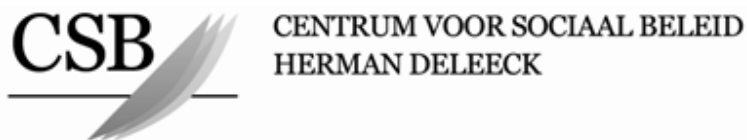




Migrant Access to Social Security – policy and practice in Belgium

Study for the Belgian National Contact Point
of the European Migration Network (EMN)

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The views expressed in this study are solely those of the authors. They do not necessarily reflect any institutional or government position.

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The European Migration Network was set up with the purpose of providing up-to-date, objective, reliable and comparable information concerning asylum and migration for the European institutions, national authorities and other stakeholders.

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Executive summary

This study provides an overview of the social security entitlements of certain categories of immigrants in Belgium. It also analyses the socio-economic position of immigrants in Belgium.

Belgian social security: generally an inclusive system

The Belgian social security system is the combination of a mainly contributory system of work-based social insurance and a non-contributory system of social assistance. These two traditional pillars of social security are increasingly complemented with social spending on services such as child and elderly care and on other 'new' social risks (active labour market policies, parental leave) (Cantillon, 2011). Belgian work-based social insurance grants replacement incomes as well as income supplements to compensate for certain costs (e.g. health care). The social aid or social assistance system in contrast, is not work related, hence non-contributory, based on the solidarity principle, and financed by the general taxation system.

The Belgian social security system is an inclusive one. For social insurance programs, such as unemployment, pensions, health care, etc., the general rule is that everybody who works and resides legally in Belgium, is entitled to social security benefits in Belgium (and has to contribute to it on a compulsory basis), provided that they fulfil the general conditions of eligibility such as waiting periods and minimal contributions. This means that everybody, natives, permanent as well as temporary immigrants must participate in the system, through work (or assimilated categories).

When it comes to social aid or guaranteed minimum resources, all legally resident immigrants are covered by the residual social aid program, but depending on their status, will be excluded from some specific sub-programs. Initially, these programs' eligibility criteria were quite restrictive and not open to TCNs (third country nationals). Over time the eligibility criteria opened up to certain privileged groups of immigrants, such as EU citizens, under the influence of European and national case law. Today, TCNs are eligible to the social aid sub-programs based on their sufficiently long residence in (and hence 'stronger bond' with) the country.

Receiving social security and social assistance benefits does not affect the residence status of immigrants with an unlimited residence permit. For temporary immigrants however, their residence status will become more vulnerable when taking up social security and social assistance benefits.

The gradual development of a stronger link between social security and immigration

In the course of the last two decades, Belgium has steadily developed a stronger link between social security (social aid) policies and immigration. We can distinguish two types of policies that make out the immigration-social security nexus.

One type of policy has to do with a **differentiation of minimum income resources** (social aid) by immigrant category. In the course of the last two decades, policies gradually differentiated between several types of newcomers and old comers. In the 1990s the first differentiation occurred for asylum seekers and undocumented immigrants for whom social aid was converted in material aid and urgent medical care respectively. These two groups were cut off from main

stream social aid. In recent years, other groups, such as EU immigrants and some regularized immigrants, also had their entitlement to social aid eliminated. At the same time, in a move to promote old-comers' social integration, old comers' entitlements (immigrants with a permanent residence or second generation immigrants) to social aid became more robust.

Another set of policies that involve **social security entitlements** have in common that they revolve around **stronger participation and integration requirements for immigrants**. These policies take a few forms. First, steps have been taken to make the take-up of social security matter for immigrants who wish to make use of other residence rights. There are two examples of this to date. The right to family reunion is made dependent on sufficient income of the applicant. Certain social security benefits, such as minimum income resources, are not accepted as income. In other words, people dependent on minimum income resources cannot apply for family reunion. To a lesser degree, a similar dynamic is at work concerning Belgian citizenship acquisition. Second, stronger participation requirements for TCNs have been introduced in one minimum income resources program (namely the 'Guaranteed Income for the Elderly') in the form of increased work requirements to become eligible. Since 2012, elderly TCNs need to have worked a minimum of 312 full working days in Belgium before being eligible for the program. Third, stronger participation requirements for TCNs were introduced in the Flemish civic integration programs. Participants who are dependent on minimum income resources and who are required to follow a civic integration program can be barred from minimum income resources if they do not fulfil the course requirements.

Social insurance: limited differences in the treatment of Belgians and Immigrants

These changes in social security and immigration policy do not touch upon the main body of social security entitlements in Belgium. There is no differentiation by immigrant category happening in the mainstream social security branches. Belgium's welfare state, based upon entitlements depending on employment and contributions, remains essentially an open system.

There are a very limited number of differences in the treatment of Belgians and immigrants in the social *insurance* system. The most eye catching is the rule that TCNs whose country did not conclude a social security agreement with Belgium cannot 'export' their pension benefits. Even if they contributed to the social security system for their entire career, they have to reside in Belgium to receive their pension. We regard this rule as outdated. To be sure, Belgian law does not differentiate between immigrants and natives when it comes to the exportability of other benefits. For example, accidents at work benefits are exportable by immigrants, even if there is no social security agreement. Unemployment benefits in contrast are not exportable (not for immigrants nor for natives). Another minor difference between immigrants and natives is present in the unemployment sub-program 'work integration benefits' for unemployed youngsters. Only youngsters who can rely on a bilateral or multilateral agreement are entitled to these benefits (in practice most youngsters are included thanks to the agreements).

Immigrants' weak socio-economic situation

Despite the largely inclusive story of Belgium's social security system, Belgium faces a grim contrast between the inclusiveness of its social security system and the very bad socio-economic situation of immigrants in Belgium. Belgium scores worst among all EU member states when it comes to employment levels of TCNs. TCNs in Belgium have an employment rate of just above

50%. The native population, aged 20 to 59, in contrast, has an employment rate of 80 %. Nowhere in the EU is the gap as large. Consequently, TCNs also face much higher unemployment rates. TCNs are not only underrepresented in employment, they also earn substantially less than natives when they are employed. These lower wages (on average) are related with employment at the lower end of the Belgian labour market (with limited contracts). As a consequence, their contribution to the Belgian tax system is substantially lower than that of natives.

We also observe huge differences in take-up rates and the level of income immigrants obtain from the *contributory social insurance programs*, such as unemployment and pensions. Due to their higher unemployment rates, TCNs are overrepresented in the unemployment program. On average they take up unemployment benefits more frequently than natives. But, due to their limited labour market history, their frequent switch between employment and unemployment, an overrepresentation in the sector of manual labour and their lower wage level, the level of their obtained unemployment benefits is far lower than that of natives. Similarly, a cumulated disadvantage appears for pensions. Due to their age profile (on average younger than natives) and their limited labour market history, both the average take-up and the level of their pension benefits is far lower than that of natives. In the *non-contributory system* of guaranteed minimum resources, immigrants are overrepresented. As immigrants' link to the labour market is weaker, they are more vulnerable to end up in the residual minimum resources programs. Finally, the poverty levels of TCNs are appallingly high in Belgium. Immigrants living in a couple are confronted with at risk of poverty levels of 46 percent, while for natives in a couple this merely equals 5 percent. This translates in an important challenge for opportunities of children. The risk of poverty for native children in Belgium is 13%, whereas the risk of poverty for foreign born (non EU27) children rises to 57%. More than half of TCN children live in poor (or at risk of poverty) households!

The contrast between Belgium's inclusive social security and social assistance system and the appalling socio-economic situation of third country nationals is striking. Belgium seems to accumulate a set of negative factors/risks whose interaction and individual weight remains badly understood so far. The interaction and accumulation of these factors are understudied for Belgium but require the urgent attention of policy makers and researchers alike.

1. Introduction: Objectives, methodology and definitions

1.1 Objectives

This study provides an overview of the social security entitlements of certain categories of immigrants in Belgium. It also makes an analysis of the socio-economic position of immigrants in Belgium. The study analyses the main eligibility criteria and benefit content of the Belgian social security branches, as organised in the MISSOC database (www.missoc.org):

- health insurance (health care, sickness cash benefits, maternity and paternity benefits, invalidity benefits)
- retirement and survival pensions
- benefits for accidents at work and occupational diseases
- family benefits
- unemployment benefits
- guaranteed minimum income resources (integration income, social aid, guaranteed income for the elderly, guaranteed family benefits, disabled persons' benefits)
- long-term care benefits

For every social security branch immigrants' eligibility and the conditions and limitations are listed. Not all immigrant categories are taken into account, in view of the fact that other EMN studies have covered some categories previously. The study looks at third-country nationals (TCNs) holding long-term as well as time-bound residence permits. For long-term residence permits, the study distinguishes between long-term residents as defined by Articles 4 to 7 of Council Directive 2003/109/EC (*langdurig ingezetenen; resident de longue durée*) and long-term residents as defined by Belgian legislation. For third-country nationals holding time-bound (or fixed-term) residence permits, the study distinguishes between labour immigrants of various profiles (including researchers, seasonal workers, frontier workers), the self-employed, job-seekers and family members of TCNs. Note that at present no frontier workers from third countries are working in Belgium. With the current immigration regulations they would not qualify for a labour permit (due to a labour market test, minimum income requirements etc). We include them in the study on a theoretical basis.

The study further offers an assessment whether a nexus between social security and immigration policy has been established by policymakers in Belgium in recent years. For the main branches of social security, the study also gives a more in-depth analysis of possible conditions and criteria in social security legislation that could affect immigrants, such as minimum residence or employment periods, exportability of benefits, and possible migration-specific conditions. The study indicates differences between conditions for Belgian citizens and immigrants (section 3). Next, the study addresses administrative practices in the application of a few discretionary criteria that are used to assess claims in the social security field (section 4). In section 5, the study gives an overview of the bilateral agreements on social security that Belgium concluded with various countries and the main benefits that the parties' subjects can derive from them. Section 6 solves the case-studies proposed by EMN to be able to compare immigrants' eligibility in practice between the Member States. Finally, section 7 offers statistics on immigrants' employment socio-economic situation in Belgium. The study concludes with the

key findings. The study hopes to contribute to a comparative understanding across Member States of immigrants' social security entitlements and bring to the fore the changing landscape in Belgium in which immigration policy and social security get gradually more intertwined.

1.2 Definitions

For this study we used the terminology provided by the EMN Glossary. It may be useful for the Belgian reader to link some of the EMN/EU terminology to the Belgian terminology.

The term 'healthcare' in this study is used for medical care (*ziektekostenverzekering, assurance maladie*). The term 'sickness cash benefits' is used for benefits that replace the loss of earnings during a temporary inability to work due to sickness or injury (*arbeidsongeschiktheidsuitkering, indemnities d'incapacité de travail*). 'Guaranteed minimum resources' groups benefits provided to people with insufficient resources. It includes support for destitute and vulnerable persons to help alleviate poverty or assist in difficult situations. Another useful translation of guaranteed minimum resources is social aid or social assistance (*sociale bijstand, assistance sociale*). It is important to note that **'guaranteed minimum resources' has nothing to do with minimum wage**. In Belgium, the terminology for guaranteed minimum resources varies by program. The English term used for mainstream minimum income resources is 'integration income' (*leefloon, revenue d'intégration sociale*). For those not entitled to an integration income, we use the term 'social aid' (*maatschappelijke dienstverlening, aide sociale*). Other programs belonging to minimum income resources are 'guaranteed family benefits' (*gewaarborgde gezinsbijslag, prestations familiales garanties*); 'guaranteed income for the elderly' (*gewaarborgd inkomen voor bejaarden, garantie de revenus aux personnes âgées*); and 'disabled persons' benefits' (*tegemoetkomingen voor personen met een handicap, allocations pour des personnes handicapées*). The terms unemployment, accidents at work, occupational diseases, family benefits, old-age pensions, survivors' benefits and long-term care are relatively literal translations of the Belgian terminology and need no further interpretation.

For the reader's ease we list the terms and their translation in the table below:

English	Dutch	French
healthcare	<i>ziektekostenverzekering</i>	<i>assurance maladie</i>
sickness cash benefits	<i>arbeidsongeschiktheidsuitkering</i>	<i>Indemnities d'incapacité de travail</i>
Guaranteed minimum resources:	<i>sociale bijstand</i>	<i>assistance sociale</i>
integration income	<i>leefloon</i>	<i>revenue d'intégration sociale</i>
social aid	<i>maatschappelijke dienstverlening</i>	<i>aide sociale</i>
guaranteed family benefits	<i>gewaarborgde gezinsbijslag</i>	<i>prestations familiales garanties</i>
guaranteed income for the elderly	<i>gewaarborgd inkomen voor bejaarden</i>	<i>garantie de revenus aux personnes âgées</i>
disabled persons' benefits	<i>tegemoetkomingen voor personen met een handicap</i>	<i>allocations pour des personnes handicapées</i>

1.3 Methodology

As the specification of this EMN study required not only information on social security entitlements but also on administrative practices, the strategy for this study consisted of the following:

We contacted the:

- Belgian Immigration Department
- Federal Public Service for Social Security
- Public Service for Social Integration
- National Institute for Sickness and Invalidity Insurance
- National Pension Office
- Occupational Diseases Fund
- Accidents at Work Fund
- National Family benefits Office for Employees
- National Employment Office
- Flemish Care Insurance Office
- Flemish Association of Cities and Municipalities (VVSG)
- Kruispunt Migratie-Integratie – Centre of Expertise on Migration – Flanders-Brussels
- The Centre for Equal Opportunities and Opposition to Racism

We sent all above mentioned social security offices a questionnaire, asking detailed questions about eligibility of the different relevant immigrant categories, the administrative practices and their input on the case studies. All filled out the questionnaire and were open to the many further questions and clarifications. An in depth interview with a representative of the Federal Public Service for Social Security, with a representative of the Belgian immigration office, as well as with a representative of the Centre for Equal Opportunities completed the picture. We are grateful to the various administrators and civil servants for their generous and extensive input. We completed the information gathered from the national offices with desktop research (see bibliography) and legal analysis of social security regulations.

For methodology on the statistics, we kindly refer the reader to the part on statistics.

2. Overview of the National Social Security System and how it applies to migrants from Third Countries

2.1. Overview of social security benefits and programs and their financing mechanisms

2.1.1 Overview of the social security system in Belgium (institutional framework, key institutions, main responsibilities, coordination)

The Belgian social security system is the combination of a mainly contributory system of work-based social insurance and a non-contributory system of social assistance. These two traditional pillars of social security are increasingly complemented with social spending on services such as child and elderly care and on other 'new' social risks (active labour market policies, parental leave) (Cantillon, 2011)(Meeusen & Nys, 2013). This comprehensive system aims to address three goals: guaranteeing minimum income protection, guaranteeing people's standard of living upon the occurrence of a social risk, and promoting social participation (mainly through work) (Cantillon 2003: 418).

Belgian work-based social insurance grants replacement incomes as well as income supplements to compensate certain costs (e.g. health care). It covers old-age and survivors' pensions, insurance for unemployment, accidents at work, occupational diseases, family benefits, health insurance and annual holidays. It is a work-based social insurance system. The 'insurance' aspect renders one entitled to benefits after paying sufficient contributions from one's labour income. It is also a 'social' insurance, as it is a compulsory system for all income and risk levels and contributions are adjusted to one's income. As social insurance developed as a compensation for the loss of income from work, several professional groups have different social insurance institutions and rights. The main distinctions are between employees, civil servants and the self-employed. The social security of the self-employed is less extensive (e.g. no unemployment benefits, no insurance for accidents at work or occupational diseases, a different old age pension system).

The social aid or social assistance system in contrast, is not work-related, hence non-contributory, based on the solidarity principle, and financed by the general taxation system. It grants minimum income protection to people who involuntarily are without income and are not insured in the social insurance system. There is a separate branch for elderly people, for disabled people, and a general system with a couple of forms of social aid, such as cash benefits, rent subsidies, etc. In the course of the last decade a stronger emphasis developed on willingness to work and social integration.

Even though social security in Belgium developed as a classical work-based social insurance system in which people become insured based upon work and the contributions they pay on their income, the system developed some universal traits, covering the entire population without the need for a link to employment. In health care for example, the initial eligibility conditions related to work have been abandoned for two decades now to make way for a

residence criterion: (almost) everyone who is registered in the national register and pays the minimum contributions is entitled to health care, hence also immigrants residing legally on the territory. Family benefits, linked to being employed, are complemented with a 'guaranteed family benefit' system that grants family benefits to families who are not eligible in the mainstream system.

Belgian social security is financed through a mix of sources. Its main source consists of contributions paid by employers and employees on employees' gross wages, and amounts to 66% of the system's financing. The basic share paid by the employee is 13.07% of his/her gross wage. The basic share for employers is 24.77% of the employee's gross wage. In addition a series of additional contributions need to be paid by the employer. One such contribution is called the "wage moderation" contribution: 7.48% on the employee's wage by the employer. Another is the contribution for firms having 10 or more workers: 1.69% contribution by the employer. The totality of all these contributions amounts to 66% (Federale Overheidsdienst Sociale Zekerheid 2013). In addition, social security is also partly funded by a federal subsidy sourced from general taxation, amounting to 10% of total funding. An additional 18% of total funding is sourced by a percentage of federal VAT tax income, called 'alternative funding'. Finally, other smaller sources take care of 6% of total funding.

The compulsory contributions of the self-employed are collected by private social insurance funds and a National Auxiliary Fund and allocated by the National Insurance Institute for the Self-Employed.

Each social security branch for employees is managed by a National Office (one for: health care invalidity & maternity, pensions, accidents at work, occupational diseases, family benefits, benefits for disabled persons, unemployment). They receive the necessary funding from the National Social Security Office which allocates the financial resources according to the needs of each social security branch. Not every national office pays social security benefits directly to the beneficiaries. Direct payment to the beneficiaries is the case for pensions and benefits to the disabled. For sickness, maternity and invalidity mutual insurance companies pay or reimburse beneficiaries. For unemployment benefits representative trade unions serve as paying institutions. For accidents at work the employer's insurer pays. For family benefits, private 'compensation funds for family benefits' pay the family benefits. The fact that employer and employee organisations are involved in benefit payments reflects the work-centred nature of the Belgian system that grew historically. Civil servants have a separate system whereby, roughly speaking, the respective civil service manages its own civil servants' social security. A separate Social Security Office exists for local and provincial civil servants. Social assistance is managed separately and is not part of the National Social Security Office's competence. Social assistance is managed by local Public Centres for Social Aid which are partly funded with federal grants and partly by local funding.

Finally, we mention that next to the state-centred social security system (first pillar), a second social security pillar exists on the level of industries and companies. This pillar covers among others group insurances and pension funds or sector funds granting extra benefits to employees of that industry. The third pillar, covers private insurances people can take, such as private hospitalisation insurance, private pension saving, etc.

Generally speaking, the Belgian social security system is an inclusive one for immigrants. For social insurance programs (such as health care, unemployment, pensions, accidents at work,

etc.), the general rule is that everybody who works and resides legally in Belgium, is entitled to social security benefits in Belgium (and has to contribute to it on a compulsory basis), provided that they fulfil the general conditions of eligibility such as waiting periods and minimal contributions. This means that everybody, natives, permanent as well as temporary immigrants must participate in the system, through work (or assimilated categories). There are a very limited number of differences in the treatment of Belgians and immigrants. When it comes to social aid or guaranteed minimum resources, all legally resident immigrants are covered by the residual social aid program, but depending on their status, will be excluded from some specific sub-programs.

Table 1: Overview of the Belgian social security system as it applies to third-country nationals

Social Security Branch	Benefits and programs included in each branch	Financing mechanisms	Accessibility by third-country nationals
I. Health Care	<p>Medical treatment</p> <ul style="list-style-type: none"> °Free choice of doctor + specialist ° no waiting period to be eligible °Payment on a fee-for-service basis - health insurance fund will reimburse 60-75% of the fees °In excess of a certain annual amount paid by the insured themselves, the so-called maximum ceiling, certain categories of patients get free health care °Patient charges: must not exceed 25% for general medical care. Charges are higher (40%) for certain specialist medical interventions. In principle, no charges for technical benefits. <p>Hospitalisation</p>	<p>Mixed system:</p> <p>global contributions from employees and employers (66%),¹ global state subsidies (10%), alternative funding (VAT)(18%), other sources (6%).</p> <p>All funds are collected in a Global Management scheme and then distributed over the social security branches, such as health care</p>	<p>YES - The health insurance system covers everyone who is resident in Belgium (and registered in the national register)^{2 3} and pays the minimum contributions).</p> <p>NOT covered: frontier workers who reside in Belgium but are covered by a foreign social insurance scheme.⁴</p> <p>Seasonal workers: they are eligible for health care <i>if</i> they meet the general conditions (payment of contributions),</p>

¹66% is the aggregate of various contributions paid by employers and employees paid on employees' gross income. The basic share paid by the employee is 13.07% of his/her gross wage. The basic share for employers is 24.77% of the employee's gross wage. In addition a series of additional contributions need to be paid by the employer. One such contribution is called the "wage moderation" contribution: 7.48% on the employee's wage by the employer. Another is the contribution for firms having 10 or more workers: 1.69% employer contribution (*Federale Overheidsdienst Sociale Zekerheid* 2013). We attached a list of some other contributions to be paid by the employer at the end of this table.

²The national register (*Rijksregister*) is an umbrella database that registers individuals residing in Belgium. The main register in the national register is the population register (comprising among others Belgian nationals and foreigners with an indefinite residence permit). Are also included: a register of people registered in the Belgian diplomatic and consular posts abroad, the foreigners' register (foreigners who do not reside long enough in Belgium yet to be part of the population register, e.g. labour migrants, new family migrants), and the waiting register (for people who applied to be recognized as refugee).

³In practice this means people who are permitted to reside in Belgium for a limited or unlimited duration and who are in the possession of an electronic residence permit. Some categories of people present in Belgium are excluded, such as most diplomats, people whose residence permit was denied but who initiated an appeal with the council of foreigners disputes, etc. For people who are not eligible based on work, but based on the fact that they are registered in the national register, eligibility does depend on two conditions: they should not be entitled to health care anywhere else and they need to pay a minimum of contributions.

⁴Cass. 21 juni 1993, *J.T.T.* 1994, 7.

	<p>°Free choice of hospital °flat-rate prepayment + per diem charge as an inpatient (€ 14.71 per day) + flat-rate daily amount for medicines, tech services + Direct payment of care provider by the insurance body, if beneficiary is hospitalised °reduction of patient charges: for dependent children, those benefiting from the preferential scheme and the assimilated unemployed: €5.44 per day.</p> <p>Dental care °preventive & conservative treatment, extractions, dental prosthesis, and orthodontic treatment. °Children under 18 years of age: free dental care (except orthodontic treatment and non-reimbursable care). °Patient charges of up to 25% for ordinary insured persons over 18 years of age. Pharmaceutical products: Patient charges depend on the category to which the pharmaceutical belongs (A, B, C, Cx, Cs, Fa and Fb) Patients in hospital: €0.62 per day.</p> <p>Protheses, spectacles, hearing aids</p> <p>General conditions: 1) one needs to register with a health insurance fund 2) one needs to have contributed a minimal amount of social security contributions (possibly supplemented with personal contributions), in a period of six months.</p>	<p>Specific for health care and maternity, the following are part of the contributions paid in the Global Management Scheme: * A share of the contributions of 5% or 10% levied on car insurance premiums. * 10% contribution levied on hospitalization insurance premiums. * contribution of 6.56% on fire and associated risks. * contribution of 7.56% on the risks related to the possession and/or the use of a motor vehicle *contribution of 4.83% on the risk of accidents at work. *royalties paid by the pharmaceutical firms on certain products of theirs and contributions related to the turnover of the pharmaceutical industry achieved on the Belgian market. *pension deduction of 3.55% for the Sickness and Invalidity Insurance on the condition that the pension is not reduced below €1,675.59 or - without dependants - €1,413.84 per month.</p>	<p>which may be hard to fulfil, in view of their short stay.</p>
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<p>II. Sickness Cash benefits</p>	<p>General conditions: *To have ceased all activities because of injury or functional disorder resulting in a reduction of earning capacity of at least 66%. *Period of work and membership required: 6 months, of which 120 days of actual work or assimilated periods (unemployment, legal holidays, etc.). *Proof of payment of minimum amount of contributions.</p> <p><i>When incapacitated to work, employer continues to pay wages for:</i></p> <p>-white-collar workers: 100% of earnings during a period of one month. -manual workers: * during the first 7 days of incapacity for work: 100% of earnings; * from 8th to 14th day of incapacity: 60% of upper earnings limit and a supplementary benefit; * from 15th to 30th day of incapacity: supplementary benefit</p> <p><i>After this initial stage: Sickness Cash benefits are granted</i></p> <p>-Amount of the benefit: 60% of earnings. Maximum daily salary taken into account for the compensation: €129 for incapacities occurred since 1/1/2011</p>	<p>Same as above: part of global management (mixed system)</p>	<p>YES – everybody who WORKS and resides in Belgium – same as Belgian nationals – no distinction is made – but general conditions, such as qualifying period, must be met (except if bilateral treaty)</p> <p>NOT covered: - temporary workers who did not fulfil the qualifying period of 120 working days - seasonal workers: if not fulfilled qualifying period (is an extended period of 18 months)</p>

	<p>-Duration of the benefit: Maximum of one year (period of “primary incapacity for work”) (after that come ‘invalidity benefits’)</p> <p>-Special conditions for the unemployed: the sickness cash benefit during the first six months cannot be less than the unemployment benefit.</p> <p>Conditions</p> <p>°Period of work and membership to health insurance fund required: 6 months, of which 120 days of actual work or assimilated periods (unemployment, legal holidays, etc.).</p> <p>°Proof of payment of minimum amount of contributions</p>		
III. Maternity and Paternity Benefits	<p><i>Paid maternity/paternity leave:</i> Compulsory social insurance, covering the active population (employees and self-employed) and providing earnings-related benefits (employees) and lump-sum benefits (self-employed).</p> <p>-duration of leave:</p> <p>* <u>Maternity leave:</u> <i>Prenatal leave:</i> 6 weeks (8 weeks in case of multiple births) before the expected date of delivery. The week immediately preceding delivery is compulsory, the other weeks are optional.</p> <p><i>Postnatal leave:</i> 9 mandatory weeks after delivery.</p> <p>The part of the optional prenatal leave that has not been used up before delivery can be taken after the delivery or at the time when the child comes home after a long period of hospitalisation.</p> <p>*<u>Paternity leave:</u> Fathers are entitled to 10 days paternity leave upon their child’s birth. The same applies for co-parents.</p>	<p>Mixed system: global contributions from employees and employers (66%), global state subsidies (10%), alternative financing (VAT)(18%), other source (6%).</p> <p>All funds are collected in a Global Management scheme and then distributed over the social security branches, such as health care</p>	<p>YES – everybody who is employed (or assimilated) and resides in Belgium – same as Belgian nationals – no distinction is made – but general conditions must be met</p> <p>NOT covered: - temporary and seasonal workers⁵ who did not fulfil the qualifying period of work and contributions</p> <p>Wholly unemployed: Work is not a condition to receive maternity/paternity benefits. Unemployed persons are also entitled but there is a waiting period. The unemployed person has to have paid social contributions for six months.</p> <p>! posted workers are not part of the</p>

⁵ It is important to note that at present no TCNs are working in Belgium as seasonal workers.

	<p>*<u>Adoption leave</u>: Both parents are entitled to an adoption leave in case of adoption of a child. The maximum duration of the leave is 6 weeks if the child is aged below 3, and 4 weeks if the child is aged between 3 and 8. The duration of the leave is doubled in case of disability of the child.</p> <p>-Continued payment by the employer:</p> <p>*<u>Maternity leave</u>: No statutory continuation of payment.</p> <p>*<u>Paternity/adoption leave</u>: Statutory continuation of payment during the first three days. Afterwards, compensation by the insurance body.</p> <p>Cash benefits</p> <p>* <u>Maternity benefit</u>: 82% of wages (without ceiling) in the first 30 days, and 75% of wages (up to ceiling) for period from 31st day. Special regulations for unemployed workers and for disabled. The rate continues to be paid during a possible extension of prenatal leave.</p> <p>* self-employed mothers: weekly lump-sum of 440,50 euro</p> <p>* <u>Paternity/adoption</u> benefit: 82% of wages up to ceiling (maximum benefit: €105.80 for cases from 1/1/2011).</p> <p>General condition to become eligible: 6 months waiting period</p>		<p>Belgian social security system: they are not entitled.</p>
<p>IV. Invalidation Benefits</p>	<p><i>Benefits granted if incapacity to work persists after one year (during which sickness cash benefits were granted)</i></p>	<p>Mixed system: global contributions from</p>	<p>YES – everybody who is employed (or assimilated category) and resides in</p>

	<p>Calculation method, pension formula or amounts:⁶</p> <p><u>Normal benefit:</u></p> <ul style="list-style-type: none"> * 65% of the lost earnings (subject to ceiling of €129 daily since 1.1.2011) if there are dependants, * 53% if single without dependants, * 40% if cohabiting person without dependants. <p><u>Particular cases:</u></p> <p>Beneficiaries who are incapable of work may receive a daily flat-rate supplement of €16.91 from the fourth month of work incapacity, provided they have the need for assistance of a third party in order to perform the basic activities of daily life.</p> <p><u>Minimum pension:</u></p> <p>Minimum for regularly employed:</p> <p>With dependants: €53.32 per day, Without dependants:</p> <ul style="list-style-type: none"> -single €42.67 per day; -cohabitants €36.59 per day. <p>Minimum for non-regularly employed:</p> <p>With dependants: €41.09 per day, Without dependants: €30.82 per day.</p> <p><u>Maximum pension:</u> The ceiling for the maximum daily remuneration, which serves as a basis for calculating benefits, is €129 (for invalidity since 1.1.2011).</p>	<p>employees and employers (66%), global state subsidies (10%), alternative financing (VAT)(18%), other source (6%).</p> <p>All funds are collected in a Global Management scheme and then distributed over the social security branches, such as health care</p> <p>Plus (specific for invalidity benefits):</p> <ul style="list-style-type: none"> *A share of the contributions of 5% or 10% levied on car insurance premiums. *3.5% deduction from invalidity benefit : <ul style="list-style-type: none"> - full deduction if the daily amount of benefit exceeds €59.45 (with dependants) or €49.36 (without dependants); - partial deduction if the daily amount of benefit is between €57.38 and €59.44 (with dependants) or between €47.64 and €49.35 (without dependants); - no deduction if the daily 	<p>Belgium – same as Belgian nationals – no distinction is made – but general conditions must be met (except if bilateral treaty)</p> <p>NOT covered: - temporary & seasonal workers who did not fulfil the waiting period</p> <p>In principle not exportable, except if treaty</p>
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⁶Invalidity benefit is calculated on the basis of lost daily earnings. The ceiling is set at €123.3821 for invalidities occurred before 1/1/2005, at €125.8497 for invalidities occurred from 1/1/2005 to 31/12/2006, at €127.1082 for invalidities occurred from 1/1/2007 to 31/12/2008, at €128.1250 for invalidities occurred from 1/1/2009 to 31/12/2010 and €129.0219 for invalidities occurred since 1/1/2011.

	<p>Conditions</p> <ul style="list-style-type: none"> ° Same as sickness cash benefits, as invalidity can only be granted after this one year of sickness cash benefits ° Period of work and membership to health insurance fund required: 6 months, of which 120 days of actual work or assimilated periods (unemployment, legal holidays, etc.). ° Proof of payment of minimum amount of contributions ° having been granted sickness cash benefits for 1 year 	amount of benefit is €57.37 or less (with dependants) or €47.63 or less (without dependants).	
V. Old- age pensions and benefits	<p>Determining factors</p> <p>The Belgian pension system is an annual accrual system. The amount of earnings are taken into account, the duration of insurance and family status</p> <p>Calculation method or pension formula: For each year taken into consideration, a pension share is granted according to the following formulas: Single or married without dependent spouse: $S \times 60\% \times 1/45$. Married with dependent spouse: $S \times 75\% \times 1/45$. S = reference salary (see category below).</p> <p>Reference earnings or calculation basis: Calculation of salary considered: Years prior to 1 January 1955: S = fixed amount of €13,955.34. Years 1955 - 1980: * Manual workers: gross earnings without upper limit. * White-collar workers: gross earnings without upper limit (except for the years between 1955-1957: lump-sum amounts for each day of work lasting at least 4 hours). Years after 1980: Gross earnings limited to the ceiling of €51,092.44 (in 2012).</p> <p>Non-contributory periods credited or taken into consideration: On the condition that certain legal conditions are met, the</p>	<p>Mixed system: global contributions from employees and employers (66%), global state subsidies (10%), alternative funding (VAT)(18%), other source (6%).</p> <p>All funds are collected in a Global Management scheme and then distributed over the social security branches, such as health care</p> <p>PLUS: * 8.86% contribution levied on group insurance policies.</p> <p>*Progressive solidarity contribution (<i>cotisation de solidarité/solidariteitsbijdrage</i>) from 0.5% to 2% according to the amounts of pension and the pensioners' family situation. Levying from €2,569.12 (with dependants)</p>	<p>YES – everybody who is employed (or assimilated category) and resides in Belgium – same as Belgian nationals – no distinction is made –<i>calculated (only) for the periods worked in Belgium</i></p> <p>Frontier workers Non-Belgian frontier workers are entitled to pension benefits that amount to the difference between the amount they would have gotten if they had done all their labour in Belgium and the pension that he receives in another country – ONLY if the frontier worker can invoke the non-discrimination principle of a bilateral treaty (or EU law)</p> <p>unemployed / job seekers yes, entitled. The working days during which the person was temporarily unemployed are taken into account for the calculation of the retirement pension. A cumulation of</p>

	<p>following periods of non-activity are generally taken into account: involuntary unemployment, unemployment with company supplement, certain periods of career interruption, incapacity for work, maternity rest, annual holiday periods, military service, recognised strikes, preventive detention, recognised studies, etc.</p> <p>Supplements for dependants: *Spouse: In case of a dependent spouse, the household rate (75%) shall apply *Children: No pension supplement. But pensioners are entitled to a supplement to family benefits</p> <p>Minimum pension: Guaranteed minimum pension for a complete career, as well as for the equivalent of 2/3 of a complete career: Household rate: €16,844,72 (annually) Single rate: €13,480,03 (annually)</p> <p>Maximum pension: A maximum amount results from the annual earnings ceiling for the calculation base. Maximum for employees (gross): * Household: €2,681 per month, * Single person: €2,144 per month.</p> <p>Residence condition Foreigners have to live in Belgium to get their pensions paid. So no exportability, except if treaty. Belgians, refugees, stateless persons and citizens of bilateral treaty partners can have their pensions paid anywhere in the world.</p>	<p>and €2,222.18 (without dependants).</p>	<p>unemployment benefits and old age pension benefits is not possible.</p> <p>Family members of third-country nationals No, unless they build up entitlements in their own right through work</p>
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<p>VI. Survivors' benefits</p>	<p>General conditions:</p> <ul style="list-style-type: none"> Surviving spouse must be at least 45 years old having been married for at least one year at the moment of the spouse's death (periods of legally recognized cohabitation just before marriage are taken into account) fulfil the conditions for payment of a regular pension <p>Surviving spouse: 80% of the actual or hypothetical retirement pension (<i>pension de retraite/rustpensioen</i>) of the insured person calculated at the rate for a married couple where the spouse is dependent.</p> <p>Divorced spouse: Pension is calculated as the old age pension, but only on the ground of 62.5% of the incomes, minus personal income. Periods out of marriage and periods covered by a personal pension are not taken into account.</p> <p>Surviving (unmarried) partner: No benefits.</p> <p>Surviving spouse: remarriage Pension ceases</p> <p>Orphan children: No orphan's pension; but get increased family benefits scheme.</p> <p>Minimum pension: Guaranteed minimum pension for a complete career: €13,104.28 per year, calculated pro rata if the career is at least equivalent to 2/3 of a complete career.</p> <p>Maximum pension: depends on annual earnings ceiling. The maximum pension for a surviving spouse of an employee amounts to €2,106.50 per month, which corresponds to the</p>	<p>Mixed system: global contributions from employees and employers (66%), global state subsidies (10%), alternative funding (VAT)(18%), other source (6%).</p> <p>All funds are collected in a Global Management scheme and then distributed over the social security branches</p>	<p>YES, Foreigners may, if they meet the general requirements, receive a survivor's pension for the legal work their spouse has done in Belgium. They have to stay in Belgium to receive this benefit (unless there is a bilateral agreement).</p> <p>The general requirements, however, are quite restrictive, which render it hard for recent immigrants to fulfil them: as it is an accrual system, in which for every year worked in Belgium 1/45 is added to the pension sum, the surviving spouse will only receive a small fraction (for the small number of years worked in Belgium) of what a normal pension would amount to. This is also the case for Belgians with a short accrual history (there is no distinction here)</p>
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	maximum old-age pension for a single person.		
VII. Accidents at work and occupational diseases	<p>ACCIDENTS AT WORK</p> <p>Temporary incapacity - Benefits in kind</p> <p>Free choice of doctor or hospital, unless for accidents at work, if the enterprise has a recognised, comprehensive medical department.</p> <p>Payment of costs and contribution by person involved</p> <p>*Accident at work: If free choice is allowed, costs are reimbursed within the limits of the official rate. Care organised/provided by the medical department of the enterprise is free of charge. The costs are borne by the insurance company or by the Accidents at Work Fund if it acts as insurance body.</p> <p>*Occupational disease: According to official rate and specific nomenclature. No co-payment of the beneficiary. The costs are borne by the health insurance fund and, insofar as co-payments are concerned, by the Occupational Diseases Fund</p> <p>Temporary incapacity - Cash benefits</p> <p>* Total incapacity: Per calendar day 90% of basic earnings divided by 365 days. * Partial incapacity: Benefit equal to the difference between earnings before the accident or the beginning of incapacity due to the occupational disease, and the earnings in partial employment.</p> <p>Basic earnings used for calculation: Effective yearly earnings in the year preceding the accident or the incapacity due to an occupational disease. Maximum: €40,122.93. Minimum for minors and apprentices: €6,439.20; taking into account of wages of adult workers, when minors become of age.</p>	<p>Mixed system:</p> <p>Accidents at work are mainly financed by insurance premiums paid by the employers; occupational diseases are mainly financed by contributions from the Global management scheme</p>	<p>YES, foreign employees, including seasonal workers, whether temporary or permanent residents, are entitled to benefits for accidents at work and occupational diseases.</p> <p>Benefits are exportable. Including reimbursement of benefits in kind</p> <p>frontier workers are also entitled: they can choose where they go to the doctor (whether in the country where they're living or whether in the country where they're working). The benefits will eventually be paid by the health insurance of the competent country (usually working country).</p> <p>Accidents at work and occupational diseases are by definition linked to the status of being an employee: self-employed Belgians or third-country nationals are NOT entitled. They can use the sickness and invalidity insurance for the self-employed.</p> <p>Unemployed persons / job seekers are not employed, hence not entitled.</p> <p>Family members of third-country national employees: same as Belgians entitled to an interest (30% of basic</p>

	<p>Permanent incapacity:</p> <p>Amount or formula In general: $E \times t$. E = earnings (100%), t = degree of incapacity</p> <p>Reference earnings or calculation basis Total gross earnings in the year prior to the accident or the cessation of work due to an occupational disease. Maximum ceiling: €40,122.93 per year. For minors: Earnings of adults.</p> <p>Possibility of review Review possible: *Accidents at work: During 3 years from the date of the agreement between the parties or the final decision. *Occupational diseases: At any time at the victim's request.</p> <p>Supplements for care by another person A supplementary benefit of max. 12 times the average monthly guaranteed income, according to the degree of need, index-linked from the beginning of the period of compensation.</p> <p>Accumulation with new earning from work: Full accumulation permitted</p> <p>Death Surviving spouse: $E \times 30\%$. Remarriage after entitlement to benefit: no influence. Redemption possible of maximum 1/3rd of capital representing annuities. No redemption possible for occupational diseases. Divorced or separated: Annuity under special conditions.</p>		<p>salary) if their partner is deceased as a result of an accident at work. They are only entitled to this if they meet the same requirements as Belgians.</p>
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	<p>Orphans of father or mother: Each orphan: E x 15% with maximum of 45% for group of children. Orphans of both parents: Each orphan: E x 20%. Max.: 60% for group of children.</p> <p>Dependent parent and other relatives *Father and mother: E x 20% each, if there is neither a spouse nor a legal cohabitant nor a child entitled to benefits; E x 15% if there is still a spouse (or legal cohabitant) without a child beneficiary. *Other ancestry: E x 15% under special circumstances. *Brothers, sisters, grandchildren: Under special circumstances, 15% each (total max. 45%).</p> <p>OCCUPATIONAL DISEASES Mixed system: List of occupational diseases and open system or not included on list, when occupational demands are found to be the determining and direct cause of the disease. Proof that the person has been exposed to occupational risk and a link to the cause must be provided by the victim or the beneficiaries.</p>		
<p>VIII. Family Benefits</p>	<p>Child benefit: Monthly amounts 1st child: €90.28 2nd child: €167.05 3rd child and subsequent children: €249.41</p> <p>The amounts are increased, for single parent families who receive child benefits at the normal rate and whose professional and/or replacement income does not exceed €2,230.74, by a supplement of: 1st child: €45.96 (first order) 2nd child: €28.49 3rd child and subsequent children: €22.97</p> <p>No variation with income</p>	<p>Mixed system: global contributions from employees and employers (66%), global state subsidies (10%), alternative funding (VAT)(18%), other source (6%).</p> <p>All funds are collected in a Global Management scheme and then distributed over the social security branches</p>	<p>YES,– everybody who is employed (or assimilated category) and resides in Belgium – same as Belgian nationals – no distinction is made, including the self-employed.</p> <p>They must meet the general condition that the children have to be raised in Belgium (in principle)</p> <p>Exceptions to the residence conditions of the children: *residence in another country for maximum 2 months per year * residence in another country during</p>

	<p>Variation with age Children in 1st order, receiving the normal rate (no supplement for single parent families nor social supplement, child not disabled) get an increase of : aged 6 - 12: €15.73 aged 12 - 18: €23.95 aged 18 or more: €27.60</p> <p>*other children (including any child benefiting from a supplement for single parent families and any disabled child): aged 6 - 12: €31.36 aged 12 - 18: €47.92 aged 18 or more: €60.93</p> <p>Child benefit: Special cases <u>Unemployed persons:</u> Unemployed persons are entitled from the 7th month of unemployment to normal family benefits (including increases according to age and annual age supplement) plus the following social supplements: 1st child: €45.96 2nd child: €28.49 3rd child and subsequent children: * single parent family: €22.97 * other family: €5.00</p> <p>These monthly supplements are not granted if the monthly total gross income (payments and replacement income) of the unemployed person exceeds a certain ceiling. This ceiling corresponds to €2,230.74 for persons receiving the child benefit or for single beneficiaries, and to €2.306,94 for beneficiaries and their spouses or partners raising the child together.</p>		<p>the school holidays, max 120 days a year * residence in another country for health reasons, max. 6 months * to study in a country in which the EU social regulations are applicable * to study outside of Belgium with a scholarship * to study in a country with whom Belgium has a bilateral agreement: Algeria, Morocco, Tunisia, Turkey and the countries of ex-Yugoslavia. For children educated in these countries reduced benefits are granted: 27,21 EUR (1st ch.) + 28,91 EUR (2nd Ch.) + 30,61 EUR (3rd Ch.) + 32,31 EUR (4th ch.) (max 4 kids). For ex-Yugoslavia: 12,39 EUR per child (with some new republics new agreements have been concluded that pay the Belgian amounts).</p> <p>The Minister of Social Affairs can grant further exceptions to the rule that children must be raised in Belgium 'cases worthy of consideration': this is a discretionary power of the minister (see more later)</p> <p>Aggregation with family benefits of another country is not possible. The child benefits are reduced with the amount of the foreign benefits (unless a treaty says otherwise)</p>
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	<p><u>Pensioners:</u> Pensioners obtain the same supplements to the family benefits as unemployed persons.</p> <p><u>Sickness Cash benefits/Disability:</u> Workers who are recognised as being unable to work or female workers on maternity leave as from the 7th month of disability and eventual maternity leave, or who are disabled and on eventual maternity leave, are entitled to the following social supplements to the family benefits (plus increases according to age and annual age supplement): 1st child: €98.88 2nd child: €28.49 3rd child and subsequent children: * single parent family: €22.97 * other family: €5.00</p> <p>These monthly supplements are not granted if the monthly total gross income (payments and replacement income) of the person exceeds a certain ceiling. This ceiling corresponds to €2,230.74 for persons receiving the child benefit or for single beneficiaries, and to €2.306,94 for beneficiaries and their spouses or partners raising the child together.</p> <p>Former unemployed persons and former invalids who have started a new activity are granted, under certain conditions, the right to the social supplement during a maximum period of 8 quarters.</p> <p><u>Orphans:</u> Orphan's benefit (<i>allocations d'orphelins/wezenbijslag</i>): €346.82 per month for each child (plus increases according to age and annual age supplement).</p> <p>Child-raising benefits Amount of benefits</p>		<p>Frontier workers: are entitled if no other entitlement to child benefits exist in Belgium or abroad: child benefits are a residual right. Conditions are: to be an employee, to effectively reside in Belgium or work as a frontier worker, or have a social benefit for sickness, pregnancy, accident or old age from a work country.</p> <p>Unemployed/job seekers: If foreign worker is entitled to unemployment insurance, one is entitled to child benefits.</p> <p>Family members: are not entitled, but may be the beneficiary (spouse & children) – child benefit is in principle linked to work, so working (or unemployed/disabled/retired) person (by extension) opens the right.</p>
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	<p>In the case of full-time work: *total interruption of work: €771.33 per month; *half-time interruption of work: €654.17 per month for persons aged 50 and over; €385.66 per month for persons aged less than 50.</p> <p>In the case of part-time work: Amounts are calculated proportionally</p> <p>Other benefits</p> <p>Birth and adoption grants</p> <p>*Birth grant (<i>allocation de naissance/kraamgeld</i>): €1,223.11 for first birth; €920.25 for second and each subsequent birth. May be obtained in advance two months before the probable date of birth.</p> <p>*Adoption grant (<i>prime d'adoption/adoptiepremie</i>): €1,223.11 per adopted child.</p> <p>Special benefits for children with disabilities</p> <p>Supplementary benefit for children with disabilities under the age of 21, the amount of which varies according to the degree of disability.</p> <p>* €79.17 if the child obtains at least 4 points in the first level and maximum 5 points in the three levels of the socio-medical scale; * €105.44 if the child obtains at least 6 points and maximum 8 points in the three levels of the socio-medical scale; * €406.16 if the child obtains at least 9 points and maximum 11 points in the three levels of the socio-medical scale; * €406.16 if the child obtains at least 12 points and maximum 14 points in the three levels of the socio-medical scale or if the child obtains at least 4 points in the first level and from 6 to 11 points in all three levels of the socio-medical scale; * €461.83 if the child obtains at least 15 points and maximum 17 points in the three levels of the socio-medical scale; * €494.81 if the child obtains at least 18 points and maximum 20</p>		
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	<p>points in the three levels of the socio-medical scale; * €527.80 if the child obtains at least 21 points in the three levels of the socio-medical scale. Monthly amounts.</p>		
<p>IX. Unemployment Benefits</p>	<p>General Conditions To be involuntarily unemployed; to be registered as jobseeker; to be fit for work; to be available for the labour market; to be aged between 18 and 65; to be actively seeking work; to reside in Belgium; to be without remuneration.</p> <p>Qualifying Period Period varies according to the age of the insured person between 312 working days during the previous 21 months, and 624 working days over the previous 42 months.</p> <p>Generally periods of work acquired abroad can be taken into account <i>if</i> Belgium would qualify that work as subject to social security insurance – the only condition is that after these periods of work abroad some work has been done in Belgium (no matter how short) – this is not available for TCNs, except if there is a treaty.</p> <p>Total unemployment Determining factors Except for some lump-sum amounts, the daily benefits are income related, with a lower and an upper ceiling. Variable rates according to the family situation and the duration of unemployment (see below).</p> <p>Earnings taken as reference and ceiling Last salary earned. Three monthly salary ceilings:</p>	<p>Mixed system: global contributions from employees and employers (66%), global state subsidies (10%), alternative funding (VAT)(18%), other source (6%).</p> <p>All funds are collected in a Global Management scheme and then distributed over the social security branches, such as health care</p>	<p>YES – everybody who is employed and legally resides in Belgium and has the right to work – same as Belgian nationals – no distinction is made – but general conditions must be met (qualifying period) - only for the time one worked in Belgium (except if treaty)</p> <p>Not exportable (there are a few minor temporary exceptions)⁷</p> <p>Labour migrants: YES, entitled, <i>if</i> he has worked through the qualifying period, and if his work permit is not expired (see later). If his work permit expires during the receipt of benefits, he will keep the right to unemployment benefits for 60 more days after expiry of the work permit.</p> <p>! sub-program: Benefits for young unemployed - Work integration program: only immigrants (and family members) whose country concluded a</p>

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	<p>* higher salary ceiling (first 6 months of unemployment): €2,418.23; * medium salary ceiling (subsequent 6 months of unemployment): €2,253.83; * basic salary ceiling (after 12 months of unemployment): €2,106.15. This salary should be earned during at least four weeks, failing which a reference salary of €1,501.82 applies.</p> <p>Rates of the benefits Unemployment benefit: All totally unemployed persons receive 65% of their last salary during the first three months of unemployment. During the nine subsequent months, they receive 60% of their last salary. This first one-year period is followed by a second period of two months, extended for two months per year of past salaried work. This second period lasts up to 36 months and is divided into five phases. During the first phase of up to 12 months: * cohabitants with dependants receive 60% of the last salary earned; * single persons receive 55% of the last salary earned; * cohabitants without dependants receive 40% of the last salary earned. During the next four phases of up to 24 months altogether, the benefits decrease in four stages. During the third period, after maximum 48 months of unemployment, the totally unemployed person receives a flat-rate benefit.</p> <p><u>Amounts per month:</u> <u>Cohabitants with dependants:</u> Maximum: € 1603.16 (first three months) decreasing to €1134.9 (months 43-48). Minimum and flat-rate benefit: €1134.9. <u>Single persons:</u> Maximum: €1603.16 (first three months) decreasing to €953.16</p>		<p>treaty with Belgium are eligible for it. (includes all EEA countries, Algeria, Morocco, San Marino, Tunisia, Turkey, republics of ex-Yugoslavia), as well as refugees, stateless persons.</p>
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	<p>(months 43-48). Minimum and flat-rate benefit: €953.16. <u>Cohabitants without dependants</u>: Maximum: €1603.16 (first three months) decreasing to €503.62 (months 43-48). Minimum: €714.74 (first three months) decreasing to €503.62 (months 43-48).</p> <p>Duration of benefits No limit (provided the beneficiary actively looks for work and notably follows a pathway to work)</p> <p>Benefits for young unemployed -Professional integration program Before receiving professional integration benefits, youngsters who completed their studies, whatever their age, must follow a professional integration program of 310 days, during which they should undertake concrete steps to find a job. The professional integration benefit is awarded for a period of up to 36 months, which can be extended under certain conditions.</p>		
<p>X. Guaranteed Minimum resources</p>	<p>'Guaranteed minimum resources' cover a few programs:</p> <ol style="list-style-type: none"> 1) right to social integration 2) right to social aid (residual program) 3) guaranteed child benefits 4) income guarantee for the elderly 5) disabled persons' benefits <p>The eligibility criteria for foreigners <i>differ</i> for these programs. Hence, we present the 4 categories separately</p> <p>1) Right to social integration Guaranteeing a right to social integration through 1° a <u>job</u> or 2° an <u>integration income</u> (<i>revenue d'intégration/leefloon</i>), coupled or not to an integration project. The integration income must ensure a minimum income to persons without sufficient resources and unable to procure them by personal effort or other means. A person is considered to be in need if, following the social and</p>	<p>Certain programs are financed under the Global management system of social security:</p> <ol style="list-style-type: none"> 1) Guaranteed child benefits 2) Guaranteed income for the elderly 3) Disabled person's benefit <p>The right to social integration and right to social aid :</p> <ul style="list-style-type: none"> *50% State (increased in certain cases). *50% Public centres for social assistance (<i>Centres publics d'Action sociale, C.P.A.S./Openbare Centra voor maatschappelijk welzijn,</i> 	<p>Eligibility differs per sub-program. Only in the residual program of 'social aid' there is a general eligibility for all persons legally residing in Belgium. Eligibility for TCNs in the other programs is reserved to TCNs who have permanent or long-term residence (5yrs) or (in one program) show a link with the labour market.</p> <p>For all programs: no exportability – must reside in Belgium (same as for Belgians)</p> <p>1) right to social integration NO, only Belgians and certain privileged groups of foreigners:</p>

	<p>the means investigation, it appears that his/her resources are lower than the amounts of an integration income.</p> <p>One of the conditions for being able to claim the integration income is that the claimant must demonstrate his/her willingness to work unless this is impossible for health or equity reasons. The concept of willingness to work refers to a frame of mind which is different than that in the field of unemployment, and which allows for the proof of a job search asked to be less stringent. Integration income can be denied to a person who is not willing to work, for lack of fulfilment of one of the entitlement conditions.</p> <p>The Public Centre for Social Assistance (PCSA) may propose a job to the person concerned and become his/her employer with a view to acquiring professional experience or creating entitlement to unemployment benefits. The PCSA can put the person at the disposal of third parties, also from the private sector. The PCSA can even cover a part of the wages as a part of different activation measures or in the context of unemployment. The PCSA can agree on vocational training or initial training pathways which it may provide, if necessary, through third parties.</p> <p>Monthly amounts:</p> <ul style="list-style-type: none"> • Cohabiting person : €534.23; • Single person: €801.34; • Person living together with a dependent family: €1,068.45. <p>These amounts may be combined with family benefits received for children. Additionally subsidies are granted for installation, moving house and rent exist, heating.</p> <p>2) Right to social aid</p> <p>Next to the system of 'integration income', a more residual system exists of 'social aid' (<i>maatschappelijke dienstverlening</i>). This can take many forms, including financial benefits, and is</p>	<p>O.C.M.W.).</p>	<p>*stateless persons authorized to reside</p> <p>*refugees</p> <p><i>*foreign nationals listed in the population register (in practice mostly people who have a permanent residence permit obtained after 5 years).</i></p> <p>*EU citizens (or members of their family accompanying or joining them) with the right of residence of more than three months.</p> <p>2) Right to social aid (basic program of guaranteed income resources)</p> <p>YES, all people legally resident in Belgium</p> <p>Except (since 2013): immigrants whose residence is based on 'humanitarian regularisation' on the basis of a labour permit B (see later).</p> <p>And Except (since 2012) : EU citizens for first 3 months of their stay (or as long as they have the status of jobseeker)</p> <p>3) Guaranteed child benefits</p> <p>YES, but conditional upon 5 years of uninterrupted legal <i>residence</i> in Belgium (in practice granted after 4 years)</p> <p>5 (4) years residence is not required for: EER citizens+ family, citizens of a state that ratified the European Social</p>
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	<p>open to all people legally resident on the Belgian territory. Social aid can exist of heating benefits, granting a rental deposit, employment, socio-cultural participation, help with joining a health insurance fund. Financial aid is usually identical to the amounts granted under the 'integration income' program. The main criterion to be eligible is to be 'in a state of need'</p> <p>3) Guaranteed child benefits Child benefits for parents/children who cannot claim any entitlement in the regular system or in any foreign or international system. Child benefits 1st child: €136.24 2nd child: €195.54 3rd and subsequent children: €254.41 (other forms of child benefits, such as age supplements, exist in line with the regular system)</p> <p>4) Income Guarantee for the Elderly Creating a minimum income for elderly persons in need. Cohabiting person: 674,46 EUR Single person: 1.011,70 EUR Can be combined with child benefits</p> <p>5) Disabled Persons Benefits (becomes a specific allowance for help to the elderly, after 65) * <u>Income Replacement Benefit</u>: the monthly basic amount of the benefit is determined by the family situation of the disabled person: Category C: person cohabiting with a partner or living with a</p>		<p>Charter,⁸ refugees and stateless people. The residence period is also not required if the <i>child</i> for whom the benefits are applied for is: EER citizen or European Social Charter citizen, stateless or refugee.</p> <p>4) Income Guarantee for the Elderly CONDITIONAL YES: *Belgian national; *people coming within the scope of Regulation (EC) 883/2004; *nationals of a country with which Belgium has concluded a reciprocity agreement; *immigrants who can open rights in the regular pension (only minimal work in Belgium required for that), and who fulfil one of these conditions: 1) <i>proving a career in Belgium of minimum 312 full working days</i> (or equivalent) ; 2) having the status of TCNs with long-term residence permit as per Council Directive 2003/109/EC ; *refugee or stateless person.</p> <p>The eligible person needs to have his/her main residence in Belgium.</p>
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⁸ Countries that ratified the European Social Charter (Council of Europe): Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Croatia, Macedonia, Moldavia, Ukraine, Russia, San Marino, Serbia and Turkey.

	<p>dependent child aged below 25 : €1.090.37; Category B: disabled person living alone or disabled person living in an institution whilst maintaining the same address as his/her partner : €817.78 ; Category A: disabled person not belonging to category B or C: €545.18</p> <p>* <u>Integration Benefit</u>: the monthly amount varies according to the degree of loss of autonomy. There are 5 categories: * Cat. I (7 or 8 points): €95.73; * Cat. II (9 to 11 points): €326.21; * Cat. III (12 to 14 points): €521.24; * Cat. IV (15 or 16 points): €759.39; * Cat. V (17 or 18 points): €861.48.</p>		<p>5) Disabled persons benefit NO, except if listed in the population register (in practice immigrants with permanent residence permit, after min. 5 years of residence)</p> <p>If one is not listed in the population register, one can be entitled if: * nationals of an EU Member State & nationals of Iceland, Liechtenstein, Norway, Switzerland, Morocco, Algeria or Tunisia who are employee or self-employed (or family member) *refugees or a stateless persons * dependent spouse, cohabitant or family member of the above mentioned persons *have received until the age of 21 increased child benefit due to disability of the child *nationals of a state having signed the European Interim Agreement.</p>
<p>7. Long-term care</p>	<p>1) Health care: at the federal level there is no specific legislation but the general health care system covers nursing care at home for heavily dependent patients, who are not able to perform the basic activities of daily living. The insurance covers part of the fixed costs of this care according to the state of physical dependence of the patient: Category of dependency A: * €16.64 with preferential scheme, * €12.66 without preferential scheme. Category of dependency B: * €32.29 with preferential scheme, * €29.28 without preferential scheme.</p>	<p>1) Health Care Insurance & 2) Integration benefit for disabled people and benefit for assistance to the elderly: Part of the Mixed system: Mixed system: global contributions from employees and employers (66%), global State subsidies (10%), alternative financing (VAT)(18%), other source (6%).</p>	<p>1) Health Care: YES - The health insurance system covers (almost) everyone who is resident in Belgium (and registered in the national register) (see above: health care)</p> <p>2) Disabled people: NO, only if listed in the population register (in practice people with permanent residence permit) or treaty immigrants (such as EU)</p>

	<p>Category of dependency C: * €44.20 with preferential scheme, * €40.05 without preferential scheme.</p> <p>2) For disabled people: <i>Integration benefit, as well as benefit for assistance to the elderly (as of age 65):</i> These benefits are aimed at offsetting the additional costs resulting from the lack or the reduction of autonomy. They are calculated on a lump-sum basis.</p> <p>Maximum monthly benefit between 81,81 EUR and 549,15 EUR depending on state of dependency</p> <p>3) The Flemish care insurance (only in Flanders (compulsory) and Brussels (voluntarily)) Aid and assistance of a non-medical nature supplied by third persons to persons with reduced autonomy in a residential, semi-residential or out-patient setting.</p> <p>Fixed monthly amount of €130. The same amount is granted if the person resides in an institution other than a service flat. The benefit is paid to the user.</p>	<p>All funds are collected in a Global Management scheme and then distributed over the social security branches, such as health care</p> <p>3) Flemish Care Insurance: Mix of 1) contributions by all members: 25 euro per year (from the age of 26) – separate collection 2) subsidies by Flemish government</p>	<p>If one is not listed in the population register, one can be entitled if:</p> <ul style="list-style-type: none"> *Belgian national *nationals of an EU Member State & nationals of Iceland, Liechtenstein, Norway, Switzerland, Morocco, Algeria or Tunisia and who fulfil the conditions of Regulation (EC) 883/2004 *refugees or stateless persons * dependent spouse, cohabitant or family member of the above mentioned persons *have received until the age of 21 increased child benefit due to disability of the child *nationals of a State having signed the European Interim Agreement. <p>3) Flemish Care Insurance YES, compulsory insurance for people living in Flanders, regardless of nationality.</p> <p>Persons living in Brussels have the possibility to join, regardless of their nationality.</p> <p>Persons not living in Belgium but in another Member State of the European Union or the European Economic Area, or in Switzerland; and who are covered by social insurance in</p>
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			<p>Belgium because of an actual or a previous employment in Flanders are obliged to join, regardless of their nationality.</p> <p>Persons not living in Belgium but in another Member State of the European Union or the European Economic Area, or in Switzerland; and who are covered by social insurance in Belgium because of an actual or a previous employment in Brussels have the possibility to join, regardless of their nationality.</p>
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Source: MISSOC, questionnaires sent to the respective social security administrations, legislation, secondary literature.

Note on financing. The following list contains other contributions or deductions that are not allocated to a particular branch, but that contribute to Global Financing Management (source: MISSOC):

- Special social security contributions: collection of lump-sum, progressive amounts related to household income.
- Percentage of revenues from VAT.
- Solidarity employer contribution depending on CO2 emission rate in case of non professional use of a company car supplied by the employer to the employee.
- Employers' contribution of 0.05% for the financing of paid parental leave.
- Employers' contribution of 0.05% for the fostering of children.
- Contribution of 33% on one-off performance-related advantages.
- Solidarity contribution of 33% paid by the employer on the sum s/he pays on behalf of the employee or which s/he reimburses to the employee, as payment of a fine for traffic offences committed while working.
- Employers' contribution of 0.01% for the asbestos fund;

- Employers' contribution of 0.02% paid by employers coming within the scope of the Law of 10 April 1971 on accidents at work (*Loi sur les accidents du travail/Arbeidsongevallenwet*) to cover for the expenses connected with the phenomenon of under-reporting accidents at work, leading to an increased burden for the sickness-invalidity branch.

2.1.2. Additional Benefits specific for Belgium

Next to the benefits described above, Belgium has one more specific branch of social security, called 'holiday benefits'. All people who are employed in Belgium receive annual 'holiday benefits' that cover paid holiday leaves added with a benefit covering extra expenses related to going on a holiday. The payment of holiday benefits differs for blue and white collar workers.

Employers pay holiday benefits directly to white collar employees. Holiday benefits consist of one's normal wage for the days on holiday added with 92% of a normal monthly income.

For blue collar employees as well as (non self-employed) artists the employer pays contributions on their wages (part of Global management, see above) on a monthly basis, which are then transferred to the National Annual Holiday Office,⁹ which pays holiday benefits to blue collar workers annually (<http://www.onva-rjv.fgov.be/>). Blue collar employees receive as holiday benefit 15,38 percent of their gross annual income (possibly supplemented with a fictive income for equivalent working days) minus 1%.

All employed people subject to National Social Security, irrespective of their citizenship, are entitled to holiday benefits. For part time workers or persons who did not work the entire year a proportionate benefit is paid.

⁹ Next to the National Annual Holiday Office, other specific 'holiday funds' exist for certain branches of industry that pay holiday benefits to their workers.

2.2 Has a link or nexus between policies in relation to social security and immigration been established by policymakers in Belgium?

In the course of the last two decades, Belgium has steadily developed a stronger link between social security (social aid) policies and immigration. We can distinguish two types of policies that make out the immigration-social security nexus.

One type of policy has to do with *a differentiation of social security benefits by immigrant category*. This differentiation of benefits happened only for **minimum income resources (social aid)**. Policies gradually differentiated between several types of newcomers (whose social aid rights became more restricted) and old comers (whose social aid rights became stronger). The further differentiation of certain categories of newcomers for the take-up of social aid benefits continues till this day (see 2.2.1.).

Another set of policies that construct a link between social security and migration have in common that they revolve around **stronger participation and integration requirements for immigrants**. These policies take a few forms. First, steps have been taken to make the take-up of social security matter for immigrants who wish to make use of other rights and benefits. There are two examples of this to date. The right to family reunion is made dependent on sufficient income of the applicant. Certain social security benefits, such as minimum income resources, are not accepted as income. In other words, people dependent on minimum income resources cannot apply for family reunion. To a lesser degree, a similar dynamic is at work concerning Belgian citizenship acquisition (see 2.2.2.1.).

Second, stronger participation requirements for TCNs have been introduced in one minimum income resources program (guaranteed income for the elderly) in the form of increased work requirements to become eligible. Third, stronger participation requirements for TCNs were introduced in the Flemish civic integration programs. Participants who are dependent on minimum income resources and who are required to follow a civic integration program can be barred from minimum income resources if they do not fulfil the course requirements.

These changes in social security and immigration policy do not touch upon the main body of social security entitlements in Belgium. There is no differentiation by immigrant category happening in the mainstream social security branches. Belgium's welfare state, based upon entitlements depending on employment and contributions, remains essentially an open system. With the exception of minimum income resources which are where the policy changes took place, the classical social security branches remain based upon the territoriality principle: if one legally resides and works on the national territory, regardless of one's citizenship, one becomes eligible for social security. The social security system in Belgium, as in other countries, has been built up quite steadily over the past century. The integration of immigrants into the main social security branches has been accomplished immediately or gradually upon the design of the system. As stable as the main branches of social security are, where eligibility is mainly based upon being employed, as stable has been the integration of immigrants (Mussche 2008: 219).

In what follows, we give a succinct overview of these policy trends.

2.2.1. Differentiation of social aid entitlements by immigrant category

The differentiation of immigrant categories concerning minimum income resources has been developing for over 20 years. In the course of the last two decades, social security entitlements, and more specifically entitlements for social aid or minimum income resources, have become a tool to manage the influx of certain categories of immigrants. In the 1990s the first differentiation occurred for asylum seekers and undocumented immigrants. In recent years, other groups, such as EU immigrants and some regularized immigrants, also had their entitlement to social aid drastically reduced. At the same time, in a move to promote old-comers' social integration, old comers' entitlements to social aid became more robust.

2.2.1.1. Exclusion of Asylum seekers and undocumented immigrants from mainstream social aid

The first groups whose social aid became differentiated concern asylum seekers and undocumented immigrants as of the 1990s. Asylum seekers' social aid was converted into material aid, while social aid for undocumented immigrants was eliminated. The large increase in the number of asylum seekers and the reaction of public opinion to this development prompted the Belgian government to gradually control and manage the influx of asylum seekers. Measures were taken to 'spread' asylum seekers over the entire country to avoid the concentration and overburdening of municipalities and Public Centres for Social Aid. Asylum seekers were also registered in a newly created 'waiting register'.¹⁰ All this time asylum seekers had been entitled to financial social aid from Public Centres for Social Aid. As of 1996, however, the Belgian government replaced this financial aid with material aid and managed the arrival of asylum seekers in 'reception centres' at the initial stage of the asylum procedure.¹¹ As of 2007, material aid became the norm for the entire duration of the (reformed) asylum procedure.¹²

Around the same period of time, in a similar move to control immigration, social aid for undocumented immigrants also became the focus of more restrictive policies. Until the mid 1980s undocumented immigrants in Belgium received social aid when in need. From then onwards, however, measures were taken that increasingly made their undocumented status matter. In 1984, Belgian parliament voted an act that introduced a distinction between illegal immigrants and other people in need of social aid. From then onwards social aid to undocumented immigrants became limited to material and medical aid at a high enough level to ensure subsistence.¹³ In 1992, a further step was taken in re-designing social aid as an instrument of immigration policy (Van Heule 1994: 247). From then onwards, Centres for Social Aid could only grant social aid that was strictly necessary to enable the departure from the territory for rejected asylum seekers and undocumented immigrants who had received a final order to leave the country. An exception was made for urgent medical care. By 1996, social aid

¹⁰ Act of 24 May 1994, *B.S.*, 21 July 1994.

¹¹ Act of 15 July 1996, *B.S.*, 5 October 1996.

¹² Act of 12 January 2007, *B.S.* 7 May 2007.

¹³ Act of 28 June 1984, *B.S.* 12 July 1984.

to undocumented immigrants became restricted to urgent medical care (without any reference to having received a final order to leave the country).¹⁴

2.2.1.2. Further exclusions for certain categories of newcomers

More recently, a few other groups of newcomers have seen their entitlements to minimum income resources eliminated: the latest are EU newcomers and people being regularised based on the possession of a work permit.

1) European newcomers

As of February 2012,¹⁵ European citizens and their families who come to Belgium are not entitled to social aid during the first three months of their stay. If they come as a job seeker, they will not be entitled to social aid as long as they retain the status of job seeker. In contrast, EU citizens who are entitled to residence of more than 3 months and who effectively reside in Belgium for more than 3 months (e.g. a working EU citizen (employed or self-employed)), have access to an 'integration income' (form of social aid) (*POD Maatschappelijke Integratie* (2013 (2))).

2) 'regularized' newcomers with a labour permit

As of 2013, a specific group of 'regularized' immigrants became excluded from the right to social aid. It concerns immigrants who apply for a 'humanitarian regularisation' on the basis of the fact that they obtained a temporary *labour permit*. In Belgium, immigrants can apply for a right to reside in Belgium on the basis of exceptional circumstances. Normally, one needs to apply abroad in a Belgian embassy or consulate for a residence permit of over 3 months. If one proves that this is impossible to do, one can get a residence permit while being in Belgium – called 'humanitarian regularisation' (*Kruispunt Migratie Integratie* 2013). As of 2013, if such a residence permit is granted on the basis of the fact that the applicant obtained a labour permit (i.e. that he has a job), this person will not be entitled to minimum income resources any more (*POD Maatschappelijke Integratie* (2013 (3))).¹⁶

2.2.1.3. Stronger inclusion of old-comers in minimum income resources program

While asylum seekers and undocumented immigrants became excluded from mainstream social aid in the 1990s and early 2000s, policies were introduced to increase the integration of 'old-comers' into the minimum income resources program. In a first step, old-comers, being registered in the *population* register (i.e. permanent residence, possible after 5 years), became eligible to the activation aspects of the minimum income resources program. The measure was aimed at a stronger labour force integration of 2nd and 3rd generation immigrants (in practice

¹⁴ Act of 15 July 1996, B.S. 5 October 1996.

¹⁵ Art. 12, Act of 19 January 2012, B.S. 17 February 2012: in a first phase this policy addressed an exclusion of general social aid. In a second phase, in 2013, EU citizens and their family members were also excluded from the social integration program (Act of 28 June 2013, B.S. 1 July 2013).

¹⁶ Art. 20 Program Act of 28 June 2013, B.S. 1 July 2013.

mostly of Turkish and Moroccan origin). Additionally, before 2002, old-comers were not entitled to the mainstream integration income (°1974) but only to more generic social aid. Upon a major reform of the integration income program, people registered in the *population* register (i.e. permanent residence, possible after 5 years) became entitled to the *integration income program* on an equal footing as Belgians.¹⁷ Those foreigners who were still only registered in the foreigners' register but who had a residence permit of unlimited duration (less strong than permanent residence) would not become eligible to an integration income, but would become eligible for the activation and professional integration aspect of the integration income program (as of 2001).¹⁸

A similar extension of settled immigrants' rights occurred in 2009 for *disabled persons' benefits*. As of 2009 immigrants registered in the *population* register (i.e. permanent settlement, granted after 5 years upon application) are entitled to disabled persons' benefits without any further conditions.¹⁹ This extension came after Belgium's constitutional court judged that excluding these long settled immigrants from these benefits constituted discrimination.²⁰ The strong influence of court cases on the social entitlements of immigrants is not new. For every minimum income resources program, case law has had an expansive impact upon the list of entitled people. The last expansions, however, towards people registered in the population register indicates a greater commitment of Belgium to acknowledge the rights of people who developed a strong bond with the country, regardless of their (un)privileged citizenship (such as EU).

2.2.2. Stronger integration requirements for immigrants

The second set of policies that develop a stronger link between social security and immigration, all revolve around increased participation and integration requirements for TCNs. These policies directly or indirectly touch upon immigrants' social security eligibility or take-up.

2.2.2.1. Social Security take-up as a benchmark for acquiring other rights

A first set of policies qualifies immigrants' take-up of social security benefits as a benchmark or testing point to be eligible for family reunion and the acquisition of Belgian citizenship. With regard to family reunion immigrants (*as well as Belgians*) may face difficulties when they receive certain kinds of benefits. An applicant needs to prove sufficient and stable income to be entitled to family reunion. The source of this income matters. Minimum income resources as well as child benefits and 'work integration benefits' for unemployed youngsters are not taken into account to calculate the income of the applicant. Hence, if these benefits are the only source of income, one will not be able to bring over one's spouse or partner (see more 4.4.).

¹⁷ Art. 3, Act of 26 May 2002, *B.S.* 31 July 2002.

¹⁸ Art. 72, Program-Act of 2 January 2001, *B.S.* 3 January 2001.

¹⁹ K.B. 9 February 2009, *B.S.* 06.03.2009

²⁰ GwH 12 December 2007, nr. 153/2007, *B.S.* 11 February 2008, *J.L.M.B.* 2008, 7, 283. See also: Bouckaert, S. (2012), *Vreemdelingen en Sociale Bijstand*, Mechelen, Wolters-Kluwer, p. 64.

To a lesser degree, Belgium's citizenship legislation makes social and economic participation an explicit criterion. To gauge immigrants' participation their dependence on social security benefits is taken into account, since its reform in 2012. The new act's social and economic integration criteria include some provisions on social security. For economic participation, the act requires a mainstream applicant to prove he has worked for a minimum of 458 working days in the course of the past 5 years or paid at least 6 quarters of social contributions as a self-employed person. This means that full dependence on the social security system would negatively affect one's application for Belgian citizenship.

2.2.2.2. Stronger link with labour market required for an Income Guarantee for the Elderly

Another expression of the tendency to require stronger participation by TCNs concerns new eligibility rules for immigrants in the minimum income program: *'Income Guarantee for the Elderly'*. Before 2012, the Income Guarantee for the Elderly was, next to Belgians, accessible to a limited set of immigrant categories. TCNs were eligible if they were nationals of a country with which Belgium has concluded a reciprocity agreement; refugees and stateless persons; and, importantly, if they *fulfilled the eligibility rules to obtain a regular pension*. This last condition meant in practice that even a very loose link to the labour market, having worked for only a very short time (e.g. 1 day), sufficed to become eligible for the 'income guarantee for the elderly'. As of 1 July 2012, the very loose link to the labour market has become stricter. TCNs now also have to *prove a career in Belgium of minimum 312 full working days* (or equivalent) (or have the status of TCNs with long-term residence permit as per Council Directive 2003/109/EC).²¹ One of the reasons for this policy change lies in the fact that Public Centres for Social Aid were said to employ elderly needy immigrants for a very short period of time, e.g. 1 day, just to open up their entitlement in the (federally paid) program 'Income Guarantee for the elderly', and hence free themselves from having to pay social aid themselves (Stevens, 2013: 338). As of 2012, the bond with the labour market needs to be stronger for TCNs: they have to have worked 312 full working days or the equivalent of that over a longer period, before they can claim the benefit. In practice, that means that immigrants who can only prove less than 312 working days, will be entitled to residual social aid (VVSG 2012).

2.2.2.3. A link between civic integration programs and uptake of minimum income resources in Flanders

In Flanders, finally, a link has been made between social aid and immigrants' integration. Flanders, as one of the federal entities of Belgium, has the integration of immigrants as one of its constitutional competences. It developed an elaborate civic integration program for newly arrived immigrants, some of whom have the legal obligation to participate into the program. Immigrants who are obliged to follow an integration course and who at the same time receive social aid or an integration income, can lose their entitlements if they do not fulfil their obligations under the integration program. Following an integration program is seen as an aspect of the willingness to work, which is a condition to be eligible for social aid. A public centre for social aid will decide autonomously, taking into account the specific situation of the

²¹ Art. 108 Program Act of 22 June 2012, B.S. 28 June 2012.

immigrant, whether or not social aid will be terminated if the immigrant does not fulfil his/her obligations (VVSG 2013).

2.3 Recent/planned changes to the eligibility rules for social security benefits and programs affecting third-country nationals' access

As mentioned, a few categories of TCNs faced changes in their eligibility to minimum income sub-programs in the course of the last two decades.

Newcomers restricted from certain minimum income resources:

- 1) As of the 1990s: Asylum seekers are only entitled to material aid
- 2) As of the 1990s: undocumented immigrants are not entitled to social aid any more, except for urgent medical care
- 3) As of 2012: Income Guarantee for the Elderly: TCNs need to show 312 (equivalent) working days to be entitled
- 4) As of 2012 (+2013): EU citizens and their family members are not entitled to social aid for the first three months of their stay. If they are job seekers, they remain excluded from social aid as long as their status remains that of job seeker.
- 5) As of 2013: Newcomers who acquired a residence permit through 'humanitarian regularisation' (9bis) based on the possession of a work permit, are not entitled to social aid any more

Old comers more integrated into minimum income resources:

As of 2002: TCN immigrants registered in the *population* register (i.e. permanent residence, possible after 5 years) are entitled to the reformed integration income (mainstream minimum income resources).

As of 2001: TCN immigrants who are only registered in the *foreigners'* register, but who have a residence of unlimited duration (less strong than permanent residence) (and who are not part of any privileged category such as EU citizens) are not entitled to an integration income but are eligible for the activation and professional integration aspect of the integration income program.

As of 2007/9: TCN immigrants registered in the *population* register (i.e. permanent residence, possible after 5 years) are entitled to benefits for disabled persons.

3. National Rules on Access to Social Security by Third-Country Nationals

This section provides a more in-depth analysis of the conditions of eligibility to certain branches of social security, being healthcare, sickness cash benefits, maternity and paternity benefits, old-age pensions and benefits, family benefits, unemployment and guaranteed minimum resources. We do not elaborate on each program separately, but rather mention and explain them by topic. By topic we mean eligibility conditions and other aspects of the programs that may be relevant for immigrants, such as required minimum residence periods, exportability of benefits, minimum employment periods, etc.

3.1. Minimum residence periods attached to the seven social security branches

As the Belgian system is a system of social insurance based on employment and social contributions taxed on employees' income, the duration of *residence* is of very little importance, as opposed to the duration of *work/employment* (see 3.3). Of course, for every benefit a residence requirement is part of the basic eligibility conditions, but no minimum residence periods are set as such.

There are three **exceptions**. **Guaranteed Family Benefits** (granted if one cannot open an entitlement in the regular family benefit program and one's income is below a certain limit) are only granted to TCNs if the **beneficiary adult** has actually and without interruption resided in Belgium for a **minimum of 5 years** just before applying for the benefit (in practice this is reduced to 4 years). Moreover, the child in question must also have resided at least 5 years in Belgium before the application, if (s)he is *not* a blood relation until the 3rd degree of the beneficiary, nor the child of the beneficiary's (ex)spouse or partner, nor a EER national or a national of a country that signed the European Social Charter²², a refugee or a stateless person.²³

The other exception concerns **Disabled Persons' Benefits**. Concerning disabled people's benefits, the duration of immigrants' residence does matter. Disabled people are entitled to a monthly Income Replacement Allowance and an Integration Allowance that covers the costs caused by a reduction of one's self-reliance. As is the case with a mainstream integration income (social aid), an immigrant who is established in Belgium through his registration in the population register (which can only occur after 5 years of residence), is entitled to disability allowances. If an immigrant is not as well established yet and is registered in another register

²² The non EU countries who signer the Charter: Andorra, Armenia, Azerbaijan, Bosnia, Georgia, Macedonia, Moldavia, Montenegro, Ukraine, Russia, Serbia, Turkey.

²³ Art.1, Act of 20 July 1971, B.S. 07 August 1971. The 5 year residence period is not applicable to EER citizens, refugees and stateless persons, people whose country signed the European Social Charter, a person who applies for guaranteed family benefits for a child who is a) an E.E.R. citizen who makes use of the right to free movement or if s(he) doesn't make use of the right to free movement, if (s)he is a citizen of a State that ratified the (revised) European Social Charter; or b) who is a stateless person or a refugee.

such as the foreigners' register, the immigrant needs to have received increased child benefits for disabled children until the age of 21, meaning that the disabled person needs to have been resident in Belgium before the age of 21. This condition does not apply to nationals of an EU Member State & nationals of Iceland, Liechtenstein, Norway, Switzerland, Morocco, Algeria or Tunisia and who are working or self-employed, to refugees or a stateless persons, to nationals of a state having signed the European Interim Agreement, and to the dependent spouses, cohabitants or family members of the above mentioned persons. Once however that the immigrant is registered in the population register, he/she becomes entitled. Also for the **more general 'integration income program'** (mainstream minimum income resources) only TCNs who are registered in the population register are eligible, which only occurs after a minimum of 5 years of residence and a successful application process. In that way, a residence period is also required for this general minimum income program.

3.2. Very limited exportability of social security benefits by third-country nationals in Belgium

The **general rule** in social security is that the **payment** of benefits is conditional upon **residence** in Belgium – that is the case for Belgian nationals, Europeans and TCNs alike. There is in principle **no exportability**. There are **exceptions** to this rule, allowing certain benefits to be exported abroad. Here some differences between Belgian nationals and TCNs apply.

3.2.1. Exportability of pensions and survival pensions – not for TCNs

The first major exception concerns pensions. Belgians, refugees, stateless persons and EER citizens, citizens of countries with which a bilateral social security treaty has been concluded (see later), and foreign miners (for 80%) can export pensions. TCNs whose home countries do not have a treaty with Belgium, are entitled to pensions, but cannot export them outside of the EU. They need to have their residence in Belgium or the EU (except Denmark) to be granted their pension rights. There is moreover no exportability of the Minimum Guarantee for the Elderly-program, for Belgians nor for immigrants.

3.2.2. Exportability of benefits for accidents at work and occupational diseases – without distinction based upon citizenship

The second major exception concerns the exportability of benefits for accidents at work and occupational diseases. Immigrants are fully eligible for the benefits and can export them to any third country. The benefits can be paid to a Belgian or foreign account. One condition is that the beneficiary should send a 'proof of life' annually.

3.2.3. Family benefits – exceptional 'self-export'

Family benefits are a special case. The employed person who 'gives rise' to the benefits, needs to reside in Belgium, and in principle, the children in whose favour the family benefits are granted need to be educated in Belgium. There are, however, some exceptions to the residence requirement of the *children* (the employed person does have to reside in Belgium in any case). The family benefits will still be granted if there is:

- * residence in another country for maximum 2 months per year
- * residence in another country during the school holidays, max 120 days a year
- * residence in another country for health reasons, max. 6 months
- * to study in a country in which the EU social regulations are applicable
- * to study outside of Belgium with a scholarship
- * to study in a country with whom Belgium has a bilateral agreement : Algeria, Morocco, Tunisia, Turkey and the countries of ex-Yugoslavia. For children educated in these countries reduced benefits are granted: 27,21 EUR (1st child); 28,91 EUR (2nd child) + 30,61 EUR (3rd child) + 32,31 EUR (4thch.) (max 4 kids).

The Minister of Social Affairs can grant further exceptions to the rule that children must be raised in Belgium ‘cases worthy of consideration’: this is a discretionary power of the minister. So in certain cases family benefits are not exactly ‘exported’ by the Belgian state, but the families can still enjoy them for kids outside of the territory (‘self-export’).

3.2.4. Sickness cash benefits & Invalidity benefits

Sickness cash benefits and invalidity benefits are in principle not exportable, except if a bilateral or multilateral treaty decides otherwise. A limited list of exceptions allows patients (Belgians or TCNs alike) to receive health care abroad, while at the same time retaining their sickness cash benefits or invalidity benefits. For example, the ‘advising physician’ of a patient’s health insurance fund can give permission to go abroad temporarily. Patients can also go abroad if they will be taken care of in an institution which will enable the patient’s recovery in better medical circumstances. The list of exceptions basically revolves around the notion of proper care for the patient.²⁴

3.2.5. Unemployment benefits

Unemployment benefits cannot be exported outside of Belgium. In some exceptional cases, however, job seekers can be allowed to temporarily be abroad, for example youngsters who receive ‘work integration benefits’ and other job seekers for the purpose of educational projects or internships,²⁵ or older workers who participate in a recognized development cooperation project²⁶. Finally, people over 60 who do not have to be available for the labour market any more can temporarily be abroad.²⁷

²⁴ Art. 294 §1 & 3 Royal Decree 3 July 1996, B.S. 32 July 1996.

²⁵ Art. 36 §2, 5° & 94, §3 Royal Decree of 25 November 1991 regarding unemployment regulation, B.S., 31 December 1991.

²⁶ Art. 97 Royal Decree of 25 November 1991 regarding unemployment regulation, B.S., 31 December 1991.

²⁷ Art 89 Royal Decree of 25 November 1991 regarding unemployment regulation, B.S., 31 December 1991.

3.3. Minimum employment/contribution period attached to social security benefits in Belgium

As mentioned before, the Belgian system is a system of social insurance based on employment and social contributions taxed on employees' income. Hence, quite some programs require a qualifying period in which sufficient days of employment and sufficient contributions need to be accrued. These requirements however, **do not differ between Belgian citizens and TCNs**. They are part of the social insurance/contributory nature of the Belgian social security system. Recently however, one exception to this equality of treatment was introduced. An immigrant-focussed qualifying period was introduced in the minimum income resources program '**Guaranteed Income for the Elderly**'.

We briefly list the employment and contribution conditions applicable in the above mentioned social security branches.

3.3.1. Sickness Cash Benefits + Invalidity: equal treatment – Belgians and immigrants

To be entitled to sickness cash benefits, an employee – **Belgian or TCN** – needs to go through a waiting period of 6 months, during which 120 days of actual work or assimilated periods (unemployment, legal holidays, etc.) and the payment of associated social contributions need to be proven.²⁸

3.3.2. Unemployment: equal treatment - Belgians and immigrants

The qualifying period for the unemployment insurance program, requires a certain number of working days and the associated payment of contributions to the social security system. There is **no distinction between Belgians and immigrants**. The number of working days varies according to age.²⁹ The following overview indicates the number of working days required per age group.

Employee's age	Number of required working days during qualifying period	Number of months during which work has to be done, before the benefit is requested
-36	312	21
36-49	468	33
≥ 50	624	42

Each age group can also fulfil the conditions of the older age category. For people who are older than 36 and who do not fulfil the normal conditions, part of their required working days can be fulfilled through proving work history. For part-time workers adapted criteria exist.

²⁸ Art. 128 § 1 Act of 14 July 1994, B.S. 27 August 1994 & Art. 203 Royal Decree 3 July 1996, B.S. 31 July 1996..

²⁹ Art. 30 Royal Decree 25 November 1991, B.S. 31 December 1991.

Limited inclusion of periods worked abroad

There is one difference between natives and certain immigrants: if immigrants apply for unemployment benefits, they cannot include periods of work done *abroad* to calculate the number of required working days in order to be entitled to Belgian unemployment benefits. Only immigrants who can rely on a bilateral or multilateral agreement can invoke work periods performed abroad. The following nationalities can invoke work periods performed abroad: refugees and stateless people, EER citizens, citizens of Switzerland, Macedonia, Bosnia-Herzegovina, Montenegro, Serbia or Kosovo, Algeria, San Marino, Turkey, Morocco, Tunisia or their family members.³⁰

Limited eligibility for work integration benefits for youngsters

Belgium has a program to support youngsters in their search for work after completing their studies. While they participate in a work integration project for a year (310 days), they receive 'work integration benefits' (for a period of maximum 36 months). Not all immigrants are eligible to receive these work integration benefits. Only immigrants who can rely on a bilateral or multilateral agreement can invoke work periods performed abroad (see countries listed in the previous paragraph).

3.3.3. Guaranteed Income for the Elderly

As mentioned above, the Guaranteed Income for the Elderly program, has introduced a qualifying period of a minimum of 312 full working days (or equivalent) for TCNs who previously became eligible for the program 'if they were eligible for a regular pension' (see 2.2).

3.4. Migration-specific conditions to social security eligibility

As Belgium has an employment-centred social security system, that is mostly making eligibility dependent upon employment and not upon status, citizenship or residence, not many migration specific conditions exist.

Exceptions exist in the **minimum income resources programs**. Initially, these programs' eligibility criteria were quite restrictive and not open to TCNs. Over time the eligibility criteria opened up to certain privileged groups of immigrants, such as EU citizens with a residence permit of more than 3 months. Today, TCNs are admitted in certain programs, based on their sufficiently long residence in the country. Behind this inclusion of TCNs lies the idea of having a 'bond with the country'.

The right to an '**integration income**', for example, is only granted to TCNs who are registered in the **population register**, which is only the case for established immigrants with permanent

³⁰ Art. 7, §14, 5 Besl. W. 28 December 1944, B.S. 30 December 1944.

residence permits. This **permanent residence permit** can only be acquired after 5 years of uninterrupted residence in Belgium and needs to be applied for. TCNs with temporary residence permits (including those with the hybrid 'permit for indefinite duration') are not eligible for an 'integration income'. They are, however, entitled to residual social aid (which is equivalent when it comes to income). The same requirement to be registered in the population register applies to **disabled persons' benefits**. Moreover, if no such registration in the population register exists, a TCN can still be eligible if (s)he received 'increased child benefits' (for disabled children) until the age of 21.

Another migrant-specific exception exists in the **guaranteed child benefits program** which is also part of the minimum income resources programs. Guaranteed child benefits are granted to TCNs after 5 years of uninterrupted legal residence of the adult opening the right. In practice authorities grant guaranteed child benefits after 4 years of residence, instead of 5. Another migrant specific condition exists in the **Guaranteed Income for the Elderly Program**, which has been explained earlier. Elderly TCNs need to have worked 312 days in Belgium before their retirement to be eligible for Guaranteed Income for the Elderly (see in detail 2.2.1.4.).

Asylum seekers are only granted material aid in the course of their asylum application process. We will not elaborate on this here, as asylum seekers are not part of the immigrant profiles listed for the report.

4. Administrative practices that affect third-country nationals' access to social security

4.1. Discretionary criteria applied within the administrative law/rules when assessing an individual claim for social security

As social security in Belgium is a social insurance system, based upon contributions and work (except minimum income resources), the vast majority of eligibility criteria are objective and straightforward without leaving much room for personal appreciation by the case manager. Most criteria involve numbers of days worked, months of contributions paid, being legally resident, et cetera. A few exceptions exist however, but *none* are immigrant related. They are part of the mainstream criteria, albeit that some discretionary criteria will be more 'used' in immigrant cases (e.g. for children raised outside of Belgium in the case of child benefits).

4.1.1. Child benefits

To be entitled to child benefits in Belgium, one must meet some general eligibility conditions. For quite a few aspects of the program however, the law provides for *individual exceptions* to the eligibility conditions, in 'cases worthy of consideration'. The Minister of Social Affairs (or his administration) has the *discretionary* power to grant exceptions to certain conditions, e.g. the condition that the children have to be raised in Belgium. Other exceptions can be granted for example concerning the required affiliation between the child and family member who can open rights to child benefits, concerning the requirement that children need to be part of a person's household on the day that person is imprisoned, on the qualifying period of employment for deserted spouses or people who are more than 66% disabled, etc. The minister can also decide to grant exceptions to the rules for *categories* of cases, e.g. when certain family situations occur regularly. In that case general exceptions are listed in Ministerial Decrees.

For the condition that a child needs to be educated in Belgium to give right to child benefits, a list of general exceptions has been developed:

- * residence in another country for maximum 2 months per year
- * residence in another country during the school holidays, max 120 days a year
- * residence in another country for health reasons, max. 6 months
- * to study in a country in which the EU social regulations are applicable
- * to study outside of Belgium with a scholarship
- * to study in a country with whom Belgium has a bilateral agreement : Algeria, Morocco, Tunisia, Turkey and the countries of ex-Yugoslavia. For children educated in these countries reduced benefits are granted: 27,21 EUR (1st ch.) + 28,91 EUR (2nd Ch.) + 30,61 EUR (3rd Ch.) + 32,31 EUR (4th ch.) (max 4 kids). For ex-Yugoslavia: 12,39 EUR per child.

As the administration's competence is truly discretionary, *no criteria or decision basis can be communicated by the administration*, except from the list of general exceptions.

4.1.2. Unemployment

One of the main conditions for receiving unemployment benefits concerns the obligation to be 'available for the labour market'. One of the exceptions to the obligation to be available for the labour market concerns the **take up of studies**. For a limited kind of studies (not professional training or fulltime higher education, but e.g. for 'adult education', i.e. adults aiming to get their primary or secondary school degree) some discretionary power is exerted by the director of the employment office. If the jobseeker wishes to take up such training, an apprenticeship or certain studies, s(he) has to apply for an exemption to the obligation to be available for the labour market. Here the director of the employment office exerts his discretionary judgment whether or not to accept the training, taking into account the jobseeker's age, achieved studies, abilities, professional past, the duration of his/her unemployment, the nature of this training and the opportunities that this training or study would offer the jobseeker on the labour market.³¹ Equally, a youngster who is qualifying for 'work integration time' to be eligible for special unemployment benefits *before* employment (called 'work integration benefit') can be allowed to do an internship abroad that leads to an increase in the youngster's employment chances. The Director of the unemployment office decides whether or not to allow this internship based on the above criteria (the youngster's age, abilities, etc.).³²

Another (exceptional) situation where the director has the discretion to decide positively or negatively, concerns an exemption from the right to reside in Belgium and be available for the labour market: a jobseeker can apply to be allowed to stay for a maximum of two weeks abroad with the explicit aim **to find a job**.³³ When applying, the jobseeker must show proof of his job seeking abroad. It is up to the director to decide.

4.1.3. Minimum Income Resources

To be entitled to an 'integration income' or more generic social aid, the social worker will perform a 'social examination'. The applicant's and his household members' identity, income, health, housing material and social situation are checked. The social worker also checks if any previous aid has been granted to the applicant (*POD Maatschappelijke Integratie*: 25). A few elements of such a social examination involve a fact assessment by the social worker. For example, the social worker must evaluate the willingness to work by an applicant of an integration income. The social worker must motivate her decision extensively. If the applicant does not agree with the decision he can appeal in court (*Questionnaire POD Maatschappelijke Integratie*).

³¹ Art. 94 Royal Decree of 25 November 1991 regarding unemployment regulation, *B.S.*, 31 December 1991.

³² Art. 36 §2, 5° Royal Decree of 25 November 1991 regarding unemployment regulation, *B.S.*, 31 December 1991.

³³ Art. 39, 2° Ministerial Decree of 26 November 1991 on the implementation of unemployment regulations, *B.S.* 25 January 1992.

The social examination does not make any distinction between an immigrant and a Belgian national.

4.2. Factors which a deciding officer must take into account to judge whether an applicant has met discretionary criteria

In the case of child benefits, where exemptions to the obligation that children must reside in Belgium are granted, for cases 'worthy of consideration' (as mentioned earlier): the administration's competence to grant exceptions is of such a discretionary nature that no particular deciding factors could be communicated. On the other hand, the administration developed a list of factors that allow for legal certainty in exemption cases, e.g. whether the child studies abroad with a scholarship, whether the child is abroad for health reasons, etc.

In contrast, the discretionary power of the Director of the employment office in certain limited cases (certain studies, studies abroad) is exerted on the basis of a list of factors stipulated in the Unemployment Decrees. They are: the jobseeker's age, achieved studies, abilities, professional past, the duration of his/her unemployment, the nature of this training and the opportunities that this training or study would offer the jobseeker on the labour market.

4.3. Written circulars or guidelines for the consistent implementation of discretionary criteria

Concerning the discretionary power to grant exceptions to the eligibility conditions for child benefits for cases worthy of consideration, no written circulars are available for *individual* assessments. However, ministerial circulars do list the general exceptions for categories of cases that facilitate the process. In 2007, a Ministerial circular listed all general exceptions made to the eligibility rules and is publicly available.³⁴

For the (limited) discretionary powers in the unemployment program, civil servants can find support in an elaborate technical website, www.rvatech.be, which contains a database of instructions, a practical syllabus on entitlements, explanations on legislation, etc.

4.4. The effect of claiming social security benefits on third-country nationals' access to residence rights

The following paragraphs give an overview of the effect that taking up social security benefits can have on TCNs residence rights. For some residence rights, citizenship and family reunion, recent policy changes occurred and have been mentioned earlier.

³⁴ Ministeriële omzendbrief 599 van 16 juli 2007 – Algemene afwijkingen in de samengeordende wetten betreffende de kinderbijslag voor loonarbeiders en in de wet van 20 juli 1971, van kracht sedert 1.10.2007, http://www.famipedia.be/nl/famidoc/reg_text/content/content/regulations/administrative_instructions/ministerial_circulars/CM059900.html?scope=content/regulations/administrative_instructions/ministerial_circulars#footNoteLink_44, consulted on 4 December 2013.

4.4.1. Residence permit renewal

In the Belgian system the renewal of residence permits can depend on the uptake of social security benefits. The distinction lies between immigrants who have residence permits ‘of limited duration’, and people with residence permits of ‘unlimited duration’ (long term residence permits).³⁵

Uptake of social security benefits does affect immigrants’ residence status negatively if they have a **residence permit of limited duration**. Labour migrants including researchers, self-employed migrants, seasonal workers, and the family members of all previous categories are initially granted residence permits *of limited duration*, that are renewed annually (seasonal workers will only get a permit to stay for the period of seasonal work). Upon renewal, the Belgian foreigners’ service checks whether an immigrant still performs the activities for which he was initially granted a residence permit. A labour migrant, for example, is expected to be employed. A self-employed migrant, is expected to be running his business. If however, immigrants with such limited residence permits are not fulfilling their designated activities, the permit may *not* be renewed; the Foreigners’ Service evaluates case by case. If, for example, a labour migrant takes up income replacing social security benefits like unemployment benefits, sickness cash benefits or minimum income resources, his residence permit becomes vulnerable. Moreover, if the immigrant with a residence permit *of limited duration* applies for minimum resources, such as social aid, the Public Centre for Social Aid **has** to notify this to the Immigration Department. The Immigration Department can then withdraw the residence permit before the renewal date. Other social security administrations do not have the obligation to notify the Foreigners’ service that immigrants with permits of limited duration are taking up benefits. Upon renewal, however, the situation of each immigrant is checked (source: Immigration Department interview).

Permits of limited duration are granted and renewed annually for a period 5 years. Labour migrants, for example, need to renew their permit each year. After 5 years a permit of *unlimited duration* is granted.³⁶

For immigrants with **permits of unlimited duration** (be it long-term residents based on Council Directive 2003/109/EC, or ‘ordinary’ long term residents), the situation is much more ‘comfortable’: uptake of *any* social security benefit, including minimum resources, does **not** affect their residence.

³⁵ In Belgium there are two types of residence permits for TCNs that could qualify as ‘long term’. The first is the residence permit ‘of unlimited duration’, acquired after 5 years. That is still a temporary residence permit. A second one is the permanent residence permit, which is proof of people’s permanent establishment in Belgium. It is also acquired after minimum 5 years of residence, after being approved during the application procedure.

³⁶ Note that a residence permit of ‘unlimited duration’, is not a ‘permanent’ residence permit. The residence permit of ‘unlimited duration’ is a hybrid residence permit, being temporary, with elements of a permanent residence permit (the permanent aspect is among others the fact that one’s residence is not un danger is one takes up social security benefits)

4.4.2. Application for Belgian citizenship

Belgium's citizenship legislation has been amended in 2012 and made stricter than before. The new legislation came as a 'reaction' on the previous one that was critiqued for turning Belgian citizenship into a vehicle to acquire a residence title in Belgium (Belgische Kamer: 2010). The new act introduced social and economic integration criteria and extended the required duration of stay in Belgium to 5 years of uninterrupted stay. Even though the general rule does require the proof of social and economic 'participation', it does not require the applicant to be completely economically self-sufficient for the past 5 years.

The act requires of an adult immigrant to prove the following requirements:³⁷

- 1) (s)he knows one of the three national languages;
- 2) (s)he is socially integrated through a degree or attestation by a recognized educational institution of minimum higher secondary level, through a recognized professional training certificate, through completion of an integration course, or 5 years of uninterrupted employment/economic activity;
- 3) (s)he participates economically, proven by :
 - work as an employee in the course of the past 5 years for a minimum of 468 working days; or
 - the payment of social contributions for at least 6 quarters as a self-employed person.³⁸

As economic participation does not require full economic activity for the past 5 years, the receipt of social security benefits, including minimum income resources for part of that period does not negatively affect one's application for Belgian citizenship. One does have to have worked 468 working days over the past 5 years, so **full dependency on the social security system would negatively affect one's application for Belgian citizenship.**

Family Reunion

Immigrants (as well as Belgians) who apply for family reunion may face difficulties when they receive certain kinds of benefits. An Act of September 2011 has made the income and housing conditions to be eligible for family reunion stricter.³⁹ From then onwards, TCNs as well as Belgians who wish to exercise their right to family reunion need to prove stable, regular and sufficient resources to maintain his/her family and to prevent that his/her family becomes dependent on government resources. The amount that is used as a benchmark for having sufficient resources is 120% of a regular 'integration income' for a family (see minimum income resources). For 2013 this comes down to a monthly 1 307,784 EUR (after taxes). Moreover, the applicant needs to prove he/she has a health insurance that covers the whole family.

The *source* of income matters. Minimum income resources (such as an integration income, social aid, guaranteed child benefits), as well as child benefits and 'work integration benefits' for

³⁷ There are more specific categories of immigrants (e.g. those residing for more than 10 years in Belgium) for whom the criteria are different. We do not elaborate on every category in this report.

³⁸ Art. 12 bis of the Belgian Citizenship Code of 28 June 1984, as amended by the act of 4 December 2012, *B.S.* 14 December 2012.

³⁹ Act of 8 July 2011, *B.S.* 12 September 2011.

unemployed youngsters are not taken into account to calculate the income of the applicant. Hence, if these benefits are the (only) source of income, one will not be able to bring over one's spouse or partner. Importantly, the income conditions do not count for family reunion of the applicant's children (or those of his/her partner) (IBZ 2013). This does mean, however, that an applicant's income can be refused if it is sourced from temp jobs, jobs in the trial period, temporary employment agreements, etc. Unemployment benefits for which the applicant proves that he is actively searching for work are regarded as regular and sufficient (if the benefit reaches the benchmark amount) (*Kruispunt Migratie Integratie: 2013*).

If the applicant does not have a sufficient and stable income, the Foreigner's Office will not automatically reject an application for family reunion. It will perform a needs analysis for the entire family. The decision is based upon this analysis.

4.5. Translation, interpretation and other support services for third-country nationals applying for social security benefits

The use of languages in federal Belgium is a sensitive and complex issue. In principle, Central Public Services, such as the National Social Security Offices, in their relationship to citizens, need to use the national language (Dutch, French, German) that the citizen uses in its communication with the central service.⁴⁰ National legislation does not make room for any translation, interpretation, etc. into TCN languages. The same goes for local services, such as the Public Centres for Social Aid that administer minimum income resources: in principle civil servants must address civilians in the language of the respective Flemish, French and German speaking Community. However, the need for adequate communication with an ever diversifying public has brought public services and governments to address the language issue.

At the level of the Communities (federated entities, being Dutch speaking Flanders, French speaking Wallonia and the German speaking Community) interpretation and translation services have developed extensively, as part of their integration legislation. Hence, civil servants at the locally organised Public Centres for Social Aid can avail of these services. The Flemish government for example subsidizes one central and 8 decentralised interpretation and translation offices. As part of that effort a 'telephone social interpretation office' was developed: <http://www.vlaamsetolkentelefoon.be/>. The Walloon government developed a similar service: http://www.setisw.be/pages/1_1-Presentation.html.

Public Centres for Social Aid (minimum income resources) have to make efforts to make sure that the person understands the relevant information and decisions taken on his/her case. Most Public Centres for Social Aid are pragmatic and try their best to let the communication be as smooth as possible. Other languages than the local language, pictograms and other aids are used. Some big Centres for Social Aid have a special department on interculturalisation that needs to be contacted in case the client does not speak the local language (e.g. Gent). The department has intercultural co-workers and mediators who translate and interpret. Other Centres for Social Aid opt for a stricter approach and insist on the use of the local language.

⁴⁰ Art. 41 of Act of 18 July 1966, *B.S.*

At the central level of the National Social Security Offices, that each administer one social security branch, a certain pragmatism also prevails. In their answer to a questionnaire sent for this study, the National Social Security Offices responded differently as to whether there are linguistic or other support services for TCNs.

The National Employment Office stated the official line that the Belgian language legislation is applicable and that the 'burden' of translation lies in principle with the applicant. The only exception exists in the framework of EU free movement: documents and correspondence are accepted in all EU languages.

The National Pension Office on the other hand allows applications in the three national languages (Dutch, French, German) *and* in English. If one of these languages does not suffice, the translation office of the National Pension Office can translate the applications or have them translated externally. Some civil servants who speak specific languages can also act as a support for immigrants.

The National Family Benefits Office for Employees limits itself to the three national languages (Dutch, French and German), even though European forms are present in the languages of every member state. The Office does indicate that an intervention by a social worker from the 'Public Centres for Social Aid' is possible.

The Accidents at Work Fund attempts to address a person in his/her mother tongue to the degree possible. If that is not possible, the Fund communicates in English.

In a general sense, the Belgian administration offers information on social security entitlements for immigrants through a website called **www.coming2Belgium.be**. The site allows immigrants to check their rights per social security branch in quite a high level of detail. Further references to the competent administration are also given. The site comes in 4 languages: English, Dutch, French and German.

5. The external dimension of social security

5.1. Belgian bilateral social security agreements with third countries

Belgium concluded bilateral social security agreements with various third countries. These agreements guarantee the following important social security related issues:

- 1) The agreements include an **equal treatment** clause to ensure that parties' respective citizens enjoy the same social security protection in the host country. For Belgium such clauses are in practice less relevant in view of the fact that social security entitlements linked to work already treat all participants equally, without distinction based on citizenship.
- 2) **(Qualifying) periods of employment** accrued in both countries will be taken into account to determine eligibility and to calculate benefits such as pensions.
- 3) Clauses arrange the **export of benefits** to the home country of the treaty partners' respective citizens. The possibility to export benefits in the regular system is indeed rather the exception than the rule. In general, the agreements are important for situations of invalidity, retirement and survival.
- 4) The agreements' other strength pertains to the coordination of **posting situations**. The agreements allow citizens of each party to remain covered by their home social security system while temporarily working on the other party's territory.

The following list covers the bilateral social security agreements Belgium concluded with 22 countries.⁴¹

	Social Security Agreement – Date of Conclusion	Date of Entry into Force⁴²	Administrative Agreement for the implementation of the Agreement on Social Security
USA	19 February 1982	1 July 1984	
Canada	10 May 1984	1 January 1987	6 November 1986
Québec	28 March 2006	1 November 2010	18 September 2008
San Marino	22 April 1955	1 October 1956	25 July 1957
Serbia	1 November 1954	1 October 1956	1 June 1970
Bosnia	6 March 2006	1 June 2009	4 November 2008
Montenegro	1 November 1954	1 October 1956	1 June 1970
Kosovo	1 November 1954	1 October 1956	1 June 1970
Turkey	4 July 1966	1 May 1968	6 January 1969
Algeria	27 February 1968	1 October 1969	16 February 1970
Morocco	24 June 1968	1 August 1971	14 September 1972

⁴¹ A treaty with DC Congo has been concluded but only pertains to seamen and is dead letter.

⁴² In Belgium the ratification date is the date of the publication of the Act containing the agreement. However, this date is of no consequence as the dates are different for both parties. Moreover it is possible that only one party ratifies. The date of importance is the date of entry into force.

Tunisia	29 January 1975	1 November 1976	23 February 1977
Israel	5 July 1971	1 May 1973	11 December 1978
Chile	9 September 1996	1 November 1999	9 September 1996
Australia	20 November 2002	1 July 2005	10 May 2005
The Philippines	7 December 2001	1 August 2005	10 December 2001
Japan	23 February 2005	1 January 2007	14 September 2006
Macedonia	13 February 2007	1 June 2009	19 March 2008
South-Korea	5 July 2005	1 July 2009	8 January 2007
Uruguay	22 November 2006	1 August 2009	19 December 2007
India	3 November 2006	1 September 2009	15 December 2008

5.2. Content of the bilateral social security agreements

The following table indicates the social security branches that are covered by the bilateral social security agreements. There is a content wise difference between older agreements concluded during the guest worker era of the 1960s and 70s, and the more recent agreements with non-traditional migration countries. The older agreements cover about every branch of social security (not including minimum income resources). The more 'modern' agreements cover **invalidity, retirement pensions and survival pensions**.

	Invalid	pension	survival	Family	Sickness cash	Accidents at work	Occupl Diseases	Unempl	Health care
Australia	X	X	X						X
Canada	X	X	X						
Québec	X	X	X			X	X		X
Chile	X	X	X						
Philippines	X	X	X						
India	X	X	X						
Israel		X	X			X	X		
Japan	X	X	X						
Uruguay	X	X	X						
USA	X	X	X						
South Korea	X	X	X						
Guest worker era-Countries									
Algeria	X	X	X	X	X	X	X	X	X
Morocco	X	X	X	X	X	X	X		X
Tunisia	X	X	X	X	X	X	X		X
Turkey	X	X	X	X	X	X	X		X
Bosnia	X	X	X	X	X	X	X	X	X
Montenegro	X	X	X	X	X	X	X	X	X
Kosovo	X	X	X	X	X	X	X	X	X

Macedonia	X	X	X	X	X	X	X	X	X
Serbia	X	X	X	X	X	X	X	X	X
San Marino	X	X	X	X	X	X	X	X	X

5.2.1. Posting – work in Belgium but remain subject to social security legislation of sending state

The bilateral agreements determine that citizens in the host states are subject to the social security regime of the host state, but also provide an exception for posted workers. The non-applicability of the host social security system is always of a temporary nature (as is posting). The duration for which countries allow the non-subjection of posted workers varies between 2 years (e.g. agreement with Canada, Chile) and 5 years (e.g. agreements with the USA, Australia, India, South Korea and Japan). Deviations for these maximum terms are possible. In Belgium, the National Administration of Social Security systematically allow for an extension to a maximum of 5 years. An extension above 5 years is only granted exceptionally (Claeys & Engels 2013).

5.2.2. Equal treatment

Most bilateral social security agreements declare equal treatment for each others' citizens on each others' territories concerning social security entitlements. For immigrants on Belgian territory, however, equal treatment clauses have less relevance. Indeed, Belgian social security makes no distinction regarding eligibility for the social security branches that are employment and contribution based.

5.2.3. Export of social security to the territory of the other state

All treaties determine that for invalidity benefits, retirement pensions and survival pensions, citizens of the respective states can export the benefits accrued on the territory of the host state. Belgian law only very exceptionally allows the export of **invalidity benefits** (for Belgians and for immigrants alike). **Retirement** and **survival** pensions are exportable for Belgians, but not for 'non-privileged' immigrants. Citizens of countries with whom a bilateral or multilateral treaty has been concluded, belong to the 'privileged' immigrant categories in view of their reliance on the bilateral social security agreements. They can export the benefits.

5.2.4. Totalisation of periods of activity – insurance periods

All agreements also stipulate that periods of activity to calculate the amount of a benefit, generated in other countries than the host country are 'totalised'. Totalisation allows for a benefit amount to reach a decent level, as if it was accrued in one single country.

6. Case Studies

6.1. Case study 1.

Tho and Lien, a married couple holding Vietnamese citizenship, aged 28 and 30, moved to Belgium 10 years ago. They hold long-term residence permits. Tho has worked in a car manufacturing company for the last 8 years, paying obligatory insurance contributions throughout this time. Lien has worked as a chef in the restaurant of a large hotel, also paying obligatory insurance contributions, for the last 2 years. Tho and Lien are expecting the birth of their first child in 6 weeks' time. Last week, the car manufacturing company where Tho works announced that they were making him redundant. Faced with the loss of Tho's income at a time when Lien would need to take time off work, following the birth of their child, Tho decided to apply for unemployment benefits while Lien applied for maternity benefits.

ANSWER:

Tho and Lien both worked and paid social security contributions more than long enough to be **entitled to social security benefits**, on an equal footing as Belgians (no different rules).

For **Tho's** age group, he qualified for **unemployment insurance** after having worked 312 working days during the 21 months before his dismissal. As Tho is *involuntarily* unemployed, he is entitled to unemployment benefits (no difference with Belgians). He does have to fulfil the general conditions applicable in the unemployment insurance scheme: he has to register as a jobseeker, be fit for work and available for the labour market; he has to actively seek work and have no other income.

Lien is entitled to **maternity leave and benefits**. She has qualified for the waiting and contribution period of 6 months. She can (but is not obliged to) take up prenatal leave as soon as 6 weeks before the expected date of delivery. At the latest she must stop working one week before the expected delivery date and 9 weeks after the delivery. The weeks she did not take up her prenatal leave, she can take up as post-natal leave. She will be paid 82% of her salary (without ceiling) in the first 30 days, and 75% of her salary after that.

Lien and Tho will also receive a **birth grant** of 1.223,11 EUR, as well as monthly **child benefits** for their baby of 90.28 EUR.

As both Tho and Lien have a long-term residence permit, taking up social security benefits will not negatively affect their right to reside in Belgium

6.2. Case-study 2

Jasmine is a single parent, aged 29, holding Filipino citizenship, who moved to Belgium 2 and a half years ago. She has a 2-year old child (also holding Filipino citizenship) that lives with her and another child aged five that lives in the Philippines with Jasmine's mother. She holds a temporary/salaried worker residence permit that has been renewed once. Jasmine has worked as a nurse in a residential day-care unit in Belgium for 2 and a half years. She sends a small amount of money every month to the Philippines to help support her daughter. Last month, Jasmine's employer announced significant cuts in staff salaries in response to budget reductions. Faced with a significantly reduced income, Jasmine has moved into a hostel as she can no longer afford to rent private accommodation. She has also been forced to halve the amount of money she sends to her family in the Philippines every month. She has decided to apply for family benefits and guaranteed minimum resources.

As Jasmine is working, she has been entitled to **child benefits** for her 2-year old child who lives with her in Belgium as of the first month of the quarter after the start of her work. She will be entitled to a **supplement for single parent families** (whose income does not exceed €2,230.74) of €45.96. For the child that lives in the Philippines, Jasmine will not receive child benefits. However, the child benefits service can initiate a request with the minister to grant an exception for the child not raised in Belgium. It is up to the minister, who has a discretionary competence, to decide if she will allow the payment of child benefits for the child in the Philippines.

If there would have been a bilateral social security treaty with the Philippines, which included a section on child benefits, Jasmine would also have been entitled to child benefits for the child in the Philippines (possibly at a lower rate, as decided in the treaty).

Regarding Jasmine's employer **cutting her salary**, rules of Belgian labour law affect (protect) Jasmine's situation. First, the employer is bound by the payment scales as set by its Joint Industrial Committee of the care industry (committee n° 305.02.01), and which would come down to about 1547 EUR after taxes.⁴³ He cannot 'pay less'. But second, and important for Jasmine's social security rights, unilaterally cutting staff salaries is regarded in Belgium as an **unlawful termination of the employment contract**.⁴⁴ Jasmine has the right to invoke breach of contract. As she then would become involuntarily unemployed, she would be entitled to **unemployment benefits** (having worked more than the qualifying period). However, if Jasmine does not invoke this breach of contract for a while, she will be regarded as having accepted the reduction of her income. But in any case, the employer is **not allowed to reduce the wages** below the pay scales set by the care industry's joint industrial committee. Hence, the situation described in the case would not be possible in Belgium.

But keeping all this aside, and presuming Jasmine's income would be so low that she would need extra assistance, she is entitled to **residual social aid** (not the integration income, but equivalent), which can exist of **financial aid**, but also **housing benefit, heating benefit**, etc.

⁴³ www.wgkwvl.be/166055.fil, This figure is taken from a wage simulation model, of the nursing organisation 'Wit-Gele Kruis West-Vlaanderen', for a nurse (graduate level, not bachelor, 2 years seniority, single. Before taxes, the amount would be 2.044 EUR.

⁴⁴ Cas. 4/2/02; A.R. 010103N; Cas. 23/12/96, J.T.T. 97, 145 ; Cas. 17/5/93, R.W. 93-94, 402.

Financial aid for a parent with family would be around €1,068.45. The Public Centre for Social Aid could top up her wage until that amount and help her find proper housing. (But then again, for a full time working nurse, it's impossible to earn so little that she would fall below the income levels of social aid....).

Normally, if a labour migrant is not employed anymore and receives social security or social assistance benefits, the temporary residence permit may not be renewed (case-by-case evaluation) (normally renewal every year for 5 years). However, Jasmine is still employed. Her residence permit would be renewed.

6.3. Case-study 3

Senghor is a high-skilled worker from Senegal. He arrived in Belgium six years ago with a temporary residence permit arranged through the IT company that employed him. Senghor is single and does not have children, but has recently succeeded in bringing his elderly mother to the country on the basis of family reunion. Aged 80, his mother is entirely dependent on Senghor's income. Last week, Senghor suffered an accident at work that left him incapable of carrying out the work for which he was employed for a period of 3 years. He decided to apply for invalidity benefits, sickness benefits and family benefits.

Senghor suffered an accident at work, which left him completely incapacitated for work at the IT company. He is entitled to benefits for **accidents at work**, which would come down to 90% of his effective yearly earnings in the year preceding the accident. If his health situation requires regular help of another person, he will also be **eligible for an extra care benefit**, paid by the health insurance program. As Senghor is eligible for accidents at work with a 100% incapacity, he is not eligible to receive income replacing benefits in the sickness cash benefits or invalidity benefits. His health care will be reimbursed entirely (within the limits set by the health administration, i.e. if a doctor asks more than the official rate, Senghor will have to pay the difference himself).

Additionally, if Senghor lives in Flanders he would have contributed to the **Flemish care insurance** and receive a care benefit of 130 euro a month for paying non-medical care. If he lived in Brussels and he voluntarily contributed to the Flemish Care Insurance, he would also be eligible.

Senghor's mother on the other hand, is **not entitled to family benefits**, in view of the fact that she is not a child (family benefits are limited to children)(there is no immigration based refusal). She is also not entitled to minimum income for the elderly, as she is a TCN who did not open any rights in the normal pension system (she never worked in Belgium) – that would be the only eligibility category that his mom would potentially be eligible for.

7. Statistics on Social Security Payments related to migration

The following section gives an overview of statistics on the socio-economic situation of third country nationals in Belgium, as compared to natives and EU citizens residing in Belgium. Some figures also situate Belgium vis-à-vis the other EU member states.

We first present an analysis of relevant statistics based on Belgian survey data (Labour Force Survey and Survey on Income and Living Conditions). In a second part we use administrative data (Crossroads Bank for Social Security) to produce total numbers of uptake by citizenship group. The big difference between both approaches is that in the first part we use an ILO definition of employment (that allows international comparison) while the latter is based on employment and social security registers (which allows to cover the entire population, but restricts comparability and asks for fine-grained interpretations).

7.1. Survey data (EU-SILC and EU-LFS)

In this section, we will first compare the employment, unemployment and inactivity situation of TCNs in Belgium, relative to that of natives and Belgian citizens. In a second part, we present data on the take up of social security benefits by TCNs in Belgium. The third section elaborates on the cost of social security uptake of TCNs for Belgium.

All presented tables and figures in this section are extracted from EU-LFS (Labour Force Survey) and EU-SILC (Survey on Income and Living Conditions). Immigrants are defined by citizenship or country of birth. Both variables are available in both LFS and SILC, albeit with a different level of detail. In SILC we can only distinguish natives, EU27 born or non EU27 born. Due to a limited sample size we opt for country of birth in SILC (also because substantial shares of TCN have obtained Belgian citizenship over their period of residence). LFS allows further detail of immigrant classification. We opt for five groups, where possible (Belgium, EU15, EU12, nonEU27 OECD, non EU27 non OECD).

Because of the relatively skewed age distribution of immigrants (TCNs are on average much younger than the native population), we calculate different labour market indicators for specific age structures. Most analyses are performed on a working age population group, indicated as individuals aged 20 to 59 with exclusion of full-time students. When more appropriate we use a more comparative age group of 15-64 years old. To analyse labour market effects of the economic crisis, we look in detailed age groups.

Definitions of employment are based on an ILO (International Labour Organization) definition. Definitions are created with the objective of international comparison of evolutions at the national labour markets (ILO, 1982). National surveys contain specific questions in order to construct those indicators and evaluate them over time. These surveys cover the entire population living in private households and exclude those in collective households such as boarding houses, halls of residence and hospitals.

Three groups are distinguished:

- The employed population consists of those persons who during the reference week did any work for pay or profit for at least one hour, or were not working but had jobs from which they were temporarily absent.
- The unemployed population consists of all individuals (in the same age group) who: (a) had no job during the reference week (b) were available for work, i.e. for employment or self-

employment, within two weeks after the reference week (c) actively searched for work, i.e. had taken specific steps to find employment or self-employment in the course of the last four weeks or who had found work and would start working within maximum three months.

- The inactive population comprises all individuals who were neither employed, nor unemployed during the reference week. Men and women householders, students, people who do volunteering work, pensioners, etc. are included in this population group as far as they do not have any paid activity

7.1.1. Numbers of third-country nationals employed, unemployed and inactive by national Group

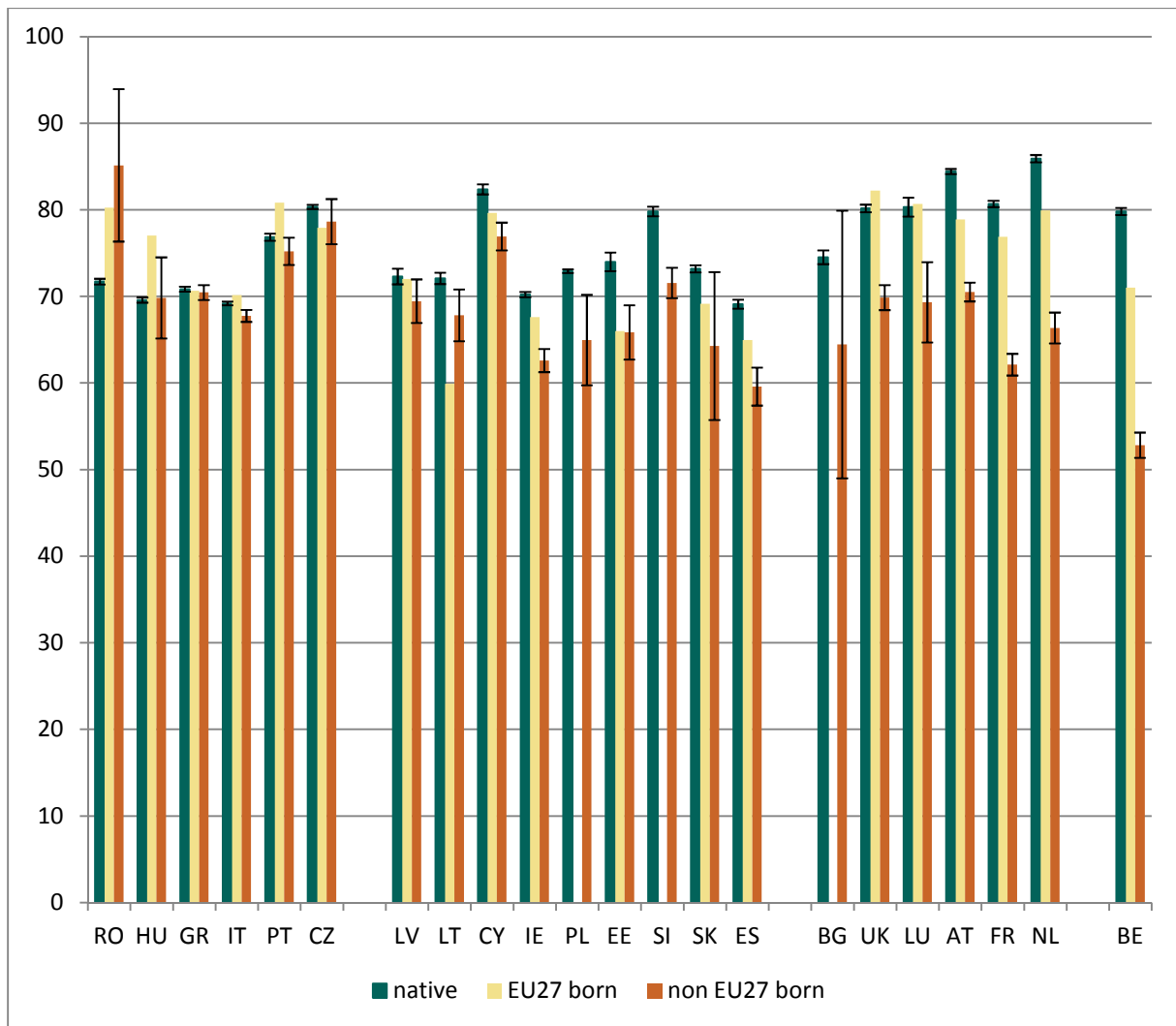
Belgium scores worst among all EU member states when it comes to employment levels of TCNs. In Figure 1 we present employment rates by country of birth for populations in those European countries available in LFS (EU27 with exclusion of Scandinavian countries). We use an ILO definition⁴⁵ of employment. Belgium's ethnic employment rate gap (natives versus TCNs) for the working population (20-59) is the highest among its peers. TCNs in Belgium have an employment rate of just above 50%. The native population, aged 20 to 59, in contrast, has an employment rate of 80%. Nowhere in the countries displayed is the gap as large.

Figure 2 disaggregates the Belgian employment rate by gender and by the following population groups: Belgian, EU12, EU15, non-EU 27 OECD, and non-EU 27 non OECD citizens. Looking at men, the employment rates of Belgian and EU15 citizens over the period 2005-2010 remained roughly similar at around 70%. For EU12 and non-EU 27 OECD citizens, the employment rate is higher, coming close to 80% in 2010. Non-'western' TCN men (non OECD) however, display an employment rate that is consistently 20 percentage points lower than that of Belgian men. The picture becomes even grimmer when we look at women TCNs' employment rate. Whereas Belgian and EU27 women's employment rate circles at around 55%, non-western TCN women have an employment rate of around 25% in 2010. Despite small improvements over time, the gap with native women is stuck around 30 percentage points!

TCNs' unemployment rates are also much higher than those for Belgian and EU citizens. Unemployment occurs when people are without work and actively seeking work. The unemployment rate is calculated as a percentage by dividing the number of unemployed individuals (who have been actively looking for a job during the last month and are available for employment within the next two weeks) by all individuals currently in the labour force (so excluding all non-active working age individuals) (see Figure 3). Unemployment rates for male non-western TCNs evolved from 35% in 2005 to about 30% in 2010. Again the contrast with native men is big: native men have an unemployment rate of about 7% over the same period of time. The magnitude of female TCNs' unemployment rate is similar to that of TCN men, evolving from 40% in 2005 till just above 35% in 2010. However, it is remarkable that TCN women are most sensitive to cyclical changes on the labour market. Belgian women's unemployment rates are much lower and more stable over time. Also EU12 women are confronted with substantial unemployment rates, with levels at least double as high as those of Belgian women.

Figure 1: Employment rate gap, population aged 20 – 59 (excluding FT students), by country of birth, EU24

⁴⁵ Persons employed in the sense of the ILO are those who worked for any amount of time, if only for one hour, in the course of the reference week. The measurement of employment in the sense of the ILO can be made only through specific questions, such as those of the Labour Force Survey (LFS), one of the primary objectives of which is this measurement.

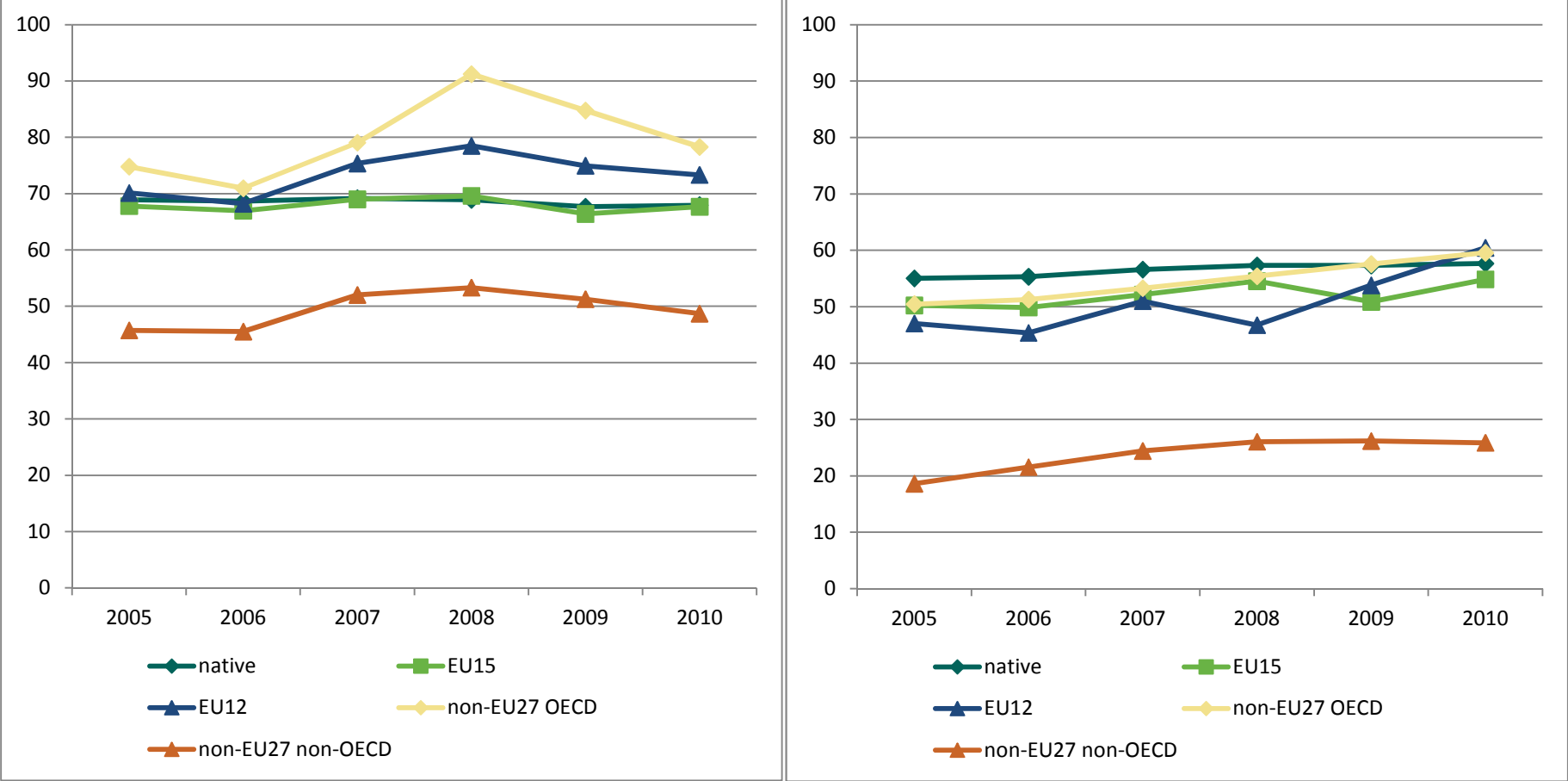


Source: Labour Force Survey

Inactivity rates refer to the situation where people do not present themselves on the labour market (hence not ILO employed nor unemployed). As shown in Figure 4, inactivity rates for TCN and Belgian men do not differ much. The level is about 27 % for TCNs and about 30 % for natives in 2010. Inactivity rates are much lower for EU12 men. However, the inactivity rates of TCN women is much higher than native women’s inactivity rates. Even though TCN women’s inactivity rates decreased from around 70% in 2005 to 60% in 2010, native women’s inactivity rate is 30 percentage points lower and circles around 40%.

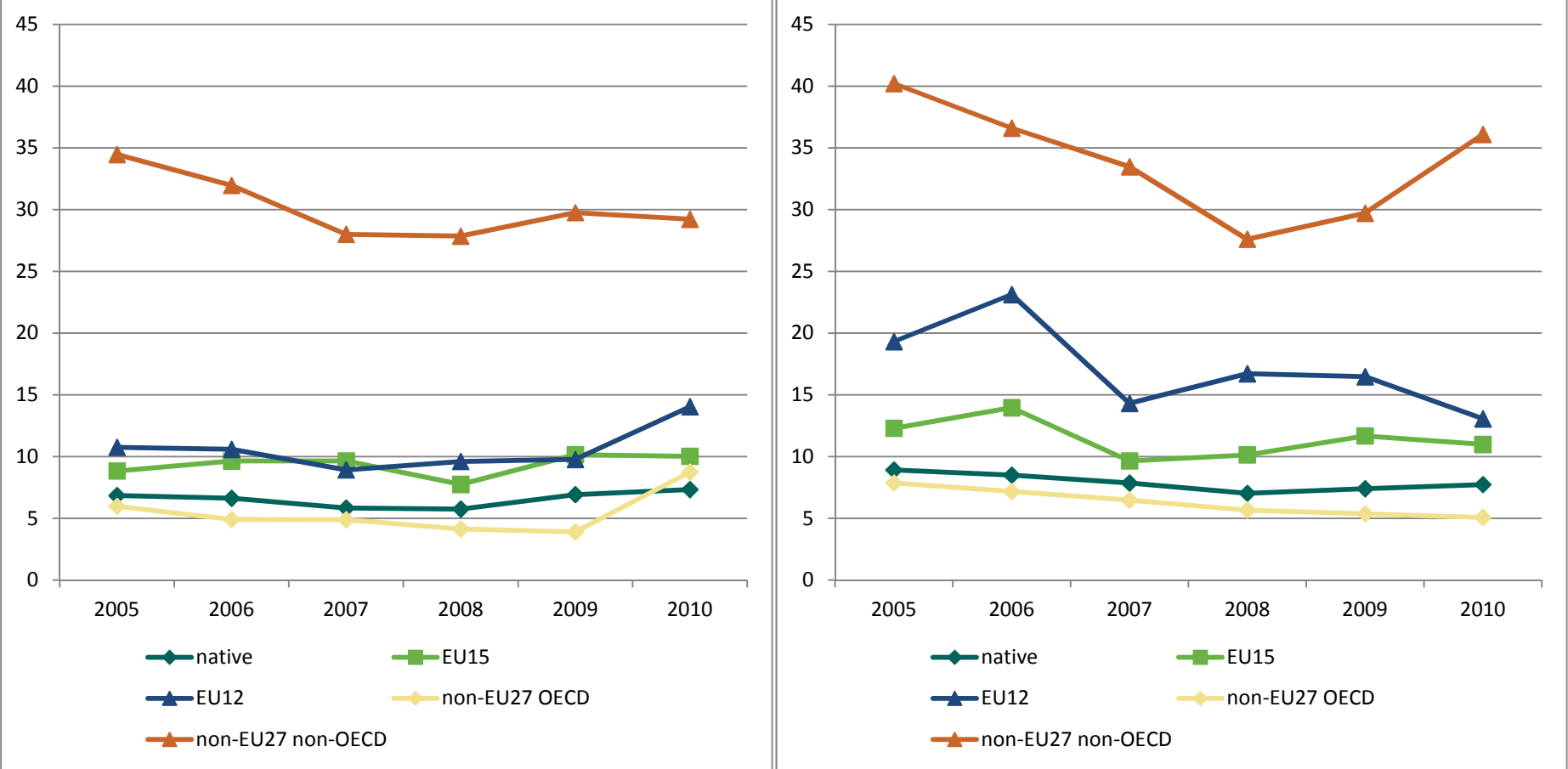
Summarizing findings of the labour market indicators presented in Figure 2 to Figure 4, allows us to conclude that the ethnic employment rate gap (Belgian versus TCN citizens) among men is mainly driven by differences in unemployment probabilities, while among women a combination of low activity and high unemployment emerges for TCNs.

Figure 2: Employment rates of population aged 15 -64, males (left) and females (right), by citizenship, 2005 – 2010, Belgium.



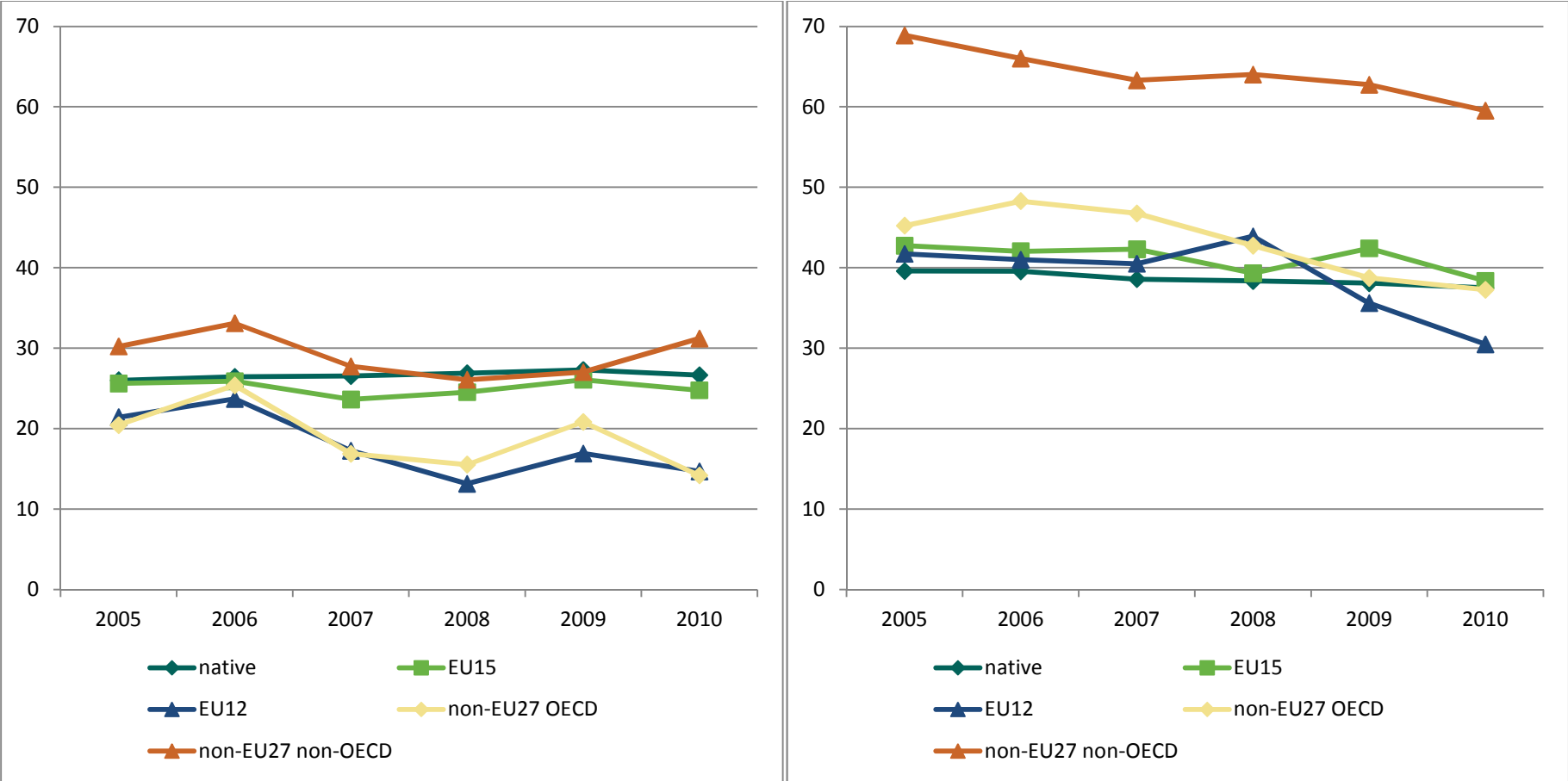
Source: Labour Force Survey

Figure 3: Unemployment rates of population aged 15 -64, males (left) and females (right), by citizenship, 2005 – 2010, Belgium.



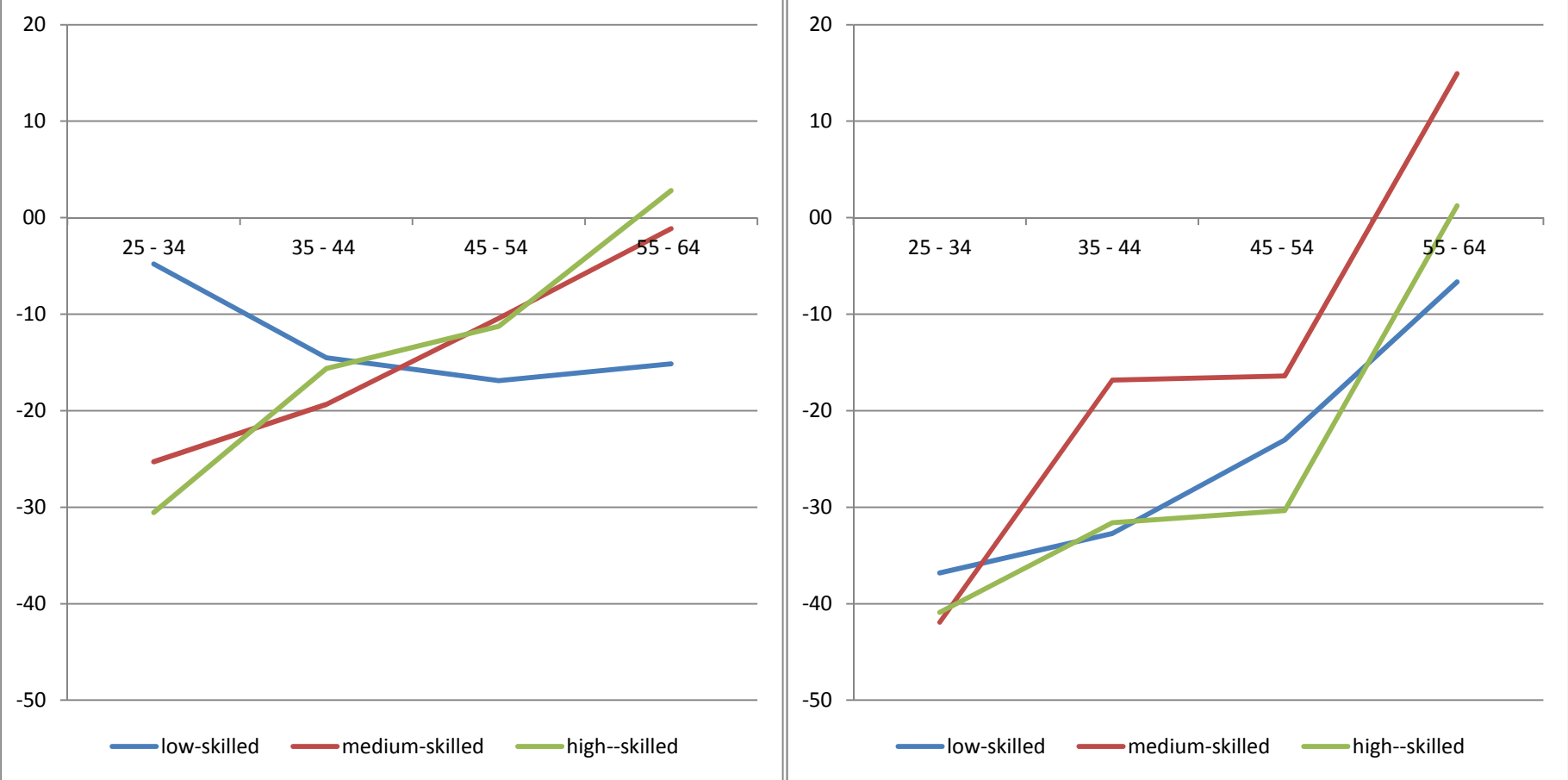
Source: Labour Force Survey

Figure 4: Inactivity rates of population aged 15 -64, males (left) and females (right), by citizenship, 2005 – 2010, Belgium.



Source: Labour Force Survey

Figure 5: Employment rate gap, natives and non-EU27 born immigrants, 2006 (left graph) and 2010 (right graph), Belgium.

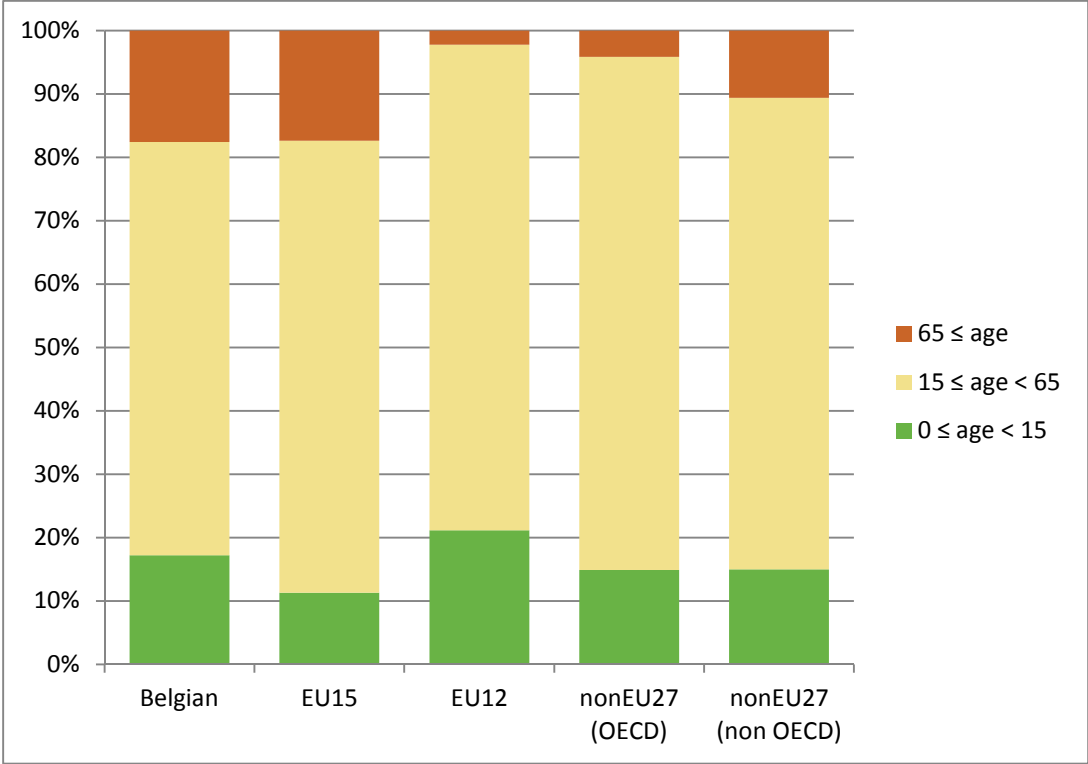


Source: Survey on Income and Living Conditions

Figure 5 shows the employment rate gap for natives and TCNs by age and educational level, and this for 2006 and 2010 respectively. The differences between the left and right graph indicate the effect of the economic crisis on the employment rate gap. The employment of all TCNs, irrespective of their age or educational level, was affected by the economic crisis. Mainly immigrant youth (25 – 34 years old), whether high, medium or low skilled, encountered increasing employment rate gaps with natives in the same age and education cohort (their position shifted further away from the 00-axis). But, especially low-skilled immigrant youth was hard hit. In this subgroup the employment rate gap deteriorated with almost 30 percentage points.

The high unemployment levels of TCNs in general (and in addition to that the high inactivity levels of TCN women) is all the more striking if we take a look at the age distribution for the different population groups. Figure 6 shows the proportion of the population below the age of 15, between 15 and 65 and of 65 or above. The figure makes clear that there is a higher share of natives who are older than 65 than is the case for TCNs. A much smaller share of EU12 immigrants and OECD TCNs are older than 65. Consequently TCNs and EU12 immigrants in Belgium have a larger share of their population group at working age.

Figure 6: Age distribution, by citizenship



Source: Labour Force Survey

7.1.2. Take-up of social security benefits among third-country nationals (by types of payment by national group, age, sex)

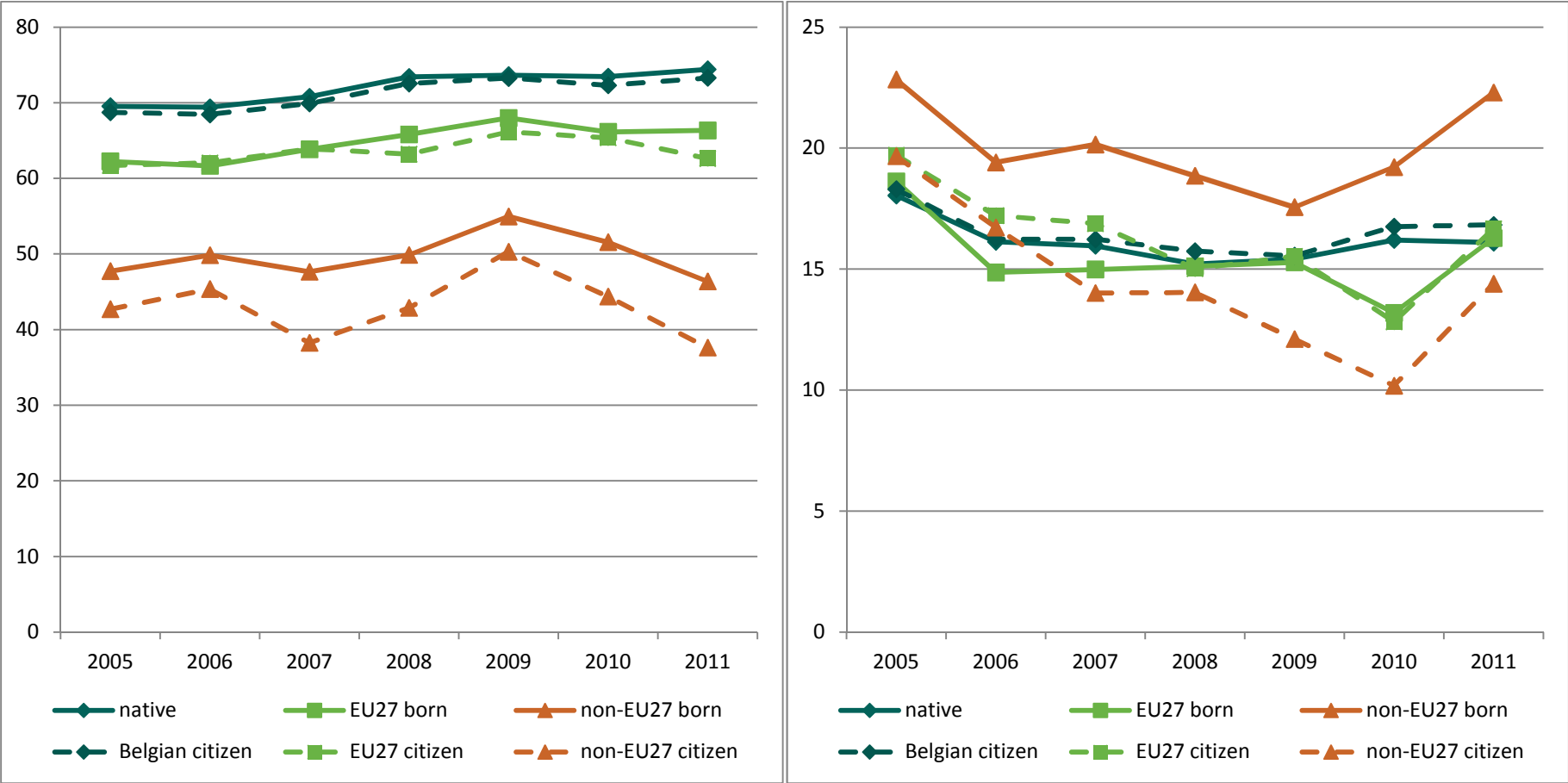
The take up of social security benefits differs between natives and TCNs. In the following figures we present SILC data over the survey period 2005-2011. In the SILC survey income variables reflect the position of respondents in the entire year before the survey. So data presented in Figure 7 to Figure 11 show the relevant income position or take-up of social security for the income years 2004 – 2010. We present findings for income from labour, unemployment benefits and child and family related benefits for Belgians, EU27 immigrants and TCNs. For those analyses we demarcate the working age population as all individuals between 20 and 59 years old with the exclusion of full-time students. In Figure 8 and Figure 10 we look at the take-up of pensions in the population reference group aged 60 and older. All income levels are average, net, yearly incomes at an individual level. We show real nominal incomes, without corrections for purchasing power over the reference period.

Income from Employment and Unemployment (benefits)

The left graph in Figure 7 shows the proportion of adults (by citizenship and country of birth) who indicate to have obtained a (positive) income from employment. As a matter of fact, this graph is a complement to Figure 2, but instead of using an ILO concept of employment (in LFS) we define employment here as ‘gaining income from labour’ (in SILC). It becomes clear that TCNs gain far less often an income from labour than natives and EU27 immigrants do. In 2010, only 38% of nonEU27 citizens in Belgium have obtained an income from labour (irrespective of gender). The acquisition of Belgian citizenship, however, has a positive influence on TCNs chances of gaining an income from labour, with about a 10 percentage point increase. Still, the share of natives who indicate to have an income from labour is much higher: around 75% in 2010.

Conversely, **the share of TCNs having an income from unemployment is much higher than that of natives** (as shown in the right graph of Figure 7). Even though the share of TCNs gaining income from unemployment was gradually decreasing between 2005 and 2009, the share sharply increased from 2009 onwards, indicating the far greater vulnerability to economic cycles. This is the case for both TCNs who turned Belgian as TCNs who kept their citizenship, albeit that TCNs who turned Belgian have a higher share of unemployment income. For TCNs who kept their citizenship the share who has income from unemployment is just under 15% in 2011. The difference in unemployment benefit take-up between TCNs with and without Belgian citizenship is substantial and growing over time. It might reflect differences in labour market history between both groups.

Figure 7: Proportion of population (aged 20 – 59, excluding FT students) gaining income from employment (left graph) or receiving income from unemployment benefit (right graph), by citizenship and country of birth, 2005 – 2011, Belgium.

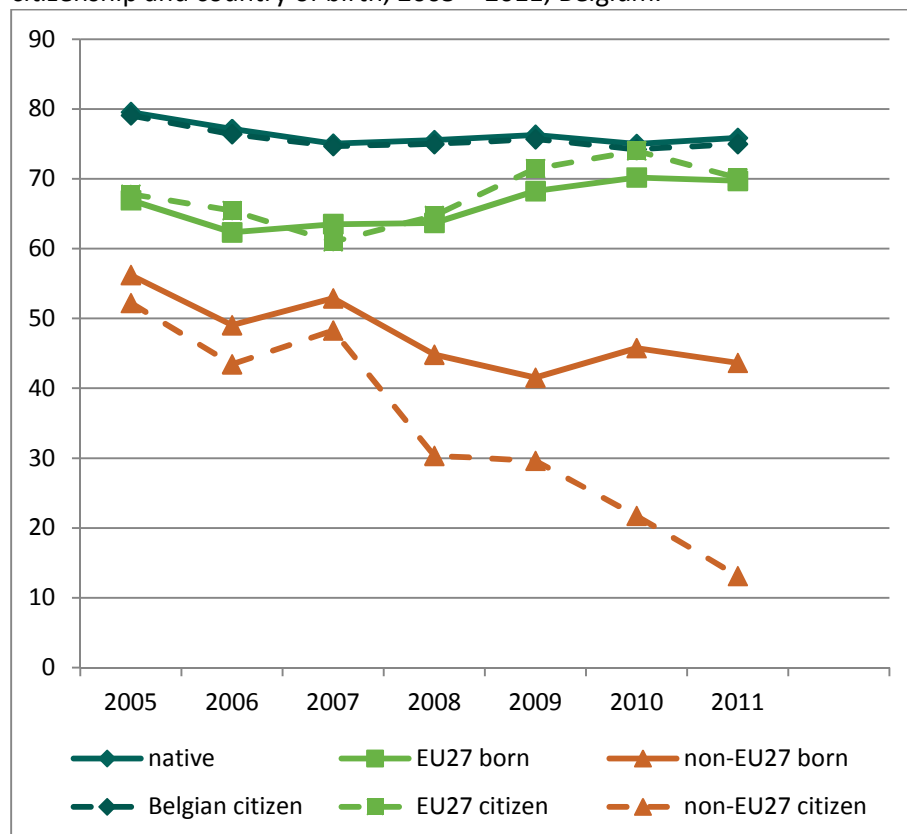


Source: SILC

The uptake of pensions

The proportions of take-up by citizenship and country of birth are entirely opposite when we focus on the elderly population (> 59 years of age). A high share of Belgian elderly people, starting at 60, receives income from retirement pensions: about 75% of them in 2011. In contrast, the share of TCNs receiving pension income is about 12%, and has sharply decreased in the course of the last years (while the share of natives on pensions decreased only very slightly). For older TCNs who turned Belgian, the share of pension receivers is much higher at around 43%.

Figure 8: Proportion of population (aged older than 59) receiving income from pension benefits, by citizenship and country of birth, 2005 – 2011, Belgium.



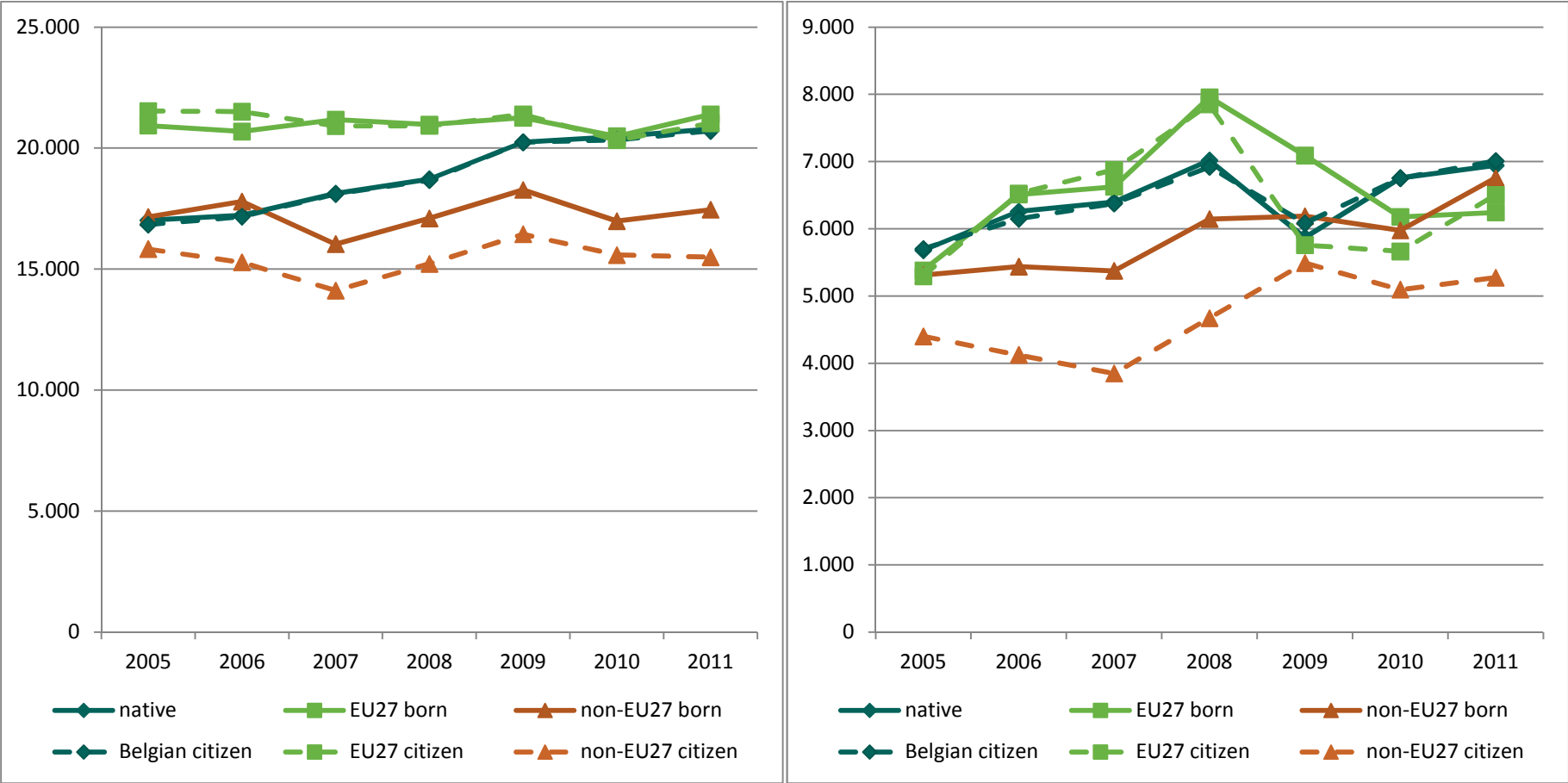
Source: SILC

Income Levels

Knowing now that **TCNs are overrepresented in unemployment and sharply underrepresented for income from work and retirement pensions**, we now turn to *income levels*. For the income sources we just highlighted (work, unemployment, pensions), we check the differences in income levels for natives and TCNs who indicated to gain those respective incomes.

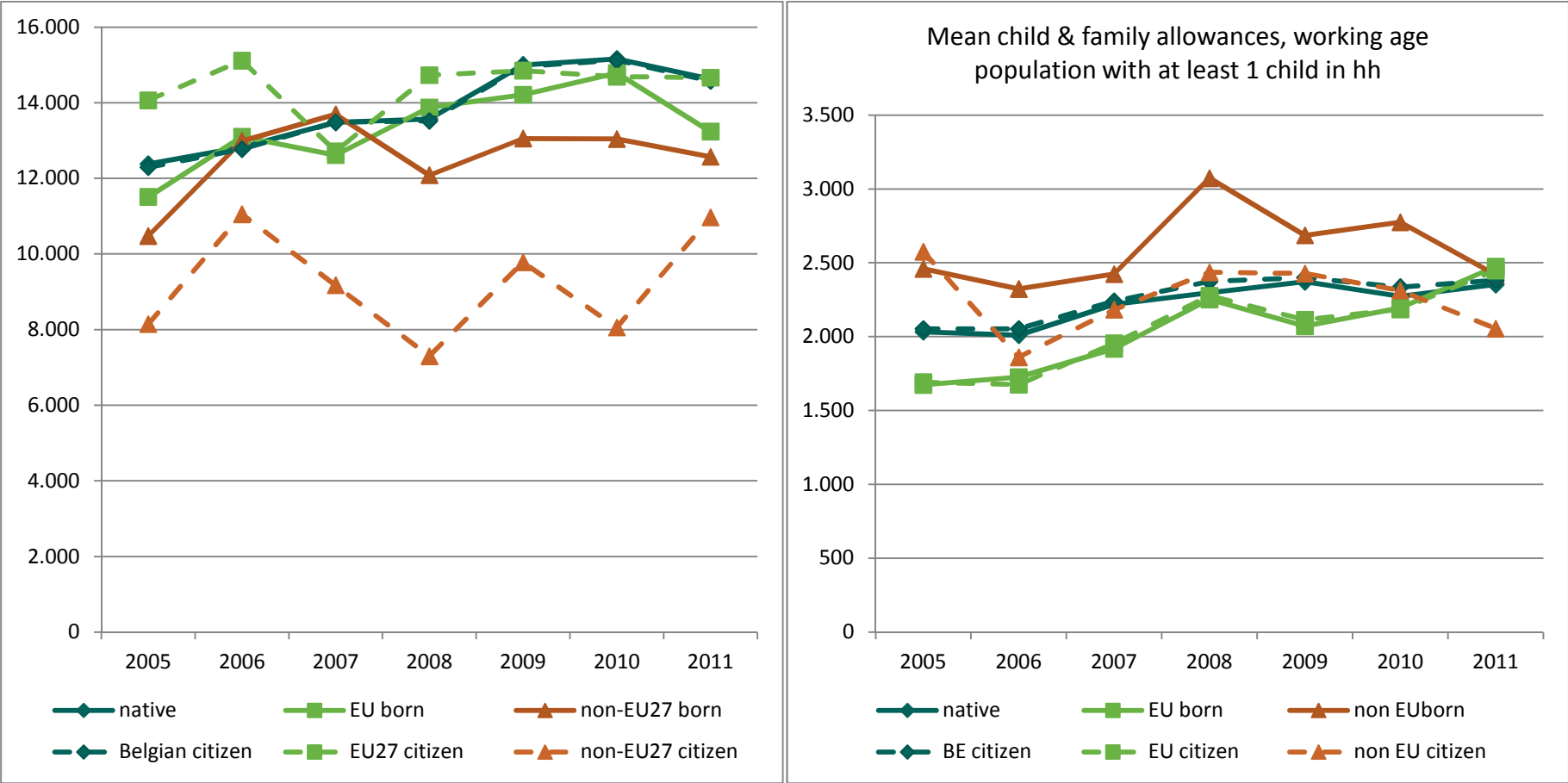
The levels of (annual, net, average) income from work have been diverging for natives and TCNs over the period 2005 - 2011. Whereas natives indicated a net income of about 17,000 EUR in 2005, it increased to 21,000 EUR in 2011. TCNs remained at a lower level of around 16,000 EUR income from employment. Again, net incomes from employment are smaller for TCNs without Belgian citizenship as compared with those who have obtained Belgian citizenship. The figures make clear that TCNs are underrepresented in employment (see Figure 2 and Figure 7), but also earn substantially less than natives when they are employed. As unemployment benefits are a percentage of one's income, it is logical that unemployment benefits diverge similarly for natives and TCNs.

Figure 9: Mean (net) income from employment (left graph) or mean income from unemployment benefits (right graph), respectively for ILO employed and ILO unemployed individuals, by citizenship and country of birth, 2005 – 2011, Belgium



Source: SILC

Figure 10: Mean (net) income from pensions (left graph) or mean income from child & family related benefits (right graph), respectively for retired individuals (59plus) and adults who live in a household with at least one child, by citizenship and country of birth, 2005 – 2011, Belgium



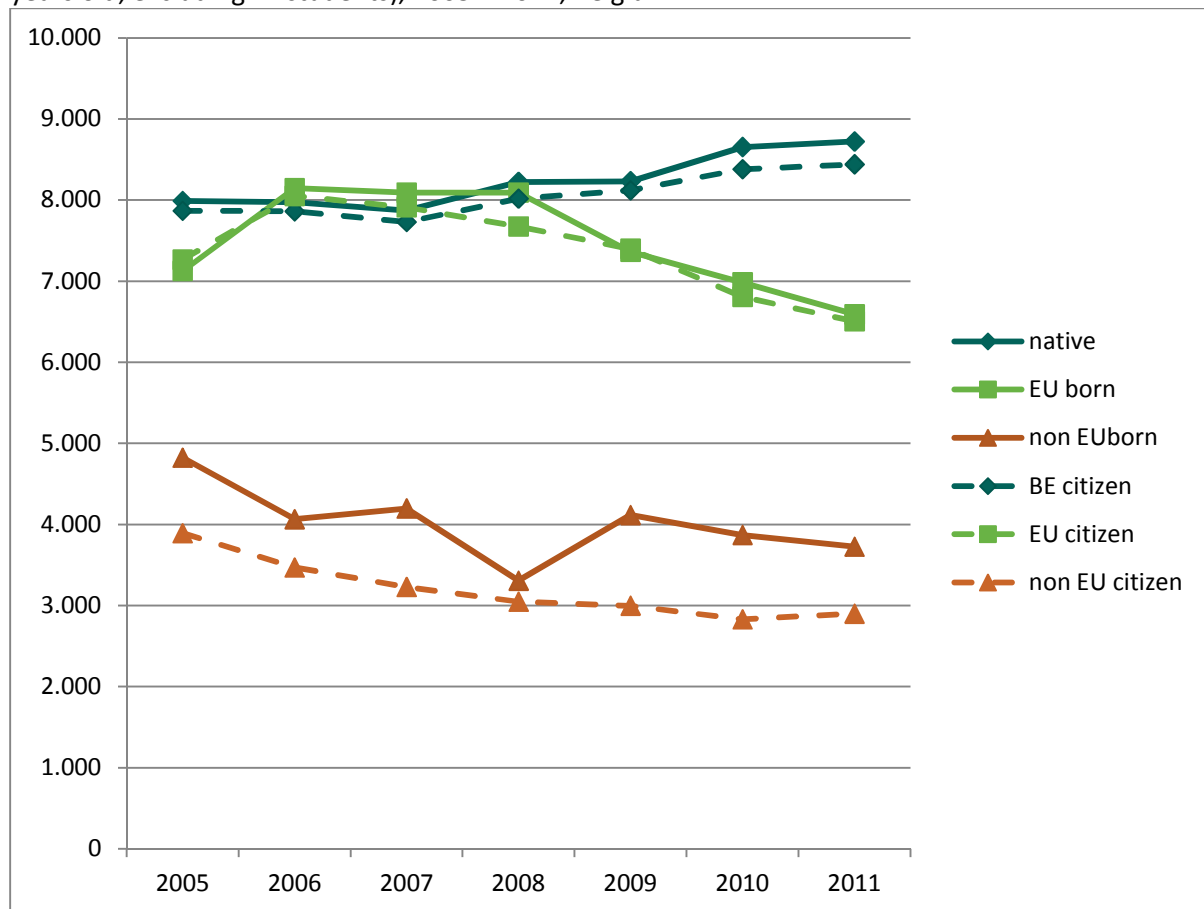
Source: SILC

Income from pensions also diverges between natives and TCNs. A far smaller share of TCNs enjoys retirement pensions (see Figure 8). But also the pension level of those who are in retirement is lower (again related to initial income from work as calculation basis). Whereas natives' pension income increased from about 12,000 EUR to almost 15,000 EUR, TCNs pension income fluctuated between 8,000 EUR and 11,000 EUR for the same period. TCNs who acquired Belgian citizenship enjoy higher pension levels than their origin counterparts without Belgian citizenship.

The fact that TCNs generally have (on average) more children in their households (as compared with natives) is translated in higher levels of income from child and family related benefits for this group (see Figure 10). These differences are probably related with rank progressivity in the Belgian system of child benefits. However, the higher amounts obtained from child benefits are in absolute terms (+/- 400 EUR) very small as compared with the lower amounts acquired from employment (+/- 4,500 EUR), unemployment benefits and pensions.

Figure 11 shows average amounts of taxes and social contributions paid by natives, EU citizens and TCNs in Belgium, based on data from the SILC survey. Again the tax/contribution levels diverge. Natives indicate paying 8.000 EUR in 2005, slightly increasing to 8.500 in 2011. Tax payments of TCNs start at a much lower level at about half the level of natives (around 4.000 EUR) and further decreased over time at just under 3.000 EUR. For naturalized TCNs tax payment is roughly 1.000 EUR higher over the same period.

Figure 11: Mean (gross) taxes on income and social contributions, working age population (20 – 59 years old, excluding FT students), 2005 – 2011, Belgium.

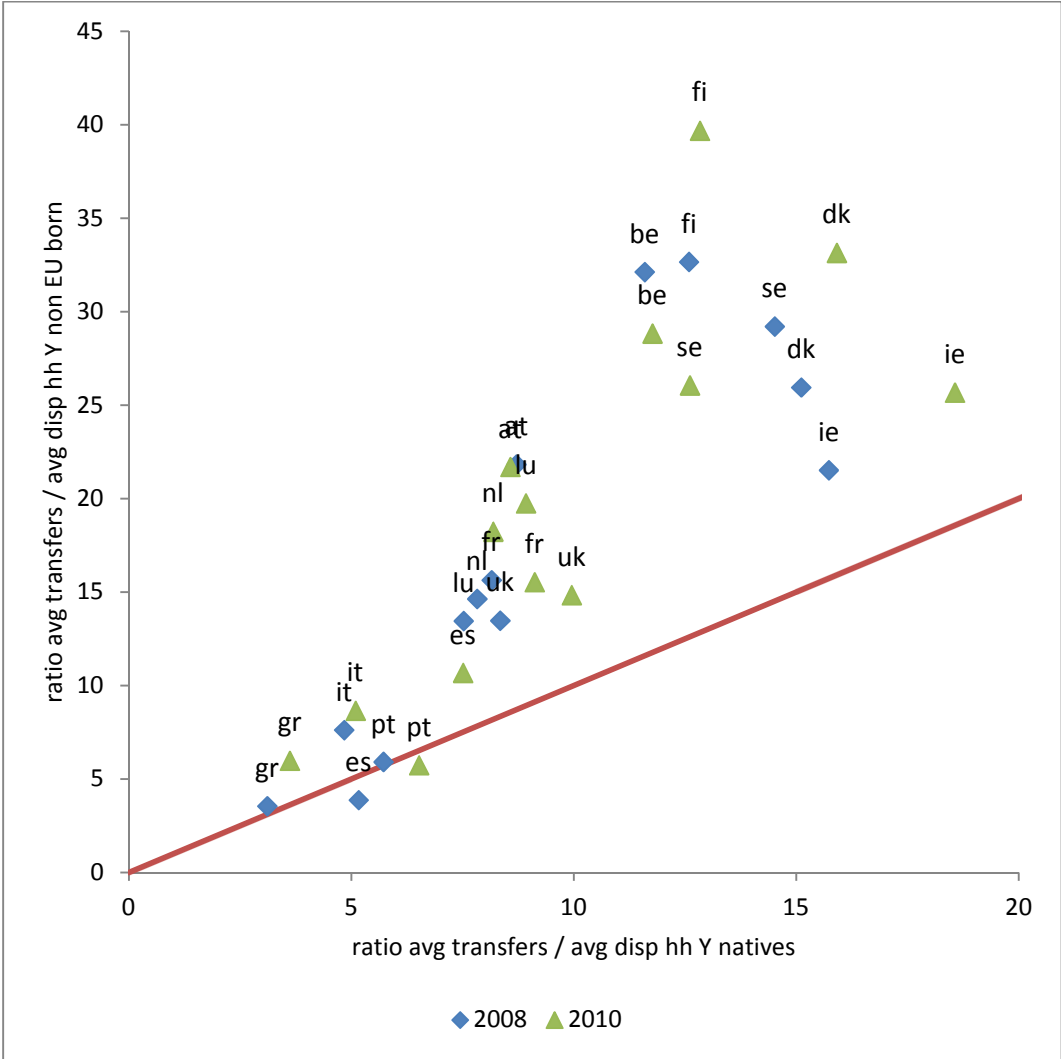


Source: SILC

Figure 12 shows us the share of transfers (i.e. all social security benefits excluding pensions) in the total household income of natives and immigrants. On the horizontal axis we set out this ratio for natives. On the vertical axis, the ratio of transfers/ household income is benchmarked for nonEU27 born adults (irrespective of their citizenship). The red line indicates an equal proportion of transfers in the total household income for natives and immigrants. The further a country is located above this red line, the higher the share of transfers in household income, as compared with natives. In 2010, Belgian natives had about a 13 % share of transfers in their household income. For TCNs in Belgium, however, the share of transfers was almost 30%. This correlates with the low employment levels of immigrants in Belgium.

Figure 12 displays clusters of welfare states. In Southern European countries (Italy, Spain, Greece and Portugal) institutionalized redistribution is limited. Solidarity is mainly based on the household and family level. We see that for both natives and immigrants the share of transfers in their total household income equals around 5 percent. At the other side of the distribution we find Scandinavian countries (and Belgium and Ireland), known for their high levels of taxation but also for their strong protective welfare state. The proportion of transfers in an average household income varies around 15 percent. However, in these countries the ratio transfers/ household income is much higher among immigrants.

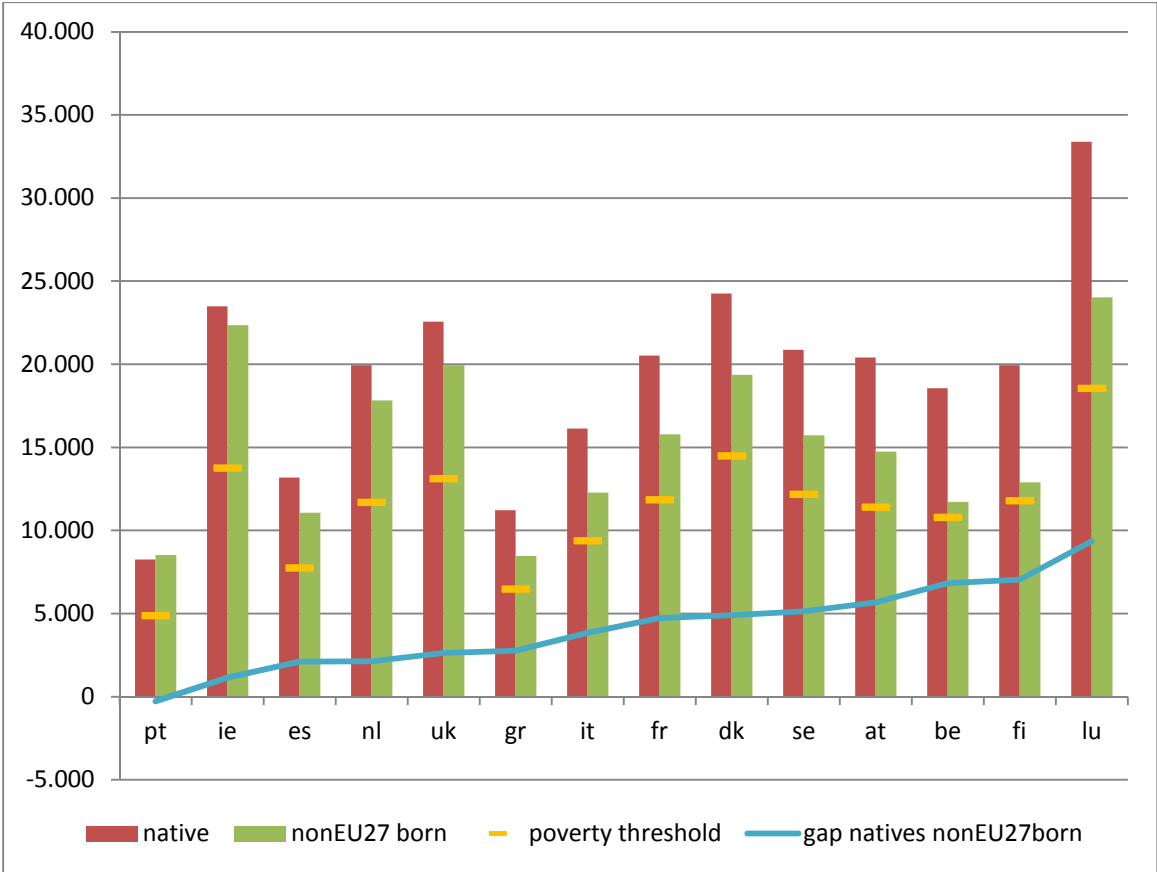
Figure 12: Share of transfers in total disposable household income, natives versus non-EU27 born immigrants, EU15, 2008 and 2010, working age population (pensions excluded).



Source: SILC

Figure 13 plots the median (equivalent) disposable household income for native and nonEU27 born working age adults. We present outcomes for all EU15⁴⁶ countries, with an indication of the national poverty threshold (horizontal yellow bar indicates the level of 60% of the median disposable income in the respective countries). Again we see a sharp difference between natives and TCNs, with Belgium being the third worst country concerning the ethnic gap in total household income. Only Finland and Luxembourg have a bigger income gap between natives and TCNs. Particularly alarming is that the median household income of TCNs in Belgium is very close to the national poverty thresholds. Nowhere in the EU15 lies the median income of TCNs so close to the poverty threshold.

Figure 13: Median (equivalent) disposable household income and national poverty threshold, by country of birth, EU15 (without Germany), 2008.



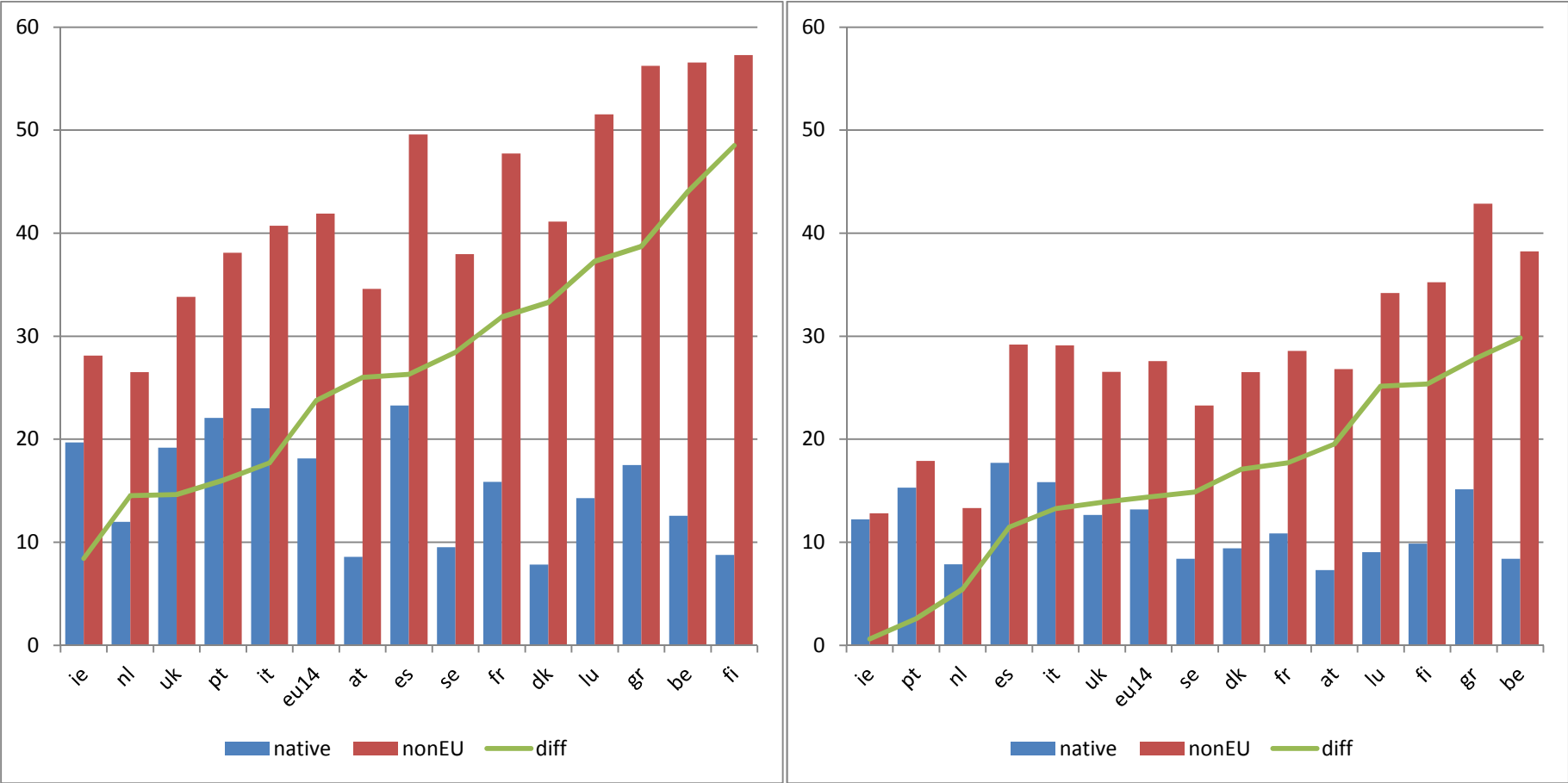
Source: SILC

TCNs’ much higher poverty levels

Indeed, the gap between the Belgian poverty levels of natives and TCNs is huge. Figure 14 shows the poverty rates for natives and immigrants. We present at-risk-of-poverty rates for children (left graph) and adults (right graph) separately. The risk of poverty for native children in Belgium equals 13%, whereas the risk of poverty for foreign born (non EU27) children rises to 57%. More than half of TCN children live in poor (or at risk of poverty) households! Only in Finland is the poverty gap between native and TCN children bigger. For adults, Belgium has the biggest gap between natives and TCNs for poverty levels, among EU15 member states. Whereas 12 % of Belgians have a poverty risk, 37% of TCNs are at risk of poverty.

⁴⁶Germany is excluded from EU15 analyses because in the user database of SILC only the distinction of native versus non-native is made for the variable country of birth.

Figure 14: At risk of poverty risk, for children (aged 0 -17) (left graph) and working age adults (aged 20 - 59, excluding FT students) (right graph), by country of birth, EU15 (excluding Germany), 2010.



Source: Survey on Income and Living Conditions

7.1.3. Costs for Belgium of providing social security benefits to third-country nationals?

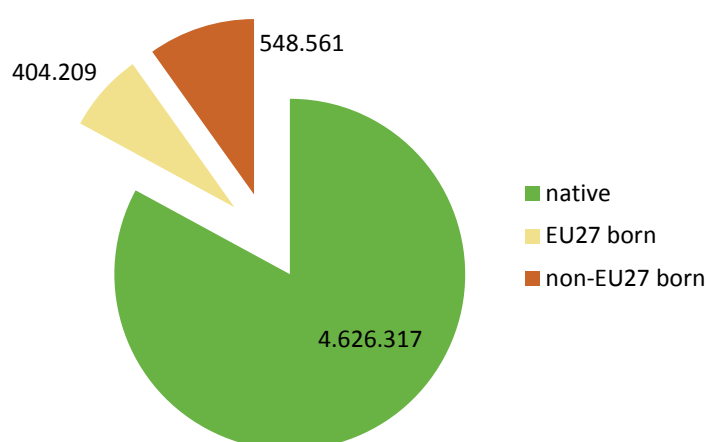
Based on the SILC survey data we can calculate the share of each population group in the working age population and compare that to their share in the (weighted) totality of reported net (and gross) income from labour, taxes, unemployment benefits, pensions and child benefits. The below table indicates that there is a discrepancy between population groups' share in the population and their share in income and benefits. We notice for example that even though natives form 82.9% of the population, their share in pensions is 94.4% and their contribution in taxes is also higher (90%). In contrast, while TCNs make up 9.8% of the population, their share in income from labour is only 4.1%, similar to their share in taxes (4.5%). TCNs share in unemployment benefits is slightly higher than their share in the population (with 10.2%). The same goes for child benefits, with a share of 11.3%. TCNs share in pensions however is far below their share in the population (1.5% share in pensions for a 9.8% population share). Figure 15 and Figure 16 present these shares graphically.

Table 2: Distribution of total mass of incomes, contributions and benefits by country of birth, Belgium.

	natives	EU27 born	non-EU27 born
working age population	82.9%	7.2%	9.8%
(net) income from labour	84.3%	11.5%	4.1%
(gross) contribution by taxes	90.0%	5.5%	4.5%
(net) income from unemployment benefit	82.5%	7.4%	10.2%
(net) income from pensions	94.4%	4.1%	1.5%
(net) income from child & family allowances	84.5%	4.2%	11.3%

Source: SILC

Figure 15: Share of working age population (20 – 95, excluding FT students), by country of birth, Belgium



Source: SILC

Figure 16: Distribution of total mass of incomes, contribution and benefits (in billions), by country of birth, Belgium.



Source: SILC

7.2 Administrative data (CBSS LM & SP)

Figures and tables in this section are based on Administrative data of the Crossroads Bank of Social Security Labour Market (online available at https://www.ksz-bcss.fgov.be/nl/bcss/page/content/websites/belgium/statistics/statistics_01/statistics_01_04.html).

The use of administrative data has an important impact on the delineation of the relevant labour market indicators, more specifically for the definition of unemployment. So-called administrative unemployment is computed on the basis of a person's registration as a 'non working jobseeker' (NWJ) in the employment office's database. In Belgium, employment offices are organized regionally: VDAB in Flanders, FOREM in Wallonia, ACTIRIS in Brussels or ADG in the German speaking community.

In the datawarehouse "labour market and social protection" the status of "active person" comprises employed peoples as well as job seekers (or unemployed persons).

- Employed persons have a paid job (in the private as well as in the public sector), the self-employed, people registered as helpers;
- "Jobseekers" comprise jobseekers without a job after having had a fulltime job enjoying unemployment benefits, jobseekers after having had a voluntary part time job enjoying unemployment benefits, jobseekers after studies enjoying 'wait benefits' or a transitional allowance, and finally jobseekers with a 'guidance benefit' (*begeleidingsuitkering*).

The status of being "inactive" comprises persons who are called "inactive" as well as "others" in the nomenclature of the socio-economic position of the "crossroads bank of Belgian social security".

- "Inactive" persons comprise persons with a complete career break or with full 'time credit', persons without a job who are exempt of registering as a jobseeker, persons with an 'integration income' (minimum income resources), pension beneficiaries without a job, people on full time pre-retirement, children enjoying child benefits and work incapacitated people.
- The category "others" comprises all persons who do not hold any of the above listed socio-economic positions (so people who are not employed, self-employed, jobseekers, people exempt from registering as a jobseeker, people in career breaks or time credit, people who do not receive an integration income, are on pre-retirement or are work incapacitated).

The following groups are part of the group "others":

- Outgoing cross-border workers
- Persons who work in Belgium for an organization or company that does not pay contributions to Belgian social security
- Seamen of the Belgian mercantile marine (who are registered with the Relief and welfare fund for seafarers)
- People registered with the Overseas Social Security Office (people who have their professional activity in a country that is not part of the EEA and who take part in non-compulsory social insurance)

- International civil servants and diplomats
- Development workers
- Housewives/Housemen
- Home personnel that is not registered with the Social Security Service
- Entitled children who are not registered in the register of the child benefits office or with the health care office
- Suspended jobseekers
- Elderly whose partner is a pension beneficiary
- People of independent means whose income is solely made up of income that is not registered in the datawarehouse (such as rental income, income from stocks, ...)
- People who are known by the social security institutions but not on the last day of the trimester
- People who are only known in the datawarehouse via the National register of the mini-national register, but not through one of the social security institutions involved.

According to estimates of the Federal Public Service for Employment about 17% of people in the “others” category are people who do work but who do not have any bond with Belgian social security and hence are not registered in the category ‘employed’ of the datawarehouse (this concerns people such as European civil servants, NATO personnel, etc.) (FOD WASO & CGKR, 2013).

We present data of the socio-economic position of the entire population present in Belgium at the last day of the last quarter of 2011. The age interval is 25 – 64.

7.2.1. Standardized tables for the collection of statistics on numbers of third-country nationals employed, unemployed and inactive by national group

We insert the standardized tables that are used for the generation of detailed labour market indicators in the following section. Due to the differences with survey data, we deem it important to include the standardized tables in the same section. Important differences with the survey data are the following. First, the reference period for employment and income is different. Survey data measure employment, unemployment and inactivity during the reference week prior to the survey interview. EU-SILC measures household income components by aggregating relevant sources over the entire year preceding the survey. Administrative data, in contrast, measure people’s social security position on the last day of the last quarter of 2011. Second, the way (un)employment and inactivity is measured also differs. Survey data use the ILO definition. Interviewees indicate themselves whether or not they worked and if they actively seek employment. Administrative data analyze register data that indicate people’s social security position. One is employed when one’s principal source of income consist of employment income. One is unemployed if one receives an unemployment benefit. The share of inactive people is much greater in administrative data, due to the fact that a large category of people legally residing in Belgium is not part of the Belgian social security system.

Table 3: Total population (aged 0 - >80) by most prevalent socio-economic position, by citizenship, 2011

	Belgium	EU15 (neighbours)	EU15 (Southern countries)	EU15 (Northern countries)	EU12	other Europe (non EU27)	North America	South and Middle America	Africa	Asia	unknown citizenship	total
employed⁴⁷	3,369,918	71,147	75,955	8,545	36,094	16,782	2,009	5,904	35,386	17,373	11,802	3,650,915
self-employed / helper	680,096	24,879	16,904	3,426	20,672	2,752	647	806	2,561	3,993	1,666	758,402
jobseeker⁴⁸	337,650	12,530	17,239	773	2,015	4,470	118	530	10,162	1,755	3,091	390,333
children eligible for child benefits	2,402,585	39,887	22,094	4,080	23,353	17,217	852	2,798	26,079	11,949	13,013	2,563,907
pension beneficiaries⁴⁹	1,897,124	25,567	49,188	2,110	854	3,596	421	117	5,284	381	3,076	1,987,718
exempted jobseeker	108,885	3,294	4,584	264	204	645	39	75	1,167	238	466	119,861
work incapacitated⁵⁰	244,792	5,756	11,740	315	844	1,811	43	130	3,251	342	970	269,994
career break	15,519	397	285	62	295	56	12	37	140	47	91	16,941
guaranteed minimum resources⁵¹	57,920	2,458	2,324	141	3,235	8,911	40	796	19,093	9,675	4,115	108,708
other	743,008	146,159	56,891	21,429	47,567	45,681	10,759	7,779	67,891	41,910	17,790	1,206,864
Total	9,857,497	332,074	257,204	41,145	135,133	101,921	14,940	18,972	171,014	87,663	56,080	11,073,643

Source: CBSS

⁴⁷ Having a paid job and being part of Belgian social security

⁴⁸ Receiving unemployment benefits (after full time employment, after voluntary part time employment, with 'work integration' benefits or 'guidance' benefits)

⁴⁹ Receiving a pension without being employed (old-age pension, on full early retirement (*bruggepensioneerd*),

⁵⁰ Accident at work, occupational disease, disability, work incapacitated know by a mutual insurance fund, benefits for disabled people)

⁵¹ Integration income, financial help

Table 4: Working age population (aged 25 - 64) by most prevalent socio-economic position, men and women, by citizenship, 2011

	Belgium	EU15 (neighbours)	EU15 (Southern countries)	EU15 (Northern countries)	EU12	other Europe (non EU27)	North America	South and Middle America	Africa	Asia	unknown citizenship	total
employed	3,051,631	65,341	71,803	8,137	32,484	14,719	1,909	5,518	32,430	15,490	10,693	3,310,155
self-employed / helper	597,414	22,360	15,709	3,170	18,490	2,523	583	741	2,419	3,741	1,526	668,676
jobseeker	292,035	11,756	16,412	756	1,818	4,018	114	495	9,600	1,600	2,820	341,424
children eligible for child benefits	11,000	96	322	10	13	17	2	0	19	3	16	11,498
pension beneficiaries	364,592	3,575	8,047	289	84	627	35	29	733	98	419	378,528
Exempted jobseeker	100,755	3,152	4,463	260	186	603	37	70	1,110	223	434	111,293
Work incapacitated	232,783	5,508	11,458	305	770	1,729	43	120	3,105	320	912	257,053
career break	15,084	383	279	62	267	52	12	36	135	46	89	16,445
guaranteed minimum resources	36,609	1,896	1,881	112	2,432	6,651	32	560	14,480	7,130	2,922	74,705
other	457,796	90,267	38,807	14,281	32,825	27,760	6,152	5,707	48,819	28,973	10,658	762,045
Total	5,159,699	204,334	169,181	27,382	89,369	58,699	8,919	13,276	112,850	57,624	30,489	5,931,822

Source: CBSS

Table 5: Working age population (aged 25 - 64) by most prevalent socio-economic position, men, by citizenship, 2011

	Belgium	EU15 (neighbours)	EU15 (Southern countries)	EU15 (Northern countries)	EU12	other Europe (non EU27)	North America	South and Middle America	Africa	Asia	unknown citizenship	total
employed	1,560,761	34,351	42,280	4,565	11,824	9,542	1,048	2,026	22,103	8,670	6,108	1,703,278
self-employed / helper	388,969	14,453	11,907	2,203	15,309	2,050	378	528	2,020	2,605	1,092	441,514
jobseeker	138,164	5,819	9,476	409	898	2,785	56	246	7,093	1,018	1,598	167,562
children eligible for child benefits	5,685	50	175	5	6	6	1	0	11	1	4	5,944
pension beneficiaries	195,690	2,241	5,425	215	25	292	20	7	170	5	239	204,329
Exempted jobseeker	43,718	1,721	2,735	144	77	377	28	34	771	140	231	49,976
Work incapacitated	102,640	2,596	6,322	156	366	1,122	24	36	2,181	191	483	116,117
career break	2,723	60	41	17	3	1	1	3	15	2	16	2,882
guaranteed minimum resources	15,161	764	957	57	1,068	3,594	14	181	7,305	4,709	1,451	35,261
other	120,244	43,088	15,349	6,497	13,965	10,425	2,653	2,060	20,387	13,141	4,217	252,026
Total	2,573,755	105,143	94,667	14,268	43,541	30,194	4,223	5,121	62,056	30,482	15,439	2,978,889

Source: CBSS

Table 6: Working age population (aged 25 - 64) by most prevalent socio-economic position, women, by citizenship, 2011

	Belgium	EU15 (neighbours)	EU15 (Southern countries)	EU15 (Northern countries)	EU12	other Europe (non EU27)	North America	South and Middle America	Africa	Asia	unknown citizenship	total
employed	1,490,870	30,990	29,523	3,572	20,660	5,177	861	3,492	10,327	6,820	4,585	1,606,877
self-employed / helper	208,445	7,907	3,802	967	3,181	473	205	213	399	1,136	434	227,162
jobseeker	153,871	5,937	6,936	347	920	1,233	58	249	2,507	582	1,222	173,862
children eligible for child benefits	5,315	46	147	5	7	11	1	0	8	2	12	5,554
pension beneficiaries	168,902	1,334	2,622	74	59	335	15	22	563	93	180	174,199
exempted jobseeker	57,037	1,431	1,728	116	109	226	9	36	339	83	203	61,317
work incapacitated	130,143	2,912	5,136	149	404	607	19	84	924	129	429	140,936
career break	12,361	323	238	45	264	51	11	33	120	44	73	13,563
minimum income protection	21,448	1,132	924	55	1,364	3,057	18	379	7,175	2,421	1,471	39,444
other	337,552	47,179	23,458	7,784	18,860	17,335	3,499	3,647	28,432	15,832	6,441	510,019
Total	2,585,944	99,191	74,514	13,114	45,828	28,505	4,696	8,155	50,794	27,142	15,050	2,952,933

Source: CBSS

7.2.2. Numbers of third-country nationals employed, unemployed and inactive by national Group

Figure 17 (left) presents employment rates for Belgium (2011) by gender.⁵² We note great variation in employment rates by citizenship. People from 'other Europe' (comprising Turkey) and Africa have the lowest employment rates. Remarkable is that this figure also displays low employment rates for North Americans and Asians. This is due to the definition of employment used in administrative data. Many North Americans and Asians work in Belgium as posted workers and are not part of the Belgian social security system. This trend also plays for citizens of Belgium's neighbours. We suppose that this is much less relevant for people from 'Other Europe' and Africa. It is also less relevant for EU12 citizens, who display the second highest share of employed people at working age.

In every national group men work more than women. The gender employment gap is greatest for groups with low employment rates ('other Europe' and Africa). The gender gap is very small for South American immigrants.

Figure 17 (right) presents employment rates by age. Within the Belgian population a very large variation exists in labour market outcomes by age, with 20 percent point differences over age intervals. For other national groups these differences are more limited, mainly because the age group 25-49 have low employment rates.

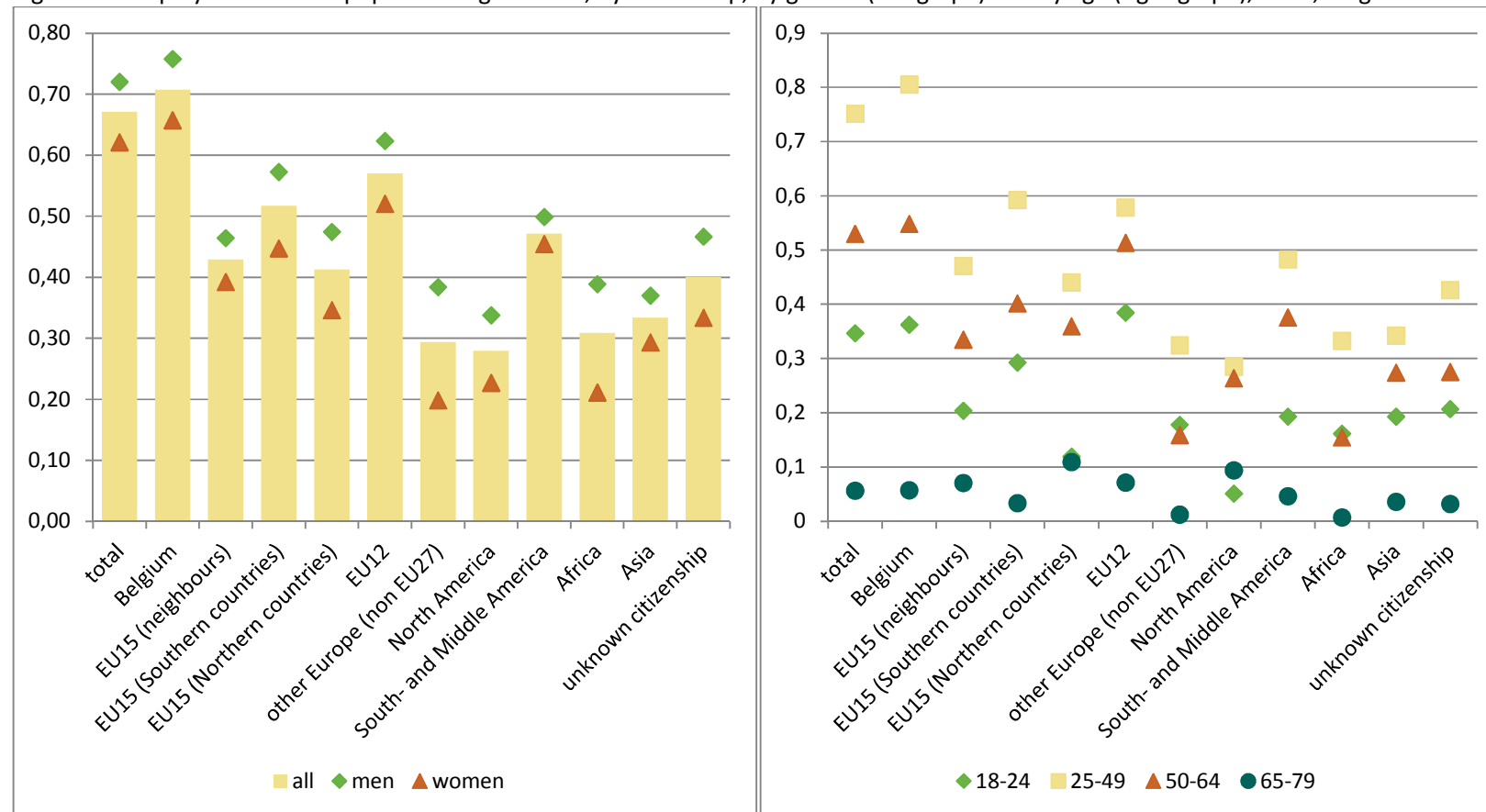
Figure 18 presents the unemployment (left) and inactivity (right) levels of different national groups in Belgium by gender. Note the relatively large take up of unemployment benefits for 'other Europe', Africa and South Europe. EU12 citizens have a relatively low unemployment level. There are substantial gender differences in the Africa and 'other Europe' national groups. Women's unemployment level is greater than that of men. In most other national groups men face higher unemployment levels than women. Figure 18 (right) shows high inactivity rates for all national groups. Inactivity is the share of the total population that does not have a paid job or unemployment benefits (on the last day of 2011). As mentioned before, many people are not represented in the social security database, such as North American and Asian expats or people from 'other Europe' and Africa (probably housewives who are not entitled to a guaranteed minimum income). Again, we notice strong gender differences, women present themselves less on the labour market.

⁵² Employment rate are calculated by dividing the number of persons (aged 25 to 64) in paid employment by the total population of the same age group (employed + self-employed / total population). The unemployment rate is the number of people unemployed as a percentage of the labour force (jobseeker / employed + self-employed + jobseeker).

The activity rate is the percentage of the population, both employed and unemployed, that constitutes the manpower supply of the labour market regardless of their current labour status.

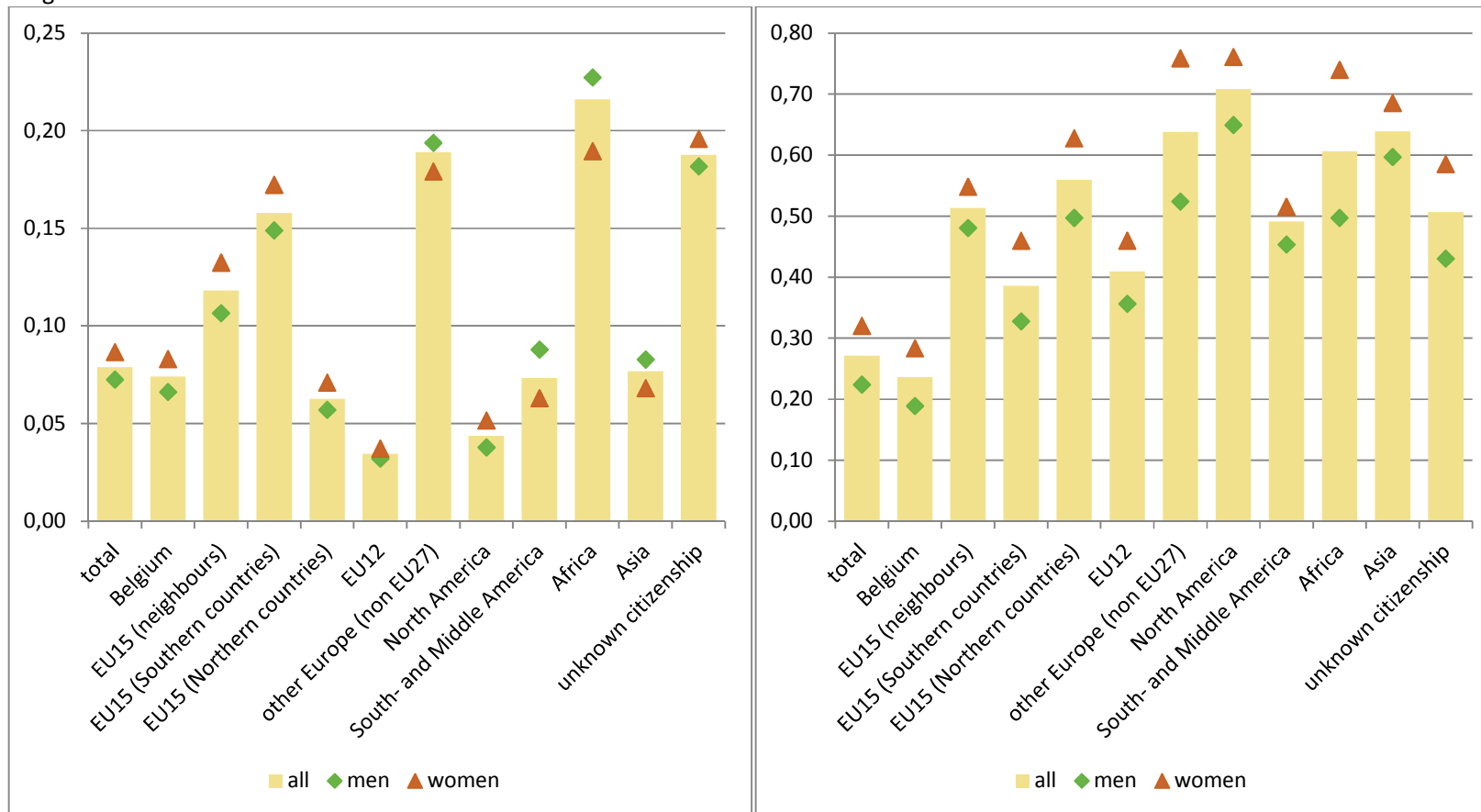
The inactivity rate is the proportion of the population that is not in the labour force (inactive individuals / total working age population). When added together, the inactivity rate and the activity rate (labour force participation rate) add up to 100 percent.

Figure 17: Employment rate of population aged 25-64, by citizenship, by gender (left graph) and by age (right graph), 2011, Belgium



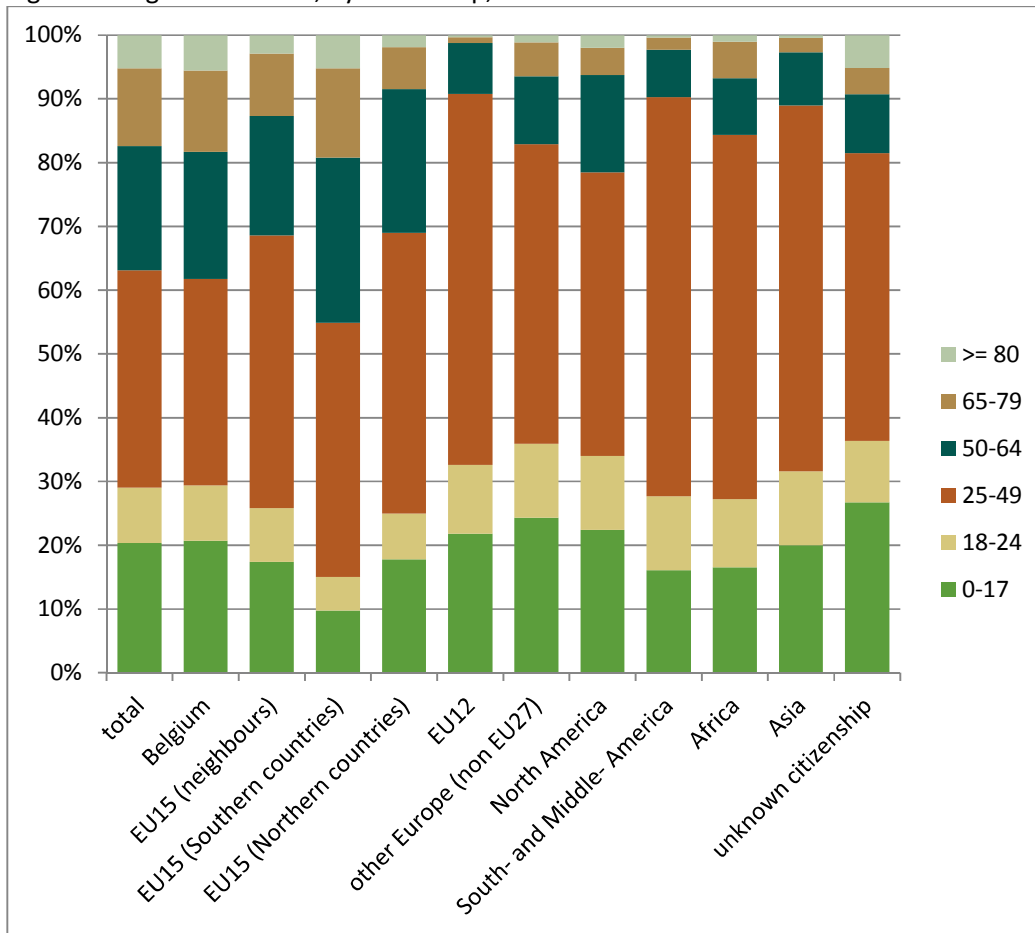
Source: CBSS

Figure 18: Unemployment rate (left graph) and inactivity rate (right graph), population aged 25-64, by citizenship, men and women, 2011, Belgium



Source: CBSS

Figure 19: Age distribution, by citizenship, 2011



Source: CBSS

Figure 19 presents the age distribution in Belgium by national groups. We notice strong age differences between them. There is clearly an older age structure for South European immigrants (labour immigrants from the 1960s). The age group 25-49 is considerable for EU12, but also for South America, other Europe and Africa. All non EU15 immigrants have much less individuals younger than 65.

7.2.3. Take-up of social security benefits among third-country nationals (by types of payment by national group, age, sex)

Figure 20 presents the proportion of the active age population that receives unemployment benefits (left) and guaranteed minimum resources (right). We note a markedly higher share of unemployment beneficiaries among Africans, 'Other Europeans' and South Europeans. For guaranteed minimum resources, 'other Europe', Africa and Asia stand out. Figure 21 compares graphically the share of national groups in the total population with the share of national groups in the uptake of guaranteed minimum resources. The overrepresentation of Africans, Asians and 'other Europeans' in the guaranteed minimum resources program is striking. For example,

even though Africans make up only 1.9% of the total population (by citizenship), they receive 19% of all guaranteed minimum resources.

Finally, Figure 22 shows the population by national groups that receives a pension (left graph) or takes no part in Belgian social security (right graph) for 2011. For pensions, Belgians and South Europeans have high shares of retired people receiving a retirement pension. That is much less the case for other national groups. Figure 22 (right) indicates the share in each national groups of people who have no link at all to Belgian social security. This figure makes clear that a high share of immigrants have no connection to Belgian social security at all.

Figure 20: Proportion of population that receives an unemployment benefit (left graph) or guaranteed minimum resources (right graph), by citizenship, 2011

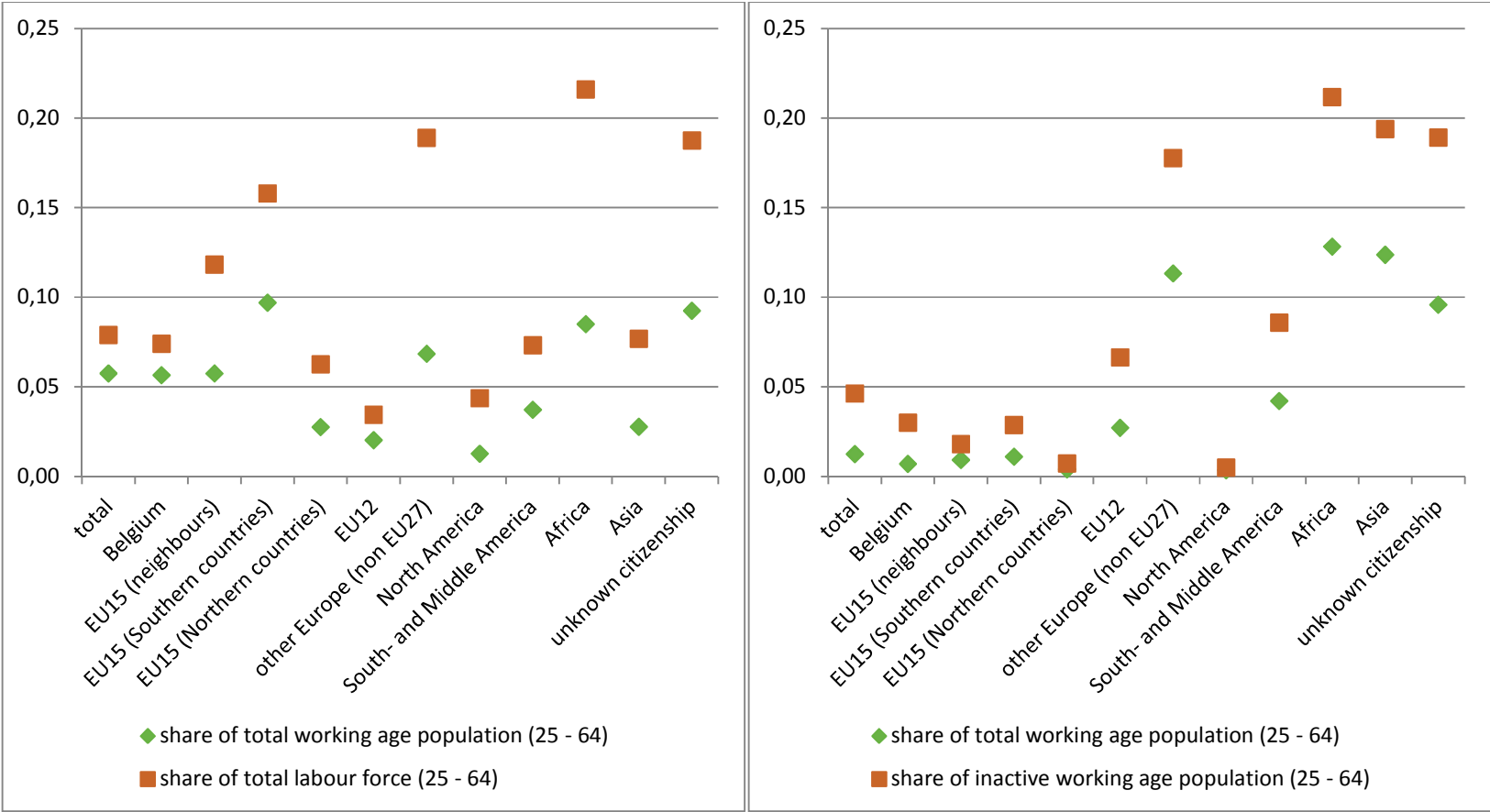
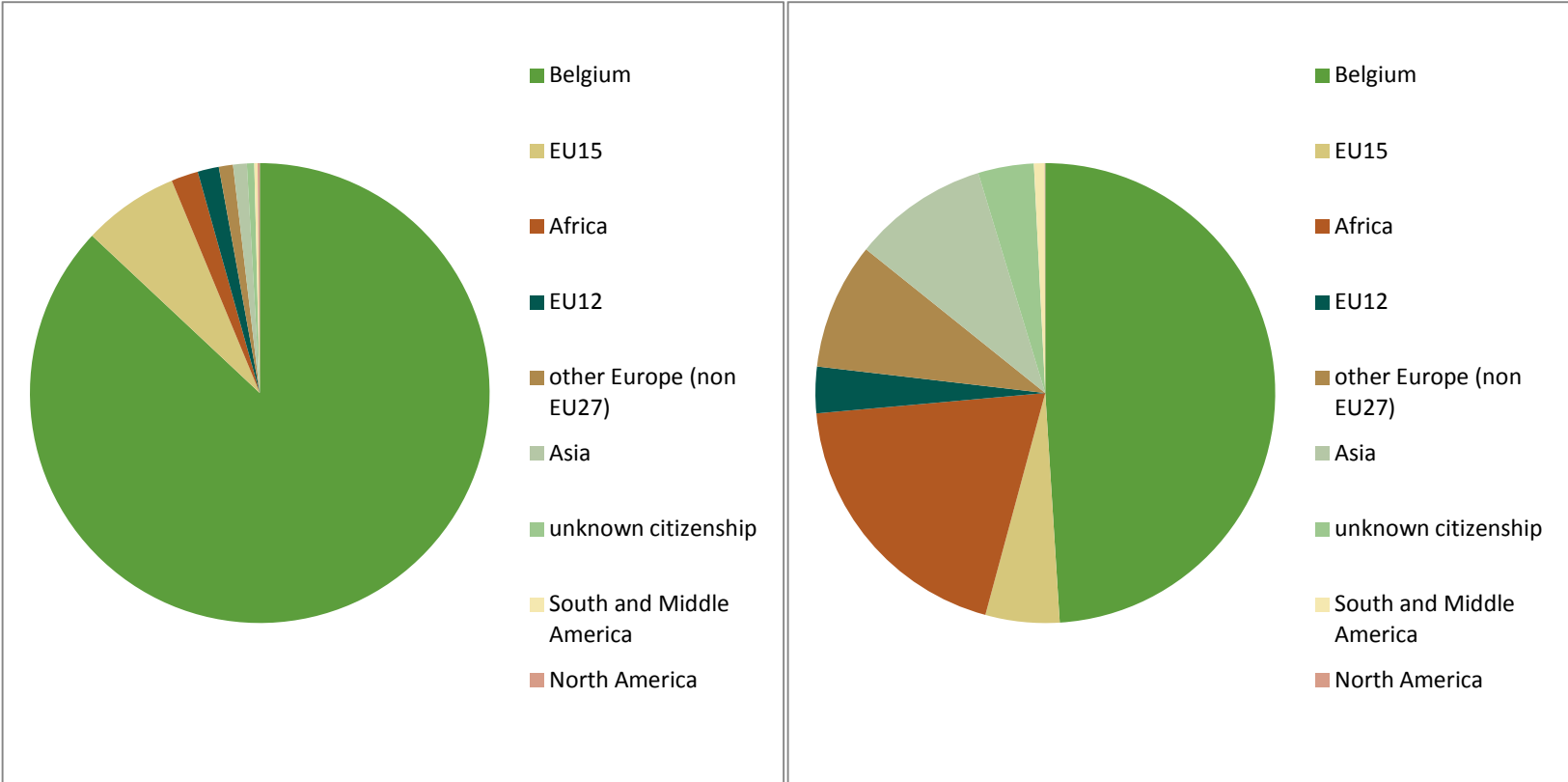
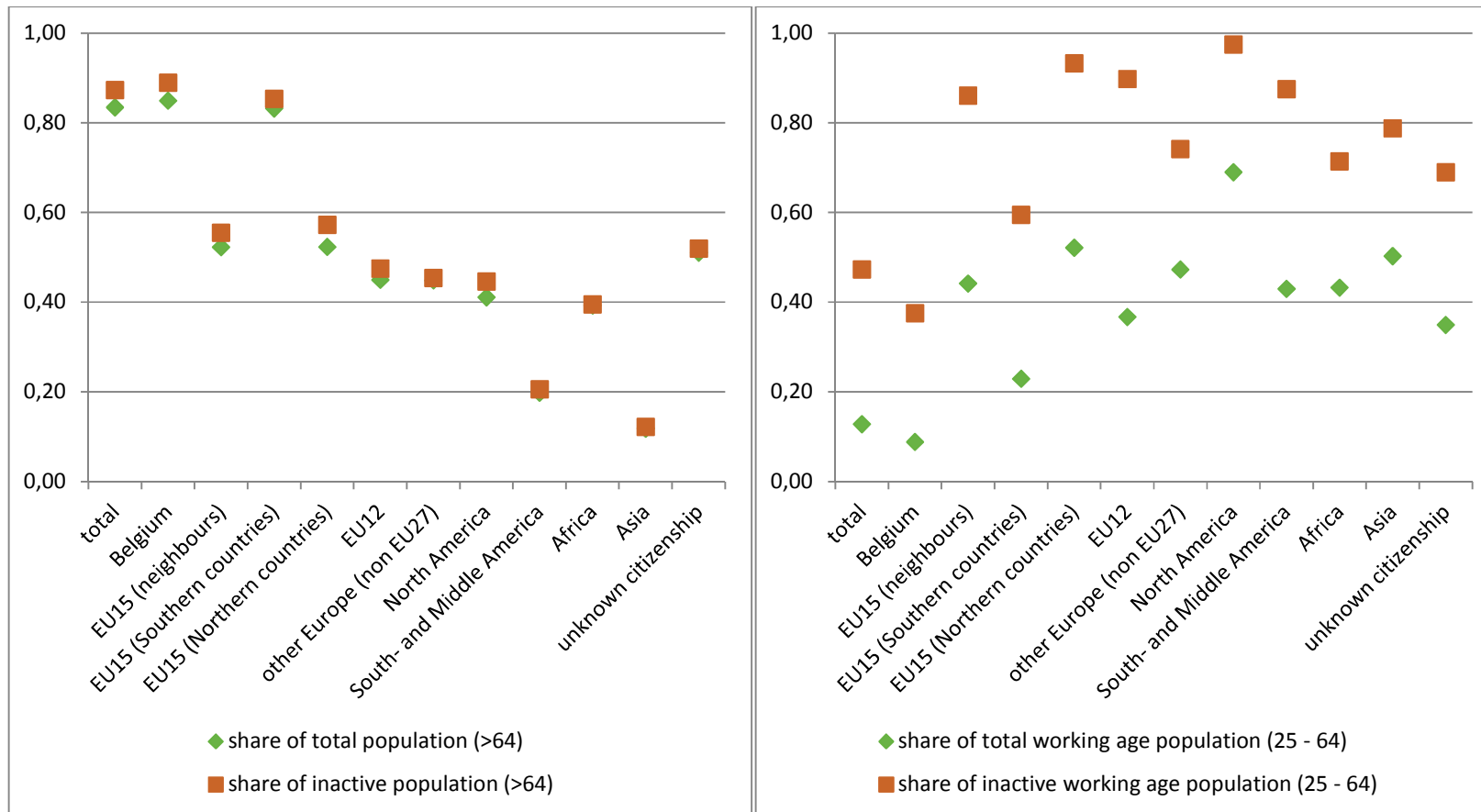


Figure 21. Distribution of all adults (25 – 64) (left graph) and all adults receiving a minimum income protection (right graph), by citizenship, 2011



Source: CBSS

Figure 22: Proportion of population that receives a pension (left graph) or takes no part in Belgian social security (right graph), by citizenship, 2011.



8. Key Findings

- The Belgian social security system is the **combination** of a mainly contributory system of **work-based social insurance and a non-contributory system of social assistance**. These two traditional pillars of social security are increasingly complemented with social spending on services such as child and elderly care and on other ‘new’ social risks (active labour market policies, parental leave)
- **The Belgian social security system is inclusive**. For social *insurance* programs (pensions, unemployment, health care, etc.) the general rule is that everybody who works and resides legally in Belgium, is entitled to social security benefits in Belgium (and has to contribute to it on a compulsory basis), provided that they fulfill the general conditions of eligibility such as waiting periods and minimal contributions. This means that everybody, natives, permanent as well as temporary immigrants must participate in the system, through work (or assimilated categories).
- There are a very **limited number of differences in the treatment of Belgians and immigrants in the social *insurance* programs**. The most eye catching is the rule that TCNs (third country nationals) whose country did not conclude a social security agreement with Belgium *cannot ‘export’ their pension benefits*. Even if they contributed to the social security system for their entire career, they have to reside in Belgium to receive their pension. The lack of exportability of retirement pensions for non-treaty TCNs is outdated in the even more mobile world. People who have contributed to the social security system, and who built up pension rights proportionate to their contributions, should not be restricted to live in Belgium after retirement, just based on their citizenship. To be sure, Belgian law does not differentiate between immigrants and natives when it comes to the exportability of other benefits. For example, accidents at work benefits are exportable by immigrants, even if there is no social security agreement. Unemployment benefits in contrast are not exportable (not for immigrants nor for natives). Another minor difference between immigrants and natives is present in the unemployment sub-program ‘work integration benefits’ for unemployed youngsters. Only youngsters who can rely on a bilateral or multilateral agreement are entitled to these benefits (in practice most youngsters are included thanks to the agreements).
- When it comes to **social aid or guaranteed minimum resources**, all legally resident immigrants are **covered by the residual social aid program**, but depending on their status, will be **excluded from some specific sub-programs**. Initially, these programs’ eligibility criteria were quite restrictive and not open to TCNs. Over time the eligibility criteria opened up to certain privileged groups of immigrants, such as EU citizens, under the influence of European and national case law. Today, TCNs are admitted in certain programs, based on their sufficiently long residence in the country. Behind this inclusion of TCNs lies the idea of having a ‘bond with the country’.
- Receiving social security and social assistance benefits does not affect the **residence status** of immigrants with an **unlimited residence permit**. For **temporary immigrants**

however, their residence status will become more **vulnerable** when taking up social security and social assistance benefits. Their residence permit may not be renewed.

- In the course of the last two decades, Belgium has steadily **developed a stronger link between social security (social aid) policies and immigration**. We can distinguish two types of policies that make out the immigration-social security nexus:
 - A) A differentiation of minimum income resources (social aid) by immigrant category:** policies gradually differentiated between several types of newcomers and old comers. In the 1990s the first differentiation occurred for asylum seekers and undocumented immigrants for whom social aid was converted in material aid and urgent medical care respectively. These two groups were cut off from mainstream social aid. In recent years, other groups, such as EU immigrants and some regularized immigrants, also had their entitlement to social aid eliminated. At the same time, in a move to promote old-comers' social integration, old comers' entitlements (immigrants with a permanent residence or second generation immigrants) to social aid became more robust.
 - B) Another set of policies that involve social security entitlements** have in common that they revolve around **stronger participation and integration requirements for immigrants**. These policies take a few forms. First, steps have been taken to make the take-up of social security matter for immigrants who wish to make use of other residence rights. There are two examples of this to date. The right to family reunion is made dependent on sufficient income of the applicant. Certain social security benefits, such as minimum income resources, are not accepted as income. In other words, people dependent on minimum income resources cannot apply for family reunion. To a lesser degree, a similar dynamic is at work concerning Belgian citizenship acquisition. Second, stronger participation requirements for TCNs have been introduced in one minimum income resources program (guaranteed income for the elderly) in the form of increased work requirements to become eligible. Since 2012, elderly TCNs need to have worked a minimum of 312 full working days in Belgium before being eligible for the program. Third, stronger participation requirements for TCNs were introduced in the Flemish civic integration programs. Participants who are dependent on minimum income resources and who are required to follow a civic integration program can be barred from minimum income resources if they do not fulfil the course requirements. These changes in social security and immigration policy do not touch upon the main body of social security entitlements in Belgium. There is no differentiation by immigrant category happening in the mainstream social security branches. Belgium's welfare state, based upon entitlements depending on employment and contributions, remains essentially an open system.
- Despite the largely inclusive story of Belgium's social security system, Belgium faces a **grim contrast between the inclusiveness of its social security system and the (very) bad socio-economic situation of immigrants in Belgium**. Belgium scores worst among all EU member states when it comes to employment levels of TCNs. TCNs in Belgium have an **employment rate of just above 50%**. The native population, aged 20 to 59, in contrast, has an employment rate of 80 %. Nowhere in the EU is the gap as large. Consequently, TCNs also face much higher unemployment rates. TCNs are not only underrepresented in employment, they also **earn substantially less** than natives when they are employed. These lower wages (on average) are related with employment at the

lower end of the Belgian labour market (with limited contracts). As a consequence, their contribution to the Belgian tax system is substantially lower than that of natives.

We also observe huge differences in take-up rates and the level of income immigrants obtain from the *contributory social insurance programs*, such as unemployment and pensions. Due to their **higher unemployment rates**, TCNs are overrepresented in the unemployment program. On average they take up unemployment benefits more frequently than natives. But, due to their limited labour market history, their frequent switch between employment and unemployment, an overrepresentation in the sector of manual labour and their lower wage level, the **level of their obtained unemployment benefits is far lower than that of natives**. Similarly, a cumulated disadvantage appears for pensions. Due to their age profile (on average younger than natives) and their limited labour market history, both the average **take-up and the level of their pension benefits is far lower** than that of natives. In the *non-contributory system of guaranteed minimum resources*, **immigrants are overrepresented**. As immigrants' link to the labour market is weaker, they are more vulnerable to end up in the residual minimum resources programs.

Finally, the **poverty levels of TCNs are appallingly high in Belgium**. Immigrants living in a couple are confronted with at risk of poverty levels of 46 percent, while for natives in a couple this merely equals 5 percent. This translates in an important challenge for opportunities of children. The risk of poverty for native children in Belgium is 13%, whereas the risk of poverty for foreign born (non EU27) children rises to 57%. More than half of TCN children live in poor (or at risk of poverty) households!

- The contrast between Belgium's inclusive social security and social assistance system and the appalling socio-economic situation of third country nationals is striking. Belgium seems to accumulate a set of negative factors/risks whose interaction and individual weight remains badly understood so far. The interaction and accumulation of these factors are understudied for Belgium but require the urgent attention of policy makers and researchers alike.

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