European Migration Network

Belgian Contact Point

Belgian Policy Report 2006 regarding asylum and migration

June 2007

The yearly 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 is available on: www.european-migration-network.org

The Belgian Contact Point is financed both by the Belgian Ministry of the Interior and the European Commission. It can be contacted by e-mail (Benedikt.Vulsteke@dofi.fgov.be), phone 0032 (0)2 206 19 37 or by letter (address: Belgian Contact Point EMN, Dienst Vreemdelingenzaken, WTC II, Antwerpsesteenweg 59 B, 1000 Brussels).

TABLE OF CONTENTS

List of Abbreviations

Aliens Act	Law of December 15 1980 regarding the entry, residence, settlement and removal of aliens
ALC	Aliens Litigation Council (Raad voor Vreemdelingenbetwistingen; Conseil du contentieux des étrangers)
ID	Immigration Department (Dienst Vreemdelingenzaken – Office des Etrangers)
CGRS	Office of the Commissioner General for Refugees and Stateless Persons (Commissariaat-Generaal voor de 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)
PSWC	Public Social Welfare Centre (OCMW ; CPAS)

Executive Summary

This report – Belgian Policy Report on Asylum and Migration 2006 – gives an overview of developments and changes that have taken place in Belgium in the field of asylum and migration 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.

The report is subdivided into 4 chapters: political developments in Belgium, legislative developments, implementation of EU legislation and other policy implementation issues.

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

In the course of 2006, the Belgian legislator has fundamentally reformed the legislative framework for asylum and immigration by passing two extensive laws. To implement effectively these two new laws, numerous existing royal decrees needed and still need to be amended and a great many brand-new implementing orders are required. The Belgian rules have been modified to further implement the part of the government coalition agreement concerning a more humane and realistic policy on asylum and at the same time to transpose a number of European Directives into Belgian law. It is the most fundamental reform of the Aliens Act since 1980.

As for the subsidiary protection status, the government has opted for the "single procedure", stimulated, among others, by the Hague Programme. The change is twofold: the Belgian two-phase asylum procedure (admissibility inquiry and merits examination) has been modified into a one-phase procedure and both statuses (refugee and subsidiary protection) are automatically covered when an asylum request is introduced.

The implementation of the new asylum procedure goes (went) in three stages. The permanent backlog in some jurisdictional bodies is also to be considered as the reason behind the amendments and as such has nothing to do with the degree of effectiveness of the asylum bodies involved.

Furthermore, the preliminary work for the transposition of other European Directives (2003/109/EC, 2004/38/EC, 2004/114/EC and 2005/71/EC) started in 2006.
The new law will already be subject to evaluation at the latest one year after its coming into force, mainly in order to verify whether the so-called "filter" at the Council of State is functioning adequately. This screening procedure – the "leave to appeal", already existing in most neighbouring countries – will be crucial to the success of the reforms.

It remains to be seen how the new legislation will be interpreted by the jurisprudence of the Aliens Litigation Council, the Council of State and possibly the Constitutional Court.

In general, these legislative changes have been well received, although according to some the changes are too drastic (repressive) at certain points. The lack of clear regularization criteria in the law also encountered resistance from NGOs, civil society organizations and some political parties. Other points of criticism were the fact whether the magistrates of the new Aliens Litigation Council do have full power of discretion or

not, the increased formalism of the procedure and the fact that the admissibility grounds are largely preserved although the admissibility stage has been abolished. However, it is very unlikely that these legal reforms will have an impact on other Member States.

As in previous years, church occupations and hunger strikes by asylum seekers and illegals continued to take place in 2006, especially during the first half of the year. In this way the activists hoped to influence the government, the parliament and the public opinion with regard to the legislative work. The activists mainly pressed for a change in the regularization and removal policy, a demand which was not acceded to. A difference with previous actions was the size: at a certain moment tens of churches, mosques and schools were occupied and hundreds of people were involved. These actions had the support of civil society organizations such as trade unions and church leaders.

It is also worth mentioning that Belgium has continued in 2006 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.

The situation in the closed centres – especially the detention of families with children – and the situation of the unaccompanied minors deserved once again particular attention in 2006.

In 2006 more attention has also been paid to the so-called "integrated migration policy". Reflections came up now and then on the link between migration and development, economic migration, brain circulation, etcetera. Several panel discussions took place and the decision was made to have the Global Forum on Migration and Development organized in Belgium in 2007.

These were all issues that belong to the mere policy regarding entry, residence and removal of aliens. In addition, 2006 also saw many discussions and debates on integration policy issues, such as the headscarf, discrimination, troublesome relations between different sections of the population, and so forth. One of the main conclusions of previous policy reports, namely the fact that integration issues are more coming to the fore in the past years than entry and residence, still stands, although it is of course not always possible to separate these matters one from the other. A possible explanation for that – besides the fact that the asylum seeker numbers continue to fall and the fact that cohabitation of different population groups is under pressure because of both national and international events – is the growing awareness nowadays that Belgium is further becoming an immigration society, although in the nineties the illusion was still fed by some that the migration flows could be stopped or even reversed, and that you should make the best of it.

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 (2003-2004 and 2004-2005) 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 **Federal Public Service of the Interior** (formerly called the Ministry of the Interior), and more specifically its Directorate General of the **Immigration Department**. This administration is also in charge of applying the Dublin II Regulation, where the idea is to seek the State responsible for processing the asylum application, registering asylum seekers, and conducting a first intake interview. In addition to these duties, the Immigration Department is tasked with taking the fingerprints of asylum seekers and entering them into the Eurodac database and comparing them so as to spot any potential cases of fraud. The Immigration Department manages the applicants' residence requirements throughout the asylum procedure.

As a result of the 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 will act as an appeal court for appeals from negative decisions by asylum agencies and – this is new – negative decisions by the migration agency, 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 FPS Foreign Affairs, the FPS Labour, the different Ministries of Integration.

1.2. General political developments

During the reference period local elections were held in Belgium (October). Although the "aliens issue" was less emphasized than usual during the campaign, one of the big questions was how certain parties to the far right – whose main plank in the platform is an anti-immigrant discourse – would come out and if the so-called *cordon sanitaire* – an agreement among all the other (democratic) parties not to form a coalition with a (far) right party at any level, dating from the early nineties – would hold. The fear was, above all, that the score of the far right in certain cities would be so high that it would become impossible to form viable coalitions without the participation of these far right parties.

That fear appeared to be unfounded. The extreme right made progress nationally, but this progress needs to be put into perspective: in the most important cities and municipalities these parties stagnated or even lost some ground. So apparently this progress was due to a (relatively limited) breakthrough in more rural areas.
In short, contrary to the fear expressed so often these last years, in not a single Belgian municipality participation of power by the far right proved to be unavoidable to gain the necessary majorities.

At no other level did developments or events occur (government changes, national elections) with a notable impact on the migration policy or the migration debate.

1.3. Central policy debates

The migration debate in 2006 was focused on two issues: the reform of the aliens legislation and the actions in churches and schools (the latter issue particularly during the first half of the year).

The reform of the legislation on aliens

The Belgian rules have been modified to further implement the part of the government coalition agreement concerning a more humane and realistic policy on asylum and at the same time to transpose a number of European Directives into Belgian law.

In order to determine the details of implementation, long negotiations were carried on by specialized officials and cabinet working groups and of course also within the parliament.

A true and complete implementation of the coalition agreement particularly involves a broad interpretation of the Geneva Convention, the introduction of the subsidiary protection status, a faster and more efficient asylum procedure, measures to eliminate the backlog at the Council of State and to accelerate the procedures, fighting the improper use of immigration procedures, thoroughgoing reform of the rules on family reunification.

The permanent backlog in some jurisdictional bodies is also to be considered as the reason behind for the amendments and as such has nothing to do with the degree of effectiveness of the asylum bodies involved. The problem is more fundamental: a judgment of the Constitutional Court dating from 1998 allows rejected asylum seekers

to continue to enjoy social benefits by lodging a (non-suspensive) appeal with the Council of State and as a result this jurisdictional body is swamped with files on aliens (about 80% of all cases before the Council of State concern legal disputes regarding aliens).

The reform of the legislation on aliens is phased in. Consisting of several sections, it is the most fundamental reform of the Aliens Act since 1980, partially influenced by the transposition of European legislation (Directives 2003/86, 2004/81, 2004/83 and 2005/85). The new Aliens Act came fully into force on June 1 2007.

The new legislation has two big components: the reformed legislation on asylum and aliens and the reformed legislation on the Council of State. Both the material and the procedural provisions of the Law are substantially reformed by the Laws of 15 September 2006.

The first Act – the Law of 15 September 2006 amending the Law of 15 December 1980 on entry into the territory, residence, settlement and removal of aliens – provides for a fast and efficient asylum procedure, the introduction of the subsidiary protection status, a more rigorous policy towards abuses in family reunification and the protection of victims of human trafficking. During the parliamentary debates, the Minister of the Interior stressed that the drafts form a well-balanced whole, providing for an extension of the number of residence statuses and at the same time setting additional conditions and introducing checks. In other words, the Government considers that migration involves both rights and duties.

The main goal of the second Act – the Law of 15 September 2006 reforming the Council of State and creating an Aliens Litigation Council – is to guarantee the citizens a faster administration of justice in the future.

The new asylum procedure is focused on promptness and quality. The former Belgian dual methodology – that is to say carrying out both an admissibility inquiry and an examination on the merits – is abandoned. The role of the Immigration Department in the asylum debate will be limited in favour of the independent Office of the Commissioner General for Refugees and Stateless Persons. A decision of the CGRS can be appealed to the new Aliens Litigation Council. This administrative jurisdiction is the successor to the Permanent Refugee Appeals Commission (PRAC), but will have considerably more powers. Contrary to the past, not only appeals regarding asylum applications may be lodged with this new jurisdiction, but also appeals regarding other aspects of the legislation on aliens (family reunification, visa, regularization, et cetera).

With regard to decisions of the Immigration Department and decisions of the Office of the Commissioner General concerning EU nationals, the Aliens Litigation Council has in principle only suspensive and annulment powers; with regard to the other decisions of the Office of the Commissioner General it has unlimited jurisdiction. An appeal can be lodged both by the alien whose application has been rejected by the CGRS and by the Minister who considers the decision of the CGRS to be contrary to law. Another important feature of the procedure before the Aliens Litigation Council is that the procedure is in writing and that the initiatory appeal or the memorandum should mention the remedies of law. However, the ALC has no longer any research competence, unless new data have emerged.

The Council of State shall only concentrate on annulment appeals against decisions of the Aliens Litigation Council. The real innovation here is the screening procedure enabling the Council of State to determine, within a few days, if there are arguments worth examining. This filter will constitute the linchpin of the new Asylum Act: if it does not work, the number of appeals will be at least as high as it is now, resulting in an asylum procedure probably less efficient than we have today. Therefore, the Asylum Act will already be subject to evaluation one year after its coming into force.

According to the Office of the Commissioner General, the reason for changing the asylum procedure is particularly a judgment of the Constitutional Court dating from 1998 and allowing rejected asylum seekers to enjoy social benefits (currently, accommodation in a reception centre; until 2001 also financial aid) by lodging an appeal with the Council of State. Numerous dilatory appeals were lodged with the Council of State, which undermined severely the effectiveness of the former asylum procedure.

The above-mentioned amendments of the law come into force in three stages:

- from 10 October 2006: provisions on the subsidiary protection status;
- on 1 December 2006: the Permanent Refugee Appeals Commission starts working according to the procedure before the Council of Aliens Disputes (processing of appeals against decisions of the CGRS on the merits);
- a date in 2007 to be fixed by the King (limitation of the competence of the Immigration Department, abolition of the admissibility phase and creation of the Aliens Litigation Council)[1].

It is obvious that the new legislation on asylum will have far-reaching consequences for all the migration bodies involved (Immigration Department, CGRS, CAD), for instance as regards workload. Certainly the workload has increased for the CGRS, precisely at the moment the backlog was caught up. According to the CGRS, the degree of complexity of processing a file actually has already increased strongly these last years, because, among other things, asylum seekers are much better prepared and informed now (not seldom with the intention of abusing the procedure, unfortunately) and also because more asylum seekers are coming now from clearly problematic countries. In addition, the CGRS will be obliged to defend its decisions before the new Council, among which decisions on roughly 10,000 files still pending. This Council will consist of 32 magistrates.

The Immigration Department will see its role – as regards asylum applications – limited to conducting a shorter intake interview, which will enable the CGRS to prepare its interview and must verify whether the asylum seeker has already applied for asylum in another Member State (Dublin). At the same time, the Immigration Department remains responsible for the first assessment of multiple asylum applications: it will determine whether or not there are new elements justifying a new application[2]. Finally, the Immigration Department also verifies if the asylum applicant has violated public order.

The total processing time – procedure before the ALC included - should be one year at most, but the aim is to process the applications sooner than that.

For nationals from EU (candidate) Member States an accelerated asylum procedure is put in place to determine whether or not they will be allowed into the asylum procedure,

[1] This date has finally been set at June 1 2007.
[2] In 2006 20% of the asylum applications were multiple asylum claims (data CGRS)

so they may get a definitive answer on this within 5 days (non-binding time limit). In 2005, slightly more than 6% of the total number of asylum applicants came from the EU; in 2006, 3 to 4%.

Reform of the family reunification procedure

The Law of 15 September 2006 also amends, in a fundamental manner, the provisions regarding family reunification (for non-EU nationals):

- from now on, a distinction is made between family reunification with respect to aliens admitted or authorized to reside for an unlimited period and family reunification with respect to aliens having the right to reside for a limited period only;
- the group of aliens who can enjoy the right to family reunification is extended (to harmonize the Belgian legislation with the European Directive). So the former ban on chain reunification is lifted.
- the right to family reunification is subject to a number of additional conditions: good housing accommodation and a health insurance for all the family members;
- the period during which a permanent right to reside can be granted to the beneficiaries of the right to family reunification is extended: two years if the nuclear family does no longer exist and three years if fraud is involved. After the right to reside is acquired on the basis of family formation and family reunification, a control period of 3 years (today 15 months) begins. If it is established, during the first two years of the said period, that the nuclear family no longer exists, the Aliens Office can terminate the right to reside. During the third year, the right to reside can be terminated if it is established that the people concerned do not live together and indications of fraud are found.
- the age on which an alien after a marriage may come to Belgium through family formation is raised from 18 to 21 years. In this way, girls and boys forced to marry are better protected and it becomes easier to combat marriages of convenience.

Although this aim is generally endorsed, some doubt whether it can really be achieved by this measure: the most important group of people susceptible to a forced (or arranged) marriage have Belgian nationality or the nationality of one of the countries Belgium has entered into a bilateral agreement with (Algeria, ex-Yugoslavia, Morocco, Tunisia, Turkey) that contains more favourable provisions concerning age. Others doubt if these treaties from the sixties and the seventies are still applicable anno 2007.

So in general we could say it will become possible to suppress abuses of the family reunification rules by intervening only on the administrative level, yet under the supervision of an administrative jurisdictional body.

The law also provides that the Immigration Department has to pronounce on the application within nine months from the date of presenting the entire file. If it fails to do so, the request has to be considered as granted.

Victims of human trafficking better protected (transposition of Directive 2004/81)

The Aliens Act also contains a section on improved protection of victims of human trafficking. 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.

So this is rather a "transposition" of the administrative practice (based on the Belgian Circular Letter of 1 July 1994) in the Belgian legislation. The protection status can be implemented both for EU-nationals and third-country nationals.

What about regularizations?

Currently, the Minister of the Interior regularizes one by one individuals who had to go through an asylum procedure that took too long. When forming the government, it was agreed to eliminate in this way the negative consequences of the LIFO principle (Last In First Out) introduced in 2001.

In order to gain transparency in these individual regularizations, the Minister of the Interior has explained during the parliamentary discussion of the draft law what criteria he uses to regularize on an individual basis those who have gone through a procedure that took too long, who apply for regularization on medical grounds or because of humanitarian reasons. During the discussion in Parliament it was also considered whether it would be appropriate to further formalize these criteria, in such a manner, however, 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 regularizations as well. The Minister wanted to continue to exercise his 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 grant an alien a residence permit would contravene the provisions of the ECHR or obviously be contrary to the Council of State's constant case-law. The three categories used up to now by the Minister (or the Immigration Department) are the following:

1. Lengthy asylum procedure. Regularization if the asylum procedure – procedure before the Council of State excluded - lasts 3 or 4 years (3 years if minor school attending children are involved). Since the procedural length should still decrease thanks to the new procedure, this category is expected to gradually disappear.

2. Medical grounds. For this second category, the new law provides specific rules. Although this was already common practice, it is now stipulated by the law that a physician will pronounce on the seriousness of an illness and the treatment facilities in the country of origin. If need be, the general practitioner can call in specialists.

3. The "remaining category" of serious humanitarian grounds. These humanitarian grounds are examined in view of the case-law of the Council of State, the international courts and the ECHR.

The legislators thought it inappropriate to process, within the asylum procedure, applications of aliens who claim to be seriously ill, without any reference being made to persecution or harm inflicted. The following reasons were given for this in the

Explanatory Memorandum: the asylum bodies do not have the experience required, the asylum procedure is not suitable to be used in urgent medical cases, and, finally, financial considerations. The Council of State has criticized the reasons for this difference in treatment.

Humanitarian organizations and a number of MPs – from the majority and the opposition alike – want to define criteria regarding two other categories:

- people involved in lengthy procedures, including the procedure period before the ALC and the Council of State;
- people without documents (residence permits) who are residing in the country already for a long time and once had a – temporary – legal residence status and have minor children.

The Law reforming the Council of State and creating a Aliens Litigation Council

The Council of State is being reformed and reinforced.

The creation of the Aliens Litigation Council enables the Council of State, after the pending files regarding aliens are dealt with, to focus totally on its other competencies. At this moment (2006), about 36,000 files are pending before the Council of State, of which a big majority relates to aliens matter.

The Council of State will be reinforced with additional magistrates in order to process the non-alien files (such as town planning, appointment files) more rapidly. This reform and reinforcement of the nation's supreme administrative jurisdiction should guarantee the citizens a faster administration of justice in the future.
Finally, the new law provides the Council of State with a screening procedure to stop dilatory annulment appeals aimed only at extending procedural time limits. An amendment stipulates that this screening procedure will be subject to evaluation after one year.

The Minister also emphasizes the necessity of a modern and management oriented functioning of the judiciary (Council of State and Council for Aliens Litigation Council) in which the independence of the judiciary is of course preserved. The independence of the judiciary does according to the minister not mean that this third power should not render account. It should do this, not with regard to the final outcome, but pertaining to the organizational and structural processes having determined that final outcome. In short, the judiciary has to render account, for instance of the judicial backlog.

Besides, in his **policy address** at the opening of the parliamentary year the Minister of the Interior stressed the following issues:

The importance of transposing European Directives regarding third-country students and especially researchers, necessary to boost the Belgian knowledge economy.

The project of the "electronic residence card for aliens", fitting in with the administrative simplification, the modernizing of the administration and the combating of

burglaries[3] and abuses, since the current cards are inadequately protected. The project is also meant to meet the requirements of the European Council Regulation 1030/2002 laying down a uniform format for residence permits for third-country nationals. In this way, by means of the modern chip card, aliens will enjoy the same advantages of e-government as Belgians do (who all are issued an electronic identity card).

Further humanizing the closed centres, by modernizing the infrastructure and better (medical and social) staffing. According to the Minister, especially families with children are a group with additional needs; therefore, teachers have been recruited for teaching in the closed centres. The situation of unaccompanied minors at the border has to be resolved as well.

Further combating illegal immigration and the abuse of immigration procedures, with special attention to marriages of convenience, the Visa Information System, abuse of the status of stateless person and adoption fraud.

The Law of 12 January 2006 on the penalization of attempted and contracted marriage of convenience is a new tool in fighting this first phenomenon. The purpose of the law is both to dissuade and to penalize. As regards visa fraud, the DNA test is being used more and more every year and it has become (legally) possible now to collect biometric information (fingerprints and photograph) from most aliens.

Database project "guarantors (sponsors)": persons who sign an undertaking of sponsorship – in connection with short stay/tourism, study purposes or as unmarried cohabitating partner – are jointly and severally liable, with the alien, for the payment of the alien's health care, subsistence and repatriation expenses during two years. The purpose of this database is twofold: combating illegal undertakings of sponsorship and facilitating the recovery from the sponsor of expenses made by the alien and charged to the Belgian State.

[3] Since 1995, municipalities in Belgium have been burgled some 190 times and almost 45,000 blank residence documents have been stolen.

2. Legislative developments in the field of migration and asylum

2.1. General structure

See also chapter 1.

2.2. Legislative developments

See also chapter 1

General: introduction of the screening procedure ("leave to appeal").

The government has followed the recommendation of the Council of State to provide for a unique screening procedure. The Council can reject or declare inadmissible any appeal that has been lodged, by a shortened and accelerated procedure. The Council, acting as cassation judge, shall manage the screening procedure and has three admissibility criteria as to the question of whether an appeal can be lodged: unity of jurisprudence, fundamental points of law and substantial procedural inaccuracies. The period to decide whether or not a request is admissible will be reduced to 8 days, after a period of transition. This procedure, clearly, complies with the standards set out by the European Court of Human Rights.

The aim for the Council is to pass judgment on the appeals declared admissible within 6 months. The admissibility procedure should not be confused with the merits examination.

Besides, the government also felt the need to introduce new management techniques into the Council of State. The current "life-time appointments" will from now on be replaced by mandates and magistrates will be subject to performance measurement and evaluation. A number of additional magistrates will be recruited.

Moreover, a number of procedural measures will be put in place to reduce the processing time of an appeal, such as the generalization of the method of a judge sitting single, the possibility of imposing fines in case of appeals that are merely dilatory.

Managed immigration

New EU nationals welcome to fill 'bottleneck vacancies' (shortage occupations)

On the 1st of May 2006 the first transition period imposed by Belgium after the entry of the 8 new Member States into the EU came to an end. During the second transition period (expiring at the latest on 01 May 2009), the "free movement" principle will not yet be applied to nationals of these new Member States, but a number of rules already become more flexible: these nationals still need a work permit B to gain paid employment, but in order to fill a number of "bottleneck vacancies" (shortage occupations) they can more easily obtain a work permit B. The transitional measure is also extended with regard to the residence: new EU-nationals still get a temporary

residence permit. Only after having worked for twelve months they are able to apply for permanent settlement.

Application procedure modified for third-country nationals seeking to establish themselves as self-employed persons

As from 21 September 2006, it is no longer the Minister of Small and Medium-sized Enterprises and Self-employed who takes in the first place a decision on granting a professional card, extending it or renewing it. From then on, this competence is assigned to an authorized official of the Federal Public Service Small and Medium-sized Enterprises and Self-employed. This official can take a negative decision, without first seeking the advice of the Council for Economic Investigation regarding Aliens. As a consequence, applicants will have to wait less longer for a decision. Anyone who disagrees with the decision can appeal to the Minister.

Integration and settlement

In 2006, initiatives have been launched to reform the law on the reception of asylum seekers. For the first time, the provisions regarding the material assistance to asylum seekers are brought together in one law. The new reception law is also the result of the transposition of Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers. The new law applies not only to asylum seekers, but also to individuals who apply for the subsidiary protection status, rejected asylum seekers who cannot return because of force majeure or medical reasons and unaccompanied minors.

The material assistance for asylum seekers will end as soon as the Council of State passes a judgment of inadmissibility or rejection.

Refugee protection and asylum

As already mentioned, the Belgian legislation on asylum was subject to thorough reform in 2006. The reform was meant to bring about a swifter and more efficient procedure, to transpose European legislation into Belgian law and to provide for an answer to the ECHR with regard to the Conka judgment (2002).

Below, the details of implementation of the subsidiary protection status are given.

Introduction of the subsidiary protection status

The subsidiary protection status has come into effect on 10 October 2006. It is a new form of protection provided by the European Directive 2004/83.

Each application is examined individually; there has to be sufficiently concrete evidence of real risk of serious harm. So referring to the overall situation in a country is in principle not enough; the country's overall situation and the personal circumstances have to be linked with each other. Personal circumstances however are of lesser importance for subreason c (see below).

Serious harm is explicitly defined as:

a. death penalty or execution, or

b. torture or inhuman or degrading treatment or punishment of an applicant in the country of origin (case-law of the European Court of Human Rights), or

c. serious threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict (war refugees).

These 3 subreasons are each to be considered as a subcategory that has its own interpretation. Below the interpretation given by the CGRS when the subsidiary protection status was introduced.

a. **Death penalty or execution**: this must be a penalty pronounced by a court of law. The person is excluded from subsidiary protection if there are serious indications that the person concerned has committed a serious crime. Persons coming from countries where there is a longstanding and well established moratorium on the death penalty in practice are not deemed eligible for subsidiary protection under this ground either

b. **Torture or inhuman or degrading treatment or punishment of an applicant in the country of origin**: this provision is analogous to Article 3 of the European Convention on Human Rights and Fundamental Freedoms. The asylum bodies interpret this provision in accordance with the case-law of the European Court of Human Rights. Conditions for speaking of inhuman or degrading treatment:
   - exceeding minimum pain threshold;
   - exceeding legal and legitimate punishment;
   - threat to life or physical integrity.

c. **Serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict**.

   There must be question of:
   - a serious threat to a person or a life;
   - a civilian (non-combattant);
   - indiscriminate violence;
   - situations of international of internal armed conflict.

   It should be a conflict that
   - is actually still on-going;
   - is organized;
   - is persistent;
   - has a particular intensity.

Although the Office of the Commissioner General for Refugees and Stateless Persons has recognized that this definition is difficult to transpose in general rules, it has nevertheless mentioned a number of situations that, in principle, would not in itself be sufficient to amount to the definition of "armed conflict":
- a general or systematic violation of human rights;

- heavy internal tensions (such as massive arrests, proclaiming a state of emergency), heavy riots, violence by criminal gangs, terrorist attacks on buildings, terrorist attacks that are not carried out continuously and do not have a particular degree of intensity.

However, the Commissioner General for Refugees and Stateless Persons will have to judge on a case-by-case basis whether an armed conflict is involved. In all events, a serious threat to the person or the life of civilians should be existing.

Consequence of granting subsidiary protection status:

The subsidiary protection status results in a temporary right to reside valid for 1 year that can be extended from year to year. After five years (the date of introduction of the demand, not the day of delivery of the first residence permit), the right to reside for an indefinite period can be obtained.

Because the notion of refugee has been given a broad interpretation until now, the subsidiary protection will cover only a limited, additional number of situations. At the same time, complementary protection had already been partially implemented in practice, for instance in the form of non-refoulement clauses or humanitarian regularizations.

Citizenship and naturalization

In 2006 the Belgian Nationality Code has been adapted slightly. The so-called "fast Belgian nationality law" was adopted in 2000 by way of compensation for the lack of local voting right for foreigners, among other reasons. However, when the local voting right for migrants was approved in 2004, the choice was made to readapt somewhat the legislation on nationality. The most important change is that in case of fraudulent applications the Belgian nationality can be withdrawn, which was not possible previously.

Another long-lasting point of issue, namely the granting of the Belgian nationality to minor aliens who cannot acquire another nationality due to exceptional circumstances, is also settled by the law: the idea of this is not to consider children born in Belgium from parents of foreign citizenship as stateless, if the child can acquire the nationality of its parents by carrying out an administrative formality. Up to now, parents from some Latin-American countries sometimes deliberately failed to register their newly born child at their diplomatic post, because, in this way, the child was granted Belgian nationality by the Ministry of Justice in order to avoid the child becoming stateless. Afterwards, the illegally residing parents tried to enforce a regularization, being "parents of a Belgian child". The case-law was divided on this issue.

On other levels though the amendment of 27 December 2006 should undo the recent tightening of the Aliens Act (through the Laws of 15 September 2006) – in the field of family reunification – by not only formalizing but also extending the cases in which adult children could be subjectively entitled to Belgian nationality. Each time an alien acquires Belgian nationality, his/her adult children obtain the subjective right to become Belgian if they meet the stipulated conditions. From now on, the new Belgian Nationality Code offers the possibility for the alien to submit his/her declaration of nationality in his country of origin, at the competent Belgian diplomatic or consular post.

Unauthorized immigration and legalisation

Criminal prosecution of marriages of convenience
The Law of 12 January 2006 (Belgian Law Gazette of 21 February 2006) inserts Article 79 b into the Aliens Act and penalizes marriages of convenience. Anyone who contracts a marriage without the intention to form a durable relationship but only with a view to obtaining the right to reside resulting from the marriage, can be punished with a prison term of 8 days to 3 months and a fine of €26 to €100. The civil consequences of marriages of convenience are maintained.

Regularization in case of lengthy asylum procedures: current guidelines
Regularization in case of lengthy asylum procedure has been made easier and faster for asylum applications lodged before 1 July 2003 and still pending before the CGRS or the PRAC. The Immigration Department grants regularization for these files if the asylum procedure took more than 4 years or more than 3 years for families with children of school age (between 6 and 18 years), unless the file contains certain negative contraindications. So "integration", knowledge of the language and willingness to work need not absolutely to be proven, although these elements are always regarded as positive.

The case-law appeared to be divided in 2006 on family reunification with a non-EU national (Article 10.4. Aliens Act) proceeding from illegal stay.

Illegally residing parents of a minor child that cannot possibly leave Belgium because of medical reasons are entitled to social services, says the Constitutional Court

On 21 December 2005 the Constitutional Court judged that Article 57 (b) (1) of the Law on Public Social Welfare Centres violates the Constitution if it is interpreted in such a way that the assistance to illegally residing parents of a minor child that is totally unable to leave the territory because of a serious handicap is being restricted to urgent medical care. In a previous judgment dated 30 June 1999 (no. 80/99) the Court already took the view that an alien who is totally unable, because of medical reasons, to comply with the order to leave the territory, may not be treated in the same way as an alien who is able to comply with the said order. So the Court has extended this rule to the parents of a minor child that, because of medical reasons, cannot possibly comply with an order to leave the territory; they too are entitled to the full social services package.

Return

Benelux readmission agreement with Armenia, Bosnia-Hercegowina (19 July 2006) and Macedonia (30 May 2006).

Belgium condemned by the European Court of Human Rights in the Tabitha case
The case of the five-year-old Congolese girl Tabitha was brought before the ECtHR. On 12 December 2006 the ECtHR condemned the Belgian State in this case as regards the (method of) detention of Tabitha and the (method of) refoulement of the girl, because of violation of Article 3 (ban on torture) and Article 8 (right to family life) of the European Convention on Human Rights, among others.

Pending the case before the ECtHR, Belgium did take steps to consider the vulnerability of unaccompanied minor aliens, in order to come ahead of the ECtHR:

- in 2004 the guardianship system was introduced (by the so-called "Tabitha Law" of 24 December 2004);
- in 2005, the special protection statute for unaccompanied minor aliens was established by circular letter.

Cessation of "nationality related extensions" of the order to leave the territory

The Immigration Department decided not to grant any more nationality related extensions of residence to rejected or illegally residing aliens as from 24 November 2005 (unless to NRCs: individuals with a "real and actual" non-refoulement clause). According to the ID, the fact that the authorities or the IOM cannot organize the return does not prove that the person concerned could not return voluntarily on his own. Such extensions of deportation orders are sometimes granted to different groups, for instance Somalis, Iraqis, Chechens, Palestinians, Kosovo Roma, Liberians, Ivory Coasters, Bhutanese, ... However, if it should appear that a forced or voluntary return is really impossible, the ID can (exceptionally) still allow for residing on the basis of "non-removability". The person concerned has to apply then for an official extension of his stay. So only for "real" NRCs the guideline of the Minister dated 20 July 2002 is still being implemented (allow delay of departure).

Unaccompanied minor aliens

In 2 judgements of 1 March 2006 (Foyer Newsletters no. 32/2006 and 35/2006) the Constitutional Court has pronounced on the question whether Article 57 (b) (2) of the law on public social welfare centres, which provides for material assistance for families with minor children residing illegally in the country, is discriminatory towards families whose children are residing legally in the country (or even are Belgian), but whose illegally residing parents could only fall back on urgent medical care provided for in Article 57 (b) (1) of the said law. The Constitutional Court concludes that there is no discrimination and no violation of children's rights, given that the child that resides legally in the country (or is Belgian) is itself fully entitled to social aid. The Court does observe though that the specific family situation should be taken into consideration when granting assistance to the child.

On the proposal of the Minister of Social Integration the Council of Ministers has decided not to detain unaccompanied minor aliens in closed centres any more, but to lodge them in an Observation and Orientation Centre. This lodging must take place after the minor alien has been assigned a guardian, which has to be done within three days. Within fifteen days the decision to either or not expel has to be taken; if there is no decision, the minor is entitled to enter the territory.

3. Implementation of EU legislation

See especially previous chapters.
It is difficult to distinguish between legislative developments brought about under the influence of EU legislation and legislative developments not influenced by EU legislation. Often the transposition of EU legislation into Belgian law offers the opportunity to adopt a whole set of measures. It is also possible that a section of a law is partially the product of European developments and national developments alike. As mentioned above, the modification on the Belgian legislation on asylum and migration is partially a transposition of EU legislation.

The law of 15 September 2006 is clearly influenced by:

- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification; Official Journal L 251 of 3 October 2003;
- Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities; Official Journal L 261 of 6 August 2004;
- Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted; Official Journal L 304 of 30 September 2004;
- Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status; Official Journal L 326 of 13 December 2005;

Efforts were made regarding the transposition of the following directives:

- Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service; Official Journal L 375 of 23 December 2004, p. 12-18; (to be more correct: in reality Belgian legislation is already compatible with this Directive but probably some changes will be made to the national legislation)
- Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research; Official Journal L 289, 3 November 2005, p. 15-22;

European residence Directive 2004/38

Directive 2004/38 on the right of citizens of the Union to move freely has become directly effective in Belgium as from 1 May 2006. A circular letter from 10 May 2005 (published in the Belgian Official Gazette on 26 May 2006) regulates practical matters concerning the residence of EU nationals and their family members, awaiting the legal transposition of Directive 2004/38.

European Directive 2003/109

Directive 2003/109 concerning the status of third-country nationals who are long-term residents has also become directly effective in Belgium, as from 24 January 2006. Certain third-country nationals acquire long-term resident status. In practice, this involves aliens entitled to reside for an indefinite period who have been continuously and legally residing within the territory for at least 5 years. The big advantage of this status is that its holder acquires residence status in a second EU Member State, has access to the labour market in that Member State and can enjoy all social rights there.

A government bill inserts a new Article 15 b into the Aliens Act, in which the conditions and the field of application regarding the new status are defined. The full transposition was expected to occur only in the spring of 2007.

European Directive 2003/9 – new reception law for asylum seekers

The government bill on the reception of asylum seekers and certain other categories of aliens (reception law) has been adopted by the Chamber of Representatives on 23 November 2006 and referred to the Senate on 25 November for confirmation.

Up to then, the rules for rendering material assistance to asylum seekers were laid down in the Public Social Welfare Act (Law of 8 July 1976). For the first time since the creation of the first reception centre for asylum seekers (*Klein Kasteeltje, 1986*), the rules on material assistance to asylum seekers are brought together in one single law. After twenty years, such an adjustment was really needed.

4. Other policy implementation issues

4.1. Labour market and employment

During an Interministerial Conference on 25 October 2006, the Federal and Regional Ministers of Employment have commissioned academic researchers from several universities to make a feasibility study for installing an administrative and anonymous ethnic monitoring system capable of presenting the socio-economic situation of 'autochthonous and allochthonous people' on the Belgian private and public labour market. Such a thorough screening of the Belgian labour market would take place every five years. The instrument would be a welcome tool to monitor the impact of the labour market diversity policies that have a long-standing tradition in the Flemish Region and that are currently introduced in the Brussels-Capital and Walloon Region (*De Standaard* of 14 November 2006).

4.2. Housing and Urban Development: /

4.3. Education

Decree on student grants and student facilities in higher education brought into line with the European law

The Flemish Decree of 30 April 2004 on student grants and student facilities in higher education (published in the Belgian Official Gazette of 28 July 2004) was aimed at eliminating financial barriers in higher education. The Decree holds that asylum seekers whose application is declared admissible and foreign students with an unlimited right to reside are entitled to student grants in higher education (Article 12). This rule is effective as from the academic year 2004-2005. European students, however, were not involved. The new Decree of 18 November 2005 (Belgian Official Gazette of 13 January 2006) takes into account the European rules and a few judgments of the European Court of Justice.

4.4. Health Care

Amendment of the law enables asylum seekers and illegals to be admitted to psychiatric clinics and psychiatric homes for treatment

Since the 1st of July 2006 the authorities reimburse the expenses of hospitalization in psychiatric clinics or psychiatric homes to the competent Public Social Welfare Centre or the asylum centre also in the case of asylum seekers or illegals. The Law of 2 June 2006 (Belgian Official Gazette of 30 June 2006) amends the Law of 2 April 1965 on the acceptance of financial liability of assistance provided by the PSWCs.

It appears that urgent medical care for people without legal residence has increased spectacularly in recent years. Demands mostly come from Slovaks and Bulgarians. In general though, undocumented migrants still seem to wait a little too long before seeing a doctor.

4.5. Family, Youth and the Elderly: /

4.6. Gender: /

4.7. Vulnerable groups

See sections on health care and unaccompanied minors

4.8. Discrimination and anti-discrimination

Legislation
The transposition of EU Directive EC/43/2000 into the Belgian legislative framework is not finished. Following an Arbitration Court ruling and an EU Commission non-conformity judgment, three harmonized Equality Laws were drafted protecting victims against all forms of discrimination according to the Directive requirements. The Parliamentary discussion and adoption of Laws was scheduled for 2007. The 2006 proposals seem to advocate for civil rather than penal procedures in the fight against racism and discrimination.

Employment
Numerous studies reveal the unequal position of foreigners on the labour market; some clearly demonstrate the existence of discrimination on the labour market. In recent years, the academic world has executed interesting and highly technical research projects coupling administrative databases in order to better understand the patterns of inequality on the labour market. In 2006, Belgian Governments at all competent levels as well as social partners have taken concrete initiatives to realize a greater diversity on the labour market.

Education
Although some smaller initiatives encouraging minority and multicultural education exist, the main goal of the Belgian educational policies is the integration of newcomers and/or foreign language students in the regular education system. This effort is urgently needed since the governmental and academic research data show that in terms of educational success and educational orientation foreign students are in an unenviable position. Many explanations can be given, but academic research concludes that ethnicity does matter. Finally, it should be mentioned that in 2006 new judicial decisions seem to extend the ground of acceptance for headscarf bans in public educational institutions.

Housing
The experience of the Special Body on Racism and Discrimination shows that different types of housing discriminations exist also in this field.

4.9 Deviance and Crime: /

4.10. Other:

Introduction of Electronic ID-cards

Until recently, the cards for aliens have not been issued according to an electronic format. In 2006 the residence document for non-Belgian citizens above 12 year of age was still a paperboard card delivered in several colours and personalized on a local level

(municipalities). These cards, however, were no longer in keeping with the perception of a modern government: they are old-fashioned, need better data protection and do not enable the alien to integrate fully into the electronic society.

Objectives of the project "electronic cards for non-Belgian citizens"

Obviously, the focus of the project is to integrate as far as possible the manufacturing and dissemination of electronic documents for aliens into the activities concerning the eID.

By replacing the documents by electronic cards, the current needs can be resolved:

- *Combating of fraud and criminality by modernizing*

As mentioned before, since 1995 municipalities in Belgium have been burgled some 190 times and almost 45,000 blank residence documents have been stolen. By introducing centralized printing of the alien cards instead of printing in the municipalities, such burglaries will no longer occur.
In addition, counterfeiting and falsification will further be prevented by substituting the paperboard cards by plastic documents subject to high-quality issuing techniques and provided with authentication marks difficult to counterfeit. The biometric features (photographs and fingerprints), which, in a later stage, will be integrated in the card, will also ensure more effectively the connection between holder and card.

- *Towards an international and harmonized approach*

As the international context enhanced the need for harmonization, the European Regulation No 1030/2002 of 13 June 2002 established a uniform format for residence permits for third-country nationals. Such a harmonization on EU level will considerably simplify cross-border card control. Subsequently, electronic residence permits issued by the Belgian authorities to third country nationals will be drawn up according to this harmonized European format.

- *Right to an electronic identity for both Belgians and aliens*

The Belgian alien card exceeds explicit EU requirements. As is the case with the eID card issued to Belgian nationals, the electronic cards for aliens will be furnished with an electronic chip. This chip is the cornerstone of e-government (e-window, tax on web) and makes it possible for the alien to sign documents electronically (commercial transactions and other on-line operations) through electronic identification.

Start of the pilot phase

The pilot phase of the project has been launched at the end of 2006. Three municipalities, representing three different regions, have been indicated as pilot municipalities (Antwerp, Ukkel and Tubeke).
The first priority of the pilot phase is a smooth and accurate introduction of the electronic alien cards. The second step, after a sound evaluation, will be the extension of the project within Belgium. The issuing of electronic alien cards on a general scale should be operational in the other municipalities in the course of the second half of 2007.

Flemish civic integration decree

In the summer of 2006 the Flemish Parliament considerably amended the Flemish civic integration decree. The new decree came into force on 1 January 2007 and brought

about a lot of changes. Some people that are already residing here for quite some time, the so-called oldcomers, now also have become a target group for civic integration. More people than before are obliged to participate in a civic integration programme and in the future some newcomers will have to pay for participation in the programme.

References

Beleidsnota minister van Binnenlandse Zaken, Parlementair jaar 2006-2007

Commissariaat-Generaal voor de Vluchtelingen en Staatlozen, Jaarverslag 2006

Dienst Vreemdelingenzaken, Jaarrapport 2006

Foblets Marie-Claire en Loones Sander, *Het Wetboek van de Belgische nationaliteit andermaal herzien (2006): het parlement ontzien of gezien?* In "Tijdschrift voor Vreemdelingenrecht", nr.1, 2007.

FOYER Vzw, Nieuwsbrief jaaroverzicht 2006.

Persbericht Binnenlandse Zaken 12-07-2006: Kamer keurt asielwet goed – Minister Dewael beklemtoont evenwicht in de wet.

RAXEN Bulletins 2006 (Belgian Focal Point of the RAXEN network).

Lemmens Martine en Roggen Jan, *De hervorming van de asielprocedure anno 2006: een verbetering van de rechtspositie?* In "Tijdschrift voor Vreemdelingenrecht", nr.1, 2007.

Vluchtelingenwerk Vlaanderen, *Invoering subsidiaire bescherming in het Belgisch recht: praktische handleiding voor de periode van 10-10-2006 tot 1-12-2006*, oktober 2006.

Websites:
Vlaams Minderhedencentrum: www.vmc.be

Annex: Some migration and asylum data

*49.622 third country nationals have obtained an authorisation of the Belgian authorities to reside on the territory (new asylum seekers included). This is an increase of 3,3% compared to 2005 and an increase of 5,2% compared to 2004. The stock of TCN on 01.01.2007 (asylum seekers not included) is according to figures from the National Statistical Institute 314.911 (+5,7% towards 2005;+11% compared to 2004;).

*Asylum data (Number of introduced files - annulments, withdrawals, multiple applications etc included (registrations))

In 2006 a total of 11.587 asylum requests have been introduced, this is a decrease of almost 30% compared to 2005. Until October 2006, the date of introduction of the subsidiary protection, the increase was very low. The increase in October consisted mainly of multiple applications, mostly from Iranians. Almost 20% of the total asylum applications in 2006 were multiple applications. The increase of the asylum applications since the introduction of the subsidiary protection was not constant. About one third of the asylum seekers in 2006 were women. Almost 4% of them were unaccompanied minors (according to their own declaration).

Russian Federation	1.582
DR Congo	843
Serbia-Montenegro	778
Iraq	695
Iran	631
Guinea (Conakry)	413
Armenia	381
Turkey	380
Rwanda	370
Afghanistan	365
Other	5.149
Total	**11.587**

In 2006, the Belgium asylum bodies have taken a positive final decision (recognition) in 2,391 asylum files. That is 36 percent less than in 2005. This is mainly due to the fact that less final decisions were rendered. In 2006 the recognition percentage of the OCGRSP was 14 percent, in 2005 15.2 percent.

Top 10 recognitions CGRS 2006

Country of Origin	N° of recognitions	N° of decisions on the merit of the request	Recognition %
Russian Federation	443	1.207	37%
DR Congo	296	1.523	19%
Rwanda	281	655	43%
Ivory Coast	123	540	23%
Guinea (Conakry)	114	693	16%
Serbia-Montenegro	65	494	13%
China	57	189	30%
FR of Belorussia	50	171	29%
Iran	46	434	11%
Iraq	42	677	6%
Other countries	397	6.583	6%
Total	**1.914**	**13.600**	**14%**

*In 2006, some 11,000 persons – concerning approximately 5400 files - have been regularized by the Minister of the Interior/Immigration Department because of humanitarian reasons (lengthy asylum procedure, medical reasons, other humanitarian grounds). This is approximately the same number as in 2005.

Top 5:

DR Congo	645	12%
Iran	432	8%
Russian Federation	311	6%
Serbia-Montenegro	294	5%
Guinea (Conakry)	207	4%

*About 223,000 visa applications (all categories) were made in the Belgian embassies and consulates, of which roughly 175,000 visas were issued. 24,936 were long-term visas, 26% more than in 2004 and 8% more than in 2005. Close on 50% of these long-term visas were issued for family reunification, 23% for study purposes and 18% were work-related visas (employed or self-employed persons).
Top 10 (issued long term residence visa):

CoI	Number	% of total
Morocco	4621	18,5
Turkey	2331	9,3
India	1741	7
Romania	1592	6,4
China	1393	5,6
USA	968	3,9
Pakistan	721	2,9
DR Congo	671	2,7
Cameroun	533	2,1
Japan	476	1,9

***Removals:**

9.264 TCN have been removed in 2006 (Forced and assisted voluntary returns; refusals at the border not included). In 2005 this figure was 10.302 and in 2004 9.647. Regarding only the forced removals, 21,5% have been removed to Romania, 13,9% to Bulgaria, 9,3% to Brazil and 4,5 and 4,2% respectively to Russia and Morocco.

Regarding the assisted voluntary returns (IOM), about 25% left to Brazil (708 persons).
