



European Migration Network

Belgian Contact Point

Annual Policy Report 2007

regarding asylum and migration

Belgium

November 2008

The EMN Annual Policy Reports are aimed at reflecting the main political developments in the area of migration and asylum at Member State level. It will be the task of the (European) Synthesis Report to compare the findings in order to identify trends and monitor the political developments in the field of migration and asylum in a comparative perspective.

More information about the EMN will be available on:

www.european-migration-network.org

The Belgian National Contact Point (NCP) is financed both by the Belgian Government and the European Commission. The Belgian NCP consists of three partners : the Immigration Office (as part of the Ministry of Interior), the Office of the Commissioner General on Refugees and Stateless Persons (CGRA) and the Centre for Equal Opportunities and Opposition to Racism (CEOOR). It can be contacted by e-mail (Benedikt.Vulsteke@dofi.fgov.be or Geert.Beirnaert@ibz.fgov.be or Koen.Dewulf@cntr.be), by phone +32 (0)2 793.92.30 or by letter (address: Belgian Contact Point EMN, Dienst Vreemdelingenzaken, WTC II, Antwerpsesteenweg 59 B, 1000 Brussels).

TABLE OF CONTENTS

Executive Summary

List of abbreviations

1. Political developments in Belgium

General structure

General political developments

Institutional developments

2. Policy and legislative developments in the area of Migration and Asylum

General structure and context

Policy developments

Refugee protection and asylum

Asylum applications

Hunger strikes

Resettlement

Genital mutilation

Unaccompanied minors (and other vulnerable groups)

Asylum applications

Children in detention centres

Migration control

Marriages of convenience

Economic migration

Family reunification

Integration

Illegal immigration

Regularisations

The case Angelica

Victims of human trafficking

Number of irregular migrants in Belgium

Medical Assistance

Return migration

Municipalities and expulsions

Other policy areas/topics

Electronic ID-cards for non-Belgian citizens

New detention centre

Transitzone Brussels Airport

Integration

Global Forum on Migration and Development

European Funds

3. Implementation of EU legislation

Aliens Act

New Asylum Seekers Reception Act

EXECUTIVE SUMMARY

This report – Belgian Policy Report on Asylum and Migration 2007 – gives an overview of developments and changes that have taken place in Belgium in the field of migration and asylum in the reference year. Every National Contact Point for the EMN provides for a national contribution to this so-called Policy Analysis Report. These national contributions will be clustered and compared in a European synthesis report.

In writing this report, use is made of official documents, press articles and information coming from NGOs.

Also in 2007 the migration and asylum theme was a hot issue in Belgium. However, it was overshadowed by the difficult formation of a new government after the 10 June 2007 federal elections. The diverging views between the political parties regarding constitutional reforms led to a near political stand-still. No overall political agreement could be reached and thus neither on the issues of migration and asylum.

During the election campaign certain expectations were raised about new regularisation measures and the broadening of the possibilities for labour migration, also for the irregular immigrants already present in Belgium. This could have led to some side effects such as the fact that irregular migrants were less inclined to voluntary return; a possible pull-factor for new irregular migrants to Belgium; and some “show downs” (e.g. hunger strikes) between the government and the activists.

The activists mainly pressed for a change in the regularisation and removal policy. These actions had the support of civil society organisations such as trade unions and church leaders.

The “Case Angelica” showed once again that the aliens issue can easily make feelings run high and polarise the debate on detention of children in closed centres and on the regularisation issue.

The situation in the closed centers – especially the detention of families with children – and the situation of the unaccompanied minors deserved once again particular attention in 2007.

The political crisis has nevertheless not hindered the migration and asylum agencies to proceed with their work and to put into practice the far-reaching amendments of the Aliens Act (approved in 2006 and 2007). The main objectives hereby are - next to the transposition of European directives- a faster and more efficient asylum procedure and the tackling of certain abuses of legal migration statuses. As has been mentioned in previous policy reports, the last few years a shift is taking place from pure illegal migration towards more figurative use of legal migration statuses. Further on the

amendments of the Aliens Act should lead to a better handling of the applications for regularisation on medical and humanitarian grounds.

Due to the difficult formation talks on a new federal government, the law of 25 april 2007 (second part of the amendement of the Aliens Act) could only come into effect in the first half of 2008. This law, also called “Mammoth II”, was basically the transposition of two European Directives : EU long-term resident status (2003/109/EC) and the right of EU-citizens and their family members to move and reside freely within the territory of the Member States (2004/38/EC).

The data on migration and asylum have once more shown that the myth of ‘migration stop’ has been superseded. The legal influx of aliens has reached an unprecedented level. However this has to be put in perspective as the influx mainly consists of EU-citizens and the presence of aliens stagnates thanks to a fairly lenient naturalisation procedure. As also mentioned in previous policy reports, this leads to a growing attention for the development of an integration policy and the combating of discrimination.

LIST OF ABBREVIATIONS

Aliens Act	Law of 15 December 1980 regarding the entry, residence, settlement and removal of aliens
ALC	Aliens Litigation Council (Raad voor Vreemdelingenbetwisting; Conseil du Contentieux des Etrangers)
ID	Immigration Department (Dienst Vreemdelingenzaken ; Office des Etrangers)
CS	Council of State (Raad van State ; Conseil d'Etat)
CGRS	Office of the Commissioner General for Refugees and Stateless Persons Commissariaat-generaal voor Vluchtelingen en Staatlozen; Commissariat Général pour les Réfugiés et les Apatrides)
ECHR	European Court of Human Rights (Europees Hof voor de Rechten van de Mens ; Cour européenne des Droits de l'Homme)

1. Political developments in Belgium

1.1. General structure

For the general structure of the political system and the institutional context, we largely refer to the previous Policy Analysis Reports made within the framework of the EMN.

The Federal State retains powers in several areas, including foreign policy, national defence, justice, finance, social security and the bulk of public health and home affairs.

The language-based **Communities** are responsible for culture, personal issues such as aid to people, health and education, whereas the territory-oriented **Regions** are responsible for non-personal issues, such as farming, water policy, housing, public works, energy, transport, environment, land planning and town planning, rural development, nature conservation, credit policy, and the supervision of the provinces, municipalities and associations of local authorities.

Matters concerning entry, residence, establishment and removal of foreign nationals are the responsibility of the Minister of Interior (as from 2008 the Minister of Migration and Asylum Policy), and the Directorate General of the **Immigration Department**. This administration is also in charge of applying the Dublin II Regulation and manages the applicants' residence requirements throughout the asylum procedure.

As a result of recent law changes, the **Office of the Commissioner General for Refugees and Stateless Persons (CGRS)**, an independent body, becomes more than ever the key player in processing the applications for asylum.

In 2006 the **Aliens Litigation Council** has been created, to reform and replace the current appeal court, the Permanent Refugee Appeals Commission. The Aliens Litigation Council acts as an appeal court for appeals from negative decisions by asylum agencies and negative decisions by the Immigration Department (e.g. decisions on visas, residence permits, ...).

Fedasil, a body under supervision of the (Federal) Minister of Integration, is the institution in charge of the reception of asylum seekers in Belgium.

Other relevant bodies in the field of asylum and migration are the Council of State, the Federal Police, the Centre for Equal Opportunities and Opposition to Racism, the Federal Public Service (FPS) Foreign Affairs, the FPS Labour, the different Ministries of Integration.

1.2. General political developments

The 2007 Belgian legislative federal elections took place on 10 June 2007. Voters went to the polls in order to elect new members for the Chamber of Representatives and the Senate. The CD&V / N-VA (Flemish Christian-democrats in alliance with Flemish nationalists) became the largest political formation in Belgium, thus leading the coalition talks for a new government. The MR (French-speaking Liberals) became the biggest party in Wallonia, and ended a long period of PS (French-speaking socialist) preponderance.

However, due to diverging views concerning the constitutional reform, no agreement could be reached and as a last resort an interim government led by Guy Verhofstadt of Open VLD (Flemish Liberals) was installed on 21 December 2007. It ran until 20 March 2008 to allow urgent matters - such as the 2008 budget - to be dealt with, and to start negotiations leading to an institutional reform. The definitive government led by Yves Leterme (coalition of CD&V / NVA, Open VLD and MR PS, CdH (French-speaking Christian-democrats) took over on 20 March 2008. In the absence of a definitive government, the year 2007 ended without concrete actions or decisions on the migration and asylum issue at the Belgian level.

1.3. Institutional developments

In 2006, the Belgian Government decided to reform the asylum procedure following the new European Union Asylum Directive (2004/83/CE). This European directive took effect as of October 2006 and was transposed into Belgian law by means of the law of 15 September 2006, modifying the law of 15 December 1980.

By reducing the number of authorities examining the asylum requests, this reform aims at reorganising the asylum procedure in depth in order to shorten the asylum procedure and to improve the overall asylum file handling. From now on, the procedure should last maximum one year.

The new single asylum procedure came into effect on 1 June 2007, replacing the former two phases (admissibility and eligibility) procedure. The single procedure considers grounds for both Convention refugee status and subsidiary protection in the examination of asylum claims.

As mentioned before, the **Office of the Commissioner General for Refugees and Stateless Persons** (CGRS) became the central body responsible for the adjudication of asylum claims. The **Aliens Litigation Council** (ALC) replaced the former Permanent Refugee Appeals Commission as the body responsible for hearing appeals of decisions taken by the CGRS. The **Council of State** became a court of cassation where appeals of decisions taken by the Aliens Litigation Council can be heard. A filter procedure has been established in order to deal with receivable appeals.

2. Policy and legislative developments in the area of Migration and Asylum

2.1 General structure

see also 1.1

2.2 General context

After the federal elections of 10 June 2007 negotiations started to form a new government. One of the first issues on the negotiating table was 'migration and asylum'. An agreement on this part was reached but it was only the first hurdle to pass. At the end of the negotiations no overall policy agreement could be reached in 2007 due to diverging views concerning the constitutional reform. This provisional agreement on migration and asylum was used as the basis for further negotiation in 2008, but not all elements were retained. For the actual results we will have to refer to the Policy Report of 2008.

However, we can highlight the main elements of the agreement reached in 2008 :

1. For the first time there will be a Minister solely responsible for Migration and Asylum Policies
2. People can get a regularisation of their situation if this is due to the long asylum procedure. Four years for families with children, five years for single persons. This is a prolongation by one year, but new is the fact that also the procedure before the Council of State can be taken into account.
3. A new regularisation criterion will be introduced 'durable social anchoring' (*'duurzame sociale verankering'*). This means that elements like knowledge of the language, education, integration, willingness to work, etc. can be taken into account for the regularisation.
4. Regularisation will be possible for people engaged in employment or self-employment.
5. According to the new asylum procedure refugees should be able to work after being six months in the procedure.
6. Economic migration to fill bottleneck vacancies' (shortage occupations) will be possible.
7. Stricter criteria for family reunification : people will have to proof they have stable and regular resources which are sufficient to maintain himself/herself and the members of his/her family, before they can get a family reunification.
8. Stricter criteria for fast-track naturalisation. E.g. introduction of a proof of integration.
9. The return policies will be applied more strictly. In case of forced returns an alternative procedure will apply to avoid detention of families with children in closed centers.

2.3 Policy developments

2.3.1 Refugee Protection and Asylum

Asylum applications

See annex

Hunger strikes

In 2007 several demonstrations and hunger strikes of refugees took place in Belgium and they attracted a lot of media attention. Iranians and Afghans were really active on this level. As for the Afghans a distinction can be made as regard to the result the refugees wanted to achieve. On the one hand there were hunger strikes principally aimed at obtaining a residence permit. On the other hand there is one hunger strike that specifically targeted the asylum policy of the Commissioner General on Refugees and Stateless Persons (CGRS) regarding Afghanistan.

The hunger strikers of the second group wanted to receive the status of subsidiary protection because of the security situation in Afghanistan. The policy of the CGRS was in line with the opinion of UNHCR, and was up for actualization on a regular basis. It meant however that not the whole of Afghanistan could qualify as being an area for which subsidiary protection could be granted. Even if they came from such an area, subsidiary protection was not always granted. This is mainly due to the lack of credibility of the identity, origin, and recent departure of the asylum seekers. In this way the CGRS cannot correctly assess their actual situation in Afghanistan or in a third country, and thus their need for subsidiary protection. The hunger strikers eventually saw their case reexamined and they received a temporary residence permit on basis of medical grounds.

Resettlement

Belgium is not a part of any resettlement scheme. However, discussion is going on, it was an issue during the formation talks of the government and it appeared in the provisional agreement on the chapter of migration and asylum. In the final policy agreement, finalized in 2008, the resettlement issue was not withheld. Officially Belgium awaits a concrete proposal of the European Commission on a European Resettlement Scheme.

Genital Mutilation

Belgium is confronted with a growing number of cases in which parents invoke a fear of Female Genital Mutilation (FGM) for their daughters. For most cases in which the CGRS grants refugee status, one can safely assume that effective protection is offered by the granting of the refugee status itself. This is not necessarily so in case of a well-founded fear of genital mutilation. It might indeed happen that, after the refugee status has been

granted to a parent because of his or her (minor) daughter's fear of genital mutilation upon return, this mutilation is still performed anyway, either in Belgium or in another country. For this reason, the CGRS wants to develop a special preventive policy on this subject. Parents to whom the refugee status will be granted on the grounds of an established fear of FGM as regards their (minor) daughter – who has not yet been subjected to such malpractice, will receive the following information: firstly, the performance of genital mutilation is considered a crime in Belgium, for which one will be prosecuted; secondly, the CGRS will verify each year whether the refugee status has been granted with good reason. It will also be pointed out to them that their refugee status may be withdrawn or cancelled in case genital mutilation is established. All this information will be sent out to the parents before the positive decision, granting refugee status, is notified and they are subsequently asked to sign a letter of consent. Every year, the CGRS will call these persons for a verification process. If genital mutilation is established, the CGRS will inform the public prosecutor of this and may decide to withdraw or cancel the refugee status. The Minister of Migration and Asylum (or the Immigration Department) may then withdraw the residence status as well.

2.3.2 Unaccompanied Minors (and other vulnerable groups)

Asylum applications

The asylum applications of unaccompanied minors increased with more or less 15% in 2007. Five nationalities (Afghanistan, Guinea, Democratic Republic of Congo, Russia and Iraq) represent 50% of the applications. New measures were taken to come to a better handling of their application. In cooperation with the European Refugee Fund (ERF) training sessions were organized for specialized case workers. There is a special attention to specific interview techniques that take into account the cultural and psychological aspects.

Another project that started was the creation of a comic book aimed at unaccompanied minors to help them in understanding the asylum procedure. This comic book Kizito will be published in 2008.

Children in detention centers

In 2007 the discussion continued on the presence of children in detention centers. The lessons learned from the judgment in the case Tabhita¹ were reflected in the new "Asylum Seekers and Certain other Categories of Aliens Act" of 12 January 2007. It was decided that unaccompanied minor aliens could not be detained in closed centers any more, but have to be lodged in an Observation and Orientation Centre. In case there is a doubt about their minority, an examination should take place within three days.

¹ European Court of Human Rights, Judgment 12 October 2006
<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=tabitha&sessionid=15447488&skin=hudoc-en>

In 2006 the Minister of the Interior ordered a study to look into the possible alternatives for this kind of detention. A few measures were recommended in this study. The report was discussed in the Interior Affairs Committee of the House of Representatives on 25 April 2007.

The global agreement of the federal government of March 2008 confirms that alternatives for detention of children should be developed.

2.3.3 Migration control

Marriages of convenience

The number of marriages of convenience is on the rise. In 2007 around 7.775 files on presumed marriages of convenience were opened by the Immigration Department. This is an increase of around 40% compared to 2006. However, it is unclear whether this is a real increase or only due to the increased attention paid to this phenomenon by the Immigration Services. The marriage partners mainly come from Morocco (62%), Turkey (12%) and Algeria (8%).

2.3.4 Economic Migration

Officially Belgium has an economic migration stop since 1973. The zero immigration (labour) policy is not absolute as it is partly overridden by European legislation (including the free movement of workers) on the one hand and by Belgian legislation on the other. In principle, foreign nationals are only given permission to come to Belgium to work if a labour market study has shown that no suitable employees can be found in the Belgian (or European) labour market within a reasonable period. However, there are a few important exceptions to this rule (labour market test), for example, the usual system and criteria used for the selection and the admission of labour immigrants, namely the EU-framework, specific shortages in the local labour market and bilateral agreements does not apply to the selection of highly-skilled (highly-qualified) workers.

Like in many other Member States, also in Belgium there is a debate about economic migration and the end of the so-called 'migration stop'.

Three propositions regarding economic migration were formulated in the provisional government agreement in 2007. Firstly there is a political agreement to abandon all restrictions on the "free movement" to nationals from the new Member States. Up till now there were already more flexible rules to fill 'bottleneck vacancies' (shortage occupations) for nationals of the "EU-8". Secondly, a system of Blue Cards is to be put in place (conform the ideas of the European Commission) to allow 'suitable' workers to obtain a temporary work- and residence permit. Thirdly, an employers' organization

(Unizo) suggested a one-shot regularisation of illegal residents who reside on the Belgian territory since 1 January 2006 and who can present a concrete professional project.

As mentioned, no definitive agreement has been reached on these issues in 2007.

2.3.5 Family Reunification

The law of 15 September 2006 regarding family reunification for non-EU nationals came into force on 1 June 2007. The right of family reunification became subject to a number of additional conditions : sufficient housing conditions; a health insurance for all family members and the age on which an alien after a marriage may come to Belgium through family formation is raised from 18 to 21 years. An exception is made for recognised refugees (who do not have to fulfill the condition of sufficient housing conditions) and for people who are eligible under the conditions of the bilateral agreements that exist between Belgium and their country (e.g. Algeria, Morocco, Tunisia, Turkey, ...).

2.3.6 Other legal migration

/

2.3.7 Citizenship and Naturalisation

/

2.3.8 Integration

The European Migration Policy Group and the British Council studied the legislation of the Member States regarding the integration of migrants. According to the study, Belgium has the third place as it comes to legislation that promotes integration. Especially the fast-track naturalisation and the ease to obtain a permanent residence permit are amongst the best in Europe. However, a more stringent interpretation of these elements is up for discussion (see 2.2). The access to labour market, the employment rate of immigrants and to a lesser extent the political participation of immigrants remain problematic in Belgium.

2.3.9 Illegal immigration

Regularisations

Currently, the Minister of Interior (since March 2008: The Minister of Migration and Asylum) regularizes on a one by one case individuals with a lengthy asylum procedure (4 years for adults and 3 years for families with children that are at an age they should attend school), on medical grounds or because of (other) humanitarian grounds.

There is still a discussion to further formalize these criteria in such a manner that enough flexibility remains to take into account social and international situations. According to the Minister, the notion of “balance” is central with regard to regularisations as well. The Minister wanted to continue to exercise his/her discretionary powers on the matter, because in his opinion no regulatory text can ever cover each and every individual situation. Humanitarian situations are, by definition, difficult to specify and an exhaustive account is not possible. The starting point must be the rule that, refusing to regularize an alien cannot be contrary to the provisions of the ECHR or obviously be contrary to the Council of State’s constant case-law.

In several demonstrations and hunger strikes during 2007 organisations who defend the rights of irregular migrants, demanded clearer regularisation criteria, if not to say a regularisation campaign. These actions have been stirred up by the election campaign and the government formation talks.

In 2007 the Immigration Department registered 13.883 new regularisation applications, 6.256 received a positive decision.

The case Angelica

Ana Cajamarca and her daughter Angelica (11 years old at the time) were detained on 30 June 2007 because they had been living illegally in Belgium since 2003. They were both held in a detention center awaiting their expulsion to Ecuador.

Lawyers and action groups expressed that it was inhuman to lock up a child in a detention centre. The case was headline news for several days and caused a diplomatic row between Ecuador and Belgium. This was mainly due to the comments and the visit to the detention centre of Ecuador’s president, Rafael Correa and his Belgian spouse Ms Anne Malherbe.

A Brussels court issued an injunction against their deportation as they were already on route to board a plane for Ecuador. They were released soon afterwards. The lawyers claim that their clients had been mistreated during the removal procedure and left them “clearly very traumatized”. This was the main reason for the judge to order the release.

Victims of human trafficking

On 1 June 2007 the Belgian law that transposed the EU Directive 2004/81/EC (residence permit issued to third country nationals who are victims of human trafficking) came into effect. Some changes were made to the previous rules. For example, the act provides that victims of human trafficking can obtain a temporary residence permit if they meet two cumulative conditions: they must show willingness to cooperate in the inquiry and break off all ties with the traffickers. The protection status can be implemented both for EU-nationals and third-country nationals.

Number of irregular migrants in Belgium

In 2005 the Federal Ministers of Interior and the Flemish minister of Integration Policy ordered a study regarding irregular migration in Belgium. By the end of 2007 the results were presented and some policy recommendations were formulated. The scientific team estimates the total number of irregular migrants in Belgium to 110.000.

Medical assistance

In Belgium illegal residents have the right to urgent medical assistance. The expenses for this assistance have risen sharply from 4 million (2000) to 40 million euros (2007). There was a small debate of the viability of this system under its current form.

2.3.10 Return Migration

Municipalities and expulsions

Some discussion arose around the expulsion of rejected asylum seekers. It is the Directorate General of the **Immigration Department** that gives the expulsion order, but it needs the collaboration of the local municipalities to notify the rejected asylum seeker that they need to leave the country. The municipalities need to do the follow-up and see to it that the rejected asylum seeker no longer resides on the address.

In practice, a lot of the local mayors don't really feel like doing the actual follow-up of the situation. They are caught in between two fires : on the one hand they have to see to it that the law is respected and on the other hand they are sometimes directly confronted with the humanitarian aspect of the situation. Some mayors publicly announced that they refused to sign the 'order to leave the territory'. It is without saying this issue is closely interlinked with the demand for clearer criteria for regularisation, or more precisely with the rumors that the new government would start a regularisation campaign.

2.3.11 Other policy areas/topics

Electronic ID-cards for non-Belgian citizens

It is also worth mentioning that Belgium has continued its efforts to create an electronic residence card for all aliens living in Belgium. This project fits in with the simplification and modernization of the administration and is important in combating fraud and criminality. Biometric features will be later integrated in the card.

New detention centre.

Following a decision of the Council of Ministers on 27 April 2007, a new detention centre INAD (for “*inadmissibles*”) will be built at Brussels airport. In the existing detention centre additional staff (psychologists, teachers, etc) will be recruited in order to further improve the living conditions.

Transit zone Brussels Airport

In 2007 persons were sometimes placed in the transit zone of Brussels Airport, pending their repatriation. This is a practice often criticised by human rights organisations. On 24 January 2008 the European Court on Human Rights released a judgement in the case “*Riad and Idiab*”². Two Palestinians living in Lebanon who arrived at Brussels Airport and saw their asylum application refused. They were detained pending their repatriation. The applicants’ lawyer lodged an application for their release which was eventually granted by the court. In stead of being released they were transferred to the transit zone of Brussels Airport pending their removal from Belgium. The lawyers wanted to charge Belgium because the living conditions in the transit zone were considered as insufficient. The ECHR came to the conclusion that releasing a person in the transit zone, could be regarded as a detention.

Integration

The new Flemish decree on civic integration came into effect on 1 January 2007. The decree from now on makes a distinction between persons who have the right to integration, persons who have priority and persons who have the obligation to integrate. Besides newcomers also the already in Belgium residing aliens and some Belgian nationals became a target group. The far reaching changes in the Aliens Act of 1 June 2007 also had their consequences on the demarcation of the target groups of the integration policy.

Global Forum on Migration and Development

Belgium organised and hosted the first Global Forum on Migration and Development (9 to 11 July 2007). The Forum has been introduced by Ban Ki Moon (UN Secretary – General) and José Manuel Barroso. Three thematic roundtables have been organised: human capital development and labour mobility; remittances and other diaspora resources and finally enhancing institutional and policy coherence and promoting partnerships.

² European Court of Human Rights, Judgment 24 January 2008, <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=828022&portal=hbkm&source=extemalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Further on there was elaborated on three horizontal themes : the aspect of gender, the rights of migrants and the basic causes of migration.

European Funds

In 2007 multi-annual programmes in the framework programme “Solidarity and Management of Migration Flows (2007-2013) were either launched or finalised. Those multi-annual programmes contain interesting information on the current situation in the field of asylum, migration and integration. In this way it invites to reflect on the future investments and policy options.

3. Implementation of EU legislation

As stated in the Policy Report 2006 the reform of the Belgium aliens legislation was a consequence of the government coalition agreement concerning a more humane and realistic policy on asylum and migration and at the same time there was the need to transpose a number of European Directives into Belgian law.

The reform of the aliens legislation is phased. Consisting of several sections, it was the most fundamental reform of the Aliens Act since 1980, partially influenced by the transposition of European legislation (Directives 2003/86/EC, 2004/81/EC, 2004/83/EC, 2005/85/EC, 2004/38/EC, 2003/109/EC and 2003/9/EC).

The first part of this reform of the Aliens Act, (a) to (d), was decided on 15 September 2006 and came fully into force on 1 June 2007. The second part (Mammoth II) of the reform of this Aliens Act, (e) to (g), was decided on 25 April 2007 and came into force on 1 June 2008.

Aliens Act

a) A simplified asylum procedure

In 2006, the Belgian Government decided to reform the asylum procedure to make it more efficient. The fact that there was a new European Union Asylum Directive (2004/83/EC) facilitated these reforms (see also 1.3) By reducing the number of authorities examining the asylum requests, this reform aims at reorganizing the asylum procedure in depth in order to shorten the asylum procedure and to improve the overall asylum file handling.

It provides for a fast and efficient asylum procedure and the introduction of the subsidiary protection status.

b) family reunification to non-EU citizens

The law of 15 September 2006 regarding family reunification for non-EU nationals came into force on 1 June 2007. (see also 2.3.5).

c) severe illnesses

A separate procedure was introduced for aliens with a serious illness who are unable to return to their country of origin. In the previous policy report the reasons are stated why the legislators decided this: the asylum bodies do not have the experience required, the asylum procedure is not suitable to be used in urgent medical cases and financial considerations. The procedure is described in article 9ter of the Aliens Act and came into

effect on 1 June 2007. The applications need to be addressed to the Immigration Office who has two generalist physicians working for them, and who can seek the advice of medical experts. If the application is accepted the alien receives a temporary residence permit for 1 year, that can be withdrawn if the conditions are no longer met. If after 5 years the alien still resorts under the conditions of this 'medical status', he receives a permanent residence permit.

d) victims of human trafficking

On 1 June 2007 the Belgian law that transposed the EU Directive 2004/81/EC (residence permit issued to third country nationals who are victims of human trafficking) came into effect. (see also 2.3.9).

e) free movement of persons

The right of citizens of the Union to move freely has been adapted to Directive 2004/38/EC. The administrative procedure was facilitated.

f) family reunification EU-citizens and Belgians

The rules for family reunification of EU-citizens and Belgians were adapted and became more stringent: in the future EU citizens and their family members will only obtain a right of permanent residence after 3 years. The right of family reunification will also apply to registered, unmarried partners.

g) third-country nationals who are long-term residents

A new residence status will be introduced in the Aliens Act for third-country nationals who are long-term residents (Directive 2003/109/EC). This involves the concrete conditions under which Belgium can attribute and withdraw this status, as well as the right of residence that is a consequence of this status

New Asylum Seekers Reception Act

On 7 May 2007, the new "**Asylum Seekers and Certain other Categories of Aliens Act**" of 12 January 2007 entered into force. For the first time, clear rules on the reception of asylum seekers have been compiled into one single act. The two main changes are: the provision of material support during the entire asylum procedure (in the past, asylum seekers could apply for financial support from social welfare centers); and the reduction of the period of stay in a reception centre, providing reception in 2 steps: instead of being referred either to a collective reception centre or to an individual reception structure, asylum seekers first stay for 4 months in an open reception structure before moving to an individual reception structure such as private housing.

The Reception Act transposes the European Council Directive 2003/9/EC of 27 January 2003 into Belgian law, laying down minimum standards for the reception of asylum seekers. In most cases, the law confirms the existing practice in Belgium. The reception act is intended to ensure uniform and equal treatment for asylum seekers. Special attention is given to vulnerable groups (minors, pregnant women, etc.), adjusting the reception system to their specific situation.

Despite a decrease of 4% in the number of asylum applications in 2007, the number of people residing in federal reception structures has increased throughout the year 2007. At the end of 2007, 13.487 people were hosted in the reception centers managed by Fedasil and its partners. This increase can be linked to the decrease in the number of people who left the centers, especially since the summer 2007.

REFERENCES

Beleidsnota minister van Binnenlandse Zaken, Parlementair jaar 2006-2007

Centrum voor Gelijkheid van Kansen en voor Racismebestrijding, Jaarverslag Migratie 2007

Commissariaat-generaal voor de Vluchtelingen en de Staatlozen, Jaarverslag 2007

Dienst Vreemdelingenzaken, Jaarrapport 2007

Fedasil, Jaarverslag 2007

Foyer Vzw, Nieuwsbrief jaaroverzicht 2007

IOM, REAB Annual Report 2007

Press articles from De Standaard, De Morgen, Gazet van Antwerpen, Forum Asile et Migrations

ANNEX : Some migration and asylum statistics

Residence Data

53.192 third country nationals have obtained a residence permit of the Belgian authorities (new asylum seekers not included). This is an increase compared to 2006 (46.160)

Asylum Data

a) Asylum applications

In 2007 a total of 11.115 asylum requests have been introduced (applications “at the counter”, accompanying children not included), this is a decrease by 4.1% compared to 2006. It is the lowest level since 1989.

Almost 25% of the total asylum applications in 2007 were multiple applications.

About one third of the asylum seekers in 2007 were women, which is relatively stable in comparison to the previous years.

Russian Federation	1.436
Serbia-Montenegro	1.219
Iraq	825
DR Congo	716
Afghanistan	696
Guinea (Conakry)	526
Iran	411
Slovakia	364
Armenia	339
Cameroon	279
Rwanda	321
Others	3.983
Total	11.115

b) Refugee recognitions

Top 10 recognitions 2007

(Refugee recognitions granted by the ALC are not included. Numbers based on number of files, accompanying children not included.)

Country of Origin	N° of recognitions	N° of decisions on the merit of the request	Recognition %
Russia	377	909	41%
Rwanda	211	706	30%
Serbia-Montenegro	162	578	28%
Iraq	159	610	26%
DR Congo	120	948	13%
China	100	201	50%
Guinea (Conakry)	93	405	23%
Cameroon	50	271	18%
Ivory Coast	50	244	20%
Burundi	46	132	35%
Others	471	6.558	7%
Total	1.839	11.562	16%

c) subsidiary protection

Granting Subsidiary Protection Status 2007

(Subsidiary protection status granted by ALC is not included. Numbers based on number of files, accompanying children not included.)

Country of Origin	N° granting subsidiary protection
Iraq	203
Somalia	37
Afghanistan	14
Undetermined	7
Eritrea	6
Palestine	5
DR Congo	2
Guinea (Conakry)	2
Ivory Coast	1
Sudan	1
Stateless	1
Total	279

The number of decisions to grant the subsidiary protection status in 2007 is relatively low. The main reason behind this is the fact that there is a fairly large interpretation of the Geneva Convention.

The decisions to grant protection (recognition and subsidiary protection) make up 19,8% of the total number of decisions taken by the CGRS. This is a rise in comparison to 2006. This rise is mainly due to the introduction of subsidiary protection, as well as to the fact that the backlog in asylum decisions is decreasing combined with a rising influx of asylum seekers from countries in conflict.

Regularisation Data

In 2007, around 11.300 people have been regularized by the Minister of Interior/Immigration Department because of humanitarian reasons (lengthy asylum procedure, medical reasons or other humanitarian grounds). This is approximately the same as in 2006.

However there is a remarkable increase of the regularizations on medical grounds : 34% of the total in 2007, compared to 7% of the total in 2006.

Visa applications

Slightly more than 23.000 visa D (“long residence”) have been issued in 2007. About 50% for family reunification, 25% to students and 15% for labour.

The number of applications for visa C “(up to 3 months) has risen considerably in 2007 to around 216.000 or + 15%.

Removals

8.745 foreigners have been removed in 2007. In 2006 this was 11.725 and in 2005 12.280. The sharp decrease of removals is mainly due to the strong decrease of removals to Romania and Bulgaria because of the EU-enlargement.

However in the top 5 of the removals there are still 3 EU MS: Romania (14%), Brazil (13%); Bulgaria (11%), Poland (11%) and 6% of the total to Morocco..

Interceptions

In 2007 23.267 interceptions have been made by the police of which at least 60% were in irregular residence status. The number of administrative reports made by the police has decreased with about 17% compared to 2006.