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INSTITUTIONAL AND REGULATORY FRAMEWORK ON MIGRATION AND ASYLUM POLICIES

This desk research provides an overview of how asylum and migration policies are organised in Europe, Belgium, France, Germany, Italy, The Netherlands and Spain.
After a general introduction, which configures how the migration movements towards Europe are part of the European integration process in itself, this report analyses main institutional steps accomplished both at communitarian level, than in terms of domestic law, to undertake the migration phenomena.
This report includes, where possible, the organisation of the institutional and regulatory context for dealing with third-country nationals coming for the purpose of legal/illegal immigration or for international protection, as the classification used by EU in its regulatory procedure stated.
It is based on information provided in the country-based National Report of the EMN (European Migration Network) Study The Organisation of Asylum and Migration Policies in EU Member States, as at April 2012 and updated by further important legislative adoptions.
The desk research approach includes also: main legal sources from domestic public law, relevant documents from institutional bodies implied in the field, academic researches and NGO country-based reports.

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INTRODUCTION

Irregular migration and asylum-seeking refugees have been a part of Europe's history since World War II (WWII). Since then, the changing global system has played dynamic role in affecting both the patterns of migration flow and the development of European migration policy. This changing system was especially relevant during the birth of the European Coal and Steel Community and later the European Economic Community (EEC) in the **1950s, when the migration of people across Europe increased as new geopolitical landscapes were created in the forms of both physical boundaries and invisible cultural borders.**

Due to the post-WWII movements between 1945 and 1950, it is estimated that net migration within Europe was between twenty and thirty million people. In addition, other forms of shifting global polity began to affect migration in Europe after WWII. The beginning of the Cold War in the 1950s between the United States and the Soviet Union was critically integral in affecting this change, as it began to both politically and socially divide Europe and create waves of political refugees and asylum-seekers into Western Europe.

While this divide was happening, efforts at decolonization throughout the 1950s and 1960s spurred massive independence movements in Africa. This further intensified the movement of people as political and economic spheres changed along with people's basic human freedoms. This decolonization period saw over one million people move into France from former French colony Algeria between 1954 and 1962. Many more colonists returned to Great Britain, Belgium, France, and the Netherlands too. In particular, though, in the 1950s, large movements of people from Southern Europe and the non-European Mediterranean countries began to migrate into both Western and Northern Europe.

This movement was due to increasing economic opportunities post-WWII and due to serious labour shortages within the northern parts of Europe. During this time, almost five million people from the Mediterranean States emigrated to Northern and Western Europe due to these labour shortages. In all, after WWII, boundaries, political structures, economic systems, and social cultures, began to go through an intense era of change. This change led to large deviations in migration patterns as people moved from the edges of Europe to its center.

In the 1960s and 1970s large-scale migration from former African colonies became a predominant trend, along with a large wave of inter-European movement. This movement was highlighted by the **oil crisis of 1973**, which caused dramatic increases in unemployment throughout both Western and Northern European nations. This migration directly coincided with the establishment and subsequent expansion of the EEC in 1957. Under the EEC, Europe began forming larger common markets and larger networks of freely moving capital, goods, and people, which all affected migration movements.

Finally, in 1991, the collapse of the Soviet Union also led to large-scale refugee movements. Conflict, along with political and economic restructuring within Eastern European states and the newly created

Russian Federation, forced the migration of populations and asylum seekers to Central European countries like Germany. This conflict related migration was particularly true for the Balkans, where religious and ethnic war led to the migration of asylum seekers and refugees from Albania, Serbia, Kosovo, Croatia, and Bosnia and Herzegovina into Southern European countries like Greece. Between 1991 and 1993, due to the Balkan War, over 700,000 asylum-seekers entered Western Europe from these states. Between 1950 and 1992, an estimated fourteen million documented immigrants came into Europe. In all, Europe's immigration history from WWII until the turn of the century encompassed mostly movements of people within European boundaries, with a few notable exceptions during the decolonization period in Africa.

This movement highlights Europe's long history of immigration, and showcases its response to coping with the mass migration of people after the rise of the **spring Arab movement around 2010.** This historical turning point, coincides with a new approach to regulating the phenomena, where **all Member States are now net immigration countries, and communitarian attempts to define common response to a new global phase**.

More northern host countries such as **France, Germany, Belgium and Netherlands** have experienced particularly high levels of immigration since after the IIWW and mostly as result of the decolonization movement. **A second category of European countries, the southern ones like Italy and Spain, became net receiving countries only in the 1980s**, in large part because of growing economic prosperity, as well as a redirection of migration flows following the introduction of more restrictive policies in north European receiving countries. These 'old new' immigration countries have also experienced increased migration since the 1990s, with recent inflows of labour migrants particularly pronounced.

At the same time, **a comprehensive European migration policy emerged**, in particular at the European Council of Tampere in 1999. One of Tampere's purposes was the definition of a migration policy based on the integration of migrants, and not exclusively on the fight against irregular migration flows. This new orientation was taken into account in the Amsterdam Treaty that "*translated the communitarization process of asylum and migration issues into practice*". Then a new process started with Tampere, which included in its framework not only the cooperation with Third Countries (in the fields of asylum and border control and management) but also the development of the countries of origin and transit of migration, according to their own economic and demographic needs.

Migratory movements towards Europe, have always reflected the economic trends of European countries, and their authority to open or close borders in relation to needs of internal labour market. It has been shown after the WW II, when rebuilding Europe was urgent especially in the northern countries, or during '70s corresponding to the world oil crisis. The current phase of the economical crisis, with different social impacts related to each country, put **Europe face to a new paradigm of migration movement due its global dimension** characterized by the dilemma of sovereignty responses (even if past evidence shows that restrictive migration policies are unable to prevent irregular flows and control

migration), and the hypothesis of an overall model of development for a more integrated society able to guarantee prosperity and social cohesion.

This double face composing enlarged Europe has found difficult to come to terms with the fact of today immigration. Many sections of European societies have been profoundly reluctant to welcome and incorporate immigrants, especially those new EU countries from non-OECD block, who are perceived to have significantly different cultural and ethnic backgrounds. **Anti-immigrant sentiment has manifested itself in public support for restrictive immigration and asylum policies**, negative reporting on immigrants and asylum-seekers in the popular press, discrimination against resident ethnic minority groups, and racist or anti-immigrant harassment and violence. This hostility appears counter-intuitive, given the extent to which European countries have benefited from immigration in the past decades. The large-scale, mainly low-skilled immigration of the 1950s and 1960s was a crucial component of post-war economic reconstruction in western Europe.

These fears are exacerbated by the growing challenge of migration control. The evolution of this problem over the past three decades is familiar. The effective halt to labour migration in the past as well as today encouraged many people to try to enter Europe through asylum systems or family reunion. **The ensuing attempts to restrict access through these 'humanitarian' routes gave rise to new patterns of irregular migration and human trafficking.** Irregular migration flows have also emerged as a response to demand for illegal labour in many sectors, including construction, textiles and sewing, catering, and domestic work. These forms of irregular movement have fed alarmist tendencies in popular discourse. They appear to reinforce the notion that Europe is being flooded with migrants from poorer regions, and that states are no longer able to control access to their territories and resources.

One strategy for overcoming the dilemmas described above has been cooperation between European countries, most notably in the framework of the European Union. **Regional cooperation has been seen as potentially addressing three sets of problems**. The first of these is **migration management and control**. European states have realised that they cannot manage irregular flows on their own, but are dependent on cooperation with neighbouring countries. Collaborative efforts in this area are all the more important given rights of free movement for nationals within the EEA; and the abolition of internal border controls between Schengen countries. **Secondly, some European states have seen EU cooperation as a means of promoting burden sharing**, or what has been termed a 'balance of efforts' between countries in bearing the perceived costs of asylum and irregular migration. In this sense, the EU is seen as providing a mechanism for redistribution between states. **Third, the so-called 'harmonisation' of policies on asylum**, immigration and integration has also been seen as a means of standard-setting. The idea is that establishing common standards, norms and approaches should improve the effectiveness of national policies in areas such as asylum, integration, or labour migration. It should enable individual EU countries to better meet shared goals, such as refugee protection or economic growth. These various goals have motivated efforts at

cooperation and harmonisation in different areas of policy. Particularly important has been cooperation in the areas of immigration control and asylum. But there have also been some initial attempts to harmonise approaches in the other two areas: labour migration policies and integration.

EUROPEAN UNION

- ***General Introduction***

European cooperation on matters of asylum and migration policy assumes a communitarian dimension only step-by-step. Until the end of the 1990s, **intergovernmental decision-making procedures predominated**, and this concentrated influence over common policies in the hands of representatives of the member states in the Council of the European Union (also called the Council of Ministers), in this case the Ministers of Justice and Home Affairs.

Cooperation between EU member states in matters of immigration policy has its origin in the realisation of freedom of movement, particularly the decision taken by France, Germany and the Benelux countries with the first **Schengen Agreement in 1985 to abolish all checks on persons** at their internal borders.

Although the European Commission simultaneously formulated the first guidelines for a Community policy on migration, its power was called into question by the member states, and any cooperation unfolded initially outside of European institutions on an intergovernmental level. Thus the **Schengen Agreement specified that the states would determine measures to safeguard inner security** after the abolition of border checks. Alongside cooperation on the part of the police and judiciary in criminal matters, this included the standardisation of regulations for foreigners entering and remaining for short stays within the "Schengen area" (a single Schengen visa), border police cooperation, and in asylum matters, the determination of the member states responsible for an asylum application.

The provisions relating to asylum policy were adopted in the Dublin Asylum Convention, which was ratified by all EU member states and, after difficult internal policy ratification processes, came into force **in 1997**.

Whereas the so-called "Schengen acquis" of 1997 was transferred into European law with the Treaty of Amsterdam, the "Schengen area" was expanded step by step beyond the original five member states. Today **the Schengen regulations apply in all EU member states**. Intergovernmental cooperation within the Schengen framework can be regarded as the driving force and laboratory for EU-wide cooperation in matters of migration policy and, over and above that, in criminal and police issues.

The coupling of cooperation on migration policy with questions of internal security has also given rise to a focus on control aspects of immigration policy. This focus also determined the **second phase of cooperation on migration policy under the Treaty of Maastricht**. Influenced by the fall of the "Iron Curtain" and strongly growing numbers of asylum-seekers, the 1990s were markedly characterised by member states' domestic priorities.

In the absence of strong European powers and responsibilities, changing EU presidencies were, to a large extent, able to shape the agenda, which resulted in a lack of coherence in, and commitment to, the integration process. The Maastricht Treaty of 1992 formalised the previously purely intergovernmental

cooperation and set it on a new basis in the so-called **"third pillar" of the European Union**. However, no such clear basis of power was established at the European level until the **Treaty of Amsterdam in 1997**, **which reflects the central priority that asylum and immigration policies now enjoy in the EU.**

The Treaty of Amsterdam transferred these policy areas to the supranational first, or Community, "pillar", and determined – after a transition period of five years (de facto six) and with slight restrictions – **the introduction of supranational decision-making rules**. The Amsterdam treaty also contained a detailed list of measures to be adopted within these five years.

The Treaty of Lisbon negotiated in 2007 extends decision-making rules based on qualified majority voting and increased the involvement of Parliament by extending its co-decision powers to the one field that had been excluded: **labour migration**. Thus the **1999 Tampere European Council** underlined the humanitarian basis of European asylum policy and the binding force of the **1951 Geneva Refugee Convention**. In 2004 in Den Haag, the European Council extended this action plan for the following five years to include new focal points, in particular the external dimension of EU asylum and immigration policy. This aims at a stronger involvement of transit states and countries of origin outside the EU in the control of migration flows.

An important step forward the regulation of migration issues, intervenes with the entry into force of the **Lisbon Treaty in 2009**. Under the Lisbon Treaty, immigration policies are to be governed by **the principle of solidarity** and fair sharing of responsibility, including its financial implications, **among the Member States (Article 80 TFEU)**. The EU aims to set up a balanced approach to dealing with regular immigration and combating irregular immigration. Proper management of migration flows entails ensuring fair treatment of third-country nationals residing legally in Member States, enhancing measures to combat irregular immigration and promoting closer cooperation with non-member countries in all fields. It is the EU's aim to establish a uniform level of rights and obligations for regular immigrants, comparable with that for EU citizens

The today communitarian approach in the decision-making process means that member states share central powers and responsibilities with the supranational institutions of the EU. The **European Commission** now has the exclusive right to adopt legislative initiatives. **The European Parliament** has the right to participate in decision-making process (under the "co-decision procedure"), which means that its agreement is necessary in the legislation process. **The Council of Ministers adopts resolutions based on a qualified majority**, which means that individual states cannot exercise a veto and a minority can be overruled. The most important EU instruments on asylum and migration policy, however, were adopted under the earlier intergovernmental procedures.

- ***Towards a common legal framework***

The Lisbon Treaty created the premises to conceive a **"global approach to migration and mobility"** adopted by the Commission in 2011, which established a general framework for the EU's relations with third countries in the field of migration. It is based on **four pillars**: **regular immigration and mobility, irregular immigration and trafficking in human beings, international protection and asylum policy, and maximising the impact of migration and mobility on development.** The human rights of migrants are a cross-cutting issue in the context of this approach. The Global Approach focuses on regional and bilateral dialogue between countries of origin, transit and destination. One of the main instruments of the Global Approach is the 'mobility partnerships', which can be concluded with third countries. These partnerships incorporate not only readmission agreements, but a whole set of measures, ranging from development aid to temporary entry visa facilitation, measures on circular migration, and measures to combat irregular immigration.

In 2014 the Commission published a new communication setting out its vision on the future agenda for home affairs, entitled 'An open and secure Europe: making it happen', so that the European Council and Parliament could debate the **strategic guidelines in June 2014**. In accordance with Article 68 TFEU, in its conclusions of 26 and 27 June 2014 the then defined the '**strategic guidelines for legislative and operational planning within the area of freedom, security and justice**' for the period 2014-2020. These no longer constitute a programme, but rather guidelines focusing on the objective of transposing, implementing and consolidating the existing legal instruments and measures. The guidelines stress the need to adopt a holistic approach to migration, making the best possible use of regular migration, affording protection to those who need it, combating irregular migration and managing borders effectively.

The Commission then published the **European Agenda on Migration on 13 May 2015**, in keeping with its stated intention of making **immigration a central priority**. The Agenda proposes immediate measures to cope with the crisis in the Mediterranean and measures to be taken over the next few years to manage all aspects of immigration more effectively.

As regards the medium and long term, **the Commission proposes guidelines in four policy areas**:

- reducing incentives for irregular immigration;
- border management – saving lives and securing external borders;
- developing a sound common asylum policy based on the implementation of Europe's Common European Asylum System, but also assessing and, possibly, revising the Dublin Regulation in 2016;
- establishing a new policy on regular immigration, modernising and revising the 'blue card' system, setting fresh priorities for integration policies and optimising the benefits of migration policy for the individuals concerned and for countries of origin, for example by facilitating cheaper, faster and more secure remittance transfers.

Among the emergency measures, the Commission tripled with immediate effect the capacities and resources available in 2015 and 2016 for **Frontex's joint operations Triton and Poseidon**, on the basis of an amending budget for 2015 and a new Triton Operational Plan. Above all, however, it made practical proposals for acting on the principle of solidarity laid down in Article80 TFEU: on the one hand, by means of a temporary system for distributing asylum-seekers, to be supplemented in late 2015 by a proposal for a **permanent European relocation system to be applied in urgent situations** involving a massive influx of migrants; on the other hand, by means of **an EU-wide resettlement programme for displaced persons** who manifestly require international protection in Europe. These proposals were **adopted by the Council on 14 and 22 September 2015**. Lastly, the agenda proposes that, as part of the Common Security and Defence Policy (CSDP), consideration be given to **a possible operation in the Mediterranean to dismantle smuggling networks and to combat trafficking immigrants.**

On the basis of this agenda, on 6 April 2016 the Commission published its guidelines on regular immigration in a communication entitled: 'Towards a reform of the common European asylum system and enhancing legal avenues to Europe'. There are four main strands to the guidelines: revising the Blue Card Directive, attracting innovative entrepreneurs to the EU, developing amore coherent and effective model for regular immigration in the EU by assessing the existing framework, and strengthening cooperation with the key countries of origin.

- ***Recent legislative developments***

1. Regular immigration

Following the difficulties encountered in adopting a general provision covering all labour immigration into the EU, the current approach consists of adopting sectoral legislation, by category of migrants, in order to establish a regular immigration policy at EU level.

Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment creates the 'EU blue card', a fast-track procedure for issuing a special residence and work permit, on more attractive terms, to enable third-country workers to take up highly qualified employment in the Member States.

The Single Permit Directive (2011/98/EU) sets out a **common, simplified procedure for third-country nationals applying for a residence and work permit** in a Member State, as well as a common set of rights to be granted to regular immigrants.

Directive 2014/36/EU, adopted in February 2014, **regulates the conditions of entry and residence of third-country nationals for the purpose of employment as seasonal workers**. Migrant seasonal workers are allowed to stay legally and temporarily in the EU for a maximum period of between five and nine months (depending on the Member State) to carry out an activity dependent on the passing of seasons,

while retaining their principal place of residence in a third country. The directive also clarifies the set of rights to which such migrant workers are entitled.

Directive 2014/66/EU on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer was adopted on 15 May 2014. It will make easier for businesses and multinational corporations to temporarily relocate their managers, specialists and trainee employees to their branches or subsidiaries located in the European Union.

On 11 May 2016 the new directive 2016/801/EU was adopted. It improves the existing legislative instruments applicable to third-country nationals seeking entry to the EU for the **purposes of study or research.**

Lastly, the status of third-country nationals who are long-term residents in the European Union is still regulated by **Council Directive 2003/109/EC**, as amended in 2011 to **extend its scope to refugees and other beneficiaries of international protection.**

2. Integration

Directive 2003/86/EC sets out provisions on the right to family reunification. The 2008 report on its implementation concluded that it was not fully and correctly applied in the Member States: as a consequence, a **green paper was published in 2011**, initiating a public consultation procedure. In April 2014, the Commission published a communication providing guidance to the Member States on how to apply the directive.

In April 2010, the Commission presented the third edition of the **Handbook on Integration for policy-makers and practitioners**, and in July **2011 it adopted the European Agenda for the Integration of Third-Country Nationals**.

In addition, since 2009 two instruments have been created to deal with the issue of integration**: the European Integration Forum** (organised by the Commission and the European Economic and Social Committee) and the **European Website on Integration**. In January 2015, the scope of the European Integration Forum was extended, transforming it into the European Migration Forum. Lastly, in June 2016 the Commission put forward an action plan, setting out a policy framework and practical steps to help Member States integrate the 20 million non-EU nationals legally resident in the EU.

3.Irregular immigration

The EU has adopted two major pieces of legislation to combat irregular immigration:

- The **'Return Directive' (2008/115/EC)** sets out common EU standards and procedures for returning irregularly resident third-country nationals. The main areas for further action include ensuring its proper implementation, **promoting consistent, fundamental rights-compatible practices, improving cooperation between Member States and enhancing the role of Frontex**. One of the main tasks of the teams supporting national authorities at hotspots in Italy and Greece is to ensure that people actually return to their country of origin. On 9 September 2015, the Commission

published a **European Union action plan on return (COM(2015)0453 final),**which was endorsed by the Council the following October.

- **Directive 2009/52/EC specifies sanctions and measures to be applied in Member States against employers who infringe the ban on employing illegally resident third-country nationals**. Member States were required to transpose the directive by 20 July 2011. The first report on the implementation of the directive was submitted on 22 May 2014.

➢ ***Refugees and Asylum seekers***

The aim of EU asylum policy is to **harmonise asylum procedures in the Member States by establishing common asylum arrangements**, with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. The objectives are **to develop a common policy on asylum, subsidiary protection and temporary protection, with a view to offering an appropriate status to all third-country nationals who need international protection**, and to ensure that the principle of non-refoulement is observed. This policy must be consistent with the **1951 Geneva Convention**.

The series of programmes adopted by the European Council have had a **far-reaching impact on the implementation of European asylum policy**. With the adoption of the Tampere Programme in October 1999, the European Council decided that the common European system should be implemented in two phases. In November 2004, the Hague Programme called for the second-phase instruments and measures to be adopted by the end of 2010.

The last critical historical piece of legislation passed by the EU is the **Dublin Convention, signed in 1990 and later revised in 2003 and 2013**. This Convention has become one of the most controversial and debated policies within the EU's overarching migration policy and has had significant consequences within the framework of Europe's current crisis. This convention simply states that all **asylum application requests must be processed in the country in which the asylum seeker first enters.** This clause was established in order to avoid multiple asylum requests among Member States while also theoretically creating a more simplistic and fluid system. This practice also aimed to keep asylum seekers from moving deeper into Europe's interior through secondary movements. However, this Convention has created serious problems within EU countries of entry, including placing a severely disproportionate burden on already struggling nations in Southern Europe.

The European Pact on Migration and Asylum, adopted on 16 October 2008, 'solemnly reiterates that any persecuted foreigner is entitled to obtain aid and protection on the territory of the European Union in application of the Geneva Convention'. It calls for proposals aimed at establishing '*in 2010 if possible and in 2012 at the latest, a single asylum procedure comprising common guarantees and [...] adopting a uniform status for refugees and the beneficiaries of subsidiary protection*'.

The Stockholm Programme, adopted by the European Council on 10 December 2009 for the 2010-2014 period, reaffirms '*the objective of establishing a common area of protection and solidarity based on a common asylum procedure and a uniform status for those granted international protection'*. It emphasises, in particular, **the need to promote effective solidarity with those Member States facing particular pressures**, and the central role to be played by the new European Asylum Support Office.

The Lisbon Treaty formally recognises the European Council's pre-eminent role in *'[defining] the strategic guidelines for legislative and operational planning within the area of freedom, security and justice'* (Article 68 TFEU). In June 2014, the European Council defined these guidelines for the coming years, building on the progress achieved by the Stockholm Programme. They stress that the full transposition and effective implementation of the **Common European Asylum System (CEAS) is an absolute priority**.

The European Agenda on Migration aimed at strengthening the common asylum policy. It sets out further steps towards a **reform of the Common European Asylum System**, which were presented in two packages of legislative proposals in May and July 2016. The main pending proposals are:

The EU-Turkey Statement

On 18 March 2016, EU Heads of State or Government and Turkey **agreed to end the irregular migration from Turkey to the EU and replace it instead with legal channels of resettlement of refugees to the European Union**. The aim is to replace disorganised, chaotic, irregular and dangerous migratory flows by organised, safe and legal pathways to Europe for those entitled to international protection in line with EU and international law.

The Statement took effect as of 20 March 2016, and 4 April 2016 was set as the target date for the start of returns of people arriving in Greece after 20 March and of the first resettlements. 4 April 2016 thus saw **the start of two processes**: **returns from the Greek islands to Turkey** to make clear that this is a dangerous route and the wrong route; and the **first resettlements of Syrian refugees from Turkey to Europe**, to underline that this is how Europe lives up to its responsibilities as a continent committed to providing protection to those in need, as well as the Geneva Convention and to the fundamental right to asylum.

The EU and Turkey agreed that:

1) All new irregular migrants or asylum seekers whose applications have been declared inadmissible crossing from Turkey to the Greek islands as of 20 March 2016 will be returned to Turkey;

2) For every Syrian being returned to Turkey from the Greek islands, another Syrian will be resettled to the EU from Turkey directly;

3) Turkey will take any necessary measures to prevent new sea or land routes for irregular migration opening from Turkey to the EU;

4) Once irregular crossings between Turkey and the EU are ending or have been substantially reduced, a Voluntary Humanitarian Admission Scheme will be activated;

5) The fulfilment of the visa liberalisation roadmap will be accelerated with a view to lifting the visa requirements for Turkish citizens at the latest by the end of June 2016. Turkey will take all the necessary steps to fulfil the remaining requirements;

6) The EU will, in close cooperation with Turkey, further speed up the disbursement of the initially allocated €3 billion under the Facility for Refugees in Turkey. Once these resources are about to be used in full, the EU will mobilise additional funding for the Facility up to an additional €3 billion to the end of 2018;

7) The EU and Turkey welcomed the ongoing work on the upgrading of the Customs Union.

8) The accession process will be re-energised, with Chapter 33 to be opened during the Dutch Presidency of the Council of the European Union and preparatory work on the opening of other chapters to continue at an accelerated pace;

9) The EU and Turkey will work to improve humanitarian conditions inside Syria.

BELGIUM

- ***General introduction***

There are three main phases: the opening phase (1945-1974), the closure versus integration phase (from 1974 to the mid-1990s), and the last phase, focusing on the restriction of rights and Repression (from the mid-1990s to the present).

First phase

The first phase, which runs **from 1945 to 1974**, is characterized by a clear discipline regards to migrant workers and refugees. Belgium, which needs arms to **rebuild and develop the countries** after the devastating II war, calls on foreign workers and concludes bilateral agreements with other labor-exporting countries (Italy, Spain and Greece, then Morocco and Turkey). **Belgium also signs the Geneva Convention** (1953), which establishes refugee status and undertakes to grant Protection for persons fleeing persecution in their country. Belgium's accession to this Geneva Convention is also, in the context of the Cold War, a political gesture, which expresses a sanction against the countries of the Communist bloc. The reception of asylum seekers was then not provided by the Belgian State but by the charitable organizations. At that time, migrants obtained the right of residence almost immediately and were mainly integrated by work - easy access - as well as by language.

Second Phase

The second phase, from the **closing of borders in 1974 to the mid-1990s**,

Is marked by the **coexistence of two very distinct logics**, namely: on the one hand, the closure of persons **wishing to move** to Belgium and, on the other hand, the integration of those already territory.

In 1974, the **economic crisis** resulting from the oil crisis prompted the Belgian State, like other European states, to declare the official end of immigration. **It introduces a law on the right of residence**. But the need to integrate those who are already there is also felt. It is in this sense that the State decides to take charge of the reception of asylum seekers, as well as to pass a law against racism and another, on the granting of nationality.

On 1st August 1974, a simple decision by the Council of Ministers rigorously limits new entrants to migrants with qualifications not available in the country. Between 1974 and 1984, almost 100,000 work permits were issued to foreigners. More than 30 000 of these work permits are granted to new immigrants arriving directly from abroad and not to foreigners already present on Belgian territory. Between 1985 and 1993, the figure of 100,000 work permits issued to foreigners was again reached, with 27,000 being granted to new immigrants, mostly men. This trend is further confirmed.

At the same time the first reception center - open - for asylum seekers (1986) and the first closed center (1988), antechamber of the expulsion of unwanted foreigners. It is also on this basis that the status

of undocumented immigrants develops, a name that designates persons present on Belgian territory without having a residence permit.

Throughout the Schengen Agreements (1985 and 1990), this period also gives rise to an external border common to the Member States of the European Union, which will reveal the need for a common policy on asylum and immigration. Asylum applications will also begin to increase significantly, especially from 1989 with the fall of the Berlin Wall.

In this second phase, there is a very clear evolution of the social representations of migration, not unconnected with that of migratory policies, since the distinction between "good" and "bad" migrants is developed.

Third phase

The third phase, **extending from 1995 to the present day**, is in keeping with the logic of closure, but is accompanied by a clear restriction of rights to migrants and a growing repression towards them.

During the 2000s, the Belgian authorities, favouring the nationals of the new Member States of the European Union, especially the Poles, officially organized a new labour migration. On the one hand, the labour market relies on regular workers and on the other irregular workers. While immigrant workers were mainly recruited from industrial employment during the period 1946-1974, they were mainly concentrated in horticulture, construction, services (in particular cleaning), domestic service and restaurant hotels. This change in sectors also explains the increase in the number of migrant women.

The 1984 law is subject to various simplifications until March 1, 2000, which allows any foreigner lawfully resident in Belgium **to become a Belgian by simple declaration, without verifying the immigrants' "will to integrate".**

- ***The current legal framework***

Belgium is a federal state with a complex structure: the federal level and regional level (Communities and Regions) all have their competences. Hence, in the field of migration and asylum there are many levels and actors, each with their autonomous role. However, **most responsibilities and Departments in this field are at a federal level**.

The State Secretary of Migration, Asylum and Social Integration is politically responsible for entry, stay and removal of foreigners, as well as for the reception of asylum seekers. The public administrations involved include:

- the Federal Public Service Home Affairs (incl. the Immigration Department), responsible for entry, stay and removal of foreigners;
- the Federal Public Planning Services Social Integration responsible for integration and reception of asylum seekers;
- the Federal Public Service of Justice, responsible for Belgian citizenship;

- the Federal Public Service Employment, Labour and Social Dialogue and the Regions responsible for labour policy;
- the regional governments are responsible for the implementation of labour policy and integration.

The most relevant law is the **Law of 15 December 1980** on entry, stay, settlement and removal of foreign nationals, which has been modified several times. **The law also governs the asylum procedure**. Foreigners' access to work is regulated by the **Law of 30 April 1999** and its implementation decree of 9 June 1999. A Set of other laws, Royal Decrees and Circular Letters complete the legislation. The Council for Alien Law Litigation is an administrative court responsible for person-related decisions in asylum cases and in appeals against the decisions of the Immigration Department. Appeals against detention can be lodged with the Tribunal of First Instance and the Court of Appeal.

➢ ***Procedures and policies***

The "short stay", that is to say the stay of less than 3 months, requires a valid passport and obtaining a "tourist" visa (certain nationalities are exempt from this obligation).

Some people have a **right of residence** in Belgium, they are said to be allowed to stay in Belgium, others may apply for a residence permit, subject to the discretionary power of the Foreigners Office.

To obtain a residence permit of more than 3 months, **any foreigner (who is not a citizen of the European Union) wishing to go to Belgium is required to fulfil the following conditions**:

- **possession of identity or travel documents** (passports) recognized by Belgium, which will still be valid for a period of at least three months after the stay which the holder proposes to carry out in Belgium;
- **to be able to produce documents justifying the reason for his stay** in Belgium and his place (examples: hotel reservation or invitation to stay with private persons);
- **have adequate means of subsistence**, both for the duration of the intended stay and for return to the country of origin or transit to another country;
- cash, checks and credit cards accepted in Belgium, original commitment, employment contract, statements of account, registration in the trade register, certificates of professional activities, are as evidence that the person concerned has means of subsistence.

To obtain the status of long-term resident (RLD) in Belgium. Except in the case of public policy or national security, long-term resident status (RLD) is granted to a third-country national (with the exception of the foreigner to whom Belgium has recognized refugee status or granted protection Subsidiary), which satisfies the following conditions:

- be authorized or permitted to reside in Belgium on an unlimited basis (Unlimited Wax, CIE, Card B or Card C);

- have resided lawfully and uninterruptedly in Belgium during the **5 years** immediately preceding the application for the acquisition of long-term resident status;
- have a stable, regular and sufficient means of subsistence for themselves and their family members to support themselves and their family members in order to avoid becoming a burden for the public authorities (refer to the amount of social integration income)
- have health insurance covering the risks in Belgium (affiliation to a Belgian mutual or private insurance);
- present a national passport if the identity has not been established in a previous procedure

➢ ***Common European Asylum System***

2015 was marked by a significant increase in the number of asylum applications in Belgium. In this context, the Belgian authorities increased the reception capacity. In less than 6 months, the reception capacity doubled to 33,500 reception places (at the end of 2015). Moreover, the Reception Agency (Fedasil) took a number of measures to increase efficiency and optimize the use of places in the reception network. The staff of the asylum authorities and the Immigration Office also increased.

Different measures were taken **to ensure a swift and efficient asylum procedure**. Furthermore, in order to reduce the pressure on the reception system, the Immigration Office decided as from **August 2015 to limit the number of asylum applications lodged daily**. Priority was given to families and vulnerable asylum applicants. Those waiting for the possibility to fully introduce their application were pre-registered and redirected towards pre-reception emergency structures. Belgium increased its efforts in the field of resettlement. By the end of 2015, 276 refugees were resettled to Belgium. Besides, an additional 281 Syrians arrived in Belgium with a humanitarian visa. **At the end of 2015, Belgium started with the relocation of asylum applicants from Italy.**

The transposition of **Directive 2013/32/EU** and **Directive 2013/33/EU** remains pending, while some articles of the **Asylum Qualification Directive 2011/95/EU** have been transposed. Amendments to the Immigration Act came into force in September 2015 according to which some competences of the Commissioner General for Refugees and Stateless Persons (CGRS) were extended in relation to threats to society and national security. The CGRS is the responsible organisation for assessing asylum applications and can now also refuse or withdraw the refugee status or subsidiary protection status if the applicant poses a serious threat to national security or has been convicted for a serious crime. **In December 2015, a Royal Decree came into force which reduced the waiting period for asylum seekers to access the labour market**: asylum seekers can apply for a work permit if they have not yet received a first instance decision within four months following their application for asylum (instead of six months). Furthermore, it was decided to no longer automatically grant refugees permanent residence, but a temporary residence permit of five years. Permanent residence will be granted after five years if the situation remains unchanged.

FRANCE

- ***General introduction***

With reference to the national policy that regulates immigration in France, it can be observed how it has been implemented a transition from one phase rather "liberal" to another more restrictive. These trends are well traceable in Law n.93-1027 of 24 August 1993 and Law 93-1417 of December 30, 1993, also known as **"*Lois Pasqua*",** which intervened to regulate various aspects of immigration, putting even partially in question the principle of *jus soli*. In particular, became more difficult obtain the "certificat d'hébergement" (Accommodation certificate) that, initially planned as a guarantee for the immigrants who came to France to live in adequate housing, it assumed more and more a function of social control.

Despite the reactions of immigrant associations, public opinion and the “sans-papiers” movements, intensified in March 1996, the Law n.97-396 of 24 April 1997 ("Law Debré") seems to strengthen THE repressive approach towards immigration, increasing their precarious situation.

In June 1997, a wide-ranging operation of regularization was launched, producing its effects until 20 April 1998, with about 150,000 applications and 77,800 were accepted.

The **Law N.98-349 of 11 May 1998**, (also called Chevènement Act) has further mitigated the rules governing the admission and stay of foreigners in France by making several changes, such as the deletion of the certificate of accommodation, enlargement of possibility of access to the resident card, facilitating, in addition, the skilled immigration.

The two decades after 1980 show a general tendency towards stricter legislation applicable to foreigners. In 2004, the Ordinance of 2 November 1945 was replaced by the Code regarding entry, residence and asylum in France, which is a clearer codified text the *“Code de l'entrée et du séjour des étrangers et du droit d'asile*” CESEDA (Art. 92 Loi 1119/2003). Recently came into force the **law n ° 2003-1119 of 26 November 2003 (the "Sarkozy Law")**. The Law introduces stricter regulation of the entries into the French territory and strengthen the fight against illegal immigration through a series of restrictive measures.

In 2006 an ambitious law, **the 24 July 2006 law on immigration and integration**, was adopted. It aimed to re-open the borders for salaried employment according to a conceptual distinction made between chosen and non-chosen immigration. In other words, its goal is to favour immigration flows that benefit the French economy and to restrict other types of immigration, such as family reunification.

After the presidential elections of 6 May 2007, the Ministry of Immigration, Integration, National Identity and Co-Development was created in order to supervise all the administrative departments in charge of immigration policies. The new Minister’s objectives are organised around six priorities:

- the preparation of yearly immigration quotas regarding the different immigration types in order to reach the objective of 50 per cent economic migration within immigration flows;
- the control of family reunification;
- the development of more effective and constraining integration measures;
- the simplification of administrative procedures;
- the fight against irregular migration;
- the development of a more dynamic co-development policy (Mission letter 2007).

The implementation of this programme will be executed originally through the application of the Immigration and Integration Law 2006. Regarding the stricter measures to be adopted, within areas such as family reunification and integration, a new law regarding control of immigration, integration and asylum was adopted on 20 November 2007 (**Immigration Law 2007**), which can be seen as a continuation of the Immigration and Integration Law 2006.

➢ ***The current legal framework***

Major legislative reforms have been implemented in 2011. The law of 16 June 2011 on immigration, integration and nationality has adapted French legislation to European directives and new challenges to be met in the context of immigration policy, including new tools for promoting economic migration, combating irregular migration and strengthening integration policy and access to nationality. Increased focus has further been put on combating irregular migration by reforming procedures for the removal of illegally-staying migrants. Legislative measures aimed at improving the management of asylum applications and the functioning of the CNDA were also introduced in 2011.

Despite its complexity, the French legal system is organised around two main types of stay permits:

1. a temporary stay permit that is, in principle, granted for a maximum of one year and identifies the foreigner according to his specific situation;
2. a residence permit that is granted for a period of ten years, with a right to renewal.

It is through this bipartite distinction that the different immigration flows towards France (for example, members of family, workers and students) are managed. Moreover, entry control for foreigners is closely integrated with the immigration policy given that, in principle, immigration to France depends on the granting of a long-term visa.

➢ ***Procedures and policies***

For entry, all foreign nationals must, as required, provide documents and visas, accommodation certificates (for private visits), documents related to purpose and conditions of stay and return, and documents required to carry out work.

Short-stay visas are issued within the framework of the common regulations. Circulation visas are valid for several years, but with **a limit of 90 days in a six month period**. Long-stay visas are issued mainly for study, family reunification and employment. **A long-stay visa equivalent to a residence permit (VLS-TS) was introduced in June 2009.**

Applications for international protection are made with State representatives (Prefects), and the applicant receives temporary stay. If an applicant does not have documents to enter, the division of asylum at the border of OFPRA (*Office français de protection des réfugiés et apatrides*, established since 1952) may carry out interviews at the border to decide whether a case can be made.

To settle, a residence permit is required. Generally, temporary residence permits are valid for a maximum of one year, and are renewable. They may be issued for: persons living on their own resources and not taking up work; employment; private and family reasons (issued to persons granted subsidiary protection); study; scientific research; and artistic and cultural activities. In addition, “skills and talents”, “employees on assignment” and “European Blue Card” permits, valid for three years; full residence permits, valid for ten years (issued to recognised refugees); residence permits for Algerian nationals; retired person's permits, valid for ten years; and EU and EEA permits are also available.

The integration policy for all legally resident foreign nationals takes into account various economic, social and cultural aspects. The most important feature is the contract of reception and integration, and there are various employment-oriented initiatives.

Citizenship can be acquired automatically (by birth or by reaching the age of majority for children born in France), by declaration (for young people born in France, who at the age of 16 may acquire French nationality, and spouses of French nationals) **and by naturalization** (by application after a minimum of five years of residence, reduced to two years in certain cases, knowledge of French and "good attitude").

In principle, foreigners who wish to have paid employment must hold a work authorisation, issued by Regional Directorates for Companies, Competition, Consumption, Work and Employment (DIRECCTE) and a medical certificate issued by the OFII. The various categories of work authorisations include residence documents with permission to work (permanent residence card or temporary residence permit) or provisional work authorisations (APT), which are valid for a maximum period of 12 months. In order to respond to the recruitment needs of certain economic sectors, a list of fourteen shortage occupations, open to third-country nationals, was established in August 2011.

Asylum applicants are not permitted to work. However, if a decision has not been reached within a year, they may apply for a work authorisation. Various administrative and legal measures set out the conditions for returns, and the police may carry out (escorted) expulsions. There are a number of financial incentive measures to facilitate voluntary return. For those not qualifying for assisted voluntary return, humanitarian assisted return is an option.

- ***Common European Asylum System***

On 29th July 2015, France approved Law N. 925, which transposed in the national legislation the **Procedure Directive (2013/32/EU) and the Reception Conditions Directive (2013/33/EU).** The aim of the new law was to boost asylum seekers' rights, to improve the effectiveness and efficiency of the asylum procedure, and to guide the accommodation of asylum seekers throughout the country. Specifically, the new Law:

- introduced in the French legislation the so-called **'border procedure'**, whereby non-admitted third-country nationals would be informed about their right to apply for asylum at the border;
- enabled asylum seekers to request **the presence of a counsellor** when appearing before the French Office for the Protection of Refugees and Stateless Persons (OFPRA) for the interview and to request legal aid before the National Court for Asylum (CNDA) when appealing, regardless of the type (normal or accelerated) of the procedure;
- replaced the 'priority procedure' with the 'accelerated procedure', whereby the first instance decision had to be made in 15 days, with the objective to reconcile the right to a fair application process and the need to quickly process the applications that seemed manifestly unfounded;
- introduced the assessment of special needs for vulnerable persons to be carried out by using a questionnaire at the one-stop shop;
- allowed asylum seekers to access the labour market 9 months after lodging the application, if the decision had not been taken yet for reasons which were not dependent on the asylum seeker;
- comprehensively revised the regime applicable to asylum seekers in detention, trying to pursue the need to enforce removals and respect for the right of asylum;
- modified the first instance decision procedure, broadening the guarantees for applicants for international protection, for instance in the preference the applicants may express on the gender of the interviewer and interpreter, on the language of the interview and in the possibility for the applicant to be accompanied by a lawyer or a voluntary representative.

Since **autumn 2014**, France was confronted with an **increased inflows of migrants to Calais**, where they tried to reach the UK. To address this phenomenon, 161 new reception and guidance centres were created in Calais in 2015, with the aim to encourage migrants to reconsider their migration plans and apply for asylum in France. Pursuing the same objective, since October 2015, OFPRA's officials set up weekly information sessions on the asylum procedure and accommodation. Overall, in 2015, nearly 2,000 persons decided to apply for asylum in Calais.

On **humanitarian visas**, on 9th July 2015, the Council of State (ruling N. 391392) annulled the ruling of an administrative tribunal which ordered the government to re-examine the requests for visas presented

by three Syrian nationals residing in Lebanon, with a view to coming to France to request asylum. The Council of State ruled that **the right to seek asylum in France did not extend any rights outside France**.

On **international solidarity**, within the relocation mechanism agreed upon at the EU level, France agreed to relocate 30,700 asylum seekers over two years (Circular of 9 th November 2015). The first 19 asylum seekers coming to France were Eritrean nationals from Italy, who landed to the Loire Atlantique department in November 2015. In 2015, in the context of resettlement, France resettled more than 640 Syrian and Palestinian nationals from Lebanon. Additionally, on 20th July 2015, France agreed to resettle 2,375 persons under the EU-wide resettlement scheme. Moreover, 1,100 and 1,800 humanitarian visas were issued to Syrian and Iraqi nationals respectively.

GERMANY

- ***General introduction***

In 1955, ten years after the end of World War II, the **unemployment rate in the Federal Republic of Germany was at 5.1** per cent. However, there were strong regional differences: in Baden-Wuerttemberg the rate was 2.2 per cent, while in Nordrhein-Westfalen it was 2.9 per cent, and in Schleswig-Holstein 11.1 per cent. In September of 1955, unemployment within the male population was at only 1.8 per cent. During the following decades this strong labour shortage was responded to by **the signing of recruiting agreements with Italy, Turkey, Portugal and Yugoslavia**. As a result, the proportion of foreign workers within the total number of employees in the Federal Republic rose from 0.8 per cent (166 000 persons) to 4.9 per cent (1 014 000 persons) between 1959 and 1968 (Herbert 2001). In 1972, 2.5 million foreign workers lived in the federal territory (Bade 1983). At the same time, unregulated immigration from the German Democratic Republic occurred until the construction of the Berlin Wall in August 1961. It was expected that guest workers would stay in Germany only temporarily and that they would return to their countries of origin in the foreseeable future. This was the belief of both the immigrating workers and the German politicians.

The Alien Act of 1965 (and the executive order issued for its fulfilment) regulated access to the federal territory. The green card ordinance, which was separate and became effective in 1971, regulated access to the labour market for legally present migrant workers. In addition, a number of agreements under international law were adopted, including goodwill clauses and most favoured treatment clauses.

The Alien Act of 1990 was a response to the long standing criticism of the Alien Act of 1965, relating to uncertainty caused by the former legislation. As a result, there was no longer only one kind of residence permit; the generic "Residence Permit" was divided into:

- the "Residence Permit, Not Temporary", which was assigned to foreigners who immigrated to the federal territory for permanent stay,
- the "Temporary Residence Permit", which was granted for the purpose of temporary stay.

The new law had the advantage that, for the first time, a foreigner could understand whether or not he had the prospect of a permanent right of residence. However, the size of the regulations had increased fivefold, resulting in a significantly more complicated process. In practice, for example, the transition from a temporary permit issued to students to a permit for durable stay proved to be too difficult to execute.

The Residence Act was passed in 2005 with the promise of simplification. Today there is the generic term of the stay title, a settlement permit and only one residence permit. However, the latter splits into 35 different forms, instead of the two previous permits under the Aliens Act of 1990. After a hearing of experts **in May 2007** (Interior Committee 16(4)209), the Bundestag passed the **Law for Transposition of Residence and Asylum Relevant EU Directives**, changing the requirements for immigration in the federal

territory. In total, 11 EU directives were either fully or further transposed into national law, as well as some changes being made to various existing laws, including the Residence Act. **The law entered into force on 28 August 2007.**

- ***The current legal framework***

Both German asylum/refugee law and immigration/residence law are governed at the **Federal level under exclusive or concurrent legislation**. The basic legislation in the field is **the Immigration Act**. The Residence Act as part of the Immigration Act provides the legal basis for the entry, residence and employment of third-country nationals.

Asylum procedures and the recognition of refugees follow constitutional standards and the provisions set by the Asylum Procedure Act. Beyond the level of Federal Acts, several legal and administrative provisions at Federal and State level prevail. On the level of the federal states, education, research and the organisation of police forces are the most relevant policy areas related to migration.

The most essential piece of legislative reform in the last few years can be attributed to **the introduction of the 2004/2005 Immigration Act**, which superseded the Aliens Act of 1990. Relevant EU Directives have been transposed, including the Dublin II Regulation, the Qualification Directive, the Researcher Directive and the Blue Card Directive.

A number of actions have been taken in the area of visa and border management in order to improve security and preclude illegal entries. This entails closer collaboration between authorities at various levels. A one-stop-system has been introduced making local Foreigners Offices responsible for all decisions on residence and employment.

Efforts to improve practical routines of the relatively new Immigration Act include: The practice of multiple temporary renewals of exceptional leave to remain have been replaced by a hardship provision which allows issuing residence permits if a number of conditions are met. All Federal States have created advisory bodies dealing with cases in which the forceful termination of stay would pose unbearable hardship. A naturalisation test has been introduced. Facilitation of immigration of highly skilled workers has been enhanced. Conditions and practices for entry and removal have been clarified.

- ***Procedures and policies***

Before entry, third country nationals in general have to apply for a visa at the competent German Diplomatic Mission.

Upon entry, the municipal Foreigners Authorities are generally the competent administrative bodies for all residence and passport-related measures and rulings. However, an asylum applicant reporting to the Border Agency, and being entitled to enter, is transferred to the nearest initial Reception Centre, where

BAMF takes over processing the asylum claim. Applications for asylum must usually be made in person at the Federal Office for Migration and Refugees.

Prerequisites for a residence title include: holding a secure means of subsistence; known identity and nationality; no grounds for expulsion; no objections and no jeopardy of the interest of the state, possession of a valid passport or travel document. A residence permit is granted for a specific purpose and a limited period of time. Residence permits are issued for the following purposes: employment, family reunification, study, self-employment and humanitarian grounds. In contrast to a residence permit, which is only of temporary validity, a settlement permit is permanent.

Each foreigner appealing to the basic right of asylum must undergo the recognition procedure outlined and fixed in the **Asylum Procedure Act** with personal interviews as the core of the asylum procedure. Persons recognised as entitled to asylum obtain a residence permit (refugee status pursuant to the Geneva Conventions entitles a residence permit). Negative decisions may be appealed to the administrative court.

Obligatory integration courses are linked to some residence permits, for others it may be optional. As a general rule, third-country nationals born abroad may obtain German citizenship through naturalisation. It requires, inter alia, residence in Germany for at least eight years, ability to ensure own subsistence, and no sentences for unlawful acts.

While **access to the labour market usually requires a residence permit**, it is also possible that a national visa by law or by special permission may authorise employment. The local Foreigners Authority is responsible for issuing residence permits, including for employment (involving the Federal Employment Office). For authorisation of employment, it must be proven that this does not negatively impact on the job market, that there are no German or co-equal workers, and that the working conditions are not below those of comparable German labourers. There are certain regulations for e.g. seasonal workers and highly qualified foreigners. Asylum applicants may receive a work permit after one year, if the Federal Employment Agency has ruled out negative consequences for the employment situation of German nationals, EU citizens and third-country nationals with unlimited access to the labour market. During the first three years of their stay, persons granted subsidiary protection may only be granted such “subordinate” work permits. Recognised refugees obtain unrestricted and unlimited work permits.

There are multiple reasons for **termination of the right to stay**, including the expiry of validity of residence title or revocation, or criminal offences. In such cases the third-country national may be removed by force, and in some cases custody is applied. The primary responsible bodies are the Foreigners Authorities. Priority, however, is given to voluntary return, which may be financially facilitated through assisted voluntary return programmes.

- ***Common European Asylum System***

In terms of legislative and policy changes, **no developments were reported in 2015**. German law conforms notably to the requirements set up by directives 2013/32/EU (Asylum Procedures) and 2013/33/EU (Reception Conditions). **There was no need for legislative measures**.

Regarding **resettlement activities**, Germany provided 500 resettlement places in 2015. In total 21 persons were relocated to Germany from Italy (11) and Greece (10) under the relocation decisions of September until 31.12.2015. A total of 179 places were available for the resettlement process from Sudan and 180 persons were admitted, as one child was born prior to the mother leaving Sudan. For the resettlement process from Egypt 300 places were available, but 301 persons were admitted as one child was born prior to the mother leaving Egypt.

It was further announced that as of 2016/2017 **Germany will be receiving up to 1,600 people as part of its resettlement programme**. The humanitarian admission programmes for people from Syria and their dependents seeking protection, for which a total of 20,000 places were available in three admission programmes since 2013, was completed in 2015. All admission pledges and visas have been issued and almost all the persons concerned (primarily from Syria, Lebanon, Jordan and Turkey) have already entered Germany in 2015. In addition, relatives of Syrian nationals have been admitted under the federal Länder programmes (10,000 visas were issued in 2015).

No fixed quotas apply to the programmes of the federal Länder. Continuing these admissions is planned for 2016 in a few federal Länder. Also the support of the European Commission's recommendation for the admission of substantial quotas from Turkey was announced.

ITALY

- ***General introduction***

Italy only recently is attempting to regularise the migration phenomena, respect other European countries traditionally more exposed to host workers coming from third-countries. The existing approach since '90 was essentially based on "administrative" expedients, and migratory flows were managed through ministerial circulars, used to cover the legislative gap within an overall legislation dated back to 1931, when the fascist regime emanated the " Law on public safety ".

The first political act, was introduced in 1986 (**Law 943/1986 "standards of treatment of non-EU migrant workers and against illegal immigration"**), inspired by the International Labour Organisation, convention No. 143 of 1975. The general approach was labour-based, and illegal immigrants were totally excluded from any type of social and legal protection. It wasn't yet an attempt to plan incoming flows, but only the introduction of the criteria able to justify the "sanatoria" system, an overall system of regularization, once established the "lack of domestic labour forces" in specific economic sectors. Thanks to the "sanatoria" of 1986 almost 105.00 immigrants were regularised, most of them were unemployed.

The Law 39/1990 ("Legge Martelli" in reference to the vice-prime minister who proposed the act) signs a significant step forward toward the regularisation even of them who were unemployed but registered to the labour office. The Law 39/1990, introduced many important elements, still adopted during the further normative experiences:

- "Immigration quota" that determinates the maximum amount of legal entries per year;
- "nominal call system" or the encounter between supply and demand directly to the country of origin;
- the employer is in charge of the regularisation process of the immigrant worker.

In **1998 the Law 40/1998** (the so-called Turco-Napolitano Law) was introduced. This law as well as the further modification introduced by the "Consolidation Act on Migration", can be considered an organic law because introduces permanent elements related to residence permits and defines steps in order to pursue integration. The integration system can be considered as "indirect" because the law delegated to the Regions, local entities and to third-sector actors, a crucial role in order to define the migration policies to be adopted. T**he international protection system was not included in the Law 40.**

The Turco-Napolitano Law remains in force till the 10th of September 2002, when the Berlusconi Government introduced the **Law 189/2002 also known as Bossi-Fini Law** in reference to the two leaders of the right parties.

The significant innovative element was the introduction of the **"residence contract"** that conceive the possibility to the residence in Italy, as secondary to the employment condition. This law was strongly supported by the slogan "zero immigration" but in reality it configures as an "Immigration with zero rights"

thanks to the institutionalisation of the link between job contract and residence in Italy and the resulting institutional mechanism that produces illegality.

The importance of this drastic linkage can be understood if compared with 2 distinct factors: many important changes operating in the **new labour reform** (L30/2003) with the institutionalisation of at least 30 different forms of precarious jobs and the general economic context of Italy (as well as of Europe in the whole) of crisis. These elements transform even more the migration phenomena as a public order issue, and migrants became the principal target to whom, the new **"security package"** (Law no. 94 of July, 15, 2009), refers.

The "security package" is the direct descendant of the law approved in 1931, because it reinforces the division between population of migrant origin and the indigenous one, as well as emphasises the criminalization of third-countries citizens just because are migrants (with the introduction of the crime of illegal immigration).

- ***The current legal framework***

The central law regulating asylum and migration policies is the **Consolidation Act on Immigration** (Legislative Decree no. 286/1998), which was partially modified in 2002, and at several other times to implement the EU Directives. Another important law is the so-called "**security package**" (Law no. 94 of July, 15, 2009), which includes also issues relating to migration.

In Europe, the law becomes a source of inspiration for several States in many important aspects:

- **Residence permit for work reasons** (connection between the employment contract and the immigrant's residence permit). Can enter Italy only those who are already in possession of an employment contract which enables the economic maintenance. After the entrance, the residence permit must be requested within eight days. The permit has a term up to two years for labor relations for an indefinite period, up to a year in other cases. The law provides for a residence permit for one year to immigrants who lose their jobs and has increased the number of years (five to six) required to obtain a residence permit (the requirement was later reported to five years for the adaptation a European Directive).
- greater severity to the **expulsions** (always performed by the police forces accompanied to the border) and for political asylum;
- In the event of **job loss** (even for resignation), the foreign worker with a valid residence permit can register as unemployed only for the remaining time determined by the permit, after which, in the absence of a new contract, is forced to leave the country.
- It is increased (5 to 6 years) the residence time needed to apply for **permanent residence card**. This deadline was subsequently brought back to five years, in compliance with community Directives;

- the law introduces the principle of national and Communitarian priority that forces the job center to check first the availability of Italian or EU workers , before taking a non-EU foreigner, in addition to complying with the condition of the "economic needs test";
- Foreigners who want to stay in Italy for more than three months must apply for a residence permit, which can be released for adoption reasons, political asylum, self-employment, employment, subordinate-seasonal employment, specific and authorised mission, religious affairs, humanitarian protection, residence elective, scientific research, stateless, study.
- the foreign national who fears persecution in the country of his nationality, or whose life is threatened by indiscriminate violence in situations of conflict, can **seek asylum or protection in Italy**.
- **fingerprints and protections restrictions**, as well as the crime of illegal immigration

➢ ***Actors and institutions involved***

The **Coordination and Monitoring Committee** for the regulations regarding migration, composed of the relevant Ministers, coordinates the migration policy at the ministerial level supported by an open **inter-institutional Technical Working Group** consisting of legal representatives of relevant ministries and experts appointed by the Unified Conference (State-Cities and Local Authorities) that conducts analysis and evaluation of problems related to migration.

At the level of the **Ministry of Interior**, the practical coordination of migration policies is undertaken by the **Department for Civil Liberties and Immigration** (which outlines and coordinates the activities of the Territorial Commissions for Refugee Status Recognition and proposes guidelines for the evaluation of asylum applications) and the **Department of Public Security** (which focuses on developing strategies to prevent and fight irregular migration). Other key institutions include the Ministry for International Cooperation and Integration, the Ministry of Labour and Social Policies and the Ministry of Foreign Affairs.

➢ ***Procedures and policies***

The entry procedures of Italy generally follow the regulations of the Schengen System. A Decree of the Ministry of Foreign Affairs of May 2011 implemented the new EU regulations but still contains **21 different types of visa**, some of which have been redefined.

With regards to **admissions conditions**, only third-country-nationals planning a stay longer than three months are obliged to apply for a residence permit – in a number of cases (e.g. study, family reasons or work) are required to apply to the so called “Sportello Amico” of Poste Italiane (a specific Help Desk of the Italian post offices), where they can obtain and fill in the necessary forms. All the documentation is then transferred to the Single Desk operating in the “Prefettura” (the Territorial Governmental Office).

Applications for asylum can be submitted at the Border Police offices upon entry or at the Immigration Offices. The evaluation of the application is made by the relevant **Territorial Commission for Refugee Status Recognition**.

Italy has recently taken steps aimed at transferring the administrative jurisdiction for the renewal of residence permits to Municipalities. In this regard a new "online network for assistance with residence permit renewal" has been created and was in November 2011 joined by more than 450 Municipalities. As an alternative to paper forms, the foreign citizen may submit his/her application to any Municipality (or to specific offices specialized on free assistance, called "Patronati") enabled to process the online submission. Furthermore, the Ministry of Interior has developed an automated system for the presentation of foreign citizens to the Police Headquarters for the validation or delivery of their residence permits.

In 2010, the Council of Ministers approved the "Plan for Integration in Security" which defines the main lines of action and tools to be adopted in order to promote a successful integration process of immigrants, thus meeting the needs for both security and reception. The Plan is based on five basic principles of integration: education and learning, work, housing and local administration, access to the most essential services, integration of minors and second generations.

- ***Citizenships***

To obtain citizenship, foreigners residing in Italy have two main options: marrying an Italian citizen (once six months and now two years of residence in Italy since the date of the marriage are required), or continuously residing in the country for period of time (i.e. 10 years of regular and uninterrupted residence for non-EU citizens).

An employer hiring a non-EU worker must go to the Single Desk for Immigration at the Prefecture of the province where the work will take place. The Single Desk issues an authorization certificate; the worker then has a 6 month window to apply for an entry visa.

Key institutions involved in the return process include the Border Police (executing refusals at the border), the Immigration Office at Police Headquarters (issuing orders of expulsion) and the Identification and Expulsion Centres (responsible for detention of foreigners while an expulsion order is pending).

- ***Common European Asylum System***

Italy faced a **very high influx of asylum seekers in 2014**, the overall number of arrivals increased from 3,000 to 20,000 in one year. As a result, Italy increased its reception capacity with additional 6,490 units in 2014 and implementing 456 projects. As of **12th December 2014, Italy adopted the Regulation on procedures for recognition** and revocation of international protection aiming at strengthening the access to procedure and to protection for applicants for international protection.

In addition, the **Law No. 146/2014 doubled the number of territorial committees for the recognition of international protection** from ten to twenty, in order to improve and speed up asylum procedures. The new law amended some aspects of the review procedure of applications for international protection, in particular rules on the interview. Also, in order to strengthen the capacity and services of reception facilities, funding for the National Fund for asylum policies and services was increased by 50.8 million euro.

The transposition of **Directive 2011/51/EU** on the extended scope of beneficiaries of international protection included the harmonisation of procedures, requirements and administrative treatment applying to refugees and to those persons receiving subsidiary protection. The transposing law also established the **National Coordination Forum within the Ministry of the Interior** with the purpose of optimising reception systems for asylum applicants and beneficiaries of international protection. The Forum, composed by representatives of different ministries from the regions and local entities, presented its first findings in December 2014, which led to the adoption of the above mentioned Regulation. Moreover, the Forum will draw up a **national plan every two years with actions to be taken in the field of social inclusion**, access to health, housing, language training, education and fight against discrimination.

In line with the effort to make the asylum system more rationalised and efficient, Italy implemented a **National plan to face the extraordinary flow of migrants**, adults, families and unaccompanied minors. The Plan contains special procedural provisions to handle asylum applications in a situation of high influx, with a specific focus on the protection of unaccompanied minors. **A Parliamentary Committee of Inquiry** was also appointed to evaluate the system of reception and identification and to ascertain the conditions of detention of asylum seekers in the Centres for Identification and Deportation (CIE), Reception Centres (CDA) and reception centres for asylum seekers (CARA). The Committee tasks are expected to last one year and will explore the conditions of stay and use of detention measures in the light of fundamental rights; the respect of procedures in management and inspection of centres in view of possible legislative changes.

THE NETHERLANDS

➢ *General introduction*

Since the end of World War II, four distinct phases of immigration in the Netherlands have emerged.

- 1945 to 1960: Immigration was driven by the decolonization of Indonesia and Surinam.
- 1960 to 1973: Excess labour demands attracted immigrants from Southern Europe and North Africa. Initially, recruitment was managed by employers, but beginning with Italy in 1960, the Government began signing "recruitment agreements" with sending countries.
- 1974 to 1997: Immigration was driven by family reunification motives (peaking in 1983-84), then by asylum seekers.
- 1997 to 2007: Flows of family reunification, asylum-seeker and low-skilled immigrants decreased, whilst recruitment of high-skilled workers increased.

The first official document to formulate a coherent policy view on immigration, **the 1970 Memorandum on Foreign Employees** (*Nota Buitenlandse Werknemers*), specified that the **Netherlands was not a migration-receiving country.** While the Memorandum acknowledged that foreign labour was **necessary to sustain economic growth**, it formalized the unofficial view that migrant workers were wanted solely as temporary transients in Dutch society. Whilst the concept of circular migration was not yet popular, the "rotating" of foreign workers between sending countries and the Netherlands was proposed. This was consistent with the reality on the ground at the time: The majority of workers were male and came without their families (in the early 1970s there were 55,000 Turkish and Moroccan guest workers and only 20,000 family members).

The 1973 oil crisis and economic downturn after 1979 had significant effects on immigration, particularly on the composition of the migrant population. It also impacted considerably on the public (and political) view on immigration. **The 1974 Memorandum of Reply** explicitly stated that the Netherlands had responsibilities towards guest workers, and that a policy to accommodate them in Dutch society was imperative.

This policy sought to give guest workers improved access to public services and social security and to provide cultural support. Housing was an initial priority; however, later on, as migrant workers became more regionally concentrated, municipalities began providing better access to health care, social assistance-based income support and education. Ethnic (sender country)-based education and mother-tongue teaching was aimed at facilitating future return.

By the mid-1970s, government policy sought to restrict labour immigration, by tightening controls on **entry and using quotas** at the sending country and company level (enforced through both work permit restrictions and strict visa requirements) to reduce the ease and desirability of migration. However, these

policy initiatives did not achieve significant cuts in the number of new immigrants. The total number of non-Western immigrants more than tripled between 1975 and 1985 — from less than 200,000 to approximately 600,000 (the total Dutch population was approximately 15 million in that period).

While throughout the **1970s and 1980s the Netherlands saw only a couple of thousand asylum seekers per year,** the number increased to 14,000 in 1988 and exploded further to yearly peaks of 53,000 (1995) and 45,000 (1999 – 2001). When the Netherlands and other countries tightened the criteria for refugee status and reconsidered social assistance in cash in 2001, the number of asylum applications dropped significantly. The tightening of **the access to asylum was realized through an administrative action** (the Linkage Act — Koppelingswet, 1998) linking all social economic databases electronically, allowing authorities to identify and locate illegal or irregular immigrants when they used the administrative, health services, schools or parts of the social security administration.

- ***The current legal framework***

The Aliens Chamber (VK) forms part of the administrative law section at the district court of The Hague and focuses solely on hearing disputes in relation to alien law. The most relevant legislation and regulations in relation to asylum and migration are to be found in the **Aliens Act 2000,** which lays down the **conditions applicable in regard to the entry and admission of foreign nationals, including the asylum procedure,** and for the removal of foreign nationals who do not have any right of residence. **The Integration Act and the Civic Integration Abroad Act** set out the mandatory requirement for integration of foreign nationals in the Netherlands.

T**he Netherlands Nationality Act (RWN)** lays down the conditions for obtaining and losing Dutch citizenship. **The Aliens Employment Act (WAV)** regulates the admission of foreign nationals to the Dutch labour market. The Administrative Penalty for Aliens Employment Act stipulates that an administrative penalty may be imposed on employers if they employ foreign nationals illegally.

In the development towards an effective government, the establishment of the Immigration and Naturalisation Service (IND) introduced a **separation between policy development and policy implementation**. On adopting the **Aliens Act 2000**, in particular the asylum procedure was substantially amended. An important change was the introduction of the 'Intention procedure'. After the IND has assessed the application it notifies the applicant and his/her lawyer if it has the intention to reject the application. Another major amendment was that IND was made responsible for the assessment of applications for 'Provisional residence permits' (MVV).

- ***Procedures and policies***

To be able to enter the Netherlands, **immigrants are required to hold a valid border-crossing document,** with a visa where required. Visas are to be acquired at diplomatic representations and in

certain cases at the border. **Asylum applicants have to submit their application in person at the Dutch external border** (sea port or airport) or at one of the three IND application centres.

Admission on the grounds of both migration and asylum is assessed by the IND. All residing foreign nationals need to have a residence document. For immigrants both temporary and permanent residence permits are generally issued according to the following main categories: family reunification and family; adoption and foster children; re-entry; work; study; Council Directive 2004/114/EC; exchange programmes; working holidays; au pairs; medical treatment; medical emergency situations; family members; victims or witnesses of human trafficking. Asylum applicants may be eligible for a temporary residence permit. If the IND decides positively on an application for asylum, the applicant will be given a temporary residence permit (for five years max.) in the first instance. If the individual still needs protection after five years, he or she may be eligible for a permanent residence permit. Holders of residence permits are entitled to accommodation in a municipality of their choice as well as training, social security benefits and study grants. They will also be entitled to family reunification subject to certain conditions.

An immigrant may obtain citizenship through application, birth or naturalisation. This entitles permanent stay. Holders of residence permits are allowed to have paid employment. To be able to work in the Netherlands, employment migrants will be expected to have a residence permit and a work permit. A work permit is valid for up to three years. Highly skilled migrants, under the High Skilled Migrants Scheme, with a residence permit do not need a work permit. Asylum applicants will be able to gain access to the labour market six months after the date on which the asylum procedure starts.

Return policy in the Netherlands primarily focuses on foreign nationals who are obliged to leave because they do not reside lawfully. The foreign national then is to leave the country independently. As soon as the asylum applicants no longer require protection, they are expected to return to the country of origin.

- ***Common European Asylum System***

In 2014 the Netherlands was confronted with an intensified influx of asylum applicants, particularly from Eritrea and Syria. As a response, the authorities employed extra personnel, new reception centres for asylum seekers were opened and a plan has been developed to bring the backlog back to normal proportions by April 2015.

During 2014, **several developments occurred in the Netherlands in the context of the Common European Asylum System (CEAS)**. First of all, the **Aliens Act of 2000 was amended in January**, as the grounds for granting a residence permit for international protection have been reorganised and brought more into line with the EU acquis. Furthermore, following the implementation of the recast **Dublin III Regulation on 1 st January 2014**, the submission of asylum applications takes place during the so-called

“identification and registration phase”, i.e. the period prior to the period of rest and preparation, whilst before it took place after the rest- and preparation period.

Other developments, not directly linked to the CEAS, were aimed at **setting up more efficient entry procedures and avoiding the stacking of procedures**. Since January 2014, an accelerated procedure has been introduced for subsequent applications for international protection. As a result, the intention to submit a subsequent **application has now to be communicated in writing and no longer in person**. Subsequent applicants must indicate which new elements they wish to put forward, an interview in person will take place and the decision will be taken within one to three days. If the application requires further investigation, it will be dealt under the general or extended procedure.

Moreover, the **financial compensation for legal aid representation** provided to subsequent asylum seekers during repeated subsequent asylum procedure has been reduced on the basis of a 'no cure, less fee' principle. The Netherlands also introduced a **screening for asylum applications of families with minor children at external borders**. The screening aims to check whether there is an actual relationship between adult(s) and presumed children, and whether there are well-founded reasons to refuse entry into the Netherlands (e.g., suspicion of war crimes).

The Netherlands has remained active regarding the resettlement of asylum seekers from third-countries. **In 2014, approximately 800 asylum seekers were resettled into the Member State**. Finally, the Netherlands undertook measures in order to equip those third-countries (e.g. Serbia and Azerbaijan) which are first destinations of asylum seekers, to guarantee refugee protection and to better manage mixed migration flows.

SPAIN

- ***General introduction***

Spanish legislation on immigration, as well as the ones of the other Mediterranean countries of "new immigration", entered in forces only in the mid-eighties. The earliest juridical sources refer to that period: **Ley n. 7 of 1 July 1985** on the rights and freedoms of foreigners in Spain, whose contents were then later integrated by an implementing regulation approved by Royal Decree 155 of February 2, 1996 . Asylum and international protection are, however, regulated by **Ley 5/1984 of 26 March 1984**, entered into force in June 1994 (then completed with Royal decree 203 of 10 February 1995).

The legislation which currently regulates migration in Spain **is the result of a combination between the organic Ley 4/2000, of January 2000** (which seems to have taken considerable inspiration from the Italian legislation - Law 40/1998, while expanding, with an entire title and the penalty system), **and Ley 8/2000, of December 2000, a more restrictive reform made by the new government Aznar.**

To the openness introduced by the Ley 4/2000, the Ley 8/2000 opposes more restrictive elements, as results of a reform process characterized by strong electoral pressures. The main features of this new law are:

- programming of flows (similar to the Italian "quota system";
- implementation of specific intervention measures on the labour market;
- anticipation of penalties both for those who favours illegal immigration and for employers who hire in black;
- immediate expulsion of foreigners residing illegally in Spain, while the previous law had just placed a system of fines;
- through the introduction of the "permanent residence", foreigners are compared to the Spain citizens only from the social protection system, not political point of view.

In general, **the requirements for entry into the Spanish territory are three**:

1. possession of valid identity documents,
2. proof of having sufficient means of subsistence for the length of stay and
3. proof of the purpose and conditions of stay.

The Organic Law 14/2003, which entered into force in December 2003, has intervened in particular to promote and foster the social integration of foreign citizens. It also determined that the seasonal jobs should be of direct preference to those who come from countries with which Spain has signed agreements on regulation of flows.

- ***The current legal framework***

The general structure of the legal framework is established in **article 13.1 of the Spanish Constitution**. The basic legislation is Organic Law 4/2000 of 11 January 2000 on the rights and freedoms of foreign nationals in Spain and their social integration, and its Regulation.

Asylum is governed by Law 12/2009 of 30 October 2009 governing the right of asylum and subsidiary protection. **Rules on citizenship are set out in the Civil Code**.

The aims of the legal texts concerning the immigration system, Organic Law 4/2000 and Implementing Regulation, are mainly:

1) consolidating a model based on legal immigration and linked to the current national labour market;

2) reinforcing the tools for the fight against irregular migration, amongst others, illegal employment of workers in the hidden economy;

3) supporting and guaranteeing circular mobility and voluntary return;

4) promoting the integration of the immigrants already living in Spain;

5) protecting victims of gender-based violence and other vulnerable groups (victims of human trafficking);

6) improving the treatment of unaccompanied minors; and

7) clarifying and simplifying the procedures, making a better use of the resources available.

- ***Procedures and policies***

Spanish legislation distinguishes between **two situations**: foreigners in Spain can be in a situation of stay or residence.

Stay is defined as presence on Spanish territory for a period of time up to 90 days, except in the case of students, who can stay for a period equal to that of the courses in which they are matriculated. On the other hand, **residents are foreigners who live in Spain with a valid residence authorization**. They can be in a situation of temporary or permanent residence. The legislation also contemplates three specific situations: the special regime for students, the residence of stateless persons, undocumented people and refugees, as well as the residence of minors. Accordingly, one can state that the two principal legal situations in which third-country nationals may find themselves in Spain are visitors or residents. A visitor may stay in Spanish territory for a limited period of time, in principle, not exceeding 90 days and does not require a prior authorization, apart from the requirement of a visa to enter the country, where applicable. On the other hand, the situation of a resident is precisely defined by law as requiring an authorization to reside, whether temporarily or permanently. Within this framework of temporary and permanent residence and special regimes, the legislation covers the entry and residence of family members, employed and selfemployed persons and students.

The entry of third-country nationals takes place via border crossing points established for that purpose. It is a requirement to hold a valid passport or travel document, a valid visa where required, and other documentation justifying purpose and conditions for stay. There are two basic situations by which aliens can be present in Spain: short-term stay or residence, according to article 29 of the **Organic Law 4/2000.** Short-term stay shall be construed as remaining in Spanish territory for a period of time not exceeding 90 days, and those admitted for study purposes, student exchange, non-working practices or voluntary service. In the residence situations are, amongst others, those who are legally present in Spain for working reasons, family reunification or non-work residence, and all of the foregoing is without prejudice to the situations established on the aforementioned Law 12/2009 of 30 October 2009, regarding those granted international protection.

Admission criteria for migration are primarily related to the labour market. Work permits for employees require that employment is obtained via a general scheme, a Collective Management of Recruitment in the Country of Origin (annual prevision of a hard-to-fill jobs list) or job search visa. Work permits for selfemployed workers require certification that the third-country national holds the relevant professional qualifications or has the resources necessary for job creation. Refugees are entitled to a long-term residence and work permit. A provisional residence or stay permit - valid for up to six months, but renewable – is granted to asylum seekers during the application process. A work permit may be granted after that. Asylum applicants and refugees are entitled to access social programmes.

Legal residence includes the following phases:

a) **temporary residence**, whose duration in general is one year for the initial permit and 2 years in case of renewal, with different validity periods for other situations of temporary residence (specially concerning family reunification residence);

b) **long-term residence**, after 5 years residence in Spain or fulfilling certain legal conditions, whose holders shall have an aliens' identity card with a validity period of 5 years, renewable.

Return of third-country nationals may be forced or voluntary. Forced return is applied to third-country nationals who do not meet the requirements for entry, stay or residence or who commit serious offences.

Precautionary measures for persons subject to removal may be applied, including periodic presentation before the competent authorities, compulsory residence in a given place, withdrawal of passports, precautionary arrest and preventive detention, following judicial permit, at a detention centre. For third-country nationals meeting certain requirements, voluntary return is offered. The Ministry of Employment and Social Security, in collaboration with IOM and other NGOs, is responsible for the Voluntary Return Plans.

- ***Citizenships***

As regards the citizenship, **on January 9, 2003 came into force a new "Citizenship Code",** which reformed the discipline defined by Law 18 of 17 December 1990. Among others, major innovation reforms regarded the acquisition of citizenship to descendants of the exiled during the Spanish Civil war between 1936 and 1939 and to children born before 1982 to a Spanish mother and foreign father, whose first was denied citizenship.

The general principle to acquire the citizenship is that of the *jus sanguinis* that favours the emigrants of Spanish origin. Citizenship may be required **after ten years of residence and not before 18 years of age**. **Naturalization by royal decree, however, is discretionary** and may be granted: after five years for political refugees, after two citizens of Latin American countries, Andorra, the Philippines, Equatorial Guinea and Portugal, after a year the foreign-born children of at least one Spanish parent.

Finally, in Spain, **foreigners are entitled to vote, since 1985, in the municipal elections** only on condition that Spanish citizens are granted the same rights in the countries from which immigrants come, on a basis of reciprocity.

- ***Common European Asylum System***

During 2014, different measures were introduced to fully comply with the requirements of the **Common European Asylum System**. For example measures included the **creation of two assistance units** for applicants for international protection at the **Ceuta and Melilla border posts**. The new facilities aim to reinforce the guarantees of the international protection system and since December 2014 over 200 applications were registered at the new units.

Amendments to Law 12/2009 of 30 October on the right to asylum and subsidiary protection, were introduced also in order to comply with the Qualification Directive **(2011/95/EU)**. The latter aimed to broaden the concept of family members, by increasing the spectrum of possible relatives who may be recognised as beneficiaries of international protection by family extension, as well as abolishing the requirement of dependence in the case of descendants who are minors.

Regarding **resettlement**, under the framework of the National Resettlement Programme 2014, **a selection and identification mission in Jordan was carried out in October 2014.** As a result, the Interministerial Committee on Asylum and Refugees (CIAR) agreed to **grant international protection to 127 Syrian nationals residing in Jordan after having fled from the conflict in their home country**. The first group of 30 refugees arrived on 17th December 2014. In addition, on 19th December 2014 the Council of Ministers adopted a new National Resettlement Programme.

Through the programme, which would be implemented throughout 2015, Spain aims to receive 130 refugees from the Syrian conflict who are located in neighbouring countries of the region.