



# 2017 ANNUAL REPORT ON MIGRATION AND ASYLUM IN BELGIUM

STUDY OF THE BELGIAN CONTACT POINT  
OF THE EUROPEAN MIGRATION NETWORK (EMN)

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The Belgian National Contact Point (NCP) of the European Migration Network (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 aforementioned Belgian entities.

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# Table of contents

<b>I. INTRODUCTION</b>	<b>4</b>
1.1. Objectives and content	4
1.2. Methodology	4
1.3. Terms and definitions	5
<b>II. INSTITUTIONAL AND LEGISLATIVE CONTEXT</b>	<b>6</b>
2.1. Belgian state structure and division of competences	6
2.2. Belgian institutions in the field of asylum and migration	7
2.3. Belgian migration and asylum legislation	8
<b>III. EXECUTIVE SUMMARY</b>	<b>10</b>
<b>IV. LEGAL MIGRATION AND MOBILITY</b>	<b>16</b>
4.1. Context	16
4.2. Legislative changes	16
4.3. Operational changes	24
4.4. Public debate	29
4.5. Future plans	30
<b>V. INTERNATIONAL PROTECTION</b>	<b>32</b>
5.1. Context	32
5.2. Legislative changes	33
5.3. Operational changes	42
5.4. Initiatives from civil society	46
5.5. Public debate	46
5.6. Future plans	50
<b>VI. UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS</b>	<b>52</b>
6.1. Context	52
6.2. Legislative changes	53
6.3. Operational changes	53
6.4. Public debate	65
6.5. Future plans	67
<b>VII. INTEGRATION</b>	<b>68</b>
7.1. Context	68
7.2. Legislative changes	68
7.3. Operational changes	71
7.4. Public debate	76
7.5. Future plans	77

<b>VIII. IRREGULAR MIGRATION</b>	<b>80</b>
8.1. Context	80
8.2. Legislative changes	81
8.3. Operational changes	82
8.4. Public debate	87
8.5. Future plans	87
<b>IX. RETURN</b>	<b>90</b>
9.1. Context	90
9.2. Legislative changes	90
9.3. Operational changes	92
9.4. Public debate	95
9.5. Future plans	96
<b>X. COUNTERING TRAFFICKING IN HUMAN BEINGS</b>	<b>100</b>
10.1. Context	100
10.2. Legislative changes	101
10.3. Operational changes	103
10.4. Public debate	110
<b>XI. MIGRATION AND DEVELOPMENT</b>	<b>112</b>
11.1. Operational changes	112
11.2. Initiatives from civil society	117
11.3. Public debate	117
11.4. Future plans	117
<b>ANNEXES</b>	<b>118</b>
ANNEX A: Abbreviations and specific terms used	118
ANNEX B: Implementation of EU legislation in Belgium in 2017	120
ANNEX C: Studies and Reports of the Belgian Contact Point of the EMN (2009-2017)	123



# Introduction

## 1.1. Objectives and content

The present report is the 14<sup>th</sup> annual report on migration and asylum 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 2017 to 31 December 2017**.

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 organisations, international organisations, universities and research organisations 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 present *Chapter 1 - Introduction* provides information on the objectives, content and methodology of the report. *Chapter 2* provides basic information on the structure of asylum and migration policy in Belgium. *Chapter 3 - Executive summary* outlines the key findings of the report. *Chapters 4 to 11* describe specific developments in the area of legal migration and mobility; international protection; unaccompanied minors and other vulnerable groups; integration; irregular migration; return; actions addressing trafficking in human beings; and migration and development. The *annexes* provide information on the abbreviations and specific terms used in the report and on the implementation of EU legislation in Belgium in 2017.

## 1.2. Methodology

In accordance with Article 9(1) of Council Decision 2008/381/EC establishing the EMN, each NCP is required to provide **an annual 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 Report on Migration and Asylum 2017. The common specifications aim at facilitating comparability between the findings from all (Member) States.

This report, together with the Annual Reports produced by the other 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 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 2017, 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), Myria - the Federal Migration Centre, Unia- the Interfederal Centre for Equal Opportunities, the Federal Public Service Foreign Affairs, the Federal Public Service Justice, as well as the federated authorities competent for economic migration and 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 Glossary on Asylum and Migration**<sup>(2)</sup>.

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

2 Available at: [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)

## 2.1. Belgian state structure and division of competences

Belgium is a **federal state** with a complex state structure. The federal state and the federated entities (Regions and Communities) each 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** (Brussels-Capital, Flanders and Wallonia)<sup>(3)</sup> are responsible for territorial issues, such as the economy, employment, agriculture, water policy, housing, public works, energy, transport, environment, town and country planning, nature conservation, credit, foreign trade, supervision of the provinces, communes and intercommunal utility companies, environment, as well as economic migration. The language-based **Communities**<sup>(4)</sup> (Flemish, French and German-speaking) are responsible for culture, education, the use of languages and matters relating to the individual which concern - on the one hand - health policy (curative and preventive medicine) and - on the other hand - assistance to individuals (protection of youth, social welfare, aid to families, immigrant assistance services, integration of foreign nationals and emancipation of ethno-cultural minorities)<sup>(5)</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>(6)</sup> on the sixth state reform.

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3 The names of the three regional institutions are borrowed from the name of the territory they represent: the Flemish Region, the Brussels-Capital Region and the Walloon Region. Their powers have been extended in the course of the various reforms. During the second reform of the state in 1980, the Flemish and the Walloon Region were given their Parliament and Government. The Brussels-Capital Region, on the other hand, was only granted its institutions during the third reform of the State in 1988-89.

4 The Flemish Community exercises its powers in the Flemish provinces and in Brussels; the French Community in the Walloon provinces, with the exception of German-speaking communes, and in Brussels; the German-speaking Community in the communes of the province of Liège that form the German language area.

5 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 French Community Commission, COCOF, in the Brussels-Capital Region).

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



**Immigration and international protection** 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. 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 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 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 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, which will last until 31 December 2019 at the latest, **transitional arrangements** apply: 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.

## 2.2. Belgian institutions in the field of asylum and migration

The **Immigration Office** 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 applicants’ residence requirements throughout the international protection procedure.

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

Since 2007<sup>(7)</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.).

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

The **Federal Agency for the Reception of Asylum Seekers (Fedasil)** is in charge of the reception of applicants for international protection and certain other categories of foreign nationals<sup>(8)</sup>. It also falls under the supervision of the federal State Secretary for Asylum 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 organisation 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, Myria - the Federal Migration Centre, Unia - the Interfederal Centre for Equal Opportunities, 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.

An **institutional chart**, which provides an overview of the main organisations involved in migration and asylum in Belgium, as well as a short description of their respective competences, is available on the website of the Belgian NCP<sup>(9)</sup>.

## 2.3. Belgian migration and asylum legislation

The central law regarding migration and asylum issues in Belgium is the **law of 15 December 1980 on the entry on the territory, residence, settlement and removal of foreign nationals** (hereafter called the "Immigration Act"), also governing the procedure for international protection and the competences of the institutions for international protection. The **royal decree of 8 October 1981** on the entry on the territory, 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 applicants for international protection and for certain other categories of foreign nationals are regulated by the **law of 12 January 2007** (hereafter called the "Reception Act").

The access to work of foreign nationals is regulated by the **law of 30 April 1999** and the implementing decree of 9 June 1999.

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

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8 The right to reception (material aid) is granted to applicants for international protection, but also to other categories of foreign nationals such as family members of applicants for international protection; unaccompanied foreign minors who did not apply for international protection; minors and their parents in irregular stay on the territory and for whom a Public Centre for Social Welfare has determined that they are in need of help.

9 Available at : <https://emnbelgium.be/publication/institutional-chart-immigration-and-asylum-belgium-update>

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.

# B

## Executive summary

### General political context

No elections were held in Belgium in 2017. 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. Municipal and provincial elections will take place in 2018. Federal, regional and European elections will take place in 2019.

The federal government, in place since October 2014, is led by Prime Minister Charles Michel (MR). It is a coalition government composed of four parties. The State Secretary for Asylum Policy and Migration is Mr. Theo Francken (N-VA). Each year, the State Secretary presents a General Policy Note on asylum and migration, in which he details the priorities for the coming year. A General Policy Note was presented by the State Secretary on 27 October 2016 and on 19 October 2017.

### Legal migration and mobility

The law of 18 December 2016 - which is composed of two parts (only one of which has entered into force so far) - inserted new residence conditions into the Immigration Act. First of all, certain foreign nationals who have been authorized or admitted to reside in Belgium for longer than three months need to provide evidence of their **willingness and efforts to integrate into society**. This part of the law has entered into force: it is applicable to foreign nationals who applied for residence after 25 January 2017. If a foreign national does not make “reasonable efforts” to integrate, the Immigration Office may take this into account when making a decision on ending his/her residence permit.

Second, certain foreign nationals applying for a residence permit will have to sign a declaration indicating that they “understand the fundamental values and norms of society and will act accordingly” (the so-called “**newcomers’ declaration**”). Signing this declaration will be a condition of admissibility for the application for a residence permit. This part of the law has not yet entered into force. Within the Belgian institutional landscape, integration is a competence of the Communities and Regions, and not a federal competence (but migration is). Therefore, an official cooperation agreement still needs to be agreed upon between the federal authorities and the federated entities.

In 2017, the transposition of different **EU-directives** (i.e. Single Permit, ICT, Seasonal Workers and Students and Researchers) was a central focus of the competent Belgian entities. The transposition of these directives proved to be a complex matter in Belgium since it coincided with the ongoing institutional reform of the policy on economic migration following the sixth state reform.

In the framework of the transposition of the **Single Permit Directive** in Belgian legislation, the different competent Belgian entities (i.e. Federal State, Regions and German-speaking Community) agreed on a **cooperation agreement** on the coordination of the policies on work permits and residence permits and the norms regarding the employment and residence of foreign workers. This cooperation agreement will represent the legal basis for all applications by third-country nationals to reside in Belgium for a period of time exceeding 90 days in order to work. This cooperation agreement will need to be approved by the different Parliaments in 2018. A cooperation agreement *implementing* the cooperation agreement on the Single Permit procedure should also be adopted, as well as other legislative texts.

### **International protection including asylum**

A major legal development in the field of international protection in 2017 was the adoption of a **draft law** by the Federal Parliament on 9 November 2017. This law finalized the transposition of the Asylum Procedures Directive and the Reception Conditions Directive. Although many of the stipulations of these directives were already included in Belgian legislation or implemented in practice, the law also introduced some innovative developments. The new law has implications for all stages of the international protection procedure. It was published in the Belgian Official Gazette on 12 March 2018 and came into force on 22 March 2018, after the publication of several royal decrees.

In the second half of 2017, there was a lot of political, parliamentary and public debate on the issue of **Sudanese nationals returned to Sudan** following an identification mission by a Sudanese delegation in Brussels. The Sudanese nationals were part of a group of hundreds of transit migrants who were irregularly staying in the Maximilian Park in Brussels, and who did not apply for international protection. According to information collected by the Tahrir Institute for Middle East Policy, some of the Sudanese nationals were tortured after return to Sudan. On 22 December 2017, the Deputy Prime Minister Jan Jambon asked the Commissioner General for Refugees and Stateless Persons to carry out an **independent enquiry** regarding the risk in case of return to Sudan. The report was handed over to the Deputy Prime Minister on 8 February 2018. One of the main challenges addressed in the report is how to assess the risk of non-refoulement (art. 3 ECHR) in case no applications for international protection are lodged.

### **Unaccompanied minors and other vulnerable groups**

As a result of the increased inflow of unaccompanied minors (UAMs) in Belgium in 2015, a substantial part of the 2016-2017 AMIF funding and of Fedasil's national funding for 2017 was allocated to **projects which aimed at improving the protection and care for UAMs**. Several

projects focused in particular on enhancing the psychological assistance provided to beneficiaries of reception (including UAMs with mental health problems).

Regarding **Fedasil's national funding**, new priorities were added for the 2017 projects. The first new priority was to "increase the participation of beneficiaries of reception in social life". Most projects selected by Fedasil under this priority aimed at facilitating the access of said beneficiaries to existing leisure and sport associations (such as athletics, cricket and football associations), including some that are exclusively accessible to minors (such as scouting). The second new priority was to "strengthen the knowledge of applicants for international protection on values and standards of Belgian society". In this framework, training sessions were organised on gender equality and sexual harassment for Afghan men and women who were 15 years of age and older. Four projects selected by Fedasil under the third, recurrent, objective "meet the specific reception needs and needs of vulnerable groups" were so-called "time-out" initiatives aimed at UAMs over the age of 12 who have difficulties adjusting to their life in the reception network, and to their new life in general. In the framework of these projects, several measures were implemented, such as the organisation of day trips, (theatre) workshops, public performances and the provision of residential care (for youngsters between 14 and 18 years). These measures aimed at providing the youngsters with the opportunity to deal with their experiences in a safe and confidential environment, to help them to "put down roots" in a new environment, and to create a moment of rest for both young people and the staff of the reception facilities.

In collaboration with the Flemish and the French Community and the non-profit organisations Minor-Ndako and Mentor-Escale, Fedasil provided additional support for initiatives geared at improving the **matching and guidance of UAMs and foster families**, and at enhancing the cultural sensitivity of foster care.

Furthermore, a focus was put on **victims of sexual and gender based violence**. This was the case in the framework of the procedure for international protection, with the introduction of training sessions and guidelines on sexual violence and sexual orientation for interpreters and protection officers, and in the reception network, with the introduction of a trajectory to support and refer girls and women who are victims - or in danger of becoming victims - of female genital mutilation and the development of an e-learning module on LGBTI.

## Integration

The **integration programme of the German-speaking Community** became mandatory for certain third-country nationals as of 1 January 2018. It consists of four modules: primary reception, language classes, integration classes and a social and professional orientation. Furthermore, the Info-Integration Centre was accredited by the government of the German-speaking Community as the reference centre for the integration programme.

The ordinance of 11 May 2017 also made the **integration programme in the Brussels-Capital Region** mandatory for certain third-country nationals. However, this ordinance has not yet entered into force, as executive measures still need to be adopted, as well as an agreement

between the Flemish Community, the French Community Commission and the Joint Community Commission. Participation in an integration programme in the Brussels-Capital Region is still currently on a voluntary basis.

The Regional Public Employment Services started or continued to implement measures and projects to facilitate the **integration into the labour market** of third-country nationals (among other target groups). For example, the Flemish Public Employment Service (VDAB) continued to implement its **Action Plan 2016-2018 on “Integration through work”**, which aims at effectively and efficiently guiding foreign language jobseekers with a migration background to available vacancies, while providing the necessary support with respect to language requirements, training and the required skills. Furthermore, on 29 August 2017, a **cooperation agreement** was signed by the State Secretary for Asylum Policy and Migration and the Walloon Minister for Employment in order to establish a structural cooperation between the federal **reception agency Fedasil and the Walloon Public Employment Agency (Forem)**. The agreement’s main aim is to increase the cooperation between the organisations involved in order to prepare applicants for international protection for employment as early as possible.

Several legislative instruments were adopted in 2017 regarding **discrimination**: at the federal level, the law of 15 January 2018 provided social inspection services with the opportunity to organise anonymous tests (mystery calls) to detect discriminatory hiring practices of companies. At the regional level, the Brussels-Capital Region adopted two ordinances. The ordinance of 5 October 2017 focuses on the fight against discrimination in the provision of services (e.g. on the private housing market), whereas the ordinance of 16 November 2017 authorizes regional employment inspectors to carry out tests to detect discrimination in employment.

### **Irregular migration including border control**

A royal decree on the **obligations of air carriers** was adopted on 18 July 2017, in execution of the Belgian Passenger Name Record (PNR) law of 25 December 2016. The Belgian government decided not to limit the scope of the law to airlines, but also to include other international modes of transport, such as international travel by bus, high-speed train and boat. Royal decrees still need to be adopted for these other transport sectors in order to finalize the full transposition of the PNR and Advanced Passenger Information Directives.

Furthermore, the law of 19 September 2017 on the **fight against false declarations of parenthood** made it possible for registrars to postpone or to refuse the registration of a declaration of parenthood. This law also introduced penalties for people falsely declaring parenthood. In October 2017, the Immigration Office created a special unit for the coordination of the fight against this phenomenon.

The question of **migrants in transit** (who often wish to go to the UK) was largely present in public debate in Belgium in 2017. In June, the authorities started a campaign to inform irregularly staying migrants about the possibility to apply for international protection and the option of return. The control of parking lots used by smugglers was also stepped up.

## Return

The laws of 24 February 2017 and 15 March 2017 introduced important changes regarding the return of third-country nationals. This includes changes to the procedure to end a third-country national's residence right and to organize his/her removal **for reasons of public order or national security**, the duration of entry bans, and the procedure for issuing return decisions.

The draft law aiming at **intercepting irregularly staying persons at their homes** got much attention from the press and political parties in 2017. The draft law foresees the possibility for the police to enter the private residence of an irregularly staying migrant (subject to a removal) in order to intercept him/her. Interceptions at home can only be used as a last resort if all other less coercive measures showed no results. This draft law was heavily debated in 2017.

## Actions addressing trafficking in human beings

The law of 30 March 2017 and the subsequent royal decree of 30 March 2017 replaced the order to leave the territory – previously issued to potential victims during the so-called reflection period – by a **temporary residence document**: an annex 15 valid for 45 days.

A **new National Action Plan “Enterprises and Human Rights”** was published. Measures are being taken to promote decent work for all and to prevent human rights violations in enterprises. For example, certain companies and groups are required to report non-financial and diversity information. Actions are also being taken to allow victims to access effective remedy. For example, a brochure was released to increase awareness about remediation mechanisms, including judicial, administrative, legislative or other appropriate means to access effective remedy in Belgium.

Relevant partners, including from administrative, judicial and fiscal institutions, have engaged in **structural and ad hoc information exchange and multidisciplinary (flexi)actions** to fight illegal activities in various sectors. In this context, a new project entitled CONFINE “Towards operational cooperation on local administrative financial investigations in the fight against trafficking in human beings” was launched in January 2017. What's more, the Arrondissement Information and Expertise Centre (ARIEC) was launched on 5 December 2017. It supports the integrated approach at the provincial level, testing the possible roll-out of this approach across the country.

## Maximising the development impact of migration and mobility

In 2017, Belgium's commitment to migration and development related goals was demonstrated at the **European level**. Belgium continued to closely follow up on the European political dialogue on migration issues as well as on the EU instruments that address migration and development, such as the European Fund for Sustainable Development and the EU Trust Fund for stability and addressing the root causes of irregular migration and displacement in Africa.

Belgium was also involved at the **regional and global levels** on issues related to migration and development. In March 2017, Belgium took over the Presidency of the so-called “Rabat Process”



(i.e. a regional migration dialogue for political cooperation amongst the countries along the migration route between Central, Western, Northern Africa and Europe). The Belgian Presidency mainly focused on the preparation of a new Programme of Action 2018-2020 (to be adopted at a Ministerial Conference in May 2018 in Morocco). Furthermore, Belgium was also actively involved in the processes on the “Global Compact on Refugees” and on the “Global Compact for Safe, Regular and Orderly Migration”.

The topic of migration also received a specific attention in some of the Belgian **governmental development cooperation programmes** (e.g. Guinea Conakry, Mali and Morocco), as well as in some of the **non-governmental international cooperation programmes**.

Furthermore, the Immigration Office set up a **bilateral project with Tunisia** (to be implemented in 2018), which aims at improving the technical and professional skills of 30 young Tunisians graduates by means of trainings in Belgian and/or Tunisian companies in view of permanent employment. The International Organisation for Migration is the implementing partner on the ground.

## 4.1. Context

### Key figures

Table 1: First residence permits issued by Belgium in 2017, by reason.

Total residence permits	Family reasons	Education reasons	Remunerated activities reasons	Other reasons
56,246	28,653	6,896	5,948	14,749

Source: Eurostat, [migr\_resfirst], data extracted on 17 July 2018.

Table 2: Number of visas issued by Belgium in 2017.

Total visas	(Schengen) short stay visas (so called A and C visas, the latter including LTV visas – stays of up to 90 days)	National visas (so called D visas)
217,148	185,898	31,250

Source: Immigration Office.

## 4.2. Legislative changes

### The “newcomers’ declaration” and provable integration efforts

The law of 18 December 2016<sup>(10)</sup> - which was published in the Belgian Official Gazette on 8 February 2017 - inserted **new residence conditions** into the Immigration Act. The law is composed of two parts (only one of which has entered into force so far).

First of all, certain foreign nationals who have been authorized or admitted to reside in Belgium for longer than three months need to provide evidence of **their willingness and efforts to integrate into society**. This part of the law entered into force in 2017: it is applicable to foreign

<sup>10</sup> Law of 18 December 2016 inserting a general residence condition into the Immigration Act, Belgian Official Gazette, 8 February 2017.

nationals who applied for a residence permit at a Belgian consular/diplomatic post or at a Belgian municipality after 25 January 2017.

Foreign nationals with a temporary residence permit will need to provide evidence of their willingness to integrate **by the first expiration date of their temporary residence permit**. Furthermore, the Immigration Office can check whether the required integration efforts were made for **four years after the expiration of a one-year period following the granting of a limited/unlimited residence permit** to a foreign national<sup>(11)</sup>.

If a foreign national does not make “reasonable efforts” to integrate, the Immigration Office may take this into account when making a decision on **ending his/her residence permit**. However, this decision must comply with the principle of proportionality. Before taking such a decision, the Immigration Office takes into account the duration of the foreign national’s stay in Belgium, the nature and the strength of his/her family ties, and the existence of family, social and cultural ties with his/her country of origin.

As stipulated by the law, the Immigration Office takes into account the **following criteria** – in particular but not exclusively – when assessing a foreign national’s efforts to integrate into society:

- Attend an integration course provided by the competent authority;
- Be economically active, either as an employee, a civil servant or a self-employed person;
- Provide a degree, a certificate or a proof of registration granted by an officially recognized institution;
- Attend a vocational training recognized by the competent authority;
- Have knowledge of the language of the municipality where the foreign national is officially registered;
- Actively participate in civil society organisations;
- Have no criminal record.

This residence condition **does not apply** to certain categories of foreign nationals, such as EU citizens, applicants for international protection, beneficiaries of international protection, stateless persons, students, third-country nationals who are long-term residents in another EU-member

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<sup>11</sup> For further information, see 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%20verblijfsvoorwaa.aspx>

state, certain family members<sup>(12)</sup> etc. Furthermore, minors, sick persons and protected persons are **exempted** from these conditions.

Second, certain foreign nationals applying for a residence permit will have to sign a declaration indicating that they “understand 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 application for a residence permit. This part of the law has **not yet entered into force**. Within the Belgian institutional landscape, integration is a competence of the Communities and Regions, and not a federal competence (but migration is). Therefore, an official cooperation agreement still needs to be agreed upon between the Communities/Regions and the federal authorities.<sup>(13)</sup> Negotiations between the federal and federated authorities are ongoing.

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

The law of 18 December 2016<sup>(14)</sup> introduced the possibility for municipalities to collect a fee when **foreign nationals apply to renew, extend, or replace certain residence permits**, in order to cover the costs related to the processing of these applications. Municipalities can choose to collect this fee or not, and can determine the amount of the fee (within a fixed limit).

The royal decree of 5 March 2017<sup>(15)</sup> - which entered into force on 30 March 2017 - provided further details as to this fee:

- Municipalities can request this fee for the certificate of registration in the Registry for Foreigners – **temporary stay** (that is to say for the residence card type A).
- The maximum amount of the fee that the municipalities can request is **EUR 50** (on top of the fee covering the production costs of the residence card<sup>(16)</sup>).
- The municipalities can only request this fee **once a year maximum**.

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12 The residence condition does not apply to family members of EU citizens and does not apply to family members of beneficiaries of international protection, and to family members of recognized stateless persons. The condition does apply to family members of Belgians; family members of TCNs (not beneficiaries of international protection or recognized stateless persons) including family members who came to Belgium with a humanitarian visum (even though they might be family members of beneficiaries of international protection).

13 Belgian House of Representatives, General Policy Note on Asylum and Migration, 19 October 2017, DOC 54 2708/017, p. 4.

14 Law of 18 December 2016 modifying the Law of 14 March 1968 abolishing the laws related to taxes for foreign nationals coordinated on 12 October 1953, Belgian Official Gazette, 2 February 2017.

15 Royal decree of 5 March 2017 determining the residence permits for which the municipalities may collect a fee for their renewal, extension, or replacement and the maximum amount, Belgian Official Gazette, 20 March 2017.

16 The fee for the production of the residence card is determined as follows: a base amount is set at the federal level on an annual basis, to which a municipal tax (determined by the municipalities) is added. See: <http://www.ibz.rn.fgov.be/fr/documents-didentite/eid/tarifs/>. For 2017, see: [http://www.ibz.rn.fgov.be/fileadmin/user\\_upload/fr/cartes/eid/circulaires/EXTREL\\_NOT\\_Tarifs\\_ID\\_2017\\_20160906\\_F.pdf](http://www.ibz.rn.fgov.be/fileadmin/user_upload/fr/cartes/eid/circulaires/EXTREL_NOT_Tarifs_ID_2017_20160906_F.pdf) and for 2018, see: [http://www.ibz.rn.fgov.be/fileadmin/user\\_upload/fr/cartes/eid/circulaires/eID\\_Tarief\\_F\\_20170912.pdf](http://www.ibz.rn.fgov.be/fileadmin/user_upload/fr/cartes/eid/circulaires/eID_Tarief_F_20170912.pdf)

## Increase of the amount of the fee to be paid when applying for certain residence permits

The amount of the mandatory fee foreign nationals have to pay when **applying for certain residence permits** increased in 2017. Since March 2015, foreign nationals need to pay such a fee in order to cover the administrative costs related to the processing of the residence permit applications. The payment of the fee is an admissibility criteria for the application for certain residence permits.

The amount – as it was introduced in 2015 – varied according to the category between EUR 0, 60, 160 or 215. The royal decree of 14 February 2017<sup>(17)</sup> – which entered into force on 1 March 2017 – increased some of these amounts:

- EUR 200 for the foreign nationals previously paying EUR 160;
- EUR 350 for the foreign nationals previously paying EUR 215.

## Economic migration: effects of the sixth state reform

In 2017, the Regions and the German-speaking Community focused further on the concrete and practical integration of their new competences on economic migration following the **sixth state reform** which entered into force in July 2014<sup>(18)</sup>. The Regions and the German-speaking Community can adopt **their own legislation** in this domain (the existing federal legislation applies as long as they have not adopted their own legislation). **Flanders** formally adopted dispositions of economic migration into its legislation with the decree of 23 December 2016. Most dispositions of this decree entered into force on 1 January 2017.<sup>(19)</sup> **Brussels** already included dispositions on economic migration (regarding administrative penalties) into its legislation with the Ordonnance of 9 July 2015, which entered into force on 1 September 2016. Regarding administrative penalties, **Wallonia** is preparing a decree on inspections (independent of the legislation on the occupation of foreign workers).

## Transposition of the Single Permit Directive, ICT Directive, Seasonal Workers Directive and Students and Researchers Directive

In 2017, the transposition of **different EU Directives (i.e. Single Permit, ICT, Seasonal Workers and Students/Researchers)** was a central focus of the competent Belgian entities. The transposition of these Directives proved to be a complex matter in Belgium since it coincided with the ongoing institutional reform of the policy on economic migration. The new distribution of competences meant that different entities (federal and federated) were involved in the transposition of the Directives.

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17 Royal decree of 14 February 2017 modifying the royal decree of 8 October 1981 regarding the entry, residence, settlement and removal of foreign nationals, Belgian Official Gazette, 21 February 2017.

18 The law on the Sixth State Reform, which entered into force in July 2014, transferred a large set of competences from the federal level to the federated entities. Among others, the Regions and the German-speaking Community became competent for the legislation, application, control and maintenance of work permits and professional cards. The entry and right of residence of foreign nationals on the Belgian territory remained a federal competence.

19 Decree of 23 December 2016 on the implementation of the sixth state reform and including various provisions regarding the field of employment and social economy, Belgian Official Gazette, 9 February 2017.

Regarding the transposition of the **Single Permit Directive**, the different competent Belgian entities (i.e. Federal State, Regions and German-speaking Community) elaborated a **cooperation agreement** on the coordination of the policies on work permits and residence permits and the norms regarding the employment and residence of foreign workers. This cooperation agreement will represent the legal basis for all applications by third-country nationals to reside in Belgium for a period of time **exceeding 90 days** in order to work (including ICTs, seasonal workers, or researchers). The competent authorities reached an agreement on 2 February 2018<sup>(20)</sup>. In 2018, this cooperation agreement will need to be adopted by the different Parliaments involved.<sup>(21)</sup> Furthermore, a cooperation agreement *implementing* the cooperation agreement on the Single Permit procedure should also be adopted, as well as other legislative texts.

Given the delay in the full transposition of the Single Permit Directive, an **infringement procedure** is ongoing against Belgium (see Annex B of this report).<sup>(22)</sup>

The **transposition of the Seasonal Workers and ICT Directives** is closely linked to the transposition of the Single Permit Directive, as the cooperation agreement on the Single Permit procedure will represent the legal basis for all applications by third-country nationals to reside in Belgium for a period of time **exceeding 90 days** in order to work, including ICTs and seasonal workers.

Furthermore, a draft **Cooperation Agreement** concerning third-country national workers whose stay in Belgium will **not exceed 90 days** and short-term intra-EU mobility (including ICTs and seasonal workers) is also being elaborated (as these categories of third-country nationals are not included in the scope of the Cooperation Agreement on the Single Permit procedure of 2 February 2018).

As the deadlines for the transposition of **Seasonal Workers Directive** (30 November 2016) and of the **ICT Directive** (29 November 2016) expired, the Commission also opened up **infringement procedures** against Belgium for these two Directives (see Annex B of this report).

Regarding the Directive on conditions of admission of third-country nationals for the **purposes of studies, pupil exchange, unremunerated training or voluntary service**, the transposition deadline is **23 May 2018**. In 2017, the competent Belgian bodies were working on draft legislation to transpose the provisions of the Directive into national legislation. Several changes regarding the legislation on students **are foreseen**.

Researchers and interns whose stay in Belgium will **exceed 90 days** are included in the scope of the Cooperation Agreement of 2 February 2018, and the implementing cooperation agreement.

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20 The draft cooperation agreement was signed by the competent ministers in October 2017 and the Council of State gave its advice on it at the end of December 2017. To comply with the advice, modifications were made and an agreement was reached on the modified version by the competent authorities on 2 February 2018.

21 A federal law approving the cooperation agreement was adopted by the federal House of Representatives on 15 March 2018. The Parliaments of the Flemish Region, the Walloon Region and the Brussels-Capital Region have also adopted this cooperation agreement in March 2018, and the Parliament of the German-speaking Community in April 2018.

22 See: European Commission, February infringement package: key decisions, Factsheet, 15 February 2017. Available at: [http://europa.eu/rapid/press-release\\_MEMO-17-234\\_en.htm](http://europa.eu/rapid/press-release_MEMO-17-234_en.htm).

Furthermore, as mentioned above, a draft **Cooperation Agreement** concerning third-country national workers whose stay in Belgium will **not exceed 90 days** and short-term intra-EU mobility (e.g. researchers or interns) is also being elaborated.

## **EMN Activities** **2017 EMN Inform**

### **Retaining third-country national students in the EU**

In 2017, the EMN published an Inform on the policies and practices of EU Member States to **attract third-country national students** to the EU and to **encourage them to stay in the EU** after the completion of their studies.

This Inform summarizes the main findings of an EMN ad-hoc query, and is also based on the EMN Synthesis Report “the Immigration of International Students to the EU” (2012).

#### **Some of the main findings of the Inform:**

- The number of international students in the EU has been rising steadily within the last years. However, the **percentage of graduates choosing** to stay in the EU after the end of their studies remains relatively low.
- In general, Member States are increasingly interested in incorporating former international students into their labour markets, and have changed their national immigration laws to **incentivise them to stay** (e.g. lowered salary requirements; residence permit allowing them to stay for the purpose of job searching or starting a business; etc.).
- With a view to **preventing misuse** of the residence permits granted, the majority of Member States require third-country nationals to prove that the permit is used for its main purpose.
- The majority of Member States do not have a national strategy for the retention of third-country national students, nor a national coordinating body for this strategy. Instead, **several actors are usually involved**, such as the Ministries of Interior and higher education institutions.

**More information** is available on the website of the Belgian Contact Point of the EMN:

<https://emnbelgium.be/publication/retaining-third-country-national-students-eu-emn-inform>

## EMN Activities

### 2017 EMN Study Inform

#### Attracting and retaining foreign start-up founders in the EU

In January 2018, the EMN published an Inform on the **policies and practices of Member States to attract and retain third-country national foreign start-up founders**. More precisely, it reviewed the start-up schemes currently in place in the EU – addressing both their successes and challenges - and also focused on the question of retention by trying to understand what makes – and keeps – a region attractive for third-country national entrepreneurs.

The Inform is based on the results of an EMN ad-hoc query, as well as on the conclusions of a workshop of the EMN Annual Conference “The EU in the Global Race for Talents: Challenges and Solutions in Strengthening the EU’s Competitiveness”, which took place in September 2017 in Estonia.

#### Some of the main findings of the Inform:

- In recent years, there has been a **proliferation of start-up schemes across EU Member States**. 12 Member States now have such a scheme in place.
- The common aim of start-up schemes is **to develop entrepreneurial ecosystems, fuel economic growth and innovation**, and make the country more competitive in the globalised knowledge economy.
- Although the admission conditions vary across Member States, having an **innovative idea is a common condition** to all start-up schemes. Yet Member States define “innovation” in different ways.
- Member States with no special regulation for start-ups can also be successful in attracting foreign entrepreneurs, especially if they have a **reputation for being a tech hub**.
- Third-country national start-up founders often choose to relocate to places where they think they have the highest likelihood of succeeding. This means that besides migration policies, the **general business environment is important**.

**More information** is available on the website of the Belgian Contact Point of the EMN:

<https://emnbelgium.be/publication/attracting-and-retaining-foreign-startup-founders-eu-emn-inform>



## Work permits for family members of foreign nationals who are long-term residents in another Member State of the EU

The royal decree of 8 October 2017<sup>(23)</sup> - which modifies the royal decree of 9 June 1999 on the employment of foreign nationals - introduced certain changes regarding the requirement to obtain a work permit for **family members of foreign nationals who obtained a long term resident status in another Member State** and reside in Belgium. Family members of the above mentioned category of migrant are **exempted from the requirement to obtain a work permit** when the long term resident is himself/herself exempted from this requirement (i.e. after having worked for an effective and uninterrupted period of 12 months in a shortage occupation). However, family members will still need to obtain a work permit as long as the long term resident also requires one.

### EMN Activities 2017 EMN Study

#### Family reunification of third-country nationals in Belgium and in the EU

In 2017, the EMN carried out a **study on family reunification to the EU**. The study aims at comparing national policies and/ or practices regarding family reunification between the different EU Member States plus Norway, and at providing up-to-date information on the latest developments in this area. More precisely, the study examines the eligibility criteria for the sponsor and the family members, the requirements to be met for family reunification, the procedural aspects of the application for family reunification, the rights granted after family reunification, and the integration measures in place. The study also provides an overview of relevant national and international case law.

#### Some of the main findings of the Synthesis Report:

- As one of the **main avenues for legal migration** to the EU, family reunification accounts for approximately a third of all arrivals of third-country nationals. In 2015, more than 440,000 first permits for family reasons were issued to third-country nationals (reuniting with a third-country national sponsor) in the EU Member States plus Norway.
- There are **both commonalities and differences between (Member) States' policies and practices** on family reunification, which depend to a great extent on (Member) States' discretion, despite being guided by the framework established by the Family Reunification Directive (2003/86/EC) at EU level. **Refugees and beneficiaries of**

23 Royal decree of 8 October 2017 modifying the royal decree of 9 June 1999 regarding the implementation of the law of 10 April 1999 on the employment of foreign workers, on the family members of long-term residents, Belgian Official Gazette, 23 October 2017.

**subsidiary protection** overall appear to benefit from a similar level of access to family reunification across the EU.

- The study highlights a number of **new (or modified) practices** which have been adopted by some (Member) States since 2011, which could be useful for policy-makers to contribute to policy/ practice to promote the right to family reunification in the EU.
- The review of some of the **relevant case law** in the field of family reunification undertaken within this study points to the significant impact of courts' interpretation of provisions on (Member) States' policies and practices.

The **Belgian report**<sup>(24)</sup>, the **comparative EU Synthesis Report** and the **EMN Inform** (which summarizes the main findings of the EU Synthesis Report) are available on the website of the Belgian Contact Point of the EMN:

<https://emnbelgium.be/publication/family-reunification-tcns-belgium-and-eu-national-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\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/studies_en)

## The Belgian Migration Code

The Coalition Agreement of 9 October 2014<sup>(25)</sup> stipulated that the existing Belgian immigration and asylum legislation would be compiled within a **single "Migration 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. In 2017, the drafting of this Migration Code was ongoing.

## 4.3. Operational changes

### Information on the recognition of diplomas obtained abroad

The **English version of the website** of the Department for the academic and professional

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24 The Belgian report was drafted by the Belgian Contact Point of the EMN in collaboration with Prof. S. Saroléa (UCL) and J. Hardy (UCL).

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

recognition of diplomas of higher education obtained abroad of the French Community was put online in January 2018<sup>(26)</sup>. It provides information on the procedures for the recognition of diplomas of higher education.

### Efforts to avoid “social dumping” and erosion of labour standards

**At the federal level**, the laws of 17 June 2016 on public contracts and concessions entered into force on 30 June 2017. These laws and the executing decrees transpose three directives into the Belgian legislation (Directives 2014/23/EU, 2014/24/EU and 2014/25/EU). In the framework of the transposition procedure, a specific focus was put on **the fight against the phenomenon of social dumping** in the framework of public contracts and concession contracts<sup>(27)</sup>.

**A manual** was developed to provide the Belgian contracting authorities with **practical guidelines** on how to fight against social dumping. The manual focuses on the public procurement procedure, but also includes guidelines on how to fight against social dumping during the execution of the contract<sup>(28)</sup>. The manual includes – inter alia - the following measures:

- Obligation to reject a tender that violates the environmental, social or labour law which is subject to criminal prosecution;
- Possibility to reject a tender that violates the environmental, social or labour law which is not subject to criminal prosecution;
- Compulsory exclusion due to the employment of irregularly staying third-country nationals;
- Compulsory exclusion due to child labour and trafficking of human beings.
- ...

In addition to the above mentioned manual, a **charter with commitment proposals** for the contracting authorities was elaborated. The use of this charter was made **mandatory for the federal authorities** through the Circular of 10 July 2017<sup>(29)</sup>. Furthermore, on 19 January 2018, the Council of Ministers approved a guide, charters and a circular concerning the social dumping in the framework of public contracts and concessions **in specific sectors**.

**At the regional level**, the Regions were involved through the Social Information and Investigation Service in a **federal campaign** against the erosion of labour standards.<sup>(30)</sup>

Some of the Regions also implemented specific initiatives. The Government of the **Walloon Region** developed a series **of tools to address the phenomenon of social dumping on public**

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26 See: [http://www.equivalences.cfwb.be/index.php?id=equisup\\_accueil&L=1](http://www.equivalences.cfwb.be/index.php?id=equisup_accueil&L=1)

27 See : <http://www.presscenter.org/fr/pressrelease/20170630/concretisation-des-engagements-de-lutte-contre-le-dumping-social>

28 See: <http://www.publicprocurement.be/fr/documents/guide-de-lutte-contre-le-dumping-social-dans-les-marches-publics-et-les-concessions-0>

29 Circular on the fight against social dumping in public contracts and concessions, Belgian Official Gazette, 17 July 2017.

30 Source : Brussels-Capital Region, Economic Migration Coordination.

**construction sites.** This includes the fact that construction firms (in the framework of public contracts) have to sign a declaration for fair competition and against social dumping, which details a certain number of provisions related to working/employment/remuneration conditions to be met by the firms. This declaration also has to be signed by all subcontractors. Other tools include a template with specific clauses against social dumping that can be included in the specifications of the public contract, and a document stating the commitment of the contracting authority to promote fair competition and fight against social dumping (which can be annexed to the public contract). A guide on these tools was published in October 2017.<sup>(31)</sup>

In March 2017, the **German-speaking Community** decided to translate the above mentioned tools for public construction sites and to recommend their use to local authorities.<sup>(32)</sup>

## EMN Activities 2017 EMN Study

### Illegal Employment of third-country nationals in Belgium and in the EU

At the beginning of 2017, the EMN published a **study on the illegal employment of regularly and irregularly staying third-country nationals in the EU Member States**. The study aims at mapping the measures in place at Member State level to fight against illegal employment. More precisely, the study examines different aspects of illegal employment: (i) preventive measures and incentives for employers and employees; (ii) identification of illegal employment of third-country nationals and the different authorities involved; (iii) sanctions for employers; and (iv) outcomes for employees, as well as the protective measures in place.

#### Some of the main findings of the Synthesis Report:

- The illegal employment of third-country nationals is most prevalent in the **following sectors**: agriculture, construction, manufacturing, hospitality and food services. The types of businesses considered at high risk are in the labour-intensive and low-skilled sectors.
- In the majority of Member States, **labour inspectorates** are responsible for identifying illegal employment. Inspections are carried out based on the results of risk assessments, other methods of inspection planning, or signals from the public or third-country nationals. The effective cooperation and exchange of information between different authorities involved in identification was identified as a success factor. An effective complaints mechanism as a protective measure also contributes to successful identification.

31 See: [http://developpementdurable.wallonie.be/sites/default/files/2018-01/Lutte%20contre%20le%20dumping\\_Guide3\\_2017\\_10\\_19.pdf](http://developpementdurable.wallonie.be/sites/default/files/2018-01/Lutte%20contre%20le%20dumping_Guide3_2017_10_19.pdf)

32 See: [http://www.ostbelgienlive.be/desktopdefault.aspx/tabid-5293/9210\\_read-50164/](http://www.ostbelgienlive.be/desktopdefault.aspx/tabid-5293/9210_read-50164/)

- The most common **sanction for employers** is fines. Other sanctions include: imprisonment, confiscation of financial gains and equipment, temporary/definitive closure, etc.
- Following identification of an illegally employed third-country national, there are several **possible outcomes**, including return, possibly preceded by detention, fines, identification as victims of trafficking in human beings and regularisation of residence/work status.
- In most Member States, **third-country nationals** who are found to be illegally employed can make claims against their employer for compensation of unpaid wages. In most Member States, third parties with legitimate interest may act on behalf or in support of TCNs.
- However, some Member States reported that in practice third-country nationals seldom file a **complaint** about their working conditions. They can be reluctant to cooperate with police forces or inspectorates, because of the possible outcomes (e.g. a return decision), and due to **challenges** participating in proceedings and proving their employment.

The **Belgian report**<sup>(33)</sup>, the **comparative EU Synthesis Report and the EMN Inform** (which summarizes the main findings of the EU Synthesis Report) are available on the website of the Belgian Contact Point of the EMN:

<https://emnbelgium.be/publication/illegal-employment-third-country-nationals-belgium-and-eu-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\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/studies_en)

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33 The Belgian report was drafted by P. Vanden Broeck (Federal Public Service Employment, Labour and Social Dialogue), in collaboration with the Belgian Contact Point of the EMN.

## EMN Activities

### 2017 EMN Events

#### Event on the illegal employment of third-country nationals in Belgium and in the EU

In the framework of the publication of the EMN study on the illegal employment of third-country nationals, the Belgian Contact Point of the EMN organized a **half-day roundtable** dedicated to this topic. The event, which took place on 5 October 2017, gathered some 50 key stakeholders to discuss the illegal employment of third country nationals in Belgium and the EU. P. Vanden Broeck (Federal Public Service Employment, Labour and Social Dialogue) first presented the main findings of Belgian EMN report on the illegal employment of third country nationals in Belgium. Two other presentations – by the NGOs Fairwork Belgium and PICUM – focused on the consequences of illegal employment for (irregularly staying) migrant workers, including risks and protective measures.

**More information** is available on the website of the Belgian Contact Point of the EMN:

<https://emnbelgium.be/news/belgian-experts-gather-event-irregular-employment-third-country-nationals-organized-belgian>

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

Following the operationalization of the Visa Information System (VIS)<sup>(34)</sup>, the Federal Public Service (FPS) Foreign Affairs organized a **regional conference** in March 2017 in Abidjan (Ivory Coast) for the consuls, visa agents and Document Verification Officers of the Belgian diplomatic posts of Western and Central Africa. Staff members of the Immigration Office and the Federal Police also participated in this conference. The conference focused on evaluating the functioning of the VIS, including the link with irregular migration and the use of fraudulent documents. In January 2018, a similar conference was organized in Tunis (Tunisia) for staff members of the Belgian diplomatic posts in Northern Africa and Nigeria.

#### Visa on web

In 2017, an **electronic system of appointments** in the framework of visa applications was linked to the visa-on-web application (in principle, all visa applications have to be registered electronically via the official website). This electronic system of appointments should be of benefit to the service dealing with visa applications and should facilitate the processing of visa applications.

<sup>34</sup> The Visa Information System (VIS) was installed in the last seven regions in 2015 (i.e. the Eastern neighborhood countries; the Russian Federation; China, Japan and neighbouring countries; India, Pakistan and neighboring 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.

## Outsourcing of the reception of visa applications to private companies

In 2016, the reception of visa applications was outsourced to private companies for about **20 Belgian diplomatic posts**. The main aim of the outsourcing operation was to improve the reception of visa applications and to facilitate the lodging of applications for certain people, as the offices of the selected private companies are often located closer to the place of residence of applicants than the diplomatic posts. **In 2017, a public tender was launched** for the outsourcing of the reception of visa applications for 12 other diplomatic posts.<sup>(35)</sup> When this process will be finalized, around 80% of all visa applications for Belgium will be processed in the reception stage by private companies. This should enable the Belgian posts to process more applications in a more secure environment.<sup>(36)</sup>

## Mobile kits for visa applications

A budget was allocated for enabling collaborators of the visa section to travel on a regular basis with **mobile kits** to cities in China with no Visa Application Centres in order to **register the biometric data of travellers**, which is necessary for issuing a Schengen visa.<sup>(37)</sup> This project is implemented in collaboration with travel agencies and aims at stimulating tourism from China to Belgium.

## Schengen evaluation

Following the Schengen evaluation of 2015 and the subsequent action plans, **progress reports** 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). With regard to the functioning of SIS II, a **new action plan** has been elaborated, following the 2016 evaluation.

## 4.4. Public debate

Although legal migration was not in the core of the public debate on migration, different aspects of legal migration were discussed in 2017. First of all, the topic of **family reunification** – including family reunification with a beneficiary of international protection in Belgium – was covered in the media and discussed in Parliament (e.g. statistics, conditions, etc.)<sup>(38)</sup>.

What's more, the question of the new residence conditions (i.e. **integration efforts and "newcomers' declaration"**) – which were largely discussed in 2016 – continued to be present in public debate in 2017.

35 Jordan, Qatar, Kuwait, Lebanon, Irak, Iran, Cameroon, Senegal, Ivory Coast, Rwanda, Uganda and Ethiopia.

36 Source: Federal Public Service Foreign Affairs, Visa-section.

37 Source: Federal Public Service Foreign Affairs, Visa-section.

38 See for example: "En 2016, la demande de regroupement familial a augmenté de 75% », La Libre Belgique, 19 April 2017; or Belgian House of Representatives, Question n° 1036 of the MP Barbara Pas of 20 January 2017 to the State Secretary for Asylum Policy and Migration, QRVA 54 135, pp. 524-525.

Furthermore, several press articles and parliamentary questions addressed the issue of **social fraud and social dumping** and its negative effects<sup>(39)</sup>.

Other topics discussed in 2017 included – inter alia – the issue of the **late transposition by Belgium of the Single Permit Directive** (and other Directives) and the ongoing infringement procedures of the European Commission against Belgium<sup>(40)</sup>; as well as the **possibility for municipalities to collect a fee** when foreign nationals apply to renew, extend, or replace certain residence permits; and the **increase of the fee** to be paid by foreign nationals when applying for certain permits<sup>(41)</sup>.

## 4.5. Future plans

### Transposition of the Single Permit Directive, ICT Directive, Seasonal Workers Directive and Students and Researchers Directive

As described above, there are various planned developments regarding the transposition of several EU Directives (**i.e. Single Permit, ICT, Seasonal Workers and Students/Researchers**).

In 2018, the different competent Parliaments will need to approve the Cooperation Agreement of 2 February 2018 on the Single Permit procedure<sup>(42)</sup>. This cooperation agreement will represent the legal basis for all applications by third-country nationals to reside in Belgium for a period of time **exceeding 90 days** in order to work (including – for example – ICTs, seasonal workers, or researchers). An *implementing* Cooperation Agreement should also be adopted by the relevant authorities.

Furthermore, a **cooperation agreement implementing the cooperation agreement on the Single Permit procedure** – which is currently being negotiated by the competent entities – should also be adopted. It will focus on the creation of specific new residence permits and on the distribution of costs between the Federal State and the federated entities. Other legislative texts (such as modifications to the Immigration Act) will also need to be adopted.

What's more, a draft **cooperation agreement** concerning third-country national workers whose stay in Belgium will **not exceed 90 days** and short-term intra-EU mobility (including ICTs and seasonal workers) is also being elaborated (as these categories of third-country nationals are not included in the scope of the Cooperation Agreement of 2 February 2018).

Regarding more specifically the Directive 2016/801 on **students and researchers**, it is due to be

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39 See for example : « Recours record à la main d'œuvre étrangère », L'Echo, 17 February 2017.

40 See for example: "La Commission menace la Belgique de 125.000 euros d'astreintes par jour », L'Echo, 20 October 2017; or Belgian House of Representatives, Question n° 21118 of the MP Emir Kir of 20 January 2017 to the State Secretary for Asylum Policy and Migration, CRIV 54 COM 774, pp. 17-18.

41 See for example: "Gemeenten mogen vreemdeligentaks aanrekenen", De Tijd, 22 February 2017.

42 A federal law approving the cooperation agreement was adopted by the federal House of Representatives on 15 March 2018. The Parliaments of the Flemish Region, the Walloon Region and the Brussels-Capital Region have also adopted this cooperation agreement in March 2018, and the Parliament of the German-speaking Community in April 2018.



transposed in Belgian legislation by May 2018. The competent Belgian bodies are working on draft legislation to **transpose the provisions** of the Directive into national legislation. Several changes have been announced, including<sup>(43)</sup>:

- **General and specific residence conditions** to be met by the categories of migrants covered by the Directive will be defined. These conditions should allow a more efficient control. The provisions related to the length of stay, and grounds for refusal, withdrawal and non-renewal of residence permits will also be modified and completed if necessary.
- Students should have the possibility to reside in Belgium for an **additional year following the completion of their studies in order to seek employment** – provided they have the necessary resources to sustain themselves.<sup>(44)</sup>
- Facilitating the **intra-European mobility** of third-country researchers and students will be addressed.
- A certain number of measures to **limit misuse of the student migration channel** are planned.

### Planned changes regarding the legislation on family reunification

In his General Policy Note of October 2017, the State Secretary for Asylum Policy and Migration announced that further changes to the legislation on family reunification would be made in 2018, in order to take into account the interpretations of the Constitutional Court in its Judgement n° 121/2013 and to better fight against abuses<sup>(45)</sup>.

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43 Belgian House of Representatives, General Policy Note on Asylum and Migration, 19 October 2017, DOC 54 2708/017.

44 Source: Immigration Office.

45 Belgian House of Representatives, General Policy Note on Asylum and Migration, 19 October 2017, DOC 54 2708/017, p. 5.

## 5.1. Context

### Some figures

In 2017, 19,688 applications for international protection were lodged in Belgium. This includes 1,309 refugees who were resettled to Belgium and 895 applicants for international protection who were transferred from Greece or Italy in the framework of relocation.<sup>(46)</sup>

### Background information

The vast majority of applicants for international protection in Belgium do not enter the territory through the official Schengen borders such as the airports. Due to the fact that most of them are not subject to border controls when they enter the Belgian territory, there is no detection of the first arrival on the territory.

The **Immigration Office** is the authority in Belgium which is competent for the registration<sup>(47)</sup>, the making<sup>(48)</sup> and lodging<sup>(49)</sup> of applications for international protection (which in principle takes place at the premises of the Immigration Office). At the border, applications for international protection can be made with the border police section of the Federal Police, and in penitentiary institutions with the prison director. These authorities transfer the application for international protection to the Immigration Office.

46 Source: <https://www.cgrs.be/en/news/asylum-statistics-survey-2017>

47 After an application for international protection has been made, it must be registered by the competent authorities within the given timeframe - no later than three working days if the application has been made to an authority responsible for registering it or no later than six working days in case the application has been made to other authorities, such as the police, border guards, immigration authorities and/or personnel of detention facilities. Under exceptional circumstances, when a large number of simultaneous applications make it very difficult in practice to respect the given time limits, it can be extended to 10 working days.

48 Making an application for international protection means the act of expressing, in any way and to any authority, one's wish to obtain international protection. Anyone who has expressed his/her intention to apply for international protection is considered to be an applicant with all the rights and obligations attached to this status.

49 Lodging an application for international protection means for the applicant to provide information/documents to complete the file created at the time of registering the application. Lodging of the application triggers the start of the first-instance examination. Member States may set rules on how and where lodging is to take place. Source: EASO/FRONTEX, Practical Guide Access to the Asylum Procedure, pp. 4-5.

The Immigration Office also determines whether Belgium is responsible for processing an application for international protection under Regulation (EU) No 604/2013 (Dublin III Regulation). The Immigration Office is making use of the common and specific leaflets<sup>(50)</sup> provided by the European Commission, completed with specific national information.

If Belgium is responsible for handling the application for international protection, the file is transferred to the **Office of the Commissioner for Refugees and Stateless Persons (CGRS)** who can decide to grant refugee status or subsidiary protection or reject the asylum application. The CGRS can also withdraw or revoke a protection status and is also the responsible authority to issue certificates and documents of civil status to recognised refugees and stateless persons.

## 5.2. Legislative changes

### Making, registering and lodging an application for international protection

**The law of 21 November 2017** - which was adopted by the Federal Parliament on 9 November 2017<sup>(51)</sup> - finalized the transposition of the Asylum Procedures Directive 2013/32/EU and the Reception Conditions Directive 2013/33/EU. Although many of the stipulations of these directives were already included in Belgian legislation or implemented in practice, the law also introduced some innovative developments. The new law has implications **for all the stages of the international protection procedure**. It was published in the Belgian Official Gazette on 12 March 2018 and came into force on 22 March 2018. Furthermore, the **law of 17 December 2017** also came into force on 22 March 2018. It modifies the terminology and the time limits for the appeal procedure with the Council for Aliens Law Litigation (CALL) against a decision of the Commissioner General for Refugees and Stateless Persons (CGRS)<sup>(52)</sup>.

The law of 21 November 2017 modified Article 50 of the Immigration Act and introduced the concept of **making, registering and lodging** of the asylum application as described under Article 6 of the Asylum Procedures Directive into national legislation. The Immigration Office has to register the application for international protection within three working days after the application was made. In exceptional situations – when there is a very high asylum influx – this registration delay can be prolonged to ten working days<sup>(53)</sup>.

A system of so called **“pre-registration” of the application for international protection** was introduced on 7 March 2016. Before the application for international protection is formally

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

51 Draft law modifying the law of 15 December 1980 on the entry, residence, settlement and removal of foreign nationals and modifying the law of 12 January 2007 regarding the reception of asylum seekers and other categories of foreign nationals, adopted in Parliament on 9 November 2017, DOC 54 2548/012.

52 Draft law modifying the law of 15 December 1980 on the entry, residence, settlement and removal of foreign nationals, adopted in Parliament on 10 November 2017, DOC 54 2549/008.

53 Art. 16 of the draft law modifying the law of 15 December 1980 and the law of 12 January 2007, adopted in Parliament on 9 November 2017, DOC 54 2548/012.

lodged, a screening is performed. The law of 21 November 2017 enshrined this procedure of pre-registration into national legislation. It can be considered as the stage of registration of the application for international protection in accordance with the asylum procedures directive.

### Identification and documentary evidence

The **law of 21 November 2017** introduced a number of changes related to the **procedures used to determine identity** within the procedure for international protection. Article 48/6 of the former Immigration Act states that the applicant for international protection must submit all the elements in support of his/her asylum application as soon as possible. The new Article 48/6 §1 and Article 51 of the Immigration Act clarifies the term **“all the elements”** and now explicitly refers to the provision of all documents with regard to identity, nationality, age, background, places of residence and travel route. The absence of these documents, and more specifically the absence of proof of identity or nationality, which are core elements of a procedure for the assessment of an application for international protection, constitutes a negative indication as to the overall credibility of the applicant, unless the applicant can provide a satisfactory explanation for the lack thereof. In the framework of the duty to cooperate, the applicant has to submit the original documents as soon as possible. If there are good reasons to assume the applicant for international protection withholds information, documents or other elements for the assessment of the application for international protection, the applicant can be invited to submit these elements without delay, whatever the information carrier is. The refusal of the applicant to submit these elements without satisfactory justification can be an indication of the refusal to comply with the duty to cooperate. The new article 48/6, §2 of the Immigration Act also stipulates that the national and international documents establishing the applicant’s identity or nationality are retained during the international protection procedure and regulates the return of these documents<sup>(54)</sup>.

## EMN Activities 2017 EMN Study

### Challenges and practices for establishing identity in the migration process

In 2017, the EMN carried out a **study on the challenges and practices for establishing identity in the migration process**. The overall aim of the study was to offer an overview of the important challenges faced by national authorities in their efforts to reliably establish and verify the identity of third-country nationals within the context of various migration procedures (including international protection, return and legal migration channels).

54 Art. 19 and Art. 10 of the the draft law modifying the law of 15 December 1980 and the law of 12 January 2007, adopted in Parliament on 9 November 2017, DOC 54 2548/012.

### Some of the main findings of the Synthesis Report:

- The **importance of identity management** in migration procedures has increased significantly in recent years in light of the rise in the number of applications for international protection since 2014/2015 and of current heightened security challenges.
- The **importance of identity establishment** for the outcome of the application depends on the type of procedure. While a valid proof of identity is crucial for a positive decision in **legal migration** procedures, many (Member) States also grant **international protection** if identity cannot be (fully) established. In **return procedures**, the importance of an established identity generally depends on the requirements of the (presumed) country of origin.
- (Member) States face **challenges related to identity establishment** of third country nationals in all migration processes. However, due to the significant rise of applicants for international protection in recent years, these have become particularly visible in asylum and return procedures.
- **EU-wide information management systems**, such as Eurodac, the Visa Information System (VIS) and Schengen Information System (SIS) play an increasingly important role in the identity establishment process, by providing biographic and biometric data of third-country nationals.
- Next to travel and identity documents, (Member) States use a **wide range of methods to support the process of identity establishment**. Cooperation between competent authorities on a national, bilateral and European level has been established in the form of pilot projects, shared databases, etc.

The **Belgian report, the comparative EU Synthesis Report and the EMN Inform** (which summarizes the main findings of the EU Synthesis Report) are available on the website of the Belgian Contact Point of the EMN:

<https://emnbelgium.be/publication/challenges-and-practices-establishing-identity-migration-process-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\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports/studies_en)

## Reception of applications for international protection

The **law of 21 November 2017** provided for the possibility to **deny or limit further material support** in all cases foreseen by Directive 2013/33/EU.<sup>(55)</sup> However, if material support is limited or denied, the authorities still have to provide urgent medical support. Furthermore, as article 20 of Directive 2013/33/EU points out, a decent living standard also has to be guaranteed. This guarantee of a decent living standard in case of limiting material support is an innovation in Belgian legislation (new article 4 of the law of 12 January 2007).

## Detention of applicants for international protection

With the exception of applicants for international protection who are a threat to national security, who are involved in public order issues or who are in transit at the airport, applicants for international protection are in principle not detained during the international protection procedure in Belgium. However, irregularly staying persons who are apprehended and detained in a detention facility in view of a forced return can apply for international protection and will not be released due to the mere fact they have applied for international protection. The procedure for international protection in such cases is prioritised<sup>(56)</sup>, and the person is released if he/she is granted an international protection status.

The **law of 21 November 2017** explicitly stipulated that no foreign national can be put in detention for the mere reason that he/she has applied for international protection and outlines the possible grounds for detention for applicants for international protection, at the border<sup>(57)</sup> and on the Belgian territory.<sup>(58)</sup>

**Detention at the border** is meant for applicants who do not fulfil the conditions of entry as stipulated in Article 2 and 3 of the Immigration Act. It concerns, for example, applicants who are insufficiently documented at arrival (illegal entry) or who misled the Belgian authorities regarding his/her identity and/or nationality. Detention at the border is limited to two months and a decision has to be taken by the CGRS within four weeks. The CGRS can decide that applicants for international protection held in detention at the border have special procedural needs or that further inquiry is required. In this situation, the applicant for international protection can enter the Belgian territory.

As regards **detention on the territory**, the law of 21 November 2017 includes an exhaustive list of a limited number of grounds mentioned in the Reception Conditions Directive<sup>(59)</sup> and prescribes

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55 For an overview of existing sanctions in the reception network and the implementation of these sanctions, see: Rekenhof, *Opvang van asielzoekers*, October 2017, pp.52-53.

56 Detention in a closed centre is not a ground as such to accelerate the application for international protection, however in a lot of cases a ground to accelerate the procedure for a person held in a closed centre will be present.

57 Art. 56 (altering Article 74/5 of the Immigration Act) of the the draft law modifying the law of 15 December 1980 and the law of 12 January 2007, adopted in Parliament on 9 November 2017, DOC 54 2548/012.

58 Art. 57 (altering Art. 74/6 of the Immigration Act) of the the draft law modifying the law of 15 December 1980 and the law of 12 January 2007, adopted in Parliament on 9 November 2017, DOC 54 2548/012.

59 Article 74/6 §1 of the Immigration Act.

an individual and proportional examination. It also stipulates that **alternatives to detention** have to be considered.

Applicants for international protection may in principle not be detained for longer than two months, but this period can be prolonged with two months, and twice with an additional month in case it concerns applicants who pose a threat to national security or who are involved in public order issues.

Article 74/6 §1 now provides a designation of a mandatory residence as an alternative to detention. A royal decree will outline the other alternatives to detention in Belgium for the applicants for international protection, such as the deposit of a financial guarantee and the duty to report regularly.

### Dublin procedures

The **law of 21 November 2017** defined the criteria to determine the **risk of absconding**. It will enable the Belgian authorities to apply this concept to detain a person in the framework of the Dublin procedure. However, according to the legislative provision, detention will only take place when other less coercive measures are not effective<sup>(60)</sup>. The Belgian legislator decided for a maximum of 6 weeks of detention during the phase of determining which EU-state is responsible for the application and another 6 weeks of detention for implementing the transfer<sup>(61)</sup>.

### Introduction of an admissibility procedure

Before the entry into force of the new law, Belgium had no specific admissibility procedures. A decision “not to take into consideration the application” could be taken, which was rather an accelerated procedure. The **law of 21 November 2017** changed most of these procedures into an admissibility procedures in accordance with Article 33 of the Asylum Procedures Directive. According to the new legislative provisions, a **decision of non-admissibility** can be taken in the following case: applications lodged by EU-citizens; applications lodged by applicants who hold an international protection status in another Member State; first country of asylum; safe third country; subsequent asylum applications without new elements and applications lodged by depending children of the applicants who cannot justify a separate application. The new law introduced the **concept of safe third country** and the possibility to apply for international protection for dependent children of the applicant.

If the CGRS decides to take a **decision of non-admissibility**, this has to be done – in principle - within 15 working days after the file was transferred by the Immigration Office. For cases of non-admissible subsequent applications, the decision has to be taken within 10 days and for the subsequent applications lodged by applicants detained in a detention facility, a decision has to be taken within two working days.

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60 Art. 24 of the the draft law modifying the law of 15 December 1980 and the law of 12 January 2007, adopted in Parliament on 9 November 2017, DOC 54 2548/012.

61 Art. 51/5 of the Immigration Act. The period of six weeks is interrupted when an appeal is lodged.

Besides the admissibility procedures, an application for international protection can also be **accelerated** on other grounds. All the grounds for acceleration are mentioned in Article 31 of the Asylum Procedures Directive. It concerns - for example - cases when the applicant is coming from a safe country of origin, or when he clearly does not qualify for international protection. The international protection procedure can also be prioritized in case the applicant is held in a detention facility (for example, when he/she poses a danger to national security or public order).

### Safe country concepts

The **law of 21 November 2017** introduced the concept **safe third country** into national legislation. Practical guidelines still need to be developed on how to apply this legal provision. An individual assessment will always take place by the CGRS to assess whether the third country can in practice be considered as a safe third country for the applicant. A connection between the applicant and the third country concerned on the basis of which it would be reasonable for the person to go to that country will be required.

Belgium updated the **list on safe countries of origin** on 17 December 2017. It was published in the Belgian Official Gazette on 27 December 2017. At present, the following countries are considered as safe countries of origin: **Albania, Bosnia-Herzegovina, FYROM, Kosovo, Montenegro, Serbia, India and Georgia**. Georgia was added to the list of safe countries of origin in 2016, while the other seven countries have been on the list of safe countries of origin since the concept was introduced in Belgian legislation in 2011. Although the State Secretary for Asylum Policy and Migration asked for the CGRS' advice to verify if Morocco, Algeria, Tunisia, Moldavia, Benin and Senegal could be considered as safe countries of origin,<sup>(62)</sup> the government decided not to extend the list of safe countries of origin and to retain the same eight countries as compared to the list of safe countries of origin of 2016. The list of safe countries of origin is in principle revised at least once a year and can be updated on the basis of the most recent situation in the country. For nationals from a country that is on the list of safe countries of origin, the presumption applies that international protection is in principle not required. However, the applicant has the possibility to demonstrate why his/her country of origin cannot be considered as safe in his/her specific situation<sup>(63)</sup>.

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62 Belga, Francken wil Tunesië, Algerije en Marokko op lijst veilige landen, 11 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>

63 See: <http://www.cgrs.be/en/news/new-list-safe-countries>



## EMN Activities

### 2017/2018 EMN Inform

#### Safe Countries of origin

In 2017, the EMN collected information on safe countries of origin, via a number of ad hoc queries. At the beginning of 2018, the EMN published an **Inform** which provides information on the policies and practices of EU Member States regarding safe countries of origin. It describes which countries have introduced a list of safe countries of origin and whether nationals from these countries are treated differently than nationals from other countries in the procedure for international protection. Moreover, differences relating to reception conditions and return provisions are examined.

#### Some of the main findings of the Inform:

- 14 out of 24 (Member) States have a **list of safe countries of origin**.
- The **number** of countries designated as safe countries of origin **differs significantly** between (Member) States. The Netherlands has the highest number of countries on its list (32). However, it should be taken into account that some (Member) States have designated some EU28 countries, the EEA countries and Switzerland as safe.
- The **top six countries** which have been designated as safe countries of origin by the most (Member) States are the Western Balkan countries.
- The majority of (Member) States regularly **review the list** to see if it is still up to date, but in general, there is no clear fixed timespan on how often the list is updated.
- In most of the (Member) States, the **criteria which are used** for the assessment are stipulated in national legislation.
- In most of the (Member) States with a national list, the **accelerated procedure** which is applied to nationals from safe countries of origin, is half the length of the standard procedure.
- A number of (Member) States with a list of safe countries of origin have implemented **specific rules or measures in the area of return** (e.g. shorter period for voluntary departure and/or a different policy for issuing entry bans).

**More information** is available on the website of the Belgian Contact Point of the EMN:

<https://emnbelgium.be/publication/safe-countries-origin-emn-inform>

## Legislative changes on the process, interviews, evidence assessment

The **law of 21 November 2017** provided new duties and rights to the applicant for international protection. In accordance with Article 17 of the Asylum Procedures Directive, the applicant will have the opportunity to make comments and provide clarification with regard to the **report of the personal interview** done by the CGRS. The applicant will be able to make his comments within eight working days after the report was sent to him, before the CGRS takes a decision. In some situations (e.g. accelerated procedures), the report will be sent together with the decision.

Furthermore, the law also introduced a procedure for applicants for international protection in need of special procedural guarantees, such as unaccompanied minors or victims of gender related violence.<sup>(64)</sup> **Specific procedural guarantees for applicants with special needs** were already foreseen in Belgian legislation and practice, but the recently adopted law aims at identifying the special needs more systematically - and as early as possible - through a detailed questionnaire to be filled out at the Immigration Office and through the detection of special needs in the reception facilities.

The law of 21 November 2017 provided explicitly for the right of **dependent children of applicants for international protection to be interviewed individually** by the CGRS and/or to lodge a separate application for international protection. To some extent, this legislative innovation formalizes an already existing practice. This procedure aims at situations where the accompanied minor is best served by an individual request, for example when the parents pose a threat to the minor, or when the minor cannot express his asylum motives in the presence of his parents.

Furthermore, the law put more emphasis on the **duty to cooperate** for the applicant for international protection. The applicant has to fully cooperate and submit all relevant documents and elements for identification and assessment of the application. However, in the explanatory note, the duty of the CGRS to provide elements to assess the claim is explicitly mentioned. However, it is important to note that this legislative change does not imply a shift of the burden of the proof from the CGRS towards the applicant. The applicant always had the obligation to cooperate with the competent authorities with a view to establishing their identity and other elements referred to in Article 4(2) of Directive 2011/95/EU. Besides, the CGRS will continue to fulfil its part of the duty to cooperate to establish all the relevant elements necessary for the assessment of the application (such as the assessment of the situation in the country of origin and all other relevant elements even if these are not invoked by the applicant).

What's more, the law enabled the CGRS to **verify electronic information carriers** (smartphone, social media, USB, etc.) of the applicant for international protection. Although the CGRS was already using publically accessible information on social media in its assessment of asylum claims (an investigate strategy accepted by the CALL), the new law expands this power. The CGRS can, if it has serious doubts that the applicant for international protection does not share information

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64 Art. 24 of the the draft law modifying the law of 15 December 1980 and the law of 12 January 2007, adopted in Parliament on 9 November 2017, DOC 54 2548/012.

which is essential for a correct assessment, demand access to private information on electronic information carriers. The law stipulates that the CGRS can only use this private information if the applicant authorizes the agency to access it on the applicant's electronic devices. A refusal of the applicant for international protection to provide access to private information on electronic device can be an element taken into account to assess the application for international protection. The lack of detail in the legal provision to request this information from applicants for international protection was criticized by the Belgian Privacy Commission. The Privacy Commission advised that the CGRS should only have access to private information that is relevant for the applications for international protection, leaving other private information undisclosed and according to strict procedures to grant access to this information and to store the information<sup>(65)</sup>. In 2018, the procedure for obtaining access to private information on electronic information carriers will be outlined by royal decree and will address the points raised by the Privacy Commission.

The law of 17 December 2017 implied a **simplification and harmonisation of time limits to lodge an appeal** with the Council for Aliens Law Litigation (CALL). In principle the time limit to lodge an appeal with the CALL will be 30 days, but shorter terms of appeal apply in case it concerns an admissibility procedure, accelerated procedure and/or when the applicant is in a closed facility. Judgements have to be taken within three months. For the non-admissible and accelerated procedure and for those who are detained, the applicant for international protection has to lodge an appeal within 10 days. The judgment has to be taken within two months. For those who are detained at the moment of the introduction of a subsequent application and this subsequent application is non-admissible, the appeal has to be submitted within five days. Decisions have to be taken within 13 working days. The law of 21 November 2017 also made all appeals against CGRS-decisions **suspensive and on the merits**, except for some cases of subsequent applications.

In his General Policy Note of October 2017, the State Secretary for Asylum Policy and Migration put an emphasis on the **fight against the abuse of appeal procedures** in applications for international protection and stated that quite often an appeal is lodged merely to extend the right on accommodation in reception facilities. The State Secretary stated that the reform of the pro bono procedure and the simplification of the procedure for the CALL to consider an appeal as clearly unjustified. A third measure to address the abusive appeals in asylum cases is the legislative reform with the reduced appeal terms in accelerated and admissibility procedures as mentioned above and the fact that it will no longer be possible to lodge a new application for international protection before a judgement was issued on the previous application<sup>(66)</sup>.

### Withdrawal of international protection

The law of 10 August 2015 made it possible to take into account **threats to society and national security** in assessing applications for international protection or to **withdraw the protection**

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65 Advice of the Privacy Commission and of UNHCR in the preparations for the law regarding asylum and migration matters approved by Parliament on 9 November 2017.

66 Belgian House of Representatives, General Policy Note on Asylum and Migration, 19 October 2017, DOC 54 2708/017, pp. 18-19.

**status** on these grounds. In 2017, this continued to be one of the priorities of the State Secretary for Asylum Policy and Migration<sup>(67)</sup>. The **law of 24 February 2017** also it also 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 (see Chapter 9 of this report).

## 5.3. Operational changes

### Reception of applicants for international protection

During the entire year 2017 (except in the month of December), the **influx** of applicants for international protection in the reception network was **lower than the outflow**. Numerically, 14,603 people entered the reception network of Fedasil in 2017 (compared to 16,699 people in 2016), while 19,719 residents left the reception network (compared to 26,560 people in 2016), resulting in a negative in-out balance of about 5,116 people. The number of people accommodated steadily declined from 22,882 in early January to 17,788 by the end of December 2017. The occupancy rate decreased from 86% to 76%.

As a result, the plan to close down a part of the reception network, decided on by the federal government on 3 June 2016<sup>(68)</sup>, was followed up a **new reduction plan**. With this new plan, the individual reception facilities organised by the NGO Vluchtelingenwerk Vlaanderen, 424 of the 590 individual reception places of the NGO Ciré and the federal centers in Dendermonde and Lubbeek were closed in 2017. Furthermore, in April 2017, the last **private operator** active in the reception of applicants for international protection (an innovation for Belgium which was introduced in 2015) closed its reception facility.

At the end of 2017, the reception network had a total of around 23,338 reception places, which represents about 3,025 reception places less than at the end of 2016.

### Dublin procedures

As mentioned above, 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 is making use of the common and specific leaflets<sup>(69)</sup> provided by the European Commission, completed with specific national information. The organisational framework did not change in 2017 compared to 2016. However, the **administrative capacity of the Dublin unit** was reduced in 2017 compared to previous years, making it challenging to handle all the cases within the set time limits.

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67 Belgian House of Representatives, General Policy Note on Asylum and Migration, 19 October 2017, DOC 54 2708/017, p. 17.

68 More information: [https://www.fedasil.be/sites/default/files/persbericht\\_theo\\_francken\\_afbouw\\_opvangnetwerk\\_030616\\_nl\\_2.pdf](https://www.fedasil.be/sites/default/files/persbericht_theo_francken_afbouw_opvangnetwerk_030616_nl_2.pdf).

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

The transfers which caused difficulties in 2017 were outgoing transfers to Malta, Bulgaria, Greece and Hungary. In 2017, the CALL suspended the **Dublin transfers to Bulgaria** as the CALL considered the capacity to process applications for international protection as inadequate. Outgoing **Dublin requests to Greece** have taken place since March 2017 for applicants for international protection who applied for protection in Greece after 15 March 2017. By the end of 2017, a total of 60 applicants were submitted to Greece. Greece refused all of them. No **Dublin transfers to Hungary** have been performed since 26 May 2016. While in 2016, the Dublin transfers were refused by the Hungarian authorities as they argued that Greece was responsible for examining the applications, in 2017, the Belgian authorities received refusals based on a lack of capacity. In 2015, the CALL has opposed **transfers to Italy** of vulnerable persons (in particular single parents and asylum applicants with serious psychological problems). However, in 2017, the CALL did not longer oppose returns to Italy, as the court considered that the situation for vulnerable persons in Italy had improved<sup>(70)</sup>.

Since June 2017, and until the entry into force of the legislative changes on 22 March 2018, the Immigration Office has not **detained applicants for international protection** - with some exceptions - who had to be transferred to another Member State according to the Dublin Regulation. According to the judgement to the CJEU of 15 March 2017 (C-527/15), applicants for international protection who have to be transferred to another EU Member State in the framework of the Dublin regulation may only be detained when there is a significant risk of absconding. Due to the absence of a definition of the criteria to determine the “risk of absconding” in Belgian legislation, people awaiting a Dublin transfer were no longer detained during a certain period.<sup>(71)</sup>

### First instance decisions

The CGRS, an independent administrative authority, is the central asylum decision-making authority. 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 2017, the CGRS took a decision for 25,372 persons of which **10,933 persons were granted refugee status** according to the Geneva Refugee Convention and an additional **2,900 persons received subsidiary protection status**. In 2017, about 50% (compared to about 57% for 2016) of the first instance decisions concern a positive decision (refugee status or subsidiary protection status). In 2017, almost 30% of the positive decisions were issued for applicants from Syria.<sup>(72)</sup>

### Timeframes, case management and backlog

In 2017, the CGRS made every effort to keep **waiting periods** as short as possible and to reduce

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70 Source: Immigration Office, Dublin-unit.

71 Source: Immigration Office, Dublin-unit.

72 See: <http://www.cgvs.be/nl/actueel/asielstatistieken-overzicht-2017>

the backlog. However, some applicants for international protection waited for an invitation to an interview for months or more than a year. For the CGRS, a qualitative, thorough and individual assessment remained a priority and it was impossible to process all applications for international protection at the same time.

The date of the application for international protection does not determine the order in which the CGRS invites an applicant for international protection to an interview. To be able to work more efficiently, the CGRS **planned interviews of applicants with similar profiles** (e.g. land or region of origin) within the same period. The CGRS is also legally obliged to give priority or accelerate certain asylum cases, for example, cases of applicants for international protection in detention, from safe countries of origin or cases containing an aspect of public order. The CGRS also has to process subsequent applications or requests to end or revoke an international protection status with priority. Therefore, the **case management** is complex and not chronological<sup>(73)</sup>.

In 2017, the CGRS continued its efforts to **reduce the backlog** created by the large inflow of 2015. At the end of April 2016, the CGRS still had a backlog of 18,300 applications for international protection waiting for a decision. In April 2017, this figure was reduced to 14,000. At the end of December 2017, the backlog was further reduced to 7,559 cases (of which 4,500 can be considered a normal caseload).

### Efficiency increasing measures

In June 2016, the CGRS launched a pilot project to make it possible to **interview applicants for international protection** staying in the closed centre in Merksplas. As this pilot project received a positive evaluation, **video conferencing interviews** also started at the centre for irregularly staying foreign nationals in Bruges at the end of March 2017. The number of interviews through video conferencing increased considerably in 2017. This procedure enhanced the efficiency of the interview process, as video interviews can be planned at a shorter notice and as the protection officer and the interpreter spend less time travelling back and forth to the closed centre.

In 2016, the CGRS increased the number of interviews for Syrians and started to make use of a questionnaire for Afghan minors, which made it possible to increase the number of interviews (and decisions) for Afghan unaccompanied minors. These measures were still implemented in 2017. Furthermore, the CGRS continued to plan interviews of applicants with similar profiles (e.g. land or region of origin) within the same period by specialized protection officers, to be able to assess these applications more efficiently (see also the section on case management above).

### Withdrawal of international protection

Since 2016, a more systematic **monitoring of beneficiaries of international protection who return to their country of origin** (which seems to be in contradiction with the fear to be persecuted or suffer serious harm in their country of origin) is carried out. In 2017, the administrative cooperation between the Federal Police at the airport, the Immigration Office and the CGRS

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73 See: <http://www.cgrs.be/en/news/explanation-asylum-seekers-about-waiting-periods>

was intensified and led to more results. The collaboration on this issue was also reinforced at an international level, and exchange of information with the Netherlands, Germany and Switzerland took place. Information exchange with other EU+ countries regarding this issue is currently being discussed<sup>(74)</sup>.

In 2017, the **protection status was ceased or withdrawn** for 239 persons, due to the fact they were involved in public order issues, posed a threat to national security, committed fraud, or because their personal behaviour indicated they were no (longer) in need of protection. The CALL mostly confirmed the decision of the CGRS to withdraw the protection status<sup>(75)</sup>. However, the CALL also annulled some of these decisions of the CGRS because a withdrawal of the subsidiary protection status granted on the basis of the general security situation can in principle not be withdrawn due to personal behaviour, such as return of the applicant to his country of origin<sup>(76)</sup>. As a consequence, the CGRS adapted the motivation of the decisions.

## Relocation

In 2015, Belgium started the relocation process 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 number of arrivals through relocation substantially increased in 2017: **895 persons** were relocated from Greece and from Italy. The vast majority of the people that were relocated to Belgium from Greece were Syrians, while most people relocated from Italy were Eritreans.

## Resettlement (EU Joint Resettlement Programme)

The number of refugees resettled to Belgium increased significantly in the past few years. In 2015, 276 refugees were resettled to Belgium, 452 refugees in 2016, and 1,309 in 2017. These resettlements mainly concern Syrian refugees, but also include 118 Congolese refugees who were resettled from Uganda. The Syrian refugees resettled in 2017 came from Lebanon (299), Turkey (721), Jordan (156) and Iraq (15). They were selected within the framework of the **Justice and Home Affairs Council Decision of 20 July 2015** - which led to a Belgian pledge to resettle 1,100 refugees over a period of two years (2016-2017) - and the **1:1 mechanism with Turkey** where Belgium committed to resettle an additional 600 Syrian refugees from Turkey in 2017. Belgium respected its commitments and managed to resettle more than 1,100 refugees under the EU Resettlement Scheme over the past two years and 572 refugees were resettled under the 1:1 mechanism<sup>(77)</sup>.

All resettlement cases were 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,

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74 Belgian House of Representatives, General Policy Note on Asylum and Migration, 19 October 2017, DOC 54 2708/017, pp. 16-17.

75 CALL 191 957, 194 465, 191 955.

76 CALL 191 956 and 194 465.

77 Source: CGRS, international unit, and Fedasil, resettlement unit.

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 a duration of 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 Belgium.

The CGRS assesses the cases for resettlement, partly through selection missions, partly on the basis of files. In the course of 2017, selection missions to Turkey, Lebanon, Jordan and Uganda were organised and pre-departure cultural orientation took place in these countries. In September 2017, the State Secretary for Asylum Policy and Migration, accompanied by the Commissioner General for Refugees and Stateless Persons and the Director General of Fedasil, visited a resettlement mission in Lebanon.

### National Humanitarian Admission Programme

Belgium does not have a formal humanitarian admission programme. However, the State Secretary for Asylum Policy and Migration and the Immigration Office may grant **visas on humanitarian grounds** in exceptional circumstances (the so-called “humanitarian visas”). This happens on a **discretionary basis**. In his Policy Note of October 2017, the State Secretary referred to humanitarian visas for Christian minorities in the Middle-East and stated that resettlement and humanitarian visas were a necessary supplement to protection in the region, which should be the basic principle.<sup>(78)</sup>

## 5.4. Initiatives from civil society

### Private sponsorship programme for humanitarian visa

Building on previous experiences in Italy and France, the Community of **Sant’Egidio** has opened a “**humanitarian corridor**” to Belgium for Syrian refugees. On 2 November 2017, the State Secretary for Asylum Policy and Migration signed an agreement with Sant’Egidio, under which 150 Syrian refugees from Turkey and Lebanon could be granted humanitarian visas to come to Belgium. While their requests for international protection are processed, they will be hosted by religious communities from various areas in Belgium (as explained by the Sant’Egidio community). The project involves Jewish and Muslim groups as well as Christian churches. It will be financed by various religious communities.<sup>(79)</sup> On 22 December 2017, the first two families arrived in Belgium in the framework of this programme.

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78 Belgian House of Representatives, General Policy Note on Asylum and Migration, 19 October 2017, DOC 54 2708/017, p. 22.

79 See: <https://international.la-croix.com/news/santegidio-helps-to-settle-refugees-in-belgium/6425>



## 5.5. Public debate

Different aspects related to international protection were present in the public debate – both in the media coverage and in Parliament – in 2017.

### Legislative changes

The **law of 21 November 2017** modifying the Immigration Act and the Reception Act was heavily debated in **Parliament** before it was adopted on 9 November 2017. Before the draft law was adopted, it was sent back to the Commission Internal Affairs for parliamentary debate in October. One of the most debated issues of the draft concerns the provision which makes it possible to ask the applicant for international protection to provide access to information on electronic information carriers (including smartphones). The **Belgian Privacy Commission** issued a negative advice regarding this aspect, focusing in particular on the fact that there were no provisions in the draft law on approval by the applicant; on the storage of the information; and on how the information would be examined. Furthermore, **UNHCR** also issued a critical advice, which focused inter alia, on concerns regarding the burden of proof and the enforced provisions regarding the duty to cooperate. The government announced that royal decrees would be issued to address the concerns of the Belgian Privacy Commission and the UNHCR.

Furthermore, a **platform of NGOs** found that the outcome of the parliamentary debate – i.e. the elaboration of certain delicate provisions by royal decree – was disappointing due to the fact that a royal decree does not need to be discussed in Parliament. It considers the outcome as a missed opportunity to clarify the legal provisions in the Immigration Act itself.<sup>(80)</sup>

### Return to Sudan

In the second half of 2017, there was a lot of political, parliamentary and public debate on **Sudanese nationals returned to their country of origin** following an identification mission by a Sudanese delegation in Brussels. The Sudanese nationals were part of a group of hundreds of transit migrants that were apprehended in the Maximilian Park in Brussels. They were staying irregularly on the Belgian territory and did not want to apply for international protection. According to information collected by the Tahrir Institute for Middle East Policy, some of these Sudanese nationals were tortured after they were returned to Sudan.

On 22 December 2017, the Deputy Prime Minister Jan Jambon asked the Commissioner General for Refugees and Stateless Persons (CGRS) to carry out an independent enquiry regarding the risk in case of return to Sudan. The CGRS report was handed over to Deputy Prime Minister Jan Jambon on 8 February<sup>(81)</sup>.

One of the challenges in this matter is about how to assess the risk on **non-refoulement (art. 3 ECHR)** in cases where no applications for international protection are lodged. The CGRS concluded

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80 See: <https://www.vluchtelingenwerk.be/nieuws/vandaag-stemt-de-kamer-over-wetsontwerpen-die-onze-asielwetgeving-ingrijpend-wijzigen>

81 Available at: <http://www.cgrs.be/en/news/report-sudan>

in its report that the risk upon return or removal to Sudan should be examined with utmost care, considering the problematic human rights situation in Sudan and the role of the security services in Sudan. It must be absolutely clear that persons who are eligible for a protection status (refugee status or subsidiary protection status) because of their individual situation (e.g. political opponents) cannot be sent back. Removal of these persons would clearly violate the non-refoulement principle. However, it is not the case that every person runs a real risk in the sense of article 3 ECHR upon returning to Sudan. The report concluded that this is confirmed by many experts and sources. This is also confirmed by the jurisprudence, including the jurisprudence of the European Court of Human Rights and the UK Upper Tribunal.

Furthermore, the report concluded that it is not necessarily a problem that the identification procedure required for issuing a laissez-passer is carried out by means of an **identification mission** which may include members of the security services. However, the CGRS recommends in its report to take a number of measures in the framework of an identification mission, such as the presence of the Belgian authorities and someone who understands the language of the interview. As regards the **allegations of mistreatment** reported by the Tahrir institute, the CGRS concluded that it was not possible to obtain absolute certainty or clarity about whether the facts stated in the report of the Tahrir Institute actually took place. But regarding the three main testimonies from this report, it was found that some important elements were not true, to such an extent that this raises serious doubts about the rest of the testimony.

On the other hand, the report also concluded that the **verification of a possible violation of article 3 ECHR** was insufficient. Most certainly for countries of origin, for which general information (COI) shows that the situation regarding the respect for human rights or security (e.g. as a result of an armed conflict) is particularly problematic, it seems difficult to uphold that the mere fact that a person has not applied for international protection, even though he put forward elements which may make him eligible for an international protection status, can be considered as an indication that there is no real risk regarding article 3 ECHR. In such case, their obligation to cooperate requires from the authorities that they assess this risk more effectively "on the merits" whenever the elements put forward are "credible" and of such nature that they indicate a real risk regarding article 3 ECHR. This assessment does not necessarily have to be conducted according to the rules laid down for the assessment of an application for international protection (asylum application), but it has to be carried out in accordance with the rules of good governance. And the result of the assessment must be put in a motivated decision, which implies the possibility to lodge an appeal. Furthermore, the CGRS opinion is that if there is found to be a real risk regarding article 3 ECHR, the person cannot be removed to his country of origin, but nevertheless a residence status does not necessarily have to be granted, especially when the person concerned refuses to apply for international protection. The CGRS is also of the opinion that the removal or return of persons to Sudan can be resumed provided the protection need of each of the persons concerned has been assessed "on its merits" beforehand (including a protection need regarding article 3 ECHR).

## EMN Activities

### 2018 EMN ad hoc query

#### Returns to Sudan

In the context of the debate on returns to Sudan, the Belgian authorities saw the need to collect up to date and comparable data regarding the number of Sudanese nationals returned to Sudan by other EU Member States and Norway, and to collect additional information on the identification and return processes in these countries. The Belgian Contact Point of the EMN launched an ad hoc query in January 2018. **23 Member States and Norway** provided an answer to the query.

**The main findings of the EMN ad-hoc query can be summarised as follows:**

- Several Member States and Norway have organised the **forced and/or voluntary return of Sudanese nationals** to Sudan during the past few years. For most Member States, the numbers are relatively low.
- Most Member States indicate that a return is not enforced if there is a risk of violating **Article 3 of the European Convention on Human Rights** (ECHR). However, most Member States are not specific on how the assessment occurs in case it concerns a returnee who did not apply for international protection.
- For the purpose of **identification and issuing travel documents** (laissez passer/ETD) in view of return, most Member States and Norway collaborate with the Sudanese embassies. In addition, some countries have received a Sudanese delegation for identification and for issuing travel documents.
- Several Member States indicate that the **profile, ethnicity and/or region of origin** are taken into consideration when assessing the application for international protection but most Member States indicate that this is not the case in the framework of the return procedures.
- None of the Member States or Norway organise **systematic monitoring** of the returnees in Sudan.

**More information** is available on the website of the Belgian Contact Point of the EMN:

<https://emnbelgium.be/publication/emn-ad-hoc-query-returns-sudan>

## 5.6. Future plans

### Registration centre in Neder-Over-Heembeek

On 7 July 2017, the Government decided to open a **separate registration centre** in Neder-Over-Heembeek in order to make the registration of applicants for international protection and the allocation to reception structures more efficient. This innovative reception centre will be the **only registration point** for people who want to apply for international protection in Belgium.<sup>(82)</sup> With a capacity of **750 places**, this centre should be able to rapidly respond to fluctuations in the inflow of applicants for international protection. The application centre will thus fulfil both a reception and registration function and will meet three objectives:

- the **determination of the identity** of the applicants for international protection;
- a **security screening** of the applicants for international protection in order to assess the public security risks;
- **initial reception with observation** of the situation of the applicants for international protection.

The opening of this new centre is **planned for 2020**. As a consequence, the oldest and largest centre of the reception network, the “Petit Chateau” in Brussels, will be closed. From December 2018 onwards, the reception centre “Petit Chateau” will be gradually transformed into a temporary registration centre, awaiting the future registration centre in Neder-Over-Heembeek.

### Further reduction of the reception network for applicants for international protection

In his General Policy Note of 19 October 2017<sup>(83)</sup>, the State Secretary for Asylum Policy and Migration announced that a third phase-out plan will be elaborated with the aim of once again achieving the “structural” reception capacity from before the increased influx of applicants for international protection in 2015, i.e. less than 17,000 reception places.

### Setting rules for residents in reception facilities

With the aim to ensure order and security in the reception facilities, the adoption of a **royal decree** is planned. This decree should define certain **rules for those residing in reception facilities**, as well as concrete guidelines on the procedure for controls of the private rooms.

### Resettlement

For the period 2018-2019, **2,000 resettlement places** were pledged by Belgium. This mainly concerns Syrian refugees from Turkey, Lebanon and Jordan and - to a lesser extent - Congolese refugees from Uganda and refugees within the framework of the Regional Protection Programme

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82 Except when it concerns an application made at the border in a closed reception centre or in prison.

83 Belgian House of Representatives, General Policy Note on Asylum and Migration, 19 October 2017, DOC 54 2708/017.

in North Africa. In 2018, Belgium **will resettle up to 1,150 refugees**: 1,050 Syrian refugees (350 out of Lebanon, 100 out of Jordan, 600 out of Turkey within the 1:1 Framework or the VHAS), 50 Congolese refugees out of Uganda, and 50 refugees in the framework of the RDDP North-Africa.<sup>(84)</sup>

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84 Source : CGRS, International Relations Unit.

# 6

## Unaccompanied minors and other vulnerable groups

### 6.1. Context

#### 6.1.1. Unaccompanied minors

In 2017, the **number of applications for international protection by unaccompanied minors (UAMs) continued to decrease**: 2,545 UAMs applied for international protection in 2015, 1,020 in 2016 and 735 in 2017 (of which 600 applications were made by boys and 135 by girls). The top 5 countries of origin in 2017 for UAMs were Afghanistan (300), Guinea (70), Albania (55), Syria (55) and Eritrea (40).<sup>(85)</sup>

Regarding the decisions taken in 2017, 1,541 **unaccompanied minors were granted international protection** (of which 1,416 were boys) and 1,004 applications were **rejected** (of which 78 were lodged by girls).<sup>(86)</sup> For 24 unaccompanied minors, a decision was issued **ordering the guardian to bring back the unaccompanied minor** to his/her country of origin (annex 38).<sup>(87)</sup> Furthermore, 31 UAMs returned to their country of origin via an **assisted voluntary return and reintegration programme**.<sup>(88)</sup>

#### 6.1.2. Other vulnerable groups

In 2017, the competent authorities have put a focus on **victims of sexual and gender based violence**. This was the case in the framework of the application for international protection: **training sessions and guidelines** on sexual violence and sexual orientation were provided to interpreters and protection officers. And also in the reception network: a **trajectory to support and refer** girls and women who are victims (or in danger of becoming victims) of **female genital mutilation** was introduced in the reception facilities, and an **e-learning module on LGBTI** was developed for the staff of the reception structures.

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85 Source: Immigration Office, Statistical Unit.

86 Source: Office of the Commissioner General for Refugees and Stateless Persons.

87 If the Immigration Office decides that, in the framework of the 'durable solution' procedure, a return is the solution in the best interest of the UAM, the Immigration Office issues an order to return the unaccompanied minor to the place where he comes from (annex 38) to the guardian of the UAM. This decision means that the unaccompanied minor must be returned within 30 days. However, an UAM cannot be removed by force as long as s/he has not reached the age of 18. The UAM will however be informed on the risks of an irregular stay after majority.

88 Source: Immigration Office, Statistical Unit.

## 6.2. Legislative changes

The **law of 21 November 2017**<sup>(89)</sup> introduced some changes regarding the procedure for applicants for international protection with special needs, such as unaccompanied minors or victims of gender based violence. Although the specific procedural guarantees for applicants with special needs were already foreseen in practice, the new law aims at **identifying the special needs more systematically** - and as early as possible - via a detailed questionnaire to be filled out at the Immigration Office (CGRS) and through the detection of special procedural needs by the staff of the reception facilities. This means that while the federal reception agency Fedasil assesses whether an applicant has any special needs regarding reception, it also examines whether the applicant has special procedural needs. With the permission of the applicant, Fedasil can make recommendations to the Immigration Office and the Commissioner General for Refugees and Stateless Persons regarding the special procedural needs.<sup>(90)</sup>

Furthermore, the law of 21 November 2017 provided explicitly for the **right for dependent children of an applicant** for international protection **to be interviewed individually** by the CGRS and/or to lodge a separate application for international protection (see section 5.2 of this report).

In addition, the law of 21 November 2017 further specified the criterion of **“best interest of the child”**. It defined what needs to be taken into account when assessing the child’s best interest:

- the possibility of family reunification;
- the well-being and social development of the minor, with special attention to the personal situation of the minor;
- safety and security considerations, especially when the minor is possibly a victim of trafficking;
- the minor’s point of view in accordance with his age, maturity and vulnerability.

## 6.3. Operational changes

### 6.3.1. Unaccompanied minors

#### Human resources and training of staff

The **CGRS’ team specialized in handling the applications for international protection of UAMs was reinforced** with the hiring of 20 additional protection officers in 2017. This brought the total to a hundred specialised officers. These protection officers strengthened their competences via

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89 Law of 21 November 2017 modifying the law of 15 December 1980 on the entry, residence, settlement and removal of foreign nationals and modifying the law of 12 January 2007 regarding the reception of asylum seekers and other categories of foreign nationals, Belgian Official Gazette, 12 March 2018.

90 Art. 22.§ 1/1of the Law of 12 January 2007 regarding the reception of asylum seekers and other categories of foreign nationals, Belgian Official Gazette, 7 May 2007.

training sessions provided by different organisations, including EASO and Solentra.<sup>(91)</sup>

At the **Immigration Office, staff allocated to manage the cases of UAMs increased** to 17.5 FTE in 2017. The number of staff members dealing with UAMs who applied for international protection fluctuated strongly over the last years, in line with the changing case load: from 7 FTE in 2015, to 14 in 2016, to 8 in 2017. Most staff members received an EASO-training on interviewing UAMs. The heads of the sections followed an EASO-training on vulnerable persons or on trafficking in human beings.<sup>(92)</sup>

At the regional level, the **regional authorities** focused most of their efforts on unaccompanied minors under the age of 15. The **Flemish Community** recruited an FTE for each of the five provincial foster services, in order to match UAMs under the age of 15 with foster parents. Furthermore, the EU funded project “Alternative Family Care” (ALFACA)<sup>(93)</sup> was implemented in Belgium by the non-profit organisation Minor-Ndako in order to improve the knowledge and awareness of the staff of the Flemish foster care services on the specific situation of UAMs. In the framework of this project, about 95 staff members benefitted from training, which consisted of e-learning and a manual with general knowledge on working with the target group, as well as know-how on recruitment, screening, matching and guidance of host families.<sup>(94)</sup> Furthermore, the **French Community** recruited additional employees for the two specialised foster services, in total for an equivalent four FTE, including two psychologists, a coordinator, a social worker and an educator.<sup>(95)</sup>

### Improving the protection and care of UAMs – including in reception facilities

Given the decrease in the number of arrivals of UAMs in 2017 (285 UAMs less than in 2016), the number of reception places slightly decreased. The first reception phase for UAMs in the Observation and Orientation Centres decreased from 190 in 2016 to 183 places in 2017. The number of reception places for the second reception phase decreased from 2,052 places in 2016 to 1,706 places in 2017<sup>(96)</sup>. However, regarding the third reception phase, the number of reception places increased from 318 places in 2016 to 334 places in 2017. Another 91 reception places stayed available for UAMs with specific reception needs, such as teenage mothers, UAMs with behavioural problems, or UAMs with mental health problems. The reduction from 2651

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91 Solentra an organisation linked to Paika, the department of psychiatry for infants, children and adolescents of Brussels University Hospital, which provides diagnostic and therapeutic support to refugee and migrant children and their families. For more information: [http://solentra.be/en/The\\_idea\\_behind\\_SOLENTRA](http://solentra.be/en/The_idea_behind_SOLENTRA).

92 Source : Immigration Office, Minors and Trafficking in Human Beings unit (MINTEH).

93 With the ALFACA-project, Nidos (the Netherlands) in cooperation with Minor-Ndako (Belgium), Jugendhilfe Süd-Niedersachsen (Germany), OPU (Czech Republic), the Danish Red Cross and KJJA (Austria) aim to further develop and improve the reception of unaccompanied children in families by providing professionals with the tools to gain general knowledge on working with this target group and knowledge on recruitment, screening, matching and guidance of the host families. For more information and access to the tools: <https://engi.eu/projects/alfaca/>.

94 Trogh, K., Pleegzorg Vlaanderen, eindrapport Geef de wereld een thuis, 2017, pp.7-8. The project implementation period was 1 October 2015 to 1 April 2017 and the project was co-funded by the European Commission. Both the training and the manual, as well as additional information and tools, can be found on this website: <https://engi.eu/projects/alfaca/>

95 Source : General Administration for Youth Support (Administration générale de l'aide à la jeunesse), UAMs Department.

96 Including the reception places offered by the Flemish and Walloon Youth Care Services for UAMs under 15 years of age. It concerns 130 places organised by the Walloon Youth Care Service and 145 places by the Flemish Youth Care Service.



reception places in 2016 to 2341 places in 2017 took place on the basis of the closure of reception places less suitable for UAMs, including those organised by private partners and in temporary reception structures.

Fedasil funded several projects related to the reception of UAMs under **AMIF 2016-2017 and with national funding**. Some of the **AMIF funded projects** focused on **psychological assistance for beneficiaries of reception**. One of these project was the “CARDA-project” of the Red Cross (Croix-Rouge de Belgique), which aimed at improving the way in which applicants for international protection with mental health problems, including UAMs, are assisted through problem analysis, stabilisation, psychotherapeutic follow-up and referral to residential care. Furthermore, the project offered support to professionals through awareness-raising actions and the provision of information and consultations in the reception structures in Wallonia and Brussels. Three other projects selected by Fedasil and funded by AMIF 2016-2017 focused **exclusively on minors**. This included a project of the non-profit association Cirkant, which aimed at facilitating the **outflow from the reception network of highly vulnerable UAMs** with an international protection status by providing them with transit places and assisting them with an introduction to school, work or language lessons to enhance their integration. The project aimed at adopting a “bridging function” to specialized aid and at providing integral individual guidance to these vulnerable minors.

Furthermore, **Fedasil funded also 19 small scale projects** that meet one of the three priorities predefined by the Reception Agency for 2017. One of these priorities is **“to increase the participation of beneficiaries of reception in social life”**. Most of the projects selected under this objective aimed at facilitating the access of beneficiaries of reception to existing leisure and sport associations (some - but not all- exclusively for minors). This included access to scouting (for people between the ages of 6 and 18), athletics, cricket, and football associations. Other selected projects aimed at **“meeting the specific reception needs of vulnerable groups”**. Four of these projects were so-called **“time-out” initiatives** aimed at UAMs (over the age of 12) who have difficulties adjusting to life in the reception network. The projects gave these youngsters the opportunity to deal with their experiences in a safe and confidential environment, at helping them “put down roots” and at creating a moment of rest for both the young people and the staff of the reception facilities. Different time-out activities were organised, such as hiking trips, (theatre) workshops and public performances, and the provision of residential care (between the ages of 14 and 18) for a limited amount of time (two weeks). Another project, funded by Fedasil, was led by Praxis P of the University of Leuven. It started in 2016 and was extended in 2017. The project targeted minor beneficiaries of reception (unaccompanied or with their families) and aimed at **expanding psychiatric care for children** and at organising a sustainable collaboration within child psychiatric assistance programmes. Another priority for the 2017 projects was to **“strengthen the knowledge of applicants for international protection on values and standards in Belgian society”**. A project of the Humanitarian Welfare Association was selected. In the framework of this project, trainings on **gender equality and sexual harassment for Afghan men and women** (15 years and older) were organised.

## Protection and care of UAMs under the age of 15

The conventions concluded in 2016 between Fedasil and the Flemish and French Communities, in the framework of the important inflow of applicants for international protection in the reception network, continued to be implemented in 2017. As a result, the cooperation with the **Youth Care Services of the Flemish and French Communities for the reception of UAMs under the age of 15 continued**. These young UAMs are accommodated in smaller, more family scale, reception facilities, where they receive intense and personalized care to meet their specific needs. The Agency for Youth Welfare of the **Flemish Community** provided 145 reception places in 13 facilities in 2017 (as it did in 2016), with a maximum of 15 UAMs per facility. The General Youth Care Administration of the **French Community** provided 130 places in seven licensed facilities accommodating UAMs together with other minors under the mandate of the Youth Care Service. Three facilities also opened an antenna to accommodate UAMs (facilities for groups from 25 up to 43 UAMs).<sup>(97)</sup> In all these facilities, UAMs receive tailor-made care and are individually monitored.

## Protection and care of UAMs who are beneficiaries of international protection (from 15 years of age onwards)

From the age of 15 onwards, UAMs are prepared, in collaboration with their guardians, to live in a more **autonomous setting**. Fedasil enables UAMs who are beneficiaries of international protection and are at least 16 years of age<sup>(98)</sup> to move towards more individual reception structures (mostly Local Reception Initiatives). By December 2017, there were 334 places in Local Reception Initiatives for UAMs.

**The Youth Care Services of the French, German-speaking and Flemish Communities** also developed other initiatives to coach UAMs who received an international protection status to live independently (in particular vulnerable UAMs). In 2017, the government of the **German speaking Community** concluded an agreement with the organisation Soziale Integration und Alltagshilfe (SIA) regarding the protection and care of UAMs. SIA, which is an organisation active in the field of juvenile protection, will provide co-housing for UAMs and coaching by a professional. This agreement will be operational from 1 January 2018.<sup>(99)</sup> Furthermore, the non-profit organisation Mentor-Escale was given the task to coach 10 UAMs from the age of 16 onwards to life independently by the UAMs Service of the **Youth Care Service of the French Community**.<sup>(100)</sup> In **Flanders**, various private partners of the Flemish Youth Care Service created the so-called “Small Living Units” for UAMs from 16 years of age onwards who need long-

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97 Source: General Administration for Youth Support (Administration générale de l'aide à la jeunesse), UAMs Department. More information on the role of the Youth Care Service of the French Community is available on: [http://www.aidealajeunesse.cfwb.be/index.php?eID=tx\\_nawsecured1&u=0&g=0&hash=f00b54f04a07fce4b00d5eda2668e66073db3f48&file=fileadmin/sites/ajss/upload/ajss\\_super\\_editor/articles/ReperAJ\\_n\\_\\_5\\_nov\\_2016.pdf](http://www.aidealajeunesse.cfwb.be/index.php?eID=tx_nawsecured1&u=0&g=0&hash=f00b54f04a07fce4b00d5eda2668e66073db3f48&file=fileadmin/sites/ajss/upload/ajss_super_editor/articles/ReperAJ_n__5_nov_2016.pdf).

98 Due to a shortage of places in the individual reception initiatives for UAMs, the minimum age for allocation to an individual reception initiative was raised from 16 years to 17 years in June 2017.

99 See : <https://www.siaeupen.be/>.

100 Source : General Administration for Youth Support (« Administration générale de l'aide à la jeunesse » ), UAMs Department.

term support. These units are individual reception facilities where four to six UAMs are co-housing under flexible supervision of the youth care services. About a hundred beneficiaries of international protection receive support tailored to their individual needs in these units. They can stay in these units until the age of 25.<sup>(101)</sup>

Due to a shortage of places in the Local Reception Initiatives for UAMs, Fedasil took a number of temporary measures in June 2017 in order **to regulate the transfer of UAMs with a residence permit of more than three months to a Local Reception Initiative**. The minimum age for allocation to an individual reception initiative was raised from 16 years to 17 years of age. Furthermore, the UAMs needed to have been accommodated in a collective reception centre for at least four months and have a sufficient degree of autonomy before being eligible for an individual reception place. Starting in July 2017, UAMs who meet the above criteria can also request, with the approval of their supervisors and guardian, a place in an Local Reception Initiative for adults during the transition period (six months). The Local Reception Initiatives for adults, willing to accommodate an UAM, received an increased reception rate from Fedasil to cover the extra costs associated with the reception and care of UAMs. These initiatives have solved to a certain extent the bottleneck in providing individual reception for UAMs with international protection for a transition period of six months in preparation of them living independently.<sup>(102)</sup>

### Taskforce on disappearances of unaccompanied minors

After a minor disappeared from the premises of the Immigration Office on 23 June 2017 (see section 6.4 of this report), a **task force on disappearances** was set up in order to better tackle this problem. The task force first met on 4 July 2017. It focuses on a **better central registration of disappearances** and on **close cooperation between all stakeholders**.

The purpose of the task force is to draft a **national protocol** that covers both the registration of all UAMs as well as the disappearances. In addition, an unambiguous definition of “disappearance” is being worked on, as not all stakeholders (i.e. Fedasil, the Guardianship Service, Child Focus, the Police, the Public Prosecutor) define this term in the same way.

### Legal guardianship and foster care

The **Guardianship Service for UAMs** had 35 FTEs in 2016. The case load was 3,609 UAMs by 31 December 2016, which decreased to 3,067 UAMs by 31 December 2017. The total **number of guardians** decreased from 620 in 2016 to 604 in 2017. Most of these guardians were voluntary guardians, but there were also 21 professional guardians and 102 guardians who worked on an independent basis. In 2017, the number of volunteer guardians remained stable and no new guardians had to be selected and trained. However, at the end of 2017, a new recruitment campaign was launched.<sup>(103)</sup>

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101 Source: UAMs Unit of Fedasil.

102 Fedasil, Temporary amendment to the 23 July 2015 instruction «Assignment of an individual reception place in the context of the transition of a UAM», 2 June 2017 and Fedasil, Instruction regarding “The raised rate for vulnerable persons in Local Reception Initiatives”, 1 August 2017.

103 Source: Federal Public Service Justice - Guardianship Service.

Guardians continued to receive training in 2017. The Guardianship Service provides – on an annual basis - **continuous training for all guardians**. These training sessions focus on different subjects: in 2017, for example, a pool of about 60 guardians were trained to intervene in situations of child smuggling or trafficking. These guardians can quickly be assigned in specific situations. Other training sessions for guardians focused on family reunification, reception conditions, voluntary return, prevention of radicalisation and psychosocial well-being of UAMs. Furthermore, guardians are invited to evaluate their work annually by the social workers of the Guardianship Service.

After agreeing upon the terms and conditions for the selection of foster families and the screening of candidate families and UAMs in 2015, **foster care for UAMs** started its second phase in 2016. One of the main challenges of the foster care system for UAMs was the **matching of candidate foster families with an UAM**. Foster families were keen to care for very young children, but many of the UAMs under the age of 15 were over 12 years of age. Furthermore, as most of the UAMs had already resided for a few months in a collective reception centre, where they built a social network, the aim was to look for a foster family in the neighbourhood of the centre. Another challenge was the cultural preferences of the biological parents. The guardians of the UAMs try to find a durable solution for the children under their protection. In this perspective, they may try to contact the parents of the UAMs. In cases where the guardian was able to contact the parents, the latter sometimes expressed their preference for foster families with the same faith or ethnic background.

In the **Flemish Community**, 185 unaccompanied minors were in foster care and accompanied by one of the Flemish Regional Foster Care Services by the end of 2016. By the end of 2017, already 331 children were in foster care. While in 2016, 84% of the UAMs were in foster care with families who already knew the child (i.e. mostly but not exclusively relatives), the share decreased to 78% of the UAMs in 2017.<sup>(104)</sup> The **increase in the number of UAMs placed with foster families** was partly due to the increasing amount of information on the programme which was disseminated among legal guardians.

An innovation in foster care in Flanders in 2017 was the **swift transfer of newly arrived UAMs** to foster families. This new procedure was developed by the non-profit organisation Minor-Ndako - with the support of Fedasil - for UAMs under the age of 13. Within one week after arrival in Belgium, the UAM was matched with a foster family. Nine children were assisted in this manner in 2017 and the results were considered very positive.<sup>(105)</sup>

What's more, Fedasil funded the project **“Culture-sensitive support for foster care for UAMs”** (with national funding). It was implemented in Flanders by the non-profit organisation Minor-Ndako. The primary target group of the project were UAMs younger than 13 who wished to be admitted to a foster family (additionally, UAMs older than 13 could also be part of the project). The project aimed at increasing the cultural sensitivity aspect in foster care by selecting foster families of different origins, and at supporting the existing foster care services with making their selection procedures more culturally sensitive and better adapted to the specific needs of

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104 Trogh, K., Pleegzorg Vlaanderen, eindrapport Geef de wereld een thuis, 2017, p.12.

105 Trogh, K., Pleegzorg Vlaanderen, eindrapport Geef de wereld een thuis, 2017, pp.7-8.

UAMs. Minor-Ndako also supported the foster family, the foster children and the guardians of the UAMs.

In the **French Community**, foster care for UAMs is not integrated into the general service for foster care, but a separate UAM department was created within the Youth Care Services of the French Community at the end of October 2015. This UAMs department is responsible, inter alia, for the foster care for UAMs. The UAMs department outsourced in 2016 the creation of 40 foster care places for UAMs to **non-profit organisations** (co-funded by AMIF).<sup>(106)</sup> Two non-profit organisations responsible for recruiting, screening and counselling families, as well as monitoring the children placed in foster care, are Mentor-Escale (which manages 30 places) and Famille sur Mesure (which manages 10 places in foster care mainly in families of the Islam faith). By the end of 2017, Mentor-Escale and Famille sur Mesure respectively supervised 19 and three young UAMs in foster families. Foster care may also be provided by relatives in the French Community.

### Age assessment

Over the last years, the **number of age assessments have fluctuated** with the number of applications for international protection lodged by UAMs. In 2017, 70% of the self-declared minors were not underage according to the results of the age assessments. Some of the self-declared minors lodged an appeal against this decision. Most of these appeals were rejected.

[Table 3](#): Number of age assessments and results, 2014-2017

Year	Number of age assessment procedures conducted	Number of age assessment procedures where the person is found to be an adult	Share of justified doubt on being of minor age	Number of results appealed
2014	537	370	69%	32
2015	1187	814	69%	79
2016	1269	902	71%	60
2017 <sup>(107)</sup>	697	491	70%	53

Source: Federal Public Service Justice - Guardianship service

### Provision of information

To **provide information and support to aid workers involved in the care for UAMs** all over Belgium, the non-profit organisations Mentor-Escale and Minor-Ndako - in partnership with Fedasil and with funding of AMIF and the King Baudouin Foundation - established a **bilingual**

<sup>106</sup> « L'aide à la jeunesse soutient l'accueil et l'accompagnement des MENA », REpér'AJ, le journal de l' Administration générale de l'aide à la jeunesse, November 2016, pp.3-9.

<sup>107</sup> Source Federal Public Service Justice, Guardianship service, 25 January 2018. The numbers for 2017 are subject to change since the Immigration Office was still waiting for the results of 19 age assessments tests on 28 February 2018.

helpdesk called “Manorea”<sup>(108)</sup> in September 2016. This helpdesk can be reached from 9 am to 5 pm each working day.<sup>(109)</sup> The project will run for two years.

In February 2017, the CGRS published a **new guide for UAMs**. The guide explains the stages an UAM goes through when he/she applies for international protection in Belgium. At the request of the CGRS, the Immigration Office presents this guide to every UAM at the moment of registration of the application for international protection. The guide is available in Dutch, French, English, Arab, Tigrinya, Dari, Pashto, Pular, Somali and Albanian. It was developed with the support of the AMIF.<sup>(110)</sup>

With the support of the King Baudouin Foundation and the European Programme for Integration and Migration (EPIM), the three regional associations of the Public Centres for Social Welfare<sup>(111)</sup> continued to implement the project “**Supporting the empowerment and transition to autonomy of unaccompanied and separated children and youth**” (2016-2018). The VVSG, UVCW and Brulocalis made the common observation that the Public Centres for Social Welfare and their Local Reception Initiatives encounter difficulties when confronted with separated and unaccompanied children and youth who need additional and specific support. In response to these challenges, the goal of the project is to strengthen the expertise of the local Public Centres for Social Welfare with regards to the profiles, needs and rights of unaccompanied and separated children and youth in order to better support and empower the latter in their transition to autonomy and emancipation. The three umbrella organisations closely work together to reach this common goal at the national level with joint national activities and tailored, but similar, regional activities (such as a training for the social workers of the Public Centres and an awareness-raising and information session for mandatories of the Public Centres). At the end of the project, a **practical brochure** “Unaccompanied Minors: What you should know for sure and where you can find more information” will be compiled.<sup>(112)</sup> The project is targeting all Belgian Public Centres for Social Welfare, most specifically those who are currently confronted with the reception of separated and unaccompanied children and youth.

## Other

The **project “My Future”**, which was launched by Fedasil in September 2014, was implemented again in 2017. The project aims at creating a reception trajectory for UAMs who reach majority and have no prospect of legal stay in Belgium. Due to the important inflow of unaccompanied minors, it was not possible to implement the project systematically in 2015 and 2016. However, in 2017, **the reception centres** of Arendonk and Bovigny implemented the project again in order to inform, raise awareness and empower these UAMs during individual and group sessions. Fedasil

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108 Manorea means «the place where you exist» in Amharic, a language spoken in large parts of Ethiopia.

109 More information in Dutch on <https://minor-ndako.be/watwedoen/manorea-helpdesk/> and in French on <https://www.mentorescale.be/our-impact/helpdesk-manorea/>.

110 The “Guide for unaccompanied minors who apply for asylum in Belgium” is available on the website of the CGRS: <http://www.cgrs.be/en/publications>

111 i.e. Vereniging van Vlaamse Steden en Gemeenten (VVSG), Union des Villes et Communes de Wallonie (UVCW) and Vereniging stad en gemeenten van Brussel/Association Ville et Communes de Bruxelles (Brulocalis).

112 See: <https://www.kbs-frb.be/nl/Newsroom/Press-releases/2018/20180612ND>.

aims to prepare UAMs for their departure from the reception network by giving them correct information about migration, voluntary return and irregular stay. UAMs enrol on a voluntary basis in the project. In order to decrease the resistance to the trajectory, UAMs who are still in the international protection procedure can also be accommodated in the above mentioned reception centres, even immediately after the reception phase in the Observation and Orientation Centres but they receive different counselling. The staff of the project will also reach out to UAMs staying in other reception facilities.<sup>(113)</sup>

## EMN Activities 2017 EMN Study

### Approaches to Unaccompanied Minors Following Status Determination

In 2017, the EMN carried out a study on **the approaches to Unaccompanied Minors (UAMs) Following Status Determination**. The aim of this study was to examine what happens with UAMs after the completion of the status determination procedure. In principle, either a protection status is granted (and hence a right of residence), followed by integration into the new host society; or the application (for international protection) is rejected, followed by the UAMs being obligated to return. More particularly, the study focuses on the approaches to UAMs whose applications for international protection have been rejected and who are or cannot be (immediately) returned or have disappeared and on the legal and organisational set-up with regard to the (voluntary) return of UAMs, including information on the stakeholders involved. Furthermore, the study examines the integration approaches regarding UAMs after positive decisions on admission or international protection/ other relevant procedures in key areas such as housing, education and support in labour market entry, including rights and entitlements awarded to UAMs (for example family reunification) and the stakeholders involved. What's more, as many UAMs arriving in the EU are close to passing the age threshold to adulthood, the study examines whether there are any particular arrangements for **UAMs who turn 18 around** the point in time when they receive a final decision on status and what impact this may have on their integration trajectories or their return.

The study also provides an **overview of good practices and challenges** relating to the return and integration of UAMs.

#### Some of the main findings of the Synthesis report:

- UAMs are treated first and foremost as children and receive the **same care as children** with national or EU citizenship.
- Only about a third of (Member) States appear to have a combination of **transition arrangements** for those turning 18 years before, during and/ or after their transition to adulthood.

113 Source: UAMs unit of Fedasil.

- Overall, there is a **lack of comprehensive and comparable data on UAMs** – including specific integration outcomes, but also on disappearances and return of UAMs.

**The Belgian report, the comparative EU Synthesis Report and the EMN Inform** (which summarizes the main findings of the EU Synthesis Report) will be available on the website of the Belgian Contact Point of the EMN: [www.emnbelgium.be](http://www.emnbelgium.be).

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)

### **6.3.2. Other vulnerable groups**

#### **Tools and projects aimed at vulnerable groups in the context of reception**

Under AMIF 2016-2017, Fedasil opted to fund four projects with a focus on creating a **structural approach for applicants for international protection with psycho-social problems** (adults and minors). One of these projects is “**FGM Global Approach**”, which was initiated by the non-profit organisations GAMS Belgium and Intact<sup>(114)</sup>. In the context of this project, a trajectory was developed to **support and refer asylum seeking girls and women who are victims or at risk of female genital mutilation**. In 2017, the following activities were implemented: two reference persons were trained per reception centre (one person from the medical service and one from the social service); the trajectory was launched in all collective reception structures; and the trajectory was adapted to be used in the individual reception facilities. Three other projects provided special assistance and treatment to applicants for international protection (families, children, single men and women), with **psychiatric and/or psychological problems**.

#### **EMN Activities** **2017 EMN Ad Hoc Query**

##### **International protection status for victims of female genital mutilation**

In May 2017, the Cypriot Contact Point of the EMN launched an ad-hoc query on the policies relating to the handling of applications for international protection submitted by (Somali) nationals claiming to be **(potential) victims of female genital mutilation (FGM)**.

**20 (Member) States** – including Belgium – responded to the ad-hoc query. They provided information on the following aspects (among others): which protection status is granted on the basis of (risk of) female genital mutilation? Is the granting of protection based on the

<sup>114</sup> For more information on GAMS Belgium and Intact, see: <http://gams.be/en/> and <http://www.intact-association.org/nl/>



membership to a particular social group or on other grounds? In case of risk of FGM, is the age of the women or girls concerned taken into account?

**The compilation of answers of the (Member) States** is available on: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/2017.1187\\_cy\\_type\\_of\\_international\\_protection\\_status\\_for\\_victims\\_of\\_fgm.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/2017.1187_cy_type_of_international_protection_status_for_victims_of_fgm.pdf).

Fedasil also funded **several small scale projects related to vulnerable groups** (with national funding). The project **“Buddy’s for female refugees”** of the Women’s Council, initiated in 2016 to provide support to single female beneficiaries of international protection (with or without children) during the transition period from material aid to financial assistance, was extended in 2017. Female buddies from helped female beneficiaries of international protection to find housing on the regular rental market, contributed to the development of their social network, and supported them with starting their lives in a new society. The project put an emphasis on the empowerment and participation of refugee women.

Furthermore, the project **“Safe Havens”** of the organisation Çavaria<sup>(115)</sup> aimed at **lesbian, gay, bisexual and transgender applicants for international protection** in individual and collective reception facilities - which started in 2016 - continued to be implemented in 2017. The project provided training to the staff of the reception facilities with regard to the assistance provided to LGBT applicants for international protection. The project also organised gatherings for LGBT applicants, where they could meet representatives of LGBT associations and other LGBT applicants for international protection in order to increase their self-reliance by informing them about their rights and by expanding their social network.

Fedasil also subsidised a project that supported staff in the reception facilities with **addressing issues related to drug use by residents** and referred applicants for international protection to specialized medical and psycho-social centres for addiction treatment.

### **Training sessions for interpreters and protection officers (CGRS)**

In 2017, the CGRS organized a training session **“Interpreting gender-related asylum stories”** for its **interpreters**. A participative approach was chosen for this training session. Starting from concrete problems encountered by interpreters when translating gender-related asylum stories, the training session led to greater awareness of gender-related issues, such as sexual orientation and gender identity, female genital mutilation and sexual violence, as well as greater awareness of the difficulty for the applicants concerned to talk about these subjects during their interview. Interpreters received instructions and practical advice for translating such stories.

The **protection officers** of the CGRS attended several training sessions to enhance their capacity

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<sup>115</sup> Çavaria is the umbrella organisation of lesbian, gay and transgender associations in Flanders and Brussels.

to take into account the **vulnerability of specific groups**: a training session on traumatic memory to understand the repercussions of a traumatic event on the victim's psychological functioning and short and long-term memory; and a training session on gender identity with a focus on the life experience and situation of transgender persons.

All the above training sessions (for interpreters and protection officers) were made possible with co-financing from AMIF and were given by experts with field-experience regarding the profiles under consideration.

CGRS staff also started the **EASO Training module on "Gender/Gender Identity & Sexual Orientation"**.

### **New guidelines for protection officers at the CGRS on sexual violence**

The protection officers at the CGRS received new guidelines on applications for international protection from victims of sexual violence. This document offers a theoretical basis (definitions, traumatic consequences, legal framework) and concrete instructions for conducting the personal interview and taking a decision in cases of victims of sexual violence.

Furthermore, an additional memo was produced in 2017 **to complement the guideline regarding applications based on sexual orientation** already applied at the CGRS. This memo contains additional instructions for assessing the risk a homosexual person would face in case of return, and describes the special precautions that have to be taken in function of an individual applicant's profile and possible vulnerability.

### **Unaccompanied minors not applying for international protection**

The number of staff members of the section of the **Minors Unit of the Immigration Office** that is responsible for UAMs who do not apply for international protection increased to 9,5 FTEs in 2017. The staff members received training - either directly or indirectly (trainer of trainer) - for their assignment. Most staff members received an EASO-training on interviewing UAMs and the heads of the section followed an EASO-training on vulnerable persons and on trafficking in human beings (train the trainer).<sup>(116)</sup> The staff members process the files on human trafficking of UAMs and the applications for the special residence procedure for UAMs (durable solution). They also fulfil other tasks, such as the signalling and registering UAMs and following-up on various projects.

Furthermore, the Immigration Office - in collaboration with Fedasil - set up an outreach campaign in 2017 to **inform UAMs who are in transit in Belgium (mostly on their way to the United Kingdom) of the possibility to apply for international protection in Belgium**. Starting in June 2017, staff members of the Immigration Office distributed informational flyers twice a week at public places where many migrants in transit were present, and in particular to UAMs.<sup>(117)</sup> The

<sup>116</sup> Source : Immigration Office, Minors and trafficking in human beings unit (MINTEH).

<sup>117</sup> Belgian House of Representatives, Integral Report with translated brief Report of the Speeches, 5 December 2017, CRIV 54, COM 774, pp.22-25.

flyer also pointed out that the application of the Dublin procedure is different for minors as the best interest of the child is taken into account.

What's more, the regional authorities developed **initiatives for UAMs who do not want to apply for international protection** or are not aware of this possibility. The UAMs department of the Youth Care Service of the **French Community** funded activities for social workers in a few large cities to reach out to irregularly staying UAMs. This Youth Care Service can accommodate the minors temporarily and/or inform them about the possibilities that are available to them, other than staying irregularly in Belgium.<sup>(118)</sup>

## 6.4. Public debate

The public debate in Belgium with regard to UAMs continued to be important in 2017. This has been the case since 2015 when 2,545 UAMs applied for international protection in Belgium compared to 470 in 2014<sup>(119)</sup>.

The debate covered many **different aspects of the situation of UAMs**. Overall, many different actors and organisations, from grassroots activists to members of Parliament, participated in the debate. One of the subjects addressed was the **age assessments of unaccompanied minors**. In 2017, 697 age tests were performed. In 491 of the cases (i.e. 70%), the individual was found to be an adult<sup>(120)</sup>. While the Government and competent authorities claim that the age assessments are reliable and that, for the time being, bone age determination remains the most reliable method<sup>(121)</sup>, others have **questioned the legal certainty and scientific basis of these age tests**<sup>(122)</sup>. According to them it is impossible to determine the exact age with certainty. Factors such as climate, nutrition and medical background can lead to a variety of results. Some of them argue that the age of 18 years is an arbitrary limit to decide whether someone can get the specific protection measures reserved for UAMs such as special support and legal representation from a guardian, access to a health insurance under certain conditions, right to education, an adapted asylum procedure and reception facilities, etc. According to some, it would be **better to take into account the needs of the person** since a person who is 16 years old may need less support than someone of 20 years.<sup>(123)</sup>

In view of the high number of minors who declared themselves minors but had reached the age

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118 REpér'AJ, le journal de l' Administration générale de l'aide à la jeunesse, November 2016, p.9.

119 Source: Commissioner General for Refugees and Stateless Persons, Asylum Statistics: Overview 2015, 7 January 2016, <http://www.cgvs.be/nl/actueel/asielstatistieken-overzicht-2015>.

120 Federal Public Service Justice, Guardianship service, 25.1.2018. The numbers for 2017 are subject to change since the Immigration Office was still waiting for the results of 19 age assessments tests on 28 February 2018.

121 See for example: "Hoe betrouwbaar is de botscan als leeftijdstest voor minderjarige vreemdelingen?", Knack, 17 August 2016.

122 Platform Kinderen op de vlucht, Leeftijdsschatting van niet-begeleide minderjarigen (NBMV) in vraag: Probleemstelling, analyse en aanbevelingen, September 2017, <http://www.mineursenexil.be/fr/dossiers-thematiques/mena/identification/>.

123 See for example: "Minderjarige vluchtelingen belanden in categorie '18+'. Hulporganisaties hebben vragen bij tests die gebruikt worden voor leeftijdsschatting", De Morgen, 11 October 2017.

of majority according to the age tests, and in view of the costs associated with these tests, there were some politicians, including the State Secretary for Asylum Policy and Migration, suggested to have the youngsters involved pay for the costs themselves if the tests show that they were not underage. The average cost per age assessment depends on the hospital where the bone scan is taken and varies between 200 and 300 euros.<sup>(124)</sup>

Much of the debate regarding UAMs centred on **UAMs from Afghanistan**, which is the most common country of origin for UAMs in Belgium (e.g. in 2015, 1,520 applications for international protection by UAMs out of a total of 2,545 applications by UAMs were made by Afghan nationals; in 2017, 300 applications out of a total of 735 were made by Afghan nationals).<sup>(125)</sup> As a result of a number of incidents with (Afghan) UAMs and the experiences of guardians, the question concerning the **integration opportunities** for UAMs, especially Afghan boys, was raised. According to some, Afghan boys **lack an educational background and school skills** and some of them are unable to adapt to the Belgian schooling system.<sup>(126)</sup> The Federal Commissioner for Children's Rights who organises regular consultations with the guardians of unaccompanied minors, agreed that the schooling of Afghan youth in their home country, or better the lack of it, necessitated a more gradual inclusion in the Belgian school system.<sup>(127)</sup>

On 23 June 2017, a 9-year-old UAM **disappeared** from the premises of the Immigration Office where he was present for registration. When his disappearance was noticed, the Guardianship Service was notified, but none of the competent authorities made a declaration of his disappearance to the police and Child Focus. It was the reception facility where the minor was allocated to but never arrived that reported the disappearance. This incident, once more, stirred up the **debate on the disappearances of UAMs**. Serious criticism was expressed about the fact that the competent authorities did not signal the disappearance to the police and to Child Focus.<sup>(128)</sup> This incident also gave, once more, rise to questions regarding the cooperation agreements between police services, Immigration Office, Fedasil, the Guardianship Service and Child Focus in the event of disappearances and regarding **the registration in general of UAMs on the territory**.<sup>(129)</sup> The State Secretary for Asylum Policy and Migration reacted with the establishment of a "task force disappearances" in order to optimize the procedures and the registration.<sup>(130)</sup>

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124 See for example : "Francken compte faire payer le coût des scanners aux demandeurs d'asile fraudeurs", La Libre Belgique, 19 May 2017.

125 Data were updated according to Eurostat on 25 July 2018 <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>).

126 See for example: "Zonder begeleiding lukt het niet", De Standaard, 4 January 2018

127 See for example: "Ik vraag me af of ze ooit ingeburgerd raken. Bob Pleysier, ex-directeur van Fedasil en voogd van enkele minderjarige vluchtelingen uit Afghanistan, luidt de alarmbel. 'Ongeletterde herdersjongens die plots acht uur naar school moeten, dat geeft problemen'", De Standaard, 3 January 2018.

128 See for example: "Ook verdwijning jonge vluchteling is ernstig", De Standaard, 26 June 2017 and "Lunchtijd, zei de ambtenaar. En toen was Brahim weg. Hoe een niet-begeleide negenjarige jongen van de radar kon verdwijnen", De Morgen, 26 June 2017.

129 Exchange of views with the State Secretary for Asylum Policy and Migration about the disappearance of an UAM from the premises of the Immigration Department and merged questions, Belgian Chamber of Representatives, Complete report with translated concise report of the speeches, Commission for the Interior Affairs, General Affairs and the Public Service, CRIV 54 COM 698, 28 July 2017.

130 See for example: "Theo Francken wil Task Force verdwijningen oprichten", Knack, 26 June 2017.

Other subjects present in public debate in 2017 were the **need for an adapted family reunification procedure for minors** (as the current system is considered by some to be very complicated)<sup>(131)</sup>; the **challenges with regard to the care and accommodation of UAMs**<sup>(132)</sup>; or **health concerns** (mental health issues in particular) among UAMS.<sup>(133)</sup>

## 6.5. Future plans

During 2016 and 2017, the **reception and care of UAMs under the age of 15 organised by the Communities** was largely based on project funding. According to the division of competences in Belgium, the Federal authorities are (financially) responsible for the care and protection of these unaccompanied foreign minors, unless these minors fulfil the conditions to access the Youth Care Services of the Communities. For humanitarian reasons, the Communities co-financed the creation of residential care for UAMs in their Youth Care Services in collaboration with Fedasil. The Federal authorities are now **interested in structurally embedding this policy** from the Communities to organise and co-finance the reception of UAMs. The funding by the Flemish and French Communities through project funding - in partnership with Fedasil - is however assured for 2018. The Flemish authorities have decided to allocate EUR 6.7 million to reception places, while the French Community has already allocated EUR 2.4 million for the reception places until July 2018, and EUR 447,000 for foster care. Discussions to make the federal-regional cooperation more structural and thus no longer allocating funding only on a yearly basis are on course.<sup>(134)</sup>

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131 See for example: "Opinie: 'Hoe een kind, angstig wachtend op zijn ouders, kan verzuipen in starre regeltjes'", VRT, 27 November 2017.

132 See for example: "Huisvestingscrisis dreigt voor niet-begeleide minderjarige vreemdelingen", De Redactie, 1 June 2017.

133 See for example: "Half miljoen euro voor zeven traumapsychologen", Website of the Flemish Minister of Education, 21 November 2017; and "Leer niet-begeleide minderjarigen beter coachen: volg de gratis opleiding van Solentra", Website of the City of Antwerp, 18 May 2017 (<https://www.antwerpen.be/nl/info/59159fbfca69bcb0fa315d43/leer-niet-begeleide-minderjarigen-beter-coachen-volg-de-gratis-opleiding-van-solentra>); and Vangenechten J., "Welzijn in tijden van vluchtelingencrisis, Jongerenwelzijn & Minor-Ndako", Agora, Volume 32, nr. 4, December 2016.

134 Toelichtingen bij de middelenbegroting en de algemene uitgavenbegroting van de Vlaamse Gemeenschap voor het begrotingsjaar 2018, Documenten Vlaams parlement, 13 (2017-2018) – Nr. 1, p. 60; and General Administration for Youth Support (Administration générale de l'aide à la jeunesse), UAMs Department.

## 7.1. Context

### Background information

In Belgium, the **Communities** (Flemish, French and German-speaking) and the **Regions** (Flanders, Wallonia and Brussels-Capital) are competent for different aspects related to the integration, civic integration, and labour market integration of foreign nationals. Furthermore, 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 applicants for international protection during the international protection procedure.

## 7.2. Legislative changes

### The “newcomers’ declaration” and provable integration efforts

At the federal level, the law of 18 December 2016<sup>(135)</sup> - which is composed of two parts (only one of which has entered into force so far) - inserted **new residence conditions** related to integration into the Immigration Act (see Section 4.2 of this report).

### The (mandatory) integration programmes

In the **German-speaking Community**, the decree of 11 December 2017<sup>(136)</sup> - which came into force on 1 January 2018 - made the **integration programme mandatory** for foreign nationals who are above 18 years of age; registered at a municipality of the German-speaking Community after 1 January 2018; have a residence permit valid for at least three months. There are however exceptions (e.g. the programme is not mandatory for EU/EEA/Swiss citizens, students, migrants above the age of 65, migrants who have lived in Belgium for longer than 3 years, etc.). Nevertheless, this integration programme is open on a voluntary basis to all migrants. The integration programme consists of **four parts**: primary reception; language course; integration course; and social and professional orientation.

135 Law of 18 December 2016 inserting a general residence condition into the Immigration Act, Belgian Official Gazette, 8 February 2017.

136 Decree of 11 December 2017 on integration and living together in diversity, Belgian Official Gazette, 20 December 2017.

Furthermore, as foreseen in the above mentioned decree, the **Info-Integration centre** was accredited by the government of the German-speaking Community as the reference centre for the integration programme.<sup>(137)</sup> It provides assistance to participants of the integration programme from start to finish. The first step in getting involved in the integration programme is a conversation with an Info-Integration employee. On the basis of this conversation, an individual plan is defined, indicating the individual stages of the course for each participant. Besides that, the centre has other tasks, such as the organisation of **awareness raising measures** on migration targeting the host population, or offering consultation services for organisations working with migrants.

What's more, the decree foresees the appointment of **two local integration managers**. These local integration managers are responsible for the coordination of all local initiatives in the integration field and for analysing the needs in the integration field. They are also the first contact persons for volunteers in the integration field.

Finally, the decree also provided for the creation of an **advisory council for all matters related to integration**. This newly created advisory council for integration is composed of – inter alia – representatives of civil society, local integration officers and migrants. The main tasks of the council are – among others – to make proposals concerning the development and implementation of integration policies, and to provide its opinion on draft legislative texts regarding social and professional integration of migrants.

In **Brussels**, a **mandatory integration programme** was established by the ordinance of the Joint Community Commission of the Brussels-Capital Region of 11 May 2017.<sup>(138)</sup> The ordinance indicates that the integration programme will be mandatory for newcomers who are between 18 and 65 years old; who have registered for the first time at a municipality of the Brussels-Capital Region with a residence permit valid for longer than 3 months; and who have not lived in Belgium for longer than 3 years. Certain categories of foreign nationals will be exempted from this obligation (e.g. EU/EEA/Swiss citizens, foreign nationals regularly residing in Belgium for maximum one year, etc.). The ordinance further stipulates that the integration programme should be composed of – at least – a certain number of **defined modules** (a welcome programme, language course, civic integration course).

However, this ordinance has **not yet entered into force** as executive measures still need to be adopted, as well as an agreement between the Flemish Community, the French Community Commission and the Joint Community Commission (Cocom). In the meantime, migrants in the Brussels-Capital Region do have access to integration programmes on a voluntary basis.<sup>(139)</sup>

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137 See: <http://info-integration.be>

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

139 For some years now, migrants in Brussels wishing to enlist for the Dutch speaking integration can contact the reception agency for integration (BON). Since 2016, migrants wishing to follow the French-speaking integration course can contact two “welcome offices for newcomers”, BAPA-BXL and VIA.

In **Wallonia**, the integration programme became fully mandatory for certain newcomers in 2016. In December 2017, the Walloon Government decided to **reinforce and improve its mandatory integration programme**. Additional funding and certain changes are planned (see section 7.5 of this report).

In **Flanders**, a mandatory integration programme has been in place since 2004. Participants in the integration programme must prove that they master the Dutch language<sup>(140)</sup> and the learning outcomes of the citizenship course in order to receive an “**integration certificate**”. Mere attendance is no longer sufficient. This change was introduced in 2013 and applies to participants who entered the programme from 29 February 2016 onwards. By June 2017, 82% of the participants who finished the integration programme graduated<sup>(141)</sup>.

## **EMN Activities** **2017 EMN ad hoc query**

### **Integration measures regarding language courses and civic integration**

In 2017, the French Contact Point of the EMN launched an ad hoc query (divided in two parts) in order to collect information on the measures implemented by EU Member States and Norway to favour the integration of third-country nationals, more specifically regarding **language courses** and **civic integration courses**.

**20 (Member) States** – including Belgium – responded to the ad-hoc query. They provided information on the following aspects (among others): what are the conditions to access language courses and civic integration courses? What is the content of these courses? What is the duration of the courses? Do the participants receive any certificates? Are there incentives in place to encourage third-country nationals to attend these courses?

**The compilation of answers of the (Member) States** is available on European EMN website:

**Part I:** [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/2017.1167\\_fr\\_integration\\_measures\\_regarding\\_language\\_courses\\_and\\_civic\\_integration\\_part\\_1.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/2017.1167_fr_integration_measures_regarding_language_courses_and_civic_integration_part_1.pdf)

**Part II:** [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/2017.1168\\_fr\\_integration\\_measures\\_regarding\\_language\\_courses\\_and\\_civic\\_integration\\_part\\_2.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/2017.1168_fr_integration_measures_regarding_language_courses_and_civic_integration_part_2.pdf)

<sup>140</sup> Participants have to obtain A2 level of the Common European Framework of Reference for Languages. Illiterate or very low-skilled participants only have to obtain A2 level for the oral skills. For the written skills, the requirements are below the A1 level.

<sup>141</sup> Source: Flemish Agency for Internal Affairs.



## Legislation regarding discrimination (federal and federated level)

The **federal law of 15 January 2018** containing different provisions related to work provides the social inspection services with the opportunity to organize **anonymous tests** (so-called “mystery calls”) to detect discriminatory hiring practices of companies.

Furthermore, the evaluation of the federal anti-discrimination law, the anti-racism law and the gender law - which started in 2016 – continued in 2017. A committee of experts presented its **provisional report** to the Commission of Justice in the Federal Parliament on 4 October 2017. The experts were also heard in the federal Parliament on 8 November 2017, as well as the Interfederal Centre for Equal Opportunities Unia and the Institute for equality between men and women on 31 October 2017. These hearings will continue in 2018 and aim to improve the non-discrimination legislation.<sup>(142)</sup>

At the regional level, several ordinances of the **Brussels-Capital Region** adopted in 2017 focused on discrimination. The ordinance of 5 October 2017 of the Brussels-Capital Region focused on the fight against **discrimination in the provision of services**, among others on the private housing market.<sup>(143)</sup> The ordinance of 16 November 2017 of the Brussels-Capital Region - which came into force on 1 January 2018 - aimed at **fighting discrimination in employment**.<sup>(144)</sup> This ordinance authorizes regional employment inspectors to carry out tests to detect discrimination in employment. The Brussels-Capital Region is the first Region to introduce such tests. In the other Regions, the public employment agencies are active in combating discrimination on the labour market through other means (for example, by enabling third-country nationals to report discrimination through a specific telephone line, online or at specific agencies).<sup>(145)</sup>

In **Flanders**, the decree of 7 July 2017<sup>(146)</sup> introduced the possibility to **organize discrimination testing** in order to combat discrimination in the sector of service vouchers. These will be organized in the context of self-regulation. If these tests indicate lasting or repeated issues, the Flemish social inspection services will be informed.

## 7.3. Operational changes

### Improving the attainment of third-country nationals in the education system

Several measures taken in previous years - following the important inflow of applicants for international protection in Belgium – were continued in 2017. The measures taken in **Flanders** to

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142 Source: Unia, the Inter-federal Centre for Equal Opportunities.

143 Ordinance of the Brussels-Capital Region of 5 October 2017 aiming at fighting against certain forms of discrimination and to promote equality of treatment, Belgian Official Gazette, 19 October 2017.

144 Ordinance of the Brussels-Capital Region of 16 November 2017 aiming at fighting against discrimination in employment in the Brussels-Capital Region, Belgian Official Gazette, 21 November 2017.

145 Sources: Brussels-Capital Region; Actiris (Diversity department); and VDAB.

146 Decree of 7 July 2017 with various provisions on the domains of work and social economy, Belgian Official Gazette, 1 August 2017.

reinforce reception classes for non-Dutch speaking newcomers and the system of school coaches (who follow-up on the newcomers) continued to be implemented in 2017.<sup>(147)</sup> In the **German-speaking Community**, special classes in regular schools also continued to be provided to newly arrived third-country nationals under 18 in order to learn the language.<sup>(148)</sup> A new decree on the schooling of newly arrived school children was adopted on 26 June 2017. It entered into force on 1 September 2017. In the **French Community**, additional measures were taken in 2017 and the beginning of 2018 to further reinforce the specific schooling system in primary and secondary education for newly arrived pupils (i.e. bridging classes<sup>(149)</sup>).

### Enhancing the language skills of third-country nationals

Several measures taken in recent years to **reinforce the offer of language and literacy classes for newcomers**<sup>(150)</sup> – following the important inflow of applicants for international protection in Belgium – were continued in 2017.

### Measures by the Regional Public Employment Services to facilitate the integration of third-country nationals into the labour market

The Regional Public Employment Services continued or started to implement measures and projects to facilitate the integration into the labour market of third-country nationals (and other groups). Some of the measures and projects focused on specific categories of third-country nationals (such as applicants for international protection, highly skilled migrants, etc.).

In **Flanders**, the Flemish Public Employment Service (VDAB) implemented its **Action Plan 2016-2018 entitled “Integration through Work”**.<sup>(151)</sup> This action plan aims to effectively and efficiently guide foreign language jobseekers with a migration background to available vacancies, while providing the necessary support with respect to language requirements, training and the required skills. The VDAB closely **collaborated with its partners** in 2017 in order to ensure an efficient referral of newcomers. This means that the Flemish Agencies for Integration and Civic Integration but also the Public Centres for Social Welfare and Fedasil **quickly refer the newcomers to the VDAB** for a screening. This should allow for a quicker mobilization of the newcomers into the labour market. To this end, an on-line booking system was set up, which immediately arranges a date and time for a customized VDAB-screening. Furthermore, the VDAB decided to abolish an entry-level Dutch as a requirement for third-country nationals to qualify for its services. The **knowledge of Dutch is a competency, but no longer (always) a prerequisite**: if a foreign language jobseeker has professional competencies and he/she has a good to very good command of the

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147 For further information on these measures, see: Belgian Contact Point of the EMN, Annual Report on Asylum and Migration Policy in Belgium 2016, 2017.

148 Source: Ministerium der Deutschsprachigen Gemeinschaft, Sozialpolitik.

149 The overall aim of these DASPAs (“Dispositif de scolarisation et d’accueil spécifique”) is to ensure the integration of the newly arrived pupils in the schooling system of the French Community; to offer them educational and pedagogical support adapted to their learning profiles (such as the difficulties associated with a new language); and to offer them an intermediary schooling phase (of limited duration) before joining a “regular” class.

150 For further information on these measures, see: Belgian Contact Point of the EMN, Annual Report on Asylum and Migration Policy in Belgium 2016.

151 VDAB, Programme Integration through Work – Action plan 2017.

contact language, the VDAB will train and mediate the third-country national to a job opening. In this perspective, the first screening test the VDAB performs is a technical screening to assess the distance to the labour market of the foreign language jobseeker. By September 2018, the VDAB wants this technical screening to be provided in all its training centres.<sup>(152)</sup>

As mentioned above, the VDAB's Action Plan targets foreign language jobseekers with a migration background who are looking for a job. **In 2018**, the VDAB wants to put a specific focus on the group of foreign language jobseekers with a migration background who are **still unemployed two years after registering with the VDAB as unemployed persons** (at the beginning of 2018, 31% of the foreign language jobseekers with a migration background were still unemployed two years after having registered with the VDAB<sup>(153)</sup>). At the same time, in accordance with the Integration Pact, the target group will be broadened to all jobseekers with a migration background, including Dutch speakers whose (grand)parents have immigrated to Flanders. The end goal of this operation is to transcend the dichotomy between migrants and the Flemish community in favour of a more inclusive community approach which addresses the individual needs of all.<sup>(154)</sup>

In **Brussels**, the **Public Employment Service (Actiris)** started implementing the project **"@level2work"** in Brussels<sup>(155)</sup>, via AMIF/ESF funding, in collaboration with various partners (from 1 June 2017 until 01 September 2018). The project targets unemployed third-country nationals with a higher education diploma, and aims at **preparing them for job openings in the health care and the IT sectors through different means (e.g. workshops, counselling, etc.)**.<sup>(156)</sup>

Furthermore, Actiris was in the process of **developing partnership agreements** with different organisations (such as Bon, VDAB, Huis van het Nederlands, the Brussels Welcome Office for Newcomers and Fedasil) in 2017. These partnerships fall within the planned elaboration of a **specific approach** by Actiris regarding the integration of newcomers on the Brussels labour market.

In **Wallonia**, a **cooperation agreement (declaration of intent)** was signed by the State Secretary for Asylum Policy and Migration and the Walloon Minister for Employment on 29 August 2017 in order to establish a structural cooperation between the **federal reception agency Fedasil and the Walloon Public Employment Agency (Forem)**. The agreement's main aim is to increase the cooperation between the organisations involved in order to prepare **applicants for international protection/ beneficiaries of international protection** for employment as early as possible. The cooperation focuses specifically on information, referral, mobilisation, activation and orientation towards the labour market of applicants for international protection with a high recognition rate as well as beneficiaries of international protection. Different activities are implemented to

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152 Source: VDAB.

153 At the beginning of 2018, 23% of the foreign language jobseekers with a migration background were no longer looking for work (due to illness, family reasons, studies or departure from Belgium) two years after having registered with the VDAB.

154 Source: VDAB.

155 @level2work is composed of several projects implemented in Brussels and in Flanders.

156 See: <http://atlevel2work.be>

identify the needs of the applicants for/beneficiaries of international protection more quickly and to give them information about the registration procedure with the Forem and the services this agency offers (e.g. information sessions organized by the Forem).<sup>(157)</sup> A similar cooperation agreement was concluded in July 2016 for the Flemish Public Employment Agency (VDAB) and Fedasil.

What's more, the Forem was involved as a partner in an **European project** financed by Erasmus + (called Move EU) which aims at addressing a lack of key competences among migrants which prevents them from qualifying for training (or employment).<sup>(158)</sup>

Furthermore, Forem launched a **call for proposals** to finance actions in cooperation with external partners.<sup>(159)</sup> The objective of the call is to strengthen actions aimed at improving the socio-professional integration of newcomers, by setting up programmes adapted to the specific needs of these migrants (e.g. learning of the French language directly linked to employment). The selected programs will be implemented in 2018.<sup>(160)</sup>

### Promoting the integration of vulnerable groups of third-country nationals

Several measures were taken or planned at the level of the federated entities to promote the integration of vulnerable groups of third-country nationals, such as unaccompanied minors (see Chapter 6 of this report).

### Promoting integration at the local level

Through the law of 21 November 2016<sup>(161)</sup>, Public Centres for Social Welfare received extra **funding from the federal government in order to enhance the social integration of beneficiaries of international protection**. This law was adopted in the framework of the important inflow of applicants for international protection in 2015 and 2016. Furthermore, **Flemish municipalities continued to benefit from additional funds** granted by the Flemish Government in order to support them with the integration of beneficiaries of international protection (e.g. assistance to housing, medical or psychosocial support, family support, etc.). Decisions to provide additional financial support were taken in 2016 by the Flemish Government following the high inflow of applicants for international protection in Belgium. Furthermore, following a first decision in 2015, **the Government of the Brussels-Capital Region** decided in December 2016 to grant additional funds to the municipalities supporting different target groups, including migrants.

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157 See: <http://jeholet.wallonie.be/home/presse--actualites/publications/publication-presse--actualites-1.publicationfull.html>

158 Source : Service public de Wallonie, pouvoirs locaux action sociale, direction de l'égalité des chances et de l'intégration.

159 See: <https://www.leforem.be/partenaires/appel-a-projet-insertion-prim-arrivants.html>

160 Source: Forem.

161 Law of 21 November 2016 aiming at promoting the integration of recognized refugees and beneficiaries of subsidiary protection following the asylum procedure, Belgian Official Gazette, 13 December 2016.

## Integration monitoring tools

The third report of the **“Socio-Economic Monitoring”** was published<sup>(162)</sup>. This monitoring project maps - on a bi-annual basis - the position of employees on the labour market in Belgium according to their origin. This report is drafted by the Federal Public Service Employment, Labour and Social Dialogue together and the Inter-federal Centre for Equal Opportunities Unia, in collaboration with the Crossroads Bank for Social Security, the Population Registers, the Ministers for Work and different experts.

Furthermore, the **2016 edition** of the **Flemish Local Civic Integration and Integration Monitor** (LIIM) was published in 2017 (the data collection for this edition of the Monitor ended in February 2017)<sup>(163)</sup>. The LIIM gives municipalities a clear view of the number and position of foreign nationals and persons of foreign origin in the areas of employment, housing, education, welfare, poverty and participation in their community. These local figures allow municipalities to make more objective policy choices or make adjustments. The LIIM is thus a valuable decision-support tool. This Monitor is updated annually.

## Projects to raise awareness on migration

In 2016, the **Belgian Development Cooperation** launched a call for proposals for development education projects aiming at **raising awareness** of families with young children in Belgium **on the root causes of forced migration**. In 2017, several projects were selected, including inter alia:

- The Film Festival Afrika “Waar kom jij vandaan” (i.e. “where are you from”?) in Leuven proposes films and entertaining activities on the topic of migration to children and their families.
- The organisation “Vluchtelingenwerk” proposes – in the framework of an awareness raising event focused on refugees – specific activities targeting families with young children.

Furthermore, the **Walloon government** launched a new call for proposals in 2017 - for non-profit associations, local authorities, foundations, institutions serving the public interest and international non-profit associations - to support **local initiatives for the integration of foreigners and people of foreign origin**. The proposed projects could focus on different themes, including the promotion of **“interculturality”** (for all audiences or specific audiences, such as the medical profession, public services, landlords, etc.). One of the changes of the 2017 call for proposals is that already accredited Local Initiatives for the Integration of Foreigners and People of Foreign Origin (ILI) have the possibility to apply for themes for which they are not already accredited. The selected projects will cover a period of 2 years<sup>(164)</sup>.

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162 Available at: <https://www.unia.be/fr/publications-et-statistiques/publications/monitoring-socio-economique-2017-marche-du-travail-et-origine>

163 Available at: <http://www.statistiekvlaanderen.be/monitor-lokale-inburgering-en-integratie>

164 See: <http://www.wallonie.be/fr/actualites/initiatives-locales-dintegration-appel-projet-2017-2018>

In **Flanders**, the ESF agency of the Flemish Government launched an AMIF-call for projects<sup>(165)</sup> in the framework of the **Integration Pact**<sup>(166)</sup> in December 2017. The call aims at selecting projects to combat direct and indirect discrimination of third-country nationals and to promote mutual respect.

Besides the above mentioned organisations, many other stakeholders were involved in 2017 in raising awareness about migration, international protection, stereotypes and combatting prejudices among the wider public. A few examples can be provided.

In the framework of the “Call for Development Education 2014”, the Government of Flanders financed a project of the NGO Vluchtelingenwerk Vlaanderen, 11.11.11. and the Minorities Forum (1 September 2014 - 1 September 2017) entitled **“A world on the move”**. The aim of the project was to bridge the gap between the field of development cooperation and the field of migration and integration (more precisely, it focused on capacity building and the reinforcement of staff training in both fields).

In the framework of the “Call for Global Challenges 2016”, the Government of Flanders financed a project of the organisation “Pax Christi Flanders” together with “Drops” (2 January 2017 - 2 May 2018) entitled **“Peace Craft- Play to change”**. In the framework of this project, young people from a Belgian reception centre and young people with a migration background inform Flemish youth and raise awareness about migration and asylum via a theatre performance and an interactive game<sup>(167)</sup>.

**The organisation 11.11.11** (an umbrella organisation of Flemish NGOs) focused its campaign year in 2017 on the topic of migration and refugees (the campaign year 2018 will also focus on this topic)<sup>(168)</sup>. About 80 organisations from different sectors were involved in this campaign. Different activities were implemented in the framework of the campaign.

## 7.4. Public debate

Different aspects of integration were present in the public debate in 2017. First of all, the question of the **new residence conditions** (i.e. integration efforts and “newcomers declaration”) introduced at the federal level – which were largely discussed in 2016 – continued to be present

165 See: <https://www.esf-vlaanderen.be/nl/oproepen/amif-integratiepact-projecten-ter-bestrijding-van-racisme-en-discriminatie-en-bevordering>

166 The elaboration of a so-called “Integration Pact” with different actors (e.g. local authorities, social partners, the media, education partners and organisations representing people with a migration background, etc.) was announced in the Agreement of the Flemish Government 2014-2019. The aim was to combat direct and indirect discrimination and racism and promote mutual respect. In 2016, the Flemish government asked the ‘Minderhedenforum’ – an umbrella association of ethno-cultural associations in Flanders and Brussels – to coordinate the elaboration of the Integration Pact. In 2017, the “Minderhedenforum” set up an independent umbrella structure with partner organisations - “integratiepact vzw” – to manage the Integration Pact. The umbrella structure is tasked with the strategic and operational elaboration of the integration pact, as well as with communicating, framing the content and supporting concrete actions taken by different actors to combat discrimination and racism.

167 See: <https://www.paxchristi.be/nieuws/peacecraft-play-change>

168 See: <http://allemaal mensen.11.be/>

in public debate in 2017<sup>(169)</sup>.

The **(mandatory) integration programmes** were also covered by the media, parliamentary questions and civil society. This included the results of these integration programmes, the planned mandatory integration programme in Brussels<sup>(170)</sup>, or the implementation of the newly mandatory integration programme in Wallonia.<sup>(171)</sup>

The integration of third-country nationals – including beneficiaries of international protection – on the **labour market** was also present in the public debate<sup>(172)</sup>.

## 7.5. Future plans

### Changes to the Walloon integration programme

The **Walloon Government** decided in December 2017 to **reinforce and improve its mandatory integration programme**, in order to increase its effects and the number of beneficiaries. The integration programme of the Walloon Region – which became fully mandatory for certain newcomers in 2016 – is composed of four modules: a welcome module, a French language course, a civic participation course and an orientation towards socio-professional insertion. Additional funding will be allocated to the integration programme. The aim is to increase the number of participants in the integration programme from around 2,500 people annually (at the end of 2017) to 3,500 people annually.

The following improvements are planned - inter alia<sup>(173)</sup>:

- The duration of the French language course will increase from 120 hours to 400 hours;
- The duration of the civic participation course will increase from 20 hours to 60 hours;
- The list of foreign nationals who are exempted from following the mandatory integration programme will be re-examined, in order to broaden the target audience;
- Collaboration between the municipalities and the Regional Integration Centres (CRIs) will be improved in order to speed up the contact between the newcomers and the competent Regional Integration Centre.

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169 See for example, Belgian House of Representatives, Question n° 1256 from MP Barbara Pas to the State Secretary for Asylum Policy and Migration, QRVA 54 140, 18 December 2017, pp. 454-455.

170 See for example: “Bruxelles cherche encore des places pour son futur parcours d’intégration”, l’Echo, 23 March 2017.

171 See for example: « Le flop du parcours d’intégration obligatoire », La Dernière Heure, 9 July 2017.

172 See for example: Belgian House of Representatives, Question n° 16797 from Emir Kir to the Deputy Prime Minister and Minister of Employment, Economy and Consumer Affairs, in charge of Foreign Trade, CRIV 54 COM 672, 23 May 2017, <http://www.dekamer.be/doc/CCRI/pdf/54/ic672.pdf#search=%2216797%22> ; or Flemish Parliament, Question from Emily Talpe to Minsiter Philippe Muyters, 15 March 2018, <https://www.vlaamsparlement.be/commissies/commissievergaderingen/1237758/verslag/1240691>.

173 See: <http://greoli.wallonie.be/home/presse--actualites/publications/la-ministre-alda-greoli-et-le-gouvernement-wallon-amplifie-le-parcours-dintegration-pour-une-wallonie-davantage-inclusive.publicationfull.html>

## Development of an approach focused on newcomers by Actiris

In 2017, the Public Employment Service of Brussels (Actiris) was in the processing of elaborating a **specific approach regarding the integration of newcomers on the Brussels labour market**. This approach (and the associated partnership agreements) should be finalized and launched in 2018<sup>(174)</sup>.

## Research project on the integration policies of local authorities in Flanders

The **Flemish government** considers local authorities as privileged partners in developing an integration policy. This integration policy – including at the local level – should be a coordinated policy: integration measures should be taken within and across policy areas and focus on the same priorities. In this framework, a **research project** has been commissioned by the Flemish authorities on the development of an integration policy by local authorities. It should be finalized by June 2018. This research has to identify in which domains the Flemish authorities – and in particular the department for equal opportunities, integration and civic integration – have to support the local authorities.<sup>(175)</sup>

## Changes regarding access to healthcare of irregularly staying migrants

In Belgium, irregularly staying migrants can have access to **urgent medical assistance**. In January 2018, the Minister for Social Integration presented a draft law on urgent medical assistance before the Public Health Commission of the House of Representatives. The draft law aims at – inter alia – fighting abuses linked to urgent medical assistance, by strengthening the control of urgent medical assistance; precisely defining the roles of all the actors involved and the scope of urgent medical assistance; and rectifying certain legal gaps.<sup>(176)</sup>

## Awareness raising event on discrimination in the German-speaking Community

The German-speaking Community will organize an awareness raising event in June 2018 for all organisations and institutions working with people who could be affected by discrimination or human trafficking. The aim of the event is to raise awareness on this issue among social sector workers and to provide them with the means to help their clients.

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174 Source: Actiris.

175 Source: Flemish Agency for Internal Affairs.

176 Belgian House of Representatives, Report on the first reading of the draft law by the Commission on Public Health, the environment, and the renewal of society, 2 February 2018, DOC 54 2890/002.





# 8 Irregular migration

## 8.1. Context

### Some figures

The number of applications for international protection from nationals of all the **visa free Western Balkan countries** increased in 2017 compared to the previous year (+ 12,7 %). The number of applications continued to be significant for some of these countries, such as Albania and - to a lesser extent - FYROM and Serbia.

The **lifting of the visa obligation for Ukraine** (on 11 June 2017) and **Moldova** (on 28 April 2014) did not lead to an increase in the number of applications for international protection from nationals of these countries. However, an increase in the number of applications could be observed for **Georgia** (+ 93% in 2017 compared to 2016). The (almost) doubling of the number of applications by Georgian nationals in 2017 compared to 2016 coincided with the lifting of the visa obligation for the nationals of Georgia on 28 March 2017. This represented a return to the high number of applications by Georgian nationals observed during the period 2008-2014, following a drop in the number of applications in 2015 and 2016.

[Table 4](#) : Applications for international protection in Belgium by nationals from the visa free Western Balkan countries and Eastern Partnership countries, 2016-2017.

	2016	2017
<b>Applications for international protection by nationals of the visa free Western Balkan countries</b>		
Albania	817	882
Bosnia and Herzegovina	56	44
FYROM	165	251
Montenegro	14	5
Serbia	203	232
Kosovo (nationals from Kosovo still need to apply for a visa).	331	320
Total (Kosovo not included)	1,255	1,414

Applications for international protection by nationals of the visa free countries from the Eastern Partnership		
Moldova (since 2014)	6	6
Georgia (no visa from March 2017 onwards)	242	468
Ukraine (no visa from June 2017 onwards)	186	154
Total	434	628

Source: Immigration Office.

## 8.2. Legislative changes

### Enhanced border management

The **Passenger Name Record (PNR) law** of 25 December 2016, which was adopted in Parliament on 22 December 2016, was published in the Belgian Official Gazette on 25 January 2017. The law transposes the PNR Directive, but also the Advanced Passenger Information (API) Directive, which aims at improving border control and at fighting against irregular migration.<sup>(177)</sup>

In execution of the PNR law, the **royal decree on the obligations of air carriers** was adopted on 18 July 2017. It was prepared in close cooperation with the aviation sector so that the specificities of said sector could be taken into account.<sup>(178)</sup> On the basis of the above-mentioned legal instruments, Belgium has been collecting API data of passengers from extra-Schengen flights from the air carrier Brussels Airlines since the beginning of 2018. The Belgian authorities will be gradually collecting API data from other air carriers throughout 2018.

The Belgian government decided not to limit the scope of the PNR law to airlines, but to also include **other international modes of transport**, such as international travel by bus, high-speed train and boat. Royal decrees still need to be adopted for these other transport sectors, in order to finalize the full transposition of the PNR and API Directives. Eventually, all carriers covered by the scope of the law will need to send API data for travellers going from, to, or across Belgium - before departure - to a single access point: the "Passenger Information Unit" (BELPIE). This single access point was set up in the Crisis Centre.<sup>(179)</sup>

### Misuse of family reunification migration channels

Although the Belgian authorities could already implement certain measures to fight against false declarations of parenthood, the **law on the fight against false declarations of parenthood** of 19 September 2017 provides new preventive and repressive actions by modifying the Civil Code,

<sup>177</sup> Law of 25 December 2016 on processing passenger data, Belgian Official Gazette, 25 January 2017.

<sup>178</sup> Royal decree of 18 July 2017 on the obligations of air carriers regarding the processing of passenger data, Belgian Official Gazette, 28 July 2017.

<sup>179</sup> Belgian House of Representatives, General Policy Note on Security and the Interior, 18 October 2017, DOC 54 2708/008, p. 10-11.

the Immigration Act, the Judicial Code and the Consular Code.<sup>(180)</sup> The law will enter into force on 1 April 2018.

Registrars acquired the legal possibility to **postpone (for two months) or to refuse** the registration of a declaration of parenthood. The judicial authorities can investigate the case for another three months at most. The law also introduced **penalties** for people who falsely declare parenthood (which is similar to the measures in place for marriages and partnerships of convenience): a possible prison sentence of up to one year for an attempt to do so, and up to five years for forcing somebody to be a part in such a declaration. People who are found guilty of falsely declaring parenthood can be refused a residence permit or lose their residence permit if the parentage tie is annulled later on.<sup>(181)</sup> A circular letter of the Minister of Justice specifying the actions of each actor in such cases - the local authorities, the judicial authorities and the Immigration Office - was published on 21 March 2018.

Mid-October 2017, the Immigration Office created a **special unit for coordinating the fight against false declarations of parenthood**. This unit (with 2.6 FTEs) will provide local authorities, the judicial authorities and the police with all the information they will need for their investigations.<sup>(182)</sup>

### Combatting smuggling

The law of 20 May 2016<sup>(183)</sup> criminalized unauthorized **entries of people into ports**. If someone tries to enter a port without any authorization, he/she may be sentenced with a prison term of up to six months (and up to one year if the entering takes place at night or is being done in group, regularly or with the use of violence or threats). If the crime is repeated after a first conviction, the person can be sentenced to a prison term of up to two years. In 2017, several smugglers active in the port of Zeebrugge were brought to trial and the Court applied this new legislation, mostly in a speedy procedure.

## 8.3. Operational changes

### Border control measures

The operational implementation of the **Maritime Single Window** within the Belgian Federal Police took place in 2017. Directive 2010/65/EC requires that EU Member States establish a Maritime Single Window for reporting formalities for ships arriving in and /or departing from ports. When a ship calls at a port, its agents and operators are required by the authorities to lodge a number of reports concerning, for example, the ship, the journey, the goods, the

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<sup>180</sup> Jinske Verhellen, "Schijnerkenningen: internationale families opnieuw in de schijnwerpers", Tijdschrift voor Internationaal privaatrecht, 2016, pp.96-99.

<sup>181</sup> Law of 19 September 2017 on the fight against false declarations of parenthood, Belgian Official Gazette, 4 October 2017.

<sup>182</sup> Source: Immigration Office, Investigation unit.

<sup>183</sup> Law of 20 May 2016 on incriminating the entering and intrusion of unauthorized persons into ports, Belgian Official Gazette, 2 June 2016.

passengers and the crew.<sup>(184)</sup> The information should be submitted electronically and only once. Further implementation at the national level of the principle of “single window” and further development of this principle within border management is foreseen for the upcoming years.

Belgium continued its efforts within the framework of the cooperation with Frontex, resulting in **raised capacity put at the disposal of Frontex** and the EU-external borders.

In 2017, all border crossing points were equipped with new high-tech material for the detection of falsified documents.

### Tackling identity fraud

The **National Security Plan** (2016-2019), which is the strategic policy plan of the integrated police, continued to be implemented in 2017. This Plan considers identification and identity fraud as important issues for police work. Identity fraud is not limited to the use of false or falsified identity documents. The fraudulent acquisition of genuine documents (e.g. through fraudulent breeder documents and imposters) is also considered to be an important issue.<sup>(185)</sup>

Within the Directorate-General Institutions and Population of the Federal Public Service Home Affairs, an **anti-fraud unit** (called the “National Single Point of Contact for Fraud”) was set up in 2016. This unit provides support to civil servants (at the local level) who were designated as the persons of reference regarding identity fraud. In the fall of 2016, a training program regarding identity fraud was started, which continued in 2017. Municipalities play an important role regarding tackling identity fraud, as they offer first line services to those applying and receiving identity and travel documents in Belgium. Because of this network of persons of reference regarding identity fraud, the national authorities are better informed on cases of identity fraud encountered at the local level.<sup>(186)</sup>

A **secured technical application** (i.e. a ticketing system) became fully operational in 2017 to identify, communicate, and follow-up on cases of identity fraud detected by municipalities.

Furthermore, a **mobile “Checkdoc website”** was developed in 2017.<sup>(187)</sup> This website enables companies to check whether Belgian identity documents (passports, identity cards, residence permits with chips) have indeed been issued by a Belgian administrative authority and whether identity documents are reported as stolen or lost.

Furthermore, the distribution service of SPOC certificates became operational by the end of 2016. These certificates allow other EU Member States to access the **chip of Belgian residence cards for foreign nationals or passports** in order to read **biometric data**, including **fingerprints**. In 2017, France, Germany, Czech Republic and Luxemburg were able to read these fingerprints.<sup>(188)</sup>

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184 For more information on the Maritime Single Window, see: <http://mswbelgium.be/?lang=en> .

185 National Security Plan 2016-2019 entitled ‘Together to the heart of the matter’, p.26-27.

186 Belgian House of Representatives, General Policy Note on Security and the Interior, 28 October 2016, DOC 54 2111/007, p. 11.

187 See: [www.checkdoc.be](http://www.checkdoc.be) .

188 Source: Federal Public Service Interior, Directorate General for Institutions and Population, Population and Identity Card unit.

## Tackling transmigration

In 2017, the Immigration Office started - in collaboration with Fedasil and UNHCR - an information **campaign targeting irregularly staying transit migrants**. Twice a week, staff members of the Immigration Office distributed flyers at public places where many irregularly staying migrants were present (such as the Maximilian Park in Brussels). The flyers, entitled "You want to go to another country, but you are stuck in Belgium?", informed migrants in transit about ways to get out of the difficult situation in which they found themselves, and about organisations that could help them. An emphasis was put on the possibility of voluntarily returning to their country of origin. The possibility of applying for international protection was also mentioned in the flyers. In case of interest and/or need for additional information, the irregularly staying migrant could call a free phone number. The information campaign paid specific attention to vulnerable irregularly staying migrants, such as unaccompanied minors. They were provided with specific information (see Chapter 6 of this report).<sup>(189)</sup>

Furthermore, the "**Medusa**" operation - which was launched in September 2015 - continued in 2017 (and is still ongoing). The operation is part of a global approach to **fight human trafficking, human smuggling and transmigration**. It involves small- and large-scale police actions, surveillance activities and patrols (on air, sea, road and rail connections) on the Belgian territory and in border areas.

In 2017, the control of **smuggling routes** to the United Kingdom was also stepped up. This included the control of **parking lots** along certain highways which were used by smugglers to enable migrants in transit to have access to trucks heading towards the United Kingdom. Some parking lots along the highways were protected year round with fences and cameras. Other parking lots were under surveillance for shorter periods of time. Both types of parking lots were closed off during the night.<sup>130</sup> In early 2018, the federal Minister for Home Affairs decided to deploy private security firms on five parking lots along the highways heading to the coast. The local and federal police will monitor - on a daily basis and without prior notice - railway transport, highways and the port of Zeebrugge.<sup>(190)</sup>

In this framework, the prevention campaign "**Give smuggling of people no chance**" - which was launched in 2016 - continued in 2017. It is implemented by the Immigration Office, in cooperation with the transport Federation (Febetra) and with the Federal Police. This **awareness-raising campaign on transit migration targeting truck drivers** uses different information channels (e.g. posters, flyers, and website<sup>(191)</sup>) to inform truck drivers on how to avoid transit migrants climbing into their trucks.<sup>(192)</sup>

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189 Source: Immigration Office, Ilobel unit and Minteh unit, and Belgian House of Representatives, General Policy Note on Asylum and Migration, 19 October 2017, DOC 54 2708/017, p. 35.

190 Source: Myria, smuggling.

191 See: <http://febetra.be/fr/publier/give-smuggling-of-people-no-chance/>.

192 Source: Immigration Office, Ilobel unit.

## Cooperation with third countries to prevent irregular migration

In 2017, Belgian authorities further implemented **information and prevention campaigns** in third countries focusing on the risks associated with irregular migration.<sup>(193)</sup>

First of all, a campaign was still running in the framework of a **twinning project with Kosovo** (March 2016–August 2018). The Immigration Office has the lead in this information campaign, which aims at informing people about the risks associated with irregular migration, as well about the possibilities and benefits of legal migration.

What's more, the **Irevan project** (i.e. "Information et Retour Volontaire en Afrique du Nord") – which was launched in 2016 – continued to be implemented. The project forms part of the Regional Development and Protection Program North Africa (RDPP NA). It targets migrants from sub-Saharan Africa who are stranded in Morocco. In the framework of this project, the Immigration Office will run information campaigns in Morocco, while Fedasil will provide technical assistance to the authorities in order to enable them to build capacity for a voluntary return and reintegration program for migrants from sub-Saharan African countries stranded in North Africa.<sup>(194)</sup>

The Immigration Office also continued to finance a successful **IOM project in Morocco**, which focuses on voluntary return of migrants from sub-Saharan African countries stranded in Morocco. The project aims at assisting them by organizing their return to their country of origin and by offering them a reintegration package. In 2017, the project received EUR 200,000 which is similar to the amount of the annual funding received since 2015.<sup>(195)</sup>

Regarding new campaigns, a campaign was started in **Albania** in July 2017. Activities started on October 2017 and will last until March 2018. The campaign focuses on the misuse of the international protection procedure and its possible negative consequences, and also provides information on legal migration channels to Belgium such as studies or work.<sup>(196)</sup> Different information tools are used in the framework of this campaign, including social media or workshops and information sessions in schools, communities, youth centres, etc.

Furthermore, the Immigration Office funded the deployment by the Federal Public Service Foreign Affairs of a **Document Verification Officer** in Yaoundé (Cameroon). The aim of this deployment is to tackle the misuse of student visas. An agreement has been concluded with the 'Institut Français' to screen potential students and organize information campaigns targeting potential students will be organised.<sup>(197)</sup>

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193 Source: Immigration Office, Ilabel unit.

194 Source: Immigration Office, Ilabel unit.

195 Source: Immigration Office, Ilabel unit.

196 Source: Immigration Office, Ilabel unit.

197 Source: Immigration Office, Ilabel unit.

Finally, the Immigration Office set up a **bilateral project with Tunisia** (“Enhancing Tunisian youth’s employability in Tunisia through vocational apprenticeships and professional internships in Belgium and Tunisia”). IOM is the implementing partner. The project – which is expected to last 18 months - started on 1 March 2018 (see Chapter 11 of this report).

## **EMN Activities** **2017 EMN ad hoc query**

### **Information Campaigns through Social Media Channels**

The **Austrian Contact Point of the EMN** launched an ad-hoc query on 15 September 2017 in order to gather information on the practices of EU (Member) States regarding the use of information campaigns – focused on irregular migration - through social media. 18 (Member) States provided information on this topic.

#### **Some interesting examples of information campaigns brought forward by the ad hoc query:**

- **Italy** has set up an information campaign on Facebook, Twitter, Instagram and YouTube, targeting the region of the Regional Development and Protection Program (RDPP) for North Africa (in particular Egypt, Niger and Tunisia). The goal of this information campaign was supporting the government’s efforts to address irregular migration along the main routes from East/Western Africa across the desert and the Mediterranean and to inform youth and potential migrants in countries of origin, families of potential migrants and migrants in countries of transit.
- **Finland** has conducted social media campaigns (including videos, press releases, infographics etc.) on Facebook, Instagram, YouTube and Twitter. In the past, Finland has also conducted press conferences, website production, an experimental WhatsApp campaign, Google ads, printed leaflets and TV advertisements. The communication was implemented mainly in Iraq, Afghanistan and Somalia.
- **Austria** has set up a Facebook and a Twitter account that were used to spread posts in Arabic, Farsi, Pashto and Dari. The main goal was to reach male Afghans between 16 and 35 in Afghanistan or already on their way to Europe. The campaign on social media lasted from December 2015 to February 2016.

The **compilation of answers** is available on: <http://emnnetherlands.nl/onderzoeken/ad-hoc-onderzoeken>.



## 8.4. Public debate

Different issues related to irregular migration were present in the public debate in 2017. This included the political, parliamentary and public debate at the end of 2017 on the **return of Sudanese nationals** to their country of origin (see chapter 5 of this report).

The law on the **fight against false declarations of parenthood** was also very present in the public debate in 2017 and 2018<sup>(198)</sup>, and led to many comments and critical observations<sup>(199)</sup>. Different organisations argued that – inter alia – the law violates the Constitution and the UN Convention on the Rights of the Child, does not take into account the best interest of the child, or that the measures it foresees to fight against false declarations of parenthood are disproportionate. On 19 March 2018, several organisations (including UNICEF and different NGOs<sup>(200)</sup>) introduced a joint request before the Constitutional Court to annul said law.

Furthermore, the question of a **possible pull factor of rescue missions in the Mediterranean** also led to discussions in 2017 (see chapter 10 of this report).

Finally, a draft law modifying the Immigration Act on the **interception of irregularly staying third-country nationals** at their residences was also heavily debated in 2017 (see Chapter 9 of this report).

## 8.5. Future plans

### Border control measures

Within the framework of the **Internal Security Fund (ISF) - Borders**, several projects aimed at further improving the **effectiveness of controls at the external borders** will be introduced (inter alia, renewal of document scan and mobile devices, and complementary e-gates).

Furthermore, one of the main priorities for 2018 regarding border management will be the finalisation of the **national Integrated Border Management strategy** in line with the EU strategy elaborated by Frontex. Issues on the governance of this strategy and its implementation, monitoring and evaluation, will be one of the main challenges for 2018 and the following years.

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198 For example, see: ‘Creëert België straks schijnkinderen?’, MO, 22 March 2018, <https://www.mo.be/nieuws/wet-tegen-schijnkerkenningen-draconisch-en-overbodig#namen>.

199 For example, see: Myria, “Vreemdeling zijn in België in 2017”, MyriaDocs n°6, December 2017.

200 The organisations that have introduced the request are: UNICEF Belgium, De Kinderrechtencoalitie Vlaanderen, La coordination des ONG pour les Droits de l’Enfant, Medimmigrant, CIRE, Point d’Appui – Service d’Aide aux personnes sans papiers, Platform Rechten van het Kind, Mensenrechtenliga, l’Association pour le Droit des Etrangers (ADDE), Défense des Enfants (DEI) België, De Orde van Franstalige en Duitstalige balies.

## Misuse of legal migration channels by students and researchers

In his General Policy Note of 19 October 2017<sup>(201)</sup>, the State Secretary for Asylum Policy and Migration indicated that certain measures would be taken to limit misuse of the student migration channel.

First of all, he announced that a royal decree will be adopted which shall provide the Immigration Office with the possibility **to issue an order to leave the territory to a student if the progress made in the framework of his/her studies is deemed insufficient**. The State Secretary underlined that the existing legislation in this regard (i.e. article 103.2 of the royal decree of 8 October 1981) is not adapted to the more flexible education system foreseen by the different Communities, and does not take into account the bachelor/master structure or the system of credits. The new royal decree will further define and detail the notion of “insufficient progress”. A draft legislative text was sent to the Council of State for its advice in 2017.<sup>(202)</sup>

Furthermore, the State Secretary announced that a **database of guarantors** will be created in order to tackle abuses concerning visas for study reasons. This database will allow to better reclaim possible costs, for example removal costs, in case of a person exceeding the term of his/her visa.<sup>(203)</sup>

The State Secretary also underlined that - within in the framework of the **transposition of Directive 2016/801 on students and researchers** (due by 23 May 2018) - general and specific residence conditions to be met by the categories of migrants covered by the Directive will be defined. These conditions should allow a more efficient control. The provisions related to the length of stay, and grounds for refusal, withdrawal and non-renewal of residence permits will also be modified and completed if necessary.

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201 Belgian House of Representatives, General Policy Note on Asylum and Migration, 19 October 2017, DOC 54 2708/017.

202 Source: Immigration Office, Long-term residence unit.

203 Belgian House of Representatives, General Policy Note on Asylum and Migration, 19 October 2017, DOC 54 2708/017, p. 6.



## 9.1. Context

### Some figures

In 2017, 3,827 **voluntary returns**<sup>(204)</sup> were carried out by the federal reception agency Fedasil and its partners.<sup>(205)</sup> This represents a decrease of 12.2% compared to 2016. The top 3 nationalities of the returnees were Ukrainian, Romanian and Georgian.<sup>(206)</sup> The year 2017 also marked an increase in the number of voluntary returns of foreign nationals who had **never applied for international protection**. In addition, Fedasil and its partners strengthened their focus on **irregularly staying foreign nationals**. To this end, more than 1,600 frontline workers in contact with this specific category of migrants were informed about voluntary return in 2017.

Furthermore, 4,503<sup>(207)</sup> **forced returns** were carried out in 2017. This represents a decrease of 3% compared to 2016. The top 3 nationalities of the returnees were Albanian, Romanian and Moroccan.<sup>(208)</sup>

### Background information

As was the case in previous years, return was one of the top priorities of the Belgian government in the field of migration and international protection (and more particularly, the return of foreign nationals **who represent a threat to the public order and national security**).<sup>(209)</sup>

## 9.2. Legislative changes

The **law of 24 February 2017**<sup>(210)</sup> and the **law of 15 March 2017**<sup>(211)</sup> - which modified the

204 Includes all foreign nationals (except the ones returned in the framework of the Dublin Regulation).

205 IOM, Caritas International and the Immigration Office.

206 Fedasil, Report on voluntary return 2017.

207 Including Dublin and bilateral agreements with EU countries.

208 Source: Immigration Office.

209 Belgian House of Representatives, General Policy Note on Asylum and Migration, 26 October 2016, DOC 54 2111/017, p.26.

210 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 public order and national security, Belgian Official Gazette, 19 April 2017.

211 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.

Immigration Act - introduced significant changes regarding the return of foreign nationals.

### Ending the right of residence for reasons of public order or national security

One of the goals of the above mentioned laws is to facilitate the procedure when ending a foreign national's residence right (of more than 3 months) and organising his/her removal for reasons of public order or national security.

Among other changes, the law of 24 February 2017 foresees the possibility to end the residence of a third-country national (who has been admitted or authorised to stay in Belgium for a limited/unlimited period of time) for **reasons of public order or national security** (even without a criminal conviction). Furthermore, the Minister or its representative can end the residence of certain categories of third-country nationals for **serious reasons of public order or national security**. This includes third-country nationals who have resided in Belgium for an uninterrupted period of at least ten years or who are long-term residents. Decisions to end the residence of a third-country national must be based on the individual behaviour of the concerned person and cannot be justified on economic grounds. The behaviour of the concerned person must represent a **genuine, real and serious enough threat to society**. The length of the third country national's stay in Belgium, his/her ties with the country of residence and the consequences of the removal to his/her family life have to be taken into account during the decision making.

The only category of foreign nationals that remains exempt from the possibility to end the right of residence is the category of beneficiaries of international protection. Beneficiaries of international protection can be subject to a removal, but only after the withdrawal of their protection status.

### Removal order

The law of 24 February 2017 also introduced changes regarding the procedure for issuing a **removal order**. When someone subject to a removal order is granted a temporary residence permit, the removal order is no longer withdrawn but only **temporarily suspended** during the period covered by the temporary residence permit. If the application for residence or international protection is rejected, the suspension of the removal order is lifted. The possibility to appeal against the removal order is only possible one time. Therefore, once the suspension of the removal order is lifted, it is often no longer possible to appeal against it (as the delay for appeal has lapsed since then). A new removal order will be only issued if new elements are available to justify the removal.<sup>(212)</sup>

Furthermore, the **decision making process at the Immigration Office** had to be partially reorganised due to a decision of the Council of State. The Council stipulated on 11 May 2017<sup>(213)</sup> that issuing a removal order is only possible after a final decision on the residence permit which implies that the delay during which the third-country national can appeal a decision has lapsed

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212 Source: Immigration Office, Legal department and article 1/3 of the Immigration Act.

213 Conseil d'Etat, section du contentieux administrative, XIème chambre, arrêt du 11 mai 2017.

or that the appeal procedure is finalised. The Immigration Office has already adapted its policy, but the Immigration Act still has to be amended.<sup>(214)</sup>

### Duration of entry bans

The law of 24 February 2017 also changed the **duration of entry bans**. Previously, an entry ban could be issued for a maximum of ten years (in case of a Royal Decree of Expulsion). The new law enabled Belgian authorities to issue entry bans with **a variable (and potentially unlimited) duration**. An entry ban's duration can exceed five years when the third-country national represents a serious threat to the public order or national security.

## 9.3. Operational changes

### 9.3.1 Voluntary return

#### Outreach through the return desks

In 2017, Fedasil continued to focus on its network of **return desks**<sup>(215)</sup> (i.e. information points for people who are willing to return - or consider this option) in order to foster the visibility of the return programme. In 2017, about 42% of the requests for return were lodged in one of the return desks. The establishment of the different return desks also contributed to the dissemination of information towards **irregularly staying migrants**. The latter have become an important part of the total number of people willing to return voluntarily. While in 2016, irregularly staying migrants represented a share of 46% of the returnees in the voluntary return program, this share increased to 57% in 2017.<sup>(216)</sup>

**The International Organisation for Migration (IOM) and Caritas International Belgium** remained 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.

#### Cooperation with local authorities

Besides the return desks, **“Conex projects”** have been implemented at a steady pace in 2017 (partnerships with the city of Oostende and Brussels). These projects consist of partnerships concluded between Fedasil and local partners (primarily local governments and administrations but also social organisations and NGOs) in Belgian cities in order **to reach specific target groups** by using street workers and native speaking counsellors. The Rema Project, for example, focuses on outreach activities targeting Moroccan nationals through a native counsellor in the city of Antwerp. The counsellor informs street workers who work with the persons living in the street (mostly irregularly staying migrants). Likewise, a specific approach and more intensive

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214 The Council of State, XI chamber, 11.5.2017 283 170.

215 Since 2015, Fedasil has opened return desks in the following big cities: Antwerp, Brussels, Charleroi, Liège and Ghent.

216 Fedasil, Report on voluntary return 2017, p. 9

counselling in the country of origin (Morocco) has been developed.

### Specific needs of returnees

In 2017, Fedasil - in partnership with IOM - focused on further developing its activities to respond to the **specific needs of the beneficiaries of the Assisted Voluntary Return & Reintegration (AVRR) programme**. The most important activities to mention are - amongst others - increased support for the most vulnerable migrants (e.g. migrants with a significant medical condition, Unaccompanied Minors (UAMs), victims of trafficking) and country-specific projects and activities (job placement, administrative assistance, monitoring mission to Albania with a special focus on UAMs...). Fedasil also developed the **Adapted Medical Assistance After Arrival project (AMAAR)**. Fedasil's medical unit, IOM and Caritas International Belgium cooperated in the framework of this project. The project is composed of three elements: analysis of medical treatment available in the country of origin; maximal referral to already existing healthcare; financing of medical costs (if necessary) for a period of six months (exceptionally 12 months). The aim is to minimize the obstacles for an effective voluntary return.

### Reintegration support

Fedasil extended the **reintegration support provided to Georgian nationals** who applied for international protection in Belgium until the end 2017, despite the fact that Georgian nationals can travel without a visa to the Schengen area countries for a short stay since March 2017.

### Cooperation with other Member States

Fedasil trained **French officials from the OFII** ("Office français pour l'Immigration et l'Intégration") on how to discuss voluntary return with applicants for international protection.

#### EMN Activities 2017 EMN ad hoc query

##### Return of Unaccompanied Minors (UAMs)

The **Finnish Contact Point** of the EMN launched an ad hoc query in March 2017, in order to collect information on their policies and practices regarding the return of Unaccompanied Minors (UAMs). 24 (Member) States provided an answer to the query.

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

- Half of the responding (Member) States reported that they **returned UAMs** during the year 2016, but only on a voluntary basis. Five of the (Member) States indicated that they carried out both voluntary and forced returns in 2016. Seven of the responding (Member) States had not carried out any removals of UAMs that year, and two of the responding (Member) States carried out only forced returns of minors during 2016.

- None of the responding (Member) States carried out **forced returns** of unaccompanied minors to Afghanistan, Iraq and/or Somalia in 2016. Some (Member) States however reported that minors have returned voluntarily to these countries.
- Most of the responding (Member) States stated that **IOM** has been recognized as the body through which family tracing and assessment is done. A total of ten countries indicated that they cooperate with IOM. This procedure, however, deals only with voluntary returns.
- Other measures to gather **information on family ties** that were mentioned include information gained from the minor through interviews and cooperation with diplomatic services such as embassies.

**A summary and the compilation of answers of (Member) States are** available on the website of the Belgian Contact Point of the EMN:

[https://emnbelgium.be/sites/default/files/publications/2017.1145\\_-\\_Return\\_of\\_unaccompanied\\_minors\\_OPEN\\_compilation\\_and\\_summary\\_FINAL.pdf](https://emnbelgium.be/sites/default/files/publications/2017.1145_-_Return_of_unaccompanied_minors_OPEN_compilation_and_summary_FINAL.pdf)

### 9.3.2 Forced return

#### Return of detainees

The **release and return of detainees directly from prison** was a priority of the government in 2017. Condemned third-country nationals in prison do no longer have to be brought to a detention centre prior to their removal. As the capacity of the detention centres is regularly exceeded, this specific procedure for condemned third-country nationals has increased the capacity for the detention of irregularly staying migrants in Belgium. In 2017, the capacity of the detention centres for irregularly staying migrants in view of their return was **583 places**.

#### 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 2017.

An **implementing protocol** was concluded between the Benelux and **Armenia** to foster readmissions. Negotiations were also initiated with **Azerbaijan, Cape Verde, Ukraine, Sri Lanka** and **Turkey**.

At the national level, Belgium signed a **Memorandum of Understanding (MoU)** with **Cameroon** in February. Furthermore, in April, an **intention declaration** was concluded with **Iraq (Bagdad)** and with the **Kurdish-Iraqi government (Erbil)** which focused on cooperation in the field of migration and security. Regarding cooperation in terms of return and reintegration management, both authorities pledged to support assisted voluntary return, with re-integration support provided by a **local service provider**. The authorities in Bagdad also agreed to **enable forced returns**.



## EMN Activities

### 2017 EMN ad hoc query

#### Forced Returns to Afghanistan

In September 2017, the Swedish Contact Point of the EMN launched an ad-hoc query in order to collect information on (Member) States' policies and practices regarding forced returns to Afghanistan. 17 (Member) States provided an answer to the query.

#### Some of the main findings of this ad hoc query:

- Nine (Member) States, including Belgium, carry out **forced returns** to Afghanistan. Seven (Member) States do not, for different reasons (numbers of Afghans are too small or inexistent, identification is difficult and travel documents cannot be obtained, the situation in Afghanistan does not allow it, etc.).
- Seven (Member) States have **certain exemptions from forced returns** to Afghanistan in place, or apply restrictions. Most commonly, such exemptions or restrictions apply to unaccompanied minors, minors and vulnerable persons. In Belgium, there is theoretically no restriction for women or families but such cases entail "more precaution and groundwork". Belgium effectively only returns single men. Belgium never conducts forced returns of unaccompanied minors whatsoever the third country.
- The **protection rates for Afghan applicants for international protection** vary considerably between the (Member) States. During the first and the second quarter of 2017, the protection rate of Afghan nationals was 61.2% in Belgium compared to an average EU rate of 47.4%.

**The summary of the ad-hoc query** is available on the website of the Belgian Contact Point of the EMN:

[https://emnbelgium.be/sites/default/files/publications/SE-EMN\\_AHQ\\_Forced-returns-to-Afghanistan\\_SUMMARY\\_2017-11-08.pdf](https://emnbelgium.be/sites/default/files/publications/SE-EMN_AHQ_Forced-returns-to-Afghanistan_SUMMARY_2017-11-08.pdf)

## 9.4. Public debate

### Interception of irregularly staying third-country nationals at their residences

A **draft law modifying the Immigration Act<sup>(217)</sup>** – which was introduced in Parliament on 7 December 2017 – was also heavily debated in 2017 (e.g. in the media and in Parliament). This

<sup>217</sup> Draft law of 7 December 2017 modifying the law of 24 February and 15 March 2017 modifying the law of 15 December 1980 on the entry, residence, settlement and removal of foreign nationals in order to replace the order to replace the order to leave the territory.

draft law would allow the police and officials of the Immigration Office to **enter the private residences of irregularly staying persons** (subject to an order to leave the territory) - when in possession of a prior order delivered by an investigating judge - in order to intercept them. The police would also be allowed to search the house in order to find identity or travel documents, which can be used in the return procedure. These interceptions would only be used as last resort if all other less coercive measures had showed no results. The draft law was heavily criticized – inter alia by certain politicians and NGOs. It has not yet been adopted by the Parliament.

## Return to Sudan

In the second half of 2017 and the beginning of 2018, there was a lot of political, parliamentary and public debate on the return of Sudanese nationals to their country of origin (see chapter 5 of this report).

## 9.5. Future plans

### Increase of the detention capacity

In May 2017, the Council of Ministers decided to gradually **increase the number of places of the closed detention centres**, from around 600 places in 2017 to 1,066 places in 2021. This will be done by increasing the capacity of the existing centres, by creating two new centres - one in Zandvliet (144 places) and one in Jumet (200 places), and by converting an open centre into a closed centre in Holsbeek.<sup>(218)</sup>

### Closed centres for families with children

Beside the increase of the detention capacity, **closed living units for families with children** are being built within an existing detention centre (the so-called “127bis” adjacent to Brussels airport). They will be used for families who have absconded from their **FITT-unit**<sup>(219)</sup>, or who did not comply with the rules.

### EMN Activities EMN Return Experts Group (REG) - 2017

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. They meet about four times a year in order to evaluate current practices, promote new approaches

218 See: <http://www.dekamer.be/doc/FLWB/pdf/54/2708/54K2708017.pdf>

219 The Family identification and Return Team (FITT)-units are specific detention facilities are dedicated to families with children of minor age who decline to abide to the decision to return.

and synergies, and exchange information about voluntary and forced returns.

Some of the **activities undertaken** by the REG in 2017:

### **Benchmarking exercise on return practices in EU Member States**

In view of the **implementation of the recommendations published in March 2017** and of the **adoption of a revised Return Handbook**, the European Commission asked the Member States to map practices and identify good practices at key steps of the return process. In addition, the European Commission asked them to identify the rights granted to irregularly staying third-country nationals who have been ordered to leave their territory, and whether specific practices can be identified depending on the profile of the third-country national concerned.

### **Supporting the development of the Integrated Return Management Application (IRMA)**

As an operational management tool, IRMA will help Member States and the European Border and Coast Guard (EBCG) **to plan and implement return operations with the objective of further increasing return rates**. DG HOME is responsible for developing the IRMA system. Through the REG, Member States are encouraged to join and support IRMA and to use the system for providing data on returns. This will allow DG HOME to monitor the return rate and the number of EBCG Joint Return Operations.

## **EMN Activities** **2017 EMN Study**

### **The effectiveness of return in EU Member States: challenges and good practices linked to EU rules and standards**

In 2017, the EMN carried out a study on *“The effectiveness of return in EU Member States: challenges and good practices linked to EU rules and standards”*. The study aims at analysing the impact of EU rules on return on Member States’ return policies and practices and hence on the effectiveness of return decisions issued across the EU.

#### **Some of the main findings of the Synthesis Report:**

- **National debates** increasingly focus on return, which is widely considered as a priority across Member States.
- National practices implementing the EU framework – or equivalent standards – vary between Member States, as a result of **different administrative practices, different interpretations of rules, as well as EU case law**.
- **Challenges attached to the effectiveness of return** relate primarily to the risk that a third-country national absconds; the difficulty in arranging voluntary departures in the

timeframe defined in EU rules and standards or equivalent; the application of rules and standards, including CJEU case law, on detention; the capacity and resources needed to detain third-country nationals in the context of return procedures; the length of the return procedure, in particular when the decision is appealed.

- Some **good practices** were identified, such as:
  - Adopting a **flexible approach** to rules applicable to return and **tailoring** them to the individual merits of a case is also reported as a good practice to speed up some return procedures.
  - The **involvement of civil society players, NGOs and international organisations** in the handling of return cases and in detention centres helps fostering trust with third-country nationals and providing them with adequate, tailored support.
  - In the same vein, some Member States invest in the management of their detention facilities and training of staff, adopting a **multidisciplinary approach to accommodate the needs of the detainee** (in particular when s/he has special needs) and facilitate the return process.

**The comparative EU Synthesis Report and the EMN Inform** (which summarizes the main findings of the EU Synthesis Report) are available on the website of the Belgian Contact Point of the EMN:

<https://emnbelgium.be/publication/effectiveness-return-eu-member-states-emn>

The **Belgian report** will be available soon. 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)



# 10

## Countering trafficking in human beings

### 10.1. Context

#### Some figures

[Table 5](#) : Third-country nationals identified as victims of trafficking in human beings by gender and age in Belgium in 2017.

Total number of TCNs identified as victims of trafficking in human beings in 2017			Age					
			Over 18 years of age			Under 18 years of age		
Total	Female	Male	Total	Female	Male	Total	Female	Male
140	79	61	131	74	57	9	5	4

Source: Immigration Office

[Table 6](#) : Total number of reflection periods granted to victims of trafficking in human beings in Belgium in 2017.

Total number of reflection periods granted in 2017 according to Directive 2004/81/EC		
Total	Female	Male
117	63	54

Source: Immigration Office

#### Background information

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. The ICP has a coordinating function and is tasked with formulating proposals and recommendations for anti-trafficking initiatives. All key actors involved in the fight against trafficking and smuggling in human beings 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 period 2015-2019**<sup>(220)</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.

## 10.2. Legislative changes

### Updated circular on multi-disciplinary cooperation regarding victims of trafficking in human beings and /or certain aggravated forms of smuggling

The circular of 26 September 2008<sup>(221)</sup> - which describes the multidisciplinary cooperation and the role of the various stakeholders involved in the national referral mechanism for victims of trafficking in human beings and /or certain aggravated forms of smuggling - was replaced by the **circular of 23 December 2016**<sup>(222)</sup> (which was published in the Belgian Official Gazette on 10 March 2017)<sup>(223)</sup>. The circular of 2008 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 an evaluation that was carried out beforehand.

One of the changes introduced by the new circular is that a better distinction is made between **Belgian, EU and non-EU victims of trafficking**, with a view to better adjusting the mechanism

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220 Action Plan on the fight against trafficking in human beings 2015-2019.

221 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 March 2008.

222 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.

223 The main goal of this Circular is defining the procedures for the identification, referral, and assistance of potential victims of trafficking in human beings and/or of certain aggravated forms of smuggling in human beings. The Circular also stipulates the conditions that must be met to obtain the victim status.

to the situation and needs of the three groups of victims. Another change is that further details are included in the new circular on the procedure to follow regarding **victims of trafficking who are minors**.

### Temporary residence document granted to potential victims of trafficking in human beings during the reflection period

The law of 30 March 2017<sup>(224)</sup> and the subsequent royal decree of 30 March 2017<sup>(225)</sup> replaced the order to leave the territory (issued to potential victims during the so-called “reflection period”<sup>(226)</sup>) by a **temporary residence document**: an annex 15 valid for 45 days<sup>(227)</sup>. In the framework of the evaluation of the circular of 26 September 2008<sup>(228)</sup>, it was emphasized that the document issued to potential victims of trafficking (i.e. an order to leave the territory – 45 days) was not adequate. The Council of Europe’s Group of Experts on Action against Trafficking in Human Beings (GRETA) - in the framework of its first evaluation of Belgium in 2012/2013 - also recommended that the order to leave the territory issued during the reflection period be replaced by a temporary residence permit<sup>(229)</sup>. The above-mentioned legislative change achieved this, as foreseen in the National Action Plan 2015-2019 on the Fight Against Trafficking in Human Beings<sup>(230)</sup>.

### Publication of non-financial and diversity information by certain large companies and groups

The law of 3 September 2017 transposed EU Directive 2014/95/EU which amended Directive 2013/34/EU as regards **disclosure of non-financial and diversity information** by certain large companies and groups. Based on this law, certain companies and groups are required to report on actions taken to ensure - inter alia - the implementation of fundamental conventions of the International Labour Organisation, working conditions, respect for the right of workers to be informed and consulted, respect for trade union rights, health and safety at work, etc. This is likely to enhance reporting about risks associated with trafficking in human beings.

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224 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.

225 Royal Decree of 30 March 2017 modifying article 110bis and replacing the annex 15 from the Royal Decree of 8 October 1981 on the access, residence, settlement and removal of foreign nationals, Belgian Official Gazette, 24 April 2017.

226 The procedure in place for victims of human trafficking to obtain a specific residence permit in Belgium foresees a first phase of 45 days – the so-called “reflection period” - during which potential victims can decide to file a complaint or return to their country of origin.

227 See: Myria, Annual Report 2017 on trafficking and smuggling of human beings: “online”, October 2017.

228 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 March 2008.

229 Group of Experts on Action against Trafficking in Human Beings (GRETA), Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belgium – First evaluation round, 25 September 2013.

230 National Action Plan on the Fight against Trafficking in Human Beings 2015-2019.



## 10.3. Operational changes

### Continuation of the implementation of the National Action Plan on the Fight Against Trafficking in Human Beings 2015-2019

As mentioned above, the Belgian authorities continued to implement the National Action Plan on the Fight Against Trafficking in Human Beings (2015-2019) in 2017. While some measures implemented on the basis of this plan were a continuation of measures developed in the past years, other **initiatives were effectively developed in 2017**. More precisely, initiatives and synergies with federated entities - **Regions and Communities** - were concretely shaped. A first **training** was provided to stakeholders in the **youth aid and protection sector**. Training will also be provided to **regional labour inspection services**. Such developments reflect a commitment to inform and work on the fight against trafficking in human beings at and across all levels.

### Evaluation of policies and measures to fight against trafficking in human beings by the GRETA

In the framework of the **Council of Europe’s Group of Experts on Action against Trafficking in Human Beings**<sup>(231)</sup> (GRETA) second evaluation on Belgium, the policies and measures contained in the above-mentioned National Action Plan (as well as previous policies and measures implemented since 2013) were thoroughly examined until July 2017. After the visit of representatives of the GRETA in Belgium from 12 until 16 December 2016, the Belgian authorities received a draft evaluation report on 14 April 2017, that they commented and returned on 15 June 2017. The final version of the **GRETA’s second evaluation report on Belgium**<sup>(232)</sup> was adopted on 7 July 2017 and published on 16 November 2017.

Overall, the report stressed the **progress made in further developing the legal and institutional framework for combating human trafficking**, adopting a new national anti-trafficking action plan and providing training to a range of professionals, including those working with unaccompanied foreign children. The report also commended the **criminal justice response** to human trafficking in Belgium, which resulted in a considerable number of convictions accompanied by confiscations of perpetrators’ assets. However, the report stressed that **certain areas required improvement**, including - inter alia - the fact that the Belgian authorities should enhance their efforts to proactively identify child victims of trafficking and to address the problem of unaccompanied children disappearing by providing suitable safe accommodation and appointing legal guardians and adequately trained supervisors or foster parents.

### New National Action Plan “Enterprises and Human Rights”

On 20 June 2017, the Council of Ministers<sup>(233)</sup> took note of the new National Action Plan “Enterprises and Human Rights” which implements the guiding principles adopted in this matter

231 See: [www.coe.int/en/web/anti-human-trafficking/greta](http://www.coe.int/en/web/anti-human-trafficking/greta).

232 See: [https://emnbelgium.be/sites/default/files/attachments/GRETA\\_2017\\_26\\_DGR\\_BEL\\_fr.docx\\_.pdf](https://emnbelgium.be/sites/default/files/attachments/GRETA_2017_26_DGR_BEL_fr.docx_.pdf).

233 See: <http://www.presscenter.org/fr/pressrelease/20170720/plan-daction-national-entreprises-et-droits-de-lhomme>.

by the United Nations Human Rights Council. The plan was published on 23 June 2017<sup>(234)</sup>. It aims - inter alia - at **promoting decent work for all, preventing human rights violations in enterprises and allowing victims to access effective remedy**.

In the framework of this plan, several measures will strengthen the fight against trafficking in human beings. For example, the Belgian “social label”, that guarantees the compliance with core labour standards and the respect of workers’ rights, will be assessed and possibly relaunched. Also in accordance with the principle of “due diligence”, enterprises will be encouraged to undertake non-financial reporting, and to release action plans, indicators and information relating to the respect of human rights.

### Global Security and Prevention Plan of the Brussels-Capital Region

On 2 February 2017, the government of the Brussels-Capital Region approved the **Global Security and Prevention Plan**<sup>(235)</sup>. This Plan defines a global strategic reference framework for the period 2017-2020. One of the priority areas defined in the plan is the fight against trafficking and smuggling in human beings. The Plan stipulates that the competent services of the Brussels-Capital Region will focus in particular on the following phenomena: slum landlords; exploitation of domestic workers; exploitation of begging; procuring and prostitution. Furthermore, a series of planned measures are listed in the plan, divided into three categories: (i) prevention (e.g. awareness raising measures and trainings); (ii) reaction (e.g. coordination measures between competent services and measures to improve the assistance to victims); and (iii) follow-up (e.g. development of a joint IT tool for the 19 municipalities and the integrated police units to facilitate the registration and the control of addresses).

### Funding of the three specialized reception centres for victims of trafficking in human beings

In order to be able to cope with the structural underfunding of the reception centres for victims of trafficking in human beings at federal level, the Council of Ministers agreed on 23 November 2017 to provide **an additional annual EUR 498,000 to the three specialized reception centres** for victims of trafficking in human beings<sup>(236)</sup> **from 2017 to 2019**. The State Secretary for Equal Opportunities and the Minister of Justice will each provide EUR 249,000 from the interdepartmental budgetary provision intended for new initiatives.

Furthermore, the Council of Ministers agreed **to transfer the budget of the specialized centres from the department of Equal Opportunities to the department of Justice** (which is responsible for the coordination of the policy on the fight against trafficking in human beings) from 2018 onwards.

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234 National Action Plan “Enterprises and Human Rights”, 23 June 2017, CMR Plan of 17-07-2017 (2017A30430.012).

235 Global Security and Prevention Plan of the Brussels-Capital Region, 2017.

236 The three specialised centres have been officially recognised by the royal decree of 18 April 2013 on the recognition of the centres specializing in the reception and supervision of victims of trafficking and of certain more serious forms of smuggling of human beings. The three reception centres, Pag-Asa (located in Brussels), Sürya (located in Liège, in the Walloon Region) and Payoke (located in Antwerp, in the Flemish Region) provide shelter, care, psychological and medical assistance as well as legal assistance to victims of trafficking.

These decisions of the Council of Ministers contributed to stabilising the funding structure of these three centres<sup>(237)</sup> (no multi-annual budget was previously defined at the federal level).

### Developing the integrated approach at provincial and municipality levels

In 2017, Belgian stakeholders continued to develop an integrated approach at provincial and municipal levels. The integrated approach implies that **relevant partners, including from administrative, judicial and fiscal institutions, exchange information and act in a complementary way to fight against illegal activities in various sectors**. Structural or ad hoc consultations are organized to identify indications of organized crime. Flex control actions are then carried out by flexibly composed control teams, including for example municipal officials, inspection services, finance services, Immigration Office, etc. The police are involved in strengthening the safety of the control team.

Following ISEC's 2013-2015 project "Genk Administrative Approach to Organised Crime"<sup>(238)</sup>, a **new project, CONFINE**<sup>(239)</sup> "Towards operational cooperation on local administrative financial investigations in the fight against trafficking in human beings", was launched in January 2017 for a two-year period. The partners in the project include the Regional Information and Expertise Centre (RIEC) Brabant-Zeeland, the City of Antwerp, University of Leuven, the City of Genk, and associate partners include inter alia the Immigration Office, the Federal and Local Police. The project will result in a clear methodology to develop operational cooperation in administrative financial screening.<sup>(240)</sup>

Furthermore, in order to facilitate the exchange of information within the framework of the integrated approach, the General Prosecutors of Ghent and Antwerp-Limburg laid down a **directive**. This allows **municipalities to sign a protocol with their local police and the prosecutor's office**, enabling judicial information to be shared with the local government under certain conditions. Several municipalities already signed protocols, including Antwerp and Sint-Truiden.

The integrated approach is supported in Limburg by the **Arrondissement Information and Expertise Centre (ARIEC)** which was launched on 5 December 2017. The ARIEC will (i) raise awareness among local authorities about the integrated approach, (ii) provide methodological and legal expertise, (iii) disseminate best practices, (iv) monitor supra-local phenomena and (v) support a uniform approach within the province. The Limburg-based ARIEC<sup>(241)</sup>, together with two parallel projects in Antwerp and Namur, is a "pilot project" for the roll-out of the integrated

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237 See: <https://www.koengeens.be/fr/news/2017/11/23/regering-zet-strijd-tegen-mensenhandel-en-mensensmokkel-verder> and <http://www.presscenter.org/fr/pressrelease/20171123/financement-des-centres-specialises-daccueil-des-victimes-de-la-traite-des-et-r>

238 See: <http://eucpn.org/document/manual-toolbox-isec-project-2013-2015-genk-administrative-approach-organised-crime>.

239 The Confine-project was submitted under the Call for proposals HOME/2015/ISFP/AG/THBX of the European Commission.

240 See: <https://www.genk.be/confine>.

241 The RIEC Limburg in the Netherlands (<https://www.riec.nl/>) has largely supported the development of the integrated approach in Belgium Limburg.

approach towards organized crime across the country.<sup>(242)</sup>

### Continued priority for trafficking in human beings after the reform of the inspection services

Since 1 July 2017, the inspection service of the National Social Security Office (NSSO) and the inspection service of the Federal Public Service Social Security are merged within **an integrated inspection service of the NSSO**. This merge follows the decision taken in this regard by the Council of Ministers on 10 November 2016 (in line with the Government coalition agreement and the Plan on the fight against social dumping of 22 April 2016). It aims at increasing the efficiency of the inspection services and should lead to a modernisation and harmonisation of the working methods of the integrated inspection service. The practical implementation of this merge is ongoing. The **fight against trafficking in human beings and economic exploitation remains a priority** of the integrated inspection service<sup>(243)</sup>.

### Publication of Myria's annual report on trafficking and smuggling of human beings

As the independent National Rapporteur on trafficking in human beings for Belgium, the Federal migration Centre Myria drafts an annual **independent policy evaluation** in this regard. In its "Annual Report 2017 on trafficking and smuggling of human beings: Online", Myria focused more particularly on the **role of the internet and social media** in trafficking and smuggling of human beings. Myria stressed that police and prosecutors make intensive use of the Internet and social media to combat human trafficking for sexual exploitation and human smuggling. This is not yet the case for cases of economic exploitation. Myria argues that magistrates, police, and social inspectors should be made aware of the issue and provided with sufficient practice-oriented training. Analysis of computers or smartphones, adult dating websites and Facebook profiles are invaluable sources, provided sufficient investments are made in IT, and capacity building of law enforcement.<sup>(244)</sup>

### Provision of information, training and awareness raising measures on trafficking in human beings

In 2017, several initiatives were taken to provide (potential) victims and stakeholders with information and/or training on human trafficking, and raise awareness on the phenomenon

On 16 January 2017, Child Focus launched a **new website against loverboys**<sup>(245)</sup>. The website targets three groups: (i) youth, (ii) parents and (iii) 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. The website and campaigns are promoted through social media, posters in secondary schools, postcards in main cities, etc. This website and associated campaign, as well

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242 See: <http://www.limburg.be/Limburg/pers/2017-12-05-Officiële-lancering-van-ARIEC-Limburg-proeftuin-in-bestuurlijke-aanpak-van-georganiseerde-criminaliteit.html>.

243 See: [https://socialsecurity.belgium.be/sites/default/files/jaarverslag-sociale-inspectie-2016-fr\\_0.pdf](https://socialsecurity.belgium.be/sites/default/files/jaarverslag-sociale-inspectie-2016-fr_0.pdf).

244 Myria, 2017 Annual Report trafficking and smuggling of human beings: Online, 2017.

245 <http://www.stoptienerpooiers.be>.

as previous related activities<sup>(246)</sup>, are based on an investigation and study on this topic produced in 2015 at the request of the Flemish Minister for Welfare, Public Health and Family. Stakeholders involved underlined the need to better understand the phenomenon, better detect victims and record perpetrators, address risk factors, develop a systematic approach, etc.<sup>(247)</sup>

Furthermore, previously developed brochures, such as “You have applied for asylum and you want to work” **informing applicants for international protection** about their rights relating to work and risks of exploitation, have been disseminated in 2017<sup>(248)</sup>.

In addition, in connection with the New National Action Plan “Enterprises and Human Rights” (see above), **a brochure entitled “The United Nations Guiding Principles on Business and Human Rights in Belgium: State-based judicial and non-judicial mechanisms that provide access to remedy”**<sup>(249)</sup> was released by the Federal Institute for Sustainable Development (FISD) in November 2017. This brochure aims to increase awareness about remediation mechanisms, including judicial, administrative, legislative or other appropriate means to access effective remedy in Belgium. Questions such as: “How to obtain effective access to justice? Where to find legal aid or assistance in order to assert your rights? Who are the key stakeholders with a competence in this field? What is the most appropriate procedure?” are answered to provide sufficiently clear information to victims as well as enterprises.

ECPAT Belgium contributed to produce and disseminate **videos**<sup>(250)</sup> and **brochures**<sup>(251)</sup> in the **framework of the Reinforcing Assistance to child victims of trafficking (ReAct) project** to inform youth, in an accessible and clear language, about their rights as well as what to do and who to contact in case of human trafficking in Belgium.

A **working group focused on the financial/banking sector** (gathering – inter alia – the Financial Intelligence processing Unit, CTIF, the Federal Public Service Finance, and the Federal Public Service Justice), which was established in 2016, worked on a **draft information leaflet** aimed at staff members of the banking sector. The aim of the leaflet is to **raise awareness and improve detection and reporting of money laundering associated with trafficking in human beings**. The leaflet is expected to be finalized in early 2018.

Furthermore, training sessions were organized for **frontline stakeholders in close contact with (potential) third-country national victims**. The General Administration on **Youth Services of the French Community** organized – in cooperation with the Federal Public Service Justice – a **training on trafficking in human beings** on 21 April 2017<sup>(252)</sup>. This training targeted the staff of the youth services, who through their direct contact with minors, can play an important role in identifying

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246 Study day organized by the non-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?’.

247 Myria, 2016 Annual report on Trafficking and Smuggling: Beggars in the hand of traffickers, pp. 146-147.

248 See: <https://dofi.ibz.be/sites/dvzoe/EN/Documents/0204-SPFJUS-TEH-EN-def.pdf>.

249 The publication is available in French, Dutch and German.

250 See: <https://www.youtube.com/channel/UC2FdnTMrL01Tt3oiFUop3Fg>

251 See: <https://ecpat.be/category/brochures/>

252 See: <http://www.aidealajeunesse.cfwb.be/index.php?id=7844>

victims and ensuring that the protective measures in place are implemented. The training provided around 70 participants with information on the phenomenon of trafficking in human beings and the differences with the phenomenon of smuggling, on the procedures in place and the roles of the stakeholders concerned, on the indicators of trafficking, and on contact persons and tools that are available.

Furthermore, in the framework of the ReACT project - "Reinforcing Assistance to Child victims of Trafficking", a **specialized training** on trafficking in human beings was organized by the Guardianship Service - in collaboration with ECPAT Belgium and Caritas - aimed at **guardians**. Sessions for French and Dutch speaking guardians were organized in September and October 2017. Participants in the training were also given a flyer presenting indicators of trafficking in human beings.

As in previous years, **training sessions** on trafficking in human beings were also organized by different entities for various stakeholder groups, including in judiciary, immigration, police and inspection services. However the uncertainty, until the end of November 2017, around the funding of the three centres specialized in the reception of victims of trafficking in human beings (see above) has prevented these specialized actors to contribute to some foreseen training activities and has prevented some activities from taking place.

Finally, in the framework of the **Blue Heart Campaign**<sup>(253)</sup> against human trafficking of the United Nations Office on Drugs and Crime (UNODC), which Belgium joined, several activities were organized in 2017. Among other initiatives, the Goodwill Ambassador for Belgium against Human Trafficking - Ozark Henry<sup>(254)</sup> - gave a **benefit concert** in Vienna in support of victims of human trafficking on 24 October 2017. This fundraising initiative was sponsored by the Permanent Mission of Belgium in Vienna<sup>(255)</sup>.

### Cooperation between (Member) States and cooperation in the framework of Europol

In 2017, Belgium participated in several cooperation measures. This was the case at the **Benelux** level. The common Benelux **work programme 2017-2020**<sup>(256)</sup> stresses that the fight against human trafficking and attention for its victims remain of major importance. The **deepening of the partnerships** with the local administrations in order to more quickly and effectively fight crime phenomena via the administrative approach to combating crime, was continued. In early January 2018, Belgium took over the Benelux Presidency<sup>(257)</sup>.

As a follow up to the Benelux declaration of intent signed on 2 December 2016 to reinforce

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253 UNODC's Blue Heart Campaign is a global awareness raising initiative to fight human trafficking and its impact on society. It is supported by governments, the private sector, NGOs, goodwill ambassadors and individuals around the world. See: <https://www.unodc.org/blueheart/index.html>

254 The artist Ozark Henry was appointed UNODC Goodwill Ambassador for Belgium against Human Trafficking in 2015.

255 See: <http://www.unodc.org/unodc/en/frontpage/2017/October/benefit-concert.html>

256 See: <http://www.benelux.int/fr/publications/publications/programme-de-travail-commun-2017-2020>

257 See: <http://www.benelux.int/fr/nouvelles/lancement-de-la-presidence-belge-dun-benelux-toujours-plus-vert-et-plus-jeune>

multidisciplinary cooperation in the fight against trafficking in human beings, an **ad hoc working group** was created to promote actions aimed at (i) exchanging best practices, (ii) organizing joint training, (iii) setting up national contact points, (iv) increasing cooperation between national referral systems and (iv) exploring the need for a legal instrument to further develop cooperation in this field.<sup>(258)</sup> Among other activities, the Benelux working group on human trafficking organized a **seminar** “Combatting the exploitation of children” on 17 November 2017. Work (evaluation and possible digitalization) has also been pursued on the brochure previously developed on the national referral mechanisms and relevant authorities.

Furthermore, in the context of Belgian projects aimed at implementing an integrated approach to **fight organized crime at local level**, the Dutch Regional Information and Expertise Centre (RIEC)<sup>(259)</sup> **provided support to Belgian stakeholders**. For example, the RIEC provided Dutch Limburg with intensive support in building up the administrative approach in Belgian Limburg, including through the sharing of expertise and know-how.

What’s more, Belgian stakeholders continued to participate in **joint investigation teams facilitated by Eurojust and Europol**, in cooperation with different countries. For example, Belgium supported Romania, the UK and Switzerland with taking down a Romanian trafficking in human beings criminal network in June 2017.<sup>(260)</sup>

Belgian stakeholders also maintained their involvement in **Europol Joint Action Days** focused on trafficking and smuggling in human beings in 2017. Belgium participated in several action days in 2017, including in June 2017<sup>(261)</sup>, in September 2017 and in October 2017.

Finally, various Belgian stakeholders participated in a **project on strengthening multidisciplinary cooperation** to ensure an effective referral, assistance, rights, protection for victims of human trafficking<sup>(262)</sup>. The project gathers partners from **Romania, Spain, Belgium, Bulgaria and Sweden**. The project is financed by the European Commission-Justice Programme and runs until 31 December 2018. The project aims at (i) exchanging best practices and knowledge on assistance to victims, (ii) improving assistance to victims during the rehabilitation process to allow them to exercise their rights, and (iii) developing a transnational strategy for legal assistance. Actions are planned with a view to ensure that several rights - as indicated in the Directive 2012/29/EU on establishing minimum standards on rights, support and protection of victims of crime - are fully respected.

In 2017, the partners worked on the **exchange of good practices** regarding the access to the justice system and specialised legal/health/social assistance for victims of human trafficking (workstream 1). Three Belgian experts, including one expert from Myria - the Federal Migration

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258 See: <http://www.benelux.int/fr/nouvelles/jbs>

259 See: <https://www.riec.nl/>

260 See: <http://www.eurojust.europa.eu/press/PressReleases/Pages/2017/2017-06-21.aspx>.

261 See: <https://www.europol.europa.eu/activities-services/europol-in-action/operations/cyber-patrolling-week>; <https://www.europol.europa.eu/activities-services/europol-in-action/operations/joint-action-day-aeolos> and <https://www.europol.europa.eu/activities-services/europol-in-action/operations/large-scale-joint-action-day-ls-jad>.

262 See: <http://ec.justice-project.prorefugiu.org/>

Center, one expert from the Immigration Office and one expert from the social inspection services, participated in a workshop in Uppsala - Sweden on 9-10 March 2017. Three Belgian experts, including one expert from Myria, one expert from Payoke and a magistrate, participated in a workshop in Madrid - Spain on 28-29 March 2017. Eighteen Belgian experts participated in a workshop in Brussels on 25-26 April 2017.

The partners also worked on an **enhanced victims' assistance through a multi-disciplinary approach** (workstream 2). In November 2017, a **handbook for legal, social, health professionals involved in the protection of the rights and the assistance of victims of human trafficking**<sup>(263)</sup> was released. Belgian experts from Caritas International and Payoke contributed to the handbook. This handbook now serves as a basis to organize trainings planned in the first quarter of 2018.

In 2018, the partners will further work on designing a transnational legal assistance referral strategy in and between countries of origin and destination countries (workstream 3). To this end, national and transnational expert meetings will be organized and a **legal assistance referral strategy** paper will be developed by June 2018. Furthermore, the **cooperation** between authorities, service providers and legal practitioners on facilitating access to legal aid and to the justice system for victims of human trafficking will be strengthened (workstream 4). Seminars will be organized in Romania, Bulgaria and Spain, and a transnational conference is planned in Brussels in October or November 2018 to disseminate the results. Governmental and non-governmental stakeholders and organizations will be involved in this conference<sup>(264)</sup>.

### Cooperation with third countries

In the context of cooperation with third countries, Belgium participated in various activities in 2017. First of all, Belgian authorities continued to welcome **delegations from third-countries** to share national practices focusing on the prevention of and fight against trafficking (and smuggling) in human beings, as well as on the protective measures for victims.

Belgian experts also continued to **travel to third-countries to share their expertise** on the prevention of and fight against trafficking in human beings. For example, the Chair of the Bureau of the Interdepartmental Coordination Platform against trafficking in human beings contributed to the TAIEX workshop on combating and preventing trafficking in human beings in Hong-Kong on 26-27 July 2017. As Hong Kong lacks a comprehensive anti-trafficking law that prohibits all forms of trafficking in accordance with the definitions set forth in the 2000 UN TIP Protocol, the workshop aimed to raise awareness about the need for a legal framework and to provide hands-on training to increase the capacity of local authorities.

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263 See: <http://ec.justice-project.prorefugiu.org/wp-content/uploads/2017/11/Handbook-Final-Version-EN.pdf>

264 See: <https://www.caritasinternational.be/nl/projects/asiel-migratie/multidisciplinaire-samenwerking-voor-slachtoffers-van-mensenhandel/>.



## 10.4. Public debate

In 2017, **different issues** related to trafficking in human beings were present in the public debate. This included the question of the **funding of the three specialised centres for victims of trafficking**, which operate without permanent structural financial support from the Belgian state. This need for structural funding to ensure continuity in the reception of victims of trafficking was brought up in the media, by the centres involved and in the Senate.<sup>(265)</sup>

The publication of Myria's 2017 Annual Report on trafficking and smuggling of human beings<sup>(266)</sup>, which focused on **the role of the internet and social media**, was discussed in the media and revived the discussion on the **problem of "loverboys"**.<sup>(267) (268)</sup>

Furthermore, the participation of Belgium in Operation Sophia (EUNAVFOR Med), a European operation against smugglers and trafficking in the Mediterranean, in which marine vessels are occasionally used to rescue boat refugees, caused uproar after the State Secretary for Asylum Policy and Migration expressed his doubts about the Belgian mandate given **the assumed pull factor of rescue operations in the Mediterranean**.<sup>(269)</sup>

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265 See for example: Belgian Senate, written question n° 6-1386 from Olga Zrihen to the Minister of Justice, 14 April 2017, <https://www.senate.be/www/?Mlval=/Vragen/SVPrintNLFR&LEG=6&NR=1386&LANG=nl>.

266 Myria, 2017 Annual Report on trafficking and smuggling of human beings: Online, 2017.

267 Here, the term "loverboys" is used although a study by Child Focus in 2015 showed that the term "teen pimp" is more accurate.

268 See for example: "Sociale media: de speeltuin van mensenhandelaars, loverboys en mensensmokkelaars", Knack, 16 October 2017 and "Internet moet meer focussen op mensenhandel", De Tijd, 17 October 2017.

269 See for example: "Reynders: «Geen twijfel over wil regering om operatie Sophia voort te zetten», VRT, 20 July 2017 and "Reddingsoperaties op Middellandse Zee hebben geen aanzuigeffect. Geen aanwijzingen dat hulporganisaties samenwerken met mensensmokkelaars volgens nieuw rapport", De Morgen, 12 June 2016.

## 11.1. Operational changes

### Migration and Development: a priority

The topic of migration is one of the **priorities of the Belgian Minister for Development Cooperation**, as stated in his General Policy Note of October 2017<sup>(270)</sup>. In this Note, the Minister underlined that migrants and refugees are human beings and thus have rights. He also stressed that the Belgian development policy is committed to a humane reception in refugee camps. Furthermore, migration can contribute to realizing the objectives of sustainable development. Remittances sent by migrants to their countries of origin are up to three fold higher than the public financial support for development. What's more, migration contributes to innovation, exchange of knowledge and trans-border trade. Scholarships – in the framework of cooperation programmes with universities - are thus important.

In 2017, the **Unit of the Special Envoy for Asylum and Migration**, placed under the Development Cooperation Directorate, continued to work on Migration and Development issues involving all the relevant Belgian actors working in the field of migration and development. It gathered on a regular basis the COORAM (“Coordination on Migration and Asylum Meeting”), an informal coordination mechanism, which allows stakeholders (i.e. the Foreign Public Service Foreign Affairs and Development Cooperation, the Cabinets of Foreign Affairs, of Development Cooperation and 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 gather and exchange information on external migration issues, including the link between migration and development. Other formal coordination mechanisms were also used to establish the Belgian position on migration and development issues in multilateral frameworks, such as the Global Forum on Migration and Development (GFMD), the Global Compacts on Migration and Refugees processes, or preparatory activities for EU Council meetings.

The **Belgian diplomatic network** also continued to report to the Asylum and Migration Unit of the Foreign Public Service Foreign Affairs on migration related developments in countries of origin. During the annual “Diplomatic Days”, a special session on “Migration” and the fight against fraud took place in December 2017. It gathered the Belgian diplomatic network and Belgian migration

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270 Belgian House of Representatives, General Policy Note on International Development, 17 October 2017, DOC 54 2708/003.

experts of different ministries and agencies.

### Belgium's participation in European instruments and actions

Belgium's commitment to migration and development goals was also demonstrated at the European level. In 2017, Belgium continued to follow up closely on the **European political dialogue** on migration issues as well as the **EU instruments** that address migration and development such as the European Fund for Sustainable Development or the EU Trust Fund for stability and addressing the root causes of irregular migration and displacement in Africa. Belgium continued to ensuring that these resources were 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, etc.), and the importance of peace, security and respect for Human Rights as conditions for sustainable growth.

Regarding the EU-Africa Valetta process and the **Joint Valetta Action Plan**, Belgium was actively involved in its follow-up in 2017, including through the preparation and participation in the Senior Official Meeting that took place in February 2017 in Malta. A central Belgian focal point was set up in 2017 to collect all relevant information regarding the Joint Valetta Action Plan.

Regarding the **EU Emergency Trust Fund for stability and addressing root causes of irregular migration and displacement in Africa**, Belgium has contributed 10 million euros, making it the fourth bilateral donor after Germany, Italy and the Netherlands. In 2017 the projects approved in 2016 started and two additional projects have been approved, one in Guinea and one in Ivory Coast. In the process of selection Belgium has continued to insist on keeping the scope of the projects 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. In 2017, a project advocating the legal empowerment of migrants in Morocco has been approved and will be executed by the Belgian Technical Cooperation (EUR 4.85 million).

### Belgium's participation at the regional and global levels

Since March 2017, Belgium took over the Presidency of the so-called "**Rabat Process**", a regional migration dialogue for political cooperation amongst the countries along the migration route between Central, Western, Northern Africa and Europe. Since 2006, the Dialogue promotes policy-making on migration issues, through an approach that includes the link between migration and development. Belgium has been actively involved in this Presidency. The priorities of the Belgian Presidency were mainly focused on the preparation of a **new Programme of Action 2018-2020** that will be adopted at a Ministerial Conference in May 2018 in Morocco. One of Belgium's concerns was to reflect the added value and specificity of the Rabat Process in this new programme and its complementarity with other migration instruments such as the EU Trust Fund for Africa. Belgium has also integrated the issue of the Global Compact on Migration in the Rabat Process Dialogue.

During the year 2017, Belgium was also actively involved in the processes on the “Global Compact on Refugees” and in the “Global Compact for safe, regular and orderly Migration”. Regarding the “**Global Compact on Refugees**”, Belgium actively participated to the five thematic discussions regarding the pillars of the Comprehensive Refugee Response Framework (CRRF), the Executive Committee of UNHCR and the High Commissioner’s Dialogue on Protection Challenges. All events were focused on CRRF and the Global Compact on Refugees. Belgium supported the EU declarations in these meetings and made complementary statements supporting the development and the key elements of CRRF/GCR. In addition, Belgium took part in the donor mission of UNHCR to Djibouti and Ethiopia concerning the implementation of CRRF in both “roll out countries” (November 2017). During this mission, insights were provided into the application of CRRF in practice, its successes and challenges. In addition, Belgium financed the UNHCR intervention in Uganda supporting the CRRF approach concerning the South Sudanese refugees (EUR 1 million). Furthermore, Belgium – through its Special Envoy on Asylum and Migration - actively participated in all the thematic meetings regarding the “**Global Compact for Safe, Orderly and Regular Migration**” in 2017. During those meetings, Belgium systematically agreed with the declarations of the EU. Belgium also supported the development of a global migration management approach and agreed with the principles of partnership, solidarity and shared responsibility between States regarding migration governance. On the basis of these principles, Belgium insisted on the necessary implication of all the States in the negotiation procedure of the Global Compact, as well as other key actors (such as international organisations, civil society, NGOs, the private sector, etc.). Furthermore, Belgium agreed with the idea to develop a sequenced approach to the implementation of the Global Compact.

In November 2017, the Belgian Development Cooperation financed and hosted an **international Conference co-organised by IOM, UN-Habitat and the United Cities and Local Governments (UCLG)** entitled: “Global Conference on Cities and Migration” in the city of Mechelen. The conference aimed at helping to build a more positive narrative on migration from the perspective of local and regional authorities, recognizing that people migrate mainly to cities. Over 50 cities from Europe, North, Central and South America, Asia and Africa were represented. The main output of the Conference was the “Mechelen Declaration”. The Declaration reinforces the need to recognize local authorities as key actors in migration management and policy making. The Declaration was sent as an input to the Global Compact on Migration process, ahead of the stocktaking meeting in Mexico in December 2017.

Regarding the **partnership with IOM** – in line with the Memorandum of Understanding signed in September 2016 – Belgium provided a non-earmarked voluntary contribution of EUR 1,000,000 to IOM in 2017 in order to support the organisation in managing migration in a human and orderly manner and promote international cooperation on migration. Belgium contributed, through its core contribution to IOM, EUR 50,000 to the 10<sup>th</sup> GFMD 2017, which was held in Berlin in light of the preparation of the Global Compact for Migrants. In 2017, the Belgium development Cooperation also recruited a JPO to IOM to work on the elaboration of a Global Compacts for Migrants.

Regarding the **partnership with UNHCR** the annual core financing of UNHCR was 7.5 million euros

for the period 2015-2017. This increased to 8 million euros for the period 2018-2020. On top of that, Belgium funded UNHCR projects and programmes for EUR 13,860,300 in 2016 and EUR 12,686,248 in 2017. The total Belgian contribution to UNHCR in 2016 was EUR 21,360,300 and EUR 20,186,248 in 2017.

### Governmental and non-governmental cooperation programmes

In 2017, the topic of migration received a specific attention in some of the Belgian governmental and non-governmental international cooperation programmes.

The **root causes of irregular migration** was taken into account into the new governmental Development Cooperation Programme with **Guinea** (Conakry). The formulation of a new programme aimed at the “development of urban, rural and female entrepreneurship in the economic region of Conkry-Kindia-Mamou” is not focused on migration but should have an impact on the root causes of irregular migration flows in this region. It could also mitigate the effects of the “brain drain”.

The same issue was taken into account in the formulation of the new governmental development programmes in **Mali**, in particular into a sectoral programme promoting sustainable and inclusive growth including rural development and food sovereignty in the region of Koulikouro. This region and the one of Kayes are important regions of emigration in the country. The lack of employment opportunities for the youth and in the rural sector is a major challenge to reduce poverty, to fight against irregular migration and to preserve social cohesion.

As already mentioned in the Annual Report on Asylum and Migration in Belgium in 2016, the new development cooperation programme signed between **Morocco** and Belgium includes a Programme that supports the migration management of the country (5.85 million euros). It is composed of two interventions for a period of four years: (i) Support to the implementation of the National Migration and Asylum Strategy (4.6 million euros) and (ii) Support to the National Strategy for Moroccans living abroad (1.25 million euros). The specific objectives of this programme are : (i) improve the employability of migrants in Morocco ; (ii) provide support to Moroccans Residing Abroad (MRE) based in Belgium to make productive investments in Morocco.

The issue of irregular migration was also taken into account in the assessment and selection of the **new five-year non-governmental cooperation programmes**, which started in 2017 (around 233 million euros in funding per year). In the framework of the selection procedure, 40% of the programmes in the 31 partner countries of the governmental cooperation paid special attention to this issue (including in their choices of target populations) or explicitly aimed at addressing the root causes of irregular migration. A **few examples** of these programmes can be provided:

The programme of **Caritas International and Justice et Paix** includes the issues related to migration explicitly into its theory of change. The two organisations work on complementary approaches: (i) Improve the food and nutritional security of households and vulnerable communities in six countries (Haiti, Niger, Ethiopia, DRC, Burundi and Rwanda), which contributes to avoiding “distress migration”; and (ii) Raise awareness among people living in Belgium about

the interconnection between the issues of migration and development.

The new **2017-2021 programme of the NGO ADGembloux** in **Senegal** also takes into account the causes of migration. It explicitly addresses the causes of irregular migration (e.g. poverty and the absence of income generating activities outside the winter period in rural areas). The programme aims at diversifying the agronomic activities in a sustainable manner, by generating alternative incomes. Furthermore, the programme focuses specifically on young people, who represent the majority of those migrating.

In **Niger**, the health system of Agadez is put under pressure by the numerous migrants who transit through this city. Belgium thus finances a programme by **Médecins du Monde** to reinforce the existing health system (also on the basis of international expertise).

Other non-governmental organisations funded by Belgium – active in Asia or Latin America – focus their 2017-2021 programmes on decent work for migrants and the reinforcement of the rights of migrant workers, especially young people and women.

### **Cooperation with partner / third countries for economic migration**

The Immigration Office set up a **bilateral project with Tunisia**. The International Organisation for Migration is the executing partner on the ground. The project – which is expected to last 18 months – started on 1 March 2018. Funding has been provided nationally (EUR 350,000). It aims at **improving the technical and professional skills of 30 young Tunisians graduates** by means of trainings in Belgian and/or Tunisian companies in view of permanent employment. This should contribute to strengthen the employability of the 30 young Tunisian graduates. Other aims could be the reinforcement of the different actors in the educational sector in Tunisia through capacity building, and the development of an intergovernmental consultation platform to exchange best practices regarding methods to strengthen the employability of young graduates.

Regarding circular migration, it is worth mentioning that Belgium finances around **1,500 scholarships** – on average – for courses and internships in Belgium, and via the sub-programmes for the South (actors involved: ITG, ARES, VLIR, MRAC).

### **Working with diasporas**

In the framework of Belgium's non-governmental cooperation, certain Belgian non-governmental actors involve the diaspora in the elaboration of their programmes, either in the South or in Belgium. For example, the consortium Congodorpen-BAC-FONCABA-Rotary links the implementation of its programme in the DRC to investments made by the Congolese diaspora in Belgium. The diaspora is also involved in another project of the bilateral cooperation on entrepreneurship in Morocco (see above).

## 11.2. Initiatives from civil society

Civil society organisations were **actively involved in migration and development related programmes and projects** in 2017. A few examples of activities carried out by civil society organisations in cooperation with public authorities are provided in the sections above.

## 11.3. Public debate

Different topics related to migration/development/cooperation were present in the public debate in 2017 (e.g. parliamentary debates and the media). Topics discussed in 2017 included – inter alia - **the EU Emergency Trust Fund** for stability and addressing root causes of irregular migration and displacement in Africa (e.g. actions taken in Libya in this framework)<sup>(271)</sup>; the situation of **migrants in Libya**<sup>(272)</sup>; or **development aid** provided by Belgium to certain Regions<sup>(273)</sup>.

## 11.4. Future plans

### Migrants' remittances

In 2017, contact was made with the National Bank of Belgium to have a **better understanding of the Belgian data on remittances**. In 2018, Belgium plans to organize further consultation with all relevant actors concerning remittances, to investigate the ways of reducing remittances costs, with a special attention to mobile and digital innovations.

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271 See for example: Question n°1155 of MP Olivier Chastel on “ EU Emergency Trust Fund” of 7 September 2017 to the Deputy Prime Minister and Minister of Foreign Affairs and European Affairs, QRVA 54 153, 20 April 2018, <http://www.lachambre.be/QRVA/pdf/54/54K0153.pdf>.

272 See for example: Question n°1262 of MP An Capoen on “Slavery in Libya” of 8 December 2017 to the Deputy Prime Minister and Minister of Foreign Affairs and European Affairs, QRVA 54 158, 6 June 2018, <http://www.lachambre.be/QRVA/pdf/54/54K0158.pdf>.

273 See for example: Question n°1032 of MP Jean-Jacques Flahaux on “the Horn of Africa – Development Aid” of 13 November 2017 to the Deputy Prime Minister and Minister of Development Cooperation, QRVA 54 139, 11 December 2017, <http://www.lachambre.be/QRVA/pdf/54/54K0139.pdf>.

## ANNEX A: Abbreviations and specific terms used

### List of abbreviations used

ACTIRIS	Brussels Public Employment Service
AMAAR	Adapted Medical Assistance After Return Project
AMIF	Asylum, Migration and Integration Fund
API	Advance Passenger Information
ARIEC	Arrondissement Information and Expertise Centre
AVR(R)	Assisted Voluntary Return (and Reintegration)
CALL	Council for Alien Law Litigation
CGRS	Office of the Commissioner General for Refugees and Stateless Persons
CJEU	Court of Justice of the European Union
COCOM	Joint Community Commission of the Brussels-Capital Region
COI	Country Of Origin Information
CRI	Regional Integration Centre (in Wallonia)
DRC	Democratic Republic of the Congo
EASO	European Asylum Support Office
EC	European Commission
ECHR	European Convention on Human Rights
EEA	European Economic Area
EMN	European Migration Network
EPIM	European Programme for Integration and Migration
ESF	European Social Fund
EU	European Union
FEDASIL	Federal Agency for the Reception of Asylum Seekers
FGM	Female Genital Mutilation
FOREM	Walloon Public Employment Service
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
IOM	International Organization for Migration
LGTBI	Lesbian, gay, bisexual, transgender and intersex
MoU	Memorandum of Understanding
NCP	National Contact Point (of the European Migration Network)
NGO	Non-Governmental Organisation
NSSO	Belgian National Social Security Office
PNR	Passenger Name Record
OFII	French Office for Immigration and Integration
RDPP	Regional Development and Protection Programme
REG	Return and Reintegration Experts Group (of the EMN)
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
UNODC	United Nations Office on Drugs and Crime
VDAB	Flemish Public Employment Service
VIS	Visa Information System

### 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 2017

### Directive 2011/98/EU<sup>(274)</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>(275)</sup>, finally referring Belgium to the Court of Justice of the EU in November 2015<sup>(276)</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 remained partial and there was no reliable timetable for its finalisation, the Commission decided to address an additional reasoned opinion to the Belgian authorities in February 2017<sup>(277)</sup>. However, by 13 July 2017, Belgium had not notified the Commission of the full transposition of the Directive into its national law. Therefore, the Commission decided to **refer the case again to the Court of Justice of the EU and lodged the complaint on 25 September 2017** (C-564/17 Commission versus Belgium). In referring Belgium to the Court of Justice of the EU, the Commission proposed a daily penalty of EUR 70,828.80. The amount of the penalty was calculated taking into account the seriousness, the duration of the infringement and the deterrent effect reflected in the ability to pay of the Member State. In case the transposition remains incomplete and the Court of Justice of the EU confirms the Commission's view, the daily penalty would have to be paid from the date of the judgment or a later date set by the Court until the transposition is complete. The final amount of the daily penalty will be decided by the Court, but cannot exceed the Commission's proposal. Belgium deposited its **reply** at the Court of Justice of the EU on 22 December 2017, following a consultation of the different authorities involved in this matter (federal and federated authorities). The reply included a *correlation table* referring to the provisions of the cooperation agreement and the Single Permit Directive as well as a table with all the decisions being taken and still to be taken. A reply from the Commission was deposited on 2 March 2018.<sup>(278)</sup>

On 2 February 2018, the competent authorities (Federal State, the three Regions and the German-speaking Community) reached an agreement on a **Cooperation Agreement** on the

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274 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.

275 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)

276 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).

277 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).

278 Source: FPS Home Affairs, International unit.

coordination of the policies on work permits and residence permits and the norms regarding the employment and residence of foreign workers. In 2018, this new cooperation agreement will need to be adopted by the different Parliaments involved.<sup>(279)</sup> Furthermore, a **cooperation agreement implementing the cooperation agreement on the Single Permit procedure** should also be adopted. It will focus on the creation of specific new residence permits and on the distribution of costs between the Federal State and the Federated entities. Other legislative texts (such as modifications to the Immigration Act) will also need to be adopted.

## Directive 2014/36/EU<sup>(280)</sup> (Seasonal Workers Directive) and Directive 2014/66/EU<sup>(281)</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. A reasoned opinion was addressed to Belgium regarding the Seasonal Workers Directive on 13 July 2017<sup>(282)</sup> and regarding the ICT Directive on 4 October 2017<sup>(283)</sup>.

Given that the cooperation agreement on the Single Permit procedure (mentioned above) will represent the legal basis for all applications by TCNs to reside in Belgium for a period of time exceeding 90 days in order to work, including ICTs and seasonal workers, the transposition of the Seasonal Workers and ICT Directives is closely linked to the transposition of the Single Permit Directive. As mentioned above, the different competent entities (federated and federal) have agreed on a **Cooperation Agreement** and will adopt other legislative texts in the course of 2018.

Furthermore, a draft **Cooperation Agreement** concerning third-country national workers whose stay in Belgium will **not exceed 90 days** and short-term intra-EU mobility is also being elaborated (such as ICTs and seasonal workers), as these categories of third-country nationals are not included in the scope of the Cooperation Agreement on the Single Permit procedure of 2 February 2018.

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279 A federal law approving the cooperation agreement was adopted by the federal House of Representatives on 15 March 2018. The Parliaments of the Flemish Region, the Walloon Region and the Brussels-Capital Region have also adopted this cooperation agreement in March 2018, and the Parliament of the German-speaking Community in April 2018.

280 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.

281 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.

282 See: [http://europa.eu/rapid/press-release\\_MEMO-17-1935\\_EN.htm](http://europa.eu/rapid/press-release_MEMO-17-1935_EN.htm)

283 See: [http://europa.eu/rapid/press-release\\_MEMO-17-3494\\_EN.htm](http://europa.eu/rapid/press-release_MEMO-17-3494_EN.htm)

## **Directive (EU) 2016/801<sup>(284)</sup> (Research, studies, training, voluntary service, pupil exchange schemes and educational projects and au pairing)**

The Students and Researchers Directive is due to be transposed in Belgian legislation by **23 May 2018**. The competent Belgian bodies are working on draft legislation to transpose the provisions of the Directive into national legislation.

Researchers and interns whose stay in Belgium will **exceed 90 days** are included in the scope of the Cooperation Agreement of 2 February 2018, and in the scope of the cooperation agreement *implementing* the cooperation agreement (see above).

Furthermore, a draft **Cooperation Agreement** concerning third-country national workers whose stay in Belgium will **not exceed 90 days** and short-term intra-EU mobility (e.g. researchers or interns) is also being elaborated (as these categories of third-country nationals are not included in the scope of the Cooperation Agreement on the Single Permit procedure of 2 February 2018).

## **Directive 2013/32/EU<sup>(285)</sup> (Asylum Procedures Directive) and Directive 2013/33/EU<sup>(286)</sup> (Reception Conditions 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).

**The law of 21 November 2017 and the law of 17 December 2017** – published in the Belgian Official Gazette on 12 March 2018 and which entered into force on 22 March 2018 – finalized the transposition of the Asylum Procedures Directive and the Reception Conditions Directive. Although many of the stipulations of the above mentioned Directives were already included in Belgian legislation or implemented in practice, the laws also brought some innovative developments.

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<sup>284</sup> Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing, OJ L 132, 21.5.2016, p. 21–57

<sup>285</sup> 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.

<sup>286</sup> 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.

## ANNEX C: 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 2018. 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 studies and reports mentioned below are available for download on [www.emnbelgium.be](http://www.emnbelgium.be)

The studies and reports from the other NCPs as well as the Synthesis Reports are available on [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports_en)

### 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
- July 2017* Family Reunification of Third Country Nationals in Belgium
- August 2017* Illegal Employment of Third Country Nationals in Belgium
- December 2017* Challenges and good practices for establishing applicants' identity in the migration process in Belgium

## 2018

- July 2018* The effectiveness of return in Belgium: challenges and good practices linked to EU rules and standards
- August 2018* Annual Report on Asylum and Migration Policy in Belgium - 2017
- Upcoming* The changing influx of asylum seekers in 2014-2016: Belgium's responses
- Upcoming* Approaches to unaccompanied minors following status determination in Belgium
- Upcoming* Labour market integration of third-country nationals in Belgium
- Upcoming* Impact of visa liberalisation on countries of destination

