



# ANNUAL REPORT ON MIGRATION AND ASYLUM IN BELGIUM

**2018**

June 2019

The Belgian National Contact Point (NCP) of the European Migration Network (EMN) 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. The Belgian NCP is financed both by the European Union and the aforementioned Belgian entities.

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The European Migration Network (EMN) is coordinated by the European Commission with National Contact Points established in each EU Member State plus Norway.



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# EXECUTIVE SUMMARY

The present Chapter 1 - *Executive summary* outlines the key findings of the report. Chapter 2 - *Introduction* provides information on the objectives, content and methodology of the report. Chapter 3 – *Institutional and legislative context* provides basic information on the structure of asylum and migration policy in Belgium. Chapters 4 to 12 describe specific developments in the area of legal migration and mobility; international protection; unaccompanied minors and other vulnerable groups; integration; irregular migration; return; actions addressing trafficking in human beings; and migration and development. The annexes provide information on the abbreviations and specific terms used in the report and on the publications of the Belgian Contact Point of the European Migration Network (EMN).

## GENERAL POLITICAL CONTEXT

In October 2018 **local elections (municipalities and provinces)** were held in Belgium, in which many national politicians engaged. These elections were perceived as being politically important beyond the local level, because only a few months later - on 26 May 2019 - regional, national and European elections would follow.

After a political crisis in December 2018, the Belgian federal government is a **minority government in a caretaking capacity** to handle urgent and ongoing matters, and this pending the May 2019 elections and till a new government is in office. On 8 December, the largest party in the government, the New Flemish Alliance (N-VA), quit the federal coalition over a dispute on signing the Global Compact for Safe, Orderly and Regular Migration. The N-VA demanded that the Prime Minister refrained from signing the Global Compact in Marrakesh but, following a majority vote in parliament in favour of signing, the Prime Minister stated that Belgium would adopt the Global Compact.

Until December 2018, the federal government was a coalition government composed of four parties: the Reformist Movement (MR), the New Flemish Alliance (N-VA), the Flemish Christian Democrats (CD&V) and the Open Flemish Liberal Democrats (Open VLD). The State Secretary for Asylum Policy and

Migration was Theo Francken (N-VA). Since December 2018, the minority government in a caretaker capacity is composed of MR, CD&V and Open VLD. The Minister in charge of Asylum Policy and Migration is Maggie De Block (Open VLD).

## LEGAL MIGRATION AND MOBILITY

### ECONOMIC MIGRATION

Belgium was finally able in 2018 to comply with its obligations to transpose the **Single Permit Directive** in its legislation. This was a complex institutional matter. A whole range of legislative acts were taken in 2018 related to the transposition, starting with a **cooperation agreement** on 2 February 2018 between the different competent Belgian entities (i.e. Federal State, Regions and German-speaking Community) on the coordination of the policies on work permits and residence permits for foreign workers. This agreement was needed as a legal basis for all applications by third-country nationals to reside in Belgium for a period of time exceeding 90 days in order to work.

The different legislative acts related to the single permit are being implemented **starting from 2019**. The changes involve important procedural changes related to the economic migration policies in Belgium in all regions. Moreover, in the region of Flanders, economic migration policies were also reviewed on the substance and other Regions will probably follow in 2019.

In Flanders a **new model for economic migration** was introduced, with the aim (to remove obstacles) to attract foreign talent, to realize economic growth and innovation; to fill structural gaps con-

cerning certain professions (shortage occupations); and to build-in safeguards for fair competition in the fight against social dumping. Important novelty is the fairly easy process for employers to work with foreign medium skilled workers for a list of shortage occupations.

The infringement procedure against Belgium, which was pending before the European Court of Justice because the Single Permit was not yet transposed into national law, was removed from the register of the Court in early 2019.

### STUDENTS

The Royal Decree of 23 April 2018 introduced changes with regards to **extending or ending the stay of international students**. It introduces inter alia the possibility to end the residence right of an international student when there is insufficient study progress.

### FAMILY REUNIFICATION

No legislative development on family reunification occurred in 2018. However, the Immigration office had to change its practice on a number of aspects with regard to family reunification, as a consequence of case law. Among others:

- foreigners with a legal residence on the basis of a so-called medical regularisation (based on article 9ter of the Immigration Act) are exempted from the material conditions for family reunification in the same way as beneficiaries of international protection;

- an unaccompanied minor who attains the age of majority during the asylum procedure retains its right to family reunification as a minor. Therefore, it is the moment of submitting of an asylum application which is relevant to be regarded as a minor, and to rely on the more favourable conditions for an unaccompanied minor refugee.

## INTERNATIONAL PROTECTION INCLUDING ASYLUM

In 2018, 23,443 applications for international protection were lodged in Belgium. This number includes 880 refugees who were resettled to Belgium and 57 persons who arrived in the framework of relocation in Belgium. The 23,443 applications lodged in 2018 stands for an increase of about 20% compared to the number of applications lodged in 2017. The increased number of applications in 2018 manifested itself in particular since July onwards, with a peak in October. In 2018, the CGRS took a decision for 21,159 persons of which 8,706 persons were granted refugee status according to the Geneva Refugee Convention and an additional 1,777 persons received subsidiary protection status.

A major legislative development in 2018 was the coming into force of the Laws 21 November 2017 and 17 December 2017, which finalised the **transposition of the Asylum Procedures Directive 2013/32/EU** and the **Reception Conditions Directive 2013/33/EU**. Although many of the stipulations of these directives were already included in Belgian legislation or implemented in practice, the law also introduced some innovative developments. The law was published in the Belgian Official Gazette on 12 March 2018 and came into force on 22 March 2018.

On 22 December 2017 the former Deputy Prime Minister Jan Jambon asked the Commissioner General for Refugees and Stateless Persons to carry out an **independent enquiry regarding the risk in case of return to Sudan**. The report was handed over to Deputy Prime Minister Jan Jambon on 8 February 2018. Following this CGRS report and the Sudan matter, the Immigration Office has adapted its practice to verify a possible violation of Article 3 EHRM and in some cases, the Immigration Office **considers a fear or a risk of a violation of article 3 as an 'implicit' application for international protection**.

On 24 March 2018, the federal government decided to introduce a **second reduction plan** to further reduce the reception capacity with 6,454 reception places. With this new reduction plan, the federal government had the intention to return in 2019 to the 'structural' reception capacity, meaning the capacity from before 2015 with fewer than 17,000 reception places.

In the second half of 2018, the reception network came under pressure. This was the result of the higher inflow of applicants for international protection in the reception facilities from August 2018 onwards, the longer duration of the treatment of applications for international protection with an extended stay in the reception facilities as a consequence and the drastic reduction of reception places. The reception centres gradually reached

a **maximum occupancy rate**, which is set at 94% occupancy rate, – with almost half of the centres reaching a 100% occupancy rate or more by adding additional beds.

In this context, the federal government decided on 28 September 2018 to **postpone the earlier agreed closure of seven temporary reception centres** until 30 June 2019. And at the end of 2018 the resigning Minister of Social Affairs and Public Health, and of Asylum and Migration approved the **opening of the 1,500 additional reception places**. This approval allowed Fedasil to open a temporary reception centre on 21 December 2018, with a total capacity of 500 reception places.

## UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS

In line with the general reduction in reception capacity, the reception capacity for UAMs declined with 434 reception places in 2018. From the beginning of September until the end of the year about 200 UAMs reported by the Guardianship Service outside office hours did not receive immediate reception because of the lack of reception places in the UAMs Observation and Orientation Centres. Another consequence of the shortage of reception places for UAMs was the postponement of the opening of the winter reception places for UAMs, normally starting on the 1st of November. Underage migrants in transit were the main victim of the high occupancy rate in the reception facilities since they are often registered outside office hours.

In order to improve the care and protection of beneficiaries of reception, Fedasil selected in 2018 three projects, financed under AMIF, concerning the **psychological accompaniment of beneficiaries of reception**, including UAMs. As in the previous year, Fedasil financed, under its national dotation, several projects to facilitate the access to existing leisure and sport associations, some but not all exclusively for minors, and to organise time-outs for youngsters with difficulties to adapt to life in reception facilities. Fedasil also funded the development of a **training course on restorative practices**

to empower the UAMs and the staff of the reception centres accommodating UAMs in the prevention and sustainable handling of conflicts. The Guardianship Service started with a project funded by AMIF to **strengthen the guardianship system** by developing a method to monitor guardians and a system for the follow-up of challenging guardianships. Under AMIF 2018-2019, Fedasil opted also to subsidise the project “**Gender Based Violence & Asylum: an integrated approach**” to improve the identification and care for persons who have undergone sexual gender based violence. Furthermore Fedasil has enrolled in the Interfederal Action Plan against discrimination and violence against LGBTI people (2018 - 2019) which aims to prevent and combat discrimination and violence against persons on the basis of their sexual orientation, gender identity, gender expression or intersex / DSD condition.

In December, both the Immigration Office and the CGRS moved to a new location. The design of the new offices took into account the needs of minors, including child-friendly interview rooms, interactive tools and a separate waiting room for UAMs. The CGVS also drafted instructions on the specificities of transgender persons during the procedure for international protection.

In 2018, the **Alternative Family Care (ALFACA)** method was consolidated in the regular operation of the foster care services in Flanders since having UAMs



placed with culture-related or kinship foster families was considered an important added value. Because of the shortage of foster families in Brussels and Wallonia, an AMIF-funded project was selected by Fedasil to achieve fast and quality foster care placement of UAM in the Brussels and Walloon Region. Furthermore, since 2018 Belgium takes part in to European projects concerning foster or family based care for UAMs.

The law of 21 November 2017 (into force since 22 March 2018) provides explicitly for the **right for dependent children of the applicant to be interviewed individually** by the CGRS and/or **to lodge a separate asylum application**. The legislative changes also introduce a procedure for applicants in need of special procedural guarantees. Specific procedural guarantees for applicants with special needs, such as unaccompanied minors or victims of gender related violence were already foreseen, but the recently adopted legislation aims at identifying the special needs more systematically and as early as possible, through a detailed questionnaire to be filled out at the Immigration Office but also through the detection of special needs in the reception facilities.

In the framework of the new temporary arrival centre, Fedasil developed an **early screening tool** to allow social workers to make a first identification of vulnerable applicants for international protection with specific reception needs. It con-

sists of a computerised list with a series of vulnerability and resilience indicators to be completed during a first interview with the applicant.

## INTEGRATION

### INTEGRATION

Several measures were taken in 2018 to **improve attainment in schooling and the education system**. In both the Flemish and the French Community, action plans and measures were introduced to strengthen the specific schooling system for newly arrived children in primary and secondary education.

In order to **enhance language skills**, Wallonia increased the duration of the French language course, part of the mandatory integration programme, from 120 hours to 400 hours. While in Flanders additional resources were provided to compensate for the increased influx of newcomers for courses 'Dutch as second language' (NT2) in adult education.

The Public Employment Services took various initiatives concerning the **integration of newcomers into the labour market**. The approach 'Integration through work' set up by Flemish Public Employment Service in 2016, resulted in much shorter trajectories towards work and in a faster language acquisition. Given the positive experiences, the principles of the approach will be structurally embedded in the work of employment service. The Walloon Public Employment Service subsidised projects in order to strengthen the measures and services aiming at the integration of newcomers into the labour market and in the Brussels-Capital Region, partnership

agreements between the Public Employment Service and the Brussels Welcome Offices for Newcomers were signed and actions have been put in place, such as information sessions for newly arrived job seekers. The Brussels Public Employment Service also intensified the diversity awareness among employers using Diversity Consultants.

Concerning the official (civic) integration trajectories it should be noted that since 1 January 2018, a mandatory integration trajectory for certain TCNs is in force in the German-speaking Community. Furthermore, an Info-Integration centre was established to accompany participants in the integration programme from start to finish. In Wallonia a decree was adopted to reinforce the existing mechanisms constituting the integration trajectory in order to amplify the effects and the number of beneficiaries.

On the federal level, the Constitutional Court annulled in its judgment 126/2018 of 4 October 2018, the criminal record as one of the legal criteria to prove integration efforts for certain residence applications and statuses in order to preserve their right of residence.

In Flanders the data of several integration monitoring tools were published, in particular the third edition of the "**Flemish Migration and Integration Monitor**" and the first edition of the survey 'Living together in Diversity'. Both instruments aim to contribute to a better understand-

ing and knowledge of the diversity that characterizes Flanders. Furthermore, the sixth edition of the Flemish Local Civic Integration and Integration Monitor (LIIM) which bundles data at municipal level in order to support the local authorities with reliable figures for the planning and development of their (civic) integration policies. In 2018 new indicators have been introduced.

### NON-DISCRIMINATION

At the federal level, the law of 15 January 2018 containing various provisions on work, allows the social inspection services, from 1 April 2018 onwards, to carry out anonymous practical tests, the so-called “mystery calls”, under strict conditions to detect discriminatory hiring practices of companies. In the Brussels-Capital Region an ordinance came into force which authorises regional employment inspectors to carry out tests to detect discrimination in employment.

Unia, the independent public institution that combats discrimination and promotes equal opportunities, commissioned a study about equal opportunities in the schools in the three Communities in Belgium. Based on the research results and on its own expertise in the area of education, Unia formulated a number of policy recommendations to reduce inequality in education and to promote a policy for equal opportunities and diversity.

### AWARENESS RAISING ON MIGRATION

Many stakeholders were involved in 2018 in raising awareness about migration, international protection, stereotypes and combatting prejudices among the wider public. For example, Fedasil developed an **animated film** and a **pedagogical package** for pupils in primary and secondary education and their teachers to offer support in talking about refugees, international protection and migration in the classroom.

### CITIZENSHIP AND STATELESSNESS

The law of 18 June 2018 changed a number of (technical) dispositions in the Citizenship law to acquire Belgian Nationality. Since the entry into force in July 2018, there is, for example – a different way of calculating the period of legal residence before one can apply for the Belgian nationality.

### BORDERS, SCHENGEN AND VISAS

In 2017, Belgium has started connecting air carriers to an IT system that collects and processes PNR<sup>1</sup> and API<sup>2</sup> data. In December 2018, connection was established and PNR and API data from 18 air carriers could be received.

As regards the effectiveness of controls at external borders, it is worth mentioning that in 2018 the Federal Police started with the development of a **national Integrated Border Management strategy** (IBM) in line with the EU-strategy elaborated by Frontex. Besides, initiatives were taken to enhance competences and synergies in the field of the detection of falsified documents at the external border.

For what concerns policy, from December 2018 onwards due to a legislative change, the fingerprints of every applicant for a long term visa who is six years or older are taken. This is a national measure to **prevent identity fraud** and to facilitate the passage of the Schengen external border. This is not linked with the implementation of the visa code or the VIS.

As regards Schengen governance, action plans on police cooperation, return and visa following the Schengen evaluation were concluded in 2018.

1. Passenger name record (PNR) is a record that consists the personal information for a passenger and the itinerary.  
2. Advance Passenger Information (API) refers to a passenger's identity such as full name, date of birth and nationality.

## REGULAR MIGRATION INCLUDING MIGRANT SMUGGLING

In 2018 the number of **migrants in transit** (who mostly want to travel to the UK) remained high. The Belgian port of Zeebrugge and the highways leading to Calais were the places where smuggling and irregular migration caused considerable difficulties.

On 10 September 2018, the former Belgian Minister of Security and the Interior and the former State Secretary for Asylum Policy and Migration presented a **9-point action plan** on the fight against irregular transit migration.

**Information and prevention campaigns** were organised in Georgia and Albania in 2018 to prevent irregular migration. These countries were chosen because the rise in the number of applications for international protection and irregular migration due to visa liberalisation seemed to be most problematic for Georgia, and also the number of applications from Albania continues to be relatively high.

## TRAFFICKING IN HUMAN BEINGS

In 2018, the Belgian authorities continued to implement the **national action plan on the fight against trafficking in human beings** covering the period 2015-2019. While some measures implemented on the basis of this plan are a continuation of measures developed in the past years, other initiatives were effectively developed in 2018.

For instance the adoption of an **addendum on minor victims of trafficking in human beings** to the national action plan in August 2018 by the Interdepartmental Coordination Platform. The addendum aims to improve the detection, referral and protection of minor victims of human trafficking.

On 30 August 2018 the Minister of Justice, the Belgian Financial Sector Federation (Febelfin) and the Belgian Financial Intelligence Processing Unit (CTIF-CFI) presented an information brochure. This brochure, which is not for wider dissemination aims to **inform the banking sector** in Belgium on how to better trace criminal money from human smugglers and human traffickers. That way police and public prosecution can operate more effectively.

## RETURN AND READMISSION

In 2018, return and reintegration of migrants remained one of the top priorities set by the government. Over the course of the year, 2,994 persons have returned voluntarily<sup>3</sup> which represents a decrease of 22% compared to 2017. Among these returnees, 23 UAMs<sup>4</sup> returned to their country of origin via the assisted voluntary return and reintegration programme. During this span of time, 3,980 persons were forcedly returned<sup>5</sup> which represents a decrease of 13% compared to previous year.

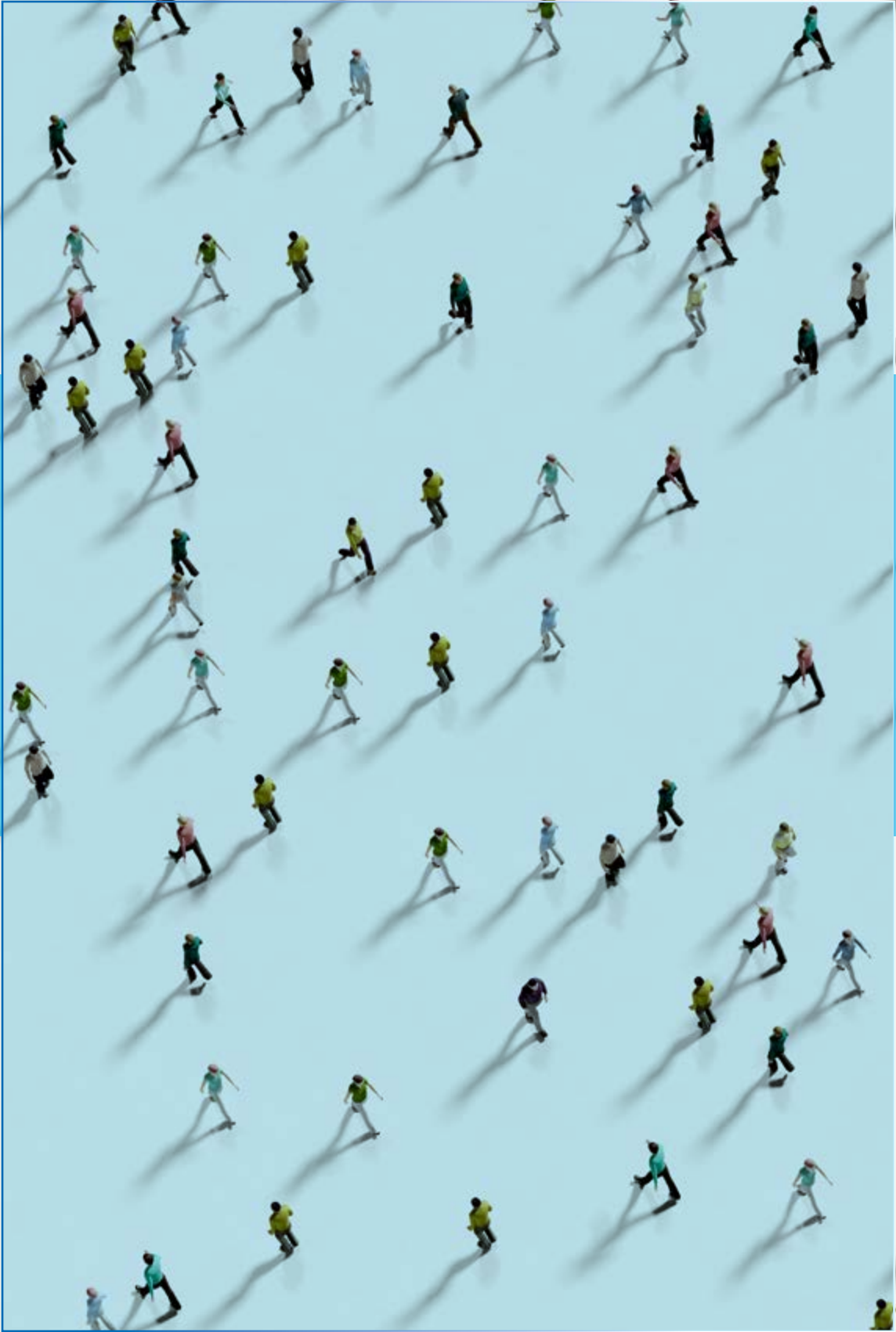
Regarding the legislative changes, following the case of the return of Sudanese nationals in 2017, several rulings recalled the necessity to assess the risk of torture and inhuman or degrading treatment contrary to **Article 3 of the European Convention on Human Rights** (ECHR) in any case of removal even if no application for international protection has been made previously or if no coercive measures are foreseen.

In March 2018, two new laws modifying the Immigration Act entered into force. The new laws introduce the **concept of alternative to detention** for applicants for international protection. This means that detention is only possible if no less coercive measures can be used. The new laws also define the **duration of detention** and the **risk of absconding** according to eleven criteria.

Two new laws published at the end of the year also modified the Immigration Act in order to ease the return of applicants for international protection having introduced **subsequent application** under very strict circumstances by avoiding. These new laws aim at preventing potential use of subsequent application to avoid being returned.

Finally, since summer 2018, **families with underage children** can be detained in dedicated detention centres pending their removal. The opening of such units has aroused a number of criticisms from more than 325 organisations. The campaign “*On n’enferme pas un enfant. Point*”<sup>6</sup> has been launched to protest against the detention of children.

3. According to the Belgian definition (including European citizens)  
 4. Those were minors at the moment of application for the return programme  
 5. According to the Belgian definition (including European citizens)  
 6. [www.onnenfermepasunenfant.be](http://www.onnenfermepasunenfant.be)



# INTRODUCTION

## OBJECTIVES AND CONTENT

The present report is the 14<sup>th</sup> annual report on migration and asylum of the Belgian National Contact Point (NCP) of the European Migration Network (EMN). The report provides an overview of the **political and legislative developments** – as well as public debates – in the field of migration and asylum in Belgium during the period **1 January 2018 to 31 December 2018**. The **objectives of this report** are to inform policymakers as well as a wider audience on these developments; to facilitate and further stimulate information exchange between all stakeholders active in the area of migration and asylum (such as governmental and non-governmental organisations, international organisations, universities and research organisations as well as the wider public); to put into perspective relevant public debates in the field of asylum and migration; and to document the implementation of EU legislation and the impact of European policy developments at the national level.

## METHODOLOGY

In accordance with Article 9(1) of Council Decision 2008/381/EC establishing the EMN, each NCP is required to provide **an annual report describing the migration and asylum situation in the (Member) State**, which shall include policy developments and statistical data.

This report was produced according to **common study specifications**<sup>7</sup> developed by the EMN for the production of the EMN Annual Report on Migration and Asylum 2018. The common specifications aim at facilitating comparability between the findings from all (Member) States.

This report, together with the Annual Reports produced by the other NCPs for their respective (Member) States, will serve to develop theme-based EMN Informs and Country Factsheets. These documents, as well as a link to the Annual Reports of other (Member) States, will be made available on the website of the Belgian NCP ([www.emnbelgium.be](http://www.emnbelgium.be)).

In order to provide an objective overview of the main developments in 2018, the Belgian NCP used a **wide range of sources**, including: draft national legislation subject to political agreement; published and adopted national and European legislation; government statements and reports; parliamentary debates; official statistics; case law; publications (e.g. from international organisations or non-gov-

ernmental organisations); press releases; media coverage; relevant newsletters and journals; and other information products and tools (e.g. websites of key stakeholders in this field).

**Key partners**, whose input was particularly appreciated in the drafting of this report, were also contacted, including the Immigration Office, the Office of the Commissioner General for Refugees and Stateless Persons (CGRS), the Federal Agency for the Reception of Asylum Seekers (Fedasil), Myria - the Federal Migration Centre, Unia- the Interfederal Centre for Equal Opportunities, the Federal Public Service Foreign Affairs, the Federal Public Service Justice, as well as the federated authorities competent for economic migration and for integration policies.

## TERMS AND DEFINITIONS

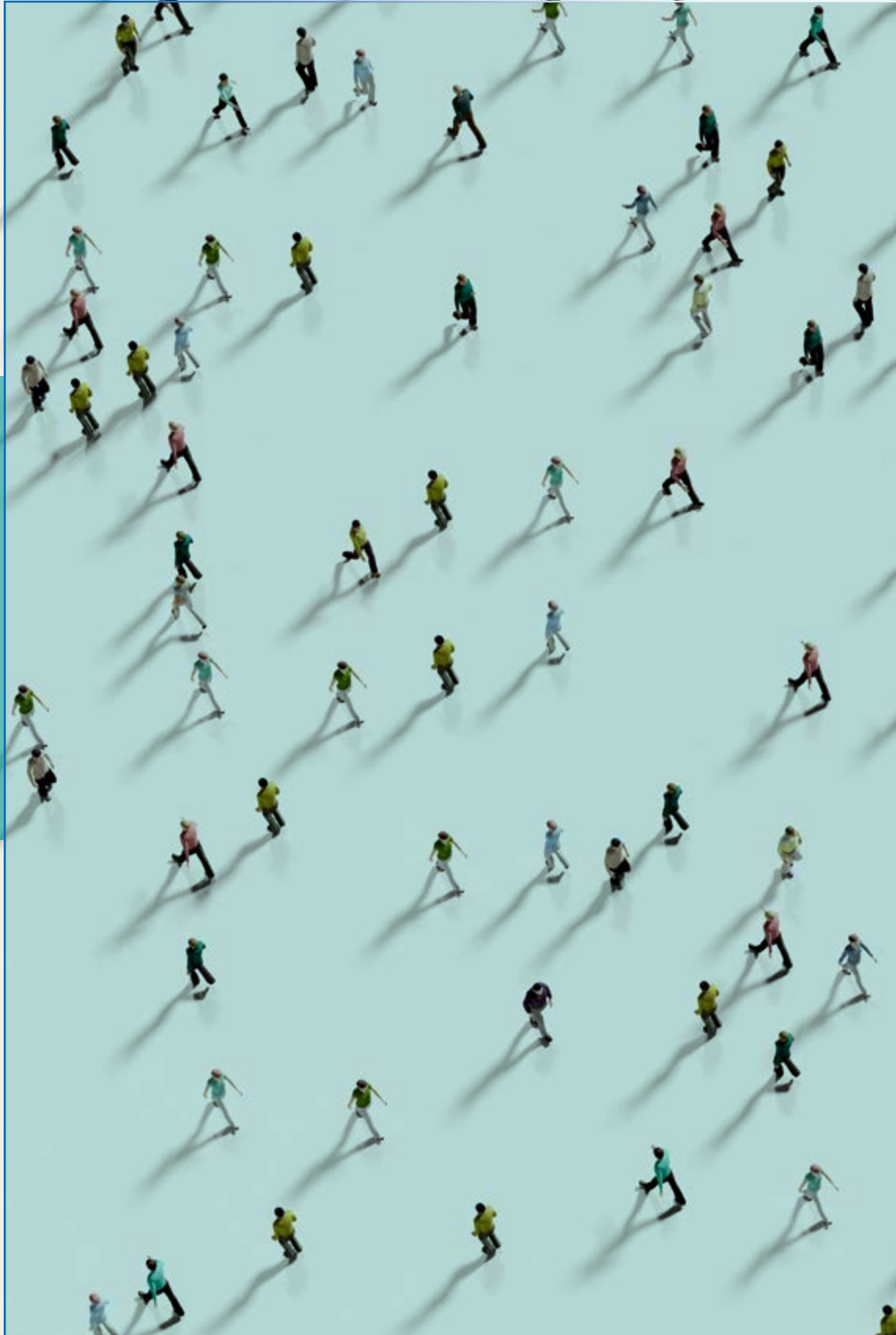
Terms included in this report are to be understood on the basis of national legislation and definitions and the **EMN Glossary on Asylum and Migration**<sup>8</sup>.

7. European Migration Network, Specifications for EMN Annual Report on Migration and Asylum 2017 – National Report Part 2, November 2017.

8. Available at: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_en)

# 01

## INSTITUTIONAL AND LEGISLATIVE CONTEXT





## 1.1. BELGIAN STATE STRUCTURE AND DIVISION OF COMPETENCES

Belgium is a **federal state** with a complex state structure. The federal state and the federated entities (Regions and Communities) each have their autonomous competences.

The **federal state** is competent in several areas, including foreign policy, national defence, justice, finance, social security and the bulk of public health and home affairs. The territory-oriented **Regions** (Brussels-Capital, Flanders and Wallonia)<sup>9</sup> are responsible for territorial issues, such as the economy, employment, agriculture, water policy, housing, public works, energy, transport, environment, town and country planning, nature conservation, credit, foreign trade, supervision of the provinces, communes and intercommunal utility companies, environment, as well as economic migration. The language-based **Communities**<sup>10</sup> (Flemish, French and German-speaking) are responsible for culture, education, the use of languages and matters relating to the individual which concern - on the one hand- health policy (curative and preventive medicine) and - on the

other hand - assistance to individuals (protection of youth, social welfare, aid to families, immigrant assistance services, integration of foreign nationals and emancipation of ethno-cultural minorities)<sup>11</sup>.

The current federal state is the result of different **state reforms**. After the longest government negotiations in Belgian history, a new institutional agreement was found in December 2011. The political agreement of December 2011 is entitled “A more efficient federal state and more autonomous entities”, and was translated into legislation through the special law of 6 January 2014<sup>12</sup> on the sixth state reform.

**Immigration and international protection** related issues thus generally fall under the competence of the federal government. **Integration** is mainly the competence of the Communities. In Wallonia, this is transferred to the Region.

**Economic migration** – which used to be a mixed competence of the federal state (legislation) and the Regions (implementation of the legislation) - has been further regionalised in the framework of the sixth state reform. The special law of 6 January 2014 transferred a large set of competences from the federal level

to the Communities and the Regions. The Regions and the German-speaking Community are now responsible for the **development of an economic migration policy** tailored to the needs of their labour market and economy. This includes competence for the legislation, application, control and maintenance of work permits (permits A and B) and professional cards. Furthermore, the Communities now have the possibility to develop their own **policies on so-called “student permits”**. These permits will be needed to obtain a residence permit, which means that Communities can now play an important role in the policy on student migration. The federal state remains responsible for the entry and the right of foreigners to reside on the Belgian territory, as well as for work permits C (work permits issued to migrants with a temporary residence permit for other reasons than “employment”, such as asylum seekers).

## 1.2. BELGIAN INSTITUTION IN THE FIELD OF ASYLUM AND MIGRATION

The **Immigration Office** is the public service responsible for the entry, residence, settlement and removal of foreign nationals. The Immigration Office is also in charge of applying the Dublin III Regulation and of managing applicants' residence requirements throughout the international protection procedure.

The **Office of the Commissioner General for Refugees and Stateless Persons (CGRS)**, an independent federal administration, is the central authority for processing applications for international protection and grants or denies refugee status or subsidiary protection status. It also issues certificates and documents of civil status to recognised refugees and stateless persons.

Since 2007<sup>13</sup>, the **Council for Alien Law Litigation (CALL)** has acted as an appeal court competent to hear appeals against decisions taken by the CGRS with regard to the granting of protection statuses, and against other decisions taken by the Immigration Office (e.g. decisions on visas, residence permits, etc.).

The **Federal Agency for the Reception of Asylum Seekers (Fedasil)** is in charge of the reception of applicants for international protection and certain other categories of foreign nationals<sup>14</sup>. It also

9. The names of the three regional institutions are borrowed from the name of the territory they represent: the Flemish Region, the Brussels-Capital Region and the Walloon Region. Their powers have been extended in the course of the various reforms. During the second reform of the state in 1980, the Flemish and the Walloon Region were given their Parliament and Government. The Brussels-Capital Region, on the other hand, was only granted its institutions during the third reform of the State in 1988-89.

10. The Flemish Community exercises its powers in the Flemish provinces and in Brussels; the French Community in the Walloon provinces, with the exception of German-speaking communes, and in Brussels; the German-speaking Community in the communes of the province of Liège that form the German language area.

11. The repartition of fields of competences is in reality more complex since some competences have been transferred from one entity to another (e.g. integration was transferred from the French Community to the Walloon Region in Wallonia and to the French Community Commission, COCOF, in the Brussels-Capital Region).

12. Special Law of 6 January 2014 on the sixth State reform, Belgian Official Gazette, 31 January 2014.

13. Before the reform of 2007, the Permanent Refugee Appeals Commission (and partly the Council of State) was the competent appeal Court.

14. The right to reception (material aid) is granted to applicants for international protection, but also to other categories of foreign nationals such as family members of applicants for international protection; unaccompanied foreign minors who did not apply for international protection; minors and their parents in irregular stay on the territory and for whom a Public Centre for Social Welfare has determined that they are in need of help.



falls under the supervision of the federal State Secretary for Asylum Policy and Migration, in charge of Administrative Simplification. Fedasil also acts as coordinating body for the Belgian policy on assisted voluntary return (AVR). Fedasil delegates the practical organisation of the AVR programs mainly to the International Organization for Migration (IOM).

The **Federal Migration Centre (Myria)**, a small independent public body, analyses migration, defends the rights of foreigners and stimulates the fight against human smuggling and trafficking.

**Other relevant bodies** in the field of asylum and migration in Belgium are the Council of State (Supreme Administrative Court), the Federal Police, Unia - the Interfederal Centre for Equal Opportunities, the Federal Public Service (FPS) Foreign Affairs, the FPS Justice, the FPS Employment, Labour and Social Dialogue and the Regional/Community ministries in charge of integration and of employment.

An **institutional chart**, which provides an overview of the main organisations involved in migration and asylum in Belgium, as well as a short description of their respective competences, is available on the website of the Belgian NCP.<sup>15</sup>

### 1.3. BELGIAN MIGRATION AND ASYLUM LEGISLATION

The central law regarding migration and asylum issues in Belgium is the **law of 15 December 1980 on the entry on the territory, residence, settlement and removal of foreign nationals** (hereafter called the “Immigration Act”), also governing the procedure for international protection and the competences of the institutions for international protection. The **royal decree of 8 October 1981** on the entry on the territory, residence, settlement and removal of foreign nationals implements the Immigration Act. Both the Immigration Act and the royal decree have been modified many times since their adoption. In addition, many directives or internal regulations have been adopted by the administration for the implementation and the interpretation of the Immigration Act and of the royal decree of 1981.

Reception conditions for applicants for international protection and for certain other categories of foreign nationals are regulated by the **law of 12 January 2007** (hereafter called the “Reception Act”).

The access to work of foreign nationals is regulated by the **law of 30 April 1999** and the implementing decree of 9 June 1999.

Other **implementing decrees and circular letters** organise matters related to migration law, such as transporters’ sanctions, unaccompanied minors, victims of human trafficking, etc.

Belgium is also a signatory party to the 1951 Geneva Convention relating to the Status of Refugees and the 1967 Additional Protocol, as well as to the European Convention for the Protection of Human Rights and Fundamental Freedoms and the 1954 Convention Relating to the Status of Stateless Persons and the United Nations Children’s Rights Convention.

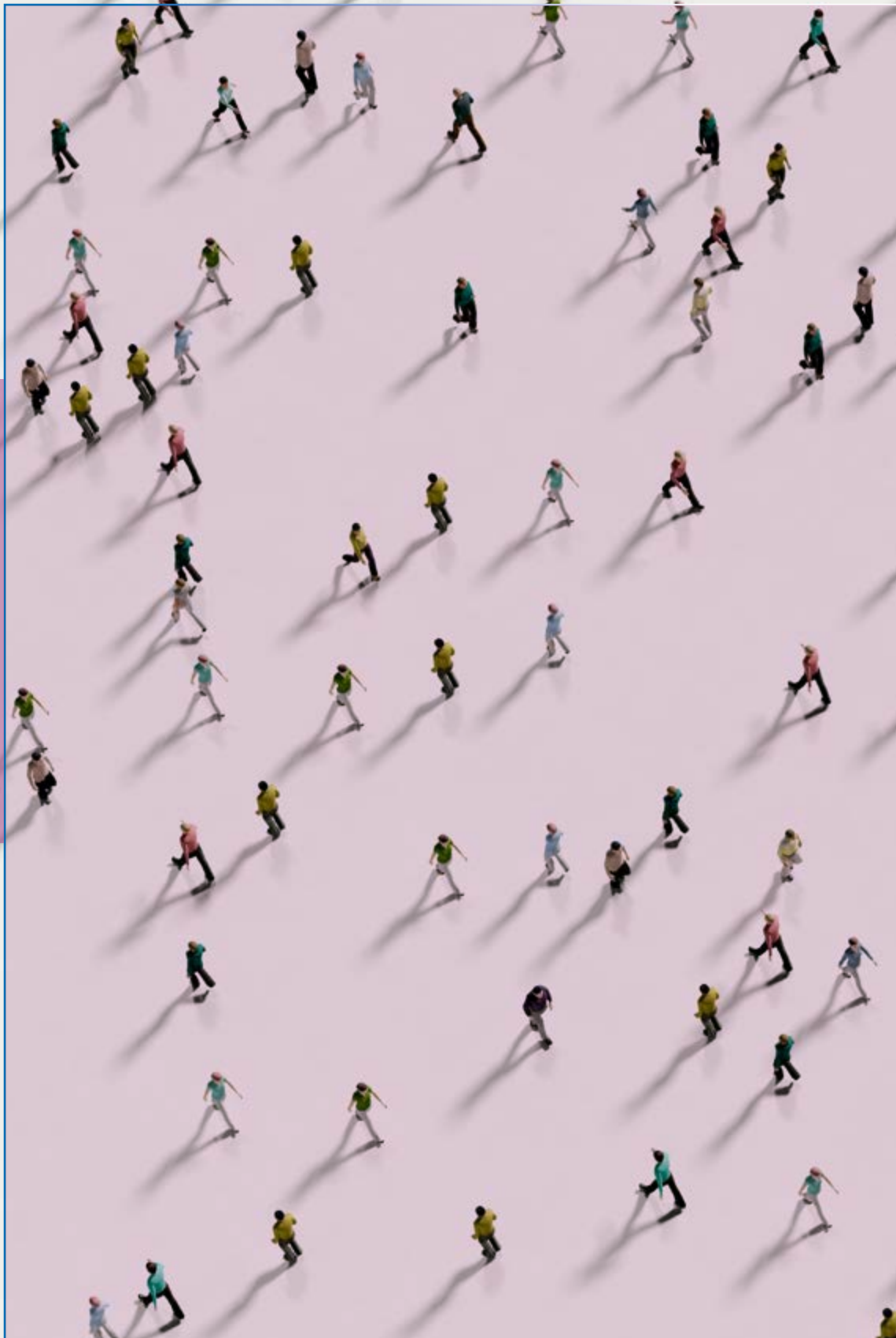
15. Available at : <https://emnbelgium.be/publication/institutional-chart-immigration-and-asylum-belgium-update>





# 02

## LEGAL MIGRATION



## 2.1. TRANSPOSITION OF EU LEGISLATION ON LEGAL MIGRATION

In 2018, three EU legislations have been partially transposed into the national legislation, namely, Directive on the conditions of entry and residence of third-country-nationals for the purpose of research, studies, training (...), Directive on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, Directive on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer<sup>18</sup>.

The latest legislative development concerned the transposition of the **Single Permit Directive**. In 2018, Belgium was finally able to comply with its obligations to transpose the Single Permit Directive in its legislation. This was a complex institutional matter. On 2 February 2018, the different competent Belgian entities (i.e. Federal State, Regions and German-speaking Community) agreed on

a **cooperation agreement** on the coordination of the policies on work permits and residence permits and the standards regarding the employment and residence of foreign workers.<sup>19</sup> This cooperation agreement was then approved by the different Parliaments. It entered into force on 3 January 2019.

A cooperation agreement was needed as a legal basis for all applications by third-country nationals to reside in Belgium for a period of time exceeding 90 days in order to work (including ICT's, seasonal workers and researchers).<sup>20</sup>

In 2018 an infringement procedure against Belgium was still pending before the European Court of Justice (C-564/17) because the Single Permit was not yet transposed into national law. Because of the legislative developments described above, the European Commission withdrew itself from the case in early January, and the Court deleted the Case in early February.<sup>21</sup>

## 2.2. ECONOMIC MIGRATION

As described above, a whole range of legislative acts were taken in 2018 related to the transposition of the sin-

gle permit directive. These will mainly be implemented starting from 2019. The changes involve important procedural changes related to the economic migration policies in Belgium in all regions.<sup>22</sup>

### NEW LEGISLATIVE DOCUMENTS FROM 2018 ON THE TRANSPOSITION OF THE SINGLE PERMIT DIRECTIVE:



#### BETWEEN THE BELGIAN ENTITIES:

- **Cooperation agreement:** agreed on 2 February 2018, approved by the different Parliaments in 2018 (approval acts also published separately), published in the Belgian Official Gazette of 24 December 2018, and entered into force on 3 January 2019.
- Cooperation agreement implementing the cooperation agreement: agreed and approved by the different governments, in the so-called “Comité de concertation” (French)/ “Overlegcomité” (Dutch) between the governments, and signed on 6 December 2018), but not yet into force and not yet published.



#### FEDERAL LEVEL:

- **Law of 9 May 2018** related to the employment of third country nationals in a specific residence situation, published in the Belgian Official Gazette of 8 June 2018, and entered into force on 24 December 2018.
- **Law of 22 July 2018** amending the Immigration Act, published in the Belgian Official Gazette on 24 December 2018, and entered into force on 24 December 2018.
- **Royal Decree of 2 September 2018** executing the Law of 9 May 2018, published in the Belgian Official Gazette of 17 September 2018, and entered into force on 24 December 2018.
- **Royal Decree of 12 November 2018** amending the Royal Decree executing the Immigration Act, with the aim to issue a Single permit for third country nationals to reside and work in Belgium, published in the Belgian Official Gazette on 24 December 2018, and entered into force on 3 January 2019.

16. Directive (EU) [2016/801](#) of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing.

17. Directive [2014/36/EU](#) of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers.

18. Directive [2014/66/EU](#) on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer

19. Published in the Belgian Official Gazette of 24 December 2018

20. A cooperation agreement implementing the cooperation agreement on the Single Permit procedure was also adopted (but at the time of writing in mid-February it was not yet published), as well as other legislative texts.

21. See also: withdrawal of the Court by the European Commission on 9 January 2019, available on: [http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/index.cfm?lang\\_code=EN&decision\\_date\\_from=&decision\\_date\\_to=&title=&submit=Search&r\\_dossier=20140230](http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&decision_date_from=&decision_date_to=&title=&submit=Search&r_dossier=20140230)

And European Court of Justice, Ordonnance du Président de la Cour (Radiation), 4 February 2019 : <http://curia.europa.eu/juris/document/document.jsf?text=&docid=210965&pageIndex=0&doclang=FR&mode=req&dir=&occ=-first&part=1&cid=603384>

22. Moreover, in all Regions there are modification related to the categories that do not need an authorisation to work (see below).



## FLANDERS:

- **Decision of 1 June 2018** (Dutch: *Besluit*) of the Flemish Government introducing a combined procedure for the employment of foreign nationals, published in the Belgian Official Gazette on 9 July 2018, and entered into force on 3 January 2019.
- **Decision of 7 December 2018** (Dutch: *Besluit*) of the Flemish Government related to employment of foreign nationals, published in the Belgian Official Gazette on 21 December 2018, and entered into force on 1 January 2019 (except certain parts: the categories referring to the implementing Cooperation Agreement will enter into force together with the entry into force of the Cooperation Agreement).
- **Ministerial Decision of 19 December 2018** (Dutch: *Ministerieel Besluit*) with the list of middle skilled shortage occupations.



## BRUSSELS CAPITAL REGION:

- **Decision of 5 July 2018** (French: *Arrêté* / Dutch: *Besluit*) the government of the Brussels Capital Region introducing a combined procedure for the employment of foreign nationals and a single permit, published in the Belgian Official Gazette on 25 September 2018, and entered into force on 24 December 2018.



## WALLONIA:

- **Decision of 14 June 2018** (French: *Arrêté*) the government of the Walloon Region introducing a combined procedure for the employment of foreign nationals and a single permit, published in the Belgian Official Gazette on 2 July 2018, and entered into force on 24 December 2018.



## GERMAN SPEAKING COMMUNITY

- **Decision of 7 June 2018** (German: *Erläss*) the government of the German-speaking Community published in the Belgian Official Gazette on 2 July 2018, and entered into force on 3 January 2019.

### MORE INFORMATION ON THE WEBSITES OF :

- The Federal Immigration Office;
- the Federal Public Service Employment, Labour and Social Dialogue;
- Flemish Region
- Brussels-Capital Region
- Walloon Region
- Flemish Community

Among these changes, a combined procedure and single permit for economic migrants who come to work and stay in Belgium for more than 90 days has been introduced. This means that third country nationals<sup>23</sup> who intend to come to Belgium to **work for more than 90 days**, in principle need to apply for a single (work and residence) permit via their employer in the competent Region. In case the work permit and the residence permit are approved (respectively by the Region and the Immigration Office) the third country national receives one single work and residence permit. In practice, all residence permits issued starting from 3 January 2019 will contain information on the access to the labour market: 'limited', 'unlimited', or 'no' access.

When a third country national wants to come to Belgium to **work less than 90 days**, the old work permit system is still applicable with a separate procedure to apply for a work permit (or exemption of work permit) and a separate procedure to request a residence permit. Regardless of the fact if they work for more or less than 90 days in Belgium, this procedure is also applicable to foreigners who come to work for more than 90 days but do not reside in Belgium ("frontier workers") and "au pairs".

The old **work permit A** is therefore replaced by an authorisation to work for unlimited duration. Although this does not concern 'economic migration' as such, it is worth

noticing that also the **old work permit C** is abolished. There is now an automatic authorisation to work and single permit for foreign nationals who migrated to Belgium outside the framework of economic migration (where the primary migration motive was not labour)<sup>24</sup>. These third country nationals - who could in the past apply for a work permit C or were exempt - can now automatically work on the basis of their temporary residence permit (which will contain information on the access to the labour market). This concerns<sup>25</sup> among others the following categories of people: EU-citizens or non-EU citizens with a long term residence status; Applicants for international protection (4 months after their request for international protection) and beneficiaries of international protection; Students; Family members.

Moreover, in the **region of Flanders**, economic migration policies were also reviewed on the substance. The procedural changes went hand in hand with an important review of the economic migration policies. On 7 December 2018, the Flemish government approved a legislative document which involves a reform of the existing rules for the employment of foreign nationals (with a nationality from outside the European Economic Area or Switzerland). After the regionalisation of the economic migration policy (legislative competence) from the federal state to the Regions, this is the first time one of the Regions makes fundamentally different policy choices on the issue.

23. Actually, not third country nationals but foreigners with a nationality from outside the European Economic Area or Switzerland.  
 24. The Regions (Flemish, Walloon and Brussels Capital Region, as well as the German-speaking community) are since the sixth state reform fully responsible for economic migration. However, the Federal government still has the legislative competence related to access to the labour market for foreign nationals who migrated to Belgium outside the framework of economic migration (where the primary migration motive was not labour). For the execution of the legislation in these cases, the Regions remain competent.  
 25. See the complete list: [http://www.ejustice.just.fgov.be/cgi/article\\_body.pl?language=fr&caller=summary&pub\\_date=18-09-17&numac=2018203970See](http://www.ejustice.just.fgov.be/cgi/article_body.pl?language=fr&caller=summary&pub_date=18-09-17&numac=2018203970See)

In **Brussels Capital Region, Wallonia** and the **German-speaking community**, transposition of the different others EU-directives are on the table for 2019, and could go hand in hand with other modifications of the economic migration policy. The Walloon Government expects new legislation to be in force in May 2019, which will for an important part be in line with the new policy in Flanders, to maintain to some degree coherence between the regions in Belgium.

### 2.2.1. ADMISSION POLICIES OF SPECIFIC CATEGORIES OF THIRD-COUNTRY NATIONALS

#### Highly skilled/qualified workers

In Flanders new legislation from 2018 (with entry into force in January 2019) modified the salary threshold for highly skilled worker to EUR 41,868. However a lower threshold (EUR 33,494) is introduced for highly skilled persons below the age of 30 years, as well as for nurses if they are employed by a Belgian employer.<sup>26</sup>

No changes concerning **the Blue Card framework** have been made in 2018 (foreseen in 2019, integration in the Single Permit procedure)

#### Low and medium skilled workers (other than seasonal workers)

An important development has been made in the **labour market of Flanders** since it is opened up to certain **middle skilled workers in shortage occupations**. Starting from 2019, Belgian employers in Flanders can receive an authorisation for a foreign worker (with a nationality from outside the European Economic Area or Switzerland) for professions mentioned on a list, at least if the applicable minimum wages are being respected and the employee is still abroad on the moment of the application.

This list with shortage occupations is 'flexible' of 'dynamic' in the sense that it is reviewed every two year. On 19 December 2018, the Flemish Minister of Work took a decision on the first list<sup>27</sup>, in concertation with the Flemish public employment service Flemish VDAB and the social partners. This first list includes twenty professions, for example crane operator, butcher, chief-cook, maintenance mechanic etc.

### 2.2.2. 'SOCIAL DUMPING'<sup>28</sup> AND LABOUR EXPLOITATION

In May 2018, an agreement was signed **between the Immigration Office and the Belgian social inspection services to cooperate and exchange information** on irregularly working foreigners. This cooperation was one of the actions foreseen in the Federal Action Plan against Social Fraud 2018.<sup>29</sup> This agreement provides for close cooperation between the Immigration Office and the social inspectorates in the case of inspections in the field and mutual training courses on residence and admission to the labour market for federal and regional inspections and the Immigration Offices' services. The **Federal Action Plan against Social Fraud 2019** foresees 700 verifications by the social inspectorates in 2019.<sup>30</sup>

The law of 15 January 2018 containing various provisions concerning work<sup>31</sup>, made all **workers of Diplomatic missions fall within the scope of the Belgian conventional labour law**. As a consequence, local workers of Diplomatic missions (of Embassies, Consulates, Permanent representations to the European Union or NATO, or of Regional Representations to the Committee of the Regions of EU, staff of interstate organisations, staff of Cultural, Economic or Touristic institutes linked to a Mission or staff members of World Customs Organisations, Eurocontrol, SHAPE, Benelux Secretariat, ...) are fully recognised as workers of the private sector, and therefore protected by Belgian Law on an equal basis with any other Belgian worker of private sector. Only Diplomats are excluded from this law, because they benefit from a privileged and protected status in Vienna Conventions. This means that these persons will not only keep on benefiting from the rights provided by national Belgian laws but they will also start benefiting from the dispositions of the Collective Labour Agreements like indexation, guaranteed minimum wage, obligation for an employer to motivate any dismissal, transportation fees, time credit, arranging career ends, etc. The Diplomatic Missions staff will also be part of a Joint Committee in which the representatives seek to find agreement of the rights to grant to the workers of this sector and sign Collective Labour Agreements.

26. The thresholds are based on percentages (100%, 120% or 160%) of the average annual gross salary for highly skilled workers in Belgium.

27. Ministerial Decision of 19 December 2018 (Dutch: Ministerieel Besluit) with the list of middle skilled shortage occupations.

28. While there is no definition of the concept of "social dumping" in EU law, the term is generally used to point to unfair competition due to the application of different wages and social protection rules to different categories of worker (Parliamentary questions, 27 May 2015, E-008441-15). The European Commission described the practice as a situation 'where foreign service providers can undercut local service providers because their labour standards are lower', more info at [Eurofound](https://www.eurofound.europa.eu/en/press-releases/2015/05/20150507-social-dumping)

29. Federal Action Plan against Social Fraud 2018, 1 March 2018, available on : [https://www.siod.belgie.be/sites/default/files/content/download/files/actieplan\\_2018\\_nl.pdf](https://www.siod.belgie.be/sites/default/files/content/download/files/actieplan_2018_nl.pdf) See also the blogpost of the former State Secretary for Immigration and Asylum on 12 May 2018: <https://thetouurt.wordpress.com/2018/05/12/zwartwerk/>

30. Point 55 of the Federal Action Plan against Social Fraud 2019, available on: <https://www.siod.belgie.be/nl/publicaties/actieplan-2019>

31. Law containing various provisions concerning work of 15 January 2018, Belgian Official Gazette, 5 February 2018.

### 2.2.3. CIRCULAR MIGRATION

An **innovative project of circular migration with Tunisia** was launched in March 2018 by the International Organization for Migration (IOM) and supported by the Belgian Government.<sup>32</sup> Tunisian young adults who have already obtained a degree or who are students at the university have the chance to do an internship in a Belgian company involved in similar activities as a comparable company in Tunisia. After the internships, part of the students can obtain a work contract in a company in Tunisia, other ones will be able to attend an additional internship and will be entitled to receive further support. The project aims to introduce young students to the company life and let them gain some experience.

Another pilot project was set up in 2018 on the initiative of employers' organisations and the Flemish employment service (VDAB) **to attract 30 Moroccan IT-experts** to work on a temporary basis for Flemish employers, with the possibility to get a fixed contract. The project should enter into force in July 2019.<sup>33</sup>

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32. Belgian House of Representatives, General Policy Note on Asylum and Migration, 26 October 2018, DOC 54 3296/021, p. 18-19, <http://www.dekamer.be/finwbp/pdf/54/3296/54K3296021.pdf>.
33. More information: De Standaard, "VDAB en werkgevers zoeken informatici in Marokko", 14 January 2019. [http://www.standaard.be/cnt/dmf20190113\\_04099390](http://www.standaard.be/cnt/dmf20190113_04099390)
34. Royal Decree of 23 April 2018 amending Articles 101 and 103/2 and replacing the Annex 29 of the Royal Decree of 8 October 1981 on access to the territory, residence, settlement and removal of foreign nationals, BG, 17 May 2018.
35. The credit system allows students to enrol at an HEI for specific courses/subjects instead of a full study-programme. Each course represents a specific number of study credits, based on the number of hours needed to complete the course. When passing the course, the student obtains the relevant credits, and not necessarily an end degree. (Website University of Leuven, <https://www.kuleuven.be/inschrijvingen/types-contracten>)
36. The old article (103.2) stipulated that the renewal of a residence permit could be refused if the student
- Did not pass a single exam during a period of 3 years in the same study programme or did not pass at least 2 exams in the past 4 years of study.
  - Started at least 2 different study programmes without passing any exam in the course of 4 years or did not pass at least 2 exams in the past 5 years of study.
  - Started at least 3 study programmes without having obtained a degree in either of the initial 2 programmes.

### 2.3. STUDENTS AND RESEARCHERS

The **right to work without labour permit** has been introduced for students. Following the legislation adopted in 2018 transposing the Single Permit Directive, foreign students enrolled at a Belgian educational institution will as from January 2019 no longer need to apply for a work permit C. If they have a valid residence permit they can work up to 20 hours a week outside school holidays, as long as it does not interfere with their studies (and without limit during school holidays). Following the legislative changes, their residency permit will automatically mention their entitlement to work. For 2019 it is foreseen that students will have some time (with residence right) after ending their studies to look for a job.

The Royal Decree<sup>34</sup> of 23 April 2018 has introduced **new conditions for extending and ending the stay of students**. It introduces inter alia the possibility to end the residence right of an international student when there is insufficient study progress. Following the reform of the education system<sup>35</sup> and the introduction of the credit system, the old evaluation<sup>36</sup> of a student's study progress was no

longer accurate, as students may now put together their own study trajectory which erodes the old model of year trajectories. The Royal Decree stipulates the documents that need to be provided by the student to apply for a **renewal of the residence permit**<sup>37</sup>, which includes a new standard form, created by a Ministerial Decree<sup>38</sup>. It needs to be completed by the educational institution. In the form is written down how many credits the student passed last school year and the amount of credits he has already obtained during the full course. This document is crucial to determine if the student is making sufficient study progress. The Royal Decree defines sufficient study progress in a graduate or bachelor degree when a student obtains a total of 45 credits in the first two years and 45 credits for each subsequent year. For a Master degree, the student needs to obtain a total of 60 credits after two years and 60 credits for each subsequent year.<sup>39</sup>

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37. - Valid passport or an equivalent travel permit  
 - Registration certificate from the education institution  
 - Proof of health insurance  
 - Proof of sufficient means of subsistence  
 - Standard form
38. Ministerial Decree of 14 June 2018 establishing the standard form as referred to in Article 101, § 2, 5° of the Royal Decree of 8 October 1981 concerning access to the territory, residence, settlement and removal of foreign nationals, BG, 26 June 2018.
39. Based on the new article, the renewal of the residency permit is refused if the student
- in case of a bachelor or graduate programme, has not passed a minimum of 45 credits during the two initial years of education;
  - in case of a bachelor or graduate programme, has not passed a minimum of 90 credits after three years of studies;
  - in case of a bachelor or graduate programme, has not passed a minimum of 135 credits after four years of studies;
  - In case of a graduate programme representing 90 or 120 study points and the student has not completed the programme successfully in respectively three or four years' time;
  - In case of a graduate programme representing 180 or 240 study points and the student has not completed the programme successfully in respectively five or six years' time;
  - In case of a bachelor-after-bachelor programme representing 60 study points and the student has not completed the programme successfully in two years' time;
  - in case of a master programme, has not passed a minimum of 60 credits after two years of education;
  - in case of a master programme, has not passed a minimum of 120 credits after three years of education;
  - in case of a master programme representing 60, 120 or 180 study points, has not completed the programme successfully in respectively two, three or four years of study. (in case of a preparatory study programme of 30 study points, an additional year is granted to succeed).
40. Circulaire 001/2018 du 20 février 2018, universités - montant des droits d'inscription majorés des étudiants non finançables.

## 2.4. FAMILY REUNIFICATION AND FAMILY FORMATION

There were no significant legislative developments regarding family reunification. However following the legislation adopted in 2018 transposing the **Single Permit Directive**, most third country national family members (with an residence card A - limited stay) will as from January 2019 no longer need to apply for a work permit to work in Belgium. Following the legislative changes, their residency permit will automatically mention their entitlement to work.

A number of developments in case law have been impacting the practice.

A judgement<sup>41</sup> of 12 April 2018, the EU Court of Justice responded to a Dutch prejudicial question on family reunification of unaccompanied minor refugees. The judgement has consequences for unaccompanied minor refugees and their right to family reunification. Following the reasoning of the Court, **an unaccompanied minor who attains the age of majority during the asylum procedure retains its right to family reunification as a minor. Therefore, it is the moment of submitting an asylum application which is relevant to be regarded as a minor**, and to rely on the more favorable conditions for an unaccompanied minor refugee, as mentioned. However, the Court also makes clear that such an application for family reunification must be made within

a reasonable time. The Belgian law will need to be changed accordingly. In practice the Immigration Office has already changed his policy, and also applies this with regard to people who were granted subsidiary protection status. The application needs to be done within three months of the date on which the minor is recognized as being a refugee.

According to another judgment of the CALL<sup>42</sup>, a **third-country parent who asks for family reunification with his Belgian minor child must form a family cell with his child. This does not mean that the parent has to live with his child.** However, there must be a minimum relationship between the two. This can be proven by affective and/or financial ties between parent and child. The Court decided that the Immigration Office cannot impose more stringent conditions on family life that it is worthy of protection under Article 8 ECHR.

According to a judgement of the Council for Alien Law Litigation (CALL)<sup>43</sup> foreigners with a legal residence on the basis of a so-called **medical regularisation** (based on article 9ter of the Immigration Act) are **exempted from the material conditions** for family reunification in the same way as beneficiaries of international protection. The Immigration Office already changed its practice.

According to the Belgian Council of State<sup>44</sup> the **legal time limit to decide on a request for family reunification** should

be respected, even in case where there are doubts on the legality of the marriages. This judgement relates to third country nationals applying for family reunification with another third country national. There was also a judgement of the EU Court of justice<sup>45</sup> related to the legal time limit to decide on a case of family reunification of a third country national family member of an EU citizen, which is 6 months. In this case the Court says that the decision itself as well as the notification of the decision needs to be taken before the end of the 6 months delay (however, if the delay is not respected it cannot automatically lead to a positive decision). The Immigration Office states that the Belgian Immigration Law should be modified, but in the meanwhile it tries to comply with the obligations of the judgement.<sup>46</sup>

Finally, the EU Court of Justice<sup>47</sup> decided in a case against Belgium, that the authorities need to consider an application for family reunification **even though an entry ban was issued** against the third country national. This is the case for a third country national family member of an EU citizen, even though the EU-citizen never made use of the right to free movement. A case by case examination should be done, according to the Court, on the existence of a dependency relation between the third country national and the EU citizen, reasons of public order and the entry ban. The Immigration Office indicated that it now first examines the dependency relation. If there is such a relation, it will take the case into consideration.<sup>48</sup>

## 2.5. CONDITIONS OF LEGAL MIGRATION

The Constitutional Court has ruled a judgement on the 4<sup>th</sup> of October 2018<sup>49</sup> on the Law of 18 December 2016<sup>50</sup>. This Law inserted a new condition into the Immigration Act for certain foreigners: since January 2017 they need to **prove evidence of their willingness and efforts to integrate into society** in order to maintain their right of residence in Belgium.

The law stipulated a number of criteria that the Immigration Office can take into account when assessing a foreign national's efforts to integrate into society. The Constitutional Court decided that 'not having a criminal record' cannot be one of these criteria (considering the wide scope of the notion, and because the Court argues it is not proportional with the pursued aim of the law).

Furthermore the Constitutional Court put forward how the law should be interpreted. The Court states that the residence right cannot be withdrawn for the sole reason of not (sufficiently) proving the integration efforts. Moreover, when taking a decision, the Immigration Office needs to take into account the proportionality principle and the specific circumstances of the individual case (as well as more external circumstances, like the availability of language courses).

41. CJEU, Case C-550/16, 12 April 2018.

42. CALL, 29 August 2018, n° 208.378.

43. CALL, 22 February 2018, n° 200.115.

44. Council of State, 13 March 2018, n° 240.997.

45. EU Court Of Justice, Diallo against Belgium, C-246/17, 27 June 2018

46. See: <http://agii.be/nieuws/dvz-licht-diverse-praktijken-toe-in-overleg-met-agii#behandeltermijn>

47. EU Court of Justice, K.A. against Belgium, 8 May 2018, n° C-82/16.

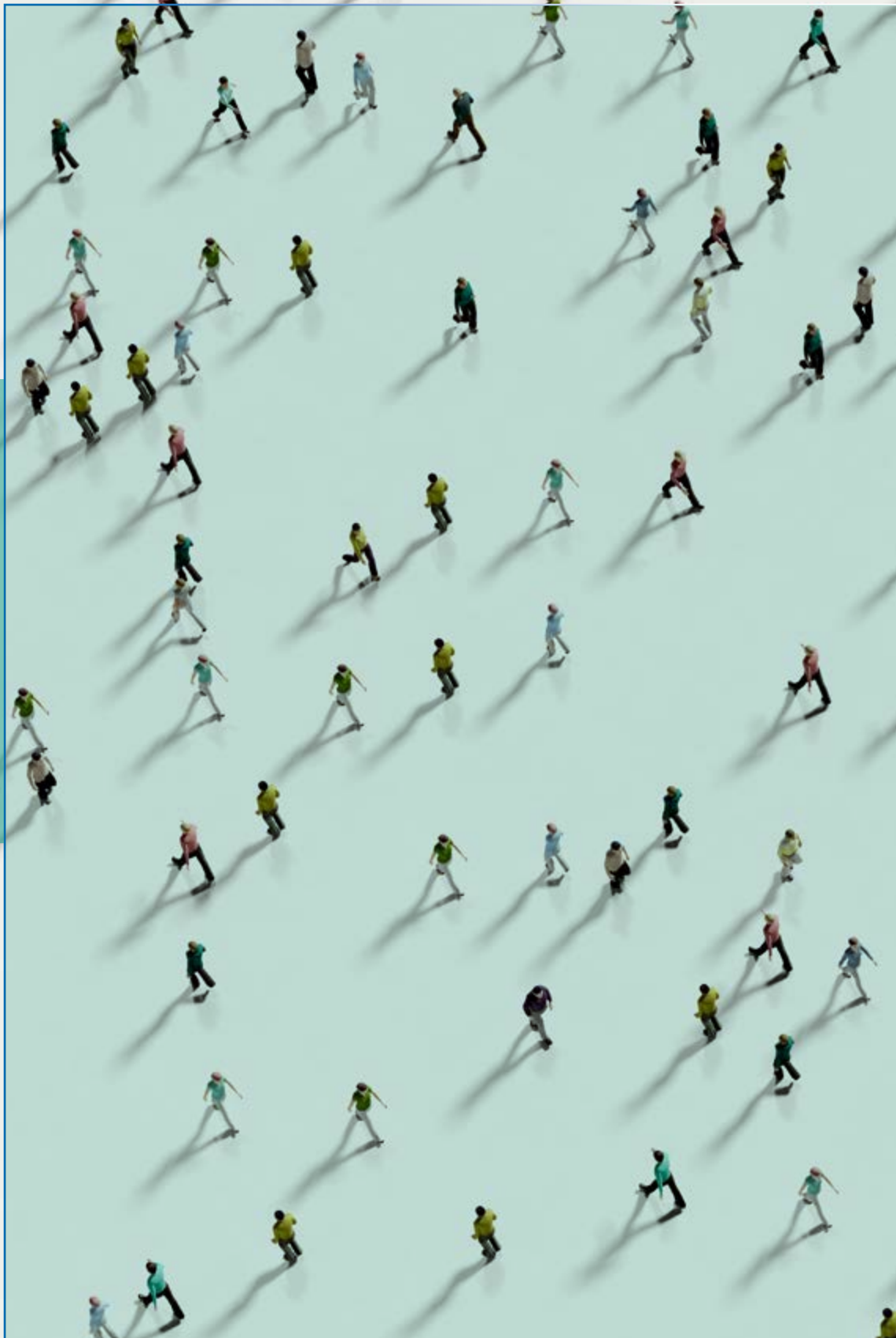
48. See: <http://agii.be/nieuws/dvz-licht-diverse-praktijken-toe-in-overleg-met-agii#behandeltermijn>

49. Constitutional Court, 4th of October 2018, n° 126/2018, <http://www.const-court.be/public/h/2018/2018-126n.pdf>.

50. Law of 18 December 2016 inserting a general residence condition into the Immigration Act, BG, 8 February 2017.

# 03

## INTERNATIONAL PROTECTION



### 3.1. IMPLEMENTATION OF THE COMMON EUROPEAN ASYLUM SYSTEM (CEAS) AND RELATED POLICY DEVELOPMENTS

A major legislative development in 2018 was the coming into force of the Laws 21 November 2017 and 17 December 2017<sup>51</sup>, which finalised the **transposition of the Asylum Procedures Directive 2013/32/EU** and the **Reception Conditions Directive 2013/33/EU**. Although many of the stipulations of these directives were already included in Belgian legislation or implemented in practice, the law also introduced some innovative developments. The law was published in the Belgian Official Gazette on 12 March 2018 and came into force on 22 March 2018. The law has implications for different stages the asylum procedure. In addition, the Law of 17 December 2017<sup>52</sup>, which also came into force on 22 March 2018, modified the terminology and the time limits for the appeal procedure before the Council for Aliens Law Litigation (CALL) against a decision of the Commissioner General for Refugees and Stateless Persons (CGRS).

### 3.2. ACCESS TO THE ASYLUM PROCEDURE

In 2018, 23,443 applications for international protection were lodged in Belgium. This number includes 880 refugees who were resettled to Belgium. Of those 23,443 applicants, it concerns 19,038 persons who lodged a first application for international protection and 4,405 subsequent applications. The 23,443 applications lodged in 2018 stands for a significant increase compared to the 19,688 applications lodged in 2017 (+19%). The increased number of applications in 2018 manifested itself in particular since July onwards, with a peak in October.

The most important countries of origin of persons who lodged an application for international protection in 2018 are Syria (3,702 applications), Palestine (2,468), Afghanistan (2,030), Iraq (1,758) and Guinea (1,125).<sup>53</sup>

### 3.3. FIRST ARRIVAL TO TERRITORY

The vast majority of applicants for international protection in Belgium do not enter the territory through the official Schengen borders such as the airports. Consequently, most of them are not subject to border controls when they enter the Belgian territory and there is no detection of the first arrival to the territory. This is linked with the phenomenon of **secondary movements**, which means that applicants for international protection moved from the country in Europe in which they first arrived, to Belgium to seek protection.

In 2018, the phenomenon of the so-called **“transit migrants”** who are apprehended in irregular stay, but often do not want to apply for asylum, persisted. In many cases, this concerns African migrants who want to go to the United Kingdom and are reluctant to apply for asylum in Belgium to avoid a Dublin transfer. These persons are informed about the possibility to apply for asylum in Belgium and about the risks involved with irregular migration and irregular residence.

### 3.4. ACCESS TO THE ASYLUM PROCEDURE

Since 3 December 2018, all applications for international protection that are not made at the external border or in a closed facility or in a penitentiary institution, have to be registered at the Immigration Office in the newly opened, temporary, **arrival centre**, located in the former reception centre “Le Petit-Château” in Brussels. The goal of this new procedure is that all applicants will follow the same harmonised procedure: registration of the application for international protection, identification, security screening, medical examination, social intake and allocation of a reception place. At the border, applications for international protection can be made with the border police section of the Federal Police, in a closed facility, and in penitentiary institutions with the prison director. These authorities transfer the application for international protection to the Immigration Office.

Moreover, the Law of 21 November 2017 that came into force 22 March 2018, modifies Article 50 of the Immigration Act and introduces the **concept of making, registering and lodging of the application for international protection** as described under Article 6 of the Asylum Procedures Directive into national legislation. The Immigration Office has to register the application for international protection **within three working days after the application was made** with the

51. Law of 21 November 2017 modifying the law of 15 December 1980 on the entry, residence, settlement and removal of foreign nationals and the Law of 12 January 20 on the reception of asylum seekers and certain other categories of foreign nationals.

52. Law of 17 December 2017 modifying the law of 15 December 1980 on the entry, residence, settlement and removal of foreign nationals.

53. Office of the Commissioner General for Refugees and Stateless Persons, [Asylum Statistics - survey of 2018](#).



competent authority. In exceptional situations – when there is a very high asylum influx – this registration delay can be prolonged to ten working days.<sup>54</sup> A foreign national who has made an application for international protection shall be given the opportunity to lodge his application, either immediately or as soon as possible on an appointed date and the latest within 30 days from the date on which the application was made.

On 22 November 2018 the former State Secretary for Asylum (N-VA) decided to limit the number of applications to be registered per day to 60. One day later this number was revised to **50 applications per day**. However, on 8 December 2018 the N-VA left the government due to disagreement with the coalition partners on the adoption of the Global Compact for Safe, Orderly and Regular Migration (GCM). From 9 December 2018 onwards, Maggie De Block (Open Vld) became the responsible Minister for Asylum Policy and Migration, and decided to **end this limit**. Nevertheless, due to a lack of capacity in the reception network it appeared to be challenging to register all the applications for international protection shortly after the making of the application, this was in particular the case in November and December. On 20 December 2018 the Council of State ruled against the limitation of the number of applications to be registered per day.<sup>55</sup>

### 3.5. REGISTRATION OF APPLICATIONS FOR INTERNATIONAL PROTECTION

Since 7 March 2016 a system of so called “**pre-registration**” of the asylum application was introduced. Before the application for international protection is formally lodged, a screening is performed. This phase of pre-registration implies that fingerprints and a photo are taken and a security screening is done. These fingerprints are checked in Printrak (the national database of the Immigration Office with all asylum seekers and undocumented aliens in Belgium), Eurodac and the Visa Information System (VIS). The security screening also implies a screening by the security services<sup>56</sup> and a screening in the general national police database ANG by the federal police. Shortly after this pre-registration the asylum application is formally lodged and the applicants receive a document allowing them to stay on the Belgian territory during the asylum procedure.<sup>57</sup> The Law of 21 November 2017, which came into force on 22 March 2018, **enshrines this procedure of pre-registration in national legislation** and this can be considered as the stage of registration of the application for international protection in accordance with the asylum procedures directive.

Furthermore, the Law of 21 November 2017 provides a number of changes related to the procedures used to **determine iden-**

**tity within the procedure for international protection.** Article 48/6 of the former Immigration Act states that the asylum applicant must submit all the elements in support of his asylum application as soon as possible. The new Article 48/6 §1 and Article 51 of the Immigration Act clarifies “all the elements” and now explicitly refers to the provision of all documents with regard to identity, nationality, age, background, places of residence and travel route. The absence of these documents, and more specifically the absence of proof of identity or nationality, which are core elements of a procedure for the assessment of an application for international protection, constitutes a negative indication as to the overall credibility of the applicant, unless the applicant can provide a satisfactory explanation for the lack thereof. In the framework of the “**duty to cooperate**”, the applicant has to submit the original documents as soon as possible. If there are good reasons to assume that the applicant withholds information, documents or other elements for the assessment of the application, the applicant can be invited to submit these elements without delay, whatever the information carrier is. The refusal of the applicant to submit these elements without satisfactory justification can be an indication of the refusal to comply with the duty to cooperate. New article 48/6, §2, of the Immigration Act also provides that the national and international documents establishing the applicant's identity or nationality are retained during the asylum procedure and regulates the return of these documents (Article 48/6 §2).<sup>58</sup>

### 3.6. RECEPTION OF ASYLUM APPLICANTS

#### 3.6.1. CONTEXT

From August 2018 onwards, the **influx of applicants** for international protection in the reception network of Fedasil and its reception partners was **higher than the outflow**. Numerically, 19,486 people entered the reception network in 2018 compared to 14,603 people in 2017 (+33%), while 18,692 residents left the reception network compared to 19,719 people in 2017 (-5,21%), resulting in a **positive in-out balance of 794 people**.

On 31 December 2018, the **main countries of origin** of residents were Afghanistan (12,80%), Syria (12,78%), Palestine (11,91%), Guinea (7,11%) and Iraq (6,97%). On the same date the population in the reception network was **composed** of single men (35,73%), single women (6,53%), families (51,90%) and unaccompanied minors (5,85%).

The **occupancy** rate in the whole of the reception network **increased** from 76,25% on 2 January 2018 to 88,60% on 31 December 2018. The highest occupancy rate of 2018 was recorded on 23 November 2018 with 92,63%. At that moment the average occupancy rate in the collective reception facilities was 98,67%<sup>59</sup> which meant that almost half of these facilities marked an occupancy rate of 100% or more.<sup>60</sup>

54. Law of 21 November 2017, Art. 16.

55. Council of State, no 243.306, 20 December 2018

56. The Belgian military intelligence service General Intelligence and Security Service (GISS) and the civilian Belgian State Security Service.

57. The annex 26, is a document that allows the asylum applicant to identify himself as an asylum applicant and with this document, the asylum applicant can be issued an attestation of immatriculation by the municipality, which is a type of residence permit valid during the duration of the asylum procedure. For those applicants who apply for asylum at the external border an annex 25 is issued. For subsequent applications for international protection, it concerns a 26 quinquies or annex 25 quinquies at the border.

58. Law of 21 November 2017, Art. 19 and Art. 10.

59. Once the occupancy rate passes above the threshold of 94%, Fedasil speaks of a saturation of the reception network. An occupancy rate of 94% or more corresponds to a critical situation since the full capacity is never available because of reception places that are temporarily unserviceable following arrivals and departures, maintenance, or because a family of four people, for example, live in a room with 5 beds.

60. The absolute number of applicants continued to increase after 23 November 2018, but due to the opening of new reception centres and the utilisation of buffer capacity, the occupancy rate decreased.

### 3.6.2. PROCESS

At the beginning of the year, the federal government had decided to introduce a **second reduction plan to further reduce the reception capacity**.<sup>61</sup> The aim was to proceed to the closure of 6,454 reception places, both places in collective centres as well as individual reception places, the so-called Local Reception Initiatives, run by the Public Social Welfare Centres in the municipalities. As far as the collective reception is concerned, the plan provided for the closure of nine temporary centres, opened in 2015 to deal with the increase in the number of applicants for international protection in Belgium, with a total capacity of 2,854 places:

- two reception centres managed by Red Cross Flanders in the towns of Houthalen-Helchteren (700 places), Sint-Niklaas (Westakkers – 300 places);
- five Croix-Rouge de Belgique reception centres in the towns of Aarlon (400 places), Tournai (400 places), Namur (Belgrade – 300 places), Sainte-Ode (250 places) and Vielsalm (80 places);
- the pre-reception organised in the centre Samu Béjar by Samusocial in the town of Neder-Over-Heembeek (250 places);
- the reception centre of Caritas in the town of Scherpenheuvel (174 places).

Concerning the **individual reception**, the plan provided for 3,600 places in the Local Reception Initiatives to be closed by the end of 2018. This includes Pub-

lic Social Welfare Centres that voluntarily wanted to reduce their reception capacity. In addition, Fedasil itself has given the assignment to close a number of individual reception places on the basis of various criteria, such as the geographical spread, the type of place (e.g. places for single men, large families, etc.) and the offered reception quality.

With this new reduction plan, the federal government had the intention to return in 2019 to the 'structural' reception capacity, meaning the capacity from before 2015 with fewer than 17,000 reception places. And although the federal Reception Agency insisted on the creation of 7,000 to 8,000 buffer places, in case a new increased inflow would occur, these places were never adjudged by the government.

But following the **increasing occupancy rate** in the second half of 2018, the reception network came under pressure again. This was the result of the higher inflow than outflow of applicants in the reception facilities from August 2018 onwards, the longer duration of the treatment of applications for international protection with an extended stay in the reception facilities as a consequence and the drastic reduction of reception places. As Fedasil was faced with a severe saturation of the reception network in the collective structures for adults, the Agency decided, from 10 September 2018 onwards to, exceptionally and temporary, accommodate four additional

groups of adults in the wings for UAMs (2nd reception phase for UAMs) in the federal reception centres with sufficient capacity at the time. These additional groups were: vulnerable young adults, adolescents who stay with their parents and families and couples for whom living with adolescents can be considered.

The shortage of reception places in the reception centres also led the former State Secretary for Asylum Policy and Migration to temporarily **suspend the Belgian resettlement programme** on 25 October 2018.

In this context, the federal government decided on 28 September 2018 to **postpone the closure of 7 temporary reception centres**, decided upon in March 2018, until 30 June 2019. This measure concerned the reception centres of the Red Cross in Houthalen-Helchteren, Sint-Niklaas (Westakkers), Arlon, Namur (Belgrade), Tournai and Sainte-Ode as well as the centre of Caritas International in Scherpenheuvel. These 7 centers cover more than 2,000 reception places in total. Additionally, Fedasil was **allowed to increase the reception capacity of the centre** of Samusocial, Samu Béjar, from 150<sup>62</sup> to 400 places for the period from October to December 2018 **and to create 1,500 buffer places** in the reception centres of Fedasil and its partners to increase the flexibility of the reception network.

At the end of 2018 the resigning Minister of Social Affairs and Public Health, and of Asylum Policy and Migration (Maggie De Block) approved the opening of the 1,500 additional buffer places. With the reopening in 2018 and the beginning of 2019 of a number of temporary reception centres such as the ones in the towns of Lommel (500 places - opened on 21 December 2018), Zaventem (200 places – will open on 30 January 2019) and Mouscron (250 places – will open on 22 February 2019), Fedasil should be able to provide reception for everyone who is legally entitled.

Nonetheless, other measures should be taken to ensure that people can leave the reception facilities more quickly such as eliminating the backlog in the treatment of applications for international protection by hiring additional case workers.

### 3.6.3. OPENING OF THE TEMPORARY ARRIVAL CENTRE IN BRUSSELS

Regarding the **registration of applicants** for international protection and reception, the Government decided on 30 June 2017 to open a **separate arrival centre** in Neder-Over-Heembeek in order to make the registration of applicants for international protection and the allocation to reception facilities more efficient. This arrival centre, foreseen in 2022, will be the only registration point for people who want to apply for international protection in Belgium.<sup>63</sup> With a capacity of **750 places**, this centre should be able to rap-

61. After the increase in the number of applications for international protection in 2015, Belgium experienced an equally significant decrease in the number of arrivals. Subsequently, on 3 June 2016, the federal government decided to proceed to a first reduction plan. The plan provided for the closure of more than 10,000 reception places by the end of 2016 by closing some thirty temporary reception centres managed by Fedasil, the Red Cross and private operators, which had been opened in urgency in 2015 to accommodate the influx of applicants for international protection. Another 3,000 reception places were to close in 2017 by closing down the temporary reception centres of Dendermonde and Lubbeek (Fedasil) and individual reception organised by the NGOs Vluchtelingenwerk Vlaanderen and Ciré. In total more than 13,750 temporary places were closed in 2016 and 2017.

62. Because of the reduction plan, Samu Social closed down 100 reception places at the end of June 2018, reducing the capacity of the Samu Béjar centre from 250 to 150 reception places.

63. Except when it concerns an application made at the border in a closed reception centre or in prison.

idly respond to fluctuations in the influx of applicants for international protection. The application centre will thus fulfil both a reception and registration function and will meet following objectives:

1. the **determination of the identity** and a **security screening** of the applicants for international protection in order to assess the public security risks;
2. evaluation of the **right to material aid and first reception**;
3. an **initial reception with observation** of the situation of the applicant for international protection<sup>64</sup>;
4. to provide all applicants with a **standardised arrival trajectory**.

Fedasil designed a **generic arrival trajectory** that lasts about six days and focuses on providing clear information to the residents in a language that they understand and on **determining both their vulnerability and protection factors** in order to allocate an adapted reception place after the arrival phase.

Pending the completion of the renovations at the site in Neder-Over-Heembeek and because both the Dispatching Service of Fedasil and the Immigration Office had to move out of WTC-II building by the end of 2018, it was decided by the government on 8 June 2018 that the Dispatching Service as well as the services of the Immigration Office that are competent for the registration phase of the application for international protection will temporarily be accommodated in the oldest and largest centre in the reception network, the “Petit

Chateau” in Brussels. This centre is transformed to a **temporary arrival centre** and opened its doors on 3 December 2018. With the opening of this arrival centre, the system of pre-reception was abandoned.

Upon arrival at the registration centre, the newcomers receive an **information leaflet which** explains the different steps on day 0, including the registration of the application for international protection, the medical examination, the right to reception, etc. The information brochure is available in 13 languages. On arrival, the residents also receive a **basic kit** with bedding, towels, laundry supplies, etc.

Due to the high occupation rate of the reception network, there were insufficient available places in the temporary arrival centre to start the trajectory. In the initial phase, Fedasil will focus on the continuity of its services. The Dispatching Service assigns the newcomers directly (or after one night) to the available places in the reception network. The arrival trajectory will only be introduced gradually, taking into account the occupation of the reception network.

#### 3.6.4. TRANSFER TO AN ADAPTED RECEPTION FACILITY

Fedasil has sent two new instructions on transfers to adapted reception facilities on 14 of May 2018. Following the Reception Act of 12 January 2007 and the Royal Decree of 25 April 2007 there needs to be a **continuous assessment of**

**the reception needs** of the beneficiary of material aid. If this assessment demonstrates that a reception facility is not adapted to the specific needs of a resident, a transfer to an adapted reception structure can be requested. One instruction is about the transfer to an adapted reception facility **because of medical reasons** and the other about the transfer to an adapted reception facility **because of other reasons**. The medical reasons are listed in a separate annex of the instruction<sup>65</sup>. The instruction about the other reasons to grant a transfer sums up five categories: the language of the school of the children, family reunification, employment, formation and isolation. The latter is the case if a resident is the only one in the reception structure from a specific country or no other resident speaks the same language and if this has a clear impact on his/her well-being.

On the basis of one of these reasons a resident can ask for a transfer to a reception facility that is more adapted to her/his special needs. Fedasil has to provide a decision on the request within ten days.

#### 3.6.5. RECEPTION OF APPLICANTS WITH A HIGH CHANCE TO BE GRANTED INTERNATIONAL PROTECTION

On 13 June 2018 an instruction was sent by Fedasil concerning the transfer to individual reception places of applicants with a **high chance to be granted inter-**

**national protection**<sup>66</sup>. This instruction eased the criteria set by the instruction of 13 October 2016 to request a transfer to individual reception facilities for this target group<sup>67</sup>. The period during which the person concerned must have lived in a collective reception centre prior to the transfer request, was reduced from four to two months. And the minimum protection level (as a result of recognition as a refugee or subsidiary protection) was set at 80%, where in the previous version it was 90%. As a result the instruction concerned residents from Yemen, Venezuela, Syria, El Salvador, Libya, Eritrea and Palestine. On 4 September 2018, Fedasil sent an updated version<sup>68</sup> of the instruction of 13 June 2018 which again added Burundi as a country of origin with a protection rate of more than 80%.

#### 3.6.6. MINIMUM STANDARDS FOR THE RECEPTION OF APPLICANTS FOR INTERNATIONAL PROTECTION

On 28 March 2018, the Management Board of Fedasil approved the **minimum standards for reception, including specific standards for vulnerable persons**. They have been drawn up by the Quality Unit of Fedasil, in close collaboration with the reception centres, the services of the head office of Fedasil and the reception partners. The minimum standards are based on the European directives, national legislation, as well as on good practices on the ground. There are minimum stand-

64. The centralisation of the different services in one arrival centre optimises the rapid detection of the needs and protection factors of the applicants and the provision of information that is necessary at the arrival.

65. Criteria are: severe handicap, limited mobility, severe pathology, the loss of autonomy, necessity for individual sanitary facilities, extremely strict diet, infectious diseases in the reception facility, toxicomania, psychiatric problems, support to a family member of the first degree who is hospitalised and severe medical cases who needs continuous care for whom an admission to the hospital is necessary.

66. This instruction does not apply to UAMs, except when they are taken care of with family members.

67. The countries of origin concerned were Burundi, Libya and Syria.

68. Fedasil will communicate any change, either with regard to the high level of protection or with regard to the minimum length of stay in the collective reception, via a new instruction.

ards on the following themes: material aid, accompaniment (social, legal, daily, medical and psychological), infrastructure, household effects and safety.

The applicability of the standards was tested during 45 test audits in reception facilities. Certain standards were adjusted based on the results of these audits. The minimum standards have been applicable to the reception network since July 2018. Information sessions on the minimum standards have been organised for the centres, the regions and the employees of the head office.

### 3.6.7. DEVELOPMENT OF AN EARLY SCREENING TOOL

In 2018, the Study and Policy Unit of Fedasil has developed a tool which will allow social workers of the Arrival Centre to make a **first identification of vulnerable applicants for international protection with special reception needs**. It consists of a computerised list with a series of vulnerability and resilience indicators to be completed during a first interview with the applicant. On the basis of this identification, a reception facility that best corresponds to the reception needs of the person concerned can be sought and the designated reception centre can already begin to prepare the most appropriate support in advance of the arrival of the applicant. For the moment, the tool is in the testing phase and the way in which this tool can be integrated into the Fedasil's automated management system, Match-it system, is examined.

## 3.7. LEGISLATIVE CHANGES CONCERNING RECEPTION

### 3.7.1. CONTEXT

The **transposition of the Reception Directive 2013/33/EU** took place via the **law of 21 November 2017**, amending the Immigration Act and the Reception Act. This law was published in the Belgian Official Gazette on 12 March 2018 and **came into force on 22 March 2018**. The amendments to the Reception Act did not result in fundamental changes regarding the right to material aid nor to the way material aid is granted. Nonetheless, several changes in practice of limited importance were introduced:

- **Access to material aid:**

The **difference between making, registering and lodging** an application for international protection was introduced by the amendment of the Reception Act of 12 January 2007. Formerly, after making and registering his/her application, the applicant for international protection was only entitled to reception in one certain reception structure, so-called 'pre-reception', until the lodging of his/her application. After the applicant had lodged his/her application, s/he would be assigned to a regular reception structure for the rest of his/her asylum procedure. Following the amendment of the Reception Act<sup>69</sup> and the creation of the Arrival Centre, every applicant is now assigned to a regular reception structure, directly

after the making and the registration of his/her application.

- **Special needs:**

- **the identification of special procedural needs:** previously, the evaluation of the applicant for international protection by Fedasil concerned only the specific needs regarding reception. Article 22§1/1 of the Reception Act now provides that at the same time as the assessment of the specific reception needs, the special procedural needs within the meaning of Article 48/9 of the Immigration Act must also be examined.<sup>70</sup> Fedasil may, with the consent of the person concerned, make recommendations with regard to address the special procedural needs to the Immigration Office and the CGRS. The way in which this new competence will be exercised in practice still has to be defined in collaboration with the asylum administrations.

- **the reception in an emergency reception structure:** in the case of a strongly increased influx of applicants, reception may be granted in an emergency reception structure. Two aspects have changed: the maximum duration of stay in an emergency reception structure is no longer limited to 10 days, but to a duration "as short a reasonably possible".<sup>71</sup> In practice this means that the maximum duration may exceed 10 days due to the circumstances and as far as this is strictly necessary. The basic needs of beneficiaries of reception must however always be met, i.e.

in function of the evaluation of their specific needs.

- **the list of vulnerable persons:** the list of vulnerable persons is being expanded. To the already listed persons, i.e. minors, pregnant women, persons with disabilities, victims of trafficking in human beings, victims of violence or abuse and the elderly, are now also added: persons with serious illnesses; persons with mental disorders; persons who have undergone rape or other serious forms of mental, physical or sexual violence, for example victims of female genital mutilation.<sup>72</sup> This list is non-exhaustive. This means that a person who does not belong to a category, may also have specific reception needs and, conversely, that a person who does belong to one of these categories not always has special reception needs.

- **Best interest of the child:**

In all decisions concerning a minor, the best interest of the minor takes precedence.<sup>73</sup> This **criterion is now further specified** in Article 37 of the Reception Act. When assessing the child's best interest, in particular the following should be taken into account:

- the possibilities of family reunification;
- the well-being and social development of the minor with special attention to the personal background of the minor;
- safety and security considerations, especially when the minor is possibly a victim of trafficking;
- the minor's point of view in accordance with his age, maturity and vulnerability.

69. Art. 6§1 of the Reception Act now states that every applicant for international protection is entitled to material aid from the moment of 'making' the application for international protection.

70. Article 22§1/1 of the Reception Act. For example illiteracy or a specific medical situation that was not by the Immigration Office at the moment of filing the application for international protection.

71. Article 18 of the Reception Act.

72. Article 36 of the Reception Act.

73. Article 37 of the Reception Act.

Notwithstanding the presumption that a accompanied minor follows the procedure concerning the application of her/his parents or of the person exercising parental authority, the minor can ask to be heard by the CGRS<sup>74</sup>. By giving the minor the opportunity to express her/his opinion, the child's right to be heard becomes enrolled in the law.

#### • Limitation of material aid:

The Law of 21 November 2017 provided for the possibility to **reduce or withdraw the material aid** in all cases the Reception Directive 2013/33/EU enumerates.<sup>75</sup> As before the amendment of the law, Fedasil can reduce the right to material aid if an applicant has lodged a subsequent application for international protection until the decision on admissibility in application of article 57/6/2, § 1, of the law of 15 December 1980 on access to the territory, residence, establishment and removal of foreign national.<sup>76</sup>

Any decision by Fedasil to reduce the material aid must be motivated individually and in fact and in law<sup>77</sup>. The decision to reduce the material aid must therefore be taken in consideration of the **specific situation of the person concerned** and with due regard for the **principle of proportionality**. This principle means that limiting the right to material assistance is proportionate to the specific situation.

74. Article 57/1, §1, second part of the Immigration Act.

75. The material aid can be limited if the applicant refuses or abandons the place of residence without informing Fedasil; if the applicant does not comply with certain procedural obligations and/or if the applicant has made a subsequent application for international protection. In this case, the material aid will on the admissibility of the application limited until the admissibility decision on the application.

76. Due to the prior knowledge of the file by the CGRS, the decision is taken within 10 working days after receipt of the request for international protection transferred by the Immigration Office.

77. Article 4 of the Reception Act.

78. According to the Reception Act, Fedasil is not only competent for the reception of applicants for international protection but also for certain other categories of foreigners such as foreign minors who reside with their parents is irregularly on the Belgian territory.

The Reception Act now also provides that in the case of reduction or withdrawal of material aid, not only the medical accompaniment, but also a **dignified standard of living** of the applicant is guaranteed. This standard is not a fixed standard, but depends on the persons concerned and the situation in which they find themselves. However, a minimal respect for human dignity is required for each person. The right to a decent life includes, among other things, access to health-care and the fulfilment of other essential needs (a place to sleep, eating, drinking). In case of reduction of the right to material aid, this presupposes that Fedasil checks whether the applicant in case of restriction of the right to material aid can continue to enjoy a decent standard of living. If this is not the case, Fedasil will still have to provide a basic material assistance beyond purely medical aid. This is an innovation in Belgian legislation and is registered in a new article 4 of the Reception Act.

#### • Reception of minors residing irregularly on the territory with their parents<sup>78</sup>:

Part of the case law of the labour courts and tribunals indicated that Fedasil could only provide reception for minors residing irregularly on the territory with their parents in a reception facility managed by the Agency itself since the Reception Act referred only to "the reception structures that are managed by the Agency".

In practice this target group was already accommodated by the Immigration Office on the basis of a partnership agreement with Fedasil. Between May 2013 and June 2015, these families were taken care of in the open return centre of Holsbeek managed by the Immigration Office. Since the closure of this centre, these families have been accommodated in the **open return units** of the Immigration Office, which serve as open return centres. This practice was accepted by the Council of State<sup>79</sup>. Therefore, article 60 of the Reception Act was clarified and states that minors who reside irregularly with their parents on the territory can be accommodated in a collective reception structure managed by Fedasil or by a partner, provided that a specific convention is concluded between the two.<sup>80</sup>

#### • Rules and regulations for reception facilities:

On 1 October 2018, a Royal Decree came into effect that sets out the system and the **operating rules in the reception structures** and the **modalities concerning room checks**<sup>81</sup>. In addition, a Ministerial Decree entered into force establishing the **rules and regulations for the reception structures**<sup>82</sup>. This is a long-awaited implementation of article 19 of the Reception Act of 12 January 2007. The Royal Decree stipulates that a maximum of twice a month, and between 09:00 and 17:00, announced **rooms checks**, at which the resident can be present, can take place to ensure:

- a maximum prevention in fire safety

- an optimum hygiene in the rooms
- compliance with the rules and regulations.

In the case of specific requirements for safety, fire-fighting, hygiene or serious non-compliance with the internal regulations, unannounced inspections can also take place by staff members. Room checks may not under any circumstances be offensive and must take place with respect for the residents' possessions.

The **rules and regulations** laid down by the Ministerial Decree give concrete implementation to the Royal Decree. They contain the rights and obligations of the residents, information about the organisation of the reception facility and the rules that the residents must comply with during their stay and serve as a basis for taking sanctions. Upon arrival in the reception facility, the resident receives an explanation about the Internal Rules, which are available in 12 languages, and is asked to sign a printed version of the rules. The decrees apply in all collective and individual reception structures in Fedasil's reception network, and to all residents who actually reside there. It is not applicable in the observation and orientation centres where unaccompanied minors are initially taken care of.

#### • Detention during the asylum procedure:

The legislative changes of 21 November 2017 which came into force on 22 March 2018, explicitly stipulate that **no foreigner can be put in detention for the mere reason he has applied for asylum** and

79. Council of State N° 230.947 of 23 April 2015

80. Article 60 of the Reception Act.

81. Royal Decree of 2 September 2018 laying down the system and the operating rules applicable to the reception facilities and the modalities concerning the room inspections, BG, 1 October 2018.

82. Ministerial Decree of 21 September 2018 to establish the house rules for the reception facilities, BG, 2 October 2018.

outlines the possible grounds for detention for applicants for international protection, at the border<sup>83</sup> and on the Belgian territory.<sup>84</sup>

**Detention at the border** is meant for applicants who do not fulfil the conditions of entry as stipulated in Articles 2 and 3 of the Immigration Act. It concerns for example applicants who are insufficiently documented at arrival (illegal entry) or who misled the Belgian authorities regarding his identity and/or nationality. The detention at the border is limited to 2 months and a decision has to be taken by the Commissioner General for Refugees and Stateless Persons (CGRS) within 4 weeks after the CGRS has received the file of the Immigration Office. The CGRS can decide that applicants for international protection held in detention at the border have special procedural needs or that further inquiry is required. In case further inquiry is required on in case these special procedural needs for an applicant who lodged his application at the border, are not in compliance with an accelerated procedure or a border procedure, the asylum applicant can be granted access to the Belgian territory.<sup>85</sup>

As regards **detention on the territory** the law of 21 November 2017 stipulates an exhaustive list of a limited number of grounds mentioned in the Reception Conditions Directive<sup>86</sup> and an individual and proportional examination has to take place. The new law also stipulates that Pro detention have to be considered. The applicants for international protec-

tion may in principle not be detained for longer than 2 months, but this period can be prolonged with 2 months, and twice with an additional month in case it concerns applicants who pose a threat to national security or who are involved in public order issues.

Article 74/6 §1 now provides a **designation of a mandatory residence** as an **alternative to detention**. The objective is that a Royal Decree will outline the other alternatives to detention in Belgium for the applicants for international protection, such as, the deposit of a financial guarantee and the duty to report regularly. However, in 2018, no such Royal Decree was published yet.

With the exception of asylum applicants who are a threat to national security, who are involved in public order issues or who are the subject of a decision of refusal of entry, **applicants for international protection are in principle not detained** during the asylum procedure in Belgium. However, irregularly staying persons who are apprehended and detained in a detention facility in view of a forced return can apply for international protection and will not be released due to the mere fact they have applied for international protection. The procedure for international protection in such cases is prioritized and evidently the person is released if granted an international protection status.

83. [Law of 21 November 2017, Art. 56 \(altering Article 74/5 of the Immigration Act\)](#).

84. [Law of 21 November 2017, Art. 57 \(altering Art. 74/6 of the Immigration Act\)](#).

85. In case the CGRS has not taken a decision within 4 weeks, the applicant also has to be granted access to the territory.

86. Article 74/6 §1 of the Immigration Act.

## 3.8. ASYLUM PROCEDURES

### 3.8.1. INTERPRETATION

Regarding the **provision of interpretation**, article 48/6 § 3 of the modified Immigration Act provides that the documents submitted by the applicant must be accompanied by a translation into one of the three national languages or English if they are written in a language other than one of the three national languages or English. In the absence of a translation the applicant must explain the documents submitted by him, during the personal interview via the interpreter.

### 3.8.2. DUBLIN

Concerning the **Dublin procedure**, since the judgement of the CALL of 8 June 2018<sup>87</sup> a **Dublin transfer to Greece is again possible**, although the number of transfers that could be organised was very limited. Transfers are only possible when the applicant does not show specific elements of vulnerability and when the reception country guaranties access to the asylum procedure and a reception facility.

According to the judgement to the CJEU of March 15, 2017 (C-527/15) **detain applicants for international protection** who have to be transferred to another EU Member State in the framework of the Dublin regulation can only be **when there is a significant risk of absconding**.

Due to the absence of a definition or criteria to determine the risk of absconding in Belgian legislation, persons awaiting a Dublin transfer were no longer detained during a certain period.<sup>88</sup> The law of 21 November 2017, which came into force on 22 March 2018 defines the criteria to determine the risk of absconding and will enable the Belgian authorities to apply this concept to detain a person in the framework of the Dublin procedure. However, according to the legislative provision, detention will only take place after an individual and proportional examination and when other, less coercive measures, are not effective<sup>89</sup>. The Belgian legislator decided for a maximum detention period of 6 weeks when determining which EU-state is responsible for the application, and another 6 weeks for the transfer.<sup>90</sup>

Until recently, Belgium had no specific **admissibility procedures**. Although it was possible to decide 'not to take into consideration' an application, it was rather an accelerated procedure. The Law of 21 November 2017 has changed most of these procedures into an admissibility procedures in accordance with Article 33 of the APD. According to the new legislative provisions in Article 57/6 §3 a decision of non-admissibility can be taken in:

- cases of applications lodged by EU-citizens,
- applications lodged by applicants who hold an international protection status in another Member State,

87. CALL, 8 June 2018, n°205 104.

88. Source IO, Dublin-unit.

89. [Las of 21 November 2017, Art. 24](#).

90. Immigration Act, Art. 51/5. The period of 6 weeks is interrupted when an appeal is lodged against the decision to transfer.

- first country of asylum,
- safe third country,
- subsequent asylum applications without new elements,
- applications lodged by depending children of the applicants who cannot justify a separate application.

If the CGRS decides to take a decision of non-admissibility, the decision has in principle to be taken within 15 working days after the file was transferred by the Immigration Office<sup>91</sup>. For cases of non-admissible subsequent applications the decision has to be taken within 10 working days and for the subsequent applications lodged by applicants detained in a detention facility a decision has to be taken within two working days.

### 3.8.3. OTHER PROCEDURES

Besides the admissibility procedures, an application for international protection can also be **accelerated** (Article 57/6/1 of the Immigration Act) on other grounds. All the grounds for acceleration in the Law are the ones mentioned in Article 31 of the APD, it concerns for example cases whereby the applicant is coming from a **safe country of origin**, or when he clearly **does not qualify for international protection**. Also in case the applicant for international protection is held in a detention facility, for example when he poses a danger to national security or public order, the asylum procedure can be accelerated. If the CGRS decides to take a decision in the framework of

accelerated procedures, the decision has in principle to be taken within 15 working days after the file was transferred by the Immigration Office.

As regards the concept of **safe country of origin**, at present, the following countries are considered as safe countries of origin: **Albania, Bosnia-Herzegovina, FYROM, Kosovo, Montenegro, Serbia, India and Georgia**. On 27 December 2018 the Council of Ministers decided to maintain those 8 countries on the list of safe countries of origin.<sup>92</sup>

### 3.8.4. PROCEDURES AT FIRST INSTANCE

In 2018, the CGRS took a decision for 21,159 persons of which 8,706 **persons were granted refugee status** according to the Geneva Refugee Convention and an additional 1,777 **persons received subsidiary protection status**. In 2018, as was also the case in 2017, about 50% of the first instance decisions concern a positive decision (refugee status or subsidiary protection status). In 2018 most of the positive decisions were issued for applicants coming from Syria (2,551 persons obtained refugee status and 502 subsidiary protection and from Afghanistan (826 persons obtained refugee status and 1,078 subsidiary protection).<sup>93</sup>

In 2018, the CGRS continued its effort to keep **waiting periods** as short as possible and to reduce the backlog. In 2018, the CGRS managed to reduce its backlog. However, the objective to make up

the backlog by the end of 2018, could not be achieved due to a significant increase in the number of applications lodged in the second half of 2018. At the end of 2018, the CGRS caseload amounted to 5,015 cases. Furthermore the backlog at the Immigration Office, competent for the registration of the application for international protection is about twice as high. In 2019 the CGRS will contract additional staff to prevent a further growing backlog and increasing processing times.

Regarding the legislative changes, the Law of 21 November 2017, which came into force in March 2018, provides new duties and rights for the applicant of international protection. In accordance with Article 17 of the APD, the applicant shall have the opportunity to make comments and provide clarification with regard to the **report of the personal interview** done by the CGRS. The applicant will be able to make his comments within 8 working days after the report was sent to him, before the CGRS takes a decision. In some situations, such as accelerated procedures, the report will be sent together with the decision.

Furthermore, the legislative changes also introduce a procedure for applicants in need of special procedural guarantees.<sup>94</sup> **Specific procedural guarantees for applicants with special needs**, such as unaccompanied minors or victims of gender related violence were already foreseen, but the recently adopted legislation aims at identifying the special

needs more systematically and as early as possible, through a detailed questionnaire to be filled out at the Immigration Office but also through the detection of special needs in the reception facilities.

The law provides explicitly for the right for **dependent children of the applicant to be interviewed individually** by the CGRS and/or to lodge a separate asylum application. To some extent, this legislative innovation formalises an already existing practice. This procedure aims at situations where the accompanied minor is best served by an individual request, for example when the parents pose a threat to the minor, or when the minor cannot express his asylum motives in presence of his parents.

Besides, the law puts more emphasis on the **duty to cooperate** for the applicant for international protection. The applicant has to cooperate fully and submit all relevant documents and elements for identification and assessment of the application. However, in the explanatory note, the duty of the CGRS to provide elements to assess the claim is explicitly mentioned. However, it is important to note that this legislative change does not imply a shift of the burden of the proof from the CGRS towards the applicant. The applicant always had the obligation to cooperate with the competent authorities with a view to establishing their identity and other elements referred to in Article 4(2) of Directive 2011/95/EU. Besides, the CGRS will continue to fulfil

91. With the exception of decisions of non-admissibility referring to the "first country of asylum", in this case the time limit is 6 months and not 15 working days.

92. <http://www.ejustice.just.fgov.be/eli/arrete/2017/12/17/2017031718/moniteur>

93. CGRS, Asylum statistics, survey of 2018.

94. [Law of 21 November 2017](#), Art. 24.

its part of the duty to cooperate to establish all the relevant elements necessary for the assessment of the application (such as the assessment of the situation in the country of origin and all other relevant elements even if these are not invoked by the applicant)

Furthermore, the law enables the CGRS to **verify electronic information carriers** (smartphone, social media, USB,..) of the applicant for international protection although the CGRS was already using publically accessible information on social media in its assessment of asylum claims, an investigate strategy accepted by the CALL, the new law expands this power. It was the objective to outline the procedure for obtaining access to private information on electronic information carriers by Royal Decree. However, in 2018, no such Royal Decree was published, making it for the moment not possible for the CGRS to access private information on electronic information carriers.

The Law of 17 December 2017 also implies a **simplification and harmonisation of time limits to lodge an appeal**. In principle the time limit to lodge an appeal with the Council for Aliens Law Litigation (CALL) is 30 days, but shorter terms of appeal apply in case it concerns an admissibility procedure, accelerated procedure and/or when the applicant is in a closed facility. For the non-admissible and accelerated procedure and for those who are detained, the applicant for international protection has to lodge an

appeal within 10 days. For those who are detained at the moment of the introduction of a subsequent application and this subsequent application is non-admissible, the appeal has to be lodged within 5 days. In principle judgements have to be taken within 3 months. For the non-admissible and accelerated procedure, the judgements have to be taken within 2 months. For those who are detained, judgements have to be taken within 13 working days and 10 working days if it concerns a subsequent application lodged by an applicant in detention.

The law of 17 December 2017 also stipulates that appeals against CGRS-decisions are **suspensive and on the merits**<sup>95</sup>, except for some cases of subsequent applications, for which an appeal is not suspensive if it concerns a third or more subsequent application that is non-admissible, or if it concerns a non-admissible second applications and has been lodged within the year after the final decision in the first application.

### 3.8.5. COUNTRY OF ORIGIN INFORMATION

In 2018 the “**New Media Unit**” (NMU) became fully operational including 2 full-time experts on new media research and 3 COI experts with advanced knowledge on the use of social media. Apart from training other COI experts and protection officers in the use of social media, the NMU conducted specific research on social media, especially for resettlement, origin checks and exclusion clauses

under Article 1F of the Refugee Convention<sup>96</sup>. The head of the NMU was asked by international organisations and Member States to give presentation and training on New Media. Several of the projects CEDOCA is involved are co-funded by AMIF, such as the development of the New Media Unit and organising conferences with external experts.

Cedoca created collaborative workspaces on the intranet of the CGRS for the top countries of origin, where researchers and protection officers can share information. It has organised consultations amongst heads of departments, researchers and reference persons to enhance information sharing and to detect information needs in a proactive way.

In 2018, Cedoca has continued to be an active player in international workshops, projects and presentations. Cedoca welcomed several international guests for study visits such as Romania and Turkey. Cedoca also participated in several EASO networks and contributed to almost all of the EASO reports as a drafter or reviewer, e.g. Afghanistan report, Iraq reports and Pakistan security report. Cedoca was also co-drafter on the update of the EASO Methodology report.

### 3.8.6. RESIDENCE/ENTRY DOCUMENTS AND RIGHTS/OBLIGATIONS OF BENEFICIARIES OF INTERNATIONAL PROTECTION

Since 2016 persons granted Convention refugee status by the CGRS **no longer immediately receive a permanent residence permit** (a permanent residence permit). Instead, they receive the so-called A card, which is a residency permit valid for 5 years, a period starting from the moment the asylum application was lodged. After 5 years, Convention refugees receive a permanent residence permit unless a decision is taken on cessation or withdrawal of the refugee status. Beneficiaries of subsidiary protection obtain a one year residence permit, which can be renewed by municipal authorities for two years at a time. After five years, a period starting from the moment the asylum application was lodged, if the protection is not ended, the beneficiary of subsidiary protection receives a permanent residence permit.

The policy note of the former State Secretary for Asylum and Migration of 26 October 2018 reconfirmed the **temporary character of the protection statuses** and indicated that in case the security situation in the country of origin would have improved durably, the State Secretary will ask the CGRS to reassess the need for protection and end the protection status if no longer required<sup>97</sup>.

95. With some exceptions for subsequent applications, this was already the case preceding the legislative change of 17 December 2017.

96. Article 1F of the 1951 Convention states that the provisions of that Convention “shall not apply to any person with respect to whom there are serious reasons for considering” that: (a) he [or she] has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) he [or she] has committed a serious non-political crime outside the country of refuge prior to his [or her] admission to that country as a refugee; or (c) he [or she] has been guilty of acts contrary to the purposes and principles of the United Nations.

97. Belgian House of Representatives, General Policy Note on Asylum and Migration, 26 October 2018, DOC 54 3296/021, p. 25, <http://www.dekamer.be/finwb/pdf/54/3296/54K3296021.pdf>



### 3.8.7. WITHDRAWAL OF INTERNATIONAL PROTECTION

In 2018, for **284 persons** the protection status was ceased or withdrawn due to fact they were involved public order issues, pose a threat to national security, committed fraud or because their personal behaviour indicated they were no (longer) in need of protection. In his General Policy Note<sup>98</sup> the former State Secretary for Asylum and Migration confirmed that he has asked to the Commissioner General to pay special attention to these cases.

### 3.8.8. THE SUDANESE NATIONALS' CASE

Following the forced returned of Sudanese nationals in the course of the year 2017, the former Deputy Prime Minister Jan Jambon asked the Commissioner General for Refugees and Stateless Persons to carry out an **independent enquiry regarding the risk in case of return to Sudan**. The report was handed over to Deputy Prime Minister Jan Jambon on 8 February 2018.<sup>99</sup>

Following this CGRS report and the Sudan issue, the Immigration Office has adapted its practice to verify a possible violation of Article 3 EHRM. After having issued a first order to leave the territory for foreign nationals in irregular stay, a hearing right is organised and a questionnaire is filled out in which elements of Article 3 ECHR can be submitted. These elements are assessed, and if no risk on a violation of Article 3 ECHR is demon-

strated, a second 'motivated' order to leave the territory is issued, this order to leave the territory that can be challenged before the CALL.

From 2018 onwards, in some cases, the Immigration Office also considers a **fear or a risk of a violation of article 3 as an 'implicit' application for international protection**. This, also if the foreign national did express that he does not want to apply for international protection in Belgium (this in most cases to avoid an application of the Dublin Regulation and a transfer to Italy). This practice of considering the fear to return to the country of origin as an implicit application for international protection has been accepted by the CALL, depending on the situation. In a judgement of 11 June 2018 for example, the CALL stated in its judgement that with his statements, the applicant has indicated that he is seeking international protection. The mere fact that the person prefers to obtain this international protection in his preferred country, being Great Britain, cannot undermine this.<sup>100</sup>

Although a possible application of the Dublin regulation is possible in case the statements of the applicant are considered as making an application for international protection, the applicant also benefits from the guarantees of an asylum procedure and qualitative treatment of his application for international protection and thorough assessment of the risk in case of return to the country of origin.

### 3.8.9. EFFICIENCY AND QUALITY OF THE NATIONAL ASYLUM SYSTEM

In 2018, new measures undertaken to improve **the safeguards of the national asylum system**. In his policy note the former State Secretary for Asylum and Migration continued to stress the importance of the fight against unfounded subsequent applications.<sup>101</sup> He insisted to **keep the subsequent applications as short as possible** to make sure the time that the applicant stays in the network of reception facilities is as well of short duration. He hoped in this way to reduce the subsequent applications that are made just for the cause of opening a right to reception.

In 2018, the former State Secretary for Asylum and Migration continued to prioritise the issue of **beneficiaries of international protection who travel to their country of origin** and aimed at stimulating international cooperation on the matter.<sup>102</sup>

### 3.9. RELOCATION<sup>103</sup>

In 2018, **57 persons** were relocated to Belgium in the framework of the Council Decision of 22 September 2015, all from Italy (2 Syrians, 42 Eritreans and 1 from Yemen). The last persons arrived in March 2018. In total 691 persons were relocated in the context of the EU relocation scheme from Greece and 471 from Italy and applied for international protection in Belgium.

Belgium also participated in the action to relocate migrants who **disembarked from the vessel 'Lifeline' in Malta** on 27 June 2018 by accepting to relocate 6 persons, who all arrived in Belgium in 2018.

101. Belgian House of Representatives, General Policy Note on Asylum and Migration, 26 October 2018, DOC 54 3296/021, p. 24-25, <http://www.dekamer.be/flwv/pdf/54/3296/54K3296021.pdf>.

102. Belgian House of Representatives, General Policy Note on Asylum and Migration, 26 October 2018, DOC 54 3296/021, p. 13, <http://www.dekamer.be/flwv/pdf/54/3296/54K3296021.pdf>.

103. Relocation: The transfer of persons having a status defined by the Geneva Refugee Convention and Protocol or subsidiary protection within the meaning of Directive 2011/95/EU (Recast Qualification Directive) from the EU Member State which granted them international protection to another EU Member State where they will be granted similar protection, and of persons having applied for international protection from the EU Member State which is responsible for examining their application to another EU Member State where their applications for international protection will be examined. In the context of the EU emergency relocation programme, the transfer of persons in clear need of international protection, as defined in Council Decision 2015/1601 and 2016/1754, having applied for international protection from the EU Member State, CH or NO which is responsible for examining their application to another EU Member State, CH or NO where their application for international protection will be examined.(see EMN Glossary V6).

98. Idem, p. 25

99. <http://www.cgrs.be/en/news/report-sudan>

100. CALL, no 205 154, 11 June 2018.

### 3.10. RESETTLEMENT AND HUMANITARIAN ADMISSION PROGRAMMES<sup>104</sup>

#### 3.10.1. EU JOINT RESETTLEMENT PROGRAMMES

Within this “50.000 scheme”, Belgium **pledged to resettle 2000 persons**. In the course of October 2018 the former State Secretary decided to put the **resettlement programme on hold**. This decision was linked to the considerable increase of applications for international protection in Belgium since July 2018, mainly the result of secondary migration movements within the EU, which led to a saturation of the reception network. Since November 2018 there were no more arrivals of resettled persons in 2018.

#### 3.10.2. NATIONAL RESETTLEMENT PROGRAMMES

Belgium does not have a formal **humanitarian admission programme**. However, the Minister or State Secretary for Asylum Policy and Migration has a discretionary competence to grant visas on humanitarian grounds in exceptional circumstances (the so-called “**humanitarian visas**”). In 2018, 1,294 humanitarian visa (the visa granted for resettlement excluded) were granted, the vast majority to Syrians. Begin 2019 these humanitarian visa caused a lot of controversy and parliamentary debate when an alderman was

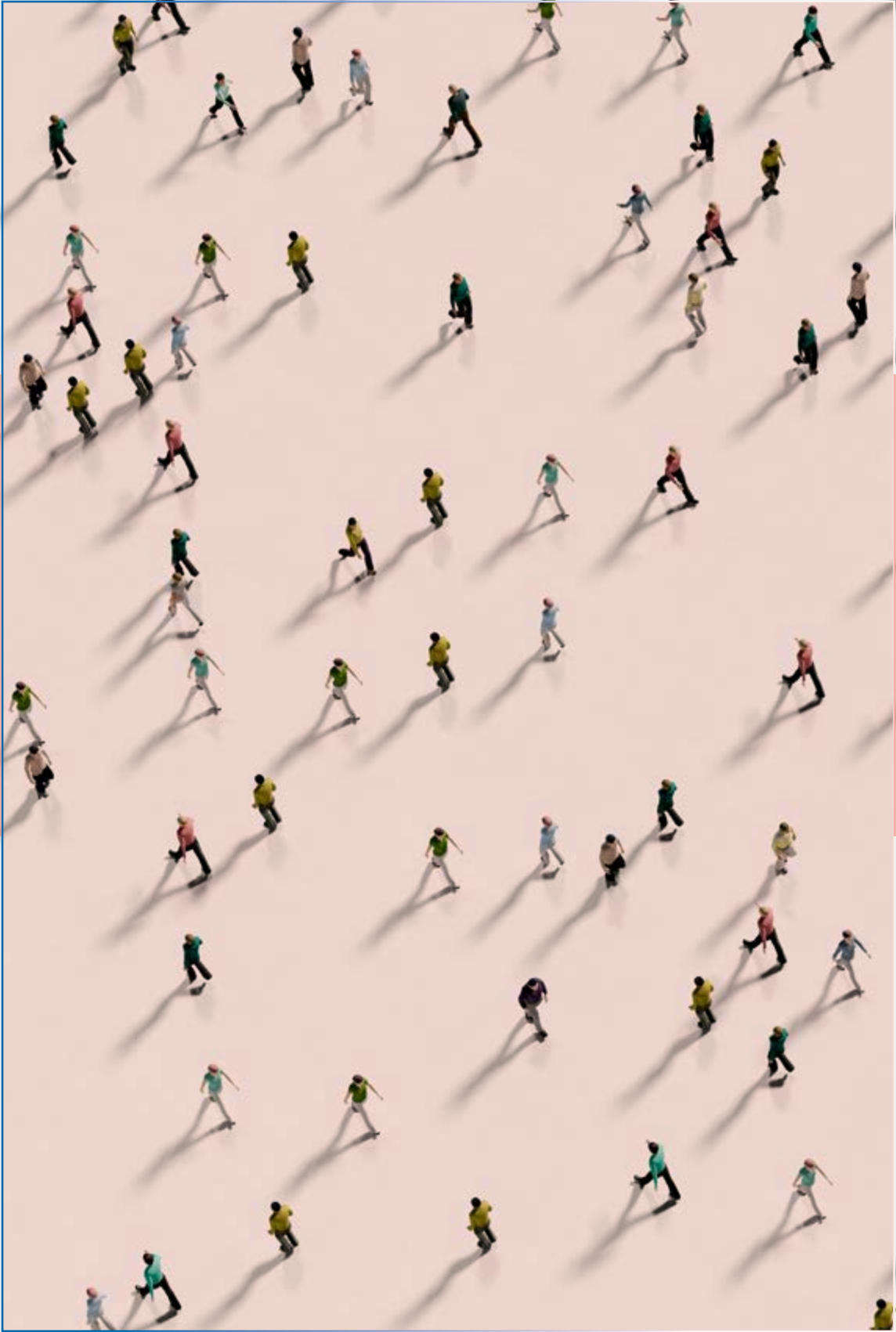
accused of asking payment in return for putting Christians from the Middle East on a list that was handed over to the cabinet of the former State Secretary for Asylum policy and Migration, with the objective to be issued humanitarian visa.

Building on previous experiences of **private sponsorship** programme in Italy and France, the Community of Sant’Egidio has opened a “**humanitarian corridor**” to Belgium for Syrian refugees. On 2 November 2017, the former State Secretary for Asylum Policy and Migration signed an agreement with Sant’Egidio and the religious communities in Belgium, under which 150 Syrian refugees from Turkey and Lebanon could be granted humanitarian visas to come to Belgium. The quota of 150 was fully filled in the course of 2018. The last arrivals date from 3 December 2018. Most of the 150 persons applied for international protection shortly after arrival, but they do not enter the regular reception system for asylum seekers. In the first year after arrival various local parishes and communities are responsible for their housing and other assistance. More than two-thirds of the refugees are cared for by the Catholic Church, in collaboration with Caritas, which offers support to host communities. The project was fully financed by various religious communities without contribution from the Belgian government.

104. Resettlement: In the EU context, the transfer, on a request from the United Nations High Commissioner for Refugees (UNHCR) and based on their need for international protection, of a third-country national or stateless person, from a third country to an EU Member State, where they are permitted to reside with one of the following statuses: (i) refugee status within the meaning of Art. 2(d) of Directive 2011/95/EU (Recast Qualification Directive); (ii) a status which offers the same rights and benefits under national and EU law as refugee status. (see EMN Glossary Version 6).

# 04

## UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS





## 4.1. UNACCOMPANIED MINORS APPLYING FOR ASYLUM

### 4.1.1. CONTEXT

The number of **unaccompanied minors (UAMs) filing an application for international protection** increased from 734 in 2017 to **811 in 2018** of which 135 (16,65%) were lodged by girls.<sup>105</sup> The top 5 countries of origin of these unaccompanied minors in 2018 were Afghanistan (275), Guinea (107), Eritrea (81), Syria (47) and Somalia (31).

Regarding the decisions taken in 2018, 510 unaccompanied minors were granted international protection (264 UAMs with refugee status and 246 with subsidiary protection) and 169 refusals to grant the refugee status and refusal to grant subsidiary protection status were taken by the CGRS. 69 UAMs received a decision of refusal on another basis (voluntarily withdrawal of the application, return to country of origin, ...) or a 'technical refusal' (e.g. if the applicant does not show up for the interview and does not give a valid reason for his absence within 15 days; if the applicant does not comply with a request for information by the CGRS without a valid reason).

For 109 unaccompanied minors, a decision was issued ordering the guardian to bring back the unaccompanied minor to his/her country of origin (annex 38)<sup>106</sup>.

Furthermore, 23 UAMs returned to their country of origin via an assisted voluntary return and reintegration. The countries of return were Afghanistan (3), Albania (7), Ruanda (3), Ukraine (2), Chili (1), El Salvador (1), Iraq (1), Ivory Coast (1), Kosovo (1), Morocco (1), Russia (1) and Serbia (1)<sup>107</sup>.

### 4.1.2. PRACTICES

In 2018 at the **Immigration Office**, five full-time equivalents (FTEs) were in charge of the hearings of unaccompanied minor applicants for international protection. Another two FTEs can reinforce the team if necessary. All of them have followed specific trainings regarding the hearing of unaccompanied minors. The head of the UAM-Unit followed the train the trainer EASO-module on 'Interviewing Children' in 2018.

At the **CGRS**, due to the departure of some protection officers, the CGRS team, specialised in handling the application for international protection of UAMs, was reduced to 90 protection officers and supervisors at the end of 2018. Also, 12 new (French speaking) protection officers were **trained in the new EASO- module on 'Interviewing Children'**.

Within **Fedasil**, the number of staff implicated in the reception of UAMs in the federal reception centres declined from 183,53 FTE in 2017 to 174,43 FTE in 2018 and from 7 to 6 FTE in the

headquarters of Fedasil. In 2018 Fedasil organised **several trainings for the employees working with UAMs** in the federal reception centres: group dynamics for the staff of UAM Services, handling aggression, deontological code, suicide prevention, legal training on UAMs and radicalism.

Furthermore, Fedasil invested in a **training course on 'Restorative Practices'** developed by the non-profit organisation Oranjehuis<sup>108</sup>. The aim of this training is to **empower the UAMs and the staff of the UAMs reception centres in the prevention and sustainable handling of conflicts**. By implementing a focus on recovery, Fedasil wants to prevent disciplinary transfers of UAMs and to promote the conditions for living and working together, both for the residents and for the employees. The core of the restorative vision is about the concepts of "ownership" and "connectedness." In a preventive sense, this means creating a safe living environment in which young people and employees can feel good. In curative terms, this means that young people and supervisors who become involved in a conflict are called to take responsibility for their share. The staff of three reception centres (Broechem, Heusden-Zolder and Poelkappele) received an intensive training (a basic formation, weekly coaching, monthly spearhead consultation and leadership training). In view of the positive feedback, the training will be continued in 2019.

In 2018, some **70 new guardians were recruited**. The total number of guardians for 2018 was 592, of which 343 Dutch-speaking guardians and 249 French-speaking guardians. The new guardians received a **five-day basic training** which included the following topics: role and tasks of the guardian, residence procedures, reception, education, psychological well-being, trauma, building a relationship of trust and social rights. In addition, the following courses were organised within the framework of the permanent training of guardians: the special residence procedure for UAMs, the procedure for international protection and family reunification. 2018 also marked the start of the **coaching programme for the Dutch-speaking guardians**. This programme was already available to the French-speaking guardians. Via this programme, the professional guardians employed by Caritas International and the Red Cross Flanders are funded by the Guardianship Service to **support private guardians**<sup>109</sup> by means of (1) a helpdesk that can be contacted by telephone or by mail; (2) individual support for difficult guardianships; (3) a coaching trajectory for new guardians consisting of regular meetings to discuss various aspects of guardianship; (4) advanced training for guardians, both during as outside office hours.

105. State of affairs on 10 January 2019. However, this figure may still change as a result of the age tests carried out by the Guardianship Service, and for which not all the results for 2018 are known yet.

106. A decision ordering the guardian to bring back the unaccompanied minor to his/her country of origin (annex 38) delivered in 2018 does not necessarily concern an application for international protection made in 2018.

107. These UAMs were underage at the time they signed up to return voluntarily. Only 11 of these UAMs were still underage on the day they returned to their country of origin.



108. <https://vzw-oranjehuis.be/>

109. Private guardians are the self-employed guardians in main or secondary occupation and the volunteer guardians.



#### 4.1.3. IMPROVEMENT OF PROTECTION AND CARE

In 2018, the **overall reception capacity for applicants for international protection has been reduced**. This affected **also the reception places for UAMs**. Due to the reduction plan, three centres of Croix-Rouge de Belgique<sup>110</sup>, which accommodated UAMs, closed down at the end of December 2017, resulting in a loss of 185 places in January 2018. The reception capacity for UAMs further declined from 2,151 places on 2 January 2018 to 1,717 reception places on 31 December 2018.

The capacity of the **first reception phase** for UAMs in the Observation and Orientation Centres **increased from 183 to 223 places** between the beginning and the end of 2018. The capacity was increased as a result of a general increase in the inflow of UAMs, both minor transmigrants and other unaccompanied minors. The number of reception places in the **second reception phase** decreased from 1,519 at the beginning of January to 1,056 places at the end of 2018<sup>111</sup>. This capacity reduction was approved by the Board of Directors of Fedasil in early July 2018. Most of these reception places were converted to places for adults. Regarding the **third reception phase**, the number of reception places slightly decreased from 333 places in the beginning of January to 318 places at the end of 2018. The number of reception places available for UAMs with specific reception needs, such as teenage mothers, UAMs with behavioural problems, UAMs with mental health

problems, etc. increased with four places at the end of 2018.

From the beginning of September there have been **problems in providing reception to unaccompanied minors reported by the Guardianship Service outside office hours**<sup>112</sup>. After the notification of the UAM by the Guardianship Service, Fedasil had to **assess the specific vulnerability of the youngster**. This was necessary because of the lack of reception places in the Observation and Orientation Centres to accommodate all UAMs due to the increased inflow of UAMs. Extra (visible) criteria were used to decide to grant immediate reception: girls, children under the age of fifteen, victims of human trafficking, young people from the transit zone of the airport and children with disabilities received reception. **About 200 unaccompanied minors who did not meet these criteria were refused immediate reception** in the last months of 2018. As a result, Fedasil decided in December to raise the capacity of the first reception phase with 50 places. In addition, 15 reception places were made available for direct registrations of UAMs in the reception centre Samu Bejar. Underage transmigrants were the main victim of the high occupancy rate because they were often registered outside office hours.

Furthermore, because of the shortage of places in the first phase reception, Fedasil did not open the reception places in the framework of its 'winter plan'<sup>113</sup> in 2018.

To improve the care and protection of

UAMs, Fedasil **subsidised several projects, under AMIF 2018-2019 and under its 2018 annual national funding**, that are related to reception of UAMs.

Three of the **AMIF subsidised projects** concern the **psychological accompaniment** of beneficiaries of reception, including UAMs. Following the example of the 'CARDASud'-project<sup>114</sup> of the Red Cross (Croix-Rouge de Belgique), a similar project, 'CARDASud', was subsidised for the reception centres in the Flemish speaking part of Belgium, implemented by the Red Cross of Flanders (Rode Kruis Vlaanderen) with **ten residential places** reserved for UAMs. Another project '**Residential psychiatric care for underage refugees (unaccompanied or with family and beneficiaries of reception)**' was implemented by the University of Leuven (KU Leuven) in collaboration with PraxisP (transcultural traumatological care for refugees – Faculty Psychology and Pedagogical Sciences) and the Child Psychiatry Department UCP of the KU Leuven. The project aims to establish a **residential child psychiatric and trauma-therapeutic offer**, in a private residence outside the regular hospital setting, with a reception capacity for 10 young people with serious psychological and psychiatric problems. The project has suffered some delay (still in feasibility study) but it is the intention to have a residential child psychiatric service ready in 2019.

Under **national funding, Fedasil selected 17 projects in 2018**<sup>115</sup>. The projects

aimed at increasing the participation of beneficiaries of reception in community life by facilitating the **access to cricket and football associations** open for minors, already financed in 2017, and were prolonged in 2018.

The non-profit organisation Nature, already subsidised in 2017, implemented the project '**Time Outdoors**' and organised 'time-outs' aimed at UAMs (over the age of 14 years) who have difficulties adjusting to life in the reception network. Through organising hiking trips and individual guidance days, the youngsters get the opportunity to deal with their experiences in a safe and confidential environment, to help them to 'root' and to create a moment of rest for both them and the staff of the reception facilities.

A number of projects were selected to **improve the protection and care of UAMs**. One of these projects was another time-out project led by the non-profit organisation **Oranjuhuis**. It concerns the reception and supervision of UAMs who go through a crisis, for a period of 14 days (extendable). This time-out can have both a **preventive and a curative character**. The purpose of these time-outs is to **restore the relational damage between the UAM and his/her environment**. It is therefore always the intention to have the youngsters, after the time-out, reintegrate in the reception structure where they were previously accommodated. The UAMs that qualify for

110. It concerns the reception centres of the Croix-Rouge de Belgique in the towns of Barvaux, Beho and Ligneuville-Malmedy.

111. Including the reception places offered by the Flemish and Walloon Youth Care Services for UAM under 15 years of age. It concerns 104 places organised by the Walloon and 145 places by the Flemish Youth Care Services.

112. Unaccompanied minors who applied for international protection in the morning or who were registered during office hours could still be accommodated in the Observation and Orientation Centres.





this time-out are between 12 and 18 years old and are UAMs in crisis situation, UAMs with behavioural problems, UAMs whose relationship with their environment (supervisors, guardian, school, ...) is damaged (e.g. due to an incident).<sup>116</sup> Through another subsidised project implemented by this organisation, Fedasil has invested in a training on '**Restorative Practices**' to empower UAMs and the staff of the reception centres working with UAMs in the **prevention and sustainable handling of conflicts**<sup>117</sup>.

Furthermore, a project aimed at developing a **screening instrument to identify (school) competences of newcomers and to train (education) professionals in the screening of UAMs for their (school) competences** was selected to be implemented in 2019.

Between 26 October and 3 December 2018, the **Immigration Office** moved to two new locations.<sup>118</sup> As part of this move, a special attention was paid to the reception of unaccompanied minors within the premises of the Immigration Office. Efforts have been made to set up **child-friendly hearing rooms**. Furthermore, the registration of UAM's is a priority and a **separate waiting room for UAM's** was installed in the temporary arrival centre "Petit Chateau" in December 2018. UAM's are supervised by an agent in charge of security from the Immigration Office and are accompanied

at all time during the registration process until they are taken care of by Fedasil. On 10 December 2018, the **CGRS** also changed premises.<sup>119</sup> The new building has **eight interview rooms for children with interactive tools**. Wall panels will be set up on which the minors can indicate certain things such as their travel route, daily life, family composition, feelings, etc. Other panels with pictures will also be available, for example with pictures of different clothing styles allowing the minor to indicate how someone was dressed. Furthermore, drawing paper, pencils and Duplo dolls are present in the room to facilitate the conversation.

#### 4.1.4. PROTECTION AND CARE OF UAMS UNDER 15 YEARS OR VULNERABLE

In the context of the increase of the number of unaccompanied minors in 2015, both the **Flemish and French Community proposed to organise and co-finance the reception of UAMs** in their Community. In this perspective, Fedasil concluded agreements with both Communities in 2016 to directly obtain aid from the Youth Care Services of the Flemish and French Community for the reception of the youngest and most vulnerable UAMs. These conventions were renewed in 2017. The Federal authorities, wanting to embed this exceptional policy of the regional authorities co-financing the reception of UAMs more structurally, signed

in 2018 two new agreements, this time of **indefinite duration**. On 27 April 2018 April, the agreement was signed between Fedasil and the French Community (by the Minister for Youth Welfare). On 9 January 2019 the agreement between Fedasil and the Flemish government (by the Minister for Welfare, Public Health and Family) was signed with retroactive effect to 1 July 2018. The agreements apply to UAMs of **less than 15 years of age, or UAMs older than 15 years for who a clear vulnerability is established, or brothers and sisters of whom one of the two is a UAM of less than 15 years**.

The UAMs are accommodated in smaller, more family scale, reception facilities where they receive an intense and personalized care to meet their specific needs. As in 2017, the Agency for Youth Welfare of the Flemish Community offered 145 reception places in 13 facilities with at most 15 UAMs per facility. The General Administration of Youth Care of the French Community provided 130 places in the beginning of 2018 and 104 places by the end of this year, located in six licensed facilities, including two that are accommodating UAMs together with other minors under the mandate of the Youth Care Service. These reception places are **co-financed by Fedasil** up to EUR 81,86 per available reception place per day. This amount can be increased by the reimbursement of the medical costs under the modalities included in the Reception Act and the Royal Decree of 9 April 2007 determining the medical aid and medical care for beneficiaries of reception.



#### 4.1.5. PROTECTION AND CARE OF UAMS OF 16 YEARS AND OLDER

UAMs who are beneficiaries of international protection and 16 years of age, are prepared, with their guardian, to **live in a more autonomous setting**, in individual reception structures, mostly Local Reception Initiatives run by Public Social Welfare Centres (PSWC), but also by other partners organising individual reception for UAMs. By December 2018, there were 318 places available in the third reception phase for UAMs in Fedasil's reception network.

Other initiatives developed by the **Youth Care Services** of the French, German and Flemish Community to coach UAMs who receive international protection to live independently and in particular for those UAMs who are vulnerable continued in 2018. In order to prepare young people to live independently, Mentor-Escale is charged by the Youth Care Administration of the French Community to manage 20 places in supervised housing as part of a Fedasil's third reception phase-agreement. Mentor-Escale coaches UAMs from the age of 16 until the age of 20 to live independently.<sup>120</sup>

In 2017 an agreement, implemented since 1 January 2018, was concluded between the organisation **Soziale Integration und Alltagshilfe (SIA)**<sup>121</sup> and the government of the German-speaking Community related to the protection and care of UAMs. This organisation active in

116. The time-out project organised by the non-profit organisation Oranjehuis will become a structural part of the reception network in 2019 offering four time-out places for UAMs.

117. The training is provided by Ligand, a subsidiary organisation of Oranjehuis. More information on <https://www.ligand.be/>.

118. As of 3 December 2018, the services that are in charge of applications for international protection at the Immigration Office have moved to two locations. The applications for international protection are registered in the "Petit Chateau", Rue de Passchendaele 2, 1000 Brussels. Afterwards, and by appointment, the application is submitted (hearing, administrative steps, determining which state is responsible for processing the application, etc.) is handled at the premises of the Immigration Office located in the Boulevard Pacheco 44, 1000 Brussels.

119. As of 10 December 2018, persons who are directly involved in asylum matters (applicants for international protection, lawyers, persons of confidence, guardians and recognised refugees) have to present themselves at the following address: EUROSTATION, Ernest Blerotstraat 39, 1070 Brussels. Other visitors have to present themselves at the following address: EUROSTATION, Victor Hortaplein 40, 1060 Brussels.

120. Administration générale de l'aide à la jeunesse - service MENA.

121. <https://www.siaeupen.be/>



the field of juvenile protection provided **co-housing** for 8 UAMs<sup>122</sup> and **coaching by a professional** in 2018. Two of them lived in the colocation of the SIA, the accompaniment of others youngsters was rather ambulatory. The demand was higher, but the capacity didn't allow for more youngsters to be accepted.

In order to protect the rights of the child and to promote the child's wellbeing, Fedasil and the Immigration office committed themselves to give a special attention to the phenomenon of **under-age marriages** and this to ensure a better **cooperation in detecting and reporting cases, but also in legally and physically protecting the child**.

#### 4.1.6. LEGAL GUARDIANSHIP AND FOSTER CARE

The Guardianship Service started in 2018 with the **AMIF project 'Strengthening the Guardianship System'** ('Versterken van het voogdijstelsel') for which a project coordinator and psychologist were recruited. The project aims to develop a **method for the monitoring of guardians; a methodology regarding the sustainable solution for UAMs and the follow-up of challenging guardianships**. In addition to this, interventions for guardians will be organised and the vademecum for guardians, last updated in August 2007, will be rewritten.

Furthermore, the **Royal Decree of 6 December 2018** amending the Royal Decree of 22 December 2003 implementing

Title XIII, Chapter 6 "Guardianship of unaccompanied minor foreigners", of the Programme Law of 24 December 2002 **increased the allowance granted to guardians' associations** with which the Guardianship Service has a protocol agreement to exercise guardianships, to EUR 28,000 per year per full-time employed guardian who exercises at least 25 guardianships simultaneously.

Concerning the **Flemish Community**: in 2018, via the project 'Give the World a Home' (Geef de Wereld een Thuis)<sup>123</sup>, **129 UAMs were placed in foster care**, of which 116 (almost 90%) in kinship foster families<sup>124</sup> and 105 foster care placements were terminated. The main reasons for termination are family reunification (30.5%) and independent living (17%). 11.4% of young people continued to live in the foster family after the termination of foster care. Furthermore, a different solution had to be sought for a group of young people (22%) after the foster care placement had ended (such as a transition to residential living groups). At the end of 2018, **a total of 349 UAMs were in foster care**, of which 85% in kinship foster care and 15% in non-kinship foster care. Out of the totality of UAMs who resided on Belgian territory on 31 December 2018, 14% were taken care of in foster care organised by the Flemish Community. Of the youngest UAMs (younger than 13 years) five UAMs were placed in a foster family immediately upon arrival in Belgium via direct placement in collaboration with the non-profit organisation Minor-Ndako.<sup>125</sup>

In working with this target group, collaboration between the parties involved is essential to avoid the fragmentation of competencies and accompaniment. That is why in 2018 further investments were made in the **collaboration with all actors involved in foster care the Flemish Community** to coordinate the provision of assistance to the UAMs. Within the various provincial services there was a dynamic collaboration and every two months an interprovincial consultation is organised to exchange information across provincial boundaries, occasionally with the presence of guardians from Caritas and the Belgian Red Cross and the Guardianship Service. Together with a delegation of guardians from the Belgian Red Cross, the Guardianship Service and the Flemish Foster Care, a document was drawn up, to be completed at the start of each foster care placement. The aim is to streamline the collaboration between the foster family, the foster care coach, the guardian and the youngster.

Given the **high demand for support in the field of family reunification** (before and after the arrival of the parents) and the **guidance of UAMs who received a negative decision on their residence procedure**, an interprovincial seminar on family reunification was organised by the five foster care services in cooperation of Minor-Ndako, the International Organization or Migration and the non-profit organisation Atlas<sup>126</sup> on 17 May 2018.

The Flemish Foster Care consolidated the **Alternative Family Care (ALFACA) method** in the regular operation of the foster care services in Flanders. The placement of UAMs in a culture-related or kinship foster family can constitute an important added value. That is why the **recruitment of cultural-related and kinship foster families** continued in 2018, for example by explicitly investing in the announcement and coordinated communication to immigrant communities. This way of recruiting requires a different, more intensive and outreaching approach than recruitment within regular foster care. Among other things, the following activities were realised in the various Flemish provinces:

- production of multilingual flyers and recruitment material available in Dutch, French, English, Arabic, Turkish, Pashtu and Dari;
- information booths at activities organised by all kinds of (non-profit) organisations, for example the Medina Muslim expo, various Iftars during the Ramadan period, Syrian self-organisation, Refugee walk, World Refugee Day, etc.;
- maintaining and further expanding the collaboration with key figures, who act as contact persons within their community and who want to make foster care known by raising the awareness of kinship families for the reception of UAMs and refugees. For example the foster care services in East Flanders, Flemish Brabant, Brussels and Antwerp

122. Two of which are became adults in the meanwhile.

123. Final report 2018: Give the world a home. Auteurs: Trogh, Lenny (Kenniscentrum Pleegzorg) en Brabants, Karl (Pleegzorg Oost-Vlaanderen), 2018.

124. Foster families can be found within the family or the social network of the family of origin and is called network foster care, otherwise it is called stock foster care. Both types of foster families are screened and supervised by a foster care service.

125. This means that after arrival in Belgium, the UAM only stays in a federal Observation and Orientation Centre for the time needed to carry out the medical checks, to appoint a guardian and to follow a brief trajectory which prepares the UAM for foster care. Afterwards s/he is immediately brought to a foster family. The foster family goes through the entire process of screening and training. The difference with regular placement in foster care is that the child ends up in a family without prior acquaintance and matching. That is why the intensity of the accompaniment of the family by Minor-Ndako is more intensively. After two weeks an evaluation takes place to see if an extension of the placement is indicated. If necessary, a residential care is possible within the facilities of Minor-Ndako, an organisation recognized by Youth Welfare for the reception and supervision of unaccompanied foreign minors, if the placement in the foster care is stopped ahead of time. Since there is no prior match between the UAM and the foster family in this type of placement (due to lack of information and the start-up in a very short period of time), there is a greater risk that difficulties arise that cannot be predicted in advance. Minor-Ndako is therefore available for the foster family and the youngster during the start-up period on a 24/7 basis.

126. The External Autonomous Agency Integration and Civic Integration in Antwerp.



recruited hands-on experts from Syrian, Afghan and Palestinian origin of whom some are foster carers themselves;

- cooperation with religious organisations such as Karama Solidarity, the Afghan mosque, etc.

In the **French Community foster care for UAMs** is not integrated in the general service for foster care, but a separate unit within the General Administration of the Youth Care Service of the French Community (AGAJ) is solely dedicated to UAMs. This UAM-unit is in charge, among others, of the foster care for UAMs and outsources the foster care for 40 UAMs to two non-profit organisations. These non-profit organisations are responsible for recruiting, screening and counselling families as well as monitoring the children placed in foster care. The organisation 'Mentor-Escale'<sup>127</sup> manages 30 places and 'Famille sur Mesure'<sup>128</sup> has been charged by AGAJ to manage 10 places in foster care, mainly, but not exclusively, in families of the Islam faith. By the end of 2018, Mentor-Escale and Famille sur Mesure have supervised 43 UAMs in foster families. Similar to the Flemish practice, if kinship foster families are not in need of special guidance according to the guardian of the UAM or the Youth Care administration, they take care of the child on an independent basis.<sup>129</sup> Some UAMs are still waiting for a place as there is still a shortage of foster families and/or matching possibilities between available families and interested UAMs.

Under AMIF (2018-2019), Fedasil sub-

sidises the project '**Development of the reception of UAMs in a foster family in Brussels and in Wallonia**' implemented by the non-profit organisation Mentor-Escale. The primary target group are UAMs, who are applicants for international protection and for whom reception in a foster family seems better adapted to their profile according to an individual psycho-social observation. The aim of the project is to achieve a faster quality care placement of the UAMs in Brussels and in the Walloon Region.

Since February 2018, Belgium participates in the **Alternative Family Care II project (ALFACA II)**<sup>130</sup>, co-financed by the European Commission<sup>131</sup>, which aims to improve the reception and care for unaccompanied children by structurally **increasing the quality and quantity of family based care for UAMs**. The project aims to increase the awareness and the practical knowledge on the importance of providing family based care to vulnerable groups of children, especially in the participating countries (Italy, Greece, Belgium, Croatia and Cyprus).

Belgium also participates in the **Fostering Across Borders project (2018-2019)**, funded by the European Union's Rights, Equality and Citizenship Programme (2014-2020) with the aim of **improving and expanding the provision of family-based care for unaccompanied migrant children** in six European countries<sup>132</sup>.

In 2018, employees of Foster Care Flanders and researchers of the University of Brussels (VUB), Department of Clinical and Lifespan Psychology, conducted a concept mapping to identify the **needs of non-kinship foster parents from Caucasian ethnicity who care for UAMs in Flanders**.<sup>133</sup> The needs of non-kinship foster carers of UAMs largely correspond to the needs of foster carers who provide for 'regular' foster children, although there were also differences such as the need for information about options for family reunification and about religion and culture (customs and traditions, education in different cultures, languages, ...) of the country of origin and specialised psychological support for the UAM with regard to trauma and special needs.

#### 4.1.7. AGE ASSESSMENT AND PROCEDURAL SAFEGUARDS

In 2018, **1,090 age assessments were carried out**, which is a considerable increase compared to the 697 tests 2017. The higher number of age assessments is due to the increase in the number of alerts of UAMs (4,407 first alerts in 2018 compared to 3,111 first alerts in 2017). 64% of these alerts came from the police services. The **share of justified doubt on the age remained at the same level** as the previous years.

The Council of State judged in June 2018<sup>134</sup> that the Guardianship Service exceeded their competences when they **assigned a certain age to an UAM**

knowing that s/he declared another age him/herself. The aim of the age assessment is only to determine if the foreigner is a minor. The competence entrusted to the Guardianship Service does not extend to that of fixing a new, fictitious date of birth deduced from the medical examination. As a consequence, the assignment of a certain age to an UAM was considered unlawful. In the meanwhile the Guardianship Service adjusted its policy. For unaccompanied minors who went for age testing and where a fictitious date of birth was given previously, a larger margin of approximately two years is allowed between the stated date of birth and the limit of the medical examination. If the margin between the age result and the declared age is too big, an additional discussion with the UAM is organised to collect additional elements and to make a decision with additional justification.

**Specific procedural guarantees for applicants with special needs**, such as unaccompanied minors were already foreseen, but the law of 21 November 2017 aims at identifying the special needs **more systematically and as early as possible**, through a detailed questionnaire on procedural needs to be filled out at the Immigration Office but also through the detection of special needs in the reception facilities. At the same time the special needs for reception are assessed, Fedasil will examine whether there are special procedural needs. With the permission of the applicant, the Reception Agency can make recommen-

127. <https://www.mentorescale.be/>

128. <http://www.famillesurmesure.be/>

129. Administration générale de l'aide à la jeunesse: service MENA.

130. The project is coordinated by Nidos (Netherlands) and the partners are Minor-Ndako (Belgium), Youth Care Service Flemish-Brabant (Belgium), Centre for missing and exploited children (Croatia), Mentor Escale (Belgium), METAdrasi (Greece), Hope for Children CRC Policy Center (Cyprus) and Associazione Amici dei Bambini (Italy).

131. Ref. JUST/2014/RCHI/AG/PROF.

132. The other participating countries are Austria, Greece, Luxembourg, Poland, and the United Kingdom.

133. Van Holen, Frank, Trogh, Lenny, West, Delphine, Meys, Nina and Vanderfaellie, Johan (2019), Concept mapping the needs of Flemish non-kinship foster parents who care for unaccompanied refugee minors, Children and Youth Services Review, 96, issue C, p. 84-92.

134. Council of State, 28 June 2018 n° 241.990 and Council of State, 11 October 2018, n° 242.623.





dations regarding the special procedural needs for the attention of the Immigration Office and the CGRS.<sup>135</sup> The law of 21 November 2017 also provides explicitly for the right for **dependent children of the applicant to be interviewed individually** by the CGRS and/or to lodge a separate asylum application. To some extent, this legislative innovation formalises an already existing practice. This procedure aims at situations where the accompanied minor is best served by an individual request, for example when the parents pose a threat to the minor, or when the minor cannot express his asylum motives in presence of his parents.

Finally, since 2018, the **UAM's Unit of the Immigration Office** also conducts **interviews with adult family members in the context of article 8 of the Dublin-III directive** to ensure that the **best interest of the minor** is taken into account. Based on their advice, the Dublin-Unit of the Immigration Office will decide if a unification of the child with the adult involved is indeed in his or her best interest.

#### 4.1.8. PROVISION OF INFORMATION

The **Immigration Office** provides UAMs with written and oral information in their language during the registration process. In 2018 this information is complemented by **pictograms**, tailored to minors, explaining the course of the registration process. This way the UAMs can see where they are in the process and which steps are coming next.

135. Art. 22. § 1/1 of the Law of 12 January 2007 regarding the reception of asylum seekers and other categories of foreign nationals, BG, 7 May 2007

136. At the end of 2015, faced with the pressure of the migratory flow and the arrival of younger and younger children on the Belgian territory, a plan to support the federal reception policy of unaccompanied minors was, the so-called "Plan MENA" (Mineurs Etrangers Non-Accompagnés) launched by the government of the Wallonia-Brussels Federation.

137. More information on: <https://www.mentorescale.be/les-mineurs-etranagers-non-accompagnes/temoignages/>

In 2018 the **CGRS started with the development of a brochure** for accompanied children and a brochure for parents/legal guardians of accompanied **children regarding the right to be heard**. These brochures will be published in 8 languages around May 2019.

The **UAM Unit of the General Administration of Youth Care (AGAJ) of the French Community** published 2016 a **guide with all the legal and practical information** for its partners in 2016. This guide is being **actualised on a yearly basis**. The following topics are communicated via this guide to the field workers, including guardians: legal obligations of the services in order to respect the rights of the child, procedure allowing travelling abroad, student jobs, regulation of the collaboration with the guardians, with medical staff, with school, with hobby clubs, with volunteers, with interpreters, procedure concerning the work towards more autonomy for the UAM. Furthermore, the UAM Unit systematically sends a **letter presenting the Plan for UAMs**<sup>136</sup> to all tutors and foster families of UAMs concerned by the Plan. All partners of the Plan for UAMs published leaflets that are systematically distributed to concerned UAMs and their guardians (f. ex. leaflets that present the residential services they are being oriented to, a child friendly version of the internal rules, an explanation on a possibility of time-out, etc.).

The **non-profit organisation Mentor Escale** published on its website several booklets and videos with testimonies<sup>137</sup>.



#### 4.1.9. HOUSING FOR UAMS

In April 2018, the Working Group "Housing for (ex-) UAMs" of the Platform for Children on the Flight has developed **three tools to improve the access to housing** for UAMs and ex-UAMs. It involves a social card, a FAQ and a brochure called "Solidary homeowners wanted".<sup>138</sup>

With the support of the King Baudouin Foundation and the European Programme for Integration and Migration (EPIM), the three regional associations of the Public Social Welfare Centres<sup>139</sup> continued to implement the project "**Supporting the empowerment and transition to autonomy of unaccompanied and separated children and youth**" (2016-2018). The VVSG, UVCW and Brulocalis made the common observation that the Public Centres for Social Welfare and their Local Reception Initiatives encounter difficulties when confronted with separated and **unaccompanied children and youth who need additional and specific support**. In response to these challenges, the goal of the project was to strengthen the expertise of the local Public Centres for Social Welfare (PSWCs) with regards to the profiles, needs and rights of unaccompanied and separated children and youth in order to better support and empower the latter in their transition to autonomy

and emancipation. The three umbrella organisations closely worked together to reach this common goal at the national level with joint national activities and tailored, but similar, regional activities (such as a training for the social workers of the PSWCs and an awareness-raising and information session for mandatories of the PSWCs). In June 2018, a **practical brochure** "Unaccompanied Minors: What you should know for sure and where you can find more information" has been published.<sup>140</sup>

138. <http://www.kinderenopdevlucht.be/files/files/Logement/Flyer-location-MENA.pdf>

139. i.e. Vereniging van Vlaamse Steden en Gemeenten (VVSG), Union des Villes et Communes de Wallonie (UVCW) and Vereniging stad en gemeenten van Brussel/Association Ville et Communes de Bruxelles (Brulocalis).

140. The brochure is available in French and Dutch on the websites of the three regional associations of the Public Social Welfare Centres: [https://www.brulocalis.brussels/fr/Publications/documents.html?doc\\_id=559&vID=120](https://www.brulocalis.brussels/fr/Publications/documents.html?doc_id=559&vID=120); <https://www.uvcw.be/espaces/cpas/actions/33.80.38.38.82.htm> and [http://www.vvsg.be/sociaal\\_beleid\\_en\\_werk/vreemdelingen/Pages/Vormingsaanbod---Begeleiding-van-Niet-Begeleide-Minderjarige-vreemdelingen.aspx](http://www.vvsg.be/sociaal_beleid_en_werk/vreemdelingen/Pages/Vormingsaanbod---Begeleiding-van-Niet-Begeleide-Minderjarige-vreemdelingen.aspx)



## 4.2. UNACCOMPANIED MINORS NOT APPLYING FOR ASYLUM

Most of the measure set up for unaccompanied minors also apply to unaccompanied minors not applying for asylum. Nevertheless, eight external trainings sessions for guardians on the **specific procedures for UAM who do not apply for international protection** were organised in 2018 in cooperation with Caritas International Belgium that also has a team of professional guardians. This training for guardians will continue in 2019. Moreover, the **Immigration Office** plans to produce **child friendly information on the specific procedure for UAM's who do not apply for asylum**. It remains to be decided whether this information will be released on video or in brochures.

**In the French Community, the General Administration of Youth Care (AGAJ)** has added ½ FTE to the staff already put into place at the non-profit organisation AMO SOS Jeunes<sup>141</sup>, providing socio-educational support to UAMs, in order to **inform and orient minor transmigrants** - if willing - towards specialised associations and official instances. The **non-profit organisation SOS Jeunes** published **a leaflet** on the services they provide in order to inform all field workers who get in touch with **minor transmigrants**. In collaboration with the UAM Unit of the AGAJ of the French Community, SOS Jeunes contributed to the

**FAQ** coordinated by the ombudsman for children of the French Community, and communicated this document to organisations and citizens who get into contact with transmigrants.

In 2018, the **UAM-Unit of the Immigration Office** participated in the **Safeguarding Migrant Children Across Europe (AMINA) project**. The AMINA project is a cross-border cooperative project that aims to safeguard children migrating in Europe by addressing the protection gaps that lead to disappearance and exploitation of children in migration and to contribute to creating an environment where policy and legislative processes across Europe give primary consideration to the best interest of the child, coordinated by Missing Children Europe. Project partners have been selected from six European countries, including two refugee reception countries (Italy and Greece), two transit countries (Belgium and France) and two destination countries (the UK and Sweden). One of the activities consisted in the development of a practical **smartphone application to support the children to complete their journeys across Europe in safety**. The application will map services (hostels, support centres, etc.) and information on their rights in the country they find themselves in.

The Immigration Office, together with Child Focus, participates as a member of the taskforce in a sub-workgroup that will **support actors working with unac-**

141. At SOS Jeunes, UAMs receive help adapted to their situation, which can range from taking care of their primary needs, to legal and social administrative follow-up, to getting in touch with their family of origin.



**panied and separated children to be better trained in responding to protection needs** of children in migration and to improve collaboration and knowledge sharing across national borders on the basis of trialed and tested procedures, in order to better protect children from disappearance and trafficking. The project started in October 2017 and will end in December 2019.

Since 1 October 2018, **Fedasil** participates in the **“Building Relationships through Innovative Development of Gender Based Violence Awareness in Europe”** (BRIDGE-project). The overall objective is to strengthen the statutory response to gender-based violence (GBV) affecting children and youth on the move in EU countries.

## 4.3. OTHER VULNERABLE GROUPS APPLYING FOR ASYLUM<sup>142</sup>

The Law of 21 November 2017 modifies the Immigration Act and the Reception Act and came into force on 22 March 2018. Although **Article 36 of the Reception Act** already provided a non-exhaustive list of who can be considered vulnerable, it was adapted to **include additional examples of vulnerable persons** appearing in Directive 2013/33/EU. Are therefore additionally included: persons with serious illnesses, persons with mental disorders and persons who have been raped or have been subjected to other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.

A **specific procedural guarantees for applicants with special needs**, such as victims of gender related violence were already foreseen, but the law of 21 November 2017 aims at identifying the special needs more systematically and as early as possible, through a new **detailed questionnaire on procedural needs to be filled out at the Immigration Office** but also through **the detection of special needs in the reception facilities**. At the same time the special needs for reception are assessed, Fedasil will examine whether there are special procedural needs. With the permission of the applicant, the Agency can make recommendations regarding the special procedural needs for the attention of the Immigration Office and the CGRS.

142. Not including victims of human trafficking, as this is covered in Section 11.



Furthermore, through the newly adopted legislation **the criterion of 'best interest of the child' is further specified in the Reception Act** (Article 37) by defining what needs to be taken into account when assessing the child's best interest:

- the possibility of family reunification;
- the well-being and social development of the minor, with special attention to the personal situation of the minor;
- safety and security considerations, especially when the minor is possibly a victim of trafficking;
- the minor's point of view in accordance with his age, maturity and vulnerability.

Regarding **identification of vulnerabilities**, Fedasil opted, under **AMIF 2018-2019**, to subsidise five projects to strengthen the capacity of the reception network with regard to the **reception and care of persons with psychological / psychiatric problems** (adults and minors) – see also above. One of these projects is the successor of the 'FGM Global Approach' project, implemented by the non-profit organisations GAMS Belgium and Intact under AMIF 2016-2017. The new project, **Gender Based Violence & Asylum: an integrated approach**, coordinated by the non-profit organisation GAMS Belgium, together with the non-profit organisation INTACT and the European Family Justice Centre Alliance (EFJCA) aims at developing a guidance trajectory to support and refer asylum seeking girls and women who are victims of other forms of sexual and gender-based violence (SGBV).

The project targets the staff of the social and medical services in the reception facilities, representatives of Fedasil headquarters and of the reception partners who will be working together in a steering group; GBV reference persons within the reception network (Fedasil and partners) and professionals who provide services for victims of SGBV (applicants for international protection, beneficiaries of subsidiary protection and refugees). The objective of the project is the identification of and care for persons who have undergone gender-related violence (physical, psychologically and / or sexually).

In 2018, the Study and Policy Unit of Fedasil has developed a tool which will allow social workers of the Arrival Centre to make a first identification of vulnerable applicants for international protection with specific reception needs. It consists of a computerized list with a series of vulnerability and resilience indicators to be completed during a first interview with the applicant. On the basis of this identification, a reception facility that best corresponds to the reception needs of the person concerned can be sought and the designated reception centre can already begin to prepare the most appropriate support in advance of the arrival of the applicant. By the end of 2018 the tool was in the testing phase and the way in which this tool can be integrated into the Fedasil's automated management application, Match-it, is examined.



Fedasil has also enrolled in the **Interfederal Action Plan against discrimination and violence against LGBTI people (2018 - 2019)**. With this Interfederal Action Plan, the federal government and the federated states want to prevent and combat discrimination and violence against persons on the basis of their sexual orientation, gender identity, gender expression or intersex / DSD condition. The plan consists of 22 objectives that will be realised in 2018 and 2019 by fulfilling 115 concrete measures and actions. Within this framework, Fedasil has set up a LGBTI working group to develop a joint approach for the reception of LGBTI people together with the reception partners. The working group met for the first time on 2 July 2018. On December 10, 2018, Fedasil reported on the first interim monitoring of the Action Plan.

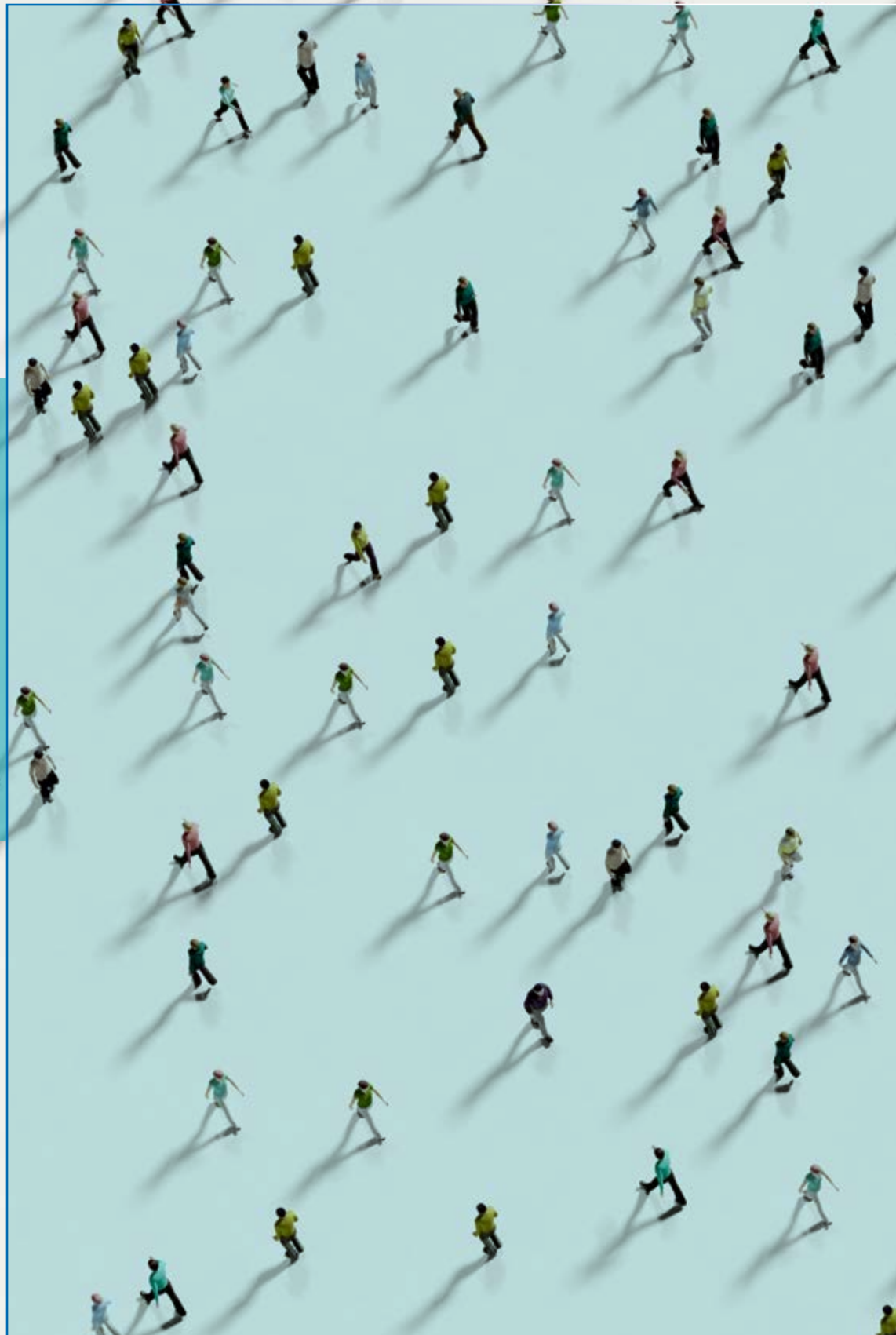
In the context of the **national funding 2018**, Fedasil subsidised several small scale and innovative projects related to vulnerable groups. One of these projects, called **'Meet and read on wheels'** aimed at the realisation of literacy development of children (4-10 years) and their parents, accommodated in reception centres in Brussels and Flanders, through organised reading sessions. Fedasil also subsidised two projects that supported staff in the reception facilities by **addressing issues related to drug and alcohol use by residents** of the reception facilities. Including the referral to specialised medical and psycho-social care for addiction treatment.

In 2018, instructions were drafted by the CGRS to take into account the **specificity of transgender people during the procedure for international protection**. These instructions include for the protection officer to adapt, during the interview, to the gender identity invoked by the person (using the appropriate title); to inform the applicant of the administrative peculiarities that may arise in the course of the procedure and the reasons for these particularities and to inform the applicant (oral information, leaflets) of the possibilities in Belgium to change the mention of the sex and the first name, in case of recognition of the refugee status. Since June 2018, protection officers may also **inform applicants for international protection (who are or appear to be) concerned with gender-based violence**. This could include informing them orally about the possibilities for help and support in Belgium and / or providing them with various information leaflets mentioning possibilities for help and support for victims of domestic violence, sexual violence, forced marriage, for girls and women (potentially) affected by FGM, for victims of transphobic discrimination (transgender people).

In February 2018, as part of the continuing training of protection officers, the CGRS organised a conference on **female genital mutilation** regarding the medical and psychosocial aspects.

# 05

## INTEGRATION



## 5.1. INTEGRATION OF THIRD-COUNTRY NATIONALS<sup>143</sup>

### 5.1.1. INTEGRATION THROUGH SOCIO-ECONOMIC PARTICIPATION

#### Background information

In Belgium, the Communities (Flemish, French and German-speaking) and the Regions (Flanders, Wallonia and Brussels-Capital) are responsible for the integration and civic integration of foreign nationals. Furthermore, the local authorities (the municipalities and the Public Centres for Social Welfare) are responsible for the implementation of several aspects of integration, such as housing and social assistance. The Federal Government is responsible for the housing and integration of applicants for international protection during the procedure for international protection.

#### Measures to improve attainment in schooling and/or the education system and/or vocational training

In order to **increase participation in pre-school education**, the Flemish Government retains the financial incentive for the participation of children in education, also in pre-school education. The **participation allowances** now replace the school allowance. Parents whose children of 3 and 4 years regularly participate in pre-school education receive a child allowance on top of the regular family allowance. This measure will take effect from 1 January 2019.

**Role models** are important for young people in their development to adults, therefore, the Flemish education policy focuses on coaching **young people of foreign origin** through successful role models. The Education Department subsidises the non-profit **organisation ‘PEP!’ for the implementation of three projects**. Two of these projects started in January 2018 and provide young people with insight and skills that improve their position in education and thus increases the chance of a qualification after the school trajectory.

In the 2018-2019 school year, the **Action Plan to strengthen reception education** in primary and secondary education was launched in Flanders. The focus is on further professionalisation, expertise sharing and networking for the actors involved in reception education in primary and secondary education. In addition, the education inspectorate evaluates the functioning of the follow-up school coaches. Based on this, it will be examined whether the current regulations need to be adjusted.

In the **French Community**, additional measures were taken in 2017 and the beginning of 2018 to further reinforce the **specific schooling system in primary and secondary education for newly arrived pupils** (i.e. bridging classes, the so-called “Dispositif de scolarisation et d’accueil spécifique à destination des élèves primo-arrivants” or “DASPAs”).<sup>144</sup>

#### Measures to enhance language skills

In **Flanders**, additional resources were once more provided to compensate for the increased influx of newcomers to courses ‘Dutch as second language’ (NT2). These additional resources were, for the time being, extended one last time until the end of 2018. The deployment of these funds is monitored as in previous years.

In **Wallonia**, the decree of 8 November 2018 relating to the integration of foreigners<sup>145</sup> which entered into force on 17 December 2018, **increased the duration of the French language course**, part of the mandatory integration programme, from 120 hours to 400 hours.

In the **Brussels Capital Region**, the ordinance of 11 May 2017 of the Joint Community Commission of the **Brussels-Capital Region** established a mandatory integration programme for certain newcomers. This Ordinance has not yet entered into force. It is worth mentioning that the ordinance stipulates that the integration programme should be composed of – at least – a certain number of defined modules, including a **basic course of French or Dutch as a foreign language**. In the meantime, migrants in the Brussels-Capital Region have access to language courses on a voluntary basis.<sup>146</sup>

In the **German-speaking Community**, the Decree of 11 December 2017<sup>147</sup> of the **German-speaking Community**, which entered into force on 1 January 2018, established a mandatory integration programme for certain TCNs in the German-speaking Community, which includes **language classes** for newcomers. The objective is that newcomers reach the A2 level of the Common European Framework of Reference for Languages (CEFR). To meet this objective, the German-speaking Community offers classes in different levels, including literacy courses. Additionally, more languages classes are offered to reach the B1 level of the CEFR for those who finished successfully the integration programme in order to allow their labour market integration.

#### Access to social security, social assistance, healthcare, housing and other basic services

At the **federal level**, beneficiaries of international protection and other migrants with a residence permit have full access to the basic provisions of Belgian health care while irregularly staying migrants can only benefit from **urgent medical assistance**. In February 2018, the Minister for Social Integration presented a draft law on urgent medical aid before the Public Health Commission of the House of Representatives. The draft law aims at – inter alia - **fighting abuses linked to urgent medical assistance**, by strengthening the control of urgent med-

143. In view of the large number of initiatives taken in 2018 by federal, regional and local authorities (as well as NGOs and non-profit organisations), the following information constitutes only a selection of the activities in the field.

144. The overall aim of these DASPAs is to ensure the integration of the newly arrived pupils in the schooling system of the French Community, to offer them educational and pedagogical support adapted to their learning profiles (such as the difficulties associated with a new language); and to offer them an intermediary schooling phase (of limited duration) before joining a “regular” class.

145. Amending the Book II of the Walloon Code of Social Action and Health concerning the integration of foreigners and people of foreign origin was published in the Belgian Official Gazette on 7 December 2018.

146. For some years now, migrants in Brussels wishing to enlist for the Dutch speaking integration course have been able to contact the reception agency for integration (BON). Since 2016, migrants wishing to follow the French-speaking integration course can contact two ‘welcome agencies for newcomers’, BAPA-BXL and VIA.

147. Dekret über Integration und das Zusammenleben in Vielfalt (Decree about integration and living together in diversity) adopted by Parliament on the 11.12.2017. BG, 20.12.2017. [http://www.ejustice.just.fgov.be/mopdf/2017/12/20\\_2.pdf#page=282](http://www.ejustice.just.fgov.be/mopdf/2017/12/20_2.pdf#page=282) [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&nm=2017206644&table\\_name=titre](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&nm=2017206644&table_name=titre)

ical assistance, precisely defining the roles of all the actors involved and the scope of urgent medical assistance and rectifying certain legal gaps.<sup>148</sup>

In **Flanders**, for the welfare and care facilities, a call was launched for **two projects with the aim to increase the accessibility of the services for people of foreign origin**. A first project focuses on a **culture-sensitive care and support policy in residential care for the elderly**. The project aims to establish a quality framework for culture-sensitive residential care for the elderly and to start up a learning trajectory with facilities offering this care. The facilities received scientific and methodological support during the learning trajectory. The second project, **'Getting started with culture-sensitive care' is aimed at management boards of healthcare facilities**. The project aimed to establish indicators to stimulate culture-sensitive care and support, to formulate recommendations for a culture-sensitive quality policy and to develop a charter with care facilities, with the commitment to make more work of culture-sensitive care and support.

### Integration into the labour market

The different **official integration trajectories** in Belgium are all composed of three modules: language training, citizenship training and a socio-professional orientation.

In **Flanders**, the target group of the Flemish Public Employment Service (VDAB) actions are non-native speakers with a migration background who are looking for a job. In 2018, the VDAB has put a specific focus on the group of non-native speakers with a migration background who are **still unemployed two years after registering with the VDAB** (at the beginning of 2018, 31% of the non-native speakers with a migration background is still unemployed two years after having registered with the VDAB<sup>149</sup>). At the same time, in accordance with the Flemish Integration Pact, the target group will be broadened to all jobseekers with a migration background, including Dutch speakers whose (grand) parents have emigrated to Flanders. The end goal of this operation is to transcend the dichotomy between migrants and the Flemish community in favour of a more inclusive community approach which addresses the individual needs of all.<sup>150</sup>

Since the migration crisis of 2015, the VDAB has also taken the **guidance of foreign-speaking newcomers** in a different direction. The new approach, **'Integration through work'**<sup>151</sup>, was based on faster screening, faster access to trainings or internships and the principle that Dutch is no longer a prerequisite, but a competence that can be picked up doing other things. The action plan ran for two years and was evaluated positively. The evaluation showed that the integrated approach with

faster access to training and work, results in much shorter trajectories towards work and also in a faster language acquisition. The principle 'language is a competence, but not a prerequisite', showed that language can be acquired much faster with a mix of methods. Different forms of workplace learning, such as professional internships, not only offered opportunities for developing general and technical competences, but also created many language learning opportunities. Given the positive experiences, the **principles of the action plan will be structurally embedded** in the work of VDAB. End 2018-2019, VDAB will initially **broaden the 'Integration through Work' programme to all jobseekers of foreign origin** and further implement the programme transversally across the entire VDAB organisation. The ultimate goal is to arrive at an **inclusive action-oriented approach**.

With another **action plan 'Integration in the workplace'**, VDAB makes work from a second pillar, for the same target group of the 'Integration through Work' programme. The starting point is that the **focus should be on the already present competences of the jobseekers**, instead of on the competences that are (still) lacking. Employers are actively involved: for example by means of a competency scan on the work floor in function of rapid access to work, workplace learning (with or without language and other coaching), guidance of employers in managing diversity issues, language policy on the work floor, etc.

The Flemish Government has approved a **draft decree on the Recognition of Prior Learning (RPL)-policy**. In its implementation, the Flemish Government wants to ensure that this RPL-policy increases the employment opportunities of people of foreign origin, including non-Dutch speaking newcomers. To this end, attention will be paid to linguistic and cultural thresholds in the development of RPL-tests and in the (admission to) assessment of competencies. A good cooperation and referral between civic integration services, VDAB and the RPL-test centres (and possibly the educational institutions) is of great importance.

The **Diversity in / and youth work - Masterplan 2018-2020**<sup>152</sup>, aims to **increase the accessibility of youth work in Flanders for children and young people of foreign origin** (and other target groups). The first pillar of this Master Plan is to create a larger youth work offer and provide more equal opportunities for all children and young people. The Master Plan opts for a **two-track approach**: on the one hand, further efforts to make the existing so-called 'regular' youth work accessible, on the other hand, to appreciate and build bridges between the various forms of youth work (e.g. youth work aimed at socially vulnerable children and young people, cross-over youth activities that make the bridge towards culture, work, sports, etc.).

**Wallonia** reinforced its policy for the socio-professional integration of newcomers into the labour market through the decision of the Walloon Government of 3

148. See: Belgian House of Representatives, Report on the first reading of the draft law by the Commission on Public Health, the environment, and the renewal of society, 2 February 2018, DOC 54 2890/002, <http://www.diekkammer.be/flwb/pdf/54/2890/54K2890002.pdf>.

149. At the beginning of 2018, 23% of the non-native speakers with a migration background are no longer looking for work (due to illness, family reasons, studies or departure from Belgium) two years after having registered with the VDAB Flemish community: VDAB.

150. Flemish community: VDAB.

151. Mid-2016, the Flemish Public Employment Service (VDAB) presented its action plan for 2017 entitled 'Integration through Work'. This action plan aimed to effectively and efficiently guide jobseekers with a migration background to available vacancies, while providing the right professional-oriented language skills, technical and soft skills that they need in order to access and integrate into the labour market, and at the level that best corresponds to their skills and educational qualifications. Where possible, this involves an integrated career approach that is based on on-the-job training.

152. The Plan is available in Dutch on: [https://cjsm.be/jeugd/sites/cjsm/jeugd/files/public/180221\\_masterplan\\_diversiteit\\_in\\_het\\_jeugdwerk.pdf](https://cjsm.be/jeugd/sites/cjsm/jeugd/files/public/180221_masterplan_diversiteit_in_het_jeugdwerk.pdf).

March 2016 on “**newcomers: implementation of the scheme for socio-professional insertion**”. In the framework of this decision, the Walloon Public Employment Agency, le Forem, launched a call for proposals in October 2017 in order to strengthen the measures and services aiming at integrating newcomers into the labour market. The main focus action areas were learning French in direct link with a specific profession and/or active search for a job; mentoring activities in companies and methodological and pedagogical support to obtain the B or C driver’s license.

In **Brussels**, the **partnership agreements** between Actiris, the Public Employment Service of Brussels, and the Brussels Welcome Offices for Newcomers, BAPA Bruxelles, BAPA VIA and BON, have been finalised and signed and actions have been put in place, such as information sessions for newly arrived job seekers. As a result, Actiris can rely on the network in charge of the integration trajectory for newcomers to ensure that newcomers register more easily with the local antennas of Actiris. These partnerships fall within the elaboration of a **global action plan** by Actiris regarding the integration of newcomers on the Brussels labour market. In this framework a reflection took place in relation to the support to be put in place for the specific target group of newcomers and the creation of the function of a specialised advisor. A proposal will be made in 2019.

Actiris also intensified the **diversity awareness among employers** using Diversity Consultants. An exchange and networking event took place on 25 October 2018 dedicated to the socio-professional integration challenges for newcomers and a **guide** was developed **to support employers** wanting to work with newcomers.<sup>153</sup>

The Decree of 11 December 2017<sup>154</sup> of the **German-speaking Community**, which entered into force on 1 January 2018, established a mandatory **integration programme for certain TCNs** in the **German-speaking Community**, which includes a **module on the social and professional orientation of newcomers**. However, the primary objective of the integration programme is the **social integration**.

### 5.1.2. INTEGRATION THROUGH CIVIC PARTICIPATION

At the **Federal level**, since 26 January 2017, foreign nationals have been required to **prove integration efforts** for certain residence applications and statuses in order to preserve their right of residence. In its judgment 126/2018 of 4 October 2018<sup>155</sup>, the Constitutional Court **annulled the criminal record** as one of the legal criteria to prove integration efforts.<sup>156</sup> The Court ruled that the criminal record must not play a role in assessing the integration efforts that

have been made because: (i) the criterion has too wide a scope, because any crime, regardless of the nature or seriousness of that crime, could lead to failure to meet the required integration efforts and (ii) the criterion is not proportional to the desired goal of integration and participation. In addition, the Court gives **some interpretations**:

- The Immigration Office must apply the **principle of proportionality** when assessing the integration efforts and thus take into account the **specific situation** of the person concerned, such as age, level of education, financial situation and health status. But **external factors** such as the language and civic integration offer, which means for example that the person concerned has not yet been able to follow language lessons, should also be taken into account.
- The failure to prove or insufficient proof of integration efforts is not a reason in itself not to extend or withdraw a right of residence. There also must be other reasons for not extending or withdrawing the right of residence, for example no longer meeting a condition of cohabitation.

The so-called **newcomers’ declaration**, according to which the foreign national must declare to understand the norms and values of the Belgian society and to act accordingly, is not yet into force. The provisions on the newcomer’s declaration can only come into effect after a cooperation agreement on the content of

the newcomer’s declaration is concluded between the Communities and the Federal Government.

In 2018, the Flemish Community, the French Community Commission and the Joint Community Commission (COCOM) of the Brussels-Capital Region have concluded a **cooperation agreement to enable the practical implementation of compulsory civic integration trajectory in Brussels**. However, this cooperation agreement can only enter into force after the parliaments of the Communities involved have agreed on the cooperation agreement. The procedure for the Flemish consent decree is running.

In **Wallonia**, a **new decree relating to the integration of foreigners**, the decree of 8 November 2018 and its implementing order have been adopted.<sup>157</sup> The purpose of this decree is to **reinforce the mechanisms constituting the integration trajectory** in order to amplify the effects and the number of beneficiaries<sup>158</sup>. These new provisions will come into force in January 2019. The **decretal and regulatory amendments impact the newcomers subjected to the integration trajectory, but also the actors of the integration policy in Wallonia**: training operators, local integration initiatives (ILI), Regional Integration Centres (CRIs), Social Interpreting Services, etc. The annual supplementary budget allocated to these measures is EUR 8 million per year.

153. Actiris, Accueil et intégration des primo-arrivants : guide en 5 étapes, November 2018, available in French on <https://blog.actiris.be/fr/employeurs/accueil-et-integration-des-primo-arrivants-guide-en-5-etapes>.

154. Dekret über Integration und das Zusammenleben in Vielfalt (Decree about integration and living together in diversity) adopted by Parliament on the 11.12.2017. BG, 20.12.2017.

[http://www.ejustice.just.fgov.be/mopdf/2017/12/20\\_2.pdf#page=282](http://www.ejustice.just.fgov.be/mopdf/2017/12/20_2.pdf#page=282)  
[http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&nm=2017206644&table\\_name=titre](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&nm=2017206644&table_name=titre)

155 <http://www.agii.be/grondwettelijk-hof-04-10-2018>

156. Article 1/2 of the Immigration Act lists, non-exhaustively, a number of criteria that the Immigration Office can take into account when assessing the integration efforts: following an integration course; working as an employee, self-employed person or civil servant; studying or graduating from an organised, recognised or subsidised educational institution; following of a recognized vocational training; knowledge of the language of the place of registration in the national register; actively participating in leisure activities; criminal past.

157. The decree of 8 November 2018 amending the Book II of the Walloon Code of Social Action and Health concerning the integration of foreigners and people of foreign origin was published in the Belgian Official Gazette on 7 December 2018. Its implementing decree, the Order of the Walloon Government of 20 December 2018 amending the Book III of the Walloon Code of Social Action and Health concerning the integration of foreigners and people of foreign origin was published in the Belgian Official Gazette on 4 February 2019.

158. Currently, more than 3,000 people attend the integration trajectory on a voluntary or compulsory basis annually. The proposed measures also aim to bring in this course up to 1,500 additional people.

The decree provides:

- 400 hours minimum training for **French as a foreign language**, instead of the 120 hours previously;
- 60 hours for **citizenship training** instead of 20 hours previously;
- a review of the **list of foreign nationals who are exempted** from following the mandatory integration programme, in order to broaden the target audience;
- a **revision of the definition of the target audience** allowing Belgians of foreign origin who feel the need to use the various support mechanisms;
- the possibility to **accredit operators for the social support axis**;
- a scheme for the **care for unaccompanied foreign minors**, a particularly vulnerable public, transversally with the French Community and the Federal Government. Wallonia will give aid to the organisations that accompany UAMs;
- for the **strengthening of the level of experience of the trainers**;
- the **facilitation of the collaboration between municipalities and the Regional Integration Centres (CRIs)** in order to speed up the contact between the newcomer and the competent regional integration centre.

Finally, various changes in the **composition of the bodies** presiding over the integration trajectory are implemented, in particular that of the coordination committee and within the boards of directors of the Regional Integration Centres

themselves. The establishment of a **support committee**, representative for the sector, is also planned.<sup>159</sup>

In the **German-speaking** Community, the decree of 11 December 2017<sup>160</sup>, which came into force on 1 January 2018, made the **integration programme mandatory** for foreign nationals who (i) are above 18 years of age; (ii) register at a municipality of the German-speaking Community after 1 January 2018; (iii) have a residence permit valid for at least three months.

There are however exceptions, e.g. the programme is not mandatory for EU/EEA/Swiss citizens, students, migrants above the age of 65, migrants who have lived in Belgium for longer than 3 years, etc. Nevertheless, this integration programme is open on a voluntary basis to all migrants.<sup>161</sup> The integration programme includes a so-called integration module which provides the newcomers with information on their rights and duties, as well as on the values of the Belgian society.

Furthermore, as foreseen in the decree, a centre was accredited by the government of the German-speaking Community as the **reference centre for the integration programme**: the **“Info-Integration” centre**<sup>162</sup>. It accompanies participants in the integration programme from start to finish. The first step in getting involved in

the integration programme is a conversation with an Info-Integration employee. On the basis of this conversation, an individual plan is defined, indicating the individual stages of the course for each participant. Besides that, the centre has other tasks, such as the organisation of awareness raising measures on migration targeting the host population; or offering consultation services for organisations working with migrants (see below).

The Decree also provided for the creation of an **advisory council for all matters related to integration**. This newly created advisory council for integration is composed of – inter alia - representatives of civil society, local integration officers and **migrants**. The main tasks of the council are - among others - to make proposals concerning the development and implementation of integration policies, and to provide its opinion on draft legislative texts regarding social and professional integration of migrants. Since 1 December 2018, the Government Decree implementing the Decree of 11 December 2017 has entered into force<sup>163</sup>. Besides the accreditation of the reference centre, it also regulates the **accreditation of language and integration courses**. The decree also provides **the conditions for the extension of the duration or interruption** of the integration trajectory.

While in Flanders, the German-speaking Community and the Wallonia a mandatory integration programmes for newly arrived TCNs is implemented, in the **Brussels-Capital Region**, participation in the integration programme is currently **still on a voluntary basis**. A **mandatory integration programme** for Brussels was established by the **Ordinance** of the Joint Community Commission of the Brussels-Capital Region of **11 May 2017**<sup>164</sup>. The Ordinance indicates that the integration programme will be mandatory for newcomers (i) who are between 18 and 65 years old; (ii) who have registered for the first time at a municipality of the Brussels-Capital Region with (iii) a residence permit valid for longer than 3 months; and (iv) who have not lived in Belgium for longer than 3 years. Certain categories of foreign nationals will be exempted from this obligation (e.g. EU/EEA/Swiss citizens, foreign nationals regularly residing in Belgium for maximum one year, etc.). However, this ordinance has **not yet entered into force** as the executive measures still need to be adopted, as well as an agreement between the Flemish Community, the French Community Commission (COCOF) and the Joint Community Commission (COCOM). The goal is to achieve a mandatory integration programme in January 2020. In the meantime, migrants in the Brussels-Capital Region do have access to the existing integration programmes on a voluntary basis.<sup>165</sup>

159. More detailed information is available in French on <http://actionsociale.wallonie.be/actualites/dispositions-legales-cwass-integration-personnes-origine-etrangere>.

160. Dekret über Integration und das Zusammenleben in Vielfalt (Decree about integration and living together in diversity) adopted by Parliament on the 11.12.2017. BG, 20.12.2017. [http://www.ejustice.just.fgov.be/mopdf/2017/12/20\\_2.pdf#page=282](http://www.ejustice.just.fgov.be/mopdf/2017/12/20_2.pdf#page=282) and [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&nm=2017206644&table\\_name=titre](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&nm=2017206644&table_name=titre)

161. More information on the integration trajectory in the German-speaking Community on: [http://www.ostbelgienlive.be/desktopdefault.aspx/tabid-4795/8506\\_read-47195/](http://www.ostbelgienlive.be/desktopdefault.aspx/tabid-4795/8506_read-47195/) and on [http://www.ostbelgienlive.be/desktopdefault.aspx/tabid-4795/8506\\_read-47211/](http://www.ostbelgienlive.be/desktopdefault.aspx/tabid-4795/8506_read-47211/).

162. More information on <http://info-integration.be/> and [http://www.ostbelgienlive.be/desktopdefault.aspx/tabid-4795/8506\\_read-47194/](http://www.ostbelgienlive.be/desktopdefault.aspx/tabid-4795/8506_read-47194/).

163. Arrêté du 4 Octobre 2018 du Gouvernement de la Communauté Germanophone portant exécution du décret du 11 décembre 2017 relatif à l'intégration et au vivre ensemble dans la diversité

164. Ordinance of the Joint Community Commission of 11 May 2017 on the integration pathway for newcomers, BG, 30.5.2017. [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&cn=2017051109&table\\_name=loi](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2017051109&table_name=loi)

165. For some years now, migrants in Brussels wishing to enlist for the Dutch speaking integration course have been able to contact the reception agency for integration (BON). Since 2016, migrants wishing to follow the French-speaking integration course can contact two 'welcome agencies for newcomers', BAPA-BXL and VIA.



## 5.2. PROMOTING INTEGRATION OF SPECIFIC CATEGORIES OF THIRD-COUNTRY NATIONALS

In December 2017, Fedasil began implementing the project "**Early Labour Integration of Refugees**", funded by the European Social Fund (ESF). The aim of the project is to develop **early chain cooperation for the admission of applicants for international protection to the Flemish labour market**. To this end, Fedasil cooperates with the Flemish Public Employment Service (VDAB) and the Agency for Integration and Civic Integration (AGII). A third partner is the Central Reception Agency (COA) from the Netherlands, with which a transnational framework is set up to exchange good practices. As a pilot project, a **screening tool** was developed in collaboration with the VDAB in order to be able to **detect the applicants' competencies at an early stage**. The project will run to 30 November 2019.

The **instruction on the cooperation between Fedasil and Le Forem**, the Public Employment Service for Wallonia, took effect on 1 April 2018.<sup>166</sup> On 29 August 2017, Fedasil and Le Forem signed a cooperation agreement to **promote the integration of applicants for international protection in Wallonia through employment**.<sup>167</sup> The intention of the cooperation is to make the employment service more familiar to applicants for international protection and to help

them find a job easier. The cooperation focuses specifically on information, referral, mobilisation, activation and orientation towards the labour market of applicants for international protection with a high recognition rate as well as beneficiaries of international protection.

In **Flanders** and in **Brussels**, Actiris and the VDAB participated in the project "**@level2work**"<sup>168</sup>, in collaboration with various partners. The project had 7 experimental gardens in Flanders and 1 experimental garden in Brussels which run between 1 July 2016 and 31 March 2018. The objective was to **mediate highly educated non-native speaker to work at their level of education**. In order to connect supply and demand a **one-stop-shop** was set up. A digital platform was created where the highly educated non-native speaker and employer could find all the information about the existing offer. There was also a physical contact desk where highly educated non-native speakers were guided in their trajectory to work. The focus was on integrated working, case management, the long-term perspective of the jobseeker and involving employers.

No less than 1,175 highly-skilled non-native speakers were reached with a great diversity of 110 different nationalities. After a year, 38.9% had already found a job. Within @level2work a lot of expertise and a specific offer for highly educated people has been developed. The conclusion of the HIVA, research

institute for Work and Society of KU Leuven<sup>169</sup>, is that the one-stop-shop desk should be structurally anchored.

As mentioned above, the **Walloon Government** decided in December 2017 to **reinforce and improve its mandatory integration programme**, in order to increase its effects and the number of beneficiaries. **Specific measures were introduced for UAMS** in the integration programme<sup>170</sup>, such as the subsidisation of associations or public authorities that develop activities aimed at the integration of unaccompanied minors from 16 years onwards and put in autonomy, as defined by the Programme Law of 24 December 2002. These activities are distinct from the integration trajectory since the integration programme is not compulsory for children under 18 years.

## 5.3. NON-DISCRIMINATION

Unia, the independent public institution that combats discrimination and promotes equal opportunities, commissioned a study about equal opportunities in the schools in the three Communities in Belgium, the **Diversity Barometer Education (2018)**<sup>171</sup>. Education is an essential link and probably the single most important condition for promoting integration, combating exclusion and exercising civil rights. Nevertheless, there are significant inequalities in the Belgian education system. This is certainly the case when the social background, gender, disability or sexual orientation of the pupils are taken into account. Unia therefore wanted to investigate the current situation and uncover the mechanisms that contribute to inequalities in the different educational systems in Belgium.

Academic researchers<sup>172</sup> conducted a survey in the three Communities in Belgium. The discrimination criteria selected for the study were ethnic background, social background, disability and sexual orientation. The study showed that in addition to the structural and compositional characteristics of a school, it is above all **the competencies and attitudes of the school personnel that play a decisive role in how schools deal with diverse students**. On this basis, it could also be concluded that a number of major

166. The collaboration started already started earlier in various reception centers in Wallonia. The instruction formalises these cooperation for all reception structures.

167. A similar agreement was concluded on 14 July 2016 for the Flemish Public Employment Agency (VDAB) and Fedasil.

168. <http://atlevel2work.be>

169. HIVA published a scientific study on the project, available in Dutch on: <https://hiva.kuleuven.be/nl/nieuws/nieuwsitems/mentoring-naar-werk-hooggeschoolde-anderstalige-nieuwkomers-analyse-knelpunten-successen-opportunities>.

170. <http://greoli.wallonie.be/home/presse--actualites/publications/a-ministre-alda-greoli-et-le-gouvernement-wallon-amplifient-le-parcours-dintegration-pour-une-wallonie-davantage-inclusive.publicationfull.html>

171. The Diversity Barometer Education is the final part of a triptych. The first two parts were about employment (2012) and housing (2014).

172. The study is the result of long-term scientific research by the universities KU Leuven, UGent and ULB. The research was supported by the Ministers of Education of the three Communities and by the Minister for Equal Opportunities for the French-speaking Community.

adjustments in the support and training of teachers, as well as in the general educational policy, could have an important impact on the educational prospects of these target groups. Based on the research results and on its own expertise in the area of education, Unia formulated a number of policy recommendations to reduce inequality in education and to promote a policy for equal opportunities and diversity.<sup>173</sup>

At the **federal level**, the law of 15 January 2018 containing various provisions on work, allows the social inspection services, from 1 April 2018 onwards, to **carry out anonymous practical tests, the so-called “mystery calls”, under strict conditions** to detect discriminatory hiring practices of companies. The social inspectors are allowed to act as customers, potential customers, employees or potential employees in order to ascertain whether or not discrimination has been made on the basis of a legally protected criterion. However, mystery calls are only possible if there are objective indications of discrimination or after a complaint or a report, supported by results of data mining and data matching (to prevent fishing expeditions). Furthermore, the exercise of this special competence is **subject to a written and prior approval of the labour auditor or the public prosecutor**. All actions and their results must be recorded in a report and communicated to the labour auditor or the public prosecutor.

In **Flanders**, on 20 July 2018, the **Action Plan for Flemish anti-discrimination policy for the private rental market**<sup>174</sup> was communicated to the Flemish Government. Through this action plan, the Flemish Minister for Home Affairs, Integration, Housing, Equal Opportunities and Poverty Reduction wants to tackle the causes of discrimination on the private rental market. The focus is on informing and sensitising tenants, landlords and real estate agents. The action plan also has set aside an important role for the local authorities.

In **Brussels-Capital Region**, the **ordinance of 16 November 2017** of the Brussels-Capital Region - which came into force on 1 January 2018 - aims at **fighting discrimination in employment** in the Brussels Region<sup>175</sup>. This ordinance authorises regional employment inspectors to carry out tests to detect discrimination in employment.

On 22 November 2018, Actiris presented the **report "Intersectionality"**.<sup>176</sup> This report was carried out by the Centre for Intersectional Justice commissioned by the Diversity Service of Actiris. It is an analysis of the conversion of the concept of intersectionality in the context of the reform of the instruments for promoting diversity and combating discrimination in the Brussels-Capital Region. One of the most important conclusions from the report is that **we too often look at the labour market one-dimensionally,**

**from one category, such as age or gender**. Reality teaches that **persons are defined from a set of 'identity markers'** and that a person is not only male or female, but at the same time belongs to an ethnic group, a social class and an age group. These 'markers' have an important impact on the position on the labour market. The report "Intersectionality" introduces the need to cross gender, origin and other identity markers in order to expose processes that lead to prejudices and unequal opportunities on the labour market.

The report shows that especially the markers 'origin' (non-European) and gender (women, with or without children), have an influence on the employment opportunities, but also the level of education and having a (recognised) diploma and affects the employment of people with a migrant background. As a follow-up to this research report, it is proposed to **develop specific measures to better deal with prevailing discrimination and inequality in the labour market**. In doing so, account is taken of the comments made on the report by the social partners, employers and other actors on the labour market. An analysis is made of the current target group policy in the Brussels Region and a proposal to adapt the existing 'crossroads' policy in other places to the Brussels social, economic and political reality.

The **German-speaking Community** organised an awareness raising event in June 2018 for all organisations and institutions working with people who could be affected by discrimination or human trafficking. The aim of the event was to sensitise social sector workers to the issue and provide them with the means to help their clients. A follow-up event will take place in April 2019, where the specific subject of racist discrimination will be treated.

173. The study is available for download in the three national languages and a summary in English of this research in both the Flemish and the French-speaking Communities, available on <https://www.unia.be/en/publications-statistics/publications/diversity-barometer-education-2018>.

174. The Action Plan is available in Dutch on: [https://www.wonenvlaanderen.be/sites/wvl/files/documents/actieplan\\_vlaams\\_antidiscriminatiebeleid\\_op\\_de\\_private\\_huurmarkt.pdf](https://www.wonenvlaanderen.be/sites/wvl/files/documents/actieplan_vlaams_antidiscriminatiebeleid_op_de_private_huurmarkt.pdf).

175. BG, 21.11.2017.

176. The report is available on <http://www.actiris.be/Portals/43/CIJ%20-%20Rapport%20-%20Le%20r%C3%B4le%20de%20l%E2%80%99intersectionalit%C3%A9%20dans%20la%20lutte%20contre%20les%20discriminations-compressed.pdf>

#### 5.4. PROMOTING INTEGRATION AT LOCAL LEVEL AND COOPERATION, CONSULTATION AND COORDINATION OF LOCAL STAKEHOLDERS

In the **Flemish Community**, as a result of the increased inflow of applicants for international protection in 2015 - 2016, the Flemish Government allocated in 2016 an amount of EUR 22,554 million to **support the municipalities in integrating applicants and beneficiaries of international protection**. These resources were allocated on the basis of objective criteria to the municipalities where the biggest challenges arose. The funds could be spent **up till the end of 2018**.<sup>177</sup>

The **Flemish government** considers local authorities as privileged partners in developing an integration policy. This integration policy – including at the local level - should be a coordinated policy: integration measures should be taken within and across policy areas and focus on the same priorities. In this framework, a **research project commissioned by the Flemish authorities on the development of an integration policy by local authorities** was finalised in June 2018<sup>178</sup>. The research showed, that both in the literature as among the local authorities there is a lack of clarity about what the local directing role of local authorities in the integration policy means. The study examined the degree of external control by means of three components, namely (1) having an

overview of the situation, (2) setting out common policies between the municipality and the partners and (3) organising the cooperation between the relevant actors. The study also focused on the internal organisation and management, the political support for integration policy and some incentives and barriers to take the lead, as these components can have an impact on how the external director's role is incorporated in the local authorities.

Based on the results, **policy recommendations were formulated for the local authorities, the Flemish Government and the Agency for Integration and Civic Integration**. The recommendations for local authorities state that the authorities must focus on each of the three steering components, namely (1) providing an overview of the challenges and partners in the field of integration policy, (2) realising common policies between the municipality and the external partners and (3) organising cooperation between the integration actors. The study also recommends to focus on internal management and make a conscious choice about the place of the integration policy in the organisation chart, as this may have an impact on the degree and nature of external and internal control. Another recommendation is to be aware of the important role that political support for integration policy plays for the governing role of the cities and municipalities as well as the stimulating role of financial resources which are an important reason for the municipalities to start a local integration policy.

Furthermore, the study showed that the Integration and Civic Integration Agency is known by a majority of local authorities and that the cooperation with the Agency is generally positively assessed. However, the Agency could make additional efforts to make the support offer known to all local authorities and to optimise the offer by asking the local authorities about the type of support needed and to organise the exchange of experiences and good practices in terms of local directive role.

In May 2018, the third edition of the **'Flemish Migration and Integration Monitor 2018'** (Vlaamse Migratie en Integratiemonitor 2018) was published.<sup>179</sup> The Flemish Migration and Integration Monitor brings together administrative and other statistical data on migration and integration processes of foreign nationals and people of foreign origin in Flanders, within a Belgian and European framework.

At the same time, the results of the first edition of the survey **'Living together in Diversity'** (Samenleven in Diversiteit – SID-survey) were presented.<sup>180</sup> This survey is a new large-scale survey conducted for the first time in 2017 among almost 4,500 people of Belgian, Moroccan, Turkish, Polish, Romanian and Congolese origin in Flanders, with particular attention to the aspects of living together in diversity that often remain underexposed in administrative data and general population surveys.

Both instruments are the result of a collaboration between the Agency for Local Government (Agentschap Binnenlands Bestuur) and Statistics Flanders<sup>181</sup> and **contribute to a better understanding and knowledge of the diversity that characterizes Flanders**.

The results of the **'Family Survey'** (Gezinsenquête) were also presented in May 2018. The study was conducted by the Department of Welfare, Public Health and Family and involved a large-scale study of the modern family, the education of the children and the combination of family, work and care. In this study, cohabiting and single parents with children in Flanders were interviewed. In 2018, in cooperation with the Agency for Local Government an additional survey was conducted among families of which at least one parent is of non-EU origin.<sup>182</sup>

In July 2018, the sixth **edition of the Flemish Local Civic Integration and Integration Monitor (LIIM) was published**<sup>183</sup>. The LIIM bundles data at municipal level on the size and social position of the group of foreign nationals and persons of foreign origin in the areas of employment, housing, education, welfare, poverty and participation in their community in order to support the local authorities with reliable figures for the planning and development of their (civic) integration policies. For every municipality in the Flemish and Brussels Capital

177. More information available in Dutch on : <https://lokaalbestuur.vlaanderen.be/vluchtelingeninstroom-subsidies-aan-ge-meenten/toelichting-regelgeving>.

178. KU Leuven Instituut voor de Overheid (2018), De Invulling en versterking van de regierol van lokale besturen op vlak van integratiebeleid, available in Dutch on: <https://soc.kuleuven.be/io/onderzoek/publicatie/deprez-platteau-en-hondeghem-2018-invulling-en.pdf>.

179. Vlaamse Migratie en Integratiemonitor 2018, available in Dutch on [http://www.samenleven-in-diversiteit.vlaanderen.be/sites/default/files/vlaamse\\_migratie\\_integratiemonitor\\_2018\\_rapport.pdf](http://www.samenleven-in-diversiteit.vlaanderen.be/sites/default/files/vlaamse_migratie_integratiemonitor_2018_rapport.pdf).

180. Stuyck, K., Doyen, G., Feys, Y., Noppe, J., Jacques, A., Buysschaert, P. (2018). Survey Samenleven in Diversiteit 2017, Brussel: Agentschap Binnenlands Bestuur; ook gepubliceerd op <https://samenleven-in-diversiteit.be/rapport>.

181. Statistics Flanders is the network of Flemish government agencies that develop, produce and publish official statistics. The network has the remit to develop and implement a coordinated statistical policy, focused on the flexible, helpful provision of high quality statistics to all users.

182. Feys, Y. (2018). Gezinsenquête 2016: Gezinnen van niet-EU-herkomst, [http://www.integratiebeleid.vlaanderen.be/sites/default/files/atoms/files/13\\_GezinnenVanBuitenlandseHerkomst\\_Def.pdf](http://www.integratiebeleid.vlaanderen.be/sites/default/files/atoms/files/13_GezinnenVanBuitenlandseHerkomst_Def.pdf).

183. <https://www.statistiekvlaanderen.be/monitor-lokale-inburgering-en-integratie>.

Region, a digital report is available with the municipal results on the various indicators and a comparison of these results with the score of the Flemish or Brussels Region as a whole and the average score of a group comparable municipalities. In September 2018 the LIIM was **updated with the digital figures per municipality** of the 308 Flemish municipalities and the 19 municipalities of the Brussels-Capital Region. This year **new data are available**, i.e. data with regard to the share of people of foreign origin in the staff of the municipality (in %) (figures for 2016) and the number of foreign nationals who registered as voters at the municipal elections of 14 October 2018, and the share of registered voters in relation to the number of potential voters by nationality group.

For the **German-speaking Community**, the Decree of 11 December 2017<sup>184</sup> of the **German-speaking Community**, which entered into force on 1 January 2018, also foresees the appointment of **two local integration managers**. These local integration managers are responsible for the coordination of all local initiatives in the field of integration and to analyse the needs. They are also the first contact persons for volunteers in the area of integration.

## 5.5. AWARENESS RAISING ON MIGRATION IN THE HOSTING COMMUNITY

Various projects aiming at raising awareness, including many stakeholders about migration, have been launched in 2018. Among these projects, **the organisation 11.11.11** (an umbrella organisation of Flemish NGOs) focused its campaign year in 2018 on the topic of migration and refugees<sup>185</sup>. 11.11.11 campaigns for a human and solidarity-based migration policy. The organisation demands that politicians ensure safe routes and address the structural causes of migration. In the last months, 11.11.11 observed a change of discourse when it comes to refugees. In the past they were mainly presented as victims, while they are now much more co-responsible for their own destiny. The organisation wants politicians to communicate honestly about migration and especially that they treat migrants with dignity. About 80 organisations from different sectors were involved in this campaign and various activities were implemented in the framework of the campaign.

In the run-up to the World Refugee Day 2018, **Fedasil developed an animated film and a pedagogical package for pupils in primary and secondary education and their teachers**, with the support of the King Baudouin Foundation and the National Lottery. The short and highly accessible **animated film** follows

the route of applicants for international protection, from the departure from their homeland until the end of the procedure for international protection in Belgium. This film is available online in Dutch, French and English and in two different versions: a version for primary education and a version for secondary education.<sup>186</sup>

In order to be able to go deeper into the matter during the lessons, Fedasil also developed an additional **pedagogical package "On the run"**. This package, intended for students from the first grade of secondary education (12-14 years), consists of 2 parts:

- a bundle for pupils with assignments, testimonials, figures, concepts, discussion questions
- a bundle for teachers with solutions to the assignments, additional information and useful links and tips for more information and figures

This package offers **support to talk about refugees, international protection and migration in the classroom**. At the end of this package, young people better understand the difference between refugees, applicants for international protection and migrants, and they know a bit more about the trajectory that applicants for international protection follow in Belgium. The pedagogical support tool is available in Dutch and French.<sup>187</sup>

In the German-speaking Community, the Decree of 11 December 2017 created the **"Info-Integration" centre** as the reference centre for all integration and migration matters. Among others, the centre is tasked with **raising the general public's awareness about migration, refugees, and integration**.<sup>188</sup>

184. Dekret über Integration und das Zusammenleben in Vielfalt (Decree about integration and living together in diversity) adopted by Parliament on the 11.12.2017. BG, 20.12.2017. [http://www.ejustice.just.fgov.be/mopdf/2017/12/20\\_2.pdf#page=282](http://www.ejustice.just.fgov.be/mopdf/2017/12/20_2.pdf#page=282)

185. <http://allemaalnensen.11.be/>

186. <https://www.fedasil.be/en/on-the-run>

187. <https://www.fedasil.be/fr/en-exil-paquet-pedagogique>

188. Ministerium der Deutschsprachigen Gemeinschaft: Sozialpolitik; <http://info-integration.be/>

# 06

## CITIZENSHIP AND STATELESSNESS



## 6.1. ACQUISITION OF CITIZENSHIP

The law of 18 June 2018 concerning various provisions of Civil law changed a number of dispositions in the Citizenship law (entry into force on 12 July 2018)<sup>189</sup>, **to acquire Belgian Nationality**<sup>190</sup>. The changes are listed below.

- An article that was abolished in 2012 was reintroduced. When somebody **has been treated during 10 years as a Belgian** by the Belgian authorities, even though he did not have the Belgian nationality, he can file an application to obtain the Belgian nationality (this application can be done from the Belgian consular post). He will need to file the application within the year that his Belgian nationality is contested.
- A number of modifications related to the conditions to acquire Belgian nationality:
  - The condition to have a **legal residence** was modified into the condition to have primary residence in Belgium on the grounds of a legal registration of that residency in the Register.
  - The new law modified the wording
- of the condition of having followed a **civic integration programme**, because of differences in the wording of such a programmes in the different Belgian Regions and Communities.
- A different way of calculating the prior **period of legal residence** before one can apply for the nationality.
  - *The period between the application for international protection and the recognition as refugee is now taken into account for this calculation.*
  - *The period between the application of residence permit as a family member of an EU Citizen and obtaining a positive decision on this application is now taken into account for this calculation*
- Exceptions were introduced on the principle that one cannot apply for the **Belgian nationality from abroad**: an application for obtaining the Belgian nationality after the loss of it can now be done abroad at a Belgian consular post.
- The law adopted a new **cascade system** when the replacement of a **birth certificate** is needed. The replacement by a **birth attestation** is only accept-






189. Law of 18 June 2018 containing various provisions on civil law and provisions with a view to promoting alternative forms of dispute settlement, BG, 2 July 2018.

190. Since 2013, and in most cases, foreigners over the age of 18 need to fulfil integration requirements to be able to acquire **Belgian nationality**. Only adults who are born in Belgium, have resided legally in Belgium ever since and have an unlimited residence permit in Belgium, are exempt from this requirement.

For a foreigner who is not born in Belgium, there are two possibilities: a short option after 5 years of residence and a longer track after 10 years of residence. In both cases, the person concerned has to have a residence permit of unlimited duration and needs to prove its knowledge of one of the three official languages (Dutch, French or German at the A2 level of the common European framework of reference for languages). The other requirements differ:

- **Short track**: if a person wants to acquire the Belgian nationality after five years of legal residence, he/she needs to show - in addition to the requirements mentioned above - evidence of his/her civil integration and of economic participation. Exceptions exist for persons married to a Belgian, handicapped or retired persons..).

- **Long track**: if a person wants to acquire the Belgian nationality after ten years of legal residence, he/she can only acquire the Belgian nationality if he/she can prove, by all legal means, his/her participation 'to the economic and/or socio-cultural life of the host community' in addition to the two requirements mentioned above.

ed when the applicant is a national of one of the countries on a specific list. On the list there are countries from whom it is impossible or very difficult to obtain a birth certificate from. Currently the countries on that list are Afghanistan, South Sudan, Somalia and Angola (only the enclave Cabinda). Applicants from other countries cannot longer apply with a birth attestation to replace the birth certificate. For them it is possible to start a procedure to obtain a notarised document or as a last resort a declaration on oath.

Following the new law the conditions for revocation of the Belgian nationality have been adjusted. An exemption has been added, which entered into force on 12<sup>th</sup> of July 2018: a Belgian born outside Belgium will no longer lose his/her Belgian nationality because they did not ask to maintain the nationality, under the condition that they applied and received a Belgian passport or Belgian identity card between the age of 18 and 28 years old.

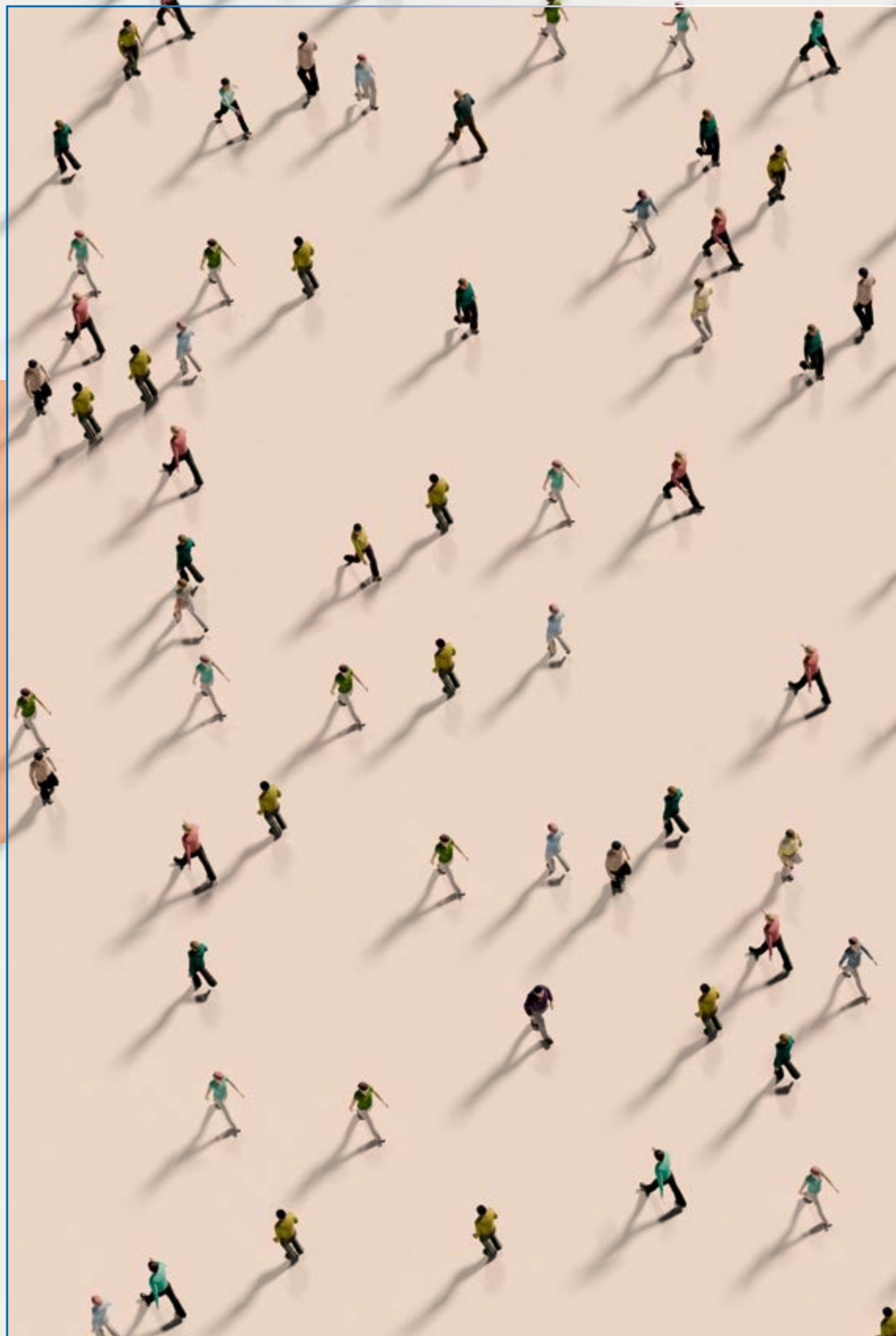
## 6.2. STATELESSNESS DETERMINATION, STATUS AND RIGHTS GRANTED

Following a judgement by the Constitutional Court of 22<sup>nd</sup> of February 2018<sup>191</sup>, people that are recognised as stateless are **exempted from the retribution that needs to be paid for a residence application**. This includes for example applications for humanitarian regularisation and family reunification. There are two conditions that need to be fulfilled: the recognised stateless person has to have lost his nationality beyond his control and he cannot obtain a residence right in another country with whom he has ties.

191. Constitutional Court 22 February 2018, Judgment n°18/2018.

# 07

## BORDERS, VISA AND SCHENGEN





## 7.1. ENHANCED BORDER MANAGEMENT AT THE EXTERNAL BORDERS

### 7.1.1. BORDER CONTROL MEASURES/ MANAGEMENT

**Detention at the border** is meant for persons who do not fulfil the conditions of entry as stipulated in Article 2 and 3 of the Immigration Act. It concerns, for example, persons who are insufficiently documented at arrival (illegal entry) or who misled the Belgian authorities regarding his/her identity and/or nationality.

The Law 21 November 2017<sup>192</sup>, which came into force on 22 March 2018 has implications for **detention at the border and border procedures for applicants of international protection**. Although an application for international protection made by a person who is being held in detention at the border will not lead automatically to the right to enter the territory, the law of 21 November 2017 also explicitly stipulated that no foreign national can be put in detention for the mere reason that he/she has applied for international protection. The new law also outlines the possible grounds for detention for applicants for international protection, at the border and on the Belgian territory.<sup>194</sup> In general, it can be concluded that the legislative change offers **more procedural guarantees** for

applicants for international protection and prescribes an **individual assessment**, and that detention at the border or on the territory is only possible if this is necessary and proportionate. The legislative change also entails that detention at the border for applicants for international protection is **limited to two months** and a decision has to be taken by the CGRS within four weeks. The CGRS can decide that applicants for international protection held in detention at the border have special procedural needs or that further inquiry is required. In this situation, the applicant for international protection can enter the Belgian territory. Furthermore the Law of 17 December 2018, which also came into force on 22 March 2018, **reduced the appeal period** for persons being held in detention from 15 days to 10 days.

Following the adoption of the legislation regarding the creation of a national PNR unit<sup>195</sup> in 2017, the Passenger Information Unit (BelPIU) came operational since January 15th 2018. Belgium has started connecting air carriers to an IT system that **collects and processes PNR and API<sup>196</sup> data**.<sup>197</sup> In December 2018, connection was established and PNR and API data from 18 air carriers could be received.<sup>198</sup> More than a third of the air traffic is already covered. Hits generated through this automated process have been successfully transmitted to the airport for further investigation to facilitate border controls.

### 7.1.2. ACTIVITIES TO IMPROVE THE EFFECTIVENESS OF CONTROLS AT EXTERNAL BORDERS

In 2018 the Federal Police started with the development of a **national Integrated Border Management strategy (IBM)** in line with the EU-strategy elaborated by Frontex. One of the main priorities for 2019 will be the further development of this national Integrated Border Management-strategy by the different stakeholders involved such as the Federal Police and the Immigration Office. Issues on the governance of this strategy and its implementation, monitoring and evaluation, will be one of the main challenges for the coming years.

### 7.1.3. REINFORCED COOPERATION WITH THIRD COUNTRIES IN THE AREA OF BORDER MANAGEMENT

Several agreements have been signed with third countries with an objective to **strengthen the operational capacity in combatting irregular migration and controlling of external borders**.

In **DR Congo**, a 6 months project envisages the creation of a structure for the 'Direction Provinciale de la Direction Générale de Migration (DGM)' in Kalemie. The building will be equipped to link with the central data system of the general migration centre in Kinshasa. The project envisages to assist the Congolese Migration service to develop a migration policy and more specifically a more efficient border management.

In **Cameroon**, a collaboration protocol with a campus and prevention campaigns to counter irregular migration (in particular the misuse of student visa) was signed.

In **Guinea**, an information campaign through social media to prevent irregular migration as well as a national co-financing of the EU OMEGA<sup>199</sup> project was launched.

In **Albania and Georgia**, an information campaign to prevent irregular migration and to counter misuse of the procedure for international protection was launched and the former State Secretary for asylum visit the country to address this issue.

In **Morocco**, an online prevention campaign to prevent irregular migration has been designed.

192. [Law of 21 November 2017](#) modifying the law of 15 December 1980 on the entry, residence, settlement and removal of foreign nationals.

193. Art. 56 of the law of 21 November 2017 modifying article 74/5 of the Immigration Act.

194. Art. 57 of the law of 21 November 2017 modifying article 74/6 of the Immigration Act.

195. The Passenger Information Unit (BelPIU) collects, stores and processes international passenger's data. The BelPIU is a multidisciplinary organisation in which analysts from the Federal Police, the State Security, Military Intelligence Service and the Customs work together.

196. Passenger name record (PNR) is a record that consists the personal information for a passenger and the itinerary. Advance Passenger Information (API) refers to a passenger's identity such as full name, date of birth and nationality.

197. This on the legal basis of a Royal Decree of 28 July 2017.

198. A royal decree on the **obligations of air carriers** was adopted on 18 July 2017, in execution of the Belgian Passenger Name Record (PNR) law of 25 December 2016. The Belgian government decided not to limit the scope of the law to airlines, but also to include other international modes of transport, such as international travel by bus, high-speed train and boat

199. Opportunité Pour Un Meilleur Avenir En Guinée



## 7.2. VISA POLICY

Due to an amendment of Article 30bis of the Immigration Act, from the first of December 2018 onwards, the **fingerprints** (10 fingers) of every **applicant for a long term visa** (national visa also called visa D) who is six years or older have to be taken. Diplomatic and consular staff who come to work at the diplomatic post are excluded, as well as persons who are physically unable to be fingerprinted. Fingerprints will be **stored for a period of 10 years**. The goal of this amendment is to prevent identity fraud and to and to facilitate the passage of the Schengen external border. However, it is important to emphasise that this legislative change is not linked with the implementation of the visa code or the VIS. Fingerprints taken in the framework of an application for a long term visa will not be stored in the VIS.

Following the **operationalisation of the VIS**, the Federal Public Service (FPS) Foreign Affairs organised regional conferences in Tunis (January 2018) and Beirut (December 2018) for the consuls, visa agents and Document Verification Officers of the Belgian diplomatic posts of Northern Africa and Nigeria (Tunis) and the Middle East (Beirut). Also staff of the Immigration Office and the Federal Police participated. The conference focused on evaluating the functioning of the VIS, including the link with irregular migration and the use of fraudulent doc-

uments. Besides, a regional conference dealing with the issue of Somali refugees and migration issues was organised by the FPS Foreign Affairs in Nairobi (June 2018).

As described in the previous annual report, a **public procurement contract was launched** in late 2017 to outsource the **reception of visa applications** in 12 additional diplomatic posts (Jordan, Qatar, Kuwait, Lebanon, Iraq, Iran, Cameroon, Senegal, Ivory Coast, Rwanda, Uganda and Ethiopia). This procurement was realized in the course of 2018, with the exception of Rwanda. This outsourcing allows for a larger volume of visa applications to be handled, in a better security context. Now that this outsourcing has been completed, about 80% of the visa applications for Belgium are outsourced to an external company.

## 7.3. SCHENGEN GOVERNANCE

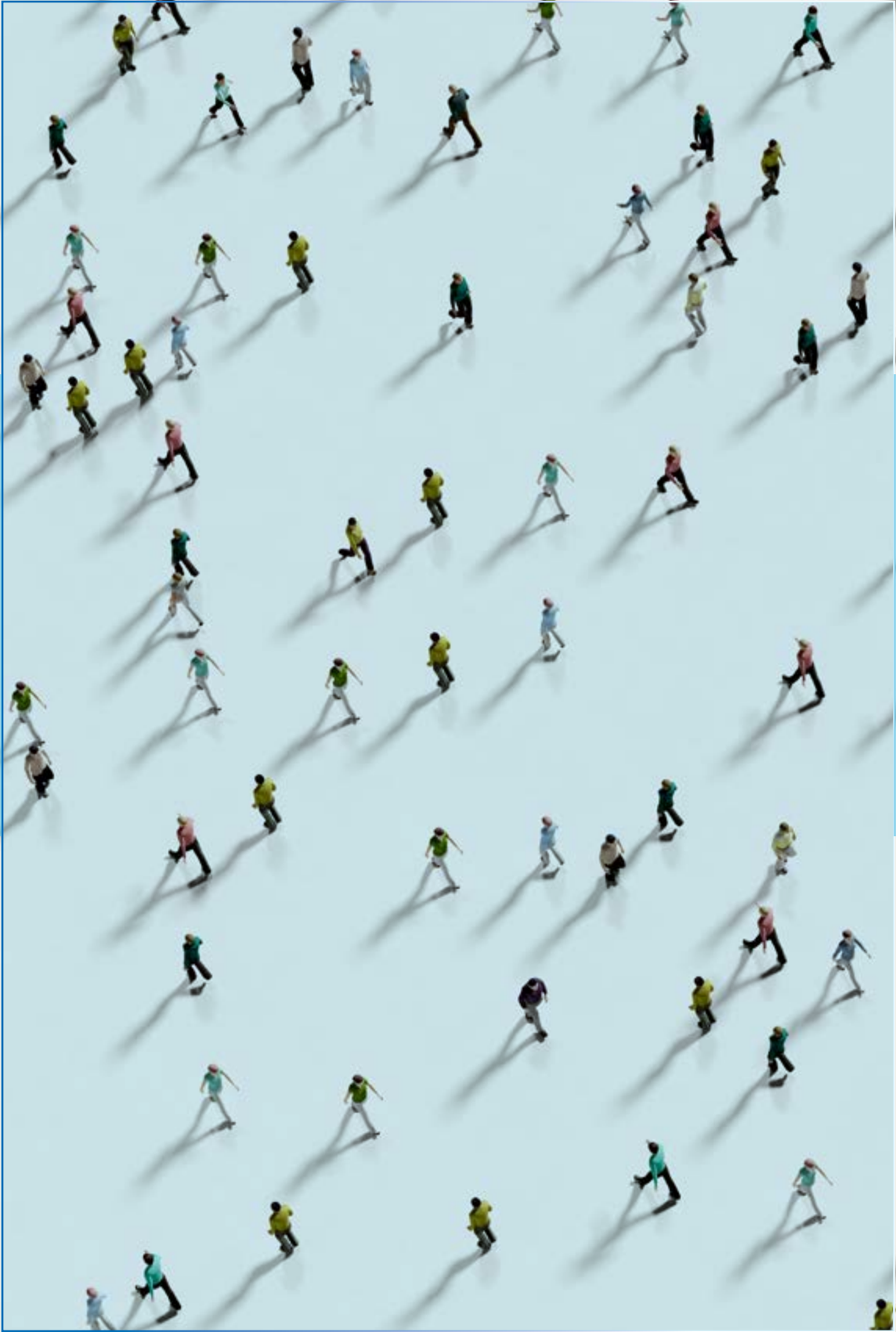
Following the Schengen evaluation of 2015 and the subsequent action plans, progress reports have been drawn up by the Belgian authorities, as foreseen in the Regulation on the Schengen evaluation and monitoring mechanism<sup>200</sup>. **Action plans on Police cooperation, Return and Visa** have been concluded in 2018. The other action plans on external borders, data protection and SIS are already well advanced and may soon be closed too. An unannounced Schengen evaluation visit on Visa took place in Belgium in June 2018.

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200. Council Regulation No 1053/2013

# 08

## IRREGULAR MIGRATION AND MIGRANT SMUGGLING





## 8.1. PREVENTING AND TACKLING OF MISUSE OF LEGAL MIGRATION CHANNELS

### 8.1.1. IRREGULAR MIGRATION AS A RESULT OF VISA LIBERALISATION

The rise in the number of applications for international protection seems to be most problematic for Georgia and also the number of applications from Albania continues to be relatively high. As a result, **information and prevention campaigns were organised in Georgia and Albania** in 2018 to prevent irregular migration. In April 2018, the former State Secretary for Asylum and Migration policy paid a visit to Albania to send a dissuasive message regarding the abuse of the procedure for international protection, to inform about the risks linked with irregular migration and stay, and to prevent irregular migration. In June 2018, a similar mission with the same goal was organised to Georgia. Besides, the number of applications for international protection lodged by persons from visa free countries is closely monitored by the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) and by the Immigration Office. The Immigration Office also monitors the number of persons from visa free countries (and other nationalities) apprehended in irregular stay, the number of persons refused entry at the border and the number of persons involved in public order issues. However, this type of monitoring was also performed in previous years.

In 2018 the EMN national contact points of the European Migration Network (EMN) carried out a **thematic study to monitor the effects of visa liberalisation. The report attempted to assess the impact of visa liberalisation** agreements with Serbia, North Macedonia and Montenegro (visa waiver agreement in 2009), Albania, Bosnia and Herzegovina (2010), Moldova (2014), Georgia and Ukraine (2017). The analysis in this report was data-driven, analysing statistical data on many aspects related to migratory trends and to some extent also data referring to economic relations with these visa exempted countries.

Key findings of the study showed that, in particular for **Georgia**, there seems to be an **impact of the visa waiver agreement of April 2017** on the number of (mostly unfounded) applications for international protection lodged in Belgium. In 2018, 695 applications for international protection by Georgian nationals were lodged, which is a significant increase compared to 470 applications in 2017 and to 240 applications in 2016, the years preceding the visa liberalisation. The findings of the EMN study on the impact of visa liberalisation also concluded that there was a sharp increase due to the visa waiver agreement of applicants coming from FYROM (from 305 in 2009 to 1,740 in 2010), Serbia (1,020 in 2009 to 2,220 in 2010), Albania (from 245 in 2010 to 1,290 in 2011) and Bosnia and Herzegovina (from 145 in 2010 to 540 in 2011). However, the number of applicants coming from FYROM decreased gradu-

ally since 2011 onwards and amounted around 250 applicants in 2017. A similar trend was noticed for Serbia (decrease from 2,220 applicants in 2010 to 230 in 2017) and Bosnia and Herzegovina (from 540 in 2011 to 45 in 2017). For Albania however the number of applicants for international protection did not take a similar decrease and continued to be high (880 applications in 2017 and 668 applications in 2018). For Moldova and Ukraine, the number of applications for international protection continued to be low and there was no significant increase in the number of applications for international protection in the years following the visa waiver agreement. Furthermore, in particular for Albania and Georgia the percentage of persons involved in public order issues on the total number of persons found in irregular stay was notably high in recent years.

### 8.1.2. IRREGULAR MIGRATION AS A RESULT OF MISUSE OF LEGAL MIGRATION CHANNELS

#### Misuse of legal migration channels by third-country national students and researchers

Following article 21 of the Directive (EU) 2016/801 of 11 May 2016 (recast), a Royal Decree was published on 23 April 2018 related to the **possibility to withdrawn a student's residence permit** when there is insufficient study progress. These students can be issued with an order to leave the territory.<sup>201</sup>

It has been noticed that a relatively high number of Cameroonians apply for a Belgian student visa. To tackle possible misuse of these **student visa**, an agreement has been concluded with the 'Institut Français du Cameroun'. The institute has started on 1 April 2018 to screen applications (intentions of students, authenticity of documents, language knowledge, etc.) in close collaboration with the Belgian Immigration Office. It already screened the applications to study in France.<sup>202</sup> Also a document verification officer who focuses mainly on student visa was deployed in Cameroon. And an information campaign about student visa fraud was organised in June 2018 by the Belgian Immigration Office.<sup>203</sup>

#### Misuse of family reunification migration channels

The law on the **fight against false declarations of parenthood** of 19 September 2017 who entered into force on 1 April 2018 provided new preventive and repressive actions by modifying the Civil Code, the Immigration Act, the Judicial Code and the Consular Code. Officers of the Civil Registry acquired the legal possibility to postpone (for two months) or to refuse the registration of a declaration of parenthood. The judicial authorities can investigate the case for another three months at most. This law also introduced - very similar to marriages and partnerships of convenience - penalties for falsely declaring parenthood. A circular letter<sup>204</sup> of the Minister of Justice specifying the actions of each actor - the local

201. Royal Decree of 23 April 2018 amending Articles 101 and 103/2 and replacing the Annex 29 of the Royal Decree of 8 October 1981 on access to the territory, residence, settlement and removal of foreign nationals, BG, 17 May 2018.

202. Blogpost 'Campus Belgique' on blog of (former) State Secretary for Asylum and Migration Policy, 4 April 2018 & The Midday bilingual TV newscast on Cameroon Radio Television (CRTV), 15 March 2018 (<http://www.crtv.cm/2018/03/the-midday-bilingual-tv-newscast-15-mars-2018/>).

203. Immigration Office, unit llobel



authorities, the judicial authorities and the Immigration Office - in such cases was published on 21 March 2018. Finally, on 21 March 2018 an appeal was filed against the law of 19 September 2017 before the Constitutional Court. And on 3 July 2018 an appeal was filed against the circular letter of 21 March 2018 before the State Council. Both appeals are still pending.<sup>205</sup>

The phenomenon of **marriages and partnerships** of convenience is not on the wane. In 2018 a sharp rise of the number of marriages by proxy and marriages in third-countries was noticed. The Immigration Office believes that this might be a way to avoid the investigation of marriages and partnerships of convenience.<sup>206</sup>

The Immigration Office financed a document verification officer in the Belgian Embassy of Kampala (Uganda) to **better screen applications for family reunification of Somalians**.<sup>207</sup>

### 8.1.3. IRREGULAR MIGRATION CAUSED BY THE MISUSE OF FREE MOVEMENT RIGHTS BY THIRD-COUNTRY NATIONALS AND PREVENTING THE FRAUDULENT ACQUISITION AND USE OF FREE MOVEMENT RIGHTS BY THIRD-COUNTRY NATIONALS

On 25 November 2018 a new law was adopted.<sup>208</sup> This law, which entered into force on 31 December 2018, makes it, inter alia, possible to register **digital fingerprints on Belgian identity cards** and residence cards for foreigners. This is already the case for passports. The new law aims to tackle identity fraud. This new law was heavily criticized, inter alia by the Belgian NGO 'Liga voor Mensenrechten'. This NGO claims that the potential risks for Belgian citizens and the proportionality aren't examined enough. It also argues that the basic principles of privacy are ignored, and that the new law is not in accordance with GDPR-rules.<sup>209</sup> According to a study of the research group Computer Security and Industrial Cryptography of the Catholic University of Leuven there are flaws in the motivation of the measure and the intended implementation.<sup>210</sup> The (former) Minister of Security and the Interior stated that this measure is necessary since the number of cases of identity fraud has risen from 400 in 2016 to about a thousand in 2018. He also claims that the privacy is not invaded, and asks why digital fingerprints wouldn't be allowed if a photo is.<sup>211</sup>

204. See : [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&cn=2018032101&table\\_name=loi](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2018032101&table_name=loi)

205. Source: Immigration Office, Investigation Unit, Subunit fight against false declarations of parenthood

206. Source: Immigration Office, Investigation Unit, Subunit fight against marriages and partnerships of convenience

207. Immigration Office : unit llobel

208. Loi portant des dispositions diverses concernant le Registre national et les registres de population, source: [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&cn=2018112505&table\\_name=loi](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2018112505&table_name=loi)

209. Press release 'Vingerafdrukken op de identiteitskaart: een disproportionele symbooldaad', of 'Liga voor Mensenrechten', 15 November 2018.

210. Report 'Vingerafdrukken op de Belgische eID. Technische analyse' by J. Hermans and R. Peters, 22 p.

211. Article 'Jambon ziet probleem rond privacy niet bij vingerafdruk op identiteitskaart' in newspaper 'De Standaard', 28 October 2018.



## 8.2. THE FIGHT AGAINST FACILITATION OF IRREGULAR MIGRATION ('SMUGGLING') AND PREVENTION OF IRREGULAR STAY

### 8.2.1. COMBATTING FACILITATION OF IRREGULAR MIGRATION (SMUGGLING)

Human smuggling in Belgium is often related to **transit migration** to (mostly) the UK. In 2018, no less than 11,761 migrants in transit were intercepted, which is substantially higher than 2017 (9,347 intercepted migrants in transit).<sup>212</sup> **Smuggling routes** used to be mainly in the North of Belgium (port of Zeebrugge, highways leading to Calais), but in 2018 they partially shifted to the South of Belgium, where the police has less experience and expertise in tackling smuggling.<sup>213</sup>

On 10 September 2018, the former Belgian Minister of Security and the Interior and the (former) State Secretary for Asylum Policy and Migration presented a **9-point action plan** on the fight against irregular transit migration.<sup>214</sup>

1. The **capacity in detention centres** that is prior reserved to migrants in transit is doubled from 80 to 160 places. In addition the government agreed to create 300 extra places as quickly as possible for this specific target group.
2. More **intensive police checks on the travel routes** of migrants in transit are

carried out (car parks next to highways, trains...) and all actions against trafficking in human beings and disturbance of transit migration are centrally coordinated and aligned.

3. A **central centre for the administrative processing** of migrants in transit has been introduced in a side wing of the detention centre 127bis in Steenokkerzeel.
4. More intense **cooperation with the city of Brussels** to address the problems regarding the Maximilian Park which is used as an illegal migration hub.
5. Maximum efforts to make it possible to read out **mobile phones** and even to confiscate them.
6. Enabling a better security of the **port of Zeebrugge**. Within this framework the (former) Belgian Minister of Security and the Interior and the (former) State Secretary for Asylum Policy and Migration visited on 1 October 2018 the ports of Folkestone and Dover to get a better understanding of the security measures of these ports.
7. **Cooperation with the United Kingdom**. In this framework the (former) Belgian Minister of Security and the Interior and the (former) State Secretary for Asylum Policy and Migration went to London for a meeting with the British Minister for the Interior.
8. Increase of the security in the **car parks next to the high ways** through adapted infrastructure works and private security.
9. More and more intensive **dissuasion campaigns** addressed to potential vic-

212. Number of intercepted migrants in transit for 2018 is an estimation, based on an extrapolation of the first 8 months. Belgian House of Representatives, General Policy Note on Asylum and Migration, 26 October 2018, DOC 54 3296/021, p.4 , <http://www.dekamer.be/fluwb/pdf/54/3296/54K3296021.pdf>.

213. Source: Myria

214. Belgian House of Representatives, General Policy Note on Asylum and Migration, 26 October 2018, DOC 54 3296/021, p.10-11 , <http://www.dekamer.be/fluwb/pdf/54/3296/54K3296021.pdf>.



tims of human smuggling to come to Belgium (communicated through social media with targeted messages to specific nationalities).

Later a 10<sup>th</sup> point was added to the action plan, namely to better inform migrants in transit about the **possibility to apply for international protection**.<sup>215</sup>

In 2018 the **Flemish Agency for Roads and Traffic cut trees** and trimmed bushes near parking lots often used by migrants in transit, making it more difficult for migrants in transit to hide themselves and climb into trucks that go to the UK.<sup>216</sup>

On 13 February 2018 a **private security firm** started to guard five parking lots along the highways heading to the coast.<sup>217</sup>

On 17 May 2018 the police were chasing a van operated by human smugglers with 30 Kurdish migrants in transit trying to travel illegally to the UK. Because the driver of the van refused to pull over, a police officer fired one shot. The police officer claims he was aiming for a tyre, but the bullet hit a two-year old girl named Mawda Shawri, who unfortunately died.<sup>218</sup> When the van finally stopped, the trans-migrants couldn't or didn't want to tell who was driving the van. But finally the driver was identified through DNA that was found on the steering wheel.<sup>219</sup> The **tragic death of Mawda**

got a lot of media attention, and gave rise to a sharp public debate. The media reported that the parents of Mawda, who were also on board, had already applied for asylum in Germany, but their application was rejected. They had already succeeded in getting to the UK, but were sent back to Germany. On 30 May 2018, 1,500 people attended the funeral of Mawda.<sup>220</sup> The family was also received by the Prime Minister.<sup>221</sup> In June 2018 the family of Mawda applied for regularisation on humanitarian grounds. The rectors of all Belgian universities signed an open letter asking for a permanent regularisation. In February 2019 the family was granted a residence permit for one year, which can be renewed.

Migrants in transit tend to gather at **'Bruxelles-Nord'**, one of the biggest railway stations in Brussels, and the one nearby the Maximilian park. On 19 June 2018, Amadou Ourez, a migrant in transit from Guinea, tried to travel to the UK by hiding under a bus that departed from **'Bruxelles-Nord'** to London. Unfortunately he got crushed under the bus and lost his life. According to bus drivers it happens regularly that when they stop there, migrants heading for the UK try to hide in the luggage compartment.<sup>222</sup> In November 2018, the Flemish public transport company **'De Lijn'** temporarily moved their bus stops in the terminal under the railway station. The number

215. Article 'Extra actiepunt in strijd tegen transmigratie : overtuigen om asiel aan te vragen', in newspaper 'Het Laatste Nieuws', 2 October 2018.

216. Article 'Vlaanderen snoeit tegen transmigranten (in broedseizoen)' in newspaper 'De Standaard', 24 April 2018.

217. '2017 Annual Report on Asylum and Migration', Belgian Contact Point of the EMN, P.84, and article 'Privébewaking op snelwegparkings is van start gegaan' in newspaper 'De Standaard', 13 February 2018.

218. Report 'Problemen inzake coördinatie en communicatie tijdens een achtereenvolgende op 17 mei 2018 die geëindigd is in een schietincident in Beringen' by Standing Committee P.

219. Article 'Chauffeur van busje waarin Mawda stierf, zit in Britse cel' in newspaper 'De Standaard', 30 July 2018.

220. Article 'Witte mars voor Mawda' in newspaper 'De Morgen', 30 May 2018.

221. Article 'Selon Bart De Wever, Charles Michel a poussé « les parents de Mawda dans un rôle de victimes », on website television station 'RTBF', 2 July 2018.

222. Article 'Afscheid van migrant Amadou, die verpletterd werd onder Flixbus' in newspaper 'Het Laatste Nieuws', 1 July



of migrants in transit that were seeking shelter there had increased in such a way that their presence caused nuisance (poor hygiene, aggressive begging, petty theft, feeling of insecurity...). About a week later, after agreements were made regarding the safety and cleanliness, the bus stops were re-opened.<sup>223</sup>

### 8.2.2. PREVENTION OF IRREGULAR MIGRATION

A **dissuasion campaign with flyers in 6 languages** (Arabic, Urdu, Kurdish, English, Hindi and Pashtu) was launched. The flyers were distributed in areas in Belgium (Maximilian Park, Zeebrugge, transit handling centre...) and Europe (Greek and Italian hotspots, Spanish enclaves...). Social media banners addressed to migrants in transit were used. These banners were already watched 776,538 times by the end of September 2018.<sup>224</sup>

### 8.2.3. COOPERATION WITH THIRD COUNTRIES TO PREVENT IRREGULAR MIGRATION

#### For Western and Southern Mediterranean countries:

The **AMUDDU project** aims at supporting the implementation of the national immigration asylum strategy (SNIA). The purpose of this intervention is to contribute to ensure the integration of migrants and the **management of migratory flows in Morocco** better. To do this, the project focuses on improving the employ-

ability of migrants and migrant workers in Morocco.

The intervention is articulated around the following three intermediate objectives:

- Migrants and refugees' access to existing guidance and vocational training facilities is better ensured;
- Migrants and refugees' access to (self) employment and labour market support schemes is improved;
- The joint action of structures working in the field of the economic integration of migrants is energised and better coordinated.

The **Legal Empowerment of Migrants** project aims at « Contributing to strengthening the protection and resilience of those who need it ». The project fits perfectly within the results framework of the Emergency Trust Fund – North Africa window and meets the strategic objective 3. In general, the project aims to contribute to the **implementation of the immigration and asylum policy of Morocco**. This objective is also in line with SNIA's vision of "ensuring better integration of immigrants and better management of migration flows in the context of a coherent, comprehensive, humanistic and responsible policy". The specific objective of the intervention is as follows: « Access and quality of services for IDPs and host communities are improved, facilitating migrant and refugee access to their rights".<sup>225</sup>

223. Article 'De Lijn heropent halte aan Brusselse Noordstation' in magazine 'Knack', 29 November 2018.

224. Belgian House of Representatives, General Policy Note on Asylum and Migration, 26 October 2018, DOC 54 3296/021, p.11, <http://www.dekamer.be/Flwb/pdf/54/3296/54K3296021.pdf>.

225. EMN ad-hoc query on 'Projects funded/implemented by the Associated & MS of the RDPP NA Consortium in Algeria, Egypt, Libya, Mauritania, Morocco, Niger and Tunisia', launched by Italy on 22 November 2018.



### For countries in the African Atlantic coast:

In **DR Congo**, the Immigration Office financed an IOM project called ‘*Amélioration des capacités opérationnelles et stratégiques pour une gestion efficace des frontières dans la Province du Tanganyika (Kalemie) en République Démocratique du Congo*’. The objective of the project was to give the provincial migration services access to the central data system of the ‘*Direction Générale de la Migration*’ in the capital Kinshasa. This is part of a long-term commitment to help the DR Congo to establish an efficient border control system. The Immigration Office also financed in DR Congo the IOM project called ‘*Renforcement des capacités pour une gestion efficace de la frontière à Kalamba Mbujji, province du Kasai Central*’ (EUR 190,000). This project consists of the equipment of a border post and the training of staff. It is part of a long term commitment of the Immigration Office to help the DR Congo in developing a coherent migration policy and more specifically an efficient border control.

In **Cameroon**, the Immigration Office financed in 2018 a prevention campaign. The campaign consisted of two parts. One part was about sensitising and informing Cameroonians who wish to go to Belgium to study. The other part was about the dangers of irregular migration. This campaign was outsourced to Congruence Consultancy - PIPAD (*Projet Intégré pour la Promotion de l’*

*Auto-Développement*’) and costed EUR 30,995. The message was disseminated by radio, television, conferences, interactive debates, etc.<sup>226</sup>

#### 8.2.4. MONITORING AND IDENTIFYING IRREGULAR MIGRATION ROUTES

In 2018 specific **information bulletins of Europol’s ‘European Migrant Smuggling Centre’ (EMSC)**<sup>227</sup> were disseminated to the Immigration Office, the police network on human smuggling, magistrates who focus on human smuggling, and in general all local and federal police officers. The bulletins provide information on, inter alia, new routes, the abuse of transit visa, and airports often used by smugglers. This falls within the framework of international cooperation and international information exchange to tackle cross-border criminal networks.<sup>228</sup>

On a weekly basis the police drafted an **overview of trends in irregular migration and human smuggling**. This overview was used by police officers in the field to plan controls on irregular migration and by the (former) Minister of Security and the Interior and the Minister of Justice.

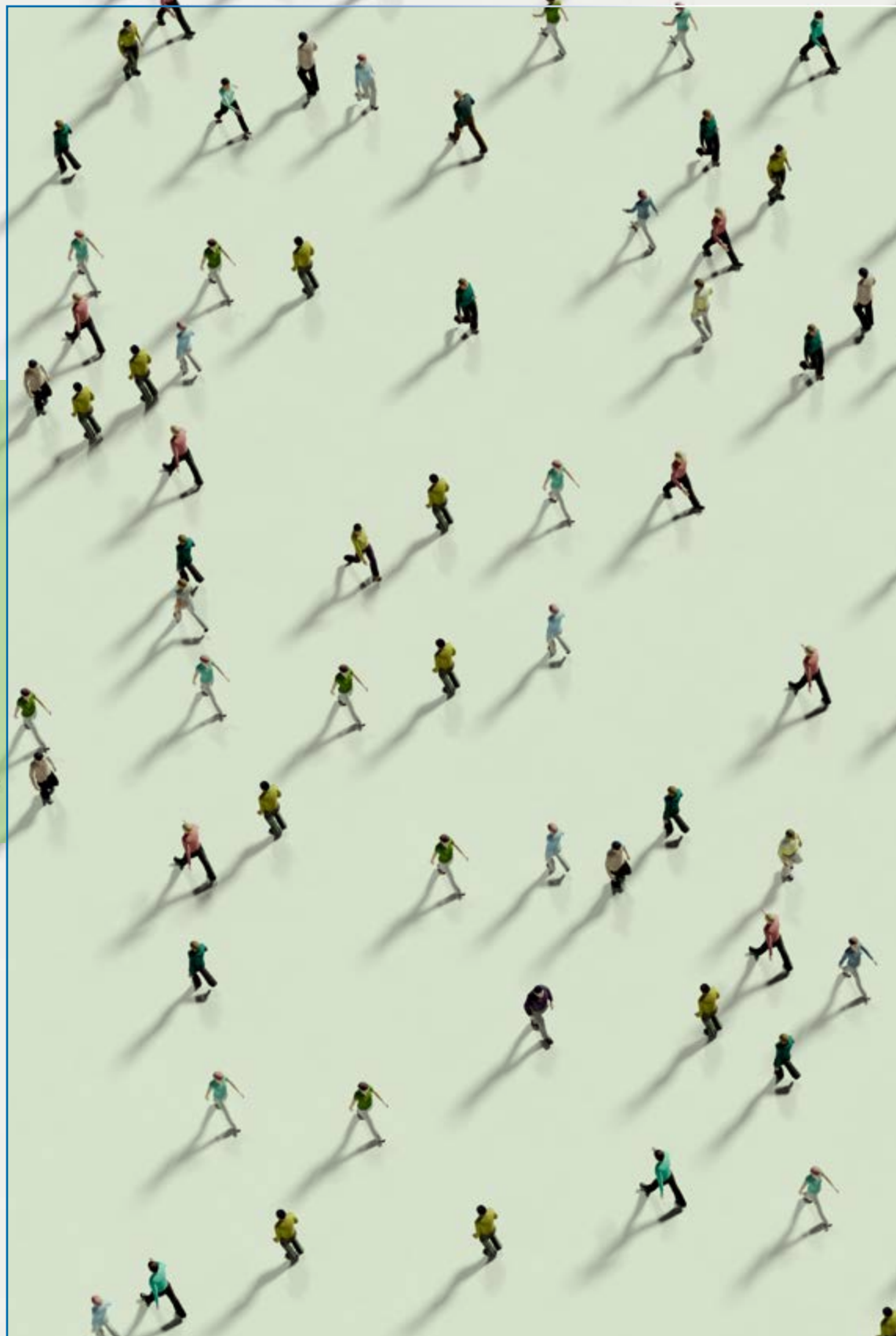
226. Immigration Office, unit Ilobel

227. The goal of the EMSC is to support Member States in targeting and dismantling the complex and sophisticated criminal networks involved in migrant smuggling. For more information on the EMSC, please check the Europol website.

228. Source: Federal Public Service Justice, Direction Criminal Justice, Unit human trafficking and human smuggling.

# 09

## TRAFFICKING IN HUMAN BEINGS





## 9.1. STRATEGIC POLICY DEVELOPMENTS

The Belgian authorities are still implementing the national action plan on the fight against trafficking in human beings adopted on 15 July 2015 and covering the period 2015-2019. While some measures implemented on the basis of this plan are a continuation of measures developed in the past years, other initiatives were effectively developed in 2018.

For instance the adoption of an **addendum on minor victims** of trafficking in human beings to the national action plan.<sup>229</sup>

One of the action points of this plan is the cooperation with federated entities concerning **awareness raising among staff of the youth care sector** on human trafficking. For this purpose two working groups were established with the Communities (one with the Flemish, and the other one with the French and German-speaking Community). The prosecution and the Federal Public Service Justice (who is the chair of the Interdepartmental Coordination Platform or ICP) are part of these working groups. As a result of the work of these working groups, an addendum was adopted in August 2018 by the ICP. The addendum aims to improve the detection, referral and protection of minor victims of human trafficking. One of the measures in this addendum regards a better

collaboration between the different prosecutors. Furthermore the amelioration of the information flux between the youth care services and the public prosecution is looked into.

Belgian stakeholders (police officers, magistrates, custom inspectors, social inspectors, etc.) continued to participate in Europol's EMPACT<sup>230</sup> **Joint Action Days** about human trafficking (inter alia actions on economic and sexual exploitation, and children).<sup>231</sup> This is linked to the renewed participation of Belgium in the EMPACT operational action plan on human trafficking 2018.

Within the different **police trainings** (basic training, training for promotion, training to join the judicial police), the section about human trafficking was revised and updated.<sup>232</sup>

As the independent national rapporteur on trafficking in human beings in Belgium, the Federal Migration Centre Myria drafts an annual **independent policy evaluation** in this regard. In its 2018 report, Myria focused on minors who are victim of human trafficking and smuggling. Special attention was given to **Nigerian minors** (girls) who are sexually exploited in Europe. Myria recommends, inter alia, to sensitise police services and magistrates of the specific vulnerability of underage Nigerian girls. Their pimps force them to state that they are adults. That's why it is paramount that police services question the declared age and

report them to the guardianship service for unaccompanied foreign minors (Federal Public Service Justice).<sup>233</sup>

The Royal Decree of 22 June 2018<sup>234</sup> acknowledges the three **specialised centres in the reception and support of victims** of human trafficking and certain more severe forms of human smuggling. The centres get their acknowledgment for five years. This means that they are entitled to take legal action.

## 9.2. IMPROVING IDENTIFICATION OF AND PROVISION OF INFORMATION TO THIRD-COUNTRY NATIONAL VICTIMS OF HUMAN TRAFFICKING

### 9.2.1. PROVISION OF INFORMATION ON ASSISTANCE AND SUPPORT TO THIRD-COUNTRY NATIONAL VICTIMS

Several project on **cooperation between national authorities** have been implemented in 2018:

The **AMINA** project aims at safeguarding Migrant Children across Europe. It is a 3-year programme on the protection of children in migration coordinated by Missing Children Europe. The goal of the programme is to close the protection gaps that lead to disappearance and exploitation of children in migration and to contribute to creating an environment where policy and legislative processes give primary consideration to the best interest of the child. The Immigration Office together with Child Focus participates as a member of the taskforce in work stream 2. This work stream supports actors working with children to be better trained in responding to protection needs of children in migration and aims to better work together across national borders on the basis of trialled and tested procedures, so that that children be better protected from disappearance and trafficking. The project started in October 2017 and will end in December 2019 (see also section 5-2).

229. Addendum: <http://www.dsb-spc.be/doc/pdf/Addendum-Actieplan-MH-NL.pdf>

230. EMPACT stands for European multidisciplinary platform against criminal threats.

231. Federal judicial police, unit serious and organised crime.

232. Idem

233. 'Rapport annuel traite et trafic des êtres humains 2018: Mineurs en danger majeur' by Myria.

234. Royal Decree of 22 June 2018 concerning the acknowledgement of the centres specialized in the reception and support of victims of trafficking and of a more severe form of human trafficking and on the acknowledgment to take legal action, BS 5 July 2018.





The Within the framework of the **SAFE PROJECT**<sup>235</sup> an expert meeting on “A New Challenge for Europe: Early Identification, Protection and Safe Return of (Possible) Victims of Trafficking in Human Beings among Newly Arrived Migrants and Refugees” was organised. The Expert Meeting took place in Sofia, Bulgaria on 2 October 2018 and aimed at bringing together anti-trafficking NGO’s and GO experts in the migration and asylum field. Staff of the Immigration Office participated in this meeting. During the Expert Meeting dilemmas and possible strategies were discussed on early identification, protection, safe future and return of (possible) victims of human trafficking among newly arrived migrants and refugees from outside the EU.

### 9.2.2. IDENTIFICATION OF VICTIMS

To support **training and awareness raising**, the Minister of Justice, the Belgian federation of the financial sector (Febelfin) and the Belgian Financial Intelligence Processing Unit (CTIF-CFI)<sup>236</sup> presented an information brochure. This brochure, which is not for wider dissemination, must aim to **inform the banking sector** in Belgium on how to better trace criminal money from human smugglers and human traffickers. That way police and public prosecution can operate more effectively.<sup>237</sup> This leaflet was drafted

in line with the action plan to counter human trafficking and smuggling.

The **medical sector** can also play an important role when it comes to the detection of possible victims of trafficking (e.g. exploited and illegal construction workers who have an accident and are brought to the emergency room, survivors of sexual exploitation who are forced to have an abortion). On 29 November 2018 a seminar was organised to make **health care workers** aware of indications of human trafficking. At the seminar there was inter alia an exchange of information between the medical sector and actors who fight human trafficking. At the end of 2018, an already existing information brochure on human trafficking was updated and sent by e-mail and by post to hospitals.<sup>238</sup>

In order to **strengthen multidisciplinary cooperation to ensure an effective referral, assistance, rights protection for victims of human trafficking**, various Belgian stakeholders have engaged in 2017 in this project<sup>239</sup> gathering partners from Romania, Spain, Belgium, Bulgaria and Sweden. The project is financed by the European Commission - Justice Programme and ran until 31 December 2018. The project aimed to 1) exchange best practices and knowledge on assistance to victims, 2) improve assistance to victims during the rehabilitation process

to allow them to exercise their rights, and 3) develop a transnational strategy for legal assistance. Actions are planned with a view to ensure that several rights – as indicated in the Directive 2012/29/ EU on establishing minimum standards on rights, support and protection of victims of crime – are fully respected. The final conference was held in Brussels on 29 and 30 November 2018. The event brought together participants from project countries (see above) and from other EU / non-EU states (Germany, Ukraine, Albania). The aim of the conference was not only to present what was achieved, but also to talk about the implications of human trafficking on victims, the need to improve the legal assistance and the referral procedures, the deontological principles that should be respected by professionals coming into contact with victims and the importance of multidisciplinary work at transnational level.

The common **Benelux work programme 2017-2020**<sup>240</sup> stresses that the fight against human trafficking and attention for its victims remain of major importance. The deepening of the partnerships with the local administrations in order to more quickly and effectively fight crime phenomena via the administrative approach to combating crime, is being continued. In 2018, Belgium held the Benelux Presidency.<sup>241</sup>

### 9.2.3. COOPERATION WITH THIRD COUNTRIES

In 2018 agreements on police cooperation with **Serbia, Thailand, Morocco** and **Tunisia** were concretised. These agreements are inter alia about irregular migration and human smuggling, with a focus on the exchange of good practices. Moreover, Belgian authorities continued to welcome delegations from third countries (Egypt, Hungary, Jordan, Serbia, Bosnia Herzegovina) to share national practices focusing on the prevention of and fight against trafficking (and smuggling) in human beings, as well as on the protective measures for victims.<sup>242</sup>

235. SAFE! is a two year project that started on 1 January 2017 and is coordinated by the Dutch shelter organisation HVO Querido and implemented with an international consortium comprising NGO’s, GO’s and IGO’s from the Netherlands, Hungary, Bulgaria and Macedonia. This project is also funded by the European Commission (AMIF).

236. CTIF-CFI is an independent administrative authority with legal personality and is supervised by the Ministers of Justice and Finance. It is led by a magistrate and composed of legal and financial experts and a senior officer seconded from the federal police. CTIF-CFI is in charge of processing suspicious financial facts and transactions linked to money laundering and terrorism financing reported by institutions and individuals specified in the law.

237. Source: Federal Public Service Justice, Direction Criminal Justice, Unit human trafficking and human smuggling.

238. Brochure “Traite des Etres humains. Que faire? Conseil pour le personnel hospitalier”: <http://www.dsb-spc.be/doc/pdf/Mensenhandel-Ziekenhuis-FR.PDF>

239. <http://ec.justice-project.prerefugi.org/>

240. Source: Federal Public Service Justice, Direction Criminal Justice, Unit human trafficking and human smuggling.

241. Federal judicial police, unit serious and organised crime.

242. Source: Federal Public Service Justice, Direction Criminal Justice, Unit human trafficking and human smuggling.

# 10

## RETURN AND READMISSION



### 10.1. SWIFT, SUSTAINABLE AND EFFECTIVE RETURN

As was the case in previous years, **absolute priority** was given by the government to the return of persons involved in public order issues.<sup>243</sup>

As regards, the detention capacity, in May 2017 the Council of Ministers decided to **gradually increase the detention capacity**. The current detention capacity for migrants in irregular stay is currently around 600 places and will gradually increase to 1,066 places by the year 2022. It is important to note that this increase of the detention capacity aims at increasing the detention and return of persons in irregular stay and not to increase the detention of applicants for international protection.

To render the supply in the countries of origin more attractive, Fedasil has signed collaboration agreements with **Enabel** (the Belgian development agency) and **ERRIN** (a European operational initiative aiming at implementing reintegration activities that support, simplify and improve national return practices)<sup>244</sup>. The political landscape is conducive to the merging of projects relating to asylum, migration and development cooperation and it is in this context that **Fedasil and Enabel signed a cooperation agreement** on 8 February. This agreement creates a basis for the cooperation between the two Belgian public institu-

tions. Specific agreements will then be concluded depending on the needs of the two partners, for example mobilising Fedasil experts for Enabel projects (and vice versa) or mobilising the European or local partners of the other institution. This cooperation allows Fedasil to leverage its international expertise and take a stance in the debate on the root causes of migration. Indeed, Fedasil has become increasingly active internationally over the last few years, through the voluntary return programmes and the reintegration of migrants into their country of origin.

### 10.2. ISSUING RETURN DECISIONS

In 2018, **24,160 return decisions**<sup>246</sup> were issued.

A ruling of the Court of Cassation<sup>247</sup> recalled that the risk of torture and inhuman or degrading treatment contrary to **Article 3 of the European Convention on Human Rights (ECHR)** is full part of the review of the legality, by the investigating courts, of the administrative decision of removal and detention of a foreigner without a residence permit. The court also specified that the review of the Article 3 of the ECHR must always be conducted even when the individual has not made an application for international protection.

A ruling of the Council of State stated<sup>248</sup> that the Immigration Office must always assess the **risk of violation of Article 3 of the ECHR** when taking a removal order and not only at the moment coercive measures are taken with a view to repatriation.

### 10.3. (ASSISTED) VOLUNTARY RETURN

In 2018, 2.994 persons returned voluntarily<sup>249</sup>. The main nationalities of return were, in descending order, Ukraine, Georgia, Romania, Brazil and Iraq.

Knowing that persons from **visa-free countries** are excluded from reintegration assistance, a temporary measure was set up to allow Georgian and Ukrainian nationals returning voluntarily to benefit from return and reintegration support, despite the fact that these two countries became visa-free in 2017. After that period, only support for vulnerable persons (elderly, sick, pregnant women...) was foreseen for nationals willing to return voluntarily to these countries.

A project aiming at supporting **job placement in West Africa** (Burkina Faso, Cameroon, Niger and Guinea) has also been undertaken by Fedasil in partnership with IOM. The four countries have been selected according to relevant criteria such as nationalities represented in Belgium, link with development cooperation or interesting returnee's profiles. The objective of the project is to provide returnees with sustainable reintegration through job counselling and referral to potential employers and vocational training opportunities.

The **AMAARbis** project is an extra fixed reintegration budget of EUR 1.000 for

243. Belgian House of Representatives, General Policy Note on Asylum and Migration, 26 October 2018, p. 4  
 244. Belgian House of Representatives, General Policy Note on Asylum and Migration, 26 October 2018, DOC 54 3296/021, p.8, <http://www.dekamer.be/flux/pdf/54/3296/54K3296021.pdf>.  
 245. Idem, p. 5

246. According to the definition of Eurostat  
 247. n° P.18.0035.F  
 248. n° 240.691  
 249. According to the Belgian definition (including EU citizens)

persons **with serious psychological problems** willing to return and who need shelter and support by the family (or social network) upon return.

#### 10.4. USE OF (ALTERNATIVES FOR) DETENTION IN RETURN PROCEDURES

On 22 March 2018, two new laws modifying the Immigration Act have been introduced<sup>250</sup>. The new laws introduce the concept of alternative to detention for applicants for international protection. This means that detention is only possible if no less coercive measures can be used. Nevertheless, except the house arrest, no other alternatives have been defined yet in the law.

The new laws also define the **duration of detention**. It must be as brief as possible and for a maximum of 2 months. It can be prolonged for 2 months if risks for the national security and then month by month by decision of the Minister (with a maximum period of 6 months)<sup>252</sup>.

The new laws also define the **risk of absconding** according to 11 criteria<sup>253</sup>:

1. the person concerned has not lodged a request for residence, as a result of his illegal entry or during his illegal stay, or has not submitted his application for international protection within the period provided for;
2. the person concerned used false or misleading information or false or falsified documents, or resorted to fraud or other illegal means in the procedure for international protection, residence, removal or refoulement;

3. the person concerned does not collaborate or has not collaborated in his relations with the authorities responsible for the execution and/ or the monitoring of compliance with the regulations regarding the access to the territory, the stay, the establishment and removal of foreigners;
4. the person concerned has shown his will not to comply or has already contravened one of the following measures:
  - (a) a transfer or a removal;
  - (b) an entry ban that has not been lifted or suspended;
  - (c) a less coercive measure than a measure of deprivation of liberty to secure his transfer or removal;
  - (d) a restrictive measure of liberty aimed at guaranteeing public order or national security;
  - (e) a measure equivalent to the measures referred to in (a), (b), (c) or (d) taken by another Member State;
5. the person concerned is the subject of an entry ban in the Kingdom and/ or in another Member State, which is neither withdrawn nor suspended;
6. the person concerned has lodged a new application for residence or international protection immediately after having been the subject of a decision refusing its entry or staying or terminating his stay or immediately after having been the subject of a measure of removal;
7. when questioned on this point, the person concerned concealed having already given his fingerprints in another State bound by the European

- regulation relating to the determination of the State responsible for examining an application for international protection;
8. the applicant has lodged several applications for international protection and/ or residence in the Kingdom or in one or more other Member States which gave rise to a negative decision or which did not give rise to the grant of a residence permit;
9. although he was questioned on this point, he concealed that he had already lodged an application for international protection in another State bound by the European rules on the determination of the State responsible for the examination of an application for international protection;
10. the person concerned has stated or it appears from his file that he has come to the Kingdom for purposes other than those for which he has lodged an application for international protection or residence;
11. the person concerned is fined for having lodged an obviously abusive appeal with the Council for Alien Law Litigation (CALL).

In 2011, the Immigration Act included a provision on the **detention of families with underage children** who are staying on the territory irregularly.<sup>254</sup> This provision allows for such families to be detained for a short as possible period of time, provided that the place is adapted to the needs of families with children<sup>255</sup>. In practice, irregularly staying families

250. Law of 21 November and law of 17 December 2018 modifying the Immigration Act

251. Immigration Act, Article 74/6

252. Idem, Art.39/76, chap 1

253. Idem, Art 1er

254. Article 74/9, §1 of the Immigration Act.

255. The concept 'adapted to the needs of families with children' has not been further defined in law.

with underage children have not been detained in the last years, but instead resided in **alternatives to detention** introduced in 2008, namely the **return units (or FITT units)**<sup>256</sup>. For several years, it was the intention to build new family units in the Repatriation centre 127bis. These family units were eventually opened on 11 August 2018, intended for the stay of families with underage children in view of their return.<sup>257</sup> There are four family units, two of which can accommodate six people and another two for eight people.

Only families with no right to stay on Belgian soil and who didn't comply with an order to leave the territory can be placed in detention structures. The so-called "**cascade model**" implies that families in closed structures have already refused to return voluntarily and that they absconded from FITT units (semi-closed structure). It is therefore only as last resort that the Immigration Office put these families in detention structures. A family with minor children can only be detained for as **short a period as possible**, which may not exceed a period of two weeks, extendable with a maximum period of two weeks.<sup>258</sup> The purpose of the family units in a closed setting is not to replace the existing open return units. The family units in the 127bis center are only used as a last resort when

other alternatives to detention have failed.<sup>259</sup> A **multidisciplinary team** composed of coaches, educators, a teacher, a medical professional, a psychologist and security staff are responsible for the daily monitoring of the families who live in the family units. A total of 19 staff members are responsible for these family units. Every day, an interdisciplinary meeting is organised in which the main issues are discussed. The families have the **same rights** as other persons detained in the closed centres, including the right to legal assistance; to make a complaint; to communicate in writing, by telephone or by e-mail with their lawyers, diplomatic or consular representations; to receive visitors (family, friends, NGOs, lawyers, consular staff, etc.). All these rights are legally anchored in the aforementioned Royal Decree of 2 August 2002.

The opening of these units has led to **numerous critical reactions**, including from more than 325 organisations which took a stand against the detention of children via the campaign: "You don't lock up a child. Period."<sup>260</sup> To the date of 31 December 2018, four families, with respectively five, four, two and three children were detained in the family units. All four families returned to their country of origin.

## 10.5. OPERATION OF NATIONAL FORCED RETURN MONITORING SYSTEM

In accordance with the Directive 2008/115/EC, the Royal Decree of 19 June 2012<sup>261</sup> refers to the **General Inspection of the Federal and Local Police (AIG)** as the control body for forced return operations. The AIG is an independent control body that does not belong to the federal or local police and whose budget is independent from the two abovementioned police forces. The AIG is responsible for the monitoring of the forced return. Priority is placed on removals under police escort in which vulnerable persons are involved (families, persons with physical or psychological disabilities or persons who require extra care) or removals with a risk of physical resistance and therefore possible use of coercion measures.

Since 2016, the AIG participates as acting member in the Forced Return Monitoring II project (FReM II). This project, under the auspices of Frontex, ICMPD (International Centre for Migration Policy Development) and the FRA (European Union Agency for Fundamental Rights), has as main objective the elaboration of a uniform monitoring system and the setting of quality standards based on fundamental human rights. Frontex now assumes an increased role in supporting and guiding forced return in Belgium. As example, Frontex now carries individu-

al removals with commercial flights. **As a result, a number of quality requirements are requested by Frontex** for the monitoring of these flights. The AIG has therefore decided to register in 2018 to the **FReM III project**, which is fully dedicated to the monitoring of forced return.

Following the case of the Sundaneses forcibly returned in 2018 and the accusation of bad treatment upon return, the Prime Minister announced in February that an **evaluation committee on return and expulsions** will be set up for at least two years. In this committee, a professor will sit, together with people from the federal police, the general inspection of the federal police, the Immigration Office, the CGRS, Fedasil and pilots associations. The committee will deliver an interim report after a year.

256. However, it sometimes happened that families with children were detained for a short period of time, usually less than 24 hours, in the Transit centre (Caricole), or upon their arrival at the border in an airport – in view of a return, either before their transfer to a return unit, or before their forced removal.

257. The situation in Belgium before August 2018 en de opening van de gezinsunits in het centrum 127 bis (bron: Myria (2018), Myriadoc 8 'Terugkeer, Detentie en Verwijdering van vreemdelingen in België. Recht op het gezinsleven in het gedrang', p. 40 en verder)

258. Article 83/11 of the Royal Decree of 2 August 2002 establishing the regime and measures to be applied in places located on the Belgian territory, managed by the Immigration Office, where a foreigner is detained, at the disposal of the government or detained, in accordance with the provisions of article 74/8, § 1 of the law of 15 December 1980 on entry to the territory, the residence, settlement and removal of foreign nationals.

259. Information obtained from the Immigration Office on 11 February 2019.

260. For more information see: <http://www.youdontlockupachild.be/>.

261. Royal Decree of 19 June 2012 modifying the Immigration Act, Article 8 (6)

## 10.6. RETURN OF IRREGULAR MIGRANTS

The new laws of 21 November and law of 17 December 2018 have introduced the possibility to **return an applicant for international protection** on the condition that he applied for the third time (2 subsequent applications), that he is staying in a detention centre at the time of the application and that the CGRS has declared that there was no violation of the principle of non-refoulement<sup>262</sup>.

The **CONEX project** aiming at raising awareness about return among irregularly staying migrants staying in big cities has been extended to new partners and cities.

## 10.7. ENSURING IMPLEMENTATION OF ALL EU READMISSION AGREEMENTS TO THEIR FULL EFFECT

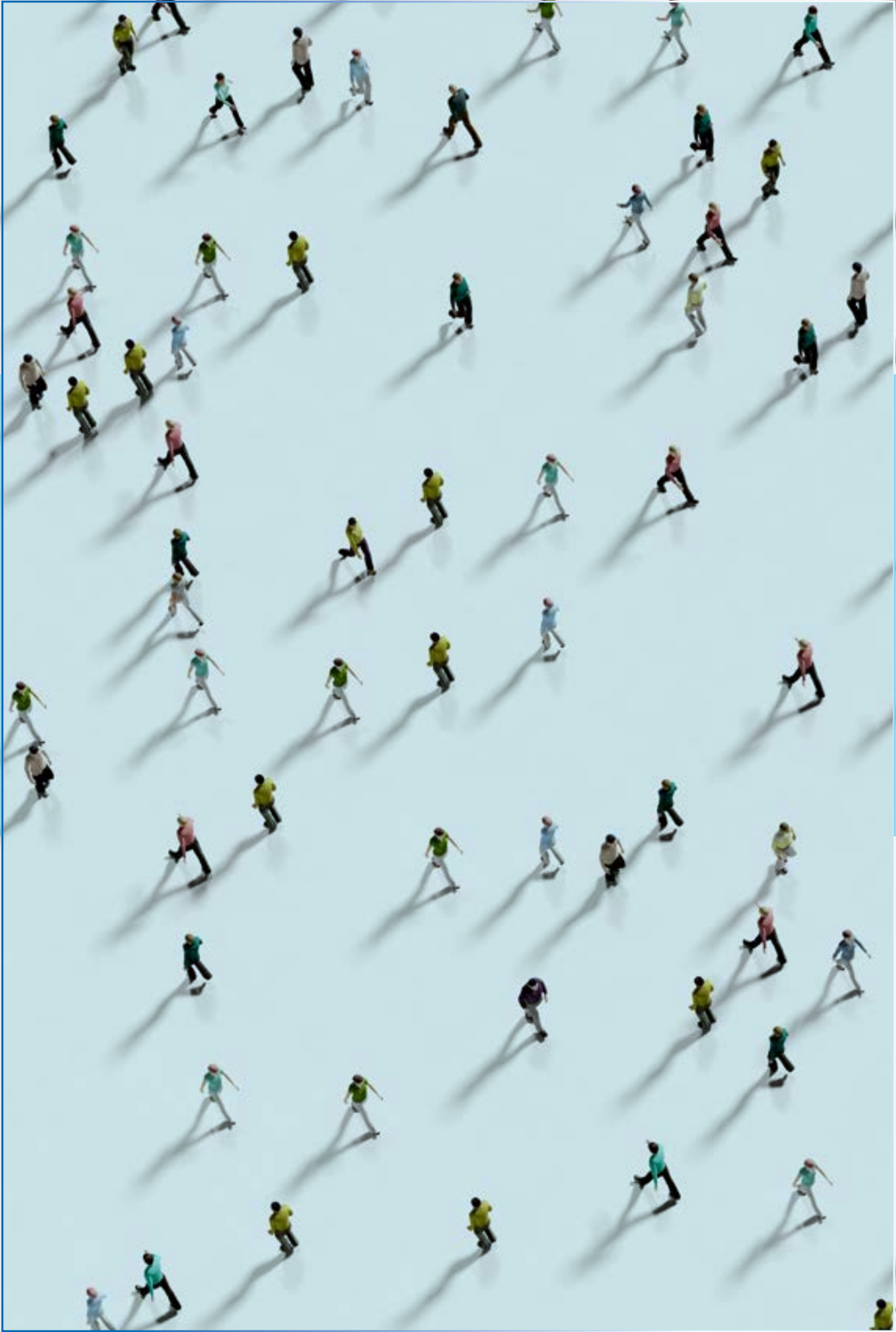
On the 13 November 2018, a **Memo-randum of Understanding** (MoU) has been signed between the former State Secretary for Asylum Policy and **Tunisia** to foster collaboration between the two States and ease the return procedure. On the 13 November, another MoU has been signed with **Mauritania**. In June, a **Protocol of Application** has been signed between Benelux States and Armenia implementing the return agreement with **Armenia** and the European Union. This protocol aims at harmonising the practices included in the MoU regarding the return procedure.

## 10.8. REINTEGRATION MEASURES IMPLEMENTED IN COOPERATION WITH THIRD COUNTRIES, E.G. COUNTRIES OF ORIGIN.

In the framework of the agreement signed between Fedasil and Enabel, a project aiming at supporting **economic development, employment, stability and resilience** in areas subject to departures has been undertaken with **Guinea**. Through the strengthening of the employability of local populations, the project aims at reaching potential migrants, with a focus on youths and women, while integrating migrants having returned to their home country.

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262. Immigration Law, Art 57/6/2 chap 3



# ANNEXES

## ANNEX A: ABBREVIATIONS AND SPECIFIC TERMS USED

LIST OF ABBREVIATIONS USED	
ACTIRIS	Brussels Public Employment Service
AMAAR	Adapted Medical Assistance After Return Project
AMIF	Asylum, Migration and Integration Fund
API	Advance Passenger Information
ARIEC	Arrondissement Information and Expertise Centre
AVR(R)	Assisted Voluntary Return (and Reintegration)
CALL	Council for Alien Law Litigation
CGRS	Office of the Commissioner General for Refugees and Stateless Persons
CJEU	Court of Justice of the European Union
COCOM	Joint Community Commission of the Brussels-Capital Region
COI	Country Of Origin Information
CRI	Regional Integration Centre (in Wallonia)
DRC	Democratic Republic of the Congo
EASO	European Asylum Support Office
EC	European Commission
ECHR	European Convention on Human Rights
EEA	European Economic Area
EMN	European Migration Network
EPIM	European Programme for Integration and Migration
ESF	European Social Fund
EU	European Union
FEDASIL	Federal Agency for the Reception of Asylum Seekers
FGM	Female Genital Mutilation
FOREM	Walloon Public Employment Service
FPS	Federal Public Service
FTE	Full Time Equivalent
FYROM	Former Yugoslav Republic Of Macedonia
GFMD	Global Forum on Migration and Development
GRETA	Group of Experts on Action against Trafficking in Human Beings
ICP	Interdepartmental Coordination Platform for the Fight against Trafficking and Smuggling in human beings

ICT	Intra-corporate transfer
IOM	International Organization for Migration
LGTBI	Lesbian, gay, bisexual, transgender and intersex
MoU	Memorandum of Understanding
NCP	National Contact Point (of the European Migration Network)
NGO	Non-Governmental Organisation
NSSO	Belgian National Social Security Office
PNR	Passenger Name Record
OFII	French Office for Immigration and Integration
RDPP	Regional Development and Protection Programme
REG	Return and Reintegration Experts Group (of the EMN)
SIS	Schengen Information System
SPOC	Single Point of Contact
TCN	Third-country national
UAM	Unaccompanied minor
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime
VDAB	Flemish Public Employment Service
VIS	Visa Information System

SPECIFIC TERMS USED	
Closed centre	Detention centre for irregular migrants, pending their forced return (administrative detention).
Immigration Act	Law of 15 December 1980 regarding the entry, residence, settlement and removal of foreign nationals
Reception Act	Law of 12 January 2007 regarding the reception of asylum seekers and certain other categories of foreign nationals



## ANNEX B: 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 2018. 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](http://www.emnbelgium.be)

The studies and reports from the other NCPs as well as the Synthesis Reports are available on [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports_en)

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 <i>- Also available in French and Dutch</i>
October 2009	Programmes and Strategies in Belgium Fostering Assisted Voluntary Return and Reintegration in Third Countries <i>- Also available in French and Dutch</i>
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 <i>- Also available in French and Dutch</i>
September 2012	Establishing Identity for International Protection: Challenges and Practices in Belgium <i>- Also available in French and Dutch</i>
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 <i>- Also available in French and Dutch</i>
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 <i>- Also available in French</i>
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: Belgium's responses
July 2018	The effectiveness of return in Belgium: challenges and good practices linked to EU rules and standards
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

## 2019

Upcoming	Approaches to unaccompanied minors following status determination in Belgium
Upcoming	Attracting and retaining international students in Belgium
Upcoming	Beneficiaries of international protection travelling to their country of origin
Upcoming	Migratory pathways for start-ups and innovative entrepreneurs in Belgium



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Funded by the European Union's Asylum,  
Migration and Integration Fund.