



ANNUAL REPORT ON MIGRATION AND ASYLUM IN BELGIUM 2020

June 2021



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

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TABLE OF CONTENTS

	EXECUTIVE SUMMARY	7
1	OVERARCHING CHANGES	13
1.1	New federal government	14
1.2	Impact of COVID-19	14
2	LEGAL MIGRATION	17
2.1	Overarching policy changes in legal migration	18
2.2	Work-related migration	18
2.3	Students and researchers	21
2.4	Family reunification including family formation	21
3	INTERNATIONAL PROTECTION	25
3.1	The asylum procedure	26
3.2	Reception of asylum applicants	31
3.3	Resettlement and relocation	37
3.4	Withdrawal of international protection	38
4	MINORS AND OTHER VULNERABLE GROUPS	41
4.1	Minors	42
4.2	Other vulnerable groups	50
5	INTEGRATION	53
6	CITIZENSHIP AND STATELESSNESS	61
6.1	Acquisition of citizenship	62
6.2	Statelessness	62
7	BORDERS, VISA AND SCHENGEN	65
7.1	Enhanced border management at the external borders	66
7.2	Visa policy and Schengen	68
8	IRREGULAR MIGRATION INCLUDING MIGRANT SMUGGLING	71
8.1	Preventing and tackling of misuse of legal migration channels	72
8.2	False travel documents	72
8.3	The fight against smuggling and prevention of irregular stay	73
9	TRAFFICKING IN HUMAN BEINGS	75
9.1	New developments	76
9.2	Identification of victims of trafficking	76



10	RETURN AND READMISSION	79
10.1	General policy developments in the area of return	80
10.2	Assisted voluntary return	80
10.3	Forced Return and Detention	81
11	MIGRATION AND DEVELOPMENT COOPERATION	85
11.1	National actions in the field of migration and development cooperation	86
	ANNEX: PUBLICATIONS BY EMN BELGIUM (2009-2021)	89







EXECUTIVE SUMMARY



OVERARCHING CHANGES

As of March 2020, the COVID-19 pandemic had a major impact on the Belgian asylum and migration policies, ranging from travel restrictions to the temporary suspension of asylum interviews.

On 1st October 2020, a new federal government took office in Belgium. In his first general policy note, the new Secretary of State for Asylum and Migration announced that he aimed to adopt various general measures, including the establishment of an Inter-ministerial Conference on Migration and Integration, the organisation of an external audit of the asylum and migration services, the creation of a Migration Code and the collection and publication of figures on asylum and migration.

LEGAL MIGRATION AND MOBILITY

Work-related migration

In the past, any third-country national with a valid short-term or long-term stay in Belgium could apply for a single permit within the territory. As of September 2020, it is only possible to apply for such a permit for work and stay from Belgium from either a legal short stay or a stay as student or researcher.

Together with its partners, the Belgian Development Agency Enabel started preparing the Pilot project on Entrepreneurial Mobility (PEM) between Belgium and Senegal, to be funded by the EU Mobility Partnership Facility. The project will test the use of business visa (visa d'affaires) by nano and micro entrepreneurs from Senegal that will incubate, match with Belgian enterprises, accelerate and internationalise.

Family reunification

Due to the measures taken by national governments to fight the spread of COVID-19, many family members of third-country nationals staying in Belgium were prevented from submitting their application for family reunification on time. In response to this issue, the Immigration Office announced that it would take into account the actions taken by governments to fight the spread of COVID-19 as “exceptional circumstances” that had prevented the submission on a case-by-case basis.

Other measures

During the COVID-19 pandemic, many third-country nationals with a valid visa or residence permit were unable to leave Belgium. To limit the impact of the crisis on these categories of migrants, the Immigration Office introduced a procedure to apply for an extension of stay for reasons of force majeure. Third-country nationals authorised to stay on this basis could also apply for a work permit for a period of up to 90 days at the level of the regions, provided the period was also covered by an employment contract.

INTERNATIONAL PROTECTION

Due to the COVID-19 pandemic, the asylum authorities were forced to temporarily suspend some of their activities involving direct contact with applicants such as the registration of applications, personal interviews and hearings. In order to resume their activities and comply with the sanitary requirements, the asylum authorities had to operate according to adapted procedures and pursued ways to cope with the altering regulations.

RELOCATION AND RESETTLEMENT

In August 2020, the resettlement programme/transfers resumed after a suspension of more than one year (since July 2019), due to the lack of reception places. In the Coalition Agreement of the new federal government, a clear commitment was made to fulfil the resettlement pledges made by Belgium. In 2020, the Belgian government relocated 29 unaccompanied minors from Greece on an ad hoc basis because of emergency situations in refugee camps in Greece.

MINORS AND OTHER VULNERABLE GROUPS

Due to a considerable rise in the number of arrivals of UAM in Belgium starting from the summer of 2020 and a lack of reception places, the Federal Agency for the Reception of Asylum Seekers (Fedasil) was forced to take measures in order to be able to guarantee reception for this target group: on the one hand, measures to increase the number of reception places and, on the other hand, measures to accelerate the outflow from the Observation and Orientation Centres for UAM.

In April 2020, the Ministers of Poverty Reduction and Social Integration established the 'Task Force for Vulnerable Groups' to find solutions to the problems that vulnerable persons (including persons in irregular stay, applicants for international protection and victims of exploitation and human trafficking) face during the COVID-19 crisis.

INTEGRATION

Overarching developments

The Council of Ministers of 18 December 2020 approved the establishment of an Inter-ministerial Conference on Migration and Integration aimed at providing a platform for dialogue between the competent federal and regional authorities to improve the coordination of their policies in the field of migration and integration.

Integration of adults

The compulsory integration course, set to enter into force in the Brussels Capital Region, was postponed by one year due to a number of practical and technical problems. In Flanders, the redesigning of the civic integration programme was started to enhance its performance and effectiveness. The programme will no longer be free of charge and excludes applicants for international protection from the target group.

Fighting racism and discrimination

On 19 February 2020, the Inter-ministerial Conference on Anti-Racism was created to strengthen the cooperation between the different policy levels and to develop an inter-federal policy to better combat racism in the broad sense. The Inter-ministerial Conference also started to prepare Belgium's first Inter-federal Action Plan against Racism.



CITIZENSHIP AND STATELESSNESS

Statelessness

The federal government announced that it would search a solution for certain stateless persons who could not return to their country for reasons beyond their control. The Secretary of State for Asylum and Migration later on confirmed that recognition as a stateless person would lead to a residence right if certain conditions were met.

BORDERS, SCHENGEN AND VISA

Border management

The existing agreements on the Eurostar between the UK, France and Belgium signed in 1993 have been modified to include the Netherlands. The new agreement, which also takes into account Brexit, was signed on 7 July 2020. It determines border controls between the UK on the one side, and France, the Netherlands and Belgium on the other

Schengen governance

In order to tackle the COVID-19 pandemic, several Ministerial Decrees were adopted in 2020. One of the measures indicated in the decrees was the temporary reintroduction of border controls at internal borders, in accordance with Article 28 of the Schengen Borders Code.

TRAFFICKING IN HUMAN BEINGS

In his first policy note, the new Secretary of State for Asylum and Migration emphasised that tackling human smuggling and human trafficking was an absolute

priority for the new government. He also stated that victims of trafficking should be informed about the possibilities to obtain residence rights and stressed the crucial role of the specialised centres for victims of trafficking.

The National Plan on Trafficking in human beings 2015-2019 was updated in 2020 pending the formation of a new government. At the end of 2020, the drafting of a new Action Plan for the upcoming period 2021-25 was started.

On the World Day Against Trafficking in Persons (30 July 2020) the United Nations Office on Drugs and Crime (UNODC) and its partners across Belgium took several initiatives to raise awareness about the fight against human trafficking and to pay homage to the work of first responders to human trafficking.

RETURN AND READMISSION

Main national developments

The newly appointed Secretary of State for Asylum and Migration made clear in his general policy note that the issue of return will be a priority during his term.

Belgium intends to increase close coaching of migrants towards return and to invest more in (assisted) voluntary return. The Secretary of State also conveyed the importance of investing in alternatives to detention, additional detention centres and the shortening of procedures, for instance through digitalisation.

Additionally, a series of measures were taken in return operations in line with the national policy to prevent the COVID-19

pandemic from spreading. Nevertheless return operations continued for the most part, including identification and detention, though on a smaller scale.

Furthermore, COVID-19 did drive new developments in the field of reintegration, for example introducing more flexibility in prolongation of the reintegration support.

Cooperation with third countries

The cooperation with third countries suffered heavily from the COVID-19 crisis. Nevertheless, continuous efforts were made to maintain and initiate relationships with third countries. The main objective was to maintain relationships with embassies of third countries and local authorities and to support return operations. A start of negotiations for a readmission agreement was made with Angola and missions to Senegal and Morocco were undertaken to explore possibilities for a (prolongation of a) Memorandum of Understanding.

MIGRATION AND DEVELOPMENT

On a national level, the Pact on Migration and Asylum brought a new wind to the discussion around the need for sustainable approaches to migration and the link between migration and development cooperation. In parallel, the Immigration Office continued its bilateral and intergovernmental cooperation concerning specific developmental projects in the DR of Congo and Senegal.





01

OVERARCHING CHANGES



1.1. NEW FEDERAL GOVERNMENT

On 1st October 2020, a new federal government took office, replacing a minority caretaker government which had been acting with limited powers since the elections of 26 May 2019. In his first General Policy Note published on 4 November 2020, the new Secretary of State for Asylum and Migration presented the core aspects of his “realistic” asylum and migration policy.⁽¹⁾

In addition to specific measures in the field of asylum, return and other policy areas (see relevant chapters), the Secretary of State announced that he intended to realise a number of overarching changes, most notably:

- the establishment of an Inter-ministerial Conference on Migration and Integration, as a platform for dialogue between the competent federal and regional authorities in order to improve the coordination of their policies on migration and integration;
- the organisation of an external audit of the federal asylum and migration services, aimed at improving their performance and mutual cooperation with a special focus on digitalisation, customer-friendliness, transparency, accessibility as well as a quality of procedures, decisions and processes;
- the adoption of a Migration Code to ensure greater clarity of Belgian migration law, to safeguard legal certainty and to avoid inconsistencies,

drafted by a committee of experts (inter alia government officials, academics, lawyers and practitioners);

- the collection and publication of complete, correct and up-to-date figures on asylum and migration to support evidence-based policies and to inform the general public.

1.2. IMPACT OF COVID-19

From March 2020, the COVID-19 pandemic had a major impact on the national asylum and migration policies, ranging from travel restrictions to the temporary suspension of asylum interviews. The policy and legal developments due to COVID-19 are discussed throughout the sections of this report.⁽²⁾

1 General Policy Note on Asylum and Migration, 4 November 2020, DOC 55 1580/014, p. 3-40, available at <https://www.dekamer.be/FLWB/PDF/55/1580/55K1580014.pdf>.

2 The impact of COVID-19 on the asylum and migration policies of Belgium and other EU Member States are discussed in more detail in a series of EMN Informs, available at https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/informs_en.





02

LEGAL MIGRATION

2.1. OVERARCHING POLICY CHANGES IN LEGAL MIGRATION

During the COVID-19 pandemic, many third-country nationals with a valid visa or residence permit were unable to leave the territory because of border closures, flight cancellations, quarantines and other reasons. To limit the impact of the crisis on this group of migrants, the Immigration Office introduced a procedure to apply for an extension of stay for reasons of force majeure.

In addition, migrants authorised to stay on this basis could apply for a work permit for a period of up to 90 days at the level of the competent Region, provided the period was also covered by an employment contract.

2.2. WORK-RELATED MIGRATION

2.2.1. Highly-qualified workers

On 25 June 2020, the government of the Brussels-Capital Region adopted a measure by which authorisations to work for highly-qualified workers are no longer limited in time (to two periods of four years), but can be renewed indefinitely. The measure seeks to valorise the added value of these workers for the economy of the Brussels-Capital Region.⁽³⁾

2.2.2. Intra-corporate transferees

The federal parliament adopted the Law of 31 July 2020 transposing certain provisions of Directive 2014/66/EU on Intra-Corporate Transferees.⁽⁴⁾ The law inserted a new chapter in the Immigration Act regarding the residence conditions, application procedure and mobility for intra-corporate transferees. The Regions, competent for economic migration, already transposed the work-related aspects of the ICT Directive in 2018 and 2019. At the end of 2020, certain aspects of the Directive still needed to be implemented by Royal Decree. As a consequence, third-country nationals could not yet apply for an ICT single permit at that time.

2.2.3. Seasonal workers

The federal government finalised the transposition of Directive 2014/36/EU on Seasonal Workers by adopting the Royal Decree of 23 March 2020.⁽⁵⁾ The decree, which implements the Law of 5 May 2019 on the entry and stay of third-country national seasonal workers,⁽⁶⁾ concludes a complex joint transposition process by the federal and regional governments.

On 9 April, the federal government adopted a series of measures by Royal Decree in order to respond to the shortage of seasonal workers in the agricultural and horticultural sectors resulting from the COVID-19 crisis.⁽⁷⁾ For instance, seasonal

3 Decision by the Brussels-Capital Government of 25 June 2020 modifying the Royal Decree of 9 June 1999, *Belgian Official Gazette*, 8 July 2020.

4 Law of 31 July 2020 modifying the Law of 15 December 1980 and the Law of 6 May 2009, *Belgian Official Gazette*, 28 August 2020.

5 Royal Decree of 23 March 2020 modifying the Royal Decree of 8 October 1981, *Belgian Official Gazette*, 7 May 2020.

6 Law of 5 May 2019 modifying the Law of 15 December 1980, *Belgian Official Gazette*, 22 August 2019.

7 Royal Decree n. 5 of 9 April 2020 modifying certain rules applicable in the agricultural and horticultural sectors in the framework of COVID-19 measures, *Belgian Official Gazette*, 20 April 2020.

workers in these specific sectors were allowed to work more days per year or to engage in seasonal work even after having worked as an employed worker for a different company in the same sector. Even though these measures applied to all seasonal workers, they specifically aimed at retaining foreign seasonal workers already working in Belgium in order to meet the needs of the sectors in light of the harvest season.⁽⁸⁾

2.2.4. Low and medium skilled workers

The Walloon Region updated its list of shortage occupations for workers coming from third countries.⁽⁹⁾ For the occupations mentioned on this list, employers based in the Region do not need to pass a labour market test in order to engage third-country national workers. The list, in force as of September 2020, extended the first list adopted in 2019 from 7 to 10 occupations in the IT, maintenance and construction sectors.

2.2.5. Entrepreneurs, start-ups and investors

In July, the Minister for Economic Affairs of the Flemish Region presented a new framework for self-employed third-country nationals wishing to come to Flanders, with a clear focus on innovation and mod-

ernisation. The scheme will be particularly favourable to start-ups and scale-ups, while introducing more stringent criteria for traditional entrepreneurs. The Flemish Decree that is currently being drafted should enter into force in January 2022.⁽¹⁰⁾

2.2.6. Trainees, au-pairs and volunteers

In 2020, the federal government was drafting a legislative proposal in order to partially transpose Directive 2016/801.⁽¹¹⁾ The regional governments already transposed the work-related aspects of the Directive in 2018 and 2019. Belgium decided not to transpose the optional provisions on au pairing for the time being.

2.2.7. Satisfying labour market needs

During the COVID-19 pandemic, the Walloon Region adopted measures to accelerate the processing of applications for authorisations to work by healthcare workers and laboratory staff so as to satisfy the labour market needs in these sectors.

The Region also updated its list of shortage occupations that are exempted from the labour market test requirement (see 2.2.4).

8 See EMN Study, 'Attracting and Protecting the Rights of Seasonal Workers in Belgium', January 2021.

9 <https://emploi.wallonie.be/home/travailleurs-etranangers/permis-de-travail/metiers-en-penurie-pour-travailleurs-etranangers.html>.

10 <https://docs.vlaamsparlement.be/pfile?id=1585335>.

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

2.2.8. 'Social dumping'⁽¹²⁾ and labour exploitation

The Brussels-Capital Region adopted a measure aimed at protecting third-country national workers that are employed exclusively in the residence of their employer. For applications by this category of workers, the administration now requests a written declaration by the employer or the employed worker granting access to the inhabited areas to the inspection services. The measure thus enables the inspection services to perform their duties in this specific situation.⁽¹³⁾

2.2.9. Circular migration

Building on the success of the Global Skills Partnerships tested through the PALIM project, the EU-funded programme "Towards a Holistic Approach to Migration and Mobility in North of Africa" (THAMM) was launched in Belgium. The national component of the programme, which is implemented by the Belgian Development Agency Enabel, intends to scale up and diversify the employment sectors of previous pilot projects, to extend the cooperation with national actors and to create economic opportunities in Belgium and its partner countries Tunisia and Morocco.

Enabel and its partners also started preparing the Pilot project on Entrepreneurial Mobility (PEM) between Belgium and Senegal, to be funded by the EU Mobility Partnership Facility. The pilot will test the use of visa d'affaires by nano and micro entrepreneurs from Senegal that should incubate, match with Belgian enterprises, accelerate and internationalise. The project is a strategic political priority of Belgium in the context of the negotiations on the Protocol on Migration Flows with Senegal.

2.2.10. Bilateral labour migration agreements⁽¹⁴⁾

In the past, only workers from third countries that had concluded an international labour agreement with Belgium could apply for single permits or work permits subject to a labour market test. In June 2020, the government of the Brussels-Capital Region abolished this requirement of an international agreement, thus allowing workers from any third country to apply for such permits.⁽¹⁵⁾ The Flemish Region and Walloon Region had already abolished this requirement in earlier years.

12 While there is no definition of the concept of "social dumping" in EU law, the term is generally used to point to unfair competition due to the application of different wages and social protection rules to different categories of worker (Parliamentary questions, 27 May 2015, E-008441-15). The EMN Glossary (Version 7.0) defines social dumping as "The practice whereby workers are given pay and / or working and living conditions which are sub-standard compared to those specified by law or collective agreements in the relevant labour market, or otherwise prevalent there." See: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/social-dumping_en

13 Decision by the Brussels-Capital Government of 25 June 2020 modifying the Royal Decree of 9 June 1999, *Belgian Official Gazette*, 8 July 2020.

14 According to the International Organisation for Migration (IOM), bilateral labour migration agreements are "formal mechanisms concluded between States, which agreements are essentially legally binding commitments concerned with inter-state cooperation on labour migration. The term is also used to describe less formal arrangements regulating the movement of workers between countries entered into by States as well as a range of other actors, including individual ministries, employer organizations, etc.". (Source: https://publications.iom.int/system/files/pdf/iml25_1.pdf).

15 Decision by the Brussels-Capital Government of 25 June 2020 modifying the Royal Decree of 9 June 1999, *Belgian Official Gazette*, 8 July 2020.

2.2.11. Other developments in work-related migration

In the past, any third-country national with a valid short-term or long-term stay in Belgium could apply for a single permit from within the territory. As of September 2020, it is only possible to apply for such a permit for work and stay in Belgium from either a legal short stay or a stay as a student or researcher.⁽¹⁶⁾ The amendment, minor at first sight, will have a significant impact on third-country nationals who are legally staying in Belgium and wish to change their status, since only a limited number of them will have access to the single permit procedure, while most others will have to return to their country in order to apply for a single permit.

Since the entry into force of the single permit legislation in 2019, holders of these permits who applied for renewal of their permit received a temporary residence document for the duration of the renewal process (Annex 49), yet were not allowed to work on the basis of this document. This situation was partially remedied in January 2020: since then, holders of an Annex 46 are allowed to work from the moment the regional authorities have taken a positive decision on their application for authorisation to work, even if the Immigration Office did not yet take a decision on the extension of their stay.⁽¹⁷⁾

In 2020, the Flemish Region eased the procedure for single permits and work permits by introducing electronic applications. Employers in the Flemish Region applying for permits for third-country national workers were first allowed (since March) and then obliged (since July) to submit their applications by e-mail. Shortly after the COVID-19 outbreak, electronic applications were also introduced in the Walloon Region and Brussels-Capital Region.

2.3. STUDENTS AND RESEARCHERS

In 2020, the federal government was drafting a bill in order to transpose the provisions on students of EU Directive 2016/801.⁽¹⁸⁾ In 2018 and 2019, the regional governments already transposed the work-related aspects of the Directive.

2.4. FAMILY REUNIFICATION⁽¹⁹⁾ INCLUDING FAMILY FORMATION

Due to the measures taken by national governments to fight the spread of COVID-19, such as the closure of embassies, many family members of third-country nationals staying in Belgium were prevented from submitting their application for family reunification on time. As family reunification is subject to specific conditions regarding the age of the applicant and the time of the application, many

16 Law of 31 July 2020 modifying the Law of 15 December 1980 and the Law of 6 May 2009, *Belgian Official Gazette*, 28 August 2020.

17 Agentschap Integratie en Inburgering, *Tewerkstelling met bijlage 49 bij hernieuwingsaanvraag gecombineerde vergunning mogelijk na 'groen licht' geweest*, https://www.agii.be/nieuws/tewerkstelling-met-bijlage-49-bij-hernieuwingsaanvraag-gecombineerde-vergunning-mogelijk-na-groen-licht?utm_source=flexmail&utm_medium=e-mail&utm_campaign=nieuwsbriefvreemdelingenrechteninternationaalfamilierecht2020nr3&utm_content=lees+meer.

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

19 This refers to family reunification under the Family Reunification Directive (2003/86/EC).



third-country nationals thus risked losing their right to family reunification or having to meet more strict conditions. In response to this issue, the Immigration Office announced that it would take into account the measures taken by governments to fight the spread of the COVID-19 virus as “exceptional circumstances” that had prevented the submission on a case-by-case basis.





03

**INTERNATIONAL
PROTECTION**



3.1. THE ASYLUM PROCEDURE

3.1.1. Access to the asylum procedure

At the onset of the COVID-19 crisis in March 2020, the decision was taken to temporarily suspend the registration of applications for international protection in the Arrival Centre (*Petit Château - Klein Kasteeltje*).⁽²⁰⁾

A couple of weeks later, on 3 April 2020, the government introduced a COVID-19 proof convocation system by appointment only on the basis of an online form. Applicants could not spontaneously present themselves at the arrival centre without appointment.

Unlike the pre-COVID-19 registration method, under the new scheme applications for international protection at the arrival centre would not only be “registered”, but also immediately “lodged”. The COVID-19 measures thus simplified the traditional two-step procedure to a single-step process at the arrival centre.

Shortly after its introduction, however, the COVID-19 registration scheme came under criticism from civil society. A group of NGO’s denounced the fact that asylum seekers did not have access to reception in the days or weeks between the submission of their online form and the actual registration of their application for international protection. In more than a hundred court cases, the federal agency for the reception of asylum seekers Fedasil was ordered to offer reception to asylum seekers

during this transition period.⁽²¹⁾

The online system eventually came to a halt in the fall of 2020, after the court of first instance of Brussels ruled that asylum seekers had a right to reception from the moment they submitted the online form. Soon after, the new Secretary of State for Asylum and Migration announced to explore an alternative system of appointments respecting the rights of asylum seekers. In the meantime, the arrival centre would return to its traditional registration method.⁽²²⁾ The influx however still allowed for an application to be lodged simultaneously with the registration. This practice avoided additional movements in the context of the sanitary measures.

3.1.2. Registration of applications

In 2020, 16 910 persons applied for international protection in Belgium, including 13 105 first time applications. This number does not only stand for a significant decrease compared to 2019 (-41,6%), but has also not been so low since 2008. While in Belgium the number of applications was still fairly high in January 2020 (2 739 applications), due to the COVID-19 context, a very strong decrease was noticeable in the period between March and July. This was due to the temporary suspension of registrations and the limited possibility to travel. From August onwards, the number of applications gradually increased.

20 Belgian House of Representatives, Parliamentary hearing on the impact of the coronavirus crisis on the asylum authorities, 9 July 2020, DOC 55 1436/001, p. 4.

21 See for instance De Tijd, *Ngo’s dagvaardden Belgische staat wegens gebrek aan opvang voor asielzoekers*, 7 August 2020, <https://www.tijd.be/politiek-economie/belgie/federaal/ngo-s-dagvaardden-belgische-staat-wegens-gebrek-aan-opvang-voor-asielzoekers/10243896.html>.

22 General Policy Note on Asylum and Migration and National Lottery, 4 November 2020, DOC 55 1580/014, p. 17, available at <https://www.dekamer.be/FLWB/PDF/55/1580/55K1580014.pdf>.



The most important countries of origin in 2020 were Afghanistan (3 104 applications⁽²³⁾), Syria (1 725 applicants⁽²⁴⁾), Iraq (864), Eritrea (832), Palestinians (788⁽²⁵⁾).

Noteworthy is the ninth place occupied by applicants from El Salvador. Most of these 538 applications were filed in the first three months of 2020, after which their number decreased strongly, amounting to less than ten per month, indicating that migration from Latin America clearly diminished. In the period between August and November 2020, many Brazilians, most of them residing in Belgium for a period of time, applied for international protection, then to renounce it again after being informed that an application for international protection would not lead to regularisation.⁽²⁶⁾

The International Protection department of the Immigration Office noticed an increased number of applications for international protection by non-accompanied minors in 2020.

3.1.3. Dublin procedure

The Dublin Unit of the Immigration Office has to determine whether Belgium or another Member State is responsible for examining an application for international protection under the Dublin III Regulation. The applications for international protection for which Belgium is responsible according to the **Dublin** Regulation are transferred to the CGRS in order to be examined on their merits.

During the course of 2020, the Dublin Unit managed to clear most of its backlog. Therefore the number of transfer decisions taken was at more or less the same level as in 2019. However, due to travel restrictions related to COVID-19 (including closing of borders and limited travel), the actual transfer rate was low. The decrease of the caseload was mostly noticeable in the number of outgoing requests for new cases, which was reduced by half.

Another consequence of the travel restrictions due to COVID-19, was a temporary suspension of transfers to certain member states. These suspensions did not lead to an extension of transfer terms, causing Belgium to be responsible for many of these cases.

Although the use of detention in the Dublin procedure had increased in 2019, due to COVID-19 in 2020 there was a significant drop in the use of detention in the Dublin procedure.

3.1.4. First instance procedure

Prioritisation and efficiency measures

From 16 March 2020, due to COVID-19, the CGRS had to completely suspend all personal interviews. Despite the suspension of the personal interviews, the CGRS still managed to realise a relatively high number of decisions.

Firstly due to the fact that in a number of pending cases a personal interview had already been organised, making it possible

23 Including subsequent applications.

24 176 of whom arrived as part of the relaunched resettlement program.

25 Mainly from Gaza.

26 www.cgvs.be.



for a decision to be taken.

Secondly due to a number of pending cases in which a decision could be taken without organising a personal interview. This was the case for subsequent applications and cases that, due to a high recognition rate, were assessed on dossier basis only (applying mainly to applications introduced by Syrians, Eritreans and Yemenites).

Appropriate sanitary precaution measures led to a resumption of personal interviews on 8 June.

In addition to the general principles in place to allocate dossiers, in 2020 the CGRS opted to **prioritise**:

- Applications from El Salvador due to a high number of applications.
- Applications from Brazil: In the period between August and November 2020, many Brazilians filed an application for international protection. The applicants were mainly persons who had been in Belgium for a longer period of time and believed their application would facilitate a regularisation. In order to avoid overcharging the asylum system, thus leading to longer processing times for other applications, these applications were given priority. Concurrently, the Home Office started a campaign to inform these applicants about the asylum procedure and the possibility of voluntary return. Meanwhile, many of them renounced their application.
- Applications from applicants residing in a reception centre. This prioritisation was part of the sanitary precaution measures. The CGRS opted to first

invite persons residing in a reception facility as agreements could be made with the reception facilities to prevent ill or potentially infected applicants making their way to the CGRS offices (e.g. checking their temperature). These agreements could obviously not be made with persons residing on a private address.

While the personal interviews with adults at the CGRS gradually resumed from 8 June 2020 onwards, the interviews with unaccompanied minors were only resumed in August 2020, as an additional person, the guardian, always needs to be present and it was not appropriate to organise these personal interviews earlier. From 9 July 2020 onwards, the Commissioner General for Refugees and Stateless Persons restarted to schedule interviews with asylum seeking unaccompanied children. Unaccompanied minors who had been in the asylum procedure the longest were invited first, as well as minors under the age of 12 years.

The interviews of couples with children were also resumed in August 2020. As a rule, parents were invited on separate days, so that they did not have to take their children with them to the offices of the CGRS. However, in cases where a couple was invited on the same day, the CGRS asked them to entrust their children to someone else's care to avoid their children joining them. If the parents could not find someone to take care of their children, the children were allowed to accompany them, but they had to wait in the waiting room. The CGRS stressed that this had to remain the exception. In order to ensure compliance with social distancing rules in the waiting room, the number of couples



invited the same day were limited to 2 couples per day.

Mid-November, the CGRS started a pilot within the project 'interviewing through videoconference', organising interviews of applicants of international protection residing in an open reception centre through videoconference. The pilot was developed to guarantee the functioning of the CGRS and increase its efficiency and was introduced within the framework of the sanitary measures due to COVID-19.⁽²⁷⁾

As a result of an application for suspension as a matter of extreme urgency filed by various associations, the Council of State pronounced a judgement in which it suspended the decision of the CGRS to implement this project.⁽²⁸⁾ The Council of State argued that under the current legal framework, the CGRS is not competent to change the conditions in which the interview takes place. Therefore the project can only proceed after the Royal Decree regarding the functioning of the CGRS has been modified.

As regards the safe country of origin concept, the list of safe countries of origin, as updated in the Royal Decree of 15 December 2019,⁽²⁹⁾ entered into force on 3 February 2020. The following countries were considered as safe countries of origin: Albania, Bosnia-Herzegovina, North Macedonia, Kosovo, Montenegro, Serbia, India and Georgia.

The same list of safe countries was maintained in the Royal Decree of 14 December 2020⁽³⁰⁾ (entry into force on 18 January 2021).

Access to information

In order to comply with the legal obligation to supply information regarding the asylum procedure tailored to the applicant, both asylum authorities (Immigration Office and the CGRS) kicked off some information projects in 2020.

The Immigration Office prepared a new brochure to hand over to the applicant when lodging the application, which will be published in 2021. The Immigration Office also continued a project aimed at optimising the registration process, with a focus on communication to the applicant.

At the beginning of 2020, the CGRS started the AMIF-project 'Information Provision for the Asylum Seeker', whereby a website regarding the asylum procedure in Belgium was developed, available in nine languages and containing spoken and written text as well as video fragments (www.asyluminbelgium.be – operational since March 2021).

As part of the COVID-19 measures, annexed to the letter of invitation, all applicants received a document setting out the sanitary measures (available in various languages and including pictograms). An online FAQ was available as well.

27 See <https://www.cgrs.be/en/news/council-state-judgement-regarding-interviews-through-video-conference>.

28 Judgement by the Council of State, 7 December 2020, nr. 249.163.

29 Royal Decree of 15 December 2019 for implementation of article 57/6/1, § 3, fourth section, of the Act of 15 December 1980 regarding access to the territory, residence, settlement and the removal of foreign nationals, establishing the list of safe countries of origin, *Belgian Official Gazette*, 3 February 2020.

30 Royal Decree of 14 December 2020 for implementation of article 57/6/1, § 3, fourth section, of the Act of 15 December 1980 regarding access to the territory, residence, settlement and the removal of foreign nationals, establishing the list of safe countries of origin, *Belgian Official Gazette*, 18 January 2021.



Staff Reinforcement

Regarding the CGRS, in 2019, the decision was taken to hire 146 new persons: 130 case workers and 16 administrative staff. By the end of 2020, 125 of the 130 case workers and all of the 16 administrative assistants had been employed.

Every newly appointed case worker is duly trained. The training programme is composed of theoretical and practical sessions, based in particular on the EASO training modules, for a period of one month. After that first phase, the case workers are intensively coached by their supervisor for the next five months. It is assumed that a new case worker is fully operational after that period.

Backlog

With the recruitment of new staff in 2019 and at the beginning of 2020, the initial intention was to start reducing the backlog from mid-2020 onwards. The COVID-19 context drastically changed the situation, due, among other factors, to the suspension of interviews and the delay in training new staff members. The total caseload of the CGRS in 2020 amounted to 12 663 cases. The Immigration Office's caseload amounted to 7260 cases.

Quality measures and training

Despite the sanitary restrictions due to COVID-19, the CGRS continued to develop a continuous learning environment by offering online trainings and the use of new training tools. The training programme for newly appointed case workers was converted into an online version and the same applied to their follow-up

programme. Exchange sessions for supervisors in order to improve the remote coaching of their unit were organised, as well as specific trainings for case workers and administrative assistants.

Within the CGRS, the gender unit developed a new directive regarding the assessment of LGTBQI cases, accompanied by an intensive training for all protection officers.

Country of origin information

In 2020, The Documentation and Research Centre (Cedoca) of the CGRS delivered 320 COI Focus reports, 228 COI Cases and in addition published 62 COI reports on the CGRS's website. Moreover, Cedoca drafted the complete EASO report on Pakistan, undertook a fact finding mission to Pakistan and contributed to the EASO report on Afghanistan and Iraq. Cooperation with the other EU MS and within EASO remains an important aspect of its approach. The New Media Unit played an important role in the assessment of resettlement dossiers and cases in normal procedures by answering 182 queries.

Digitalisation

In 2020, the Minister for Asylum and Migration decided to establish a new digitalisation service within the Immigration Office, responsible for the follow-up and further development of the database 'Evel New Generation' and various other digital projects.⁽³¹⁾

The Immigration Office has thenceforth been working on a new data application that needs to lead to a digitalisation of a major part of their tasks.

31 Belgian House of Representatives, Written questions and answers, 13 February 2020, DOC QRVA 55 011, p. 132-133.

Furthermore, in 2020, the Immigration Office initiated a project to develop an electronic agenda system that facilitates the planning and follow-up of appointments and the invitation of applicants. This project will continue in 2021.

End 2020, the CGRS set up a pilot 'automatic allocation', with the aim of decreasing the backlog in a systematic way. The system aims at replacing the current system of manual allocation by a system of automatic allocation.

3.1.5. Protection granted at first instance

In 2020, the CGRS took a decision for 17 384 persons of which 5 836⁽³²⁾ were granted an international protection status: 4 888 were granted refugee status according to the Geneva Refugee Convention and an additional 948 persons received subsidiary protection status.

In 2020, in 34,1% of the final decisions, the CGRS considered that the applicant needed protection. The protection rate kept decreasing compared to the previous years (50,7% in 2017, 49,1% in 2018 and 36,9% in 2019). This decrease is mainly due to an increased number of inadmissibility decisions, mainly for subsequent applications (multiple applications) and for applications filed by persons that have been granted a protection status in another EU member state. These types of applications are processed as a priority.

Leaving aside these two categories, the protection rate still amounts to 47,3%.

In 2020 most of the positive decisions were issued for applicants coming from Syria (1 331 persons obtained refugee status and 168 subsidiary protection) and Afghanistan (208 persons obtained refugee status and 365 subsidiary protection).

3.2. RECEPTION OF ASYLUM APPLICANTS

3.2.1. Creation of additional reception capacity

The year 2020 was largely dominated by the corona crisis. As a result, 2020 was, on the one hand, characterised by a decrease in asylum applications (-41,6% compared to 2019)⁽³³⁾ and on the other hand by a lengthy stay in reception centres, largely due to the temporary suspension of the registration and processing of asylum applications.⁽³⁴⁾ Moreover, because of the preventive measures put in place to prevent the spread of COVID-19, it was not easy for beneficiaries of international protection to find a home and therefore to leave the reception network within the allotted time.

Declining influx of applicants for international protection in the reception network

In 2020, 13 645 people arrived in the reception network of Fedasil, a decrease with 41% compared to 2019 when 23

32 Including minor children accompanying their parents.

33 Especially between March and July 2020.

34 As mentioned above, the Immigration Office suspended the registration of the asylum applications between 17 March and the beginning of April 2020. Fedasil therefore temporarily closed the Arrival Centre. Afterwards, an adapted registration system, by means of an online appointment form, was introduced by the Immigration Office, which remained in effect until 30 October 2020.



158 persons arrived in the reception facilities. Over the same period, 15 468 people left the reception network. This is a slight decrease compared to 2019, when 15 875 people left the reception network.

Creation of new reception places

Although new reception centres opened throughout 2019, the occupancy rate was almost at 97% in the beginning of January 2020.⁽³⁵⁾ Given the saturation of the reception network and the high number of asylum applications at the beginning of 2020, with more than 2000 newcomers arriving in the reception network in January 2020, there was a need for additional reception capacity. In February, Fedasil opened three temporary reception centres and, at the request of Fedasil, the Red Cross also opened a new temporary reception centre.

Faced by an unprecedented health crisis from March 2020 onwards, Fedasil took several measures to prevent the spread of the coronavirus. One of these measures consisted in the creation of additional reception places to lower the occupancy rate in the reception network allowing for the social distancing rules to be respected and the isolation capacity within the collective reception centres to be increased. To this end, 15 temporary reception centres were opened in the course of 2020, managed

by Fedasil, the Red Cross, Caritas International, Samusocial and private operators.⁽³⁶⁾⁽³⁷⁾ Fedasil also decided to extend the agreements with a number of campsites and holiday centres to continue to accommodate applicants for international protection and to place containers in several reception centres to be able to isolate residents in the event of infection with the coronavirus. Each centre also placed beds in isolation for this purpose with a total of 1400 beds spread over the reception network.

Furthermore, in order to meet the greater inflow of unaccompanied minors starting from the summer of 2020 onwards, Fedasil also increased the specific reception capacity for unaccompanied minors. By the end of 2020, there were 2 077 places for unaccompanied minors in the reception network, 385 additional places compared to 2019.

In addition, Fedasil also made an effort to create sufficient buffer places in order to be better prepared for a possible future reception crisis and thus to ensure more stability in the reception network in the longer term. One of the temporary reception centres that opened in February 2020 was put on non-active in August 2020 and served as a buffer centre. Three other reception centres were closed in 2020.

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

36 Samusocial, a public-law association regulated by the Ordinance of 14 June 2018 on emergency assistance to and integration of homeless people, is mandated by Fedasil to manage two reception centres for asylum seekers in the Brussels region. These centres respond to the need for a rapid increase in the reception capacity made available by Fedasil for the reception of applicants for international protection. The Brussels Samusocial is part of Samusocial International (<https://samu-social-international.com/>).

37 When the existing reception capacity is insufficient, as in 2015-2016, Fedasil can call on the private sector to create short-term additional temporary reception capacity. This is always done through a government contract, and subject to the approval of the federal government. By the end of 2020, reception centres, accounting for 1 022 reception places, were organised by private companies (G4S Care, Umami, Svasta and My Assist).

At the end of 2020, the reception network counted 28,180 reception places, which is an increase of 1 426 reception compared to 2019.⁽³⁸⁾

The occupancy rate in the reception network decreased from almost 97% at the end of 2019 to 85% at the end of December 2020.

3.2.2. Limitation of reception conditions

Limiting of reception conditions for certain categories of applicants for international protection

The Minister of Asylum and Migration announced new measures at the beginning of 2020, aiming to fight against potential abuse of the asylum system. A new policy was adopted following the saturation of the reception capacity as well as the increase of applications for international protection made by certain groups of applicants. Fedasil introduced the possibility to limit the reception conditions for certain categories of applicants for international protection. The instruction of Fedasil of 3 January 2020, which entered into force on 7 January 2020, limited the reception conditions for two groups of applicants.⁽³⁹⁾

- A. Dublin applicants who absconded and re-applied for reception after 6 months (Article 29(2) Dublin III Regulation)
- B. applicants for international protection

already benefitting from international protection in another EU Member State.

Fedasil assessed the individual situation of these applicants, case-by-case, taking into account any possible vulnerabilities. In case reception was denied, the applicant retained the right to medical care and received the necessary information on where to find assistance and shelter. The Council of State issued its opinion 67472/4 on the initiative in July 2020 and noted – referring to the CJEU judgment in Jawo – that the automatic exclusion from material reception conditions and the general refusal of reception for these groups of applicants were not permitted.⁽⁴⁰⁾ In parallel, several civil society organisations launched an appeal in front of the Council of State to annul the measures.⁽⁴¹⁾ Finally, Fedasil withdrew this policy on 21 September 2020, and replaced it with the instruction of 22 September 2020 on the Dublin trajectory. This instruction clarified the role of Fedasil and the Immigration Office in the provision of information, counselling and the reception conditions, including the allocation to a Dublin reception place within Fedasil's reception network.

Temporary suspension of access to reception

At the onset of the COVID-19 crisis in March 2020, the decision was taken to temporarily suspend the registration of applications for international protection

38 More information is available at www.fedasil.be.

39 Instruction of Fedasil, dd. 3 January 2020 on 'Procedures relating to the right to material aid for applicants for international protection holding an Annex 26 quater or protection in another Member State' entry into force on 7 January 2020.

40 European Union, EU: Court of Justice of the European Union [CJEU], *Abubacarr Jawo (Gambia) vs Bundesrepublik Deutschland*, 19/03/2019, ECLI:EU:C:2019:218.

41 Instruction of Fedasil, dd. 22 September 2020 on 'The Dublin trajectory - Counselling of residents and assignment to a Dublin place' entry into force on 1 October 2020. This instruction also replaces the instruction of 20 October 2015 on 'The change of the compulsory place of registration for asylum seekers whose stay has been refused within the framework of a Dublin request to take charge'.



in the Arrival Centre from 17 March 2020 onwards.⁽⁴²⁾ This decision followed a series of measures taken on 12 March by the National Security Council to counter the spread of coronavirus. The goal was to avoid people gathering outside the arrival centre or in the waiting rooms. The Arrival Centre was closed and access to reception was suspended. This measure did not impact the reception of applicants who had already applied for asylum and were accommodated in the reception network of Fedasil, but impacted newly arrived asylum seekers since no measures had been taken to prevent a situation in which asylum seekers with no housing arrangements would end up homeless. Fedasil's Information Point at the Arrival Centre was also temporarily closed, meaning that applicants could not present themselves to receive reception, except for applicants, invited by Fedasil a) to be reintegrated in the reception network after a conviction or temporary exclusion from the reception network; b) applicants released from closed centres and who were entitled to reception and c) vulnerable unaccompanied minors (girls, boys younger than 15 years, young people with disabilities, psychological or medical problems, potential victims of human trafficking and young people with an extraterritorial status after being intercepted at a border).

On 3 April 2020, the Immigration Office introduced a new, COVID-19 proof, registration system by means of an online appointment form in order to avoid queues in front of and within the Arrival Centre and

to respect the rules for social distancing. The reception of applicants for international protection resumed on 7 April 2020. But only applicants who had been able to register their asylum application after convocation by the Immigration Office and who were entitled to reception, received a reception place from Fedasil the same day. The number of convocations for lodging and registering an asylum application at the Arrival Centre was limited in function of the operational capacity of the Immigration Office and Fedasil. Priority was given to vulnerable persons, e.g. families with children, unaccompanied minors, and persons with medical problems.⁽⁴³⁾

As mentioned, applicants did not have access to reception in the days or even weeks between the submission of their online form and the actual registration of their application for international protection by the Immigration Office. In more than a hundred court cases, Fedasil was ordered to offer reception to applicants for international protection during this convocation period.⁽⁴⁴⁾

The online system eventually came to a halt on 30 October 2020, after the Court of First Instance of Brussels ruled that applicants for international protection had a right to reception from the moment they submitted the online form after which the Arrival Centre returned to its traditional registration method allowing for a place in the reception network from the moment an asylum application was submitted at the Arrival Centre.

42 Belgian House of Representatives, Parliamentary hearing on the impact of the coronavirus crisis on the asylum authorities, 9 July 2020, DOC 55 1436/001, p. 4.

43 Fedasil, Heropstart asielaanvragen, 3 April 2020, available at: <https://www.fedasil.be/nl/nieuws/opvang-asielzoekers/heropstart-asielaanvragen>.

44 Vluchtelingenwerk Vlaanderen, Rechtbank veroordeelt Belgische staat asielzoekers direct op te vangen, 6 October 2020, available at: [https://www.vluchtelingenwerk.be/nieuws?thema\[0\]=5](https://www.vluchtelingenwerk.be/nieuws?thema[0]=5)



Voluntary departure from the reception network with meal vouchers

In order to reduce the occupancy rate in the reception centres, Fedasil decided on 19 March 2020 to facilitate the outflow of residents with an accommodation solution outside the reception network. Residents who had the option to stay elsewhere could, on a voluntary basis, subscribe to the option to leave the reception network with support of meal vouchers. They received electronic or paper meal vouchers worth €140 per adult or unaccompanied minor⁽⁴⁵⁾ and €60 per child every two weeks during the processing of their asylum application and until the end of their right to material aid or until their re-integration into the reception network.

Another measure taken by Fedasil to accelerate the outflow from the reception network was the measure of 1 April 2020 which came in force on 10 April, according to which residents of the collective reception centres who had obtained a residence permit of more than 3 months (international protection status, regularisation or family reunification) were offered the opportunity to opt voluntarily for an early departure from the reception network instead of staying in a local reception initiative during the transition period of two months. They received assistance in the form of meal vouchers for two months (€560 per adult and €240 per minor child). Persons who choose this option could afterwards not reintegrate into the reception network. This instruction did not apply to unaccompanied minors.

3.2.3. Reception in times of COVID-19

Reception after the actual registration of the application for international protection

During the first seven days (minimum), reception was provided for in the Arrival Centre, allowing Fedasil to perform a social and medical screening of all new applicants. After this period, Fedasil designated the applicants, on the condition they did not show symptoms of illness, only to the new reception centres that opened since 31 March 2020.⁽⁴⁶⁾ From 21 April, Fedasil conducted, in accordance with the recommendations of Sciensano,⁽⁴⁷⁾ a COVID-19 test on newcomers who register at the Arrival Centre.

As the places in new reception centres were no longer sufficient to provide reception to everyone entitled and the situation in the reception network improved because of the decrease in the number of COVID-19 cases, the low occupancy rate in the isolations zones and the hygiene measures taken to prevent the spread of the virus in the reception centres, Fedasil decided to allocate applicants from the Arrival Centre to all reception facilities in the second phase (and not only to the new ones) as from 29 June 2020 onwards.

Impact of COVID-19 on the living conditions in reception centres

Like all residential collectivities, reception centres for applicants for international protection were severely impacted by the strict measures put in place to prevent the

45 Under certain conditions, see *infra*.

46 In case of a positive test, the applicant concerned was moved to the medical section of the Arrival Centre (block E), where beds were made available for a stay in isolation. While awaiting the test, all applicants showing symptoms also stayed in block E (in isolation) and the asymptomatic people in normal rooms.

47 For more information on Sciensano: <https://www.sciensano.be/en/about-sciensano>.



spread of COVID-19. Movements of residents, both inside and outside the reception centres, were kept to a minimum. All activities that were not deemed necessary, such as workshops, visits, activities with volunteers, etc. were cancelled. Meetings and group formation were prohibited and 'nights out' were no longer allowed. The reception centres also took preventive and strict hygiene measures for both staff and residents, for this they had to adjust their organisation and infrastructure. For example, extra water taps were installed and markings were fitted to help residents keep their distance.

Fedasil employees continuously informed and raised awareness among residents in the reception centres about hygiene regulations (washing hands, avoiding contact, keeping distance, etc.) and the ban on gathering. To this end, Fedasil developed a whole series of tools, such as flyers and posters, in several languages and with pictograms. Fedasil's information website, available in 14 languages, was updated with the latest measures regarding the coronavirus.⁽⁴⁸⁾ A short video was made with explanations in several languages such as Pashtu and Dari. A practical fact-sheet was developed on the organisation of Ramadan in the reception centres during the corona crisis.

Applicants were also informed that if they did not follow the imposed measures, they would be sanctioned by the reception centre. Outside the reception structures, compliance with the measures in force, was monitored by the police and residents were made aware that failure to comply could

result in fines and criminal prosecution.

In order to keep the number of movements and thus the spread of the virus to a minimum, only essential transfers of residents were allowed: a) transfers from the Arrival Centre and the Observation and Orientation Centres to a second phase reception centre (depending on the needs of the reception network and the context of the reception structure involved), b) transfers from collective to individual reception places to protect residents from at-risk groups and transfers to an individual reception place for applicants with a high protection rate. Other transfers, such as to the open return places and the Dublin places were temporarily put on hold.

The health crisis has had a negative impact on the processing of asylum applications, because of the suspension and limitation of registrations and personal interviews, and thus on the length of stay in the reception network.⁽⁴⁹⁾ In addition, persons with a protection status also encountered difficulties in finding a home and therefore in quickly leaving the network.

3.2.4. Profile of beneficiaries of reception

At the end of 2020, 49% of the persons accommodated in the reception network were families with children. Single men made up 37% of the reception network, single women 6% and unaccompanied minors 8%.⁽⁵⁰⁾ By gender, there were 67% men and 33% women in the reception network. One in three residents was un-

48 Available on <https://www.fedasilinfo.be/en/coronavirus-measures>.

49 In 2020, the average length of stay of a resident in the reception network was 11,2 months compared to 8 months in 2019.

50 More information on unaccompanied minors in chapter 3.



der 18 years old. The reception network accommodated a total of 122 different nationalities, with Afghanistan (16%), Palestine (12%), Syria (9%), El Salvador (6%) and Guinea (6%) as the main countries of origin.

Applicants for international protection, including unaccompanied minors, whose application is still pending, made up 95% of the reception network, followed by persons with a residence permit (3%), resettled refugees (1%) and persons with other administrative situations (1%).

3.2.5. Provision of information⁽⁵¹⁾

Fedasil recently updated the brochures presenting its mission to the general public. One of the new brochures presents the reception of applicants for international protection in the form of questions and answers. Questions such as, what is an asylum seeker, what kind of aid do they get, where do they stay, how can they integrate in Belgium and how to become a volunteer or make a donation. Furthermore, the brochure explains the role of Fedasil in the reception of applicants for international protection.⁽⁵²⁾

3.3. RESETTLEMENT AND RELOCATION

Relocation

In 2020, Belgium relocated 29 unaccompanied minors from Greece on an ad hoc

basis because of emergency situations in refugee camps in Greece. Following the fire in the Moria camp on the island of Lesbos, Belgium pledged to relocate 150 asylum seekers from Greece. This pledge still needed to be implemented by the end of 2020.

Resettlement

In August 2020 – after a suspension of more than 1 year (since July 2019), due to the lack of reception places – the resettlement programme resumed. As of September 2020 transfers were being organised again. Belgium carried out 176 resettlements, all Syrians. Due to COVID-19 restrictions pre-departure orientation missions took place remotely, through videoconference.

A new federal government took office on 1 October 2020. In its Coalition Agreement, a clear commitment was made to fulfil the resettlement pledges made by Belgium.⁽⁵³⁾ This commitment was later on repeated in the General Policy Note of the new Secretary of State for Asylum and Migration.⁽⁵⁴⁾

In October 2020 political approval was given to temporarily conduct remote selection missions (given the COVID-19 context). In December 2020 Belgium conducted its first remote selection mission in the EASO Resettlement Support Facility (RSF) in Istanbul, Turkey.

Three resettled families with children (14 persons in total) were accommodated through a new community sponsorship project in which the refugees are accom-

51 For the provision of information concerning COVID-19, see chapter 3.2.3 Reception in times of COVID-19.

52 The brochure is available in English, French and Dutch on the website of Fedasil, <https://www.fedasil.be/en/publications>.

53 Coalition Agreement 30 September 2020, p. 92, available at http://belgium.be/sites/default/files/Accord_de_gouvernement_2020.pdf.

54 General Policy Note on Asylum and Migration, 4 November 2020, DOC 55 1580/014, p. 18-20, available at <https://www.dekamer.be/FLWB/PDF/55/1580/55K1580014.pdf>.



modated and accompanied in Belgium by a group of citizens, instead of the traditional reception actors (Fedasil and Public Social Welfare Centres). Community sponsorship aims to bring committed sponsor groups into contact with refugees and to give them a meaningful role in the reception and integration process of vulnerable newcomers. Sponsor groups are supported and monitored by an intermediary organisation. In this first pilot year, Caritas International acted as the only intermediary organisation.⁽⁵⁵⁾

In January 2020, Fedasil published a new brochure about resettlement in Belgium.⁽⁵⁶⁾

3.4. WITHDRAWAL OF INTERNATIONAL PROTECTION

In 2020, for 162 persons the protection status was ceased or withdrawn due to fact that they were involved in public order issues, posed a threat to national security, committed fraud or because their personal behaviour indicated they were not (or no longer) in need of protection.

55 Information available in French and Dutch on the website of Caritas: <https://www.caritasinternational.be/fr/projects/asile-et-migration/du-%e2%80%afcommunity-sponsorship%e2%80%af-pour-les-refugie-e-s-reinstalle-e-s/>

56 Brochure available on the website of Fedasil: https://www.fedasil.be/sites/default/files/content/download/files/resettlement_in_belgium.pdf.





04

MINORS AND OTHER VULNERABLE GROUPS



4.1. MINORS

4.1.1. Identification and registration

Intention to strengthen the identification procedure of unaccompanied minors

In his General Policy Note of 4 November 2020, the State Secretary for Asylum and Migration stated that, in collaboration with the Minister of Justice, the signalling and identification procedure for unaccompanied minors will be strengthened and the accompaniment by the Guardianship Service will be improved. The State Secretary also stressed that cooperation agreements and solid reporting are necessary to prevent unaccompanied minors from disappearing.⁽⁵⁷⁾

4.1.2. International protection for unaccompanied minors

Apart from the impact of the measures put in place to prevent the spread of the coronavirus on the general access to the asylum procedure,⁽⁵⁸⁾ some measures impacted the situation for unaccompanied minors in particular.

Temporary closure of the child-friendly hearing rooms at the Office of the Commissioner General for Refugees and Stateless Persons (CGRS)

Due to the restrictions children were no longer heard in the specifically adapted hearing rooms for children of the Office of the Commissioner General for Refugees and Stateless Persons. The layout of these rooms did not allow to comply with the

required safety conditions, such as plexi-glass screens and social distancing. Children were therefore provisionally heard in the regular hearing rooms. A letter with the layout of the COVID-19 hearing rooms was added to the summons letter for the interviews of unaccompanied minors.

Pilot project concerning the interviewing of unaccompanied minors through videoconference

The Commissioner General for Refugees and Stateless Persons decided to launch, in consultation with the Guardianship Service, Fedasil and the Red Cross, a limited pilot project on video interviews with unaccompanied minors. The project was set up in order to guarantee a continuous functioning in times of COVID-19 and in response to the call of EASO to examine alternatives for the continued processing of applications for international protection in crisis situations. During this pilot project, running from 22 June until 3 July 2020, twelve unaccompanied minors were video interviewed.

Since it was not possible to organise video interviews in the reception centres (due to a lack of infrastructure and staff), the Red Cross and its guardians organised the video interviews at their head office which possesses a meeting room with a large video screen, where the social distancing rules could be better observed.

To check the perception and quality of the personal interview per video connection, a questionnaire was sent to all parties involved (applicant, guardian, lawyer, protection officer and interpreter). The results

57 General Policy Note on Asylum and Migration, 4 November 2020, DOC 55 1580/014, p. 23, available at <https://www.dekamer.be/flwb/pdf/55/1610/55K1610049.pdf>.

58 See chapter 3.1.1 Access to the asylum procedure.

of this survey showed that an interview via video conference is a good alternative to an interview in persona, albeit with some adjustments and compliance with a number of requirements.

However, given that the project on video interviews for adults has (provisionally) been suspended following a judgment of the Council of State, the project for unaccompanied minors can only proceed after the Royal Decree regarding the functioning of the CGRS has been modified.⁽⁵⁹⁾

4.1.3. Reception of unaccompanied minors

Additional reception places for unaccompanied minors

Due to the high occupancy rate, the additional crisis capacity of the three regular Observation and Orientation Centres (239 places), which came into operation in December 2019, was maintained in 2020. In addition, the number of places in the first reception phase was increased by using the full capacity of the specific Observation and Orientation Centre in Sugny (20 places); by creating temporary Observation and Orientation Centre places in the second phase reception centre for unaccompanied minors in the town of Overijse (20 places); and by temporarily allocating newly registered unaccompanied minors to Fedasil's reception partners Synergie14⁽⁶⁰⁾ and SAM asbl⁽⁶¹⁾. All unaccompanied minors received observation and orientation accompaniment at these locations. To meet the high influx, the pre-reception ca-

capacity was also increased by 15 reception places in Samusocial's centre Béjar and 40 reception places in the Arrival Centre.

The total reception capacity for unaccompanied minors increased from 1 692 reception places in 2019 to 2 077 in 2020.

Voluntary departure from the reception network with meal vouchers

In order to reduce the occupancy rate in the reception centres allowing for the rules related to social distancing to be respected and for the isolation capacity within the collective reception centres to be increased, Fedasil decided on 19 March 2020 to facilitate the outflow of residents with an accommodation solution outside the reception network. Residents who had the option to stay elsewhere could, on a voluntary basis, subscribe to the option to leave the reception network with support through meal vouchers. This measure also applied to unaccompanied minors on the condition that they could stay in a safe and stable place outside the reception network and provided the following criteria were met:

- at least 16 years old and sufficiently autonomous (confirmed by the social worker);
- the young person must provide contact details of the person with whom they will be staying (name, address, telephone number, copy of identity card);
- written agreement from the young person's guardian
- the young person must remain reachable by telephone during the entire period

59 See chapter 3.1.4 First instance procedure.

60 <https://www.synergie14.org/synergie14.htm>.

61 <https://www.sam-asbl.be/>.



Every two weeks they received electronic or paper meal vouchers worth €140 during the processing of their asylum procedure and until the end of their right to material aid or until their re-integration into the reception network

Saturation of the reception places for unaccompanied minors in the Observation and Orientation Centres⁶²⁾

Fedasil had to deal with a saturation of the reception places in the Observation and Orientation Centres for unaccompanied minors due to a considerable rise in the number of arrivals of unaccompanied minors in Belgium, starting from the summer of 2020. At the same time, the COVID-19 situation forced Fedasil and the other asylum instances to take special measures with a large impact on the availability of reception places. For these reasons, Fedasil implemented measures to limit the stay of 16-17 year old unaccompanied minors in Observation and Orientation Centres.

Firstly, Fedasil restricted the access of non-vulnerable unaccompanied minors to Observation and Orientation Centres after office working hours

Due to a considerable rise in the number of arrivals and a lack of reception places, Fedasil applied vulnerability criteria since the summer of 2020 to those unaccompanied minors requiring reception after office working hours. Only the following unaccompanied minors were considered vulnerable:

- girls
- minors with a disability, psychological

or medical problems

- boys up to and including 15 years old
- boys with extraterritorial status (intercepted at the airport, at the border)
- potential victims of human trafficking

Boys between the ages of 15 and 18 years were not included in this group of vulnerable youngsters, but the Guardianship Service could request a reception place from Fedasil if deemed necessary. Otherwise, the Guardianship Service tried to provide alternative solutions, for example within the special youth care or with NGOs.

The standard procedure for integrating in a reception facility during office hours remained unchanged.

Secondly, Fedasil implemented, on 24 August 2020, a temporary measure regarding unaccompanied minors from the age of 16, who were sufficiently autonomous and for whom the Immigration Office requested an age assessment. These unaccompanied minors did no longer had to wait for their age assessment and its result in an Observation and Orientation Centre, but were transferred to an adult reception centre with facilities for unaccompanied minors as soon as an age assessment was requested. If, after the age assessment, they were declared underage, they would be transferred to the unaccompanied minors-section within that same reception centre. The measure did not apply to unaccompanied minors with a particular vulnerability (victims of human trafficking, psychological or psychiatric problems) and unaccompanied minors who pose a dan-

62 Unaccompanied minors normally spend a first period of 2 to 4 weeks in the so-called 'Observation and Orientation-phase'. For this purpose, unaccompanied minors are assigned to the specialised Observation and Orientation Centres upon their arrival in Belgium, allowing for a psychosocial and medical analysis of the unaccompanied minor and a qualitative orientation to a more permanent reception facility (second reception phase).

ger to themselves and / or to other residents because of their behaviour or medical situation. This instruction applied from 24 August to 30 October 2020.

Thirdly, another temporary instruction was established by Fedasil in October 2020, reserving the access to the Observation and Orientation Centres for vulnerable unaccompanied minors. According to this instruction, unaccompanied minors aged at least 17 years old and who were not considered to be vulnerable, were assigned, after an initial stay in the Arrival Centre, directly to an adult reception facility if an age assessment was requested by the Immigration Office (confer the instruction above). If no age assessment was requested because there was no doubt about the declared age, they were assigned directly to the unaccompanied minors section of a reception facility of the second reception phase. This instruction applied from 7 October to 30 October 2020.

Creation of additional reception places for ‘autonomous unaccompanied minors’ in federal reception centres (Fedasil)

The two previous instructions of 24 August 2020 and 7 October 2020 were replaced by the instruction of Fedasil of 29 October 2020, which entered into force on 30 October 2020 with the aim to create additional reception capacity for unaccompanied minors in each of the reception centres of Fedasil including a section for the reception of unaccompanied minors (the second reception phase). This instruction on ‘the creation of reception places for autonomous unaccompanied minors in

the Federal reception centres – allocation and accompaniment modalities’, applied to non-vulnerable unaccompanied boys who declared to be at least 17 years old and who met the minimum criteria for autonomy. The unaccompanied minor was assigned to ‘autonomous unaccompanied minor’-reception place in the adult section of reception facilities, where they could nevertheless benefit from an accompaniment and counselling for unaccompanied minors given by the team of the unaccompanied minors-section of the same reception facility. This instruction is still valid.

Profile of the unaccompanied minors in the reception network

By the end of 2020, almost all of the unaccompanied minors accommodated in the reception network were boys, counting for 94,5%.

Of the unaccompanied minors, less than 1% was 11 years or younger, 22% was between 12 and 15 years and the majority was between 16 and 18 years with 78%.

The main countries of origin were Afghanistan (74%), Somalia (6%) Eritrea (4%), Guinea (4%) and Syria (3%).

4.1.4. Guardianship⁽⁶³⁾

The total number of guardians increased from 526 guardians in 2019 to 537 guardians in 2020 of which 301 Dutch-speaking and 236 French-speaking guardians. In total, these guardians had 2946 guardianships in process.

63 Aperçu statistique du service des Tutelles - Eléments mensuels pour 2020 et annuels / Statistieken Dienst Voogdij - Maandelijks voor 2020 en jaarlijks, FPS Justice, Guardianship Service.



In 2020, the Guardianship Service received 3 424 first reports of unaccompanied minors compared to 4 563 in 2019.⁽⁶⁴⁾ This is the number of persons declaring to be an unaccompanied minor (both asylum seekers and non-asylum seekers) when they are reported for the first time to the Guardianship Service by a police service, the Immigration Office or other governmental or administrative services.⁽⁶⁵⁾ The five most important countries of origin were Afghanistan, Eritrea, Morocco, and Sudan. Twenty-five percent were between the age of 11 and 15 and 66% were 16 or 17 years old. The vast majority, 87%, are boys, girls count for almost 12% of the first reports.⁽⁶⁶⁾

Intention to strengthen the accompaniment of the Guardianship Service

In his General Policy of 4 November 2020, the State Secretary for Asylum and Migration stated that, in collaboration with the Minister of Justice, the accompaniment of unaccompanied minors by the Guardianship Service will be improved.⁽⁶⁷⁾ The possibility to ensure the presence of the Guardianship Service in the Arrival Centre for applicants of international protection will also be looked into.

4.1.5. Age assessment

Age assessments temporarily put on hold

As of 14 March 2020, all non-essential consultations, examinations and procedures in all hospitals and clinics in Belgium were temporarily cancelled or postponed to guarantee the capacity to provide COVID-19 patients with the best possible care. The age assessments of unaccompanied minors were temporarily suspended until early May 2020. As a result, the waiting period to undergo an age assessment and to receive the results increased. For most of these unaccompanied minors, the Guardianship Service appointed provisional guardians pending the medical examination.

A doubt regarding the self-declared minority was expressed for 1,872 of the 3,424 persons who were signalled for the first time with the Guardianship Service in 2020. In total 941 age tests were performed. The results of these tests declared 268 of them to be minors and 650 to be adults.⁽⁶⁸⁾

64 In total the Guardianship Service received 6052 reports in 2020, this number contains several reports for the same person.

65 The number of persons effectively identified as unaccompanied minors will be lower since some of them will be declared of age after the age assessment and some cannot be identified because they disappear.

66 For the sake of precision, an "indeterminate" category has been added to the calculation method. This category explains the 1% missing from the 2020 annual data.

67 General Policy Note on Asylum and Migration, 4 November 2020, DOC 55 1580/014, p. 22, available at <https://www.dekamer.be/fluwb/pdf/55/1610/55K1610049.pdf>.

68 The difference between the number of age tests (941), the number of decisions and the sum of young adults (650) and minors (268) is due to the fact that the results arrive with a delay and scheduled tests are sometimes cancelled last minute (sometimes only encoded in the following month or encoded incorrectly). The number of age decisions is also higher than the sum of young adults and minors because for some young people several age decisions are made (for example following the presentation of documents).



4.1.6. Voluntary return of unaccompanied minors

The organisation of voluntary return of unaccompanied minors

Since 16 March 2020, most voluntary returns have been suspended and Fedasil's return desks have been temporarily closed as a result of national and international measures against the spread of the coronavirus. Nevertheless, Fedasil, IOM and Caritas International continued to provide support to minors wishing to return to their country of origin on a case by case basis and remotely (via communication applications such as Skype, Viber and WhatsApp). Due to COVID-19, Fedasil had to work out a quarantine package to bridge the quarantine period requested by the country of return. Returnees were offered a one-time cash premium of €250 for obligatory accommodation to uphold quarantine and an additional €50 for food if this was not included in the accommodation.⁽⁶⁹⁾

Eight unaccompanied minors returned to their country of origin via assisted voluntary return and reintegration in 2020. All of them followed a reintegration trajectory in the country of return.

Furthermore, 33 young adults returned to their country with assisted voluntary return. These young adults were 18 years old on the day of the start-up of the return application, but previously had the status of unaccompanied minors.

The countries of return were: Albania, the Republic of North Macedonia, Gabon, Colombia, Brazil, Kosovo, Cameroun and Romania.

Unaccompanied minors who were prevented from leaving Belgium for reasons of force majeure (quarantine, flight cancellation, border closure, etc.) could request an authorisation to extend their stay.

More thorough family assessments

In its judgment no. 232.297 of 6 February 2020, the Council for Alien Law Litigation annulled an 'Order to Return' (Annex 38) that was served to the guardian of an unaccompanied minor.⁽⁷⁰⁾ The Immigration Office based its decision mainly on the family assessment carried out by an employee of the competent Belgian diplomatic post. And although the application stated that the unaccompanied minor was a victim of domestic violence, the assessment was limited to the socio-economic situation of the family, instead of conducting an adequate research into the situation of domestic violence. According to the Council for Alien Law Litigation, the assessment did not show that there were sufficient guarantees that the unaccompanied minor would have adequate reception and care when returned to the country of origin or that a return was desirable and expedient in the light of the family's capacity to support, educate and protect the child, as required by Article 74/16 of the Immigration Act.

This judgement forces the Immigration Office to motivate its decisions more carefully and to carry out more thorough family assessments that not only take into account and weigh the socio-economic situation and the presence of the parents, but also consider every element that can impact the best interests of the child.

69 See also chapter 10.2.1 Voluntary Return.

70 https://www.rvv-cce.be/fr/arr?search_arr=232297.



Furthermore, the number family assessments for unaccompanied foreign minors increased in 2020, with investigations in Morocco, Suriname, Guinea, Ivory Coast and RD Congo.

4.1.7. Detention during the asylum procedure and for the purpose of return

Due to the entry into force on 11 August 2018 of the Royal Decree of 22 July 2018, which included a new section 3 'Family house' in the Royal Decree of 2 August 2002 on the regime and the operating measures of the closed centres, families could once more be detained and this in closed family units build on the grounds of closed centre 127bis. Between 11 August 2018 and 4 April 2019, irregularly staying families with underage children were detained as a last resort while awaiting their repatriation.

On 4 April 2019, in its judgment no. 244.190, the Council of State partially suspended the implementation of the Royal Decree of 22 July 2018. As a result, irregularly staying families with minor children could in principle no longer be detained in the closed family units on the site of the closed centre 127bis.⁽⁷¹⁾

By its judgment no. 248.424 of 1 October 2020, the Council of State declared article 13 of the Royal Decree of 22 July 2018 partially unlawful, due to the juxtaposition of on the one hand, the possibility for staff

to access unconditionally the family's accommodation between 6 a.m. and 10 p.m. and, on the other hand, the possibility of limiting children's access to outdoor spaces to two hours per day.⁽⁷²⁾

Pending the annulment of the (already) unlawfully found provisions, the Royal Decree of 22 July 2018 remains partially suspended as a result of the Council of State's judgement no. 244.190 of 4 April 2019. As a result, irregularly staying families with underage children are not detained in the closed family units on the grounds of the 127bis closed centre while awaiting their repatriation in 2020.

Furthermore, the new Government stated in its Coalition Agreement of 30 September 2020 that minors, both accompanied and unaccompanied, could not be detained in closed centres.⁽⁷³⁾ This was also explicitly mentioned by the State Secretary for Asylum and Migration in his General Policy Note of 4 November 2020.⁽⁷⁴⁾ It was also mentioned that the government will take alternative measures to prevent this being misused to make return impossible.⁽⁷⁵⁾ The State Secretary declared that the obligation under European legislation to effectively develop and apply less coercive measures for detention is going to be fully implemented. For families with children, the practice of return homes or housing units and other possible alternatives to detention for families without legal residence with minor children will be evaluated and possibly expanded to ensure

71 <http://www.raadvst-consetat.be/?page=news&lang=fr&newsitem=531>

72 <http://www.raadvst-consetat.be/?page=news&lang=fr&newsitem=625>

73 Coalition Agreement 30 September 2020, p. 95, available at http://belgium.be/sites/default/files/accord_de_gouvernement_2020.pdf.

74 General Policy Note on Asylum and Migration, 4 November 2020, p. 34, available at <https://www.dekamer.be/FLWB/PDF/55/1580/55K1580014.pdf>.

75 General Policy Note on Asylum and Migration, 4 November 2020, p. 34, available at <https://www.dekamer.be/FLWB/PDF/55/1580/55K1580014.pdf>.

that (forced) return also remains an option for this target group.⁽⁷⁶⁾

4.1.8. Access to education

Challenges of pre-teaching

The coronavirus crisis put the right to education under heavy pressure. Lessons were suspended for a long period of time and replaced with distance learning. First distance learning was aimed at repetition and further practice of already introduced learning material, afterwards ‘pre-teaching’ was introduced. At the end of April, the National Security Council decided that the schools could gradually restart. On 18 May 2020, children from the 1st, 2nd and 6th grade of primary school and the 6th year of secondary school could go back to school. Distance learning and pre-teaching remained the norm in the other grades.

For children attending welcome or bridging classes to learn the national languages, the situation differed per location and per school. Schools able to organise sufficient safe education, restarted the lessons. In schools where this was not yet possible, sometimes teachers came to the reception centres to teach on a voluntary basis.

In the reception centres, efforts were made to ensure that the children could follow regular exercises and online lessons. Due to the infrastructure and composition of collective reception centres, this was not always easy because of: a large numbers of children, only certain areas with Wi-Fi connection, a limited number of computers, a high workload of employees,

etc. In addition, due to the risk of infection, minimum staffing levels were introduced for the centres and the vast majority of volunteers who helped with homework supervision and who were older than 45 years were no longer allowed to come to the centres.

4.1.9. Resettlement and relocation

Relocation⁽⁷⁷⁾

On 8 May 2020, the Belgian government committed itself to relocate 18 unaccompanied minors from Greece. They arrived in Belgium on 4 August 2020. These 18 young people had already been living in the hotspots of Lesbos and Samos for several months where they were staying alone, without parents or guardians. It concerned 17 boys and one girl. The youngest was 9 years old, the oldest had just turned 18. They originally come from Afghanistan, Syria, Iran, Somalia and Guinea.

On 15 September 2020, the Belgian government committed to relocate 12 unaccompanied minors, following the fire in the Moria refugee camp on the Greek island of Lesbos. Eleven of them arrived in Belgium on 17 December (one youngster arrived in January 2021). As for the ones who arrived in August, these 11 young people had already been living alone in refugee camps on the Greek islands, more specifically in the hotspots of Lesbos, Chios, Samos, and on the Greek mainland for several months. It concerned nine boys and two girls. The youngest was 12 years old, the oldest had just turned 18. They originally came from Afghanistan, Palestine, Somalia and DR Congo.

76 Idem, p. 35.

77 For more information on relocation, see chapter 3.3 Resettlement and relocation.



All the young people were tested for COVID-19 before their departure to Belgium. They were only allowed to travel to Belgium in case of a negative test. Fedasil also provided the usual medical screening upon arrival.

Resettlement

No changes were put in place in 2020 regarding the resettlement of unaccompanied minors and no unaccompanied minors were transferred or selected for resettlement in 2020.

4.2. OTHER VULNERABLE GROUPS

4.2.1. Reception of vulnerable groups

In order to protect persons with an increased probability of developing a severe form of the COVID-19, Fedasil made an inventory of residents in the collective reception centres belonging to risk groups. It concerns residents with a) serious, unstable heart, lung or kidney disease, for example in the terminal phase of the disease; b) Type 2 diabetes combined with obesity, high blood pressure, cardiovascular or kidney disease; c) immunosuppression, haematological malignancies, active neoplasia affecting immunity; d) a high-risk pregnancy; e) severe obesity and residents over the age of 70 years of age. These residents were transferred to a more adapted, often individual reception places, but also to smaller reception centres, to rooms with private sanitary and kitchen, in a separate corridor away from other residents.

4.2.2. Applicable procedural safeguards

New guidelines and training on handling applications based on sexual orientation

In October 2020, the Office of the Commissioner General for Refugees and Stateless Persons finalised new internal Guidelines for the processing of applications for international protection made on the basis of a fear related to sexual orientation. On the occasion of the dissemination of these Guidelines, the CGRS organised a mandatory training for all protection officers and supervisors on the new policy and new practices. These new guidelines and training sessions were necessary to take into account, in particular, the case law of the Court of Justice of the EU. There was also a need to change the method of assessing the credibility of the sexual orientation. An important part of the guidelines and of the training session provided more complete and precise information on sexual orientation, as well as on homophobia. This information better deconstructed stereotypes and made it possible to understand the diversity of possible experiences of homosexual and bisexual individuals.

Training on Gender Identity

In January 2020, the CGRS organised a specific training session on Gender Identity. It was provided to 20 highly specialised protection officers and supervisors. The aim of this training session was to improve knowledge on this specific and relatively new topic in the asylum procedure.

Priority for vulnerable persons in the convocation procedure

After the introduction on 3 April 2020 of the COVID-19 proof convocation system on the basis of an online form, the number of convocations for lodging and registering an asylum application at the Arrival Centre was limited in function of the operational capacity of the Immigration Office and Fedasil. Priority was given to vulnerable persons. The selection was made by employees of the Immigration Office based on the information provided on the online form and mainly concerned families with children, (persons over 65 years of age) and unaccompanied minors.

4.2.3. Taskforce vulnerable groups

In April 2020, the Ministers of Poverty Reduction and Social Integration established the “Task Force for Vulnerable Groups” to find solutions to the problems that vulnerable people face during the COVID-19 crisis. The Taskforce consists of the Federal Ministers for Poverty Reduction, Social Integration and Social Affairs and the Regional Ministers for Poverty and Social Action.

The taskforce is assisted by a working group ‘Social Impact COVID-19’, consisting of representatives of the administrations who provide technical and scientific analyses. There is also a consultation group that provides relevant input from the field and consists of experts from civil society organisations.

The Taskforce is tasked with:

- assessing the impact of the epidemic, the coronavirus measures and the socio-economic measures of the different policy levels on vulnerable persons,
- identifying people who fall outside the socio-economic measures and making their problems visible,
- proposing additional socio-economic measures,
- encouraging coordination with the federated entities in order to ensure better alignment of measures.

In 2020, several measures were taken to support vulnerable people. For example, the federal winter shelter for the homeless was extended, support went to local reception, additional funds were released for the food banks and the Public Social Welfare Centres were given resources to distribute food aid. With the new task force, however, the initiating ministers want to go a step further. They want to examine in a structural manner which problems vulnerable groups are currently facing and look for solutions.⁽⁷⁸⁾

4.2.4. Migrants in transit

In the French Community, a circular letter was sent to local authorities to raise awareness on the situation of migrants in transit on 21 September 2020. This letter reminds local authorities of the tools available to local authorities to help migrants in transit and the rules relating to urgent medical assistance.⁽⁷⁹⁾

78 More information is available on <https://www.mi-is.be/fr/outils-cpas/task-force-groupes-vulnerables>.

79 Ministre des Pouvoirs locaux et Ministre de l'Action sociale du Gouvernement wallon, Circulaire visant à informer, sensibiliser et outiller les acteurs pour faire face à la situation des migrants en transit, 21 septembre 2020, <https://interieur.wallonie.be/index.php/node/928>.





05

INTEGRATION

5.1.1. Migration - Integration strategy

Establishment of the Inter-Ministerial Conference ‘Migration and Integration’

The Council of Ministers of 18 December 2020 approved the establishment of an Inter-ministerial Conference on Migration and Integration on the proposal of the State Secretary for Asylum and Migration.

The successive state reforms have transferred various competences or parts of competences on migration and integration policy to the federated states (regional authorities). However, migration and integration are pre-eminently policy areas in which a regular dialogue between policymakers is necessary. This Inter-ministerial Conference provides a consultation platform for the competent federal and regional authorities in order to ensure a coherent migration and integration policy across policy levels.

5.1.2. Education for adults

Difficult access to adult language training for applicants for international protection

The situation for adults who wanted to take language lessons was complicated because of the measures taken to prevent the spread of COVID-19. Adult education mainly continued in distance learning. For applicants for international protection in the reception centres, this meant that many of them had to follow the lessons on their mobile phones,

since there were only a few centres that had enough laptops available for this purpose. In addition, the poor and limited Wi-Fi connection in the reception centres posed problems and there was a lack of quiet spaces to follow the courses (communal relaxation/leisure areas were closed and computer rooms were often also used for other activities, such as online education for children, online consultations with psychologists, etc.). This meant that many residents were unable to take language lessons.

5.1.3. Labour market and skills

Employment of foreign nationals in a specific residence situation

In implementation of the Law that authorises the King to take measures to combat the spread of the coronavirus of 27 March 2020(80), the Special Powers Decree No. 14 contained a number of supporting measures which aimed to ensure the work organisation in the critical sectors.⁽⁸¹⁾

Under the normal rules, applicants for international protection who have not yet received a first instance decision on their asylum case within four months following the lodging of their asylum application are allowed to work. In view of the shortage of workers in some sectors due to the closing of the borders, this condition was waived from 1 April 2020 until 30 June 2020. The condition is, however, that the application for international protection is registered on 18 March 2020 at the latest. Moreover, this derogation can only be used if the em-

80 Law enabling the King to take measures to combat the spread of the coronavirus COVID-19 (II), Belgian Official Gazette, 30 March 2020, http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2020032702&table_name=loi.

81 <http://www.ejustice.just.fgov.be/eli/bsluit/2020/04/27/2020030838/staatsblad>.

ployer is responsible for the reception of the asylum seeker.

In view of the continued shortage of workers in some sectors due to the closing of the borders, this measure was resumed from December 2020 until 31 March 2021. The condition is, however, that the application for international protection is registered on 8 December 2020 at the latest. And as before, the derogation can only be used if the employer takes responsibility for the accommodation of the applicant for international protection.

5.1.4. Housing

Extension of the transition period for beneficiaries of international protection as a result of the temporary closure of the housing market

Due to the corona measures, it was not possible to view rental homes or housing for sale during several months. As a result, persons who obtained a right of residence of more than three months could not look for a home which made it impossible to leave the reception network within the transition period of two months.

As a result, Fedasil decided not to count the periods in which the residents could not look for housing as part of the transition period and to take this into account when granting a postponement of departure from the reception structure.

5.1.5. Civic integration programmes

Flemish Community

The Flemish government decided to enhance the performance and the effectivity of the civic integration policy in Flanders. Based on the Concept Note to the Flemish Government of 17 July 2020 concerning the redrawing of the civic integration trajectory,⁽⁸²⁾ the legal trajectory for the amendment of the current decree of Flemish Government concerning the Flemish integration and civic integration policy of 7 June 2013⁽⁸³⁾ will take place.

Some of the most important changes will be:

- a more strictly defined target group (applicants for international protection are no longer eligible)
- strengthening of the civic integration programme with an immediate registration with the Flemish Public Employment Service and an additional participation and network trajectory⁽⁸⁴⁾
- civic integration will no longer be free of charge

The goal is to have the redesigned civic integration policy start effectively on 1 January 2022.

French Community

With the COVID-19 health crisis, various measures have been taken in the social action sector. Concerning the integration trajectory for newcomers. The Decree of the

82 VR 2020 1707 DOC.0868/1 – Nota aan de Vlaamse Regering - Betreft: Hertekening inburgeringstraject, <https://www.vlaanderen.be/publicaties/hertekening-inburgeringstraject-conceptnota>.

83 <https://codex.vlaanderen.be/zoeken/document.aspx?DID=1023121¶m=inhoud>.

84 In July 2020, the Flemish government, together with the European Fund for Asylum, Migration and Integration (AMIF), issued a call for projects for local authorities to set up testing grounds for "social networks and participation" for newcomers. Meanwhile, 26 projects have been selected. The pilot projects will start on 1 January 2021 and will run until June 2022.

Walloon Government of Special Powers n° 2, n° 3 and n° 20 relating to the temporary suspension of the deadlines set in all the legislation and the Walloon regulations suspended the deadlines between 18 March 2020 and 30 April 2020. The legal term of 18 months to complete the integration trajectory was extended by 12 months in order not to penalise those impacted by the health crisis (articles 11 and 12 AGW of special powers no. 63).⁽⁸⁵⁾

Brussels Capital Region

No compulsory integration trajectory in 2020

With the cooperation agreement between the Common Community Commission on the one hand and the Flemish Community Commission (VGC) and French Community Commission (COCOF) on the other hand, concluded on 20 December 2018 and approved in May 2019, the compulsory integration trajectory in Brussels would have normally started on 1 January 2020, but due to practical and technical problems it did not.⁽⁸⁶⁾ Legislation was submitted for adoption to amend the Decision of 19 July 2018 regarding the integration process for newcomers, with the aim of resolving a number of this (practical) issues, mainly with regard to suspensions and exemptions to participate in the mandatory integration programme.⁽⁸⁷⁾

In the meanwhile, in 2020, the Joint Board of the Common Community Commission,

together with the representatives of all the actors involved (Brussels municipalities, Flemish Community, French Community and the reception agencies for integration (BON and the BAPA's), held intensive meetings with a view to defining a detailed process to implement the mandatory civic integration trajectory based on the existing legal framework and the possibilities for using an IT tool to monitor the participants obligated to integrate and to share information between the Brussels Region, the various operators and the municipalities, thus facilitating coordination. At the end of 2020, the political decision was made on the process and the type of IT tool that will be used, and which will be developed in 2021.

German-speaking Community

In 2020, the Decree of 11 December 2017 on the integration and the coexistence in diversity of the German-speaking Community has been adapted based on practical experiences. This Decree which entered into force on 1st January 2018, established a mandatory integration programme for certain third-country nationals in the German-speaking Community, which includes a module on the social and professional orientation of newcomers.⁽⁸⁸⁾ In 2020 the concept of higher-level language classes (B1-B2) is still an ongoing process to guarantee a labour market integration. Since the establishment of the Decree in 2017, it was noticed that a successful integration in the labour mar-

85 <http://actionsociale.wallonie.be/actualites/coronavirus-COVID19>.

86 Decree of 3 May 2019 approving the cooperation agreement of 20 December 2018 between the Flemish Community, the French Community Commission and the Joint Community Commission on the compulsory integration programme for newcomers in Brussels-Capital, *Belgian Official Gazette*, 4 June 2019.

87 Decision of 19 July 2018 of the United College implementing the Order of the Joint Community Commission of 11 May 2017 on the integration process for newcomers, *Belgian Official Gazette*, 1 February 2019.

88 Decree on integration and living together in diversity) adopted by Parliament on the 11 December 2017, *Belgian Official Gazette*, 20 December 2017. http://www.ejustice.just.fgov.be/mopdf/2017/12/20_2.pdf#page=282.

ket requires rather a B1-B2 level of the Common European Framework of Reference for Languages in German or French instead of an A2 level.

5.1.6. Fighting racism and discrimination

Creation of Inter-ministerial Conference on Anti-Racism and preparation of Belgium's first Inter-federal Action Plan against Racism

On 19 February 2020, the Consultation Committee⁽⁸⁹⁾ approved the creation of the Inter-ministerial Conference on Anti-Racism, whose task is to strengthen cooperation between the different policy levels and to develop an inter-federal policy to better combat racism in the broad sense. The Inter-ministerial Conference is also preparing Belgium's first 'Inter-federal Action Plan against Racism'. The starting note was approved by the various governments on 25 September 2020. The note is the starting point for a process through which all governments in Belgium will join forces to arrive at an 'Inter-federal Action Plan against Racism'. The note proposes a process and method and contains the substantive outlines of the future action plan. This includes better monitoring of racism, supporting victims and tackling cyber hatred. In addition, policy area-specific measures will be taken, for example in the field of work, education, sports and culture. The various social actors, such as

the target groups themselves and civil society, will be involved in this process.

Regional approach in tackling discrimination

Since 2020, Unia, the Interfederal Equal Opportunities Centre, has a renewed regional approach, with five regional contact points spread across Flanders, four in Wallonia and one in the German-speaking Community, allowing local authorities a low-threshold access to the expertise centre.⁽⁹⁰⁾ This way, Unia can pick up signals more easily, respond faster to local situations and quickly and efficiently assess the necessary measures in the event of incidents. Conversely, the regional contact points translate larger themes or campaigns to the city or region concerned.⁽⁹¹⁾

5.1.7. Pre-departure programme

At the request of Enabel, the Belgian Development Agency, Fedasil organised in February 2020 in Morocco an alternative form of BELCO, the cultural orientation programme that originally was developed for the pre-departure preparation of selected refugees before resettling in Belgium. It concerned an adaptation for the candidates of Enabel's PALIM's project and consisted of information sessions for Moroccan computer specialists, trained in IT, English & Soft Skills and candidates for a job in the ICT sector in Flanders with the aim of preparing them for a possible stay in Belgium.

89 The Consultation Committee is the central point for consultation, cooperation and coordination between the federal government, the Communities and the Regions. It is a political body at the level of the governments. It consists of an equal number of federal and regional ministers, and an equal number of Dutch-speaking and French-speaking ministers. The Committee helps prevent conflicts of jurisdiction and resolve conflicts of interest.

90 Unia's headquarters can still be found in Brussels.

91 <https://www.unia.be/nl/contact-opnemen-met-unia/onze-lokale-contactpunten#Vlaanderen>.

A second pre-departure orientation for candidates already selected by Belgian companies could not be organized because of the COVID-19 pandemic and the project runs behind schedule.





06

**CITIZENSHIP AND
STATELESSNESS**



6.1. ACQUISITION OF CITIZENSHIP

On 6 May 2020, the federal government adopted a Royal Decree to execute the Law of 18 June 2018 modifying the Nationality Code. The Royal Decree regulates certain procedural aspects, e.g. regarding the documents taken into account as evidence of the previous legal stay of the applicant and the return of submitted documents.⁽⁹²⁾

According to Art. 11bis Belgian Nationality Code,⁽⁹³⁾ a child born in Belgium may obtain the Belgian nationality on the basis of a declaration by his or her parents if certain conditions are fulfilled. The Royal Decree of 6 May 2020 lists the documents that ought to be submitted to support this declaration, such as a birth certificate of the child and a residence permit of unlimited duration of one of the parents. The Decree also simplifies the administrative procedure by setting out specific instructions for civil servants, for instance with regard to the collection of certain official documents.⁽⁹⁴⁾

In principle, public prosecutors may give a negative advice on applications for citizenship within a period of four months.⁽⁹⁵⁾ In the context of the COVID-19 crisis, this time limit was prolonged for one month (for applications introduced before 24 December 2020) and two months (for applications introduced between 24 December 2020 and 31 March 2021).⁽⁹⁶⁾

6.2. STATELESSNESS

In the fall of 2020, the new federal government announced that it would search a solution for certain stateless persons who could not return to their country for reasons beyond their control.⁽⁹⁷⁾ In his first general policy note, the new State Secretary for Asylum and Migration confirmed that in the future, recognition as a stateless person would lead to a residence right if certain conditions were met.⁽⁹⁸⁾

92 Royal Decree of 6 May 2020 modifying the Royal Decree of 14 January 2013, *Belgian Official Gazette*, 10 June 2020.

93 Art. 11bis Belgian Nationality Code of 28 June 1984, as modified by the Law of 18 June 2018.

94 Royal Decree of 6 May 2020 determining the documents and evidence to be added to the declaration on the granting of the Belgian nationality on the basis of Art. 11bis of the Belgian Nationality Code and the content of the form regarding the declaration, *Belgian Official Gazette*, 10 June 2020.

95 Art. 11bis and Art. 15 Belgian Nationality Code of 28 June 1984.

96 Art. 53 of the Law of 20 December 2020 concerning various temporary and structural provisions on justice as part of the fight against the spread of the COVID-19 virus, *Belgian Official Gazette*, 24 December 2020.

97 Coalition Agreement 30 September 2020, p. 96, available at http://belgium.be/sites/default/files/accord_de_gouvernement_2020.pdf.

98 General Policy Note on Asylum and Migration, 4 November 2020, DOC 55 1580/014, p. 23, available at <https://www.dekamer.be/flwv/pdf/55/1610/55K1610049.pdf>.





07

**BORDERS,
VISA AND SHENGEN**



7.1. ENHANCED BORDER MANAGEMENT AT THE EXTERNAL BORDERS

7.1.1. Border control measures and management

Several new developments in relation to border control measures and management were implemented during 2020.

For example a working group consisting of experts from the Belgian Passenger Information Unit (BelPIU),⁽⁹⁹⁾ ICT experts from the FPS Home Affairs, and migration and ICT experts from the Federal Police, has officially been established in 2020. Under its guidance, organisational procedures will be set up and technical developments will be realised in 2021, in order to make the analysis of API for border and immigration purposes possible. The Immigration Office will be a key player in the implementation of this matter.⁽¹⁰⁰⁾

An evaluation of the national API/PNR was started in September 2020 and will determine the needs for making the use of passenger data more effective in the fight against terrorism, serious crime and border-related risks.⁽¹⁰¹⁾

During 2020, Belgium organised various meetings in the framework of the European Informal Working Group on PNR. This working group, which is chaired by Belgium, aims at gathering experts on the processing of passenger data to exchange best practices and decide on common procedures. These meetings brought together hundreds of experts in the field.

The latest (virtual) meeting took place in December 2020 and was introduced by EU Commissioner Ms Johansson and the Federal Minister for Home Affairs Ms Verlinden.

The latter emphasised the importance of cross-border cooperation and announced the development of BelPIU into a Travel Intelligence Centre, integrating the analysis of API and PNR as well as the newly established ETIAS unit.⁽¹⁰²⁾

In 2020, BelPIU processed 85% of passenger data (API and PNR) from incoming, outgoing and transiting air passengers (compared to 75% in 2019).

Because of the COVID-19 pandemic and the travel restrictions resulting therefrom, the number of incoming flights at Belgian airports dropped dramatically. This had of course an impact on the number of third-country nationals that tried to enter the territory irregularly. For example in 2019 more than 2,318 refoulements were executed. In 2020 this number dropped to 808.⁽¹⁰³⁾

7.1.2. Activities to improve the effectiveness of controls at external borders

BelPIU has been assigned as the national ETIAS unit in 2019. ETIAS is part of the European Smart Borders Package and has as main purpose to introduce an additional border check to tackle sanitary, security and migration risks.

99 BelPIU is part of the Crisis Centre of the Federal Public Service Home Affairs, and collects, saves and analysis information of passengers who use international transportation from, to or in Belgium. It became operational in January 2018, in the framework of measures in the fight against terrorism and crime.

100 Federal Public Service Home Affairs, Belgian Passenger Information Unit (BelPIU)

101 Federal Public Service Home Affairs, Belgian Passenger Information Unit (BelPIU)

102 Federal Public Service Home Affairs, Belgian Passenger Information Unit (BelPIU)

103 Immigration Office, Border Control Unit

From October 2019 to June 2020 a business analysis has been conducted in Belgium, on the basis of which a functional analysis has been elaborated in November and December 2020. This analysis describes among others the different technical developments to be made in Belgium to connect with the central ETIAS system and to make ETIAS requests available to the different competent authorities.

Legal work also started to make the implementation of the ETIAS Regulation in national law possible. Legal and technical work will continue in 2021.⁽¹⁰⁴⁾

7.1.3. Reinforced cooperation with third countries in area border management

Several agreements and other forms of bilateral and multilateral cooperation with third countries with an objective to strengthen operational capacity in combatting irregular migration and control of external borders were completed, signed or entered into force in 2020

For instance the project project called 'Amélioration des capacités opérationnelles et stratégiques pour une gestion efficace des frontières dans la Province du Tanganyika (Kalemie) en République Démocratique du Congo' was finished in 2020. The objective of the project was to give the provincial Migration Services access to the central data system of the 'Direction Générale de la Migration' in the capital Kinshasa.

Another project in DR Congo, called 'Amélioration des capacités opérationnelles et stratégiques pour une gestion efficace des frontières dans la Province du Kwango (Kenge)', was authorised and financed in 2020. This project, which will start in 2021, aims to build a central post in the province Kwango, near the border with Angola, in the city of Kenge. This central post will coordinate about 42 border posts and will train border officials.

These projects are part of a long-term commitment of the Immigration Office to help the DR Congo in developing a coherent migration policy and more specifically an efficient border control.⁽¹⁰⁵⁾

The Belgian Minister of Foreign Affairs and Defence and the United States Ambassador signed a "preclearance" agreement on 29 September 2020. This agreement will allow passengers boarding flights from Brussels Airport to the United States to clear U.S. customs and immigration prior to embarkation in Brussels, and to save time upon arrival.

With preclearance, U.S. Customs and Border officers in Brussels will conduct the same immigration, customs, and agriculture inspections of international air travellers currently performed upon arrival in the United States.

Before the agreement can become operational, it must be ratified by the Belgian Parliament, and further technical agreements remain to be concluded with the Brussels Airport Company.

104 Federal Public Service Home Affairs, Belgian Passenger Information Unit (BelPIU)

105 Immigration Office, Immigration Liaison Officers Belgium (Ilobel) Unit.



Once the programme is operational, Brussels will be the first location for U.S. preclearance operations in mainland Europe.⁽¹⁰⁶⁾

The existing so called Eurostar agreement between the UK, France and Belgium signed in 1993 has been modified to include the Netherlands. The new agreement, which also takes into account the Brexit, was signed on 7 July 2020. It determines border controls between the UK on one side, and France, the Netherlands and Belgium on the other side. The agreement enables “juxtaposed border checks” whereby passengers prior to their departure are checked successively by border officials from the departure and arrival countries.⁽¹⁰⁷⁾

ders, in accordance with article 28 of the Schengen Borders Code.⁽¹⁰⁹⁾ By letters of 20 March, 30 March, 17 April and 30 April the Minister of the Interior, Security and Foreign Trade informed the Council of the EU, the EU Parliament and the European Commission about this temporary reintroduction. These controls at the internal borders were deemed necessary by the Belgian authorities to ensure that the measures of non-essential movements and social distancing were complied with.

Three Schengen evaluation missions took place in 2020: return, borders and data protection.⁽¹¹⁰⁾

Due to the COVID-19 crisis, the visa Schengen evaluation of Belgium that was also scheduled in 2020 has been postponed to 2021 or maybe even 2022.⁽¹¹¹⁾

7.2. VISA POLICY AND SCHENGEN

7.2.1. Visa policy

In February 2020 the new EU Visa Code entered into force. This Code has been fully implemented in the Belgian diplomatic posts.⁽¹⁰⁸⁾

7.2.2. Schengen governance

In order to tackle the COVID-19 pandemic, several Ministerial Decrees were adopted in 2020. One of the measures indicated in the decrees, was the temporary reintroduction of border controls at internal bor-

106 Federal Police, General Directorate Administrative Police, Directorate of Operations, Migration Unit & [article](#) on website Federal Public Service Foreign Affairs.

107 Federal Police, General Directorate Administrative Police, Directorate of Operations, Migration Unit.

108 Federal Public Service Foreign Affairs.

109 Immigration Office, Border Control Unit & Federal Public Service Home Affairs, International Relations Unit

110 Federal Public Service Home Affairs, International Relations Unit

111 Federal Public Service Foreign Affairs







08

**IRREGULAR MIGRATION
INCLUDING MIGRANT SMUGGLING**



8.1. PREVENTING AND TACKLING OF MISUSE OF LEGAL MIGRATION CHANNELS

8.1.1. Misuse of legal migration channels by third-country national workers

Due to the COVID-19 pandemic, a number of workers in Belgium were temporarily unemployed. The Belgian authorities approved financial support measures to help them out.

At the end of 2020, the Immigration Office found out that some third-country nationals abused these support measures. They falsely claimed to be EU-citizens and used false identity documents, salary slips and employment contracts. It often concerned Moldovans who claimed to be Romanians.

The municipalities were made aware of this kind of fraud, and were informed about how to detect such cases and which steps to take to tackle this fraud.⁽¹¹²⁾

8.1.2. Misuse of family reunification channels

The so called “Belgian route” has been known for years. It refers to EU citizens who move to a different Member State than their own in order to facilitate family reunification with a third-country national (EU Directive 2004/38/EC and article 47 of the Belgian Immigration Act).

Especially Dutch nationals of Surinamese origin and Surinamese nationals make use of the Belgian route. Belgian municipalities who are close to the Dutch border are mainly confronted with this issue.

In 2020, with the help of municipalities at the border, the Immigration Office mapped the Belgian route and looked into ways to tackle abuses (e.g. sham relationships).

Because of the pandemic, the workload of some units within the Immigration Office, for example the Permanency Unit, decreased. For this reason, staff of these units helped the Investigations Unit to check potential marriages of convenience. As a result the backlog was nearly cleared.⁽¹¹³⁾

8.2. FALSE TRAVEL DOCUMENTS

The Federal Task Force “Prevention and combating of identity fraud” is a network of experts from the Federal Police, the Federal Public Service Foreign Affairs, the Immigration Office, and the Federal Public Service Home Affairs (civil registry).

In the beginning of 2020 the Task Force had worked out an information session for staff of municipalities on different kinds of identity fraud. The information session would be held multiple times in order to reach as many municipalities as possible. Because of the pandemic, the information sessions were postponed to 2021. It wasn't possible to organise the information sessions online, because of the practical exercises.⁽¹¹⁴⁾

The European Commission took an implementing decision on 30 April 2020 on the integration of a 2D barcode in the EU visa sticker in order to improve the check and security on the use of it.

112 Immigration Office, Investigations Unit

113 Immigration Office, Investigations Unit

114 Immigration Office, Investigations Unit



At the end of 2020 Belgium started to look into the possibility to use the 2D barcode technology already applied for the Belgian passports, to achieve economies of scale and save time to be ready for the entering into force of this decision mid-2022.⁽¹¹⁵⁾

8.3. THE FIGHT AGAINST SMUGGLING AND PREVENTION OF IRREGULAR STAY

8.3.1. Combatting smuggling

For several years, transmigration to the UK has been an important issue in Belgium. This remained the case in 2020.

In 2020 the Immigration Office placed, with the help of the Flemish Agency Roads and Traffic, 16 billboards near parking lots that are often used by transit migrants. The billboards informed truck drivers of the risk of transit migrants climbing into their trucks.⁽¹¹⁶⁾

In November 2020 it was announced that 56 cameras were going to be installed in the city and port of Zeebrugge. The cameras will be placed on 34 different locations, for example in the city, the port, and on the beach of Zeebrugge. The purpose of these cameras is to tackle crime and transmigration in the area. They are co-financed by the UK Border Force.⁽¹¹⁷⁾

8.3.2. Prevention of irregular migration

In Guinea, the OMEGA campaign, which was launched in 2018, ended in 2020. OMEGA stands for 'Opportunité Pour Un Meilleur Avenir En Guinée et En Afrique'. OMEGA is an IOM information campaign through social media to prevent irregular migration, and was co-financed by Belgium.⁽¹¹⁸⁾

In 2020 the European Commission agreed with a proposal of IOM Tirana, Belgium and the Netherlands to organise an information campaign in Albania, called ARISE-ALL. This abbreviation stands for 'Awareness Raising and Information for Safety and Empowerment for All'. In December 2020, the grant agreement for this campaign was signed. ARISE-ALL aims to reduce irregular migration from Albanian nationals, and make them aware of local development initiatives and the possibility of regular migration.⁽¹¹⁹⁾

115 Federal Public Service Foreign Affairs

116 Immigration Office, Ilobel Unit

117 Article 'Zeebrugge legt rond haven cameraschild aan' in newspaper 'De Standaard' of 24.11.2020.

118 Immigration Office, Ilobel Unit

119 Immigration Office, Ilobel Unit





09

**TRAFFICKING
IN HUMAN BEINGS**



9.1. NEW DEVELOPMENTS

In his first general policy note, the newly appointed Secretary of State for Asylum and Migration emphasised that tackling human smuggling and human trafficking would be an absolute priority for the new federal government. He also stated that victims of trafficking should be informed about possibilities to obtain residence rights, and stressed the crucial role of the specialised centres for victims of trafficking.⁽¹²⁰⁾

The National Plan on Trafficking in human beings 2015-2019 was updated in 2020 pending the formation of a new government. At the end of 2020 the drafting of a new Action Plan for the upcoming period 2021-25 was started.⁽¹²¹⁾

9.2. IDENTIFICATION OF VICTIMS OF TRAFFICKING

9.2.1. Training

Several trainings on human trafficking were organised in 2020, for example by the Central Directorate for the fight against Serious and Organised Crime (DJSOC) of the Federal Judicial Police. The DJSOC organised a seminar for specialised police officers and partners (such as social inspectors and specialised public prosecutors). The emphasis of the webinar was on the international approach of criminal investigations in trafficking and smuggling of human beings.⁽¹²²⁾

DJSOC also gave a training on trafficking in human beings to various actors, including the local police and the army. To the Federal Public Service Public Health a training was given on trafficking in human beings in general and more specifically on trafficking in organs.

The National Social Security Office (NSSO) elaborated a syllabus relating to trafficking in human beings (economic exploitation and other forms), smuggling in human beings and slumlords (“marchands de sommeil” in French, “huisjesmelkers” in Dutch).⁽¹²³⁾

9.2.2. Awareness raising

On the World Day Against Trafficking in Persons (30 July 2020) the United Nations Office on Drugs and Crime (UNODC) and its partners across Belgium came together to raise awareness about the fight against human trafficking and to pay homage to the work of first responders to human trafficking. As part of the celebrations for the World Day, the key figure of Brussels folklore, Manneken-Pis, received from UNODC its 1 047th costume, inspired by the Blue Heart Campaign. Another action was the lightning of various city halls and other iconic buildings in Brussels, Bruges and Ghent.⁽¹²⁴⁾

On the 18th of October “Photo-Voice”, an online photo exhibition, was organised by

120 General Policy Note on Asylum and Migration, 4 November 2020, DOC 55 1580/014, p. 21, available at <https://www.dekamer.be/FLWB/PDF/55/1580/55K1580014.pdf>.

121 Federal Migration Centre Myria, *Rapport annuel traite et trafic des êtres humains 2020: derrière des portes closes*, December 2020, p. 36, available at <https://www.myria.be/fr/publications/rapport-annuel-traite-et-traffic-des-etres-humains-2020-derriere-des-portes-closes>.

122 Federal Judicial Police.

123 National Social Security Office.

124 For more information: <https://www.unodc.org/unodc/en/frontpage/2020/August/unodc-brussels-and-partners-celebrate-the-world-day-against-trafficking-in-persons.html>

PAG-ASA, an organisation providing assistance to victims of human trafficking, to mark the EU Anti-Trafficking Day.

As the independent national rapporteur on trafficking in human beings in Belgium, the Federal Migration Centre Myria published its independent and public annual report in this regard. The 2020 edition of the report focuses on the exploitation of domestic workers. Special attention is also given to the impact of the COVID-19 crisis on the fight against trafficking in human beings. The report is addressed to the government and parliament, and intends to provide a boost and offer support to the actors in the field.⁽¹²⁵⁾

9.2.3. Cooperation between Member States

A new development in international cooperation on tackling human trafficking, is that EIOs (European Investigation Orders) are being used more often.⁽¹²⁶⁾ EIOs from other countries to Belgium do not necessarily open new cases in Belgium.

125 Federal Migration Centre Myria, *Rapport annuel traite et trafic des êtres humains 2020: derrière des portes closes*, December 2020, available at <https://www.myria.be/fr/publications/rapport-annuel-traite-et-traffic-des-etres-humains-2020-derriere-des-portes-closes>.

126 The European Investigation Order (EIO) is an EU legal instrument aimed at speeding up the assistance provided by one country to another in criminal investigations. The EIO has been created by Directive 2014/41/EU of the European Parliament and of the Council (dated 3 April 2014).





10

**RETURN AND
READMISSION**



10.1. GENERAL POLICY DEVELOPMENTS IN THE AREA OF RETURN

On 30 September 2020 Belgium saw a new Federal Government. The newly appointed Secretary of State for Asylum and Migration made clear in his General Policy Note that the issue of return would be a priority during his term.⁽¹²⁷⁾ Belgium wants to increase close coaching of migrants towards return and to invest more in (assisted) voluntary return.⁽¹²⁸⁾ The Secretary of State also conveyed the importance of investing in additional detention centres and the shortening of procedures, e.g. by digitalization.⁽¹²⁹⁾

When it comes to return operations, measures were taken to prevent COVID-19 from spreading. In general return operations, including identification and detention, continued, though on a smaller scale.

Fedasil published a brochure on voluntary return. The brochure contains all essential information about voluntary return from Belgium. It is intended for organisations that come into contact with migrants.⁽¹³⁰⁾

10.2. ASSISTED VOLUNTARY RETURN

10.2.1. Voluntary return

In 2020, 1,847 people returned voluntarily to their country of origin with the help of Fedasil.⁽¹³¹⁾ This roughly translates to a decrease of 24% compared to the year before. The decrease is mainly due to the measures taken at a national and interna-

tional level in the fight against COVID-19.

Due to COVID-19, Fedasil had to work out a quarantine package. This means that if a quarantine period was requested by the country of origin, returnees were offered a one-time cash premium: €250 for obligatory accommodation to uphold quarantine and €50 for food if this was not included in the accommodation.⁽¹³²⁾

In case of voluntary return, some migrants were obliged to obtain a negative test result, depending on the country of origin. Costs related to COVID-19 testing were funded by the Voluntary Return Programme.

10.2.2. Reintegration measures

COVID-19 did drive new developments in 2020, especially concerning reintegration:

- Flexibility in cash reintegration support due to lockdowns and COVID-19 related measures (in terms of the amount and always on a case-by-case basis).
- Flexibility in prolongation of reintegration support: instead of being allowed to use the reintegration package for one year, Fedasil allowed upon request an 18 months use of the package.

An emergency fund can be used for reintegration activities affected by COVID-19.

127 Policy Paper on Asylum and Migration, presented before the Belgian Federal Parliament on the 18th of November 2020 by the State Secretary Sammy Mahdi, p. 7., <https://www.dekamer.be/FLWB/PDF/55/1580/55K1580014.pdf>.

128 Policy Paper on Asylum and Migration, presented before the Belgian Federal Parliament on the 18th of November 2020 by the State Secretary Sammy Mahdi, p. 13 and p. 30-34, <https://www.dekamer.be/FLWB/PDF/55/1580/55K1580014.pdf>.

129 Policy Paper on Asylum and Migration, presented before the Belgian Federal Parliament on the 18th of November 2020 by the State Secretary Sammy Mahdi, p. 13 and p. 38, <https://www.dekamer.be/FLWB/PDF/55/1580/55K1580014.pdf>.

130 <https://www.retourvolontaire.be/nl/publications/voor-organisaties>, downloadable in Dutch, French and English.

131 Information provided by the department Voluntary Return of Fedasil.

132 Internal information from the Voluntary Return Unit of the Federal Agency for the Reception of Asylum Seekers (Fedasil).

10.3. FORCED RETURN AND DETENTION

The new Government stated in its Coalition Agreement of 30 September 2020 that migrants who receive a return decision will be more actively accompanied and coached towards the organisation of their return (when possible voluntary but if necessary by force).⁽¹³³⁾

In the beginning of the COVID-19 pandemic, persons who had already received a return decision could apply for a prolongation of the period to leave the Belgian/Schengen territory. Persons with a temporary permit could apply for a prolongation of this permit.

Capacity for forced return decreased, not only because of the reduction of the detention capacity, but also due to the decreased number of flights, the COVID-19 measures in Belgium and in the countries of origin and the lack of escorting police officers.

Focusing on detention, the new Government stated in its Coalition Agreement of 30 September 2020 that minors (both accompanied and unaccompanied) could under no circumstances be detained prior to their return. This was also explicitly mentioned in the General Policy Note of 4 November 2020 of the State Secretary for Asylum and Migration.⁽¹³⁴⁾

At the same time, the Government expressed its intention to enhance the capacity of the detention centres.

To be able to respect social distancing, the maximum capacity of the closed detention

centres was reduced by half. In order to do so persons were released from detention, namely persons vulnerable for the consequences of contracting COVID-19, and other persons for various reasons, except public order cases.

The new Government also honed in on alternatives to detention. The Governmental Declaration states that the competent authorities will seek to improve the use and the effectivity of alternatives to detention and look for supplementary alternatives. The budgetary needs towards the implementation of (the improvement of) these alternatives were identified.

On another note, on 27 October 2020 the European Court of Human Rights (ECtHR) ruled *M.A. v. Belgium*. The ECtHR assessed the controversial return of a Sudanese to his country of origin, made possible thanks to a collaboration between the Belgian authorities and a Sudanese identification mission. The ECtHR found an infringement of art. 3 ECHR. According to the ruling, the authorities did not adequately comply with the procedural obligations arising from the refoulement prohibition in art. 3 ECHR. In addition, the ECtHR found a violation of the right to an effective remedy (Article 13 ECHR) in conjunction with Art. 3 ECHR.⁽¹³⁵⁾

On a national level, the Sudan affair already had prompted the Bossuyt Commission. This Commission was set up in March 2018 during the discussion on the investigation report of the Commissioner General for Refugees and Stateless Persons on the case of Sudanese returnees

133 Coalition Agreement 30 September 2020, p. 92-95, available at http://belgium.be/sites/default/files/accord_de_gouvernement_2020.pdf.

134 See also chapter 4 *Minors and other Vulnerable groups*.

135 <https://hudoc.echr.coe.int/eng/#f%22ecli%22;%22:2020:1027JUD001965618%22>}. Available in French.



suspected of having suffered from bad treatment upon return. The former Prime Minister Charles Michel announced its establishment in order to assess the practical implementation of the legal and regulatory provisions of the return policy. The final report of the Commission Bossuyt was to produce a report evaluating the Belgian return policy. This report was presented to the Minister for Asylum and Migration on 15 September 2020.⁽¹³⁶⁾

10.3.1. Cooperation with third countries of origin and transit and implementation of EU readmission agreements

The cooperation with third countries suffered severely from the COVID-19 crisis. The main objective was to maintain relationships with embassies of third countries and local authorities and to support return operations. This included the monitoring of available flights, the analysis of entry requirements and the follow-up on local COVID-19 measures in countries of origin.

A start of negotiations for a readmission agreement was made with Angola and missions to Senegal and Morocco were undertaken to explore possibilities for a

(prolongation of a) Memorandum of Understanding. Negotiations with Turkey, India and Kyrgyzstan were continued.⁽¹³⁷⁾

Belgium did progress regarding the implementation of EU readmission agreements. Specifically in relation to the readmission agreements with Bangladesh and Ukraine, Belgium moved to the testing phase of a Readmission Case Management System (RCMS)⁽¹³⁸⁾ in 2020. With regards to Sri Lanka, Belgium its RCMS became operational in 2020.

10.3.2. Cross-cutting developments in return and reintegration related to borders, irregular migration and trafficking

The Immigration Office increased the accompaniment services for migrants who want to leave voluntarily or who are in need of accompaniment, either to the airport or to their country of origin.

Within the framework of the Special Needs project,⁽¹³⁹⁾ 55 new files were created in 2020 for persons residing in closed centres, internees or prisoners. The Immigration Office provided on-site reintegration support for 22 people. The Office continuously worked on the expansion of the network in Belgium (e.g. with The Federal

136 Commission Bossuyt, 'Final report tasked with the policy review on the voluntary return and forced return of third-country nationals., 2020, Dutch: "Commissie voor de evaluatie van het beleid inzake vrijwillige terugkeer en gedwongen verwijdering van vreemdelingen"; French "Rapport finale de la Commission chargée de l'évaluation de la politique du retour volontaire et de l'éloignement forcé d'étrangers", also referred to as Bossuyt Commission (as he was presiding the Commission). Dutch: https://www.aigpol.be/sites/aigpol/files/attachments/Eindverslag%20van%20de%20Commissie%20Bossuyt%20-%20September%202020_0.pdf. French: <https://www.aigpol.be/fr/actualites/rapport-final-de-la-commission-chargee-de-levaluation-de-la-politique-du-retour>.

137 Source: Brief Report of the activities of the Immigration and Liaison Officers Unit (ILOBEL) p. 2., Immigration Office Home Affairs.

138 Readmission Case Management (System): aims to improve the readmission process by developing an electronic readmission case management system (RCMS) and building capacity of all stakeholders, within the framework of Readmission Agreement. The RCMS digitalizes the flow of information, increases the capacity in managing the volume of readmission applications within the agreed timelines, and improves the transparency and accountability of the procedure.

139 The-so called special needs unit of the Immigration office aims at humanizing the forced return of vulnerable third-country nationals with special needs. The aim of the project is to provide these persons with tailored support before, during and after their forced return. It is implemented by the Immigration Office in cooperation with local partners in the countries of origin. <https://emnbelgium.be/publication/effectiveness-return-belgium-and-other-member-states-emn>

Public Service Justice) and in the countries of origin, e.g. through the ERRIN project.

The organisation of family assessments for unaccompanied foreign minors also grew in 2020 with investigations in Morocco, Suriname, Guinea, Ivory Coast and RD Congo.⁽¹⁴⁰⁾

140 Brief Report of the activities of the Immigration and Liaison Officers Unit (ILOBEL) p. 2., Immigration Office Home Affairs.





11

**MIGRATION AND
DEVELOPMENT COOPERATION**



11.1. NATIONAL ACTIONS IN THE FIELD OF MIGRATION AND DEVELOPMENT COOPERATION

First of all, the New EU Pact on Migration and Asylum, launched in September 2020, emphasized the external dimension of migration management through enhanced cooperation between the EU and third countries. The launch quickly became a political priority and prompted revision by the migration authorities in Belgium. The Pact prompted intensive examination and cross-competence review at national level.

Secondly, the Immigration Office continued its support to the development of a border management system in the DR of Congo by financing the renovation of the regional office of the Directorate General of Migration in Kenge.⁽¹⁴¹⁾

The Immigration Office is also a partner of the Enabel project Pilot for Entrepreneurial Mobility (PEM) in Senegal, which was approved under the Mobility Partnership Facility (MPF) budget line, managed by IC-MPD. The project focuses on exchange of knowledge between small entrepreneurs between Belgium and Senegal in order to support small businesses in Senegal.

Last but not least, as from the 27th of March 2020, the Belgian development agency Enabel supported health services in a number of countries in Africa: Benin, Burkina Faso, Burundi, DR Congo, Guinea, Mauritania, Niger, Rwanda, Senegal and Uganda. In these countries, specific actions were envisaged over the following three months to deal with the COVID-19

crisis. These included the provision of small equipment for protection, sterilisation or oxygen supply, reagents, medicines, respirators, etc.

Belgium also helped with the training of (para)medical staff in the use of tests, the application of protocols and the use of intensive care. Finally, the aid was also aimed at assisting the authorities in their approach to the crisis and the planning of the response.

The objective of the development was on the one hand to provide immediate relief, but on the other hand to better foresee how current and future actions in health care can be converged between Belgian, European and African governments.⁽¹⁴²⁾ The driver of the development was the outbreak of COVID-19 in March 2020.

141 See also the mentioning of project 'Amélio' in chapter 7.1.3 Reinforced cooperation with third countries in area border management.

142 <https://www.enabel.be/nl/content/update-COVID-19>.





ANNEXES

ANNEX: PUBLICATIONS BY EMN BELGIUM (2009-2021)

The present annex lists the studies and reports published by EMN Belgium between 2009 and 2019. The other EMN National Contact Points produced similar reports on these topics for their (Member) State. For each study, the EMN Service Provider, in cooperation with the European Commission and the EMN NCPs, produced a comparative Synthesis Report, which brings together the main findings from the national reports and places them within an EU perspective.

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

The reports from the other NCPs as well as the Synthesis Reports are available on:

http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/index_en.htm.

2009	
April 2009	The Organisation of Asylum and Migration Policies in Belgium
June 2009	Annual Report on Asylum and Migration Policy in Belgium – 2008
July 2009	Unaccompanied Minors in Belgium - <i>Also available in French and Dutch</i>
October 2009	Programmes and Strategies in Belgium Fostering Assisted Voluntary Return and Reintegration in Third Countries - <i>Also available in French and Dutch</i>
December 2009	EU and Non-EU Harmonised Protection Statuses in Belgium
2010	
January 2010	Annual Report on Asylum and Migration Policy in Belgium – 2009
August 2010	Satisfying Labour Demand Through Migration in Belgium
2011	
January 2011	Temporary and Circular Migration in Belgium: Empirical Evidence, Current Policy Practice and Future Options
March 2011	Annual Report on Asylum and Migration Policy in Belgium – 2010
May 2011	EU and Non-EU Harmonised Protection Statuses in Belgium (update)
October 2011	Visa Policy as Migration Channel in Belgium

2012	
January 2012	Practical Measures for Reducing Irregular Migration in Belgium
March 2012	Annual Report on Asylum and Migration Policy in Belgium – 2011
April 2012	Misuse of the Right to Family Reunification: Marriages of Convenience and False Declarations of Parenthood in Belgium - Also available in French and Dutch
September 2012	Establishing Identity for International Protection: Challenges and Practices in Belgium - Also available in French and Dutch
September 2012	The Organization of Migration and Asylum Policies in Belgium (update)
October 2012	Migration of International Students to Belgium, 2000-2012
December 2012	Intra-EU Mobility of Third-Country Nationals to Belgium - Also available in French
2013	
May 2013	Annual Report on Asylum and Migration Policy in Belgium – 2012
July 2013	Attracting Highly Qualified and Qualified Third-Country Nationals to Belgium
August 2013	Organisation of Reception Facilities in Belgium
October 2013	Identification of Victims of Trafficking in Human Beings in International Protection and Forced Return Procedures in Belgium
2014	
February 2014	Migrant Access to Social Security – Policy and Practice in Belgium - Also available in French and Dutch
June 2014	Good Practices in the Return and Reintegration of Irregular Migrants: Belgium’s Entry Bans Policy and Use of Readmission Agreements
June 2014	Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Belgium
July 2014	Annual Report on Asylum and Migration Policy in Belgium – 2013
October 2014	Policies, Practices and Data on Unaccompanied Minors in Belgium (2014 Update)
December 2014	Admitting Third-Country Nationals for Business Purposes in Belgium

2015

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

2016

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

2017

June 2017	Annual Report on Asylum and Migration Policy in Belgium – 2016
July 2017	Family Reunification with Third Country National Sponsors in Belgium
August 2017	Illegal Employment of Third Country Nationals in Belgium
November 2017	Challenges and Good Practices for Establishing Applicants' Identity in the Migration Process in Belgium

2018

May 2018	Changing Influx of Asylum-Seekers in 2014-2016
July 2018	Effectiveness of Return in Belgium: Challenges and Good Practices Linked to EU Rules and Standards
August 2018	Annual Report on Asylum and Migration Policy in Belgium – 2017
September 2018	Labour Market Integration of Third-Country Nationals in Belgium
September 2018	Impact of Visa Liberalisation on Countries of Destination
December 2018	Socio-Economic Profile and Socio-Economic Careers of People Granted International Protection in Belgium, 2001-2014

2019

June 2019	Annual Report on Asylum and Migration Policy in Belgium – 2018
July 2019	Beneficiaries of International Protection Travelling to their Country of Origin: Challenges, Policies and Practices in Belgium

2020

May 2020	Comparative overview of National Protection Statuses in Belgium
June 2020	Migratory Pathways for Start-ups and Innovative Entrepreneurs in Belgium
August 2020	Pathways to Citizenship for Third-Country Nationals in Belgium

2021

January 2021	Attracting and Protecting the Rights of Seasonal Workers in Belgium
Forthcoming	Accurate, Timely, Interoperable? Data Management in the Asylum Procedure in Belgium
Forthcoming	Responses to Long-Term Irregularly Staying Migrants: Practices and Challenges in Belgium
Forthcoming	Detention and Alternatives to Detention in International Protection and Return Procedures



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