



EMN




Annual Policy Report 2009 for Poland

Prepared by: Polish National Contact Point to the European Migration Network

[December 2009]

The Ministry of Interior and Administration, acting as the coordinator of Polish National Contact Point to the European Migration Network (EMN) acknowledges funding from the European Community via the European Commission's Directorate General for Justice, Freedom and Security - Solidarity and Management of Migration Flows programme.

The EMN was established by Council Decision 2008/381/EC in order to provide up-to-date objective, reliable and comparable information on migration and asylum to Community institutions, Member States authorities and to general public, with a view to supporting policy-making in the EU.



Executive Summary

Developments relevant to the European Pact on Immigration and Asylum:

The European Pact on Immigration and Asylum adopted by the European Council of 15 – 16 October 2008 is further stepping-stone towards a comprehensive EU migration policy. In line with this document, Poland as a Member State of the EU, is strongly interested in organising legal immigration and encouraging integration, in controlling illegal immigration by ensuring that illegal immigrants return to their countries of origin or transit and in making border controls more effective. Moreover, Poland participates in construction of “a Europe of asylum” and in the efforts aiming at creation a comprehensive partnership with the countries of origin and of transit in order to encourage the synergy between migration and development.

Important element of legal migration system is visa policy realized by Ministry of Foreign Affairs. Visa policy, for Poland, should be strongly coherent with EU foreign policy initiatives oriented on Eastern direction, such as Eastern Partnership.

For last few years, as a period of fast economy growth in Poland, some branches of national economy noticed a need for work force – as one of number of solutions immigration of workers from non-EU countries were taken into account. As a general principle – a third country national may carry out work on the territory of the Republic of Poland if she/he was issued a work permit (on application of the employer) by the local authority, respective with regard to employer’s business premise. Among various exceptions from the necessity of holding a work permit by non-EEA nationals (outlined especially in the Act of 2004 on promotion of employment and labour market institutions – last amendment 2009 - and several ordinances of the Minister of Labour and Social Policy), one particular exemption concerns the citizens of neighbouring states (Ukraine, Belarus, Russian Federation) and Moldova (based on mobility partnership) – countries of higher priority for Polish foreign and neighbourhood policy.

Moreover amendment of Act on promotion of employment and labour market institutions introduced changes related to penalty of illegal employment of foreigners.

In February 2009 Inter-ministerial Committee for Migration, an advisory body to the Prime Minister consisted of high officials representing main migration stakeholders took decision on appointing the Working Group for developing Migration Strategy of Poland. Its work should result in elaboration of the proposals including the description of the legal, factual and institutional situation in the area of migration, foundations of the state migration policy, short- and long-term activities as well as monitoring of this policy implementation.

During the reported period foreign workers did not present mass or explicit interest for longer stay or settlement in the Republic of Poland. Their expectations were fulfilled in the frame of existing system of legalization of stay – the residence permit for fixed period or the permit to settle. Nevertheless, Poland introduced some relevant changes into national law.

Additionally to already existing Individual Integration Programme (IIP) of recognised refugees, since middle 2008, by the legislation change, assistance granted to refugees was expanded also to foreigners enjoying the subsidiary protection. Within the Programme foreigners (and their family members) are granted with the 12-months long assistance. Every year the number of persons covered with the IIP grows significantly, similarly as the number of persons granted international protection in Poland. Extending the possibility to participate in the Programme for new category of foreigners caused in increasing number of

beneficiaries. Moreover according to amendments to the Act on the educational system, refugees and their family members are covered with free of charge education till the level of secondary schools, system of permissions for stay for study was expanded, and now foreigners have more possibilities to improve their Polish language skills.

It is worth mentioning that amendment to the Act on aliens introduced some changes facilitating family reunification, mainly for families with children.

As it was mentioned above, Poland considers proper visa policy as a first step to efficient combating illegal immigration. Properly implemented principles of common Integrated Border Management (IBM) are the key element of preventing illegal migration flows towards and within the EU. Effective co-operation with neighbouring third countries is extremely important in protection of the external EU border. Successful fight against illegal migration on the EU/Schengen territory requires effective co-operation among EU MS appropriate border, police and immigration services.

With aim to upgrade border management and strengthen immigration system in Poland a new Border Guard strategy (“Border Guard Development Strategy for years 2009-2015”, accepted by the Ministry of Interior and Administration in September 2009) was elaborated in 2009. According to this strategy Border Guard is the major state service, responsible for EU external border protection and immigration controls at the territory of Poland. In the context of combating illegal migration amendments to the appropriate provisions were made, since January 2009 the Border Guards may conduct the controls of the legality of foreigners’ employment on the whole territory of Poland. Nevertheless, the National Labour Inspection remains the main body coordinating the activities in this respect.

“The Integrated Strategy of Border Management for years 2007-2013” was amended by the Ministry of Interior and Administration. Amendments were made on the basis of experiences, gathered by Polish authorities after Schengen enlargement in December 2007.

“The National Programme for Combating and Preventing Trafficking in Human Beings” is implemented for 2006-2013 (coordination role of the Ministry of Interior and Administration). Moreover, the Border Guard, Police and other relevant national authorities participate in projects on combating trafficking in human beings and protection of victims of trafficking (as well as other linked to illegal migration phenomena as: humans trafficking, prostitution, pedophilia and child pornography) addressed to foreign authorities in non-EU neighbouring countries.

Procedure of introduction of additional changes to the Penal Code related to trafficking in human beings is at the advanced stage.

Due to accession of Poland to the Schengen zone necessary adjustments of Polish legislation to the EU regulations were made, what helps to manage better the control on land and sea border and moreover successfully limits scale of trafficking of human beings and illegal immigration.

Currently UE “Integrated Border Management Programme” for 2007-2013 is implemented for provision of national security (Ministry of Interior and Administration). Border Guard plays active role in international activities of FRONTEX Agency, in this respect exchange of information and supporting actions within the RABIT group should be stressed.

Cooperation with countries listed in documents of Global Approach to Migration to Eastern and South-Eastern regions neighbouring EU is the priority of Poland. Nevertheless Poland is interested in supporting the GAM concept to all important for whole Community regions and countries.

Considering a need for wider approach to migration Poland takes active part in activities targeted on beneficiaries from countries of that region, e. g. project Building Migration Partnerships addressed to countries of the CIS countries, projects on border management system and country of origin information gathering addressed to Caucasian region. Polish authorities are involved in implementation of such vital GAM instruments as mobility partnerships (with Moldova), migration missions (Belarus), gathering of information for migration profiles (Caucasian region and CIS). Poland is interested in application of GAM instruments relevant to other third countries.

Developments additional or complementary to the Pact.

In 2009 there were no significant changes at governmental level, except an appointment of a new Minister of Interior and Administration. General structure of political and legal system in Poland remains unchanged. Nevertheless, during reference period, the main “actors” are strongly engaged in preparatory works on two new documents – Act on foreigners, better tailored to specific needs of various group of foreigners, and Migration Strategy of Poland laying down a foundation of the state migration policy.

The most surprising phenomenon, within rather stable pattern of immigration to Poland, was a sharp increase of asylum applications submitted by nationals of Georgia, especially during summer months.

1. General structure of political and legal system in Poland

1.1 General structure of the political system and institutional context relevant for migration and asylum, with particular emphasis on any developments in 2009. What are the main Ministries/institutions? Who are the main actors involved?

Polish migration policy - Political framework:

Sejm and Senat (chambers of the Parliament) constitute the legislative power in Poland, also in the case of adopting acts concerning the migration issues. The members of Parliament (elected to Sejm), Senators, the President of the Republic of Poland and the Council of Ministers as well as the group of at least 100,000 citizens with right to vote in elections to Sejm are eligible to motion the legislative initiative.

In the area related to migrations the President of the Republic of Poland grants the Polish citizenship and expresses his consent to renounce thereof.

In the context of executive power, the migration policies are implemented both at the central as well as regional level and belong to the competence of the Council of Minister and appropriate Ministries (Ministers issue i.a. the executive acts to legislation regulating the migration issues), specialized institutions and services. Migration policies constitute an important area of work of the local and self-governance administration (in the scope of e.g. shaping regional policies, creating conditions for repatriation and re-emigration, legalisation of the residence and employment of foreigners as well as integration of foreigners). The distribution of competence is multilevel and constitutes the basis for a coherent national migration system.

The following actors constitute the ‘core’ of the institutional framework with regard to migration and asylum in Poland: the Ministry of Interior and Administration with two authorities supervised by the Minister of Interior and Administration: the Head of the Office

for Foreigners and the Border Guards; the Ministry of Labour and Social Policy; the National Labour Inspectorate; the Ministry of Foreign Affairs supervising Polish diplomatic and consular posts; the Refugee Board; 16 voivods' (local governmental representatives) office and administrative courts (16 Voivodship Administrative Courts and the Supreme Administrative Court). Important role is also played by the interministerial Committee for Migration, set up as the advisory body to the Prime Minister.

1.2 Outline briefly the general structure of the legal system in the area of migration and asylum. Which are the relevant laws? On which levels are decisions made? Who are the main actors involved?

The main legal acts regulating migration and asylum matters in Poland are:

- Polish Constitution of 2 April 1997¹
- Act of 13 June 2003 on foreigners² (entry, admission, residence, return and registers of foreigners);
- Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland³ (granting international and national protection statuses);

And also:

- Act of 9 November 2000 on Repatriation⁴;
- Act of 7 September 2007 on Card of the Pole⁵;
- Act of 15 February 1962 on Citizenship⁶;
- Act of 20 April 2004 on promotion of employment and labour market institutions⁷;
- Acts on particular sectors (social assistance, education, etc.);
- Binding international instruments and *acquis communautaire*⁸

In general, the entry (border crossing) phase of migration to Poland is controlled by the Border Guards, both in asylum and migration contexts. In order to be admitted on Polish territory, third-country nationals need to be in possession of a valid visa, issued, as a general principle, by Polish consuls abroad. Asylum applications are examined by the Head of the Office for Foreigners – as the I instance and the Refugee Board as the II instance. Applications for legal residence of foreigners in Poland, as well as conditions for issuing a work permit (when necessary) to a foreigner, are examined by the voivods at local level. As for the returns, several institutions might be involved, depending on the type of return (voluntary – Border Guards, Head of the Office for Foreigners, IOM –International

¹ Journal of Laws 1997, No 78, item 483, with further amendments (OJ dated 2006.200.1471)

[<http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>];

² Journal of Laws 2006, No 234, item 1694, with further amendments (Dz.U.2007.120.818, Dz.U.2007.165.1170, Dz.U.2008.70.416, Dz.U.2008.180.1112, Dz.U.2008.216.1367, Dz. U. 2008.227.1505, Dz. U. 2008.234.1570, Dz. U. 2009.6.33, Dz.U.2009.31.206, Dz.U.2009.95.790);

³ Journal of Laws 2006, No 234, item. 1695, with further amendments (Dz.U.2007.120.818, Dz.U.2008.70.416, Dz.U.2008.216.1367; Dz.U.2009.95.790);

⁴ Journal of Laws 2004, No 53, item 532, with further amendments (Dz.U.2005.94.788, Dz.U.2006.249.1828, Dz.U.2007.120.818, Dz.U.2008.70.416, Dz.U.2008.216.1367);

⁵ Journal of Laws 2007, No 180, item 1280, with further amendment (Dz.U.2008.216.1367);

The Card of the Pole is a document stating adherence to the Polish Nation. The granting of the Card of the Pole does not entitle to automatic acquisition of the Polish citizenship, obtaining legal right to settle-down on the territory of the Republic of Poland or crossing the Polish border without a valid visa.

⁶ Journal of Laws 2000, No 28 item 353, with further amendment (Dz.U.2007.120.818);

⁷ Journal of Laws 2008, No 69, item 415, with further amendments;

⁸ See: N-Lex portal – a common gateway to national law – <http://eur-lex.europa.eu/n-lex/pays.html?lang=en> ;

Organization for Migration – Warsaw Bureau; obligatory – Border Guards, Police; expulsion decisions – primarily voivod and the Head of the Office for Foreigners).

The system adopted in Poland is interrelated, both in the legislative and institutional spheres, with other policies, above all those related to: labour market policy, integration policy, education policy, demographic policy as well as internal security and public order. The interministerial Committee for Migration plays an important role in coordination of activities undertaken by ministers in the field of migration policy.

The main actors, involved in the area of migration and asylum are:

Ministry of Interior and Administration (www.mswia.gov.pl): Minister of Interior and Administration managing the ‘interior’ section is the minister competent i.a. with respect to⁹:

- protection of state borders,
- supervision of the border traffic and foreigners,
- coordination of all activities related to the state migration policy,
- issues of citizenship and issues of repatriation¹⁰.

As a consequence the Minister of Interior and Administration supervises the activities of:

- Border Guards (described below);
- Head of the Office for Foreigners (described below);
- Police and the National Centre for Criminal Information¹¹.

The issues related to the coordination of activities within the state migration policy belonging to the competence of the Minister of Interior and Administration (including development and presentation of the guidelines of the state migration policy to the Council of Ministers; gathering information and analysing the migration situation in the country; initiating, analysing and issuing opinions on the normative acts as well as other documents related to the migration policy of the state; coordination of the domestic and international cooperation in the area of migration policy etc.) are carried out by the MIA’s Migration Policy Department.

Moreover, the Ministry of Interior and Administration is responsible for implementing the policy for counteracting trafficking in human beings. The Undersecretary of State in the Ministry of Interior and Administration is the Chair of the interministerial Committee for Combating and Preventing Trafficking in Human Beings (an advisory and consultative body to the Prime Minister) composed of the representatives of the state administration institutions as well as the invited non-governmental organizations. The Committee assesses the implementation of the documents constituting the schedules of actions undertaken by the designated institutions. Monitoring of the works related to the implementation of tasks defined in these documents and their development for the years to come is within the competence of the Unit for Trafficking in Human Beings of the MIA’s Migration Policy Department. The issues related to Polish naturalisation policy (excluding those reserved for other authorities e.g. the President of the Republic of Poland) as well as policy towards repatriation of foreigners of Polish origin belong to the MIA’s Department for Citizenship and Repatriation.

⁹ According to art. Art. 29. para 1. point 2 and para 4 of the act of 4 September 1997 on the governmental administration division (Journal of Laws 1999, No 82, item 928, with amendments);

¹⁰ According to Polish legal framework the term “repatriation” has different meaning than term defined in the EMN Glossary & Thesaurus. See point A 1.2 “Terms and definition”.

¹¹ The Police controls e.g. the legality of the foreigner’s residence on the territory of the Republic of Poland, submit the motions to issue the decision on expulsion, on withdrawal of the decision on settlement, on long-term residence of the EC resident, issue decisions imposing on the foreigner the obligation to leave the territory of the Republic of Poland (see section ‘Return’)

In October 2009 a change at the Minister of Interior and Administration position took place. Since 14th October 2009 Mr Jerzy Miller is the new Minister.

The organs supervised by the Minister of Interior and Administration:

a) **Office for Foreigners – UdSC** (www.udsc.gov.pl): The Head of the Office for Foreigners (hereinafter referred to as the Head of the Office) is the central governmental authority competent with regard to, *inter alia*:

- Admission, transit, residence and departure of foreigners from the territory of Poland. The Head of the Office coordinates, as a higher instance organ, the activities related to residence of foreigners carried out by the **voivods** (governors of 16 provinces, the I instance in residence and expulsion proceedings). In case of the appeals against the decisions of voivods issued in these fields, the Head of the Office acts as the II instance authority (key unit within the Office: Department for Legalization of Stay and Foreigner's Register);
- Granting and withdrawing refugee and subsidiary protection status, tolerated stay status (national protection measure) and national asylum status. All determination procedures are carried out in the Office [I instance]), including cooperation under Dublin II Regulation¹² (key unit: Department for Refugee and Asylum Proceedings);
- Organization and management of reception centres for asylum seekers (key unit: Bureau for Organization of Centres for Foreigners Applying for the Refugee Status);
- Management of the central information system on foreigners 'POBYT' ['Residence'], which contains data on procedures undertaken in relation to foreigners, with regard to: refugee proceedings; residence proceedings (including the register of foreigners whose residence on the territory of the Republic of Poland is undesirable – further called the 'Register', and return / expulsions proceedings in Poland. On this basis, the Head of the Office serves also as a Central Visa Authority in the framework of the Schengen cooperation (key unit: IT and Foreigners Registers Bureau and Department for Legalization of Stay and Foreigners' Register in relation CVA activity).

In September 2009 a new reception centre for foreigners applying for refugee status has been created in Biała Podlaska, near the Terespol crossing point on the border with Ukraine.

b) **Border Guards** (www.strazgraniczna.pl) has very broad competences in the area of migration and asylum procedures in Poland. In particular with regard to migration phases in question, these competences refer to:

Entry / Admission: Control of the legality of entry at the borders and issuing appropriate decisions (refusal of entry, defining the stay period, issuing visas in specific cases, annulment of visa, etc.), in the international protection procedures - receiving and initial checking of the refugee status applications;

Residence: Carrying out control over legality of the foreigners' stay in the whole territory of the Republic of Poland and counteracting illegal migration – in cooperation with the Police, Customs Offices, the Office for Foreigners, voivods and non-governmental organizations as well as the control over legality of the foreigners' employment within the territory of Poland – in cooperation with the National Labour Inspectorate (www.pip.gov.pl);

¹²Council Regulation 343/2003/EC of 18 February 2003 establishing the criteria and mechanisms for determining the member state responsible for examining an asylum application lodged in one of the member states by a third-country national (Official Journal L 50 of 25 February 2003);

Return: Initiating proceedings and/or enforcing decisions related to the foreigner's return, expulsion of foreigners (including convoying tasks), issuing decisions imposing on the foreigner the obligation to leave the territory of Poland¹³.

Ministry of Labour and Social Policy – MPiPS (www.mpips.gov.pl) has its statutory competency in the field of labour, family and social security. Respectively, MPiPS covers the field of labour migration to Poland and access of foreign workers to Polish labour market, including co-creation of strategies and policies to attract foreign labour force. Moreover, the Minister of Labour and Social Policy acts as the second instance authority in procedures related to issuing work permits for foreigners (with voivods as the first instance). In addition, the Ministry is responsible for the integration of foreigners in Poland, including coordination of assistance provided within the framework of annual integration programmes (implemented as a social security task) targeting recognised refugees and persons granted subsidiary protection. The aforementioned tasks are currently carried out by 2 departments of the MPiPS: Department for Social Assistance and Integration and Department for Labour Market.

National Labour Inspectorate – PIP (www.pip.gov.pl) - is an authority established to execute supervision and inspection of the labour law observance. It is subordinate to Sejm (chamber of the Parliament). National Labour Inspectorate's supervision and inspection covers all employers and entrepreneurs, who are not employers, but who have natural persons performing work for their benefit, irrespective of the grounds of performing such work. From 1st July 2007 National Labour Inspectorate's supervision also covers persons conducting economic activity on their own account (the so-called self-employed). By virtue of the Act of 13 April 2007, the scope of National Labour Inspectorate's activity was extended by issues related to inspection of employment legality and performance of work by foreigners.

Ministry of Foreign Affairs - MFA (www.msz.gov.pl): the Minister of Foreign Affairs supervises the work of Polish diplomatic and consular posts, i.a. in the area of issuing visa and implementing visa policy¹⁴. Consuls are also competent with respect to accepting applications for granting the residence permit for a fixed period submitted by foreigners residing outside the territory of the Republic of Poland and transmitting them to proper voivods for examination. While processing the visa application the consul is obliged to verify the foreigner's data in the national and international information systems (SIS), and in cases when it is obligatory or necessary in the consul's opinion, conducts so called visa consultations (in the country and abroad)¹⁵. MFA runs a database of the visa applications submitted to the Polish consular offices, decisions issued on them as well as visas granted – which constitutes the Central Consular Visa Registry in Poland. The Minister of Foreign Affairs also carries

¹³ The issues in the competence of the Commander – in – Chief of the Border Guards, resulting from international agreements and community law of the UE in the area of migration/asylum policy are implemented by the Board for Foreigners of the Border Guards Headquarters; migration and asylum analysis are carried out by the Border Guards Headquarters;

¹⁴ Including: preparation (in coordination with other Ministries) of bilateral agreements on the exemption from the visa obligation for holders of the diplomatic and service passports as well as establishing the amount of consular fees, including visa fees. When Poland acceded to the Schengen zone and started to apply all provisions of the Schengen acquis these competences in relation to uniform visa were limited by the EU decisions which specify uniform fee for issuing uniform visa ('Schengen visa'), that all EU Member States should apply.

¹⁵ In Poland the tasks of the Central Visa Authority carrying out international and national visa consultations are fulfilled by the Head of the Office for Foreigners.

out, through consuls, activities for strengthening the ties between Polonia abroad and Poland, including tasks originating from the Act of 7 September 2007 on the Card of the Pole¹⁶.

Refugee Board (<http://www.rada-ds-uchodzcow.gov.pl>) functions as the second instance authority in the refugee status proceedings. The Board examines the appeals from decisions and complaints against the rulings rendered by the Head of the Office and is a competent organ for reopening the proceedings, reversal, change or declaring invalidity of the decisions or rulings issued by the head of the Office. The Board is composed of 12 members appointed by the Prime Minister for a five-year term of office from amongst people with outstanding knowledge and/or practical experience in the refugee-related issues¹⁷. The administrative and office service of the Board is provided by the Chancellery of the Prime Minister. The Councils' decisions may be complaint against to the appropriate Voivodship Administrative Court and the revocation complaint against the judgement of the Voivodship Administrative Court may be lodged to the Supreme Administrative Court (www.nsa.gov.pl);

The **Voivods** are the first instance authority in the administrative proceedings related to foreigners as far as legalisation of their stay and work permits are concerned. Additionally, the voivods carry out the tasks related to the procedures related to the Polish citizenship, if they were not reserved for other organs – first of all for the President of the Republic of Poland. The voivod competent with respect to the place of residence of the foreigner or the place of disclosure of the appropriate fact or event¹⁸ also issues the decision on the expulsion of the foreigner from the territory of the Republic of Poland. The voivod also issues decisions on imposing penalty on the carrier who brought into the territory of the Republic of Poland the foreigners who do not comply with the entry conditions.

The **Inter-ministerial Committee for Migration** acts as a subsidiary organ (consultative and advisory) to the Prime Minister¹⁹. The Committee is chaired by the Minister of Interior and Administration. The results of the works of the Committee are notified to the Prime Minister who may decide on presenting them to the Council of Ministers. The tasks of the Committee for Migration Policy include:

¹⁶Journal of Laws 2007, No 180, item 1280, with amendments (Dz.U.08.216.1367). Holding the Card of the Pole – the document confirming belonging to the Polish Nation – authorises to:

- granting long-term residence visa free of charge, authorising to crossing the borders of the Republic of Poland;
- undertaking employment on the territory of Republic of Poland without work permit obligations;
- benefiting from the education system free of charge;
- carrying out economic activity in Poland on the same conditions as Polish citizens;
- benefiting from free medical services in emergencies;
- exemption from payments for visiting state museums;
- priority treatment in applying for financial means from the state budget or from the local government budgets allocated for supporting the Poles abroad.

¹⁷ The Prime Minister appoints to the Board 4 persons from among candidates presented by the minister competent with respect to foreign affairs and the Minister of Justice – each of ministers presents 8 candidates (in justified cases the composition of the Board may be broadened). The Board takes decisions in 3-member composition, apart from the manifestly unfounded applications (1-member composition);

¹⁸ *Ex officio* or on the motion from the Minister of National Defense, Head of the Internal Security Agency, Head of the Foreign Intelligence Agency, Commander-in-Chief of the Border Guards, Commander-in-Chief of the Police, Commander of the Border Guards division, Voivodship Commander of the Police, Commander of the Border Guards division or the Customs Service organ;

¹⁹ Another advisory organ to the Prime Minister - Governmental Population Council – is also important in migration context due to its tasks related to demography and population policy, including forecasting the demographic development of the country;

- initiating the directions of the legislative and institutional changes in migration-related issues and recommending them to the Council of Ministers in order to adopt the Council's position;
- development of proposals related to modification of the competences in the area of migration;
- issuing opinions on multiannual and annual national programmes of the European Fund for the Integration of Third Countries Nationals;
- proposing the directions of activities in the area of the foreigners integration in Poland;
- exchange of information as well as monitoring of works conducted in the EU in the area of migration;
- cooperation with state and self-government administration organs as well as non-governmental organisations in the field of migration.

The Committee is composed of the Secretaries or Undersecretaries of State representing the Ministry of Interior and Administration, Ministry of Labour and Social Policy, Ministry of Foreign Affairs, Ministry of Economy, Ministry of Finance, Ministry of Culture and National Heritage, Ministry of National Education, Ministry of Regional Development, Ministry of Health as well as the President of the Central Statistical Office²⁰, Head of the Office for Foreigners, Chief of the Internal Security Agency, Chief Commanders of: the Police and Border Guards as well as the representatives of the Chancellery of the Prime Minister on the level of Secretary of Undersecretary of State and the Secretary of the European Integration Committee. Additionally, the representatives of the non-governmental organizations or academic circles may be invited to the sessions of the Committee. The substantive and technical service to the Committee is provided by the Migration Policy Department of the Ministry of Interior and Administration²¹.

2. Political; Policy and Legislative; and Institutional Developments

2.1 Outline the general political developments during the reference period, e.g. elections on regional or national levels, government changes/reshuffles, appointment of new Ministers responsible for asylum, migration and/or integration.

²⁰ **Central Statistical Office** (Department of Demographic Studies, Migration Studies Division) gathers and analyses statistics in the area of migration both internal mobility within the country and international migration, i.e. the departures of the Polish citizens from Poland as well as entries of the foreigners into Poland – acts as one of the official national data provider to EUROSTAT (www.stat.gov.pl);

²¹ The following working groups operate within the Committee:

- Working group on economic immigration
- Working group on economic migration from Poland
- Working group on combating illegal immigration
- Working group on integration of foreigners
- Working group on gathering and exchange of statistical data
- Working group on re-emigration
- Working group on resettlement
- Working group on elaboration of Migration Strategy of Poland.

In the reference period there were not any elections at regional or national levels. However, the election for the European Parliament has caused some changes in the leading parties composition and some reshuffles in regional authorities but without any influence on the migration and asylum matters.

Independently from above mentioned reason, in 2009 the new Minister of Interior and Administration has been appointed. From 14th October 2009 Mr Jerzy Miller has replaced Mr Grzegorz Schetyna on this office.

2.2 Provide a general overview of the main policy and/or legislative debates that have occurred on migration and asylum issues during 2009. This section is intended to provide the general context in which to place the specific developments detailed in the next section. This could include parliamentary debates, contributions from civil society and/or migrant organisations and/or academia, plus debates undertaken within published media (e.g. newspapers). Examples of what could be included here are the publication (and subsequent debate) of proposals to amend current asylum/migration legislation; the entry into force of new legislation in 2009 and any immediate impact this has had; actions by migrant (support) groups (e.g. hunger strikes). For those Member States who held the Presidency of the EU during 2009 (Czech Republic, Sweden) provide an overview of the main developments and achievements. Do not focus too much on specific topics as this can be covered in the following sections.

In 2009 consultations on possible new act on Aliens have been launched by the Minister of Interior and Administration. The various “actors” acting in the field of migration and asylum, e.g. governmental institutions, research institutes, non-governmental organisations and migrants associations have been requested for their opinions on the existing provisions which should be improved or developed and for their proposals on new regulations concerning specified needs of various groups of foreigners.

The topics raised include inter alia:

- admission conditions;
- procedures related to legalization of stay of some categories of foreigners, e.g. unaccompanied minors, family members and other groups of particular needs;
- conditions for granting residence permits and its terms of validity, possible introduction of diversification related to some categories of foreigners;
- possible introduction of additional information into a residence card, e.g. on the purpose of stay in Poland or/and title for performance of work;
- connections between an issuance of long-term residence permit and a level of foreigner’s integration with Polish society (knowledge of language, culture, etc);
- possible regularization for those foreigners who stay in Poland illegally.

Works on a new act will be continued in 2010.

Topics the most often raised in the media have touched the problems faced by the foreigners (mainly Chechen origin) applying for the refugee status in Poland. What should be underlined, the articles published in the newspapers have mainly concerned individual cases and were connected with the length of awaiting for the ending of refugee status procedures and the living conditions in the reception centres.

The most visible and well prepared action undertaken mainly by the foreigners applying for refugee status was conducted in December 2009, when a group of 158 foreigners of Russian and Georgian nationalities tried to leave Poland illegally and occupied a train servicing between Wrocław (Poland) and Drezno (Germany). The declared aim of this protest was to travel to Strasbourg in order to make complaint against the Polish authorities with regard to the length of the refugee procedure, negative decisions as well as reception conditions. However circumstances of departure indicated that a number of asylum seekers participating in this action had the intention to leave Poland permanently. After negotiations carried out by the Border Guards, the foreigners were turned back to the accommodation or detention centres, depending on their legal status in Poland.

2.3 Describe (if applicable) Institutional developments that have occurred in 2009, such as any new Ministries, institutions, organisations, agencies or other actors established to deal with migration, asylum, refugee protection or integration issues in the Member States. If there have been none, then it is not necessary to complete this sub-section.

In 2009 the working groups operating within the Inter-ministerial Committee for Migration have carried on their activities. In February 2009 the Committee took decision on appointing the Working Group for developing Migration Strategy of Poland. Its work should result in elaboration of the proposals including the description of the legal, factual and institutional situation in the area of migration, foundations of the state migration policy, short- and long-term activities as well as monitoring of this policy implementation.

With aim to upgrade border management and strengthen immigration system in Poland a new Border Guard strategy ("Border Guard Development Strategy for years 2009-2015", accepted by the Ministry of Interior and Administration in September 2009) was elaborated in 2009. According to this strategy Border Guard is the major state service, responsible for EU external border protection and immigration controls at the territory of Poland. Moreover, in the context of combating illegal migration amendments to the appropriate provisions were made, since January 2009 the Border Guards may conduct the controls of the legality of foreigners' employment on the whole territory of Poland. Nevertheless, the National Labour Inspection remains the main body coordinating the activities in this respect.

Referring to asylum issue, it should be noted that on 14th September 2009 a new reception centre for foreigners applying for refugee status has been established in Biała Podlaska, a town near the border with Ukraine. In new reception centre, located near Terespol crossing border point, about 200 foreigners can be accommodated.

3. Specific developments in asylum and migration

Whilst it is often the case that legislation follows policy proposals, the two are, of course, very much interlinked. Therefore, for each topic listed below, provide (when there have been developments) details of both the policy and legislative developments, as well as debates in the media and/or by civil society, which have occurred during 2009. Legislative developments include changes in, for example, the constitutional law, case law, court decisions, relevant decrees. In describing these developments, please briefly summarise the status quo before the new law, regulation, etc. entered into force. For the Pact's sections, also include concrete actions or measures which might be relevant (for example, the opening of a centre of information on immigration).

When providing information for the Pact's section, it is important to emphasize that the content should be as concise as possible. Moreover, each commitment in relation to the Pact should be addressed, as the EMN's contribution shall be the only source of objective information at Member State level for the elements it deals with (independently from the Member States' political contributions). If there has been no significant development then explicitly state it in the relevant section.

3.1 Control and Monitoring of Immigration

3.1.1 European Pact on Immigration and Asylum

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

II(c) ensure that risks of irregular migration are prevented

Question of reduction of risk caused by irregular migration was one of the general principles in Polish law. The mechanisms adopted before the reference period seems to be implemented in a proper way, allowing for decreasing the risk of irregular migration.

In 2009 a new Border Guard strategy ("Border Guard Development Strategy for years 2009-2015", accepted by the Ministry of Interior and Administration in September 2009) was elaborated. According to this strategy Border Guard is the major state service, responsible for EU external border protection and immigration controls at the territory of Poland. In the context of combating illegal migration amendments to the appropriate provisions were made, since January 2009 the Border Guards may conduct the controls of the legality of foreigners' employment on the whole territory of Poland.

II(h) an Expulsion Decision taken by one Member State (MS) should be applicable throughout the EU and entered into the SIS/ implementation of Directive 2001/40/EC

Implementation of Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals has been completed by the amendment to the Act of 13 June 2003 on Foreigners. This amendment came into force from the 1st January 2009.

Polish authorities in co-operation with other EU MS apply Community law on expulsion of non-EU citizens as well as on consequences of alerts entered in the Schengen Information System for the purposes of refusing entry.

From 1st January 2009 – 13th December 2009, 2.082 foreigners were issued decision on

expulsion and 5.913 foreigners were issued decisions on obligation to leave the territory of Republic of Poland. The most important nationalities were:

Expulsion		Obligation to leave the territory of Republic of Poland	
Ukraine	768	Ukraine	4209
Russian Federation	259	Russian Federation	647
Viet Nam	212	Belarus	407
Georgia	114	Moldova	120
others	729	others	530
Total	2 082	Total	5 913

III(a) more effective control of the external land, sea and air borders:

Polish Border Guard takes active part in activities undertaken by FRONTEX Agency – especially in information exchange and those conducted by the RABIT Group.

Moreover, Border Guard is part of Community action projects (co-financed from External Borders Fund) oriented on improvement of effectiveness of border control related to VIS and entry-exit system.

Poland will continue with submission of projects co-financed under External Borders Fund, mainly for: modernization of border infrastructure (facilities, IT, means of transportation), equipment for consular and local authorities offices, improvement of effectiveness of border and legalization of stay procedure, trainings and workshops for staff.

III(b) generalise the issue of biometric visas, improve cooperation between MSs' consulates and set up joint consular services for visas:

Due to current changes provided to VIS central system interface Polish national VIS system is not connected to test version. National test of VIS will be conducted in 2010, after conclusion of central system tests and EC presentation of global works schedule.

Poland has successfully conducted VIS Mail tests. Last phase, applicability tests are planned for January 2010.

Poland will take part in VIS pilot project (with Hungary and Slovenia), to be carried out in Polish consular offices in Turkey and Thailand. Start of pilot project will be able after VIS operational start. Second phase of VIS Mail implementation is planned for I part of 2011.

Poland cooperates on common visa practice with EU MS (participates in Visa Committee and VIS Group). Poland is analysing possibility of further cooperation on visas issuance with other EU MS.

Agreements with other EU MS on Schengen visas issuance by Polish consular offices (Kaliningrad-Russian Federation, Grodno-Belarus) are planned.

Poland is considering cooperation with EU MS on visas issuance in African countries, where Poland does not have its diplomatic representation.

Moreover, Poland is considering cooperation in scope of Common Visa Centres.

III(d) solidarity with MS subjected to disproportionate influxes of immigrants

Poland supports preparation of Community resettlement and relocation programmes and upholds its position of Member States' voluntary participation in such programmes.

Poland decided to participate in Pilot Project for Intra-EU re-allocation from Malta, which will be implemented in 2010. Within the Project Poland will admit on its territory a group of beneficiaries of international protection from Malta.

III(e) deploy modern technological means for border control:

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

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3.1.2 Additional/Complementary developments

This should include any other developments in respect to the control and monitoring of immigration not covered by the Pact's objectives above.

According to the data of the Ministry of Foreign Affairs, examinations of the visa applications submitted by nationals of certain Asian countries: Viet Nam, China, Pakistan, India, Sri Lanka, Bangladesh and Nepal, indicated at the risk of a visa abuse and attempts of illegal migration to Poland. For this reason, there is a high level of visa refusals (reaching c.a. 30%) in the consular posts established in the countries of "high migration risk". Considerably lower level of visa refusals (less than 1%) is observed in the consular posts located in the Eastern neighbouring countries.

3.2 Refugee Protection and Asylum

3.2.1 European Pact on Immigration and Asylum

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

IV(c) solidarity with MS which are faced with specific and disproportionate pressures on their national asylum systems

Poland currently doesn't participate in programme related to resettlement of refugees. Preparation of amendments to national legislation which will make resettlement of recognized refugees possible is considered.

Poland joined project related to reallocation of group of refugees from Malta in 2010 (*see point. 3.1.1, commitment III (d)*).

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

Polish Border Guard and United Nation High Commissioner for Refugees signed in October 2009 agreement on co-operation and co-ordination of both institutions activities on access to procedure of granting international protection in Poland.

3.2.2 Additional/Complementary developments

This should include any other developments in respect to the refugee protection and asylum not covered by the Pact's objectives above.

The structure of origin of asylum-seekers in Poland has significantly changed in 2009 in comparison with the trends observed during the previous years, when the main country of origin of applicants in Poland was the Russian Federation (over 90% of all applicants) and within this group, vast majority declared Chechen nationality.

Between 1 January 2009 – 13 December 2009, foreigners submitted 10.017 applications for granting the refugee status in Poland – 5.258 applications (52,5% of all asylum applications) have been submitted by nationals of the Russian Federation, but in 4.144 cases (41,4%) asylum applications have been submitted by nationals of Georgia.

It's worth mentioning that a sharp increase in the number of applications submitted by Georgians was observed between April and September 2009 with the peak in July and August.

Months	Asylum applicants from Georgia
January	1
February	1
March	6
April	56
May	94
June	849
July	1038
August	1370
September	318
October	205
November	143
1-13 December	63
Total	4144

Source: The Office for Foreigners

In addition to this two leading groups of foreigners, among asylum seekers in referred period were the nationals of Armenia – 141 (1,4%), Viet Nam – 64 (0,6%), Ukraine - 35 (0,3%), Belarus – 33 (0,3%), Nigeria – 23 (0,2%), Iraq – 21 (0,2%), Uzbekistan – 19 (0,2%), Mongolia, Nepal, Kyrgyzstan, Turkey, Sri Lanka.

As for decisions, in the above mentioned part of 2009, the Head of the Office for Foreigners issued 2 992 positive decisions: 127 positive decisions granting the refugee status (98 of them for nationals of Russian Federation, 20 – Belarus, none for nationals of Georgia), 2 295 positive decisions granting the subsidiary protection mostly for the nationals of Russian Federation – 2.241 decisions, 21 decisions for nationals of Iraq, 16 – Sri Lanka and again

none for the nationals of Georgia) and 65 positive decisions granting the status of ‘tolerated stay’ (national protection status): 46 for Russians.

Referring to rejected applicants for refugee status, the number of negative decisions issued by the Head of the Office for Foreigners has amounted 3.867 – in 2.069 cases for nationals of Russian Federation, 1.392 – Georgia, 63 – Viet Nam, 54 – Armenia, 28 – Ukraine, 25 – Belarus, 19 – Mongolia, 18 – Turkey, 17 – Pakistan, 17 – India, 13 – Nigeria.

It’s worth mentioning that most procedures for granting the refugee status has been discontinued or applications have not been examined due to the fact that the applicants did not follow further procedures or had left Poland before the procedure completed. The number of this kind decisions aggregated 8.482 – when 5.672 decisions concerned nationals of Russian Federation, 2.476 – Georgia, 62 – Armenia, 23 – Uzbekistan, 22 – Sri Lanka, 22 – Iraq, 20 – Belarus, 13 – Azerbaijan, 12 – Ukraine, 11 – India, 10 – Algeria.

3.3 Unaccompanied Minors (and other vulnerable groups)

3.3.1 European Pact on Immigration and Asylum

No explicit mention is made in the objectives of the Pact on this aspect and, therefore, no information is provided here.

3.3.2 Additional/Complementary developments

This should include developments in respect to unaccompanied minors.

On 16th April 2009 the Ombudsman for Children, in cooperation with the International Organisation for Migration (Bureau in Warsaw) organized a national conference “Reception, protection and treatment of unaccompanied minors”. The conference was attended by representatives of government institutions, *inter alia*: Ministry of Labour and Social Policy, Ministry of Interior and Administration, the Office for Foreigners, Border Guard Headquarters, the Police and also representatives of local Family Aid Centers, social assistance centers, care and educational centers and non-governmental organizations.

Specified needs of unaccompanied minors and other vulnerable groups of foreigners are also reflected in the topics discussed within consultations on new Act on Foreigners (see point 2.2).

3.4 Economic Migration

3.4.1 European Pact on Immigration and Asylum

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

I(a) Implement policies for labour migration

Starting from February 1st 2009 the amendment to Act of 20 April 2004 on promotion of employment and labour market institutions and several ordinances of the Minister of Labour and Social Policy came into force including the Ordinance of January 29th 2009 of the Minister of Labour and Social Policy amending ordinance on work of foreigners without the need of possession of work permit came into force. According to the Ordinance citizens of the neighbouring countries: Ukraine, Belarus, Russian Federation) and Moldova (based on mobility partnership) have the right to work in Poland without the work permit up to 6 months

(previously 3 months) during the period of 12 months however they must be in a possession of the work visa.

There were no changes in labour migration law due to economic crisis.

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

Implementation of the Directive on so called “Blue Card” into national legislation is expected in 2010.

On January 1st 2009 an amendment to the Act on aliens came into force and introduced changes in system of issuing visa for students in order to facilitate admission of those foreigners who want to stay in Poland for different kinds of study (I, II and III grade). Foreign students were informed about changes by special information campaign.

In first part of 2009 2.642 foreigners applied for the residence permit for fixed period for the purpose of study or research work. In this period 2.902 positive decisions were granted (including decisions issued in relation to applications lodged in 2008). Respectively, in first part of 2008 numbers were as follows – 2.044 applications; 2.520 positive decisions, and in the whole 2008 – 5.276 applications and 4.464 positive decisions. To summarise, slight growth in number of applications in this statistics in reported period was noticed.

Starting from January 2010, according to amendments to Act on education system, refugees and their family members (mainly children) will be covered with free of charge education on the level of primary and secondary public schools, and moreover refugees will have more possibilities to improve their Polish language skills.

Amendment to relevant ordinance on minimal amount of financial resources to cover the costs of living during the study (research) in Poland will be prepared.

System of educational assistant for refugee children attending school will be introduced starting from January 2010.

I(c) Do not aggravate the brain drain:

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3.4.2 Additional/Complementary developments

This should include any other developments in respect to economic migration not covered by the Pact's objectives above.

In the first half of 2009 14.891 work permits have been issued (including 4.692 decisions on work permit extending). In 3.267 cases work permits have been issued for managing staff (advisors, experts), 4.510 – for qualified workers, 2.539 – for low-skilled workers (1.393 for nationals of Ukraine).

The number of work permit, aggregated by a action of economy, shows that the most attractive sphere of labour activity for foreign workers is trade.

Section	Number of work permits
Trade (retail and wholesale)	3595
Industry processing	2758
Estate and financial agencies	1972
Construction (building)	1546
Hotels and gastronomic services	1409
others	3611

Source: Ministry of Labour and Social Policy

It should be noted that foreign workers remain a very small group within active population on the labour market in Poland. For this reason, they do not influence an unemployment rate (in the end of November 2009 unemployment rate increased to 11,4%, by 0,3% in comparison to October 2009).

3.5 Family Reunification

3.5.1 European Pact on Immigration and Asylum

The relevant commitment in the Pact for this sub-section is in particular:

I(d) To regulate family migration more effectively

On January 1st 2009 an amendment to the Act on aliens came into force and introduced changes in minimum income amount required from foreigner applying for the residence permit for fixed period and to cover costs of stay of foreigner and their dependants in Poland. The change was introduced to improve the procedure and is useful in cases of family reunification. The same procedure was adopted for procedure of granting the long-term EC resident's residence permit.

In addition, according to amendment to the Act on aliens some categories of foreigners who apply for residence permit for family reunification with Polish citizen, third country national enjoying refugee status or subsidiary protection in Poland are exempted from obligation to prove possession of income and health insurance.

3.5.2 Additional/Complementary developments

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3.6 Other legal migration

3.6.1 European Pact on Immigration and Asylum

The relevant commitment in the Pact for this sub-section is:

I(f) Improve information on the possibilities and conditions of legal migration

More frequent practice of Polish migration authorities there are information campaigns addressed to foreigners (leaflets in Polish, Russian, English, French, Spanish, Ukrainian, Belarusian, Vietnamese, Chinese, Mongolian and Arab). Information is accessible at institutions web sites as well (in most frequent languages).

In June 2009, the District Chamber of Legal Counsellors in Warsaw (Okręgowa Izba Radców Prawnych w Warszawie) published a "Guide book for foreigners on taking up education and studies in Poland". The initiative was supported by the Ministry of Interior and

Administration, the Ministry of Foreign Affairs and “Perspektywy” Foundation, as well as the Office for Foreigners. Promotion and distribution of the publication took place at the conference organized in June 2009 by the Ministry of Interior and Administration in cooperation with above-mentioned partners

This guide book has been translated in Russian and English languages.

3.6.2 Additional/Complementary developments (2-3 pages)

This should include details of any developments of other legal routes for entry.

From 1st January 2009 to 13th December 2009 33.012 applications for granting the residence permit for a fixed period in Poland have been submitted:

Nationality	Number of applications	%
Ukraine	9131	27,7
Viet Nam	2572	7,8
Belarus	2529	7,7
China	2255	6,8
Russian Federation	1503	4,6
Armenia	1473	4,5
India	1151	3,5
Turkey	1106	3,4
South Korea	979	3,0
United States of America	959	2,9
Nigeria	732	2,2
Others	8622	25,9
Total	33012	100,0

Source: The Office for Foreigners

During above mentioned period, the voivods (the regional authority) have issued 28.780 decisions on granting the residence permit for a fixed period: 7968 for nationals of Ukraine, 2330 – Belarus, 2298 – Viet Nam, 1875 – China, 1282 – Russian Federation, 1226- Armenia, 1034 – India.

From 1st January 2009 to 13th December 2009 3.373 foreigners have submitted application for permits to settle in Poland. The main country of origin of applicants in Poland was Ukraine (43,3%). Next country, with 20% of all applications, was Belarus.

Nationality	Number of applications	%
Ukraine	1 461	43,3
Belarus	674	20,0
Russian Federation	165	4,9
Viet Nam	124	3,7
Armenia	116	3,4
Others	833	24,7
Total	3 373	100,0

Source: The Office for Foreigners

The positive decisions on granting a permit to settle have been issued for 2.794 foreigners, mainly from Ukraine (1.227) but also from Belarus (603), Russian Federation (141), Viet Nam (112), Armenia (83), Egypt (42) and Kazakstan (42).

3.7 Integration

3.7.1 European Pact on Immigration and Asylum (1-2 paragraphs for each commitment)

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

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

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

Since November 2008 project on integration of beneficiaries of international protection in Poland co-financed from European Refugee Fund is implemented.

Further utilization of EU funds for better integration of migrants in Polish society, e.g. European Fund for the Integration of Third-country nationals is planned

There were no changes in current integration policy caused by economic crisis – activities are mainly addressed to foreigners enjoying in Poland international protection.

In 2008 existing Individual Integration Programmes (addressed originally only to the recognized refugees) were extended for foreigners enjoying the subsidiary protection. Within the Programme foreigners (and their family members) are granted with the 12-months long assistance – number of new IIP beneficiaries in 2009 was extended for new 2500 persons.

Granting (social) assistance for foreigners is a task delegated by the governmental administration to be carried out by the municipality and financed with the Treasury targeted subsidy.

According to data of the Ministry of Labour and Social Policy, in the first half of 2009 local (powiat) centres for family assistance (powiatowe centra pomocy rodzinie PCPR) granted following aid:

Forms of assistance	Number of foreigners whom the decisions on granting aid have been issued	Number of family members
- granted to recognized refugees (in total):	185	210
pecuniary aid for living	185	210
covering costs related to learning of the Polish language	25	40
counselling, social work, psychological educational and/or legal support,	x	143
-granted to foreigners covered by the subsidiary protection (in total):	1741	2390
pecuniary aid for living	1741	2308
covering costs related to learning of the Polish language	443	894
counselling, social work, psychological educational and/or legal support	x	2153

Source: Ministry of Labour and Social Policy

Additionally, holders of tolerated stay status (national protection status) were granted assistance in kind (providing with a place in shelter, meals, needed clothes etc). State financial resources allocated to above mentioned assistance (for the whole 2009 year) amount c.a.17.000.000 PLN (4.070.000 EUR).

I(h) Promote information exchange on best practices in terms of reception and integration
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3.7.2 Additional/Complementary developments

This should include any other developments in respect to integration not covered by the Pact's objectives above.

The issue of integration is one of the topics elaborated during the works on Migration Strategy of Poland (see point 2.3).

3.8 Citizenship and Naturalisation

3.8.1 European Pact on Immigration and Asylum

No explicit mention is made in the objectives of the Pact on this aspect and, therefore, no information is provided here.

3.8.2 Additional/Complementary developments

This should include developments in respect to citizenship and naturalisation.

In 2009 the Parliament has adopted the new Law on citizenship dated on 2nd April 2009 which is to replace the existing law adopted in 1962. The main change introduced by this act is a possibility of restoration of lost Polish citizenship and expanded catalogue of premisses allowing the voivods to recognize a foreigner as a Polish national. This last mentioned change caused some legal doubts of the President of the Republic of Poland. The President referred to the Constitutional Tribunal for adjudication on the conformity of these doubtful provisions to the Constitution.

From 1st January 2009 – 11th December 2009, the President of the Republic of Poland has granted the Polish citizenship to 1.739 foreigners.

Nationality	Number of persons
Ukraine	658
Belarus	319
Russian Federation	129
Germany	47
The United States of America	39
Kazakhstan	36
Armenia	35
Canada	35
Sweden	34
stateless persons	24
others	383
Total	1739

Source: Ministry of Interior and Administration

The voivods carry out the tasks related to the procedures linked with the Polish citizenship, which are not reserved for the President (i.a. they are authorised to confirm the fact of acquirement of Polish citizenship). During the above mentioned period the voivods have issued the positive decisions to 525 foreigners.

3.9 Illegal Immigration

3.9.1 European Pact on Immigration and Asylum

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

II(a) only case-by-case regularisation

Regularisations introduced by Poland in previous years (before the report period) were based on national law, respecting general principle on case-by-case procedure. The same principle will be in use in future in any regularisation mechanism.

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

In the context of combating illegal migration amendments to the appropriate provisions were made, since January 2009 the Border Guards may conduct the controls of the legality of foreigners' employment (as well as controls of foreigner's legality of stay and to determine a place of stay of family members) on the whole territory of Poland. Nevertheless, the National Labour Inspection remains the main body coordinating the activities in this respect.

From 1st January 2009 – 30th September 2009 the National Labour Inspectorate carried out 1.112 inspection of employment legality and performance of work by foreigners. The subject of such inspections were 1.076 firms employing 6.638 foreigners. Offences (irregularities) were detected in 43% checked firms – in 21% firms illegal employment of foreigners was revealed. 7,8% of all foreigners checked performed work illegally.

During these inspections 88 foreigners without a valid visa or other documents entitled them to performance of work were disclosed (17% of above mentioned foreigners who worked illegally). Moreover, in 74 cases, work was performed by the foreigners whose legal status of stay did not entitled them to work.

Last amendment of Act of 20 April 2004 on promotion of employment and labour market institutions starting from February 1st 2009 introduced changes in definition of illegal employment.

Implementation of 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 into national legislation is expected.

3.9.2 Additional/Complementary developments

This should include any other developments in respect to illegal immigration not covered by the Pact's objectives above.

During eleven months of 2009, the Border Guard has detained 3.002 third countries' nationals attempting to cross or crossing the Polish borders against the law: 1.424 nationals of Ukraine, 456 – Russian Federation, 219 – Georgia, 128 – Belarus, 126 – Viet Nam, 107 – Moldova.

In comparison with eleven months (January – November) of 2008 a decrease of this kind of detentions (by 27,3%) can be observed.

Moreover, 24.520 foreigners have been refused entry into the territory of the Republic of Poland by the Border Guards – in almost 44% of all cases the reason of this refusals was a lack of valid visas and documents entitled for stay (43,9%). No significant changes in factors potentially influencing the number of refusals of entry were observed.

3.10 Actions against human trafficking

3.10.1 European Pact on Immigration and Asylum

The relevant commitment in the Pact for this sub-section is in particular:

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

Polish Border Guard is carrying projects co-financed under European Return Fund on: co-operation with third countries on identification of illegal immigrants, forced returns of expelled migrants. Further utilization of EU funds for projects carried out in co-operation with countries of origin and transit of migrants is planned.

Polish authorities (e.g. those cooperating within the framework of Intergovernmental Committee for Combating Trafficking in Human Beings) are carrying out information campaign addressed to groups under threat of trafficking and exploitation. Addressees were both Polish citizens and foreigners staying in Poland (or intending to come to Poland).

“The National Programme for Combating and Preventing Trafficking in Human Beings” is implemented for 2006-2013 (coordination role of the Ministry of Interior and Administration). Moreover, the Border Guard, the Police and other relevant national authorities participate in projects on combating trafficking in human beings and protection of victims of trafficking (as well as other linked to illegal migration phenomena as: humans trafficking, prostitution, pedophilia and child pornography) addressed to foreign authorities in non-EU neighbouring countries.

Procedure of introduction of additional changes to the Penal Code related to trafficking in human beings is at the advanced stage.

3.10.2 Additional/Complementary developments

This should include any other developments in respect to the actions against human trafficking not covered by the Pact's objectives above

Poland is involved in the programmes: “Combating human trafficking in the context of strengthening the Moldavian migration management systems and international cooperation. Polish-Moldavian exchange of experience and best practice” and ”Polish-Ukrainian co-operation in the fight against human trafficking. Best practice in fighting human trafficking and protection of victims’ rights”.

Moreover, a number of consultation meetings have been organized at the initiative of the Migration Policy Department of the Ministry of Interior and Administration, also with representatives of judiciary, consuls and liaison officers from countries being the major

sources of victims of trafficking in human beings (e.g. Ukraine, Belarus, Romania, Moldova, Bulgaria).

3.11 Return Migration

3.11.1 European Pact on Immigration and Asylum

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

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

At EU level:

Poland participates in negotiations on readmission agreements between EU and: Libya, Turkey, Morocco, Georgia, Cape Verde. Apart from these countries, Poland is interested in readmission agreement negotiations with China and Algeria.

Poland-Russian Federation – agreement came into force in 2007, talks on protocol to the agreement last (III round).

Poland-Ukraine – agreement came into force in 2008, talks on protocol to the agreement last.

Poland–Western Balkans – agreements came into force in 2008.

Poland-Albania – agreement came into force in 2006, talks on protocol to the agreement are at the initial phase.

Poland-Sri Lanka – agreement came into force in 2005, talks on protocol to the agreement are at the initial phase.

Poland-Moldova – agreement came into force in 2008, talks on protocol to the agreement last.

Poland-Pakistan – decision on starting negotiations of the agreement was done in 2009, no talks on protocol.

At bilateral level:

Poland-Vietnam – execution of the agreement is supported by visits to Poland of experts of the Vietnamese Ministry of Public Order - identification of returned foreigners – Mekong project.

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

Polish authorities (e.g. those cooperating within the framework of Intergovernmental Committee for Combating Trafficking in Human Beings) are carrying out information campaign addressed to groups under threat of trafficking and exploitation. Addressees were both Polish citizens and foreigners staying in Poland (or intending to come to Poland).

Polish Border Guard in cooperation with International Organization for Migration is actively involved in organisation and execution of voluntary returns activities and reintegration of returnees.

Poland is carrying projects supporting voluntary returns co-financed from European Return Fund. Two of them are carried out in co-operation by International Organization for Migration and governmental Office for Foreigners (allocations 2006 and 2008-2010), and one by IOM and Border Guard.

Within a framework of “Assisted Voluntary Return Programme”, carried out by IOM (with cooperation with the Office for Foreigners and the Border Guards) between 1st January 2009 and 27th November 2009 the number of voluntary returnees amounted 1.394 people.

Nationality	Number of returnees
Russian Federation	1 089
Georgia	163
Ukraine	39
Uzbekistan	20
Armenia	18
Mongolia	12
Belarus	12
China	10
Others	31
TOTAL	1 394

Source: International Organization for Migration

3.11.2 Additional/Complementary developments

This should include any other developments in respect to return migration not covered by the Pact's objectives above.

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3.12 External relations/ Global Approach

3.12.1 European Pact on Immigration and Asylum

The relevant commitments in the Pact for this sub-section are:

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

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

Last amendment to the Ordinance of the Minister of Labour and Social Policy introducing facilitation of employment of foreign workers (limited to citizens of Ukraine, Belarus, Russian Federation and Moldova) was the governmental answer for migrants and employees expectations. New rules both promote legal employment of foreigners and respond to shortages of work force.

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

Polish authorities are carrying projects financed from “Poland’s Development Co-operation” as follows:

Moldova - “Strengthening Moldavian migration management system in the area of reception and detention of foreigners”,

”Combating human trafficking in the context of strengthening the Moldavian migration anagement systems and international co-operation. Polish-Moldavian exchange of experience

and best practice”.

Ukraine – ”Polish-Ukrainian co-operation in the fight against human trafficking. Best practice in fighting human trafficking and protection of victims’ rights”.

Georgia – “Development of organisational units of Georgia’s Border Police”,
“Strengthening the Georgian migration management system in the area of reception and detention of foreigners”

Africa and the Middle East – “Supporting the Moroccan system of migration management”,
“Strengthening the capacity of the Border Service in Sierra Leone in the field of border security”

Starting from 2010 Polish migration-asylum authorities plan to be involved in next projects addressed to beneficiary countries’ migration services mainly on: their capacity building on law enforcement, combating and fighting trafficking in human beings, granting international protection.

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

Part (3.13%) of 2008 Polish financial contribution to EU’s general budget was transferred to Official Development Assistance.

Moreover, Poland is participating as a donor in 10th European Development Fund.

Financial assistance devoted to the implementation of "Polish aid 2009" projects amounts to PLN 22.85 million (over 5 mln EUR). Projects are addressed to: Belarus, Ukraine, Western Balkans, Georgia, Moldova, Afghanistan, Asia (in general), Africa and Middle East (in general), Palestinian Autonomy.

V(e) promote co-development actions and support instrument for transferring migrants' Remittances

In 2009 Poland implemented project “Support for social reintegration of Internally Displaced Persons” addressed to children-IDPs from Armenia and Azerbaijan

3.12.2 Additional/Complementary developments

This should include any other developments in respect to external relations and the global approach not covered by the Pact's objectives above.

3.13 (Optional) Other policy areas/topics that you consider of relevance but can not be included in any of the above, e.g. specifically relating to gender, and to migrantattributed crime(s).

4. Implementation of EU legislation

4.1 Transposition of EU legislation 2009

Summarise the progress made during 2009 in the transposition of EU legislation in the field of migration and asylum into national law and administrative practices during the reference period.

List of EU legislation that has been transposed into national legislation and/or came into force during 2009, with the corresponding national law(s):

EU legislation	Implemented/transposed by/corresponding with
Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals	Amendment to the Act of 13 June 2003 on Foreigners; came into force from the 1 st January 2009
Council Decision of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals	Amendment to the Act of 13 June 2003 on Foreigners; came into force from the 1 st January 2009
Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention	Amendment to the Act of 13 June 2003 on Foreigners; came into force from the 1 st January 2009
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	Ordinance by the Minister of Interior and Administration on visas for foreigners dated 22 nd December 2008; came into force from the 1 st May 2009
Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States	Amendment (Act of 21 st May 2009) to the Act of 13 June 2003 on Foreigners and to the Act on granting protections to aliens within the territory of the Republic of Poland; came into force from the 29 th May 2009 Amendment (Act of 21 st May 2009) to the Act of 13 th July 2006 on Passport Documents; came into force from 27 th June 2009 Jurnal of Laws of 2009, No. 95 item. 791

In August 2007 Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers came into force. Currently, activities carried out by Polish statistics concentrate on ensuring of quality and comparability of data collected within a scope of above-mentioned Regulation and the relevant national legislation. Special attention is paid to all statistics used for the purpose of allocation of funds to the EU Member States in a framework Program of Solidarity and Management of Migration Flows.

4.2 Experiences, debates in the (non-) implementation of EU legislation

*Detail any **experiences, debates**, both at political level and within wider society (e.g. issues raised by migrant (support) associations, academia) in **the implementation or nonimplementation** (in which case outline the reasons for this) of the most significant **EU legislation** in asylum and immigration, both for directives previously (before 2009) transposed into national legislation, as well as those transposed during 2009. Any impact or changes or experience with the entry into force of EU re-admission agreements, including with respect to bilateral agreements which existed before, can also be included.*

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Annex – Methodology, terms and definitions

A1.1 Methodology

This report describes the most significant political and legislative developments in the area of migration and asylum in Poland, covering the period from 1st January 2009 – 31st December 2009. Through this report, Polish National Contact Point to the European Migration Network contributes to the EMN Annual Policy Report, used by the European Commission in order to prepare the Commission's Annual Report on the implementation of the European Pact on Immigration and Asylum to be presented to the European Council in 2010. It was produced within the framework of the European Migration Network and – remaining in line with the EMN's objectives, was developed as possible “tool”, supporting the work of policymakers, both at national and EU-level.

Apart from five institutions – members of the Polish National Contact Point to the European Migration Network (namely the Ministry of Interior and Administration, the Office for Foreigners, the Ministry of Labor and Social Policy, the Border Guard's Headquarters and the Central Statistical Office) also other governmental institutions have contributed to this report: the Ministry of Foreign Affairs, the Ministry of National Education, the Ministry of Science and Higher Education, National Labour Inspectorate.

The report is based exclusively on desk research method. The main sources of information were inputs provided by the institutions mentioned above.

Statistical data used in this report is mostly tentative, based on administrative sources. However, as soon as possible this data will be verified and, if needed, corrected and completed by the official national EUROSTAT data providers i.e. the Office for Foreigners (– statistics for analysis of “Residence Permits”, “Asylum Applications” and “Asylum Decisions”) and the Border Guard Headquarters (statistics for analysis of “Refused Aliens”, “Apprehended Aliens” and “Removed Aliens”).

Data on residence permits and asylum were provided via *POBYT* (transl. ‘Residence’) System (a teleinformatic system run by the Head of the Office for Foreigners). The system keeps track of each asylum application submitted in Poland, as well as of each residence permit issued to foreigners by Polish authorities.

Additional data were supplied by the competent administrative bodies, i.e.: Department for Citizenship and Repatriation of the Ministry of Interior and Administration (data on naturalization: persons who acquired Polish citizenship in 2009; by citizenship); Data on labour migrations: Department for Labour Market of the Ministry of Labour and Social Policy (data on labour migration) and the Border Guard Headquarters (data on border controls).

A1.2 Terms and Definitions

To the extent possible, terms and their definitions as given in the EMN Glossary should be used. If this is not possible for some term(s), or they do not exist in the Glossary, then this section should provide the (national) definitions used.

REPATRIATION - according to Polish legal framework the term “repatriation” means return on special conditions of the persons of Polish origin who, or whose ascendants, after the second World War remained in the East, in particular in the Asian part of the former Soviet Union and who due to deportations, exile and other forms of national or political persecutions were never allowed to settle down in Poland.

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