country for the period listed in the visa or in a permit allowing his or her transit through the national territory, if the conditions of transit are fulfilled. Visas may only be issued to foreigners with a valid passport and the validity of the passport (exceptions are possible) must be at least three months longer than the validity of the visa (Article 14 ZTuj-1-UPB5) Another condition for approved visa issue is a guarantee that there are no reasons for the foreigner to be rejected the entry into the country. The application for visa is filled (except in certain cases) on diplomatic consular representation offices of the RS in a foreign country, competent for their issue. A foreigner needs to state his or her reasons for arriving into the country in an application, he or she needs to submit a valid passport which the visa can be attached into and, if needed,
documentation proving the purpose and conditions of his or her visit. If all the necessary
documents are not submitted along with the application the diplomatic consular representation
office does not accept the application. The foreigner must visit the diplomatic consular
representation office personally upon its request. (Article 19 ZTuj-1-UPB5)

There are four types of visa available for entering the RS: airport transit visa (visa A), transit
visa (visa B), visa for short residency (visa C) and visa for long-term residency (visa D and
visa C+D). Generally the foreigners who make a short stop at an airport in the RS, do not
leave the airport premises or even the plane and therefore do not need a visa. However, the
government of the RS may issue a decision (and has done so by publishing a Decree defining
the countries whose nationals need an airport transit visa for transit through airports in the
Republic of Slovenia) that, due to the interest of the country to chase organised crime or
because of the nature of relations with other countries, citizens of certain countries or
travellers to or from certain destinations need an airport transit visa (A) for their transit
(Article 15 ZTuj-1-UPB5). Transit visa (B) is mandatory for a foreigner travelling through the
national territory of the RS from a certain third country into another third country, which
allows him a maximum five day stay in the country, while the validity of visa must not extend
6 months. Transit visa may only be issued if a foreigner can prove that he or she has got
approved access into the country he or she enters after leaving the RS (Article 16 ZTuj-1-
UPB5). The visa for short-term residence (C) is issued for a single or multiple entries into the
country and the duration of the single stay nor of multiple stays in the Republic of Slovenia
must not exceed 90 days within the six months following the first entry. This visa can be
renewed, but only if the total length of the approved residence on the basis of the issued or
renewed visa does not exceed 90 days in the period of six months. Foreigners can also be
granted a visa for multiple entries with one year validity and exceptionally with five year
validity, if this is in the interest of the RS. A visa can be issued for tourist, business; personal
or other similar types of visits to the RS, the purpose of the visit must also be stated in the
visa. (Article 17 ZTuj-1-UPB5). The conditions for issuing a long-term residency visa, for a
residency exceeding 90 days in six months (D) and for a long-term residence visa, which is
also valid as a short-term residency visa (D+C) are determined by the Government of the RS
in a decree, which has not yet happened. Visas A, B and C can also be issued into a group
passport for a group of 5 to 50 foreigners (Article 18 ZTuj-1-UPB5). Foreigners with a group
passport can reside in Slovenia for a maximum period of 30 days. The visa does not give a
foreigner the right to employment or work, under any circumstances (Paragraph 4 of Article
14 ZTuj-1-UPB5) and the foreigner must respect the purpose for which his or her visa has
been issued.

A Foreigner applying for a temporary residence or a transit visa must fulfil the following three
criteria: valid health insurance, letter of guarantee and the means of subsistence. First, he or
she needs to submit the evidence that prove a valid travelling health insurance. The
insurance needs to cover health care expenses, emergency health assistance and emergency
hospital treatment. A foreigner applying for a long term residency or a multiple entry visa
needs to have appropriate travelling health insurance for the full duration of his or her
residence or each visit. The lowest amount of the insurance sum for the travelling health
insurance is 30,000 EUR. The insurance is to be made in the country of foreigner’s permanent
residence, if this is not possible, it is to be made in any other country where it is possible.
Additionally, the travelling health insurance can be made by a guarantor on his or her behalf.
The travelling health insurance is not obligatory for owners of diplomatic passports or other
accredited members of the diplomatic corps in the RS, for seafarers, whose status is regulated
by ILO Conventions no. 108 and 185 and for foreigners applying for a visa on the national
border crossing, while the submission of health insurance evidence does not apply for foreigners performing their profession, for which their travelling health insurance is made (Article 19.a ZTuj-1-UPB5). The second condition is that the guarantor, inviting a foreigner for a personal or business visit, writes a letter of guarantee and consequently guarantees to provide accommodation for the foreigner or cover the expenses of his or her accommodation in the RS and the expenses of his or her return into the country of origin. The guarantor also guarantees to cover the expenses which may arise if the foreigner is accommodated in the Aliens Centre or the Asylum Centre and the cost of foreigner’s deportation from the country. The guarantor must validate the letter of guarantee at the Administrative Unit, where the data is recorded into the register of letters of guarantee (Article 19.b ZTuj-1-UPB5). The third condition the foreigner applying for a visa is sufficient means of subsistence. The means of subsistence relative to the purpose and the duration of foreigner’s stay in Slovenia are evaluated by the diplomatic consular representation office. Fulfilment of this condition can be proved in cash, cheques, credit cards, the letter of guarantee, the receipt on paid accommodation in the framework of tourist package and in other ways. (Article 19.c ZTuj-1-UPB5)

The foreigner’s visa application can also be rejected, if there are reasons for rejecting the entry, if the foreigner does not submit a travelling or other type of document or documentation to the application, if he or she does not respond to the invitation for a personal visit to the representative body, if he or she is not provided with sufficient means of subsistence or does not have a valid travelling health insurance or if the person is a spouse in a matrimony for which there is a founded suspicion that it was made only for the means of visa acquisition. Regardless of the reasons for rejection, a foreigner is entitled to a transit visa if his or her transit is not violating the interests of the RS and if the foreigner has approved entry into the country he or she is to enter after the transit in RS. Regardless of the reasons for rejection the visa can also be issued for humanitarian reasons or if the issue is in the interest of the RS on the basis of signed international agreements. In both cases the competent authority can decide to allow foreigner’s entry into the country only on a specifically designated border crossing. (Article 20, ZTuj-1-UPB5)

After the visa has been issued, there are certain circumstances under which it can be annulled, namely, if it is subsequently found that the foreigner was not fulfilling all the legal requirements or that he or she is no longer fulfilling them, if the foreigner intentionally submitted false data on identification of other false data, if he or she intentionally tied to cover up the circumstances relevant for the visa issue, if he or she no longer has a valid passport or if a warrant for his or her deportation or expulsion from the country has been issued. The annulment is carried out by the Police, if the foreigner does however not enter the Republic of Slovenia; the visa can also be annulled by the diplomatic consular representation office. In addition to the two bodies, a visa can always be annulled by the Ministry of Foreign Affairs. The annulment is noted into the foreigner’s travelling document and he or she must consequently immediately leave the country (Article 22 ZTuj-1-UPB5).

4.1.2. Admission Conditions (4-5 pages)

The procedures for assessment of residency applications and the authorities responsible for their assessment differ on the basis of the type of residence the foreigner is applying for. The residency in the RS for a period exceeding 90 days or the period of visa validity and for other purposes from those that allow residence on the basis of a visa, is possible on the basis of the permit for temporary residence, permit for permanent residence, international
protection (including the status of refugee or subsidiary protection) and temporary protection of displaced persons. The first two types (temporary residence permit, permanent residence permit) belong under the migration policies, while the remaining three types (refugee status, subsidiary protection and temporary protection of displaced persons) belong under the asylum policies.

4.1.2.1. Asylum

International protection in the RS includes the refugee status and the status of subsidiary protection. The refugee status is granted to a third country national, who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, (Paragraph 2 Article 2 ZMZ). The status of subsidiary form of protection is granted to a third country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm (Paragraph 3 Article 2 ZMZ). Legally, serious damage depicts death penalty or execution, torture or inhumane or degrading treatment or punishment of the applicant in the country of origin or serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict. (Article 28 ZMZ). This is therefore a humanitarian status awarded to persons who do not fulfil the criteria to be granted a refugee status. The Asylum Sector at the Ministry of Interior, being the responsible authority, assesses the conditions for granting international protection in a unified procedure. First the Sector assess the conditions for granting the refugee status, and if these are not fulfilled the conditions for granting subsidiary form of protection (Article 34 ZMZ).

The fulfilment of conditions for international protection is assessed on the basis of International Protection Act. The act adopted in 2007 newly defined the conditions as a consequence of adoption of the Council Directive 2004/83/EC (Qualification Directives). The procedure for international protection was also changed on the basis of Council Directive 2005/85/EC (Procedure Directive). A person wishing to apply for international protection needs to express the intention to submit the application in the shortest delay after entering the RS (Article 35 ZMZ). The intention can be expressed at any national body or local community body in the RS, which further informs The Asylum Sector or the Police regarding the intention (Paragraph 2 Article 41 ZMZ). Consequently, the foreigner is directed to the police to assess his or her identification, the route by which he or she arrived to the RS and the police accept the statement on reasons for international protection. After issuing a statement and the verification of information a police officer fills in a registration form. (Article 36 ZMZ) After the procedure at the police station the foreigner is accommodated into the Asylum Centre, where he or she is provided with food, emergency hygiene supplies and access to emergency health care. If a foreigner voluntarily leaves the reception area of the Asylum Centre he or she is subject to law regulating the field of foreigner, which means that he or she is deported from the country or accommodated in the Alien Centre if the deportation is not possible. The person in question is thus informed immediately after being accommodated in the reception premises of the Asylum Centre in the language he or she understands and proves this with his or her signature. (Article 37 ZMZ) The foreigner then
undergoes a sanitary-disinfection and preventive health check-up, he or she is photographed and has his or her fingerprints taken (Articles 38 and 39 ZMZ), an official representative of the Asylum Centre receives the foreigner and he or she can file in a complete application of a foreigner for international protection with the Asylum Sector of the Ministry of Interior. The application can also be filed at a diplomatic consular representation office of the RS in third countries and by a special procedure also in a seaport where the ship is anchored and at the airport's transit area (Article 41 ZMZ), which rarely occurs in practice. The application is considered to be complete, when in addition to a photo and fingerprints, it also contains personal names or nick names, date of birth (day, month, year), sex, place of birth (state, city town), citizenship, family status, address of last residence (state, city, town), nationality, ethnic or tribe, religion, language, date of departure from country of origin (date, month, year), countries where he or she resided after leaving the country of origin, date of entry into RS (day, month, year), entry point, manner of entry, documents for establishing identity (type of document, number, date and place of issuing), education and profession, military service, membership of a political party or organization, previous applications in RS, applications in other states, data on previous penalties, special needs or problems, family data for unaccompanied minors, close family members accompanying the applicant, other relatives accompanying the applicant, other relatives who already reside in RS, close family members who reside in the country of origin, family members who live outside the country of origin and the statement of the applicant (Paragraphs 2 and 3 Article 119 ZMZ). The applicant is then accommodated in the Asylum Centre and by the submission of the complete application his or her formal procedure for international protection officially comes into force and the applicant can benefit all the reception conditions. If the applicant is a minor, the application is filled by his legal guardian (Article 16 ZMZ). If the applicant is an unaccompanied minor, the Centre for Social Work needs to appoint a legal guardian, be it a relative or a person working for an organisation specializing in helping minors (in practice this is the Slovene Philanthropy non-governmental organisation – the Association for Promotion of Voluntary Work).

The law also regulates the relation between the asylum and migration policies in the case of applicants for international protection. A person applying for international protection cannot apply for permit of residency in Slovenia from the day of the application submission until receiving the official decision on the application. The person who has not been granted international protection is subject to Aliens Act after the decision became final (Article 32 ZMZ), which means that he or she is deported from the state. If the deportation is not possible, the person can be accommodated in the Alien Centre or can apply for permission to remain, described under the section 4.1.5. on return.

The Asylum Sector of the Ministry of Interior may appoint an expert to the procedure, if the official does not posses such expert knowledge and is required to determine or assess certain important fact (Article 44). The competent authority has at least one personal interview with the applicant. The interview can only be omitted in special cases when the authority decides I accelerated procedure which is in the case when the applicant is a person unable to participate in the procedure or when the authority is deciding on the basis of the Dublin Procedure, on the basis of the concept of the safe third country, European safe third country or the country of first asylum (Articles 454 and 46 ZMZ). The applicant is entitled to follow the procedure and to be informed about the development of the procedure in a language he or she can understand, has a right to interpreter, right to contact the UNHCR and to written decision issued within the statutory term in the language he or she understands (Article 8 ZMZ). The right to free legal representation on behalf of refugee counsellors is not granted to applicants on the first level of procedure before the Ministry of Interior, since this right is only granted.
on the second level before the Administrative Court and on the third level before the Supreme Court of the RS (Article 13 ZMZ). The fees of counsellors for refugees are paid by the Ministry of Interior in the amount of 50% of the standard attorneys’ fee. This system of regulation is the direct consequence of the transposition of Council’s Directive 2003/9/EC (Directive on standards for the reception) into Slovene domestic law, which left the decision on the right to legal representation to the discretion of individual member states.

The Ministry of Interior can process the application for international protection in **accelerated procedure**. In this type of procedure it assesses whether it is realistically possible to evaluate the real situation on the basis of: data and the statement in the application; information acquired during the personal interview; evidence submitted by the applicant; documentation submitted by the applicant, particularly regarding the age, origin including the origin of relatives, identity, citizenship, locations where the applicant had been and the location of permanent residence, previous applications, routes travelled, personal and travelling documents and reasons for submitting the application; the evidence acquired by the competent authority; official data available to the competent authority, documentation acquired prior to application submission and general information about the country of origin, particularly regarding the socio-political condition and adopted legislation. (Articles 54 and 23 ZMZ)

The Ministry of Interior either accepts the application and grants the person the status of a refugee or subsidiary protection or rejects it as unfounded (or as obviously unfounded if it had been processed in the accelerated procedure). By **granting** the status the person acquires the status of a refugee or subsidiary protection and thus acquires certain rights arising from the status (Article 52 ZMZ) (see the next chapter for more information). The application is **rejected** if the competent authority determines that the applicant does not fulfil the conditions for acquisition of status or if one of the exclusion clauses is fulfilled (Article 53 ZMZ). If the application is processed in an accelerated procedure it can be **rejected as manifestly unfounded** for the following reasons (Article 55 ZMZ):

- the applicant clearly entered the RS for purely economic reasons;
- the applicant only stated insufficient, irrelevant facts and facts of little importance for the assessment of entitlement to international protection;
- it is obvious that the applicant does not fulfil the conditions for international protection related to the features of actions of persecution and serious harm;
- the applicant has falsely presented the reasons he or she is referring to; particularly when his or her statements are inconsistent, highly unlikely or contradictory to the information regarding the country of origin;
- the applicant has not stated, without a founded reason, the intention to file the application with shortest possible delay, if he or she had a chance to do so;
- the applicant filed the application with a purpose to delay or prevent deportation from the country;
- the applicant refuses to be photographed and have his fingerprints taken;
- the applicant founded the application on false identification or on the basis of false documents or concealed important information or documents on his or her identity or citizenship;
- the applicant intentionally destroyed or disposed of his or her travelling document, personal document with a photo, which proves his or her identification or citizenship or of any other document with a photo which could help prove his or her identity or citizenship;
- the applicant intentionally destroyed or disposed of other documents (documents, travelling tickets, receipts) which could be relevant in establishing his or her identity, citizenship or entitlement to acquire international protection;
- despite his or her guarantee the applicant has not submitted the documentation and information relevant for establishment of fulfilment of conditions;
- the applicant filed another application in which he stated different personal data;
- the applicant's country of origin is a safe country;
- the applicant could commit a violent act and pose a threat to national security an public order of the country which caused the issue of instrument permitting enforcement to leave the country as an additional sentence due to these reasons or the instrument permitting enforcement to leave the country has already been enforced while the period of prohibition of entry to the European union has not yet expired;
- the applicant concealed that he had previously filled an application in another country, particularly if by doing so he or she used false identification;
- the applicant has attempted to illegally enter another country before the decision of the competent authority and had thus been captured by the police or has illegally entered another country and has consequently been returned into the Republic of Slovenia.

The procedure can also be terminated if it is considered that the applicant withdrew the asylum application. The application is also considered to be withdrawn, if (Article 50, ZMZ):
- the applicant has not responded to the invitation for a hearing or oral proceedings without prior excuse;
- the applicant has not informed the competent authority about the change of address and it was impossible to hand the invitation and other post mail despite the second attempt to do so;
- it is clear from the public register of the competent authority that the applicant voluntarily left the Asylum Centre or its department and has not returned into the Asylum centre or its department in three following days;
- the applicant has not returned to the private address for three days since the note of the landlord or the head of the institution to the competent authority.

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

In addition to the regular and accelerated procedure, certain special procedures are also regulated by the International Protection Act, such as: procedure with repeated application, procedure on airports and in ports and the Dublin procedure (its inclusion is the result of Regulation 323/2003/EC (Dublin II Regulation) implementation). A repeated asylum application can be submitted if the applicant, whose first application has been legally rejected or who explicitly withdrew the application, submits new evidence on his or her fulfilment of conditions to acquire international protection. The new evidence must appear after the publication of the previous decision or might have been existent during the period of the first procedure but the applicant could not state them due to well founded reasons. If the applicant is not fulfilling the conditions, the claim for submission of renewed application is rejected with a decision. The person submitting a repeated application is accommodated in the Aliens Centre and becomes an applicant for international protection benefiting from reception conditions (except the freedom of movement) on the date of submission of the complete repeated application. (Articles 56 and 57 ZMZ) The particularity of the procedure in transit facilities of the airports or ports is, that the applicant, whose application is processed in
accelerated procedure, the Dublin procedure, the procedure of national and European safe third country in the country of first asylum, is accommodated in this transit area and not in the Asylum Centre until the issue of legal decision (Article 58 ZMZ). They are only accommodated in the Asylum Centre if their application is processed in a regular procedure. The particularity of the Dublin procedure is that it does not assess the fulfillment of conditions for international protection but assesses which country is competent to hear the application. It applies to applicants for international protection who poses a visa and a permit for residence in another EU member state; for whom there is evidence that they illegally crossed the border of an EU member state after arriving from the third country, that their fingerprints are already filed in the EURODAC database or who have been issued a resolution that the RS is not going to assess their application. Until the handover to the other country the applicant is accommodated in the Asylum Centre, while this does not mean that the RS has taken on the responsibility to process his application. (Article 59 ZMZ)

Judicial review which is initiated with an appeal to the Administrative Court can be requested after the completion of the procedure on the first level. An appeal against the decision issued after a regular procedure can be filled in 15 days from the appeal and in 3 days after the decision issued in an accelerated procedure. The three day period also applies to other decisions, except the police decision on accommodation of person who filed a repeated application, in the Alien Centre. The appeal against the decision on rejection of the application has a suspensive effect and postpones the execution of the decision. (Article 74 ZMZ) The Administrative Court needs to decide on the appeal against the decision made in the regular procedure in 30 days and in seven days for the decision made in the accelerated procedure. An appeal to the Supreme Court, which must decide on its outcome in 15 days, is possible against the judgement of the Administrative Court. The Administrative Dispute Act subsidiary applies to these procedures, which generally regulates the procedure in these two instances in administrative affairs. In accordance with the Constitutional Court Act a constitutional appeal against the ruling of the Supreme Court can be filed in 15 days after its decision. (Article 75 ZMZ) The procedure in the Constitutional Court (Article 77 ZMZ) does not have a suspensive effect, that is why the person filing such appeal is required to leave the state in a certain time limit after enforceability of the decision made by a competent authority (if this is not possible, the person is accommodated in the Alien Centre under the Police authority).

The Act also contains the concept of a safe third country, European safe third country, safe country of origin and the country of first asylum (Articles 60 – 68 ZMZ). The common feature of all the concepts is, that if one of the countries the applicant was residing in before arriving to the RS is marked with one of the fore mentioned concepts, the Ministry of Interior does not even open the substantial assessment of conditions for international protection, because of the prevailing opinion that applicant's country of origin already provides the applicant with sufficient protection from prosecution and serious damage.

The following table shows the number of asylum or international protection applications, the number of approved statuses, the number of rejected applications and the number of cases with suspended procedures from 1995 until 2007:
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<th>YEAR</th>
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<td>2000</td>
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<td>2002</td>
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<td>9</td>
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<tr>
<td>2007</td>
<td>434</td>
<td>9</td>
<td>276</td>
<td>238</td>
</tr>
</tbody>
</table>

* The number of received applications includes the applications which were renewed after an appeal in the Administrative court.

In the period before the official decision is made, the applicants for international protection are entitled to certain reception conditions or rights. These were already provided for in Slovenian law before the enforcement of European legislation and were later changed and adapted in accordance with the Council Directive 2003/9/EC (Directive on conditions of reception). The current conditions of acceptance include (Articles 78 – 87 ZMZ):

- The right to information;
- the right to basic care in the case of accommodation in Asylum Centre, which includes accommodation, food, clothes, shoes and hygiene supplies;
- The right to financial support in case of accommodation on a private address;
- The right to free legal aid in legal proceedings in the Administrative Court and the Supreme Court until the legally binding decision: applicants do not have the right to legal representation provided by refugee counsellors on the first level of the procedure, however, they have access to legal counselling provided by a non-governmental organization;
- The right to emergency health care,
- The right to education: this right is strictly respected with all children under the age of 15, because they are all enrolled into elementary education. By law the children are entitled to group support during the first year of schooling of up to two hours per week, which is rarely realised in practice. Minors from 15 to 18 do have the right to free secondary and vocational education under the same conditions as the citizens of the RS, but the enrolling depends on the willingness of the school in question and the level of minor's knowledge. Adults can also enrol into education, but it is not free;
- The right to work and employment (the conditions for the effectiveness of this right are presented in more detail in section 4.1.4.1. on access to labour market); and
- The right to humanitarian aid.

While waiting for the decision on their application, the applicants for international protection are accommodated in the Asylum Centre and have the right of free movement on the national territory. Asylum Centre is an open accommodation centre, which means that the applicants can freely exit and enter the centre, but these are allowed, in accordance with the House Rules, only between 6 am and 11 pm (and until 3 am during the weekends and holidays) (Article 5 of House Rules). Applicant's movement can also be limited, namely, if this is necessary for the assessment of his identity, for prevention of spreading infectious diseases and if there is a suspicion of misleading of the proceedings (such suspicion arises if the applicant gives wrong reasons that he or she refers to particularly when his or her claims are inconsistent, contradictory, very unlikely and contradictory to the information about the
country of origin; the applicant has not expressed the intention to file an application in the shortest delay without a well founded reason, when he or she had the possibility; the applicant filled an application with the intention to postpone or suspend deportation from the country; the applicant is rejecting the taking of fingerprints and does not want to be photographed; the applicant has founded his application on false identity and on the basis of false documents or has concealed important information and documents on his identity and citizenship or other document with a photo, which could help prove his identification and citizenship; the applicant has intentionally destroyed or disposed of other documents (documentation, travelling tickets, receipts), which could be relevant to determine his identification, citizenship or entitlement to international protection; the applicant has filled in the second application in which he stated different personal data; the applicant has concealed that he has already filled an application in another country, particularly if he or she has done so by using different identity; or if the applicant has attempted to illegally enter another country before the decision of the competent authority and was caught doing so by the police or has already illegally entered another country and has been returned to the Republic of Slovenia. (Paragraph 1 Articles 51 and 55 ZMZ) These are namely some of the reasons for which the application for international protection, processed in an accelerated procedure, can be rejected as manifestly unfounded. This wide range of reasons for limiting free movement is direct transposition of the Council Directive 2005/85/EC (Procedure Directive) into Slovenian domestic law.

The freedom of movement may also be limited to the premises of the Asylum Centre or the closed section of the Asylum Centre. (Paragraph 2 Article 51 ZMZ) Freedom of movement is also limited to foreigners who illegally entered RS or reside in RS illegally and are in accordance with the Aliens Act accommodated at the Aliens Centre. Person, entering the RS in an illegal way or residing in Slovenia without the permit for residency is namely still accommodated in the Aliens Centre despite having applied for international protection. The Aliens Centre accommodates applicants for international protection, who have been issued a sidesanction or side punishment of deportation from the country before filling the application. If the Asylum Sector of the Ministry of Interior evaluates that there are sufficient reasons for limitation of movement, the limitation of movement is ordered by a decision. A written copy of the decision is issued at least 48 days after the oral declaration of the decision. The limitation can be enforced for a maximum period of three months or less (until the cessation of reasons). If the reasons are still valid after the end of the three month period, the limitation is extended for the period of one month. The applicant can appeal against the decision to the Administrative Court in three days after receiving the decision and the court must decide on the applicant's appeal in three working days after an oral hearing of the applicant. (Paragraphs 3 and 4 Article 51 ZMZ)

The next institute, which needs to be mentioned in the framework of the asylum policy, is temporary protection of displaced persons. As already mentioned, the foundations for this type of protection were introduced into the Slovene legal system with the Temporary Asylum Act of 1997, when applied to regulate the status of refugees from Bosnia and Herzegovina in the RS. The Temporary Protection of Displaced Persons Act which applies today and the content of which is very similar to the above mentioned Act was adopted independently of the current situation of former Bosnian refugees in Slovenia, because the Act is the result of implementation of the Council Directive 2001/55/EC (Directive on Temporary Protection). In accordance with the Temporary Protection of Displaced Persons Act the temporary protection is granted in the case of mass arrival of displaced persons from third countries into the RS, particularly when there is a danger that the asylum system would not be able to appropriately
process the increased amount of asylum applications. Temporary protection can be granted to displaced persons, who cannot safely and permanently return into their country or region of origin because of war or war-like conditions, armed conflicts, occupation and mass violation of human rights, which pose a threat to their life and body, or if they are victims of systematic and general violation of human rights and fundamental freedoms (Article 2 ZZZRO). When the EU Council determines that such circumstances arose in a third country or region, the Government of the RS adopts a decision on introduction of temporary protection and determines the number of persons it is to offer temporary protection to, the conditions under which this number can be exceeded (particularly if the right to family unification and vulnerable groups of persons is asserted), the date of enforcement and the duration of temporary protection and the date until which the persons with temporary protection must leave the RS due to cessation of temporary protection (Article 10 ZZZRO). Temporary protection can be acquired by any person from the country or the region, unless it is found that one of the exclusion clauses is given regarding a person. The exclusion clause applies if there is a founded reason that a person has committed a criminal act against humanity and the international law, stated in the Criminal Code; that the person has committed a severe criminal act of non-political nature outside the RS before being received in the country as an applicant for international protection; that the person has committed a criminal act in contradiction with the aims and principles of the United Nations and other binding international treaties enforcing these aims and principles. Exclusion clauses also apply for a person legally sentenced for a criminal act in the RS to unconditional prison sentence exceeding one year and the sentence has not yet been erased. (Article 5 ZZZRO)

The temporary protection has one year duration and can be extended twice for a maximum six months (Article 11 ZZZRO), and can also cease early. Early cessation occurs, when the circumstances in the third country or region are allowing safe and permanent return in a way that grants respect of human rights, fundamental freedoms and obligations arising from the principle of non-refoulement. The existence of such circumstance must be determined by the EU Council and the RS consequently adopts a decision on early cessation of temporary protection simultaneously determining the date until which the persons with the temporary protection are obliged to leave the RS. (Article 12 ZMZ) Temporary protection can also cease if the person has acquired a permit for permanent residency in the RS or citizenship, if it acquired protection, the refugee status, permit for permanent residency or citizenship in a third country or if a person with temporary protection is relocated to other EU country on the basis of his or her consent (“resettlement”). Temporary protection usually does not cease for a person who attempts to illegally enter and stay on the territory of another EU member state during the period of temporary protection (Paragraphs 1 and 2 Article 6 ZZZRO). Temporary protection can be withdrawn for the reasons of public order and peace, if a person is rejecting the enforcement of legally binding and enforceable decisions of state authorities, if it is found that the person with temporary protection has stated false facts in the procedure for acquisition of temporary protection or if one of the withdrawal reasons has been applied to a person. (Paragraph 3 Article 6 ZZZRO).

4.1.2.2. Migrations

This section describes the conditions of reception of foreigners who wish to reside in the RS in the framework of the migration system. A foreigner, wishing to reside in the RS for a longer period than allowed by the visa, must acquire a residency permit. The residency permit stands for the permit to enter the RS and reside in the RS for a certain period with a certain purpose (temporary residence permit) or residence for an unlimited period (permanent
residence permit. (Article 25 ZTuj-1-UPB5) The latter is issued without limitations regarding the duration and intention of residency in the RS and is described in more detail in section 4.1.3.2. on legal residency.

The residency permit is issued on request of a foreigner wishing to reside in the RS and the application can also be filed by another physical or legal entity in the cases laid down by the law (i.e. in the case of reunification of the family or employment and work). The application must also state the purpose of residency in the RS. A foreigner, wishing to reside in the RS needs to possess a valid travelling document with the validity that exceeds the intended duration of residency in Slovenia by at least three months, appropriate health insurance and sufficient means of substitution for the duration of residency in the country, or needs to have otherwise provided substitution in the monthly amount equal to the basic sum of the minimal wage in the RS. In addition to these conditions, the applicant also needs to fulfil the conditions required for the issuing of individual types of permits. The residency permit is inscribed in a visible way into a travelling document and is issued in the form of a decision. Any permit of residency, except for the permit on first residence can be issued in a form of a decision, namely, if a foreigner whose identity is unquestionable does not possess or is unable to provide travelling documents from his country of origin. In such cases the foreigner is issued an identity card ex officio. Residency permit is handed personally to the foreigner it has been issued for, or his or her legal representative. (Article 27 ZTuj-1-UPB5)

The permit for first residency can be issued only as a permit for temporary residence. The foreigner needs to acquire the permit before entering the country and the application for the permit needs to be submitted to the diplomatic consular representation office of the RS in a foreign country, however it may also be submitted in the administrative unit (i.e. application for temporary residence permit on the grounds of family reunification). The permit for first residency may, except in certain cases, not be issued for the period exceeding one year. (Article 28 ZTuj-1-UPB5)

A temporary residence permit is granted to a foreigner intending to reside in the RS because of employment or work, family unification, studies, education, specialisation or professional training or practical training, cooperation or participation in international volunteers exchange programmes and other programmes, which are not a part of formal training, to the foreigners who have a long term resident status in another EU member state, to the victims of human traffic and other foreigners due to other founded reasons. A foreigner who has been granted a temporary residence permit for a particular purpose can only reside in RS in accordance with the purpose the permit has been issued for. (Article 30 ZTuj-1-UPB5)

In addition to the above stated general conditions a foreigner needs to fulfil special conditions in order to acquire individual types of temporary residence linked to the purpose due to which the permit is to be issued. The condition for the issue of temporary residence permit because of employment and work is the possession of a work permit and the applicant must fulfil conditions laid down in the regulations of the RS regarding the work related to certain sectors. The residency permit is issued for the duration of the work permit for the maximum period of one year. The application is filed by a foreigner or employer at the diplomatic consular representation office whereas the applicant may also file it in the administrative unit where it is registered. (Paragraphs1, 2 and 5 Article 32 ZTuj-1-UPB5) Seasonal work and work with directed workers differs from employment and work, which is why the conditions for acquisition of such permit are also different. For the needs of foreigner’s performance of seasonal work a temporary residence permit is issued for the maximum period of six months...
or exceptionally for the period of nine months in the sectors which demand such duration. By
issuing such a permit of residence annual quota for their issue cannot be exceeded, which is
an additional condition, prescribed by a government regulation (quota system is described in
more detail section 4.1.4. on access to the labour market). Residency permit may be issued for
performance of foreign services with directed workers for the duration of works as stated in
the working agreement, but not exceeding the period of one year. (Paragraphs 1, 2 and 5
Article 34 ZTuj-1-UPB5) Unlike other workers arriving to the RS for work (full-time or
seasonal); the daily work migrants can be issued a residency permit with duration of up to
two years (and not only one year). (Paragraphs 1 and 2 Article 35 ZTuj-1-UPB5) The
conditions for acquiring a residency permit because of research are a signed agreement on
visiting a research organisation in the RS, a valid work permit or any other permit the
researcher may need in accordance with Employment and Work of Aliens Act. The permit is
issued for the period of duration of work on the basis of agreement on visiting or for the
period of validity of the work permit, but not exceeding one year. The application for the
permit is submitted either by the research organisation at the diplomatic consular
representation office or by the organisation in the local administration unit. (Article 32.a
ZTuj-1-UPB5) The temporary residence permit can also be issued for the needs of studying,
which includes the studies and other forms of education, specialisation, professional
specialisation, practical training, cooperation in international student exchange in relevant
education institutions of the RS or cooperation in other educational programmes of
international exchange of volunteers and in other programmes, which do not belong into the
system of formal education. In this case the condition for permit issue is a document proving
the enrolment into studies issued by the educational institution where he has been chosen to
study, a certificate of the national authority competent for the implementation of international
or bilateral agreement on weather the provider of the grant or a certificate issued by an
authorised organisation responsible for the implementation of a certain programme. (Article33
ZTuj-1-UPB5)

A foreigner residing in the RS on the basis of a permanent residence permit and a foreigner
who is residing in the RS for the last year on the basis of the temporary residence permit and
posses the temporary residence permit with validity of at least one year has the right to family
reunification. Foreigner’s right to family reunification has been granted by Slovenian
legislation before the introduction of European legislation, however the scope of close family
members and certain conditions were altered by the implementation of Council Directive
2003/86/EC (Directive on family unification). Family reunification now includes unification,
preservation and reunification of the family and on this basis family members can acquire a
permit for temporary residence. The limitation that the foreigners need to reside in the country
for at least a year does not apply for foreigners who reside in Slovenia because of research
work or who acquired temporary work because of the interests of the RS. The family
members of these two groups of foreigners can acquire a temporary residence permit in
Slovenia, even if the foreigners have not yet been residing in the RS for a year. On the basis
of the transposition of the directive into Slovene law the close family members include the
spouse, foreigner’s or spouse's minor unmarried children, minor foreigners’ parents and
foreigner’s or spouse's adult unmarried children or parents, whom the foreigner or the spouse
is required to provide for on the basis of law of the country the foreigner or the spouse is the
citizen of. In exceptional cases the authorised body may determine another family member as
a close family member after voluntary consideration when exceptional circumstances are in
favour of unification of the family in the RS. In the case of polygamous matrimony the
residency permit for family unification can only be issued and extended for one spouse. A
condition for issue of the permit is that the foreigner submits documentation on sufficient
means of subsistence of close family members, who intend to reside in the country. The permit for temporary residence due to family unification is granted to a close family member of a foreigner with a temporary residence permit for the same period as the foreigner’s permit but not for a period exceeding one year. Permit for temporary residence is granted to a close family member of a foreigner with a permanent residency permit for a one year period. Foreigner’s or spouse's minor unmarried children and minor foreigner’s parents can only be granted a temporary permit on the grounds of family unification until the date of child's age of majority. Temporary residence permit is granted to close family members as an autonomous permit. (Article 36 ZTuj-1-UPB5)

A foreigner who has a **long term resident** status in another EU member state and wishes to reside in the RS because of employment and work, studies, seasonal work, cross border service provision as directed worker or because of other well-founded reasons can be issued a permit for temporary residence, if he or she is fulfilling general conditions and conditions for individual types of temporary residence and if there are no reasons for rejection of permit issue. The regulation which applies particularly for long-term residents of other EU member states was introduced into the Aliens Act as a direct result of Council's Directive 2003/109/EC (Directive on Long-Term Residents). On the basis of the directive and Slovene legislation these foreigners (with the exception of seasonal and appointed workers) have the right to family reunification with close family members who are foreigners and if they have a long term resident status in another EU member state or another type of residence permit and if they were residing with the foreigner in a family community (if they do not, the above stated regulation applies regarding family members of foreigners who are not long term residents in another EU member state). Long-term residents are issued a permit relevant to the purpose of residence for his or her family members for the same period as for the long-term residents i.e. for the maximum duration of two years. (Paragraphs 1-6 Article 37 ZTuj-1-UPB5)

The most lenient conditions apply to a **foreigner of Slovene ethnicity** wishing to reside in Slovenia, since besides proving the descent he or she only needs to prove general conditions for issue of temporary residence permit (Paragraph 7 Article 37 ZTuj-1-UPB5).

**Foreigner’s child** who does not acquire Slovene citizenship does not need a residence permit for the first three months of his or her life. After the three months the administrative unit issues a residence permit by public duty, which is to be valid for the same period as the permit validity of the child's mother, father, guardian or person the child has been trusted to raise the until the age of majority. (Article 38 ZTuj-1-UPB5)

A specific regulation applies to **victims of trafficking in human beings**, who are residing illegally in the RS. This regulation was introduced into Slovene legislation anew after the transposition of Council Directive 2004/81/EC (Directive on Victims of Trafficking in Human Beings). Victims of trafficking in human beings are granted a permission to remain for the time of consideration by the police on their request, during which they decide whether they are to cooperate as a witnesses in criminal procedure on trafficking in human beings. On the basis of founded reasons the permission to remain can be extended for three months. Permission to remain can be rejected for the reasons of threat for public order, security and international relations of the RS or if there is a suspicion that the person's residence in the country is to be linked to execution of terrorist and other violent acts, illegal intelligence activities and execution of other criminal acts or if the victim in human trafficking is from regions where there is an outbreak of contagious disease which may cause an epidemic, listed in the international health rules of the World Health Organisation or from the regions where
there are contagious diseases which could threaten people's health and for which prescribed measures should be introduced on the basis of the law regulating contagious diseases. During the period of permission to remain the victim in human trafficking is guaranteed the same rights as other aliens with permission to remain (these are described in more detail in chapter 4.1.5. on returns), and they additionally have the right to free translation and interpreting. The police and non-governmental organisations are responsible for informing the victim about the possibilities and conditions for acquisition of residence permit. After the expiration of period of consideration and period of the permission to remain, the victim of trafficking in human beings willing to cooperate as a witness in a criminal procedure the victim can be issued a temporary residence permit for the duration of the court trial, namely for a period over 6 months and under a year. The permit cannot be issued if the victim does not fulfil the stated conditions, if during the process of issuing it is found that he or she keeps voluntary contact with the suspect, convict or convict of a criminal act of trafficking in human beings and for same reasons which cause a suspension of permission to remain. Application for the residence permit must be filed by the victim in the administrative unit before the expiration of the permission to remain or other permit for residence. The administrative unit issues a certificate on timely submission of the application, which is valid as a permit for temporary residence until the final decision on application. The victim of trafficking in human beings without financial means is exempted from paying administrative tax and official forms. By acquiring residence permit the victim is entitled to certain rights described in more detail in the section 4.1.3.2. on legal residence. (Article 38a ZTuj-1-UPB5)

In addition to the stated types of residence permits, which legally require a clear intention of residence in advance, there is also a legal possibility to acquire a residence permit for other founded reasons. These can be mentioned in laws, international acts and international principles and the decision about the nature of these reasons depends on discretion of the competent authority. In this case the temporary residence permit is issued for the period the residency is inevitably necessary for, but not exceeding one year.

On October 21, 2008 there were 66.189 valid permits for temporary residence of foreigners in the RS. Most of them were from the Republic of Serbia (10.827), Republic of Macedonia (5.766), Croatia (3.522) and Bosnia and Herzegovina (3.062). The majority of the temporary residence permits valid on the day were issued because of employment or work (43.356). Between 1999 and 2006 a total of 284.287 temporary residence permits were issued, as evident from the table below (this does not include registered residences of EU citizens or other EU member states residents or residence permits issued to their family members):

<table>
<thead>
<tr>
<th>Reason/Year</th>
<th>No data</th>
<th>Employment or work</th>
<th>Seasonal work</th>
<th>Daily migrants</th>
<th>Family reunification on 37</th>
<th>Family reunification on 36</th>
<th>Child born in RS</th>
<th>Settlement 24</th>
<th>Other reasons</th>
<th>Directed workers</th>
<th>Slovenian descent</th>
<th>Total</th>
</tr>
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<td>276</td>
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<td>35818</td>
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<td>6130</td>
<td>10405</td>
<td>218</td>
</tr>
</tbody>
</table>

The local administrative unit where the foreigner resides or intends to reside is authorised to decide on applications for residence (Article 42 ZTuj-1-UPB5). The application for permit of residence in the RS is **rejected** if:

- the foreigner does not possess a valid travelling document, appropriate health insurance or sufficient means of subsistence and if he or she has not fulfilled other conditions required for issue of individual types of permits for temporary residence;
- the foreigner is prohibited from entering the country;
- there are founded reasons that after the expiration of the permit the foreigner is not going to voluntarily leave the RS;
- there are serious reasons for suspicion that the foreigner may pose a danger for public order and security or international relations of the RS or there is a suspicion his or her residence in the country may be linked to execution of terrorist or other violent actions, illegal intelligence activities, possession of drugs or execution of other criminal acts;
- there are reason to suspect that the foreigner is not going to submit to the legal system of the RS;
- it is obvious that a matrimony was made specially and mostly with the intention of residence permit acquisition or if during the procedure of permit extension it is found that close family members do not actually live in a family community with the foreigner, to whom this very law provides the right to family unification;
- it has been found, during the procedure of issuing the residence permit, that the foreigner has already been residing in the RS;
- it is found, during the procedure of issuing a permit for first residence, that he or she is from the regions where there is an outbreak of contagious disease which may cause an epidemic, listed in the international health rules of the World Health Organisation or from the regions where there are contagious diseases which could threaten people's health and for which prescribed measures should be introduced on the basis of the law regulating contagious diseases; or
- it is found, during the procedure of issuing a permit for first residence, that the foreigner may pose a danger for public order and security or international relations of the RS or there is a suspicion his or her residence in the country may be linked to execution of terrorist or other violent actions, illegal intelligence activities, possession of drugs or execution of other criminal acts.

After the rejection for the extension of temporary residence to a family member, the competent authority must consider the nature and strength of the family relation, duration of his or her residence in the Republic of Slovenia and existence of family, cultural and social bonds with the country of origin. (Article 43 ZTuj-1-UPB5)

The next table shows **non-issued temporary residence permits** separately for the cases where the procedure had been terminated and when the application for temporary residence permit had been omitted or rejected:
<table>
<thead>
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<th>Year</th>
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<th>Omitted</th>
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<td>116</td>
<td>486</td>
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<td>379</td>
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<tr>
<td>2006</td>
<td>1013</td>
<td>133</td>
<td>370</td>
<td>1516</td>
</tr>
<tr>
<td>Total</td>
<td>6921</td>
<td>708</td>
<td>4734</td>
<td>12363</td>
</tr>
</tbody>
</table>

The temporary residence can be **annulled** if it is consequently found that there had been reasons for rejecting the issue of permit, if reasons for rejection appear subsequently or if the foreigner intentionally cited false data on his or her identity or other false information or has intentionally concealed the circumstances relevant for the issue of permit. The competent authority which issued a permanent residence permit or the competent authority of the local region where the foreigner is residing may annul the permit, if the foreigner has intentionally stated false data or intentionally concealed the circumstances relevant for the issue of permit. The competent authority issues a decision on annulment of the permit, against which the foreigner is entitled to complain to the Ministry of Interior in 8 days after it had been handed-over. (Article 44 ZTuj-1-UPB5)

The temporary residence permit **ceases to be valid**, if its validation has expired; if the foreigner has acquired a permit for permanent residency in the RS; if the foreigner has acquired a new temporary residence permit before the expiration of the previous one; if the foreigner's residence is withdrawn or suspended; if a legal secondary sentence of foreigner's deportation from the country has been imposed or, if another EU member state has issued a legal decision on foreigner's deportation from the state because of which he or she is to be deported from the RS; if the foreigner has denounced the permit, namely with a written statement on denouncement of temporary or permanent residence; if the foreigner has acquired the citizenship of the RS; or in the case of the foreigner's death (Paragraph 1 Article 45 ZTuj-1-UPB5).

### 4.1.3. Legal Residence

#### 4.1.3.1. Asylum

Persons having acquired international protection may benefit from certain rights in accordance with the International Protection Act and these are further regulated by the Decree on the methods and conditions for ensuring rights of persons with International Protection. The Ministry of Interior provides the funding (the Refugee and Alien Integration Sector under the Internal Administrative Affairs Directorate), unless it is explicitly stated that another Ministry is to be responsible for the provision of funds and enforcement of a certain right. The following table\(^{25}\) shows the **number of granted refugee status, asylum for humanitarian reasons special form of protection and subsidiary protection**:  

---

<table>
<thead>
<tr>
<th>Year</th>
<th>Refugee status on basis of Geneva Convention</th>
<th>Asylum for humanitarian reasons</th>
<th>Subsidiary protection</th>
<th>Special form of protection</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
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<td>2</td>
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<tr>
<td>1996</td>
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<tr>
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<tr>
<td>2000</td>
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<td></td>
</tr>
<tr>
<td>Total</td>
<td>59</td>
<td>88</td>
<td>15</td>
<td>7</td>
<td>169</td>
</tr>
</tbody>
</table>

On 29 October 2008 there were 51 persons with a refugee status under the Geneva Convention, 49 persons who have been granted the asylum for humanitarian reasons and 17 persons with subsidiary protection in the RS. Because the International Protection Act currently only regulates the refugee status under the Geneva Convention and the subsidiary protection we are only going to focus on these two; however due to the previous Asylum Act persons were granted asylum for humanitarian reasons and they are still benefiting from the same rights as refugees.

Persons with a refugee status (hereafter refugees) and persons with subsidiary protection are benefiting from the same rights, with the exception of the right for permanent residence which only refugees are entitled to. Other rights of both groups are:

- **Right to information** on their status, rights and duties, necessary for them to integrate more easily into the environment, particularly the area of accommodation, the right to financial support, social and health care, education, employment and free legal assistance (Article 90 ZMZ);

- **Right to accommodation** in accommodation facilities of the Ministry, such as the integration house. This accommodation is only provided for the period of one year. A refugee who claims the right to family reunification is accommodated with his family. The accommodation can be extended for a maximum period of six months, if the refugee has founded health, socio-economic or other reasons to do so. These reasons are determined by a commission (Article 92 ZMZ) of six representatives of the Ministry of Interior – lawyers, social workers, counsellors for refugees and a physician.

- **The right to financial compensation for accommodation on a private address** the refugee, who finds personal accommodation and has no means of subsistence after his or her accommodation in the integration house or other accommodation facilities of the Ministry of Interior (in case of minors the accommodation is provided in the Centre for minor refugees) has expired is entitled to. The refugee needs to attach a lease agreement to the claim, proving that he or she is provided with personal accommodation. The refugee is entitled to compensation for the maximum of two years from the accommodation in the integration house or other Ministry's facility expiration date. Only the refugees who have acquired the status and claimed the right to accommodation in integration house and other Ministry facilities are entitled to compensation. If the Ministry cannot provide space in the integration house the refugees have the right to compensation for personal accommodation for three years since the day of status acquisition, while the family members from the day of the arrival of the family. (Article 93 ZMZ) In October 2008 the amount of compensation

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for personal accommodation was 221.71 per month for the first member of the family, 120% of the amount for two family members, 150% for three members of the family, etc. (Article 8 of the Decree on the methods and conditions for ensuring rights of persons with International Protection).

- **Right to health care**: refugees are entitled to health care under the same conditions as the citizens of the RS, since they are included among the insured persons by the Act amending the Health Care and Health Insurance Act of 2008. In accordance with this act the financial resources for health care of refugees are provided by the Ministry of Health. If refugee does not have his or her own financial means and if the subsistence is not otherwise provided, the expenses of additional health insurance are covered by the Ministry of Interior. (Article 94 ZMZ) After this act enters into force in 01.01.2009 the persons with international protection will receive a health insurance card. The connection of health care system and the asylum system is described in more detail in chapter 4.2.

- **Right to social care**: in claiming their rights to social care, the refugees have the same status as the citizens of the RS and the funding of care is provided by the Ministry of Labour, Family and Social Affairs (Article 95 ZMZ). The relation between the social care and the asylum system is described in more detail in chapter 4.2.

- **Right to education**: minor refugees share the same rights regarding elementary and secondary education as the citizens of the RS. The funding for education and training of refugees is provided by the Ministry of Education and Sport. Adult refugees are granted access to education system under the same conditions as the foreigners legally residing in the RS, which means, that they have the right to free secondary education on condition of reciprocity, otherwise they need to cover the expenses of schooling themselves (Article 7 Vocational Education Act). Expenses arising from recognition of foreign diplomas and school reports are paid for by the Ministry of Interior. (Article 97 ZMZ)

- **Right to employment and work** (Article 98 ZMZ) is described in detail in chapter 4.1.4.1. on access to labour market.

- **Right to integration assistance**, which is provided for three years after the date of status acquisition. Help in integration incorporates preparation and execution of a personal integration plan, organising Slovene language courses and learning about Slovene history, language and constitutional system. Persons with international protection are entitled to a maximum three hundred hours course in Slovenian language (exceptionally even more). It is paid for by the Ministry of Interior. Refugees, who have already finished schooling on any level in the RS, who were enrolled in at least a three year regular schooling programme, who have already acquired a certificate on successfully completed test of knowledge of Slovenian language on at least elementary level or who have health impairments which prevent them from everyday communication and are unable to pass the elementary level Slovene language test. Elderly persons over sixty with international protection and illiterate persons can be provided with a customised programme to learn Slovenian language for the needs of everyday communication by the Ministry. The Ministry of Interior also provides funding for up to 30 hours of courses on Slovene history, culture and constitutional system. (Article 99 ZMZ and Articles 17 and 19 of the Decree on the methods and conditions for ensuring rights of persons with International Protection)

The Act pays special attention to unaccompanied minor refugees. The person responsible for the minor must respect the principle of child's best interest, must start the procedure of search
for the child's parents or other relatives as soon as possible, and he or she must appoint a legal guardian for the child as soon as he or she acquires international protection. The role of the official guardian can be entrusted to a child's relative, escort or a representative of the organisation specialised in the field of working with children (Slovene Philanthropy). Social work centre appoints a legal guardian to an unaccompanied minor with a decree. A minor refugee is provided with accommodation with adult relatives, a foster family or in centres specialised for accommodation of minors or they are provided with other type of accommodation for minors. Official professionals working with unaccompanied minors must be appropriately trained. (Article 96 ZMZ)

Groups of refugees with special needs – pregnant women, the disabled, victims of torture, rape and other severe forms of psychological, physical or sex violence, minor victims of any sort of abuse, neglect, exploitation, torture, cruel, inhumane and humiliating treatment or persons hurt in an armed conflict – are provided with access to appropriate health care under the same conditions as the citizens of the RS. Their accommodation conditions must be adapted accordingly and their accommodation in the integration house can be extended. The special needs of refugees are determined by the fore mentioned commission, which reviews the reasons for extension of accommodation in the integration house annually. (Articles 15 and 84 ZMZ, Article 4 of the Decree on the methods and conditions for ensuring rights of persons with International Protection) All of the above mentioned rights are granted to refugees and the persons with subsidiary protection. The status of both groups differs regarding their right of residence. While the decision on granting a refugee status is also valid as a permanent residence permit from the date of its issue, the decision on granting subsidiary protection is only valid as a permit for temporary residence for a maximum duration of three years from the date of its issue or possibly longer, if the subsidiary protection for the person is extended. The decision on extension of subsidiary protection has the validity of a temporary residence permit in the Republic of Slovenia for the period of two years with the possibility of extension (Articles 91 and 102 ZMZ)

These rights are funded on the assumption that refugees and persons with subsidiary protection are to respect the duties laid down by the law. The duties mostly relate to the respect of public order and public authority measures, refugees are also obliged to inform the Alien and Refugee Integration Sector on all relevant changes within eight days, particularly regarding the income and acquired property, the completed test in Slovene language, results achieved on all levels of education, employment, change of residency address, change of name, marital status in acquisition of Slovene citizenship. (Article 100 ZMZ)

Third group of foreigners legally residing in Slovenia under the framework of the asylum system are displaced persons with temporary protection, whose status is regulated by Temporary Protection of Displaced Persons Act. The Ministry of Interior is responsible for the displaced persons and for provision of their rights (Alien and Refugee Integration Section), except for the field of education, where the expenses of schooling of displaced persons are covered by the Ministry of Education and Sport. The displaced persons are guaranteed the rights of temporary residence in the RS, of accommodation and food in accommodation centres or financial compensation for private accommodation, health care, work, education, financial support, pocket money, family unification, free legal assistance, information on the rights and duties and support in determining these rights (Articles 23 – 39 ZMZ). These rights currently only exist in the legislation, since the measure of temporary protection has not yet been adopted in Slovenia, nor in other EU member states.
4.1.3.2. Migrations

In the framework of Slovene migration policy foreigners with a temporary and permanent residency permit are allowed to legally reside in the RS. As evident from the name of the permit, the temporary residence permit is issued for a limited period and a foreigner wishing to legally reside in the RS is obliged to extend it. For extension of permits for temporary residence the applicant must re-establish the fulfilment of the same conditions as with the first permit (Paragraph 1 Article 31 ZTuj-1-UPB5). The only difference is that in certain cases extension for a longer period is possible for longer than the validity of the initial residence permit (i.e. temporary residence permit due to employment and work which is initially issued for a one year period and can then be extended for a maximum period of two years (Paragraph 3 Article 32 and Paragraph 7 Article 36 ZTuj-1-UPB5)). At the extension of a permit for temporary residence due to family reunification it is not required that the foreigner who claims the right to family reunification, has temporary residence permit with the validity of at least one year. In other cases the permit can be extended only for a period of one year (i.e. residence due to research work, Paragraph 2 Article 32a ZTuj-1-UPB5), with the same validity as the first time (e.g. residency of daily work migrants, Paragraph 3, Article 35 ZTuj-1-UPB5)) or less (i.e. residency of directed workers can be extended until the work is not finished, if the work cannot be finished in due time because of well-founded reasons (Paragraph 6 Article 34 ZTuj-1-UPB5)). Residence permit can be extended due to foreigner’s family unification even when the foreigner already has a residence permit with less than a year's validity (Paragraph 6 Article 36 ZTuj-1-UPB5)). The permit for permanent residency due to family unification cannot be extended for a longer period than until the child's age of majority for foreigner’s or spouse's minor unmarried children or minor foreigner’s parents (Paragraph 7, Article 36, ZTuj-1-UPB5).

After expiration of the temporary residence permit for a certain reason, foreigners may apply for another residency permit for other reasons (Paragraph 2, Article 31 ZTuj-1-UPB5), but there are some restrictions. A foreigner, who has temporarily been residing in the RS for seasonal work, cannot acquire a further temporary residence permit, unless if it is for employment and work for the same employer, if the employer has acquired a work permit for the worker in accordance with the Employment and Work of Aliens Act and upon fulfilment of additional conditions (Paragraph 4 Article 34 ZTuj-1-UPB5).

In general the extension of the temporary residence permit can be granted on the same basis as the first acquired temporary residence permit (Paragraph 3 Article 31 ZTuj-1-UPB5). In certain cases there is an exceptional possibility to extend the permit in different circumstances. Namely, the extension of temporary residence permit for a close family member is possible even though the foreigner has died or matrimony with an foreigner, which had to be valid for 3 years in the RS, came to an end. This type of permit can only be extended for a year, but the foreigner’s family member does have the possibility to acquire permanent residence permit, if he or she was only one year short of fulfilling the conditions (Paragraph 9 Article 36 ZTuj-1-UPB5) Extension of a long-term residence permit for another EU member state depends on the time necessary for fulfilment of individual reasons for residency (Paragraph 4 Article 37 ZTuj-1-UPB5).

Victims of human trafficking with a temporary residence permit for cooperation in criminal procedure can have their permit extended for up to a year, until the criminal procedure is finished. During the validity of the temporary residence permit the victims in human trafficking without means of subsistence have the right to emergency health care in
accordance with the law regulating health care and health insurance and to basic care, same as the foreigners who have permission to remain in the RS. A victim is allowed to find employment during the residence and works in the RS in accordance with the Employment and Work of Aliens Act. After the expiration of temporary residence permit validity for the reasons of cooperation in a criminal procedure on trafficking in human beings, he or she can acquire temporary residence permit, but on the basis of same conditions as other foreigners. The application needs to be submitted before the previous permit has expired. (Article 38a ZTuj-1-UPB5) This procedure was the result of the transposition of the Council's Directive 2004/81/EC (Directive on victims in human trafficking.

The application for extension must be filed by the foreigner to the competent authority of the RS before the date of validity has expired, and a foreigner who wishes to reside in Slovenia for other reasons than stated in the current temporary residence permit must file in the application before its expiration date. If the competent authority rejects, omits or suspends the application for extension or issue of a further permit, the foreigner must leave the country in 15 days after hand-over of the final decision or resolution. Appeal against the decision and resolution from the previous paragraph is possible in 15 days after publication of the decision or resolution. (Paragraphs 2, 3 and 4 Article 31 ZTuj-1-UPB5)

A foreigner who has been uninterruptedly residing in Slovenia for five years on the basis of temporary residence permit can acquire a permanent residence permit, if he or she is fulfilling all the conditions and if there are no reasons for the rejection of application. A foreigner with a permanent residence permit issued in accordance with the Aliens Act has a status of long-term resident which is noted with a sticker into the issued permit. Permanent residence permits are issued by the Administrative units of the municipality where the foreigner resides. The fulfilment of five year uninterrupted residence on the basis of a temporary residence permit in the RS is crucial for the acquisition of the permanent residence permit. A residence is considered to be uninterrupted even, if the foreigner has been absent from the RS because of invalid residence permit for less than six subsequent months and if these agencies do not exceed ten months. In determination of duration of residence not all residencies are of equal importance: residence because of studies or professional training is only considered to be half-time, time of residence because of seasonal work, such as directed workers and daily work migrants or temporary protection are not counting as a period necessary for the issue of permanent residence permit (there has only been one exception, a regulation on the basis of Act Amending the Temporary Asylum Act in accordance with which Bosnian refugees could acquire a permanent residence permit on the basis of evidence on recognized temporary protection). Five years is therefore a general residence period required for acquisition of permanent residence permit, in certain cases, however, it is possible to acquire this permit sooner: for a foreigner of Slovene ethnicity and for a foreigner whose residence in Slovenia is in the interest of the RS, it can be issued for permanent residence before the expiration of the previous period but this is in discretion of the competent authority. In addition close family members of a foreigner with a permanent residence permit or the refugee status can be issued with a permanent residence permit after a two-year uninterrupted residence in the RS on the basis of temporary residence permit (this possibility was introduced after transposition of the Council Directive 2004/83/EC (Qualification Directive)). In accordance with the public duty the permanent residence permit is issued by a competent authority for the foreigner’s child, under the condition that at least one of the parents has a permanent residence permit for the RS i.e. whose guardian is a Slovene citizen of or a foreigner with a permanent residence permit. (Article 38 ZTuj-1-UPB5) The following chart shows the number of issued permanent residence permits between 1998 and 2006: [Chart]
In certain cases the permanent residence permit is **not issued** to a foreigner, namely in the case of a foreigner who has been sentenced to jail in the past three years and the duration of incarceration has exceeded one year. The time of incarceration does not include the time necessary for the issue of permanent residence permit. (Paragraph 3 Article 41 ZTuj-1-UPB5) Foreigner’s request for permanent residence permit can also be **rejected** for the above stated reasons. The number of **unapproved applications for permanent residence** from 1998 to 2006 is evident in the following table and the graph:

**Permanent residence permit ceases to be valid**, if the foreigner migrates or stays outside EU member states for an uninterrupted period of one year or more, except if he or she is sent to work, study or receive medical treatment; if the foreigner migrates or stays outside EU member states for an uninterrupted period of six months or more and if occasional short returns to the RS of up to three months do not interrupt the mentioned period; if the foreigner acquires a long-term resident status in another EU member state; if foreigner’s residence is annulled or cancelled; if the foreigner has received a legal penalty of deportation from the country, due to which he or she is to be deported; if the foreigner denounces the permit as of the date of statement on denouncement of temporary or permanent residence; if the foreigner acquires citizenship of the RS; if the foreigner dies.(Paragraph 2 Article 45 ZTuj-1-UPB5).

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Permanent residence permit can be **cancelled**, if he or she has been sentenced for a criminal act for an unconditional prison sentence exceeding three years, or if there is a founded reason that the foreigner could pose a threat to national security, public security or peace. In addition, permanent residence permit can also be cancelled, if the foreigner has resided in the country with a purpose different from the one stated upon the issue of the permit, if the foreigner has threatened public order and peace, rejected execution of public authorities' decisions; if the foreigner has been sentenced for a criminal act for an unconditional prison sentence exceeding three months; or if he or she has no means of subsistence or subsistence has not been provided in the RS in another way. The decision on cancellation of residence issued by the administrative unit determines the date until which the foreigner is obliged to leave the RS and how long he or she is prohibited from entering the country, whereas this period can not be shorter than one year and longer than five years. In assessment of how long the foreigner should be prohibited from entering the country the organ issuing the cancellation of residence considers the types and severity of circumstances due to which foreigner’s residency is undesirable. In deciding on cancellation of residence the body stated in the first sentence of this Article considers the length of foreigner’s residency in the country, his or her personal, family, economic and other ties that bong him or her to the RS and the consequences the cancellation of residence would cause to the foreigner or his or her family. An appeal can be filed against the decision from the first paragraph in three days. (Article 48 ZTuj-1-UPB5)

During the period of their legal residence the **administrative unit** competent in their place of residence is responsible for issuing and extension of residence permits (and in the case of employment, work or seasonal work the local unit competent for the place of employer's business headquarters) (Paragraph 1 Article 43 ZTuj-1-UPB5). The **Refugee and Alien Integration Sector** of the **Internal Administrative Affairs Directorate** at the **Ministry of Interior** is responsible for integration of foreigners.

Another group of foreigners, who have the right to acquire a permanent residence permit, should be mentioned, those who can do so on the basis of the **Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia Act** (ZUSDDD). They are persons from the republics of former Yugoslavia (Croatia, Bosnia and Herzegovina, Serbia, Montenegro and Macedonia), who had a permanent residence in the former Socialist Republic of Yugoslavia before Slovenian independence. As of the date of declaration of independence, June 26, 1991, there was a six month period in which these persons were entitled to apply for Slovene citizenship. If they have not filed an application for citizenship or were unable to acquire citizenship on the basis of the application, their permanent residence registration in the Republic of Slovenia expired and they were consequently transferred from the register of permanent residents to the register of aliens on 26 February 1992.

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The field of **alien integration** is regulated in more detail by the Decree on Aliens Integration of June 2008, while the basis of integration policy is stated in the Resolution on Migration Policy and Article 82 ZTuj-1-UPB5. According to the regulation of alien integration, integration is entitlement to programmes, which facilitate faster integration into the cultural, economic and social life of the Republic of Slovenia, namely the right to:

- Free courses of Slovene language and Slovene history, culture and constitutional system;
- Integration into the education system for acquisition of formal education, acquisition of certificates on national professional qualifications in accordance with the provisions regulating national professional qualifications (the Ministry of Education and Sport is responsible for the implementation of this programme);
- Encouragement of mutual knowledge and understanding with Slovene citizens (this programme is under the competence of the Ministry of Interior in cooperation with the Ministry of Culture);
- Informing regarding their integration into Slovene society, particularly regarding the rights and duties, employment possibilities, education and personal development. These information are distributed by the Ministry of Interior to public bodies, which decide on procedures for residence permit acquisition, other public bodies and non-governmental organisations in the form of handbooks, brochures and in digital form, and organises their accessibility for foreigners.

After the adoption of the Decree on Aliens Integration, foreigners with a permanent residence, foreigners who have been living in Slovenia for at least two years on the basis of the temporary residence permit and who are going to have a valid permit for at least another year as are their family members, who have a permit of residence for at least another year on the grounds of family unification, have the right to learn Slovenian language and learn about Slovene history, culture and constitutional system (Article 3 Decree on Aliens Integration). Foreigners, who have completed education in the RS on any level, who have been enrolled into at least a three year schooling programme in the RS, and those who have already acquired a certificate on passing the test about Slovene language on at least elementary level are not entitled to participate in Slovene language courses programme (Article 16 Aliens Integration Act). It is not compulsory to learn Slovenian language, but in the absence of other opportunities to learn Slovenian, it can be beneficial for the foreigner during the procedure of citizenship application. In order to acquire the citizenship of the RS by naturalisation, a foreigner is required, with certain exceptions, to prove his or her knowledge of Slovenian among other conditions (Paragraph 4 Article 10 ZDRS). Knowledge of Slovene is required for participation at the course on Slovene history; however foreigners who have completed schooling in any of the levels in the Republic of Slovenia are not entitled to participate at the course (Article 21 Aliens Integration Act). Detailed presentation of conditions for acquisition of the citizenship of the RS is outside the scope of the present study, in order to get the general idea; some statistics on the number of foreigners who acquired the citizenship of the RS are shown in the table below:

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<td>2499</td>
</tr>
<tr>
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<td>1218</td>
<td>35</td>
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<td>653</td>
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<td>9</td>
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<td></td>
<td>464</td>
<td>731</td>
<td>3144</td>
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<tr>
<td>2007</td>
<td>531</td>
<td>32</td>
<td>10</td>
<td>387</td>
<td>14</td>
<td>4</td>
<td>1</td>
<td></td>
<td>210</td>
<td>331</td>
<td>1520</td>
</tr>
<tr>
<td>Total</td>
<td>7712</td>
<td>513</td>
<td>28</td>
<td>5925</td>
<td>102</td>
<td>18</td>
<td>3</td>
<td>0</td>
<td>3960</td>
<td>6235</td>
<td>24496</td>
</tr>
</tbody>
</table>

Index:
Art. 10 – acquiring citizenship with naturalization
Art. 12/1 – Slovene emigrant or his ancestor

From the stated statistics the following trend cans be observed:
4.1.4. Access to labour market

4.1.4.1. Asylum

In the field of asylum policy, access to labour market is regulated in accordance with the person's status. While access to labour market is limited in the case of applicants for international protection, persons with refugee status have (who share equal conditions as the persons with subsidiary protection and the displaced persons with temporary protection) unlimited access to labour market in accordance with the Employment and Work of Aliens Act. Access to labour market for international protection applicants is regulated by the International Protection Act and the Rules on the rights of applicants for international protection, while the access of refugees and the persons with subsidiary protection is regulated by the International Protection Act and the Decree on the methods and conditions for ensuring rights of persons with international protection. Access of displaced persons who have acquired temporary protection in the RS to the labour market is regulated by the Decree on the methods and conditions for ensuring rights of persons enjoying temporary protection. Joint characteristic of all the groups is that they require a work permit, which must be acquired from the Employment Service of Slovenia in accordance with the Employment and Work of Aliens Act. Complaints regarding the non-issue of work permits are processed by Work Migrations Sector within the Labour Market and Employment Directorate at the Ministry of Labour, Family and Social Affairs. This governmental body is also responsible for draft of politics in the field of economic migrations in cooperation with the Ministry of Interior.

International protection applicant can only work, if his or her identity is firmly established. If this is the case, the applicant can start work a year after submission of the application if the decision of the competent authority has not yet been made, or if this delay cannot be blamed on the applicant (Paragraph 1 Article 85 ZMZ). This regulation is the direct consequence of the transposition of the Council Directive 2003/9/EC (Directive on Reception Conditions) according to which access of international protection applicants should be allowed at least one year after the application had been filed. All the applicants who had already received the decision of the first instance within a year, but used legal means accordingly and are still waiting for the decision form either the Administrative or the Supreme court and therefore for a legally binding decision, are not allowed to work. Another condition states that the delay of the issue of the decision must not occur by applicant's “fault”. Legal practice is yet to determine the exact meaning of this concept, but the term can be understood that in the case the applicant has prolonged the procedure, because of which the decision on the first instance has been delayed, he or she dies not have the right to work. An applicant who has a right to
work, must acquire a work permit in order to be able to do so with the validity of three months in accordance with the Employment and Work of Aliens Act (Paragraphs 2 and 3 Article 85 ZMZ). As the competent authority, the Asylum Sector informs The Employment Service of Slovenia about the fact that the applicant has acquired the right to work while the Service is required to inform the Asylum Sector about the applicant's employment. It is the asylum seeker's duty to submit the information about his or her employment to the Asylum Sector, while it can also request the information from the employer. The work permit can be extended until the legal finalisation of the procedure or annulled after the cessation of applicant's status. (Paragraphs 2 and 3 Article 18 Rules on the rights of applicants for international protection) Additional right linked to the access to labour market after the ending of the first year since the asylum application and in the case of fulfilment of other conditions is the international protection applicant's right to access professional training courses (Paragraph 4 Article 85 ZMZ and Article 19 Rules on the rights of applicants for international protection).

When a person acquires **refugee status** or **subsidiary protection** by a decree on recognition of the status he or she also acquires a permit for permanent (refugees) or temporary (subsidiary protection) residence. The foreigner consequently automatically acquires a basis for filling an application for work permit whereas in the case of unemployment he or she can exercise the rights on the basis of the Employment and Insurance Against Unemployment Act (Article 98 ZMZ and article 14 Decree on the methods and conditions for ensuring rights of persons with International Protection) (for more information on these rights please see chapter 4.2.). Refugees as well as persons with subsidiary protection can acquire personal work permit (Articles 10b and 10c ZZDT), which makes them equal to Slovene citizens on the labour market. When it comes to labour market access, the **displaced persons with temporary protection** have equal status as the refugees and can apply for work permit after receiving their status in accordance with the Employment and Work of Aliens Act (Article 10 ZZDT). The Act also explicitly states, that displaced persons with temporary protection may participate in training programmes or may be enrolled in traineeship in accordance with valid regulations, while the expenses are to be covered by each employer (Article 28 ZZZRO). Access to labour market is only permitted for the duration of the status. Work permits for all four groups are not part of the quota system (Paragraph 3 Article 5 ZZDT), described in the next section 4.1.4.2.

4.1.4.2. Migrations

Employment and work of foreigners is regulated by the already mentioned Employment and Work of Aliens Act which states, that a foreigner is allowed to work and find employment in the RS, 28 if he or she has been issued a work permit and if the employer has notified the Employment Service of Slovenia about this employment (Paragraph 3 Article 4 ZZDT). Employment contract made with a foreigner without previously issued work permit would have been void, unless the law states otherwise in particular cases (Paragraph 5 Article 4 ZZDT). The total number of newly issued annual permits for foreigners, wishing to reside in the RS with the intention of work, is limited by a platform quota, determined with an annual government decree and the decree is issued on the basis of National Assembly Resolution on migration policies (Article5 ZTuJ-1-UPB5 and Paragraph 1 Article 5 ZZDT).

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28 Alien, who acquires a temporary residence for his or her studies and victims of trafficking in human beings, who acquires a temporary residence permit because of cooperation in a criminal procedure, is allowed to be employed or to work in Slovenia if he or she acquires a work permit in accordance with the Employment and Work of Aliens Act.
The Ministry of Labour in consensus with Ministries of other relevant fields proposes the quota to the Government, on the basis of the opinion of the Association of Employers of Slovenia and representative trade unions on the national level (Paragraph 2 Article 5 ZZDT). The annual quota is further divided into individual groups of employed workers, directed workers, workers who are in vocational and other training and workers performing individual services (Paragraph 4 Article 5 ZZDT). Quotas do not include workers who are equal to Slovene citizens on the basis of international agreements (citizens, EU, refugees, etc.), foreigners who do not need work permits (close family members, accredited journalists and artists), foreigners with personal work permits and representatives and directed workers, who participate at additional training in Slovenia (Paragraph 3 Article 5 ZZDT). As the table shows, the quotas change annually, but there is a general rule that it should not exceed 5% of total number of active Slovene population, determined by the Statistical Office of the Republic of Slovenia (Paragraph 5 Article 5 ZZDT). In addition to legal authorisation to determine the quota, the government of the RS can also limit or prohibit employment of foreigners in certain regions, sectors of economy, companies and professions, it can also limit the inflow of general workers and special groups of workers, who are coming from certain regions, if that is in public and economic interest of Slovenia. Self-employment of foreigners is not limited as such, but the Government of the RS also has the right to impose the limitations in this sphere. (Paragraphs 7, 8 and 9 Article 5 ZZDT)

<table>
<thead>
<tr>
<th>Year</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quota</td>
<td>17.100</td>
<td>18.000</td>
<td>17.350</td>
<td>29.500</td>
<td>32.000</td>
</tr>
</tbody>
</table>

As we have already stated, a foreigner is only allowed to work in Slovenia after acquiring a work permit from the Employment Service of Slovenia. The Employment and Work of Aliens Act regulates three types of work permits: personal work permit, employment permit and work permit. Only the personal work permits can be issued for full-time employment, but this too can only be issued for part-time work (i.e. for the period of three years). These permits allow foreigners free and unlimited access to the labour market (except for the cases when they are issued for a one year period) and are not included in the annual quota. (Articles 10-10e ZZDT). Employment permit is a permit linked to the needs of employer to employ persons on a systematic work post. On the basis of this permit a foreigner can be employed only with the employer, who requested the issue of the permit. (Articles 11-11d ZZDT) The third type of permit is the work permit, issued for a limited period for seasonal and directed workers, workers who are in professional or other form of training and workers who perform individual services (Article 12 ZZDT).Companies or individual entrepreneurs, established in accordance with the law regulating companies, have to acquire work permits for work for foreigners who work as representatives of these companies (Paragraph 1 Article 22 ZZDT).

A foreigner who wishes to work in the RS must acquire a residency permit in addition to a work permit. The two are very closely connected, since the time validity of the residency permit is linked to the validity of the work permit (while the first one cannot be issued for a period exceeding one year). Temporary residence permit can be further extended for a maximum of two years, if the foreigner posses a work permit valid for a longer period (Article 32 ZTuj-1-UPB5).

As already mentioned, apart from being issued to foreigners for the needs of employment or work in the RS, the temporary residence permit can also be issued to foreigners who have been posted to work in Slovenia by a foreign company (directed workers). They need to fulfil special conditions; an application for such a permit is filed by a foreign employer, who can
also issue an authorization, that in his name and for his account the application may be filed by his legal representative. A work permit, a confirmed list of posted workers with their data inscribed into an official form issued and verified by the Employment Service of Slovenia and a certificate that the foreigner posted to work in the RS by his or her employer has valid social and health insurance in the country he or she has been posted from all need to be enclosed to the application for residence. Third country nationals employed in companies with a seat in EU or European Economic Area or Swiss confederation and who are directed to RS with a purpose of conducting cross border services do not require work permit (Article 35.d ZZDT).

The Employment and Work of Aliens Act also regulates the self-employment of foreigners. A foreigner may found or c-found a “personal company” and on the basis of founding rights represent the company, or may register as individual entrepreneur if he or she has a valid personal work permit with the validity of one year, three years or a permanent personal work permit (Article 8.a. of ZZDT). In accordance with the type of employment the foreigner intends to undertake the same conditions are applied as for the RS citizens, which is why the activities need to be chosen form the standard classification of business activities. Self-employment is not limited by quotas, except for special cases (see the above chapter).

The process for acquisition of work permit leads to the Employment Service of Slovenia. The permits are issued in accordance with the General Administrative Procedure Act (Article 9 ZZDT). The deadline for issue of work permit is two months after the filing a complete application (Article 222 ZUP). Administrative tax for realisation of the procedure is 3,55 EUR, when the decision is issued a tax in the amount of 141,80 needs to be played for personal work permit or 70,90 EUR for other two types of permits. Work permit acquisition is one of the conditions for the foreigners, who wish to work or finns employment in Slovenia. Other conditions are described in more detail in the chapter on legal residence (4.1.3.2.)

4.1.5. Return

4.1.5.1. Asylum

Return of foreigners into the country of origin is regulated either voluntarily or as deportation, which is legally denounced as expulsion. Refugees or persons with subsidiary protection to whom Slovenia has granted protection are not allowed to be deported into their country of origin in the period of validity of their status, which has a role of permit for residence in the RS. If they wish to, they can return voluntarily and Ministry of Interior needs to support them in doing so. The rights and duties arising from their status are valid until the day a refugee or person with subsidiary protection leaves the country. The expenses of the return need to be paid for by the foreigner alone, if he or she has no own means, these are paid for by the Ministry of Interior. If a refugee or a person with subsidiary protection voluntarily returns into the country he or she abandoned from fear of prosecution, the international protection is suspended. (Article 104 ZMZ) International protection applicants, who were not granted international protection in the RS because their application has been rejected, must leave the RS, immediately after the decision of the Asylum Sector at the Ministry of Interior has become enforceable (Paragraph 2 Article 52 ZMZ). The decision on international protection becomes enforceable, when it is legally binding, in the procedure of international protection it can become a negative decision, issued in the first instance, against which the applicant does not file an appeal to Administrative Court or does not file the appeal on time; and the ruling of

29 The official webpage of the Employment Service of Slovenia is available at: 
the Constitutional Court, with which the applicant's appeal is rejected or discarded (Article 76 ZMZ). If the applicant appeals against the Supreme Court ruling to the Constitutional Court, it does not withhold the execution of decision and consequently deportation (Article 77 ZMZ). The body of the first instance determines a period in which a person (former applicant) must leave the country. If the person does not reside in the Asylum Centre but on a private address, the Asylum Centre needs to inform the police about the fact that the decision has become enforceable (Paragraph 3 Article 52 ZMZ). If the person is accommodated in the Asylum Centre he or she needs to hand himself or herself over to the police after the legality and enforceability of the decision. If the person does not leave the territory of the RS immediately or within the determined period after enforceability of the decision, he or she needs to be removed from the country in accordance with the Aliens Act (the procedure of the return is described in more detail in the next chapter 4.1.5.2.) (Paragraph 1 Article 76 ZMZ). Persons who have not been granted protection in the RS are protected from deportation by the International Protection Act, on the basis of which expulsion or return into the country of origin where the person's life or freedom has been threatened because of his or her race, religion, ethnicity, belonging to a particular social group or political views, is prohibited.

**Displaced persons with temporary protection** are also obliged to leave the country after the cessation of the protection. The deadline, until which they are obliged to do so, is determined by a Government of the RS decision on introduction of temporary protection (Article 19 ZZZRO). The obligation to leave the country also arises if the protection is terminated early, which occurs if the conditions in the country of the region of origin are such as to enable a safe and permanent return in a way which reassures respect of human rights, fundamental freedoms and obligations arising from the principle of non-return (Article 12 ZZZRO). The obligation to leave the country also arises in the case if a person who has applied for temporary protection, which is not approved or if the temporary protection is initially approved and later withdrawn. In such case the decision, on the basis of which the protection was rejected or withdrawn, and in the decision with which the application for temporary protection has been discarded, determines the deadline until which the person must leave the country. (Paragraph 5 Article 19 ZZZRO) Persons with temporary protection have the possibility to voluntarily return before the expiration of temporary protection. The Ministry of Interior adopts a plan regarding the organisation of voluntary return and proposes relative necessary measures to the Government of the RS. In order to facilitate the decision-making regarding the voluntary return of persons with temporary protection, the Ministry collects information about the conditions in the country and the region of origin and on conditions of returns and forwards them to persons with temporary protection. The Ministry can organise informative visits in the country and regions of origin for persons with temporary protection who decide to make a return. The Ministry can enable the persons who have already voluntarily returned to the country or region of origin to return in Slovenia because of exceptional conditions, which are prevailing in the country or region of origin and which prevail safe and permanent return for the period when the temporary protection is still valid under the decision of the Government of the RS. Before this step, the Ministry follows the recommendations of the UNHCR regarding the conditions in the country or region of origin. The rights of persons with temporary protection belong to persons who wish to return until the day which is determined as a day of the return by the Government's decision. In case persons whose temporary protection has ceased and who have not acquires another status do not choose to voluntarily return into the country or region of origin until the due determined deadline, the regulations regarding deportation apply, as defined in the Aliens Act (Article 47 ZZZRO) (see next chapter).
4.1.5.2. Migrations

As mentioned, return of foreigners is regulated by the Aliens Act, which denominates these as “removal”. Foreigner, who are located in the RS without any kind of status and reside in the country illegally, must immediately leave the country or until the set date. A foreigner is considered to be illegally residing in the RS, if he or she has entered the country illegally, if his or her visa has been annulled or has expired, if he or she resides in the country in violation of the entry address of if the period in which he or she is allowed to reside in the country in accordance with the law or international agreement has expired, if he or she does not have a residence permit or if the permit has expired. A state organ sets the foreigner a period by which he or she must leave the country, which should not exceed three months. (Articles 47 ZTuj-1-UPB5) A foreigner, who does not leave the RS despite the above, can be deported from the country. Deportation can be forced or voluntary, by which voluntary deportation means a deportation in which a foreigner cooperates with the police. The police can cooperate with other national authorities, international and non-governmental organisations in voluntary deportation of a foreigner. In this case and in the case of a foreigner who does not leave the country voluntarily, the foreigner is expelled from the country with force. Forced expulsion is only possible if the decision, with which it was ordered, is enforceable. (Paragraphs 3 and 4 Article 50 ZTuj-1-UPB5) The Procedure of forced expulsion of a foreigner is carried out by bringing the foreigner to the national border and directing him or her over the border or handing him or her over to the authorities of the country in question. A foreigner is handed over to authorities of the other country, if he or she is being returned on the basis of an international agreement. (Paragraphs 3 and 6 Article 50 ZTuj-1-UPB5) The deportation can be carried out on a land or air route. The deportation is in the competence of the police, which can, after a prior request of competent bodies of another EU member state allow transit of a foreigner being expelled by another EU member state, via a national airport. In this case the Police offers appropriate assistance to foreign authorities. (Article 50.b ZTuj-1-UPB) This procedure is determined in more detail in the Instructions on administering assistance in cases of a transit of a foreigner to be expelled by air.

Expulsion can be carried out on the basis of agreements the RS has signed with partner countries. On the basis of the fore mentioned agreements a foreigner is returned into a country with which the RS has signed an readmission agreements (Paragraph 6 Article 50 ZTuj-UPB5), if it can conclude on the basis of evidence that the foreigner has arrived via the territory of this third country (i.e. on the basis of a stamp in the passport). Republic of Slovenia has signed bilateral readmission agreements with the following countries: Austria, Benelux (Belgium, Luxembourgh, and The Netherlands), Bosnia and Herzegovina, Bulgaria, Czech Republic, Montenegro, Denmark, Estonia, France, Greece, Croatia, Italy, Canada, Latvia, Lithuania, Hungary, Macedonia, Poland, Romania, Slovakia, Serbia and Switzerland.

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30 In this chapter we describe the situation of persons, who have illegally crossed the national border or who are residing illegally in the country without a legal status, while the chapter does not include the deportation of aliens, who are residing legally in the RS or another EU member state, but who have been issued with a legal decision on expulsion. These measures belong under criminal policy and not the migration policy.

31 A foreigner, who has filed an application for extension of the residence permit on time, is issued with a special certificate, which is valid as a temporary residence permit, on the basis of which he or she is allowed to stay in the country until his application is processed. (Paragraph 3 Article 47 ZTuj-1-UPB5).

32 Answer given by the Director of the Uniformed Police Directorate Danijel Žibret for inquiry on 21.10.2008.
The number of forcefully returned foreigners from Slovenia changes every year, but a trend of decline has become apparent in the last decade, as evident from the following table and chart:

<table>
<thead>
<tr>
<th>Year</th>
<th>Forcefully returned - total</th>
<th>Of these forcefully returned by plane</th>
<th>Returned on the basis of readmission agreements</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>3.103</td>
<td>1.298</td>
<td>5.741</td>
</tr>
<tr>
<td>2001</td>
<td>3.102</td>
<td>1.472</td>
<td>5.851</td>
</tr>
<tr>
<td>2002</td>
<td>2.139</td>
<td>1.210</td>
<td>2.372</td>
</tr>
<tr>
<td>2003</td>
<td>1.326</td>
<td>427</td>
<td>2.162</td>
</tr>
<tr>
<td>2004</td>
<td>1.000</td>
<td>326</td>
<td>1.713</td>
</tr>
<tr>
<td>2005</td>
<td>1.178</td>
<td>557</td>
<td>2.029</td>
</tr>
<tr>
<td>2006</td>
<td>1.232</td>
<td>644</td>
<td>2.020</td>
</tr>
<tr>
<td>2007</td>
<td>854</td>
<td>428</td>
<td>1.210</td>
</tr>
</tbody>
</table>

If a foreigner obliged to leave a country does not do so and if he or she cannot be expelled for any other reasons or if the identity of a person is not known, he or she is accommodated in the Aliens Centre (and possibly outside the centre) in accordance with a police order (issued in a form of a decision) until the deportation, but for a maximum period of six months (Paragraphs 1 and 2 Article 56 ZTuj-1-UPB5). The vulnerable foreigners with special needs, who cannot be accommodated in the Aliens Centre because of the special needs should be accommodated in a social-care centre (with the centre’s consent) or should be provided with another form of appropriate institutional care. The expenses of such accommodation are covered by the Aliens Centre. (Paragraph 3 Article 56 ZTuj-1-UPB5) Residence in the Aliens Centre is regulated by the Rules on the stay and movement of foreigners at the Aliens Centre and the Conditions for the use of milder measures. In certain cases a stricter police control can be ordered for a foreigner accommodated in the Asylum Centre, which means that the movement of the foreigner is limited onto the premises of the Asylum Centre, while the modalities of stricter police control are listed in the House Rules of the Asylum Centre. These are the cases when there is a suspicion that the foreigner is going to attempt to avoid expulsion, or has already avoided it or if this is demanded by the reasons of public order, national security or international relations. Stricter police control can only be enforced for a limited period of time, as long as is necessary in order to carry out the expulsion from the country or for a maximum period of six months. (Article 57 ZTuj-1-UPB5) A foreigner can appeal against the decision on accommodation in the Aliens Centre or against the order for accommodation under a stricter police control to the Ministry of Interior namely in 8 days after the adoption of the decision. The appeal does not have a suspension effect. The Minister needs to make a decision within 8 days and an appeal to Administrative court is possible against the Minister’s decision by initiating an administrative dispute. The period in which the Administrative Court needs to reach a decision on the dispute is also set, namely in eight days. If the expulsion of a foreigner is still impossible after six months due to objective reasons, the police may extend the accommodation in the Aliens Centre and accommodation under stricter police control for additional six months. This can be undertaken, if it is realistic to expect that the expulsion is to be possible during this period (particularly if the procedure of identity verification, acquisition of expulsion documentation is still underway and if security reasons require the extension). (Article 58 ZTuj-1-UPB5) Accommodation in the Centre, obligatory under the above stated conditions, can be replaced by milder measures anytime by the police, if its intentions can also be achieved in this way. Accommodation outside the Centre can be a milder measure, but the police are allowed to decide on the foreigner’s location of

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33 Id.
accommodation. In such case the foreigner is only allowed to move on the premises of the location and the foreigner is also obliged to report to the nearest police station. (Article 59 ZTuj-1-UPB5) The conditions and the procedure of stricter police control enforcement and the use of milder measures are also stated in the fore mentioned Rules on the stay and movement of foreigners at the Aliens Centre and the Conditions for the use of milder measures.

A special procedure applies to minors who are not accompanied by parents or other legal representatives, who have entered the RS illegally and reside in the country illegally. If it is impossible to return them into their country of origin or to hand them over to representatives of their nationality, the police is obliged to report about such a case to the social work centre who needs to immediately appoint a guardian for the particular case (which is rarely done in practice). The Police accommodate the minor in a special department for minors of the Asylum Centre, if during the procedure it evaluates that accommodation under the surveillance of a social work body would be more beneficial for the minor, he or she can be accommodated in a more appropriate type of accommodation based on the proposal by the guardian. A special regulation protects the minor from the negative consequences of the return, which prohibits the return into the country of origin or a third country, which is willing to receive him or her until an appropriate reception can be guaranteed. An unaccompanied minor should not be returned under any circumstances in disaccord with the Convention on the Rights of the Child or the European Convention on Children's Rights. If the return is not possible due to above listed reasons, the minor is granted permission to remain in Slovenia (the status of a person with permission to remain is described in the continuation of the chapter). If they are accommodated in the Asylum Centre and if under 16, their residence under stricter police control can only be ordered exceptionally and at the same time as parents or one of the parents. Residence under stricter police control cannot be ordered under any circumstance for an unaccompanied minor. (Article 60 ZTuj-1-UPB5)

Costs of subsistence, accommodation and forced expulsion from the country are covered by the foreigner. If the foreigner has no proper financial means, the costs are covered from the budget of the RS. Joint liability for the expenses is also shared by the person, who brought the foreigner past the national border in the illegal way, found him or her illegal employment or work and provided illegal residence in the RS and the physical of legal entity who enabled the foreigner to acquire visa or a residence permit on the basis of documentation, which did not signal the true intention of foreigner's arrival into the country. (Article 62 ZTuj-1-UPB5)

Number of foreigners who were accommodated in the Aliens Centre from 1998 to 2007, has been decreasing since 1999, which is evident from the following table \(^{34}\) and chart:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of foreigners</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>8,869</td>
</tr>
<tr>
<td>1999</td>
<td>15,559</td>
</tr>
<tr>
<td>2000</td>
<td>14,576</td>
</tr>
<tr>
<td>2001</td>
<td>10,034</td>
</tr>
<tr>
<td>2002</td>
<td>3,272</td>
</tr>
<tr>
<td>2003</td>
<td>1,908</td>
</tr>
<tr>
<td>2004</td>
<td>1,544</td>
</tr>
<tr>
<td>2005</td>
<td>1,639</td>
</tr>
<tr>
<td>2006</td>
<td>1,117</td>
</tr>
<tr>
<td>2007</td>
<td>781</td>
</tr>
</tbody>
</table>

\(^{34}\) Id.
On October 21, 2008, 48 foreigners were accommodated in the Aliens Centre, 43 men and 5 women, their national structure was the following: 13 were citizens of Pakistan, 9 Serbia, 6 Afghanistan, 5 Kosovo, 4 India, 3 Bosnia and Herzegovina, and per one from Sri Lanka, Iran, Croatia, Macedonia, Turkey, Russian Federation, Guinea Bissau and Georgia. The number of minor foreigners who were accommodated in the Aliens Centre from 2002 to 2007 has been variable, as shown in the table and chart below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of minors</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>82</td>
</tr>
<tr>
<td>2003</td>
<td>82</td>
</tr>
<tr>
<td>2004</td>
<td>128</td>
</tr>
<tr>
<td>2005</td>
<td>109</td>
</tr>
<tr>
<td>2006</td>
<td>66</td>
</tr>
<tr>
<td>2007</td>
<td>82</td>
</tr>
</tbody>
</table>

The number of minor foreigners who were accommodated in the Aliens Centre from 2002 to 2007 has been variable, as shown in the table and chart below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of minors</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>82</td>
</tr>
<tr>
<td>2003</td>
<td>82</td>
</tr>
<tr>
<td>2004</td>
<td>128</td>
</tr>
<tr>
<td>2005</td>
<td>109</td>
</tr>
<tr>
<td>2006</td>
<td>66</td>
</tr>
<tr>
<td>2007</td>
<td>82</td>
</tr>
</tbody>
</table>

The foreigners are protected from return with the ”non-refoulement” clause (non-return), which states, that forced expulsion or forced return of a foreigner into a country where his or her life would be endangered because of his or her race, religion, ethnicity, belonging to a particular social group or political belief or into a country in which he or she could be exposed to torture, inhumane or humiliating treatment or punishment, is not allowed (Article 51 ZTuj-1-UPB5). If the expulsion is impossible from these or other reasons, the foreigner can be allowed to remain in the RS. To remain means that the foreigner, who should have left the country, is allowed to remain in it temporarily. Permission to remain is issued on foreigner’s request or the police issue it by public duty for the period of six months. The permission can be extended until the reasons preventing the return are in place. The police's decision, with which the foreigner is allowed to remain in the country, also contains the prescribed the place of residence. Permission to remain is not a residence permit, which is why the foreigner’s obligation to leave the country is not suspended with the issue of the permission. (Article 52 ZTuj-1-UPB5) A foreigner with permission to remain in the RS has the right to emergency health care in accordance with the act, which regulates health care and health insurance, basic care and the school-age foreign minors have the right to elementary schooling (Article 55 ZTuj-1-UPB5) (these rights are also provided to the victims of trafficking in humans, who, in accordance with Article 38a ZTuj-1-UPB5 is granted the permission to remain in the RS in order to be given time to consider cooperation in criminal procedure). When the reasons preventing forced expulsion cease, the permission to remain ceases accordingly, it also ceases if the foreigner acquires a residence permit for the RS (Article 53 ZTuj-1-UPB5). Currently, 22 decisions on permission to remain are valid or active in the RS, the number of issued permissions to remain from 2002 to 2007 is showed in the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Permissions to remain</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td></td>
</tr>
<tr>
<td>2003</td>
<td></td>
</tr>
<tr>
<td>2004</td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td></td>
</tr>
</tbody>
</table>

35 Id.
36 Id.
37 Id.
38 Only the permissions to remain granted by a decision of the Aliens Centre are recorded for the period between 2002 and 2005 (it did not lead an evidence prior to the year), while there are no records for permissions issued by Police Directorates kept by the Uniformed Police Directorate.
<table>
<thead>
<tr>
<th>Year</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>9</td>
</tr>
<tr>
<td>2003</td>
<td>5</td>
</tr>
<tr>
<td>2004</td>
<td>1</td>
</tr>
<tr>
<td>2005</td>
<td>6</td>
</tr>
<tr>
<td>2006</td>
<td>21</td>
</tr>
<tr>
<td>2007</td>
<td>14</td>
</tr>
</tbody>
</table>

*Since 2002 to 2005 only those permission to remain are listed in the table which were issued by the Aliens Centre (before that such record has not been kept), while for those permission issued by the police administrations the Aliens Centre does not keep any records.

The chapter on returns is therefore the only chapter defining the role of the bodies cooperating in handling of foreigners without the permit to reside in the RS. In addition to the police, responsible for returning and accommodating the foreigners, who are residing illegally in the RS, social-care centres can also be included in the assessment to provide accommodation for foreigners with special needs and social work centres, which needs to appoint a legal guardian for a special case of an unaccompanied minor.

### 4.2. Links with other Policy Areas

The majority of economic and social rights granted to the citizens of the RS are also accessible to foreigners with permanent residence permit, while foreigners with temporary residence permit are only granted access to some of the rights. In accordance to the Social Care Act, foreigners with permanent residence permit have the same access to social care rights as the citizens of the RS, in case it is determined by an international agreement, foreigners without the permanent residence permit too, can access individual services and temporary social support (Articles 5 and 34 ZSV). Request for temporary social support can be rejected, if the foreigners have no means of subsistence for the reasons he or she can influence or because of abandoning the activity which could provide him or her with employment (Article 24 ZSV).

Foreigners with permanent residence permit have access to certain benefits from the title of parenthood. In accordance with the Parental Protection and Family Benefit Act foreigners with a permanent residence permit who are employed and insured for the case of parenthood (this is the right receive transfers upon the birth of a child, i.e. a lump sum intended for the purchase of the most necessary supplies for the newborn or of equipment in the amount of granted sum (Articles 63 and 64 ZSDP). In accordance with the same Act, foreigners with a permanent residence permit also have the right to child benefit the sum of which depends on the parents' income, as do the children with registered residence in the RS, which means that temporary residence permit suffices for its access (Articles 65-67 ZSDP). The following two types of financial transfers, which are available to foreigners with permanent residence permit in accordance with this Act are benefit for a large family (families with three children or more, Articles 80 and 81 ZSDP) and care benefit for a child with a permanent residence in the RS (Articles 80 and 81 ZSDP). Compensation for lost income (Articles 84 and 85 ZSDP) and parent benefits are only accessible to parents with Slovene citizenship. All the listed benefits, for the welfare of children, are therefore not accessible to parents without status or parents who only have the temporary residence permit (with the exception of child benefit), regardless of the child's status, even though the RS has signed the Convention on the Rights of the Child, with which the signing countries are obliged to treat all the children on its territory equally, regardless of their legal status.
In the case of unemployment the foreigners, who are in employment relationship with the employer in the Republic of Slovenia, are mandatorily insured in accordance with the Employment and Insurance against Unemployment Act, for cases of unemployment regardless of the type of employment relationship (Article 14). A foreigner may register at the Employment Office of RS as an unemployed person if he or she has a personal work permit. The conditions for acquiring unemployment benefits are regulated by Article 18 of ZZZPB, which relates to ensured persons regardless of their citizenship. The unemployment benefits are paid to all foreigners, who fulfil the conditions set forth by ZZZPB.

Access to health care depends on the foreigner’s status and employment situation. Right to basic health insurance and to health services for foreigners who have a temporary or permanent residence permit for the RS, arises from their employment contract, because they have health insurance in accordance with the Health Care and Health Insurance Act. Temporary residence permit for other reasons can only be acquired, if they can prove, in advance, that they have appropriate health insurance, which covers the expenses for health services, if these may be necessary. Foreigners, who are acquiring education on Slovenia, are also insured on the basis of ZZZPB, if they are not insured from another title. Foreigners with permanent residence in the RS are also insured, if they acquire income from various insurances and are not insured from another title. Foreigners with a permit for permanent residence are enjoying more benefits in the field of health care: they have the same rights as the citizens of the RS and the EU, but in the case they are not employed, they need to pay for their health insurance themselves. The foreigners with permanent residence who are not employed, but do receive unemployment benefit and social support and foreigners, who are enrolled into public work do have health insurance in accordance with the Health Care and Health Insurance Act. Other foreigners are obliged to cover their health insurance by themselves.

Applicants for international protection have the right to emergency health services, which include i) right to emergency health care and emergency rescue transport as decided by the doctor and the right to emergency dental help; ii) emergency treatment as decided by the treating doctor (this may include the functioning of vital functions, stopping severe bleeding and prevention of haemorrhage; prevention of further decline of health condition, which could cause long term damage on individual organs or vital functions; treatment of shock; services for chronic diseases and conditions, which, if abandoned would cause handicap, other permanent health impairments or death; treatment of fever conditions and prevention of major infection, which might lead to septic condition; treatment or prevention of poisoning, treatment of broken and strained bones and other traumas, where medical intervention is necessary and iii) female health care which includes contraception, abortion and health care of pregnant women and during birth. A vulnerable person, with special needs, and in exceptional cases other applicants too, has the right to access additional health services, which are approved and determined by a commission. (Article 84 ZMZ) Persons who have been granted international protection are enjoying the same health care as the citizens of the RS, which includes the basic health insurance. (Article 7 ZZZPB and article 94 ZMZ) In order to prove the fact that they are enrolled into the basic health insurance, the Ministry of Interior issues a certificate that they are approved beneficiaries of international protection and that they are enjoying the same rights as the citizens of the RS, but do not receive the health insurance card like the citizens of the RS do.

Among the mentioned group of foreigners the lowest level of rights in the field of free health services (except for the foreigners without any type of status and any insurance) is granted to
persons with permission to remain in the RS and applicants for international protection, who are only entitled to emergency health care (Pajnik 2006). In general, foreigners without any legal status do not have the right to free health services in Slovenia. The only legal regulation which could be applied in this case in the RS is regulation of the Article 7 of the Health Care and Health Insurance Act according to which the RS provides funding for emergency health care of persons with unknown domicile, for foreigners from the countries with which no international agreements are signed and for people with permanent residency abroad, who are temporarily residing in Slovenia or are just travelling though and the payment of expenses for their treatment could not be provided, from the budget. Foreigners without status or foreigners without health insurance often refuge in the Clinic for persons without health insurance Pro Bono, which is located in Ljubljana and is funded by the City municipality of Ljubljana.

The right to pension and disability insurance, in accordance with the Pension and Disability Insurance Act, can be acquired by a foreigner upon fulfilment of certain conditions such as age and the pension qualifying period, on the basis of compulsory insurance (into which all the employed foreigners, foreigners receiving the unemployment benefit or the rights from pension and disability insurance are enrolled in, Article 22 ZPIZ-1) or voluntary insurance (if they are on played leave, employed part time, etc., Article 34 ZPIZ-1). Acquisition of the rights from the pension and disability insurance is not linked to the type of foreigner’s status in Slovenia, because access to rights is based on payment of contributions into the pension and disability insurance and not the status. After returning into the country of origin, a foreigner can acquire the rights from the title of social and pension insurance, for which he or she has been paying contributions in Slovenia, if Slovenia and the country of origin have signed an agreement on social security. Until November 2008 Slovenia has signed this agreement with 20 countries (including Croatia and FYROM) and currently the signature of three agreements is being processed (including Bosnia and Herzegovina). In relation to agreements, the citizens of both contracting countries have access from the title of pension and disability insurance, health insurance, insurance in case of unemployment and insurance from the title of parenthood. Persons, who have been paying contributions in accordance with the legislation of one of the two countries and the family members of the deceased insured persons, are considered the beneficiaries. The agreements do not introduce new rights, but merely determine the modalities of acquisition of rights, defined in the legislation of both contracting states (European Parliament 2008). In accordance with the agreement the pension of a Croatian citizen, who has fulfilled the conditions in the Republic of Slovenia, can be paid in Croatia, if this is where the permanent residence of the insured person is. People without citizenship, who live in Slovenia without status cannot acquire rights regardless of previous payment of contributions, if they do not exist in public registers and do not have registered residency (as in the case of the erased).

Access to non-profit apartments is not granted for foreigners in the RS, regardless of their status, because access is only granted with the condition of citizenship of the RS, as stipulated by the Housing Act (Paragraph 5 Article 87 SZ-1).

6. Analysis of asylum and migration systems

The most important features of the asylum and migration policy system are detailed organisation of proceedings to acquire any of the described statuses, different treatment of

foreigners in accordance with their status and consequently different level of rights they have access to and concentration of authority over the asylum and migration almost exclusively onto the Ministry of Interior, except for the field of work migrations, which are in the competency of Ministry of Labour, Family and Social Affairs. The system of asylum and migration policies has achieved a level of highly detailed procedures and competencies as well as precisely defined conditions that the foreigners have to fulfil for acquiring a residence permit in Slovenia.

Since joining the EU, the development of asylum and migration law on the national level is sharing the same fate as the asylum and migration law on the EU level, which means that changes in Slovene national policies do not necessarily reflect the actual local needs, but rather the needs of other EU member states.

In the area of migration policies the precise conditions for acquiring a visa, residence permit or citizenship of the Republic of Slovenia were defined due to reasons of public order, public security and security of international relations. **Granting temporary residence permits to migrants is reflects a surfacing trend, which is** apparent from the following chart:

![Temporary residence permits issued from 1999 to 2006](chart)

From the chart it derives that the number of permanent residence permits issued in RS since 2004 is slightly increasing, while the highest number of permits was issued in 2000. Among the permits for temporary residence the most are issued due to employment and work and the trend in this area is surfacing. At the same time the trend of issuing residence permits to seasonal workers is also surfacing. In the area of issuing permanent residence permits it is also possible to note an explicitly increasing trend, since from 2004 to 2005 only the number of issued permanent residence permits has increased for more than 4,000 issued permits in one year (from 4,666 to 9,003). In the area of issuing residence permits Slovene legislation mostly follows the EU legislation. One of them is the extension of reasons for acquisition of temporary residence permit to researchers (although, as data shows, only three of such permits are currently valid) and shortening of the residence period in the RS on the basis of temporary residence, which is necessary for acquisition of permanent residence permit from eight to five
years. The Aliens Act however does not consider same-sex partners as close family members, which means that they cannot acquire temporary residence permit on the grounds of family reunification in the RS. (European Parliament 2008).

The situation in the field of illegal migration drives the country into increasingly efficient control over illegal migrations and borders and into creation of increasingly efficient procedure of removal, while the real reasons for migration is highly neglected, although lately the Republic of Slovenia also introduces measures, which are a consequence of creation of Global access to migration on the EU level. Some of these measures are included into the Strategy on Economic Migration, such as bilateral agreements on employment with elements of circle migration, encouragement of opening small businesses and supporting mechanisms for remittances.

Economic migration in the framework of migration policies are limited with quotas, while the economic migration in the framework of asylum policies are not allowed, since the asylum system asylum system rejects economic reasons as inadmissible for the acquisition of international protection. The field of integration remains insufficiently elaborated, since it exists mostly as a legal possibility and is loosely bound commitment of the state towards migrants, whereas in the real world, migrants are mostly encountering exclusion and discrimination by landlords and employers (Zimic 2003).

Legally, unaccompanied minors are entitled to be appointed a guardian before they formally file the application, while the official workers of the Asylum Centre need to make sure, that the minor's application is forwarded as soon as possible and that he is timely moved from the reception area of the Asylum Centre into its accommodation area. Guardian for the special case is appointed by a social work centre, which is usually done very late, that is why in practice, the officials at the Asylum Centre accept the minor's application before the guardian has been formally appointed. By a quick accommodation in the accommodation area of the Asylum Centre the staff is pursuing the best interest of the child, but is, nevertheless, acting illegally. In order to put away such inconsistencies, closer cooperation among institutions is called for and better awareness of social work centres on how immediate appointment of a guardian is urgent.

The European Commission report of 2007, which has been prepared by the Odysseus Academic Network, pointed at inconsistencies of the Slovenian legislation in the field of reception conditions for applicants for international protection with the Directive on Reception Conditions. Considering the fact that prior to Slovenia's entry into the EU, the level of reception conditions was based on the UNHCR standards, these standards were lowered in certain areas with the transposition of EU Directives into Slovenian Domestic Law. For example, the applicants are no longer entitled to pocket-money, which has been abolished with the latest amendment of the Asylum Act and now the same regulation is present in the International Protection Act, despite the fact that the directive states, that financial benefits (pocket-money) for applicants should be provided for the purchase of supplies, which are not provided with the material conditions of reception.

As mentioned the applicants for international protection at the first instance procedure do not have the right to free legal aid provided by the refugee counsellors, and can only obtain free

40 Id.
42 Id.
legal aid in the first instance at the non-governmental organization Legal-informational Centre for Non-Governmental Organizations – PIC, whose activities are project-based. In practice this means that applicants for International Protection who do not speak Slovenian and usually do not education in law, are in the first instance represented by a person from the non-governmental organization, follow the procedure without representation or pay for the refugee counsellor. In addition, all relevant facts and evidence should already be filled on the first instance, because this is obligatory in all administrative procedures, including the international protection procedure. New facts and evidence are not allowed on the second or third instance, except if the person was not aware of their existence or was unable to file them earlier due to objective reasons. The assistance of refugee counsellor is of key importance when it comes to filling all the necessary facts and evidence, and the presence of a counsellor considerably increases the likelihood of applicants to acquire international protection, according to the UNHCR studies. This concept was introduced as a direct transposition of the Directive on the Reception Conditions into Slovene domestic legislation, because the directive leaves the organisation of legal assistance to the discretion of individual member states. Funding for legal counselling provided by the non-governmental organization and the refugee counsellors is provided by the Ministry of Interior, which is at the same time the opposite party of the court procedure in the second and third instance, triggered by the asylum seeker. Refugee counsellors are entitled to compensation for their fees from the state budget on the second and third instance, which amounts to 50% of standard legal fees. At the moment four out of nominated 50 counsellors are active.

With the transposition the European directives introduced concepts into procedure for international protection such as decision making in accelerated procedure and rejection of applications on the grounds of being manifestly unfounded, circumstances in which personal interview is not necessary for the issue of decision and the enlargement of reasons for deprivation of freedom from four to sixteen (taking into account that now the reasons for limitation of movement are more specified than they were before), three days to appeal, etc. The percentage of approved applications in 2007 was 4%. The challenge for the future is also to accelerate the procedures for international protection and simultaneously to guarantee its fairness.43

If the applicants are granted international protection, they are consequently entitled to previously mentioned rights and benefits. The positive measures facilitating refugees' integration into society are the possibility of accommodation in the Ljubljana or Maribor integration house, financial support of non-governmental organizations active in the field of migrations from the European Refugee Fund and cooperation’s of integration advisers in the design of personal integration plans. They are made for every person who has acquired international protection and the plan defines the measures which should facilitate the person's social integration. The plan is produced by the refugee or the person with subsidiary protection and his or her integration adviser and is elaborated on the basis of individual circumstances of the person such as age, health condition, education, work experience, personal wishes and interests.44 In the field of integration of foreigners they encounter some problems in practice. They are faced with discrimination in search for accommodation (by landlords) and employment (by employers). In search for accommodation, after the expiration of the one year period, during which they are allowed to live in the integration house and after the two years during which they are allowed to receive financial recommendation for paying

44 Answer of Sabina Hrovatin, Head of the Refugee and Alien Integration Sector about the inquiry on 13.11.2008.
the accommodation rent, refugees encounter problems in access to rent apartments, with the fact that the landlords do not want conclude a lease agreements with them or the foreigners cannot register their permanent residence there. Access to non-profit rented apartments for foreigners with permanent residence in Slovenia could be a solution, which is currently impossible on the basis on the Housing Act, because the condition of Slovene citizenship must be fulfilled. There are also problems related to recognition of diplomas when it comes to the area of access to work. There is an evident contrast between the treatment during the time when they are awaiting the decision regarding their international protection application (life in an institution, served meals, prohibition to work during the first year), and the time after they acquire the refugee status; that is when they are expected to find work, accommodation, learn Slovene and get integrated (Pajnik 2006). According to the opinion of the Ministry of Interior, the integration measures would be more efficient, if they were to be exercised on a local and regional level, that is why one of the remaining challenges is the transposition if their exercise onto the level of regions and municipalities. Since up until 2008 the RS has only been systematically carrying out integration of refugees, rather than foreigners, the establishment of an efficient foreigners’ integration system and its realisation in practice (also on the basis of Decree on Aliens Integration) is therefore one of the key challenges for the future.

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