



# 2016 ANNUAL REPORT ON ASYLUM AND MIGRATION POLICY IN BELGIUM

BELGIAN CONTACT POINT  
OF THE EUROPEAN MIGRATION NETWORK

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The European Migration Network (EMN) was established by Council Decision 2008/381/EC. It aims to provide up-to-date, objective, reliable and comparable information on migration and asylum to support policymaking in the EU. It also provides the general public with such information.

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

The Belgian NCP of the EMN is a multi-institutional entity composed of experts from the Immigration Office, the Office of the Commissioner General for Refugees and Stateless Persons (CGRS), Myria - the Federal Migration Centre and the Federal Agency for the Reception of Asylum Seekers (Fedasil). It is coordinated by the Federal Public Service Home Affairs. The Belgian NCP is financed both by the European Union and the above mentioned organisations.

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# Introduction

## 1.1. Objectives and content

This is the 13<sup>th</sup> annual policy report of the Belgian National Contact Point (NCP) of the European Migration Network (EMN). The report provides an overview of the **most significant political and legislative developments** – as well as public debates – in the field of migration and asylum in Belgium during the period **1 January 2016 to 31 December 2016**.

The **objectives of this report** are to inform policymakers as well as a wider audience on these developments; to facilitate and further stimulate information exchange between all stakeholders active in the area of migration and asylum (such as governmental and non-governmental organizations, international organizations, universities and research organizations as well as the wider public); to put into perspective relevant public debates in the field of asylum and migration; and to document the implementation of EU legislation and the impact of European policy developments at the national level.

The *introduction* provides information on objectives, content and methodology of the report, as well as basic information on the structure of asylum and migration policy in Belgium. The *executive summary* outlines the key findings of the report. *Chapters 3 to 9* describe specific developments in the area of legal migration and mobility; international protection; unaccompanied minors and other vulnerable groups; integration; return; irregular migration (including smuggling); actions against trafficking in human beings; and migration and development. The *annexes* provide information on the abbreviations and specific terms used in the report; the implementation of EU legislation in Belgium; national statistics; as well as a list of the studies published by the Belgian NCP between 2009 and 2017.

## 1.2. Methodology

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

This report was produced according to **common study specifications**<sup>(1)</sup> developed by the EMN for the production of the EMN Annual Policy Report 2016. The common specifications aim at facilitating comparability between the findings from all (Member) States.

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

In order to provide an objective overview of the main developments in 2016, the Belgian NCP used a **wide range of sources**, including: draft national legislation subject to political agreement; published and adopted national and European legislation; government statements and reports; parliamentary debates; official statistics; case law; publications (e.g. from international organisations or non-governmental organisations) ; press releases; media coverage; relevant newsletters and journals ; and other information products and tools (e.g. websites of key stakeholders in this field).

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

### 1.3. Terms and definitions

For the purpose of this report, a **‘significant development’** is defined as an event often involving one or more of the following: legislative developments; institutional developments; major debates in parliament; government statements; media and civil society debates; academic research.

Terms included in this report are to be understood on the basis of national legislation and definitions and the EMN Migration Glossary<sup>(2)</sup>.

### 1.4. General structure of asylum and migration policy in Belgium

Information on the general structure of asylum and migration policy in Belgium, as well as the institutional context, can be found in previous policy reports written within the framework of

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1 European Migration Network, Specifications for EMN Annual Report on Migration and Asylum 2016 – National Report Part 2, January 2017.

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

the EMN. Furthermore, the EMN study 'Organisation of Asylum and Migration Policies' provides concise yet comprehensive general information<sup>(3)</sup>. The short overview below focuses on the institutional changes that are particularly relevant.

## Belgian state structure and division of competences

Belgium is a federal state with a complex state structure: the federal level and regional level (Regions and Communities) have their autonomous competences. The **federal state** is competent in several areas, including foreign policy, national defence, justice, finance, social security and the bulk of public health and home affairs. The territory-oriented **Regions** are responsible for 'territorial' issues, such as farming, water policy, housing, public works, energy, transport, environment, land planning and town planning, rural development, nature conservation, economy and labour market management, the supervision of the provinces, municipalities and associations of local authorities, as well as economic migration. The language-based **Communities** are responsible for culture and issues directly related to individuals and their language, such as aid to people, health and education, integration of foreigners and emancipation of ethno-cultural minorities<sup>(4)</sup>.

The current federal state is the result of different **state reforms**. After the longest government negotiations in Belgian history, a new institutional agreement was found in December 2011. The political agreement of December 2011 is entitled 'A more efficient federal state and more autonomous entities', and was translated into legislation through the Special Law of 6 January 2014<sup>(5)</sup> on the sixth state reform.

**Immigration and asylum** related issues thus generally fall under the competence of the federal government. **Integration** is mainly the competence of the Communities. In Wallonia, this is transferred to the Region. **Economic migration** – which used to be a mixed competence of the federal state (legislation) and the Regions (implementation of the legislation) - has been further regionalised in the framework of the sixth state reform (mentioned above). The special law of 6 January 2014 transferred a large set of competences from the federal level to the Communities and the Regions. The Regions (Brussels-Capital, Flanders and Wallonia) and the German-speaking Community are now responsible for the **development of an economic migration policy** tailored to the needs of their labour market and economy. This includes competence for the legislation, application, control and maintenance of work permits (permits A and B) and professional cards. Furthermore, the Communities (Flemish, French and German-speaking) now have the possibility to develop their own **policies on so-called 'student permits'**. These permits will be needed to obtain a residence permit, which means that Communities can now play an important role in the policy on student migration. The federal state remains responsible for the entry and the right of foreigners to reside on the Belgian territory, as well as for work permits C (work permits issued

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3 Available on: [www.emnbelgium.be](http://www.emnbelgium.be).

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

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



to migrants with a temporary residence permit for other reasons than ‘employment’, such as asylum seekers).

The Regions and Communities are effectively responsible for these matters as of 1 July 2014. However, the actual transfer of the budget and the officials from the federal state towards the Regions and Communities only took place in 2015. During the transition period, **transitional arrangements** applied: the federal staff members who were previously in charge of the transferred powers continue to exercise them on behalf of the competent Region or Community. As long as the Regions and Communities do not decide on new legislation, the federal legislation still applies.

## Institutional context

As immigration and asylum are mainly federal competences, political responsibility lies at the level of the **federal government**.

Federal elections took place in May 2014, leading to a new **federal government** led by Prime Minister Charles Michel (MR). This federal government is a coalition composed of four parties: the Reformist Movement (MR), the New Flemish Alliance (N-VA), the Flemish Christian Democrats (CD&V) and the Open Flemish Liberals and Democrats (Open Vld). The current State Secretary<sup>(6)</sup> for Asylum Policy and Migration, in charge of Administrative Simplification, is Mr. Theo Francken (N-VA). He was sworn in in October 2014. He is attached to the Minister of Security and the Interior, Mr. Jan Jambon (N-VA).

The **Immigration Office**<sup>(7)</sup> is the public service responsible for the entry, residence, settlement and removal of foreign nationals. The Immigration Office is also in charge of applying the Dublin III Regulation and of managing asylum applicants’ residence requirements throughout the asylum procedure.

The **Office of the Commissioner General for Refugees and Stateless Persons (CGRS)**, an independent body, is the key-player in processing asylum applications and grants or denies refugee status or subsidiary protection status.

Since 2007<sup>(8)</sup>, the **Council for Alien Law Litigation (CALL)** has acted as an appeal court competent to hear appeals against decisions taken by the CGRS with regard to the granting of protection statuses, and against other decisions taken by the Immigration Office (e.g. decisions on visas, residence permits, etc.).

The **Federal Agency for the reception of asylum seekers (Fedasil)** is in charge of the reception of asylum seekers. It also falls under the supervision of the federal State Secretary for Asylum

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6 In Belgium, ‘State Secretary’ is the title given to deputy ministers.

7 The Director-General of the Immigration Office is legally the delegate of the responsible State Secretary.

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

Policy and Migration, in charge of Administrative Simplification. Fedasil also acts as coordinating body for the Belgian policy on assisted voluntary return (AVR). Fedasil delegates the practical organization of the AVR programs mainly to the International Organization for Migration (IOM).

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

### Migration and asylum legislation

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

Reception conditions for asylum seekers and for certain other categories of foreigners are regulated by the **Law of 12 January 2007** (hereafter called the 'Reception Act').

Foreigners' access to work is regulated by the **Law of 30 April 1999** and its implementation Decree of 9 June 1999.

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

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



## Executive summary

### General political context

No elections were held in Belgium in 2016. The governments and parliaments in place at the federal level and at the level of the Regions and Communities are the result of different elections held in 2014. The **federal government**, led by Prime Minister Charles Michel (MR), in place since October 2014, is a coalition government composed of four parties. The State Secretary for Asylum Policy and Migration is Mr. Theo Francken (N-VA). The State Secretary presents a General Policy Note on asylum and migration each year, in which he details the priorities for the coming year. A General Policy Note was presented on 3 November 2015 and on 27 October 2016.

In 2016, the **Regions and the Communities** continued to deal with the concrete and practical implementation of the Law on the sixth State reform. This law – which was approved in January 2014 and entered into force on 1 July 2014 - transferred a large set of competences from the federal level to the Communities and the Regions. The regions (Brussels-Capital, Flanders and Wallonia) and the German-speaking Community are now responsible for the development of an economic migration policy tailored to the needs of their labour market and economy, and the Communities (Flemish, French and German-speaking) now have the possibility to develop their own policies on so-called ‘student permits’. It is worth noting that as long as the Regions and Communities do not adopt new legislation, the federal legislation still applies.

### Legal migration and mobility

Regarding economic migration, the focus in 2016 remained on the concrete and practical implementation of the **transfer of competences on economic migration** from the federal state to the Regions following the state reform which entered into force in July 2014. The focus also lied on the **transposition of several EU Directives** (Single Permit, Seasonal Workers and Intra-Corporate Transferees), which proved complex in Belgium since it coincided with the above mentioned institutional reform. Infringement procedures against Belgium are ongoing for all three Directives at the time of publication of this report. Regarding the Single Permit Directive, a political agreement was reached between the competent authorities on the procedure to be followed, which was followed by legislative proposals adopted by the different governments. However, the Belgian Council of State considered - in its advices on these legislative proposals - that a formal cooperation agreement should first be adopted between the different authorities.

This agreement should be submitted to the Council of State mid-2017 and to the different Parliaments during the summer of 2017. To enter into force, it will need to be ratified by the concerned authorities.

Regarding family reunification, the **maximum processing time for applications for family reunification** with third country national sponsors was lengthened from six to nine months. In complex cases, it remains possible to extend the nine months period by two times three months. Furthermore, the period during which the Immigration Office can **control whether the conditions for family reunification with a third-country national are still being fulfilled** was extended from three to five years. If the conditions are no longer met, the Immigration Office can withdraw the residence permit of the third-country national's family members.

Regarding other aspects of legal migration, the Law of 18 December 2016 introduced a new general residence condition into the Immigration Act: certain foreign nationals will need to **provide evidence of their willingness to integrate into society** in order to keep their Belgian residence permits. This part of the law entered into force at the beginning of 2017. Another part of the same law – which was much discussed in public debate – implies that certain foreign nationals who apply for a residence permit will need to sign a declaration indicating that they understand the fundamental values and norms of society and will act accordingly (the so-called **'newcomers declaration'**). This second part of the new law has not yet entered into force as an official cooperation agreement still needs to be concluded with the Communities and the Regions.

Furthermore, a new law made it possible for Belgian municipalities to collect a **fee when foreign nationals renew, extend, or replace a temporary residence permit**, in order to cover the costs related to the processing of the applications.

Regarding migration management, the 13 Belgian Schengen external border posts were equipped with the **Visa Information System (VIS)** in February 2016. Furthermore, concerning Schengen governance, Belgium **temporarily reintroduced border controls** at the border between the Province of West Flanders and France, in line with the Schengen Borders Code. This measure was taken in the framework of an expected influx of migrants following the announced closure of migrant camps in Calais (France), with possible negative consequences for public order and security in the coastal region. Finally, the Belgian authorities have drawn up **action plans** to implement the recommendations they received following the Schengen evaluation of 2015.

## International protection and reception

In 2016, **18,710 asylum applications** (14,670 first asylum applicants and 4,040 subsequent applicants) were lodged in Belgium, including 452 refugees who were resettled to Belgium and 200 asylum applicants who were relocated to Belgium from Italy or Greece. This is an important decrease compared to 2015 (with 44,760 asylum applications).

Due to the exceptionally high number of asylum applications filed in Belgium in the second half of 2015, all asylum applications could not be processed within three to six months. By mid-April 2016, the backlog peaked and 18,375 cases were pending at the CGRS. Several measures were taken to **reduce the backlog and processing time** as much as possible with the aim to guarantee the quality of each assessment and decision.

In March 2016, a **'pre-registration' phase** was introduced in the procedure for international protection applications. This means that before an asylum application is formally lodged, fingerprints and a photo of the foreign national are taken by the Immigration Office and a security screening is carried out (e.g. by the security services).

The Belgian **list of 'safe countries of origin'** was updated in August 2016: in addition to the seven countries that were already included on the list (i.e. Albania, Bosnia-Herzegovina, FYROM, Kosovo, Montenegro, Serbia, India), Georgia was also added.

In 2016, there was also more focus on the **withdrawal of status** for beneficiaries of international protection who voluntarily travel back to their countries of origin and then return to Belgium. On 3 December 2016, the Belgian State Secretary for Asylum Policy and Migration and his Dutch counterpart signed a letter of intent to enhance the control regarding the voluntary return of beneficiaries of international protection to their countries of origin, and to enhance the sharing of information on this issue.

As of 8 July 2016, recognized refugees no longer receive a **residence permit** of unlimited duration but a temporary residence permit valid for five years. After these five years, the refugee will receive a residence permit of unlimited duration, unless the refugee status has been withdrawn.

Belgium remained a very active participant of the European Asylum Support Office (**EASO**), and participated in most activities, meetings and workshops. Among others, Belgium frequently provided staff for Asylum Support Teams in the framework of special support plans, hotspot operations and/or emergency support plans for Greece and Italy.

Regarding so-called **'humanitarian visas'**<sup>9</sup>, Belgium issued more than a thousand of them in 2016, mostly to Syrians. The case of the Syrian family who applied for humanitarian visas at the Belgian Embassy in Lebanon in order to apply for asylum in Belgium was widely discussed in the political and public debate. Following a rejection of the applications by the Immigration Office, the Syrian family challenged the refusal decision before the Council for Alien Law Litigation, who referred the matter to the Court of Justice of the EU. On 7 March 2017, the Court ruled that Member States are not required – under EU law – to grant a humanitarian visa to persons who wish to enter their territory with a view to applying for asylum, but they are free to do so on the basis of their national law.

Regarding reception, the federal reception agency (Fedasil) saw a **significant drop in the number of asylum seekers to accommodate** in 2016 compared to 2015, with 16,700 people entering its reception network, compared to 38,300 people in 2015. Furthermore, 26,560 residents left the reception network, resulting in a negative in-out balance of about 10,000 people. Therefore, the

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9 Belgium does not have a formal humanitarian admission programme, but the State Secretary for Asylum Policy and Migration and the Immigration Office can grant humanitarian visas in exceptional circumstances, on a discretionary basis.

federal government decided on 3 June 2016 to **reduce the reception capacity by 10,000 places**. The number of reception places evolved from 33,659 places in January 2016 to 26,363 places at the end of December 2016.

The implementation of the **new reception model**, which was put on hold at the end of 2015 due to the high influx of asylum seekers, was resumed in April 2016. This model gives preference to collective reception centres over individual reception places, but allows for certain groups – such as vulnerable migrants and asylum seekers with a high probability of obtaining international protection – to be assigned to an individual reception place.

Several modifications were made to the Reception Act. An **individual reception facility** can now only be requested after a six month stay (and no longer four months) in a collective reception centre. Furthermore, residents can **be definitively excluded** from the reception network in case of serious breaches of the internal rules, and provided that a dignified standard of living is ensured. A complete or partial withdrawal of the daily allowance, for a period of maximum four weeks, is also possible.

## Unaccompanied minors and other vulnerable groups

Due to the decrease in the number of asylum seekers in 2016, it was possible to give renewed attention to the quality of the assistance provided to asylum seekers and to the needs of vulnerable groups. Among others, measures were taken to **improve the identification of vulnerabilities** at the time of arrival of the asylum seeker (e.g. through adapting the Immigration Office's registration form for asylum seekers).

Fedasil completed the first phase of a **study into vulnerable persons with specific reception needs** in December 2016. This first phase showed that not all requirements are in place to be able to meet the reception needs of all vulnerable persons in an effective manner. The study underlined the importance of adapted means of communication and mutual understanding for the identification of specific needs and the provision of appropriate care to vulnerable asylum seekers.

Regarding **unaccompanied minors**, the number of asylum applications lodged by this category of migrants decreased significantly in 2016 compared to 2015 (from 3,099 to 1,076 applications). In this framework, Fedasil decided to decrease the capacity of the first reception phase for UAMs accommodated in the Observation and Orientation Centres. However, the number of reception places in the second and third reception phases increased. Furthermore, the Privacy Commission approved **Fedasil's access to the database of the Guardianship service** in October 2016. This means that in 2017, Fedasil will be able to consult essential data on UAMs (e.g. identity, address, age determination, etc.) which should allow the agency to strengthen the protection of UAMs.

The **Council of Europe Convention on preventing and combating violence against women and domestic violence** came into force on 1 July 2016, after ratification by Belgium on 14 March 2016. The Institute for the Equality for Women and Men was officially appointed on 11 April 2016 as responsible entity for the coordination, implementation, monitoring and evaluation of the policies and measures taken in Belgium in the framework of the Convention.

## Integration

In Belgium, the Communities and the Regions are responsible for the integration and civic integration of foreign nationals. Integration policies remained **high on the political agenda** in 2016, especially given the high influx of asylum seekers in Belgium in the second half of 2015 and the number of beneficiaries of international protection. Additional resources and staff were allocated at different levels and to different organisations, and a wide range of measures were taken to promote the integration of asylum applicants and beneficiaries of international protection.

While Flanders already has a compulsory integration programme for foreign newcomers, the other Regions adopted similar approaches in 2016. The Decree of 28 April 2016 introduced a compulsory integration programme in Wallonia. The Government of the **Brussels-Capital Region** approved the Joint Community Commission's ordinance establishing the compulsory integration programme for newcomers in Brussels on 11 May 2017. It is not the intention to set up a completely new system, but rather to further apply the existing integration programmes. The integration programme will become mandatory at some point in 2017. In the meantime, two 'welcome offices for newcomers' were set up in Brussels (BAPA-BXL and VIA), which are responsible for the organization of the integration programme for newcomers who opt for the French module in Brussels. Furthermore, the German-speaking Community started a pilot project in January 2016 on implementing an integration programme.

Furthermore, developing and **improving labour market integration programmes remained a priority in 2016**. The regional public employment services elaborated action plans, recruited staff, allocated additional resources to facilitate labour integration, and developed innovative initiatives (e.g. mentoring projects). Asylum-seekers (who have access to the labour market after four months in the asylum procedure), beneficiaries of international protection and highly skilled newcomers were specifically targeted by these measures.

On 15 July 2016, the Flemish Government adopted the **Horizontal Integration Policy Plan 2016-2019**, a policy coordination instrument that promotes inclusive and transversal actions. A Commission on Integration Policy is responsible for the follow-up of the implementation and for the evaluation of the policy plan. Within the commission, specific attention is given to achieve monitoring of the participation of persons with a migration background in all policy areas as well as the development of a comprehensive view on language and language promotion policies.

## Return

The return of irregular migrants remained a **top priority** of the State Secretary for Asylum Policy and Migration in 2016. The numbers of both voluntary and forced returns continued to **increase substantially** (4,667 assisted voluntary returns and 4,651 forced returns<sup>(10)</sup> in 2016).

A specific priority was the return of third-country nationals who represent a **threat to the public**

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<sup>10</sup> Including those returned to another Member State under the Dublin III Regulation.



**order.** The number of irregular third-country nationals who were **removed directly from prison** increased significantly in 2016 to a total of 1,595 people. This is the result of several factors, including modifications to the Criminal Code which made it possible for the Immigration Office to start organizing the return of a third-country national in prison at an earlier stage.

Some authorized officials of the Immigration Office, who received a special training and have the necessary security clearance, have been granted direct access to certain parts of the **central database of the Belgian Police**. This makes it easier for the Immigration Office to determine whether or not a foreign national represents a threat to public order or public security.

In May 2016, a **new 'radicalisation' unit** was set up within the Immigration Office. The new unit allows monitoring and centralisation of individual cases where a link exists with radicalism and terrorism. It will help other units within the Immigration Office in determining if and which actions have to be taken regarding these third-country nationals (e.g. interception or removal). It also provides coordination between different authorities involved, such as the Immigration Office, the CGRS, Fedasil, police and security services.

The **capacity of the detention centres** increased in 2016 with an additional 131 places. Furthermore, it became possible for security personnel at the closed centres to search residents whenever this is deemed necessary to maintain order or for security reasons.

Belgium organized or participated in **a record 39 return flights**, accounting for 201 returnees. This included 5 national return flights, 23 Joint Return Operations and 11 Collecting Joint Return Operations organized in the framework of Frontex. The main countries of destination were Albania, Nigeria, Kosovo, and Georgia.

No Benelux Implementing Protocols of EU Readmission Agreements were signed in 2016, but negotiations were ongoing with several countries. At the national level, Belgium signed two **Memorandums of Understanding** in 2016: with Morocco (focus on security cooperation and the identification of irregular migrants) and with Somalia (focus on return and reintegration).

Regarding **voluntary return**, the federal reception agency Fedasil continued to implement several measures to meet the objectives of the Action Plan on voluntary return that was presented in 2015. This included the reinforcement of its **collaboration with local authorities** in major cities in order to embed voluntary return in the local policy on irregular migration. Furthermore, a **new return desk** was opened in Charleroi in October 2016 (the fifth one in Belgium), where migrants can receive information and support regarding voluntary return. Fedasil also produced **new communications tools** on voluntary return. Specific reintegration strategies for certain countries of origin (i.e. Western Balkans, Iraq and Morocco) were also developed. On 1 February 2016, Fedasil organized – for the first time – a chartered flight to Baghdad for the voluntary return of 106 people.

Fedasil also implemented various **activities targeting first line support workers** (e.g. police officers, social workers, etc.) and **return counsellors** who deal with potential returnees – including trainings on voluntary return and monitoring missions in third countries. Furthermore, Fedasil continued to organize information and awareness raising sessions and activities about voluntary return for diaspora organisations and embassies and consulates.

Finally, Fedasil continued to cooperate with other Member States in the framework of several **voluntary return projects** (e.g. Common Support Initiative on Voluntary Return and Reintegration).

## Irregular migration including smuggling

Regarding the **management of the external borders**, additional automated border control gates ('e-gates') were opened at Brussels National Airport. The process of updating and further installing equipment for the detection of false identity documents at the external borders was continued and finalized. Belgium also continued its operational cooperation with Frontex and other Member States via active participation in Joint Operations.

Furthermore, the **'Passenger Name Record' Law** foresees the obligation for carriers and travel agencies in different transport sectors (international transport by air, high-speed train, bus, and sea) to collect passenger data and send it to a central database. This data will be analysed and used – inter alia – to detect and prosecute terrorist offences and other forms of serious crime. However, this law has not entered into force yet. Royal Decrees still need to be adopted for every transport sector and for the travel agencies.

Belgian authorities further implemented **information and prevention campaigns in third countries** (in Afghanistan, Cameroon, Georgia, and Kosovo), which mostly focused on the risks associated with irregular migration. The State Secretary for Asylum Policy and Migration also carried out an **information and dissuasion mission** in Albania. Furthermore, the State Secretary continued to send **letters to certain (potential) asylum seekers** in 2016 – including a letter sent to Afghan asylum seekers in Belgium – which were actively debated.

Transmigration also remained a point of attention in 2016. The prevention campaign 'give smuggling of people no chance', was launched, **targeting truck drivers and transporters**. Several actions were also taken to better control and protect **car parks along Belgian highways** to prevent the smuggling of migrants.

Belgian authorities also enhanced **practical cooperation in cross-border investigations and prosecutions on smuggling**, setting up a task force on illegal immigrant smuggling in the North Sea region (with France, the Netherlands, and the United Kingdom) and cooperating effectively in joint investigations (e.g. with France, Greece, Eurojust, and Europol) resulting in the **disruption of several international smuggling networks**.

## Countering trafficking in human beings

In 2016, Belgian authorities focused on completing the transposition of EU legislation in the field of trafficking of human beings. The **law of 31 May 2016** improved compliance with EU Directive 2011/36/EU (in the field of criminal law and criminal procedure), provided for special protection measures for victims (e.g. ban on revealing identity) and made certain amendments regarding ancillary penalties whose application is extended.

Furthermore, a focus was put on better identifying cases of **exploitation of begging**. A Circular on research and prosecution policy relating to the exploitation of begging – which was adopted on 22 September 2016 - aims to help identify and characterize such cases and to better coordinate research and prosecution in this field.

Efforts were also made to **develop transnational referral mechanisms**. The final conference and workshop of the project ‘Referral of and assistance for victims of human trafficking in Europe’ (RAVOT-EUR), took place in January 2016. Furthermore, on 2 December 2016, the Belgian Minister of Justice signed, with other Benelux countries, a declaration of intent in view of **multidisciplinary cooperation** in the fight against trafficking in human beings.

Various activities were developed by different entities to **raise awareness** among relevant actors (in federal public services, reception centres, hospitals, etc.) on trafficking in human beings and to help them **better identify victims of trafficking**. Awareness raising and prevention activities targeting foreign nationals were also implemented. Efforts were made to provide **information to asylum seekers on the rights and risks associated with working in Belgium**, through the dissemination of an information brochure entitled ‘You have applied for asylum and you want to work?’.

## Migration and development

A **Migration and Development Working Group** was set up under the Interdepartmental Commission on Policy Coherence for Development (PCD), which is composed of representatives of various public services at federal, regional and community level. In addition, the Advisory Council on PCD - which is composed of representatives from NGOs and the academic field - issued **an opinion on the coherence of migration and development policies** to inform the Working Group. In addition, **formal and informal coordination mechanisms** in the field of migration (e.g. COORAM) continued to be used by the concerned Belgian authorities.

Furthermore, the topic of migration received increased attention in all the **new Belgian governmental and non-governmental international cooperation programmes**. This was the case for the new governmental cooperation programmes with Mali, Niger and Morocco, which were signed in June 2016.

The International Organisation for Migration (IOM) continued to be a key partner of the Belgian authorities. A **framework agreement** was signed between Belgium and IOM in September 2016, to ensure better coherence between the activities of the Belgian government and those of the international organisation.

Belgium contributed EUR 10 million to the **EU Emergency Trust Fund** for stability and addressing the root causes of irregular migration and displacement in Africa, making it the third biggest bilateral donor. Belgium’s **humanitarian contribution to the global refugee crisis** reached approximately EUR 160 million – that is to say more than double the contribution for 2015. This includes EUR 75 million in humanitarian aid to the Syrian region for the period 2016-2017.

## 3.1 Economic migration

### Implementation of new competences of the Regions on economic migration

In 2016, the Regions continued to focus on the concrete and practical implementation of their new competences on economic migration following the **state reform**<sup>(11)</sup> which entered into force in July 2014. The Regions have exercised their competences on economic migration since this date and can adopt their own legislation in this field. The existing federal legislation still applies as long as the Regions do not adopt different legislation.

Several developments took place at the regional level regarding economic migration. In **Flanders**, the Decree of 23 December 2016<sup>(12)</sup> formally adopted dispositions of economic migration into the Flemish legislation. Furthermore, since 1 January 2016, the **German-speaking Community** is competent for economic migration. The Walloon Region transferred its competences on economic migration concerning the territory of the German-speaking Community to the German-speaking Community<sup>(13)</sup>.

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11 See previous Annual Policy Reports of the Belgian Contact Point of the EMN: This reform includes both the policy on employment of foreign nationals and foreign professional activities. Now the Regions and the German-speaking Community are officially competent for the legislation, the application, the control and the maintenance of work permits and professional cards. The Regions were already in charge of the implementation of the policy on work permits, which included - among others - the granting of said permits. Following the sixth State reform, the regulatory competence in terms of the work permits A and B (work permits for economic migrants) and the professional card shifted to the Regions, while the right to reside on the territory remains a federal competence. The regulatory competence in terms of the work permit C (work permit issued to migrants with a temporary residence permit for other reasons than 'employment', e.g. asylum seekers) also remains a federal competence. However, the Regions continue to issue the work permit C (they are competent for the execution) and they do so awaiting the implementation of the single permit.

12 Decree of 23 December 2016 concerning the implementation of the sixth state reform and concerning different dispositions in the policy area of employment and social economy, Belgian Official Gazette, 9 February 2017.

13 Decree of 15 December 2015 modifying different decrees with a view to the exercise, by the German-speaking Community, of certain competences of the Walloon Regions concerning employment and estate, Belgian Official Gazette, 30 December 2015.

## Transposition of EU Directives: Single Permit Directive, Seasonal Workers Directive and Intra-Corporate Transfer Directive

In 2016, the focus also lied on the **transposition of different EU Directives**: the Single Permit, the Intra-Corporate Transfer (ICT) and the Seasonal Workers Directives, which are interlinked.

The transposition of the **Single Permit Directive** proved to be a very complex matter in Belgium since it coincided with the ongoing institutional reform of the policy on economic migration (see above). An infringement procedure is ongoing against Belgium for non-transposition of the Directive<sup>(14)</sup>. A **political agreement** was reached at the end of 2015 between the different competent Belgian authorities (Federal State, the three Regions and the German-speaking Community) regarding the procedure to be followed for the Single Permit. Following this agreement, the different governments involved internally agreed on **legislative proposals**<sup>(15)</sup> in the first part of 2016, which were submitted to the Council of State – the highest administrative Court of Belgium – for its opinion. The Court considered that a formal **cooperation agreement** should be adopted between the different entities<sup>(16)</sup>. The cooperation agreement should be submitted to the Council of State in June 2017 and to the different Parliaments during the summer 2017. To enter into force, it will need to be ratified by the concerned authorities. The legislative modifications can only be adopted once the cooperation agreement has entered into force.

The deadline for the transposition of the **Seasonal Workers Directive** expired on 30 September 2016. The deadline for the transposition of the **ICT Directive** expired on 29 November 2016. On 24 November 2016 and 24 January 2017 respectively, the European Commission started infringement procedures against Belgium. Since every access to the Belgian labour market of more than 90 days will be processed through a single procedure (currently being developed), the transposition of the Seasonal Workers and ICT Directives is closely linked to the transposition of the Single Permit Directive. Preparations therefore took place simultaneously between the different competent entities. The different intra-Belgian competent entities (Federal State and Regions) are currently negotiating an **additional executive agreement** to include provisions in the aforementioned cooperation agreement on the Single Permit.

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14 European Commission, Factsheet: February infringement package: key decisions, 15 February 2017. On this infringement procedure against Belgium: 'By the transposition deadline, Belgium had only partially transposed the Directive. As a result, the Commission sent a letter of formal notice for non-communication to Belgium in March 2014 and a reasoned opinion in April 2015, finally referring Belgium to the Court of Justice of the EU in November 2015. Belgium has subsequently notified the Commission of the ongoing legislative processes, including at the regional level, and the referral to the Court was temporarily put on hold. However, the transposition of the Directive still remains partial and has no reliable timetable for finalization.' On 15 February 2017 'the Commission decided to send a complementary reasoned opinion urging Belgium to fully transpose the directive (...).' Belgian authorities now 'have two months to notify the Commission of measures taken to bring its national legislation into line with EU law. Otherwise, the Commission may decide to refer Belgium to the Court of Justice of the EU.'

15 The Federal Council of Ministers approved on 20 May 2016 the modifications to the Immigration Law (Law of 15 December 1981) and of the Law regarding the employment of foreign workers (Law of 30 April 1999). The other governments approved draft Executive Orders modifying the (formal federal) Executive Decree of 9 June 1999 implementing the Law of 30 April 1999 to introduce a single procedure.

16 Advices given by the Council of State on the legislative proposals on 24 June 2016 (Modification of the Immigration Law and the Law regarding the employment of foreign workers) and on 4 October 2016 on the legislative proposals of the other entities.

## Facilitating admission of specific categories of migrants

**(i) Highly qualified workers:** There are no significant new developments to mention for 2016<sup>(17)</sup>. Highly qualified workers continued to use the national work permit (type B) system much more frequently than the Blue Card system.

Highly qualified workers are exempted from a labour market test to get a **work permit type B** if they have a gross annual salary exceeding a certain minimum amount. This amount is subject to an **annual indexation**. In 2016, this amount was EUR 39,824 for highly skilled workers. This threshold was increased to EUR 40,124 starting from 1 January 2017. The same applies for foreign managing staff with a required gross annual salary of EUR 66,441 in 2016 and EUR 66,942 in 2017<sup>(18)</sup>. To be able to get a **Blue Card permit**, the minimum gross annual salary was EUR 51,494 in 2016. This threshold was increased as of 1 January 2017 to EUR 51,494 EUR.

**(ii) Intra-Corporate Transferees (ICTs):** There are no significant new developments to mention for 2016. The ICT Directive is not yet transposed into national legislation (see above).

**(iii) Seasonal Workers:** There are no significant new developments to mention for 2016. The Seasonal Workers Directive is not yet transposed into national legislation (see above).

**(iv) Migrant entrepreneurs:** There are no significant new developments to mention for 2016<sup>(19)</sup>.

**(v) Au pairs:** There are no significant new developments to mention for 2016.

**(vi) Other remunerated workers:** There are no significant new developments to mention for 2016.

## Planned measures: integration efforts and fees related to residence permits

Certain general measures (not specifically targeting economic migrants) taken on the federal level will also have an impact on economic migrants in 2017: Provable integration efforts will be a new condition for certain third-country nationals to keep their residence permits in Belgium. Furthermore, the amount of the fees to be paid by third-country nationals applying for certain residence permits will increase. Since March 2015, most economic migrants need to pay said fees, which could amount to a maximum of EUR 215. From March 2017 onwards, the amounts of these fees will increase, to a maximum of EUR 350. Moreover, foreign nationals can also be asked from 2017 onwards to pay a fee of maximum EUR 50 in certain municipalities when they renew, extend or replace a temporary residence permit at the level of the municipalities. (See [Section 3.4. of this report](#)).

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17 The intention is to apply - in the future - the procedure that will be put in place in the framework of the transposition of the Single Permit Directive also to Blue Card applications.

18 Source: Kruispunt Migratie-Integratie, 'Indexatie minimumloon voor arbeidskaart B hooggeschoolden, leidinggevend, schouwspelartiesten en voor Europese Blauwe kaart', 16 December 2016, <http://www.agii.be/nieuws/indexatie-minimumloon-voor-arbeidskaart-b-hooggeschoolden-leidinggevenden-schouwspelartiesten-en-o>

19 The competences on migrant entrepreneurs were fully transferred towards the Regions (and the German-speaking Community) as described above as of the first of January 2015 (end of the transition period).

## Equivalence of foreign diplomas and certificates of higher education

On 15 September 2016, a decree of the government of the **French Community** entered into force defining the conditions and procedure to grant equivalence of foreign diplomas and certificates of higher education<sup>(20)</sup>. The main changes include the fact that **the procedure is now split into two**: a choice can be made between a full academic equivalence (level and field of studies) and an equivalence of the level only (which does not mention the field of studies). Furthermore, **costs are lowered** for graduates from certain countries. The procedure is also adapted to **refugees and beneficiaries of subsidiary protection**, who can benefit from more favourable conditions regarding the costs and documents to be presented. Finally, **different procedures** apply for the equivalence of diplomas in order **to work** (competence of the Wallonia-Brussels Federation) or **to study** (competence of the educational establishments).

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20 Decree of 29 June 2016 of the French-speaking Community defining the conditions and procedure to grant equivalence to foreign diplomas and certificates of higher education, Belgian Official Gazette, 16 September 2016.

## EMN Activities

### 2016 EMN ad hoc query

#### **Attesting highly professional qualifications by professional experience for the EU Blue Card**

Mid-2016, **Lithuania** was in the process of modifying its law on the legal status of foreign nationals, including the provisions concerning highly qualified third-country nationals. According to the Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, 'higher professional qualifications' are 'qualifications attested by evidence of higher education qualifications or, by way of derogation, when provided for by national law, attested by at least five years of professional experience of a level comparable to higher education qualifications and which is relevant in the profession or sector specified in the work contract or binding job offer'. The Lithuanian authorities launched an EMN ad-hoc query to know if other Member States have also implemented this provision of the Directive.

#### **Some of the main findings of the ad-hoc query:**

- 14 of the 22 countries that provided an answer indicated that they do not have procedures which allow to fully recognise five years of professional experience as comparable to a higher education qualification. Only seven out of 22 countries have such a procedure in place. These countries are: AT, EE, GR, FR, LU, SE and the UK. LT has drafted the law providing for such a possibility, but has not yet developed practical procedures for attesting higher professional qualifications by experience.
- In all of the countries mentioned above, the time period needed for the professional experience to be comparable to the qualifications of higher education is five years.
- In AT and EE, the procedure of recognition takes two months, whereas in FR, LU and GR the procedure is done within three months.
- In AT, EE, FR, GR, LU and SE, third-country nationals have to provide documents that show the content and the level of requirements of the professional activity (e.g.: an assessment of a competent institution or the documents proving at least five years of work experience, such as a certificate of employment of a previous employer establishing the time and position occupied by the applicant, as well as any public information available that confirms this professional experience).

**More information** is available on the website of the European EMN website: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/ad-hoc-queries/ad-hoc-queries-2016.1084 - attesting highly professional qualifications by professional experience .pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/ad-hoc-queries-2016.1084_-_attesting_highly_professional_qualifications_by_professional_experience_.pdf)



## The fight against illegal employment and efforts to avoid ‘social dumping’ and labour exploitation of third-country nationals

The Law of 29 February 2016 modified the Social Criminal Code<sup>(21)</sup>. As a consequence, **and as of 1 May 2016, anyone who intentionally carries out undeclared work is committing an offence**, which is punishable by an administrative fine (sanction level 1)<sup>(22)</sup>. This is the case if a person is knowingly and willingly carrying out the undeclared work, and if a police report was drawn up against the employer for this undeclared work. Prior to this modification of the law, only the employer – as well as people with an income supplement – could be punished for working illegally.

### EMN Activities

#### Upcoming 2016 EMN Study

##### **Illegal employment of Third-Country Nationals in the EU and Belgium**

In 2016, the EMN launched a study on the ‘Illegal employment of third-country nationals in Europe’. The aim of this study is to map and analyse the measures in place at (Member) State level to fight the illegal employment of regularly and irregularly staying third-country nationals, possible problematic areas and obstacles in this field and strategies and good practices to overcome them. More particularly, the study focuses on the **prevention measures** and incentives in place targeting employers and employees to avoid illegal employment; on the policies and practices regarding the **identification of illegal employment** and the different authorities involved; on the **sanctions for employers** who illegally hire irregularly/regularly staying third-country nationals; and on the **outcomes for the third-country nationals** involved, as well as on the protective measures in place. The study also identifies good practices and challenges in this matter.

The **Belgian report**, the **comparative EU Synthesis Report** and the **EMN Inform** will be published in the course of 2017, and will be available on the website of the Belgian Contact Point: <https://emnbelgium.be/publication-type/emn-reports-studies/thematic-studies>

The **national reports** of other (Member) States are available on the European EMN website: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/studies\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/studies_en)

21 The Law of 29 February 2016 supplementing and amending the Social Criminal Code and various provisions of social criminal law, Belgian Official Gazette, 21 April 2016.

22 A new article 183/1 is inserted. A ‘level 1’-sanction is an administrative fine of EUR 10 to 100 (Art. 101 of the Social Criminal Code). This amount is multiplied by eight (indexation value as of 1 January 2017). More information: <http://www.sirs.belgique.be/sanctions/>

## Tackling the misuse of legal immigration channels by third-country national workers

Following the Law of 4 May 2016, the **possibility to withdraw or refuse to grant a residence permit** to a foreign national (and their family members) who has **committed fraud** is more clearly stipulated in the Immigration Act<sup>(23)</sup>. This modification also explicitly foresees the possibility to refuse a residence permit as a researcher or as a Blue Card holder when the person is subject to an entry ban.

Furthermore, starting on 1 October 2016, **the legislation related to unemployment benefits** and the extent that periods of work abroad can be taken into account **changed**. To open up the right to unemployment benefits, one needs to fulfil a number of conditions, including a qualifying period: one needs to have worked a number of days during a specific period, depending on the age of the insured person. Periods of work abroad could generally be taken into account, provided that after the work carried out abroad, some work (at least one day) has been carried out in Belgium. The conditions have also become stricter: only work in European or neighbouring countries is taken into account; and after the work abroad, one should have worked at least another three months in Belgium<sup>(24)</sup>.

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23 Law of 4 May 2016 concerning divers provisions on asylum and migration modifying the Law of 15 December 1980 on the access, residence, settlement and removal of foreign nationals and the Law of 12 January 2007 on the reception of asylum seekers and certain other categories of foreigners, Belgian Official Gazette, 26 June 2016.

24 Executive Decree of 11 September 2016, Belgian Official Gazette, 20 September 2016. More information on the website of the national employment office: <http://www.rva.be/nl/documentatie/infoblad/t31>

## EMN Activities

### 2016 EMN ad hoc query

#### **Cooperation agreements with third countries regulating the recruitment of workers**

In May 2016, **Poland** was considering reviewing its strategic document for migration entitled 'Migration Policy of Poland – the current state of play and further actions'. In this perspective, Poland launched an EMN ad hoc query in order to find out what kind of agreements other (Member) States signed regarding workers from third countries. A total of 23 (Member) States sent a reply.

#### **Some of the main findings of the ad-hoc query:**

- 15 out of 23 (Member) States reported that they have signed different types of cooperation agreements with third countries. Nine of them concluded treaties strictly regulating the recruitment of workers: BE, BG, ES, FR, DE, IT, NL, PT and SI. The second group of (Member) States is comprised of countries which have concluded so-called 'youth programme agreements', including: EE, LT, SK, UK, PL, NO (also FR, DE, NL have such agreements).
- Only a few (Member) States provided information regarding quotas. In DE, agreements on contract workers include quantitative limits, which are adapted each year. A change in the level of demand for labour leads to an increase or reduction of the quotas.
- Concerning the incentives used to encourage migrants to come as stipulated in the agreements, BE answered that the Belgian agreements cover almost all branches of social security (excluding minimum income benefits) and also provide for a right to family reunification. FR introduced exemptions from labour market testing. LT, NL, UK give access to the labour market combined with studies and travel. PT does not distinguish between Portuguese citizens and Ukrainian or Cape Verdean. As a result, the same salary and employment conditions apply. Also, the same social security benefits are provided by the law. SI granted workers a residence permit for a period of 3 years. After a year, Bosnian citizens were granted free access to the Slovenian labour market.
- Only four (Member) States reported that they are willing to conclude agreements regulating recruitment of workers from third countries in the future, i.e. ES, HR (with Bosnia-Herzegovina and Qatar), PL and SK (employment of relatives of the staff of diplomatic missions and consulates with Israel and Brazil).

**More information** is available on the European EMN website:

[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/ad-hoc-queries/ad-hoc-queries-2016.1070\\_cooperation\\_agreements\\_with\\_third\\_countries.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/ad-hoc-queries-2016.1070_cooperation_agreements_with_third_countries.pdf)

## 3.2 Family reunification

### Regulating admission of third-country nationals on the basis of family reunification and family formation

Several changes were made to the legislation on family reunification in 2016<sup>(25)</sup>.

The **maximum decision time for family reunification requests was lengthened**. The Law of 17 May 2016<sup>(26)</sup>, in force since 8 July 2016, increased the maximum time limit available to the Immigration Office to process applications for family reunification with third country national sponsors **from six to nine months**. In complex cases, it is still possible to extend the nine months period by two times three months.

Furthermore, the **period to control the fulfilment of the conditions for family reunification was extended from three to five years**. The Law of 4 May 2016<sup>(27)</sup>, in force since 7 July 2016, stipulates that family members of third-country nationals can obtain a residence permit of unlimited duration after five years. In other words, this measure lengthened the period of control in case of a family reunification from three to five years (after granting a temporary residence permit to a third-country national's family member). During this period, the Immigration Office can check whether the conditions for family reunification are still being fulfilled. If not, the Immigration Office can withdraw the residence permit of the third country national's family members. This modification brings the control period for family members of third country nationals in accordance with the five-year period in force since 2013<sup>(28)</sup> for family members of Belgian and EU-citizens.

The Law of 4 May 2016<sup>(29)</sup> clarified the **income requirement when third-country national-**

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25 We should also mention a technical modification of the legislation through the Law of 1 June 2016: family reunification with beneficiaries of international protection is now always regulated by article 10 of the Immigration Act, instead of art 10bis of the Immigration Law, which was the case in the past for beneficiaries of subsidiary protection. Based on Directive 2011/95/EU, family members of all beneficiaries of international protection should be in the category with 'a right' to stay (article 10 of the Immigration Law). However, this modification has no consequences in terms of the conditions for family reunification.

26 Law of 17 May 2016 modifying articles 10ter and 12bis of the Law of 15 December 1980 on the access, residence, settlement and removal of foreign nationals, Belgian Official Gazette, 28 June 2016.

27 Law of 4 May 2016 concerning divers provisions on asylum and migration modifying the Law of 15 December 1980 on the access, residence, settlement and removal of foreign nationals and the Law of 12 January 2007 on the reception of asylum seekers and certain other categories of foreigners, Belgian Official Gazette, 27 June 2016. The Law entered into force on 7 July 2016. In the same law, modifications are made concerning the individual needs examination. If an applicant for family reunification cannot prove he fulfils the income requirement, the Immigration Office cannot automatically refuse the application. It must carry out an individual needs examination. In the past, the Immigration Office needed to carry out an individual needs examination when the person concerned did not meet the requirement of a 'stable and sufficient income' – now the disposition only refers to the 'sufficient' aspect of the income requirement (and not to the 'stable' aspect).

28 The Law of 28 June 2013 entered into force on 11 July 2013. Before, there was also a three-year control period for family members of EU or Belgian citizens (articles 40bis/40ter) within a period of five years (instead of three) following the granting of such right.

29 Law of 4 May 2016 concerning divers provisions on asylum and migration modifying the Law of 15 December 1980 on the access, residence, settlement and removal of foreign nationals and the Law of 12 January 2007 on the reception of asylum seekers and certain other categories of foreigners, Belgian Official Gazette, 26 June 2016. The law entered into force on 7 July 2016.

**students in Belgium want to reunite with family members:** it is the third-country national student who needs to fulfil the condition of having stable, regular and sufficient resources. When assessing if the income of the student is sufficient, the income of the family member can no longer be taken into consideration.

Furthermore, regarding **planned measures**, the State Secretary for Immigration and Asylum announced **further modifications** ('refinements') concerning family reunification in his General Policy Note of October 2016<sup>(30)</sup>.

Certain general measures (not specific for family migrants) taken on the federal level will also have an impact on family migrants in 2017. **Provable integration efforts** will be a new condition to be met by certain third-country nationals to keep their residence permits in Belgium<sup>(31)</sup>. This condition also applies to family migrants. However, some categories are exempted, particularly family members of beneficiaries of international protection and of recognized stateless persons. Moreover, **more and higher fees will need to be paid from 2017 onwards**. Since March 2015, the standard fee for family migrants applying for a residence permit was EUR 160<sup>(32)</sup>, and this will increase to EUR 200 starting in March 2017. Moreover, in the future, foreign nationals can also be asked to pay a fee of maximum EUR 50 in certain municipalities when they renew, extend or replace a temporary residence permit (See [Section 3.4. of this report](#)).

### Tackling misuse of family reunification as an immigration channel

The law of 4 May 2016, which entered into force in July 2016, **extends the period to control the fulfilment of the conditions for family reunification from three to five years** (see [Section 3.2. of this report](#)).

In previous years, a lot of measures were taken in the fight against **false partnerships** (marriages and legal cohabitations of convenience). In 2016, the Immigration Office asked the advice of the public prosecutor regarding 244 visa applications for family reunification linked to possible marriages of convenience<sup>(33)</sup>. The Public Prosecutor provided an advice in 183 files in 2016<sup>(34)</sup>. Out of these 183 cases, the Immigration Office rejected the visa application in 102 cases for reasons of a possible marriage of convenience<sup>(35)</sup>.

Regarding **planned measures**, further legal modifications are being prepared and discussed at governmental level on the matter of **false declarations of parenthood**, at the initiative of both the Minister of Justice and the State Secretary for Asylum Policy and Migration. The measures include preventive and repressive actions modifying the Civil Code, the Immigration Act, etc.

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30 Belgian House of Representatives, General Policy Note on Asylum and Migration, 27 October 2016, DOC 54 2111/017, p. 5.

31 Moreover, foreign nationals applying for a residence permit will in the future, and as a condition of admissibility, need to sign a declaration indicating that he or she 'understands the fundamental values and norms of society and will act accordingly'. However, it will still take a while before this provision enters into force.

32 EUR 215 if the application is submitted in Belgium or under article 9 and 9bis of the Immigration Law.

33 402 in 2014, and 378 in 2015.

34 346 in 2014 and 263 in 2015.

35 Source: Immigration Office.

At the initiative of the Minister of Justice, a **draft law** was approved by the Council of Ministers in first reading on 23 December 2016. The draft law includes - among others - legal means for registrars to postpone or refuse a declaration of parenthood. Although registrars were - in recent years - often confronted with foreign nationals who wanted to recognize a child with the aim of obtaining an advantage in terms of residence, they did not - until now - have the tools to take action<sup>(36)</sup>.

The State Secretary for Asylum Policy and Migration also announced **further changes regarding false declarations of parenthood**, including a modification to the Immigration Act. Among others, persons who are found guilty of falsely declaring their parenthood will not receive a residence permit or could lose it if the parentage is annulled later on<sup>(37)</sup>.

## EMN Activities

### Upcoming 2016 EMN Study

#### **Family Reunification of Third-Country Nationals in the EU: National Practices**

In 2016, the EMN launched a study on 'Family Reunification of Third-Country Nationals in the EU: National Practices'. The study focuses on the policies and practices of (Member) States in the area of family reunification - including (Member) States' implementation of the minimum standards set out in Directive 2003/86/EC - and identifies good practices and challenges in this field. More precisely, the study examines **eligibility criteria** for the sponsor and for family members, the **requirements** to be met for family reunification (e.g. stable and regular resources, family-size accommodation, etc.), the **procedural aspects** of the application for family reunification (e.g. how the evidence is checked, duration of the procedure by law and in practice, etc.), the **rights** granted after family reunification, the **integration measures** in place, as well as relevant national and international **case law**.

The **comparative EU Synthesis Report** and the **EMN Inform** (which summarises the main findings of the EU Synthesis Report) are available on the website of the Belgian Contact Point: <https://emnbelgium.be/publication/family-reunification-tcns-eu-national-practices-emn?q=/nl/publication/gezinshereniging-van-derdelanders-de-eu-nationale-praktijken-emn>

The **Belgian report** will also soon be available on the above mentioned website.

The **national reports** of other (Member) States are available on the European EMN website: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/studies\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/studies_en)

36 Belgian House of Representatives, Question n° 1539 of MP Fabienne Winckel of 18 November 2016 to the Minister of Justice, QRVA 54 100, 23 December 2016, pp. 282-283.

37 Belgian House of Representatives, General Policy Note on Asylum and Migration, 27 October 2016, DOC 54 2111/017, pp. 32-33.

### 3.3. Students and researchers

#### Facilitating greater mobility of students and researchers

A decree of the government of the French Community - which entered into force on 15 September 2016 - defines the conditions and procedure to grant equivalence of foreign diplomas and certificates of higher education<sup>(38)</sup>. Among other changes, more favourable conditions are foreseen for recognised refugees and beneficiaries of subsidiary protection (see [Section 3.1. of this report](#)).

Furthermore, since 26 June 2016, students with certain scholarships or study grants are exempted from the payment of the mandatory fee for their residence permit application, which was introduced in 2015<sup>(39)</sup>. However, for those students without a scholarship or a study grant, the fee will increase in 2017. Since March 2015, the standard fee for students was EUR 160. It will increase to EUR 200 in March 2017. Moreover, in the future, foreign nationals in general can also be asked to pay a fee of maximum EUR 50 in certain municipalities when they renew, extend or replace a temporary residence permit (see [Section 3.4. of this report](#)).

#### Tackling misuse by third-country national students and researchers of legal immigration channels

In his General Policy Note of October 2016, the State Secretary for Asylum Policy and Migration announced that a **database of guarantors** would be created in order to tackle abuses concerning visas for study reasons. This would allow to recover costs (including costs of return after the visa expired)<sup>(40)</sup> as much as possible.

#### Other policies, measures and practices related to students and researchers

The Law of 4 May 2016<sup>(41)</sup> clarified the **income requirement when third-country national students in Belgium want to reunite with family members**: it is the third-country national student who needs to fulfil the condition of having stable, regular and sufficient resources. When assessing if the income of the student is sufficient, the income of the family migrant can no longer be taken into consideration.

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38 Decree of 29 June 2016 of the Government of the French speaking Community determining the conditions and the procedure for granting an equivalence of titles, diplomas and certificates of higher education, Belgian Official Gazette, 16 September 2016.

39 Royal Decree of 8 June 2016 modifying the Royal Decree of 8 October 1981, Belgian Official Gazette, 16 June 2016. The Decree entered into force on 26 June 2016. More information on the website of the Immigration Office: <https://dofi.ibz.be/sites/dvzoe/NL/Gidsvandeprocedures/Pages/Studenten%20en%20onderzoekers%20met%20een%20beurs.aspx>

40 Belgian House of Representatives, General Policy Note on Asylum and Migration, 27 October 2016, DOC 54 2111/017, p. 5.

41 Law of 4 May 2016 concerning divers provisions on asylum and migration modifying the Law of 15 December 1980 on the access, residence, settlement and removal of foreign nationals and the Law of 12 January 2007 on the reception of asylum seekers and certain other categories of foreigners, Belgian Official Gazette, 26 June 2016. The law entered into force on 7 July 2016.

### 3.4. Other aspects of legal migration

A certain number of changes will be implemented in 2017, as presented in the sections below.

#### The ‘newcomers’ declaration’ and provable integration efforts

The Law of 18 December 2016<sup>(42)</sup> inserted **two new general conditions** (with a lot of exceptions) into the Immigration Act. The first part entered into force at the beginning of 2017<sup>(43)</sup>, the second part will enter into force at a later date (not yet defined).

First of all, **provable integration efforts** are now a new condition to maintain a residence permit in Belgium. The law inserted a general residence condition into the Immigration Act: the foreign national needs to provide evidence of his/her willingness to integrate into society. If the person does not make a ‘reasonable effort’ to integrate, the Immigration Office can put an end to his/her permit to stay. This condition has already entered into force for all foreign nationals applying for a residence permit after 25 January 2017<sup>(44)</sup>. Certain organizations have wondered how the Immigration Office will assess these integration efforts, since integration is not a federal competence in Belgium<sup>(45)</sup>.

Furthermore, another aspect of the law – which was much discussed in public debate<sup>(46)</sup> – implies that a person who applies for a residence permit in Belgium will need to sign a declaration indicating that he or she **‘understands the fundamental values and norms of society and will act accordingly’**. This measure is commonly referred to as the ‘newcomers’ declaration’. Signing this declaration will be a condition of admissibility for the residence permit application. This second part of the new law regarding the ‘newcomers’ declaration’ has not yet entered into force. In contrast to immigration, integration is not a federal competence. Therefore, an **official cooperation agreement** needs to be put in place with the Communities and the Regions.

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42 Law of 18 December 2016 inserting a general residence condition into the Law of 15 December 1980 on the access, residence, settlement and removal of foreign nationals, Belgian Official Gazette, 8 February 2017.

43 There is some confusion about the date of the entry into force of the new Law: either 26 January 2017 or 18 February 2017. The Law was first published in the Belgian Official Gazette with a mistake concerning a formal legal requirement. The Law of 24 November 2016 (Official Gazette of 16 January 2017, and entry into force on 26 January) was therefore rectified and replaced by the (same) Law of 18 December 2016 (Official Gazette of 8 February 2017), which entered into force on 18 February 2017.

44 More information on the website of the Immigration Office: <https://dofi.ibz.be/sites/dvzoe/NL/Gidsvandeprocedures/Pages/Integratiebereidheid%20en%20bewijzen%20inspanningen%20tot%20integratie%20in%20de%20Belgische%20samenleving%20-%20Nieuwe%20algemene%20overblijfsvoorwaa.aspx>

45 See among others: Kruispunt Migratie-Integratie, ‘Behoud verblijf wordt afhankelijk van integratie-inspanningen’, 18 January 2017, <http://www.kruispuntmi.be/nieuws/behoud-verblijf-wordt-afhankelijk-van-integratie-inspanningen>; Orbit vzw, ‘Vier fundamentele vragen bij de ‘Nieuwkomersverklaring’’, 1 April 2016, <http://www.orbitvzw.be/vier-fundamentele-vragen-bij-de-nieuwkomersverklaring/>

46 There was quite a lot of media coverage on the topic. A number of NGOs criticized the proposal. Among others, see: Migratiecoalitie, ‘Migratiecoalitie ongerust over wetsontwerp nieuwkomersverklaring’, 12 July 2016, <http://www.vluchtelingenwerk.be/nieuws/migratiecoalitie-ongerust-over-wetsontwerp-nieuwkomersverklaring>.; or Liga voor de Mensenrechten: ‘De nieuwkomersverklaring is stigmatiserende wetgeving en onverenigbaar met mensenrechten’, 28 November 2016, [https://mensenrechten.be/nieuwsberichten/de\\_nieuwkomersverklaring\\_is\\_stigmatiserende\\_wetgeving\\_en\\_onverenigbaar\\_i](https://mensenrechten.be/nieuwsberichten/de_nieuwkomersverklaring_is_stigmatiserende_wetgeving_en_onverenigbaar_i)



The two new conditions mentioned above are however **not applicable to a number of categories of foreign nationals**, such as persons applying for international protection or granted international protection, EU citizens, students, and certain family migrants. Minors, sick and protected persons are also exempted.

### Increase of the fee for a residence permit application

Another general measure that will be implemented in 2017 concerns the increase of the mandatory fee that foreign nationals need to pay when **applying for certain residence permits**. Since March 2015, a **fee** has to be paid by foreign nationals in order to cover the administrative costs related to the processing of their residence application. The **amount of the fee will go up to a maximum of EUR 350, starting in March 2017**<sup>(47)</sup>. The amount – as it was introduced in 2015 – varied according to the category of migrant between EUR 0, 60, 160 or 215<sup>(48)</sup>. The payment of the fee is an admissibility criterion for the application.

The fees increased to:

- EUR 200 for the categories currently paying EUR 160, and
- EUR 350 for the categories currently paying EUR 215.

### Fee to renew, extend or replace a temporary residence permit at the level of the municipalities

The fee described above needs to be paid when *applying* for a residence permit. In the future, foreign nationals will also need to pay a fee in certain municipalities when they **renew, extend or replace a temporary residence permit**. Modifications by the Law of 18 December 2016 make it possible for municipalities to collect this fee<sup>(49)</sup>. The government justified this measure by referring to the administrative costs related to the processing of the application.

The maximum amount of **EUR 50** itself is not inscribed in this law, but it is determined by an executive decree<sup>(50)</sup>. Municipalities have the possibility to collect this fee (if they choose to do so) on top of the fee due for the production cost of the residence card (i.e. EUR 17.5).

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47 Royal Decree of 14 February 2017 modifying the Royal Decree of 8 October 1981, Belgian Official Gazette, 21 February 2017.

48 More information: Belgian Contact Point of the EMN, Annual Report on Asylum and Migration Policy in Belgium 2015, 2016, p.21-22.

49 Law of 18 December 2016 modifying the Law of 14 March 1968 suspending the laws concerning the foreigners' tax, Belgian Official Gazette, 2 February 2017.

50 Royal Decree of 5 March 2017 determining the residence permits for which the municipalities can charge a fee for the renewal, extension or replacement of said permits and determining the maximum amount mentioned in article 2, §2 of the Law of 14 March 1968 repealing the laws on taxes for the residence of foreign nationals, coordinated on 12 October 1953, Belgian Official Gazette, 20 March 2017.

## 3.5 Information on routes to and conditions of legal migration

### The Migration Code

The Coalition Agreement of 9 October 2014 stipulated that the existing Belgian immigration and asylum legislation would be compiled **within a single 'Immigration Code'**, which should be an understandable and easily readable document for both migrants and Belgian administrations. The aim of this document is to ensure transparency, uniformity and clarity of the migration and asylum procedures, and to provide precise definitions of the roles of the different actors involved<sup>(51)</sup>.

In his General Policy Note of October 2016, the State Secretary for Asylum Policy and Migration indicated that the public administrations have drawn up an exhaustive state of play of Belgian immigration and asylum legislation, and that the actual drafting of the Code has started. The Migration Code should be finalized by the end of the legislature<sup>(52)</sup>.

### Information campaigns in third countries

In 2016, several **information and prevention campaigns** were carried out in third countries. These campaigns provided third country nationals – inter alia - with information on the routes to and conditions of legal migration to Belgium (see [Section 7.2 of this report](#)).

## 3.6. Managing migration, including visa policy and Schengen governance

### Implementation of the Visa Information System (VIS)

The Visa Information System (VIS) was installed in the last seven regions in 2015 (i.e. the Eastern neighbourhood countries; the Russian Federation; China, Japan and neighbouring countries; India, Pakistan and neighbouring countries; the European microstates; Ireland and the United Kingdom; and the Schengen Member States). The 13 Belgian **Schengen external border posts** were equipped with the VIS in February 2016.

Following the operationalization of the VIS, the Federal Public Service (FPS) Foreign Affairs organized a **regional conference** in November 2016 in Guangzhou (Canton) in China for the consuls, visa agents and local staff of the Belgian diplomatic posts of South-East Asia. The conference focused on evaluating the functioning of the VIS, including the link with irregular migration and mobility for business purposes. In June 2016, the FPS Foreign Affairs - with the support of the Immigration Office - also organized a **seminar** in Brussels for the Belgian border police officers in order to explain the practical functioning of the VIS<sup>(53)</sup>.

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51 Federal Coalition Agreement, 9 October 2014, p. 151.

52 Belgian House of Representatives, General Policy Note on Migration and Asylum, 27 October 2016, DOC 54 2111/017, p. 7.

53 Source: Federal Public Service Foreign Affairs.

## Temporary reintroduction of internal border controls

From 23 February until 22 April 2016, Belgium temporarily reintroduced internal **border controls at the border between the Province of West Flanders and France** on the basis of the Schengen Borders Code. This measure was taken in the framework of an expected influx of migrants following the announced closure of migrant camps in Northern France, with possible negative consequences for public order and security in the coastal region.

## Schengen evaluation

Following the Schengen evaluation of 2015<sup>(54)</sup>, the **Council recommendations** have been approved on all aspects that were evaluated (management of external borders, return policy, issuing of visas, functioning of SIS II, cross-border police cooperation and data protection relating to VIS and SIS II). Subsequent action plans have been drawn up by the Belgian authorities, as foreseen in the regulation on the Schengen evaluation and monitoring mechanism (Council Regulation No 1053/2013).

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54 More information: Belgian Contact Point of the EMN, Annual Report on Asylum and Migration Policy in Belgium in 2015, 2016.

### 4.1 Specific context and challenges

In 2016, **18,710 asylum applications** (14,670 first asylum applicants and 4,040 subsequent applicants) were lodged in Belgium. This is an important decrease compared to 2015, when **44,760 asylum applicants** were registered. The decrease in Belgium is mainly due to a sharp drop in the number of Afghan, Syrian and Iraqi asylum applicants. In 2015, they represented 63 % of all asylum claims in Belgium, compared to 35 % in 2016, when asylum applicants came from a more diverse range of countries<sup>(55)</sup>. However, **Afghanistan (2,767 applicants), Syria (2,766 applicants) and Iraq (1,179 applicants)** were still the top three countries of origin for asylum applications in Belgium in 2016, followed by **Guinea (924)** and **Somalia (847)**.

The sudden and very high increase in the number of applications during the second half of 2015 also led to challenges in 2016. All the asylum applications lodged in the second half of 2015 could not be processed within three to six months. By mid-April 2016, the **backlog peaked** and 18,375 cases were pending at the Office of the Commissioner General for Refugees and Stateless Persons (CGRS). The CGRS took several measures to **reduce the backlog and processing time** as much as possible with the objective to guarantee the quality of each asylum assessment and decision. At the end of December 2016, the total caseload of the CGRS was 14,815 asylum cases (18,902 persons). The decrease of the backlog was possible due to the sharp drop in asylum applications in 2016, as already mentioned above. Besides, the CGRS **recruited additional staff and took special measures to increase the number of decisions**.

Furthermore, the beginning of 2016 was marked by the consequences of the asylum crisis of 2015. In contrast to 2015, Fedasil saw a **significant drop in the number of asylum seekers** to accommodate in 2016. To adjust the number of reception places to this new reality, the federal government decided in June 2016 **to reduce the reception capacity by 10,000 places**. Some thirty temporary emergency reception centres for asylum seekers were closed. A challenge in 2017 will be to organize a **flexible management of the reception capacity** and to ensure a sufficient and (cost) efficient buffer capacity<sup>(56)</sup>.

55 More information: CGRS, 'Asylum statistics – general overview 2016', 6 January 2017, <http://www.cgrs.be/en/news/asylum-statistics-general-overview-2016>.

56 Belgian House of Representatives, General Policy Note on Asylum and Migration, 27 October 2016, DOC 54 2111/017, p. 17.

The past two years were marked by terrorist attacks in several European countries, including the bombings in Brussels on 22 March 2016. In this context, additional security measures were taken in the asylum system. Fingerprints and a photo of asylum applicants are taken and a **security screening of all asylum applicants**, including asylum applicants who came to Belgium in the framework of resettlement and relocation, is performed<sup>(57)</sup>. The Law of 10 August 2015 already made it possible to take into account threats to society and national security in assessing applications for international protection or to withdraw the protection status on these grounds. Furthermore, on 1 May 2016, a new **'radicalisation' unit** was established within the Immigration Office. This unit allows for the monitoring and centralisation of individual cases where a link exists with radicalism and terrorism and provides coordination between different organisations involved, such as the Immigration Office, CGRS, Fedasil, Police and the security services<sup>(58)</sup>.

## 4.2 Access to the asylum procedure and the 'visa issue'

Belgium does not have a humanitarian admission or private sponsorship programme, but a humanitarian visa can be granted on a discretionary basis. Regarding humanitarian visas, the so-called **'visa issue'** was largely discussed in the public and political debate. On 20 October 2016, the Belgian Council for Alien Law Litigation decided that the Belgian State had to deliver a humanitarian visa to a Syrian family. Within the framework of the same case, another court decided that a penalty payment would be imposed on the Belgian State if it did not issue the visa. The State Secretary for Asylum Policy and Migration disagreed with these decisions and lodged appeal procedures. In a similar case, the Immigration Office refused to grant a visa to a Syrian family who had applied for said visa with a view to making an asylum application in Belgium. In this case, the Belgian Court for Alien Law Litigation referred preliminary questions to both the Belgian Constitutional Court and the Court of Justice concerning the interpretation of the Visa Code. On 7 March 2017, the **Court of Justice of the EU ruled that Member States are not required – under EU law – to grant a humanitarian visa to persons who wish to enter their territory with a view to applying for asylum**<sup>(59)</sup>.

The 'visa-issue' was widely **discussed in the public and political debate**. The lawyer of the Syrian family and the State Secretary for Asylum Policy and Migration conducted a heated debate – both through legal means (claim for a penalty payment) and through the media - on the question if the Immigration Office was required to issue a humanitarian visa to make it possible for people to apply for asylum. As mentioned above, the Court of Justice of the EU ruled in favour of the Belgian State and the State Secretary expressed his satisfaction<sup>(60)</sup>. Belgian NGOs expressed their disappointment at the judgment of the Council of Justice of the EU. They argued that the right to asylum is fundamental, that Member States tend to hamper the access to their

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57 Ibid, p.12.

58 Ibid, pp.34-35.

59 Case C-C-638/16 PPU X. and X. v. État Belge, 7 March 2016.

60 See for example: 'Visazaak: ten gronde', Theo tuurt naar Vlaanderen en de wereld, 4 April 2017, <https://theotuurt.wordpress.com/2017/04/04/visazaak-ten-gronde/>

territory more and more and - as a consequence - force asylum applicants to use dangerous and illegal travel routes to Europe<sup>(61)</sup>.

### 4.3 Legislative developments

As of 8 July 2016, asylum seekers who were granted a refugee status by the CGRS no longer receive a residence permit of unlimited duration (residence card type B). Instead, they obtain a temporary **residence permit (residence card type A) with a validity of five years**. This period of five years starts from the moment the asylum application was lodged. After five years, the refugee will receive a residence permit of unlimited duration, unless the refugee status has been withdrawn<sup>(62)</sup>.

In 2016, there were no changes regarding the residence permit for **beneficiaries of subsidiary protection**. Beneficiaries of subsidiary protection obtain a residence permit for one year. This permit can be renewed by the municipal authority for two years at a time. After five years, the beneficiary of subsidiary protection receives an unlimited residence permit from the municipality.

### 4.4 International protection procedures

#### Registration of applications for international protection and pre-registration

The Immigration Office is the authority responsible for the making, registration and lodging of asylum applications, which is in principle done when the asylum applicant presents himself at its offices. At the border, asylum applications can be made with the border police section of the Federal Police, and in penitentiary institutions with the prison director. These authorities transfer the asylum application immediately to the Immigration Office.

On 7 March 2016, a **system of pre-registration** was introduced. Before the asylum application is formally lodged, a screening is performed. This phase of pre-registration implies that fingerprints and a photo of the asylum applicant are taken and a **security screening** is done<sup>(63)</sup>. The phase of pre-registration and the security screening consists of the following elements<sup>(64)</sup>:

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61 See for example: 'Vluchtelingen- en mensenrechtenorganisaties "zeer ongerust" over gevolgen Europees arrest visa', De Redactie, 17 March 2017, <http://deredactie.be/cm/vrtnieuws/binnenland/1.2910780#>

62 Law of 1 June 2016 modifying the law of 15 December 1980 on the entry, residence, settlement and removal of foreign nationals, Belgian Official Gazette, 28 June 2016.

63 Source: Immigration Office (Asylum unit).

64 Source: 'Veiligheidsscreening', Theo tuurt naar Vlaanderen en de wereld, 20 November 2015, <https://theotuurt.wordpress.com/2015/11/20/veiligheidsscreening/>.

### ***(i) Identification by the Immigration Office***

The asylum applicant is requested to give his name and to present his identity documents. A **photo and fingerprints** of each applicant are taken. The fingerprints are compared in the national database of the Immigration Office (Printrak), which is a database containing the information on persons who applied for asylum in Belgium in the past and contains the fingerprints of persons apprehended by the police as they were irregularly staying in Belgium. Moreover, the fingerprints are also compared in Eurodac. In case the fingerprints comparison reveals that the person is known under another identity or alias, the Immigration Office tries to establish the true identity.

### ***(ii) Screening by the security services***

The Immigration Office transfers the list of names (and any aliases) to the Military Intelligence Service ('Algemene Dienst Inlichtingen en Veiligheid' – 'ADIV' / 'Service Général du Renseignement et de la Sécurité' - 'SGRS') and the civil State Security. These services screen the names of asylum applicants in their databases.

### ***(iii) Screening in the police database***

The General National Database ('Algemene nationale gegevensbank' – 'ANG' / 'Banque de données Nationale Générale' – 'BNG') is consulted for each asylum applicant by the police.

Furthermore, the fingerprints of the asylum applicants are also verified in the **Visa Information System (VIS)**, which became entirely rolled out at the end of November 2015.

In the days after the 'pre-registration', the asylum application is formally lodged and an Annex 26<sup>(65)</sup> is handed over to the applicant. However, the asylum application of very vulnerable persons is immediately lodged with the making of the asylum application.

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65 This document allows the asylum applicant to identify himself as an asylum applicant. With this document, the asylum applicant can be issued an attestation of immatriculation by the municipality, which is a type of residence permit valid during the duration of the asylum procedure.

## EMN Activities

### 2016 EMN ad hoc query

#### **Detecting jihadists in the asylum procedure**

**The Netherlands** launched an EMN ad-hoc query in June 2016 on how and to what extent relevant governmental institutions in the EU Member States and Norway are equipped to identify i) possible jihadists in the asylum process, and ii) recruitment activities in reception centres. 18 (Member) States provided an answer, including Belgium.

#### **Some of the main findings of the ad-hoc query:**

- The majority of countries that provided an answer to the ad hoc query have acknowledged the risk of jihadists using the refugee flow to enter Europe and the risk posed by recruitment activities in reception centres.
- Most countries have measures in place to identify persons that could form a threat to national security, such as jihadists, during the asylum procedure. These measures broadly fall within the following categories: 1) security screenings, 2) capacity building in the primary process of immigration services such as trainings and awareness raising campaigns 3) specific reporting structures to communicate information on potentially dangerous persons identified during the asylum procedure and 4) effective information exchange between governmental authorities.
- A number of countries reported an increase in the number of incidents relating to possible jihadists or the radicalization or recruitment for the jihad in or around the asylum process. However, the increase in the absolute number of reported incidents in some countries does not necessarily mean that also the relative number of incidents increased. An increase of incidents has only been reported by countries that received a higher influx of asylum seekers during the last two years.

**The compilation of answers from Member States and a summary of the results** are available on the website of the Belgian Contact Point: <https://emnbelgium.be/publication/ad-hoc-query-detecting-jihadists-asylum-procedure>

## Dublin

The Immigration Office determines whether Belgium is responsible for processing an asylum application under Regulation (EU) No 604/2013 (Dublin III Regulation). The Immigration Office uses the common and **specific leaflets**<sup>(66)</sup> provided by the European Commission, completed with specific national information.

<sup>66</sup> The Dublin-leaflets are available on the website of the Immigration Office: <https://dofi.ibz.be/sites/dvzoe/NL/Pages/Dublin-Leaflets.aspx>.



In 2016, there was a significant increase of Dublin cases and the capacity of the Dublin-unit of the Immigration Office was increased. In 2015, 1,913 rejections based on the Dublin Regulation were taken, while at the end of September 2016 already 2,679 persons were rejected on this ground<sup>(67)</sup>.

No **Dublin transfers to Greece** were performed in 2016. There were a lot of Dublin cases with Hungary, but only few people could be transferred to that Member State. This situation was linked to capacity constraints on the one hand and to a refusal of the Dublin transfer on the other hand.

As many other Member States, Belgium had problems with the installation of the new **DubliNet certificate**. This caused a significant delay in the sending and receiving of Dublin requests. As a consequence, all the Dublin requests could not be sent within the set time limits and Belgium became responsible for processing the asylum application by default.

In 2016, in some cases, the Council for Aliens Law Litigation (CALL) **suspended the Dublin transfers** to Bulgaria,<sup>(68)</sup> Italy<sup>(69)</sup> and Hungary<sup>(70)</sup>, but also Dublin transfers to France<sup>(71)</sup> and Germany<sup>(72)</sup>. These judgments concern the motivation of individual decisions for specific situations and had limited impact on the policy of the Immigration Office regarding Dublin transfers towards these other EU Member States<sup>(73)</sup>.

## First instance decisions

The asylum applications for which Belgium is responsible according to the Dublin Regulation are transferred to the CGRS to be examined on their merits. The CGRS, an independent administrative authority, is the central asylum decision-making authority. In a single procedure, the CGRS first examines whether the applicant fulfils the eligibility criteria for refugee status and, only if they are not met, subsequently whether they are eligible for subsidiary protection status.

In 2016, **12,197 persons were granted refugee status** according to the Geneva Refugee Convention by the CGRS and an additional **3,281 persons received subsidiary protection status**.

In 2016, the CGRS took a total of **22,207 decisions** concerning 27,678 persons. Compared to the number of decisions taken in 2015 (16,929), this is an increase of more than 30 %. This increase could be achieved thanks to additional staff, efficiency measures and the commitment of the staff<sup>(74)</sup>.

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67 Belgian House of Representatives, General Policy Note on Asylum and Migration, 27 October 2016, DOC 54 2111/017, pp. 10-11.

68 CALL, judgement 165.304, 6 April 2016 and judgement 168.890, 1 June 2016.

69 CALL, judgement 169.039, 3 June 2016.

70 CALL, judgement 166.725, 28 April 2016.

71 CALL, judgement 159.901, 14 January 2016.

72 CALL, judgement, 176.046, 10 October 2016.

73 Source: Immigration Office (Dublin-unit).

74 CGRS, Asylum statistics – general overview 2016, 6 January 2017, <http://www.cgrs.be/en/news/asylum-statistics-general-overview-2016>

## Border and accelerated procedures

For what concerns applications made at the **border**, there were no major developments in 2016. Pending the handling of the asylum application lodged at the border, the asylum applicant is detained at the border in a detention centre managed by the Immigration Office. Furthermore, the applications of applicants staying in a closed centre (for example asylum applicants involved in public order issues) are also accelerated.

Belgium has no specific **admissibility procedures** but a decision 'not to take into consideration the application' can be issued. This can be the case for subsequent applications without new elements being presented, applications lodged by EU-citizens, applications lodged by applicants who hold a refugee status in another Member State and for applicants from safe countries of origin. In these cases, shorter time-limits apply, but the applications are to a large extent assessed on the merits. These types of procedures can thus rather be considered as accelerated procedures.

Furthermore, Belgium updated its **list of safe countries of origin** on 3 August 2016. **Georgia** was added to the list. The list of safe countries of origin now contains the following eight countries: Albania, Bosnia-Herzegovina, FYROM, Kosovo, Montenegro, Serbia, India and Georgia. The list of safe countries of origin is revised at least once a year and can be updated on the basis of the most recent situation in the country. For citizens of a country that appears on the list of safe countries of origin, the presumption applies that international protection is not needed. Therefore, asylum seekers from these countries have to present elements that clearly prove that in their case, their country cannot be considered safe. As a result, the burden of proof lies more with the asylum applicant<sup>(75)</sup>. The State Secretary for Asylum Policy and Migration announced he will ask the advice of CGRS to verify if Morocco, Algeria, Tunisia, Moldavia, Benin and Senegal can be considered as safe countries of origin<sup>(76)</sup>.

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75 CGRS, 'Publication of list of safe countries in the Belgian Official Journal', 29 August 2016, <http://www.cgra.be/en/news/publication-list-safe-countries-belgian-official-journal>

76 'Francken wil Tunesië, Algerije en Marokko op lijst veilige landen', HLN, 16 November 2016, <http://www.hln.be/hln/nl/957/Binnenland/article/detail/2984567/2016/11/16/Francken-wil-Tunesie-Algerije-en-Marokko-op-lijst-veilige-landen.dhtml>

## EMN Activities

### 2016 EMN ad hoc query

#### Safe countries of origin

Recent amendments to the Estonian legislation introduced the possibility to draft a list of safe countries of origin. In this framework, **Estonia** launched an EMN ad-hoc query to find out more about other Member States' practices regarding safe countries of origin.

#### **Some of the main findings of the ad-hoc query:**

- 14 out of 24 countries that responded to the ad-hoc query have a list of safe countries of origin.
- NL designated the most countries as safe countries of origin (31 safe countries of origin). This is followed by the UK (25 countries) and AT (20 countries). NO does not officially have a list of safe countries of origin, but only a list of countries whose inhabitants are subject to an accelerated procedure.
- LU, UK and NO have designated safe countries of origin for specific groups of people. For example Ghana (LU, UK), Benin (LU), Kenya, Nigeria, Gambia, Liberia, Malawi, Mali and Sierra Leone (UK) are designated as safe for men, Kosovo as not safe for minorities (NO), Botswana and Namibia as not safe for LGBT (NO), Ghana and Tanzania as not safe for girls under 18 claiming fear of Female Genital Mutilation, or sexual minorities, or albinos specifically in Tanzania (NO).
- The countries which are most often found on lists of safe countries of origin are the Western Balkan countries.
- There is often no fixed timespan for the re-evaluation of these lists.
- Criteria that are most often mentioned for deciding whether a country is safe or not are: non-existence of persecution by the state, adherence to the European Convention for the Protection of Human Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and adherence to the non-refoulement principle according to the Geneva Refugee Convention.
- Most countries that have a list of safe countries of origin in place process applications from these countries in an accelerated procedure.
- Almost every country has the same reception conditions (aside from DE and NL) or return provision (aside from FI and NL) for applicants from a safe country of origin as for applicants from other countries.

**The compilation of answers from Member States and a summary of the results** are available on the website of the Belgian Contact Point: <https://emnbelgium.be/publication/emn-ad-hoc-query-safe-countries-origin>

## Legal assistance and interpretation services

Free legal assistance for asylum applicants continues to be guaranteed. The Law of 6 July 2016 aimed at adjusting the Judicial Code on legal assistance<sup>(77)</sup> became enforceable in 2016 and provides that in case of free legal aid, a **contribution must be paid by the person concerned**. However, an asylum applicant is exempted from this requirement. Moreover, an asylum applicant is considered as having insufficient means - unless there are clear contra-indications - and is therefore entitled to free legal assistance. Furthermore, the **remuneration for pro bono legal representation** in several judicial procedures, including asylum procedures, was altered.

In 2016, there were no developments regarding the **provision of interpretation** services during the asylum procedure. Free interpretation services are provided by the Immigration Office and the CGRS. An interpreter is provided if the asylum applicant has indicated that he/she needs one. The interpreters are neutral and bound to professional confidentiality.

## Focus on tackling fraud and abuse

The State Secretary for Asylum Policy and Migration stressed in his latest Policy Note that **combatting unfounded and fraudulent applications** (including age fraud) continues to be a priority. As described above, the issue of persons with a protection status returning to their country of origin was also addressed<sup>(78)</sup>. The focus of the Policy Note of the State Secretary on tackling fraud and abuse was criticized by NGOs and by members of the Parliament of some other political parties. They regretted these priorities and found the tone of the Policy Note stigmatizing by focusing on fraud and abuse, and by making the link with crime, terrorism and radicalism<sup>(79)</sup>.

Since August 2016, training on social media is provided to the protection officers (case-workers) of the CGRS. The use of social media for the **assessment of the credibility** of an asylum application and to establish (elements of) the identity is a relative new method. However, this research technique can provide valuable information, in particular in cases where there is a doubt regarding the credibility of the asylum motives and/or the country or region of origin, and in potential cases for exclusion. Decisions based on information on Facebook have already been confirmed by the Council for Aliens Law Litigation. Besides, if the information on Facebook corresponds to the statements of the asylum applicant, this can be an additional reason to grant the protection status.

In 2016, there was also more focus on the **withdrawal of status for beneficiaries of international protection who voluntarily travel back to their country of origin**, regularly or occasionally and then return to Belgium again<sup>(80)</sup>. Out of the 46 revocation procedures initiated in 2016 on the

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77 Law of 6 July 2016 amending the Judicial Code with respect to the legal assistance, Belgian Official Gazette, 14 July 2016.

78 Belgian House of Representatives, General Policy Note on Asylum and Migration, 27 October 2016, DOC 54 2111/017, pp. 11-12.

79 See for example: 'CD&V tegen Francken: "Regeerakkoord is geen vodge papier', Knack online, 30 November 2016, <http://www.knack.be/nieuws/belgie/cd-v-tegen-francken-regeerakkoord-is-geen-vodge-papier/article-normal-783527.html>

80 Belgian House of Representatives, General Policy Note on Asylum and Migration, 27 October 2016, DOC 54 2111/017, pg.11.

basis of Article 14(3)(b)<sup>(81)</sup> and 19(3)(b)<sup>(82)</sup> of the Qualification Directive, 36 cases are still under review, 10 resulted in a revocation of status and two resulted in the confirmation of the status<sup>(83)</sup>.

### Efficiency and quality in the processing of asylum applications

As part of a larger project ('Videoconferencing for Identification') coordinated by the Immigration Office, the CGRS started in 2016 interviewing asylum applicants staying in the detention centre for persons in irregular stay (in Merksplas) through video conference. **Interviewing asylum applicants through video conference** implies that the staff members of the asylum board no longer have to go to the closed centre. This method also accelerates the planning of interviews<sup>(84)</sup>. Considering the increasing number of interviews of asylum applicants in closed centres, video conference enhances efficiency. In 2016, 78 interviews in the stage of registration of the asylum application by the Immigration Office and 50 interviews by the CGRS could be organised via video-conferencing.

Furthermore, in order to be able to process more asylum applications, the CGRS - in June 2016 - **doubled the number of interviews per day segment for Syrians** and opened new time slots for extending the starting times of interviews for Syrian asylum seekers. The CGRS introduced this efficiency measure to increase the number of decisions. A thorough, individual processing of every asylum application is still guaranteed<sup>(85)</sup>.

Belgium also started with the **use of a questionnaire for Afghan minors** in 2016. Belgium registers a large number of asylum applications from Afghan minors. The CGRS aims at a fast, efficient and qualitative assessment of those applications. Therefore, from 18 April 2016 onwards, the CGRS sends out a request for information to Afghan minors and their guardian in

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81 Article 14 (3) (b) has been transposed in article 55/3/1 §2 of the Belgian Immigration Act, which allows for the additional possibility of revocation of the refugee status based on later personal behaviour indicating that the fear of persecution is no longer well-founded. Art. 55/3/1. § 2 states the following: "The Commissioner general for refugees and stateless persons revokes the refugee status: 2° of the third country national who has been granted refugee status based on facts he/she has withheld or misrepresented, on false declarations, false or falsified documents which have been decisive for the granting of status, or of the third country national whose later personal behaviour indicates that he/she no longer has a well-founded fear of persecution.

82 Article 19 (3) (b) has been transposed in article 55/5/1 §2 of the Belgian Immigration Act, which allows for the additional possibility of revocation of the subsidiary protection status based on later personal behaviour indicating that the risk of serious harm is no longer real. Art. 55/5/1 § 2 states the following: "The Commissioner general for refugees and stateless persons revokes the subsidiary protection status: 2° of the third country national who has been granted subsidiary protection status based on facts he/she has withheld or misrepresented, on false declarations, false or falsified documents which have been decisive for the granting of status, or of the third country national whose later personal behavior indicates that he/she no longer runs a real risk of serious harm.

83 On 3 December 2016 the Belgian State Secretary for Migration and Asylum, Mr. Theo Francken and the Dutch State Secretary for Security and Justice, Mr. Klaas Dijkhoff, signed a letter of intent to enhance the control regarding the voluntary return of beneficiaries of international protection to their respective countries of origin and to come to a better sharing of information on this. The Immigration Office is currently exploring the possibility of setting up similar cooperation agreements with other (neighbouring) EU Member States.

84 CGRS, 'The CGRS starts with interviews through video conference', 3 June 2016, <http://www.cgrs.be/en/news/cgrs-starts-interviews-through-video-conference>

85 CGRS, 'Doubling of the number of interviews per day segment for Syrians', 2 June 2016, <http://www.cgrs.be/en/news/doubling-number-interviews-day-segment-syrians>

the form of a questionnaire. The completed questionnaire must be returned by registered mail within a month after its sending<sup>(86)</sup>. As from 3 November 2016, the CGRS has also **increased the number of interviews of Afghan unaccompanied minors** in order to increase the number of its decisions<sup>(87)</sup>.

Furthermore, asylum applicants with a specific profile (e.g. unaccompanied minors from Afghanistan) were assigned to a limited number of **specialized protection officers** with the objective to increase efficiency.

The guidelines on the handling of subsequent asylum applications were fine-tuned and the protection officers were trained with the objective to further **increase the efficiency of processing subsequent asylum applications**.

With regards to the **quality** of the handling of the asylum applications, the CGRS has started a quality project in May 2013 to **develop quality tools** and a quality unit. In the framework of this project, several measures were taken in 2016. A specific **quality guide** has been elaborated, printed and handed out to all the protection officers and their supervisors. This guide clarifies the roles and responsibilities between the protection officer and the supervisor. It specifies the quality criteria to be respected to ensure high quality decisions, including the content of the different training modules, and it provides links with all the necessary internal guidelines. Furthermore, supervisors have been trained concerning their coaching role, and a guide has been elaborated to define their different roles (technical supervision, head of unit, coach, and evaluator). Furthermore, regular **working meetings on quality** at different levels<sup>(88)</sup> of the CGRS were held to improve the overall quality of the decision making process. The purpose of those meetings was to identify good practices related to quality and to map and solve the difficulties/problems which might be an obstacle to deliver high quality decisions.

## Country of Origin Information

The **Documentation and Research Centre (Cedoca)** of the CGRS has a staff of 40 persons. It is made up of 27 researchers who are specialised per geographical region and a library team which assists the researchers and is responsible for sharing the Country of Origin (COI) Information on the CGRS intranet. The researchers follow the situation in the countries of origin on a day-to-day basis, they gather and select all relevant information and make this available to the protection officers. They also carry out specialised research to answer protection officers' questions during the processing of individual asylum applications.

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86 CGRS, 'Start of the use of a questionnaire for Afghan minors', 18 April 2016, <http://www.cgrs.be/en/news/start-use-questionnaire-afghan-minors>

87 CGRS, 'Examination of asylum applications from Afghan minors', 4 November 2016, <http://www.cgra.be/en/news/examination-asylum-applications-afghan-minors>

88 Those meetings take place on three levels: between the protection officers and their supervisor, within each geographical section and between the heads of the geographical section and the management of the CGRS.

In 2016, Cedoca heavily invested in **country training** for the new protection officers and protection officers who started with a new country. As the **use of New Media** became common ground in the asylum claims, Cedoca developed manuals on the use of New Media and trained all researchers and all protection officers on the use of New Media. The New Media expert gave training at the EASO Conference on online search and was invited by Norway, Luxemburg and Switzerland to give these trainings to all their researchers and to lead sessions at the EASO Workshop on web tools.

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

In 2016, Cedoca continued to be a **very active player in international workshops, projects and presentations**. Cedoca organized workshops and received guests from several countries, including New Zealand and Australia. Collaboration on the sharing of production planning and dividing workload amongst France, the United Kingdom and Belgium started in the summer of 2016. Cedoca also participated in all the EASO networks and contributed to the EASO reports of Afghanistan, Pakistan, Somalia and the Russian Federation.

## Appeal Procedure

There were no major developments regarding the appeal procedure in 2016. The **Council of Aliens Law Litigation** (CALL) is the administrative Court competent for handling appeals against all kinds of administrative decisions in the field of migration, among others against the negative first instance decisions of the CGRS.

## 4.5 Jurisprudence

### Court of Justice of the EU

In October 2016, a Syrian couple with three minor children, living in Aleppo (Syria), applied for **humanitarian visas** at the Belgian embassy in Lebanon. The purpose of the applications was to obtain visas with limited territorial validity, on the basis of the EU Visa Code, in order to enable them to leave Syria and apply for asylum in Belgium. These applications were rejected by the Belgian Immigration Office, arguing that by seeking to obtain these visas, the family clearly intended to stay longer than 90 days in Belgium (contrary to the Visa Code) and that granting them the visas would amount to allowing them to make an asylum application to a diplomatic post.

The Syrian family challenged the refusal decision before the Council for Alien Law Litigation (CALL). The CALL decided to refer the matter to the Court of Justice of the EU. On 7 March 2017,

the **Court of Justice of the EU** ruled that Member States are not required – under EU law – to grant a humanitarian visa to persons who wish to enter their territory with a view to applying for asylum<sup>(89)</sup>. The Court of Justice considers that EU law establishes only the procedures and conditions for issuing visas for transit through or intended stays on the territory of the Member States not exceeding 90 days. The Syrian family, however, submitted applications for visas on humanitarian grounds with a view to apply for asylum in Belgium (and thus, for a residence permit exceeding 90 days). Therefore, even if the applications were submitted on the basis of the Visa Code, they fall outside its scope and the applications of the Syrian family thus fall solely within the scope of national law (also See [Section 4.2 of this report](#)).

### Council for Aliens Law Litigation (CALL)

In several cases in 2016, the CALL confirmed the refusal or withdrawal of refugee status because the person involved constituted a **danger to society** as he/she was finally convicted of a particularly serious crime. These were the first applications of the Law of 10 August 2015 that enables the asylum authorities to take security into account threats to society and national when assessing asylum applications<sup>(90)</sup>. These cases were related to activities of a terrorist group, piracy, robbery, premeditated murder, robbery with violence, and attempted extortion and rape.

Another important judgement of the CALL in 2016 indicated that the general security situation in Mogadishu (Somalia) is no longer of such a nature as described in article 15, c) of the Asylum Qualification Directive.

### Constitutional Court

In 2015, an appeal was lodged with the Constitutional Court against similar CGRS decisions ‘**not to take the asylum application into consideration**’ for (1) asylum applications of EU citizens; (2) asylum applicants who have already been recognized as refugees in another Member State and (3) asylum applicants who received a technical refusal<sup>(91)</sup>. The Belgian Constitutional Court rejected the appeal and did not follow the argumentation that the appeal procedure at the Council for Aliens Law Litigation against these types of decisions is not **an effective remedy**. In 2016, the Constitutional Court endorsed this and stated that judicial remedy available for these decisions is limited to the legal aspects (and not on the substance of the case) and is deprived of automatic suspensive effect. The Constitutional Court also upheld the various amendments brought to the legislation relating to the urgent procedures at the Council for Aliens’ Law Litigation. The amendments were intended to answer various criticisms raised by the European Court of Human Rights concerning these urgent procedures. The procedural rules applicable for procedures

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89 Case C-C-638/16 PPU X. and X. v. État Belge. 7 March 2016.

90 On 3 September 2015, the Law of 10 August 2015 amending the Immigration Act came into force. This amendment is intended to take into account threats to society and national security in applications for international protection.

91 ‘Technical refusals’ (refusals of an asylum application under Article 52 of the Immigration Act) are: (a) deliberately ‘withdrawing oneself’ from a border procedure; (b) not appearing on the date of the interview without giving good reasons within 15 days; (c) not delivering the information one is asked for within a month without good reasons; and (d) non-compliance with the obligation to report for at least 15 days.



before the Council for Alien Law Litigation are now in line with the Strasbourg jurisprudence on the principles of '**effective remedy**' (art. 13 of the European Convention on Human Rights - ECHR) and with the requirements of the Constitutional Court itself. In the same judgment, the Constitutional Court also upheld the mechanism whereby certain mala fide subsequent applicants (merely to hamper to return procedure) may no longer stay on the territory pending the result of their judicial remedy. To reach this conclusion, the Court took into account that the effective removal of the applicant concerned can only take place in the absence of direct or indirect risk of refoulement<sup>(92)</sup>.

### Council of State

In its judgment of 23 June 2016, the Council of State (partially) rejected the **inclusion of Albania on the list of safe countries of origin** established by the Royal Decree of 2015.

## 4.6 Reception of applicants for international protection

### Reception during the new pre-registration phase

After the pre-registration at the Immigration Office (see Section 4.4. of this report), asylum seekers who are entitled to material aid according to the Reception Act of 12 January 2007, have the opportunity to stay in a **temporary reception centre pending the convocation** for the formal registration of their asylum application. This so-called 'pre-reception' is organised by the non-profit organisation Samusocial in Neder-over-Heembeek and is part of the reception network of Fedasil<sup>(93)</sup>. Once the asylum seeker is formally registered, the Dispatching Service of Fedasil will allocate a regular reception place.

### Reduction of reception capacity

In contrast to 2015, Fedasil saw a **significant drop in the number of asylum seekers to accommodate** in 2016, with 16,700 people entering the reception network of Fedasil, compared to 38,300 people in 2015. In 2016, 26,560 residents left the reception network, resulting in a negative in-out balance of about 10,000 people. To adjust the number of reception places to this new reality, the federal government decided on 3 June 2016<sup>(94)</sup> to **reduce the reception capacity by 10,000 places**<sup>(95)</sup>. In the course of 2016, the reception capacity was reduced through different

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92 Constitutional Court, Judgment 13/2016, 27 January 2016.

93 The Reception Act of 12 January 2007 still states in Art. 6§1 that every asylum seeker is entitled to material aid from the moment of submitting his application for asylum. This will be adapted to ensure that the asylum seekers is entitled to material aid from the moment he has gone through the pre-registration process.

94 More information: [http://fedasil.be/sites/5042.fedimbo.belgium.be/files/persbericht\\_theo\\_francken\\_afbouw\\_opvangnetwerk\\_030616\\_nl.pdf](http://fedasil.be/sites/5042.fedimbo.belgium.be/files/persbericht_theo_francken_afbouw_opvangnetwerk_030616_nl.pdf)

95 In late April, Fedasil already started the gradual closure of emergency places such as tents, mobile units and beds that were placed in common areas (a total of 2,000 reception places).

measures: closing down the emergency centres; not renewing the temporary contracts with the private operators; returning the buildings that were on loan from the Ministry of Defence; and reducing places in the remaining reception facilities. Some thirty reception centres from Fedasil, the Red Cross and private companies closed down together with a large number of individual reception places organised by the NGOs CIRÉ and Vluchtelingenwerk Vlaanderen<sup>(96)</sup>. Asylum seekers who stayed in temporary or emergency reception facilities were all gradually transferred to other reception facilities.

The number of reception places evolved from 33,659 places in January 2016 to a maximum of 35,697 places in May and was reduced to 26,363 at the end of December 2016. There were 15,417 reception places in collective facilities (including the temporary centres and 310 so-called 'open return places') and 10,946 individual reception places at the end of December 2016.

Until the summer of 2016, the occupancy rate in the reception facilities decreased continuously (to 79%). Due to the closure of reception places, the occupation began to rise again and by the end of 2016 amounted to 87%.

### Adjustments and optimization of the reception model

The Coalition Agreement of October 2014<sup>(97)</sup> provided for a **new reception model**, which gives preference to collective reception in centres, but allows for certain groups (such as **vulnerable persons** and asylum seekers with a high probability of obtaining international protection) to be assigned to an individual reception place. The aim is to offer material aid in the most appropriate reception facility for the applicant.

The introduction of the new reception model was put on hold in September 2015 because of the high influx of asylum seekers. In April 2016, the decision was taken to **restart the various phases** of the new reception model.

From 29 August 2016 onwards, residents who stay in the collective reception centres at the moment they receive a residence permit for more than three months have to leave the centre. They can spend their **transition period of two months in a Local Reception Initiative or an individual reception place run by NGOs or they can leave the reception network all together**, in which case they will receive meal vouchers for one month (EUR 280 per adult and EUR 120 per child).

From 13 October 2016 onwards, **asylum seekers with a high degree of protection** are, on a voluntary basis, allocated to a Local Reception Initiative<sup>(98)</sup>. It concerns residents with a protection rate of 90% and higher, who have stayed in a collective reception centre for at least four months and have an ongoing asylum procedure at the CGRS. It currently concerns asylum seekers from Libya, Syria and Burundi.

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96 By the end of this operation, in 2017, a total of 13,500 reception places will have closed down.

97 Federal Coalition Agreement, 9 October 2014.

98 Fedasil, Instruction: Transfer from collective reception to a Local Reception Initiative - Allocation of asylum seekers with a high degree of protection, 13 October 2016.

When **assigning a Local Reception Initiative**, Fedasil takes into account the language of education of the children, the medical needs of the resident and the existence of an employment contract. To a lesser extent other specific needs and vulnerabilities can also be taken into account.

### Minimum quality standards for reception facilities

At the end December 2015, the **minimum quality standards concerning material aid, infrastructure, furniture and general accompaniment** were sent to the reception network of Fedasil in order to prepare test audits in some of the reception facilities. In drawing up the minimum standards, Fedasil took the concept of gender into account (e.g. separate bedrooms for single men and women, separate bathrooms for men and women, separate leisure areas for women and minors or separate access hours to these areas, etc.).

Mid-2017, the minimum quality standards relating to **the medical and psychological counselling and the specific quality standards for unaccompanied minors (UAMs)** will be in place. Specific standards for **other vulnerable groups** with specific needs, such as persons with physical and mental disabilities, seriously ill persons, or pregnant women, will follow.

### Legislative changes

On 4 May 2016, the Law regarding the reception of asylum seekers of 12 January 2007 was modified. The Reception Act now states that an **individual reception facility can be requested only after a six-month stay, instead of four, in a collective reception centre**<sup>(99)</sup>. However, Fedasil can assign an individual reception place to vulnerable persons before the period of six months has elapsed.

On 6 July 2016, the same law was modified with regard to **the sanctions** that can be imposed on the residents of the reception structures **in case of serious breaches of the internal rules**<sup>(100)</sup>. A **definitive exclusion**<sup>(101)</sup> from the reception network is now possible, provided that a dignified standard of living shall remain ensured. The Reception Act does not indicate which violent acts are considered as 'serious'. The explanatory memorandum clarifies that the director of the reception centre will make a decision after a detailed investigation in which the asylum seeker is heard. If the director of the centre decides to impose the sanction, the decision must be motivated and transferred to the Director General of Fedasil. The Director General has to confirm, cancel or reduce the sanction within a period of three days. Article 45 of the Reception Act also provides an additional guarantee: after imposing the penalty, the asylum seeker can request a review at

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99 Article 38 of the Law of 4 May 2016 introducing various provisions regarding asylum and migration and modifying the law of 15 December 1980 on the access, residence, settlement, and removal of foreign nationals and the law of 12 January 2007 on the reception of asylum seekers and other categories of foreign nationals, Belgian Official Gazette, 27 June 2016.

100 Law of 6 July 2016 amending the law of 12 January 2007 on the reception of asylum seekers and certain other categories of foreigners, Belgian Official Gazette, 5 August 2016.

101 This sanction can only be applied as a last resort. The definitive exclusion can only be imposed after a temporary exclusion of one month could not provide a solution. There is one exception to this: in serious cases of physical or sexual violence, this definitive exclusion may be imposed immediately.

Fedasil. Fedasil may grant a reduction or cancellation of the exclusion when the asylum seeker demonstrates that s/he has no access to alternative solutions, such as facilities for homeless people which can ensure a dignified standard of living. Fedasil has to take a motivated decision within five days.

Another new sanction is the possibility to impose a **complete or partial withdrawal of the daily allowance** (pocket money), for a period of maximum four weeks.

Furthermore, a new Executive Decree organising the **distribution of asylum seekers** between all Public Social Welfare Centres in case of a high influx in Belgium was published on 10 May 2016. This Executive Decree has **not been activated** to-date given the decrease of asylum applicants arriving in Belgium since the beginning of 2016.

The Reception Directive 2013/33/EU will be transposed in Belgian legislation in the course of 2017.

### **The computerization of the management of the reception facilities under the asylum and migration procedures**

Fedasil is currently working on **Match-It**, a project **to automate key administrative processes** of the agency in order to achieve a more efficient management of the entire reception network. The development of Match-It has started in February 2015.

The Match-It application will inter alia allow:

- to have an exact image of the capacity and utilisation of the entire reception network in real-time;
- to quickly respond to and efficiently deal with reception needs and to have an automatic display of the reception options that best meet the specific individual needs of the beneficiaries of reception;
- to carry out automatic checks of the right to reception (links with the National Register);
- to centrally treat and monitor applications for renewal of material aid/reception;
- to manage and monitor the reception network in its entirety by means of data management and statistical analysis.

Due to the reception crisis in the summer of 2015, the scope of the first phase was adjusted (management of reception places, management of the residents' files and the allocation tool). In June 2016, the **pilot project** was launched and the application was used in six pilot centres of Fedasil. At the end of October 2016, all federal centres were using the application. By mid-2017, the whole reception network will be using the application.

## 4.7 Provision of support to other Member States and participation in EASO activities

### Support to other Member States

In 2016, Belgium frequently provided staff for Asylum Support Teams in the framework of **special support plans, hotspot operation plans** and/or **emergency support plans** to Greece and Italy.

#### *(i) Greece*

In total, Belgium deployed 27 experts to Greece in the course of 2016. During the period from the signing of the **EASO Hotspot Operation plan to Greece** in September 2015 until 31 December 2016, a total of 1,877 deployment days of Belgian experts were counted.

Belgian experts from the CGRS, the reception Agency Fedasil and the Immigration Office were involved in the following support activities in Greece:

- Support in monitoring the provision of services and enhancing the quality of the reception procedure for applicants of international protection (Lesbos);
- Support with the provision of relevant information to potential relocation candidates and the registration process at the Asylum Service (Athens, Thessaloniki),
- Support with the implementation of the admissibility procedure, vulnerability assessment, interviewing, flow management and information provision on the Greek islands (Chios, Lesbos, Samos, Kos and Leros),
- Support with the implementation of the eligibility procedure (Lesbos).

Furthermore, interpreters working for the CGRS were deployed to Chios to provide support with the implementation of the admissibility procedure<sup>(102)</sup>.

Due to the security situation in the Greek hotspots, the State Secretary for Asylum Policy and Migration decided to temporarily deploy no more experts to the Greek hotspots.

#### *(ii) Italy*

Belgium deployed eight experts to Italy in the course 2016. Under the **Hotspot-Relocation Operation Plan** and the **Special Support Plan** (from 15 September 2015 until 31 December 2016) there were 408 deployment days of Belgian experts in Italy.

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<sup>102</sup> Source: CGRS.

Belgian experts from the Immigration Office, CGRS and the reception Agency Fedasil were involved in the following support activities in Italy:

- Support with handling of outgoing Dublin ‘take charge’ requests for relocation cases, in view of the relocation procedure (Dublin-unit Rome);
- Support with handling registration of applicants for international protection, in view of the relocation procedure (Mineo, Villa Sikania/Agrigento, Milan, Rome and other locations on the mainland based on the needs);
- Support with the provision of relevant information to potential applicants for international protection (Lampedusa, Pozzallo, and Trapani).

### Participation in EASO activities

Belgium participates in most **activities, meetings and workshops of EASO**, making it one of the most active players. The Commissioner General for Refugees and Stateless Persons, Mr. Dirk Van Den Bulck, is a member of the EASO Management Board for Belgium and participates in the EASO Management Board Meetings.

Besides the provision of staff for the Asylum Support Teams in Greece and Italy in the framework of the management of the hotspots and the relocation process, the Belgian asylum authorities were actively involved in the development, teaching and update of several **EASO Training Modules** and were heavily involved in the development of common practical tools, EASO COI-reports and the provision of statistical and analytical information in the framework of the Early Warning and Preparedness System and EASO queries.

## 4.8 Resettlement, relocation and humanitarian admission

### Resettlement

In 2016, **452 refugees were resettled to Belgium<sup>(103)</sup>**: 448 Syrian refugees and 4 Congolese refugees from Burundi. The Syrian refugees were resettled from Lebanon (298), Turkey (102), Jordan (24) and Egypt (24). The 448 Syrian refugees concern arrivals in 2016 within the 20 July **Justice and Home Affairs Council (JHA) Decision on the resettlement scheme**. The 102 refugees resettled from Turkey in 2016 were resettled under the **1:1 mechanism with Turkey<sup>(104)</sup>**. The number is a significant increase compared to 2015 when 276 persons were resettled, and the number of resettled refugees to Belgium is expected to further increase in 2017.

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<sup>103</sup> With regard to gender distribution: 231 men and 221 women were resettled to Belgium in 2016.

<sup>104</sup> In the EU-Turkey Statement from 18 March 2016, it was agreed that for every Syrian national returned from the Greek islands another will be resettled to the EU directly from Turkey. This 1:1 mechanism aims to replace irregular flows of migrants travelling in dangerous conditions across the Aegean Sea by an orderly and legal resettlement process.

The CGRS assesses the cases for resettlement, partly through selection missions, partly on the basis of files. In June, selection missions to Turkey and Lebanon took place, and another selection mission for resettlement took place in Turkey in November 2016.

All cases are screened by the State Security Service before the final decision on selection. Once the selection is approved by the State Secretary for Asylum Policy and Migration, the Federal Agency for the reception of asylum seekers (Fedasil) organizes the pre-departure cultural orientation training, the transfer, the initial reception and subsequent integration support for up to 24 months. The refugees selected for resettlement need to lodge an application for international protection shortly after arrival. However, this is a formality: refugee status is granted systematically to all persons accepted for resettlement within days after arrival.

In 2016, the national **reception pathway for resettled refugees** who have arrived in Belgium changed. Since August 2016, resettled refugees are sent to Local Reception Initiatives after a short initial reception period of six to seven weeks in a federal reception centre<sup>(105)</sup>. Contrary to 'regularly' recognized refugees, the resettled refugees are entitled to **a six months stay in the Local Reception Initiative**. Because of their very recent arrival in Belgium, resettled refugees are in need of special attention. Since most Local Reception Initiatives are not familiar with this target group, Fedasil started to inform the Local Reception Initiatives about the specific nature of the resettlement programme. In the near future an employee of Fedasil will be assigned to each regional office of Fedasil to inform, to raise awareness among the staff and to monitor the Local Reception Initiatives. At the end of this six month period, the Public Social Welfare Centre can decide to provide housing for the resettled refugees outside the reception network and social support for an additional period of 12 months. In this case, the Public Social Welfare Centre becomes a full-fledged operator in the resettlement programme.

## Relocation

In 2015, Belgium started with relocation in the framework of the Council Decision of 22 September 2015. In December 2015, six people of the first pledge arrived. In the course of 2016, **200 persons were relocated to Belgium** (177 from Greece and 23 from Italy). The vast majority of the people that were relocated to Belgium in 2016 were Syrians. The number of arrivals through relocation should substantially increase in 2017.

There was criticism from NGOs<sup>(106)</sup> that the number of relocated persons was far too small compared to the quota for Belgium (3,812 places) determined by the two Council Decisions on Relocation of September 2015<sup>(107)</sup>. The State Secretary for Asylum Policy and Migration clarified in Parliament that there are not enough asylum applicants present in Italy and Greece who are

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105 This corresponds to the new reception model in which recognized refugees spend a transition period (between material support provided in reception facilities and financial aid and mainstream services provided by the general Belgian society) of two months in a Local Reception Initiative.

106 See for example: Vluchtelingenwerk Vlaanderen, Europese relocatie: een stand van zaken, 27 May 2016, <https://www.vluchtelingenwerk.be/nieuws/europese-relocatie-een-stand-van-zaken>

107 Council Decision (EU) 2015/1523 of 14 September 2015 and Council Decision (EU) 2015/1601 of 22 September 2015.

eligible for relocation and that pledges have been made to relocate 530 persons (130 from Italy and 400 from Greece) and that - until that point - 206 persons had been relocated<sup>(108)</sup>.

## Humanitarian Visas

Belgium does not have a formal humanitarian admission programme. However, the State Secretary for Asylum Policy and Migration and the Immigration Office grant **visas on humanitarian grounds** in exceptional circumstances, the so-called 'humanitarian visas'. This happens on a **discretionary basis**.

In 2016, Belgium issued **more than one thousand humanitarian visas**. In the majority of cases, Syrians were granted a humanitarian visa. Half of those visas were issued by the Embassy in Beirut (Lebanon). The NGO Amnesty International Belgium acknowledged that this is substantially more compared to previous years, but also stated that this is still insufficient in the light of the crisis situation and limited number of people that manage to flee to Europa through legal routes. They also criticized the discretionary power of the State Secretary and the lack of clear criteria to obtain a humanitarian visa<sup>(109)</sup>.

In 2017, Belgium will issue around **400 humanitarian visas to Syrian Christians** (possibly as part of its share in the conversion of the relocation quota for Hungary in resettlement places). The visas issued for refugees who are transferred to Belgium under the resettlement programme are included in the statistics on humanitarian visas.

There was an important public debate on the visa-issue and a main judgement of the Council of Justice of the EU (see [Sections 4.2](#) and [4.5](#) of this report).

## 4.9 Measures related to vulnerable groups

### Registration of the asylum application

In August 2016, the Immigration Office adapted its **registration form for asylum seekers** in order to facilitate the **early detection of vulnerabilities**. With these changes, vulnerabilities can be detected in a more standardized manner among both adults and children from the moment of the registration of the asylum application and according to the requirements of the Asylum Qualification Directive 2011/95/EU and the Asylum Procedures Directive 2013/32/EU.

As part of the individualised analysis of vulnerability, the **following vulnerabilities** are probed during the registration: (unaccompanied) minors, elderly people, pregnant women, persons

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108 Belgian House of Representatives, Full report of the Committee of the Interior, General Affairs and the Public Service, CRIV 54 COM 534, 16 November 2016, p.17.

109 Amnesty International Belgium, De duim van de Staatssecretaris, 10 March 2016, <https://www.amnesty-international.be/nieuws/de-duim-van-de-staatssecretaris>



with medical or psychological problems, single women, parents with children, victims of human trafficking, victims of psychological, physical or sexual violence and LGBT persons<sup>(110)</sup>.

This **information is added to the administrative file of the person concerned**, which is transferred to the CGRS. Fedasil will also receive a copy and will take into account the registered vulnerabilities when allocating a reception facility.

### Examination of the asylum application

In 2016, the CGRS has drawn up a **new directive for the treatment of asylum applications based on the risk of female genital mutilation (FGM)**. The new CGRS policy on this topic pays particular attention to - even more emphatically than before - the vulnerability of minor girls in this regard, by systematically addressing the possible risk of FGM, even if the minor girl or her parents did not spontaneously invoke this motive during the interview. Other instructions concern the hearing of female asylum-seekers and the decision-making, leading to an even more adequate consideration of the particularity of this profile.

Furthermore, in 2016, the CGRS also organised a meeting with **experts specialised in the prevention and medical and psychological care of girls and women concerned by FGM** in Belgium. A training session on this topic was provided to the protection officers. These **exchanges and training sessions** reinforced the awareness of the officers responsible for processing these asylum applications, and increased their motivation and knowledge relating to the realities experienced by the target group.

The team of **specialised protection officers** responsible for dealing with asylum applications submitted by unaccompanied minors received in 2016 an **additional three-day training session on cultural sensitivity and vulnerability of children** by Solentra. The organisation Solentra (abbreviation of 'Solidarity & Trauma') was founded by Paika, the department of psychiatry for infants, children and adolescents of UZ Brussels (University Hospital)<sup>(111)</sup>. Solentra provides diagnostic and therapeutic support to refugee and migrant children and their families. This training will also take place in 2017.

Furthermore, a **training course entitled 'Interpreting gender-related asylum stories'** was organized for interpreters working for the CGRS. This project, which will continue in 2017, is part of a wider perspective to improve the quality of asylum hearings<sup>(112)</sup>.

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110 The Immigration Office decided to deviate slightly from the definition of vulnerable persons, as used in the Immigration Act, to obtain a more global picture of the vulnerabilities which can be used in the allocation of reception places, in organizing specialised medical and psychological assistance and with the assessment of the asylum application by the Dublin cell and the CGRS.

111 More information: [http://solentra.be/en/The\\_idea\\_behind\\_SOLENTRA](http://solentra.be/en/The_idea_behind_SOLENTRA)

112 This interactive training enabled about 75 interpreters to become better aware of the topic of LGBT asylum seekers and other asylum grounds related to gender (realities which are often taboo and perceived negatively in many cultures of origin), to express themselves about the specific difficulties they encounter when translating gender-related asylum stories, and to receive guidelines and instructions for coping with emotional, linguistic and other types of difficulties.

All these actions carried out by the CGRS are **in line with various provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence**, notably those relating to the training of professionals (Article 15), the prevention of the risk of secondary victimization (Article 18), the provision of competent interpreters (Article 56 (1) (h)) on the adequate taking into account of gender-based violence as ground for asylum within the meaning of the Geneva Convention (Article 60).

Finally, at the beginning of 2017, the CGRS published a **new guide for unaccompanied minors seeking asylum in Belgium** - in Dutch, French and English. This guide will also be published in Arabic, Pulaar, Dari, Pashto, Somali, Tigrinya and Albanian over the course of 2017.

## EMN Activities

### 2016 EMN Study

#### **Resettlement and Humanitarian Admission Programmes - what works?**

In 2016, EMN conducted a study on (Member) States' policies and practices regarding the functioning of resettlement and humanitarian admission programmes for refugees. The study focused on (Member) States' approaches at **different stages of the resettlement or humanitarian admission procedures** (i.e. pre-departure, departure and post-arrival), and identified **difficulties** and **success factors** of these programmes.

The **Belgium resettlement programme** was set up recently and its size remains rather modest. Regarding this programme, the Belgian study shows that the selection and cultural orientation missions in the countries of refuge are considered to be very important. However, despite the pre- and post-arrival orientation and integration support, the management of the expectations of the resettled refugees about life in Belgium remains difficult. There is a good collaboration among the Belgian resettlement partners with regular contacts during steering committee, stakeholders and coordination meetings allowing for planning, coordinating and sharing experiences and knowledge aiming at improving the Belgian resettlement programme. Another challenge identified by the study is the lack of predictability of operations (e.g. linked to the extent of the capacity of local partners in the countries of refuge to support the operations or delays in issuance of exit permits). Other challenges – such as the shortage of affordable and adequate housing, the capacity of mainstream services and the access to the Belgian labour market - are related to the Belgian context in general and are not specific to resettled refugees.

The **Belgian report, the comparative EU Synthesis Report, and the EMN Inform** (which summarises the main findings of the EU Synthesis Report) are available on the website of the Belgian Contact Point: <https://emnbelgium.be/publication/resettlement-and-humanitarian-admission-programmes-europe-what-works-emn>

The **national reports** of other (Member) States are available on the European EMN website: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/studies/results/legal-migration\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/legal-migration_en)

## EMN Activities

### 2016 Limited EMN ad hoc query

#### **Ill third-country nationals invoking their state of health (Responses from BE, NL, DE, FR, UK, ES, IT, PT, SE)**

French law provides for the issuance of a temporary residence permit for third-country nationals on the ground of medical reasons. This right has been changed significantly by Article 13 of the Law on the Right of Foreigners of 7 March 2016 (Law No. 2016-274). In particular the assessment of the application has been tightened. Before issuing a residence permit due to medical problems, the availability of care services and the characteristics of the health system in the applicant's country of origin are evaluated. In the context of the preparation of the regulations implementing the Law of 7 March 2016, **France** launched an EMN ad-hoc query to obtain information on certain Member States' policies and procedures regarding third-country nationals with medical problems.

#### **Some of the main findings of the ad-hoc query:**

- A majority of Member States (BE, FR, NL, ES, SE, UK) provide third-country nationals with medical problems - under certain conditions - with the possibility to apply for a residence permit/an authorization to stay or a short stay visa (PT) on humanitarian grounds.
- In almost all Member States (BE, FR, IT, ES, SE, PT, UK), the decision is based on a medical report/certificate issued by a doctor.
- In all Member States, except ES, both administrative officers and doctors play a role in the procedure. Administrative officers check the application which contains a medical certificate issued by a medical expert. In all countries, doctors are responsible for evaluating the patient and for signing the medical certificate.
- BE, FR, ES, SE and UK examine both availability and accessibility to medical care in the country of origin. There is no issuance of residence documents if availability and accessibility to medical care are given.
- Regarding the source of information to identify the health system in the country of origin, each country has its own process. BE has its own MedCOI cell (Medical Country of Origin Information). DE uses different sources of information (reports of the Foreign Office, NGOs, and media). In NL the information is provided by international organizations (e.g. International SOS, Allianz Global Assistance). The Dutch Medical Advisors Office is also in contact with local doctors selected by the respective Dutch embassies.

**More information** is available on request at the Belgian Contact Point.

## EMN Activities

### 2016 EMN Inform

#### Statelessness in the EU

This EMN Inform provides a synthesis of the answers provided by Member States and Norway to three ad-hoc queries launched in the framework of EMN. The EMN Inform examines – inter alia – the state of play of the 1954 and 1961 conventions on statelessness in the (Member) States; statelessness determination procedures; rights granted to recognized stateless persons; and the situation of stateless minors.

Among other findings, the EMN Inform shows that there is **no homogeneity** among (Member) States as regards the procedures to determine statelessness. In the majority of (Member) States, there is no direct link between the determination of statelessness and the issuing of a **specific residence permit**. Furthermore, access to the labour market, education and training as well as health care and social aid does not depend on the determination of statelessness but on the residence permit that the stateless person can obtain. Finally, most Member States facilitate - to a certain extent - **access to nationality** for children born stateless in their territory.

The **EMN Inform** is available on the website of the Belgian Contact Point:  
<https://emnbelgium.be/publication/statelessness-eu-emn-inform>



# 5 Unaccompanied minors and other vulnerable groups

## 5.1 Unaccompanied minors (UAMs)

### Decrease of the number of asylum applications by unaccompanied minors

In 2016, **1,076 asylum applications** by UAMs were registered in Belgium. This represents a **huge decrease** compared to 2015, when 3,099 asylum applications by UAMs were registered. In 2016, 549 applications from Afghan UAMs were registered in Belgium. The other top five main countries of origin in 2016 for UAMs were Guinea (92), Syria (76), Albania (49) and Eritrea (46)<sup>(113)</sup>.

### Reorganization of reception places for UAMs

Due to the important decrease in the number of UAMs in 2016, the federal reception agency Fedasil started to **close down certain reception places for UAMs**. The capacity of the first reception phase<sup>(114)</sup> for UAMs in the Observation and Orientation Centres decreased from 689 to 190 places. However, the number of reception places for the second reception phase **increased** from 1,227 to 2,052 places. Regarding the third reception phase, the number of reception places increased from 178 to 318 places. Another 91 reception places were available for UAMs with specific reception needs, such as teenage mothers, UAMs with behavioural problems, UAMs with mental health problems, etc.

The reception facilities for UAMs managed by **private companies stayed operational** in 2016. In the framework of the plan to reduce the number of reception places<sup>(115)</sup>, the last private operator active in the reception of UAMs closed its reception places in April 2017.

113 Commissioner General for Refugees and Stateless Persons, Asylum Statistics: Overview 2016, 6 January 2017, <http://www.cgvs.be/nl/actueel/asielstatistieken-overzicht-2016>.

114 Based on articles 40 and 41 of the Reception Act, UAMs are, in a first phase, accommodated in an Observation and Orientation Centre (OOC). The purpose of this initial reception is twofold. On the one hand, it gives the guardians a chance to assess whether the youngsters are indeed unaccompanied and underage. On the other hand, in the OOC, a first medical, psychological and social profile of the minors is made (observation). The goal is to detect potential vulnerabilities in the youngsters and to orient them to a reception centre which is most adapted to their needs. After two to four weeks in an OOC, the UAMs are transferred to a collective reception centre where they stay in a separate living group, with their own team of counsellors and educators. They are guided in their schooling and they are prepared for more autonomy in a progressive way. A third phase, consisting of more individual reception structures (e.g. Local Reception Initiatives), is intended for UAMs who are granted international protection.

115 On 3 June 2016, the Council of Ministers approved the proposed reduction plan of State Secretary for Asylum Policy and Migration. The capacity is reduced by closing the emergency places, not renewing temporary contracts with private operators, closing down the reception places in the buildings that were on loan from the Ministry of Defence and the reduction of places in the remaining reception facilities.

## Cooperation with the Flemish and French Communities

In 2016, Fedasil concluded a convention with the Flemish and with the French Communities to directly obtain aid from the Flemish and Walloon Youth Care Services for the **reception of its youngest UAMs – that is to say those under 15 years of age**. The aim of the convention is to accommodate young UAMs in smaller, and more family-scale reception facilities (from five up to 25 people), where they will receive a more intense and personalised care to meet their specific needs. Therefore, in the summer of 2016, the **Flemish Youth Care Service** created 145 places in 13 facilities across Flanders for UAMs under the age of 15 (facilities for groups from five up to fifteen UAMs), while the **Walloon Youth Care Service** created 130 places in seven licensed facilities accommodating UAMs together with other minors under mandate of the Youth Care Service. Three facilities have also opened an antenna to accommodate UAMs (facilities for groups from twenty-five up to forty-three UAMs)<sup>(116)</sup>. On the basis of these cooperation conventions, Fedasil can directly assign unaccompanied minors under 15 years of age to the residential care of the Youth Care Services.

Furthermore, due to the **high recognition rate** of UAMs who arrived in 2015-2016, Fedasil not only increased the capacity in the third reception stage, but also started negotiations with the Youth Care Services to involve them in **the care for vulnerable UAMs who are granted international protection**. This cooperation will be rolled out in 2017.

## Reception trajectory for UAMs whose applications are rejected: ‘My Future’

Due to the high influx of UAMs in the second half of 2015, it was no longer possible to provide UAMs without a future prospect in Belgium with a systematic and intensive counselling through the so-called ‘My Future’ project<sup>(117)</sup>.

However, from 2017 onwards, the ‘My Future’ pathway will again **be systematically offered to those UAMs** who do not have any perspective of legal stay in Belgium. Through this pathway, Fedasil aims at empowering the UAMs so that they can take responsibility and make decisions with regard to their own future based on all possible information. Fedasil prepares the UAMs for their departure from the reception network by providing them with correct information about migration, voluntary return and irregular stay.

The federal reception centres of Arendonk and Bovigny will continue to host the pathway. Both these centres will provide the basic principles – i.e. inform, raise awareness, empower – to the UAMs during individual and group sessions.

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116 More information on: [http://www.aidealajeunesse.cfwb.be/index.php?eID=tx\\_nawsecuredl&u=0&g=0&hash=foob-54f04a07fce4bood5edaz2668e66073db3f48&file=fileadmin/sites/ajss/upload/ajss\\_super\\_editor/articles/ReperA-J\\_n\\_5\\_nov\\_2016.pdf](http://www.aidealajeunesse.cfwb.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=foob-54f04a07fce4bood5edaz2668e66073db3f48&file=fileadmin/sites/ajss/upload/ajss_super_editor/articles/ReperA-J_n_5_nov_2016.pdf)

117 The project ‘My Future’, launched in September 2014 and evaluated at the end of 2015, aims to create a voluntary specific reception trajectory for UAMs who have no prospect of staying in Belgium. The project aims to intensively prepare the young people for the possible scenarios at the end of their stay in a reception centre.

'My Future' is a voluntary pathway and in order to make it as attractive as possible, **several changes** will be made:

- **mixed groups:** 'regular' UAMs and 'My Future' UAMs will be accommodated in the same group, but will receive different counselling;
- in order to decrease the resistance to the pathway, Fedasil will offer the **possibility to start the pathway immediately after the first reception phase<sup>(118)</sup>**, instead of after the second reception phase;
- the pathway will also be made **available to UAMs who are not transferred to one of the 'My Future' centres**. Via outreach, 'My Future' staff will provide access to the pathway and its principles for UAMs staying in other reception facilities.

In this way, the pathway will be better integrated in the support offered to all UAMs arriving in Belgium who are accommodated by Fedasil.

### Foster care for UAMs<sup>(119)</sup>

After agreeing upon the terms and conditions for the selection of foster families and the screening of candidate families and UAMs in 2015, the project on foster care for UAMs started its second phase in 2016.

In **Flanders**, 185 children were accompanied by one of the Regional Foster Care Services. The largest group of these children (155) were cared for by relatives. The Flemish Government will continue to recruit and screen Flemish foster families and foster families with the same ethnic cultural background as the UAMs, hoping to be able to place more children.

In **Wallonia**, one non-profit organisation, Mentor-Escale, funded by AMIF and the General Administration of Youth Care, is responsible for recruiting, screening and counselling families as well as supervising children who are placed in foster care. In 2016, about 20 children were placed in a foster family (not with relatives). In the future, additional focus will be placed on recruiting foster families with the same ethnic cultural background and accelerating the matching and placement process.

### Guardianship

The Privacy Commission approved **Fedasil's access to the database of the Guardianship Service** on 27 October 2016<sup>(120)</sup>. This means that, in 2017, Fedasil will have access to **essential data on UAMs** (i.e. identity, address, age determination, contact details of the guardian, information in

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118 After the first reception phase in the Observation and Orientation Centres, every UAM is transferred to another structure. At that time, no extended social networks have been built yet, and no deep anchorage in the community or the school has been established.

119 Foster care is only available for UAMs who applied for international protection.

120 The decision of the Privacy Commission is available on : [https://www.privacycommission.be/nl/search/site/fedasil?f\[0\]=ds\\_created%3A%5B2016-01-01T00%3A00%3A00Z%20T0%202017-01-01T00%3A00%3A00Z%5D](https://www.privacycommission.be/nl/search/site/fedasil?f[0]=ds_created%3A%5B2016-01-01T00%3A00%3A00Z%20T0%202017-01-01T00%3A00%3A00Z%5D)



case of disappearance) allowing the agency to **strengthen the protection of UAMs**. The access will be organised via a **web application** to allow for a faster and more efficient information flow without the need for prior contact with the Guardianship Service. The access to this database by the Immigration Office and the Police is still under discussion.

In 2016, **422 voluntary guardians were selected**. In addition to these voluntary guardians, six professional guardians were recruited by the Guardianship Service. The total number of guardians is now 620. This means that a guardian can be appointed to each UAM without a waiting period. The workforce of the Guardianship Service was further expanded with 14 social experts, allowing for the assignment of an expert to each guardian for **support and follow-up**.

In 2016, a new tender was launched for a four-year **coaching programme for the guardians**. The programme will resume in the spring of 2017 and will contain the same sections as the programme provided in 2015: help desk, individual support and the provision of training (initial and continuing training).

### Other projects for UAMs

With the support of the King Baudouin Foundation and the European Programme for Integration and Migration (EPIM), the Federation of Brussels Public Social Welfare Centres (PSWC) has embarked on a **two-year project on the theme of UAMs**, consisting of training, exchanges and meetings for PSWC-workers and an awareness-raising and information session for PSWC representatives. With the same support from the King Baudouin Foundation and EPIM, the Association of Flemish Cities and Municipalities (VVSG) and the Association of Walloon Cities and Municipalities (AVCW) will carry out a similar project with the Flemish and Walloon PSWCs during the same period<sup>(121)</sup>.

Following a number of incidents in the reception centres with young Afghan asylum seekers, a small **pilot project** was set up in three federal reception facilities. Since June 2016, **Afghans with a residence permit in Belgium act as a mentor for Afghan asylum seekers**, with a focus on minors. Through their own experiences with the Belgian society and culture, they can inform Afghan asylum seekers in a credible way. The pilot project has demonstrated that it is difficult to find good mentors. The **project will continue in 2017 and will be expanded to all federal reception centres that wish to participate, and to all nationalities**. Although the project originally targeted Afghan mentors, the second phase of the project will include mentors with any nationality deemed useful by the reception centres. The centres select the mentors themselves. Once a potential candidate is found, a copy of the identity card, an extract from the criminal record, the curriculum vitae and a completed questionnaire have to be sent to Fedasil headquarters. Once all documents are provided, a volunteer contract can be signed between the centre and the mentor. The contract determines the working conditions and compensation.

Under **AMIF 2016-2017**, Fedasil opted to subsidise three projects exclusively directed at the assistance of unaccompanied minors. More specifically, these projects deal with foster care

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121 More information: <http://www.brulocalis.brussels/fr/federation-des-cpas-bruxellois/projet-mineurs-etrangeurs-non-accompagnes-2016-2018/>

(recruitment and selection of families; training and coaching of families, autonomisation of UAMs and referral to specialised assistance) and support to vulnerable UAMs during the third phase of the reception trajectory (facilitate the outflow after the third reception phase by looking for housing, and strengthen the Public Social Welfare Centres to accompany UAMs by sharing expertise and referral to specialised assistance).

In **the context of national funding**, Fedasil supported several projects concerning UAMs in 2016. Three projects focused on foster care for UAMs, one project focused on the emergency and temporary reception for UAMs who have difficulties in adapting to the traditional reception facilities of Fedasil and another three projects aimed to facilitate the access to psychological and psychiatric care for minors (accompanied by their families or unaccompanied).

## 5.2 Other vulnerable groups

### Renewed attention to vulnerable groups

In the second half of 2015, the focus was mainly put on rapidly expanding the reception network so that every asylum seeker could have access to reception. Due to the decrease in the number of asylum seekers from January 2016 onwards, it was possible to give renewed attention to the **quality of the support provided to asylum seekers and the needs of vulnerable groups**. When the government took the decision on 3 June 2016 to close down 10,000 reception places<sup>(122)</sup>, the choice was made to **shut down the places that were least suitable for vulnerable groups in terms of efficiency and quality**, such as emergency centres and reception facilities established with temporary contractors.

The **identification of special needs of vulnerable persons** was improved at the time of arrival of the asylum seeker by strengthening the **medical team** at the Dispatching Service and by adapting the Immigration Office's **registration form for asylum seekers** in order to facilitate the early detection of vulnerabilities (see Section 4.8 of this report).

Furthermore, in November and December 2016, Fedasil organized - in collaboration with the International Centre for Reproductive Health (Ghent University) - **training sessions on how to recognize and deal with victims of sexual and gender-based violence**. The training sessions enabled professionals (social workers, guardians, doctors, nurses and psychologists) to detect, care for and refer victims of sexual gender-based violence. Additional sessions - financed this time by UNHCR Belgium - are planned in early 2017.

In December 2016, the Study and Policy Unit from Fedasil released **the report of the first phase of the study into vulnerable persons with specific reception needs**. The study, which was initiated in 2015, comprises two phases with different activities, of which four have been carried out so

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122 More information: [http://fedasil.be/sites/5042.fedimbo.belgium.be/files/persbericht\\_theo\\_francken\\_afbouw\\_opvangnetwerk\\_030616\\_nl.pdf](http://fedasil.be/sites/5042.fedimbo.belgium.be/files/persbericht_theo_francken_afbouw_opvangnetwerk_030616_nl.pdf)

far: a literature study, a legal analysis, observations and exploratory discussions, and a survey. The first phase of the study showed that, despite the work already done within the reception network in relation to identifying and supporting vulnerable groups with specific needs, **not all requirements are in place to be able to meet the reception needs of all vulnerable persons** in an effective manner. Shortcomings exist both within the reception facilities and in the cooperation with specialised external services<sup>(123)</sup>. The second phase of the study (interviews with staff, residents and specialised organisations and an analysis of good practices and challenges in other European countries) will start in 2017. The results of the study will make it possible to better respond to the specific needs of vulnerable residents. The preliminary findings, already demonstrate the enormous importance of **adapted means of communication and mutual understanding** for the identification of specific needs and the **provision of appropriate care** to vulnerable asylum seekers. The General Policy Note of the State Secretary for Asylum Policy and Migration thus states that a cooperation framework with the sector of social interpreting and translation will be put in place in the near future<sup>(124)</sup>.

### Integration of sexual violence in the reporting of incidents in reception centres

Since April 2016, a new template has been elaborated for reporting incidents in the reception centres. To be able to measure, monitor and understand the number and the nature of incidents, Fedasil developed a **uniform reporting model and a central registration of incidents** which was introduced in most of the collective reception structures. The incident form includes the category **'(attempted) sexual assault'** and Fedasil is currently investigating whether a category 'gender-based violence' can also be recorded. Every month, an incident report is prepared on the basis of these forms. This system will also be extended to the Local Reception Initiatives. On the basis of the data collected, additional preventive measures will be developed. A Liaison Officer of the Federal Police at Fedasil is responsible for the monitoring of incidents in the reception centres. In case of serious incidents, such as large group fights or sexual assaults, the perpetrators are transferred to a detention centre to ensure the safety of the residents, the staff, as well as the neighbouring community.

### European and national funded projects

In the selection and monitoring of the ongoing national and European projects in 2016, special attention was paid to vulnerable groups. It concerns projects that support reception structures in **assisting residents with complex and specific medical, psychological and social needs or specific vulnerable groups**. This also involves projects that assist reception facilities to facilitate the outflow of vulnerable residents.

Under **AMIF 2016-2017**, Fedasil opted to subsidise four projects with a focus on creating a structural approach for **asylum seekers with psycho-social problems** (adults and minors). One of

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123 The summary of the key findings of phase 1 of the study into vulnerable persons with specific reception needs is available on: <http://fedasil.be/en/news/accueil-des-demandeurs-dasile/study-needs-vulnerable-persons>

124 Belgian House of Representatives, General Policy Note on Asylum and Migration, 27 October 2016, DOC 54 2111/017.

these projects is ‘**FGM Global Approach**’ initiated by the non-profit organisations GAMS Belgium and Intact<sup>(125)</sup>. In the context of this project, a working group was set up with the partners of the collective reception network of Fedasil to develop a guidance pathway or **trajectory to support and refer asylum seeking girls and women who are victims (or in danger of becoming victims) of female genital mutilation**. The trajectory will be launched in 2017 in all collective reception structures. Three other projects provide special assistance and treatment to asylum seekers (families, children, single men and women and UAMs), with psychiatric and/or psychological problems.

In the context of the **national funding 2016**, Fedasil subsidised several small scale projects related to vulnerable groups. Two of the projects that provide support to beneficiaries of international protection during the transition period from material aid to financial assistance, have a particular focus on **vulnerable women** (mostly single women with children). Another project supports beneficiaries of international protection with a physical and/or mental impairment or psychological problems, during their transition period by providing a temporary stay with a foster family. One project, called ‘Safe Havens’, provides training to the staff of the reception facilities with regard to the accompaniment of LGBT asylum seekers and organises meetings for LGBT asylum seekers where they can meet representatives of LGBT associations and other LGBT asylum seekers. Fedasil also subsidises a project that supports staff in the reception facilities in addressing issues related to drug use by residents and refers asylum seekers to specialized medical, psycho-social centres for addiction treatment.

### International and national commitments

The **Council of Europe Convention on preventing and combating violence against women and domestic violence** (hereafter called the ‘Istanbul Convention’)<sup>(126)</sup> came into force on 1 July 2016, after ratification by Belgium on 14 March 2016. The Institute for the Equality for Women and Men<sup>(127)</sup> was officially appointed on 11 April 2016 as the responsible entity for the coordination, implementation, monitoring and evaluation of the policies and measures taken in Belgium in the framework of the Convention. This mission is carried out in close cooperation with all the federal, community and regional departments involved in the prevention of and combat against gender-based violence.

In December 2015, Belgium proposed the fifth **National Action Plan (2015-2019) to fight against all forms of gender-based violence**<sup>(128)</sup>. This action plan is fully in line with the Istanbul Convention, as a result of which Belgium, already prior to the ratification of said Convention, assumes the obligations deriving from it and translates them into concrete measures and actions, such as:

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125 For more information on GAMS Belgium and Intact: <http://gams.be/en/> and <http://www.intact-association.org/nl/>

126 Council of Europe Convention on preventing and combating violence against women and domestic violence, 12 April 2011.

127 More information: <http://igvm-iefh.belgium.be/en>

128 Through the fifth National Action Plan to combat all forms of gender-based violence (2015-2019), established with the involvement of the federal government, the Communities and Regions and coordinated by the Institute for the Equality of Women and Men, Belgium wants to increase its efforts to prevent and combat all forms of gender-based violence against women and men. The plan pays particular attention to sexual violence and is also fully in line with the Council of Europe Convention on preventing and combating violence against women and domestic violence. The action plan focuses on the following types of violence: domestic violence, female genital mutilation, forced marriages, (sup-

- collecting **gender-based statistics** on all forms of violence covered by this Action Plan by all the authorities concerned;
- updating the study on **the prevalence of and risk of FGM in Belgium** (2014);
- developing a **prevalence research on forced marriages** in Belgium;
- raising **awareness among ethnic minorities about gender-based violence** and the possible approach and aid supply;
- setting up specific **awareness raising campaigns for vulnerable groups** including newcomers, the elderly, persons with disabilities;
- providing specific information, developing awareness raising campaigns and dissemination to various target groups within the framework of the **fight against honour-related violence and forced marriages** (among others child brides) and involving the migrant communities concerned;
- disseminating the **brochure 'Migrant and victim of domestic violence. What are my rights?'**;
- translating the European **e-learning module on FGM** and adapting it to the Belgian context ([www.uefgm.org](http://www.uefgm.org));
- including, on the website of the FPS Foreign Affairs and in the travel advice relating to the countries where the practice exists, the **criminal prohibition of FGM** and the fact that even though FGM is carried out in a third country, there may be a prosecution in Belgium;
- financing the associations Surya, Payoke and Pag-Asa for the care, guidance and accommodation of **victims of trafficking, including sexual exploitation**;
- drawing up a circular explaining that female migrants who have no independent residence permit may use the **legal protection rules if they are fleeing a violent relationship or an abusive marriage**;
- **disseminating the 'passport STOP FGM'** in the Belgian embassies abroad, in travel clinics, etc.

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posedly) honour-related violence and sexual violence. More information: [http://igvm-iefh.belgium.be/nl/publicaties/stop\\_geweld\\_nap\\_2015\\_2019\\_0](http://igvm-iefh.belgium.be/nl/publicaties/stop_geweld_nap_2015_2019_0)

## EMN Activities

### 2016 EMN ad hoc query

#### National asylum policies regarding LGBT-asylum seekers

**The Dutch Immigration and Naturalisation Service (IND)** launched an EMN ad-hoc query in the framework of their research on the role of asylum policies in the destination choice of asylum seekers. The ad-hoc query aims to provide insight in the current practices of Member States regarding asylum on the ground of sexual orientation. Although EU Member States are guided by common standards regarding the handling of asylum claims of this group, policies on national level may differ.

#### **Some of the main findings of the ad-hoc query:**

- Most Member States cannot produce statistical data on the number of asylum claims on the ground of sexual orientation. The reservations that are mentioned for not providing information on claims on the ground of sexual orientation (apart from the absence of statistical data, which is mentioned by all these Member States) are: legal obstacles - e.g. the protection of personal data, national law (HR, FI, LU, NL, PL and SE), technical obstacles (FI) or because this information is only obtained for the purpose of the assessment of the individual asylum application (CZ).
- Most Member States mention different practices and tools used during the assessment of the asylum claim, such as the credibility assessment of the personal and individual background of the asylum seeker and country of origin information (BE, BG, HR, FI, DE, HU, LU, NL and UK). Some Member States also mention using the Geneva Convention (PL), the EU Asylum Procedure Directive (LV, PL, SK and UK), the Qualification Directive (PL), the UNHCR guidelines (BE, PL and FI), the Difference, Shame, Stigma and Harm (DSSH) model (CY, FI and the UK), the guidelines as advised by Chelvan (PL and UK), and national directives regarding LGBT-asylum applications (BE, NL, NO and SE).
- Regarding countries of origin, BE differentiates between origin countries where homosexuals are a vulnerable group, but were not all homosexuals are at risk of persecution only due to the fact that s/he is homosexual and origin countries where the situation is so dangerous for homosexuals that all homosexuals are running an imminent risk to be persecuted (for Belgium this is currently the case for e.g. Cameroun, Iran, Iraq).
- Most Member States do not have policy-related differences in the assessment of lesbian, gay, bisexual and transgender cases.
- Some Member States mention that they take the court rulings into account during the decision-making (HU, LV, PL, SK, SE). Most Member States note that their policies and practices were already consistent with the rulings (BE, CY, CZ, FI, MT), or that the rulings

did not impact their policies (BG, HR, LV, LT, LU).

- Regarding the reception conditions, NL and BE disseminate information on LGBT-rights. NL also improved its process for reporting incidents in the reception centres.

**The compilation of answers from Member States and a summary of the results** are available on the European EMN website: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/ad-hoc-queries/ad-hoc-queries-2016.1061-nl\\_ahq\\_on\\_national\\_asylum\\_policies\\_regarding\\_lgbt-asylum\\_seekers.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/ad-hoc-queries-2016.1061-nl_ahq_on_national_asylum_policies_regarding_lgbt-asylum_seekers.pdf)

## 6.1 Institutional context

In Belgium, the **Communities** (Flemish, French and German) and the **Regions** (Flanders, Wallonia and Brussels) are responsible for the **integration and civic integration of foreign nationals**. In Brussels, the Flemish Community Commission (VGC) is responsible for the integration policy of the Dutch-speaking people in Brussels, while the French Community Commission (COCOF) coordinates the integration policies for the French-speaking residents in Brussels.

The **local authorities** (the municipalities and the Public Centres for Social Welfare) are responsible for the implementation of several aspects of integration, such as housing and social assistance.

The **Federal Government** is responsible for the housing and integration of asylum applicants during the asylum procedure.

Due to the high influx of asylum applicants in Belgium in the second half of 2015 and the high recognition rate, many beneficiaries of international protection had to be integrated in the Belgian society in the course of 2016. The important increase in the number of beneficiaries of international protection in 2016 entailed **substantial challenges** for what concerns the provision of housing, labour market integration, education, social welfare, and civic integration of beneficiaries of international protection, but also of other newcomers.

## 6.2 Promoting integration through socio-economic participation

### Measures to improve attainment in the education system

In 2016, several measures were taken in Flanders to improve the education and training for minors<sup>(129)</sup>.

First of all, the Flemish Government and Parliament set up a more flexible procedure for schools that want to provide reception classes to non-native Dutch newcomers. In 2016, 26 new schools in Flanders were granted the authority to organise such a programme for non-native newcomers.

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129 Source: Flemish Agency for Local Affairs, Division for equal opportunities, integration and civic integration.



The Flemish Government and Parliament also provided additional funding to schools for each newly enrolled non-Dutch speaking pre-schooler for the school year 2015-2016 (EUR 950 per student). Schools are also allowed to use this funding in the school year 2016-2017.

The regulation on **school coaches** who follow-up on former non-Dutch speaking newcomers was revised, increasing the number of Full Time Equivalents (FTEs) available by almost three times. These coaches will offer further assistance to pupils who completed the first reception year, as well as transfer and build expertise with regard to former non-Dutch speaking newcomers in mainstream education. Furthermore, the number of FTEs available to schools according to the number of non-Dutch speaking pre-schoolers was recalculated on the basis of a count of the pre-schoolers on 1 June 2016.

A subsidy regulation was set up for the rent of **temporary modular units for schools** that extended their capacity upon the arrival of refugee children. The school board can submit an application for this with the Flemish administration. A budget of EUR 1,152,000 was allocated for this purpose. The administration received five applications from schools located near collective reception centres for asylum seekers. Another subsidy regulation was developed together with the federal government for the **transport of pupils** from and to primary schools from collective reception centres for asylum seekers. A budget of EUR 306,000 was allocated for this purpose.

### Measures to enhance migrants' language skills

The decree of 28 April 2016 adopted by the Walloon government introduced a mandatory integration programme in Wallonia<sup>(130)</sup> (see [Section 6.3 of this report](#)). The Decree makes all the components of the integration programme compulsory, including a module of 120 hours to learn French. In Wallonia, the eight Regional Integration Centres (CRIs) are responsible for the implementation of the integration pathway, including language training. The French learning programme is organized through recognized organizations, such as the so-called Local Integration Initiatives, universities, public employment services and other organisations who carry out the frontline operations. The regional government defines the different qualifications of the trainers. The language programme of the courses in the French language 'FLE' ('Français langue étrangère') must be completed in eight months and be composed of a minimum of 120 training hours. A test is foreseen before the start of the programme in order to evaluate the level of the candidate and another test takes place at the end of the programme in order to validate the knowledge acquired by the candidate. The content of these tests is defined by a coordination committee for the purpose of harmonization.

In Flanders, the integration programme was already compulsory. The Dutch language lessons for low language skilled or 'slow learners' are organised by the Centres for Basic Education (CBE). A standard course consists of 240 teaching hours. Illiterate or very low language skilled persons can also follow Dutch language lessons organised by these Centres for Basic Education,

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<sup>130</sup> Decree of 28 April 2016 amending Book II of the Walloon Code of Social Action and Health concerning the integration of foreigners and people of foreign origin, Belgian Official Gazette, 9 May 2016.

consisting of 600 teaching hours. Higher educated or ‘fast learners’ are referred to Centres for Adult Education (CVO) where they can follow a standard course consisting of 120 teaching hours. Persons in the integration pathway who want to follow higher education can follow a course of 90 hours if they fulfil the admission requirements for higher education. These courses are organised by academic language centres. Flanders reported that many of the newcomers who arrived in 2015 and 2016 are motivated to learn Dutch and signed up for Dutch language courses, even before they became eligible to follow the compulsory civic integration programme. For this reason, an additional budget of EUR 18.5 million was set aside, corresponding to Dutch courses for 16,000 students. Moreover, extra budget was made available for Dutch summer courses (EUR 258,000) as well as additional budget for the Dutch courses in university language centres (EUR 107,000). Besides, additional staff and budget (EUR 96,000) was allocated to the diploma recognition service NARIC-Flanders to handle the applications of refugees<sup>(131)</sup>.

In Brussels, participation in the integration programme is currently still on a voluntary basis and free of charge. However, the integration programme will become mandatory at some point in 2017 (see Section 6.3 of this report). In the meantime, two ‘welcome offices for newcomers’ were set up in Brussels: BAPA-BXL and VIA. These offices are responsible for the organisation of the integration programme for newcomers who opt for the French module in Brussels. From 2016 onwards, newcomers interested in learning French can contact one of the two offices. A social and linguistic report on the social situation of the newcomer and his level of French is carried out, which makes it possible to highlight the needs of the newcomer and then offer different forms of training, including language training and literacy. In Brussels, language courses in French as a Foreign Language (FLE) or in literacy aim to reach the A2 level of the Common European Framework of Reference for Languages (CEFR). The duration of the training fluctuates between minimum 120 hours and maximum 1,150 hours for illiterate people<sup>(132)</sup>. As was already the case before 2016, the newcomers in Brussels interested in learning Dutch can contact the Reception Agency for Integration (BON), who offers an accessible way to learn Dutch.

The German-speaking Community started a pilot project in January 2016 to implement an integration programme. The first phase consists of language courses. Language courses ‘German as a second language’ aim to reach the A2 level of the CEFR. There is however an exception for illiterate people (A1 level). The duration of the language course fluctuates between 90 hours and 600 hours.

### **Migrant access to social security, healthcare and housing**

Due to the high number of asylum applicants that arrived in the second half of 2015 and started to come on the housing market in the course of 2016, the already significant challenge to find affordable and suitable housing for newcomers on the private and social rental market increased in 2016, and is expected to remain a major concern in the coming years. Due to the fact that beneficiaries of international protection and other newcomers are free to choose their place

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131 Source: Flemish Agency for Internal Administration, Division for equal opportunities, integration and civic integration.

132 Source: Brussels Community Commission (COCOF).

of residence, the extent of the problem differs locally, and is a particular concern for the larger cities. Following this increased influx of refugees, Flanders allocated an additional EUR 2.5 million for rental subsidies in 2016.<sup>(133)</sup>

According to the Flemish NGO Vluchtelingenwerk Vlaanderen, it is very difficult for many recognized refugees in Belgium to find suitable housing and people are therefore forced to become homeless, just at the moment when their integration programme should begin. According to the organization, the Flemish Minister responsible for housing did not sufficiently address this problem<sup>(134)</sup>.

There were no major developments in 2016 regarding the access to social security and healthcare. Migrants with a residence permit have - to a large extent - the same access to social security rights as nationals. The monthly (maximum) amounts of the integration income (the so called 'living allowance') increased in June 2016 and are now as follows: EUR 1,156.53 for a person with a dependent family; EUR 867,40 for a single person and EUR 578,27 for a cohabiting person<sup>(135)</sup>.

### Migrant integration into the labour market

Over the course of 2016, additional financial resources were allocated to labour market integration programmes due to the high influx of beneficiaries of international protection. Already in 2015, several task forces on different levels were set up involving a wide range of actors, such as for example the Taskforce of the Federation of Enterprises in Belgium. In Ghent and Antwerp, projects were launched - with funding from the European Social Fund (ESF) - to develop an integrated approach with training centres, employers and local authorities.

Furthermore, over the course of 2016, the public employment services in Flanders, Wallonia and Brussels<sup>(136)</sup> elaborated action plans, contracted additional staff and allocated additional resources to facilitate the labour market integration of this target group. Furthermore, the Flemish agency for employment and vocational training (VDAB) launched a new approach 'integration through work' which consists of giving newcomers a programme tailored to their needs and skills. The programme consists of different modules: career orientation, vocational language training, vocational training (possibly complemented with a provision 'Dutch at work') and language support (e.g. attending an individual vocational training course). With AMIF funding, a project was granted to the VDAB (Flemish Agency for Labour and Vocational training) to support high-skilled newcomers from third countries. Inspiration for the methodology was found in the project 'Connect2Work' which became one of the ESF Ambassadors of 2016. 'Connect2Work' supports highly educated newcomers in their search for a job at their level. The coach of 'Connect2Work' brings highly educated foreigners in contact with experienced professionals (mentors) who

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133 Source: Flemish Agency for Local Affairs, Division for equal opportunities, integration and civic integration.

134 'Erkende vluchtelingen raken erg moeillijk aan een woning', De Redactie, 25 April 2016.

135 More information: <https://www.mi-is.be/nl/equivalent-leefloon>

136 The VDAB is the Flemish Public Service for Employment and Vocational Training. Actiris is the public employment service responsible and Bruxelles Formation the official organisation for vocational training for the Brussels-Capital Region. Le Forem is the public employment service of the Walloon Region and the employment and vocational training agency Arbeitsamt ADG is the service responsible for the German speaking Community.

work in the sectors in which the foreigners want to work. In a period of at least three months, the mentors support the highly educated newcomers in their job search<sup>(137)</sup>.

On 9 December 2015, a Royal Decree came into force which stipulates that asylum applicants are granted access to employment after having spent 4 months (instead of 6 months) in the asylum-procedure without having received a first instance decision from the Office of the Commissioner General for Refugees and Stateless Persons (CGRS). A work permit type C will be issued. In his General Policy Note of October 2016, the State Secretary for Asylum Policy and Migration indicated that despite obstacles - such as the language barrier and the lack of required skills for a demanding labour market - the employment of asylum applicants should be improved. The objective is to identify the skills and competences of the asylum applicants in an early stage and to facilitate access to language training, vocational training and other courses, and to provide better guidance to the labour market. These activities would be carried out in cooperation with the employment services<sup>(138)</sup>.

As already indicated, a new compulsory integration programme was implemented in the Walloon Region in 2016. Besides the language aspect, this programme also provides a socio-professional assessment for those who need it. The socio-professional assessment is carried out during an individual interview with the objective to assess the qualifications and the skills of the newcomer making it able to provide suitable training and assistance and to outline a 'career path'. A similar socio-professional assessment was introduced in Brussels in 2016. In the Flemish region, an integration programme with individual coaching and career orientation already existed.

Labour market participation for beneficiaries of international protection is very challenging, in particular within the first years after arrival. While there is often talk of discrimination in this regard, the think tank Itinera pointed out that the reason for the low employment rate of refugees is linked to the fact that the labour market profile of refugees is poor and that the proportion of illiterates is significantly higher for refugees compared to other non-European migrants. Itinera also called for a quicker assessment of skills and a more tailored approach<sup>(139)</sup>.

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137 VDAB, HIVA, Atlas, Connect2Work.

138 Belgian House of Representatives, General Policy Note on Asylum and Migration, 27 October 2016, DOC 54 2111/017, p.22.

139 Itinera, Arbeidsmarktintegratie van vluchtelingen: de klok tikt, 2 November 2016.

## EMN Activities

### Conference of the Belgian Contact Point (November 2016)

#### **Labour market participation of beneficiaries of international protection**

On 8 November 2016, the Belgian Contact Point of EMN organised a conference on the integration of beneficiaries of international protection into the labour market in Europe.

During the conference, the findings of the thematic EMN study 'Integration of beneficiaries of international protection into the labour market in Belgium and in the EU' were presented and the practices and regulations in Belgium were compared to those in Germany and the Netherlands. Furthermore, leading experts in the field from the European Commission, OECD and Migration Policy Institute shared their insights on the matter.

During a panel debate, experts from the field, civil society, programme managers from employment services and employer organisations and a refugee provided an outline of the practical obstacles beneficiaries of international protection and employers are confronted with. The panellists also shared their views on how to overcome these challenges.

The **programme and the presentations** of the conference are available on the website of the Belgian Contact Point: <https://emnbelgium.be/news/emn-belgian-ncp-conference-labour-market-participation-beneficiaries-international-protection>

## 6.3 Promoting integration through civic participation: rights and obligations, achieving equal treatment and belonging

### Federal level

In December 2016, Myria (the Federal Migration Centre) published a **report on the fundamental rights of foreign nationals** in Belgium in 2016. It focuses on a number of domains in which the main rights of foreign nationals are not fully respected. In this report, Myria analysed these different issues and formulated recommendations for policy makers, including improving the access to banking services, which remains problematic for people in a precarious residence situation<sup>(140)</sup>.

Furthermore, the organisation Ligue des droits de l'Homme - through its work in collaboration with grassroots associations and its task to provide information and referral in relation to

<sup>140</sup> Myria, 'Etre étranger en Belgique en 2016', MyriaDocs#2, December 2016.

individual requests - has noted a series of needs specific to the migration sector. The most important of those needs is migrants' ability to access information about their rights. The Ligue des droits de l'Homme has therefore published a pocket guide containing the most important practical information for migrants concerning their rights and on how to assert them. The guide is available in English and in French. It provides the contact details of institutions, administrations and associations which are useful in the situations of the daily life of migrants in Belgium: right of residence, access to health care, training, schooling, housing, etc.<sup>(141)</sup>.

## Flanders

As civic integration programmes increase the opportunities of refugees to actively participate in the Belgian society, the Integration and Civic Integration Agencies and Dutch Language Houses (Huizen van het Nederlands) concerned were allocated an **additional funding** of EUR 11.8 million, in order to be able to meet the expected growing number of civic integration programmes. The **Implementing Decree on Civic Integration**<sup>(142)</sup> was adopted on 29 January 2016 and determines the organisation and content of the integration programme, the target groups of civic integration, the penalties for the participants, etc.

A research project on the best way to organize the **policy participation of persons of foreign origin** within the Flemish context was commissioned by the Flemish Minister for Civic Integration and executed by HIVA, the Research Institute for Work and Society of the University of Leuven. The research report was submitted in November 2016 and was validated in December. On the basis of the recommendations, **an action plan to effectively improve the policy participation of people of foreign origin** will be drawn up by the administration of the Minister for Civic Integration. Neither the study nor the action plan is publicly available yet<sup>(143)</sup>.

In July 2016, the Agency for Integration and Civic Integration **updated its overview document on the trajectory of asylum seekers**<sup>(144)</sup>. This document provides answers to questions relating to the reception of asylum seekers, the civic integration courses during the asylum procedure and after international protection, schooling for children, medical costs, family reunification, public welfare support, (social) housing and other social rights.

## Wallonia

On 28 April 2016, the Walloon Government adopted a decree instituting a **compulsory integration**

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141 La ligue des droits de l'Homme, Practical Guide and Information for Migrants. Know your rights in order to assert them, 2016.

142 Decree of the Flemish Government on the implementation of the Decree of 7 June 2013 concerning the Flemish Integration and Civic Integration Policy, 29 January 2016.

143 Flemish Parliament, Answer Question n°150 from An Moerenhout to Liesbeth Homans, Vice-Minister President of the Flemish Government, Flemish Minister for Internal Affairs, Civic Integration, Housing, Equal Opportunities and the Fight against Poverty, 9 November 2016.

144 See: <http://www.kruispuntmi.be/nieuws/overzichtsdocument-traject-asielzoeker>

**programme** in Wallonia<sup>(145)</sup>. The integration programme evolved from a welcome programme to an integration pathway (welcome module, French course, citizenship course and an orientation towards socio-professional insertion) that is fully mandatory for certain foreign newcomers.

The entire integration programme is free of charge and is developed, implemented and organised by the eight **Regional Integration Centres**<sup>(146)</sup>. These Centres organise the **welcome module** consisting of information on the rights and duties of all persons residing in Belgium and an individual social evaluation which allows an initial support according to the needs expressed (housing, health, employment, family, leisure, language knowledge, etc.). For the **second part of the integration programme**, the newcomers are referred - according to their needs - to the accredited **Local Initiatives for the Integration of Foreigners and People of Foreign Origin**<sup>(147)</sup>, who organise the French training course (120h), the citizenship training (20h) and socio-professional insertion.

The Department of Social Action launched a third **call for projects** - for non-profit associations, local authorities, foundations, institutions serving the public interest and international non-profit associations - in 2016 to support **local integration initiatives**. In the 2016 call for projects, a **new theme is eligible for subventions**: collective actions aimed at all audiences to **promote interculturality**. This theme will also be included in the fourth call that will be launched in 2017. The actions must promote the collective encounter of a multicultural public. This includes actions aimed at combating racism, combating discrimination, deconstructing prejudices, an active participation in society, etc.<sup>(148)</sup> A new feature for 2017 is that the selected projects will cover a period of two years and that the already accredited Local Initiatives for the Integration of Foreigners and People of Foreign Origin will have the possibility to apply for themes for which they are not already accredited.

## Brussels

The Government of the **Brussels-Capital Region** approved the Joint Community Commission's ordinance establishing the compulsory integration programme for newcomers in Brussels on 11 May 2017<sup>(149)</sup>. The intention is not to set up a completely new system, but rather to further apply the existing integration programmes. The Brussels Government will therefore conclude cooperation agreements with the French Community Commission (COCOF) and the Flemish Community, with clear agreements on the functioning of the agencies which provide for these integration programmes. The integration programme will become mandatory at some point in 2017.

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145 Decree of 28 April 2016 amending Book II of the Walloon Code of Social Action and Health concerning the integration of foreigners and people of foreign origin, Belgian Official Gazette, 9 May 2016.

146 More information: <http://socialsante.wallonie.be/?q=action-sociale/integration-personne-origine-etrangere/dispositifs/centre-regional-integration>

147 More information: <http://socialsante.wallonie.be/?q=action-sociale/integration-personne-origine-etrangere/dispositifs/initiative-locale-integration>

148 Ibid.

149 Joint Community Commission, Ordinance of 11 May 2017 on the integration programme for newcomers, Belgian Official Gazette, 30 May 2017.

Meanwhile, two accredited ‘welcome offices’ opened their doors in 2016 in the Brussels Region: ‘VIA’<sup>(150)</sup>, the first French-speaking Welcome Office for Newcomers (Bureau d’accueil pour Primo-Arrivants) in March and ‘BAPA Bxl’ (Bureau d’accueil pour Primo-Arrivants Bruxelles)<sup>(151)</sup> in September. These offices are responsible for the organisation of the integration programme for newcomers who opt for the French module in Brussels. Each of these Offices must process 2,000 cases per year and for this purpose, a budget of EUR 5.1 million was allocated<sup>(152)</sup>.

Unlike the Flemish system, the integration programme for the French-speaking people in Brussels is not open to all newcomers: it targets **only the group of newcomers who are 18 years of age or older**, defined as ‘the foreigners who have been legally residing in Belgium for less than three years and who are registered in the Register of Foreigners in a municipality of the Brussels-Capital Region and have a residence permit valid for more than three months’.

The programme is free of charge and consists of two modules. The mission of the Welcome Offices is to organise the **primary component** of the integration programme for newcomers in Brussels opting for the French regime. These Offices provide information on the trajectory and its actors and on rights and obligations (10 hours), they perform a social evaluation (identification of socio-economic and information on the available service) and a linguistic assessment (identification of needs and achievements in literacy and French). In case of need or desire for support or training, the newcomer concludes a convention with a Welcome Office. The **secondary component** is an individualised support programme and consists of administrative support and follow-up and orientation towards actors in training and employment (by the Welcome Offices) and/or a citizenship training (minimum 50 hours – by the Welcome Offices or external actors accredited by the Welcome Offices) and/or French language learning (120 to 1150 hours – by external actors, accredited by the French Government).

The newcomers receive a **certificate of attendance** after the primary component - which is not the same as a certificate based on results as used in Flanders - and, if applicable, after the secondary component. The Welcome Offices are in charge of issuing the certificates.

Moreover, within the framework of the decree on social cohesion and the **calls for specific projects, grants** are awarded by the French Community Commission for projects that facilitate the meeting of migrants with the host society to break prejudices and to **promote better social integration** within the Brussels society. Projects to improve the ‘living together’ via the production of tools with socio-cultural vocation or sensitization to interculturality are supported to allow the encounter between the different components of the city and to encourage the social mix and the richness of urban diversity<sup>(153)</sup>.

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150 More information: <http://www.via.brussels/>

151 More information: <http://www.bapabxl.be/>

152 It should be noted that the need for welcoming /integration programmes in Brussels is estimated at more than 10,000 people per year (some sources even mention 20,000 people per year). If the Flemish Agency for Integration and Civic Integration takes up about 3,000 persons and the non-profit organisations BAPA Blx and VIA 2,000 persons each, a substantial number of people are not catered for.

153 More information: [http://www.spfb.brussels/sites/default/files/documents/pro/appeil à projets 2016 avec précisions \(8\).pdf](http://www.spfb.brussels/sites/default/files/documents/pro/appeil à projets 2016 avec précisions (8).pdf)



## The German-speaking Community

The German-speaking Community started a pilot project in January 2016 to implement an integration trajectory. Flyers have been distributed to raise awareness among the migrant community. The first phase consists of language trainings. In a second phase, information on rights and obligations (60 hours) and socio-professional orientation are added. A decree concerning the integration of foreigners or people of foreign origin is expected in 2018.

## 6.4 Non-discrimination

### Monitoring of non-discrimination policies

As of 2016, a **new definition to monitor ethnic minorities** working for the Flemish government has been applied. This definition includes every person who legally (and on a long-term basis) resides in Belgium and who either has a foreign nationality, or had a foreign nationality at birth, or of whom either the mother or father had a foreign nationality at birth. This definition enlarges the population of ethnic minorities among the Flemish government's officials: while the former definition took into account the employment of persons with a migration background outside of the EU-15 countries, the new definition does not make any distinction between EU and non-EU migration backgrounds. At the same time as changing the definition, the targets of employment of ethnic minorities for the Flemish government were raised from 4% to 10%<sup>(154)</sup> <sup>(155)</sup>.

Regarding **planned measures**, the Brussels-Capital Region aims to develop a tool to monitor the employment of ethnic minorities in the Brussels-Capital Region in 2017<sup>(156)</sup>. The tool aims to monitor both the employment of ethnic minorities with an EU background as well as with a non-EU background.

### Evaluation of non-discrimination policies

In 2016, the **evaluation of the federal Antidiscrimination Law, the Antiracism Law and the Gender Law** – which was commissioned by the State Secretary for Equal Opportunities – started. The evaluation has to be done by the Federal Parliament and was prepared by a committee of experts, which was appointed in August 2016<sup>(157)</sup>. The committee presented its provisional report to the Commission of Justice in the Federal Parliament. Unia, the Inter-federal Centre for Equal Opportunities, also prepared an evaluation of the laws in 2016, and presented the results of this evaluation during a seminar<sup>(158)</sup>.

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154 However, it is impossible to specifically monitor whether this target reaches the most disadvantaged groups in terms of employment, i.e. those with a non-EU-15 and non-EU migration background. The actual number of ethnic minorities working for the Flemish Government in 2016 has not been officially reported yet.

155 Flemish Council of Ministers, Plan on Equal Opportunities and Diversity 2016-2020, 13 May 2016.

156 Another project we can mention here is the monitoring of disadvantaged groups working for the Brussels public services. In 2016, the government of the Brussels-Capital Region launched a project to monitor the employment of workers from disadvantaged groups. The project focuses on three groups: women, young and older workers and workers with disabilities. Do note that ethnic minority workers is not part of this project.

157 Royal Decree of 6 July 2016 appointing the members of the Committee of experts, Belgian Official Gazette, 4 August 2016.

158 The full report of this evaluation is available: [http://unia.be/files/Documenten/Publicaties\\_docs/Evaluatie.pdf](http://unia.be/files/Documenten/Publicaties_docs/Evaluatie.pdf)

Regarding **planned measures**, the Flemish government is preparing an evaluation of **the Flemish Equal Opportunities Decree** after the evaluation of the federal antidiscrimination - and antiracism laws. No evaluation of this Decree has taken place in 2016<sup>(159)</sup>.

### Complaints about discrimination

In the aftermath of the terrorist attacks of 22 March 2016 in Brussels, the Inter-federal Centre for Equal Opportunities Unia<sup>(160)</sup> saw a **rise in the number of complaints about discrimination** (islamophobia, antisemitism and hate speech).

### Integration Pact in Flanders

The elaboration of an 'Integration Pact', which would aim at **fighting racism and discrimination** in Flanders, was delayed because of discussions on the content and scope of the Pact. However, in 2016, the Minderhedenforum – an umbrella association of minority organisations in Flanders – was given the task to coordinate this Pact. The operational structure for the Pact was established on the first of December 2016<sup>(161)</sup>.

### Online tool against discrimination on the housing market

Unia, the Inter-federal Centre for Equal Opportunities, launched an online tool to help prospective tenants **prove that they were discriminated against on the housing market**. Unia argues that a prospective tenant who is not selected to rent a house, will often have difficulties to prove that certain elements – such as his/her ethnicity or the colour of his/her skin - played a role in that decision. Unia also stated that discrimination is happening in increasingly subtle ways. In this context, Unia developed a methodology that enables prospective tenants to prove racial discrimination<sup>(162)</sup>.

### Agreement between social partners to tackle discrimination in the sector of service vouchers

The social partners reached an agreement with the Federal Secretary of Work on how to **tackle discrimination in the sector of service vouchers**. Several measures were agreed upon, but the use of mystery calls as a way to test enterprises on discrimination remained a point of disagreement between the two parties. A similar plan is also being negotiated with the Flemish secretary of Work<sup>(163)</sup>.

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159 Flemish Parliament, Question n° 516 from Elke Van Den Brandt to Liesbeth Homans, Vice-Minister President of the Flemish Government, Flemish Minister for Internal Affairs, Civic Integration, Housing, Equal Opportunities and the Fight against Poverty, 28 April 2016.

160 Source: Unia. See the upcoming annual report of Unia (May 2017) and their website: <http://unia.be/nl/artikels/na-de-aanslagen-stijgt-het-aantal-meldingen-over-racisme-en-vreemdelingenhaat-bij-unia-1>

161 Flemish Parliament, Oral parliamentary question n°67, from An Moerenhout to Minister Liesbeth Homans, 11 October 2016.

162 Source and more information : <http://www.unia.be/nl/artikels/unia-lanceert-test-om-discriminatie-huurmarkt-te-bewijzen>

163 Unia, 'Akkoord dienstenchequesector : mag het iets meer zijn ?', 29 September 2016, <http://unia.be/nl/artikels/akkoord-dienstenchequesector-mag-het-iets-meer-zijn>

## National Human Rights Institution (NHRI)

The establishment of a NHRI is an on-going discussion in Belgium. The Minister of Justice and the State Secretary for Equal Opportunities are working on a **proposal for this institution**. During the presentation of the Universal Periodical Review before the Human Rights Council of the United Nations, several institutions with a mandate in the field of human rights in Belgium urged the authorities to set up a NHRI<sup>(164)</sup>.

## 6.5 Promoting integration at the local level and cooperation, consultation and coordination of local stakeholders

### Flemish Horizontal Integration Policy Plan 2016-2019

On 15 July 2016, the Flemish Government adopted the Horizontal Integration Policy Plan 2016-2019<sup>(165)</sup>. This policy plan focuses on reducing the ethnic gap: the social position of persons with a migrant background is in many areas worse than the position of persons of Belgian origin.

The plan is a **policy coordination instrument**. It indicates which objectives the Flemish public administration wants to achieve across the different policy areas and which measures are taken within and across these policy areas. Through this instrument, the different policy areas focus on the same priorities, which should maximise the policy effects. The plan puts forward **four strategic objectives**: promoting social and economic participation, improving the knowledge of Dutch of non-native speakers, enhancing mutual respect and achieving an aligned, substantiated and broadly supported integration policy. The different policy areas (Work, Education and Training, Youth, Culture, Sports and Media, Welfare, Public Health and Family, Housing, etc.) committed themselves to achieve these objectives and **contributed specific actions and measures to the policy plan**. These actions and measures may be inclusive (i.e. within the policy area, they are targeted at least partially towards people with a migration background), as well as horizontal/transversal (i.e. in cooperation with other policy areas to tackle specific challenges).

To support the Flemish inclusive horizontal integration policy, a **Commission on Integration Policy** has been established within the Flemish public administration. This Commission is chaired by the Flemish Diversity Officer. Its members are integration policy experts from the different policy areas of the Flemish public administrations, as well as experts from the local authorities and a participatory organization which act as a forum for the target groups, the 'Minderhedenforum'<sup>(166)</sup>. The commission on integration policy is responsible for the follow-up for the implementation and for the evaluation of the policy plan.

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164 Unia, 'Nog steeds geen Belgisch mensenrechteninstituut', 20 January 2016, <http://unia.be/nl/artikels/nog-steeds-geen-belgisch-mensenrechteninstituut>

165 Flemish Government, Horizontal Integration Policy Plan 2016-2019, VR 2016 1507 DOC. 0890/2.

166 The Minderhedenforum (Minorities Forum) is an umbrella organisation of 1,800 organisations recognised by the Flemish Government. It tries to empower migrants to take part in advisory councils and to be involved in other forms of participation. More information: <http://www.minderhedenforum.be/>

Within the commission, specific attention will be given to achieve **monitoring of the participation of persons with a migration background in all policy areas** as well as the development of a comprehensive view on language and language promotion policies. The Commission on Integration is committed to the European Action Plan on Integration and will take the encouragements of the European Commission into account upon the evaluation of the Horizontal Integration Policy Plan.

### Local authorities and the influx of asylum seekers

Although the asylum policy is a federal competence, the high number of asylum seekers granted international protection puts a **strong pressure on the local authorities**. The municipalities, as first-line authorities, are faced with many challenges concerning the integration of beneficiaries of international protection. Providing tailored answers to meet the needs requires a multi-disciplinary and integrated approach covering, among other things, the supervision of unaccompanied minors, assistance to housing, medical or psychosocial support, family support, etc. Therefore, the Flemish Government decided on 13 May 2016 to make **EUR 20 million** available to **support local authorities in taking the necessary measures in relation to the high number of beneficiaries of international protection**. The amount of EUR 20 million was divided into two tranches of EUR 10 million each<sup>(167)</sup>. These funds were allocated on the basis of objective criteria **to the municipalities where the problems are most severe**. This way, municipalities can develop a local approach and take their own initiatives in this regard. Local authorities can also decide to transfer the funds to the Public Social Welfare Centres. Municipalities can use the funds to develop a customized approach within two policy priorities: taking up the local management regarding the refugee policy and strengthen the existing offer<sup>(168)</sup>. On 23 December 2016, the Flemish Government added EUR 2.554 million, which are earmarked for the support of the municipalities. This amount was added to the second tranche of the initial EUR 10 million<sup>(169)</sup>.

In September 2016, in response to the refugee influx in the Flemish municipalities, the Association of Flemish Cities and Municipalities (VVSG) organised, in association with the Flanders Department of Home Affairs and the Flemish Agency for Integration and Civic Integration, two **inspiration days** in Leuven and Ghent, entitled '**From reception to coexistence**'. As result, a **guide with good practices** was published<sup>(170)</sup>.

Some Belgian provinces and cities started so-called '**Refugees Task Forces**'. The aim of these taskforces is to create a platform where the different partners can coordinate their actions. In addition to this coordination function, these taskforces play an important role in informing

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167 The funds from the first instalment were granted on the basis of the reference period from 1 November 2015 to 31 May 2016 (Ministerial Decree of 13 July 2016). The allocation of the second instalment was done by Ministerial Decree of 24 November 2016 on the basis of the reference period 1 April 2016 to 31 October 2016.

168 More information: <http://lokaalbestuur.vlaanderen.be/toelichting-subsidies-aan-gemeenten-in-kader-van-vluchtelingeninstroom>

169 The Decree of 13 May 2016 of the Flemish Government, as amended by the Decree of the Flemish Government of 23 December 2016, determines the conditions for awarding grants to municipalities in the context of the refugee issue.

170 More information and access to the publication on <http://www.integratie-inburgering.be/inspiratie-voor-lokale-besturen> and <http://www.vvsg.be/nieuws/Paginas/Inspiratiedagen-Integratie-van-Vluchtelingen.aspx>

the various organizations concerned and civil society, as well as in the co-creating of actions. These platforms focus on the integration of newcomers, including through facilitating language training, housing, and guidance to the labour market. For example, at **city level**, the city of Ghent started a 'Task Force Refugees' with the purpose to join forces with city services, the Public Social Welfare Centre, partner organizations, the University of Ghent, the civil society and volunteers to take coordinated and broadly-supported decisions to address the challenges facing the city. Within this Task Force, three working groups are active: on reception of asylum seekers, on integration of people who have received international protection and on volunteers and awareness to ensure the joining of forces within the civil society in Ghent. At **provincial level**, the Province of West-Flanders also established a 'Task Force Refugees' after a new temporary reception centre (300 reception places) opened up in the city of Koksijde in October 2015. Partners in this provincial 'Task Force Refugees' are, besides the Province of West Flanders, also the Agency for Integration and Civic Integration, Centre for Basic Education (adult education), the Learning Shop, the Flemish Public Employment Service, the Union of Independent Entrepreneurs (Unizo) and the Flanders Chamber of Commerce and Industry. The purpose of this Task Force is the integration of newcomers through language training and facilitating access to the labour market, for example by organizing language courses in the workplace and the development of a 'welcome-module' (the intention of this module is that people feel welcome, acquire a first knowledge about a number of topics within the society – such as health care, eating and drinking, documents and services - and get a first language course enabling them to express themselves). During 6 months (April to October 2016), the city of Koksijde ran a pilot project on labour and language. This project will also be rolled out in other regions of West Flanders. The pilot project also gave rise to the publication of an inspiration guide and the development of a road map and teaching material<sup>(171)</sup>.

### Working Group on integration of beneficiaries of international protection

In February 2016, **UNHCR launched a working group on integration of beneficiaries of international protection** with the actors involved in the reception and integration of asylum seekers and beneficiaries of international protection. The main themes are housing, employment, education and family reunification.

### Initiatives of NGOs to promote integration

Different NGOs implemented various initiatives in 2016 to promote integration. For example, in August 2016, Community support for Refugees in Belgium and the NGO Flemish Refugee Action (Vluchtelingenwerk Vlaanderen) launched a **new website for asylum seekers and refugees in Belgium** ([www.asyluminfo.be](http://www.asyluminfo.be)). In seven languages, the website provides advice, information and addresses that will help the asylum seeker through the asylum application and make integration easier.

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171 Documentation available in Dutch: <https://www.west-vlaanderen.be/overdegrens/gebiedenbeleid/vluchtelingen/Paginas/default.aspx>

The NGO Ciré (Coordination and Initiatives for Refugees and Foreigners)<sup>(172)</sup> **updated the website on living in Belgium** ([www.vivreenbelgique.be](http://www.vivreenbelgique.be)), within the framework of the creation of the welcome office for newcomers in Brussels, the introduction of a compulsory integration programme in Wallonia and the growing offer of citizenships workshops. ‘Living in Belgium’ is an information tool in French, composed of twelve thematic workbooks designed to enable trainers to have a wide range of useful information to familiarise newcomers in Belgium with their host society and to provide newcomers with information on Belgium’s history, institutions, socio-economic characteristics, cultural life and fundamental values and norms.

In June 2016, CIRÉ and its partners organised a **meeting to strengthen the links between the numerous citizen initiatives** in the field of asylum, the professionals in the sector, and asylum seekers, refugees and migrants. There was a strong desire to continue to get to know each other better and to better articulate the actions and to work together. To support this movement, CIRÉ published a practical brochure presenting numerous citizen and associative projects<sup>(173)</sup>.

## 6.6 Awareness raising on migration in the host society

### Debates on awareness raising among asylum seekers and migrants

In 2016, the State Secretary for Asylum Policy and Migration pursued **letter-writing campaigns**, which were actively debated in 2015<sup>(174)</sup>. Another letter was sent to Afghan asylum seekers in June 2016, providing information on delays in the asylum procedure, percentage of negative decisions, temporary duration of residence permits in case of positive decisions, lack of prospect of individual housing, delays for family reunification, possibilities and assistance to return. Several stakeholders reacted again to this new campaign, calling for objective and complete information instead of dissuasive arguments (see [Section 8.3.1 of this report](#)).

### Raising awareness among truck drivers about facilitation of irregular entry and smuggling

In July 2016, the Minister for Home Affairs and the State Secretary for Asylum Policy and Migration officially launched the campaign ‘**Give smuggling of people no chance**’ specifically targeting truck drivers. Truck drivers are provided with information on where to park and how to control their vehicles and loadings through different means, such as multilingual information brochures or posters<sup>(175)</sup> (for more information, see [Section 8.3.2 of this report](#)).

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172 More information on Coordination and Initiatives for Refugees and Foreigners (CIRÉ): <https://www.cire.be/le-cire/presentation/le-cire-pour-coordination-et-initiatives-pour-refugies-et-etrangers>

173 The brochure is available on [https://www.cire.be/services/structure-d-accueil-des-demandeurs-d-asile/le-cire-et-l-accueil-des-demandeurs-d-asile-en-belgique/coup-de-projecteur-sur-les-initiatives-citoyennes#!13495393\\_1035950579829678\\_5274180615887276065\\_0](https://www.cire.be/services/structure-d-accueil-des-demandeurs-d-asile/le-cire-et-l-accueil-des-demandeurs-d-asile-en-belgique/coup-de-projecteur-sur-les-initiatives-citoyennes#!13495393_1035950579829678_5274180615887276065_0)

174 In October 2015, the State Secretary for Asylum Policy and Migration sent a letter to Iraqis through a Facebook page. In November 2016, a similar campaign was initiated towards Afghans, advising them not to seek asylum in Belgium. .

175 Source: Immigration Office (Ilobel).

## Raising awareness among youth, parents and professionals about loverboys and trafficking in human beings

On 16 January 2017, Child Focus launched a **new website to fight against the phenomenon of loverboys**: <http://www.stoptienerpooiers.be/>. The website targets three groups: (1) the youth, (2) the parents and (3) teachers and support persons. Attention is given to risk profiles, signs and indicators to identify victims, modus operandi of loverboys and ways to help victims. This action follows previous activities addressing this phenomenon (for more information, see [Section 9.3 of this report](#)).

## Raising awareness about stereotypes and combatting prejudices on refugees and migrants

Many stakeholders were involved in 2016 in raising awareness about stereotypes and combatting prejudices among the wider public. Among others:

The NGO CIRE implemented an **anti-prejudice campaign** to deconstruct preconceived ideas, judgments and myths relating to refugees and foreigners. An 'anti-prejudice guide'<sup>(176)</sup> was developed and distributed as part of a larger campaign<sup>(177)</sup> including films, radio jingles, posters etc. aimed at inviting the population to fear prejudices rather than refugees and foreigners.

A platform of groups for undocumented migrants also organized a **caravan for migrants** through the country to better inform the population in the different cities about the realities experienced by undocumented migrants and associated prejudices. Local authorities, schools, citizens undocumented persons are invited to share testimonies and challenges, and to engage in dialogue. The tour will be pursued in 2017<sup>(178)</sup>.

The NGO Amnesty International developed an **educational package** entitled 'Migration here and elsewhere', which also aims at deconstructing stereotypes and prejudices towards refugees and migrants. The educational package is intended for teachers in primary and secondary schools. The exercises aim to place students in the shoes of persons fleeing their country of origin, informing on reception conditions and the asylum procedure in Belgium, deconstructing prejudices and sensitizing on human rights<sup>(179)</sup>.

## Raising awareness about the opportunities and challenges of migration

In 2016, the Centre for Ethnic and Migration Studies (CEDEM), an interfaculty research centre based in the Social Science Institute of the University of Liège, organized a **cycle of conferences** to stimulate citizen's debates on migration, particularly in light of the arrivals of high numbers

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176 More information : <https://www.cire.be/sensibilisation/outils-pedagogiques/refugies-et-rangers-petit-guide-anti-prejuges>

177 More information: <https://www.cire.be/sensibilisation/campagnes/prefugies/defense-de-nourrir-les-prejuges>

178 More information : <https://www.cire.be/thematiques/sejour-et-regroupement-familial/regularisation-des-sans-papiers/la-caravane-des-migrants-une-initiative-bientot-pres-de-chez-vous-pour-soutenir-les-sans-papiers>

179 More information : <https://jeunes.amnesty.be/jeunes/le-coin-des-profs/nos-dossiers-pedagogiques/dossier-pe-d2016?lang=fr>

of asylum seekers and migrants in 2015. Researchers and experts helped participants better understand challenges (need for global approach to the phenomenon, adjustment of policies, integration, etc.) and opportunities (contributions to culture, social interactions, local policy and economy, etc.) associated with migration in Belgium in 2016<sup>(180)</sup>.

Other cycles of conferences were organized in 2016 and will continue in 2017, including a cycle in the Catholic University of Leuven developed by teachers and researchers. From 28 October 2016 until 12 May 2017, 'Migrations: different perspectives' aims to explore migratory journeys, trends and perspectives, as well as links with inter alia employment and economy, family and health related issues<sup>(181)</sup>.

### Raising awareness, supporting dialogues and intercultural encounters at local level

Many stakeholders, including municipalities, reception centres and associations, were active in awareness raising, **dialogue and intercultural encounters** at local level. A variety of tools are used (including films, books and tales, exhibitions, creative workshops, etc.) to build and strengthen the understanding and relationships between the population and refugees and migrants at the local level.

In some cities such as Thuin, the Public Centre for Social Welfare set up a **mentoring system**, bringing Belgian families with asylum seeking families into closer contact. Through this system, participants were better informed about the asylum procedure, the available assistance, rights and obligations of asylum seekers, roles of stakeholders. Different activities (city tour, tea parties, cycling tour, etc.) were organized to stimulate the sharing of experiences<sup>(182)</sup>.

In 2016, the King Baudoin Foundation launched a new call for projects to strengthen community solidarity with refugees. 172 applications for project support were received (including projects to provide moral support to refugees, to help them to learn a language, etc.). 37 projects were selected. Each project will receive between EUR 3,000 and EUR 10,000<sup>(183)</sup>.

### Raising awareness about living conditions of children in refugee camps

In September 2016, the NGO 'Plan Belgium' launched a **website** (<http://manouvellemaison.planbelgique.be>) to raise awareness on the living conditions of children in the Nyarugusu camp, in the North-West of Tanzania. The website, which is accessible through laptops, tablets and smartphones, proposes an interactive experience (based on 360° filming), allowing users to project themselves in the real stories of children living in the camp. The website is intended for students aged between 10-15 years old and also for the wider public<sup>(184)</sup>.

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180 More information: <http://www.msh.ulg.ac.be/rencontres-du-cedem/>

181 More information: <http://www.uclouvain.be/528672.html>

182 More information: <http://www.thuin.be/news/le-cpas-de-thuin-accueille-les-demandeurs-dasile>

183 More information: King Baudoin Foundation, Celebrating International Migrants Day, 18 December 2016, 15 December 2016, <https://www.kbs-frb.be/en/Enews/Newsroom/20161215NDvluchtelingen>

184 Website of Plan Belgium: <http://www.planbelgique.be/actualite/realite-virtuelle-plongez-dans-la-realite-dun-enfant-refugie>





## 7.1 Return: a political priority

Return continued to be a priority of the Belgian government in 2016. In his General Policy Note of October 2016, the State Secretary for Asylum Policy and Migration stressed that the **continuous reinforcement of the return capacity** would be one of the main priorities of the next parliamentary year<sup>(185)</sup>.

The numbers for both voluntary and forced return have risen substantially over the last years: regarding **assisted voluntary return**, 3,644 third-country nationals returned in 2014, 4,187 third-country nationals in 2015 and 4,667 third-country nationals in 2016. Regarding **forced return**, 3,519 third-country nationals were returned in 2014, 4,245 third-country nationals in 2015 and 4,651 third-country nationals in 2016<sup>(186)</sup>.

As described in the sections below, many initiatives were taken in 2016 to further increase the number of returns in the next years.

## 7.2 Strengthening cooperation with third countries of origin and transit on return migration management

### Implementation of EU readmission agreements

The conclusion and implementation of readmission agreements – both at the European and national level - continued to be a priority of the Belgian government in 2016. In 2016, the Benelux States did not sign any **implementing protocols** of an EU readmission agreement. However, negotiations for the signature of a Benelux implementing protocol were ongoing during the year with Armenia, Azerbaijan, Cape Verde, Sri Lanka, and Ukraine. Contact was also made with Turkey.

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<sup>185</sup> Belgian House of Representatives, General Policy Note on Migration and Asylum, 27 October 2016, DOC 54 2111/017, p. 3

<sup>186</sup> These numbers include third country nationals who were repatriated to other Member States in accordance with the Dublin III Regulation (673 third country nationals in 2014, 828 in 2015 and 1138 in 2016).

## National agreements and cooperation on return and readmission

On 29 February 2016 and 1 March 2016, the Belgian Prime Minister, as well as the Minister for Home Affairs and Security and the State Secretary for Asylum Policy and Migration visited **Morocco**. The Prime Minister met – among others - with the head of the Moroccan Government, the President of the House of Representatives, the President of the House of Counsellors, the Minister for Home Affairs, and the Minister for Moroccans Residing Abroad and Migration Affairs. During these meetings, different topics were discussed, with a particular focus on the fight against terrorism. On 22 April 2016, Belgium concluded a **Memorandum of Understanding** with Morocco which focuses on security cooperation and on the fight against irregular migration, more specifically on the identification of irregular migrants<sup>(187)</sup>.

A Memorandum of Understanding was also concluded with **Somalia** on 14 December 2016. It lays down certain modalities for voluntary return and reintegration assistance, as well as for the forced return of irregular migrants to Somalia. Another Memorandum of Understanding (MoU) was concluded with **Cameroon** on 1 February 2017. This MoU focuses on different elements, including the fight against irregular migration (e.g. through exchange of information and expertise); the issuance of visas; and readmission and reintegration of migrants (e.g. voluntary return will be encouraged and a certain number of modalities were defined regarding forced return)<sup>(188)</sup>.

Furthermore, the State Secretary for Asylum Policy and Migration indicated in his General Policy Note of 3 November 2015 that the Belgian government also aimed at concluding agreements on return with Tunisia and Algeria in 2016<sup>(189)</sup>. No MoUs were signed with these two countries in 2016, but official visits were carried out. From 4 to 6 December 2016, the Belgian Prime Minister and his Dutch and Luxembourg counterparts carried out a joint visit to **Tunisia**. The visit focused on different areas, including politics, economy, security and migration<sup>(190)</sup>. Furthermore, the Prime Minister and the State Secretary for Asylum Policy and Migration carried out an official visit to **Algeria** on 6 and 7 December 2016, during which they met with the Algerian authorities. The visit aimed at reinforcing bilateral relations and cooperation between the two countries in different areas. Topics discussed included security, migration, and the return and readmission of irregular migrants (who committed a crime)<sup>(191)</sup>.

On 9 March 2016, the Prime Minister, the Minister for Foreign Affairs, the Minister for Justice, the Minister for Home Affairs and the State Secretary for Asylum Policy and Migration visited Ankara

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187 Belgian House of Representatives, Question n°136 of the MP Philippe Blanchart of 4 May 2016 to the Prime Minister, 6 June 2016, QRVA54 076, pp. 165-166, and Belgian House of Representatives, Question n° 1191 of the MP Barbara Pas of 13 April 2016 to the Deputy Prime Minister and the Minister for Security and the Interior, in charge of the Buildings Agency, 23 September 2016, QRVA54 089, pp. 47-54.

188 NVA, Vandaag tekent België een protocolakkoord met Kameroen over migratie en terugkeer, 1 February 2017, <http://www.theofrancken.be/nieuws/vandaag-tekent-belgie-een-protocolakkoord-met-kameroen-over-migratie-en-terugkeer>

189 Belgian House of Representatives, General Policy Note on Asylum and Migration, 3 November 2015, DOC 541428/019, p. 20.

190 Prime Minister of Belgium, Press release: joint press release by Benelux and Tunisia, 5 December 2016, <http://www.premier.be/fr/communiqu%C3%A9-conjoint-benelux-tunisie>.

191 See for example: 'Michel praat in Algerije over gedwongen terugkeer Algerijnen zonder papieren', HLN, 7 December 2016, <http://www.hln.be/hln/nl/957/Binnenland/article/detail/3025337/2016/12/07/Michel-praat-in-Algerije-over-gedwongen-terugkeer-Algerijnen-zonder-papieren.dhtml>

in **Turkey**. Topics discussed included police cooperation, the fight against terrorism, as well as migration, more specifically the improvement of information exchange in the framework of the migration policy<sup>(192)</sup>.

Throughout 2016, negotiations were ongoing with several other countries. In his General Policy Note on Migration and Asylum of 27 October 2016, the State Secretary for Asylum Policy and Migration indicated that efforts to conclude agreements with other countries on return would be intensified<sup>(193)</sup>.

It is also worth mentioning that - in the framework of the **Rabat Process - a conference** was organized in Brussels on 31 May and 1 June 2016. It was co-chaired by Belgium and the Ivory Coast. Representatives of 20 African and 18 European countries participated in various workshops in order to establish a technical dialogue between the partners of the Rabat Process on return, readmission and reintegration and to promote partnerships and information exchange<sup>(194)</sup>.

## Prevention of irregular migration from third countries

### *i) The Southern Mediterranean countries*

In the framework of the Regional Development and Protection Programme (RDPP) North Africa, and the 'IREVAN' project, the Immigration Office plans to launch **prevention campaigns in Morocco and Tunisia** in 2017 and 2018. These campaigns will focus on the risks associated with irregular migration and on voluntary return. The aim of these campaigns will be to provide information to irregular migrants from Sub-Saharan Africa stranded in Northern Africa on the dangers of irregular migration and to promote a sustainable voluntary return as a humane alternative.

### *ii) The Eastern Partnership countries*

The Immigration Office funded a **prevention campaign in Georgia** (May 2016 - November 2016), which targeted potential migrants and returnees - with a special focus on young men. It was implemented by IOM Tbilisi, in close cooperation with other partners. The main objective of the campaign was to discourage and prevent irregular migration by increasing awareness of the risks associated with irregular migration, such as financial losses, labour exploitation or forced return. The means used in the campaign to disseminate the information included TV and radio spots, social media and printed material.

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192 Belgian House of Representatives, Question n° 1191 of the MP Barbara Pas of 13 April 2016 to the Deputy Prime Minister and the Minister for Security and the Interior, 23 September 2016, QRVA54 089, pp. 54..

193 Belgian House of Representatives, General Policy Note on Migration and Asylum, 27 October 2016, DOC 54 2111/017, p. 31.

194 A summary of the discussions and conclusions of this conference is available at: <https://processus-de-rabat.org/images/RabatProcess/Documents/summary-debates-conclusions-thematic-meeting-Brussels-2016-return-readmission-reintegration-rabat-process.pdf>

### ***iii) The Western Balkans countries***

In the framework of the EU Twinning Project, the Immigration Office set up a **campaign in Kosovo** (March 2016 – August 2018). It targets young people (between the ages of 18 and 35) who could potentially migrate in an irregular manner. The campaign aims at raising public awareness about the risks of irregular migration and the potential benefits of regular migration (through - among others – printed materials, social media, TV and radio spots).

Furthermore, the State Secretary for Asylum Policy and Migration carried out an **information and dissuasion mission in Albania** from 13 to 15 June 2016. He also visited this country in 2015. The State Secretary met with the Albanian authorities, and a press conference with the local media was organized. One of the objectives of the visit was to properly inform Albanian citizens about migration to Belgium. Albania is included on the Belgian list of safe countries of origin, and the likelihood of Albanian nationals being granted protection in Belgium is thus very low<sup>(195)</sup>.

### ***iv) Countries in the Western Mediterranean and the African Atlantic coast***

The Immigration Office organized a **prevention campaign in Cameroun** in 2016. It followed three previous campaigns implemented in this country (in 2008-2009, 2012-2013 and 2014-2015). The campaign was implemented by a local NGO. It targeted young people from the western regions of the country and aimed at – inter alia - providing information on the dangers associated with irregular migration and on legal migration opportunities. This campaign focused in particular on the risks linked to visa fraud. Different means were used to disseminate information, including TV spots and information sessions.

### ***v) Other regions***

The Belgian Immigration Office - in partnership with a local NGO – set up **preventive actions against irregular migration in Afghanistan** (August 2016 – January 2017). The actions aimed at limiting irregular migration from Afghanistan, by providing information on the risks of irregular migration, including on the possible exploitation by traffickers. Activities included billboards, posters, radio ads, speaking tours and information workshops.

## **7.3 Enhancing return migration management including cooperation on return practices**

### **Recording entry bans in the Schengen Information System (SIS) and facilitating exchange of information on entry bans**

In 2016, the Immigration Office continued to strive to collect the **biometric data** of each third-

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<sup>195</sup> See for example: 'Staatssecretaris Francken rondt ontradingsmissie in Albanië af', Metro, 15 June 2016, <http://nl.metro-time.be/2016/06/15/news/staatssecretaris-francken-rondt-ontradingsmissie-in-albanie-af/>

country national who is subject to an entry ban, in order to improve the exchange of information and the quality of the data exchanged regarding third-country nationals who are subject to such an entry ban. Different measures have been taken in order to collect these data and facilitate the exchange of information regarding the identity of these persons<sup>(196)</sup>.

### Operation of national forced return monitoring system<sup>(197)</sup>

In Belgium, the **General Inspectorate of the Federal Police and the Local Police** ('Algemene Inspectie' / 'Inspection Générale') - an independent control authority - is the body in charge of monitoring forced returns. The General Inspectorate drafts a risk analysis each time before a control of a forced return is carried out. Different elements are taken into account to decide whether or not to carry out a control. A report is drafted following each control, and - if necessary - recommendations are formulated<sup>(198)</sup>.

Since 1 January 2016, the General Inspectorate falls directly under the authority of the Minister of the Interior.

## 7.4 Promoting and facilitating voluntary return

In his General Policy Note of October 2016, the State Secretary for Asylum Policy and Migration stressed that a person who is irregularly staying in Belgium or whose asylum claim was rejected has to leave the country. Priority is given to voluntary return<sup>(199)</sup>. The State Secretary also stated that all rejected asylum seekers and all irregularly staying persons have to be informed about the possibilities for voluntary return. Different actions were implemented in 2016 in order to raise awareness on the voluntary return program among the target groups and to facilitate access to it.

### Action Plan on voluntary return

As described in the sections below, different measures were put in place in 2016 to implement the 2015 **Action Plan on voluntary return**. This Action Plan was prepared by the federal reception agency Fedasil and presented in July 2015. It has three main goals: (i) Embed and strengthen the 'return path'<sup>(200)</sup>; (ii) Improve access to the voluntary return program; (iii) Inform irregular

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196 Source: Belgian Immigration Office (SIS unit).

197 Established in accordance with Article 8 (6) of the Return Directive.

198 Source: General Inspectorate of the federal and local police.

199 Belgian House of Representatives, General Policy Note On Asylum and Migration, 27 October 2016, DOC 54 2111/017, p. 24.

200 The law of 19 January 2012 amended the Reception Act and introduced the concept of 'return path'. This is defined as the individual support provided by Fedasil with a view to return. This return path entails the provision of information about voluntary return to (rejected) asylum seekers in reception structures managed by Fedasil and its partners - at key moments of the asylum procedure. It is divided into two main phases: (i) voluntary return counselling while the asylum procedure is still ongoing and (ii) voluntary return counselling in a return facility (the 'open return places') after the asylum application was rejected.

migrants outside of the reception system about voluntary return (both directly and indirectly) via their formal and informal representatives.

### Opening of a return desk in Charleroi

In October 2016, the federal reception agency Fedasil opened a **new return desk in Charleroi**, in addition to the four existing return desks in major Belgian cities (Brussels, Ghent, Antwerp and Liege). At these **return desks**, migrants who reside outside of the reception facilities can receive information on the possibilities for **voluntary return** and obtain support to return voluntarily to their country of origin.

In 2016, 3,788 **counselling sessions** were conducted at the return desks. The return desks can also be reached by phone (free hotline). More than half of the voluntary returnees departing from Belgium in 2016 returned with the help of a return desk.

These return desks also act as a focal point for voluntary return related information for local social or welfare organizations, and for the administrations in the cities concerned. When possible, they provide pro-active information sessions to frontline workers (social services in hospitals, welfare centres, social services, etc.).

Since April 2016, **IOM and Caritas International Belgium** are present at different return desks, in order to help voluntary return counsellors draft reintegration files, and to provide information on reintegration directly to third-country nationals.

### Training for first line support workers and voluntary return counsellors

For Fedasil, a **strong network of first line support workers** (e.g. police officers, social workers, staff of Public Centres for Social Welfare, staff of municipal migration services, and representatives of diaspora communities) **and return counsellors** is essential, as they are the ones who discuss the possibility of return with the third-country nationals.

Fedasil thus organized different activities in 2016 to ensure that the **first line support workers and return counsellors received up-to-date information** and were properly trained. In December 2016, Fedasil organized a meeting day - in collaboration with the city of Antwerp - for social services, welfare organizations and frontline workers about voluntary return. Furthermore, 1,558 first line support workers followed a training session about (voluntary) return in 2016. 'Open days' were also organized in open return places, so that social workers working in reception centres could familiarize themselves with the return path.

Moreover, 11 return counsellors and first line support workers went on **monitoring missions** to Ghana, Ukraine, Senegal, DR Congo, Russian Federation and Mongolia in 2016. During these missions, they had the opportunity to talk with local staff members of IOM, Caritas, and other service providers, and visit returnees. These missions enabled return counsellors to provide more accurate information on return to potential returnees. In 2017, other monitoring missions for return counsellors and first line support workers will be organized.

In the framework of the Common Support Initiative (CSI), Belgium also organized a **pilot exchange program for voluntary return counsellors/ agents** from OFII (France) and Fedasil (Belgium) to exchange their voluntary return counselling approach in the field, and to gain different perspectives on the voluntary return counselling of (rejected) asylum seekers. The exchange took place in September 2016. Three return counsellors working in a Federal Reception Centre of Fedasil's network and four return agents from OFII participated in the exchange program. In 2017, the CSI will further develop this concept and examine whether or not other EU-countries can be included<sup>(201)</sup>.

### Information sessions and activities for diaspora communities, embassies and consulates

Fedasil set up several activities to **inform diaspora communities** about voluntary return, through different means and involving different actors (consulates, migrant organizations or IOM staff members from concerned countries).

Furthermore, Fedasil met representatives of 21 **consulates** in order to raise awareness and inform them about voluntary return. Fedasil provided information on the agency and its place in the Belgian institutional framework, as well as on the voluntary return program. Increasing mutual understanding between Fedasil and the embassies and consulates on voluntary return is considered important, as the latter provide the travel documents needed by migrants to return to their country of origin. These information activities contributed to an increased and more proactive cooperation with consulates from countries with a high level of return.

In December 2016, Fedasil and IOM jointly organized the **annual meeting for embassies and consulates** at Fedasil's headquarters. Representatives of 28 consulates attended this meeting. The meeting aimed at providing embassies and consulates with information on voluntary return and at stressing their essential role in this process.

Fedasil also cooperated with the Immigration Office for certain information activities targeting consulates and embassies.

### Monitoring service providers

In 2016, Fedasil started a **control cycle** (both financial and on content) regarding **service providers**. Control missions were carried out in Macedonia (August 2016) and Armenia (October 2016). In 2017, Fedasil will organize at least two other control missions.

Furthermore, an **online monitoring tool regarding service providers** was established in 2016. Steering group meetings were also organized every three months with IOM and Caritas International Belgium to discuss this issue.

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<sup>201</sup> Source: Fedasil (International Unit).



## Cooperation with local authorities

The Action Plan on voluntary return includes the development of **partnerships with local authorities** as one of the priorities. The State Secretary for Asylum Policy and Migration stated that there will be an even bigger emphasis on collaboration with the local administrations in 2017, since the people residing in large cities outside of the reception structures should also be informed of the possibilities regarding voluntary return. Furthermore, he underlined that the municipalities where reception centres for asylum seekers have been opened, as well as the Public Centres for Social Welfare, will be informed and supported<sup>(202)</sup>.

In this framework, Fedasil reinforced its **collaboration with major cities** (Ghent, Antwerp, Ostend, etc.) in 2016, in order to embed voluntary return in the local policies regarding irregular migrants. Different means were used, including the appointment of focal points in major cities; pro-active communication in cities regarding voluntary return; and the organization of three monthly consultation platforms or meeting points for first-line workers, return counsellors, police, civil society, and officials of the Immigration Office. In 2017, Fedasil will continue its collaboration with these major cities, and will try to expand it to other cities as well.

## Communication tools on voluntary return

In January 2016, Fedasil launched a **new website on voluntary return** ([www.voluntaryreturn.be](http://www.voluntaryreturn.be)). The website mainly targets migrants and aims at informing them about the possibility of voluntary return. The website provides answers to frequently asked questions, such as ‘how can I apply for voluntary return?’ or ‘what support can I receive?’, as well as stories of returnees and the contact information of the return partners. In order to best inform these persons, the information on the website is available in 12 languages. Furthermore, the website also has a section aimed at Fedasil’s return partners.

**Other communication tools** regarding voluntary return were also developed: six newsletters, four posters with return stories (in collaboration with IOM and Caritas), business cards for voluntary return counsellors who work at return desks, brochures regarding country projects (developed by IOM and Caritas), a poster and brochure with general information about voluntary return (new layout), and a leaflet regarding assistance at the airport (by IOM)<sup>(203)</sup>.

Furthermore, the **university KU Leuven carried out a study** on the awareness and image of voluntary return amongst irregular migrants and their representatives, at the request of Fedasil. Following one of the recommendations of this study, a more neutral lay-out for posters and brochures was developed.

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202 Source: Belgian House of Representatives, General Policy Note on Asylum and Migration, 27 October 2016, DOC 54 2111/017, p. 24.

203 Source: Fedasil (International Unit).

## Specialized assistance provided by 'native counsellors'

In order to favour the provision of information on voluntary return in a pro-active and individual manner, the Action Plan mentions the possibility to create a **team of 'native counsellors'**, in partnership with IOM. In 2015 and 2016, a native return counsellor speaking both Albanian and Serbian worked at the return desks. Arab interpreters were made temporarily available at the return desks in 2016 (returns to inter alia Central Iraq).

## Specific reintegration strategies for certain countries

As stipulated in the Action Plan on voluntary return, Fedasil developed **specific reintegration strategies for certain countries of origin**, which are complementary to the regular national Voluntary Return and Reintegration Program. These strategies are:

### ***(i) Western Balkans***

In June 2016, Fedasil started a project in collaboration with IOM and Caritas International Belgium (CIB). The project includes **counselling to people who voluntarily return to countries in the Western Balkans**. After the return, the local IOM or CIB partner office provides returnees with assistance regarding administrative obligations (e.g. registration at civil registry) in order to ensure that returnees have (once again) access to available local facilities (e.g. health care, education, social housing projects, employment services, etc.).

Migrants who return to the Western Balkans in the framework of the above-mentioned project do not directly receive in-cash or in-kind support for their reintegration (e.g. housing, establishing micro-initiatives, etc.), as is the case for the regular voluntary return program. Returnees to the Western Balkans are given a **specific guidance and referral** instead, so they can access already existing social services in their country of origin. If necessary, the local service provider takes care of the administrative costs, photos, translating of documents, etc.

### ***(ii) Iraq***

The aim of the Iraq program is to **foster voluntary and autonomous returns** to Central Iraq. In this framework, the in-cash grant for returnees to Central Iraq was temporarily increased in 2016. Furthermore, Arab interpreters were temporarily made available at the Return Desks. An information campaign about the possibility for voluntary return specifically targeting Iraqis was also set up. Moreover, IOM Iraq carried out counselling meetings in the reception centres in Belgium. Seven information sessions were organized in November 2016, which were attended by 220 Iraqi nationals.

On 1 February 2016, Fedasil organized - for the first time - a **chartered flight to Baghdad** for the voluntary return of 106 persons to Iraq. Fedasil organized this flight due to the high number of persons applying for a voluntary return to this region. IOM was in charge of the logistical organization of this chartered flight. To this end, a civil aircraft with a capacity of 150 places

was contracted via a tender organized by IOM Geneva. It should be mentioned that the charter was not a military plane, but a civil carrier. Police escorts were not involved in this operation. As foreseen in the Belgian Voluntary Return Program, the returnees received a cash grant of EUR 250 per adult (EUR 125 per child) at the airport and a reintegration package up to EUR 2,200 in kind in Iraq (e.g. for setting up a micro-business, job placement, housing, education, etc.), in cooperation with IOM.

In 2016, 1,062 persons returned voluntarily to Iraq via the Belgian Voluntary Return and Reintegration Program<sup>(204)</sup>.

### **(iii) Morocco**

Following contacts between Fedasil and the city of Antwerp, it was established that a **large group of irregularly staying Moroccan migrants** was residing in Antwerp, often in difficult conditions. In most cases, these migrants had left Morocco a long time ago and they no longer had a network to fall back on in Morocco. In this framework, the **REMA project** ('Reintegration Maroc') was established, which aimed at reinforcing the reintegration of irregular migrants who return to Northern Morocco (regions of Rabat and Tanger). In October 2016, a **mission was carried out in Morocco**, in order to prepare the REMA project. The project, in cooperation with Caritas International Belgium, will become operational in 2017.

In Antwerp, the so-called '**native counsellor**' (i.e. a social worker of Moroccan origin who speaks Arabic) will provide information about this project to irregularly staying Moroccans. In order to reach the target audience, pro-active counselling will be organized, for example in homeless shelters. A reintegration plan will be established and assistance to go to the airport is possible. After arrival in Morocco, a local service provider (i.e. Fondation Orient-Occident) will assist the returnees (e.g. temporary housing; assistance in dealing with administrative obligations; assistance with finding a job or vocational training; support to start an income producing activity, etc.)<sup>(205)</sup>.

### **Voluntary return and reintegration of vulnerable migrants**

In 2016, Fedasil started the **AMAAR project** ('Adapted Medical Assistance After Return'). The objective of this project is to facilitate the voluntary return of migrants with a severe **medical problem**. This happens on a case-by-case basis. A tailor-made reintegration plan can be developed, in consultation with a doctor who works for Fedasil. This project follows several measures taken in 2015 to facilitate the voluntary return and reintegration of vulnerable persons (including the creation of a team of medical and social escorts to accompany persons in need of assistance during the flights).

Fedasil also continued working on the implementation of its strategy regarding the voluntary return of **unaccompanied minors**. Fedasil organized information sessions for unaccompanied

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204 Source: Fedasil (International Unit).

205 Source: Fedasil (International Unit).

minors, and gave trainings regarding this issue to guardians and first line support workers. The collaboration with service providers like IOM and Caritas International Belgium in countries of origin was further established. Furthermore, Fedasil kept investing in individual return counselling for unaccompanied minors. This approach will be continued and reinforced in 2017. In 2016, 17 unaccompanied minors returned voluntarily with the help of IOM, and 12 of them received reintegration support<sup>(206)</sup>.

In 2016, Fedasil began with the development of a specific approach regarding voluntary return of **victims of human trafficking** and exploitation (who are not in a special residence procedure for victims of human trafficking). This is the reason why Fedasil is currently working on the establishment of a network of first line support workers who often have contact with the target group (for example social workers of NGOs who focus on victims of human trafficking). In 2017, Fedasil will further develop this approach.

A specific counselling approach has been developed for **families with underage children** who are staying in reception centres or in Family Identification and Return Units. In 2017, Fedasil will continue to offer return counselling to those families.

### Monitoring voluntary return and reintegration

The first results of Fedasil's pilot monitoring exercise became available in September 2016. This **online monitoring tool** was launched in 2015 in ten countries of origin. It targets returnees who have been granted reintegration assistance. It aims at collecting data, analysing (statistical) data and evaluating the return process and the impact of return and reintegration activities<sup>(207)</sup>. This concept will be further developed in 2017.

### Cooperation on voluntary return projects

Belgium takes part in several projects and initiatives on return.

#### **(i) Common Support Initiative on Voluntary Return and Reintegration (CSI)**<sup>(208)</sup>

In 2016, the CSI organized 3 informal **thematic meetings**, on different topics (e.g. on current developments in the field of voluntary return and reintegration on a national and European level).

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206 Source: Fedasil (International Unit).

207 The returnee himself – or with the assistance of the reintegration service provider – fills out a questionnaire six months after his return to his country of origin. He evaluates his situation at that moment, including his overall socio-economic situation (employment, housing, medical situation, social network) and his reintegration project. Fedasil centralizes all the information obtained.

208 The CSI - an informal platform of European governmental administrations responsible for the implementation of voluntary return and reintegration - was established in 2013 by Fedasil (it is funded through AMIF). See: <http://fedasil.be/en/content/fedasil-eu-and-return>

Furthermore, the CSI contributed to the European Reintegration Network (**ERIN**), e.g. via pre-market consultations for mapping organizations in countries of origin who might be considered as providers of reintegration services for returnees.

Regarding the European Return Liaison Officers network (**EURLO** project), the CSI conducted a workshop - in April 2016 - for EURLO Liaison Officers regarding voluntary return and reintegration (within the framework of the European Curriculum for Liaison Officers).

CSI further developed its expertise in the field of voluntary return and reintegration via the participation in or organization of intergovernmental meetings with other national institutions and the participation in international meetings organized by European networks, agencies, etc.

### ***(ii) European Reintegration Network (ERIN) and European Reintegration Network Specific Actions (ERIN SA)***

**ERIN SA** – which objective is to obtain a scale advantage by launching a common tendering procedure for reintegration services in countries of origin - started on 1 June 2016, and will run for five and a half years. It builds further on the experiences of the previous ERI and ERIN<sup>(209)</sup> project. The program leader is the Dutch DT&V. Other participating government agencies are from the Netherlands, Belgium, Finland, France, Germany, United Kingdom, Romania, Luxembourg, Austria, Switzerland, Greece, Italy, Norway and Malta.

In 2016, Fedasil contributed via CSI to several activities implemented within ERIN and ERIN SA (see above). A national focal point of Fedasil and CSI attended the ERIN Steering Committee and the ERIN SA Board Meetings.

### ***(iii) Targeted Initiatives in the framework of the European Mobility Partnerships***

In 2016, the targeted initiatives for **Armenia** – which were launched in January 2013 – came to an end.

The Sharaka project in **Morocco**, launched in June 2013 in the framework of the EU Mobility Partnership, will end in March 2017. This project might be temporarily extended<sup>(210)</sup>.

In July 2016, the Lemma project, a new initiative in the framework of the European Mobility Partnership with **Tunisia**, was launched. This project aims at supporting the Tunisian government in developing and implementing a national migration policy. It involves a partnership between institutions in Tunisia and agencies and administrations in seven EU Member States.

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209 ERIN is a cooperation project between governmental partner institutions responsible for the organization of return and reintegration activities, which aims at organizing sustainable return and reintegration of third country nationals to their countries of origin. The project is co-funded under the Return Fund Community Actions. See: <http://fedasil.be/en/content/fedasil-eu-and-return>

210 More information on the Sharaka project: <http://www.sharaka.ma/actualites/fil-dactu/restitution-par-fedasil-dune-analyse-comparee-des-dispositifs-europeens-daide-au-retour-et-a-la-reintegration-volontaire-au-maroc>

Within the framework of the Lemma project, Fedasil will visit Tunisia in 2017. The objective is to contribute to the draft of recommendations regarding the reintegration of Tunisian returnees<sup>(211)</sup>.

## EMN Activities

### 2016 EMN Study

#### **The return of rejected asylum seekers: challenges and good practices**

In 2016, the EMN conducted a study on (Member) State's approaches to the return of rejected asylum seekers at different stages of the asylum procedure, examining existing policies and identifying challenges and good practices. The study focused - inter alia - on the national policies in place to **encourage the return** of rejected asylum seekers; on the **challenges** associated with the return of rejected asylum seekers as well as the measures taken to counter these; and on national approaches to rejected asylum seekers who **cannot immediately or not be returned**.

Among other conclusions, the **Belgian study** shows that there are different measures in place to ensure or encourage (voluntary) return (e.g. the 'return path'). Rejected asylum seekers' rights and access to certain services are limited (e.g. no access to the labour market). The study also highlights the various challenges that prevent or hinder the return of third country nationals (e.g. resistance of the third-country national, lack of cooperation from country of return, etc.) and the measures that are implemented to manage these challenges.

The **Belgian report, the comparative EU Synthesis Report**, and the **EMN Inform** (which summarises the main findings of the EU Synthesis report) are available on the website of the Belgian Contact Point: <https://emnbelgium.be/publication/return-rejected-asylum-seekers-belgium-and-eu-challenges-and-good-practices-emn>

**The national reports** of other (Member) States are available on the European EMN website: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/studies/results/economic-migration\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/economic-migration_en)

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211 Source: Fedasil (International Unit).

## 7.5 Forced return and detention

### Increasing the return of irregularly staying persons representing a threat to the public order

The apprehension and return of third-country nationals who pose a threat to the public order remained a top priority of the return policy in 2016 and will remain a priority in 2017.

In 2014, **625 irregularly staying persons were returned directly from prison** to their country of origin or country of residence. These numbers have risen substantially in 2015 (1,437 third-country nationals) and 2016 (1,595 third-country nationals)<sup>(212)</sup>.

This increase is the result of many factors, including intensified cooperation between the Immigration Office and the Federal Public Service Justice. Within the Immigration Office, the number of staff members who handle the identification and removal of prisoners was also increased.

Another factor is the Law of 5 February 2016. This law made changes to the Belgian criminal law, and made it possible for the Immigration Office to **begin organising the return of a third-country national in prison earlier on**. Furthermore, all foreign long-term prisoners will have to prove their willingness to cooperate to their return in order to be anticipatively released. If they do not want to cooperate they will serve the full sentence. This new legislation is an incentive to all third-country nationals detained in prison to cooperate for their return.

The Law of 24 February 2017 made it possible to withdraw the residence permit of third-country nationals **who have a residence permit in Belgium, but pose a threat to society** and to return them. This is possible even if these third-country nationals were born in Belgium or moved to Belgium before they were 12 years old. This will only happen to third-country nationals who are involved in terrorism or have committed serious crimes. There will always be a comprehensive proportionality test, and the third-country national will have to pose a genuine, current and sufficiently serious threat to the fundamental interests of society. It will also be possible to issue an entry ban to third-country nationals who pose a threat to society and who will be removed to other Member States<sup>(213)</sup>.

The Law of 15 March 2017 regarding irregularly staying persons representing a threat to public order will **end the suspensive nature of an appeal** against a return decision that is taken for imperative **reasons of public order** or public security<sup>(214)</sup>.

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212 Sources: Belgian House of Representatives, General Policy Note on Asylum and Migration, 27 October 2016, DOC 54 2111/017, p. 23-24 and Belgian Immigration Office (Removal unit).

213 Law of 24 February 2017 modifying the law of 15 December 1980 on the entry, residence, settlement and removal of foreign nationals in order to reinforce the protection of the public order and national security, Belgian Official Gazette, 19 April 2017.

214 Law of 15 March 2017 modifying article 39/79 of the law of 15 December 1980 on the entry, residence, settlement, and removal of foreign nationals, Belgian Official Gazette, 19 April 2017.

Furthermore, the so-called **'Gaudi' operations** continued in 2016. These operations aim at arresting irregularly staying migrants who commit an offence against the public order (such as shoplifting or pickpocketing) by increasing police controls, and at organizing their swift return to their countries of origin when possible. Additional Gaudi operations will be carried out in 2017.

## Return flights

In his General Policy Note on Asylum and Migration of October 2016, the State Secretary for Asylum Policy and Migration indicated that it is essential to continue to organize **secured flights**, and that European collaboration in this field is a priority of the government. The State Secretary stressed the importance of fully participating in return flights organized by Frontex, and this also from a budgetary point of view<sup>(215)</sup>.

In 2016, Belgium organized or participated in a record **39 return flights**, accounting for a total of 201 returnees. More precisely, Belgium organized or participated in five national return operations, 23 joint return operations (JROs), and 11 collecting joint return operations (CJROs). The main destinations for return flights were Albania (15), Nigeria (8), Kosovo (5) and Georgia (5)<sup>(216)</sup>. In comparison, Belgium organized or participated in 25 return flights in 2015, accounting for a total of 154 returnees<sup>(217)</sup>.

## Access of some officials of the Immigration Office to the database of the police

Some authorized officials of the Belgian Immigration Office, who received a special training and have a security clearance, have been granted direct access to certain parts of the **central database of the Belgian police** ('Algemene Nationale Gegevensbank'/'Banque de données nationale générale').

They still need to contact the police or the prosecutors' office to use the information for decision making purposes. This direct access makes it easier for the Belgian Immigration Office to determine whether or not a foreign national might be a **threat to public order or public security**<sup>(218)</sup>.

## Use of video conferencing for the identification of irregular migrants

The aim of the video-conferencing pilot-project, which started in June 2014, was to test the use of **videoconferencing tools** for the identification of irregular migrants by the authorities of the countries of origin, but also to interview asylum seekers. Belgium, Poland and Luxembourg participated in this pilot project, whereas the Netherlands and the United Kingdom were associated

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215 Belgian House of Representatives, General Policy Note On Asylum and Migration, 27 October 2016, DOC 54 2111/017, p.29.

216 Source: Belgian Immigration Office (Removal unit).

217 Sources; Belgian House of Representatives, General Policy Note On Asylum and Migration, 27 October 2016, DOC 54 2111/017, p. 29 and Belgian Immigration Office (Removal unit).

218 'ANG', Theo tuurt naar Vlaanderen en de wereld, 4 December 2016, <https://theotuurt.wordpress.com/2016/12/04/ang/>



partners<sup>(219)</sup>. This pilot-project ended on 31 October 2016. A **new project** was submitted to the European Commission to implement video conferencing in different EU-countries (identification EURLO VCI). The project was approved, but the contract with the Commission still has to be signed.

In Belgium, the video conferencing tool has been **further tested in 2016** and it was introduced for interviews with asylum seekers. New tools were bought. Trainings were given to officials from both the Immigration Office and the Office of the Commissioner General for Refugees and Stateless Persons. Later that year, the video conferencing project became fully operational, and is now used on a daily basis in identification and asylum procedures. Video conferencing tools are available in four closed detention centres (Merksplas, Vottem, Bruges and 127bis), three prisons (Hasselt, Merksplas, and Jamioulx), and the Immigration Office. The Immigration Office also has two mobile videoconferencing tools<sup>(220)</sup>.

### Measures regarding passengers protesting against forced return

An attempt to carry out a forced return sometimes has to be aborted, due to protests of other passengers on the flight. It even happens that passengers threat police officers or crew members. Certain measures - based on the Convention of Tokyo and the Law on aviation safety - have been taken in order to put an end to this. In 2016, some **passengers** who tried to **obstruct a forced return** attempt have even been convicted<sup>(221)</sup>.

### Creation of a radicalism unit in the Immigration Office

On 1 May 2016, a new unit was created within the Immigration Office. This unit will follow-up on the files of third-country nationals who might be linked to terrorism or radicalism. The **radicalism unit** will help other units within the Immigration Office in determining if and which actions have to be taken regarding these third-country nationals (e.g. interception or removal). The radicalism unit has established contacts with the federal police, intelligence agencies, Fedasil, and the Office of the Commissioner General for Refugees and Stateless Persons.

On 18 July 2016, **a circular letter regarding hate preachers** was signed by the Minister of Security and the Interior, the Minister of Foreign Affairs, the Minister of Justice, the Minister of Defence and the State Secretary for Asylum Policy and Migration. It entered into force on 1 August 2016. The goal of this circular letter is to manage the collaboration procedures and agreements between the different services in order to identify hate preachers and take the necessary steps against them. The radicalism unit attends meetings regarding hate preachers that are organized by intelligence services<sup>(222)</sup>.

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219 For more information: Belgian Contact Point of the EMN, Annual Report 2014 on Asylum and Migration Policy in Belgium, 2015.

220 Source: Belgian Immigration Office (Ilobel).

221 Belgian House of Representatives, General Policy Note On Asylum and Migration, 27 October 2016, DOC 54 2111/017, p. 28.

222 Belgian House of Representatives, General Policy Note On Asylum and Migration, 27 October 2016, DOC 54 2111/017, p. 34-35, and Belgian House of Representatives, Question n° 1384 of MP Filip Dewinter of 6 June 2016 to the Deputy prime minister and minister of Security and the Interior, in charge of the Buildings Agency, 23 September 2016, QRVA 54 089, pp. 75-77.

## Supporting returnees with special needs

The '**special needs project**', which aims at humanising the forced return of vulnerable persons with special needs, was continued in 2016. The aim of the project is to provide vulnerable 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. Before return, support is provided in the closed detention centres (e.g. urgent psychiatric admissions of residents, the purchase of medication or other necessities, training the staff of detention centres, etc.). During the return procedure, a tailored medical/social escort is provided. After return, reintegration assistance and monitoring activities are organised in certain cases (e.g. medical follow-up).

In 2016, Ilobel (the Immigration Liaison Officers section of the Immigration Office) has organized **training** sessions for the staff of detention centres and prisons in order to **better detect vulnerable persons** and to guarantee a better **quality of information exchange** with the special needs project. In order to improve communication on vulnerable cases in general, Ilobel has created a separate e-mail address where certain applications for vulnerable cases can be submitted (e.g. special needs and ERIN)<sup>(223)</sup>.

## Promoting EURESCRIM (EURINT)

Within the EURINT program, Belgium has initiated the **EURESCRIM** initiative, which is based on a bilateral cooperation between Belgium and Spain. Many third country nationals who are in a Belgian prison have a residence permit from another EU Member State. Since it was established that some of them, who were returned to Spain after having served time in a Belgian prison, came back to Belgium to commit new crimes, Belgium developed a system in order to verify whether the **residence permit could be revoked** in Spain, so that the third country national could be returned to his country of origin. This would make it much more difficult for the third country national to come back. Furthermore, an entry ban for the whole Schengen area could be imposed.

Between the start of the project mid-2014 and the end of January 2017, 133 cases have been presented to Spain. In 74 cases, Spain decided to withdraw the residence permit. This was not possible in 15 cases. In 19 cases, the Spanish residence permit had already expired. 25 cases are still pending.

Following the conclusions of the JHA-Council of 8 October 2015, Belgium organized a first workshop in December 2015, which gathered a dozen Member States and associated states, as well as Frontex. The goal was to **expand the Spanish-Belgian pilot EU-wide**, so that condemned criminals will be systematically sent to their country of origin. On 12 April 2016 and 22 November 2016, new workshops were organised. At these workshops, information about procedures, contact details, and identity documents were exchanged.

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223 Source: Belgian Immigration Office (Ilobel).

Every year, a follow-up workshop will be organized. In 2017, the European Commission and the future EU-presidencies will be contacted regarding a legal initiative to establish a common framework. To increase the visibility and scope of the EURESCRIM initiative, it will be presented on various fora<sup>(224)</sup>.

### Detention centres: increased capacity and searches of residents

The total **capacity of detention centres** in Belgium **increased** substantially in 2016 with 131 additional places. These additional places were created within the already existing detention centres, due to additional budgetary means to increase staff and due to the completion of the renovations. At the end of 2016, with 583 places, the capacity was more or less at the same level as in 2009.

The Law of 4 May 2016 makes it easier for security personnel in the **closed detention centres** to **search residents**. Before this new law, security personnel could only search a resident when he arrived at the detention centre, before a transfer and after a visit. The new law makes it possible to search residents whenever this is necessary to maintain order or for security reasons. It is now also possible for security personnel to check private luggage, lockers, etc<sup>(225)</sup>.

In December 2016, several NGOs (Caritas international, CIRÉ, Jesuit Refugee Service, Ligue des droits de l'Homme, MRAX and Vluchtelingenwerk Vlaanderen) published a **report providing their observations and analysis of the situation in the closed detention centres** in Belgium, based on field visits. Ten years after their previous report on this topic, the NGOs consider that few recommendations that were made at the time have been implemented, and that they rather see a step backwards in the respect of rights<sup>(226)</sup>.

### Extension of the 'Medusa' operation

The Medusa operation continued in 2016. This operation – which was launched in September 2015 – falls within a global approach to fight trafficking and smuggling in human beings and to deal with 'transmigration'<sup>(227)</sup>. As the issue of transmigration takes mostly place in Belgium's coastal region, a liaison officer of the Immigration office was stationed there<sup>(228)</sup> (see [Section 8.3.2](#) of this report).

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224 Source: Belgian Immigration Office (Department of border and territory control).

225 Source: Belgian Immigration Office (Detention Center Unit).

226 Caritas international, CIRÉ, Jesuit Refugee Service, Ligue des droits de l'Homme, MRAX and Vluchtelingenwerk Vlaanderen, Gesloten centra voor vreemdelingen in België: een stand van zaken, December 2016.

227 Transmigration refers to two types of migration flows: migrants who transit through Belgium on their way towards another country, and migrants who have Belgium as their final destination (asylum seekers or irregular migrants). The operation involves large and small police actions, surveillance activities and patrols (focused on air, sea, road and rail connections).

228 Belgian House of Representatives, General Policy Note On Asylum and Migration, 27 October 2016, DOC 54 2111/017, p. 30-31.

## Planned measures

A draft bill foresees the possibility for the Police to **enter the home of irregularly staying third country nationals and to intercept them** - with a prior court order - when the third country nationals have continuously refused to grant access to their homes<sup>(229)</sup>. This bill might be tabled in 2017, and will respect the principle of the inviolability of homes. At the moment, when the police want to intercept irregularly staying persons at their homes to bring them to a detention centre, it happens that these persons refuse to let the police enter their homes.

Furthermore, the Belgian Secretary of State for Asylum Policy and Migration intends to **extend the maximum administrative detention period** in a detention centre or a Family Identification and Return Unit (FITT) from 8 to 18 months. He will present a proposal to the government in this respect. He claims that this will increase return rates, because it will give the Belgian Immigration Office more time to obtain the necessary travel documents, and the detained irregularly staying persons will be more inclined to cooperate for their return<sup>(230)</sup>.

In 2017, the procedure to **collect costs for the repatriation** of irregular migrants from employers, guarantors and carriers will be streamlined and simplified. More attention will go to collect the costs for removal from the irregular migrants themselves. This will especially be the case when they return to Belgium after they have been returned<sup>(231)</sup>.

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229 Sources: Ibid. p. 27 and Belgian Immigration Office (Research unit).

230 Ibid, p. 25-26.

231 Ibid, p. 27.

## EMN activities

### EMN Return Experts Group (REG) - 2016

The EMN Return Experts Group (REG) is a **thematic sub-group of return experts**, created in February 2014 within the European Migration Network. Since September 2015, this group is composed of voluntary and forced return experts mainly from national administrations in charge of return. They meet about four times a year in order to connect between experts, evaluate current practices, promote new approaches and synergies, and exchange information about both voluntary and forced returns.

The **Action Plan on Return** launched by the European Commission in September 2015 assigned certain tasks to the EMN REG, in particular (i) to monitor and assess whether disparities among voluntary return and reintegration programmes of the Member States could lead to “return shopping”, (ii) to promote best practices on voluntary return and reintegration programmes and (iii) to map best practices and hurdles in return in national legislation and administrative systems to help Member States improve the effectiveness of their return systems”.

The **Renewed Action Plan** on a more effective return policy in the European Union, dated from 2 March 2017, further identified the EMN REG as a platform for improved coordination and follow up of return activities under the Integrated Return Management Approach. The Annex to the Renewed Action Plan also referred to the contributions from the EMN REG to actions planned in the return field.

### Some of the latest REG activities and outputs

#### **EMN Inform on Incentives to return to a third country and support provided to migrants for their reintegration**

This EMN Inform presents the results of the review - carried out by the EMN Return Expert Group - of 87 programmes implemented by 23 Member States, including Norway, to assist migrants to return and to support their reintegration. The Inform of June 2016 is an update of the ‘Overview: Incentives to return to a third country and support provided to migrants for their reintegration’ produced in November 2014.

This EMN Inform identifies the actors involved in funding, implementing and receiving return assistance. It draws an overview of the different forms of incentives to return and of reintegration assistance provided across Europe. It finally assesses the impact of these programmes on the overall development of the EU Return Policy and highlights the challenges for the coming years.

### Some findings:

- The amounts of the in-cash allowances and of the reintegration packages granted to migrants varied significantly across Europe.
- A number of EU Member States' joint return and reintegration projects have continued to operate, thus facilitating the exchange of expertise and knowledge among Member States. It is expected that these joint projects will improve both the cost-efficiency and the quality of the reintegration support provided to returning migrants.
- More in-depth monitoring and evaluation of AVR(R) programmes as well as an investigation into a possible reconciliation of in-cash allowance and in-kind assistance across the EU would reinforce the efficiency and the coherence of the EU Return policy.

The EMN Inform is available on the website of the Belgian Contact Point:

[https://emnbelgium.be/sites/default/files/publications/emn\\_reg\\_inform - in-cash in-kind assistance to return june 2016.pdf](https://emnbelgium.be/sites/default/files/publications/emn_reg_inform_-_in-cash_in-kind_assistance_to_return_june_2016.pdf)

### **2016 EMN ad hoc query (AHQ) on motivation of return decisions and entry bans**

The Belgian Immigration Office is increasingly confronted with suspensions and annulments of return decisions and entry bans by the appeal Instances due to a lack of motivation based on the right of the migrant to be heard about possible impediments linked to his/her return. Article 41,2,a of the EU Fundamental Rights Charter foresees the right of every person to be heard, before any individual measure which would affect him or her adversely is taken. However Belgian authorities are concerned about the fact that this right could be abused by certain foreigners, leading to an increase in overruled return / entry ban decisions. For this reason, the Belgian authorities launched an EMN ad hoc query in order to learn from other Member States' legislation, jurisprudence and possible best practices. Other Member States and Norway were requested to describe how they deal with the right to be heard in the framework of return decisions and entry bans.

A total of 19 States sent their replies:

- 18 out of 19 (Member) States foresee the right to be heard in their national legislation: mostly in administrative laws or codes (AT, HR, CZ, EE, DE, LV, NL, SK, SE, NO) and/or in immigration laws (CZ, FI, HU, IT, LU, PT, SK, ES, NO) and/or in internal guidelines or descriptions of a procedure (FI, LT and UK). One Member State (BE) reported that the right to be heard is not foreseen in legislation, but it is applied in practice.
- The vast majority of (Member) States reported that there are specific criteria to be met in order for the arguments of the migrant to be taken into account. The criteria mentioned by (Member) States are varied, and mostly relate to timing (e.g. migrant can only be heard within specific deadlines, etc.) or form (e.g. migrant always has to be

heard orally; or a set of compulsory questions has to be used during the hearing of the migrant, etc.).

- Nine (Member) States reported that exceptions are foreseen to the right to be heard (HR, EE, DE, LV, LT, LU, PT, UK, and NO). These exceptions apply in a variety of cases (e.g. when prompt action is required to avoid damage due to delays or to protect public interests; if a decision of refusal of entry is taken by the Police at the border, etc.).

**The compilation of answers from Member States** is available on the European EMN website: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/ad-hoc-queries/ad-hoc-queries-2016.1046\\_be\\_aHQ\\_on\\_motivation\\_of\\_return\\_decisions\\_and\\_entry\\_bans\\_.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/ad-hoc-queries-2016.1046_be_aHQ_on_motivation_of_return_decisions_and_entry_bans_.pdf)

**Other ad-hoc queries:**

- Criminal convictions and termination of the right to stay.
- Member States' Experiences with the use of the Visa Information System (VIS) for Return Purposes.
- The pre-removal centres / facilities for third-country nationals in the process of return in the Member States.

**More information** is available on the European EMN website: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/adhocqueries\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/adhocqueries_en)

# 8 Irregular migration including smuggling

## 8.1 Enhanced border management at the external borders

### Border control measures: technology, equipment and infrastructure

For what concerns the **Visa Information System (VIS)**, the roll-out of the national VISANET system at the external border crossing points was completed. A new application was developed and is used by the Immigration Office to check the VIS. In 2017, the possibilities of interoperability of existing and new systems will be further expanded.

The operational implementation of the first **automated border control gates** at Brussels National Airport, which started in 2015, continued in 2016. The Federal Border Police opened more eGates in 2016 at Brussels National Airport. These gates can be used by EU citizens in possession of a passport and by Belgian citizens with an ID card, who arrive from a non-Schengen country. These gates aim at checking more passengers while keeping the same number of border guards, and should allow arriving passengers to proceed through border control more swiftly<sup>(232)</sup>.

The process of updating and further installing **equipment for the detection of falsified documents for second line** at Belgium's external borders continued over the course of 2016, and was finalized at the end of the year<sup>(233)</sup>.

Regarding legislative changes, the **Passenger Name Record (PNR) Law** was adopted on 22 December 2016. It transposes the EU PNR Directive (2016/681), the Advanced Passenger Information (API) Directive as well as part of the Directive 2010/65/EU (reporting formalities for ships). The purpose of using PNR data is to 'detect and prosecute terrorist offenses', while the purpose of API data is to 'improve border control and fight irregular immigration'. The Belgian government has decided not to limit the scope of the law to airlines, but also to include other international modes of transport international travel by bus, high-speed train and boat. Royal Decrees still need to be written for each transport sector for a full transposition of the PNR Directive. The law also foresees the collection of PNR data for intra-Schengen flights.

The carriers will send PNR and API data from travellers going from, to, or across Belgium before departure to a single access point, with the aim of checking these data with relevant databases

<sup>232</sup> Source: Belgian Immigration Office (Border Control unit).

<sup>233</sup> Source: Belgian federal police, Directorate of Operations, Migration Unit.



of the intelligence and security services. This data will be analysed by the Passenger Information Unit, which will be created within the Federal Public Service Home Affairs, consisting of its own analysts as well as seconded experts from the police, intelligence services and customs. The carriers will have to check the conformity between the travel documents and the identity of the passenger, to guarantee that the data meet the standards as defined by law. This is not an identity check as such and it is not a limitation of the free movements of persons within the Schengen area<sup>(234)</sup>.

### Border control measures: other activities to improve the effectiveness of controls at external borders

On 6 October 2016, the European Border and Coast Guard Agency was officially launched. Building on the foundations of Frontex, the European Border and Coast Guard Agency closely monitors the EU's external borders and works together with Member States to quickly identify and address any potential security threats to the EU's external borders. Since 7 December 2016, a **Rapid Reaction Pool** of 1,500 border guards and other officers has been placed at the immediate disposal of the Agency to provide support on the ground for immediate interventions when requested by Member States. Belgium has contributed 30 experts to this pool<sup>(235)</sup>.

A **national eLearning platform** was further developed by the Migration Unit of the Federal Police in order to provide basic training to border guards.

Belgium continued its intense operational cooperation with Frontex and the other EU Member States via active participation in several **Joint Operations**. Belgium took part in the following Joint Operations in 2016: Pegasus, Alexis, Focal Points, Vega Children, Poseidon, Minerva, and Indalo<sup>(236)</sup>.

### Preventing and combating irregular immigration by ensuring reinforced cooperation with third countries in the area of border management

Several projects - focusing on cooperation with third countries to strengthen the operational capacity in combating irregular migration and controlling of external borders - were continued or set up in 2016.

#### **(i) Democratic Republic of Congo**

The Immigration Office continued in 2016 to finance an existing project of the International Organization for Migration (IOM) aimed at **extending and strengthening border control** in the Democratic Republic of Congo (EUR 190,000), more precisely in the province of Bandundu. The

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<sup>234</sup> Source: Belgian Federal Public Service Home Affairs (Crisis Centre).

<sup>235</sup> Sources: Belgian House of Representatives, General Policy Note On Asylum and Migration, 27 October 2016, DOC 54 2111/017, p. 14-15, and European Commission, Report from the Commission to the European Parliament, the European Council and the Council on the operationalisation of European Border and Coast Guard, 25 January 2017, COM(2017)42 final.

<sup>236</sup> Source: Belgian federal police, Directorate of Operations, Migration Unit.

project focuses on the modernization of software and hardware of the border control program. The Belgian Immigration Office has taken a long term commitment to assist the DR Congo in establishing an efficient border management. This project will thus be continued in 2017.

### ***(ii) Morocco and Tunisia***

In 2016, the Immigration Office continued to finance an IOM project in **Morocco** which focuses on the **return and reintegration of migrants from sub-Saharan African countries** who are irregularly staying in Morocco. The project aims at assisting these migrants in returning to their countries of origin and at offering them a reintegration package. The invested amount in 2016 was EUR 200,000. This project might be continued in 2017<sup>(237)</sup>.

Regarding Tunisia, Fedasil financed a **small scale project regarding voluntary return and reintegration** (between September and December 2016). This project was aimed at migrants from sub-Saharan African countries who were irregularly staying in Tunisia. This project was established by IOM Tunis, and helped 93 vulnerable persons to return to different countries, such as Senegal, DR Congo, Benin, or the Ivory Coast.

In the framework of the Regional Development and Protection Programme (RDPP) North Africa, Belgium will implement the **'IREVAN' project** ('Information et Retour Volontaire Afrique du Nord'). The Immigration Office will set up **information campaigns in Morocco and Tunisia**, while Fedasil will provide **technical assistance** to both countries regarding voluntary return and reintegration programs for sub-Saharan migrants (capacity building). The preparations for this project have started at the end of 2016. A kick-off meeting is scheduled in early 2017.

## **8.2 Preventing and tackling of misuse of legal migration channels**

### **Irregular migration caused by visa liberalisation**

The **number of asylum applications** from all visa free Western Balkan countries has decreased in 2016, compared to the previous year, but continued to be significant for some countries such as Albania. In some of these countries the decrease was rather small (Albania: from 827 applications to 817, Bosnia and Herzegovina: from 58 to 56 and Montenegro: from 15 to 14). In other countries the decrease was substantial (FYROM: from 335 to 165, and Serbia: from 374 to 203). Monthly reporting of the inflow of asylum seekers to the national authorities of the Western Balkans continued in 2016.

Regarding prevention activities, the **State Secretary** for Asylum Policy and Migration carried out an **information and dissuasion mission in Albania** in June 2016 (see [Section 7.2 of this report](#)).

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237 Source: Belgian Immigration Office (Immigration Liaison unit).

Regarding return activities, **Fedasil started the Western Balkans counselling programme for voluntary return** in June 2016, in collaboration with IOM and Caritas International Belgium (CIB). The project focuses on providing counselling to people who voluntarily return to countries in the Western Balkans (i.e. Albania, Serbia, Bosnia and Herzegovina, FYROM (Macedonia), Montenegro and Kosovo<sup>(238)</sup>), as well as specific guidance during the reintegration process<sup>(239)</sup> (see [Section 7.4 of this report](#)).

Furthermore, in 2016, Belgium organized or participated in 15 **return flights** to Albania (77 people), 3 flights to Serbia (10 people) and 1 flight to FYROM (9 people).

### Irregular migration caused by use of false travel documents

The **National Security Plan 2016-2019** (which is the strategic policy plan of the integrated police and thus the guiding thread of police functioning) stipulates that identification and identity fraud are important issues and should get more attention. Identity fraud is considered as a broader concept than the use of false or falsified identity documents. The fraudulent acquisition of genuine documents, for example through fraudulent breeder documents and imposters (look-alikes), is also considered to be an important issue of concern<sup>(240)</sup>.

In 2016, 694 persons with false or falsified travel documents were intercepted during a check at the Belgian borders. Furthermore, 154 false or falsified identity documents were detected during registration procedures at the cities or municipalities<sup>(241)</sup>.

In the framework of the fight against identity fraud, the federal police investigated 33,569 cases in 2016<sup>(242)</sup>.

### Irregular migration caused by the misuse of free movement rights by third country nationals and preventing the fraudulent acquisition and use of free movement rights by third-country nationals

In 2016, a **'fraud' Helpdesk** was created within the Federal Public Service Home Affairs (Directorate General Institutions and Population). Its objective is to provide support to the actors in the field (such as the municipalities, who are in direct contact with citizens applying and receiving their identity and travel documents)<sup>(243)</sup>. In different municipalities, civil servants were designated as the persons of reference regarding identity fraud (municipal SPOCs). The helpdesk is the Single Point of Contact (national SPOC) for these municipal SPOCs. The national SPOC is also a strategic tool which allows the interdepartmental working group on prevention and fight against identity fraud (which gathers experts from the FPS Interior, the FPS Foreign Affairs and the federal police) to have a more concrete idea of the cases of identity fraud encountered at the local level.

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238 Nationals from Kosovo still need to apply for a visa.

239 Source: Fedasil (International Platform).

240 National Security Plan 2016-2019: 'Together to the heart of the matter', p. 26-27.

241 Source: Belgian federal police (DGJ/DJT/ID unit).

242 Source: Belgian Immigration Office (Investigation unit).

243 Belgian House of Representatives, General Policy Note on Security and the Interior, 28 October 2016, DOC 54 2111/007, p. 11.

In February 2016, all Belgian municipalities have appointed their **municipal SPOC** on identity fraud. Trainings for the municipalities started in 2016 and will continue in 2017. The municipalities, the local police, the Federal Public Service Foreign Affairs, and the Immigration Office are involved in this programme. A secure technical application (ticketing system) was developed for the registration, communication, and the follow-up of cases of identity fraud detected by the municipalities. This platform will become fully fledged and fully operational in 2017.

Furthermore, as noted in the General Policy Note on Security and the Interior, the distribution service of SPOC certificates became operational by the end of 2016<sup>(244)</sup>. These certificates will allow EU Member States – following the conclusion of bilateral agreements – to access the **chip of residence cards or passports** in order to read the **fingerprints**.

Besides the Checkdoc website<sup>(245)</sup> **and the Checkdoc web service** – which can be used to check if Belgian identity documents have been issued by a Belgian administrative authority and are not known as stolen, lost, expired or invalid - **a mobile site** will be developed in 2017.

The Royal Decree of 16 July 1992 regarding the **civil registry and the foreigners' register** will be modified. Following this modification, municipalities will have to specify the modalities of residence checks. The objective is to increase the quality of the civil registry, and prevent and fight residence fraud and identity fraud<sup>(246)</sup>.

In January 2017, the State Secretary for Asylum Policy and Migration announced that **roadshows targeting local authorities** and focusing on the **misuse of residence documents** by third-country nationals will be organised. Third-country nationals sometimes falsely declare they have lost their residence permit, when they have actually given the residence permit to a look-alike (often a relative). The aim is to make local authorities more aware of this kind of misuse, and provide them with information on how to detect this misuse<sup>(247)</sup>.

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244 Belgian House of Representatives, General Policy Note on Security and the Interior, 28 October 2016, DOC 54 2111/007, p. 12.

245 More information: [www.checkdoc.be](http://www.checkdoc.be)

246 Belgian House of Representatives, General Policy Note on Security and the Interior, 28 October 2016, DOC 54 2111/007, p. 12.

247 Francken bindt strijd aan met gesjoemel verblijfskaarten, 25 January 2017, <http://francken.belgium.be/nl/francken-bindt-strijd-aan-met-gesjoemel-verblijfskaarten>

## EMN Activities

### 2016 EMN ad hoc query

#### **The use of biometrics to reveal false identity**

Fingerprints in Eurodac are automatically deleted when a person is granted a residence permit or citizenship in a Member State. In January 2016, **Norway** was concerned that if someone has been granted a residence permit/citizenship in one Member State, they may nevertheless apply for asylum in another Member State later under another identity. The Norwegian National Police Immigration Service (NPIS) had observed cases where (i) Norwegian 'look-alike' passports has been used by an asylum seeker to enter the Schengen area; (ii) a person with a residence permit or citizenship in Norway or another Schengen country has applied for protection in Norway, or applied for protection in another Schengen country under another identity than that originally used. Based on this, the Norwegian National Police Immigration Service (NPIS) launched an EMN ad-hoc query.

#### **Some of the main findings of the ad-hoc query:**

- 17 of the 23 responses indicate the possibility of identifying whether a person who applies for citizenship has been granted a resident permit or citizenship in any (Member) State. Some of these responses signal that Eurodac may be used for this purpose. However, it is not quite evident how the (non-)matching to Eurodac is to be interpreted given the provisions in article 11 (concerning the entry of fingerprints and related information into Eurodac for persons applying for protection), as well as the provisions in articles 12 – 13 (on the deletion of such information by the Member State of a person's origin – either after 10 years or upon acquiring citizenship). A few responses indicated that bilateral contacts with other countries may be used.
- Two of the 12 responses signalling that biometrics included in passports are stored in a central register, signalled that this register could be accessed to verify the information submitted with the application for citizenship.

**The compilation of answers from Member States and a summary of the results** are available on the European EMN website: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/ad-hoc-queries/ad-hoc-queries-2016.1019\\_no\\_ahq\\_on\\_use\\_of\\_biometrics\\_to\\_reveal\\_false\\_identity\\_wider\\_diss.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/ad-hoc-queries-2016.1019_no_ahq_on_use_of_biometrics_to_reveal_false_identity_wider_diss.pdf)

## 8.3 The fight against facilitation of irregular migration ('smuggling')

### 8.3.1 Prevention of unsafe migration

#### Supporting EU actions aimed at preventing unsafe migration

In his General Policy Note on Asylum and Migration of 27 October 2016, the State Secretary for Asylum Policy and Migration focused on the following approaches aimed at preventing unsafe migration: i) ensuring **reception in the region of origin**, based on increased humanitarian aid in conflict-torn areas as well as on economic development, ii) organizing controlled refugee **resettlement**, ii) managing **external borders**, thanks to the European Border and Coast Guard Agency with 30 Belgian experts strengthening the rapid reaction pool, 4) concluding **agreements** with third-countries such as the EU-Turkey Statement, 5) reforming **Dublin**, avoiding that asylum seekers decide freely where they apply for asylum and 6) increasing the **effectiveness of the return policy** at EU level and progressing in readmission negotiations, particularly with the Maghreb countries<sup>(248)</sup>.

#### Developing prevention campaigns in third countries

In 2016, Belgian authorities further implemented **information and prevention campaigns** in third countries, focusing on the **risks associated with irregular migration, including smuggling in human beings**. Campaigns were organized in Georgia (23 May 2016 – 22 November 2016) and in Afghanistan (August 2016 – January 2017). Another campaign is being developed in the framework of a twinning project with Kosovo (March 2016 – August 2018). During these campaigns, various tools are used, including flyers and posters, meetings, TV spots, radio programmes, articles, social media channels etc. Other campaigns are planned in 2017 in Guinea, Russia and Brazil<sup>(249)</sup> (see [Section 7.2 of this report](#)).

#### Informing certain nationalities via Facebook

In 2016, measures initiated by the State Secretary for Asylum Policy and Migration, more specifically **letter-writing campaigns**, were actively debated. In November 2015, a letter had been disseminated via Facebook, targeting Afghans planning to leave their country to seek asylum in Belgium. The State Secretary had inter alia stressed in the letter that 'paying smugglers to get you to Europe is a waste of money, a waste of time and brings you and your loved ones in very dangerous situations, without any guarantee of success'. The letter further addressed possible Dublin transfers, identity document requirements, individual processing of applications, possibilities for voluntary return and prospect of forced return<sup>(250)</sup>. Myria (the Federal Migration

248 Belgian House of Representatives, General Policy Note on Security and the Interior, 28 October 2016, DOC 54 2111/007, pp. 14-16.

249 Belgian House of Representatives, General Draft Budget of expenses, 16 December 2016, DOC 54 2109/036, p. 67

250 More information: Catherine Joie, 'Theo Francken aux Afghans: ne venez pas en Belgique', Le Soir, 25 November 2015, <http://www.lesoir.be/1053655/article/actualite/belgique/2015-11-25/theo-francken-aux-afghans-ne-venez-pas-en-belgique>

Centre) lodged a complaint in December 2015 and several NGOs and human rights associations voiced further criticism during the first quarter of 2016, with a view to promoting objective and complete information dissemination towards (potential) asylum seekers<sup>(251)</sup>. The campaign towards Afghan asylum seekers was further pursued, with another letter sent in June 2016, inter alia focusing on delays in the asylum procedure, the percentage of negative decisions, the temporary duration of residence permits in case of positive decisions, the lack of prospect of individual housing, the delays for family reunification, and the possibilities and assistance to return. Several stakeholders, including human rights associations<sup>(252)</sup> and associations of citizens<sup>(253)</sup> reacted against this new campaign, calling for objective and complete information instead of dissuasive arguments.

### 8.3.2 Combatting facilitation of irregular migration

#### Amending legislation<sup>(254)</sup>

The Law of 31 May 2016<sup>(255)</sup> complemented the implementation of EU obligations in the field of facilitation of irregular entry, transit and stay.

Provisions regarding the charge of facilitating irregular migration were amended, in order to clearly include **attempted** facilitation of illegal entry or stay in article 77 of the Immigration Act<sup>(256)</sup>. The latter Article now provides that: 'Any person who assists, **or tries to assist**, a third-country national in entering or staying on the territory of a Member State of the European Union or a State party to an international convention relating to the crossing of external borders which is binding on Belgium, or in transiting through the territory of such State, in contravention of the legislation of that State (...) will be punished by a prison term of 8 days to one year and by a fine from 1700 to 6000 EUR, or one of these sanctions only'. The humanitarian clause continues to be applied, whether the crime is committed or attempted.

Other amendments aimed to **harmonise the criminalization of human smuggling with human trafficking**: (i) the aggravating circumstances linked to the modus operandi was completed in the same way as for trafficking<sup>(257)</sup>, (ii) the deprivation of civil and political rights was extended

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251 For example the reaction from CIRE: <https://www.cire.be/thematiques/asile-et-protection/dissuader-n-est-pas-informer-and-VluchtelingenWerk-Vlaanderen>.

252 See the reaction of the Foreigners' Commission of the Human Rights League on: <http://www.liguedh.be/espace-presse/130-communiqués-de-presse-2015/2455-lettre-de-theo-francken-aux-demandeurs-dasile-afghans-une-de-rive-autoritaire-et-discriminatoire->

253 See for example the reaction of Amitiés sans Frontières on: <http://solidaire.org/articles/francken-etend-sa-campagne-de-dissuasion-aux-refugies-afghans>

254 Source: Myria, 2016 Annual report on Trafficking and Smuggling: Beggars in the hand of traffickers, p. 85.

255 Law of 31 May 2016 completing the implementation of the European obligations concerning the sexual exploitation of children, child pornography, human trafficking and facilitation of unauthorised entry, transit and residence, Belgian Official Gazette, 8 June 2016.

256 Article 15 of the law of 31 May 2016.

257 Hence, the abduction, deception, the abuse of power, giving or receiving of payments or benefits to achieve the consent of a person having control over another person, have been added. Article 16 of the law of 31 May 2016.

to the simple form of migrant smuggling<sup>(258)</sup> and (iii) the extraterritorial powers of the Belgian judge were extended to simple forms of migrant smuggling and attempted smuggling<sup>(259)</sup>.

### Controlling the border between West Flanders and France

In the context of the (partial) dismantling of the so-called 'Jungle' in Calais, Belgium decided on 23 February 2016 to implement **temporary controls at the border** between West Flanders and France, on the basis of the Schengen Border Code. Such decision was taken to avoid the establishment of camps in Belgium and to **combat smuggling**. The so-called 'Medusa border' operation<sup>(260)</sup> resulted in the deployment of (around 290) police officers tasked to implement controls at selected crossing points. The border controls were two times prolonged (with an extra 20 days each time)<sup>(261)</sup>. Between 23 February and mid-March 2016, 717 'transmigrants' were intercepted<sup>(262)</sup>. In total 1483 transmigrants were intercepted in the coastal region by the services involved in the Medusa border operation<sup>(263)</sup>.

In October 2016, in the context of the (final) dismantling of the 'Jungle' in Calais, Belgian authorities decided to launch the Medusa plan 2, resulting in the deployment of (around 120) police officers at the border with France and in new police operations in that area. Between October 2016 and January 2017, 1736 'transmigrants' were intercepted.

### Better controlling and protecting car parks along highways

The Federal Police from West Flanders acted in January 2016 against an important smuggling network, which had been smuggling around 20 migrants per day towards the United Kingdom during previous months. The preceding year, around 3,000 undocumented migrants paid EUR 2,000 per person to the Kurdish smugglers who made use of car parks along the E40 and E17 highways. Ten suspects were arrested in Belgium and two in the United Kingdom<sup>(264)</sup>. In February 2016, another organisation was dismantled in West Flanders, leading to the arrest of four suspected Iraqi Kurd smugglers<sup>(265)</sup>. Strengthened controls were regularly achieved in the course of 2016.

In 2016, several car parks along the E40 highway were protected by private security firms, due to the high numbers of transmigrants using such car parks to climb into trucks heading towards

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258 Article 17 of the law of 31 May 2016.

259 Article 12 of the law of 31 May 2016.

260 The Medusa border operation, which was launched on 23 February 2016, is the second phase of the Medusa operation launched in September 2015 to strengthen controls in the border area and along key motorways.

261 Border controls extended from 24 February until 22 April 2016.

262 Belgian House of Representatives, Analytical report of the Committee of the Interior, General Affairs and the Public Service, CRABV 54 COM 362, 15 March 2016, p.12.

263 House of Representatives, Question n°1251 from MP Denis Ducarme to the Deputy prime minister and minister of Security and the Interior, in charge of the Buildings Agency, 8 July 2016, QRVA 54 081, pp. 109-111.

264 Pieter Huyberechts, 'Grootste bende mensensmokkelaars ooit in België opgerold', De Standaard, 11 May 2016, [http://www.standaard.be/cnt/dmf20160111\\_02060290](http://www.standaard.be/cnt/dmf20160111_02060290)

265 'Trafic illégal de migrants: une organisation à nouveau démantelée en Belgique', RTL Info, 2 February 2016, <http://www.rtl.be/info/monde/international/trafic-illegal-de-migrants-une-organisation-a-nouveau-demantelee-en-belgique-791384.aspx>



the United Kingdom. This measure ended on 31 December 2016. In January 2017, the Flemish Minister for Mobility announced several actions. Among other measures, the set-up of a system of car parks for short or extended periods should help increase protection on car parks and avoid migrants climbing in vehicles. The car parks for extended periods will be protected by rigid fences and cameras. Other car parks will be limited to short periods. Both types of car parks will be closed during the night<sup>(266)</sup>.

### Raising awareness among truck drivers

In July 2016, the Minister for Home Affairs and the State Secretary for Asylum Policy and Migration officially launched the prevention campaign '**Give smuggling of people no chance**' specifically targeting truck drivers. The campaign, which was initiated by the Immigration Office, is implemented in cooperation with the transport Federation (Febetra) and with the Federal Police. The campaign uses multiple channels: (i) multilingual information brochures that are distributed to truck drivers, (ii) posters, (iii) attention signs, (iv) information on the website of Febetra and (v) single telephone number 101. The information tools aim mainly at providing truck drivers with practical tips on where to park, how to control their vehicles and their loadings. The campaign will be evaluated after the one-year implementation period<sup>(267)</sup>.

### Appointing a single contact point on migrant smuggling

As requested in the EU Action Plan against migrant smuggling and in the Council conclusions adopted on 9 November 2015, Belgium appointed the Chair of the Coordination Platform in early 2016 as the single contact point to enhance operational cooperation, coordination and the sharing of information on migrant smuggling<sup>(268)</sup>.

### Enhancing practical cooperation in cross-border investigations and prosecutions

On 19 May 2016, Belgium, France, the United Kingdom, and the Netherlands announced that they had met at Eurojust and decided to set up a **task force on illegal immigrant smuggling in the North Sea region**. The latter will be composed of representatives from national judicial and law enforcement authorities as well as liaison magistrates. The task force will meet regularly at the Court of Lille with the aim of enhancing practical cooperation in cross-border investigations and prosecutions to ensure an effective collective response to illegal immigrant smuggling<sup>(269)</sup>. This was recognized as a promising example in the conclusions from the 12th Annual meeting of the National Experts on Joint Investigation Teams held on 15 and 16 June 2016 in The Hague<sup>(270)</sup>.

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266 Source : Belga.

267 Source : Immigration Office (Ilobel).

268 Source: Meeting of the Coordination Platform, 26 January 2016.

269 Eurojust, Press release: France, United Kingdom, Belgium and the Netherlands met at Eurojust and set up a task force on illegal immigrant smuggling in the North Sea region, 19 May 2016, <http://www.eurojust.europa.eu/press/PressReleases/Pages/2016/2016-05-19.aspx>

270 Council of the European Union, Conclusions from the 12th Annual meeting of the National Experts on Joint Investigation Teams (15-16 June 2016, the Hague), 5 October 2016, p. 6.

On 13 October 2016, the Federal Judicial Police of West Flanders arrested an international network suspected of smuggling Syrian nationals through Turkey and Greece towards other EU Member States. Simultaneous actions carried out in Belgium, France and Greece allowed the arrest of 10 suspects (eight in Belgium, one in France and one in Greece). Six of them appeared before a judge; five were charged and one set free under conditions. To achieve this, **the Belgian Police closely cooperated with police services in France and Greece**, as well as with **Eurojust**, which coordinated the investigations, and **Eurojust**, which supported the exchange of information<sup>(271)</sup>.

Besides the above-mentioned cases, Belgian authorities were successful in investigating (including inter alia through social-media and financial investigation methods) and prosecuting several international human smuggling networks in 2016. In this context, on 25 January 2017, the Ghent's reference magistrate, Ms An Lukowiac, was awarded a **certificate of commendation 'Immigration Enforcement'** for outstanding commitment and professionalism under extreme pressure, achieving all objectives in operation Tantaluf, gathering significant evidence, vital to the disruption of organized crime groups (OCGs) engaged in migrant smuggling<sup>(272)</sup>.

### Contributing to EU efforts to identify, capture and dispose of vessels used by smugglers

From 11 November until 22 December 2016, the frigate Louise-Marie was involved in the 'Sophia' operation - European Union Naval Force Mediterranean (EUNAVFOR MED<sup>(273)</sup>) in order to contribute to wider EU efforts to **disrupt the business model of human smuggling** and trafficking networks in the Southern Central Mediterranean and prevent the further loss of life at sea. The Louise-Marie was active in the **international waters between Sicily and Libya**, with around 150 military officials on board<sup>(274)</sup>.

## 8.3.3 Monitoring of migrant smuggling

### Improving encoding of statistics relating to convicted smugglers

The Action Plan to fight smuggling in human beings 2015-2018 underlined that many statistics are produced by the Police and Prosecution offices, but that many gaps still remain to be filled. As an example, the Action Plan noted that encoding of statistics on convictions led to double counting and hence that encoding codes and protocols had to be corrected. In 2016, a document was produced to provide encoders with clear instructions in this matter<sup>(275)</sup>.

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271 More information : Police fédérale, Arrestation d'une organisation internationale de trafiquants d'êtres humains, 18 October 2016, <http://www.polizei.be/fed/de/presse/420-arrestation-dune-organisation-internationale-de-trafi-quants-detres-humains>

272 Criminal and Financial Investigation Reward and Recognition Award Ceremony, Home Office, London, 25 January 2017.

273 More information on *EUNAVFOR MED*: [https://eeas.europa.eu/sites/eeas/files/factsheet\\_eunavfor\\_med\\_en\\_o.pdf](https://eeas.europa.eu/sites/eeas/files/factsheet_eunavfor_med_en_o.pdf)

274 Sources : La Défense, Press release: La frigate Louise-Marie engage contre les passeurs de migrants en Méditerranée, 27 October 2016, <http://www.mil.be/fr/communiqués-presse/la-fregate-louise-marie-engagée-contre-les-passeurs-de-migrants-en-mediterranee>, and La Défense, La frégate Louise-Marie engage contre les passeurs de migrants en Méditerranée, 11 November 2016, <http://www.mil.be/fr/article/la-fregate-louise-marie-engagée-contre-les-passeurs-de-migrants-en-mediterranee>

275 Source : Chair of the Coordination Platform.

## Analysing statistics collected by diverse stakeholders

In its '2016 Annual Report on Trafficking and Smuggling', Myria centralized and analysed the statistics on smuggling produced inter alia by the (i) Police services (smuggling acts, interception of irregularly staying foreign nationals) (ii) Public Prosecutors' offices (smuggling cases), (iii) Immigration Office (first time residence permits issued to victims of human smuggling with aggravating circumstances; nationalities of persons arrested following transit migration; decisions in reaction to police administrative reports following people climbing over fences of outlying car parks), (iv) specialized reception centres (new support programs initiated for victims of smuggling, and (v) judicial services (convictions for human smuggling). The large share of statistics cover 2015 but several also cover the period from 1 January until 31 May 2016. Myria concluded by stressing the need to coordinate further the production of statistics and achieving greater harmonization among the stakeholders<sup>(276)</sup>. Besides the statistics, the report also provides qualitative data relating to case-law and analysis of cases related to smuggling.

### 8.3.4 Monitoring and identifying migration routes

There were no new or planned measures to identify, monitor and aggregate information on migration routes in 2016<sup>(277)</sup>.

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<sup>276</sup> Myria, 2016 Annual Report on Trafficking and Smuggling: Beggars in the hand of traffickers, pp. 191-211.

<sup>277</sup> For further information on measures in place (national platforms for exchanging information such as COTER, COORAM, Roundtable on irregular migration, FIOM, as well as tools at EU level, including from Europol and Frontex), see: Belgian Contact Point of the EMN, 2015 Annual Report on Asylum and Migration Policy in Belgium, 2016, pp. 76-77.

## EMN Activities

### 2016 EMN Inform

#### **The use of social media in the fight against migrant smuggling**

This EMN Inform summarises the results of the Ad-Hoc Query on ‘Addressing and preventing the use of social media in migrant smuggling’ and of the EMN workshop on ‘The use of social media in migrant smuggling and the development of information campaigns/counter-narratives’ (organised by the European Commission in June 2016). The Inform explores how social media is **used for the purpose of migrant smuggling**, and how it is used by Member States and other key stakeholders in their efforts to **prevent and investigate** smuggling activities.

Among other findings, the EMN Inform shows that social media has been increasingly used by both smugglers and migrants as it is less costly, safer to use and more effective. Furthermore, the use of social media has played an important role in increasing the volume but also the effectiveness of smuggling operations and has made it overall more difficult to investigate and prosecute such crimes. In this framework, the EU Action Plan against Migrant Smuggling and the Council Conclusions on migrant smuggling of 10th March 2016 called for, amongst others: i) monitoring of internet content; ii) closer cooperation with internet service providers and social media, iii) development of counter-narratives also through social media. Counter-narratives on social media (i.e. information and awareness raising campaigns) can indeed help prevent potential migrants to engage in hazardous journeys and irregular migration. Finally, the EMN Inform also underlined that public-private partnerships needed to be further strengthened to fight migrant smuggling.

**The EMN Inform** is available on the website of the Belgian Contact Point: <https://emnbelgium.be/publication/use-social-media-fight-against-migrant-smuggling-emn-inform>

## EMN Activities

### EMN Belgium Roundtable (March 2016)

#### **Migrant Smuggling**

On 21 March 2016, the Belgian Contact Point gathered some 40 key actors in the fight against migrant smuggling in Belgium during a round table meeting, including from the police, prosecutors' offices and immigration authorities as well as from Myria-the Federal Migration Centre and the Pag-Asa reception centre for victims of migrant trafficking and smuggling.

During the first part of the meeting, some key outcomes of the 2015 EMN study on the smuggling of migrants were presented, as well as implications for policy responses such as the development of comprehensive policies addressing both demand for and supply of smuggling services and the cooperation across agencies and borders to be able to anticipate and/or react quickly.

During the second part of the meeting, the role of social media in migrant smuggling was specifically addressed and the participants shared their experiences regarding the use of social media in migrant smuggling and the challenges faced at investigation and prosecution stages.

The **programme and the presentations** of the roundtable are available on the website of the Belgian Contact Point: <https://emnbelgium.be/news/experts-migrant-smuggling-gather-be-emn-ncp-roundtable?q=/NEWS/EXPERTS-MIGRANT-SMUGGLING-GATHER-BE-EMN-NCP-ROUNDTABLE>

# Countering trafficking in human beings

## 9.1 Institutional context

In Belgium, the **Interdepartmental Coordination Platform (ICP) for the Fight against Trafficking and Smuggling in human beings** plays a key role in the fight against trafficking in human beings. It has a coordinating function and it is also tasked to formulate proposals and recommendations for anti-trafficking initiatives. All key actors involved are represented in the ICP. It is chaired by the Criminal Policy Service of the Federal Public Service (FPS) Justice and it gathers representatives from amongst others (i) the federal police, (ii) the Immigration Office, (iii) the board of public prosecutors, (iv) social inspection services, (v) the FPS Foreign Affairs and (vii) the three specialized reception centres, officially recognized and authorized to provide shelter and assistance to victims of human trafficking (Payoke for the Flemish region, Pag-Asa in the Brussels area and Sürya in Wallonia). Myria - the Federal Migration Centre, an independent federal public service whose mission is inter alia to promote the fight against human trafficking and acting as national rapporteur, is actively involved as well. Child Focus also sits on the ICP, as a contributor in the fight against trafficking in children. In addition, representatives of the regions and the communities and regional social inspection services have also been members of the ICP since 2014. As the ICP only meets two or three times a year, a 'Bureau' made up of the major departments involved in the fight against trafficking and smuggling in human beings, is responsible for the daily functioning of the ICP and prepares or carries out its decisions, recommendations and initiatives.

The above-mentioned actors are currently implementing their **third national action plan setting out the working framework for the years 2015 to 2018**<sup>(278)</sup>. This action plan addresses various aspects (as did previous action plans): the legislative and regulatory infrastructure, training, protection of victims, international attention to the phenomenon, awareness raising and providing information, and coordination. A new - and no less important - aspect consists of also supporting initiatives in the federated entities. The plan includes actions that were scheduled for and realized in 2016 as explained below.

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278 Action Plan on the fight against trafficking in human beings 2015-2019.

## 9.2 Identification and provision of information on assistance and support to victims

### Improving the national referral mechanism and coordination between key stakeholders

It is particularly important that victims of trafficking and aggravated forms of smuggling are detected and referred to the services that are competent to inform them on the victim protection status, to carry out their formal identification and to offer them shelter and assistance. This referral mechanism was organized by the **Circular of 26 September 2008**<sup>(279)</sup>, which was replaced by a **new Circular in 2016**<sup>(280)</sup>. The Circular was revised and improved by the stakeholders concerned - including the Department of Criminal Policy (FPS Justice) and the Immigration Office, as well as other members of the Interdepartmental Coordination Platform for the Fight against Trafficking and smuggling in human beings on the basis of the findings of the evaluation previously realized. One improvement is that the new Circular now better distinguishes between **Belgian, EU and non-EU victims of trafficking**, with a view to better adjusting the mechanism to the situation and needs of the three groups of victims. Another improvement is that further details are added regarding the procedure to apply towards **minor** Belgian, EU and non-EU victims of trafficking.

As part of the evaluation of the above-mentioned Circular, it was already emphasized that the document issued in the first phase of the procedure (order to leave the territory – 45 days) should be replaced by a residence permit. The Law of 30 March 2017 replaced **the order to leave the territory by a temporary residence document**<sup>(281)</sup>.

Another **Circular** was adopted on 22 September 2016 on research and prosecution policy relating to the exploitation of begging. The Circular aims to help **identify and characterize cases of exploitation of begging** and to better coordinate research and prosecution in such cases. The Circular, which is confidential, identifies the competent actors and the coordination scheme, as well as the research methods. It also includes indicators for exploitation of begging, a list of tasks assigned to the police and questions to be used during hearings.

In January 2016, the specialized reception centres for victims of trafficking in human beings were granted an extra EUR 495,000 (EUR 165,000 for each of the three specialized reception centres<sup>(282)</sup>), in addition to their subsidies. However, only the subsidies granted by the Secretary of State for Poverty Reduction, Equal Opportunities, People with Disabilities, Urban Policy and Scientific Policy are structural. Other subsidies (including from the National Lottery) have to be requested repeatedly<sup>(283)</sup>.

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279 Circular of 26 September 2008 on the implementation of a multidisciplinary cooperation concerning victims of human trafficking and/or certain forms of aggravated human smuggling, Belgian Official Gazette, 31 October 2008.

280 Circular of 23 December 2016 on the implementation of a multidisciplinary cooperation concerning victims of human trafficking and/or certain forms of aggravated human smuggling, Belgian Official Gazette, 10 March 2017.

281 Law of 30 March 2017 modifying article 61/2 of the law of 15 December 1980 on the entry, residence, settlement and removal of foreign nationals in order to replace the order to leave the territory by a temporary residence document in the framework of procedures of trafficking in human beings, Belgian Official Gazette, 10 May 2017.

282 Payoke in Antwerp, Pag-Asa in Brussel and Sürya in Liege.

283 More information: <http://www.payoke.be/nl/nieuws/n/1097/elke-sleurs-voorziet-ook-dit-jaar-een-dubbele-subsidie-voor-opvangcentra-mensenhandel>

On 10 November 2016, the government approved the proposed **reform of the inspection services**, aimed at setting up one integrated inspection service<sup>(284)</sup>. While discussions are still ongoing in view of the future development of the integrated service, it was emphasized that trafficking in human beings would remain one of the main tasks of the new inspection service and that it would be **coordinated in a horizontal way**<sup>(285)</sup>.

Finally, the Belgian stakeholders received the **second evaluation visit** of the **Council of Europe Group of experts against human trafficking (GRETA)** from 12 until 16 December 2016. On this occasion, meetings were organized inter alia with representatives of the Interdepartmental Coordination Platform for the Fight against Trafficking and Smuggling in human beings (hereafter Coordination Platform), such as the Justice FPS, the Federal Police, the Immigration Office, Myria (the Federal Migration Centre - independent National Rapporteur on Human Trafficking), other Federal Public Services (Social Security, Foreign Affairs), the College of Public Prosecutors, but also Fedasil, the Guardianship Service, the Federal Prosecutors' Office, and the prosecutors specialized in trafficking in human beings. Stakeholders at community and regional level (including the police, inspection services and delegates for the rights of the child), as well as NGOs, the IOM and lawyers, were also consulted. In early 2017, a report will be sent to the Belgian authorities for comments. This report will be published at a later stage<sup>(286)</sup>.

### Contributing to transnational referral mechanisms

On 28 and 29 January 2016, Belgian stakeholders participated in Budapest in the **final conference and workshop** of the project 'Referral of and assistance for victims of human trafficking in Europe' (the so called **RAVOT-EUR** project). The main aim of this project - which was initiated by the Hungarian Ministry of the Interior, the Dutch Ministry of Security and Justice and the Belgian organisation Payoke - is to develop a transnational referral mechanism between Hungary, the Netherlands and Belgium to contribute to the assistance, safe return and referral of human trafficking victims<sup>(287)</sup>. The final conference brought together more than 150 experts from 11 countries - police officers, judges, prosecutors, care coordinators, social workers, victims support officers, investigators, labour inspectors, researchers - to network and exchange their views in the field of transnational referral of human trafficking victims. Payoke, in cooperation with its Dutch and Hungarian counterparts, presented the two main results of the project, namely the **RAVOT-EUR website** and the **Information Manual on the Transnational Referral Mechanism for Victims of Human Trafficking** in Belgium, the Netherlands and Hungary. Cooperation should be further encouraged<sup>(288)</sup>.

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284 More information: Press release after the Council of Ministers of 10 November 2016, <http://www.presscenter.org/fr/pressrelease/20161110/reforme-des-services-dinspection-sociale>

285 Source: Federal Public Service Social Security.

286 More information on the second evaluation round : <http://www.coe.int/en/web/anti-human-trafficking/-/greta-s-second-evaluation-visit-to-belgium>

287 More information: <http://www.ravot-eur.eu/en/>

288 The website and the Information Manual are available in Dutch, English, French and Hungarian: <http://www.ravot-eur.eu/en/>



On 2 December 2016, the Belgian Minister of Justice signed, with other **Benelux** countries, a **declaration of intent** in view of a multidisciplinary cooperation in the fight against trafficking in human beings<sup>(289)</sup>. The parties committed inter alia to appoint contact persons to facilitate cross-border information exchange and to improve cooperation between the national referral mechanisms. Joint trainings will also be organized for actors in the field.

### Helping national practitioners identify victims

Various activities were developed in 2016 to help practitioners (in Federal Public Services, reception centres, hospitals, schools, etc.) to better identify victims of trafficking.

**Training sessions** were organized by different entities. Inter alia, the Immigration Office launched a series of (half day) training sessions on trafficking in human beings for its personnel during the first semester of 2016. At the end of November 2016, Fedasil organized - in cooperation with the Immigration Office, the Interdepartmental Coordination Platform, the specialized reception centres and the reception centres for minors<sup>(290)</sup> - a training day to raise awareness among social workers of Fedasil and partners (in total 115 persons) and ease detection of possible victims. A second training day is scheduled in the first semester of 2017<sup>(291)</sup>. Trainings will also reach federated entities, including youth workers, in 2017. Furthermore, the Central Directorate for the fight against serious and organized crime of the Federal Police organized meetings on trafficking in human beings for the federal inspection and social inspection services.

The Interdepartmental Coordination Platform has worked in 2016 on a factsheet on trafficking in human beings to be included in the 'Practical Guide relating to the prevention and management of violence **at school**' revised by the Wallonia Brussels Federation. It aims to provide school personnel with **information and indicators** on trafficking, as well as useful **contacts for referral**. The Guide will be disseminated in 2017.

In 2016, a **working group** - including inter alia the **Financial Intelligence Processing Unit (CTIF)**, the Finance FPS and the Justice FPS - was established with a view to developing tools aimed at contributing to the identification of trafficking cases (through money laundering for example). Tools, such as brochures and newsletters, will be elaborated and distributed to personnel of the financial sector.

Finally, efforts were invested again in the dissemination of the information tool developed for hospital staff in 2012: the leaflet '**Human trafficking... how to react? Advices for hospital staff**'<sup>(292)</sup>. The leaflet was distributed electronically to hospitals in the French speaking Community. As 'life' awareness raising sessions tend to have a higher impact, this was complemented by the work of specialised reception centres for victims of trafficking in hospitals. The distribution of the leaflet will be pursued in the Dutch and German speaking communities.

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289 This followed - inter alia - a joint training day on 29 September 2016 and a brainstorming day on 17 October 2016.

290 Esperanto en Minor-Ndako.

291 Source: Fedasil.

292 More information: [http://www.belgium.be/nl/nieuws/2012/news\\_mensenhandel\\_brochure\\_ziekenhuispersoneel.jsp?referer=tcm:117-198825-64-a3](http://www.belgium.be/nl/nieuws/2012/news_mensenhandel_brochure_ziekenhuispersoneel.jsp?referer=tcm:117-198825-64-a3)

## Paying attention to minor victims

In 2016, the College of Public Prosecutors adopted a **vade-mecum focusing on the referral of unaccompanied minors**. The vade-mecum is aimed for prosecutors and police officers.

## Informing asylum seekers on rights and risks associated to work

In 2016, the Coordination Platform, in cooperation with diverse stakeholders including trade unions and NGOs, released an information brochure entitled **'You have applied for asylum and you want to work?'**<sup>(293)</sup>. This brochure aims to provide asylum seekers wishing to work with information about their rights and obligations, but also to avoid situations of exploitation or human trafficking. The brochure, through an easy test, invites asylum seekers to identify whether their rights have been or are being respected (contract, amount of wage and payment slip, working time, equipment, etc.). The contact details of various organisations specialised in employment law, foreigner rights, and specialised reception centres for victims of trafficking are provided at the end of the brochure. The brochure is currently available in French, Dutch and English, and it will later be translated in other languages (e.g. Arab).

## Awareness raising activities on trafficking in human beings

NGOs have implemented various activities in 2016 in order to raise awareness in Belgium on the phenomenon of human trafficking. For example, the Belgian Samilia Foundation and the Dutch NGO 'Not for Sale' launched an **online training tool**<sup>(294)</sup>, which aims at raising the awareness of corporate employees (as well as the general public) on human trafficking and economic exploitation<sup>(295)</sup>. The tool includes videos explaining the various aspects of human trafficking (e.g. how it occurs, who the victims are; how business and individuals can help fight it, etc.). Among other participants, a thousand employees from the Delhaize Group participated in the online training tool.

The Samilia Foundation has also further invested resources in raising awareness about trafficking among young football players. To this end, various activities were carried out in 2016, including support to the exhibition 'Marque ou Crève'<sup>(296)</sup>, screening and debate around the film 'Les rayures du zèbre', radio interviews and conferences.

## 9.3 Evident trends at national level

### Completing the transposition of EU Directive 2011/36/EU on human trafficking

The **Law of 31 May 2016**<sup>(297)</sup> was adopted and published in the Belgian Official Gazette on 8

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293 More information: <http://fedasil.be/en/news/accueil-des-demandeurs-dasile/preventing-risk-labour-exploitation>

294 In the framework of the project 'Comprehensive Corporate Toolkit to address demand for human trafficking', which is co-funded by the European Union.

295 The tool is available at: <http://businessagainstslavery.org/>

296 See: <http://www.avantpropos.eu/livres/marque-ou-cr%C3%A8ve>

297 Law of 31 May 2016 completing the implementation of the European obligations concerning the sexual exploitation of children, child pornography, human trafficking and facilitation of unauthorised entry, transit and residence, Belgian Official Gazette, 8 June 2016.

June 2016. This law fills in some remaining gaps in criminal law and procedure. The law also provided for special protection measures for victims. The ‘right to speak’<sup>(298)</sup> is now specifically provided for in cases of trafficking (and attempted trafficking), and for all forms of trafficking. Finally, the law also makes certain amendments regarding ancillary penalties, whose application is extended<sup>(299)</sup>.

### Paying increased attention to the exploitation of begging

In its ‘2016 Annual report Trafficking and Smuggling: Beggars in the hand of traffickers’, Myria put a specific focus on the exploitation of begging. Careful analysis was produced concerning the Belgian legal framework, the phenomenon and the profile of victims, concrete cases, criminal law approach to human trafficking for the purpose of exploitation of begging, best practices and experiences, etc<sup>(300)</sup>. As mentioned above, a Circular was adopted on 22 September 2016 on research and prosecution policy relating to the exploitation of begging.

### Protecting victims of loverboys

On 16 January 2017, Child Focus launched a new website against loverboys: <http://www.stoptienerpooiers.be/>. This website and associated campaign follow the investigation and study on this topic produced in 2015 at the request of the Flemish Minister for Welfare, Public Health and Family. The website targets three groups: i) the youth, ii) the parents and iii) teachers and support persons. Attention is given to risk profiles, signs and indicators to identify victims, modus operandi of lover boys and ways to help victims. The website and campaigns will be promoted through social media, posters in secondary schools, postcards in main cities, etc<sup>(301)</sup>.

This action follows previous activities addressing this phenomenon, including the study day organized by the not-for profit association ‘Zijn’ and the province of Antwerp on 7 June 2016 entitled ‘Lover boys and their victims: Who are they and How to cope with them?’, the 2015 Annual report on trafficking and smuggling from Myria, etc. Stakeholders involved underline the need to better understand the phenomenon, better detect victims and record perpetrators, address risk factors, develop a systematic approach etc<sup>(302)</sup>.

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298 This right to speak allows these professionals to inform the crown prosecutor in case of the trafficking of a minor, either if there is a serious and imminent threat to the child’s physical or mental integrity, or if there are indications of a serious and real threat that other minors are victims of trafficking and that the professional is unable to protect their integrity by themselves or with the help of a third party.

299 The law of 31 May 2016 and changes introduced are analysed and described in detail in: Myria, 2016 Annual report on Trafficking and Smuggling: Beggars in the hand of traffickers, pp. 76-78.

300 Ibid.

301 More information on the launching of the website: <http://www.tvl.be/nieuws/child-focus-lanceert-vandaag-nieuwe-site-tegen-tienerpooiers>

302 Myria, 2016 Annual report on Trafficking and Smuggling: Beggars in the hand of traffickers, pp. 146-147.

## 9.4 Cooperation with third countries

### Information and prevention campaigns about the risks associated with trafficking in third countries

Belgian authorities have further implemented **information and prevention campaigns** in third countries in 2016, inter alia focusing on the **risks associated with trafficking in human beings**. For example, a recent campaign was organized in Afghanistan (specifically in Kabul, Baghlan, Kunduz, Ghazni and Nangarhar provinces) from August 2016 until January 2017. It aimed at informing Afghans about irregular immigration and exploitation and abuse of irregular migrants by human traffickers. A meeting was organized with the officials of the 119 police departments and related security officials to jointly arrange anti-trafficking activities. Contacts were also established with religious leaders, universities, and the media<sup>(303)</sup>. In 2017, a campaign is inter alia planned in Brazil, focusing on the fight against trafficking in human beings.

### Promoting investigations and prosecution of economic exploitation

On 17 October 2016, Belgian stakeholders organized in Vienna a **side-event to the Conference of the Parties to the United Nations Convention** against Transnational Organized Crime and the Protocols thereto. The event focused on 'Investigation and prosecution of economic exploitation: the role of the public prosecutor's office in labour matters and the cooperation with front line players'. The side event aimed at illustrating, on the basis of concrete cases of exploitation, how investigations and prosecutions are conducted by specialized actors and how cooperation takes place with the specialised NGOs in charge of supporting victims of trafficking<sup>(304)</sup>.

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303 Source: Immigration Office (Ilobel).

304 More information : <http://www.unodc.org/unodc/en/treaties/CTOC/CTOC-COP-session8.html>



# 10 Migration and development

## 10.1 Mainstreaming migration in development policies

### Policy Coherence for Development (PCD)

Over the last few years, Belgium has reinforced its commitment to Policy Coherence for Development (PCD). The Royal Decree of 2 April 2014<sup>(305)</sup> established an **Interdepartmental Commission on PCD**, which is composed of representatives of various public services at federal, regional and community level<sup>(306)</sup>. Migration is one of the four priority areas for PCD, besides peace and security, trade and climate change. Among other tasks, the Commission facilitates the exchange of information between the concerned public services; develops recommendations for the Minister for Development Cooperation and other Ministers responsible for policy areas exercising direct or indirect influence on developing countries; and raises awareness amongst the concerned services about the impact of policy decisions on developing countries. Furthermore, the Royal Decree of 2 April 2014 established an **Advisory Council on PCD**, which gathers representatives of NGOs and the academic field. Its main aim is to provide advice to the Belgian federal authorities in order to promote PCD<sup>(307)</sup>.

In 2016, the Interdepartmental Commission for PCD decided to set up a **Migration and Development Working Group**, as migration is one of the priority areas for PCD and one of the priority areas of the Federal Minister for Development Cooperation. The representatives of the different agencies and ministries that will compose the working group have been identified. However, the activities of the working group have not started yet due to a lack of personnel assigned to PCD in 2016.

In June 2016, the Advisory Council on PCD **issued an opinion on the coherence of migration and development policies**<sup>(308)</sup>, at the request of the Federal Minister of Development Cooperation. This opinion aims at informing the Migration and Development Working Group mentioned above.

305 Royal Decree of 2 April 2014 on the creation of an Interdepartmental Commission on Policy Coherence for Development, Belgian Official Gazette, 22 April 2014.

306 The members of the Interdepartmental Commission on Policy Coherence for Development were nominated in 2015 by the Royal Decree of 12 July 2015, Belgian Official Gazette, 31 July 2015.

307 More information: <http://www.ccpd-abco.be/>

308 Advisory Council on Policy Coherence for Development, Opinion of the Advisory Council on the coherence of migration and development policies, 4 July 2016.

The main recommendations of the Advisory Council were:

- The work of the Migration and Development Working Group must be based on a common global view which recognizes the potential of migration for development.
- The Working Group should develop measures that aim at limiting the costs of remittances to 3% maximum (in line with the UN 2030 Agenda for Sustainable Development).
- The Working Group should develop proposals for a broader policy on labour migration, including safe and legal migration opportunities. A development perspective must be included in the labour migration system.
- The potential of diaspora organisations regarding cooperation for development should be recognized. The Working Group is asked to develop specific projects that involve professionals with a migrant background in the development of their countries of origin.
- Regarding return, priority must be given to voluntary return, tailor-made support should be provided and more funds should be dedicated to reintegration.
- The granting of development and humanitarian aid should not be tied to agreements on the readmission of rejected asylum seekers.
- There is a need for more transparency regarding the criteria and the selection process of projects funded by the EU Emergency Trust Fund for Africa. All projects proposed within the Working Group for this Trust Fund should aim at the sustainable development of the countries of origin, and not at fighting migrations.

At the regional level, the **Flemish Government** stressed its commitment to policy coherence for sustainable development once more in 2016 in its 'Note on the Flemish development cooperation in 2030'<sup>(309)</sup>. The Flemish Government aims at placing policy coherence for development at the heart of its own activities and at starting a process to ensure better policy coherence between different Flemish actors.

Regarding the **Brussels-Capital Region**, a regulation on the Brussels development cooperation is currently being elaborated, and should enter into force in 2018. It will contain a chapter on policy coherence for sustainable development introducing the creation of a Brussels Regional Committee on development cooperation and international solidarity. This committee will be a necessary instrument to ensure the coherence of Brussels policies for sustainable development. Its objective will be to organize a dialogue between the Government's services and autonomous administrative bodies regarding the initiatives set up in developing countries. This Committee will also ensure that the Brussels policies in other areas of competence are complementary to the efforts made by the Brussels development cooperation<sup>(310)</sup>.

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309 Flemish Parliament, Note on the Flemish development cooperation in 2013: towards a new identity for Flanders as a partner for development, 1008 (2016-2017) - N°1, 6 December 2016.

310 Source: Brussels International.

## Coordination mechanisms

Furthermore, Belgian authorities maintained existing **informal coordination mechanisms** in 2016, such as the COORAM (Coordination on Migration and Asylum), which allows stakeholders (including the FPS Foreign Affairs, the Belgian Development Cooperation, the Cabinet of the State Secretary for Asylum Policy and Migration, the Immigration Office, and the Office of the Commissioner General for Refugees and Stateless Persons,) to meet on an ad-hoc basis. **Formal coordination mechanisms** (e.g. COORMULTI and DGE-coordination) were also used to establish the Belgian position on migration in multilateral frameworks (such as the Global Forum on Migration and Development or the IOM Council) or in preparation of EU Councils.

The **Belgian diplomatic network** also continued to report to the Asylum and Migration Directorate of the FPS Foreign Affairs on migration related developments in countries of origin. A special session on EU and Belgian migration policies was organized during the 'diplomatic days'<sup>(311)</sup> in early 2016, which gathered the diplomatic network as well as Belgian migration experts from different ministries and agencies.

## Governmental and non-governmental cooperation programmes

In 2016, the topic of migration has received increased attention in all the new Belgian governmental and non-governmental international cooperation programmes.

The theme of migration was taken into account during the development of the **new governmental cooperation programmes with Mali, Niger and Morocco (which were signed in June 2016)**. The contextual analysis of these programmes took into account the migration profile of these countries (status of migrants, countries of origin, root causes of displacement, etc.). In Niger, Belgium will remain active in the region of Tahoua, which is a region of origin of migrants. In Morocco, the new cooperation programme intends to contribute to the efforts of the Moroccan government in several areas, including human rights – and more specifically those of women, children and migrants. The total budget of this programme is EUR16.85 million, with EUR 5.85 million dedicated to a project to support migration management. This project aims at better taking into account the rights of regularized migrants and recognized refugees by the authorities and civil society and at supporting the professional integration of these migrants and refugees, thereby also contributing to the sustainable economic development of Morocco. The project will focus on (i) supporting the National Strategy on Immigration and Asylum through the training of national and local authorities and NGOs on migration and through the vocational training and training on self-employment of migrants and refugees; and (ii) supporting the National Strategy in favour of Moroccans Residing Abroad (MRE), including through supporting Moroccans residing in Belgium to set up productive and social investments in Morocco.

Furthermore, the planned new cooperation programme with Burkina Faso will target the centre-East region of the country, which is the region of origin of 80% of the migrants who move to

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311 During the annual 'diplomatic days' in Brussels, the heads of Belgian diplomatic and consular posts abroad gather and meet Ministers, civil servants, business representatives and civil society representatives.



neighbouring countries or to the EU. In 2017, new cooperation programmes will be negotiated with other countries from which migrants originate (e.g. Guinea and Senegal). The migration aspect will also be taken into account in these programmes<sup>(312)</sup>.

The issue of migration was also taken into account in the choice and evaluation of **new non-governmental cooperation programmes**. One of the evaluation criteria was to assess whether the programme addressed certain root causes of irregular migration of the partner country.

Furthermore, the issue of migration was also taken into account during the elaboration of the **thematic strategic notes of the Belgian Development Cooperation** drafted in 2016, such as the one on agriculture and food security or the one on gender<sup>(313)</sup>, which guide and help implement the programmes in these areas.

Finally, in October 2016, the Belgian Cooperation launched **a call for proposals (for EUR 1.5 million) for projects** on education on development aiming at raising awareness among families with young children on the root causes of forced migration. Projects can include theatre plays, film festivals, educational shows, debates, etc. The selection of the non-profit organisations and activities will be carried out in 2017.

### Regional Development and Protection Programme (RDPP) North Africa

In the framework of the Regional Development and Protection Programme (RDPP) North Africa – Belgium will implement the 'IREVAN' project ('Information et Retour Volontaire Afrique du Nord'). Both the Immigration Office and the federal reception agency Fedasil will be involved. The project aims at (i) building the capacities of the Moroccan and Tunisian authorities; (ii) strengthen the existing partnerships between key actors active in the field of migration in Morocco and Tunisia and in the countries of origin of the migrants; (iii) inform vulnerable migrants and rejected asylum seekers on voluntary return and reintegration and the risks linked to irregular migration.

## 10.2 EU Emergency Trust Fund and Humanitarian aid

### EU Emergency Trust Fund

Belgium's commitment to migration and development goals was also demonstrated at the European level. In his General Policy Note of 28 October 2016, the Minister for Development Cooperation stressed that - following the refugee crisis, and the knowledge that the pressure of migration would increase in the years and decades to come for Belgium and Europe - **a coherent**

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<sup>312</sup> Belgian House of Representatives, Question n°716 from MP Barbara Pas of 28 October 2016 to the Deputy Prime Minister and Minister for Development Cooperation, the Digital Agenda, Telecommunications and the Postal Service, 7 December 2016, QRVA 54 098, pp. 221-223.

<sup>313</sup> The strategic notes of the Cooperation Development are available: [https://diplomatie.belgium.be/fr/politique/cooperation\\_au\\_developpement/librairie\\_multimedia/apercu\\_des\\_notes\\_strategiques](https://diplomatie.belgium.be/fr/politique/cooperation_au_developpement/librairie_multimedia/apercu_des_notes_strategiques)

**long term approach dealing with the causes of mass scale migration and with measures to prevent them** is necessary. He further underlined that the EU Trust Fund for addressing the root causes of irregular migration in Africa, the EU Partnership Framework and the so called 'Migration Compacts', and the European Fund for Sustainable Development (to be created) are very important instruments in this regard. Belgium focuses on ensuring that these resources are allocated in an efficient way; that the countries that are doing a good job are rewarded ('more for more' principle); and that the priorities of Belgium are included, such as the involvement of the private sector to achieve sustainable growth; a focus on the positive role of migration (through remittances, knowledge sharing, entrepreneurship...); and the importance of peace, security and respect for Human Rights as conditions for sustainable growth<sup>(314)</sup>.

Regarding the **EU Emergency Trust Fund** for stability and addressing the root causes of irregular migration and displacement in Africa, Belgium has contributed EUR 10 million, making it the third biggest bilateral donor after Italy and the Netherlands. There are 23 countries that are directly eligible for the EU Trust Fund, including 8 partner countries of the Belgian Governmental Cooperation (i.e. Burkina Faso, Mali, Niger, Senegal, Tanzania, Uganda, Algeria and Morocco). As a priority, Belgium will focus on the above mentioned countries, and will be attentive to the countries of origin of migration flows. In order to ensure the added value of the Fund and an impact on the migration flows at short and long term, Belgium aims at keeping the scope of the projects focused on (i) migrants, potential migrants and returnees; (ii) regions vulnerable to emigration or hosting returnees; and (iii) hosting communities (in African countries) with an important number of migrants or refugees. The projects must demonstrate a link with migration as well as the impact on migration flows (when possible)<sup>(315)</sup>.

Belgium perceives this fund as an opportunity for innovation and pilot projects to achieve a more integrated approach between stakeholders in development and in security or between stakeholders in humanitarian affairs and in development. In 2016, Belgium welcomed the efforts of the fund while also calling for a strengthening of its governance and transparency. Belgium argued that consultation processes at field level with Member States and partners should be reinforced and that common needs analyses, the identification of interventions and choosing partners 'fit for purpose' should be stimulated. A specific focus should be put on development (and root causes) and on ensuring the efficiency of the assistance provided to ensure more structural changes on the medium and long term. Belgium also called for the rate of commitments to slow down and to ensure the quality of the projects (evidence and results based).

## Humanitarian aid

Belgium increased its total humanitarian budget to an unprecedented EUR 177 million in 2016 (compared to EUR 150 million in 2015). Belgium's **humanitarian contribution to the global refugee crisis** reached approximately EUR 160 million- that is to say more than double the contribution for 2015 (EUR 62 million). This contribution is divided as follows:

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<sup>314</sup> Belgian House of Representatives, General Policy Note on International Development 2017, DOC54 2111/002, 28 October 2016, p. 16.

<sup>315</sup> [http://diplomatie.belgium.be/fr/politique/cooperation\\_au\\_developpement/nos\\_activites/themes/consolidation\\_de\\_la\\_societe/migration/fonds\\_fiduciaire](http://diplomatie.belgium.be/fr/politique/cooperation_au_developpement/nos_activites/themes/consolidation_de_la_societe/migration/fonds_fiduciaire)

- EUR 75 million in **humanitarian aid to the Syrian region** for the period 2016-2017 (EUR 50 million in 2016 and EUR 25 million in 2017) pledged at the 'London Donor Conference' in February 2016. This contribution will cover humanitarian aid in Syria and in its neighbouring countries of Jordan, Lebanon and Turkey.
- EUR 58 million pledged for the **EU Facility for Refugees in Turkey** as part of the EU-Turkey Agreement signed in March 2016.
- EUR 16 million in core funding to UNHCR, UNRWA and IOM for 2016.
- An additional EUR 10 million for **several projects dealing with conflict prevention and peacebuilding** linked to the asylum crisis as well as immediate support to the refugee and host communities. Projects include: the EU 'Madad' Regional Trust Fund; the UNDP Funding Facility for Immediate Stabilization in Iraq; empowerment of Syrian woman refugees in Lebanon as well vulnerable populations affected by the Syrian crisis in Lebanon or strengthening the criminal justice response to combat human trafficking and migrant smuggling in Sudan, Egypt and Tunisia.

Regarding humanitarian assistance, Belgium is also developing innovative financial instruments in order to address growing needs linked to protracted crises. In January 2016, Belgium and the International Committee of the Red Cross (ICRC) launched the first 'Humanitarian Impact Bond' (HIB) in Davos<sup>(316)</sup>. It aims at mobilizing funds to support the provision of physical rehabilitation services to disabled people in countries affected by conflict and violence. This instrument will be further developed within the framework of the Belgian development policy, as will broader Development Impact Bonds and other innovative financial instruments.

### 10.3 The International Organisation for Migration as a key partner

The Government of Belgium, represented by the Minister for Development Cooperation, signed a framework agreement with the International Organisation for Migration (IOM) on 22 September 2016. As stated in the press release, the agreement 'seeks to support IOM in the realisation of its mandate and to strengthen the priorities of the Belgian Ministry of Foreign Affairs, Foreign Trade and Development Cooperation by undertaking efforts to contribute to better coherence between IOM's activities and those of the Belgian Government. This will be partly done through greater exchange of best practices and strategic and technical knowledge relating to migration'. Furthermore, 'from 2017 onward, the Belgian Government intends to provide multi-annual funding to IOM in order to assist in managing migration in a human and orderly manner and promote international cooperation on migration'<sup>(317)</sup>.

<sup>316</sup> More information: [http://diplomatie.belgium.be/fr/Newsroom/actualites/communiqués\\_de\\_presse/cooperation/2016/01/ni\\_220116\\_humanitarian\\_impact\\_bond](http://diplomatie.belgium.be/fr/Newsroom/actualites/communiqués_de_presse/cooperation/2016/01/ni_220116_humanitarian_impact_bond) et <http://blogs.icrc.org/gphiz/2016/05/24/transforming-aid-one-humanitarian-impact-bond-time/>

<sup>317</sup> <https://www.iom.int/news/iom-belgium-sign-framework-agreement-support-safer-orderly-migration>

Regarding funding, the Belgian Development Cooperation provided a EUR 2 million **voluntary core contribution to IOM in 2016**. It contributed partly to the IOM Development Fund, capacity building projects for diasporas as well as to increasing entrepreneurship of young people in regions of origin of migrants (e.g. in Burkina Faso).

Furthermore, **two specific IOM projects** were funded by the conflict prevention and peacebuilding unit of the FPS Foreign Affairs. The first project (EUR 560,000 to IOM Djibouti) aims at supporting the socio-economic integration and resilience of Eritrean, Somali and Ethiopian refugees in **Djibouti**. It seeks to provide them with the skills and qualifications, as well as financial access to micro-credit, to become self-reliant and to actively contribute to the overall welfare of their families, while simultaneously meeting the needs of the business community. The second project in **Burundi** (EUR 250,000 to IOM Burundi) aims at supporting reconciliation and sustainable peace, through supporting communication between communities to prevent the resumption of the ethnical and/or political conflict; as well as to prevent trafficking in human beings and irregular migration by raising awareness and support community dialogue.

The Immigration Office also funded two IOM projects: one project in **Morocco**, which offers voluntary return and reintegration assistance for migrants from Sub-Saharan Africa who are irregularly residing in Morocco; and one project in the **Democratic Republic of Congo**, which focuses on strengthening the migration data collection and management system at border posts.

Through its core contribution to IOM, Belgium also contributed EUR 50.000 to the 2016 **Global Forum on Migration and Development (GFMD)**, which was held in Dhaka in light of the preparation of the Global Compact for Migration. The Belgian Development Cooperation decided to finance a Junior Professional Officer to IOM (to be recruited in 2017) to work on the elaboration of said Global Compact.

## 10.4 Mobility Partnerships

### Mobility Partnership with Morocco

A Mobility Partnership was established in June 2013 between Morocco, the EU and nine EU Member States (Belgium, France, Germany, Italy, Portugal, Spain, Sweden, the Netherlands and the United Kingdom). In the framework of this Mobility Partnership, the **Sharaka project** was launched in June 2013. In January 2017, the Belgian reception agency Fedasil presented the results of its analysis and mapping exercise focused on activities dealing with return and reintegration of migrants from Europe in Morocco<sup>(318)</sup>. The Sharaka project ends in March 2017 (but could possibly be extended).

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<sup>318</sup> <http://www.sharaka.ma/actualites/fil-dactu/restitution-par-fedasil-dune-analyse-comparee-des-dispositifs-europeens-daide-au-retour-et-a-la-reintegration-volontaire-au-maroc>

## Mobility Partnership with Tunisia

In March 2014, a Mobility Partnership was established between Tunisia, the EU, and 10 EU Member States (Belgium, Denmark, France, Germany, Italy, Poland, Portugal, Spain, Sweden and the United Kingdom). In this framework, the **support project 'Lemma- together for mobility'** was launched in July 2016. Seven Member States are involved in this project (including Belgium), and it is coordinated by the agency Expertise France, the French agency for international technical cooperation. The project aims at supporting the Tunisian government with the development and the implementation of its national migration policy.

More specifically, the project's objectives are: (i) strengthen the capacity of the Tunisian authorities to manage labour migration and professional mobility through increased cooperation with their European partners; (ii) improve the knowledge of the main Tunisian communities in Europe and set up a targeted programme to mobilise the skills of the diaspora in order to support local and regional development; (iii) strengthen the capacity of the Tunisian authorities and of civil society organisations to support the reintegration of migrants returning to their home country.

The implementation of this project will be based on European public expertise and the exchange of information through a partnership between the Tunisian institutions and the agencies and administrations of the seven Member States involved in this project.

## 10.5 Efforts to mitigate brain drain

Following previous actions initiated by the private sector<sup>(319)</sup>, the Belgian Development Cooperation started to financially support a project focused on **circular migration with Senegal** on 1 June 2016 (EUR 60,300). The objective of this 18 months project is to provide young Senegalese graduates with the opportunity to strengthen their skills through practical training within Belgian companies. Furthermore, a series of other activities will be implemented to provide the young graduates with individual and tailor-made assistance for their return to Senegal, in order to encourage a sharing of the knowledge acquired by these migrants with local actors and entities active in the development of the private sector. Three Senegalese graduates participated in the project in 2016. They carried out an internship in a Belgian firm and returned to their country of origin at the end of 2016.

At the regional level, the **Flemish Government** reaffirmed its commitment to contribute to the strengthening of the health system in Mozambique in the 'Strategic Note 2016-2020 on development cooperation between Mozambique and Flanders'<sup>(320)</sup>. The Flanders Department of Foreign Affairs continued to support projects contributing to the development and implementation

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319 See for example: Belgian National Contact Point of the EMN, Belgian Annual Policy Report on Asylum and Migration Policy in 2015, 2016.

320 Strategic Note 2016-2020 on development cooperation between Mozambique and Flanders : "The strengthening of the health sector in Mozambique so that no teenager is left behind", 2016.

of an effective health policy in Mozambique (e.g. focusing on the training of medical staff). Sectoral budget support was also provided to the Ministry of Health of Mozambique, in order to improve the health sector of the country and contribute to an efficient health policy.

## 10.6 Working with diasporas

The new **governmental cooperation programme with Morocco** concluded in 2016 focuses – among others – on supporting the National Strategy in favour of Moroccans Residing Abroad (MRE), including through supporting Moroccans residing in Belgium to set up productive and social investments in Morocco (see Section 7.1 of this report).

Furthermore, the Belgian Development Cooperation continued to fund the projects of two diaspora NGOs in 2016. Both are active in the **health sector in the Democratic Republic of Congo (DRC)**. These two organisations thus have the opportunity to contribute to the implementation of development programmes in their country/region of origin. The projects focus on institutional capacity building and capacity building for the management of partner institutions in the DRC and aim at improving the quality and the accessibility of basic health care services and at strengthening the coordination between actors of the health sector.

Through its **voluntary core contribution to the International Organisation for Migration (IOM)**, Belgium supported the entrepreneurship of the Burkinabe diaspora in Belgium and in Italy who are investing and transferring knowledge to their country of origin.

In the framework of the Mobility Partnership with Tunisia, the Lemma project was launched in July 2016 (in which Belgium is involved). It aims at supporting the Tunisian government with the development and the implementation of its national migration policy. One of the specific objectives of the project is to improve the knowledge of the main Tunisian communities in Europe and set up a targeted programme to mobilise the skills of the diaspora in order to support local and regional development (see Section 10.4 of this report).

At the regional level, the Flanders Department of Foreign Affairs continued to support the Support Centre for the 4th Pillar of the Flemish Development Cooperation, which is managed by 11.11.11 (a coalition of NGOs, unions, movements and solidarity groups in Flanders). The Support Centre assists Flemish and diaspora associations who set up projects in developing countries, by providing information through a website (<http://4depijler.be/>) and a helpdesk, and by organizing tailor-made trainings and gatherings of relevant actors.



## Annex A - Abbreviations and specific terms used

*Table A1 : List of abbreviations used*

|         |   |
|---------|---|
| AMAAR   | Adapted Medical Assistance After Return Project                       |
| AMIF    | Asylum, Migration and Integration Fund                                |
| AVR(R)  | Assisted Voluntary Return (and Reintegration)                         |
| CALL    | Council for Alien Law Litigation                                      |
| CEFR    | Common European Framework of Reference for Languages                  |
| CGRS    | Office of the Commissioner General for Refugees and Stateless Persons |
| CIB     | Caritas International Belgium   |
| CJRO    | Collecting Joint Return Operation                                     |
| COI     | Country Of Origin Information   |
| CSI     | Common Support Initiative   |
| DRC     | Democratic Republic of the Congo                                      |
| DT&V    | Dutch Repatriation and Departure Service                              |
| EASO    | European Asylum Support Office  |
| EC      | European Commission   |
| ECHR    | European Convention on Human Rights                                   |
| EEA     | European Economic Area  |
| EES     | Entry-Exit System   |
| EMN     | European Migration Network  |
| EPIM    | European Programme for Integration and Migration                      |
| ERI     | European Reintegration Instrument                                     |
| ERIN    | European Reintegration Network  |
| ERIN SA | European Reintegration Network Specific Actions                       |
| ESF     | European Social Fund  |
| ETIAS   | European Travel Information and Authorisation System                  |
| EU      | European Union  |
| EURINT  | European Integrated Return Management Initiative                      |
| EURLO   | European Return Liaison Officers network                              |
| FEDASIL | Federal Agency for the Reception of Asylum Seekers                    |
| FGM     | Female Genital Mutilation   |



|           |   |
|-----------|---|
| FPS       | Federal Public Service  |
| FTE       | Full Time Equivalent  |
| FYROM     | Former Yugoslav Republic Of Macedonia   |
| GFMD      | Global Forum on Migration and Development   |
| GRETA     | Group of Experts on Action against Trafficking in Human Beings  |
| ICP       | Interdepartmental Coordination Platform for the Fight against Trafficking and Smuggling in human beings |
| ICT       | Intra-corporate transfer  |
| ICRC      | International Committee of the Red Cross  |
| IOM       | International Organization for Migration  |
| JHA       | Justice and Home Affairs Council  |
| JRO       | Joint Return Operation  |
| LGTBI     | Lesbian, gay, bisexual, transgender and intersex  |
| MoU       | Memorandum of Understanding   |
| NAP       | National Action Plan  |
| NCP       | National Contact Point (of the European Migration Network)  |
| NGO       | Non-Governmental Organization   |
| NHRI      | National Human Rights Institution   |
| PCD       | Policy Coherence for Development  |
| PNR       | Passenger Name Record   |
| OFII      | French Office for Immigration and Integration   |
| RAVOT-EUR | Referral of and assistance for victims of human trafficking in Europe project                           |
| RDPP      | Regional Development and Protection Programme   |
| OCG       | Organized Crime Group   |
| REG       | Return and Reintegration Experts Group (of the EMN)   |
| REMA      | Projet Réintégration Maroc  |
| SIS       | Schengen Information System   |
| SPOC      | Single Point of Contact   |
| TCN       | Third-country national  |
| UAM       | Unaccompanied minor   |
| UN        | United Nations  |
| UNHCR     | United Nations High Commissioner for Refugees   |
| UNRWA     | United Nations Relief and Works Agency for Palestine Refugees in the Near East                          |
| VIS       | Visa Information System   |

*Table A2 : Specific terms used*

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

## Annex B - Implementation of EU legislation in Belgium in 2016

### Directive 2011/98/EU<sup>(321)</sup> (Single Permit Directive)

All Member States were required to transpose the Single Permit Directive into national legislation by 25 December 2013. By the transposition deadline, Belgium had only **partially transposed the Directive**. The transposition of said Directive proved to be a very complex matter in Belgium since it coincided with the ongoing institutional reform regarding the policy on economic migration.

As a result, an **infringement procedure** against Belgium is currently ongoing (n°2014/0230). The European Commission sent a letter of formal notice for non-communication to Belgium in March 2014 and a reasoned opinion in April 2015<sup>(322)</sup>, finally referring Belgium to the Court of Justice of the EU in November 2015<sup>(323)</sup>. Belgium has subsequently notified the Commission of the ongoing legislative processes, including at the regional level, and the referral to the Court was temporarily put on hold. However, as the transposition of the Directive still remains partial and there is no reliable timetable for its finalisation, the Commission decided to address an additional reasoned opinion to the Belgian authorities in February 2017<sup>(324)</sup>.

A **political agreement** was reached at the end of 2015 between the different competent Belgian authorities (Federal State, the three Regions and the German-speaking Community) regarding the procedure to be followed for the Single Permit<sup>(325)</sup>. Following this agreement, legislative proposals to apply this procedure were presented and adopted by the different Governments<sup>(326)</sup> and submitted to the Council of State for its opinion. The Council of State concluded that the transposition of the Single Permit Directive required the adoption of a **Cooperation Agreement** between the different authorities concerned. Following the adoption of said cooperation agreement, the Council of State will examine the legislative texts of the different governments.

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321 Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, OJ L 343, 23.12.2011, p. 1-9.

322 European Commission, Factsheet: April infringements package: main decisions, 29 April 2015, [http://europa.eu/rapid/press-release\\_MEMO-15-4871\\_EN.htm](http://europa.eu/rapid/press-release_MEMO-15-4871_EN.htm)

323 European Commission, Press release: Commission refers Belgium to the Court of Justice of the European Union regarding the Single Permit Directive, 19 November 2015, [http://europa.eu/rapid/press-release\\_IP-15-6011\\_EN.htm](http://europa.eu/rapid/press-release_IP-15-6011_EN.htm).

324 European Commission, Factsheet : February infringement package: key decisions, 15 February 2017, [http://europa.eu/rapid/press-release\\_MEMO-17-234\\_en.htm](http://europa.eu/rapid/press-release_MEMO-17-234_en.htm).

325 <http://www.presscenter.org/fr/pressrelease/20151120/concretisation-du-transfert-de-competences-en-matiere-de-permis-de-travail-et->

326 At the federal level, see: <http://www.presscenter.be/fr/pressrelease/20160520/permis-unique-pour-les-travailleurs-dorigine-etrangere> and <http://www.presscenter.be/fr/pressrelease/20160520/emploi-de-certains-ressortissants-etrangers-se-trouvant-dans-une-situation-par>

## Directive 2014/36/EU<sup>(327)</sup> (Seasonal Workers Directive) and Directive 2014/66/EU<sup>(328)</sup> (ICT Directive)

All Member States were required to transpose the Seasonal Workers Directive into national legislation by 30 September 2016. On 24 November 2016, the Commission opened up an **infringement procedure** against Belgium (n°2016/0699) by sending a letter of formal notice. The Belgian authorities involved have sent their reply to the Commission at the beginning of 2017.

Furthermore, all Member States were required to transpose the ICT Directive into national legislation by 29 November 2016. On 24 January 2017, the Commission opened up an **infringement procedure** against Belgium (n°2017/0015) by sending a letter of formal notice. The Belgian authorities involved have sent their reply to the Commission at the beginning of 2017.

Since every access to the labour market of more than 90 days will be processed through a single procedure (which is currently being developed, see above), the transposition of the Seasonal Workers Directive and the ICT Directive is closely linked to the transposition of the Single Permit directive. Preparations therefore took place simultaneously between the different competent authorities (federal and regional). The different authorities are negotiating an **additional executive agreement** incorporating provisions in the aforementioned cooperation agreement on the Single Permit.

## Directive 2011/95/EU<sup>(329)</sup> (Qualification Directive), Directive 2013/32/EU<sup>(330)</sup> (Asylum Procedures Directive) and Directive 2013/33/EU<sup>(331)</sup> (Reception Directive)

All Member States were required to transpose the Asylum Procedures Directive and the Reception Directive into national legislation by 20 July 2015. **Two infringement procedures** (respectively n°2015/0355 and n°2015/0356) were started by the European Commission on 23 September 2015 (letters of formal notice). It is worth noting that the Belgian regulations are already largely in compliance with the Asylum Procedures Directive and the Reception Directive.

The **Law of 1 June 2016**<sup>(332)</sup> reduces the duration of the residence permit granted to recognized refugees: refugees are no longer automatically granted a residence permit of unlimited duration.

327 Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, OJ L 94, 28.3.2014, p. 375-390.

328 Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, **OJ L 157, 27.5.2014, p. 1-22.**

329 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, OJ L 337, 20.12.2011, p. 9-26.

330 Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, OJ L 180, 29.6.2013, p. 60-95.

331 Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, OJ L 180, 29.6.2013, p. 96-116.

332 Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, 24.12.2008, p. 98-107.

They first receive a residence permit valid for 5 years. After these 5 years, they receive a residence permit of unlimited duration, provided their refugee status has not been withdrawn. This law transposes article 24 of Directive 2011/95/EU. This law also aligns certain provisions regarding family reunification of family members of beneficiaries of international protection with article 23 of Directive 2011/95/EU and with article 17 of Directive 2003/86/EC (family reunification).

**Two draft laws** further transposing the Asylum Procedures Directive and the Reception Directive were approved by the Council of Ministers in April 2017<sup>(333)</sup>.

### Directive (EU) 2016/681<sup>(334)</sup> (Passenger Name Record Directive)

**The Law of 25 December 2016**<sup>(335)</sup> on the processing of passengers data was published in the Belgian Official Gazette on 25 January 2017. It partially transposes the Passenger Name Record Directive, as well as Council Directive 2004/82/EC on the obligation of carriers to communicate passenger data<sup>(336)</sup>, and Directive 2010/65/EU on reporting formalities for ships arriving in and/or departing from ports of the Member States<sup>(337)</sup>.

The law foresees the obligation for carriers and travel agencies in different transport sectors (international transport by air, high-speed train, bus, and sea) to collect passenger data and send it to a central database. This data will be analysed and used – inter alia – to detect and prosecute terrorist offences and other forms of serious crime. However, this law has not entered into force yet. As stipulated in article 54 of the law, Royal Decrees still need to be adopted for every transport sector and for the travel agencies. In March 2017, the Council of Ministers adopted a draft Royal Decree for the air transport sector<sup>(338)</sup>.

### Directive 2008/115/EC<sup>(339)</sup> (Return Directive)

In order to comply with several grievances from the European Commission and the jurisprudence of the Court of Justice of the EU regarding certain provisions of the Return Directive (e.g. on

333 Press release after the Council of Ministers of 21 April 2017, <http://www.presscenter.be/fr/pressrelease/20170421/transposition-des-directives-europeennes-relatives-aux-demandeurs-dasile>

334 Directive 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, OJ L 119, 4.5.2016, p. 132-149.

335 Law of 25 December 2016 on the processing of passengers data, Belgian Official Gazette, 25 January 2017.

336 Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data, OJ L 261, 6.8.2004, p. 24-27.

337 Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC Text with EEA relevance, OJ L 283, 29.10.2010, p. 1-10.

338 Press release after the Council of Ministers of 31 March 2017, <http://www.presscenter.org/nl/pressrelease/20170331/verplichtingen-voor-luchtvaartmaatschappijen-in-verband-met-de-verwerking-van-?setlang=1>

339 Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, 24.12.2008, p. 98-107.

criminalisation of irregular stay or objective criteria on the risk of absconding), different provisions have been included in **draft laws** which have been adopted by the Council of Ministers in April and May 2017.

## Council Directive 2003/86/EC<sup>(340)</sup> (family reunification) and Directive 2004/38/EC<sup>(341)</sup> (the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States)

In compliance with article 5, §4 of Directive 2003/86/EC, the **Law of 17 May 2016**<sup>(342)</sup> extended the maximum time limit for examining family reunification applications from six months to nine months<sup>(343)</sup>.

**The Law of 4 May 2016**<sup>(344)</sup> introduces various provisions regarding asylum and migration. This law transposes – inter alia – certain provisions of directive 2003/86/EC (family reunification), 2003/109/EC (long term resident status), 2004/114/EC (entry and stay of students), 2005/71/EC (entry and stay of researchers) and 2009/50/EC (entry and stay of highly qualified workers – EU Blue Card). This law extends the period of time after which a family member of a third-country national can obtain a residence permit of unlimited duration (compliance with directive 2003/86/EC and analogy with directive 2004/38/EC) from three to five years. During these five years, the residence permit of a family member of a third-country national can be withdrawn if he no longer meets the requirements for family reunification. The law also inserts other provisions into the Immigration Act and the Reception Act. This includes provisions to comply with the Schengen acquis regarding border crossings, visas and short stays, as well as the jurisprudence of the Court of Justice of the EU.

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340 Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, OJ L 251, 3.10.2003, p. 12–18.

341 Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance), OJ L 158, 30.4.2004, p. 77–123.

342 Law of 17 May 2016 modifying articles 10ter and 12bis of the Law of 15 December 1980 on the access, residence, settlement and removal of foreign nationals, Belgian Official Gazette, 28 June 2016.

343 Press release after the Council of Ministers of 18 December 2015, <http://www.presscenter.org/fr/pressrelease/20151218/prolongation-du-delai-de-traitement-pour-une-demande-de-regroupement-familial->

344 Law of 4 May 2016 introducing various provisions regarding asylum and migration and modifying the law of 15 December 1980 on the access, residence, settlement, and removal of foreign nationals and the law of 12 January 2007 on the reception of asylum seekers and other categories of foreign nationals, Belgian Official Gazette, 27 June 2016.

## Directive 2011/36/EU<sup>(345)</sup> (trafficking in human beings) and Council Directive 2002/90/EC<sup>(346)</sup> (facilitation of unauthorised entry, transit and residence)

The Law of 31 May 2016<sup>(347)</sup> was published in the Belgian Official Gazette on 8 June 2016. This law has the following three objectives: (i) further compliance of the Belgian legislation with Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting victims; (ii) specific modifications regarding criminal law and the criminal procedure in order to ensure further compliance with Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography; (iii) further compliance of the Belgian legislation with Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence, and the strengthening of the criminal framework for the repression of facilitation of unauthorised entry, transit and residence<sup>(348)</sup>.

Regarding the facilitation of irregular migration, the law clearly included **attempted** facilitation of illegal entry or stay in article 77 of the Immigration Act. Other amendments aimed to **harmonise the criminalization of human smuggling with human trafficking**: (i) the aggravating circumstances linked to the modus operandi was completed in the same way as for trafficking, (ii) the deprivation of civil and political rights was extended to the simple form of migrant smuggling and (iii) the extraterritorial powers of the Belgian judge were extended to simple forms of migrant smuggling and attempted smuggling. Regarding **trafficking of human beings**, the law filled in some remaining gaps in criminal law and procedure. The law also provided for special protection measures for victims. The 'right to speak'<sup>(349)</sup> is now specifically provided for in cases of trafficking (and attempted trafficking), and for all forms of trafficking. Finally, the law also makes certain amendments regarding ancillary penalties, whose application is extended.

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345 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, OJ L 101, 15.04.2011, p.1-11.

346 Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence, OJ L 328, 5.12.2002, p. 17-18.

347 Law of 31 May 2016 completing the implementation of the European obligations concerning the sexual exploitation of children, child pornography, human trafficking and facilitation of unauthorised entry, transit and residence, Belgian Official Gazette, 8 June 2016.

348 Press release after the Council of Ministers of 16 October 2015, <http://www.presscenter.org/fr/pressrelease/20151016/mise-en-oeuvre-des-obligations-europeennes-en-matiere-de-justice>

349 This right to speak allows these professionals to inform the crown prosecutor in case of the trafficking of a minor, either if there is a serious and imminent threat to the child's physical or mental integrity, or if there are indications of a serious and real threat that other minors are victims of trafficking and that the professional is unable to protect their integrity by themselves or with the help of a third party.

## Annex C - National Statistics

*Table C1 : Visas issued in Belgium in 2016*

| Total visas | (Schengen) short stay Visas<br>(so called A and C visas, the latter including LTV<br>visas – stays of up to 90 days) | National Visas<br>(so called D visas) |
|-------------|--|---------------------------------------|
| 210,440     | 181,443  | 28,997                                |

Source: Immigration Office.

*Table C2 : Number of third-country nationals (TCNs) returned in 2016*

| Returned as part of forced<br>return measures |                        | Returned voluntarily |                        | Among TCNs returned<br>voluntarily, the number of<br>TCNs returned as part of an<br>assisted return programme |                     | Comments  |
|---|------------------------|----------------------|------------------------|---|---------------------|---|
| Total   | Top 5<br>Nationalities | Total                | Top 5<br>Nationalities | Total   | Top 5 Nationalities |   |
| 2,628   | Albania                | 4,725                | Iraq                   | 3,549   | Iraq                | Dublin cases<br>and EU-<br>nationals are<br>not included. |
|   | Morocco                |                      | Ukraine                |   | Ukraine             |   |
|   | Brazil                 |                      | Brazil                 |   | Brazil              |   |
|   | Afghanistan            |                      | Albania                |   | Russia              |   |
|   | Pakistan               |                      | Russia                 |   | Afghanistan         |   |

Source: Immigration Office.

*Table C3 : Asylum applications in Belgium in 2016*

| Asylum applications in 2016 |   |  |  |
|-----------------------------|---|--|--|
| Total                       | Number of persons<br>who introduced a first<br>application* | Number of persons who<br>introduced a subsequent<br>asylum application | Top 5 of countries of origin<br>of persons who claimed<br>asylum in 2016 |
| 18,710                      | 14,670  | 4,040  | Afghanistan  |
|                             |   |  | Syria  |
|                             |   |  | Iraq   |
|                             |   |  | Guinea   |
|                             |   |  | Somalia  |

\* This category includes asylum applications made at the border and on Belgian territory, as well as applications from beneficiaries of relocation and resettlement in Belgium.

Source: CGRS, Asylum statistics 2016.

*Table C4 : Number of persons who received an asylum decision in Belgium in 2016*

| Total number of persons who received an asylum decision | Of which:  |   |  |  |
|---|--|---|--|--|
|   | Number of persons who received a decision recognising refugee status | Number of persons who received a decision granting subsidiary protection status | Number of persons who received a decision refusing refugee status and subsidiary protection status | Number of persons who received another asylum decision |
| 27,678  | 12,197   | 3,281   | 7,757  | 4,443  |

Source: CGRS, Asylum statistics 2016.



## Annex D - Studies and Reports of the Belgian Contact Point of the EMN (2009-2017)

The present annex lists the national studies and reports published by the Belgian Contact Point of the EMN between 2009 and 2017. The other EMN National Contact Points (NCPs) produced similar reports on these topics for their (Member) State. For each study, the EMN Service Provider, in cooperation with the European Commission and the EMN NCPs, produced a comparative Synthesis Report, which brings together the main findings from the national reports and places them within an EU perspective.

The Belgian reports mentioned below are available for download on [www.emnbelgium.be](http://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](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 - *Also available in French and Dutch*
- October 2009* Programmes and Strategies in Belgium Fostering Assisted Voluntary Return and Reintegration in Third Countries - *Also available in French and Dutch*
- 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* The Organisation of Reception Facilities in Belgium
- October 2013* The Identification of Victims of Trafficking in Human Beings in International Protection and Forced Return Procedures in Belgium

## 2014

- February 2014* Migrant Access to Social Security – Policy and Practice in Belgium - [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* The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Belgium
- July 2014* Annual Report on Asylum and Migration Policy in Belgium – 2013
- October 2014* Policies, Practices and Data on Unaccompanied Minors in Belgium (2014 Update)
- December 2014* Admitting Third-Country Nationals for Business Purposes in Belgium

## 2015

- June 2015* Determining Labour Shortages and the Need for Labour Migration from Third Countries in Belgium - [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
- Upcoming* Family Reunification of Third Country Nationals in Belgium
- Upcoming* Illegal Employment of Third Country Nationals in Belgium
- Upcoming* Challenges and good practices for establishing applicants' identity in the migration process in Belgium
- Upcoming* The effectiveness of return in Belgium: challenges and good practices linked to EU rules and standards
- Upcoming* The changing influx of asylum seekers in 2014-2016: Belgium's responses

