



## **European Migration Network**

Policy Analysis Report on Asylum and Migration

Belgium

July 2004 to December 2005

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## Foreword

This report is made on the basis of the former Policy Report, reports by the authorities, press articles and a screening of parliamentary activities. Besides, we would like to thank Mr Wouter Nachtergaele of the Centre for Equal opportunities and Opposition to Racism for sharing his experience in the field of integration policy.

The issues being intertwined often makes it difficult to make a distinction between “general trends”, “political changes”, and “legislative developments”.

## Executive Summary

No pre- or post-electoral agitation has occurred during the reference period. Governments on different levels of power have been reshaped, but that did not have any influence on the asylum and migration issues. Controversial and sensitive issues have tended to be focused in the Community and/or social-economic spheres in recent years. The relationship between the coalition members has not been put under strain by any immigration, asylum or integration-related issues.

The Belgian migration balance remains stable from one year to the other (round about 16000 persons a year). At the same time, a relatively important number of aliens have become Belgian. In 2004, about 24000 persons have chosen the Belgian nationality.

No key legislative amendments were made to asylum and immigration policy during the period under consideration but pivotal changes were in the pipeline. The asylum procedure is due to undergo a root-and-branch transformation. The two reasons for this are the continuing applications processing backlog reported by some authorities and the transposition of European Directives (such as provisions for alternative protection regimes). The delays in processing applications have unwelcome implications for Belgian society (additional costs for reception facilities and administrations, potential pull factor, etc.), and for the refugees themselves, as it is vital for them to be granted legal security as soon as possible.

As regards the number of asylum applications, there was in 2005 a slight increase in comparison with 2004 and at the same time a slight decrease in comparison with 2003. The remarkable increase of the number of refugee recognitions in recent years is another tendency to be mentioned. One must not be misled by these figures: although the quality of the influx of new asylum seekers has increased since direct (financial) support has been abolished, this very increase is also the result of the enhanced number of decisions made by the CGRSP in the phase of the examination of the merits of the claims.

Apparently, asylum seekers who have exhausted all possible legal remedies wait longer before they sign up for the voluntary return programme and go back to their country. The repatriation policy of the Belgian State, subject to an investigation by a commission, should be more effective. That is the wish of the Minister of the Interior who has asked his administration to implement as many of the formulated proposals without delay. The minister has further two priorities: clearing the asylum procedure backlog and prevention of the abuse of existing immigration procedures.

Furthermore, on the subject of entry, residence and removal, some issues keep going on being discussed, such as the status in the transit area, the fundamental rights in case of detention in a closed centre, the enlargement of the EU and its consequences on moonlighting and fake self-employment, the situation and the relief of non accompanied minor aliens, the advisability of a partial lifting of the migration stop under the influence of, among others, the oncoming ageing of the population and the Green Paper on economic migration.

The key challenge for the future primarily lies in the need to integrate the foreign nationals now living in Belgium so that the various population groups that make up a multicultural society can live alongside each other as harmoniously as possible. The last years the spotlight has been turned on the need to adopt a more comprehensive policy towards foreign immigrants: the pressure of international events, the rise of religious extremism, the success of right-wing nationalistic parties and the continuing disadvantage of large groups of long-established immigrant groups (the majority of whom were granted Belgian citizenship a long time ago) – these are a sample of the factors that have compelled the authorities to pay

greater attention to immigrants that have lived in Belgium for some time and 'newcomers' who come to settle here. As a matter of fact, sometimes the "big debate" about the multicultural society has set off again with great intensity during the reference period, as the result of both national and international events (the assassination of a Dutch film director, the headscarf issue, anonymous death threats towards a Belgian employer who refused to fire his foreign employee wearing her headscarf, death threats towards politicians, the suburban riots in France).

Regarding specific integration debates, we can mention that the issue of ethnic monitoring has been put on the political agenda and that both in the French and Flemish Community, there has been some debate on the wearing of headscarves in educational institutions. At both sides of the language border, it is the educational institutions that has to decide whether head covers are accepted. Finally, it is surely worth mentioning that in an international inquiry Belgium is ranked first among the 15 "old" member states when it comes to integration legislation. However, such legislation, while being a necessary condition, does not guarantee in itself that the integration policy will be successful.

# 1. Introduction

So the basic document was the first Policy Analysis Report (reference period 2003-first half of 2004, when two elections were held in Belgium, which set the trend for the migration debate in Belgium to some extent - international events also represented another key factor). No elections were held in the second of 2004 and in 2005 but the asylum and immigration issues still continued to attract a great deal of attention. As was also pointed out in the earlier report, the focus in the immigration debate seems to have shifted to integration and the strains that may emerge when different population groups find themselves living alongside each other. The “*asylum crisis*” that Belgium experienced some years ago seems to have been averted. Nonetheless, all the stops were pulled out in the final months of 2005 (to prepare for) a fundamental reform of the asylum process. The revised system is due to be implemented at the end of 2006 – beginning of 2007. The continuing processing backlog reported by some authorities (mainly because of the frequent presentation of appeals) is the key reason for the reforms.

The Minister for Home Affairs' two key concerns for asylum and immigration policy are : clearing the asylum procedure backlog (by overhauling the relevant authorities and the asylum procedure), while preventing the existing immigration procedures (or pseudo-legal immigration) from being abused by way of marriages of convenience, visa shopping and fraud in the case of family reunification.

## 2. Immigration Overview: General migration and asylum trends

### Summary

The data of 2005 issued by the National Institute for Statistics are not available at the moment of drafting this report.

From 1998 on the population fluxes in Belgium seem to be growing constantly and have even redoubled since then. Nonetheless, the actual migration balance is well below that level and seems to stagnate for three years round about 16.000 persons a year.

At the same time, a relatively important number of aliens have become Belgian. In 2004, about 24.000 persons have chosen the Belgian nationality.

Applications for asylum lodged in Belgium have decreased to a level that can be considered as normal. The numbers for 2004 and 2005 are more or less the same and slightly inferior to those of 2002 and 2003. The applicants are mainly coming from Russia, Congo, Serbia-Montenegro, Iraq and Slovakia. In the course of the reference period we see an increase of the number of individuals to whom the status of refugee has been granted, but this is mainly due to the activities of the CGRSP determined to eliminate its backlog.

As for the returns, 2004 and 2005 show a decrease in repatriations and a slight upward trend in voluntary returns. At the same time, the number of regularizations has strongly increased in 2004.

### 2.1 Main groups of migrants, refugees and asylum seekers

The table below indicates that the migratory increase in Belgium is constant since 1998, with the exception of 2000, in which year the number of entries remained stable but that of the departures rose significantly, more than + 2000 persons. 2003 also showed a slight increase of entries. The data for 2005 have not yet been communicated.

Table 1: Entries, departures and migratory increase

Year	Entries	Departures	Migratory increase
1998	61.266	40.236	21.030
1999	68.466	41.307	27.159
2000	68.616	43.487	25.129
2001	77.584	42.221	35.363
2002	82.655	41.349	41.306
2003	81.913	41.897	40.016
2004	85.378	42.046	43.332

Source: National Institute for Statistics - [http://statbel.fgov.be/figures/d22\\_fr.asp#1](http://statbel.fgov.be/figures/d22_fr.asp#1)

The calculation of the Belgian migratory balance requires including the figures of the population fluxes concerning different categories of persons, notably those who have automatically been struck off from the municipality registers (after their permanent absence



has been established) and those who afterwards reappeared again and have been registered again.

Taking this into consideration, the Belgian migratory balance as published by the NIS is as follows:

**Table 2 : Migratory balance**

Year	Migratory balance	Migratory balance males	Migratory balance females
1.997	6.041	1.519	4.522
1.998	6.740	1.991	4.749
1.999	12.252	4.482	7.770
2.000	12.137	4.506	7.631
2.001	24.887	11.685	13.202
2.002	31.092	14.826	16.266
2.003	27.790	11.625	16.165
2.004	27.036	10.909	16.127

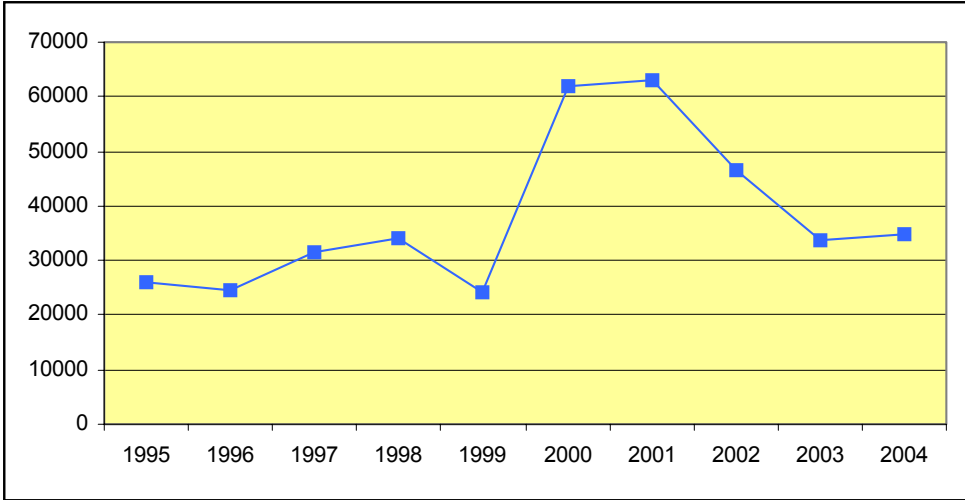
Source: National Institute for Statistics - [http://statbel.fgov.be/figures/d22\\_fr.asp#1](http://statbel.fgov.be/figures/d22_fr.asp#1)

It should be noted that de Belgian migratory balance, although positive, remains relatively stable in the course of recent years and that women are more present in these numbers than men.

**Citizenship**

95 people lost their Belgian citizenship in 2004 and 34.754 became naturalised Belgians. The figures for 2005 are not yet known.

**Graph 3 : Evolution of aliens acquiring Belgian nationality 1995 – 2004**

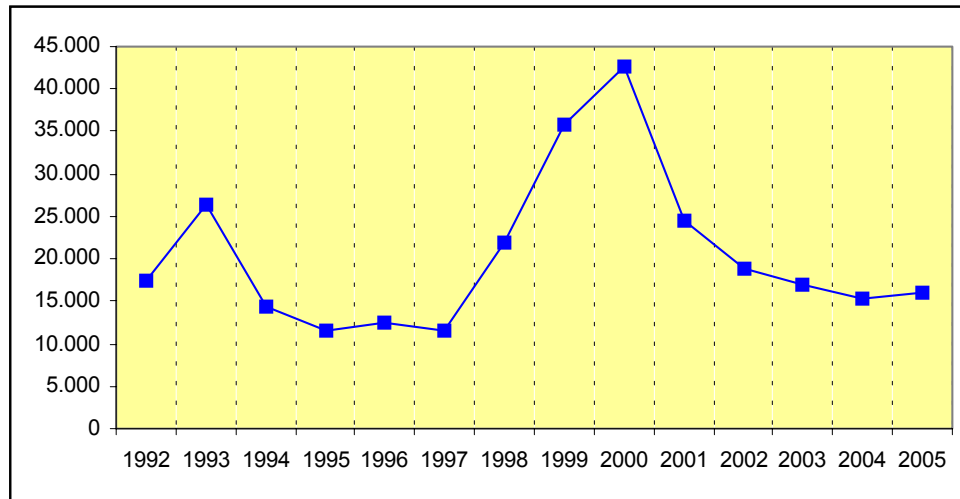


Source: Ecodata, Ministry of Economy, Small and Medium Seized Enterprises and Energy

## Asylum

The graph below shows the evolution of asylum applications in Belgium from 1992 unto 2005. Note that during the reference period the number of applications for asylum submitted in Belgium seems to stabilise round about 16.000 applications yearly.

Graph 4 : Evolution of asylum applications 1992 – 2005



Source: National Register

15.357 asylum applications were submitted in 2004, which means that Belgium was seventh in the list of EU countries receiving the highest number of bids. The country also came seventh in 2002 and 2003. 40.7% of those seeking asylum were from Europe (Russia, Turkey and Caucasia included), 38.3% from Africa and 19.6% from Asia. The percentage is less than 0.5% for America and Oceania.

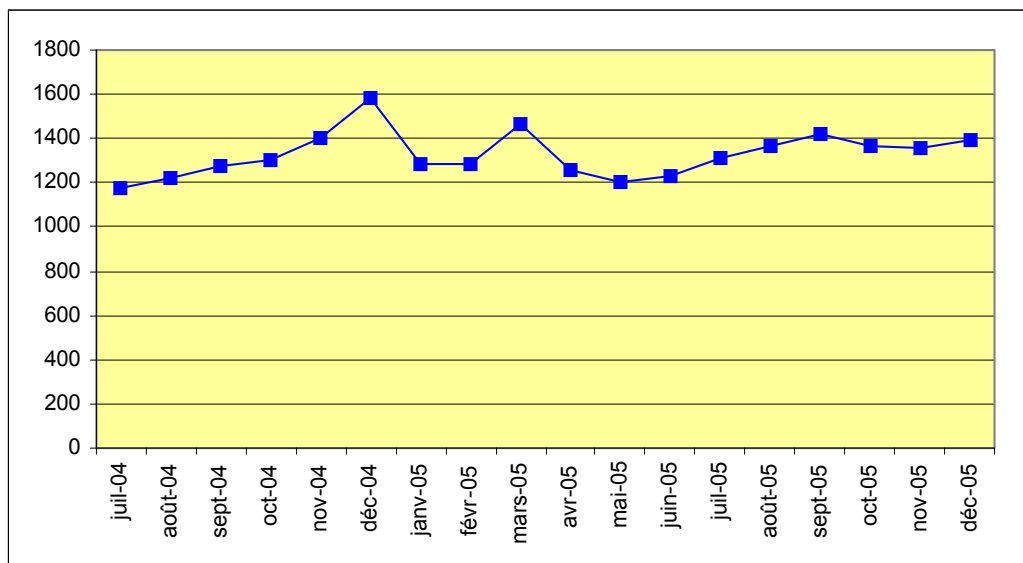
Solely three countries account for over one-quarter of all asylum seekers: DR Congo, Russia and Serbia-Montenegro. Next comes Slovakia (6%) and Guinea (4%). Nearly twice as many refugee recognition decisions were taken (2,275 against 1,201 in 2003) but comparatively speaking the increase is not as clear-cut as it may appear at first sight: the rise is mainly attributed to the increase in the number of decisions on the merits of claims. The rise is also a reflection of a number of decisions on the merits of claims being taken for countries or regions whose chances of recognition are higher than the average. 33% of these positive decisions were taken for Russian nationals and 22% for Rwandans.

There also continued to be a high number of improper use of the asylum procedure: 86% of the final decisions were negative. In the case of the 679 minors with potential refugee status who applied for asylum in 2004 68.6% were boys and 31.3% girls. Most of them came from DR Congo (14.4%), Guinea (13.4%), Afghanistan (7.3%), Rwanda (6.8%) and Russia (4.3%). According to the statements about their ages: 6% were 10 years old or under, 21% between 10 and 16, 31% 16 years old and 42% 17.

15.957 new prospective refugees were reported in 2005. The monthly registrations are generally stable around 1200 –1400, as mentioned in the graph below. Russia (9%), DR Congo (8%), Serbia-Montenegro (7.5%), Iraq (5.7%) and Slovakia (4.8%) continued to be the main countries of origin. The number of recognitions of refugee status increased to 3.059, up 34%. However, the rise is not so significant considering the number of decisions taken by the Commissioner General for Refugees and Stateless Persons: the recognitions account for

15.2% of the number of decisions. Asylum seekers enjoying the highest recognition rates hailed again from Russia, particularly Chechnya (1.256), followed by Rwanda, DR Congo, Serbia-Montenegro and Iran. The Commissioner General for Refugees and Stateless Persons is hoping to have its backlog cleared in the second half of 2006.

Graph 5: Monthly applications for asylum from July 2004 unto December 2005



Source: Immigration Office, National Register

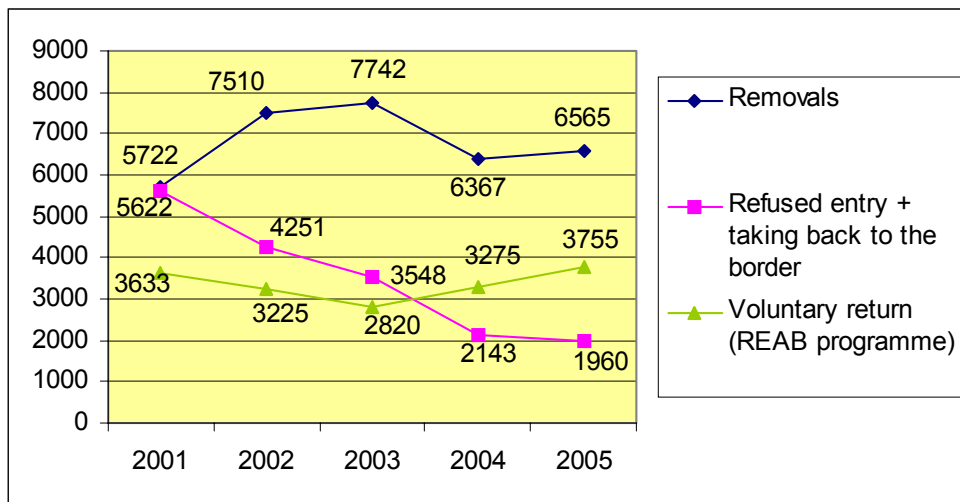
## Returns

The graph below shows that the number of repatriations directly carried out by the Immigration Office was down slightly in 2004 and 2005 from the figures reported in 2002 and 2003. Conversely, there was a sharp decline in the number of refoulements and people being taken back to the border: the figure was 5.722 in 2001, which rose to 4.251 in 2002, 3.548 in 2003, 2.143 in 2004 and, finally, 1.960 in 2005.

In the case of voluntary returns, there's an ongoing slight yearly: in 2004, 3.275 people voluntarily left Belgium via the IOM (1.677 between 1 July and 31 December) and 3.755 in 2005.

The trend with voluntary returns is for there to be an increase in the length of time immigrants stay before deciding to return to their home countries.

The total number of people from all categories leaving the country in 2004 was 11.783 (5.557 between 1 July and 31 December) and 12.266 in 2005. The total number of people leaving the countries during the period under consideration (1 July 2004 until 31 December 2005), was 17.283.



As in previous years, most of the people returned (voluntarily or otherwise) went to Romania, Bulgaria, Poland, Brazil and Albania.

16 secured flights were arranged in 2004 to remove people unlawfully residing in the country (this involved a total of 226 people). Belgium also organised or was involved in 11 European flights in 2004.

17 secured flights were arranged in 2005, including 13 by Belgium, to repatriate a total of 110 people.

#### Regularizations

The number of decisions about applications for regularisation on humanitarian grounds (on the basis of Article 9.3 of the Law of 15 December 1980) rose sharply again in 2004: 14.553 decisions (this applies to the number of adults for whom a decision was taken) over 8.759 in 2003 and 3.550 in 2002. Most of the decisions applied to Yugoslav, Moroccan, Congolese, Romanian, Armenian and Turkish nationals. 15.927 new applications have been submitted in 2005. In recent years it appears more and more to be the case that this article is being used and misused in an attempt to extend artificially the (mostly illegal) stay in the country.

#### Guardianship for unaccompanied minors

Pursuant to the Programme Law of 24 December 2002 (title XIII, chapter 6) amended by the Programme Law of 27 December 2004, FPS Justice ushered in a Guardianship Service, in the light of the growing concern over the issue of non-national minors arriving in Belgium by themselves without any legal representative, such as a mother, father or guardian. At the time, Belgium did not have a specific system for representing and lending assistance to unaccompanied foreign minors seeking asylum or arriving in Belgium without any authorisation or residence papers. The FPS Justice's Guardianship service reports that solely 2.131 minors were recorded in 2005, 584 of whom applied for asylum.

#### General immigration and emigration trends

See 2.1.

Recent changes: /

## **3. Political Developments in Belgium**

### **Summary**

The year 2004 was marked by the regional and European elections which have had some influence on the federal level. For the first time Belgium has asymmetrical majorities within the federal government and the regional governments.

The important immigration issues discussed during the reference period have been the following: economic migration, family reunion, transit area of the national airport – which led sometimes to divergences between the immigration services and judgments – presence of minors in the closed centres.

In depth modification of the asylum procedure has also been considered for a long time during the reference period. At the end of 2005, the bill aiming at reforming the whole asylum procedure and inserting the subsidiary protection has been approved by the Council of Ministers. The implementation of the new law is still expected to take place by the end of 2006.

### ***3.1 General structure of the political system and institutional context***

Belgium is a constitutional monarchy. Back in 2005, the country celebrated 175 years of independence and 25 of federalism. A single state for the first 140 years of its existence, Belgium has changed quite considerably over the course of time.

Belgium's location at the crossroads of the Romance and Germanic civilisations has resulted in linguistic and cultural differences that have compelled the country to adopt its structures. Cultural plurality obviously offers a variety of rich resources but it also gives rise to myriad often forceful demands and these have helped spawn the successive State reforms.

The first overhaul of the Constitution, in 1970, gave rise to three cultural communities. However, the most far-reaching changes started after 1980, when the cultural communities became fully-fledged Communities, with their jurisdictions being extended beyond cultural policies, and when the three regions were created. The State's federal structure continued to take shape in 1988-1989, primarily with the creation of the Brussels-Capital Region, which was assigned a government and parliament (the Council). Two further Constitutional reforms took place in 1993 and 2001 thereby completing the State reform process (for the time being).

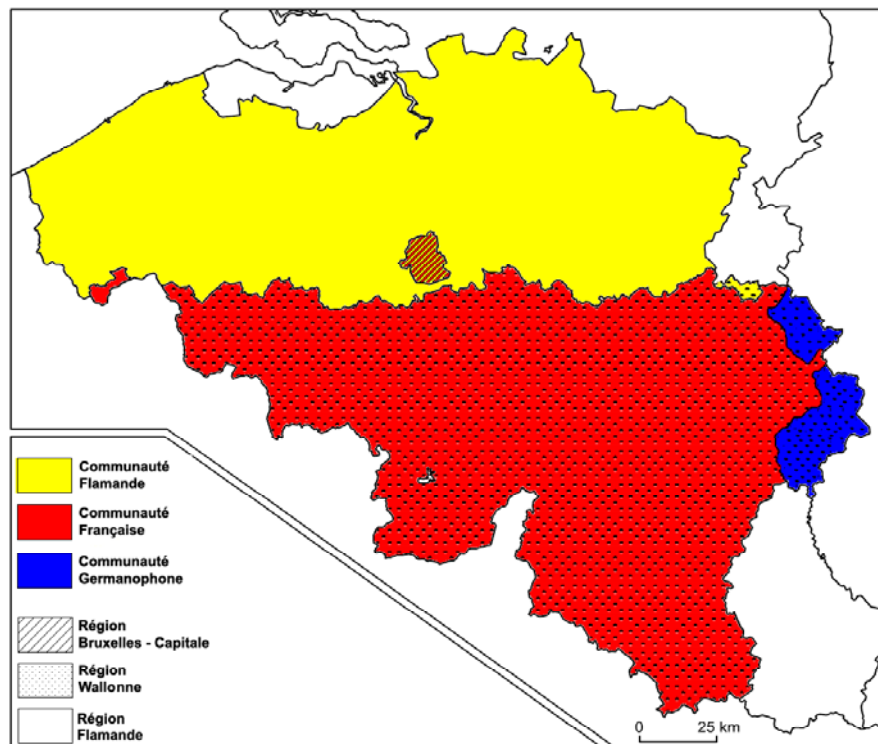
Federal Belgium is now a complicated structure with a federal level, three Regions and three Communities, each with a government and parliament. The Flemish Community and Region have merged their institutions to create just one government and one parliament (De Vlaamse Raad).

**The federal State** retains powers in several areas, including foreign policy, national defence, justice, finance, social security and the bulk of public health and home affairs,...

The language-based **Communities** are responsible for culture, personal issues such as aid to people, health and education, whereas the territory-oriented **Regions** are responsible for non-personal issues, such as farming, water policy, housing, public works, energy, transport, the environment, land planning and town planning, rural development, nature conservation, credit policy, and the supervision of the provinces, municipalities and associations of local authorities.

The Communities and Regions are also able to promote their own scientific policies and forge ties in other parts of the world in the context of their policy areas.

The map below shows the federal structure of the Belgian State.



**Asylum, immigration and integration:** the responsibilities are shared between the various levels of governance.

Matters concerning access, residence, the establishment and the removal of foreign nationals are the responsibility of the **Federal Public Service – Home Affairs** (which used to be called the Ministry of Home Affairs), and more specifically its **Immigration Office's** Directorate General. This administration is also in charge of applying the Dublin II Regulation, where the idea is to seek the State responsible for processing the asylum application, registering asylum seekers, interviewing them and taking the first decision in the context of the admissibility reviews. In addition to these duties, it is tasked with taking the fingerprints of asylum seekers and entering them into the Eurodac database and comparing them so as to spot any potential cases of fraud. The Immigration Office manages the applicants' residence requirements throughout the asylum procedure.

**The General Commissioner for Refugees and Stateless Persons**, an independent body, becomes involved in appeals against decisions the Immigration Office takes about the

admissibility of an application and the review made of the justification of an application. It is empowered to acknowledge the refugee status of asylum seekers. In the last resort, the **Permanent Appeal Commission for Refugees**, an administrative jurisdiction, may be turned to in the event the General Commissioner refuses to acknowledge an applicant's refugee status.

The asylum procedure reform proposals seek to restrict the role the Immigration Office now plays in considering the admissibility of claims and to amend the appeal procedures at the end of the process by setting up a new administrative jurisdiction, the Foreigners' Council.

The Federal Ministry of Social Integration is in charge of organising reception facilities for asylum seekers undergoing the admissibility procedure. **Fedasil**, the competent administration in this area, has developed an entire network of open centres and local reception initiatives for accommodating applicants undergoing the asylum procedure. Fedasil also coordinates, in collaboration with IOM, voluntary return requests.

Asylum and immigration issues are dealt with at federal level, whereas integration-related subjects come within the scope of the Communities.

### ***3.2 General political developments***

As we stated earlier on, the country did not hold any elections during the period under consideration.

The relative truce that came into effect in the wake of the federal elections in 2003, and the regional and European elections in June 2004 is due to end in 2006, when municipals elections will be held. Nevertheless, the last elections had an impact on the federal level, given the structure of the Belgian State.

The federal government (Verhofstadt II) is a violet coalition, an alliance between the Liberal and Socialist parties in both the Dutch and French-language parts of Belgium.

For the very first time since the federated entities were created (see the Policy Analysis Report 2003-2004), the majorities in the various Communities and Regions are asymmetrical: they differ from the federal majority. The Flemish Community has a coalition government comprising Socialists, Liberals and Christian Democrats. In the Walloon Region and the French-language Community there is an alliance between the Socialists and Christian Democrats, and the Brussels-Capital Region has a broader-based coalition involving the French-speaking Socialists and Christian Democrats, the winners of the 2004 elections and the French-speaking Ecologist party and the Dutch-speaking Liberal party.

The governments have continued to apply the government agreements concluded in 2003 at federal level and in 2004 for the regions (see in particular the previous Policy Report).

Controversial and sensitive issues have tended to be focused in the Community and/or social-economic spheres in recent years. The relationship between the coalition members has not been put under strain by any immigration, asylum or integration-related issues.

### ***3.3 Central policy debates***

#### **Managed migration**

**Economic migration** has been quite prominent in the various debates, as it is one of the political priorities that crop up in various documents, such as the European Commission Green Paper on this subject.

The Home Affairs Minister has come out in favour of introducing quotas for foreign workers in Belgium. On the contrary other government partners are convinced that attention has to be paid as a matter of urgency to the local unemployed people (of whom a lot have a foreign background).

However, in common with other Member States, Belgium has imposed a two-year moratorium on allowing citizens from the new Member States access to the national labour market. The government will soon have to decide whether or not to extend this two-year period. One or two spirited debates are no doubt waiting in the wings, with the press featuring a lot of reports about illegal East European workers and bogus self-employed people breaking Belgian employment regulations, while the government has failed to reach any unanimous position on this issue.

In the case of **family reunifications**, where foreign nationals are allowed to arrive in Belgium, the Minister for Home Affairs, in response to a Senate recommendation, has expressed support for a plan to apply DNA tests when doubts are raised during a procedure<sup>1</sup>. An experimental DNA testing system is now being used in various diplomatic posts (After 1 September 2003, the authorities began applying a DNA procedure as part of its protective measures: in the case of a family reunification kinship has to be substantiated, while state documents for civilians may not have any evidentiary value in some countries and the state population registers may have been destroyed. As a result applications for visas as part of the reunification process were automatically refused in the past. Applicants now have the opportunity in 12 diplomatic and consular posts to provide evidence about lineage ties: Abidjan, Addis Abeba, Islamabad, Kinshasa, Lagos, Lubumbashi, New Delhi, Peking, Shanghai, Kigali, Nairobi and Dakar).

The press has also featured reports about the debate surrounding the idea of restricting the right to family reunification. Flemish representatives claim the procedure is being partly deflected from the aim of protecting privacy and family life, so as to breach immigration barriers. Matrimonial shopping in the North of the country has been attacked, while the channels for facilitating this activity have been brought to light. There is a huge temptation to get around current legislation by getting married abroad where there are no official restrictions on marriages of convenience and then returning to settle in Belgium, where the settlement procedure has been made much easier.

Cropping up in several questions MPs have addressed to the Minister for Home Affairs, this issue is connected to the question of marriages of convenience and obtaining Belgian nationality.

The Minister of Home Affairs has floated the idea of being able to subject people enjoying the right to a family reunification to regular checks over a three-year period, by granting them a limited residence permit so as to be able to assess if the relevant conditions are being met. These measures are in keeping with Directive 2003/86 on the right to family reunification but did not appear to be sufficient to ensure an effective campaign against marriages of convenience. As for family reunification with Belgian citizens or EU nationals, once Directive

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<sup>1</sup> La libre Belgique, 16/07/2004



2004/38 has been put on the statute books the authorities will be allowed to make checks over longer periods of time to see if the family reunification conditions are being observed.

## **Gates of entry and border controls**

The press also carries regular reports about rings of **people traffickers** asking huge sums of money for transporting people and trying to smuggle them into the United Kingdom via Belgium.

The transit **zone at** Brussels-National Airport is another controversial topic that regularly appears in the newspapers. Are foreigners who stay there temporarily while not being allowed to enter Belgian territory deprived of their freedom? Does a legal release decision automatically involve the individual entering the territory?

In reply to a parliamentary question<sup>2</sup> referring to the UN Human Rights Committee's decision to make a review of the Belgium transit zone detention policy, the Minister of Home Affairs said that solely the Council of State could rule on the justification for a rejection order and a court decision to release an individual does not result in any territorial access entitlements. In order to limit long delays and the time non-nationals remain in the transit zone, the Minister proposes that foreign nationals whose claims have been rejected and may be released by a court (in this instance the Council Chamber) should be escorted to their countries of origin.

Under the heading of "**closed centres are not kindergartens**"<sup>3</sup>, non-governmental organisations have used the press to launch attacks on the government for keeping families and unaccompanied minors in closed centres even though a guardianship, and hence, a support system has been available for them since 1 May 2004.

In the case of unaccompanied minors<sup>4</sup>, failing to grant them automatic access to the territory and placing them in a closed centre at the border is a reflection of the general principle of seeking to ensure the best interests of the child. The aim is chiefly to allow the link to be broken between minors and their smugglers and/or prepare for their return or take steps to organise a family reunification. The Minister has also had the opportunity to highlight how difficult it is to discover the precise age of people claiming they are minors.

In accordance with article 9 of the UN Convention on Child Rights, accompanied minors generally remain with their parent or legal guardians in a closed Centre. Consequently, the Minister is opposed to the idea of placing the children with foster parents or finding another solution for maintaining family unity, even if this means keeping them in a closed centre. A complete ban on the confinement of minors (with their parents) would boil down in practice to breaking the unity of a family or no longer being able to forcibly remove unlawfully residing foreigners with minor children.

In the case of minors staying in closed centres, the Royal Decree 2/08/2002 specifies the need to make a suitably adapted structure available to provide them in particular with a more relaxed environment.

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<sup>2</sup> question N°3475 by Mr Mohamed Boukourna, July 2004

<sup>3</sup> La libre Belgique, 23/05/2005

In 2005 a new agreement was reached at government level to make the act of contracting a bogus marriage punishable. The relevant bill presented to the House includes a punitive provision: a system of fines or a prison sentence. The penalties vary according to whether what is involved is a standard bogus marriage, in return for payment, or a forced marriage. An attempt to contract a bogus marriage is also punishable.

## **Integration and settlement**

In the Flemish Community the debate is focused in particular on the implementation of the integration Decree. Attention has been paid recently to changing from a policy focused on ethnic-cultural minorities, where the emphasis is on the policy's target groups, to a social diversity policy, where everyone, irrespective of origin or background, is involved and active, shared citizenship is promoted. A revamped efficient integration policy is the first incentive in this respect. A second key stimulus is managing diversity so as to facilitate social cohesion in Flemish society.

A draft version of a specially adapted integration Decree was prepared in 2005. The key amendments concern a better and broader definition of 'integratees', the target group of the integration policy, and a more effective approval process. In the light of the international and European regulatory environment, the aim is to ensure the compulsory integration policy reaches as many people as possible who want to settle here permanently on a lawful basis but do not speak Dutch and are not well acquainted with our legislation, social systems and culture. In addition to newcomers, specific groups of 'oldcomers' will be expressly targeted with a view to encouraging them to take an integration course (in particular parents with children at school) or compelling them to join an integration programme (such as people receiving a replacement income). A specially adapted obligatory programme is available for ministers of religion. Once it has been voted in by the Flemish Parliament, the specially adapted Decree is due to come into force in 2006.

The Decree of 7 May 2004, concerning Dutch-language Centres, came into force on 1 July 2005. In the wake of an experimental phase, Flanders now has eight such Centres established on the basis of the Decree. They are responsible a) for organising and coordinating the intake, tests and referral of potential students of Dutch as a second language (NT2) and b) matching the supply of NT2 courses with the demand.

Managing diversity: the integration sector is assigned a specific role in lending support to the diversity policy. Concluded in 2005, the new agreements with the integration services for the 2006-2008 period focus more on shared citizenship and the emphasis is not solely on the ethnic minority citizen or group. The initial responsibilities for detecting and managing social woes lies with the local administration. In order to lend them support in managing diversity, the necessary steps have been taken to ensure the 2006 budget includes the resources required to deploy an incentive policy. No specific new developments were taken for the 2004-2005 period, according to the relevant Flemish officials.

The controversy over **wearing headscarves** at school also resurfaced. In the summer of 2005, the press reported court decisions to approve the policy by certain schools in both the Flemish and French-speaking Community not to allow headscarves to be worn on their premises. For example, on 14/06/2005 the Antwerp court of appeal has approved the decision of the court of 06/10/2004, thereby allowing school regulations to ban head covers out of the class rooms. The court said no direct discrimination could follow from these

stipulations since educational institutions are accessible by everyone regardless of religious belief or ethnic origin. The court adds that the ban on head covers not only focuses public signs of religious belief, but aims all head covers, including baseball caps, hoodies, etc. In sum, the court judges that these school regulations can not be labelled as discriminatory<sup>5</sup>.

Extending beyond the classroom to reach the civil service and the public arena in general, this controversy was not resolved in the final report of the Intercultural Dialogue, which was created in the wake of anti-Semitic activities, religious demands and the scale of the discrimination discovered during the recruitment process. The report claims integration policies should "*enable each party to take part in society on an equal footing, without losing respect for each other*".

The debate primarily got underway as a result of the headscarf ban in France, discrimination against ethnic minorities on the labour market and the repeated death threats to an employer who employed a woman wearing a headscarf (an affair that received a lot of media coverage but, in the final analysis, probably had nothing at all to do with racism). No general rule for wearing headscarves schools has been announced. It is the individual right of every school to decide on this matter. This was the state of play at the beginning of the school year 2005-2006.

## Refugee protection and asylum

The Minister of Home Affairs was anxious to reform the asylum procedure and the reform process was set in motion in July 2005. Failed asylum seekers will be able to make an appeal to a new independent jurisdiction in due course, the "Council for Aliens' Disputes", and no longer the Council of State. Foreign nationals now account for about 80 to 85% of appeals made to the Council of State. The trial list backlog this causes has a detrimental impact on other categories of cases. The asylum procedure is therefore set to be streamlined and shortened, to ensure it does not last more than 12 months. The reform will be considered in more depth in the following Policy Report, when more is known about the various details and technical developments.

Newspapers also referred to the idea of **outsourcing the asylum procedure** in the refugees' countries of origin or transit. In response to a parliamentary question (N° 394), the Minister of Home Affairs answered that the plan to have asylum applications examined by European offices located outside Europe had run into practical problems and legal challenges. In any event, having an asylum application processed outside Europe would not prevent a potential asylum seeker from resubmitting an application later on in Belgium. A professor for the ULB (Brussels Free University) has attacked the tendency to float ideas somewhat overeagerly, so as to see how they square with public opinion and then, finally, the apply them without having to face any outcry. The upshot is that practices that used to seem outrageous, such as charter flights, are now accepted as run-of-the-mill occurrences ...

The claims made by certain categories of foreign nationals residing in Belgium are reported from time to time in the press. The aim of the demonstrations is often to persuade the authorities to grant them residence permits. This was the case in August 2005 when a group of Kurds went on hunger strike in an open centre.

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<sup>5</sup> De Standaard 15.06.2005

## Citizenship and naturalisation

Several newspapers covered the 40th anniversary of the **Moroccan presence in Belgium** and the festivities organised to mark the event. The EMIN (Moroccan immigration memorial organisation) staged the events not so much as to wander nostalgically down memory lane as to call for more citizenship and recognition for the Moroccan community. The reform of Moroccan family law, the Moudawana, is also significant to some extent, providing for a substantial improvement in the legal rights of Moroccan women.

## Return

One MP hit out at the Minister of Home Affairs for the change made to the **removal policy** (question 440): collective flights for people of the same nationality, planes leaving (the military) Melsbroek airport, which is not accessible to the public. The Minister reported that up until October 2004, eight foreign nationals were removed from the country in a military plane. This type of operation is used when the destination creates a problem for civilian aircraft.

## Other

The King Baudouin Foundation has focused its attention on immigrants working as **domestic staff** in various settings, including diplomatic circles<sup>6</sup>. The Foundation has issued a booklet for employees, employers and front-line social services, seeking to warn people looking for work as domestics (not only for private individuals but also in diplomatic posts) about the ways in which they may be abused.

The issue of **clandestine** workers, particularly in the building industry, has been highlighted once more owing to the frequent cases of occupational accidents. According to the estimates (newspapers), which should nonetheless be treated with big caution, 50,000 such workers are supposed to have arrived in Belgium from Eastern Europe. Apart from the risks workers run in such hazardous conditions, it is clear that illegal work can create economic problems, as the unfair competition can lead to redundancies and bankruptcies.

In answer to a parliamentary question, the Minister of Justice reported the figures for people being **detained** in Belgian prisons. Foreign nationals account for a high percentage, 44%, of the number of detainees, but does this mean foreign nationals are more likely to commit crimes than Belgian citizens? One article<sup>7</sup> tried to show that foreign nationals receive harsher punishments than Belgian citizens for reasons open to objectification that are not necessarily to do with discrimination on the grounds of race. The article refers to a survey the Catholic University of Louvain-la-Neuve (UCL) published to show there is no proven link between ethnic origin and criminal behaviour.

The **policy document the Minister of Home Affairs** presented to coincide with the new parliamentary year is **summarised here**. The focus is on clearing up the backlog the asylum

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<sup>6</sup> La Libre Belgique, 26/05/2005, "Domestic staff, not slaves"

<sup>7</sup> La Libre Belgique, 17/06/2005, "Nearly one in two detainees is a foreign national"

authorities are struggling to cope with and countering the unjustified use of immigration procedures. It also paints a picture of the central policy debates:

As most **asylum** applications that are dealt with are processed as soon as they have been presented, the Federal Immigration Service does not have much of a backlog to contend with. The Commissioner General for Refugees and Stateless Persons is continuing to apply the LIFO ("Last-in First-out) principle quite successfully. The highlights of the management plan devised by the Commissioner General for Refugees and Stateless Persons are: ensuring asylum applications are processed in accordance with the highest standards, clearing the backlog and making preparations for the implementation of the alternative protection system, which is being transposed very carefully so as to avoid the asylum procedure being skirted anew. Special attention is also being paid to the gender and minors issue. The backlog reported by the Commissioner General for Refugees and Stateless Persons in 2005 dropped from 20.089 cases to 13.385 by 1 September 2005.

New legislative initiatives were taken to prevent the backlog reported by the Permanent Appeal Commission for Refugees from getting any worse. By late 2005 the backlog was reported to involve about 10,000 cases. The huge influx the authorities had to contend with a few years back may be under control, but they have to continue to be on the alert. The Minister confirms that he will continue to call for a harmonised European asylum procedure. All the stops are now being pulled out to achieve a complete reform of the asylum procedure: a) on the basis of a reform of the Council of State and b) via an overhaul of the asylum authorities. The Council of State is undergoing a three-tier reform process: structural and organisational reforms, the deployment of modern management practices and a number of procedural amendments. In recent years roughly 85% of all cases presented to the Council have involved foreign nationals. It has taken an average of 2.5 years to deal with them and solely 2% of cases nullified the administration's decision. Accordingly, the asylum procedure is being reformed by the development and organisation of a court empowered to consider aliens affairs, the "Alien Litigation Council" or "Council for Aliens Disputes", which will enjoy full judicial powers in the light of the Geneva Convention and subsidiary protection, plus cancellation and suspensive powers for other matters (access, residence, establishment).

In the case of **visa policy**, the emphasis is on a more intensive form of cooperation with the Federal Public Service (Ministry of) External Affairs. Towards this end, a working group has been set up chaired by the Director General of the Immigration Service and the Director General of the consular service of the Federal Public Service External Affairs. Combating visa application fraud continues to be a key concern. A measure applied on 10 January 2005 made it possible for fingerprints and photographs to be taken of most foreign nationals residing within the territory. The application of this biometric information-related system forms the subject of an action plan that is now being formulated. The Minister stresses the importance of the Visa Information System (VIS) in combating visa shopping.

Another priority for the Minister is the need to process visa applications within a reasonable period of time. In 2004, the Immigration Service dealt with 51.568 visa applications for short stays, 9.070 for family reunifications and 5,948 for long stays. In the first half of 2005, 24.532 applications were made for "short stays", 5.956 for family reunifications and 2.503 for long stays. Finally, the third priority is better public access to the Migration Service's Visa Department as result of maximising the effectiveness of the helpdesk and Internet site.

The "regularisations unit" is being strengthened so it is according to the Minister in a better position to deal with the growing number of applications.

As a result of effective cooperation with airlines (training, exchanges of information) the number of refolements is continuing to decline. A big stick is also being wielded: a Law enacted in December 2004 makes it easier to impose fines on negligent carriers that clearly

refuse to carry foreign nationals back to their countries of origin, when these individuals do not have the requisite entry documents.

The scope for organising secure flights has had a welcome impact on the behaviour of defiant or forcibly detained foreign nationals who are illegally residing in Belgium. The first removal at Benelux level took place in March 2004. Moreover, Belgium subscribes to the European Resolution 2004/573 concerning common flights for removing third country nationals.

Under this heading, references are constantly made to the cooperation with the (diplomatic representatives) relevant countries of interest: when a return agreement cannot be concluded straightaway, protocol agreements may be reached in some cases as a temporary option. A budget for prevention campaigns and technical support (in the field of immigration) is also being managed by the General Directorate for Development Cooperation and the Federal Immigration Service, with IOM generally putting the projects into practice.

With a view to the continuing enforcement of the removal policy, the number of places available in several closed centres is being increased, while the Commission in charge of dealing with the individual complaints of the inhabitants of closed centres (a Commission set up in 2003) has to monitor the humane approach applied in these centres. Above all, the Minister stresses the fact that the identification procedures still take up too much time, mainly owing to the lack of cooperation shown by some of the foreign nationals being detained and some countries of origin.

Still according to the policy document of the Minister, the Immigration Service is anxious to obtain greater legal security by making a clear legal distinction between trafficked persons and smuggled persons. With a view to intensifying the campaign against people trafficking and smuggling and slum landlordism, the Law of 10 August 2005 has increased the penalties for specific acts (Belgium has adapted its legal framework to the Council Framework Decision (2002/629/JHA) and the Palermo Protocols related to Trafficking and Smuggling (UN level) by voting in the Law of 10/08/2005 on stepping up the fight against people smuggling and trafficking and slum landlordism.

The provisions in the Directive on residence permits issued to trafficked persons are being transposed into the Aliens Law so that foreign nationals wishing to cooperate with the judicial services, in order to actively apprehend organisers of people trafficking, may enjoy greater legal certainty. Set up in 2004 under the supervision of the Ministries of Home Affairs and Justice, the Centre for Analysis of Trafficking and Smuggling (IAMM) has to act as the cornerstone for carrying out strategic analyses in future.

As for combating the unjustified use of the immigration procedures, one of the key concerns of the aliens policy, the focus is mainly on cracking down hard on marriages of convenience and fraud involving family reunifications, thanks to various legal and practical measures. For example, a circular was published in October 2005 urging municipal officials (registry offices) to exchange information about attempts to contract marriages of convenience and prevent the parties in question making further attempts to contract this type of marriage in other municipalities. A bill designed to make marriages of convenience punishable has been unveiled by the Minister of Home Affairs, hoping this will act as a deterrent. Both parties (the person unlawfully residing in Belgium and the "partner" who is legally entitled to stay here) run the risk of a prison sentence of up to three months. When money exchanges hands for the marriage the sentence may be as long as 12 months. When compulsion is involved, the punishment may be increased to two years. Moreover, any rights secured via the marriage of convenience, such as a right of residence, will be removed. The maximum period for checking whether a marriage of convenience has actually been contracted is increased from 15 months to three years. The House approved the proposal in December 2005.

The government has also reached an agreement on tightening up the procedures for family reunifications with non-Europeans. The age for obtaining a right of residence via a family reunification based on a marriage is increased from 18 to 21. Already applied in the Netherlands the measure should primarily protect young girls being forcibly given away in marriage. Family reunifications involving parents and grandparents are also limited. People wishing to bring them into the country have to prove the people concerned have "a regular, adequate and stable means of support". What still happens often is that the grandparents or parents apply to a Social Welfare Agency (OCMW) soon after they arrive.

As the previous "Policy Analysis Report" explained in detail, starting from 1 May 2004 the legal protection for unaccompanied foreign national minors is provided for by the Ministry of Justice's Guardianship Service. The Minister of Home Affairs published a circular in October 2005 so as to deal with a few practical shortcomings and uncertainties.

Finally, mindful of the European dimension, the Minister has repeated that Belgium has made a commitment vis à vis the citizen: in other words, Belgium is in favour of striking a balance between, on the one hand, international obligations and on the other the application of more binding rules in terms of the removal policy. He is also championing a horizontal approach to the asylum and immigration issue: as the root causes are so far-reaching, complementary relationships have to be forged with other stakeholders, such as the Council for External Affairs and the Development Council.

The (other) parliamentary questions primarily cover: the delay in process of the **asylum applications**, the so-called 'double punishment', the Convention on Child Rights (policy measures and funding to promote children's rights), Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers, trafficking in children and the implementation of the Guardianship Law, arranged marriages, **marriages of convenience**, the confinement of minors in closed centres, the reform of the **Council of State** (in the light of the backlog reported with the aliens' cases), the confinement of illegal former detainees alongside "regular" illegal immigrants in closed centres, the **regularisation of asylum seekers for whom the procedure has dragged on for a long time**, the general asylum and aliens policy, the confinement of foreigners in the transit zone (when they have been refused access to the territory), **family reunifications**, the removal policy, the conditions governing access for foreign national researchers, the reception of mentally disturbed asylum-seekers, the "Vermeersch report"<sup>8</sup>, the powers of the Federal Immigration Service in terms of recognising marriages entered into abroad, the distribution plan for (the reception of) asylum seekers, asylum requests from Turkish Kurds, failed Kurdish asylum seekers going on hunger strike, the regularisation of foreign nationals for medical reasons, the implications of the GATS negotiations for immigration policy, foreign nationals residing in the **transit zone**, the transposition of the qualification Directive, the attention Belgian asylum authorities pay to the gender issue, the planned reform of the asylum authorities.

## 4. Legislative developments in the area of migration and asylum

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<sup>8</sup> Vermeersch is the Professor who was commissioned by the Minister of Home Affairs to carry out a study on forced removals.

## **Summary**

The most important legislative undertaking during the period has indisputably been the reform of the asylum procedure. At the end of 2005, the Council of Ministers agreed upon a bill which will firstly be examined by the Council of State and then by the Parliament. The implementation of the new procedure is still to be expected by the end of 2006. At the same time, this fundamental reform transposes the directives concerning family reunification, human trafficking and subsidiary protection.

The legislator has paid special attention to human trafficking and smuggling, two notions which have been redefined. Offences regarding these two phenomena will be punished more severely in the future.

On the subject of the returns, the Vermeersch Commission, named after a university professor and charged by the government with the task of formulating proposals aimed at making the removal policy more human and efficient, has brought out its report. The Minister of the Interior has expressed the wish to see most of the recommendations formulated in the report implemented by the administration without delay. Two panels established in 2004 should contribute to the fight against criminal practices.

## **4.1 General structure**

As we mentioned several times earlier on, a major reform of the Belgian asylum authorities and legislation was announced in the second half of 2005 and this is due to be put into practice in 2006. Further key legislative developments are the decision that marriages of convenience should be punishable and the transposition of various Directives, with a cautious approach being adopted toward the transposition of the Directive on subsidiary protection.

## **4.2 Legislative developments**

### **Managed migration**

Technological progress plus terrorist threats and the risks of legal migration procedures being abused (apart from family reunifications) has resulted in the fingerprinting process being extended to categories of foreign nationals in addition to asylum seekers for which the procedure has been applied since 1996. The Programme Law of 27/12/2004 (Belgian Official Gazette 31/12/2004) allows the fingerprints of certain categories of foreign nationals to be taken so as to ascertain or check their identities, see if they represent a threat to public order or national security or to observe the obligations established by European Directives or Regulations.

### **Gates of entry and border control**

Two new authorities were created in 2004, the IAMM (Centre for Analysis of Trafficking and Smuggling) and the Inter-departmental Coordination Unit for Human Trafficking and Human Smuggling. Accountable to the Ministers of Internal Affairs and Justice, the IAMM takes the form of a network for gathering and exchanging information widely spread over the various institutions and services and carrying out strategic analyses in these areas.



The Law of 10 August 2005 succeeded in making a clearer distinction between people trafficking and people smuggling, with a view to clamping down harder on this scourge along with slum landlordism. This is primarily a reflection of the international regulatory environment: the Additional Protocols, of 31 May 2001, (on trafficking in and smuggling of human beings) to the United Nations Convention against Transnational Organised Crime, approved by the Law of 24 June 2004; the Framework Decision of 19 July 2002 on action against trafficking in human beings; the Framework Decision and Council Directive of 28 November 2002 seeking to strengthen the criminal law framework for preventing the facilitation of unauthorised entry, transit and residence. The punishments were made much tougher. The earlier article in the Aliens Legislation, making people trafficking and slum landlordism punishable, is reproduced in the Penal Code, because it is no longer confined to foreign nationals only but also to Belgians because they can be as well victims of human trafficking.

## **Integration and settlement**

Issued in November 2004, the general policy document by the new Minister of Social Integration set forth the priorities for the reception of asylum-seekers. In a statement to the House of Representatives, the Minister reminded MPs that reception facilities had to show a bond of "solidarity" with people seeking asylum in our country, and a sense of "responsibility" towards the political, economic and social context of the international migratory flows. The key measures outlined in the policy report are as follows:

- matching supply and demand: the type of reception facilities on offer must closely reflect the diversity in the family composition of the people being received
- against the background of the need to transpose the European Directive 2003/9/EC, the reception legislation will, in particular, determine quality standards and set the record straight on the rights and obligations of asylum-seekers
- ensuring that equal treatment and the same high standards are guaranteed in all reception facilities.
- customising the reception process by offering tailor-made solutions for different targets (people with psychological problems, single minors, single women; etc.)
- boosting the bond of solidarity between municipalities as a result of adapting the distribution plans for asylum seekers enjoying financial support and upgrading local reception initiatives
- a better designed reception model for non-accompanied minors

The asylum seekers reception network in Belgium presently has a capacity to accommodate 15.637 people, 54% in small-scale accommodation facilities and 46% in so called "collective reception" (open centres).

## **Refugee protection and asylum**

As for asylum-seekers, an amendment to article 54 of the Law of 15/12/1980 proposes a compulsory registration site within an open reception centre for those in the admissibility phase or in a public social welfare centre for those in the merits review phase or for those granted temporary protection.

Article 111 of the Programme Law of 9/07/2004 (Belgian Official Gazette 15/07/2004), amending article 493 of the Programme Law of 22/12/2003, grants Fedasil the power to designate the obligatory registration site.

Article 55 of the Law of 15/12/1980, adapted pursuant to the amendments to the Programme Law of 22/12/2003 and that of 27/12/2004 in force since 10/01/2005, specifies that foreign nationals whose asylum procedures were pending in the context of the asylum authorities and whose stay was regularised for an unlimited time had their asylum applications automatically declared aimless. Similarly, even if foreign nationals had their asylum applications rejected but, during an appeal to the Council of State, had their stay regularised for an unlimited time, their appeal was automatically declared to be aimless by the Council of State. However, if foreign nationals wish to press on with their asylum procedures or judicial remedies, the opportunity is available, provided a formal request is made.

A circular the Aliens' Office issued on 24/08/2004 allows Afghan asylum seekers who submitted an asylum application prior to 1 January 2003 and had their request rejected to have their stay extended until 1 March 2005 nonetheless.

In the same Programme Law of 27/12/2004 (article 222), amendments have also been made to the occupations asylum seekers in open centres may engage in. Asylum applicants were previously only allowed to do community service in their refugee centres or in the local reception facilities they were staying in, but starting from January 1 2005, they were also allowed to be employed in the context of activities organised by the centres or local reception facilities, or for activities where the centres or facilities act as partners. However, the activities in question have to help facilitate integration into the local environment.

So, in the case of the asylum procedure, no major amendments were made in 2004. Instead the focus was on clearing the backlog reported in processing the asylum applications. The backlog fell from 44.000 cases in August 2001 to about 20.000 by late 2004 to about 10.000 at the end of 2005. Officials are expecting the backlog to be completely cleared in the second half of 2006. A number of Royal Decrees have been published, supplementing the Aliens Law in terms of staff, budget and procedures. Of importance was the proposal that asylum seekers should receive more procedural guarantees, thereby helping to improve the quality of the decisions taken. The Law of 16 April 2005 (Belgian Official Gazette 10 May 2005) allows an appeal in the merits phase to be dealt with by a sole-presiding judge (formerly three, if not obviously unfounded). In the event of highly complicated cases or if derogation from settled case law is considered three judges may hear a case. This legislation should help to clear the backlog via this judiciary. The issue of accompanied minors was in the spotlight with the creation of a Guardianship Service, coming within the scope of the Ministry of Justice, which guarantees vital protection to these minors. As already stated in the previous and in this Policy Report, a Guardianship regulation came into force on 1 May 2004 to cover anyone under 18 who is a citizen of a country that is not a member of the EEA and is not accompanied by a person exercising parental authority or guardianship. The key challenge was initially the shortage of guardians. A Commission was set up in September 2004 to improve the coordination between the various authorities (Guardianship Service, Commissioner General for Refugees and Stateless Persons, Federal Immigration Service and Fedasil) in the context of the minors' issue.

## **Citizenship and naturalisation**

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## **Return**

The Commission tasked with assessing the removal guidelines ("Vermeersch Commission" : see previous Policy Report) presented its final report to Luc Van den Bossche, the Minister for Home Affairs at that time, on 21 January 1999. The Commission had been created in the

wake of the tragic death of the Nigerian asylum-seeker Semira Adamu (22 September 1998). This initial report states that the guidelines for the removal of people whose asylum applications had been turned down were seriously flawed or had been misinterpreted owing to inadequate training. The key task was to reword the guidelines so as to avoid any accidents in the future and, more generally speaking, to ensure the removal operations are carried out as humanely as possible, in the light of basic human rights and all the international measures applied in this sphere.

Patrick Dewael, the current Minister for Home Affairs, announced on 13 January 2004 the creation once again of a Commission 'tasked with assessing the removal guidelines' but the composition was slightly different from the first one agreed upon for the first Commission. It was set up subsequent to the judgement by the Brussels Court of First Instance (12 December 2003) reviewing the responsibilities in the death of Semira Adamu and the confusion the judgement had caused amongst police officers at Brussels National Airport who were responsible for removals starting from the Airport. The Commission was asked to make a further review of the removals issue, while trying to adjust the guidelines so that the removals could be effected as humanely as possible as far as the people being removed were concerned. At the same time the police officers' safety should be guaranteed and their legal position spelled out.

The Commission proceeded to consider the issue between January and December 2004 and handed in its report in January 2005. The Commission tabled proposals for making the removal policy as humane and as efficient as possible. The House of Representatives has still not approved the document, but the Minister of Home Affairs has asked for the recommendations in the report to be put into practice.

In a judgement handed down on 02/06/2005 ('Nancy Ntumba Kabongo versus Belgium') the European Court of Human Rights found in favour of Belgium. The woman had brought charges against the country owing to her lengthy confinement. Art. 7 of the Belgian Aliens Law specified a maximum period of administrative confinement equal to five months, which may be extended to eight, whereas the failed Congolese asylum seeker had been held for more than 10 months. The European Court ruled that Belgium was applying the Aliens Law properly, judging that when an expulsion could not go ahead owing to the unlawful resistance of the deportee, a new custodial sentence decision may be taken. The decision should not be regarded as an extension of the confinement but as a completely new confinement.

Signed between the Benelux countries and various other countries, several readmissions agreements came into force on 1 February 2005<sup>9</sup>. These included the pacts with Croatia, Estonia and Bulgaria. Prior to that, the agreements signed with Yugoslavia and Slovakia came into force on May 29 and 1 May 2004 respectively.

Other amendments to the Law of 1980 were made on 26 May 2005, particularly those concerning articles 20 and 21. This means a foreign national who is established but has seriously impaired public order or national security may be expelled from Belgium, or a foreign national who is not established but has impaired public order or national security, or has not met the conditions for being entitled to stay, (article 20) may be sent back.

## **Other**

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<sup>9</sup> Belgian Official Gazette of 1 March 2005, N° 65 Ed 1, page 7395

**The double punishment**, the common name for the detention of foreign nationals who have committed a serious criminal offence and their expulsion from the territory after the end of their prison term, was revamped pursuant to the Law of 26/05/2005 amending the Law of 23/05/1990 on the transfer between states of convicted people as well as the Law of 15/12/1980.

A foreign national who was born in Belgium or arrived before the age of 12 and has principally and regularly resided here ever since and a recognised refugee may not in any case be sent back or expelled. Other categories of foreign nationals who have lived in Belgium for several years or have ties here now enjoy greater protection from being expelled or sent back.

Belgian unemployment legislation may be inconsistent with the European Convention on Human Rights in the case of the requirement for obtaining a work permit: foreign nationals who need a work permit to find employment in Belgium are entitled to employment benefits only up to 60 days after the permit expires. In a judgement handed down on 10/06/2005 the Nivelles Labour Tribunal ruled that this temporary restriction on the entitlement to employment benefit is out of step with the European Convention on Human Rights, at least for highly qualified foreign nationals. The Tribunal based its decision on a (similar) judgement by the European Court of Human Rights dated 16/09/1996 (*Gaygusuz versus Austria*).

### ***4.3 Implementation of EU legislation***

The European Directive **2001/40/EC** on the mutual recognition of decisions on the expulsion of third party nationals was transposed into Belgian law on September 2004 (Belgian Official Gazette 12/10/2005). Foreign nationals covered by an expulsion decision in an EU Member State may be expelled by another Member State in which they are arrested at the expense of the country where the expulsion decision was taken. However, the system is not mandatory. Financial compensation for enforcing a recognised decision is provided. However, none of the Directive's provisions could be applied in 2005 because Belgium was not acquainted with the expulsions decisions taken by the other Member States.

Article 74/4 of the Law of 15/12/1980 was amended by the Law of 22 December 2004 subsequent to the transposition of **Directive 2001/51** supplementing the provisions in article 26 of the Schengen Convention. The scope of the carriers' repatriation obligation has been extended. The article now includes **transit passengers** and imposes penalties for carriers bringing passengers into Belgium who cannot continue their journey when the carrier that should have taken them to the country of destination refuses to take them on board or when the authorities in the country of destination refuse to let them in and send them back to Belgium, where they are refused entry.

A new procedure has been established to compensate for the lack of cooperation from carriers. The repatriation may be arranged by the Immigration Office and the cost charged to the reluctant carrier.

In order to be consistent with the provisions in **Directive 2003/9** laying down minimum standards for the reception of asylum seekers in the Member States, article 73 of the Royal Decree dated 8/10/1981 was amended by the Royal Decree of 3/02/2005 (Belgian Official Gazette 8/02/2005). The situation now is that a certificate should invariably be issued to asylum seekers to confirm their asylum seeker status. However, this type of document is always provided to such asylum seekers in practice so as to confirm they have presented an asylum application, even if belatedly (more than eight working days after arriving in the country).

Two annexes to the Royal Decree of 8/10/1981 have also been reviewed and harmonised at European level. This involves annex 10, the Dublin **pass**, amended by the Royal Decree of 11/04/2005 (Belgian Official Gazette 19/05/2005) so as to be consistent with the specimen annexed to the Commission Regulation applying the Dublin Regulation adopted by the EU Council of Ministers. This also applies to annex 11 concerning the rejection decision amended by the Royal Decree of 9/12/2004 as published in the Belgian Official Gazette on 14/03/2005 in order to be in line with the standard form provided for by the decision of the EU Council of Ministers approved on 29/04/2004.

The debate on the transposition of the **subsidiary protection** system: this primarily raised the problem of rejected asylum seekers whose order to leave the territory is postponed because the authorities consider they cannot return to their countries of origin for the time being or can do so only with difficulty and for which a category of so-called "legal illegal" immigrants has been created. This problem should normally be solved by the introduction of the alternative protection regime: until now, this subgroup has not enjoyed the same residence, employment and social support entitlements as refugees. The Ministerial agreement specifies that almost all differences in treatment shall be abolished in future. The subsidiary protection arrangement will be introduced in Belgium to coincide with the revamp of the asylum procedure.

Legal provisions transposing the Council Framework **Decision on combating trafficking in Human Beings** (2002/629/JHA): Belgium has adapted its legal framework to the Council Framework Decision (2002/629/JHA) and the Palermo Protocols related to Trafficking and Smuggling (UN level) pursuant to the Law of 10/08/2005<sup>10</sup> on stepping up the fight against people smuggling and trafficking and slum landlordism.

Three new dispositions have now been ushered in. First of all, in accordance with the EU Framework Decisions, two different measures are now being applied, one to do with trafficking and the other smuggling. Under the earlier Law, trafficking and smuggling could be punished on the basis of the same provision, art. 77a of the Aliens Act. As a consequence trafficking is covered by a new, special provision in the Penal Code (art.433d until 433h) and smuggling is retained in the Aliens Law (new art.77a to 77e). Aggravating circumstances and penalties are the same for both offences.

Secondly, human trafficking covers international and internal trafficking, irrespective of what type of exploitation is involved. Under the previous system, human trafficking for the exploitation of labour could be punished only if the victim were a foreign national.

Thirdly, the definition of trafficking has been described as:  
the recruitment, transport, transfer, harbouring or receipt of persons, for the purpose of the exploitation of the prostitution of others or child pornography; employment in conditions incompatible with human dignity; exploitation of begging; removal of organs and being compelled to commit an offence or a criminal act. These offences are punished by penalties ranging from one to 5 years imprisonment. The use of specific means such as coercion, force, etc. is recognised as an aggravating circumstance (art. 433f of the Penal Code).

The legal provisions for transposing Directive 2004/58/EC are still under discussion at governmental level. Since they involve amendments to the basic aliens legislation (Law of 15.12.1980), they are scheduled to be adopted together with other legal measures transposing Council Directive 2003/86/CE (family reunification), Council Directive

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<sup>10</sup> Law of 10 August 2005 published in the Belgian Official Gazette on 2 September 2005

2004/83/CE (qualification for asylum and subsidiary protection) and Council Directive 2003/81/CE (smuggling of and trafficking in human beings).

Legal provisions for transposing Council Directive 2003/9/EC of 27/01/2003 laying down minimum standards for the reception of asylum seekers: the Federal Agency for the Reception of Asylum seekers (Fedasil) was created in January 2001 subsequent to the Federal Government decision that asylum seekers should receive material support only, in reception facilities. Fedasil has undertaken extensive work on the issue of transposing Council Directive 2003/9/EC in Belgium. The Federal Parliament and Government are now awaiting an appropriate initiative from the Ministry of Social Integration.

## **5. Other policy Implementation issues**

### **Summary**

2004 saw the enlargement of the EU and vehement discussions took place with regard to the opening of the labour market to the new foreign workers. A first evaluation has shown that the impact of the presence of legally employed workers in Flanders should not be overrated, except in some particular sectors.

The Flemish integration decree holds the obligation for newly arrived aliens to follow a programme of integration and language courses, with a view to target more efficiently the categories of persons liable to be taken charge of. The decree indeed repeals the obligation to follow courses for asylum seekers, given the fact that a majority among them are likely to be rejected and as a result will not stay in the region for a long period of time. Education, being a factor of social cohesion, is also a core concern in the Flemish region. A plan providing equal opportunities and fighting discrimination will be carried out.

In 2005, the federal government has also announced a 10 points action plan to combat racism. A variety of initiatives on the level of the federal public sector have been taken in order to promote equal treatment for persons of foreign origin and Belgians.

### **5.1 Labour market and employment**

A new Royal Decree<sup>11</sup> was approved in late 2005 of which the aim is to make it easier to employ researchers and knowledge workers and to tighten up at the same time the checks on abuses implying a tightening up of labour migration controls. All workers arriving in Belgium will be required in future to register with the regional services in charge of labour market policy. The Decree is primarily a reflection of reports that (ICT) companies are abusing the work permit system to attract cheap staff to Belgium under the tourist visa scheme or using knowledge workers to carry out simple tasks. The registration requirement will apply to all foreign national workers and to foreign nationals who arrive to undergo training or take up an internship or to stay in Belgium for a short period as part of a business trip. However, the requirement is scrapped for a restricted group of scientists and researchers.

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<sup>11</sup> De Morgen of 23 December 2005

The Yearbook on the Labour Market in Flanders in 2004, drawn up by the 'Steunpunt Werkgelegenheid, Arbeid en Vorming' [Contact Point for Employment, Labour and Training] includes a chapter on 'Paid Labour by naturalised Belgians in Flanders'. The study reports that these 'new Belgians' are overrepresented in the same labour sectors in relation to non-EU workers (i.e. metal industry, industrial cleaning, temporary employment). However, compared to non-EU workers, these new Belgians seemed to be better spread over the different activity sectors in the labour market.

Another survey reveals that naturalised Belgians are in a far better situation than Turkish and Moroccan nationals but still clearly worse off than native Belgians.

In January 2005, the Flemish Minister for Work, Education and Training, Frank Vandenbroucke, presented the results of a survey carried out by the University of Leuven and a private consulting company, Idea Consult, on the "consequences of EU enlargement for the Flemish labour market". The researchers conclude that the impact of the current and future presence of workers from the new and candidate Member States of the EU (NCMS) on the Flemish labour market should not be overestimated. In 2002-2003, fewer than 7.500 migrants from the NCMS – including Turkey – were granted a legal work or residence permit in the Flemish region. Most economic migrants originated from Poland, Bulgaria, Romania and – to a lesser extent – Hungary, the Czech Republic and Slovakia. Economic migrants are often employed on short-term contracts in sectors where the native labour force is unavailable. These research findings have to be seen in context. First of all, in spite of its limited overall impact on the Flemish labour market, EU enlargement has made a key impact on certain market segments (such as the construction industry). Secondly, this survey does not assess the impact of illegal economic migration from the NCMS on the Flemish labour market. Thirdly, the research has not included the impact of outsourcing by and relocation of companies established on Flemish territory to the NCMS.

## ***5.2 Housing and Urban development***

The aforementioned Law of 10/08/2005 on combating human smuggling, human trafficking and slum landlordism features new initiatives to criminalize slumlords who rent out dilapidated houses/apartments at exorbitant prices to illegal tenants who cannot find any other suitable accommodation.

## ***5.3 Education***

The previous and current Policy Report already referred to the compulsory integration courses being organised in Flanders, starting from 1 April 2004, for recognised refugees, asylum seekers ruled admissible, specific labour migrants and regularised foreign persons. 12 months later, the Minister made a review of the integration programmes: solely 6.5% of this group of newcomers had taken a course. 58% of the courses were attended by newcomers who were not obliged to do so, i.e. chain migrants. 42% of the integration programmes were concluded with those who were compelled to participate. The Minister believes this is a sign that the target group has to be adjusted: it is better for people who form or reunite families to be compelled to take a course; asylum seekers ruled admissible will no longer be required to do so, as most of them, in the final analysis, are not recognised as refugees and the integration course can only give them false hopes. The Ministers also

called for the sector to be streamlined because the cost of a course was too high: Euro 2.500, not including the costs for the Dutch lessons. In any event, the budgets for the integration courses are being increased in view of the rising demand.<sup>12</sup>

The situation regarding discrimination in education (discrimination against migrants) occurs at all levels and begins at a very early stage: 9,3% of children in the nursery education system are not Belgian nationals. In special nursery education, foreigners are clearly over-represented (14,1%).

A similar trend is found in primary and secondary education. About 15,7% of the pupils in special primary education are foreign nationals, whereas the proportion of non-Belgians in ordinary primary education equals 9%. The proportion of foreign nationals undergoing special secondary education is 12.5%, which outnumbers the 10,9 % of foreigners in the regular secondary education system.

According to the (Flemish) Minister, unequal opportunities in education are detrimental to the social cohesion of the society as a whole. With a view to promoting equal opportunities in education, four challenges have been singled out that will receive special attention in due course.

The Flemish Government will focus on improving the link between education and the labour market. The financial instruments for educational institutions will be harmonised. Schools will be offered greater autonomy and responsibility in applying an equal opportunities policy.

The Flemish Government will make professional career opportunities for teachers more attractive in order to tackle the oft-cited problem of teaching staff becoming demotivated.

#### ***5.4 Health care: /***

#### ***5.5 Family, young people and the elderly: /***

#### ***5.6 Gender: /***

#### ***5.7 Vulnerable groups***

Human Trafficking and forced labour

The Centre for Equal Opportunities and Opposition to Racism has gathered information about victims of economic exploitation in Belgium in 1999-2004 and entered this into a database<sup>13</sup>. This database features information about all trafficked people known to the three Belgian reception centres for trafficked people: PAYOKE (Antwerp), PAG-ASA (Brussels) and SÛRYA (Liège).

Table 1 show the number of trafficked people (1999-2004)

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<sup>12</sup> De Standaard, 2 en 28 juni 2005

<sup>13</sup> Centre for Equal Opportunities and Opposition to Racism, Annual Report 2004.



	1999	2000	2001	2002	2003	2004
Total	235	364	468	393	667	586

Table 2 shows the number trafficked people that were victims of economic exploitation (by nationality) over the same period. The table reveals that in 2004, about 8% of trafficked people in contact with one of the three reception centres were victims of economic exploitation. These figures provide a starting point for offering an explanation for this increase.

	1999	2000	2001	2002	2003	2004
China	1	1	-	2	7	16
Ecuador	-	3	5	4	5	-
Nigeria	-	5	5	-	-	3
Morocco	2	1	1	5	2	1
Romania	-	-	2	2	3	5
Ghana	2	-	1	-	6	2
Cameroon	2	1	1	2	-	1
India	-	1	-	2	3	-
Dem Rep. Congo	-	1	-	1	-	2
Poland	-	-	2	-	-	1
Russia	-	-	-	-	-	3
Other	3	6	1	1	7	14
Tot. economic Exploitation(1)	10	19	18	19	33	48
Tot. human trafficking (2)	235	364	468	393	667	586
Percentage (1)/(2)	4.3	5.2	3.8	4.8	4.9	8.4

As we mentioned above, the Law of 15 December 1980 was amended by the Law of 10 August 2005 for stepping up action against trafficking in and smuggling of human beings and the activities of slum landlords. Article 77a of the Law of 15 December 1980 now defines the offence of people trafficking as contributing in some way, either directly or via an intermediary, to facilitate the entry, transit or residence of a person who is not a citizen of a European Union Member State on or via the territory of such a State (...) in violation of the State's legislation, in order to secure, directly or indirectly, a pecuniary benefit.

## 5.8 Discrimination

The Federal government has issued a valuable **10-point racism plan**. This plan reflects a worthwhile attempt to make the federal anti-racist policy more consistent. For example, ethnic monitoring is now on the political agenda and politicians apparently see/feel the need for better surveillance of the labour market processes.

No official information is available for racial discrimination against a target group in the workplace (immigrants, refugees, asylum seekers and minorities). Such information is hard or impossible to come by, mainly because of the opposition to ethnic monitoring in the workplace. Belgian figures for the non-national labour force are usually based on nationality-oriented statistics.

The level of discrimination on the labour market is covered in a most informative survey presented in January 2005 by the University of Brussels and the University of Leuven . The study was commissioned by the ORBEM/BGDA [Brussels Regional Employment Office] in the context of the *Social Pact for the employment of Brussels citizens*. The study findings revealed that the degree of discrimination (i.e. the cumulative percentage of discrimination) is 39% in the Flemish region, 27% in the Walloon region and 34% in the Brussels-Capital region.

Carried out by the University of Antwerp and the Belgian National Statistics Institute, a recent study<sup>14</sup> on the labour market situation for non-nationals in Belgium revealed that non-nationals are at a great disadvantage on the labour market compared with their Belgian-born counterparts. The non-nationals group comprises four subgroups: naturalised Belgians, non-Belgian EU-citizens, Turks and Moroccans and other non-EU-citizens. It also became clear that the subgroup of Turks and Moroccans have an unemployment rate equal to 30%, a figure that is over five times higher than the unemployment rate among Belgian-born Belgians. Even more striking is the fact that contrary to all other subgroups singled out in the study the percentage of unemployed Turks and Moroccans does not change in line with their academic achievements.

A key survey<sup>15</sup> was carried out in Flanders to gauge the level of resistance to immigrants. One dimension of ethnocentrism was investigated: the perception of an ethnic threat (or the view that immigrants create an economic, cultural and political threat). One conclusion was that during the 1991-2004 period the feeling of being threatened was not a constant one. During the 1990s the feeling of facing an ethnic threat declined quite significantly but the perception of an ethnic threat has started to grow again since the late 1990s. This development may be attributed to a combination of factors, such as the economic situation, the views of a specific political party and the opinions that have taken shape in the fight against terrorism. The perception is fairly closely related to the level of confidence in social institutions. Trust in the political institutions, the administration and the judicial authorities helps to reduce the feeling of being threatened by immigrants. Conversely, confidence in the army is accompanied by a stronger perception of an ethnic threat. People who harbour distrust against society also often feel threatened by immigrants.

Discrimination against foreigners and people of foreign origin on the labour market in the Brussels-Capital Region (La Dernière Heure and Expatica (08/03/2005)): a study carried out by the Free University of Brussels (ULB) and the University of Leuven shows that almost half of all non-nationals in the Brussels-Capital Region have encountered some form of discrimination during selection procedures<sup>16</sup>. The study is based on four different methodologies: statistical investigations of administrative databases, longitudinal research focused on the data sets of the Brussels Regional Employment Office, situational tests with job-seekers and interviews with both sides of business. As with the conclusions drawn during

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<sup>14</sup> De Tijd (16.02.2005- Bulletin 2)

<sup>15</sup> Meuleman Bart en Billiet Jaak, De evolutie van de perceptie van etnische dreiging tussen 1991 en 2004 en de relatie met institutioneel vertrouwen, 24pp, 2005

<sup>16</sup> ULB/K.U. LEUVEN (2005) Discriminations des étrangers et des personnes d'origine étrangère sur le marché du travail de la Région de Bruxelles-Capitale/ Discriminatie van allochtonen op de arbeidsmarkt van het Brussels Hoofdstedelijk gewest, will be available soon on the BDGA/ORBEM website <http://www.orbem.be> ,(23.03.2005) (PUBBE0261).

the study on the “non-native labour force in Belgium” (see above), the subgroup of Turks and Moroccans is clearly worst off.

In terms of development, researchers from Leuven University (child psychotherapy department) have discovered that one-year-old babies from migrant “middle class” parents show are already lagging behind the babies of native “middle class” parents by month. Moreover, the gap is increased if the children are raised in disadvantaged families. Consequently, babies from underprivileged migrant families are faced with two types of discrimination.

The Cel Kleurrijk ondernemen/Cellule entreprise multiculturelle [Colourful Entrepreneurship Unit] was added to the organisation chart of the Federal Administration Employment, Work and Social Dialogue in April 2005, The Colourful Entrepreneurship Unit is tasked with promoting equality of treatment amongst employees with a foreign nationality or of foreign origin and native employees in the private sector. A similar organisation was set up for the federal public sector in 2005.

The Cel Diversiteit/Cellule Diversité [Diversity Unit] has been added to the organisation chart of the Federal Administration Personnel and Organisation. Other diversity units have been set up at Community and Regional level as well. At federal level the Inter-ministerial Conference on Integration initiated further discussions about this issue in late 2005.

## **5.9 Other**

In the year 2004, the Centre for Equal Opportunities and Combating Racism received 2000 or so requests for information. The Centre keeps, among other things, watch to ensure the fundamental rights of foreign nationals in Belgium are respected. This also means that foreign nationals can turn to the Centre to find out what their rights are how they can be applied. Compared with requests for information or help, actual complaints are quite thin on the ground. The bulk of the cases are to do with specific residence situations and problems. For example 23% of the requests concern family reunification and the documents and formalities required in the event of a marriage. There are also a whole host of questions about detention, returns, removals, asylum and regularisations<sup>17</sup>.

A Limburg survey showed that three out of four young Turks or Moroccans (most of whom were granted Belgian nationality as soon as they were born) still choose their bride or bridegroom in their country of origin. This is said to be an obstacle to integration because they are always starting all over again in actual fact. Consequently, we are faced with "first generation ethnic minorities" time and time again, according to some officials. The children are often brought up in Turkish or Moroccan (as at least one of the two parents is unable to speak Dutch or French) and this early language handicap will be difficult to overcome later on<sup>18</sup>.

The Flemish government has approved a Decree laying down the conditions for the recognition and funding of local religious communities<sup>19</sup>. This was particularly important for the Islamic faith as no mosque had been recognised hitherto (the Muslim religious service

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<sup>17</sup> Source: Centre for Equal Opportunities, Annual Report 2004.

<sup>18</sup> Het Belang van Limburg, 12/12/2005

<sup>19</sup> Standaard: 1 and 2/10/2005

has been officially recognised in the early seventies, but the official recognition has never been fully implemented in comparison with the other officially recognised religious services). The Flemish Minister for Integration decided the government would offer financial resources solely to imams who meet the integration requirements and have a sufficient knowledge of Dutch. When a mosque is recognised, Flanders will provide financial support equal to 30% of the building costs. The Minister set three conditions for being granted recognition: the local religious communities must invariably use Dutch in their dealings with the government and Dutch should be used as much as possible during their activities. Ministers of religions must know Dutch and the basis organisation and values of our society. Any extremism has to be resisted. Also the French-Speaking Walloon government has taken further steps in the process of official recognition of the Islam religious service<sup>20</sup>.

On the issue of marriages of convenience and so-called "family reunification tourism, the newspapers often featured reports about what is called the "Belgium route": as the family reunification conditions in the Netherlands are much tougher, more and more Dutch inhabitants come to live in Belgium for a while so they can bring in their brides, bridegrooms or other family members. After six months they return to the Netherlands. The problem is difficult to express in figures but several indications are available: the number of Dutch people registered in Belgium doubled in the space of two years: from 11.381 in 2002 to 22.000 in 2004. There were about 37.000 in 2005. While the number of family reunifications had decreased in the Netherlands it rose from 2.000 to 4.000 in Antwerp in the space of 10 months. Both Belgium and the Netherlands believe that only a coordinated European approach can offer a solution in the long term so as to avoid the various European countries outmatching each other (via tougher national laws or otherwise).

The scope of the 1995 Law on Negationism, punishing everyone denying, minimising, justifying or approving of the persecution of the Jews during the WWII, has been extended to all forms of genocide or other crimes against humanity recognised by an international tribunal. This extension follows on from the move to align Belgian law with the Council of Europe Protocol on computer crime (2003) ("*all the necessary legislative work should be completed so to be able to prosecute the authors of documents that deny, minimise, justify or approve of internationally recognised genocide or crimes against humanity*").

Opinion surveys shows that two-thirds of the Belgian population harbours some negative feelings about the European Muslim community. Women have a more negative attitude (68%) than men (63 %). The same applies for the under-30s (70%) as compared with the over-60s (57%) and employees (73%) as compared with workers (59%). This negative attitude is also shared to some extent by higher educated people (71%). When asked for the reason(s) for this negative attitude, most people mentioned 'fear of crime (69%)', 'a reluctance to adapt to Belgian society (64%)', 'possible links with terrorism (62%)', and 'discrimination against women (60%)'.

Under the heading of the Faits et Gestes [Facts and Acts] research programme, the French Community commissioned a survey on forced marriages. Involving 1.200 young respondents (14 to 18 years of age), the survey revealed that 2% of them were aware of some forms of forced marriages in their own environments. Most of these young people are Muslim girls who have undergone vocational training programmes. However, the academic research team stresses that young people with different religious and educational backgrounds and/or from the opposite sex are victims of these practices as well<sup>21</sup>.

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<sup>20</sup> Le Soir, 28/10/2005

<sup>21</sup> La Dernière Heure 20.01.2005 - Bulletin

## 6. Annex

### *Statistical data on returns*

	Removals	Rejections and taken back to the border	Voluntary return
January 2001	246	639	214
February 2001	347	442	318
March 2001	455	451	330
April 2001	392	511	327
May 2001	612	490	377
June 2001	559	501	271
July 2001	508	427	333
August 2001	493	524	352
September 2001	569	483	324
October 2001	684	439	288
November 2001	419	316	264
December 2001	438	399	235
January 2002	406	337	137
February 2002	487	328	188
March 2002	653	361	256
April 2002	518	376	283
May 2002	608	414	360
June 2002	696	309	275
July 2002	773	360	289
August 2002	631	413	376
September 2002	671	405	301
October 2002	815	356	339
November 2002	712	329	259
December 2002	540	263	162
January 2003	644	299	227
February 2003	664	259	262
March 2003	618	314	242
April 2003	641	298	210
May 2003	690	272	241
June 2003	656	266	233
July 2003	665	288	255
August 2003	569	284	225
September 2003	622	283	202
October 2003	866	302	237
November 2003	607	292	240
December 2003	500	391	246
January 2004	431	271	274
February 2004	554	309	237
March 2004	765	267	265
April 2004	500	139	324
May 2004	497	162	240
June 2004	604	131	258

July 2004	447	136	258
August 2004	435	121	270
September 2004	500	174	268
October 2004	612	171	253
November 2004	507	132	306
December 2004	515	130	322
January 2005	511	151	232
February 2005	535	137	270
March 2005	620	152	321
April 2005	616	148	322
May 2005	583	175	288
June 2005	678	173	339
July 2005	473	178	347
August 2005	437	175	347
September 2005	528	111	400
October 2005	576	153	263
November 2005	507	194	344
December 2005	501	213	268

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