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European Migration Network
BELGIUM

BENEFICIARIES OF INTERNATIONAL PROTECTION TRAVELLING TO THEIR COUNTRY OF ORIGIN

CHALLENGES, POLICIES AND PRACTICES IN BELGIUM

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EMN Belgium is a multi-institutional entity composed of experts from the Immigration Office, the Office of the Commissioner General for Refugees and Stateless Persons (CGRS), Myria - the Federal Migration Centre and the Federal Agency for the Reception of Asylum Seekers (Fedasil). It is coordinated by the Federal Public Service Home Affairs.

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BENEFICIARIES OF INTERNATIONAL PROTECTION TRAVELLING TO THEIR COUNTRY OF ORIGIN

BELGIAN STUDY AND EU COMPARATIVE STUDY

Belgian report: This is the Belgian contribution to the EMN focused study on Beneficiaries of international protection travelling to the country of origin. Other EMN National Contact Points (NCPs) produced a similar report on this topic for their EU Member State, and a report was also produced for Norway and Switzerland.

Common Template and Synthesis Report: The different national reports were prepared on the basis of a common template with study specifications to ensure, to the extent possible, comparability.

Synthesis report: On the basis of the national contributions of 24 EU Member States, Norway and Switzerland, a Synthesis Report was produced. This Synthesis Report was made by the EMN Service Provider in collaboration with the European Commission, the EMN NCPs and Switzerland. The Synthesis Report gives an overview of the topic in all the (Member) States.

Aim of the study: The main objectives of this study are therefore (1) to provide objective and reliable information about beneficiaries of international protection who travel to their country of origin or come into contact with national authorities of their country of origin, and (2) information on cases where international protection statuses were ceased leading to, for example, the status being ended, revoked or not renewed (as per Article 45 and 46 of the recast Asylum Procedures Directive) and, ultimately, the permission to stay withdrawn.

In addition to informing policy-makers and the general public, information collected for this study would also support EASO's activities to further develop the Common European Asylum System, particularly in relation to the end of international protection. The UNHCR could also benefit from the findings of this study to better understand how guidelines on cessation clauses are applied in practice across EU Member States, Norway and Switzerland.

Scope of the study: The study aims to map information on the reasons for such contacts with authorities and travels to the country of origin and how these cases are assessed by national authorities. Furthermore, the study examines whether such acts may have any possible consequences on the international protection status and the right to stay of the persons concerned, taking into account the provisions of the Refugee Convention and relevant EU asylum law (recast Qualification Directive1 and Asylum Procedures Directive2), of the European Convention on Human Rights and national legislation. In this regard, this study contributes to existing guidance at international level (UNHCR) and research of EU agencies (EASO) on the subject of ending international protection.

Available on the website: The Belgian report, the Synthesis report and the links to the reports of the other (Member) States are available on the website: www.emnbelgium.be.

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In Belgium, beneficiaries of international protection risk losing their status when travelling to their country of origin. Travels to the country of origin may indicate that the reasons for granting a protection status no longer apply or never existed.

Travels will not automatically lead to an end of the international protection status, but it can and often will be a reason for the Immigration Office to request the Commissioner General for Refugees and Stateless Persons (CGRS) to (re)asses the need for international protection. The CGRS can also decide on its own initiative (*ex officio*) to reconsider the need for international protection. In Belgium, there is no systematic review of all international protection statuses.

MAIN ACTORS INVOLVED ON THE NATIONAL LEVEL

CENTRAL POINT OF CONTACT + COMPETENT INSTANCE TO DECIDE ON RESIDENCE RIGHTS

= **The Immigration Office** (International Protection Follow-up Unit):

- raises awareness on the topic of beneficiaries travelling to their country of origin;
- acts as a contact point on the issue and centralizes the information, received both from other units of the Immigration Office as from external partners;
- initiates requests to end the status of beneficiaries travelling to their country of origin;
- decides on ending the residence of persons who lost their international protection status.

COMPETENT INSTANCE TO DECIDE ON THE PROTECTION STATUS

= Commissioner General for Refugees and Stateless Persons (CGRS)

The CGRS is an independent federal administration and the competent asylum authority in Belgium. It investigates and decides on the withdrawal, cessation or remain of international protection statuses. In case the protection status is ended, the Immigration Office receives a copy of the decision. (The Immigration Office can then decide to end the residence right if this is legally possible and a proportional measure.)

APPEAL BODY

= Council for Alien Law Litigation (CALL):

When the CGRS decides to end the protection status (cessation or withdrawal), the person concerned has the possibility to launch a suspensive appeal before CALL. The CALL can by its judgement:

- confirm the decision taken by the CGRS
- it can reverse the decision
- or it can annul the decision -> in this case, the CGRS has to take a new decision.

The decision to end the international protection status is taken by the CGRS. However, the Immigration Office, and not the CGRS, is competent to take decisions on the residence right and to issue return decisions. The Immigration Office receives a copy of decisions ending international protection status.

A decision ending the international protection status in open to a suspensive appeal before the Council for Alien Law Litigation (CALL).

POLITICAL PRIORITY IN RECENT YEARS

Throughout the years the CGRS has made use of the possibility to reconsider and end protection statuses following travels to the country of origin. However, the CGRS only sporadically ended statuses (foremost cessation of refugee status) on this basis. In recent years, the issue was put forward as a political priority. In the coalition agreement of the Belgian federal government of 2014 (for the period 2014-2019), "enhanced controls of refugees who travel back to the country of origin" was included, and starting from the beginning of 2016, different measures were implemented in this regard.

- Since the end of 2015, a specific and **structured collaboration** on the issue exists between the Federal Police (services in charge of border control) and the Immigration Office.
- In October 2017 a small dedicated service was created inside the Immigration Office, the **International Protection Follow-up Unit**, with the task to centralize information and to initiate (and follow-up on) requests towards the CGRS to end international protection statuses.
- Instructions were also given to the **municipalities and the Belgian embassies** in 2017 with the request to inform the Immigration Office of relevant observations made (e.g. when contacting the authorities for reasons of family reunification or for a change in identity).
- Since 22 March 2018, two more measures were introduced by law:
  - Beneficiaries of international protection are now **obliged to notify the municipal authorities** of the place of residence when they plan to travel to their country of origin, for as long as they have a temporary residence permit in Belgium. The municipal authorities will transfer this information to the Immigration Office, who informs the CGRS.
  - The **original passport of a recognized refugee is preserved by the asylum instances**. Not handing over the passport or asking to recover the original documents without valid reasons for doing so, can be considered as a new element to reconsideration the refugee status.

NOT ALLOWED TO TRAVEL TO THE COUNTRY OF ORIGIN

There is no formal prohibition to travel to the country of origin, but based on national practice and case law, beneficiaries of international protection risk losing their status when doing so. Beneficiaries of international protection are informed of the risks in a brochure on their rights and obligations, which they receive when granted status. However, it is unclear to what extent most beneficiaries are fully aware of the possible consequences of travels to the country of origin.

In the personal interview at the CGRS' office, in most cases, family reasons are invoked by beneficiaries to explain and justify travels to the country of origin. This can also be observed in case law. People often point to visiting close family members or an ill relative (e.g. an ill parent). Other reasons that come up regularly are a funeral or marriage in the country of origin or homesickness. In some cases, the reasons are unknown for the CGRS.

A difficulty brought forward by organizations providing legal assistance to beneficiaries of international protection, is that there is no (longer a) possibility to ask permission to exceptionally travel back to the country of origin for a specific reason and for a very short period, e.g. to visit an ill parent who is dying. The same is valid for contacts with the authorities of the country of origin.

REVIEW OF INTERNATIONAL PROTECTION STATUS

Can the status of beneficiaries of international protection who travelled to and/or contacted authorities of their country of origin be reviewed in Belgium?		
	In case of contacting authorities of the country of origin	*In case of travelling to the country of origin (or country of habitual residence)*
Refugee	Yes	Yes
Beneficiary of subsidiary protection	No, unless ... Beneficiaries of subsidiary protection can contact the authorities of their country of origin, unless these authorities are directly responsible for their 'risk of serious harm' (beneficiaries who were granted status based on article 15 (a) and 15 (b) of the Qualification Directive).	Yes

As said, travels will not automatically lead to an end of the international protection status, but it can and often will be a reason for CGRS to reconsider the need for international protection. The re-assessment can lead to a decision to end status.

A decision of the CGRS to end the international protection status can be a cessation decision or a withdrawal decision:

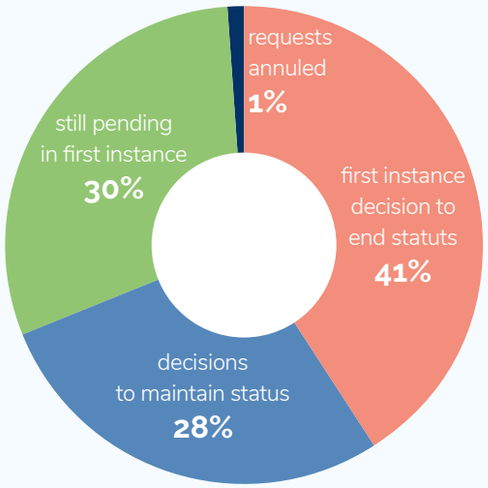
- a **cessation of the international protection status** (Dutch: *opheffing*/ French: *abrogation*) means that the status ceases to apply. The decision does not question the initial granting of the status, but it means that the international protection is no longer necessary or justified.
- a **withdrawal of the international protection status** (Dutch: *intrekking*/ French: *retrait*) means that the status should have never been granted.

Legal base	Refugee status	Subsidiary Protection
Cessation in the context of travels	*Article 55/3 Immigration Act* situations in article 1C of the Geneva Convention	*Article 55/5 Immigration Act* change in circumstances in the country of origin (sufficiently significant and of a non-temporary nature)
Withdrawal in the context of travels	*Article 55/3/1§2 2° Immigration Act* cases of fraud or in case the personal conduct of the person indicates afterwards the lack of a protection need	*Article 55/5/1§2 2° Immigration Act* cases of fraud or in case the personal conduct of the person indicates afterwards the lack of a protection need

In Belgium, the UNHCR Handbook is being used but there are no formal internal guidelines with criteria when ending status based on travels to the country of origin. Determination is done on a case-by-case basis. However, there is internal supervision and support by the central legal service of the CGRS on such cases through a responsible staff member who acts as a reference person: in every case of contact with the authorities or travel to the country of origin, there is second-line follow-up by the reference person in the legal service. Moreover, there is some guidance from case law.

Statistics on end of status after travels to the country of origin [1]

State of play at the end of 2018 concerning the 408 requests of the Immigration Office to end International protection status (2016-2018), based on information of contacts of travels to the country of origin (or contacts with the authorities of the country of origin).



In the three years between 2016 and 2018, the Immigration Office requested the CGRS for **408 individuals** to end the international protection status based on information of travels to the country of origin or contacts with the authorities of the country of origin. This number of requests to end status based on travels to the country of origin, is substantially increasing: from 0 before 2016[2], to 57 in 2016, 136 in 2017 and 215 in 2018.

By the end of 2018, out of these 408:

- **168** received a first instance decision (CGRS) to end the international protection status, and 114 decisions had become final (after an appeal or because the time to appeal passed). This mainly concerned Afghans and Iraqi citizens.
- **115** maintained status following a decision of the CGRS,
- **123** cases were still pending in first instance (CGRS),
- in **2** cases the Immigration Office annulled its request (for example because the beneficiary acquired Belgian nationality in the meantime).

1. Data source: Immigration Office. Do note that the data do not include cases were the status of a beneficiary of international protection was reconsidered on the (own) initiative of the CGRS. The data of the CGRS on end of status are based on the legal grounds for ending status, and do not allow to distinguish the cases involving travels to the country of origin. The Immigration Office does keep statistical track of end of status based on travels to the country of origin, but these data only relate to requests of the Immigration Office to do so.
2. Before 2016, the Immigration Office informed the CGRS of elements at its disposal, but did not formally request to end the status for the sole reason of travels to the country of origin.

REVIEW OF RESIDENCE RIGHTS

After the protection status is ended (by CGRS of CALL), the Immigration Office can consider to end the residence rights of a former beneficiary of international protection status. The possibility to do so is in some cases limited in time: in the context of this study - decisions taken after contacting the authorities of the country of origin or travels to the country of origin - this possibility is not limited in time in case of a withdrawal, but is limited in case of a cessation decision.

Time limits for the Immigration Office to end residence rights of a former beneficiary of international protection in the context of this study:

After a **cessation decision** (of the CGRS or the CALL):

- as long as the person has a residence permit of limited duration. This is during the first five years after the application for international protection.

  Legal base: article 11 §3, 1, 1° of the Immigration Act.

- In case the person has a residence permit of unlimited duration or a more durable residence permit (status of settlement or long term residence status), the residence rights can in principle not be ended unless for reasons of public security and national order.

  Legal base: article 21 or 22 of the Immigration Act

After a **withdrawal** of the international protection status,

- residence rights can be ended at any time (no time limits).

Legal base:
- o *in case of a residence right of limited or unlimited duration article 11 §3, 2 of the Immigration Act, and*
- o *in case the person has a more durable residence title (settlement or long-term residence status): article 18 §3, 1.*

When deciding on ending the residence rights of a former beneficiary of international protection, the Immigration Office needs to take the following elements into account: the nature and the closeness of the family ties of the person concerned, the length of stay in Belgium, as well as the existence of family, cultural or social ties in the country of origin.

POSSIBLE RETURN

If the residence rights are ended, this is usually (but not always) accompanied by a return decision (order to leave the country). Legally the decision on ending residence rights is a separate decision from the return decision. When taking a return decision, the Immigration Office needs to take into account the best interest of the child, family life and the health situation. In principle the return decision will foresee a period for voluntary return of 30 days (it can be shorter e.g. when there is a risk of absconding, the person did not follow an earlier return decision, in case the person is a danger for public order, etc.). The decision to end the residence rights as well as the return decision is open to a non-suspensive appeal before the CALL.

INTRODUCTION: STUDY AIMS AND SCOPE

Travels of beneficiaries of international protection to their country of origin or applications for a passport at the embassy of their country of origin were observed by competent authorities in several (Member) States. While such acts do not automatically imply a misuse of their international protection status, they could, in certain circumstances, contradict the grounds that led to granting protection, namely the individual's fear of persecution in the country of origin (or habitual residence for stateless persons) or real risk of suffering serious harm.

This report is the Belgian contribution to a comparative study of the EMN mapping policies and practices on the subject in the EU Member States, Norway and Switzerland. Both international refugee and EU asylum law encompass several grounds whereby protection status may come to an end in circumstances where it is apparent that protection is no longer necessary nor justified.

Furthermore, the study aims to analyse the possible consequences of such acts on the international protection status and residence rights of the persons concerned. The assessment needs to take into account the Refugee Convention and relevant EU asylum law (recast Qualification Directive and Asylum Procedures Directive), the European Convention on Human Rights and national legislation.

This study is based on desk research of relevant legislation, policy documents, reports, case law and other literature. Another important source was the input and information received from the 'International Follow-up Unit' of the Immigration Office, the legal service of the Commissioner General for Refugees and Stateless persons (CGRS) and the Airport Police. If no other sources are mentioned, the information comes from interviews with representatives of these authorities.

Extract of the EMN Common template:
International and EU Legal framework on cessation

Both international refugee law (1951 Refugee Convention) and EU asylum acquis include grounds based on which international protection may come to an end. The Refugee Convention is based on temporality of refugee protection and thus includes the concepts of cessation and revocation of refugee status, while the concept of cancellation is not clearly defined in the Convention.[3] The concepts related to end of international protection in the EU asylum acquis coincide only in part with the terminology used in the Refugee Convention.[4] While certain concepts, such as cessation, are used consistently in the Refugee Convention and EU asylum legislation, this is not the case regarding other grounds of ending international protection where divergent definitions and interpretations exist.[5]

Based on the scope of the study, the concept of cessation is the most relevant to analyse the consequences of beneficiaries of international protection travelling to their country of origin and/or contacting consulates or embassies of their country of origin to obtain national passports. Additionally, for the purpose of this study, the concepts and terminology included in EU asylum acquis, in particular in the recast Qualification Directive, will be used as a reference point, with references to the Refugee Convention and UNHCR guidelines where relevant. Indeed, the recast Qualification Directive is binding on all (Member) States except Ireland, the UK and Switzerland.[6]

The recast Qualification Directive defines the conditions under which a third-country national or stateless person ceases to be a refugee (Article 11) or a beneficiary of subsidiary protection (Article 16). Support in the interpretation of these concepts can be found in UNHCR's Handbook and guidelines on procedures and criteria for determining refugee status.[7] A judicial analysis on the end of international protection in EU asylum acquis elaborated under EASO's aegis equally provides for additional guidance on the interpretation of these concepts.[8]

3. In the 1951 Refugee Convention, cessation refers to the ending of refugee status pursuant to Article 1C of the 1951 Convention because international refugee protection is no longer necessary or justified. Cancellation means a decision to invalidate the recognition of refugee status, where it is subsequently established that the individual should never have been recognized, including in cases where he or she should have been excluded from international refugee protection. Revocation refers to the withdrawal of refugee status in situations where a person properly determined to be a refugee engages in excludable conduct which comes within the scope of Article 1F (a) or (c) of the 1951 Convention after recognition of the refugee status (UNHCR Handbook and guidelines on procedures and criteria for determining refugee status, December 2011, http://www.unhcr.org/publications/legal/3d58e13b4/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html).
4. For example, the concept of end of international protection used by EASO in its Judicial Analysis of Articles 11, 14, 16 and 19 of the Qualification Directive (211/95/EU) encompasses cessation, revocation, ending or refusing to renew protection as well as withdrawal of international protection.
5. For example, the concept of revocation in the Convention and exclusion in Article 14 of the recast Qualification Directive do not cover similar circumstances, the Qualification Directive expanding the grounds for exclusion beyond those included in Article 1F of the Refugee Convention (http://www.unhcr.org/4c5037f99.pdf).
6. The 2004 Qualification Directive (Directive 2004/83) applies however in Ireland.
7. Available at: http://www.unhcr.org/3d58e13b4.html and http://www.refworld.org/docid/3c06138c4.html
8. EASO, Ending International Protection: Articles 11, 14 16 and 19 Qualification Directive. A Judicial Analysis. December 2016, https://www.easo.europa.eu/sites/default/files/Ending%20International%20Protection_Articles%2011_14_16%20and%2019%20QD%20EASO%20Judicial%20Analysis%20FINAL.pdf

Cessation of refugee status

Refugee status can cease in two instances

- Refugee status is no longer justified or needed following changes in the personal situation of the refugee that have been brought about by voluntary conduct or actions of the refugee him/herself;[9]
- Refugee status is no longer justified following changes in the country of origin.[10]

For the purpose of this study, refugees contacting the authorities of their country of nationality and/or travelling back to their country of origin thus fall within the first type of changes of circumstances as these result from the personal conduct of the third-country national concerned. More specifically, travelling back to the country of origin may serve, in some cases, as an indicator of a 'voluntary re-availment of the protection' of or 'voluntary re-establishment' in the country of origin as defined by Article 11(1)(a) and (d) of the recast Qualification Directive respectively.[11]

Based on UNHCR and EASO guidelines mentioned above, the following acts and considerations should be taken into account to trigger these cessation grounds.

- Voluntary re-availment of the protection of the country of nationality refers to the diplomatic protection by the country of nationality of the refugee, which implies a form of consular assistance. As an example, issuance or renewal of passport at the refugee's request constitutes, in the absence of the contrary, obtaining protection of the country of origin. Most frequent cases of 're-availment of protection' will occur where the refugee returns to his country of origin. On the other hand, occasional or incidental contacts with authorities of the country of origin to obtain, for example, birth and marriage certificates, should not constitute re-availment of protection of the country of origin.[12] Indeed, situations where contact with the authorities of the country of origin are occasional or accidental, or where the issuance of documents related to family reunification were requested were not deemed to constitute a re-availment of the protection of the country of origin by national courts.[13]

9. Article 11(1)(a)-(d) of the recast Qualification Directive; these provisions mirror the cessation grounds provided in Article 1C(1)-(4) of the Refugee Convention.
10. Article 11(1)(e)-(f) of the recast Qualification Directive. Such circumstances can be end of hostilities, change of political regime, democratisation, etc. These provisions mirror the cessation grounds provided in Article 1C(5) and (6) of the Refugee Convention.
11. Article 11(1)(a) and (d) of the Recast Qualification Directive provides "A third-country national or a stateless person shall cease to be a refugee if he or she: (a) has voluntarily re-availed himself or herself of the protection of the country of nationality; or (…) (d) has voluntarily re-established himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution."
12. UNCHR, Handbook, 2011, paragraph 120-121.
13. EASO, Ending International Protection, Ibid, section 3.1.4.

The assessment of this cessation ground should determine three points: the refugee has acted voluntarily, has intended to re-avail him/herself of the protection of the country of his/her origin, and eventually has obtained such protection. Furthermore, when assessing this specific cessation ground, the original grounds for granting international protection should be considered. When refugee protection is based on fear of persecution emanating from non-State actors against which national authorities are unable to provide effective protection, the issue of the voluntary re-availment of their protection, particularly in the country of asylum, may have little relevance as to the continuing need for international protection.[14]

- **Voluntary re-establishment in the country of origin** entails the return and resettlement of the refugee to his/her country of origin. A longer period of stay in the country of origin, creating a family, or normally carrying out a professional activity in the country of origin could constitute re-establishment. A visit or mere presence is unlikely to demonstrate voluntary re-establishment. Re-establishment implies a certain stability and, in that context, only repeated return trips on an ongoing basis may lead to cessation.[15] An assessment of the voluntary nature of the refugee's behaviour is also needed to trigger this cessation ground. EASO's research on case law found that this ground was rarely used in practice.[16]

Cessation of subsidiary protection

EU asylum law draws a distinction between refugees and beneficiaries of subsidiary protection which is also reflected in the cessation grounds. Compared to the six grounds enumerated in Article 11 of the recast Qualification Directive, Article 16 establishes only one cessation ground as regards subsidiary protection, namely where circumstances which led to granting it cease to exist or have changed to such a degree that protection is no longer required. Such changes should consolidate over time before a decision on cessation is made. In practice, this is tantamount to the last two grounds included in Article 11(1) of the Qualification Directive relating to protection no longer being needed due to changes in the country of origin. It is not clear from the wording of the Article whether subsidiary protection cannot be ceased following the personal conduct of the beneficiary (such as frequent travels to the country of origin or coming into contact with the authorities of the country of nationality), or where the beneficiary availed him/herself of the protection of his/her country of origin or decided to re-establish him/herself in the country of origin. In practice, national case law suggests that such behaviour also leads to cessation of subsidiary protection.[17]

14. EASO, Ending International Protection, Ibid, section 3.1.2.
15. EASO, Ending International Protection, Ibid, section 3.4.3.
16. EASO, Ending International Protection, Ibid, section 3.4.1.
17. EASO, Ending International Protection, Ibid, section 7.1.2, in particular Supreme Administrative Court (Poland), judgments of 23 February 2016, joined cases II OSK 1492/14, II OSK 1561/14, II OSK 1562/14; Regional Administrative Court Warsaw (Poland), IV SA/Wa 2684/12, op. cit., fn. 233; see also H. Battjes, European Asylum Law and International Law (Brill Nijhoff, 2006), p. 268.

Consequences of a cessation decision

The cessation grounds outlined above must be read in conjunction with the additional provisions of the Qualification Directive stating the consequences where cessation grounds apply: in such cases, Member States must revoke, end or refuse to renew refugee status (Article 14) or subsidiary protection (Article 19). The recast Qualification Directive does not differentiate between revocation, ending or refusal to renew international protection to accommodate the various concepts and terms used in Member States' legislations.[18] Indeed, at national level, legislative frameworks may not establish a clear distinction between cessation grounds for refugees and subsidiary protection, nor differentiate between substantive grounds to end international protection and procedural aspects of adopting a decision to end international protection.[19]

According to the Qualification Directive, it is up to Member States to demonstrate that the person concerned ceased to be a refugee (Article 14(2) and 19(2)). UNHCR's guidelines recommend that procedures for application of these cessation clauses, based on acts of the refugee, should include usual procedural safeguards that enable the person concerned to contest the evidence supporting cessation.[20] In this context, provisions of the Asylum Procedures Directive (Directive 2013/32/EU) also apply. The latter enumerates a list of procedural guarantees in case national authorities are considering withdrawing international protection in accordance with Articles 14 and 19 of the recast Qualification Directive, including the right to an effective remedy.

Depending on the national legislative framework and procedures set, the need for international protection may be reassessed or reviewed either during the procedure of withdrawing international protection or can be done separately, on a different occasion, for example as part of a procedure to renew the residence permit, or when requested ex-officio by competent authorities in (Member) States.

If a decision on cessation of international protection is adopted, this does not necessarily imply that a third-country national loses his or her right to stay on the territory of a (Member) State, as the decision on the residence permit may be covered by a separate procedure which takes into account individual circumstances of the third-country national concerned, such as the length of stay, degree of integration or family ties, in line with provisions of the ECHR (Article 8).

18. See also on this point Hailbronner K. and Thym D. (eds), EU immigration and asylum law, A commentary, ed. Hart, Nomos, 2nd edition, 2016, Part D, II, Article 14, [MN 1], p. 1227.
19. See for example ECRE's AIDA country reports on the content of international protection, in particular on cessation and review of international protection status (available at: http://www.asylumineurope.org/reports), and last publicly available report from the European Commission on the application of Directive 2004/89/EC of June 2010, section 5.4 (available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010DC0314&from=EN).
20. http://www.refworld.org/docid/47fdfaf1d.html

INTRODUCTION: STUDY AIMS AND SCOPE

01

OVERVIEW OF THE BELGIAN POLICY CONTEXT ON THE ISSUE

1.1 POLITICAL PRIORITY

In recent years, the issue of beneficiaries of international protection travelling to the country of origin was a policy priority of the Belgian government. This is – among others - reflected in official documents. The government agreement (between the political parties in the coalition government) for the period 2014-2019[21] states the following: '*The government works towards enhanced controls of refugees who travel back to their home country, in case they travel back in unchanged circumstances and if they didn't follow the envisaged procedure*'.

It was specifically a priority of the former State Secretary for Migration and Asylum Policy (Theo Francken, member of the government till 9 December 2018. The issue was among others mentioned in the annual policy notes on Immigration and Asylum of 2014, 2016, 2017 and 2018, in which the policy priorities for the coming year were presented to the Federal Parliament.[22]

1.2 RECENT MEASURES TAKEN ON THE NATIONAL LEVEL

The policy priority to focus on the beneficiaries of international protection travelling back to their country of origin was called the "RefuReturn project" by the authorities, and the following measures were taken in this regard.

- Since the beginning of 2016, a specific and **structured collaboration on the issue exists between the Federal Police (services in charge of border control) and the Immigration Office**: The Federal Police informs the Immigration Office about relevant observations collected during border controls on the issue (for example: stamps in the passport from the country of origin or possession of a passport of the country of origin).

  On the basis of the information received from the Federal Police (and from other actors), the Immigration Office can ask the CGRS to end the protection status.[23] The CGRS is the instance competent to investigate[24] and decide on the withdrawal or cessation of the protection status (or maintain of the status). In case the protection status is ended, the Immigration Office receives a copy of the decision. After a final decision, the Immigration Office can in a next step decide to end the residence right of the person concerned, if this is legally possible and a proportional measure.[25]

- In October 2017 a small dedicated service was created inside the Immigration Office (International Protection Follow-up Unit) with the task to initiate requests and follow-up on possible withdrawals or cessations of international protection statuses. This Unit of the Immigration Office has - among others - a specific focus to map beneficiaries travelling to their country of origin, and to initiate requests to end their status. The Unit is also tasked to raise awareness on the topic and to act as a contact point on the issue inside the Immigration Office as well as for external partners (embassies, municipalities, border police, etc.) and centralizes the information.[26]

- **Instructions were also given to the municipalities** (2 May 2017 and 22 December 2017) **and the Belgian embassies** (18 April 2017) to bring the issue under their attention, including the request to inform the Immigration Office of relevant observations made by the municipal or diplomatic authorities in this regard (e.g. when contacting the authorities for reasons of family reunification or for a change in identity (documents)).

- Since 22 March 2018, two more measures were introduced by law:
  - Beneficiaries of international protection are now **obliged to notify the municipal authorities** of the place of residence when they plan to travel to their country of origin, for as long as they have a temporary residence permit in Belgium.[27] The municipal authorities will transfer this information to the Immigration Office, who informs the CGRS.
  - The **original passport of a recognized refugee is preserved by the asylum instances**. Not handing over the passport or asking to recover the original documents without valid reasons for doing so, can be considered as a new element to reconsideration the refugee status (see below, 2.2.1).[28]

21. Coalition agreement of the Belgian government 2014-2019, of 9 October 2014, 154, DOC 54 0020/001: https://www.premier.be/sites/default/files/articles/Accord_de_Gouvernement_-_Regeerakkoord.pdf
22. General policy notes:
    - General Policy Note of 28 November 204, State Secretary for Asylum Policy and Migration, Doc 54 0588/026, p. 13. Available on: http://www.lachambre.be/FLWB/PDF/54/0588/54K0588026.pdf
    - General Policy Note of 27 October 2016, State Secretary for Asylum Policy and Migration of 27 October 2016, DOC 54 2111/017, p. 11-12. Available on: http://www.dekamer.be/doc/FLWB/pdf/54/2111/54K2111017.pdf
    - General Policy Note of 19 October 2017, State Secretary for Asylum Policy and Migration, DOC 54 2708/017, p. 16-17. Available on: http://www.dekamer.be/doc/FLWB/pdf/54/2708/54K2708017.pdf
    - General Policy Note of 26 October 2018 State Secretary for Asylum Policy and Migration, DOC 54 3296/021, p. 13-14. Available on http://www.dekamer.be/flwb/pdf/54/3296/54K3296021.pdf
23. Article 49§2 of the Immigration Act.
24. If there are new elements or facts involving reasons to reinvestigate the validity of the international protection status, the CGRS will consider if the international protection status can be ended. Article 57/6/7 of the Immigration Act.
    Dutch: Art. 57/6/7. § 1. Als er nieuwe elementen of feiten aan de orde zijn waaruit blijkt dat er redenen zijn om de geldigheid van de internationale beschermingsstatus te heronderzoeken, onderzoekt de Commissaris-generaal voor de Vluchtelingen en de Staatlozen of de internationale bescherming van een persoon kan worden ingetrokken of opgeheven.
    French: Art. 57/6/7. § 1er. Lorsque des éléments ou des faits nouveaux apparaissent indiquant qu'il y a lieu de réexaminer la validité du statut de la protection internationale, le Commissaire général aux réfugiés et aux apatrides examine si la protection internationale d'une personne peut être retirée ou abrogée.
25. Information from the Immigration Office. Also see: Federal Parliament, answer of 15 November 2017 of the State Secretary of Immigration and Asylum on a written question of Barbara Pas, available on: https://www.dekamer.be/kvvcr/showpage.cfm?section=qrva&language=nl&cfm=qrvaXml.cfm?legislat=54&dossierID=54-b099-885-0899-2016201712769.xml
26. Immigration Office, Internal Service Note on the creation of the International Protection Follow-up Unit, 22 October 2017; Federal Parliament, Accountability of the general budget 2018 of the FPS Home Affairs, 24 October 2017, DOC 54 2691/007, p. 123-124.;
27. Article 19/1 of the Immigration Act (into force since 22 March 2018).
28. Article 57/8/1 Immigration Act (into force since 22 March 2018).

1.3 MEASURES TAKEN BEYOND THE NATIONAL LEVEL

Also, beyond the national level, the former Belgian State Secretary on Immigration and Asylum saw it as an important project on a bilateral and the EU level.

- Since beneficiaries of international protection who travel back to their country of origin can make use of airports of other countries to travel back to the country of origin, a collaboration[29] was set up with the **Netherlands**[30] (9 December 2016), **Germany** (31 May 2017) and with **Italy**[31] (6 December 2018). Arrangements were made with the aim to organize mutual exchange of information on the issue. Border police of these countries can then inform Belgian authorities of observations made.[32]
- On 13 October 2017, the former State Secretary for Migration Policy and Asylum presented the Belgian initiatives described above (called "RefuReturn project") at the Justice and Home Affairs (JHA) Council in Luxembourg, and argued that a more thorough European cooperation and common approach between the Member States is needed on the issue.[33]
- The study proposal for this study of the European Migration Network (EMN) was introduced by EMN Belgium on demand of the Belgian authorities. On the EU level, the EMN voted in favor of executing this comparative study as part of its work program 2018.

29. Declarations on intention and cooperation agreements.
30. Federal Parliament, answer of 15 November 2017 of the State Secretary of Immigration and Asylum on a written question of Barbara Pas, available on: https://www.dekamer.be/kvvcr/showpage.cfm?section=qrva&language=nl&cfm=qrvaXml.cfm?legislat=54&dossierID=54-b099-885-0899-2016201712769.xml
On the collaboration with the Netherlands, also see a topic on Dutch television on 14 September 2018: https://nos.nl/nieuwsuur/artikel/2250350-stijging-van-het-aantal-vakantievluchtelingen.html
31. https://www.aise.it/esteri/protezione-internazionale-si-intensifica-la-collaborazione-tra-italia-e-belgio-contro-frodi-e-abusi/124283/159)
32. Belga, 11 September 2018, press release of the Belgian State Secretary for Immigration and Asylum ("Dit jaar al 153 vragen tot intrekking vluchtelingenstatus van 'vakantiegangers').
33. JHA Council of 12 and 13 October 2017: http://www.consilium.europa.eu/en/meetings/jha/2017/10/12-13/
On 22 May 2018, a Belgian Member of the European Parliament (who belongs to the same political party as the State Secretary for Migration Policy and Asylum) asked a written parliamentary question on the possible role that Frontex or other EU agencies could play on the issue. The reason for this question was the refusal of Frontex to a Belgian request to assume a proactive coordinating role in this project. On 6 July 2018 Commissioner Avramopoulos answered that the Frontex mandate doesn't cover the issue, since it doesn't fall under the scope of the Return Directive. In his reply, the Commissioner also welcomed the EMN study on 'Beneficiaries of international protection travelling to their country of origin'. ((Parliamentary question by Ms Helga Stevens (N-VA / ECR), nr. P-002698-18: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=P-2018-002698&language=SV) and answer to parliamentary question nr. P-002698-18 on behalf of the Commission: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2018-002698&language=SV)

1.4 MEDIA COVERAGE

The former State Secretary for Immigration and Asylum Theo Francken actively communicated – through social media channels and his personal blog – towards the media and wider public on the results of the the measures described above. This was picked up by Belgian media and every few months articles appeared on the issue in national newspapers.[34] Beneficiaries of international protection travelling back to their country of origin were in Belgian media often portrayed as 'holidaymakers' (in Dutch: '*vakantiegangers*', in French: '*vacanciers*').

The media reported among others about the number of beneficiaries of international protection detected travelling to their country of origin, and the number of beneficiaries who lost their protection.[35]

1.5 STATISTICS

Data is available from the Immigration Office on the **number of requests to end the protection status following travels to the country of origin**, requests put forward by the Immigration Office towards the CGRS[36] (the CGRS is the instance effectively assessing the need for international protection and deciding on the granting and ending of the statuses).

Please note that also before 2016, travels of beneficiaries of international protection to their country of origin were detected by the authorities, and the CGRS reconsidered cases for this reason. However, there were no formal requests from the Immigration Office to end the status on this basis.

34 Recently, For example the newspaper 'De Standaard' reported on the issue on 11 September 2018, 31 July 2018, 27 March 2018, 13 October 2017, 3 July 2017, 26 March 2017, 9 December 2016 and 26 July 2016.
35. In some articles this EMN-study is mentioned: "At Belgian airports, 184 "refugees on holiday" from other European countries were also intercepted. " So there is a European priority that is emerging and Belgium can play a pioneering role in this", says the Secretary of State for Migration, who is looking forward to a comparative study that will be launched in Europe, thanks to our country. "This study aims to provide objective, reliable and comparable information about our "RefuReturn" project in a European context. It will already be carried out this year. Last May, 15 countries (including Germany, the United Kingdom, Italy and Sweden) have supported Belgium in the vote.", Article 'Francken a su convaincre l'Europe de s'y intéresser' in newspaper 'Sud Presse', 31 July 2018.
36. The CGRS reports on the total number of international protection statuses ended (by legal base used), but it the data of the CGRS is not possible to distinguish the statuses ended following travels to the country of origin (this is not a legal base as such).

Table:
Number of requests to end the protection status for reasons of travelling to the country of origin, requests put forward by the Immigration Office towards the CGRS (Source: Immigration Office)

	Refugees	Beneficiaries of subsidiary protection	Total
2012	0	0	0
2013	0	0	0
2014	0	0	0
2015	0	0	0
2016	31	26	57
2017	92	44	136
2018	156	59	215
Total	**279**	**129**	**408**

Before the end of 2015 and the beginning of 2016, the issue was not a priority. Before March 2016, there were no official requests from the Immigration Office towards the CGRS to end status based on travels (see table), but the Immigration Office did inform the CGRS on information they had at their disposal on travels to the country of origin.

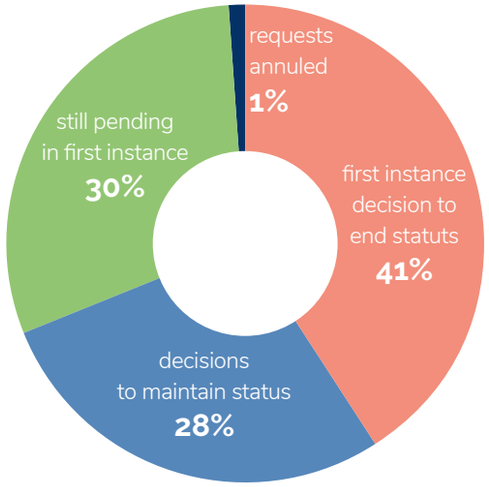
This being said, throughout the years the CGRS has made use of the possibility to reconsider and end protection statuses following travels to the country of origin. Data is not available, but the CGRS did end refugee statuses on the basis of travels to the country of origin.

As described above, in recent years the issue became a priority for the Belgian federal government. In 2016 border guards also pointed out that they started noticing increasing numbers of beneficiaries of international protection travelling back to their country of origin.[37] In 2018, the Immigration Office initiated 156 requests to end the status of refugees, and 59 to end the status of beneficiaries of subsidiary protection.

In the last three years (in 2016, 2017 and 2018), the **Immigration Office requested the CGRS in 408 cases to end the protection status** based on travels to the country of origin or contacts with the authorities of the country of origin (cessation and withdrawal combined, of both refugee status and subsidiary protection status). This number substantially increased: from 0 before 2016, to 57 in 2016, 136 in 2017 and 215 in 2018 (data from the Immigration Office).

37. Project proposal for CPL awards 2017 entitled 'Asielfraude. Een resultaatgerichte aanpak vanuit een Europees netwerkend perspectief', drafted by the Belgian airport police, October 2017.

State of play at the end of 2018 concerning the 408 requests of the Immigration Office to end International protection status (2016-2018), based on information of travels to the country of origin (or contacts with the authorities of the country of origin)



By the end of 2018, out of these 408:

- **168** received a first instance decision (CGRS) to end the international protection status, and 114 decisions had become final (after an appeal or because the time to appeal passed). This mainly concerned Afghans and Iraqi citizens.
- **115** maintained status following a decision of the CGRS,
- **123** cases were still pending in first instance (CGRS),
- in **2** cases the Immigration Office annulled its request (for example because the beneficiary acquired Belgian nationality in the meantime).

It is not because one loses international protection status that he or she loses his/her residence rights or can be removed from Belgian territory (see section 4).

02

REFUGEES TRAVELLING TO THE COUNTRY OF ORIGIN OR CONTACTING NATIONAL AUTHORITIES OF THE COUNTRY OF ORIGIN

2.1 REFUGEES CONTACTING AUTHORITIES OF COUNTRY OF ORIGIN

Contacting the authorities of the country of origin - consulates, embassies, or other official representations of the country of origin - as a refugee can lead to cessation of the refugee status. It can be visits in person or other forms with the purpose of requesting the issuance or extension of their passports or other official documents.

Such acts may imply an intention to re-avail themselves of the protection of the country of nationality – a cessation ground regulated in the same manner in Article 1(C) of the 1951 Refugee Convention and Article 11(1)(a) of the recast Qualification Directive.[38] This sub-section will thus consider how this is applied in Belgium.

In case of such contacts, the CGRS might reconsider the need for international protection and might conclude refugee protection is no longer necessary (e.g. considered as "re-availment to the national protection of the country of nationality"). Therefore an assessment is made on a case-by-case basis. The outcome is also linked with the reason of recognition and the profile of the refugee concerned.

In practice, cessation decisions in Belgium in this regard are often based on contacts with the authorities of the country of origin in combination with travels to the country of origin. EMN Belgium found no case law on ending status for the sole reason of contacting the authorities of the country of origin.

Legal base

It is not explicitly stated in the legislation that contacting the authorities of the country of origin may lead to a cessation of status. There is however a general legal base for cessation of refugee status in article 55/3 of the Immigration Act, a disposition referring to article 1C of the Geneva Convention (Article 55/3: "Every refugee shall cease to be a refugee when he falls under article 1C of the Geneva Convention […]").[39]

38. According to UNHCR, the assessment whether a refugee status can be ended on these grounds should draw a distinction between actual re-availment of protection and occasional and incidental contacts with national authorities. In case a refugee requests and obtains a national passport (or its renewal), this could amount, in the absence of contrary evidence, that the refugee intends to avail him or herself of the protection of the country of origin. Contacting consulates or embassies of the country of origin for the issuance of other documents (birth or marriage certificates) cannot amount to re-availment of protection according to UNHCR's guidelines. Source: UNHCR Handbook, 2011, para. 121. http://www.unhcr.org/3d58e13b4.html
39. Legal base for decisions withdrawing the initial refugee status is article 55/3/1 §2 2° of the Immigration Act (referring to fraud of personal conduct). For more information on the legal base and the reasoning, see supra.

Acts considered to potentially lead to re-availment of protection of the country of origin

Based on administrative practice, the acts by a refugee that can lead to re-availment of protection of the country of origin are obtaining the issuance or renewal of a passport, requesting administrative documents (documents pertaining to family reunification or civil status such birth certificates) or marriage in the country of origin (by authorization).

No automatic cessation. Case by case assessment

Contacting the authorities of the country of origin will not automatically lead to a cessation decision. This depends on the specific circumstances of the case and is therefore assessed on a case-by-case basis.

In general terms, the availment to the protection of the authorities of the country of origin is not very relevant in case the actor of persecution was a non-state actor and the state actor was not able to provide protection.

Also in case the refugee can credibly explain and demonstrate that his conduct was absolutely necessary, cessation will not be applied. By way of example, this can be the case when contacting the authorities in a divorce procedure or for obtaining a passport for minor children of a refugee (who are themselves not refugee).

Challenges

Some organizations that assist refugees (e.g. legal assistance), mention specific difficulties linked to the impossibility of contacting the national authorities of the country of origin and the fact that it is not possible to ask for an exception in specific cases. Even though in practice the CGRS does a case-by-case assessment and it will not apply cessation when the conduct was absolutely necessary, the beneficiaries concerned experience it as a serious risk if they do not have a priori the authorization to contact the authorities.

By way of example, although refugees can receive a specific travel document in Belgium (blue passport, see below), this is not always the case for their children. The children of a refugee who are not themselves refugees (e.g. if they came to Belgium through family reunification) can only receive a national passport from the authorities of the country of origin. For minor children, the diplomatic posts or embassies of certain countries request the presence of the parents. In these cases, it seems to be impossible to get a travel document for the minor children, which they need to travel outside Belgium, without contacting the authorities of the country of origin.[40]

40. Myria, Report from the Contact Meeting on International Protection between the authorities and organizations and NGO's (Verslag contactvergadering asiel), 21 November 2018 (pt. 46). Available on: https://www.myria.be/files/20181121_PV_contact_NL.pdf

Guidance or stablished practice?

The UNHCR Handbook is being used, but there are no formal internal guidelines with criteria. Determination is done on a case-by-case basis. However, there is internal supervision and support by the central legal service of the CGRS on such cases through a responsible staff member who acts as a reference person in these cases: every case of contact with the authorities or travel to the country of origin is in second-line follow-up by the reference person in the legal service. Moreover, there is some guidance from case law.

2.2 REFUGEES TRAVELLING TO THE COUNTRY OF ORIGIN

2.2.1 GENERAL RIGHT TO TRAVEL FOR REFUGEES[41]

Travel document

To travel abroad - outside the State that granted protection - refugees need both a travel document and a valid electronic card[42] for foreign nationals.

In line with the refugees right to travel in the Refugee Convention (Article 28) and the recast Qualification Directive (Article 25), Belgian authorities issue travel documents to refugees.[43] The legal base is the Belgian Consular Code.[44]

The travel document issued to refugees is called the “blue passport” (because of the blue cover). It is valid for 2 years. It replaces the national passport, which refugees are unable to obtain, because they can no longer ask for a passport at the embassy of their country of origin (given their fear of persecution).[45]

41. CGRS, “You are recognised as a refugee in Belgium - Your rights and obligations” (brochure), January 2018, p. 10-12. Available on: https://www.cgra.be/sites/default/files/brochures/asiel_asile_-_erkend_reconnu_-_you_are_recognised_as_a_refugee_in_belgium_-_eng_2.pdf
AIDA, Country Report Belgium 2017, Update March 2018. Available on: http://www.asylumineurope.org/reports/country/belgium/content-international-protection/movement-and-mobility/travel-documents
42. Which is for refugees the electronic residence card A (for those who with a residence permit of limited duration) or electronic residence card B (for those who with a residence permit of unlimited duration, after 5 years from the application for international protection). See article 49 §1 of the Immigration Act.
43. As a general rule, a travel document will only be issued to non-Belgian who has a residence permit of unlimited duration. As an exception, recognized refugees and persons with subsidiary protection status with a residence permit of limited duration (electronic residence card A) can receive a travel document.
44. Article 57 (3) (a) of the Belgian Consular Code of 21 December 2013. Circular of the Ministry of Foreign Affairs for Non-Belgians, 15 September 2017 (Valid from 1 January 2018). Available on: http://www.agii.be/sites/default/files/bestanden/omzendbrieven%20en%20instructies/omz_reisdocumenten_voor_niet_belgen_20170915.pdf
45. CGRS, “You are recognised as a refugee in Belgium - Your rights and obligations” (brochure), January 2018, p. 10-12. Available on: https://www.cgra.be/sites/default/files/brochures/asiel_asile_-_erkend_reconnu_-_you_are_recognised_as_a_refugee_in_belgium_-_eng_2.pdf
AIDA, Country Report Belgium 2017, Update March 2018. Available on: http://www.asylumineurope.org/reports/country/belgium/content-international-protection/movement-and-mobility/travel-documents

The blue passport can be obtained from the municipal administrative service of the municipality where the refugee is officially registered.[46] The documents needed are:

- an identity card (electronic residence card);
- an identity photo;
- a family declaration form, in the case there are one or more children under the age of 18 (which can be obtained in the municipal office);
- a certificate of family composition for those living in the Brussels-Capital Region (which can be obtained in the municipal office).

A travel document will only be issued if there is no doubt concerning the identity and nationality, if the person concerned cannot get a travel document from his/her country and if he or she is not subject to judicial or legal measures limiting his/her freedom (of movement).[47]

Refugees need to have the blue passport with them when they travel abroad, including in the European Union.[48] Every member of the family has to carry its own blue passport. In case of problems abroad, the Belgian embassies and consulates can give consular (administrative) assistance.

Do note that refugees can have trouble travelling, because certain countries do not recognise the blue passport as a valid travel document.

Refugees can request their original passport from the Belgian authorities

The Immigration Act foresees that the original international and national identity documents of an applicant for international protection are safekept by the Belgian asylum instances during the entire application procedure (also when the documents are no longer valid).[49] Applicants get a receipt with a description of the documents and, upon request, a copy of the documents.

For those granted refugee status, the original national passport continues to be safekept.[50] However, recognized refugees can ask at any time to get it back. This is done on appointment after a request by email to the to the Documents Service of the CGRS[51].The refugee will be asked to explain the circumstances for the request. In case he or she does not present good arguments for wanting to recover his or her passport, this can be seen as a new element and might lead to a reconsideration of the protection status.[52] An example of an acceptable reason can be that the country where the refugee wants to travel to, does not accept the blue passport (see supra).[53]

46. This is the case since January 1, 2018. Ministerial Decree of 15 September 2017, modifying the Ministerial Decree of 19 April 2014 on the issuance of passports.
47. Circular of the Ministry of Foreign Affairs for Non-Belgians, 20 May 2015 (Updated on 7 September 2016).
48. Refugees with residence right in Belgium (and a valid travel document) can travel without a visa to Schengen-countries and to Bulgaria, Cyprus, Croatia and Romania for a maximum of 90 days in a 180 days period.
49. Article 48/6 §2 Immigration Ac (into force since 22 March 2018) and Article 57/8/1 Immigration Act (into force since 22 March 2018)
50. Refugees are obliged to hand there national passport over to the CGRS. Article 57/8/1 Immigration Act (into force since 22 March 2018).
51. Cgra-cgvs.IDdoc@ibz.fgov.be
52. Article 57/8/1 Immigration Act (into force since 22 March 2018) specifies that a refugee should hand over its national passport to the asylum instances: “Not handing over the passport or asking to recover the original documents without valid reasons for doing so, can be considered as a new element to reconsideration the refugee status.
53. Website ‘Agentschap integratie en inburgering’: http://www.agii.be/thema/vreemdelingenrecht-internationa’al-privaatrecht/ver-

2.2.2 REFUGEES ARE NOT ALLOWED TO TRAVEL TO THE COUNTRY OF ORIGIN

Implicit travel limitation

Beneficiaries of international protection are not allowed to travel to the country of origin. Although this is not made explicit in the legislation, the limitation is considered by national authorities as deriving from it (see below). Moreover, it stems from national practice and case law: travels to the country of origin are considered difficult to reconcile with the fear of persecution.

Information on the travel limitation

The travel limitation (the name of the country the refugee is not allowed to travel to) is not explicitly mentioned in the travel document.

In a brochure[54] refugees receive upon recognition on 'rights and obligations' for refugees (in the part with information on travelling abroad), there is stated:

> *"You have the right to travel abroad, but you risk losing your refugee status if you return to your country of origin (...). You can no longer ask for a passport at the embassy of your country of origin. If you do so, you risk losing your refugee status." (p.10)*

> *"Your refugee status does not allow you to travel to your country of origin. You have been recognised as a refugee because you fear persecution in your country. Your refugee status could therefore be reconsidered if you travel to that country." (p.12)*

Obligation to notify travels to the country of origin

Since 22 March 2018, beneficiaries of international protection are obliged to notify the municipal authorities of the place of residence when they plan to travel to their country of origin, for as long as they have a temporary residence permit in Belgium.[55] The municipal authorities will transfer this information to the Immigration Office, who informs the CGRS. This can – as discusses elsewhere in this study - lead to the reconsideration of the protection status. This legal obligation to notify the municipal authorities is only recently integrated in the Immigration Act (in force since 22 March 2018), and only rarely used in practice.

No possibility to (exceptionally) ask for a permission to travel to the country of origin

It existed in the past, but since the summer of 2016, it is no longer possible to ask the CGRS for a permission to return to the country of origin. The CGRS argues that the former system was not used very often, it lacked a clear legal framework and it was difficult for the CGRS to assess a priori the reason of the travel to the country of origin.[56]

Reasons for travelling to the country of origin

The reasons for travelling to the country of origin are not recorded in a database. However, the reasons are kept in the person's case file and decisions involving a cessation or withdrawal of the international protection status are motivated.

54. CGRS, "You are recognised as a refugee in Belgium - Your rights and obligations" (brochure), January 2018, p. 10-12. Available on: https://www.cgra.be/sites/default/files/brochures/asiel_asile_-_erkend_reconnu_-_you_are_recognised_as_a_refugee_in_belgium_-_eng_2.pdf
AIDA, Country Report Belgium 2017, Update March 2018. Available on: http://www.asylumineurope.org/reports/country/belgium/content-international-protection/movement-and-mobility/travel-documents
55. Article 19/1 of the Immigration Act
56. Myria, report from the contact meeting International Protection (between the authorities and organizations and NGO's), 21 September 2016 (pt. 22). Available on: http://www.myria.be/files/20160921_Verslag_contactvergadering_asiel.NL.pdf

According to the authorities, in most cases family reasons are invoked to justify travels to the country of origin: to visit a close family member (often an ill relative). Other reasons that come up regularly are a funeral or marriage in the country of origin or homesickness. In some other cases, the reasons are unknown.

2.2.3 END OF REFUGEE STATUS FOLLOWING TRAVELS TO THE COUNTRY OF ORIGIN?

It is established practice in Belgium that voluntary travels and stays of refugees to their country of origin can lead to a decision to end the protection status.

Although, the possibility of a cessation (or withdrawal) of refugee status is foreseen in the Immigration Act, it is however not explicitly stated that travelling to the country of origin may lead to a cessation (or withdrawal) of status.

- Legal base for cessation with reference to article 1C of the Geneva Convention: Article 55/3 of the Immigration Act.
- Legal base for withdrawal: Article 55/3/1 Paragraph 2, 2° of the Immigration Act.

Cessation

A cessation of the refugee status (Dutch: *opheffing* / French: *abrogation*) does not question the initial granting of the status, but it means that the international protection is no longer necessary or justified. Article 55/3 of the Immigration Act on cessation refers to the situations in article 1C of the Geneva Convention: "An alien ceases to be a refugee when article 1 C of the Geneva Convention applies (...)".

- Specifically in case of travels to the country of origin, cessation decisions are often taken on the basis of article 1 C (1) of the Convention, because the refugee "**voluntarily re-availed himself of the protection of the country of his nationality**".[57]
- In case of voluntary permanent resettlement in the COI, cessation decisions in this regard refer to article 1 C (4) of the Convention, because the refugee "**voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution**". This is for example possible based on evidence of permanent return from IOM.[58]
- A cessation decision following travels to the country of origin could also be taken on the basis of 1 C ((5) and) (6) – when the circumstances which led to recognition of the refugee status no longer exist (significant and permanent

57. The assessment of this cessation ground should determine three points: the refugee has acted voluntarily, has intended to re-avail him/herself of the protection of the country of his/her origin, and eventually has obtained such protection. Furthermore, when assessing this specific cessation ground, the original grounds for granting international protection should be considered. When refugee protection is based on fear of persecution emanating from non-State actors against which national authorities are unable to provide effective protection, the issue of the voluntary re-availment of their protection, particularly in the country of asylum, may have little relevance as to the continuing need for international protection. Source: , Ending International Protection: Articles 11, 14 16 and 19 Qualification Directive. A Judicial Analysis. December 2016, section 3.1.2.
58. Although internationally there are no definite criteria as to when a person could be considered as being 're-established', frequent travels to the country of origin may serve as indicators. (ExCom Note 1997, para 12; EASO Judicial analysis, p. 29.) In addition, for Article 11(1)(d) to apply, it is necessary to determine whether the refugee returns voluntarily to the country of origin for the purpose of permanent residency. (EASO Judicial analysis, p. 29.)

changes in the country of origin). So far, there were not many cases in this regard in practice.[59] [60]

In such situations and after assessment of all the circumstances of the case, the CGRS can come to a cessation decision (protection is no longer necessary).

Legal base for cessation of the refugee status

Article 55/3 of the Immigration Act

An alien ceases to be a refugee when article 1 C of the Geneva Convention applies. In application of article 1 C (5) and (6) of this Convention needs to be verified if the circumstances in connection with which the refugee has been recognised is of a sufficiently significant and non-temporary nature to end the fear of persecution.

The disposition does not apply on the refugee who is able to invoke compelling reasons for refusing to avail himself of the protection of the country of nationality, or, in the case of a stateless person, of the country of his former habitual residence.

Article 1 C of the Geneva Convention:

"This Convention shall cease to apply to any person falling under the terms of section A if:
(1) He has voluntarily re-availed himself of the protection of the country of his nationality; or
(2) Having lost his nationality, he has voluntarily reacquired it; or
(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or
(5) He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; Provided that this paragraph shall not apply to a refugee falling under section A(i) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;
(6) Being a person who has no nationality he is, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence; Provided that this paragraph shall not apply to a refugee falling under section A(i) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence."

59. In case the initial refugee status was granted based on the general situation (in the past Kosovo) and there are significant and durable changes in the circumstances. In case of a review of the need for international protection based on travels to the country of origin, a cessation is possible in these cases.
60. Remark: there haven't been many cases yet in practice with regard to the notions voluntary reacquire a lost nationality' and 'acquire the protection of the new nationality' (from article 1 C (2) and (3)) of the Geneva Convention.

Withdrawal of refugee status

Information on travels to the country of origin can also lead to a withdrawal of the refugee status (Dutch: *intrekking* / French: *retrait*)[61]. In the cases of withdrawal, the status should have never been granted.

Travels to the country origin can reveal fraud in the sense of false statements about determinative elements which lead to the recognition of the refugee status, such as the region of origin or the profile. In that case, the CGRS must withdraw the refugee status.

Travels to the country of origin can also be an example of personal behavior indicating that there was no fear at the time the status was granted ("*ab initio*"). In this case, the refugee status was wrongfully granted at the time, and the CGRS must also withdraw it.

Legal base for withdrawal of the refugee status

Different dispositions refer to withdrawal of refugee status for different motives. In this context article 55/3/1 §2, 2°of the Immigration Act is relevant:

The CGRS withdraws the refugee status

- if the recognition of the refugee status was based on facts which were presented wrongfully or were withheld, on the basis of false declarations, or on the basis of false or forged documents which were decisive for the recognition of the status,
- or if the personal conduct of the refugee indicates afterwards that he or she does not fear persecution.

61. Instead of a cessation (Dutch: *opheffing* / French: *abrogation*).

Data and practice

In October 2017, a specific unit was created inside the Immigration Office focusing on formulating request towards the CGRS to end the international protection status and following up on the cases where the status was put to an end.

In practice the Immigration Office will inform the CGRS of any elements it has at its disposal on travels to the country of origin, and also the CGRS effectively takes decisions ending status based on travels to the country of origin (both withdrawal and cessation decisions).

In the recent past (in 2016, 2017 and 2018) the Immigration Office requested the CGRS in 279 cases to end the refugee status based on such travels, and the number of requests increased from year to year. During the same time period the CGRS decided by the end of 2018:

- to end the refugee status (cessation and withdrawal combined) in 92 of these cases;
- to maintain the refugee status in 93 cases;
- 93 cases were still pending;
- in 1 case the Immigration Office annulled its request.[62]

Circumstances that can lead to end of refugee status after travels to the country of origin

Determination is done on an individual basis. Although not written down in formal guidelines, but based on UNHCR guidelines[63], administrative practice and case law, among others the following circumstances are taken into account when assessing end of protection:

- the frequency of travels to the country of origin;
- the length of stay in the country of origin;
- the specific place of stay in the country of origin;
- the reasons to travel to the country of origin;
- the relationship with the actor of persecution;
- The absolute necessity to be present in the country of origin;
- the circumstances of the stay in the country of origin (did s/he live in hiding during the stay?);
- the time span between the granting of the protection status and the travel to the country of origin (it is more problematic if the person returned directly after getting status than if s/he returned years later).

62. Source of data: Immigration Office.
63. For example, the UNHCR Handbook (para. 125 and 134) states that for the cessation ground of re-establishment to be applicable, both the return and the stay must have been undertaken voluntarily. For example, where the return of the refugee in his/her country of origin was the result of coercion or the prolonged stay was not voluntary (e.g. imprisonment), such travels to the country of origin may not amount to cessation of international protection. A temporary visit by a refugee to his former country of origin not with a national passport but with a travel document issued by the State that granted protection may not necessarily amount to reestablishment: travelling to the country of origin for the purpose of visiting an old sick parent is different from frequent travels to the country of origin with the purpose of establishing business relations.

REFUGEES TRAVELLING TO THE COUNTRY OF ORIGIN
OR CONTACTING NATIONAL AUTHORITIES OF THE COUNTRY OF ORIGIN

2.2.4 GUIDANCE AND CHALLENGES IN RE-ASSESSING REFUGEE STATUS IN THE CONTEXT OF TRAVELS TO THE COUNTRY OF ORIGIN

Challenges for national authorities when assessing such cases of ending refugee status cessation

A challenge for the CGRS is that beneficiaries of international protection whose case is being reconsidered not always show up for an interview (without valid reason for their absence). Written arguments for maintaining their status are only rarely given. It happens that they do not show up for the interview, but afterwards do appeal the decision to end their status and put forward elements in favor of maintaining their status.[64]

Another difficulty mentioned by the Belgian authorities is the fact that ending the refugee status does not necessarily mean the end of the residence rights of the person involved (see below, 4.4).

Guidance or established practice

The UNHCR Handbook is being used, but there are no formal internal guidelines with criteria. Determination is done on a case-by-case basis. However, there is internal supervision and support by the central legal service of the CGRS on such cases through a responsible staff member who acts as a reference person in these cases: every case of contact with the authorities or travel to the country of origin is in second-line follow-up by the reference person in the legal service. Moreover, there is some guidance from case law.

2.2.5 CASE LAW ON ENDING REFUGEE STATUS IN THE CONTEXT OF TRAVELS

The CGRS is the first instance body decision on end of status. The Council for Alien Law Litigation (CALL) is the appeal body. Below some examples are given of judgements of the CALL.[65]

Cessation

- **CALL confirms cessation**[66]:
  - o CALL, 30 September 2016[67] :
    After recognition in Belgium, the man returned in 2010 to Iraq and worked there as a medical doctor for several years. In 2015, he came back to Belgium. The CGRS decided on the cessation of the refugee status. The CALL confirmed this decision, judging there was no longer a need for international protection, given the fact that the man had stayed there for a long period without problems.

Withdrawal

- **CALL confirms withdrawal**[68]:
  - o CALL, 29 June 2018[69] :
    In the judgement, the CALL confirmed the withdrawal of the refugee status by the CGRS of an Iraqi citizen. The woman from Bagdad, arrived in Belgium in 2014 and was granted refugee status two months after

64. Source: Legal Unit of the CGRS.
65. Some cases are available on the website of the CALL: http://www.rvv-cce.be/
66. Also: CALL, 30 September 2016, 175591; CALL, 28 April 2017, 186292; and CALL, 23 May 2017, 16996; CALL, 14 September 2017, nr.192019
67. CALL, 30 September 2016, 175 591.
68. CALL, 25 March 2016, 164779 and 164790; CALL, 8 June 2018, 206255; CALL, 27 June 2018, 206088; CALL, 29 June 2018, 206274;
69. CALL, 29 June 2018. 206274

arrival. In August 2017 the Immigration Office informed the CGRS that German police checked her at the airport in Germany, when coming from Bagdad. She was in the possession of two Iraqi passports: one passport issued in 2017, and one issued in 2009. The second passport contained a Schengen visa C delivered by the Italian authorities and several entries and exits of the Iraqi border, including several stays in Iraq after she was granted protection status. The CGRS re-assessed her case and in this context, the woman was interviewed in November 2017 and declared that she was checked around ten times at the airport of Bagdad, that she had also travelled to Iraq over land via Turkey, and that several stays had lasted more than 3 months. The CGRS considered that her personal conduct, through these numerous voluntary returns, showed the absence of a fear of persecution, and withdrew her refugee status. (The Iraqi woman had also claimed serious medical concerns and the CGRS indicated in this regard the possibility to introduce a request for a residence permit on the basis of medical reasons at the Immigration Office.)[70]

- **CALL reforms a withdrawal into a cessation**
  - o CALL, 11 December 2017[72]:
    The CALL judged that the CGRS did not motivate why the personal conduct set after the granting of the status (requesting a national passport and travelling to the country of origin) would allow to conclude that the initial refugee status was at the time granted unduly. The withdrawal decision is reformed into a cessation of the refugee status.

Maintain of status

- o Reform of the CALL of a cessation decision.[73] The CGRS re-considered the protection need of a refugee from Guinea after receiving a snitch letter about a possible stay in Guinea. After assessment, the CGRS ended the refugee status, but the appeal court deemed the travel to Guinea (nor the re-establishment there) not proven and reformed the decision. The refugee maintained status.[74]

70. CALL, 29 June 2018, nr. 206.274.
72. CALL, 11 December 2017, nr. 19640.
73. CALL, 8 December 2015, 157901; CALL, 31 July 2018, 207438.
74. CALL, 19 June 2018, 205521.

REFUGEES TRAVELLING TO THE COUNTRY OF ORIGIN
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03

BENEFICIARIES OF SUBSIDIARY PROTECTION TRAVELLING TO THE COUNTRY OF ORIGIN OR CONTACTING NATIONAL AUTHORITIES OF THE COUNTRY OF ORIGIN

INTRODUCTION

This section specifically focusses on beneficiaries of subsidiary protection travelling to and/or contacting authorities of the country of origin. It examines if such acts can lead to considering that the risk of serious harm and eligibility for subsidiary protection has ceased to exist or never existed.

Differences with third-country nationals granted refugee status lie – obviously - on the grounds granting protection, but there are also differences in obtaining a travel document. Of relevance for this study, beneficiaries of subsidiary protection must use their national passports unless they are unable to obtain one, in which case a travel document can also be issued to them (Article 25(2) of the recast Qualification Directive).

Transposition of article 15 of the Qualification Directive[75] in Belgian law

The analysis of information in this section will particularly pay attention to the concept of subsidiary protection as defined in the recast Qualification Directive, namely a status granted to third nationals who do not qualify for refugee status but for whom substantial grounds have been shown for believing that they would face a 'real risk of suffering serious harm' if returned to their country of origin (Article 15 of the recast Qualification Directive).

Serious harm in article 15 of the Qualification Directive consists of:

(a) the death penalty or execution; or
(b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or
(c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

Article 15 (c) of the Directive as transposed into Belgian law (article 48/4 §2 c of the Immigration Act) refers to the situation of serious threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict". The 'individual' aspect of the threat is not transposed into Belgian law.

75. Article 15 of Directive 2011/95/EU of the European Parliament and the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protec¬tion granted (recast)

BENEFICIARIES OF SUBSIDIARY PROTECTION TRAVELLING TO THE COUNTRY OF ORIGIN
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3.1 BENEFICIARIES OF SUBSIDIARY PROTECTION CONTACTING AUTHORITIES OF THE COUNTRY OF ORIGIN

Principle: no problem to contact the authorities of the country of origin in most cases

Beneficiary of subsidiary protection in Belgium can in most cases contact the authorities of their country of origin (e.g. consulates, embassies, other official representations of the country of origin).

Beneficiaries who were granted subsidiary protection status based on indiscriminate violence in situations of international or armed conflict can thus contact the consulate, embassy or other official representations of their country of origin.

In case of a status based on indiscriminate violence in situations of international or armed conflicts, the state authorities of the country of origin are not responsible for the real risk of suffering serious harm.[77]

Exception: No contact with the authorities of the country of origin in case the status was granted on the basis of risk of harm emanating from the authorities

This is different for beneficiaries of subsidiary protection who were granted status on the basis of a real risk of serious harm directly emanating from the authorities of the country of origin[78]. Voluntary contacts with national representations of embassies or consulates, and the voluntary obtainment of a national passport or visa can for them lead to a re-assessment of the protection status and the possible cessation[79] of the subsidiary protection status.

However, in practice and until now there were no cases of subsidiary protection reconsidered for the sole reason of a contact with the authorities of the country of origin (without travels to the country of origin).

77. Do note that in the English version of the brochure given to beneficiaries of international protection when the status is granted, no differentiation is made. Myria, contact Meeting Asylum (point 15), September 2018, https://www.myria.be/files/20180919_PV_contactvergadering.pdf.
78. Article 15a and 15b of the Qualification Directive, as transposed into Belgian law. Death penalty of execution; or; torture or inhuman or degrading treatment or punishment of an applicant in the country of origin.
79. In theory a withdrawal is also possible in case the subsidiary protection status was granted based on a serious threat emanating from the authorities of the country of origin.

3.2 BENEFICIARIES OF SUBSIDIARY PROTECTION TRAVELLING TO THE COUTRY OF ORIGIN [80]

3.2.1 GENERAL RIGHT TO TRAVEL FOR BENEFICIARIES OF SUBSIDIARY PROTECTION

The subsidiary protected person can travel abroad - outside the State that granted subsidiary protection - with a valid international passport and the required visas. He can request this passport at the consulate or embassy of his country of origin. If this is not possible (because the authorities in the country of origin are directly responsible for the established risk of serious harm), he can request a 'travel document for foreigners' from the Ministry of Foreign Affairs, under additional conditions (see below).[81] In any case the subsidiary protected person needs a passport to travel abroad, even within the EU.

Upon granting status, beneficiaries of subsidiary protection receive a brochure[82] with information on their rights and obligations. In the part with information on travelling abroad, the following is mentioned:

"If you do not have a passport or you cannot obtain one from your consulate or embassy, you have to apply for a special travel document for people who enjoy subsidiary protection, at the municipality where you are registered (p.15)

80. CGRS, "You are eligible for subsidiary protection. Your rights and obligations" (brochure), May 2018. Available on: https://www.cgvs.be/sites/default/files/brochures/brochure_subsidiary-protection_eng.pdf
AIDA, Country Report Belgium 2017, Update March 2018. Available on: http://www.asylumineurope.org/reports/country/belgium/content-international-protection/movement-and-mobility/travel-documents
81. Website CGRS: https://www.cgrs.be/en/international-protection/subsidiary-protection-status
82. CGRS, "You are recognised as a refugee in Belgium - Your rights and obligations" (brochure), January 2018, p. 10-12. Available on: https://www.cgra.be/sites/default/files/brochures/asiel_asile_-_erkend_reconnu_-_you_are_recognised_as_a_refugee_in_bel-

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Travel document for beneficiaries of subsidiary protection

Yes, in accordance with the provisions of article 25 of the Qualification Directive, travel documents for beneficiaries of subsidiary protection can be issued if beneficiaries are unable to obtain these from their national authorities. This is the case if the authorities in the country of origin are directly responsible for the established risk of serious harm.

Procedure

Beneficiaries of subsidiary protection who cannot obtain a passport from the consulate or embassy of the country of origin, can apply for a special travel document. The document is called "travel document for foreigners", is valid for 2 years[83] and has a red cover. The travel document for foreigners will be issued on condition that the person's identity and nationality are established and upon submission of a certificate of impossibility to obtain a national passport or travel document. This certificate can be requested from the CGRS.[84] [85]

Since 1 January 2018, the application must be filed at the municipality where the person is registered.[86] Before contacting the municipal service, the person should contact the Ministry of Foreign Affairs (Federal Public Service (FPS)) by email or letter[87]. After written approval from the FPS Foreign Affairs (about six weeks later), the person can go to the municipality with identity papers and a photo conform standards (within two weeks).[88]

Beneficiaries of subsidiary protection with a special travel document need to take it with them when they travel abroad, including in the European Union.[89] Every member of the family has to carry its own passport. In case of problems abroad, the Belgian embassies and consulates can give consular (administrative) assistance.

Do note that beneficiaries with a special travel document can have trouble travelling, because certain countries do not recognize it as a valid travel document.

Geographical limitations?

There are no geographical limitations attached to the travel document for beneficiaries of subsidiary protection, however, travels to the country of origin are not without risk and should be notified (see below).

83. However, it is no longer valid when the person concerned loses his or her residence right, or in case of changes of nationality.
84. Or, according to the brochure (see before) by the Immigration Office, the International Organization for Migration (IOM) or the UNHCR.
A certificate of impossibility is not necessary for foreign nationals who cannot obtain a national passport or travel document according to the Belgian Ministry of Foreign Affairs. Somalians, Tibetans and persons of Palestinian origin do not have to submit such a certificate. For more information: https://diplomatie. belgium.be/en/services/services_abroad/belgian_passport/travel_pass_refugees_stateless_persons_or_foreign.
85. More information: Website Agentschap Integratie en Inburgering, available on: http://agii.be/thema/vreemdelingenrecht-internationaal-privaatrecht/verblijfsrecht-uitwijzing-reizen/reizen/reisdocumenten
86. Source : CGRS, "You are eligible for subsidiary protection. Your rights and obligations" (brochure), May 2018. Available on: https://www.cgvs.be/sites/default/files/brochures/brochure_subsidiary-protection_eng.pdf
87. Mentioning the following information: first and last names, place of birth, nationality, copy of residence permit, and copy of other documents concerning the situation of the person concerned).
88. Information from the website of the FPS Foreign Affairs: https://diplomatie.belgium.be/en/services/services_abroad/belgian_passport/travel_pass_refugees_stateless_persons_or_foreign
Please note, that in the case of an application for a minor, the parents or guardian submit the application.
89. Beneficiaries with residence right in Belgium (and a valid travel document) can travel without a visa to Schengen-countries and to Bulgaria, Cyprus, Croatia and Romania for a maximum of 90 days in a 180 days period.

3.2.2 BENEFICIARIES OF SUBSIDIARY PROTECTION ARE NOT ALLOWED TO TRAVEL TO THE COUNTRY OF ORIGIN

Implicit travel limitation

Beneficiaries of subsidiary protection risk losing their status when travelling to the country of origin. For the Belgian authorities, travels to the country of origin can conflict with the actual and current need for international protection (and the real risk of serious harm). Therefore, it can and often will be a reason to (re)assess the need for international protection.

Information on the travel limitation

At the moment the subsidiary protection status is granted, beneficiaries receive a brochure on their rights and obligation. In this brochure is stated: "You have the right to travel abroad, but if you return to your country of origin, you risk losing your subsidiary protection status" and "During the first five years of your stay, you must mention every journey to your country of origin at the municipality where you live".

Obligation to notify travels to the country of origin

As said, there are no geographical limitations attached to the travel document for beneficiaries of subsidiary protection, however, travels to the country of origin are not without risk and should be notified. Since 22 March 2018, beneficiaries of international protection are obliged to notify the municipal authorities of the place of residence when they plan to travel to their country of origin, for as long as they have a temporary residence permit in Belgium. The municipal authorities will transfer this information to the Immigration Office, who informs the CGRS. This can – as discusses elsewhere in this study - lead to the reconsideration of the protection status.[90] This legal obligation is only recently integrated in the Immigration Act (in force since 22 March 2018), and was only rarely used in practice.

Reasons for travelling to the country of origin

The reasons for travelling to the country of origin are not recorded in a database. Decisions involving a cessation or withdrawal of the international protection status are however motivated. According to the authorities, the most common reasons for travel to their country of origin stated by beneficiaries of subsidiary protection are visits for family reasons (and marriage in the country of origin).

3.2.3 END OF SUBSIDIARY PROTECTION STATUS FOLLOWING TRAVELS TO THE COUNTRY OF ORIGIN ?

As said, travels to the country of origin can and often will be a reason to (re) assess the need for international protection. Although most decisions ending subsidiary protection status are cessation decisions, also a withdrawal is possible in case fraud is established.

90. Article 19/1 of the Immigration Act

The possibility of a cessation and withdrawal of subsidiary protection status is foreseen in the Immigration Act, but there is no explicit reference to travels to the country of origin. The dispositions also differ from the ones mentioned for cessation and withdrawal of refugee status.

- Legal base for cessation of subsidiary protection status (on the basis of a change of circumstances): Article 55/5 of the Immigration Act
- Legal base for withdrawal on the basis of fraud or personal conduct : Article 55/5/1 Paragraph 2, 2° of the Immigration Act
  Note: the legal base for withdrawal is very similar to the one for withdrawal of refugee status. However, do note the remarks on the application of the disposition on 'personal conduct' described above.

Cessation of subsidiary protection status: change in circumstances

This assessment might lead to the cessation of the subsidiary protection status (Dutch: *opheffing* / French: *abrogation*) on the basis of article 55/5 of the Immigration Act (see text box below). A cessation means that the subsidiary protection status ceases to apply: the decision does not question the initial granting of the status, but it means the international protection is no longer necessary or justified.

A cessation decision can only be taken if the circumstances in the country of origin which led to the need for international protection ceased to exist or changed to such a degree that protection is no longer needed, on the condition that the change in circumstances is sufficiently significant and of a non-temporary nature.

Legal base – cessation of subsidiary protection status

Article 55/5 of the Immigration Act:

The subsidiary protection status granted to a foreigner ceases to exist if the circumstances in connection with which he or she has been granted subsidiary protection status have ceased to exist or changed to such a degree that protection is no longer needed. In this case, it needs to be assessed if the change (of the circumstances which led to the granting of the status) is of a sufficiently significant and of a non-temporary nature to end the real risk of serious harm.

The disposition does not apply on beneficiary of international protection who is able to invoke compelling reasons, in connection with the former serious harm, for refusing to avail himself of the protection of the country of nationality, or, in the case of a stateless person, of the country of his former habitual residence.

Note: *In the Qualification Directive this possibility is foreseen in article 16 (here the word 'end' of status is used instead of 'cessation').*

36. The CGRS reports on the total number of international protection statuses ended (by legal base used), but it the data of the CGRS is not possible to distinguish the statuses ended following travels to the country of origin (this is not a legal base as such).

If case the general situation of indiscriminate violence significantly changed in a non-temporary way, protection is no longer required. In this case, the fact that a BSP travelled back to the country of origin is an element that confirms the change of circumstances.

The CGRS will take into account country of origin information, and the assessment can also focus on internal flight alternatives. In case the initial subsidiary protection status was granted based on indiscriminate violence in situations of international or internal armed conflict and when there is established proof of travel(s) to the country of origin, the CGRS could come to the conclusion that there is an internal flight alternative for the individual concerned constituting a significant non-temporary change that the person eligible for subsidiary protection no longer faces a real risk or serious harm. In this case the CGRS can take a cessation decision

Withdrawal of the subsidiary protection status

Subsidiary protection status can also be withdrawn in the context of travels to the country of origin (Dutch: *intrekking*/ French: *retrait*) on the basis of 55/5/1 Paragraph 2, 2° of the Immigration Act (see text box). In the cases of withdrawal, the status should have never been granted, because of a lack of protection need from the beginning (*ab initio*).

Legal base for withdrawal of the subsidiary protection status in this context

Article 55/5/1 §2, 2° of the Immigration Act:

The CGRS withdraws the subsidiary protection status (...)

- Of a foreigner who was granted status based of misrepresentation or omission of facts, on false declarations, or on false or forged documents which were decisive for the granting of the status,
- or of a foreigner of whom the personal conduct demonstrates afterwards that he or she does not face a real risk on serious harm.

Note: *same reasons as in the legal base for withdrawal of refugee status.*

The CGRS can withdraw the initial status if it comes to the conclusion the subsidiary protection status was granted based on fraud[91], more specifically 'misrepresentation or omission of facts, on false declarations, or on false or forged documents which were decisive for the granting of the status' and 'personal conduct'.

A possible example: the person returned to a different region in his country and it turns out he lied about his original region of origin. The CGRS can in this case come to the conclusion the person had an internal flight alternative from the start. Withdrawals of the initial subsidiary protection status are possible in cases of fraud, whatever the basis for the initial status granted.[92]

According to the Belgian law, the CGRS can also withdraw the subsidiary protection status if the 'personal conduct' of the person shows the lack of a protection need from the beginning. In the explanatory memorandum to the Law, it is stated that the CGRS must withdraw the subsidiary protection status in case the conduct of the beneficiary demonstrates later on that he did not have a real risk of serious harm from the start (*ab initio*) and therefore the status was granted unjustified.[93]

Circumstances taken into account

An assessment takes place of all the elements potentially indicating a significant and non-temporary change in the general situation of indiscriminate violence (including an internal flight alternative). There is also an assessment of the reason of the travel to the country of origin, and the CGRS also looks into the frequency of travels to the country of origin, the duration of stay in the country of origin, the specific place of the stay in the country of origin, etc. In case elements of fraud came to the surface, a withdrawal will be considered.

Data and practice

In October 2017, a specific unit was created inside the Immigration Office focusing on formulating request towards the CGRS to end the subsidiary protection status and following up on the cases where the status was put to an end.

In practice the Immigration Office will inform the CGRS of any elements it has at its disposal on travels to the country of origin, and also the CGRS effectively takes decisions ending status. Based on the practice of the CGRS, most decisions ending subsidiary protection status in the context of travels to the country of origin were in 2018 cessation decisions (based on a significant and non-temporary change in the general situation).

In the recent past (in 2016, 2017 and 2018) the Immigration Office requested the CGRS in 129 cases to end the subsidiary protection status based on such travels, and the number of requests increased from year to year. This concerns the number of cessation and withdrawal requests combined (see below). During the same time 3-year period the CGRS decided by the end of 2018:

- to end the subsidiary protection status in 76 of these cases due to travels
- to maintain the protection status in 22 cases
- and 30 cases were still pending
- and in 1 case the Immigration Office annulled its request.[94]

91. In these cases, indirectly, information on travels to the country of origin, can lead to a (re)assessment of the initial claim for international protection. In some cases, information on travels to the country of origin brings about elements the authorities did not have at their disposal at the moment of the decision on the initial application. When re-assessing the status on the basis of travels to the country of origin, new elements are confronted with the narrative in the initial claim for international protection. In these cases, the CGRS can find serious contradictions which it considers as being fraud.
92. Death penalty or execution; torture, inhuman or degrading treatment; or indiscriminate violence in a situation of international or internal armed conflict
93. Explanatory memorandum to the draft Law of 10 August 2015 amending the Immigration Act, available on the website of the Federal Parliament: http://www.lachambre.be/FLWB/pdf/54/1197/54K1197001.pdf), p26.
94. Source of data: Immigration Office.

3.2.5 CASE LAW ON ENDING SUBSIDIARY PROTECTION STATUS IN THE CONTEXT OF TRAVELS TO THE COUNTRY OF ORIGIN

There is quiet some case law from the Council for Alien Law Litigation (CALL) on cessation and withdrawal decisions of subsidiary protection status. Below some examples are given of judgements of the CALL.[96]

Cessation

- **CALL confirms cessation**[97]:
  - The CALL[98] confirms a cessation decision of the CGRS based on a durable change in circumstances (internal flight alternative in Kabul). An Afghan national who was granted subsidiary protection status in 2013 was subject to an airport control by the police in Brussels airport in 2017, when coming back from Afghanistan. Based on the stamps in his Afghan passport, he travelled two times to Afghanistan between 2015 and 2017 for a stay of 3 months in total. In the interview at the CGRS, he declared to have returned to marry (first time) and to visit his wife (second time). The CGRS concluded that the repeated travels and longer stays in Afghanistan, without notable problems, show he is able to evade the security risks linked with his region of origin.
- **CALL annuls cessation**:
  - The CALL annulled a cessation decision of the CGRS for an Iraqi beneficiary of subsidiary protection. The CALL deemed the decision did not sufficiently motivate that the change in circumstances in the country of origin was significant and of a non-temporary nature.[99]

Withdrawal

- **CALL confirms withdrawal** [100]:
  - The CALL [101] confirms the withdrawal decisions of the subsidiary protection status on the basis of fraud. In this case, the CGRS reconsidered the validity of the protection status of an Iraqi couple after receiving new elements from the Immigration Office: the couple presented an Iraqi passport at the municipality (in the context of a procedure to acquire Belgian nationality) which had not been presented to the CGRS earlier and containing elements contrary to the claims made during the asylum procedure. Moreover, the stamps in the passport showed that the couple had travelled back to Iraq for almost two months. Based on the new elements, and the lack of credible explanations by the couple, the CGRS could conclude they came from another region than they had claimed to come from and therefore the need for protection had to be examined in regard to another region. The CALL confirms the lack of a protection need and confirms the withdrawal of the subsidiary protection status based on false declarations
- **CALL reforms withdrawal into a cessation**
  - The CALL[102] finds that the CGRS did not sufficiently motivate how the personal conduct set after the granting of the status led to the conclusion that the status was at the time (ab initio) granted unduly. This led to a requalification of a withdrawal decision (ex-tunc effect) to a cessation decision (ex-nunc effect).
- **CALL annuls a withdrawal decision**[103]

96. Some cases are available on the website of the CALL: http://www.rvv-cce.be/
97. CALL, 8 February 2018, 199455; CALL, 5 March 2018, 200687.
98. CALL, 8 February 2018, 199455.
99. CALL, 24 February 2017, 182917.
100. CALL, 10 October 2017, 193400. Also CALL, 19 January 2017, 180.986.
101. CALL, 27 February 2019, 17982.
102. CALL, 16 April 2018, 202429.
103. CALL, 13 September 2017, 191956 and 191960 and CALL, of 25 January 2018, 198715.
On the cases of 13 September 2017, see also: Petra Baeyens and Marjan Claes, *Uitsluiting, weigering, opheffing en intrekking van de internationale beschermingsstatus, met focus op gevaar voor de samenleving en de nationale veiligheid*, *Tijdschrift Vreemdelingenrecht*, 2018, nr. 2, p.113.
These judgements of the CALL argue that national authorities had wrongfully withdrawn the protection status based on the notion of personal conduct. The CALL found in these cases that the CGRS did not motivate sufficiently why the personal conduct set after the granting of the status would allow to conclude that the initial (ab initio) subsidiary protection status was granted *at the time unduly*.
This is linked with the transposition of the Qualification Directive in Belgian law. As said, article 48/4 §2 of the Immigration Act refers to the situation of "serious threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict". This means the "individual' aspect of the threat is not transposed into Belgian law. As a consequence, the CALL argues in some case law that the personal conduct of the person can in these cases not lead to a withdrawal. It can however lead to a cessation decision. In these cases, the change in circumstances was not sufficiently motivated and the CALL annulled the withdrawal decision.

04

DECISION ON ENDING INTERNATIONAL PROTECTION STATUS AND IMPLICATIONS ON THE RIGHT OF RESIDENCE

This section presents procedural aspects of the adoption of a decision on ending international protection based on the grounds examined in the previous sections, as well as information on the procedural guarantees available to third-country nationals throughout the procedure, including the right to an effective remedy. It also examines the implications that such decision may have on the right to stay by the third-country national concerned by the decision, as well as on the right to stay of his/her family members.

4.1 INFORMATION TO BENEFICIARIES OF INTERNATIONAL PROTECTION

In Belgium no indication is made on the beneficiaries' travel documents mentioning if they are allowed to contact the authorities of their country of origin, or if they can travel to the country of origin.

However, beneficiaries of international protection are informed about possible consequences on their protection status in case they contact authorities or travel to their country of origin by means of a brochure. They receive a brochure of the CGRS when they are granted status:

- "*You are recognized as a refugee in Belgium - Your rights and obligations*" and
- "*You are eligible for subsidiary protection in Belgium – Your rights and obligations*".[104]

These brochures are also available on the CGRS website. Both brochures also mention that if a beneficiary needs more information, he or she can contact the authorities. The two brochures are available in English, French and Dutch.

104. Brochure "You are recognized as a refugee in Belgium - Your rights and obligations", published by the CGRS, January 2019. Available on : https://www.cgvs.be/sites/default/files/brochures/asiel_asile_-_erkend_reconnu_-_you_are_recognised_as_a_refugee_in_belgium_-_eng.pdf
Brochure "You are eligible for subsidiary protection in Belgium – Your rights and obligations", published by the CGRS, January 2019, Available on: https://www.cgvs.be/sites/default/files/brochures/brochure_subsidiary-protection_eng.pdf

DECISION ON ENDING INTERNATIONAL PROTECTION STATUS AND IMPLICATIONS ON THE RIGHT OF RESIDENCE

Information in the brochure of the CGRS on contacting the authorities or travelling to the country of origin

REFUGEES

- Contacting authorities for refugees: "*You can no longer ask for a passport at the embassy of your country of origin. If you do so, you risk losing your refugee status*" (p 10).
- Travelling for refugees: "*You have the right to travel abroad, but you risk losing your refugee status if you return to your country of origin*" (p. 10).

BENEFICIARIES OF SUBSIDIARY PROTECTION

- Contacting authorities for beneficiaries of subsidiary protection:
  - o "*If you do not have a passport and you cannot obtain one from your consulate or embassy, you have to apply for a special travel document for people who enjoy subsidiary protection*" (p. 15).
  - o "*The Commissioner General for Refugees and Stateless Persons is not qualified to grant civil status documents (e.g. certificate of birth, marriage certificate) to persons enjoying a subsidiary protection status. For this, you have to contact your embassy.*" (p. 19)
- Travelling for beneficiaries of subsidiary protection: "*You have the right to travel abroad, but if you return to your country of origin, you risk losing your subsidiary protection status*" (p.15).

4.2 REVIEW OF PROTECTION STATUS

Table:

Can the status of beneficiaries of international protection that travelled to and/or contacted authorities of their country of origin be reviewed in your (Member) State?

Legal base	In case of contacting authorities of the country of origin	In case of travelling to the country of origin (or country of habitual residence)
Refugee	Yes	Yes
Beneficiary of subsidiary protection	No, unless ... Beneficiaries of subsidiary protection can contact the authorities of their country of origin, unless these authorities are directly responsible for their 'risk of serious harm'..	Yes

In Belgium, there is no systematic review of all international protection statuses. In theory, there is a possibility to review the international protection status upon renewal of residence permit accompanying status, but this is not applied in practice.

However, a review can be triggered *ex officio* by national authorities *as part of procedures to end international protection.*

- The **CGRS** can on its own initiative review the international protection status when it has new elements at its disposal, without a time limit.
- The review can also be triggered by the **Immigration Office** (or by the competent Minister or State Secretary): the Immigration Office can request the CGRS to cease or withdraw an international protection status.
  - Cessation: The Immigration Office can request the CGRS to take a cessation decision on an international protection status for as long as the status holder has a residence permit of limited duration (this is during 5 years after the application for international protection).
  - Withdrawal: The Immigration Office can request the CGRS to withdraw the international protection status during the first 10 years after applying for international protection.

Legal base	Refugee status	Subsidiary Protection
Cessation request	Legal base for request: *Article 49 §2, 1 Immigration Act*	Legal base for request: *Article 49 §4, 1 Immigration Act*
	Legal base for cessation (in the context of travels) *Article 55/3 Immigration Act*	Legal base for cessation (in the context of travels) *Article 55/5 Immigration Act*
	Time limit for request ? During the residence permit of limited stay, during 5 years after the application for international protection	
Withdrawal request	Legal base for request: *Article 49 §2, 1 Immigration Act*	Legal base for request: *Article 49 §4, 1 Immigration Act*
	Legal base for withdrawal (in the context of travels) *Article 55/3/1§2 2° Immigration Act*	Legal base for withdrawal (in the context of travels) *Article 55/5/1§2 2° Immigration Act*
	Time limit for request ? During 10 years from the moment of the application for international protection	

In case of a review, the beneficiary involved is summoned for an interview and the convocation letter specifies the new elements and the possible consequences (cessation or withdrawal of status).

4.3 PROCEDURE ENDING INTERNATIONAL PROTECTION

AUTHORITIES INVOLVED IN THE DECISION TO CEASE INTERNATIONAL PROTECTION STATUS

Immigration Office

A specific unit inside the Immigration Office, the International Protection Follow-Up Unit, collects and centralizes information on contacts with the authorities of the countries of origin or travels to the country of origin: information from border police, municipal authorities, diplomatic posts, etc. As explained in Q30a, the Immigration Office (also the International Protection Follow-Up Unit) can request the CGRS to cease (or withdraw) the international protection status if it has elements at its disposal on travels to the country of origin or contacts with the authorities.

CGRS

As said, the CGRS, an independent federal administration, is the first instance authority competent to review and assess the need for international protection, and to decide on the cessation or withdrawal (or remain) of the status. The CGRS can review a status, on its own initiative, or after request of the Immigration Office.

In case of a review, the CGRS always informs the beneficiary of the reasons of the review (including the new elements the CGRS has at its disposal) and the possible cessation or withdrawal. The CGRS invites the beneficiary of international protection for an interview in order to enable him to present elements in favor of maintaining his protection status.

The Protection Officer in the CGRS assesses all elements of the case and is supported and guided by the legal unit of the CGRS (reference person on end of status), and prepares a decision. The official and decision (maintain of status, cessation or withdrawal) is notified to the person concerned, and the Immigration Office always receives a copy of decisions taken.[105]

CALL

If the CGRS decides to end the protection status (cessation or withdrawal), the person concerned has the possibility to launch a suspensive appeal before the Council for Alien Law Litigation (CALL). The CALL can confirm the decision taken by the CGRS, it can reverse the decision or it can annul the decision. The CALL has no investigative competence and has to take a decision based on the elements present in the file. It will annul the decision (and send it back to the CGRS) if there are substantial irregularities that cannot be restored by the CALL or in case essential elements are missing to take a decision.

105. Article 49§2, 3 of the Immigration Act.

DEFENSE OF THE BENEFICIARY OF INTERNATIONAL PROTECTION

The beneficiary of international protection can present contrary evidence or elements during the procedure to end protection status.[106] The CGRS (which is an independent administration) legally has the option to ask for written arguments or to summon for an interview in case of review of the protection status, in order to enable the person to present elements in favor of maintaining his protection status. Presenting those elements in writing is legally also possible in the context of a cessation examination.[107].

In case the beneficiary is unable to be present for the interview, he has to explain the reasons (written).

Lawyers are allowed to attend the interviews and free legal aid can be provided.

106. Article 57/6/7 of the Immigration Act.
Dutch: Art. 57/6/7. [...] § 2. De Commissaris-generaal geeft aan de betrokkene de mogelijkheid, tijdens een persoonlijk onderhoud de redenen voor te leggen waarom zijn vluchtelingenstatus of subsidiaire beschermingsstatus dient te worden behouden. [...] De oproeping voor een persoonlijk onderhoud of de brief die de betrokkene informeert over het heronderzoek van de geldigheid van zijn status en hem de mogelijkheid biedt, schriftelijk de redenen mee te delen waarom de status dient te worden behouden, informeert de betrokkene over de redenen voor het heronderzoek van de geldigheid van zijn status. [...]
French: Art. 57/6/7. [...] § 2. Le Commissaire général donne la possibilité à l'intéressé de présenter au cours d'un entretien personnel les motifs pour lesquels il y a lieu de maintenir son statut de réfugié ou de protection subsidiaire. [...] La convocation à un entretien personnel ou le courrier informant l'intéressé du réexamen de la validité de son statut et lui offrant la possibilité de communiquer par écrit les motifs pour lesquels il y a lieu de maintenir le statut informe l'intéressé des motifs du réexamen de la validité de son statut. [...]
Article 35/2 and 35/3 of the Royal Decree on CGRS procedure:
Dutch: Afdeling 5. [1 - Bevoegdheden toegekend aan de Commissaris-generaal met betrekking tot de opheffing of de intrekking van de vluchtelingenstatus of de subsidiaire beschermingsstatus op basis van artikel [2 57/6, § 1, eerste lid, 4° en 6°,]2 van de wet.][1]
Art. 35/2.[1 § 1. Indien de betrokkene wordt opgeroepen voor een persoonlijk onderhoud, moet het persoonlijk onderhoud minstens vijftien dagen na de kennisgeving van de oproeping voor het persoonlijk onderhoud plaatsvinden.
§ 2. Als er aan de betrokkene wordt gevraagd schriftelijk de redenen mee te delen waarom zijn status dient te worden behouden, moet het antwoord de Commissaris-generaal bereiken binnen vijftien dagen na de kennisgeving van het verzoek om schriftelijk de redenen voor het behoud van zijn status mee te delen.
§ 3. Met uitzondering van artikel 15, eerste lid, en artikel 18 zijn de bepalingen van onderafdeling 3 van afdeling 1 van hoofdstuk III met betrekking tot het persoonlijk onderhoud en onderafdeling 4 van afdeling 1 van hoofdstuk III betreffende het recht op bijstand van toepassing op het persoonlijk onderhoud van heronderzoek bedoeld in dit artikel.][1]
Art. 35/3. [1 De oproeping tot gehoor inzake heroverweging bevat minstens volgende gegevens :
- de plaats en de datum van het gehoor
- de datum van de oproeping;
- desgevallend de aankondiging van de aanwezigheid van een tolk die één
- desgevallend de aankondiging van de aanwezigheid van een tolk die één van de talen gesproken door de asielzoeker beheerst;
- de vermelding volgens dewelke de betrokkene zich op de dag van het gehoor kan laten bijstaan door een advocaat en een vertrouwenspersoon;
- de heroverweging van de vluchtelingenstatus of van de subsidiaire beschermingsstatus, en de redenen voor de heroverweging;
- de mededeling dat de betrokkene op de dag van het gehoor alle elementen ter staving van zijn standpunt dient mee te brengen;
- de mededeling dat, wanneer de betrokkene zich niet aanmeldt op het Commissariaat-generaal op de voor het gehoor vastgestelde datum, hij schriftelijk de redenen dient mee te delen voor zijn afwezigheid op het gehoor;
- de gevolgen die kunnen voortvloeien uit de afwezigheid van antwoord vanwege de betrokkene.]

French: Section 5. [Compétences dévolues au Commissaire général en matière d'abrogation ou de retrait du statut de réfugié ou de protection subsidiaire sur la base de l'article [2 57/6, § 1er, alinéa 1er, 4° et 6°,]2 de la loi.][1]
Art. 35/2.[§ 1er. Si l'intéressé est convoqué pour un entretien personnel, l'entretien personnel doit avoir lieu au moins quinze jours après la notification de la convocation à l'entretien personnel.
§ 2. Lorsqu'il est demandé à l'intéressé de communiquer par écrit les motifs pour lesquels son statut doit être maintenu, sa réponse doit parvenir au Commissaire général dans les quinze jours suivant la notification de la demande de communiquer par écrit les motifs en faveur du maintien de son statut.
§ 3. A l'exception de l'article 15, premier alinéa, et de l'article 18, les dispositions de la sous-section 3 de la section 1 du chapitre III relative à l'entretien personnel et de la sous-section 4 de la section 1 du chapitre III relative au droit à l'assistance, s'appliquent à l'entretien personnel de réexamen visé à cet article.][1]
Art. 35/3. [La convocation à l'audition de réexamen comporte au moins les informations suivantes :
- le lieu et la date de l'audition;
- la date de la convocation;
- le cas échéant, l'annonce de la présence d'un interprète maîtrisant une des langues parlées par le demandeur d'asile;
- la mention selon laquelle l'intéressé peut se faire assister le jour de l'audition par un avocat et une personne de confiance;
- le réexamen du statut de réfugié ou du statut de protection subsidiaire, et les motifs du réexamen
- la mention que l'intéressé doit, le jour de l'audition, apporter tous les éléments à l'appui de son point de vue;
- la mention que, au cas où il ne se présente pas au Commissariat général au jour fixé pour l'audition, l'intéressé doit faire connaître par écrit les motifs de son absence à l'audition;
- les conséquences qu'entraînerait une absence de réponse de la part de l'intéressé.

107. Article 57/6/7 §2 of the Immigration Act.

DEADLINE SET TO ISSUE A DECISION TO END INTERNATIONAL PROTECTION

In case of a cessation request or a withdrawal request from the Immigration Office (most cases), the Immigration Act foresees that the CGRS takes a decision in 60 working days. However, this time limit is not enforceable and not respected in practice. When a decision is taken, the person concerned and the Immigration Office are informed of it.[108]

In case the CGRS decides to reconsider status (own initiative), there is no time limit foreseen by law.

DECISION AND APPEAL

The decision of the CGRS to end the status is notified to the person concerned in writing. The decision is motivated and includes the reason for cessation or withdrawal.

The applicant can submit an appeal within 30 calendar days after notification of the CGRS' decision. The applicant and/or his lawyer sets out all the arguments against the decision by the CGRS in a petition to the CALL. The applicant can add new elements and documents to support his appeal.[109]

An appeal with suspensive effect[110] and full jurisprudence can be launched at the Council for Alien Law Litigation (CALL) . The CALL can:

- confirm the decision of the CGRS (*in casu* the cessation or withdrawal);
- reverse the decision: the CALL does not agree with the decision of the CGRS and takes a different decision, e.g. to grant a protection status (refugee status or subsidiary protection status) instead of a cessation or withdrawal and the CALL can also change a withdrawal of a protection status into a cessation, or the other way round.
- annul the decision: the CALL sends the file back to the CGRS if there are substantial irregularities that cannot be restored by the CALL or in case essential elements are missing to take a decision (no investigative competence, decision on the elements in the file). When taking a new decision, the CGRS must take into account the comments of the CALL as far as possible.

The procedure takes place in writing, but the applicant and his lawyer will also have the opportunity to defend their position in a formal public hearing. The CGRS is also asked to defend its decision.

If the CALL judges that the decision by the CGRS is sufficiently clear, the appeal can be handled through a written procedure. If neither the applicant, nor the CGRS asks to be heard, the CALL will not organize a formal hearing and the appeal is examined on the basis of elements the applicant has provided to support his original application.

There is quite some case law on end of protection status in the context of travels to the country of origin. All kinds of outcome of judgements of the Council for Alien Law Litigation (CALL) are possible, both concerning refugee status and subsidiary protection status, and concerning cessation and withdrawal. Please see the case law of the CALL discussed in the previous sections.

108. Article 49§2, 3 of the Immigration Act.
109. Website CGRS.
110. An appeal in full jurisdiction is suspensive: the applicant cannot be forcibly repatriated during the appeals procedure. In this context, a final decision ending protection status does however not end the residence rights of the person concerned, so the person can anyhow not be removed.

4.4 CONSEQUENCES OF A DECISION ENDING INTERNATIONAL PROTECTION STATUS

SEPARATE REVIEW OF RESIDENCE RIGHTS AND OF POSSIBLE RETURN

In Belgium, the decision to end international protection is not issued together with the decision to end the residence permit. There is also no automatic loss of residence rights after status was ended, nor is it automatically accompanied by a return decision.

After the protection status is ended (by CGRS of CALL), the Immigration Office can in some cases decide to end the residence rights. As said, if the residence rights are ended, this is usually (but not always) accompanied by a return decision (order to leave the country). However, the decision on ending residence rights is a separate decision from the return decision.

Three steps: the review of the protection status, the review of residence rights and the potential return.

1. Review international protection status (CGRS and CALL)

The decision to cease the international protection status is issued by the CGRS. The Immigration Office, and not the CGRS, is competent to take decisions on the residence right and to issue return decisions. The CGRS informs the Immigration Office (International Protection Follow-up Unit) of decisions to end the international protection status.

2. Review residence rights (Immigration Office)

In case a decision to end international protection status has become final (after an appeal ending the protection status or because the period to appeal passed), the International Protection Follow-up Unit of the Immigration Office decides whether or not the residence permit can and should be ended.The possibility to end the residence rights of a former beneficiary of international protection status is in certain cases limited in time. In the context of this study – decisions taken after contacting the authorities of the country of origin or travels to the country of origin – this possibility is not limited in time in case of a withdrawal, but is limited in case of a cessation decision.

- After a cessation decision (of the CGRS or the CALL), the Immigration Office can end the residence rights of the former beneficiary for as long as the person has a residence permit of limited duration. This is during the first five years after the application for international protection. The legal base for the Immigration Office to end a residence right of limited duration in this case is article 11 §3, 1, 1° of the Immigration Act. In case the person has a residence permit of unlimited duration or a more durable residence permit (status of settlement or long-term residence status), the residence rights can in principle not be ended unless for reasons of public security and national order.[111]

111. Article 21 or 22 of the Immigration Act.

- After a withdrawal of the international protection status, residence rights can be ended at any time (no time limits). Legal base for the Immigration Office to end the residence right here:
  - in case of a residence right of limited or unlimited duration : article 11 §3, 2 of the Immigration Act, and
  - in case the person has a more durable residence title, settlement or long-term residence status: article 18 §3, 1.

When deciding on ending the residence rights of a former beneficiary of international protection, the Immigration Office has to take individual circumstances into account (see below the text box).

3. Possible return decision (Immigration Office)

If the residence rights are ended, this is usually (but not always) accompanied by a return decision (order to leave the country). Legally the decision on ending residence rights is a separate decision from the return decision. When taking a return decision, the Immigration Office needs to take into account the best interest of the child, family life and the health situation. In principle the return decision will foresee a period for voluntary return of 30 days (it can be shorter e.g. when there is a risk of absconding, the person did not follow an earlier return decision, in case the person is a danger for public order, etc.).

The decision to end the residence rights as well as the return decision is open to a non-suspensive appeal[112] for the CALL.

INDIVIDUAL CIRCUMSTANCES

When deciding on ending the residence rights of a former beneficiary of international protection, the Immigration Office has the legal obligation to take the following elements into account: the nature and the closeness of the family ties of the person concerned, the length of stay in Belgium, as well as the existence of family, cultural or social ties in the country of origin.[113]

Therefore, in case the Immigration Office considers ending the residence rights, the person concerned is informed with a registered letter and given the possibility to bring forward any evidence or element deemed necessary in favor of keeping the residence right or which can influence the decision. In principle the person has 15 days after the notification to submit these elements (written procedure), unless there are reasons to shorten or lengthen this period (and with some exceptions, e.g. for state security reasons).[114]

In practice, a questionnaire is used including questions on language skills, family situation in Belgium and elsewhere, whether or not there are school-aged children, medical situation, professional situation and training, reasons why the person cannot return to his country of origin (or habitual residence), etc.

112. In principle non-suspensive, although there are some exceptions.
113. As foreseen in article 11 Immigration Act.
114. Article 62 §1, 1 Immigration Act.

OTHER STATUS?

In case the CGRS (or the CALL) considers ending the refugee status, it will always (in the same decision) consider if subsidiary protection status should be granted. A former beneficiary of international protection can also (try to) apply again for international protection (if there are new elements) or for another legal status (humanitarian regularization or medical reasons) on the same legal conditions as every other TCN.

NO AUTOMATIC CONSEQUENCES FOR FAMILY MEMBERS AND DEPENDENTS

In case of a (final) decision to cease international protection status, this has no automatic consequences on family members and dependents of the former beneficiary of international protection. However, consequences are possible. A case by case decision is taken if they keep or lose their international protection status. The conditions for cessation or withdrawal need to be fulfilled for every family member separately.

ANNEXES

ANNEX 1: DEFINITIONS

The following key terms are used in this study. The definitions are taken from the EMN Glossary v6.0[115] unless specified otherwise in footnotes.

- '**Application for international protection**' is defined as a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection, outside the scope of Directive 2011/95/EU (Recast Qualification Directive), that can be applied for separately.
- '**Beneficiary of international protection**' is defined as a person who has been granted refugee status or subsidiary protection status.
- '**Cessation of international protection**' refers to 'cessation clauses' of the Refugee Convention (Article 1C (1) to (6) of the Refugee Convention) that enumerate the conditions under which a refugee ceases to be a refugee: protection is no longer necessary or justified on the basis of certain voluntary acts of the refugee concerned or a fundamental change in the situation prevailing in the country of origin. In EU law, cessation means end of international protection status where a third-country national who has been formally recognized as a refugee ceases to be a refugee within the meaning of Article 11 of the Recast Qualification Directive, or a formally recognized beneficiary of subsidiary protection ceases to be a beneficiary of such protection within the meaning of Article 16 of the Recast Qualification Directive. Member States must revoke, end or refuse to renew the refugee status (Article 14 of the recast Qualification Directive) or the subsidiary protection (Article 19 of the recast Qualification Directive) if a third-country national ceased to be a refugee or a beneficiary of subsidiary protection.
- **Country of origin** is the country or countries of nationality or, for stateless persons, of former habitual residence.[116]
- '**Geneva Convention**' is defined as the Convention relating to the Status of Refugees done at Geneva on 28 July 1951, as amended by the New York Protocol of 31 January 1967.[117]
- '**Refugee**' is defined as a third-country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 of Directive 2011/95/EU (Recast Qualification Directive) does not apply.

115. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/docs/interactive_glossary_6.0_final_version.pdf
116. Article 2(n) of Directive 2011/95/EU (Recast Qualification Directive).
117. Article 2 of Directive 2011/95/EU (Recast Qualification Directive).

- '**Refugee status**' is defined as the recognition by a Member State of a third-country national or a stateless person as a refugee.[118]
- '**Person eligible for subsidiary protection**' is defined as a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15 of Directive 2011/95/EC (Recast Qualification Directive), and to whom Article 17(1) and (2) of said Directive does not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country.
- '**Subsidiary protection status**' means the recognition by a Member State of a third-country national or a stateless person as a person eligible for subsidiary protection.[119]

The following **national** terms and abbreviations are used in this study:

End of international protection status	
Cessation	French: Abrogation Dutch: Opheffing In case of a cessation decision, international protection is no longer necessary or justified
Withdrawal	French: Retrait Dutch: Intrekking In the case of a withdrawal decision, international protection should have never been granted
End of international protection status	
Immigration Office	French: Office des étrangers Dutch: Dienst vreemdelingenzaken
Commissioner General For Refugees and Stateless Persons (CGRS)	French: Commissaire General pour les Réfugies et les Apatrides (CGRA) Dutch: Commissaris Generaal voor de Vluchtelingen en de Staatlozen (CGVS)
Council for Alien Law Litigation (CALL)	French: Conseil du contentieux des étrangers (CCE) Dutch: Raad voor Vreemdelingenbetwistingen (RvV)
End of international protection status	
Immigration Act	French: Loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers Dutch: Wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen
Royal Decree implementing the Immigration Act	French: Arrêté royal du 8 octobre 1981 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers Dutch: Koninklijk besluit van 8 oktober 1981 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen

118. Article 2 of Directive 2011/95/EU (Recast Qualification Directive).
119. Article 2 of Directive 2011/95/EU (Recast Qualification Directive).

ANNEX 2:
LEGAL BASE FOR ENDING STATUS IN BELGIUM, IN THE CONTEXT OF TRAVELS TO THE COUNTRY OF ORIGIN

ENGLISH	DUTCH	FRENCH
LEGAL BASE FOR CESSATION OF REFUGEE STATUS IN BELGIUM		
Article 1 C of the Geneva Convention:		
This Convention shall cease to apply to any person falling under the terms of section A if: 1. He has voluntarily re-availed himself of the protection of the country of his nationality; or 2. Having lost his nationality, he has voluntarily reacquired it; or 3. He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or 4. He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or 5. He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; Provided that this paragraph shall not apply to a refugee falling under section A(i) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;	Dit Verdrag houdt op van toepassing te zijn op elke persoon die valt onder de bepalingen van afdeling A, indien: 1. Hij vrijwillig wederom de bescherming inroept van het land waarvan hij de nationaliteit bezit; 2. Hij, indien hij zijn nationaliteit had verloren, deze vrijwillig heeft herkregen; 3. Hij een nieuwe nationaliteit heeft verkregen en de bescherming geniet van het land waarvan hij de nieuwe nationaliteit bezit; 4. Hij zich vrijwillig opnieuw heeft gevestigd in het land dat hij had verlaten of waarbuiten hij uit vrees voor vervolging verblijf hield; 5. Hij niet langer kan blijven weigeren de bescherming van het land waarvan hij de nationaliteit bezit, in te roepen, omdat de omstandigheden in verband waarmede hij was erkend als vluchteling, hebben opgehouden te bestaan. Met dien verstande echter, dat dit lid niet van toepassing is op een vluchteling die onder lid 1 van afdeling A van dit artikel valt, en die dwingende redenen, voortvloeiende uit vroegere vervolging, kan aanvoeren om te weigeren de bescherming van het land waarvan hij de nationaliteit bezit, in te roepen;	Cette Convention cessera, dans les cas ci-après, d'être applicable à toute personne visée par les dispositions de la section A ci-dessus: 1. si elle s'est volontairement réclamée à nouveau de la protection du pays dont elle a la nationalité; ou 2. si, ayant perdu sa nationalité, elle l'a volontairement recouvrée; ou 3. si elle a acquis une nouvelle nationalité et jouit de la protection du pays dont elle a acquis la nationalité; ou 4. si elle est retournée volontairement s'établir dans le pays qu'elle a quitté ou hors duquel elle est demeurée de crainte d'être persécutée; ou 5. si, les circonstances à la suite desquelles elle a été reconnue comme réfugiée ayant cessé d'exister, elle ne peut plus continuer de se réclamer de la protection du pays dont elle a la nationalité. Etant entendu, toutefois, que les dispositions du présent paragraphe ne s'appliqueront pas à tout réfugié visé au paragraphe 1er de la section A du présent article qui peut invoquer, pour refuser de se réclamer de la protection du pays dont il a la nationalité, des raisons impérieuses tenant à des persécutions antérieures;
6. Being a person who has no nationality he is, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence; Provided that this paragraph shall not apply to a refugee falling under section A(i) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence."	6. Hij, indien hij geen nationaliteit bezit, kan terugkeren naar het land waar hij vroeger zijn gewone verblijfplaats had, omdat de omstandigheden in verband waarmede hij was erkend als vluchteling, hebben opgehouden te bestaan. Met dien verstande echter, dat dit lid niet van toepassing is op een vluchteling die onder lid 1 van afdeling A van dit artikel valt, en die dwingende redenen, voortvloeiende uit vroegere vervolging, kan aanvoeren om te weigeren naar het land waar hij vroeger zijn gewone verblijfplaats had, terug te keren.	6. s'agissant d'une personne qui n'a pas de nationalité, si les circonstances à la suite desquelles elle a été reconnue comme réfugiée ayant cessé d'exister, elle est en mesure de retourner dans le pays dans lequel elle avait sa résidence habituelle. Etant entendu, toutefois, que les dispositions du présent paragraphe ne s'appliqueront pas à tout réfugié visé au paragraphe 1er de la section A du présent article qui peut invoquer, pour refuser de retourner dans le pays dans lequel il avait sa résidence habituelle, des raisons impérieuses tenant à des persécutions antérieures.
Article 55/3 of the Immigration Act		
An alien ceases to be a refugee when article 1 C of the Geneva Convention applies. In application of article 1 C (5) and (6) of this Convention needs to be verified if the circumstances in connection with which the refugee has been recognised is of a sufficiently significant and non-temporary nature to end the fear of persecution. The disposition does not apply on the refugee who is able to invoke compelling reasons for refusing to avail himself of the protection of the country of nationality, or, in the case of a stateless person, of the country of his former habitual residence.	Een vreemdeling houdt op vluchteling te zijn wanneer hij valt onder artikel 1 C van het Verdrag van Genève. Bij toepassing van artikel 1 C (5) en (6) van voormeld verdrag dient te worden nagegaan of de verandering van de omstandigheden een voldoende ingrijpend en niet-voorbijgaand karakter heeft om de gegronde vrees van de vluchteling voor vervolging weg te nemen. Het eerste lid is niet van toepassing op een vluchteling die dwingende redenen, voortvloeiende uit vroegere vervolging, kan aanvoeren om te weigeren de bescherming van het land waarvan hij de nationaliteit bezit, of, in het geval van een staatloze, van het land waar hij vroeger zijn gewone verblijfplaats had, in te roepen.	Un étranger cesse d'être réfugié lorsqu'il relève de l'article 1 C de la Convention de Genève. En application de l'article 1 C (5) et (6) de cette Convention, il convient d'examiner si le changement de circonstances est suffisamment significatif et non provisoire pour que la crainte du réfugié d'être persécuté ne puisse plus être considérée comme fondée. L'alinéa 1er ne s'applique pas à un réfugié qui peut invoquer des raisons impérieuses tenant à des persécutions antérieures pour refuser la protection du pays dont il a la nationalité, ou, dans le cas d'un apatride, du pays où il avait sa résidence habituelle.

ENGLISH	DUTCH	FRENCH
LEGAL BASE FOR WITHDRAWAL OF REFUGEE STATUS IN BELGIUM Different dispositions refer to withdrawal of refugee status for different motives. In the context of this report article 55/3/1 §2, 2°of the Immigration Act is relevant:		
Article 55/3/1 §2, 2°of the Immigration Act		
§2. The CGRS withdraws the refugee status (...) 2° if the recognition of the refugee status was based on facts which were presented wrongfully or were withheld, on the basis of false declarations, or on the basis of false or forged documents which were decisive for the recognition of the status, or if the personal conduct of the refugee indicates afterwards that he or she does not fear persecution.	§ 2. De Commissaris-generaal voor de Vluchtelingen en de Staatlozen trekt de vluchtelingenstatus in : (...) 2° ten aanzien van de vreemdeling wiens status werd erkend op grond van feiten die hij verkeerd heeft weergegeven of achtergehouden, van valse verklaringen of van valse of vervalste documenten die doorslaggevend zijn geweest voor de erkenning van de status of ten aanzien van de vreemdeling wiens persoonlijke gedrag later erop wijst dat hij geen vervolging vreest. (...)"	§ 2. Le Commissaire général aux réfugiés et aux apatrides retire le statut de réfugié : (...) 2° à l'étranger dont le statut a été reconnu sur la base de faits qu'il a présentés de manière altérée ou qu'il a dissimulés, de fausses déclarations ou de documents faux ou falsifiés qui ont été déterminants dans la reconnaissance du statut ou à l'étranger dont le comportement personnel démontre ultérieurement l'absence de crainte de persécution dans son chef.
LEGAL BASE FOR CESSATION OF SUBSIDIARY PROTECTION STATUS IN BELGIUM		
Article 55/5 of the Immigration Act		
The subsidiary protection status granted to a foreigner ceases to exist if the circumstances in connection with which he or she has been granted subsidiary protection status have ceased to exist or changed to such a degree that protection is no longer needed. In this case, it needs to be assessed if the change (of the circumstances which led to the granting of the status) is of a sufficiently significant and of a non-temporary nature to end the real risk of serious harm.	De subsidiaire beschermingsstatus die werd toegekend aan een vreemdeling wordt opgeheven wanneer de omstandigheden op grond waarvan de subsidiaire beschermingsstatus werd verleend, niet langer bestaan of zodanig zijn gewijzigd dat deze bescherming niet langer nodig is. Er dient hierbij te worden nagegaan of de verandering van de omstandigheden die hebben geleid tot het toekennen van de subsidiaire beschermingsstatus een voldoende ingrijpend en niet-voorbijgaand karakter heeft om het reële risico op ernstige schade weg te nemen.	Le statut de protection subsidiaire qui est accordé à un étranger cesse lorsque les circonstances qui ont justifié l'octroi de cette protection cessent d'exister ou ont évolue dans une mesure telle que cette protection n'est plus nécessaire. Il convient à cet égard d'examiner si le changement de circonstances qui ont conduit à l'octroi du statut de protection subsidiaire est suffisamment significatif et non provisoire pour écarter tout risque réel d'atteintes graves.

ENGLISH	DUTCH	FRENCH
The disposition does not apply on beneficiary of international protection who is able to invoke compelling reasons, in connection with the former serious harm, for refusing to avail himself of the protection of the country of nationality, or, in the case of a stateless person, of the country of his former habitual residence.	Het eerste lid is niet van toepassing op een persoon met de subsidiaire beschermingsstatus die dwingende redenen, voortvloeiende uit vroegere ernstige schade, kan aanvoeren om te weigeren de bescherming van het land waarvan hij de nationaliteit bezit, of, in het geval van een staatloze, van het land waar hij vroeger zijn gewone verblijfplaats had, in te roepen.	L'alinéa 1er ne s'applique pas à une personne bénéficiant de la protection subsidiaire qui peut invoquer des raisons impérieuses tenant à des atteintes graves antérieures pour refuser la protection du pays dont il a la nationalité, ou, dans le cas d'un apatride, du pays où il avait sa résidence habituelle.
LEGAL BASE FOR WITHDRAWAL OF REFUGEE STATUS IN BELGIUM Different dispositions refer to withdrawal of refugee status for different motives. In the context of this report article 55/5/1 §2, 2°of the Immigration Act is relevant:		
Article 55/5/1 §2, 2°of the Immigration Act		
§2. The CGRS withdraws the subsidiary protection status (...) Of a foreigner who was granted status based of misrepresentation or omission of facts, on false declarations, or on false or forged documents which were decisive for the granting of the status, or of a foreigner of whom the personal conduct demonstrates afterwards that he or she does not face a real risk on serious harm.	§ 2. De Commissaris-generaal voor de Vluchtelingen en de Staatlozen trekt de subsidiaire beschermingsstatus in : 1° (...) 2° ten aanzien van de vreemdeling wiens status werd toegekend op grond van feiten die hij verkeerd heeft weergegeven of achtergehouden, van valse verklaringen of van valse of vervalste documenten die doorslaggevend zijn geweest voor de toekenning van de status of ten aanzien van de vreemdeling wiens persoonlijke gedrag later erop wijst dat hij geen reëel risico op ernstige schade loopt. (...)	§ 2. Le Commissaire général aux réfugiés et aux apatrides retire le statut de protection subsidiaire : (...)2° à l'étranger à qui le statut a été octroyé sur la base de faits qu'il a présentés de manière altérée ou qu'il a dissimulés, de fausses déclarations ou de documents faux ou falsifiés qui ont été déterminants dans l'octroi du statut ou à l'étranger dont le comportement personnel démontre ultérieurement l'absence de risque réel de subir des atteintes graves dans son chef. (...)

EXTRACTS FROM THE RECAST QUALIFICATION DIRECTIVE – DIRECTIVE 2011/95/EU OF 13 DECEMBER 2011

Article 11 - Cessation of refugee status

French: *Cessation*
Dutch: *Beëindiging*

- 1. A third-country national or a stateless person shall cease to be a refugee if he or she:
  - a. has voluntarily re-availed himself or herself of the protection of the country of nationality; or
  - b. having lost his or her nationality, has voluntarily re-acquired it; or
  - c. has acquired a new nationality, and enjoys the protection of the country of his or her new nationality; or
  - d. has voluntarily re-established himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution; or
  - e. can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself or herself of the protection of the country of nationality; or
  - f. being a stateless person, he or she is able, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, to return to the country of former habitual residence.
- 2. In considering points (e) and (f) of paragraph 1, Member States shall have regard to whether the change of circumstances is of such a significant and non-temporary nature that the refugee's fear of persecution can no longer be regarded as well-founded.
- 3. Points (e) and (f) of paragraph 1 shall not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself or herself of the protection of the country of nationality or, being a stateless person, of the country of former habitual residence.

Article 14 - Revocation of, ending of or refusal to renew refugee status

French: *Révocation, fin du statut ou refus de le renouveler*
Dutch: *Intrekking, beëindiging of weigering tot verlenging*

- 1. Concerning applications for international protection filed after the entry into force of Directive 2004/83/EC, Member States shall revoke, end or refuse to renew the refugee status of a third-country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body if he or she has ceased to be a refugee in accordance with Article 11.
- 2. Without prejudice to the duty of the refugee in accordance with Article 4(1) to disclose all relevant facts and provide all relevant documentation at his or her disposal, the Member State which has granted refugee status shall, on an individual basis, demonstrate that the person concerned has ceased to be or has never been a refugee in accordance with paragraph 1 of this Article.
- 3. Member States shall revoke, end or refuse to renew the refugee status of a third-country national or a stateless person if, after he or she has been granted refugee status, it is established by the Member State concerned that:
  - (...)
  - b. his or her misrepresentation or omission of facts, including the use of false documents, was decisive for the granting of refugee status.
  - (...)

Article 16 - Cessation of subsidiary protection status

French: *Cessation*
Dutch: *Beëindiging*

- 1. A third-country national or a stateless person shall cease to be eligible for subsidiary protection when the circumstances which led to the granting of subsidiary protection status have ceased to exist or have changed to such a degree that protection is no longer required.
- 2. In applying paragraph 1, Member States shall have regard to whether the change in circumstances is of such a significant and non-temporary nature that the person eligible for subsidiary protection no longer faces a real risk of serious harm.
- 3. Paragraph 1 shall not apply to a beneficiary of subsidiary protection status who is able to invoke compelling reasons arising out of previous serious harm for refusing to avail himself or herself of the protection of the country of nationality or, being a stateless person, of the country of former habitual residence.

Article 19 - Revocation of, ending of or refusal to renew subsidiary protection status

French: *Révocation, fin du statut ou refus de le renouveler*
Dutch: *Intrekking, beëindiging of weigering tot verlenging*

- 1. Concerning applications for international protection filed after the entry into force of Directive 2004/83/EC, Member States shall revoke, end or refuse to renew the subsidiary protection status of a third-country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body if he or she has ceased to be eligible for subsidiary protection in accordance with Article 16.
- 2. Member States may revoke, end or refuse to renew the subsidiary protection status of a third-country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body, if after having been granted subsid-

37. Project proposal for CPL awards 2017 entitled 'Asielfraude. Een resultaatgerichte aanpak vanuit een Europees netwerkend perspectief', drafted by the Belgian airport police, October 2017.

36. The CGRS reports on the total number of international protection statuses ended (by legal base used), but it the data of the CGRS is not possible to distinguish the statuses ended following travels to the country of origin (this is not a legal base as such).

iary protection status, he or she should have been excluded from being eligible for subsidiary protection in accordance with Article 17(3).

- 3. Member States shall revoke, end or refuse to renew the subsidiary protection status of a third-country national or a stateless person, if:
  - (...)
  - b. his or her misrepresentation or omission of facts, including the use of false documents, was decisive for the granting of subsidiary protection status.
- 4. Without prejudice to the duty of the third-country national or stateless person in accordance with Article 4(1) to disclose all relevant facts and provide all relevant documentation at his or her disposal, the Member State which has granted the subsidiary protection status shall, on an individual basis, demonstrate that the person concerned has ceased to be or is not eligible for subsidiary protection in accordance with paragraphs 1, 2 and 3 of this Article.

ANNEX 3: RELEVANT SOURCES AND LITERATURE

An important source of information for this study was the information received from the competent authorities during the research, more specifically from the Immigration Office (International Protection Follow-up Unit), the CGRS (Legal Unit) as well as from the Airport Police. We would especially like to thank Pieter-Jan Van Bosstraeten (Immigration Office) and Griet Desnyder (CGRS). Moreover, legislation, policy documents, case law, reports and other literature were consulted. A selection is given below:

LEGISLATION

- Geneva Convention
- Directive 2011/95/EU of the European Parliament and the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast Qualification Directive).
- Belgian Immigration Act of 15 December 1980.
- Belgian Consular Code of 21 December 2013.
- Ministerial Decree of 15 September 2017 on the issuance of passports.
- Circular of the Ministry of Foreign Affairs for Non-Belgians, 15 September 2017.

CASE LAW OF THE CALL[120]

- CALL, 8 December 2015, 157901
- CALL, 25 March 2016, 164779 and 164790
- CALL, 25 March 2016, 164790
- CALL, 30 September 2016, 175591
- CALL, 30 September 2016, 175 591
- CALL, 24 February 2017, 182917
- CALL, 28 April 2017, 186292
- CALL, 23 May 2017, 16996
- CALL, 11 December 2017, 196410
- CALL, 13 September 2017, 191 956
- CALL, 13 September 2017, 191960
- CALL, 13 September 2017, 191161
- CALL, 14 September 2017, nr.192019
- CALL, 11 December 2017, 196410
- CALL, 25 January 2018, 198715
- CALL, 8 February 2018, 199455

120. Available on: http://www.rvv-cce.be/fr/arr

- CALL, 5 March 2018, 200687
- CALL, 16 April 2018, 202429
- CALL, 8 June 2018, 206255
- CALL, 27 June 2018, 206088
- CALL, 29 June 2018, 206274
- CALL, 29 June 2018, 206274
- CALL, 31 July 2018, 207438

POLICY DOCUMENTS AND PARLIAMENTARY DOCUMENTS

- Coalition agreement of the Belgian government 2014-2019, of 9 October 2014, 154, DOC 54 0020/001: https://www.premier.be/sites/default/files/articles/Accord_de_Gouvernement_-_Regeerakkoord.pdf
- General Policy Note of 28 November 2014, State Secretary for Asylum Policy and Migration, Doc 54 0588/026. Available on: http://www.lachambre.be/FLWB/PDF/54/0588/54K0588026.pdf
- General Policy Note of 27 October 2016, State Secretary for Asylum Policy and Migration of 27 October 2016, DOC 54 2111/017. Available on: http://www.dekamer.be/doc/FLWB/pdf/54/2111/54K2111017.pdf
- General Policy Note of 19 October 2017, State Secretary for Asylum Policy and Migration, DOC 54 2708/017. Available on: http://www.dekamer.be/doc/FLWB/pdf/54/2708/54K2708017.pdf
- Federal Parliament, Accountability of the general budget 2018 of the FPS Home Affairs, 24 October 2017, DOC 54 2691/007
- Federal Parliament, answer of 15 November 2017 of the State Secretary of Immigration and Asylum on a written question of Barbara Pas, available on: https://www.dekamer.be/kvvcr/showpage.cfm?section=qrva&language=nl&cfm=qrvaXml.cfm?legislat=54&dossierID=54-b099-885-0899-2016201712769.xml
- Parliamentary question by Ms Helga Stevens (N-VA / ECR), nr. P-002698-18 and answer to parliamentary question of 6 July 2018 nr. P-002698-18 on behalf of the Commission: http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2018-002698&language=SV)
- General Policy Note of 26 October 2018 State Secretary for Asylum Policy and Migration, DOC 54 3296/021, p. 13-14. Available on http://www.dekamer.be/flwb/pdf/54/3296/54K3296021.pdf

BROCHURES PUBLISHED BY THE CGRS

- CGRS, "*You are recognized as a refugee in Belgium - Your rights and obligations*", January 2019.
- CGRS, "*You are eligible for subsidiary protection in Belgium – Your rights and obligations*", the CGRS, January 2019.

OTHER STUDIES AND REPORTS

- AIDA, Country Report Belgium 2017, Update March 2018.
- Contact Meetings on International Protection (between the authorities and organizations and NGO's) organised by the Federal Migration Centre Myria, available at www.myria.be
  - Myria, Report from the contact meeting of 21 September 2016.
  - Myria, Report from the contact meeting of September 2018.
  - Myria, Report of the Contact meeting of 21 November 2018.
- Petra Baeyens and Marjan Claes, Uitsluiting, weigering, opheffing en intrekking van de internationale beschermingsstatus, met focus op gevaar voor de samenleving en de nationale veiligheid, Tijdschrift Vreemdelingenrecht, 2018, nr. 2.

WEBITES

- Website 'Agentschap integratie en inburgering'
- Website CGRS
- Website FPS Foreign Affairs

UNHCR

- UN High Commissioner for Refugees (UNHCR), Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, December 2011, HCR/1P/4/ENG/REV. 3.
- UN High Commissioner for Refugees (UNHCR), Note on Cessation Clauses, 30 May 1997, EC/47/SC/CRP.30.
- UN High Commissioner for Refugees (UNHCR), The Cessation Clauses: Guidelines on Their Application, 26 April 1999.
- UN High Commissioner for Refugees (UNHCR), Conclusion 69 (Cessation of status), Conclusions Adopted by the Executive Committee on the International Protection of Refugees, December 2009, 1975-2009 (Conclusion No. 1-109).
- UN High Commissioner for Refugees (UNHCR), Procedural Standards for Refugee Status Determination Under UNHCR's Mandate, 20 November 2003.

36. The CGRS reports on the total number of international protection statuses ended (by legal base used), but it the data of the CGRS is not possible to distinguish the statuses ended following travels to the country of origin (this is not a legal base as such).

EU AGENCIES

- European Asylum Support Office (EASO), *Ending International Protection: Articles 11, 14 16 and 19 Qualification Directive. A Judicial Analysis*. December 2016.
- Fundamental Rights Agency (FRA), *Handbook on European law relating to asylum, borders and immigration*, June 2014.
- EASO Query on *Consequences of return trips of persons granted refugee status*, 16 May 2017, not published.

EMN STUDIES

- Changes in immigration status and purpose of stay: an overview of EU Member States' approaches, 2015.

121. Available at: https://www.easo.europa.eu/sites/default/files/Ending%20International%20Protection_Articles%2011_14_16%20and%2019%20QD%20EASO%20Judicial%20Analysis%20FINAL.pdf

ANNEX 4: STUDIES AND REPORTS OF THE BELGIAN CONTACT POINT OF THE EMN (2009-2018)

The present annex lists the national studies and reports published by the Belgian Contact Point of the EMN between 2009 and 2017. The other EMN National Contact Points (NCPs) produced similar reports on these topics for their (Member) State. For each study, the EMN Service Provider, in cooperation with the European Commission and the EMN NCPs, produced a comparative Synthesis Report, which brings together the main findings from the national reports and places them within an EU perspective.

The Belgian studies and reports mentioned below are available for download on www.emnbelgium.be

The reports from the other NCPs as well as the Synthesis Reports are available on http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/index_en.htm

2009	
April 2009	The Organisation of Asylum and Migration Policies in Belgium
June 2009	Annual Report on Asylum and Migration Policy in Belgium – 2008
July 2009	Unaccompanied Minors in Belgium *- Also available in French and Dutch*
October 2009	Programmes and Strategies in Belgium Fostering Assisted Voluntary Return and Reintegration in Third Countries *- Also available in French and Dutch*
December 2009	EU and Non-EU Harmonised Protection Statuses in Belgium

2010	
January 2010	Annual Report on Asylum and Migration Policy in Belgium – 2009
August 2010	Satisfying Labour Demand Through Migration in Belgium

2011	
January 2011	Temporary and Circular Migration in Belgium: Empirical Evidence, Current Policy Practice and Future Options
March 2011	Annual Report on Asylum and Migration Policy in Belgium – 2010
May 2011	EU and Non-EU Harmonised Protection Statuses in Belgium (update)
October 2011	Visa Policy as Migration Channel in Belgium

2012	
January 2012	Practical Measures for Reducing Irregular Migration in Belgium
March 2012	Annual Report on Asylum and Migration Policy in Belgium – 2011
April 2012	Misuse of the Right to Family Reunification : Marriages of Convenience and False Declarations of Parenthood in Belgium *- Also available in French and Dutch*
September 2012	Establishing Identity for International Protection: Challenges and Practices in Belgium *- Also available in French and Dutch*
September 2012	The Organisation of Migration and Asylum Policies in Belgium (update)
October 2012	Migration of International Students to Belgium, 2000-2012

2013	
May 2013	Annual Report on Asylum and Migration Policy in Belgium – 2012
July 2013	Attracting Highly Qualified and Qualified Third-Country Nationals to Belgium
August 2013	The Organisation of Reception Facilities in Belgium
October 2013	The Identification of Victims of Trafficking in Human Beings in International Protection and Forced Return Procedures in Belgium

2014	
February 2014	Migrant Access to Social Security – Policy and Practice in Belgium *- Also available in French and Dutch*
June 2014	Good Practices in the Return and Reintegration of Irregular Migrants: Belgium's Entry Bans Policy and Use of Readmission Agreements
June 2014	The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Belgium
July 2014	Annual Report on Asylum and Migration Policy in Belgium – 2013
October 2014	Policies, Practices and Data on Unaccompanied Minors in Belgium (2014 Update)
December 2014	Admitting Third-Country Nationals for Business Purposes in Belgium

2015	
June 2015	Determining Labour Shortages and the Need for Labour Migration from Third Countries in Belgium *- Also available in French*
July 2015	Annual Report on Asylum and Migration Policy in Belgium - 2014
August 2015	Dissemination of Information on Voluntary Return: How to Reach Irregular Migrants not in Contact with the Authorities in Belgium

2016	
May 2016	Changes in Immigration Status and Purposes of Stay in Belgium
May 2016	Integration of Beneficiaries of International Protection into the Labour Market in Belgium
June 2016	Annual Report on Asylum and Migration Policy in Belgium - 2015
December 2016	Returning Rejected Asylum Seekers: Challenges and Good Practices in Belgium
December 2016	Resettlement and Humanitarian Admission in Belgium

2017	
June 2017	Annual Report on Asylum and Migration Policy in Belgium - 2016
July 2017	Family Reunification of Third Country Nationals in Belgium
July 2017	Illegal Employment of Third Country Nationals in Belgium
December 2017	Challenges and good practices for establishing applicants' identity in the migration process in Belgium

2018	
May 2018	The changing influx of asylum seekers in 2014-2016
July 2018	The effectiveness of return in Belgium: challenges and good practices linked to EU rules and standards
August 2018	Approaches to Unaccompanied minors following status determination
August 2018	Annual report on asylum and migration in Belgium – 2017
September 2018	Labour market integration of third-country nationals in Belgium
September 2018	Impact of visa liberalisation on countries of destination
December 2018	Socio-economic profile and socio-economic careers of people granted international protection in Belgium

2019	
June 2019	Annual report on migration and asylum in Belgium and the EU - 2018

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