

EMN

ANNUAL POLICY REPORT ON MIGRATION AND ASYLUM

SPAIN
2008



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Migration
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The European Migration Network (EMN) is an initiative of the European Commission.

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

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

In Spain, the NCP is composed of experts from four ministries (Ministry of Labour and Immigration, Ministry of Interior, Ministry for Foreign Affairs and Cooperation and Ministry of Justice) and is co-ordinated by the Permanent Observatory for Immigration, a collegial body attached to the Ministry of Labour and Immigration. The NCP also collaborates with independent experts for the elaboration of EMN studies and reports.

Contact

Permanent Observatory for Immigration
(Co-ordinator of the National Contact Point for the European Migration Network)

José Abascal, 39. 28071 Madrid

E-mail: opi@mtin.es

<http://extranjeros.mtin.es>

This document is available from:

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<http://emn.sarenet.es>

Annual Policy Report on Migration and Asylum

**Spain
2008**

This Nacional Report provides an overall insight into the most significant political and legislative developments, as well as public debates in the area of immigration and asylum that took place in Spain during the year 2008.

This Report has been produced by the European Migration Network, and was completed by the Spanish EMN National Contact Point.

September 2009

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Summary

Spanish immigration and asylum policy in 2008 has been dominated by the drafting and subsequent adoption of the European Pact on Immigration and Asylum (hereinafter, EPIA)¹ at the European Council of 15 and 16 October 2008. Therefore, different measures that have been introduced during the year and preparation for the reform of Spanish legislation on both immigration and asylum aim, among other things, to develop the basic commitments made in the EPIA in five areas that form the backbone of this Pact:

- a legal immigration coherent with the reception capacity of each State and for the integration of immigrants
- an effective policy against illegal immigration that guarantees, save for notable exceptions, the return of the illegally staying foreigner
- an effective border control
- a consolidation of a Europe of asylum
- strengthening global cooperation with the countries of origin and transit in order to encourage synergy between immigration and asylum.

The adoption of the 'Return Directive'², the first Community standard on immigration approved through the codecision procedure, attracted public debate in Spain during a

¹ Presidency Conclusions, doc. 14368/08. Text of the EPIA, in doc. 13440/08 http://ec.europa.eu/justice_home/news/intro/doc/doc_13440_08_en.pdf (visited on 20 January 2009).

² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. OJEU L 348/98 of 24 December 2008.



good part of 2008, particularly when it was being voted on at the European Parliament and thereafter until its definitive approval on 16 December 2008. Similarly, the roadmap of the proposed Directive on the 'blue card' for highly qualified immigrants³ and the Directive on sanctions for employers who hire illegally staying foreigners⁴, impacted both public opinion and experts in 2008.

In matters that more clearly relate to national affairs, various issues dominated political and legislative developments in Spain in 2008. The first months of the year were shaped by the General Election of 9 March 2008 and the electoral campaign that preceded it. In that campaign, the 'migration issue' was touched on by the main political parties from different perspectives.

Institutionally, the main developments were the renaming of the Ministry of Work and Immigration (previously the Ministry of Work and Social Affairs) and the creation of a Ministry of Equality, which had previously been existent.

In legislation, as mentioned above, the key development was the Draft Organic Law to reform Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration, amended by Organic Laws 8/2000 of 22 December, 11/2003 of 29 September, and 14/2003 of 20 November⁵ (hereinafter, the reform of the Law on Alien Affairs), and the Draft Bill for regulating the Right to Asylum and Subsidiary Protection (hereinafter, the draft new Law on Asylum)⁶. Once both proposals have been discussed in Parliament in 2009, this question will be analysed more closely in the next Annual Report.

Similarly, mention should be made of the approval, following a lengthy discussion process, of the Historical Remembrance Law (Law 52/2007 of 26 December recognising and extending rights and establishing measures for those who were persecuted or suffered violence during the Spanish civil war and dictatorship), which affects nationality issues.

³ Although the Directive was approved in 2009, it was debated throughout 2008 (Council Directive 2009/50/EC of 25 May 2009 on conditions of entry and residence of third-country nationals for the purposes of highly qualified employment. OJEU of 18 June 2009).

⁴ *Idem*: the Directive was finally approved in 2009 (Directive 2009/52/EC of the European Parliament and of the Council, of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals. OJEU L 168/24 of 30 June 2009..

⁵ Specifically, on 26 June 2009 the Council of Ministers approved the submission of the reform to Parliament (thereafter referred to as Draft Organic Law) <http://www.la-moncloa.es/ConsejodeMinistros/Referencias/2009/refc20090626.htm> (visited on 28 June 2009).

⁶ See Official Parliamentary Bulletin no. 13-13 of 25 June 2009, and the ballot recorded in the Journal of the Sessions of the Congress of Deputies, Full and Permanent Committee, no. 95 of 25 June 2009.

With regards to immigration policy, the Plan for Voluntary Return has been a prominent initiative of the Spanish Government, and this Report will make particular reference to it throughout.

The Strategic Plan for Citizenship and Integration 2007-2010 (PECI), details of which were provided in the Annual Report on Immigration and Asylum Policies in Spain 2007, has been followed through to fruition in the belief that we can only become a cohesive society if immigrants are properly integrated. All of this must be accomplished against the backdrop of the current global financial and economic crisis. As a consequence of the global economic situation, many Spaniards and immigrants lost their jobs in 2008 (this will be tackled fully in the Annual Statistical Report 2008).

In summary, it can be said that Spanish policy on immigration in 2008 has continued to be underpinned by three fundamental pillars, as in 2007: the coordinated management of migration flows and the consolidation of the link between legal immigration and the labour market; the integration of immigrants within the society of reception; and the control of illegal immigration. In order to achieve this, cooperation on a Europe-wide scale continues to be vital.

1. Political Development in Spain

1.1. General structure of the political system and the institutional context regarding immigration and asylum

The 2007 Annual Report on Immigration and Asylum Policies outlined the general structure of the political system and the Spanish institutional context regarding immigration and asylum. However, several important new developments have taken place in 2008 in a number of areas.

Firstly, on 9 March 2008 general elections were held in Spain. Although the political persuasion of the government has not changed, new legislation has introduced a number of changes on immigration: specifically, a highly significant semantic amendment illustrates the importance that immigration policy has acquired in Spain⁷.

⁷ The structure and competencies of government institutions in other areas have not undergone major changes. For information on these aspects, the 2007 Annual Report should be referred to (2007 Annual Policy Report on Immigration and Asylum in Spain. European Migration Network. Chapter 1.1 on the allocation of competencies between the implicated Ministries, their collegiate and individual bodies, their roles, etc.).



The Ministry of Work and Social Affairs was renamed the Ministry of Work and Immigration, within which the competent body for managing continual migration continues to be the State Secretariat for Immigration and Emigration.

The Ministry of Labour and Immigration maintains the same structure as it had before, with a number changes established by the Royal Decree through which its basic constitutional structure was set forth⁸.

The General Directorate of Immigration maintains its structure and duties. At the General Directorate of the Integration of Immigrants,, the Spanish Observatory on Racism and Xenophobia has been given the rank of Sub-Directorate through the aforementioned Royal Decree.

The General Directorate of Emigration was renamed the General Directorate of Spanish Citizenship Abroad and its two Sub-Directorates also changed their name: the General Sub-Directorate for Regulations and Reports, formerly the General Sub-Directorate for Regulatory Affairs and Reports, and the General Sub-Directorate for Social Security Benefits, formerly the General Sub-Directorate for Pensions and Initiatives for Emigrants.

Also under the direction of the Minister, is the Subsecretariat of Labour and Immigration, which ordinarily represents the Ministry and manages its common services, with coordination, supervision and management duties.

The structure of the State Secretariat for Immigration and Emigration at the Ministry of Labour and Immigration will remain unaffected by these changes⁹.

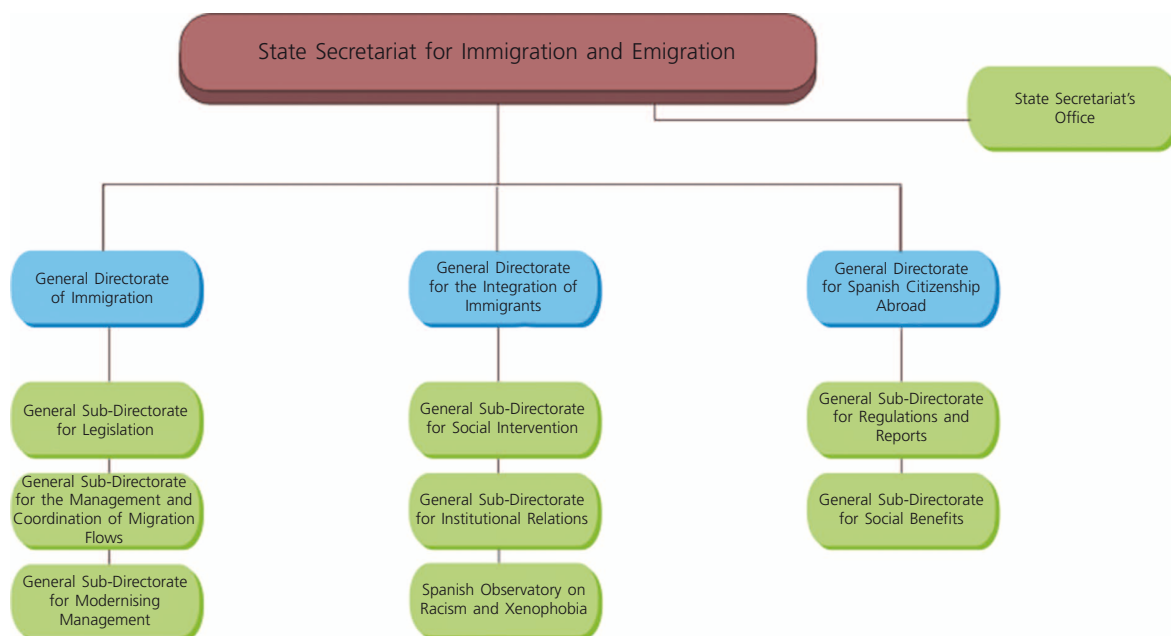
As shown in the Annual Policy Report on Immigration and Asylum in Spain 2007, both the Ministry of Justice and the Ministry of the Interior have kept their structure and competencies on immigration and asylum.

The Ministry of Foreign Affairs and Cooperation retains the Subsecretariat for Foreign Affairs and Cooperation. The General Secretariat for Consular Affairs and Migration was created, with the rank of Subsecretariat, reporting directly to the Minister. This General Secretariat is responsible for the planning, proposal and high-level management of consular policy and now falls under the authority of the General Directorate for Consular Affairs

⁸ Royal Decree 1129/2008 of 4 July setting out the basic constitutional structure of the Ministry of Labour and Immigration and amending Royal Decree 438/2008 of 14 April approving the basic constitutional structure of ministerial departments. Official State Bulletin no. 165 of 9 July 2008.

⁹ Website of the Ministry of Labour and Immigration, <http://www.mtin.es/es/infgral/organi/org2.htm> (visited on 9 June 2009).

and Assistance, which was previously under the direct authority of the Subsecretariat for Foreign Affairs and Cooperation¹⁰. The General Secretariat also plays an important role as coordinator in all matters relating with immigration within the Ministry, and acts as a link to other Ministries on migration matters.



Following a proposal by the Spanish Prime Minister and consideration by the Council of Ministers on 30 April 2008¹¹, the Government's Delegate Committee for Immigration Policy was set up in order to coordinate high-level immigration policy. The body is chaired by the Vice-President of the Government and Minister of the Prime Minister's Office and is comprised of the Ministries of Foreign Affairs and Cooperation, Interior, Development, Labour and Immigration, and Equality, the Director of the Cabinet of the Prime Minister's Office and the Secretaries of State for Foreign Affairs, to the European Union, of Defence, Security and Immigration and Emigration. It acts as Secretary for this Delegate Committee for Immigration Policy of the State Secretariat for Immigration and Emigration.

The Sectoral Immigration Conference was set up on 9 July 2008, in which the Government and the autonomous communities are represented and local authorities participate as

¹⁰ Royal Decree 438/2008 of 14 April approving the basic constitutional structure of ministerial departments, Official State Bulletin no. 92 of 16 April 2008, and Royal Decree 1124/2008 of 4 July developing the basic constitutional structure of the Ministry of Foreign Affairs and Cooperation, Official State Bulletin no. 165 of 9 July 2008.

¹¹ Royal Decree 680/2008 of 30 April establishing the constitution of the Government's Delegate Committees (Article 1.e) Governmental Delegate Committee for Immigration Policy). Official State Bulletin no. 114 of 10 May.

observers. The Sectoral Immigration Conference is to replace the Higher Council on Immigration Policy.

1.2. Political developments

As mentioned above, on 9 March 2008 general elections were held in Spain¹². Following these elections, the Spanish Government was formed of the same political party that had governed in the previous term, the Partido Socialista Obrero Español. In April, Celestino Corbacho Chaves assumed the role of Minister of Labour and Immigration and Consuelo Rumí Ibáñez was confirmed as continuing Secretary of State for Immigration and Emigration.

The focus is on consolidating an immigration policy based on managing migration flow by encouraging legal immigration both through the workers quota and employment in the country of origin, and through the general scheme.

Equally, initiatives aimed at a greater integration of immigrant workers are increasingly taking shape. For this purpose, in 2008 the Government allocated €200 million of its annual budget, as it had done in the previous year, to the management, by the autonomous communities and local authorities, of the Support Fund for the Admission and Integration of Immigrants and to Reinforce their Education.

The tools used to control illegal immigration in 2008 continue to be focused on the policy of demanding visas for entry and work, on an increasingly sophisticated border control, on the drive to return and expel illegally staying foreign nationals, and cooperation with the immigrants' countries of origin and transit.

Particular attention given to Spanish nationals living abroad was also notable in 2008. Through this, benefits to Spanish nationals living abroad and those who have returned to Spain are dispensed according to need, while €15.5 million has been allocated to programme initiatives for Spanish citizens abroad and 'returnees to Spain'. Furthermore, the Regulation of the General Council on Spanish Citizenship Abroad was approved.

¹² The winning party in the elections was the [Partido Socialista Obrero Español](#) (Spanish Socialist Workers' Party - PSOE), which obtained 43.87% of the votes and 169 seats in the [Congreso de los Diputados](#) (Congress of Deputies) (5 more than in [2004](#)), while the [Partido Popular](#) (People's Party - PP) obtained 39.94% of the votes and 154 seats (6 more than in [2004](#)). In the [Senate](#), the PSOE obtained 89 seats, eight more than in 2004, while the Partido Popular lost one seat, for a total of 101 seats. Full results for both Chambers can be viewed at: <http://www.20minutos.es/resultados-elecciones/2008/congreso/http://www.20minutos.es/resultados-elecciones/2008/congreso/> (visited on 3 June 2009).

With regards to the voluntary return of immigrant workers living in Spain, in 2008 an innovative measure was proposed to support their voluntary return to their countries of origin. Given the worsening economic situation and the rise of the immigrant population's unemployment rate, the Spanish Government approved a Plan for Voluntary Return that recognised the possibility of paying contributory unemployment benefits in advance and cumulatively to non-EU foreign workers who have lost their job in Spain and decided to voluntarily return to their country of origin¹³ (see section 2.3.11). However, it should be remembered that this Plan for Voluntary Return is supplementary to the Humanitarian Return Plan which has been operating since 2003.

As part of these political changes, the work done by the Executive in 2008 on two comprehensive Draft Bills must be mentioned: the reform of the existing Immigration Law and the proposal of a new Asylum Law (see below in "2. Political and Legislative Development").

1.3. Institutional developments

In governmental institutions, there have been a number of changes to the ministerial structure since general elections. However, the basic structure setting out the allocation of competencies on migration and asylum is similar to that prior to the elections; therefore, the Annual Policy Report on Immigration and Asylum in Spain 2007 should be referred to for information on these aspects. The existing bodies continue to have the same duties. As has already been mentioned, the prominent institutional change is that of raising immigration to the category of Ministry, with the Ministry of Labour and Social Affairs being renamed the Ministry of Labour and Immigration. As a result of this new structure, many of its social policy competencies are allocated to the Ministry of Education, Social Policy and Sport and others to the Ministry of Equality.

The Spanish Observatory on Racism and Xenophobia now falls under the leadership of the General Directorate of the Integration of Immigrants, empowered to promote policies related with equal treatment and non-discrimination on racial or ethnic grounds¹⁴. The Observatory can submit proposals for initiatives against racism and xenophobia. It provides

¹³ Royal Decree-Law 4/2008 of 19 September on cumulative contributory unemployment benefits paid in advance to non-EU foreign workers who voluntarily return to their countries of origin. Official State Bulletin no. 228 of 20 September 2008.

Resolution of 2 October 2008 of the Congress of Deputies decreeing the publication of the Agreement to ratify Royal Decree-Law 4/2008 of 19 September on the cumulative contributory unemployment benefits paid in advance to non-EU foreign workers who voluntarily return to their countries of origin.

¹⁴ <http://www.oberaxe.es/> (visited on 9 June) (visited on 9 June) (sic).



information on everything which may directly affect the equal treatment of immigrants and their non-discrimination on racial or ethnic grounds. By systematising national data and setting up different initiatives on racism and xenophobia, the Observatory provides a national approach to these topics.

As mentioned above, another institutional change since the Spanish general elections of 9 March 2008 has been the creation of a new Ministry of Equality¹⁵ (see, for example, information from the Comprehensive Plan on Human Trafficking for the purposes of Sexual Exploitation in section 2.3.10. 'Action against Trafficking'). This Ministry has competence for promoting policies on equal treatment and non-discrimination.

2. Political and legislative development on immigration and asylum

2.1. General structure of the legal system on immigration and asylum

The Annual Policy Report on Immigration and Asylum in Spain 2007 incorporated a section on the general structure of the Spanish legal framework. There have not been significant changes in this regard, and the key regulations governing immigration and asylum remain the same.

However, as has already been mentioned, in 2008 a Draft Bill to existing Immigration Law was prepared, along with a Draft Bill for a new Law on Asylum. The reform of the Law on Immigration was submitted to the Spanish Parliament by the Council of Ministers in June 2009 – see note 5 above. The Draft Bill regulating the Right to Asylum and Subsidiary Protection was approved by Parliament on 25 June 2009 – see note 6 above. The Annual Policy Report on Immigration and Asylum in Spain 2009 will provide an account concerning the processing of these two important legislative changes in Parliament.

In the case of the Draft Bill to Reform the Law on Immigration, the main reasons for proposing this reform are as follow:

1. To adapt the rights of foreigners to recent jurisprudence of the Spanish Constitutional Court in its sentences 236/2007 of 7 November and 259/2007 of 19 December, redrafting the Articles that were declared to be unconstitutional by the Spanish High Court (the Articles regulating the rights of assembly, association, trade unions and strikes, whereby

¹⁵ Royal Decree 1135/2008 of 4 July developing the basic constitutional structure of the Ministry of Equality, Official State Bulletin no. 165 of 09 July 2008.

the existing Law on Immigration does not extend the exercise of these rights to foreign nationals staying illegally);

2. To carry the full and proper incorporation into domestic legislation of the European Directives approved since the last reform of the Law on Immigration, carried out in December 2003, and which are listed in the supporting memorandum that accompanies the Draft Bill (see section 3.1 below).

The Draft Law on Asylum and Subsidiary Protection aims to transpose to Spanish legislation each of the EU's legislative changes on this topic introduced since the communitisation of asylum policy by the Treaty of Amsterdam (see "2.3.2. Asylum and protection for the refugee" below).

Therefore, in 2008, the regulatory framework on immigration and asylum in Spain continued to englobe:

- the Spanish Constitution;
- the Civil Code;
- Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration, amended by Organic Laws 8/2000, 11/2003 and 14/2003;
- The Regulation applicable to Organic Law 4/2000, approved by Royal Decree 2393/2004 of 30 December;
- Royal Decree 240/2007 on the entry, free movement and residence in Spain of citizens of the Member States of the European Union and of other States that are a party to the Agreement on the European Economic Area;
- Law 5/1984 of 26 March governing the right to asylum and refugee status, amended by Law 9/1994 and Organic Law 3/2007;
- The Regulation applicable to this Law;
- Regulations on the temporary protection system in the event of a massive influx of displaced persons, approved by Royal Decree 1325/2003; among other legislation.

In September 2008, legislation governing the previously mentioned 'Plan for Voluntary Return' was approved:

- Royal Decree-Law 4/2008 of 19 September on the cumulative contributory unemployment benefits paid in advance to non-EU foreign workers who voluntarily return to their countries of origin, developed by Royal Decree 1800/2008 of 3 November (see note 13 above).

This measure aims to make advance payments of contributory unemployment benefit to non-EU foreign workers, depending on their contributions, who decide to voluntarily return to their country of origin. In this sense, in view of the economic situation that in 2008 was already resulting in major employment restrictions in Spain, the Spanish Government offered foreign workers the opportunity to return to their countries of origin, making resources available for their laboural and professional integration or personal development in the way that best suits their expectations. Given the urgency of the situation and of the response to the measures to be adopted, these measures were approved by Royal Decree-Law.

Furthermore, this initiative also aimed to facilitate 'circular migration', by allowing immigrants to decide, depending on employment opportunities both in Spain and in their country of origin, whether to remain in Spain.

2.2. General Overview: Principal political and legislative debates on immigration and asylum

Topics that have been debated throughout 2008 have mainly centred on two questions:

- measures to control illegal immigration, including the return of immigrants to their countries of origin, and cooperation with third countries in controlling the southern border of the EU (Sub-Saharan Africa);
- possible modification of Spanish legislation governing immigration and asylum. It must be clarified that the Draft Bill to reform the Law on Immigration has had a greater impact on public opinion than the debate on the Draft Bill in relation with the new Law on Asylum. This can be easily explained if we consider that Spain has a large and growing number of economic migrants, while it does not receive a high number of applications for asylum (in 2008, there were only 4,517 applications for asylum in Spain).

Furthermore, one of the debates that filled the pages of the newspapers and the publications of specialised NGOs and Associations in 2008 was the critical stance on the Return Directive. The criticism focused on the provision that authorises, in extraordinary

circumstances, the retention of an illegal immigrant for a period of up to eighteen months pending his/her expulsion.

With regards to the content of the Draft Law on Immigration, in 2008 fears arose in some sectors of the possible inclusion of restrictive measures towards immigrants. Some rather controversial measures announced were the following:

- the measure sanctioning conduct that encouraged illegal immigration, even when that conduct was based merely on humanitarian or 'hospitality' intentions (as will be clarified in the Policy Report on Immigration and Asylum in Spain 2009, this provision was later removed from the government's Draft Bill);
- the proposal to extend the detention period beyond 40 days currently in force (up to 60 days) and the possible introduction of the detention of minors subject to repatriation processes;
- the establishment of restrictions to family reunification of parents under 65 years of age (some of the criticisms of this planned provision were also acknowledged by the government that modulated the provision).

Another of the questions that sparked political debate is the Partido Popular's electoral proposal to introduce an integration contract should it win the elections and form a government, which provoked reaction from various political powers and from public opinion. The debate ended with the general election.

Over the summer, with the global economic crisis confirmed, the aforementioned Plan for Voluntary Return was approved. These measures announced by the Ministry of Labour and Immigration generated numerous consultations on how to make them effective. The approval of the Royal Decree-Law and its supplementary Royal Decree clarified the question concerning its application.

2.3. Developments by political area

Each of these topics was covered in the Annual Policy Report on Immigration and Asylum in Spain 2007; therefore, reference will be made exclusively to changes introduced in 2008 and to relevant questions that are appropriate to highlight in relation with this period.



2.3.1. Immigration control and supervision

Spanish policy on immigration control and supervision continues to focus on encouraging legal immigration and fighting against illegal immigration. The first is carried out through the workers quota proposed each year and the general scheme. The latter is implemented through cooperation and coordination within the European Union, bilateral agreements with the immigrants' countries of origin and domestic legislation designed to incorporate different types of offences into the Penal Code in order to sanction criminal conduct linked to illegal immigration¹⁶.

The legal framework for fighting against illegal immigration is covered in the Annual Policy Report on Immigration and Asylum in Spain 2007; therefore, that report should be referred to in this instance.

However, efforts were made in 2008 to improve border control. In order to do so, the necessary technology to monitor borderposts was incorporated, the number of police officers at borders was increased, and operational cooperation with third countries was strengthened. All of this led to a reduction in the number of repatriations as a result of the decreased number of illegal immigrants arriving to Spain.

Immigration control and supervision cannot be separated from Spain's position within the Community context, and this matter will be referred to in the section on incorporating and applying the legislation of the European Union.

2.3.2. Refugee Protection and Asylum

The reform of the Law on Asylum in Spain is more advanced than the reform of the Law on Immigration, in part because it is an ordinary (as opposed to Organic) law. On Friday, 5 December 2008, the Council of Ministers approved the submission to Parliament of the Draft Law Regulating the Right to Asylum and Subsidiary Protection.

The Preface of the Draft Law explains that a new law which regulates the Law on Asylum and Subsidiary Protection - rather than partial amendments - is required, given that fourteen years have passed since the Spanish Law on Asylum was last amended and

¹⁶ Organic Law 13/2007 of 19 November on the extraterritorial prosecution of migrant smuggling or clandestine immigration introduced amendments to various types of criminal offences, including 313 (offences against the rights of workers) and 318-bis (offences against the rights of foreign citizens).

the Treaty of Amsterdam, approved in 1997 and in force since 1 May 1999, has already given rise to a vast catalogue of Community rules on asylum.

The Preface of the Draft Law on Asylum refers to Community rules as a decisive factor for Spain's proposal to approve a new law on the matter. Specifically, it mentions:

- "Council Directive 2004/83/EC of 29 April on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted" (commonly referred to as the 'Qualification Directive');
- Council Directive 2005/85/EC of 1 December on minimum standards on procedures in Member States for granting and withdrawing refugee status (commonly referred to as the 'Asylum Procedures Directive');
- Chapter V of Council Directive 2003/86/CE of 22 September on refugees' right to family reunification.

When this new Law Regulating the Right to Asylum and Subsidiary Protection is approved and in force, Spain will have transposed to its domestic legislation the First Phase of the *Common European Asylum System* (CEAS) in its entirety.

The Ministry of the Interior announced in a press release one of the main items introduced by the Bill:

- "1) The standard for international protection increases by merging two statuses into one: the status of refugees and subsidiary protection.
(...)
- 2) For the first time, gender and sexual orientation are introduced as reasons that may give rise to the recognition of refugee status due to membership in a particular social group.
(...)
- 3) The guarantees inherent to the procedure for obtaining international protection are strengthened'¹⁷.

¹⁷ Council of Ministers of 5 December 2008. http://www.la-moncloa.es/ConsejodeMinistros/Referencias/_2008/refc20081205.htm (visited on 4 June 2009)

2.3.3. Unaccompanied minors and other groups at risk

In accordance with the principle of the child's best interest as set out in the United Nations Convention on the Rights of the Child and the Organic Law for the Legal Protection of Children,, Spain introduced in 2008 a number of initiatives to improve the care that unaccompanied minors require. The main initiatives applied in 2008 were:

- Relations with the minors' countries of origin have continued in order to establish the corresponding Cooperation Agreements in the field of preventing illegal emigration of minors, their protection and repatriation.
- In the case of Morocco, this Agreement is pending parliamentary ratification. Likewise, in 2008 the corresponding Agreement was ratified by Senegal.
- Similarly, extra support to minors at risk has been provided by the Spanish International Co-operation Agency for Development, implementing strategies for attention during infancy and professional training in countries of origin, particularly Morocco, thereby generating opportunities in the country of origin.
- Cooperation with Autonomous Communities that receive the greatest number of immigrant minors has been increased, particularly with the Government of the Canary Islands and the cities of Ceuta and Melilla. Mechanisms for coordination have also been set up between different stakeholders at both the national government level and governmental sub-delegations in different provinces.

With regards to other groups at risk, the situation of greater vulnerability suffered by women who are victims of gender violence in our country, where the incidence rate is higher among immigrant women, has become an increasing concern.

Examples of racism and xenophobia or violence are, generally, isolated cases, such as those that occurred in Roquetas de Mar (Almería) where a citizen of Senegalese origin was murdered. The State Secretariat for Immigration and Emigration monitored the development of disturbances and the Government took measures to ensure safety and security locally.

2.3.4. Economic immigration

In 2008, the majority of immigrants arriving to and/or staying in Spain were predominantly economic in nature.

On 31 December 2008, the number of foreigners with a valid registration certificate or residence permit reached 4,473,499¹⁸. Forty-eight percent of foreigners residing in Spain are included in the EU scheme¹⁹, which differentiates more recent immigration mainly motivated by economic reasons from an earlier wave of immigration linked to retirement and second homes. The remaining 52%, consisting of third country nationals included in the general scheme, is distributed, according to the reason for issuing their residence permit, as follows: 37% (871,747) corresponds to work and residence permits, 21% (500,257) to temporary residence permits (275,825 of which corresponds to non-lucrative residency, 164,619 to family reunification and 59,813 due to exceptional circumstances, the majority corresponding to having roots in the country (56,225) including social, employment and family roots, entailing a work permit), and 41% are permanent residents (969,048 foreigners granted permits to live in Spain indefinitely and work under the same conditions as Spanish workers).

With regards to the quota as a means for hiring in the country of origin²⁰, for the 2008 financial year²¹ the provisional figure for the foreign workers quota under the non-EU scheme as to permanent jobs was 15,731, and for job search visas for children and grandchildren of people of Spanish origin was 500 (given that both the amount and distribution of viable job offers may be subject to revision in order to adapt them to changes in the labour market both figures are provisional). The number of permanent job offers has descended from 27,034 in 2007, due to a decrease in employers' demand. The number of job offers actually made by employers was 2,682 permanent offers and 54,565 for a specific duration (temporary workers quota) while the number of job offers authorised (permits granted) was 1,380 permanent and 41,339 seasonal, respectively. In December 2008, 901 permanent job offers were approved for 2009²².

¹⁸ Quarterly report of the Ministry of Labour and Immigration.

¹⁹ This applies to nationals of the Member States of the European Union, from other States party to the Agreement on the European Economic Area (Iceland, Liechtenstein and Norway) and of the Swiss Confederation, and to their relatives and the relatives of Spanish citizens who are third country nationals.

²⁰ The quota involves a scheduled employment of foreign workers that takes into account the national employment situation. The quota has three distinct sections: firstly, a section offering a list of permanent job offers; secondly, a quota of job search visas; and finally, employment mechanisms for temporary workers. Unlike permanent job offers and the quota of job search visas, the quota does not plan for or specify a volume of temporary workers to be employed. More detailed information can be found in the study 'The Structure of Immigration and Asylum Policies in Spain' by the European Migration Network.

²¹ Resolution of 26 December 2007, of the State Secretariat for Immigration and Emigration providing for the publication of the Agreement of the Council of Ministers of 21 December 2007 regulating the quota of foreign workers on the non-Community scheme in Spain for the year 2008. Official State Bulletin no. 11 of 12 January 2008.

²² Resolution of 26 December 2008, of the State Secretariat for Immigration and Emigration providing for the publication of the Agreement of the Council of Ministers of 19 December 2008 regulating the quota of foreign workers on the non-Community scheme in Spain for the year 2009.



Meanwhile, the number of foreign workers affiliated to the Social Security system as of 31 December 2008 was 1,882,224²³. This data reflects the result in fluctuations of registrations and withdrawals from the Social Security system due to the temporary nature of the jobs typically held by immigrants. It is also a consequence of the global crisis already a reality in 2008 and which affected Spain's unemployment rate in particular, more negatively affecting the immigrant, rather than the native, population.

Spain assumed its structural role as a destination country for economic immigrants and, therefore, is adopting measures to facilitate the social and laboral integration of foreigners. With this in mind, a Royal Decree²⁴ governing certificates of professionalism that are valid across Spain and accredit the corresponding professional qualifications of those who have obtained them was approved. They can be obtained by completing and passing all the training modules that make up the certificate of professionalism or through procedures for the evaluation and accreditation of professional competencies acquired through work experience or informal training. These certificates will be used to accredit the professionalism of workers who, in the case of immigrants, are sometimes more difficult to prove.

2.3.5. Family reunification

The issue of family reunification has not experienced notable changes. However, the reform of the Law on Immigration already discussed provides for amendments concerning family reunification.

2.3.6. Other aspects of legal immigration

The Ministries of Labour and Social Affairs, Agriculture, Fisheries and Food, and Foreign Affairs and Cooperation signed a Cooperation Agreement with the Cluster of Fishing Companies in Third Countries (CPPT) for the training and laboural integration of seagoing workers from abroad²⁵. These workers are from Peru, Ecuador and Senegal and this will be extendable to other countries.

²³ Summary/preview of the Statistical Annual of the Ministry of Labour and Immigration 2008.

²⁴ Royal Decree 34/2008 of 18 January regulating certificates of professionalism, Official State Bulletin no. 27 of 31 January 2008.

²⁵ Convention on the training and integration of seagoing workers from developing countries, press releases of 6 February 2008 of the Ministry of Foreign Affairs and Cooperation http://194.140.3.20/web/es/noticias/2008.old/2008_02_06_Firmado_un_Convenio.1069.html, last visited on 26 June 2008 and of the Ministry of

2.3.7. Nationality

In late 2008, the additional seventh provision of Law 52/2007 of 26 December, which recognises, extends rights and sets up measures for those who were persecuted or suffered violence during the Spanish civil war and the dictatorship, came into force. The additional seventh provision of this Law, known as the Historical Remembrance Law, contains important provisions on nationality while also establishing the possibility of choosing to acquire Spanish nationality of origin for people whose mother or father was originally Spanish and to the grandchildren of those who lost or had to renounce to their Spanish nationality as a result of exile.

2.3.8. Integration

Work done by public authorities to aid the integration of immigrants centres on the Support Fund for the Admission and Integration of Immigrants and to Reinforce their Education.

In 2008, the Government allocated €200 million for the reception and integration of immigrants towards the management of the Support Fund for the Admission and Integration of Immigrants and to Reinforce their Education²⁶ by Autonomous Communities and Municipalities. Of this 200 million, €105.8 million (55%) was allocated to reception and integration, €86.6 million (45%) to educational assistance, and €7.5 million to the care of unaccompanied foreign minors that have travelled from the Canary Islands.

Compared with the previous year, autonomous communities have seen increases in their budgets for managing the reception fund. This allows initiatives that benefit the whole population based on the principles of equal treatment and non-discrimination to be developed, promoting the immigrant population's access to general public services, supporting their reception, educational assistance and civic education. The Fund's main

Labour and Immigration http://extranjeros.mtas.es/es/Actualidad/Convenio_profesionales_mar_extranjeros.html, last visited on 26 June 2008.

²⁶ Resolution of 19 February of the State Secretariat for Immigration and Emigration leading to the publication of the Agreement of the Council of Ministers of 15 February 2008 formalising the target distribution criteria and the distribution resulting from the budget for the 2008 financial year, a total of €200,000,000 from the Support Fund for the Reception and Integration of Immigrants and their Educational Assistance. [online] Official State Bulletin no. 52 of 29 February. Available at: http://extranjeros.mtin.es/es/normativa_jurisprudencia/Nacional/RES_19_02_2008_SEIE.pdf http://extranjeros.mtin.es/es/normativa_jurisprudencia/Nacional/RES_19_02_2008_SEIE.pdf (visited on 4 June 2009).



axes are reception, education, employment, housing, social services, health, infancy and youth, equal treatment, women, participation, awareness-raising and co-development.

Throughout the year, subsidies for financing were summoned for local authorities and NGOs in order to provide programmes that encourage the social and laboral integration of immigrants, asylum seekers, stateless persons and those received under the temporary protection scheme and other subsidiary protection arrangements.

2.3.9. Illegal immigration

Prior to the elections, the governing party announced an amendment to the existing maximum period of 40 days for the detainment of illegal immigrants. This measure is expected to come into effect in the future reform of the Law on Alien Affairs, as has been indicated. Although the maximum detention period is to be increased from forty to sixty days, the guarantees and the requirement to justify the detention will also be stepped up, nevertheless moving notably further away from the maximum limit set down by the aforementioned Return Directive.

2.3.10. Action against trafficking

According to police estimates, 90% of female prostitutes in Spain are foreigners²⁷, and the majority of these women are in the hands of human trafficking networks.

On 24 October 2008 the Council of Ministers submitted the Council of Europe Convention on Action against Trafficking in Human Beings to the Spanish Parliament for urgent ratification (the Convention was ratified in April 2009).

In December 2008, the Council of Ministers approved the Comprehensive Plan against Trafficking of Human Beings for the purposes of sexual exploitation presented by the Ministry of Equality. This Plan contains 71 measures that aimed at raising societal awareness to promote 'zero tolerance' of criminal acts related with trafficking, to combat its causes through active cooperation policies with countries of origin, transit and destination, and to ensure that the victim receives care and protection. The Plan will remain in force for three years (2009-2012), beginning January 2009, with a budget of €44 million. An inter-ministerial coordination group will be set up to monitor and assess its progress, chaired

²⁷ Data gathered from: <http://www.migualdad.es/noticias/pdf/PlanIntegralcontraLaTSHES.pdf>, page 8 (visited on 4 June 2009).

by the Ministry of Equality. The Ministries of Foreign Affairs and Cooperation, Justice, Interior, Education, Social Policy and Sport, Labour and Immigration, and Public Health and Consumption will also participate in the group²⁸. This monitoring and evaluation will be discussed in future Annual Policy Reports on Immigration and Asylum.

2.3.11. Return

In this area, the aforementioned Plan for Voluntary Return is the primary measure for 2008. This Plan was announced by the Ministry of Labour and Immigration prior to summer and approved in September. As has been explained, in order to facilitate unemployed foreigners' voluntary return to their country of origin, they may choose to claim, in advance, the total contributory unemployment benefits they are entitled to in two lump sums.

The beneficiaries of this measure are unemployed foreign workers who are staying in Spain legally and are from third countries that have signed a bilateral agreement with Spain on social security (currently 20 countries²⁹).

In order to benefit from this measure, the foreigner must commit to returning to his/her country of origin within 30 calendar days, and not return to Spain within 3 years. The beneficiaries may receive the full unemployment benefit they were entitled to in two instalments. The first, 40% of the total, in Spain. The second, the remaining 60%, will be received the following month, upon their return to their country of origin.

2.3.12. Other political areas

Agreements with third countries

As indicated in the 2007 Report, another important aspect of Spanish immigration policy is cooperation with the countries of origin and transit of immigrants who come to Spain. The Spanish Government's perspective is that to control migration flows and fight illegal immigration, it is essential to try to attack their root causes. This requires encouraging a progressive cooperation and moving forward in formalising bilateral instruments to enable this cooperation with countries of origin and transit.

²⁸ Ibid.

²⁹ The countries with which Spain has signed bilateral agreements on social security are: Andorra, Argentina, Australia, Brazil, Canada, Chile, Colombia, the Dominican Republic, Ecuador, the United States of America, the Philippines, Morocco, Mexico, Paraguay, Peru, Russia, Tunisia, Ukraine, Uruguay and Venezuela.



One of the instruments designed for this purpose is the adoption of agreements on immigration. The Framework Agreements on cooperation on immigration, from a wider perspective, include aspects relating both to the fight against illegal immigration and to readmission as well as as measures of cooperation for the employment of workers, integration of immigrants and contribution to development.

Given the above, and as part of the approach of the Plan for Africa 2006-2008, in 2008 Spain intensified its efforts toward formalising a network of bilateral agreements on immigration with sub-Saharan countries from which migration flows originate, with particular progress in implementing the principle of shared responsibility and cooperation with these countries. On 19 January 2008, the Framework Agreement on Cooperation in immigration with Cape Verde came into force (signed in Prague on 9 March 2007); the Framework Agreement signed in Mali in January 2007 has been applied provisionally since 22 February 2008³⁰. Finally, on 10 May 2008, a Framework Agreement with Niger was signed in Niamey³¹, applied provisionally since 9 June.

An Agreement was also signed on 1 March 2008 whereby the social security agreement between Spain and Colombia signed on 6 September 2005 came into force³². This text will imply that around 250,000 Colombians with residence cards can be granted protection through this Agreement. It also enables better execution of the measures of the Plan for Voluntary Return for citizens that return to Colombia.

The right to vote

In 2008, there were interesting new developments regarding foreign citizens' right to vote. Firstly, the government appointed a special ambassador for negotiating international treaties with immigrants' principal countries of origin, on the basis of the principle of reciprocity. The purpose of these treaties is to enable immigrants to participate in local election processes. As will be seen in the Annual Policy Report on Immigration and Asylum in Spain 2009, on the basis of agreements signed by the Spanish Government with 15 countries, immigrants from these 15 nationalities who have lived in the country legally for at least 5 years will be able to vote in the 2011 municipal elections.

³⁰ Official State Bulletin no. 135 of 4 June 2008.

³¹ Official State Bulletin no. 160 of 3 July 2008.

³² Official State Bulletin no. 54 of 3 March 2008.



3. Application of European Union legislation

3.1. Transposition of Directives and other Regulations approved in the European Union³³

Firstly, it must be reiterated that Spain is fully committed with migration policy objectives that are set out in the framework of the Council of the European Union and with Regulations approved within the Community institutions, guaranteeing their introduction into Spanish legislation as soon as possible.

In this sense, as previously mentioned, one of the Government's reasons for proposing the reform of Organic Law 4/2000 on the rights and freedoms of foreigners in Spain and their social integration is to introduce the Community Directives that have been approved subsequent to the last reform of that law in December 2003 into Spanish legislation.

Thus, the Preface of the Draft Reform Bill cites the transposition of the following Directives: Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air; Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents; Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities; Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data; Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service; Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research; Directive 2008/115/EC of the European Parliament and

³³ Court of Justice judgment (Sala Quinta) of 15 November 2007 – Commission of the European Communities v Kingdom of Spain (Case C-59/07). This judgment relates to Spain's failure to fulfil Council Directive 2003/109/EC of 25 November 2003 on the status of third-country nationals who are long-term residents. Court of Justice judgment (Sala Quinta) of 14 May 2009 – Commission of the European Communities v Kingdom of Spain (Case C-266/08). This judgment relates to Spain's failure to fulfil Council Directive 2004/81/EC of 29 April, on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

Court of Justice judgment (Sala Quinta) of 14 February 2008 – Commission of the European Communities v Kingdom of Spain (Case C-58/07). This judgment relates to Spain's failure to fulfil Council Directive 2003/110/EC – Assistance in cases of transit for the purposes of repatriation or removal by air – Failure to transpose within the prescribed period.



the Council, of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

In any case, it should be highlighted that although some of the legislation on immigration was established prior to the approval of these Directives, many of the aspects governed by the Directives are already provided for in legislation, for example, Law 4/2000 of 11 January, in its current wording, and in its Regulation approved by Royal Decree 2393/2004 of 30 December.

Furthermore, in April 2008, the General Directorate for Immigration of the Ministry of Labour and Immigration published Instruction DGI/SGRJ/04/2008 on the direct application of Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents of another Member State of the European Union.

Immigration and asylum represent key political issues for European integration. In 2008, the EU took another step towards a common immigration policy. On the basis of advances made in this area over more than 10 years, and following the Communication from the Commission of June 2008 entitled 'A common immigration policy for Europe: principles, actions and tools'³⁴, on 15 and 16 October 2008 the European Council adopted the European Pact on Immigration and Asylum (EPIA)³⁵. This document contains the basic commitments made by the European Council to continue the Stockholm Programme on justice, freedom and security, which will replace The Hague Programme as of 2010.

In adopting the EPIA, the European Council decided to hold an annual debate on immigration and asylum policies that will enable it to oversee the application of the Pact. To this end, the Commission will draft an annual report for the Council which will consist of two parts: a political report with recommendations from the Commission, and a longer, more detailed report on immigration and asylum policies implemented in the EU.

Finally, as is well known, 2008 saw the adoption of Council Regulation (EC) No 856/2008 of 24 July 2008, amending Council Regulation (EC) No 1683/95 laying down a uniform format for visas, as regards the numbering of visas³⁶. Also debated was the proposed Regulation No 81/2009 of the European Parliament and of the Council, amending Regulation (EC) No 562/2006 as regards the use of the Visa Information System (VIS)

³⁴ COM (2008) 359 final.

³⁵ Presidency Conclusions; document 14368/08. The text of the Pact can be view in document 13440/08.

³⁶ Council Regulation (EC) No 856/2008 of 24 July 2008 amending Regulation (EC) No 1683/95 laying down a uniform format for visas as regards the numbering of visas, OJEU L 235/1, 2 September 2008.

under the Schengen Borders Code (subsequently approved in 2009)³⁷. Council Regulation (EC) No 1104/2008 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) was also approved³⁸.

Along with these regulations, numerous Decisions and Agreements on this issue were approved³⁹.

³⁷ Regulation (EC) No 81/2009 of the European Parliament and of the Council of 14 January 2009 amending Regulation (EC) No 562/2006 as regards the use of the Visa Information System (VIS) under the Schengen Borders Code, OJEU L 35/56, 4 February 2009.

³⁸ Council Regulation (EC) No 1104/2008 of 24 October 2008, on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II), OJEU L 299 of 8 November 2008, p. 1/8.

³⁹ Council Decision 2008/903/EC of 27 November 2008 on the full application of the provisions of the Schengen *acquis* in the Swiss Confederation, OJEU L 327 of 5 December 2008, p. 15/17.

Commission Decision 2008/333/EC of 4 March 2008 adopting the Sirene Manual and other implementing measures for the second generation Schengen Information System (SIS II) [notified under document number C(2008) 774], OJEU L 123 of 8 May 2008, p. 1/38.

Commission Decision 2008/334/EC of 4 March 2008 adopting the Sirene Manual and other implementing measures for the second generation Schengen Information System (SIS II), DO (sic) L 123 of 8 May 2008, p. 39/75.

Council Decision 2008/422/EC of 5 June 2008 on declassifying annex 4 of the Sirene Manual adopted by the Executive Committee established by article 132 of the Convention implementing the Schengen Agreement of 14 June 1985 (1990 Schengen Agreement), OJEU (sic) L 149 of 7 June 2008, p. 78/78.

Council Decision No 2008/839/JAI of 24 October 2008, on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II), OJEU L 299 of 8 November 2008, p. 43/49.

Council Decision 2008/859/EC of 04 November 2008 amending annex 3, part I, to the Common Consular Instructions on third-country nationals subject to airport visa requirements, OJEU (sic) L 303 of 14 November 08, p. 11/12.

Council Decision 2008/374/EC of 29 April 2008 amending annex 3, part I, to the Common Consular Instructions on third-country nationals subject to airport visa requirements, OJEU (sic) L 129 of 17 May 08, p. 46/47.

Agreement between the European Community and the Swiss Confederation on the criteria and mechanisms for establishing the Member State responsible for examining a request for asylum in a Member State or in Switzerland, OJEU (sic) L 53 of 28 January 2008, p. 5/17.

Commission Decision 2008/456/EC of 5 March 2008 laying down rules for the implementation of Decision No 574/2007/EC of the European Parliament and of the Council, establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme Solidarity and Management of Migration Flows as regards Member States' management and control systems, the rules for administrative and financial management and the eligibility of expenditure on projects co-financed by the Fund [notified under document number C(2008) 789], OJEU (sic) L 167 of 27 June 2008, p. 1/68.

Commission Decision 2008/457/EC of 5 March 2008 laying down rules for the implementation of Decision No 435/2007/EC of the European Parliament and of the Council establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme Solidarity and Management of Migration Flows as regards Member States' management and control systems, the rules for administrative and financial



3.2. Principal debates on immigration and asylum legislation in the European Union

The biggest debate on European immigration and asylum regulations has been that of Directive 2008/115/CE of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (Return Directive).

There was a social reaction against the Return Directive, expected to be approved in 2008, since it was considered in some areas to be a standard that may threaten fundamental rights⁴⁰. As has already been mentioned, the most widely criticised aspects of the Directive have been the consideration of 18 months as the maximum detention time for illegally staying immigrants and the length of time the repatriated individual is prohibited from returning to the European Union. Civil society, organisations and professionals who have opposed the text criticise the extension of these time limits, considering them disproportionate. Decreasing protection for illegally staying third-country nationals by reducing guarantees in the exercise of their rights has also been met with similar criticism.

management and the eligibility of expenditure on projects co-financed by the Fund [notified under document number C(2008) 795] OJEU (sic) L 167 of 27 June 2008, p. 69/134.

Commission Decision 2008/458/EC of 5 March 2008 laying down rules for the implementation of Decision No 575/2007/EC of the European Parliament and of the Council establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme Solidarity and Management of Migration Flows as regards Member States' management and control systems, the rules for administrative and financial management and the eligibility of expenditure on projects co-financed by the Fund [notified under document number C(2008) 796] OJEU (sic) L 167 of 27 June 2008, p. 135/200.

Commission Decision 2008/22/EC of 19 December 2007 laying down rules for the implementation of Decision No 573/2007/EC of the European Parliament and of the Council establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme Solidarity and Management of Migration Flows as regards Member States' management and control systems, the rules for administrative and financial management and the eligibility of expenditure on projects co-financed by the Fund [notified under document number C(2007) 6396] OJEU (sic) L 7 of 10 January 08, p. 1/68.

Commission Decision 2008/604/EC of 22 July 2008, on the appointment of members of the Group of Experts on Trafficking in Human Beings OJEU (sic) L 194 of 23 July 2008, p. 12/13.

⁴⁰ Some examples of these initiatives: <http://www.nodo50.org/atraie/spip.php?article312> (visited on 9 June 2009); <http://www.redasociativa.org/portal/modules.php?name=News&file=article&sid=2431> (visited on 9 June 2009); El Mundo, 12 June 2008, "Spanish advocacy against increasing retention of immigrants."

Annex. Methodology, terms and definitions

A.1. Methodology

This Report was compiled jointly by the members of the National Contact Point of the EMN on the basis of a draft prepared by the University Institute of Migration Studies (IEM) of the Universidad Pontificia Comillas in Madrid.

Various primary and secondary sources were used to write and research this Report, following an analysis in which the relevant topics to include were considered.

With regards to the former, primary sources, the Report includes data obtained from relevant competent public authorities, such as the Ministry of Labour and Immigration, as well as national and European legislation in force or in the process of being drafted. Statistical figures, specifically, were obtained from annual and quarterly reports of the Ministry of Labour and Immigration.

As regards secondary sources, information was gathered from the media, press releases of public offices, academic theory on the subject, websites and public authorities, immigrants' associations and organisations, and specialised institutions.

A.2. Terms and definitions

In 2008, Spain adopted measures of support for 'returnees' (Spanish nationals who emigrated and have now returned) and the term risks being confused with the concept recognised within the EU of return as being the departure of the immigrant to his/her country of origin or another country.





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