

## Accurate, timely, interoperable: data management in the asylum procedure

Belgian standalone report

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

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

### **Belgian study and EU comparative study**

**Belgian report:** This is the Belgian contribution to the EMN Study "**Accurate, timely, interoperable: data management in the asylum procedure**". Other National Contact Points (NCPs) produced a similar report on this topic for their (Member) State.

**Common Template and Synthesis Report:** The different national reports were prepared on the basis of a common template with study specifications to ensure, to the extent possible, comparability.

**Synthesis report:** On the basis of the national contributions of 25 NCPs, a *Synthesis Report* was produced by the EMN Service Provider in collaboration with the European Commission and the EMN NCPs. The Synthesis Report gives an overview of the topic in all the (Member) States.

**Scope and aim of the study:** Examine how data is managed in the different phases of the asylum procedure.

**Available on the website:** The Belgian report, the Synthesis report and the links to the reports of the other (Member) States are available on **[www.emnbelgium.be](http://www.emnbelgium.be)**.

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# 1. Introduction

A smooth and fast registration and identification procedure is as important to a functioning asylum procedure as are the accuracy of the information collected and the interoperability of the various administrative databases the data is fed into. An effective asylum system relies on the collection of timely information that could appropriately channel asylum applicants into the right track, as well as on accurate and reliable information that could inform subsequent asylum decisions. Similarly, the smooth transmission of information to relevant authorities, as well as the interoperability of databases where this information is collected, avoids duplication and contributes to the efficiency of the asylum system. Finally, the use of information collected during different phases of the asylum procedure to inform further steps of the process (including the Dublin procedure, reception conditions, integration and possibly return) increases the preparedness of the migration system overall<sup>1</sup>.

Against this backdrop, this study will examine how data is managed in the different phases of the asylum procedure. The objective of this study is to examine recent trends in data management in the asylum procedure. In particular it will (i) map Belgium's data management approaches in the asylum procedure, (ii) examine whether there have been any procedural changes to enhance data sharing between the asylum authorities, and beyond, and examine how these changes have impacted on data management in these processes, and (iii) look at challenges and good practices that have arisen in relation to data management.

As for its scope, the study will cover the different phases of the asylum procedure, beginning from the moment that a person makes his or her asylum application until the first instance decision is made.

## Directives and regulations

The Common European Asylum System (hereafter: CEAS) is based upon a series of EU legal instruments that govern the asylum procedure and system in the EU. In comparison, the management of personal data is only marginally regulated. For example the **recast Eurodac Regulation (Regulation 603/2013)**, analysed below) regulates the processing of biometric data of applicants of international protection for Dublin-related purposes, while the **recast Asylum Procedures Directive (Directive 2013/32)** adds that applicants must, amongst others, inform the competent authorities of their current place of residence and of any changes thereof as soon as possible, which suggests that this information is collected by the competent authorities. Competent authorities may also take a photograph of the applicant even if this is not compulsory under EU law. Crucially, Article 30 of that Directive proscribes national authorities from disclosing information regarding individual applications or divulging to the alleged actor(s) of persecution or serious harm the fact that an application has been made.

From a privacy and personal data protection perspective, the **General Data Protection Regulation (Regulation 2016/679)**, hereafter: GDPR) is applicable to the processing of personal data in the asylum procedure. This entails that a series of data protection safeguards regulate and limit the processing of personal data. These safeguards include

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<sup>1</sup> [https://ec.europa.eu/home-affairs/news/new-emn-study-data-management-asylum-procedure\\_en](https://ec.europa.eu/home-affairs/news/new-emn-study-data-management-asylum-procedure_en)

the principles of lawfulness, purpose limitation, transparency, data minimisation, accuracy, storage limitation and integrity and confidentiality. This Regulation is, on the Belgian level, further complemented and specified by the Law of 30 July 2018 regarding the protection of natural persons in the ambient of the processing of personal data.

## **EU centralised information systems:**

### *Current Schengen Systems*

Over the past 36 years, the abolition of internal borders in the Schengen area has required strong and reliable management of the movement of persons across the external borders, including through robust identity management. The European Commission identifies three key pillars that underpin the Schengen area: (1) an effective external border management, (2) measures compensating for the absence of controls at internal borders and (3) a robust governance and increased preparedness.

Under these pillars, the EU has developed several centralised information systems, with some of them still under construction. Under the Schengen Borders Code, systematic checks upon entry and exit of the Schengen are required, while also within the Schengen area, similar (and other) checks are performed.

The **Schengen Information System (SIS)** was the initial 'Schengen information system' and has been revised and updated since its inception. It is operational in all EU Member States, except for Cyprus, and four Schengen Associated Countries (Switzerland, Norway, Liechtenstein and Iceland). The system aims at ensuring a high level of security in the Schengen area by facilitating both border control and police investigations. To those ends, the SIS registers alerts on various categories of persons including third-country nationals to be refused entry or stay in the Schengen area, as well as alerts on objects, such as stolen banknotes and identity documents. Return decisions and entry bans can be part of the information shared in the SIS, in accordance with the SIS rules. In 2018, the SIS legal framework was revised with a view to adding certain categories of alerts, such as third-country nationals 'circumventing national law on entry or stay' (Article 24(2) Regulation 2018/1861) and giving access to the European Border Coast Guard and Europol to SIS alerts on third country nationals, according to SIS rules (Articles 35 and 36).<sup>2</sup> The revised framework entered into force on 28 December 2019 and will be fully operational as of December 2021.

Another Schengen system, the **Visa Information System (VIS)** is operational in all Schengen Member States and consists of a central IT system and of a communication infrastructure that links this central system to national systems. VIS connects consulates in non-EU countries and all external border crossing points of Schengen States.

The VIS processes personal data (both biographical and biometric) of short-stay (Schengen) visa applicants and allows immigration, border control and asylum authorities to exchange this data for various purposes, such as the identification of the Member State

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<sup>2</sup> Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals, OJ L 312, 7.12.2018, p. 1–13; Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006, OJ L 312, 7.12.2018, p. 14–55; Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU. OJ L 312, 7.12.2018, p. 56–106.

responsible for an application for international protection, in line with the Dublin rules (Regulation 604/2013, 'Dublin III Regulation'). Each Member State must appoint a National Supervisory Authority to monitor the lawfulness of the processing of personal data by that country, in Belgium this task was awarded to the Belgian Data Protection Authority. The current legal framework consists of Regulation 767/2008<sup>3</sup> governing the use of the system for immigration control purposes, and Council Decision 2008/633/JHA<sup>4</sup> on law enforcement access. A proposal is currently negotiated<sup>5</sup> that, among other changes, lowers the threshold age for fingerprinting to six years. The implementation of the revised VIS is expected to be completed by the end of 2023.

### *The Eurodac System*

The **Eurodac-system** is a biometric database that stores the fingerprints of applicants for international protection, third country nationals that have irregularly crossed an external EU border and migrants in an irregular situation, found on EU territory. Its primary objective is to help Member States in determining the Member State responsible for an application for international protection under the Dublin III Regulation. Eurodac may also be accessed by national law enforcement authorities and Europol for the purposes of preventing, detecting and investigating terrorist offences and serious crimes. The European Commission tabled a recast proposal<sup>6</sup> in September 2020, in the context of the Pact on Migration and Asylum, that succeeds an unsuccessful proposal from 2016<sup>7</sup>. While the 2016 Proposal added new categories of persons for whom data should be stored, lowered the age for fingerprinting, allowed the collection of identity information together with the biometric data, and extended the data storage period with the aim of expanding the purpose, scope and categories of personal data stored in the system, the 2020 Proposal builds on these changes and complements them with amendments that make Eurodac fit in the legislative framework of the Pact. Indeed, the new Proposal includes a number of amendments that seek to ensure that Eurodac will function properly within the new interoperability framework (see below) and is in line with the amendments of the the VIS and ETIAS Regulations (see below).

### *Systems in the making*

The aforementioned information systems will be complemented by three new ones, which are currently under development. First, **the Entry/Exit System (EES)** will register the border crossings, both at entry and exit, of all third-country nationals admitted for a short stay, irrespective of whether they are required to obtain a Schengen visa or not.<sup>8</sup> The testing of this system began in March 2021 and the system is projected to be operational in the second quarter of 2022. Secondly, the **European Travel Information and**

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<sup>3</sup> Regulation (EC) 767/2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas, OJ L 218, 13.8.2008, as amended by Regulation (EC) 810/2009, OJ L 243, 15.9.2009.

<sup>4</sup> Council Decision 2008/633/JHA concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences, OJ L 218, 13.8.2008.

<sup>5</sup> COM(2018) 302final.

<sup>6</sup> Amended proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of biometric data, COM(2020)614 final

<sup>7</sup> COM (2016) 272final.

<sup>8</sup> Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011, OJ L 327, 9.12.2017.



**Authorisation System (ETIAS)** will allow to determine whether the presence of a visa-free traveller in the territory of the Member States poses a security, irregular migration or high epidemic risk.<sup>9</sup> The system is expected to be operational at the end of 2022. Finally, the **European Criminal Record Information System for third-country nationals (ECRIS-TCN)** will enable the exchange of criminal records on convicted third-country nationals and stateless persons.<sup>10</sup>

In its new Schengen Strategy, the European Commission announced the tabling of a Proposal for a **Regulation on the digitalisation of the visa procedure** (by the end of 2021) and the tabling of a **Proposal for a Regulation on digitalisation of travel documents and facilitation of travel** (by 2023).

#### *The interoperability of EU Information systems*

The . Progressively, the need has emerged to provide technical and legal tools that enable EU information systems to complement each other. To that end, the **Interoperability Regulations 2019/817 and 2019/818** prescribe four main components to be implemented. First, the European Search Portal (ESP), should enable users to search multiple information systems simultaneously, using both biographical and biometric data. Secondly, a shared Biometric Matching Service (BMS) should allow users to query and compare biometric data (fingerprints and facial images) recorded in Eurodac, VIS, the future EES, ETIAS and ECRIS-TCN. Thirdly, a Common Identity Repository (CIR) is set to be the data 'storage center' that stores the biographical and biometric identity data of TCN's that comes from the different databases. Finally, the Multiple Identity Detector (MID) should allow the detection of multiple identities linked to the same biometric data.. An EU agency, -LISA, is responsible for the evolution, development and operational management of these systems.<sup>11</sup>In the future, all six information systems will be part of the interoperable data processing environment.

### **Primary questions to be addressed in this study**

This study will focus on the following primary questions:

- Which information is collected in the context of the asylum procedure, at which point in time and by whom?
- How is the information collected, fed into different data systems and further managed?
- How is data quality assessed, and which data protection safeguards are in place for asylum applicants during the asylum procedure?
- Which changes and reforms were introduced in the last years with regard to data management in the asylum procedure and why?

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<sup>9</sup> Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226, OJ L 236, 19.9.2018.

<sup>10</sup> Regulation (EU) 2019/816 of the European Parliament and of the Council of 17 April 2019 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726, OJ L 135, 22.5.2019.

<sup>11</sup> Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011, OJ L 295, 21.11.2018.

- What challenges do asylum authorities face with regard to data management in the asylum procedure, how have these been overcome, and what good practices can be shared?

The asylum procedure in Belgium and the competence of the Belgian asylum authorities are defined in the Law of 15 December 1980 relating to the entry, residence, settlement and removal of foreign nationals (Aliens Act). The law has been amended by 2020<sup>12</sup>. This law was further developed by the Royal Decree of 8 October 1981 relating to the entry, residence, settlement and removal of foreign nationals.

In Belgium, two asylum authorities are involved in the first instance asylum procedure. The Immigration Office (FR: Office des étrangers, NL: Dienst Vreemdelingenzaken) is the mandated administration of the Minister or Secretary of State responsible for the entry, residence, settlement and removal of foreign nationals in Belgium. The Office registers and lodges the asylum application and decides on the application of the Dublin criteria.

The Office of the Commissioner General for Refugees and Stateless persons (CGRS) is the central administrative authority exclusively responsible for the first instance examining and granting, refusing, and withdrawing of the refugee and/or subsidiary protection status. It is an independent authority, whose institutional independence is explicitly laid down by the law<sup>13</sup> and, therefore, does not take instructions from the competent Minister or Secretary of State for Asylum and Migration, with the exception of certain aspects defined by the Aliens Act.

The Study will cover four main phases:

- 1 Making an application:** during this phase the person expresses the intention to apply for international protection;
- 2 Registering an application:** the applicant's intention to seek protection is registered
- 3 Lodging an application:** the asylum application is formally lodged at the competent authority for the asylum procedure;
- 4 Examining an application.**

## 2. The asylum procedure

### 2.1. Overview of the asylum procedure

Art. 50 of the Law of 15 December 1980<sup>14</sup> clearly distinguishes between the making of the application by the foreign national (§1), on the one hand, and the registering (§2) and the lodging (§3) of the application by the national authorities, on the other hand.

In practice, the registration of the application takes place on the same day as the making of the application by the applicant in person at the arrival centre of the Immigration Office 'Petit Château - Klein Kasteeltje', even though Article 50(2) Aliens Act grants the

<sup>12</sup>Law of 15 December 1980 regarding the entry, residence, settlement and removal of foreign nationals, *Belgian Official Gazette*, 31 December 1980 [hereinafter Aliens Act].

<sup>13</sup>Article 57/2 Aliens Act.

<sup>14</sup>Law of 15 December 1980 regarding the entry, residence, settlement and removal of foreign nationals, *Belgian Official Gazette*, 31 December 1980 [hereinafter Aliens Act].

Immigration Office three days to complete the registration of the application made by an applicant present on the Belgian territory.

Until 2020, the lodging of the application took place, as a rule, in the *Pacheco* building of the Immigration Office a couple of days after registration. However, in exceptional circumstances, the Immigration Office could decide to register and lodge the application simultaneously at the arrival centre (e.g., in case of a particularly vulnerable applicant).

At the time of writing, the making, registering and lodging of applications for international protection takes place simultaneously at the arrival centre. The Immigration Office may however decide to split these steps, due to practical reasons such as a high influx or limited staff, if it would not be able to immediately lodge all applications.

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### **Impact of Covid-19**

At the onset of the covid-19 crisis in March 2020, the decision was taken to temporarily suspend the registration of applications for international protection in the arrival centre Petit Château - Klein Kasteeltje.

A couple of weeks later, on 3 April 2020, the government introduced a covid-19 proof convocation system that worked by appointment only, on the basis of an online form. On this form, published on the website of the Federal Public Service Home Affairs, persons wishing to apply for international protection at the arrival centre needed to fill in their personal details, possible vulnerabilities and, if possible, upload a personal photo and documents.

Unlike the pre-covid registration method, the new application scheme for international protection at the arrival centre did not only allow for the "registration", but also immediately for the "lodging".

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

The online system eventually came to a halt in the Fall of 2020, after the court of first instance of Brussels ruled that applicants for international protection had a right to reception from the moment they submitted the online form. Soon after, the Secretary of State for Asylum and Migration vowed to explore an alternative system of appointments that respects the rights of applicants for international protection. In the meantime, the arrival center returned to its traditional registration method while complying to the sanitary requirements imposed by covid-19.

### *Making an application at the border or in detention*

An application at the borders is made with the border control services, immediately when the person is apprehended at the border.<sup>15</sup>

When an individual is detained in a closed detention centre or in a penitentiary institution, an application can also be made with the director of the latter<sup>16</sup>

These authorities will not only make the application, but also lodge it and refer it to the Immigration Office for registration in the national register.<sup>17</sup>

### *Channelling*

Under the current Belgian asylum procedure, there is no channelling in the sense of an initial triaging that leads to separate accelerated/simplified tracks, from the registration stage at the Immigration Office up until the final decision at first instance by the CGRS.

While legislation provides no formal channelling system for specific caseload in the Belgian asylum procedure, some types of applications may be treated in an accelerated manner, for instance:

- as part of the “admissibility procedure” (e.g., subsequent applications);<sup>18</sup>
- following an “accelerated procedure” (e.g., safe country of origin);<sup>19</sup> or
- “as a priority” (e.g., in case of detention or on the basis of ad-hoc directives by the Minister or Secretary of State for Asylum and Migration).<sup>20</sup>

In practice, however, the organisation of the procedure in these types of caseloads is generally the same as in the regular procedure, meaning that each service will identify and trigger priority cases. The priority cases are separated from other cases and identified as such prior to the transfer of physical files from the Immigration Office to the CGRS.

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<sup>15</sup> Art. 50, §1 Aliens Act.

<sup>16</sup> Art. 71/2, § 2, Royal Decree of 8 October 1981.

<sup>17</sup> Art 50, §3, second paragraph Aliens Act and Art. 71/2, §1 and §2 Royal Decree of 8 October 1981 regarding the entry, residence, settlement and removal of foreign nationals, *Belgian Official Gazette*, 27 October 1981 [hereinafter Royal Decree implementing the Aliens Act]. Also see Federal Migration Centre Myria, report of the contact meeting on asylum, 18 April 2018, p. 4, available in Dutch at [https://www.myria.be/files/20180418\\_PV\\_contactvergadering.pdf](https://www.myria.be/files/20180418_PV_contactvergadering.pdf) and in French at [https://www.myria.be/files/20180418\\_PV\\_Reunion\\_contact.pdf](https://www.myria.be/files/20180418_PV_Reunion_contact.pdf).

<sup>18</sup> Art. 57/6, §3 Aliens Act.

<sup>19</sup> Art. 57/6/1 Aliens Act.

<sup>20</sup> Art. 57/6, §2 Aliens Act.

### **Minors applying for international protection**

Although not defined as a formal channel *stricto sensu*, a good practice was identified in the treatment of asylum applications made by minors.

After the lodging of an asylum application as a minor (unaccompanied and accompanied), the transfer of the application from the Immigration Office to the CGRS follows a separate track. These applications are immediately being transferred to a specialised unit within the CGRS. The unit is headed by a coordinator, has its own administrative service responsible for the convocations and planning and consists of a pool of protection officers who received a specific training, rely on at least two years of experience in interviewing adults and conduct the personal interview according to adapted methods.

The specific administrative structure as well as a close collaboration and direct contact with the responsible for applications made by minors at the Immigration Office allows the coordinator to monitor these applications closely, to identify certain trends and to interfere whenever deemed necessary.

### **Timeframes**

Prior to the transposition of the Asylum Procedures Directive (Directive 2013/32) in national law, the Belgian Aliens Act did not impose any time limits for the registering or lodging of the application.

Legal time limits were introduced by the Law of 21 November 2017 (entry into force 22 March 2018). The law sets out the three-stage registration process of making, registering and lodging and the corresponding timeframes.

#### **Making:**

There is no legal time limit for the making of an application for international protection. The Aliens Act nevertheless stipulates that applicants should make an application:

- immediately or within 8 working days after unlawful entry in Belgium; or
- before the short stay of less than three months has ended; or
- within 8 working days after the long stay of more than three months has ended; or
- immediately upon the attempt to cross the Belgian border illegally.<sup>21</sup>

#### **Registering:**

The registration of the application for international protection needs to take place within 3 working days after the application is made. In exceptional circumstances, where simultaneous applications for international protection by a large number of foreign nationals make it very difficult in practice to respect this time limit, the limit can be extended to 10 working days.<sup>22</sup>

#### **Lodging:**

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<sup>21</sup> Art. 50, §1 Aliens Act.

<sup>22</sup> Art. 50, §2 Aliens Act.

The applicant should be given the possibility to lodge his application either immediately or within 30 days after the application is made. In exceptional circumstances, where simultaneous applications for international protection by a large number of foreign nationals make it very difficult in practice to respect this time limit, the limit can be extended by way of Royal Decree.<sup>23</sup>

Table 1: Average days from lodging until first instance decision and average days from transfer CGRS until first instance decision<sup>24</sup>

Year	Average days <sup>25</sup>	
	From lodging until first instance decision <sup>26</sup>	From transfer CGRS until first instance decision
2015	222	183
2016	267	187
2017	376	306
2018	303	302
2019	316	200
2020	391	236
2015-2020	316	237

## 2.2. Authorities involved in the asylum procedure

The authorities involved in **making** an application for international protection are the Border Police (for applicants seeking international protection at the border), the Immigration Office (on the territory), detention facilities managed by the Immigration Office<sup>27</sup> (in case the person is already being detained for the purpose of removal) and the director of a penitentiary institution (in case the person is being detained).

The Immigration Office is the sole authority competent for the **registration** of an application for international protection.

The **lodging** of the application for international protection can either be done by the Border Police, The Immigration Office or the Director of a penitentiary institution.

<sup>23</sup> Art. 50, §3 Aliens Act.

<sup>24</sup> Numbers extracted from Actio by the CGRS on 23 June 2021

<sup>25</sup> The average processing times may be distorted by certain extreme values, policy choices, absconding of applicants in the Dublin procedure and other factors. For this reason, caution must be exercised when comparing these results..

<sup>26</sup> Please note that the applications concluded at Immigration Office level are not included in this calculation.

<sup>27</sup> Transit centre Caricole, repatriation centre 127bis, centres for persons in irregular stay of Bruges, Merksplas and Vottem and the detention centre for Women in Holsbeek.

The Office of the Commissioner General for Refugees and Stateless Persons is – as an independent federal administration - the only legally competent authority for **examination** of the application.

## 2.3. Data management during the asylum procedure

Data collected during the asylum procedure are stored in various ways. Belgian asylum authorities use three main databases to store applicants' data: 'Waiting Register'<sup>28</sup>, Evibel and Actio. Printrak is an additional national database used by the Immigration Office to collect, store and process fingerprints taken in the framework of an asylum application (see point 4: Cross Checking of data).

### Waiting Register

The waiting register is a sub-section of the national register with data on foreign nationals staying in Belgium, and who cannot be included in the "foreigners' register", such as applicants for international protection or EU-citizens in short stay.

Several authorities have access to the waiting register, including the Immigration Office, the CGRS, the Belgian municipalities and Fedasil.

The Immigration Office registers the application for international protection, the decisions and the notification of the latter in the Waiting Register. Additional information is added in the Register during the creation of the administrative file. The municipalities make use of the database for information on applicants for international protection staying in the territory of the municipality. The CGRS collects data from the Waiting Register prior to examination and inserts the final decision.

Fedasil uses the waiting register to assign a specific reception code.

### Evibel

Evibel is the national database of the Immigration Office with data on asylum, migration and return procedures of third country nationals.

During the asylum procedure, the Immigration Office accesses the database in the initial stages, such as during registration, for the first interview and the Dublin procedures. Subsequently, in the final stages, it accesses the database for the issuance of a residence permit or an order to leave the territory. Although the CGRS has no direct access to Evibel, the Immigration Office provides all information deemed useful for the examination of the application for international protection.<sup>29</sup> The appeal instance Council for Alien Law Litigation (CALL) and courts can have access to certain data in Evibel for the purpose of judicial proceedings, while the federal ombudsman can also access certain data in the context of the complaints it receives. To determine whether a member state is responsible for the examination of an application for international protection, personal data requested by standardized forms can be shared with other Member States through DublinNet. DublinNet is a secured network used to exchange information concerning asylum applications under Dublin regulation agreements.

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<sup>28</sup> FR *registre d'attente*, NL *wachtregister*

<sup>29</sup> Art. 57/7, §1 Aliens Act.

## Actio

Actio is the national database of the CGRS, which contains data on applications for international protection.

The CGRS is the sole authority having access to this database. Other authorities such as the Immigration Office, local and federal police services, public prosecutors, courts and tribunals, State Security Service (VVSE), General Information and Security Service (ADIV-SGRS) can request the CGRS to be granted access to certain data.

### Electronic Counter

Taking as a model the electronic communication system (J-box) introduced by the Federal Public Service Justice creating the possibility to electronically send and receive documents (procedural documents, summonses, notifications, petitions, ...); the asylum authorities expressed an interest in the development of an analogous electronic system that would allow electronic communication with the (recognized) asylum applicant (notification of the decision, deposition of personal documents...) and other target groups such as legal representatives.

In order to adequately develop such a system, the idea of an e-card or token for asylum applicants surged in interviews with several actors within the asylum authorities.

## 3. Cross checking of data

In Belgium, the **"making" of an application for international protection** is done at the same time as the registering and/or the lodging of the application (see 2.1).

Authorities that are not competent to register applications for international protection do not collect any data on the applicant who intends to seek protection. Authorities that are likely to receive applications for international protection, such as the police, should however inform applicants as to where and how these applications may be made, in accordance with the Asylum Procedures Directive.<sup>30</sup>

The fingerprints taken **upon registration**<sup>31</sup> at the centre of Petit-château-Klein Kasteeltje are sent directly to the Pacheco building for processing and cross-checking against the national Printrak database (i.) and the European Eurodac and VIS databases (ii.).<sup>32</sup>

Fingerprints are cross-checked against the national database Printrak to verify if the applicant is already known to the national authorities due to (a) previous applications for international protection and/or (b) previous illegal stay in Belgium. As such, the cross-check also allows to detect identity fraud.

<sup>30</sup> Art. 6 (1) 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 (recast).

<sup>31</sup> In certain cases, fingerprints can be taken after registration, for example when the fingerprints taken upon registration do not meet the necessary quality requirements.

<sup>32</sup> EMN Study, Challenges and Practices for Establishing Identity in the Migration Process in Belgium, 2017, p. 31.



Fingerprints are cross-checked against Eurodac to determine the member state responsible for the examination of the application or whether a protection status has been granted by another member state

Finally, at the time of registration, the interface with VIS allows to determine the member state responsible for the examination of the application and to verify whether the applicant obtained a Schengen-visa. The registration of data takes place in InqAs, the first part of Evibel NG that has been delivered and where the results of the fingerprints can also be consulted.

The results of these cross-checks are shared with the registration centre through an online server.

During **the lodging phase**, the Immigration Office by default checks the SIS, while it regularly checks several other databases. At the **examination phase**, decisions on which database to cross-check, are taken ad hoc.

## 4. Information provided to applicants for international protection

Applicants for international protection are provided with a privacy notice about the personal data collected from them during the **registration phase**.

The information concerning the processing and privacy of the collected personal data is compiled in a brochure and translated in the most commonly spoken languages. The Immigration Office gives the brochure to the applicant when his/her application is **lodged**. The brochure explains: which personal data is collected, for which purpose, on what basis, who has access to the information, for how long the data will be kept, which data protection guarantees apply, who to contact, data safety and confidentiality etc.

Upon **lodging**, a disclaimer is added on the attestation of the application stating that the personal data will be processed by the Immigration Office and the CGRS in accordance with the provisions of the Privacy Protection Act of 8 December 1992, modified by the Law of 11 December 1998 transposing Directive 95/46/EG of 24 October 1995<sup>33</sup>.

During the **examination phase**, the CGRS provides, on their website, a privacy notice about the personal data collected from applicants <sup>34</sup>. The note contains the same information as the brochure that the Immigration Office made available in the lodging phase (see supra).

Moreover, at the beginning of the interview at the CGRS, the protection officer emphasizes the confidentiality of statements made during the personal interview, of every element in the file and underlines that no information will be conveyed to the actor of persecution.<sup>35</sup>

The Immigration Office, in conjunction with the CGRS, is finalising a new brochure that is in line with recent legislation, with the purpose of informing the applicant about the protection of personal data throughout the asylum procedure.

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<sup>33</sup>This legislation is outdated and will be corrected within the shortest delay.

<sup>34</sup> <https://www.cgra.be/en/privacy-personal-data>.

<sup>35</sup> Office of the Commissioner General for Refugees and Stateless Persons, *Charter of the personal interview*, p. 8, available at [https://www.cgrs.be/sites/default/files/brochures/brochure\\_charte-dauidition\\_eng\\_0.pdf](https://www.cgrs.be/sites/default/files/brochures/brochure_charte-dauidition_eng_0.pdf).

## 5. Data quality and safeguards

### 5.1. Data quality management

The quality of data collected during the asylum procedure is continuously assessed throughout the procedure. Alphanumeric data are double checked during the personal interviews at the Immigration Office and CGRS. Biometric data are assessed during the registration phase.

Up until today, the Belgian asylum authorities do not use any automated tools for alphanumeric data quality assessment.

In fact, the quality of the personal data of applicants is assessed on a case-by-case basis during the interviews at the Immigration Office and the CGRS. During the interview, case workers ask the applicants whether the data registered in the national databases are correct.

Depending on the procedural stage and the specific request, applicants may be given the opportunity to rectify data that they deem incorrect. Applicants may also initiate a procedure at the Data Protection Officers of the CGRS and the IO to rectify incorrect data. With regard to biometric data, the value of a given “match” is assessed on a case-by-case basis during the cross-checking of fingerprints against the Printrak database. The staff is qualified and trained to do so.

Both asylum authorities have preventative measures in place to make sure that the information is correct from the very beginning.

The Immigration Office established internal directives for its staff to increase the accuracy and uniformity of the data collected at the registration phase (e.g., directives regarding the conversion of the date of birth of Afghan nationals to the Gregorian calendar).

The database of the CGRS contains mandatory fields and pre-established drop-down menus for important personal data of applicants, thus reducing the risk of incomplete or incorrect information and clerical errors. The CGRS analysis statistical data and corrects false encodings.

### 5.2. Safeguards

Since the entry into force of the GDPR, any data subject can file a complaint against a controller<sup>36</sup> in case of a potential infringement of data protection rules as described in Articles 12-22 GDPR. The complaint can be filed by submitting an online form<sup>37</sup> or by sending a letter to the Belgian Data Protection Authority<sup>38</sup>. The authority investigates any lodged complaint.

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36 GDPR Art. 4(7): ‘The natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.

<sup>37</sup> <https://www.dataprotectionauthority.be/citizen/actions/lodge-a-complaint>.

<sup>38</sup> FR: *Autorité de protection des données*; NL: *Gegevensbeschermingsautoriteit*.

In March 2020, the Belgian Supervisory Authority<sup>39</sup> started an assessment of the Visa Information System (VIS) and the use of VIS data. Due to the covid-19 pandemic, the assessment has been postponed.

As in other national administrative procedures<sup>40</sup>, applicants for international protection have the right to request access to their file to the Immigration Office or the CGRS.

Depending on the procedural stage and the specific request, applicants may also be given the opportunity to rectify personal data deemed incorrect:

- errors in data recorded at the registration stage (e.g., due to the absence of an interpreter) can be rectified during the intake interview at the Immigration Office;
- in principle, at a later stage of the procedure personal data can only be rectified by the Immigration Office on the basis of a valid passport;
- by way of exception, manifest errors (e.g., inversion of first and last name) can be rectified at all times by the Immigration Office<sup>41</sup>.

Moreover, since the entry into force of the GDPR, any data subject can exercise the right to access, rectify or erase his/her personal data by contacting the data protection officer through a form on the website of the Federal Public Service Home Affairs<sup>42</sup>, by e-mail or by letter. The data protection officer investigates the claim in close collaboration with the competent service. To date, two claims by applicants for international protection have been registered.

## 6. Challenges in data management and recent reforms.

### 6.1. Challenges

#### Lack of human or financial resources

Both authorities involved in the first instance procedure, the Immigration Office (responsible for the registration and lodging of the application) and the CGRS (responsible for the examination of the claim) rely upon their own databases. The Immigration Office's database is named 'Evibel' (since 1995), while the CGRS' 'Actio' (since 2005).

In 2015, the Immigration Office decided, given the technical limitations of the Evibel database, to develop a more adequate system for its entire organization (thus including not only asylum registrations, but also migration and return procedures)<sup>43</sup>. In 2019, the CGRS started examining the possibility to update or replace its database Actio to introduce

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<sup>39</sup> Which is tasked on a national level with the supervision of the VIS [gegevensbeschermingsautoriteit.be/professioneel/thema-s/politie-en-justitie/coördinatiegroep-voor-toezicht-op-VIS](https://gegevensbeschermingsautoriteit.be/professioneel/thema-s/politie-en-justitie/coördinatiegroep-voor-toezicht-op-VIS)

<sup>40</sup> Law of 11 April 1994 concerning disclosure of information by the administration, *Belgian Official Gazette*, 30 June 1994.

<sup>41</sup> Federal Migration Centre Myria, report of the contact meeting on asylum, 21 December 2016 p. 11-12, available in Dutch at [https://www.myria.be/files/20161219\\_Verslag\\_contactvergadering.pdf](https://www.myria.be/files/20161219_Verslag_contactvergadering.pdf) and in French at [https://www.myria.be/files/20161219\\_PV\\_r%C3%A9union\\_contact.pdf](https://www.myria.be/files/20161219_PV_r%C3%A9union_contact.pdf).

<sup>42</sup> Federal Public Service Home Affairs, *Hoe kunt u uw rechten uitoefenen? - Comment exercer vos droits?*, available in Dutch at <https://ibz.be/nl/ho-kunt-u-uw-rechten-uitoefenen> and in French at <https://ibz.be/fr/comment-exercer-vos-droits>.

<sup>43</sup> See for instance Belgian House of Representatives, *General policy note on asylum and migration*, 3 November 2015, DOC 54 1428/019, p. 16.

an entirely electronic (paperless) asylum file.<sup>44</sup> As the development of such digital platforms requires substantial financial investments, both organizations have been looking for funding at the national and European level (for instance through AMIF).

Despite important investments since 2016, the development of the 'Evel New Generation' database at the Immigration Office suffered from serious delays<sup>45</sup>. In 2020, a progress report revealed that these delays were mostly due to staff turnover at external consultancy firms and changes in methodology and direction. By consequence, the then Minister for Asylum and Migration decided to establish a new digitalization service within the Immigration Office, responsible for the follow-up and further development of the database and various other digital projects.<sup>46</sup>

## Coordination between national authorities and interoperability of databases

### *Between the Immigration Office and the CGRS*

To date, direct exchanges of data or files between the Immigration Office and the CGRS are limited to:

- the transmission on paper of the attestation of the application upon lodging (Annex 25 for applicants at the border, Annex 26 for first-time applicants in the territory or Annex 26-quinquies for subsequent applicants); and
- the transmission of the asylum file is, both on paper from the Immigration Office to the CGRS premises, and as a PDF-file, 'injected' from the server of the Immigration Office into the server of the CGRS.

In addition to these direct transfers of files, the CGRS also has access to certain data through the national "waiting register", a sub-section of the national register containing personal data of applicants for international protection. The Immigration Office inserts basic data in this central data storage system upon registration/Dublin procedure/issuance of an order to leave the territory; the CGRS, in turn, extracts these data from the register by inserting the national number of the applicant. Other authorities, such as the municipalities, also have access to this register.

During a series of in-depth interviews in the Fall of 2020, heads of service at the Immigration Office and CGRS noted that there is notable room for improvement in the abovementioned practice of combining paper files with electronic files. Firstly, this practice is both costly (in terms of staff costs) and time-consuming: the data and files already digitally inserted by the Immigration Office during registration need to be printed, scanned, transmitted as a 'physical file' by carrier and uploaded to Actio, the database of the CGRS. Secondly, this practice requires a fair amount of human intervention, increasing the risk of incorrect data and file losses.

### **The paper trail** (see annex 2)

In its current form, the Belgian asylum procedure still produces a remarkable amount of paper, from the registration of the application up until the decision at first instance and

<sup>44</sup> Interviews with the Commissioner-General and staff members of the CGRS responsible for the development of the "electronic file", Fall 2020.

<sup>45</sup> Belgian House of Representatives, *Written questions and answers*, 29 November 2019, DOC QRVA 55 006, p. 199-200.

<sup>46</sup> Belgian House of Representatives, *Written questions and answers*, 13 February 2020, DOC QRVA 55 011, p. 132-133.

beyond (appeal, issuance of residence permit or order to leave the territory). This text box describes the asylum paper trail in the pre-COVID19 period, with separate registering and lodging phases. The reconstruction is based on interviews with heads of service at the Immigration Office and the CGRS, conducted in the Fall of 2020.

1. At the time of registering in the Petit Château – Klein Kasteeltje, certain data concerning the identity of the applicant are added directly to the Evibel database (surname, first name, sex and nationality). In addition, the civil servant registering the application fills in a form by hand, which is then scanned and added to the Evibel database. This handwritten form serves as a basis for the “annex 26” which is issued to the applicant at the time of the lodging of the application in the Pacheco building a couple of days later. During this first step of the procedure, the applicant only receives a form proving the making of his/her application<sup>43</sup>, which mentions the date of the lodging of the application. The relevant documents that are collected during the application for international protection and that are registered in Evibel, are also added to a paper file for internal use.

2. On the day of the lodging, the administrative service of the Immigration Office creates a national number, introduces the applicant’s data in the national waiting register and produces the annex 26. The annex is printed and issued to the applicant upon presentation of the registration form at the Pacheco building. Each day, copies of the issued annexes are brought to the CGRS by carrier. Upon reception of the annexes, the administrative service of the CGRS creates a file in the Actio database as well as a paper file.

3. On the day of the first interview at the Pacheco building, the civil servant of the Immigration Office fills out a form in the Evibel database with statements by the applicant and a questionnaire for the CGRS (only in case of a first application and when there is no Dublin indication, see *infra*). The interviewer prints both these documents and has them signed by the applicant before adding them to the internal paper file that is transmitted to the CGRS.

4. The next step in the procedure is where the Dublin III Regulation applies. For these applications, a separate questionnaire containing general and specific Dublin related questions will be registered in the Evibel database. The file is then transferred to the Dublin Unit at the Immigration Office. When an examination takes place, requests are filled in manually in an electronic file sent to the responsible Member State, printed, added to the paper file and linked to the administrative file in Evibel.

If another Member State is considered to be responsible, an “annex 26quater<sup>44</sup>” is notified to the applicant at the Immigration Office or sent by registered post to the last chosen residence. Several administrative documents (including a confirmation of the issuance of the annex 26 decision, an information leaflet concerning the travel modalities and the contact details of the Office responsible for the organisation of a voluntary return to the responsible Member State and a form regarding the identity documents submitted) are added to the file of the Immigration Office. A printed copy of the application for international protection is then entirely scanned and transferred to the CGRS by carrier while an instruction to withdraw the temporary certificate of registration is sent to the municipality by regular post in those cases where this document was issued by the municipality. The reception agency Fedasil is informed about the end of the asylum procedure through shared Excel files, which are filled out manually by the staff of the Belgian Dublin Unit. If the Dublin procedure does not or no longer applies, the application is processed in Belgium and the paper file returns to the interview unit. The applicant receives a new invitation for a subsequent interview.

5. After the interview(s) at the Immigration Office, a printed copy of the application for international protection, the original signed documents and the original documents submitted by the applicant to substantiate his/her motives is entirely scanned and transferred to the CGRS by carrier. Upon reception of the documents, the administrative service of the CGRS adds the documents to the previously created paper files and adds additional data to the Actio database. The file gets screened and then transmitted to the dispatching unit. The dispatching unit creates the convocations and prints them in duplicate. One copy is sent to the applicant/legal representative/guardian/person of trust, the other copy is added to the paper file. Any additional information and response of the above mentioned is inserted in Actio and further printed and added to the paper file.

6. During the examination stage, the paper files are at each time assigned to the competent officers in the examination chain (triaging, interviewing, drafting of decision and supervising), whom all add relevant documents, such as address changes, intervention of a legal representative, additional information added by the legal representative or applicant, proof of deposition of documents, intervention of the legal unit, evidence submitted by the applicant, medical certificates, Country of Origin Information not available on the website of the CGRS, a written record of the interview, the draft decision etc.

7. The applicant or the legal representative can request a copy of the written record of the interview by completing a form. A copy of the written record is then sent by e-mail to the applicant and/or legal representative. If any remarks are made, these are registered in Actio and included in the paper file. When, during the procedure, an applicant, legal representative or competent third-party requests information concerning the application, the relevant documents from the paper file are copied and sent by e-mail.

8. In case of a positive decision (refugee status, subsidiary protection or admissibility), a copy of the decision is sent to the applicant, the legal representative and the Immigration Office. The latter also receives a listing of the decisions taken. The scanning service of the Immigration Office scans the decision, adds it to the Evibel database and archives the file. The administrative service checks the file before sending an instruction to issue a residence permit to the competent municipality by post.

9. In case of a negative decision, a copy of the decision is sent to the applicant and/or the legal representative. The decision by the CGRS (or the CALL at the appeal stage) is also brought to the Immigration Office by carrier. The scanning service scans the decision, adds it to the Evibel database and classifies the file. The international protection follow-up unit notifies the order to leave the territory to the applicant by registered letter and sends an instruction to withdraw the temporary residence document to the municipality by post. The unit also exchanges information with the return services of the Immigration Office through shared folders on the internal server.

In sum, as it stands, the asylum procedure in Belgium still creates an important flow of paper documents between the competent authorities and between their internal services. With the development of digital platforms such as Evibel NG and the electronic (paperless) asylum file, the asylum authorities are taking important steps towards a more performant system of data collection and data exchange. At the time of writing, the Immigration Office and the CGRS are examining the possibility of an extended synergy between the databases (e.g., eMigration Backbone: a unique structure focusing on shielding and sharing data through business rules) on juridical, technical and governance terms. The results of this exercise are still pending.<sup>45</sup>

### *In the asylum chain*

Other areas for continued development can be further exemplified:

- The exchange of data between the Immigration Office's 'Dublin Unit' and the Federal Agency for the reception of asylum seekers (Fedasil) occurs through excel sheets. Given the importance of a structured and qualitative exchange of information between these authorities (notification 26quater, applicants who left the accommodation facility, medical issues etc.), a more performant system making these data accessible is required.
- The Immigration Office's international protection follow-up unit administers the files of applicants for international protection who have exhausted all legal remedies regarding an application for international protection and received, if applicable, an order to leave the territory. The transmission of documents from the CGRS and the CALL to this unit is done by carrier and on paper only. This practice often leads to delays, clerical errors and excessive paper use (e.g., when a document gets lost and needs to be resent – again by carrier and on paper –, judgments containing hundreds of pages, etc.).
- There is no formal system in place that enables structured and secured data exchange on public order data between the unit 'Public Order' of the CGRS and third parties (Federal Public Service Justice, federal police, Public Prosecutor's office, etc.). A request for information is sent by e-mail and on a case-by-case basis. Depending on the directives in place, the usage of a template is sometimes required. Third parties wishing to acquire data on public order from the CGRS can make an appointment with the unit to access the physical file. Furthermore, the unit cannot access the Immigration Office's database Evibel. Whenever a protection officer needs information, he/she must insert a question in the CGRS database Actio. The unit compiles the questions and sends them by mail to the Immigration Office. The Immigration Office in turn responds on paper and transmits the answer to the CGRS by carrier. The unit processes the question electronically in Actio and sends an email to the protection officer to come and collect the paper document.
- The administrative service delivers the instructions to municipalities to issue residence permits (B-card) in the framework of international protection. These instructions are sent to the local authorities by non-registered post or e-mail, with the risk of getting lost. Opportunities are seen in the development of a new code in the waiting register or the introduction of an e-card for foreigners.

### **A good practice: the digital platform for the issuance of a single permit to migrant workers**

Before the introduction of the digital platform, the authority responsible for the issuance of the single permit depended on the location of the enterprise. Every entity had its own website and application procedure (paper/mail).

The introduction of the platform allows employers to submit an application 24/7, regardless of their location, and enables them to consult their status through an online application. The platform centralises all applications across the entities, and after the entities concludes the file, the applications are automatically sent to the Immigration Office. When all conditions are met, the Immigration Office issues the permit. The applicant gets notified through an eBox.

Currently the platform is functioning as a 'standalone' without a connection with the back-offices of the Immigration Office and the entities. Under the condition of a connection, the introduction of the system could lead to an easier, faster, more secured (no more lost correspondence and use of wrong procedures), coordinated treatment of the applications and the deployment of 12 FTE's in another department.

### Technical limitations to data processing

In recent years, several technical limitations of the Evibel database of the Immigration Office have been brought to the surface. For instance, the platform collects electronic files (including files with personal data of applicants for international protection) rather than individual data, thus hampering the exchange of data with other actors in the asylum procedure. In addition, the system does not allow for complex data analyses with a wide range of parameters by the statistical service of the Immigration Office. For these and other reasons, the decision was taken to develop a new database: Evibel New Generation that will now be reformed into the eMigration portal (still in progress; also see above "Lack of human and financial resources").

### Allocation of cases

Within the CGRS, the allocation of applications to caseworkers used to be based on internal directives and priorities. Due to the human intervention in the distribution of the applications, there is a risk that certain cases (e.g., those that seem less complicated or require a specific expertise) may be preferred over other cases. To avoid these practices and to reduce the existing backlog, the CGRS started developing a semi-automatic allocation system whereby applications are sorted by priority in the Actio database. Under this system, caseworkers are given 'tags' according to their specification and availability. The mechanism distributes the applications to the caseworkers on the basis of these criteria. The testing started in December 2020. The CGRS intends to fully implement the system in 2021 and aims at decreasing the backlog of cases.

## 6.2. Reforms

In December 2018, the *Petit Château - Klein Kasteeltje* in Brussels was redesigned from a standard reception centre into an arrival centre, accommodating the dispatching service and Info Point of Fedasil and having the Immigration Office present as partner in the



registration process in the procedure of an international protection. The centre thus became the main arrival centre<sup>47</sup> for foreign nationals wanting to apply for international protection in Belgium. Furthermore, the transformation established a uniform arrival path: registration of the application, identification, medical examination, social intake and appointment of a reception centre.

This unique arrival trajectory allows the reception agency more time to detect the specific needs of seekers of international protection and to organize the allocation to local reception places accordingly.

In addition, the introduction of the initial registration stage would allow the Immigration Office to register only the primary personal data of the applicant on the first day of the asylum procedure (making, registering). The lodging, could then be postponed to a later date,<sup>48</sup> the initial idea being that this issuance would be combined with the intake interview at the Immigration Office.<sup>49</sup>

In terms of the management of reception places, the reform achieved the intended result. The central registration point gave Fedasil more time to choose an adequate reception place for seekers of international protection, thereby taking into account their needs.

By contrast, the presence of the Immigration Office at the arrival centre did not necessarily lead to a swifter registering practice. In addition, the initial idea to combine the issuance of the attestation of the application with the intake interview at the Immigration Office did not seem feasible in practice due to the high number of applications.

**Overall, the establishment of the single arrival point can be considered a good practice,** especially with regard to the allocation of adequate reception places.

## Ongoing challenges

### Audit

In accordance with the announcement made in the Federal Government Agreement of 30 September 2020<sup>50</sup>, and the General Policy Note on Asylum and Migration of 4 November 2020<sup>51</sup>, on the 7<sup>th</sup> of May 2021, an external audit of the asylum and migration services (Immigration Office, CGRS, Fedasil and CALL) was launched aiming to optimise the function of the services, improve the cooperation between the services and thus to ameliorate the asylum, migration and reception chain in its entirety.

The research topics were drafted following the input of the services and comments of third parties (e.g., Myria, Federal Ombudsman) and are divided in two parts: overarching topics (chain approach, staff policy and digitalisation) and service-related topics (with particular attention for the Immigration Office and, more specifically, its internal organisation, communication and data exchange with the citizen/migrant and the optimisation of the

<sup>47</sup> Beyond this registration point, applications can also be made at the border, within detention facilities or with directors of penitentiary institutions.

<sup>48</sup> Also see EMN, *Changing influx of asylum seekers in 2014-2016 in Belgium*, 2019, p. 31.

<sup>49</sup> Interviews with heads of service of the Immigration Office and members of the Cabinet of the Minister for Asylum and Migration, Fall of 2020.

<sup>50</sup> Federal Government Agreement 30 September 2020, available at [http://belgium.be/sites/default/files/Accord\\_de\\_gouvernement\\_2020.pdf](http://belgium.be/sites/default/files/Accord_de_gouvernement_2020.pdf).

<sup>51</sup> General Policy Note on Asylum and Migration, 4 November 2020, DOC 55 1580/014, p. 10, available at <http://dekamer.be/FLWB/PDF/55/1580/55K1580014.pdf>.

residence procedures). Legal, political and organisational changes will be explored on the basis of these topics. The suggested changes could hereby differ from the existing legal framework<sup>52</sup>.

Due to the ongoing procurement procedure at the time of writing, the specific research topics were not made public.

□

Until today, the interoperability of the databases of the various national authorities involved in the asylum procedure is either limited or non-existent: the Immigration Office, CGRS, Federal agency for the reception of asylum-seekers Fedasil and the appeal instance Council for Alien Law Litigation (CALL) each established their own databases that do not allow for automatic data transfers between the different actors. By consequence, the sharing of information between the asylum institutions occurs in less efficient ways, for instance by transferring documents in paper form by carrier or by sharing scanned PDF-files or Excel-spreadsheets on common servers.

The Immigration Office and Fedasil partly addressed this issue by setting up a new system that allows to shoot data from the former's database Evibel New Generation (due end 2022 enabling fusion with a renewed application for the entire international application department) into the latter's database 'Match-It' upon registration of an application.

In the near future, a similar mechanism will be set up between Evibel and the database of the Guardianship Service for the transfer of data on applications by unaccompanied minors.<sup>53</sup>

As regards data transfers at the appeal level, the Immigration Office, the CGRS and CALL are currently initiating the implementation of an electronic mailbox for the exchange of PDF-files.<sup>54</sup>

As for data management in the asylum procedure at first instance, the Immigration Office and CGRS are currently exploring the possibilities for future electronic data transfers.

## 6.3. Contingency measures

### Chain monitoring

A chain monitoring system was introduced by the Belgian asylum authorities together with the federal agency for the reception of asylum applicants (Fedasil) derived from a first exercise to align the creation of reception places with the output of asylum applications.

The chain monitor – coordinated by the cabinet of the Secretary of State for Asylum and Migration – aims to centralize data from the different agencies with the purpose of detecting certain phenomena, bottlenecks and effectively impacting processes, target groups, budget, personal etc.

<sup>52</sup> Conversation with the cabinet 27 May 2021

<sup>53</sup> Interview with the head of the new digitalisation service of the Immigration Office, October 2020.

<sup>54</sup>

Inspired by the recently introduced "J-box" in judicial procedures, allowing lawyers to receive registered letters from the Federal Public Service Justice.

The chain monitoring permits the simulation of the needed reception capacity based on the input and output of each authority.

### Split steps

Until 2020, as a rule the lodging of the application took place in the *Pacheco* building of the Immigration Office a couple of days after registration. In exceptional circumstances, the Immigration Office could however decide to register and lodge the application simultaneously at the arrival centre (e.g. in case of a particularly vulnerable applicant).

At the time of writing, the making, registering and lodging of all asylum applications take place simultaneously at the arrival centre. The Immigration Office may however decide to split these steps if, due to practical reasons such as high influx or limited staff, it would not be able to immediately lodge all applications.

## 7. Conclusions

A smooth and fast registration and identification procedure that maintains data accuracy is essential for the adequate functioning of the asylum procedure. This study examined data management approaches in the Belgian asylum procedure, including data storage and cross-checks, protection safeguards, challenges faced by the Belgian asylum authorities and changes introduced to enhance data collection and data sharing among the asylum authorities.

On the level of the EU, several **systems, Regulations and Directives** have been developed and adopted. The legislative acts regulate certain aspects of EU, as well as national data systems., Asylum related regulations, such as the Eurodac Regulation and Asylum Procedure Directive, specifically aim at regulating certain data management related aspects in the national asylum procedures, while the GDPR regulates the protection of personal data under the bigger umbrella of general data protection. Moreover, the EU has invested over the years in setting up and regulating centralized information systems (such as VIS, SIS, Eurodac) that through the newly operational EU agency 'EU-LISA', to a certain extent, allow the interoperability of these systems and the exchange of data between different countries, databases and authorities. Currently, three new information systems are under development (Entry-Exit System, European Travel Information and Authorisation System (ETIAS) and European Criminal Record Information System for third-country nationals (ECRIS-TCN)). In its recent Schengen Strategy, the European Commission announced to further digitalize the visa and travel procedure with new legislative proposals.

In Belgium **two national asylum authorities** have their role in the collection and storage of data. The **Immigration Office** is responsible for the registering, lodging (and de facto making) of applications for international protection and uses the database 'Evibel' for the storage of not only information on asylum, but also migration and return procedures of third country nationals. The CGRS, CALL, federal ombudsman, national courts and other Member States (in the context of Dublin proceedings) may have indirect access to certain, pre-established data in Evibel or (conditional) access when it is considered relevant. The **Office of the Commissioner General for Refugees and Stateless Persons** (CGRS), an independent federal administration, responsible for the examination of applications for international protection, uses the database 'Actio' to store data collected during the examination phase. The decision to grant access to data in the CGRS' database Actio depends on the ad hoc appreciation of the CGRS. **The Border Police** and the **directors of penitentiary institutions** can lodge an application at the border and in their

institutions, respectively. Either way, the Immigration Office remains responsible for the registration in the national register. The exchange of information between the database of the Immigration Office (Evibel) and the CGRS (Actio) is - to date - virtually inexistent.

On the national level, two databases are accessible to different stakeholders. First; the **overarching database** 'the Waiting Register' is a sub-section of the national register and is – amongst others – accessible for the CGRS and Immigration Office. Second, Printrak is the national **database in which fingerprints** are collected and stored.

Data that is collected at the registration phase (usually done simultaneously with the lodging), is, subsequently, **cross-checked against other databases**. Applicants' fingerprints are, on the one hand, cross-checked against the national database 'Printrak', to verify whether applicants have previously applied for international protection or have stayed unlawfully in Belgium and, on the other hand, against Eurodac to determine the MS responsible for the examination of the application. Finally, the cross-check against VIS supports the determination of the responsible MS and allows to verify whether the applicant obtained a visa, delivered on the basis of the Visa Code.

Applicants' personal data are, to a variable extent, **safeguarded**. First, because (i) they are provided with a privacy notice during the registration, a disclaimer is added to the attestation of the application upon lodging, and because the CGRS provides a privacy notice on their website upon examination. Secondly, because (ii) the quality of data is continuously assessed during the personal interviews at the immigration office and the CGRS and preventive measures are in place such as pre-established drop-down menus and statistical analysis (CGRS), and internal directives to standardise the ways in which data is collected (IO). Finally, because applicants can rely on certain **safeguards stemming from the GDPR** (access to data, rectification of data), while all asylum authorities have a Data Protection Officer.

Several **challenges** can be detected in the management of data by the Belgian asylum authorities. The **lack of (i) resources** and **(ii) coordination between the databases and authorities** being considered as the most impacting. To date, both databases, Evibel and Actio have their technical limitations, resulting not only in ineffective practices within the organisation itself, but also affecting direct data exchange between the Immigration Office and the CGRS and between the different stakeholders in the asylum procedure. Both authorities are aware of the **high costs, both financially and time wise**, that result from these practices (cfr. **The Paper Trail**). In this context, it is important to note that the GRS's special status of independence partially explains why access to its information is strictly limited.

In order to meet these challenges, both the IO and the CGRS decided to **update their database**. The CGRS aims at introducing an entirely electronic (paperless) asylum filing system, while the IO wants to develop a system for its entire organisation ('Evibel New Generation'). These updates are still ongoing and require continuous efforts. **Good practices** can be identified in the development and operationalisation of a semi-automatic allocation system (CGRS), the finalisation of an **informative brochure** in line with recent legislation about data protection (Immigration Office in conjunction with the CGRS), **a chain monitoring system** and in the development of a unique arrival trajectory in the arrival centre Petit Château – Klein Kasteeltje.

In terms of **optimization**, on 7 May 2021, the Belgian Government launched an **external audit** of the asylum and migration services to optimize the functioning of the services, improve the inter-institutional cooperation and the asylum chain as a whole.

With the set-up of a new system that allows to shoot data from the E-migration into Fedasil's 'Match-It'-Database upon registration of an application and in the near future, a similar mechanism that may be set **up** between Evibel and the database of the Guardianship Service for data transfers on applications by unaccompanied minors, and the exercise set up by the Immigration Office and the CGRS to determine the possibility of an extended synergy between the databases on juridical, technical and governance terms, the asylum authorities are exploring concrete ways to improve data management.

## References (see footnotes)

### Annex 1:

#### Definitions

The following key terms are used in this Study. The definitions are taken from the EMN Glossary v6.0<sup>55</sup> and accordingly used, unless specified otherwise in the footnotes.

**'Application for international protection'** is defined as a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection, outside the scope of Directive 2011/95/EU (Recast Qualification Directive), that can be applied for separately.

**'Asylum procedure'**: see definition for 'Procedure for international protection'.

**'Beneficiary of international protection'** is defined as a person who has been granted refugee status or subsidiary protection status.

**'Channelling/Triaging' of the asylum procedure**: "The core premise of accelerated and simplified procedures is the differentiation between caseloads for their channelling into distinct case processing modalities. The triaging process is therefore the central tenet of the process. [...] Depending on the results of the analysis, claims will be channelled into appropriate case processing modalities, or as is already done in several Members States [...] into different streams or 'tracks'. Groups, as well as any specific profiles, with high and very low protection rates would be channelled into accelerated and/or simplified procedures, while other cases would be adjudicated under the regular procedure."<sup>56</sup>

**'Country of origin'** is the country or countries of nationality or, for stateless persons, of former habitual residence.<sup>57</sup>

**'Data management'** is understood as the administrative process that includes all operations that are performed on data or on sets of data, through automated or other means, such as collection, recording, storage, retrieval, use, disclosure by transmission, dissemination or erasure.<sup>58</sup>

**'Examination of an asylum application'**: see definition for 'Examination of an application for international protection'.

**'Examination of an application for international protection'**: "Any examination of, or decision or ruling concerning, an application for international protection by the competent authorities in accordance with Directive 2013/32/EU (Recast Asylum Procedures Directive) and Directive 2011/95/EU (Recast Qualification Directive) except for procedures

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<sup>55</sup> Available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/docs/interactive\\_glossary\\_6.0\\_final\\_version.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/docs/interactive_glossary_6.0_final_version.pdf)

<sup>56</sup> UNHCR, Discussion Paper *Fair and Fast – Accelerated and Simplified Procedures in the European Union*, July 2018, pp. 8f. Available at: <https://www.refworld.org/pdfid/5b589eef4.pdf>

<sup>57</sup> Article 2(n) of Directive 2011/95/EU (Recast Qualification Directive).

<sup>58</sup> Definition for the purposes of this study.

for determining the EU Member State responsible in accordance with Regulation (EU) No 604/2013 (Dublin III Regulation)".

**'Lodging an asylum application':** "Member States shall ensure that a person who has made an application for international protection has an effective opportunity to lodge it as soon as possible. An application for international protection shall be deemed to have been lodged once a form submitted by the applicant or, where provided for in national law, an official report, has reached the competent authorities of the Member State concerned".<sup>59</sup>

**'Making an asylum application':** see definition for 'Making application for international protection'.

**'Making application for international protection':** "The expression of intent to apply for [international protection](#)".<sup>60</sup>

**'Refugee status'** is defined as the recognition by a Member State of a third-country national or a stateless person as a refugee.<sup>61</sup>

**'Registering an asylum application':** Record the applicant's intention to seek protection.<sup>62</sup> When a person makes an application for international protection to an authority competent under national law for registering such applications, the registration shall take place no later than three working days after the application is made. If the application for international protection is made to other authorities which are likely to receive such applications, but not competent for the registration under national law, Member States shall ensure that the registration shall take place no later than six working days after the application is made.<sup>63</sup>

**'Procedure for international protection':** Set of measures described in the [Directive 2013/32/EU \(Recast Asylum Procedures Directive\)](#) which encompasses all necessary steps for granting and withdrawing [international protection](#) starting with [making an application for international protection](#) to the [final decision](#) in appeals procedures.<sup>64</sup>

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<sup>59</sup> Article 6(2, 4) of Directive 2013/32/EU (Recast Asylum Procedure Directive).

<sup>60</sup> EMN Glossary. Available at: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_search/making-application-international\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/making-application-international_en)

<sup>61</sup> Article 2 of Directive 2011/95/EU (Recast Qualification Directive).

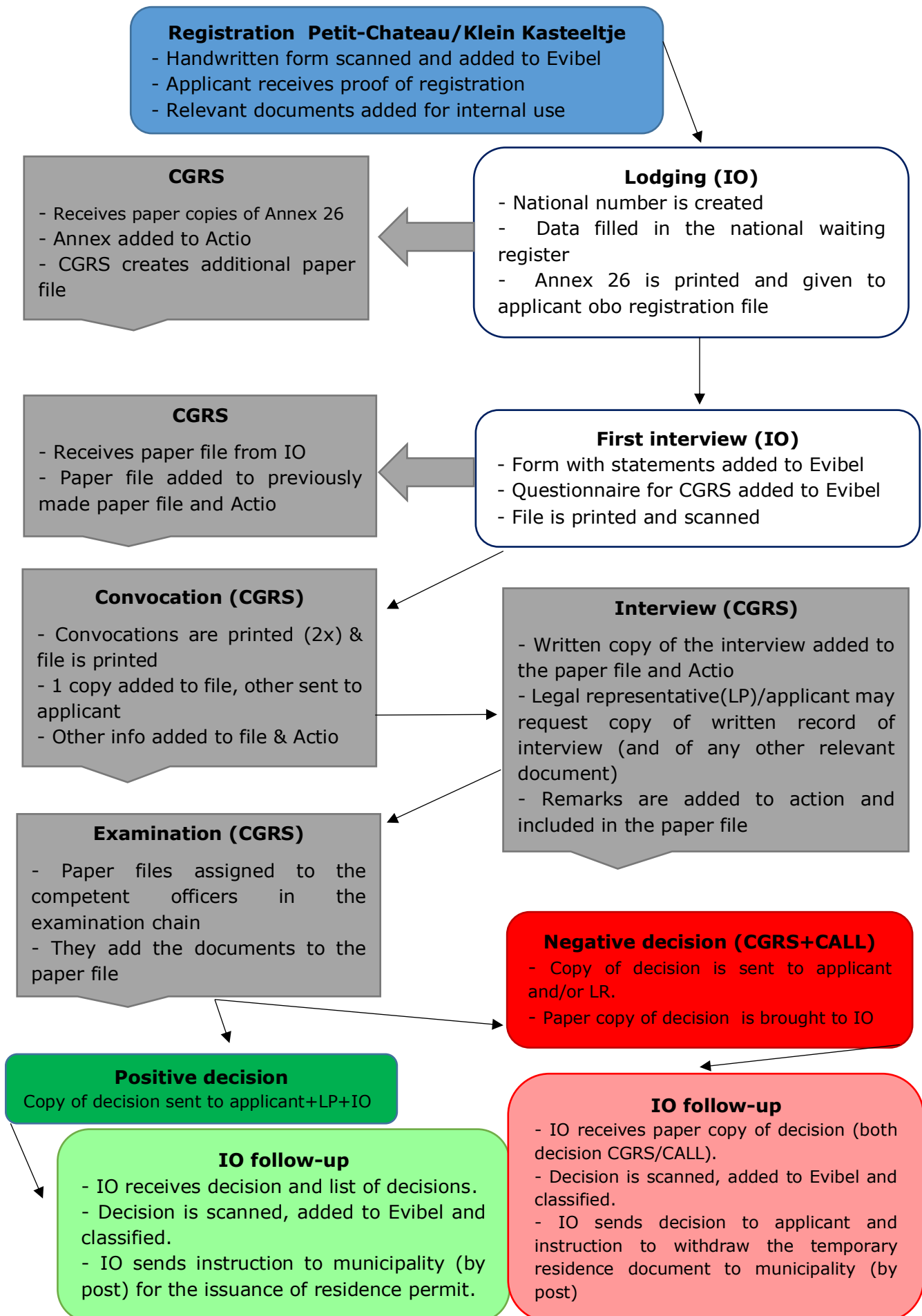
<sup>62</sup> EASO, presentation, 9<sup>th</sup> Consultative Forum, 12<sup>th</sup> November 2019, Brussels.

<sup>63</sup> Article 6(1) of Directive 2013/32/EU (Recast Asylum Procedure Directive).

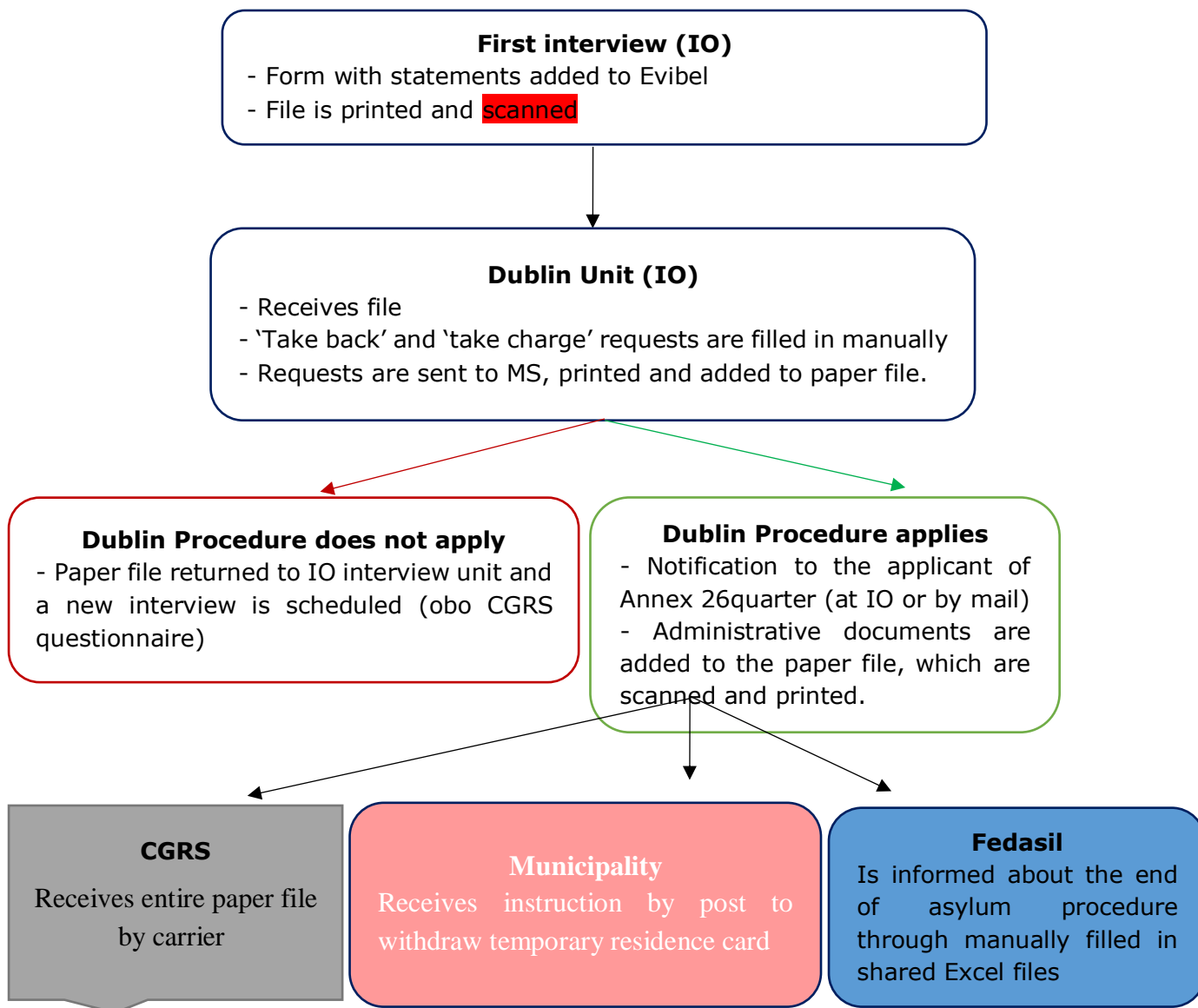
<sup>64</sup> EMN Glossary. Available at: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_search/procedure-international-protection\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/procedure-international-protection_en)

## Annex 2: The Paper Trail





## The Dublin Paper Trail



## Annex 3: Publications by EMN Belgium (2009-2021)

The present annex lists the studies and reports published by EMN Belgium between 2009 and 2021. The other EMN National Contact Points produced similar reports on these topics for their (Member) State. For each study, the EMN Service Provider, in cooperation with the European Commission and the EMN NCPs, produced a comparative Synthesis Report, which brings together the main findings from the national reports and places them within an EU perspective.

The Belgian reports mentioned below are available for download on [www.emnbelgium.be](http://www.emnbelgium.be).

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

[http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european\\_migration\\_network/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/index_en.htm).

## 2009

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<i>April 2009</i>	The Organisation of Asylum and Migration Policies in Belgium
<i>June 2009</i>	Annual Report on Asylum and Migration Policy in Belgium – 2008
<i>July 2009</i>	Unaccompanied Minors in Belgium - <i>Also available in French and Dutch</i>
<i>October 2009</i>	Programmes and Strategies in Belgium Fostering Assisted Voluntary Return and Reintegration in Third Countries - <i>Also available in French and Dutch</i>
<i>December 2009</i>	EU and Non-EU Harmonised Protection Statuses in Belgium

## 2010

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<i>January 2010</i>	Annual Report on Asylum and Migration Policy in Belgium – 2009
<i>August 2010</i>	Satisfying Labour Demand Through Migration in Belgium

## 2011

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<i>January 2011</i>	Temporary and Circular Migration in Belgium: Empirical Evidence, Current Policy Practice and Future Options
<i>March 2011</i>	Annual Report on Asylum and Migration Policy in Belgium – 2010
<i>May 2011</i>	EU and Non-EU Harmonised Protection Statuses in Belgium (update)
<i>October 2011</i>	Visa Policy as Migration Channel in Belgium

## 2012

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<i>January 2012</i>	Practical Measures for Reducing Irregular Migration in Belgium
<i>March 2012</i>	Annual Report on Asylum and Migration Policy in Belgium – 2011
<i>April 2012</i>	Misuse of the Right to Family Reunification: Marriages of Convenience and False Declarations of Parenthood in Belgium - <i>Also available in French and Dutch</i>
<i>September 2012</i>	Establishing Identity for International Protection: Challenges and Practices in Belgium - <i>Also available in French and Dutch</i>

<i>September 2012</i>	The Organization of Migration and Asylum Policies in Belgium (update)
<i>October 2012</i>	Migration of International Students to Belgium, 2000-2012
<i>December 2012</i>	Intra-EU Mobility of Third-Country Nationals to Belgium - <a href="#">Also available in French</a>

## 2013

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<i>May 2013</i>	Annual Report on Asylum and Migration Policy in Belgium – 2012
<i>July 2013</i>	Attracting Highly Qualified and Qualified Third-Country Nationals to Belgium
<i>August 2013</i>	Organisation of Reception Facilities in Belgium
<i>October 2013</i>	Identification of Victims of Trafficking in Human Beings in International Protection and Forced Return Procedures in Belgium

## 2014

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<i>February 2014</i>	Migrant Access to Social Security – Policy and Practice in Belgium - <a href="#">Also available in French and Dutch</a>
<i>June 2014</i>	Good Practices in the Return and Reintegration of Irregular Migrants: Belgium’s Entry Bans Policy and Use of Readmission Agreements
<i>June 2014</i>	Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Belgium
<i>July 2014</i>	Annual Report on Asylum and Migration Policy in Belgium – 2013
<i>October 2014</i>	Policies, Practices and Data on Unaccompanied Minors in Belgium (2014 Update)
<i>December 2014</i>	Admitting Third-Country Nationals for Business Purposes in Belgium

## 2015

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

## 2016

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

## 2017

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

## 2018

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

## 2019

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

## **2020**

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*May 2020* Comparative overview of national protection statuses in Belgium 2010-2019

*June 2020* Annual Report on Asylum and Migration Policy in Belgium – 2019

*June 2020* Migratory Pathways for Start-ups and Innovative Entrepreneurs in Belgium

*July 2020* Pathways to Citizenship in Belgium

## **2021**

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*January 2021* Attracting and protecting the rights of seasonal workers in Belgium

*June 2021* Annual Report on Asylum and Migration Policy in Belgium -2020