



ANNUAL REPORT ON MIGRATION AND ASYLUM IN BELGIUM 2022

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

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The European Migration Network (EMN) is a Europe-wide network providing information on migration and asylum. The EMN consists of National Contact Points (NCPs) in the EMN Member (EU Member States except Denmark) and Observer Countries (Norway, Georgia, Moldova, Ukraine, Montenegro, Armenia, Serbia), the European Commission and the EMN Service Provider (ICF).



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LIST OF ACRONYMS

General acronyms

AMIF	EU Asylum, Migration and Integration Fund
CJEU	Court of Justice of the European Union
DG HOME	Directorate-General Migration and Home Affairs of the European Commission
EEA	European Economic Area
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EFTA	European Free Trade Association
EU	European Union
EUAA	European Union Agency for Asylum
EUROPOL	European Union Agency for Law Enforcement Cooperation
ICMPD	International Centre for Migration Policy Development
IOM	International Organisation for Migration
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UNHCR	Office of the United Nations High Commissioner for Refugees

Acronyms specific to the Belgian context (Only the most used acronyms are listed.)

In text	English	Dutch	French
AgII	Agency for Integration and Civic Integration	Agentschap Integratie en Inburgering (AgII)	/
CALL	Council for Alien Law Litigation	Raad voor Vreemdelingenbetwistingen (RvV)	Conseil du Contentieux des Étrangers (CCE)
CGRS	Office of the Commissioner General for Refugees and Stateless Persons	Commissariaat-Generaal voor de Vluchtelingen en de Staatlozen (CGVS)	Commissariat Général aux Réfugiés et aux Apatrides (CGRA)
Fedasil	Federal Agency for the Reception of Asylum Seekers	Federaal Agentschap voor de Opvang van Asielzoekers	Agence fédérale pour l'Accueil des Demandeurs d'Asile
FPS	Federal Public Service	Federale Overheidsdienst (FOD)	Service public fédéral (SPF)
PCSW	Public Centre for Social Welfare	Openbaar Centrum voor Maatschappelijk Welzijn (OCMW)	Centre Public d'Action sociale (CPAS)
SIOD	Social Intelligence and Investigation Service	Sociale Inlichtingen- en Opsporingsdienst (SIOD)	Service d'Information et de Recherche sociale (SIRS)

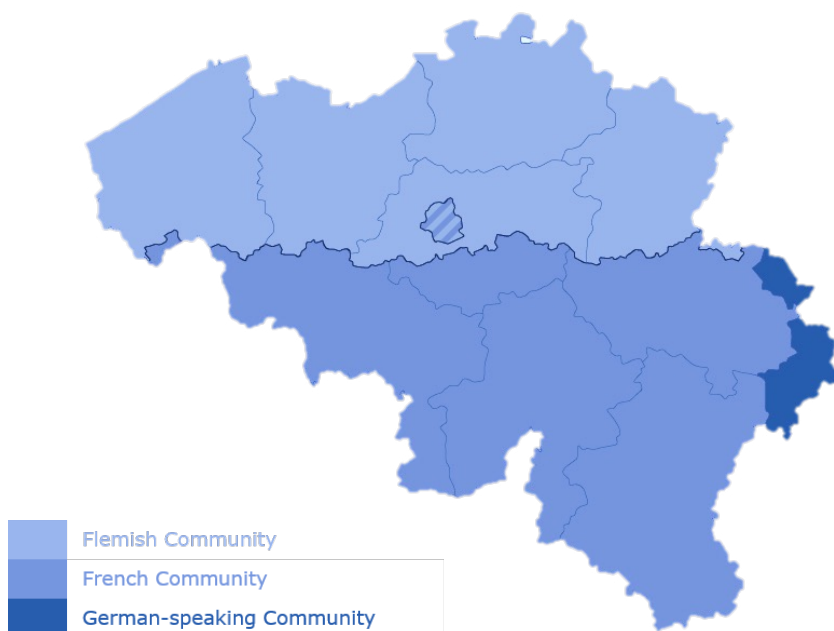


FEDERAL BELGIUM

Belgium is a federal state, composed of Communities and Regions, each with their own set of competences:

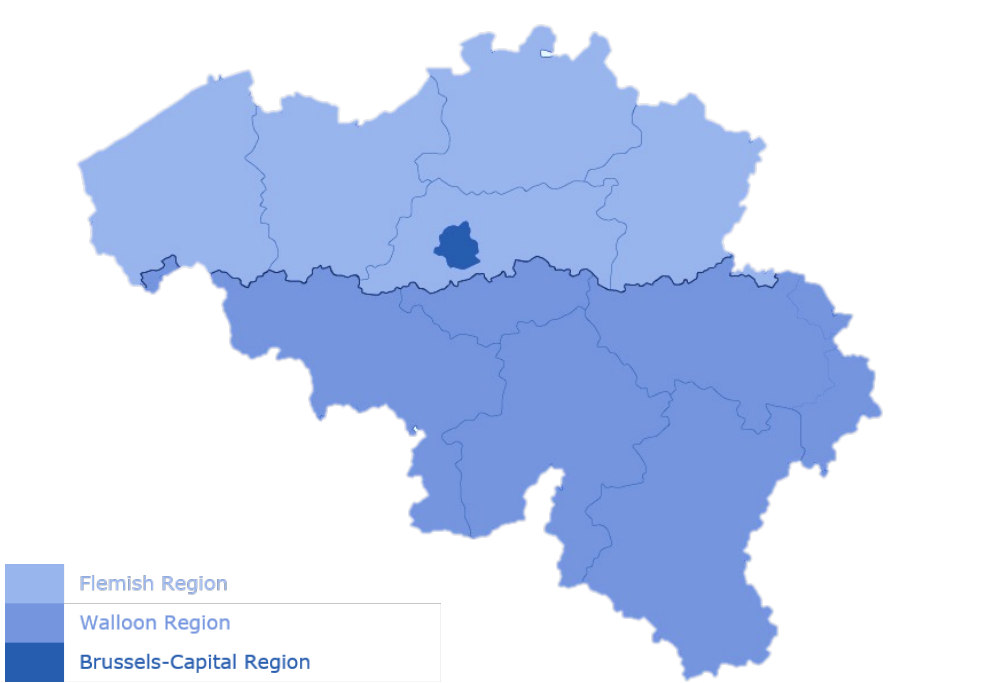
- ◇ **The federal government** has competences typically connected with matters of public interest: public finances, armed forces, judicial system, social security, foreign affairs, as well as substantial parts of public health and home affairs.
- ◇ **The Communities** have competences typically connected with matters pertaining to the people: culture, education, the use of languages, social welfare, scientific research. There are three language-based Communities: the Flemish Community, the French Community, and the German-Speaking Community (Map 1).
- ◇ **The Regions** have competences typically connected with matters pertaining to the territory: economy, employment, agriculture, housing, energy, the environment, foreign trade, etc. There are three territory-based Regions (from north to south): the Flemish Region, the Brussels-Capital Region, and the Walloon Region (Map 2).

Map 1: Communities



Source: Belgian federal government

Map 2: Regions



Source: Belgian federal government



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The Cabinet of the Secretary of State for Asylum and Migration, the Immigration Office, the Office of the Commissioner General for Refugees and Stateless Persons (CGVS/CGRA), the Federal Agency for the Reception of Asylum Seekers (Fedasil), Myria – the Federal Migration Centre, the International Organisation for Migration (IOM) Belgium and Luxembourg, the United Nations High Commissioner for Refugees (UNHCR), the Federal Public Service Interior, the Federal Public Service Foreign Affairs, Foreign Trade and Development Cooperation, the Federal Public Service Justice, the Federal Public Service Employment, Labour and Social Dialogue, the Social Intelligence and Investigation Service, the Federal Public Service Social Security, the Federal Police, the National Crisis Centre, Enabel – the Belgian Development Agency, Unia – the Interfederal Centre for Equal Opportunities, the Inter-departmental Coordination Unit for Action against Trafficking in and Smuggling of Human Beings, the Flemish Region, the Walloon Region, the Brussels-Capital Region, the German-speaking Community, the French Community, the Flemish Community, the Public Employment Services (VDAB, LeForem, Actiris), the Public Centres for Social Welfare (OCMW/CPAS), the Association of Flemish Cities and Municipalities (VVSG), the Union of Cities and Municipalities of Wallonia (UVCW), the Agency for Integration and Civic Integration (AgII), International House Leuven, the Regional Integration Centre of the Luxembourg Province (CRILUX), the Belgian Red Cross, CIRÉ, Medimmigrant, Nansen, Vluchtelingenwerk Vlaanderen, Caritas International, the Hannah Arendt Institute, and the King Baudouin Foundation.

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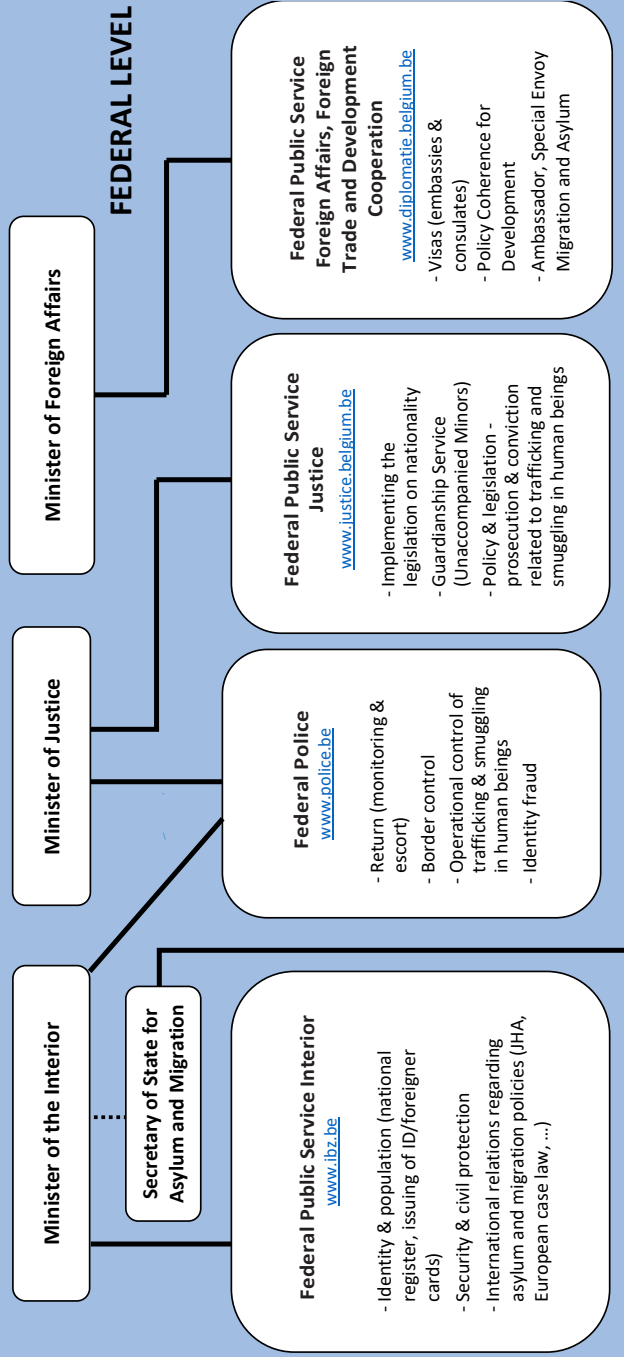


OVERVIEW OF THE INSTITUTIONAL MIGRATION AND ASYLUM LANDSCAPE IN BELGIUM

BELGIUM: institutional framework for immigration and asylum policies*

*Please note that this institutional chart provides an indicative overview of the asylum and migration system in Belgium. As such, it does not represent its complete structure.

Last update: June 2023



Immigration Office (DVZ/OE) www.dofi.lbz.be

- Entry and residence (visas, residence permits)
- International protection (registration, Dublin)
- Interior control and border management (return, management of the detention centres and other facilities)
- Residence procedures for victims of trafficking and aggravated forms of smuggling in human beings
- Exceptional residence procedures (humanitarian and medical grounds)

Office of the Commissioner General for Refugees and Stateless Persons (CGVS/CGRA) www.cgrs.be

- Independent Administration-
www.cgrs.be
- Examination of applications for international protection
- Granting or denying refugee status and subsidiary protection status
- Issuing certificates and documents of civil status to recognised refugees and stateless persons

Federal Agency for the Reception of Asylum Seekers (Fedasil) www.fedasil.be

- Management of the reception network
- Coordination of the voluntary return & reintegration programmes
- Monitoring and guidance of unaccompanied minors

Myria – Federal Migration Centre -Independent Public Body- www.mvria.be

- Providing information on migration movements
- Ensuring that the basic rights of foreigners are respected
- Fight against trafficking and smuggling in human beings (Independent National Rapporteur on Human Trafficking)

Council for Alien Law Litigation (RwV/CCE) www.rvw-cce.be

Appeals against decisions taken by the Immigration Office and the Commissioner General for Refugees and Stateless Persons

Labour Courts

Appeals against decisions of Fedasil

Council of State (RvS/CE) www.raadvanstate.be

Appeals in cassation against decisions of the Council for Alien Law Litigation

Court of Cassation www.cass.be

Appeals in cassation against decisions of Labour Courts

Flemish Region

Flemish
Community

Brussels-Capital
Region

French
Community

Walloon Region

German-speaking
Community

FEDERATED ENTITIES LEVEL

The Regions and Communities are competent for inter alia:

- The legislation, implementation, control and issuing of work permits and professional cards
- Integration policies
- Foreign students
- Recognition of foreign diplomas



EXECUTIVE SUMMARY



Overarching asylum and migration developments

In 2022, an **increased inflow of applicants for international protection**, in conjunction with a reduced outflow, due to, among others, a longer duration of the asylum procedure, created **extreme pressure on the reception network** of the Federal Agency for the Reception of Asylum Seekers (Fedasil). Despite its efforts to upscale its reception capacity and reduce pressure on the network, Fedasil could no longer provide accommodation for all those entitled, leading to multiple convictions against the Belgian state and Fedasil, including by the European Court of Human Rights.

In February 2022, the Council of Ministers approved the concept note for a new **Migration Code** that should replace the current Immigration and Reception Acts.

On 28 June 2022, a **new Secretary of State for Asylum and Migration** was appointed. The conclusions of an external audit of the asylum and migration services to the Federal Parliament included the recommendation to merge the three asylum authorities – the Immigration Office, the Office of the Commissioner General for Refugees and Stateless Persons (CGRS), and Fedasil – into a single organisation capable to manage and monitor processes from start to finish.

In 2022, the **digitalisation strategy 'e-migration'** was translated into a comprehensive Enterprise Architecture, encompassing the Immigration Office, the CGRS, and the Council for Alien Law Litigation (CALL).



Responses to the influx of persons fleeing the war in Ukraine

In 2022, 63 356 persons fleeing Ukraine received a temporary protection status which entitled them to, inter alia, access to the labour market, housing and social and medical aid. Many Belgian stakeholders worked together to ensure the proper **implementation of the Temporary Protection Directive**.

A **registration centre** (1.1) was opened specifically for temporary protection registrations, and an online appointment system was used to avoid long wait times. The Belgian authorities recommend that, when possible, persons fleeing from Ukraine stay with family, friends or acquaintances in Belgium. For those without a place to stay, **housing assistance** (1.2) is provided in two phases: first, crisis reception coordinated by the regional and local authorities and, when required, emergency accommodation organised by

Fedasil and the Red Cross; and second, long-term accommodation organised by the Walloon Region, Flemish Region, the Brussels-Capital Region and the German-speaking Community. All regions also undertook initiatives to facilitate **access to the labour market** (1.3) for beneficiaries of temporary protection and provide detailed information in Ukrainian on all services available.

Beneficiaries of temporary protection have full access to Belgian public health insurance. In addition, beneficiaries without sufficient means of subsistence can receive **aid equivalent to the social integration allowance** (1.4), provided by the Public Centres for Social Welfare (PCSW). Various mechanisms were put in place or activated to ensure that minors fleeing Ukraine could benefit from the right to **education** (1.5), including additional financial support for schools, facilitation of remote schooling, and increased access to language courses. Measures related to the education of adults included adapted language classes and the extension of procedural benefits to beneficiaries of international protection.

Family reunification (1.6) with beneficiaries of temporary protection is regulated by several Articles of the Immigration Act. Following the first activation of the temporary protection mechanism by the Council Implementing Decision (EU) 2022/382 on 4 March 2022, the scope and application of these provisions was further explained to provide the best possible assistance to the family members concerned. This information was widely distributed and can be found on the website of the Federal Public Service (FPS) Interior, among others.

Finally, Fedasil provides assistance to Ukrainians and to third-country nationals with legal residence in Ukraine who decide to **go back** (1.7) to Ukraine.

Belgium faced a shortage of guardians for **unaccompanied children**. Nevertheless, the Guardianship Service of the Federal Public Service (FPS) Justice received extra funding to help with an increased influx, primarily caused by the arrival of unaccompanied minors from Ukraine.



Legal migration

At the federal level, an amendment to the Immigration Act was adopted to allow for a broader category of people to apply for a **single permit** (2.1) from the Belgian territory. The government partially transposed **Directive (EU) 2016/801** (2.2) on volunteers and trainees, to facilitate participation to European volunteer projects and give third-country nationals increased access to traineeships. The government also partially transposed Directive (EU) 2016/801 on researchers, making them legally eligible for a search



year. The transposition was very late: in 2018 the European Commission started an infringement procedure against Belgium for failure to implement this provision of the Directive.

At the regional level, the **Flemish Region changed its policy** (2.3) on middle-skilled bottleneck workers so that they can no longer be qualified as 'unskilled'. This affects the determination of their minimum wage and improves their work conditions. On 9 July 2021, the Flemish government approved a decree on professional activities performed in a self-employed capacity, which took effect on 1 January 2022. The new policy includes a simplified digital procedure to apply for a professional card.

In the field of **family reunification** (2.4), the main developments relate to recent case law of the Court of Justice of the European Union (CJEU). The Immigration Office's practice was adapted to the interpretation of the Court in C-279/20 regarding the reference point for determining minority in the application for family reunification of a minor with an adult beneficiary of international protection. The Council of State followed up on the notion of 'reasonable delay', clarifying that the application for family reunification must be made within one year of the date on which refugee status was granted to the parent sponsor. In answering a Preliminary Question from the CALL in the case C-230/21, the CJEU clarified that an unaccompanied refugee minor residing in an EU Member State does not have to be unmarried in order to acquire the status of sponsor for the purposes of family reunification with their first-degree relatives in the direct ascending line. Finally, the Immigration Office extended the basic validity of visa for family reunification from six months to one year.



International protection

In 2022, a total of 36 871 individuals **applied for international protection** in Belgium (3.1), but many applicants were not able to register immediately. Access to the procedure was severely hampered and judgments ordering the State to provide access were rendered.

In May 2022, the CGRS fully resumed processing decisions on international protection applications from **Afghanistan** (3.2) after a temporary and partial suspension of the notification of decisions in August 2021.

In August 2022, a new reception facility, operated by the Immigration Office with facility management support by Fedasil, opened to provide reception to applicants subject to a faster Dublin procedure. The on-site procedure should facilitate **Dublin transfers** (3.3) and shorten the process.

The entry into force of two Royal Decrees on 19 September 2022 allows the Immigration Office and the CGRS to conduct **remote interviews** (3.4).

In 2022, the **Belgian Resettlement Programme** (3.5) was put on hold due to a lack of reception places. Only 71 transfers were organised and no selection missions took place. Accordingly, the 2023 pledge was reduced from 1 400 to 500. To attract more reception partners and create more reception places for resettled refugees, resettlement funding was increased. Fedasil, assisted by Migration Policy Institute (MPI) Europe, is currently developing a monitoring and evaluation framework for the Resettlement programme as a whole, and for the Community Sponsorship Programme in particular.

The number of **unaccompanied minors** applying for international protection in Belgium continued to rise, impacting identification, age assessment, the appointment of guardians, and the availability of reception places.



Reception

The saturation of the reception network, which culminated in a reception crisis in September 2021, persisted in 2022. In response to the crisis, the Secretary of State for Asylum and Migration decided to split reception and registration into two separate locations. In parallel, Fedasil took several **measures to expand its capacity** (4.1) to provide accommodation, including the opening of new centres and the recruitment of additional staff. The European Commission allocated € 200 million to Belgium, and the European Union Agency for Asylum (EUAA) launched an Operational Plan to support the Belgian reception network.

Despite efforts, the shortage of reception places persisted and had important **legal and humanitarian consequences** (4.2). The Belgian State and Fedasil were convicted numerous times for their inability to provide reception, and human rights and civil society organisations consistently raised concerns about the situation of applicants for international protection left without reception.



Integration and inclusion

The **civic integration programme** (5.1) organised by the Flemish Community was amended to include compulsory registration with the public employment services and a 40-hour 'social networking and participation' trajectory to strengthen (labour market) integration. Changes were made to the target group (now excludes applicants for international protection), a statement of rights and obligations was introduced, a standardised test is now required to complete the social orientation course, and the trajectory will no longer



be free of charge (from 1 September 2023). In the Brussels-Capital Region, the French and Flemish civic integration programmes became mandatory, bringing it in line with the practice in the rest of the country.

In the framework of its integration policy, the Flemish Government launched the **Plan 'Living Together'** (5.2), which aims to support local governments to promote living together in diversity. Across the country, other initiatives were taken to foster opportunities for local communities to interact with migrants, in an effort to promote a more inclusive approach to migrant integration, as well as to fight racism and discrimination. The fight against racism was also emphasised at the federal level, with the approval of the contribution of the federal government to the Interfederal Action Plan against Racism.

Finally, amended regulations for **Flemish social protection** with new conditions regarding legal residence and civic integration obligations were introduced (5.3).



Citizenship and statelessness

In the Brussels-Capital Region, the civic integration programmes became accessible to all third-country nationals, regardless of the duration of their stay. This change has a significant impact on the acquisition of Belgian citizenship for third-country nationals who are not newcomers and who previously had to resort to other criteria (vocational training, continuous employment, etc.) to prove their **social integration** (6.1). This widening also harmonises the integration conditions with the Walloon and Flemish Regions.

The Belgian Nationality Code was amended to introduce a series of important changes relating to **stateless children** (Article 10). First, it is now legally established that recognition as a stateless person is not required to grant Belgian nationality to a child born in Belgium without nationality. Secondly, the amended Article 10 introduces the possibility for the civil registrar to seek advice from the Public Prosecutor in the event of doubt about the lack of nationality of a child. The non-binding advice provided by the Public Prosecutor is a derogation from the general advisory power of the newly established **'Central Citizenship Authority'** (6.2) within the Federal Public Service (FPS) Justice.

In 2022, the State Secretary for Asylum and Migration announced her intention of submitting a proposal to the federal government to create a specific **right of residence for stateless persons** (6.3).



Borders, Schengen and visas

Border management remained highly impacted by **COVID-19**, with border control measures in place (PCR-test, vaccination check, recovery certificates, etc.). By the end of May 2022, these measures had been gradually lifted.

In 2022, the Federal Police and the Immigration Office continued to prepare for the upcoming Entry/Exit System (EES), along with other developments related to **digital border management systems** (7.1) such as the Schengen Information System (SIS) and the European Travel Information and Authorisation System (ETIAS). Throughout the year, **several agreements and forms of cooperation with third countries were completed, signed, or entered into force**. These initiatives aim to strengthen operational capacity in combating irregular migration and controlling external borders.

In 2022, Belgium implemented measures in line with Decisions by the Council of the EU to limit **visa access** (7.2) to nationals from three third countries: the Russian Federation, Vanuatu, and The Gambia.

On 1 October 2022, the new **Schengen Evaluation and Monitoring Mechanism Regulation** (7.3) entered into force. Belgium set up a pool of national experts for each area concerned by the Schengen evaluation and monitoring activities.



Irregular migration including migrant smuggling

In 2022, several **dissuasion campaigns** (8.1) to discourage irregular migration and combat false rumours were initiated or continued, targeted at Albanians, Filipinos, Moldovans and Georgians.

In January 2022, 19 people were convicted in Belgium for their involvement in a human smuggling ring linked to the death of 39 Vietnamese migrants in a container in Essex. On 4 June 2022, the **operational guidelines for police services** (8.2) were updated with the aim to prosecute suspected smugglers caught in the act. This update was also spurred by the increasing number of vehicles that are intercepted carrying equipment to cross the English Channel from the coast of Northern France.



Trafficking in human beings

In February 2022, a **special Parliamentary Commission** (9.1) was set up to evaluate the legislation and policies on trafficking and smuggling. On 1 June 2022, the **Law on the reform of sexual criminal law** entered into force, containing provisions to fight human trafficking and smuggling. The



amendments clarify who can be considered a victim of trafficking in human beings and of (aggravated forms of) human smuggling. It explicitly requires authorities to refer all victims to specialised reception centres.

In order to improve the detection and identification of victims, a **reporting tool** (9.2) was created on the website of the Social Intelligence and Investigation Service (SIOD) to report situations involving labour exploitation, a number of training sessions were organised for public authorities to raise awareness on the issue and offer concrete tools to front-line workers confronted with potential cases and improve the **protection and assistance to victims** (9.3).

Social inspection services joined forces to focus on **social dumping and labour exploitation** (9.4) among posted third-country nationals, with targeted inspections organised monthly. A major case of labour exploitation in the construction sector was investigated in the second half of 2022 – the so-called Borealis case – involving a vast number of presumed victims of trafficking for the purpose of labour exploitation.

On 1 March 2022, the Flemish non-profit organisation Minor-Ndako opened a **new reception structure** called 'Meza', a small-scale facility targeting unaccompanied minor girls who are suspected victims of human trafficking (primarily sexual exploitation).



Informing and guiding irregularly staying migrants towards long-term solutions

In 2022, Fedasil initiated small-scale **Shelter and Orientation projects** (10.1) for homeless migrants who have been living in an irregular situation for a prolonged period.

Fedasil also adapted its services to (re)connect with irregularly staying third-country nationals (with or without a return decision) who are not residing in a reception facility. To expand its reach, Fedasil increased its investment in **'Reach Out' projects** (10.2).

In 2022, **Individual Case Management (ICAM) regional offices** (10.3) of the Immigration Office's 'Alternatives to Detention' Department were active in almost all Belgian provinces to support irregularly staying migrants towards a long-term solution, either a legal stay in Belgium or a return.



Return and readmission

In 2022, the number of **assisted voluntary returns** (11.1) increased markedly. Fedasil provided return assistance to 2 673 people willing to return to their country of origin. The number of migrants returning with reintegration support also increased significantly.

In 2022, an agreement was reached to build new detention facilities ('closed centres') for the organisation of **forced departure** (11.2).

In March 2022, the UN Committee on the Rights of the Child ordered the Belgian State to adequate compensation for failing to uphold the principle of best interests of the child in considering alternatives to the **detention of children**, a practice which the current government coalition has prohibited.



Migration and development

In early 2022, the Belgian Directorate-General for Development Cooperation and Humanitarian Aid (DGD) of the Federal Public Service (FPS) Foreign Affairs, Foreign Trade and Development Cooperation published a **new Strategic Note on migration as a lever for development** (12.1). The note provides a general framework and common thread on the theme of migration for various players in Belgian development cooperation and constitutes a basis for political dialogue with the governments of countries where Belgian development cooperation is active, alongside the EU, other donors and multilateral partners.

Two **new mobility projects** (12.2) were launched in 2022: Displaced Talent for Europe (DT4E, by International Organisation for Migration (IOM) Belgium and Luxembourg) and the Project for Entrepreneurial Mobility (PEM-CIV) by Enabel, the Belgian development agency. Both organisations also continued the implementation of two development projects that focus specifically on **diaspora engagement** (12.3).





OVERARCHING ASYLUM AND MIGRATION DEVELOPMENTS



Unprecedented number of persons in need of protection

In 2022, more than 100 000 people applied for protection in Belgium. 63 356 persons fleeing Ukraine received a temporary protection status, which entitled them to, inter alia, access the labour market, housing assistance, and social and medical aid (see 1.2 to 1.4). In addition, 36 871 persons applied for international protection (see 2.1). This is an increase compared to previous years, but is still about 7 000 less than in the peak year 2015. In 2022, the main countries of origin of applicants for international protection were Afghanistan, Syria, Palestine, Burundi and Eritrea.

Reception crisis

In the summer of 2021, Belgium started to experience a saturation of its reception network, leading the Federal Agency for the Reception of Asylum Seekers (Fedasil) to switch to 'crisis mode'⁽²⁾ in September 2021. The saturation of the reception network persisted in 2022 and access to the asylum procedure was not always guaranteed. For several weeks, not all persons presenting themselves at the Arrival Centre to register for international protection were able to do so on the same day due to the limited places available in the reception network or the limited registration capacity of the Immigration Office.

On 19 January 2022, the French-speaking Court of First Instance of Brussels issued a judgment ordering the Belgian state to implement measures to ensure access to the international protection procedure and ordered Fedasil to provide reception for each applicant for international protection, and numerous more convictions followed over the year.⁽³⁾

Several measures were implemented to increase the reception capacity, accelerate the outflow from the reception network, and improve the overall management of the crisis (see 4.1). However, due to a general increase in international protection applications, lengthy asylum procedures, and new arrivals following the invasion of Ukraine, pressure on the asylum and reception system continued to increase. Families, minors and vulnerable persons were prioritised for reception, leaving a large number of single men without accommodation. At times, Fedasil was even temporarily unable to accommodate families and unaccompanied minors due to the severe shortage of reception places (see 4.2).

² Fedasil, 'Review 2021', https://www.fedasil.be/sites/default/files/annual_report_2021.pdf, last accessed on 2 June 2023.

³ Tribunal de première instance francophone de Bruxelles, Ordonnance 2021/164/C, 19 January 2022, <https://www.tribunaux-rechtbanken.be/sites/default/files/media/artt/bruxelles/news/annexe-1-2022-01-19-tpifbxl-fedasil-etat-belge-droit-a-laccueil.pdf>, last accessed on 2 June 2023.

Between 1 September 2022 and 19 April 2023, the European Court of Human Rights (ECtHR) indicated 1 656 interim measures to the Belgian State to prevent applicants for international protection who saw their access to the asylum procedure and/or to reception denied to suffer irreparable harm.

Audit of asylum and migration services

On 7 May 2021, the former Secretary of State for Asylum and Migration initiated an external audit of the asylum and migration services: the Immigration Office, the Commissioner-General for Refugees and Stateless Persons (CGRS), Fedasil and the Council for Alien Law Litigation (CALL). This audit aimed to optimise the services' functionality, improve cooperation between them, and ultimately enhance the entire asylum, migration, and reception chain. On 4 October 2022, the newly-appointed Secretary of State (see Box 1) presented the audit's conclusions to the Parliament.

Furthermore, the Secretary of State announced her intention to merge the three asylum and migration authorities (Fedasil, the Immigration Office, and the CGRS) into a single and efficient organisation capable of managing and monitoring processes from start to finish. This recommendation was also made by the auditor to prevent delays in one authority from impacting processes in others. The Secretary of State plans to present an initial version of the merger project by 2024, which marks the end of her term.

Box 1: New Secretary of State for Asylum and Migration

On 28 June 2022, **Nicole de Moor** was appointed as the new Secretary of State for Asylum and Migration. Her predecessor, Sammy Mahdi, resigned to take up another position.

In the short term, the Secretary of State plans to constitute a working group with representatives of the three agencies. This group will draw on the audit's recommendations to improve cooperation through a 'chain approach', human resources policies, and the digitalisation of services. The audit suggests various approaches to facilitate the recruitment of new personnel and expedite digitalisation processes.



Towards a new Migration Code

In Belgium, the primary legislation governing migration and asylum is outlined in the Law of 15 December 1980 on access to the territory, residence, settlement, and removal of foreign nationals.⁽⁴⁾ Commonly known as the Immigration Act, this law has undergone multiple revisions since its adoption. However, experts argue that these numerous amendments have made the law excessively complex and difficult to comprehend. Consequently, the government wants to replace the Immigration Act with a new Migration Code.

In March 2021, an expert commission consisting of academics, government officials, lawyers, and practitioners started working on reforming the Belgian immigration legislation. On 4 February 2022, the Council of Ministers approved a concept note outlining the overall structure of the Migration Code.⁽⁵⁾ This note represents an initial step towards the adoption of a preliminary draft law that will establish the Migration Code. The draft will replace the Immigration Act, as well as the Law of 12 January 2007 on the reception of applicants for international protection and certain categories of foreign nationals (Reception Act).⁽⁶⁾ The concept note outlines the general structure and fundamental principles that will guide the development of the Migration Code.

E-migration: digitalisation of migration and asylum services

In 2020, the Immigration Office established a digitalisation service to implement its e-migration strategy. This strategy aims to create a comprehensive Enterprise Architecture that includes the Immigration Office, the CGRS, and the CALL as independent business environments operating on the same technical architecture. The main focus of this architecture is to integrate workflows and ensure the security of information.

In 2022, the priority shifted to the development of Smart Borders, which involved the creation of modules such as the Entry/Exit System (EES), the Visa Information System (VIS), and the Schengen Information System (SIS) (see also 7.1). Additionally, a digital front-office called 'Workinginbelgium.be' was developed to enable the complete digital processing of requests for single permits. Another digital front-office called 'Digital Address Notification' was implemented to allow migrants to notify their address of stay, along with the establishment of a database for guarantees.

4 Loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers / Wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, <https://www.ejustice.just.fgov.be/eli/loi/1980/12/15/1980121550/justel>, last accessed on 2 June 2023.

5 Available at: <https://news.belgium.be/fr/note-conceptuelle-pour-le-code-de-la-migration>.

6 Loi du 12 janvier 2007 sur l'accueil des demandeurs d'asile et de certaines autres catégories d'étrangers / Wet van 12 januari 2007 betreffende de opvang van asielzoekers en van bepaalde andere categorieën van vreemdelingen, http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2007011252&table_name=loi, last accessed on 2 June 2023.

Furthermore, the CGRS continued to advance its full electronic case management system, with the launch of the 'J-Box' application in March 2022. This application facilitates the digital submission of documents to the CALL and enables the CALL to send procedural documents to the relevant parties involved.





1

RESPONSES TO THE INFLUX OF PERSONS FLEEING THE WAR IN UKRAINE



Following the military invasion by Russian forces on 24 February 2022, the Council of the EU adopted Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine.⁽⁷⁾ With this decision, persons having fled from Ukraine could apply for temporary protection (see Glossary definition)⁽⁸⁾ in the framework of Council Directive 2001/55/EC of 20 July 2001,⁽⁹⁾ referred to as the Temporary Protection Directive. In Belgium, this Directive was transposed into the Immigration Act in 2003.

The Temporary Protection Directive lists the rights of beneficiaries of temporary protection, including:

- ◇ A residence permit for the entire duration of the protection (1.1);
- ◇ Access to services, such as accommodation (1.2), employment (1.3), education (1.4), social welfare and medical treatment (1.5);
- ◇ Opportunities for families to reunite in certain circumstances (1.6).

The Directive also contains provisions for beneficiaries to go back to their country of origin (1.7), as well as specific provisions for unaccompanied minors and for those having undergone particular traumatic experiences.

Temporary protection

A procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons and other persons requesting protection.

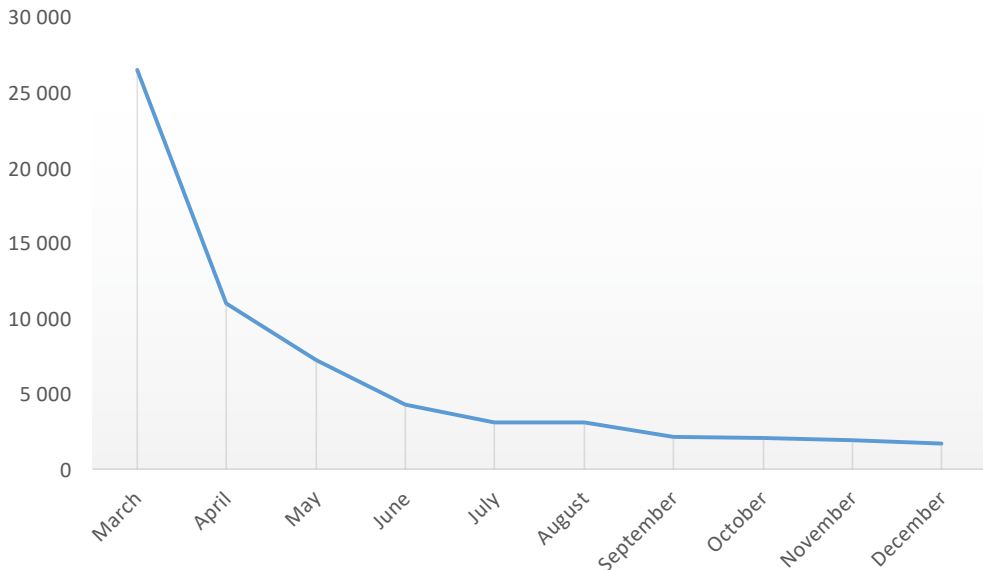
In 2022, **63 356 persons fleeing the war in Ukraine received a temporary protection status**. After reaching a peak in March and April (26 507 and 11 035 certificates issued, respectively), the trend levelled off to reach an average of 1 000 certificates issued by the end of the year (Figure 1).

7 Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, https://eur-lex.europa.eu/eli/dec_impl/2022/382/oj, last accessed 2 June 2023.

8 All definitions provided throughout the report are taken from the European Migration Network's Asylum and Migration Glossary, version 8.0, last updated in December 2021. The Glossary is available online at: https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary_en.

9 Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, <https://eur-lex.europa.eu/eli/dir/2001/55/oj>, last accessed 2 June 2023.

Figure 1: Number of temporary protection certificates issued in Belgium in 2022



In principle, persons fleeing the war in Ukraine retain the right to apply for international protection. Nonetheless, on the basis of Article 51/9 of the Immigration Act, and since 28 February 2022, the CGRS has suspended the processing of all applications for international protection from Ukrainian citizens for the duration of activation of the Temporary Protection Directive.⁽¹⁰⁾

1.1 REGISTRATION OF BENEFICIARIES OF TEMPORARY PROTECTION

On 4 March 2022, the federal government launched an information website 'info-ukraine.be' to **centralise all information** about access to temporary protection in Belgium. A call centre was also established in order to facilitate access to information.

¹⁰ Article 51/9 of the Immigration Act.



As of 4 March 2022, **the following categories of people could register for temporary protection** in Belgium:⁽¹¹⁾

Ukrainian nationals and their family members⁽¹²⁾:

- ◇ Who had their main residence in Ukraine before 24 February 2022;
- ◇ Ukrainian citizens who are, or have arrived, legally in Belgium and who, due to the situation in their country, stay longer than the authorised stay, are advised to go immediately to the municipal administration of their place of residence to declare their arrival and/or to request the authorisation to extend their stay in Belgium. In principle, once requested, they receive authorisation and they do not need to prove *force majeure*, nor the fact of having travel insurance;
- ◇ Ukrainian citizens who are legally residing in Belgium for a limited period of time and no longer meet the requirements for renewal of their residence card (card A) can obtain an extension of their authorised stay (end date of stay, plus 90 days), with a possibility of extension up to a maximum of 180 days;
- ◇ Ukrainian seasonal workers who have a work permit in the Flemish Region can apply for an extension of this work permit in combination with an extension of their short stay, even if they will stay and work as seasonal workers for more than 90 days (maximum duration of admission to work as a seasonal worker is 5 months);
- ◇ Irregularly-staying Ukrainians can also benefit from temporary protection if they meet the conditions. Decisions are taken on a case-by-case basis.

Stateless persons and third-country nationals, and their family members who enjoyed international protection or equivalent national protection in Ukraine before 24 February 2022 and who had their main residence in Ukraine before 24 February 2022.

Stateless persons and third-country nationals, and their family members who enjoyed a permanent right of residence in Ukraine before 24 February 2022 and who are unable to return in safe and durable conditions to their country or region of origin.

11 National implementation of the Temporary Protection Directive, as much as possible in conformity with the Communication from the Commission on Operational guidelines for the implementation of Council implementing Decision 2022/382 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, 2022/C 126 I/01, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:C:2022:126I:FULL&from=EN>, last accessed 2 June 2023.

12 Family members are defined as members of the family in so far as the family was already present and residing in Ukraine before 24 February 2022; spouse and unmarried partner with whom a durable relationship is maintained; unmarried minor children of the beneficiary of temporary protection or their partner; other close relatives who were living with the family at the time of the events leading to the mass influx of displaced persons and who, at that time, were wholly or mainly dependent on the beneficiary of temporary protection.

The **location of the registration centre for temporary protection** changed multiple times in response to the needs and influx of persons registering for temporary protection, as well as to uphold contractual obligations:

- ◇ From **4 March 2022**, persons were registered at the **Bordet Centre** (located Boulevard de Waterloo 121, 1000 Brussels).
- ◇ From **14 March 2022**, the registration centre was relocated to **Brussels Expo** (Palace 8 Heizel/Heysel). Those who had already found accommodation but were not yet registered were asked to delay their registration to prioritise others.
- ◇ From **21 March 2022**, individuals could schedule their registration appointment **online** in addition to registering in person without an invitation at the registration centre. A Belgian IP-address was required to make an online appointment and receive a QR-code, which could be used to check-in at the registration centre along with their identity documents. The Immigration Office provided a separate queue to avoid long wait times.
- ◇ As of **24 October 2022**, the registration centre for temporary protection has been relocated to **Eurostation** (Victor Horta Square 40, 1060 Brussels).



The **process to register and obtain residence in Belgium** is currently as follows:

REGISTRATION



- At the registration centre, the Immigration Office first registers the identity and biometric data of the individual.
- If an **unaccompanied minor** presents themselves, the Immigration Office notifies them to the Guardianship Service of the Federal Public Service Justice (see section on Minors).
- If the individual is a **third-country national** with a permanent residence permit in Ukraine, they undergo a brief interview where they are requested to provide substantial evidence supporting their inability to go back to their home country or region

INVESTIGATION



- If further investigation is necessary or additional documents need to be submitted, the Immigration Office issues a '**certificate of registration**'.
- If necessary, the individual concerned by further investigation is referred to the embassy to obtain the necessary documents. If further investigation is necessary, the Immigration Office will invite the holder of a certificate for an interview.

DECISION



- When an individual clearly meets the conditions for temporary protection, the Immigration Office immediately issues a '**certificate of temporary protection**'.
- If the individual does not meet the conditions, the Immigration Office issues a negative decision.
- In the event of a negative decision relating to a third-country national with a residence permit in Ukraine, the Immigration Office assesses whether an order to leave the territory should be issued.
- The decision to refuse temporary protection status may be the subject of a non-suspensive appeal to the CALL within 30 days of its notification.

RESIDENCE

- With the certificate of temporary protection or an email invitation from the municipality (see 'Investigation'), individuals can go to the local authorities of their place of residence where they receive a document ('Annex 15') that serves as temporary proof of their entitlement to stay (valid for 45 days). The Annex already mentions that the individual is entitled to unlimited access to the labour market.
- After local authorities have conducted a residence check, the beneficiary receives a **residence card ('A-card')** and is registered in the Aliens Registry.

Since 16 May 2022, every decision is, in principle, issued in person at the registration centre (either on the day itself, or within three working days). The provision of residence permits or other documents granting the right to reside to beneficiaries of temporary protection is outlined in a circular published on 9 March 2022,⁽¹³⁾ which was subsequently complemented by another circular.

As of 4 January 2023, beneficiaries of temporary protection may ask for a renewal of their temporary protection at the municipality. They will receive a new A-card valid until 4 March 2024. While the extension of the temporary protection status is automatic, the renewal of the A-card is not: individuals must always go to the municipality to request a new A-card.

1.2 ACCESS TO ACCOMMODATION AND HOUSING

The Belgian authorities recommend that individuals fleeing from Ukraine try to stay with family, friends, or acquaintances whenever possible. For those without a place to stay, housing assistance was provided in two phases: crisis reception, and long-term accommodation.

1. Crisis reception

In the first few months following the onset of the crisis, after registration **individuals were accommodated in emergency reception centres** organised by Fedasil. They were then directed to temporary crisis accommodation at the local level. The initial crisis accommodation mainly comprised host families and some collective initiatives by municipalities, responding to the federal government's call to provide assistance to individuals arriving from Ukraine using the hashtag *#plekvrij* / *#placelibre* (free space).

The National Crisis Centre, regional authorities, and municipalities worked together to coordinate crisis accommodation. Each municipality appointed a coordinator responsible for matching the demand and supply of available accommodation. Offers for accommodation were submitted to the municipal coordinators, who screened and selected them before forwarding them to the National Crisis Centre. This procedure was later replaced by a housing tool developed by the National Crisis Centre. Accommodation offers were inserted into the tool after being verified and validated by the municipal coordinator who checked them against specific housing regulations. In the tool, municipalities could access an overview of available crisis housing, while the National Crisis Centre could transmit these offers to Fedasil. Fedasil, in turn, assigned beneficiaries to suitable accommoda-

13 Circular III21/724/R302/22 sent out by the Federal Public Service Interior on 9 March 2022.



tion. Eventually, the National Housing tool was replaced by regional housing tools, as housing is a regional competence in Belgium.

Since the summer of 2022, the Immigration Office only refers vulnerable individuals to Fedasil for crisis accommodation. **Persons in need of accommodation and identified as being vulnerable are initially accommodated at the emergency transit reception centre called 'Ariane', which is operated by the Red Cross.** Other beneficiaries receive a letter stating that they need to find accommodation with acquaintances or register in a municipality of their choice. Fedasil then searches for long-term accommodation within one of the Regions, using a list of available places provided by the Regions and updated weekly.

2. Long-term accommodation

The second phase, long-term accommodation, falls under the responsibility of the three Regions (Brussels-Capital Region, Walloon Region, Flemish Region) and the German-speaking Community. Cities and municipalities also offer long-term accommodation. This type of accommodation is available for a minimum of three months and must offer an adequate quality of life, including guarantees of privacy and family life. Ideally, these accommodations are collective spaces to facilitate the efficient provision of services.

Brussels-Capital Region

In the Brussels-Capital Region, **a digital citizen portal, *bemyquest.brussels*, provides a secure space for potential host families to submit their accommodation offers.** Access to this data is limited to the Brussels municipalities, the Public Centre for Social Welfare (PCSW), and recognised organisations. Beneficiaries of temporary protection can enter into a short-term rental agreement with host families, with a compensation fee directly transferred to the host family by the PCSW. To inform and mobilise citizens of Brussels around this accommodation system, the Brussels-Capital Region launched a campaign titled 'A conflict is on their doorstep, what if we opened ours?'. The Region also set up a free helpline to address any questions related to accommodating beneficiaries of temporary protection.

Additionally, **the Brussels-Capital Region installed 75 prefabricated homes across various municipalities** to avoid creating too much population density in one place, and to facilitate the integration process. At each site, multiple not-for-profits provide support. This type of accommodation is intended as a temporary solution until long-term housing can be found.

Walloon Region

The Walloon Region also acted as focal point to refer beneficiaries of temporary protection to appointed municipal coordinators. Additionally, the Region created an **online platform called the 'Ukraine Solidarity Platform'**⁽¹⁴⁾ to facilitate accommodation search. Beneficiaries can browse available housing offered by citizens or submit their accommodation requests. Key documents are made available by the Region such as cohabitation charters between host families and beneficiaries, quality housing conditions checks, model agreements for precarious occupations, etc.

Since the summer of 2022, the Walloon Region has provided contractual accommodation, primarily in collective housing, to beneficiaries whose accommodation contracts on the private housing market expire and who present themselves at the municipality, without having to present themselves at the Immigration Office first. The available places are also communicated to Fedasil to allocate beneficiaries residing in the Ariane Centre. In December 2022, the Walloon Region launched the **IT-platform 'TempHoWal Hébergement Réfugiés'**⁽¹⁵⁾ to manage the coordination of this type of accommodation. Unlike the Ukraine Solidarity Platform, the TempHoWal Platform is exclusively reserved for administrative entities such as municipal coordinators and managers of the contractual accommodations.

Flemish Region

Like the other Regions, **the Flemish Region developed a digital housing tool specifically for beneficiaries of temporary protection.** Local authorities and other potential providers of long-term accommodation (minimum three months) can register their offers through this tool. Based on the available offers in the Flemish Housing tool, municipal coordinators allocate sustainable housing to beneficiaries. Registration in the Flemish Housing tool is a prerequisite for local government support measures for host families.

In contrast to the Brussels-Capital Region's multi-site approach, the Flemish Region built **two 'emergency villages'** to house beneficiaries of temporary protection, providing accommodation for up to 1 250 persons. A third emergency village, with a capacity of 600 persons, is to be finalised in 2023.

1.3 ACCESS TO THE LABOUR MARKET

The issuance of a residence permit (A-card) for beneficiaries of temporary protection comes hand in hand with unlimited access to the labour mar-

14 Walloon Region, 'Ukraine Solidarity Platform', https://lampspw.wallonie.be/dgo4/site_logement/site/ukraine.

15 Walloon Region, 'TempHoWal', <https://temphowal.spw.wallonie.be/>.



ket.⁽¹⁶⁾⁽¹⁷⁾ This access is already mentioned in the Annex 15 that is issued before the residence permit. Access to the labour market is a regional competence. Nevertheless, a **country-wide brochure was published by the FPS Justice** outlining how beneficiaries of temporary protection can access the labour market and listing relevant contact information of inspection services, trade unions, NGOs, and shelters for victims of human trafficking (available in French, Dutch, English and Ukrainian). At regional level, **several job days were organised by the public employment services of each region** to match beneficiaries with Belgian employers. Overall, regional authorities invested heavily in providing beneficiaries of temporary protection with the necessary information to access the labour market and took several initiatives to facilitate this access.

Since 20 August 2022, beneficiaries of temporary protection are exempt from the obligation to hold a professional card for the exercise of an independent professional activity.⁽¹⁸⁾

Flemish Region

In the Flemish Region, the integration of individuals fleeing from Ukraine (and other categories of third-country nationals) into the Flemish labour market is initially facilitated by municipalities, PCSW (*Openbaar centrum voor maatschappelijk welzijn (OCMW)*), and the Flemish Agency for Integration and Civic Integration (*Agentschap Integratie en Inburgering (AgII)*). These authorities conduct a pre-screening of the employability of third-country nationals when they receive their integration income or benefit from the services of the AgII. If there is potential for employment, individuals are referred to the Flemish Public Employment Service (*Vlaamse Dienst voor Arbeidsmiddelen en Beroepsopleiding (VDAB)*), who assesses their ability to find work. To streamline this process for beneficiaries of temporary protection amidst the high influx, **the VDAB improved its coordination with local authorities and invested in communication** through its website, flyers, and external platforms like 'Flanders helps Ukraine'. Its general information website regarding access to work for newcomers to Belgium was translated to Ukrainian.⁽¹⁹⁾ In parallel, beneficiaries can also take the initiative to contact the VDAB to look for work or talk to other private actors.

16 Article 10, 6° of the Royal Decree of 2 September 2018 executing the law of 9 May 2018 relating to the employment of foreign nationals in certain stay conditions (Arrêté royal du 2 septembre 2018 portant execution de la loi du 9 mai 2018 relative à l'occupation de ressortissants étrangers se trouvant dans une situation particulière de séjour / Koninklijk besluit houdende de uitvoering van de wet van 9 mei 2018 betreffende de tewerkstelling van buitenlandse onderdanen die zich in een specifieke verblijfssituatie bevinden, <http://www.ejustice.just.fgov.be/eli/bsluit/2018/09/02/2018203970/staatsblad>, last accessed 2 June 2023).

17 Initially, individuals who wanted to work in a self-employed capacity were required to apply for a professional card. This is no longer the case since 20 August 2022 (Article 1, 15° of the Royal Decree of 2 September 2018). Nevertheless, like any other self-employed individual, they still need to register themselves as self-employed at an accredited business counter.

18 Article 1, 15° of the Royal Decree of 2 September 2018, exempting certain categories of foreigners from the obligation to hold a professional card for the exercise of an independent professional activity.

19 VDAB, 'Werken als nieuwkomer', <https://www.vdab.be/werken-als-nieuwkomer>, last accessed 2 June 2023.

Brussels-Capital Region

The government of the Brussels-Capital Region undertook **several initiatives to support and integrate beneficiaries of temporary protection**, with a specific focus on employment. These initiatives include:

- ◇ Development of a comprehensive strategy that encompasses the integration of beneficiaries of temporary protection, including a dedicated section on employment;⁽²⁰⁾
- ◇ Appointment of a Ukraine regional coordinator to oversee and coordinate the integration efforts;
- ◇ Establishment of a high-level working group tasked with promoting the employment of 5 000 beneficiaries of temporary protection within one year, with special attention to the issue of non-discrimination on the labour market;⁽²¹⁾
- ◇ Launch of an information platform (helpukraine.brussels) that provides valuable resources and guidance, including dedicated webpages on employment and training, language courses, and childcare.

In April 2022, the Brussels Public Employment Service (Actiris) introduced an action plan specifically tailored to displaced persons from Ukraine. The plan includes **various actions related to information provision, registration, and guidance, with the aim of facilitating access to the labour market**. A specific registration procedure was set up to identify beneficiaries of temporary protection in the Actiris database. After registering, job seekers are invited to a collective information session on the labour market and services offered by Actiris. Interpreters and Ukrainian-speaking counsellors were present at these sessions to assist beneficiaries of temporary protection. For job seekers for whom it is already possible to apply for a job and to attend a job interview, specialised counsellors of the Active Job Search Service offer tailor-made support, with the assistance of social interpreters to support the writing of a CV, a cover letter, and preparing for a job interview.

With regards to languages, Actiris opened a dedicated service counter at its head office, with interpreters available to facilitate conversations with Actiris employees. Actiris obtained a waiver in the use of administrative languages in the Brussels-Capital Region in order to communicate in a so-called 'contact language' (Ukrainian, Russian, English, or other language). All municipal administrations in Brussels were instructed to inform displaced persons

20 Government of the Brussels-Capital Region, 'Stratégie d'intégration des ressortissants ukrainiens dans le tissu bruxellois / Strategie voor de integratie van de Oekraïners in het Brussels weefsel', <https://www.helpukraine.brussels/fr/news/strategie-pour-lintegration-des-refugies-ukrainiens-en-region-de-bruxelles-capitale>, last accessed 2 June 2023.

21 The majority (80%) of beneficiaries of temporary protection are women of working age, often single mothers with children.



from Ukraine upon their registration about the availability of these services. In May 2022, **Actiris added the Ukrainian language to the interface of its platform for online language courses (Brulingua)**, which offers free courses in 24 languages, including French, Dutch and English. Registration for language courses and the issuing of language vouchers was greatly facilitated for beneficiaries of temporary protection.

Like the VDAB, **Actiris launched specific communication tools to provide information** as quickly and widely as possible: a webpage 'Actiris for Ukraine', a leaflet on the registration and residence process (see 1.2), and a webpage for employers who wish to recruit newcomers, with the hashtag '#welcome' to identify relevant job offers. From April to December 2022, employers could benefit from a bonus (€ 800 per month for a maximum of six months) if they hired a beneficiary of temporary protection.

Walloon Region

At the request of organisations receiving displaced persons from Ukraine (municipalities, regional integration centres, accommodation centres, etc.), **the Public Employment Service of the Walloon Region (LeForem) organised collective information sessions to present the Walloon labour market, the registration procedure at LeForem, and the range of services offered**. Between March and December 2022, 24 collective information sessions were organised, reaching 553 people. After registration, they can benefit from support tailored to their profile (skills, training, experience, etc.), which is provided by so-called 'migrant advisors' who are specialised in assisting foreign nationals. Two Ukrainian interpreters were hired to facilitate communication with LeForem employees.

In terms of information provision, LeForem added a dedicated page in Ukrainian to its website for foreign nationals and adapted its website to increase the visibility of employers. Like in the Brussels-Capital Region, employers interested in hiring beneficiaries of temporary protection could add the hashtag '#DISPO' (French for 'available'). The Walloon equivalent of Brulingua ('Wallanguages') was also made available in Ukrainian to facilitate the learning of languages.

1.4 ACCESS TO EDUCATION

Belgium's three language-based communities are competent for most issues related to education. For children between two-and-a-half and five years old, education is not compulsory for strongly recommended. From five to eighteen years of age, every child is subject to compulsory education from the 60th day after registration as a resident at a Belgian municipality.

Beneficiaries of temporary protection fall under the same regime. Schools are not allowed to charge for school registration.

Flemish Community

In April, June, July and December 2022, the Flemish Parliament adopted emergency decrees⁽²²⁾ to support schools in taking in pupils who have fled Ukraine, by providing, amongst others:

- ◆ **Financial support for pre-primary education (younger than five years old) for foreign-language pupils.**
- ◆ **Financial support to accommodate pupils in primary and secondary schools.** Schools received additional teaching hours for teaching staff and extra operational budget. Regulations for scholarships in secondary schools were amended so that students with temporary protection can receive scholarships as early as academic year 2022-2023. These regulations are already applicable to recognised refugees.
- ◆ **Financial support and a simplified procedure to increase their capacity.** Schools received extra funds to rent existing buildings and modular units.
- ◆ **Additional 'counting moments' were organised** throughout the year to adapt the budget allocated to each school based on its capacity and the number of beneficiaries of temporary protection they welcomed.
- ◆ **Facilitated access to special education**, so that beneficiaries in need of special education but who cannot access the necessary medical analyses may be granted access based on a temporary analysis. Specialised primary education institutions also received extra paramedical, medical, social, psychological and ortho-pedagogic staff.
- ◆ **A simplified procedure to organise reception classes for foreign-language secondary students ('OKAN').** Reception education for non-native newcomers is set up for young people who have recently arrived in Belgium and give them the opportunity to learn Dutch as quickly as possible. Several measures were taken to facilitate the working of these classes, including simplifying the procedure to change the programme for OKAN-classes, and involving school coach-

22 Flemish Decrees of 22 April 2022, of 3 June 2022, of 15 July 2022, and of 23 December 2022, to take urgent measures in education in response to the Ukraine crisis (Vlaams decreet van 22 april 2022 (I), van 3 juni 2022 (II), van 15 juli 2022 (III) en van 23 december 2022 (IV) tot het nemen van dringende maatregelen in het onderwijs naar aanleiding van de Oekraïne-crisis, tot wijziging van het decreet van 8 juni 2007 betreffende de studiefinanciering van de Vlaamse Gemeenschap en tot wijziging van de Codex Hoger Onderwijs van 11 oktober 2013 voor leerlingen en studenten die ressorteren onder richtlijn 2001/55/EG van de Raad van 20 juli 2001 betreffende minimumnormen voor het verlenen van tijdelijke bescherming in geval van massale toestroom van ontheemden en maatregelen ter bevordering van een evenwicht tussen de inspanning van de lidstaten voor de opvang en het dragen van de consequenties van de opvang van deze personen), <http://www.ejustice.just.fgov.be/eli/decreet/2022/04/22/2022032104/staatsblad>, last accessed on 2 June 2023.



es in the trajectory of beneficiaries of temporary protection. Follow-up school coaches are responsible for the guidance, support and follow-up of non-Dutch-speaking newcomers who have made the transition from the 'reception' year to regular education. Given the teacher shortage and the influx, these coaches are now also deployed for the reception year.

- ◆ **Facilitated access to remote or home schooling.** The Flemish authorities advertised several digital platforms that allow remote schooling for beneficiaries of temporary protection and encouraged the completion of Ukrainian remote education. Contrary to other children, children fleeing can switch to home schooling at any point in the year. The Education Inspectorate does not check their home schooling. Local administrations that establish an emergency village (see 1.2) can receive a grant to support and facilitate home schooling for pre-schoolers and students of compulsory education until the end of the school year in which temporary protection expires. Local administrations must, in this context, promote the development of Dutch language skills.

- ◆ **Creation of a 'summer school' project** specifically for children fleeing Ukraine. Schools and local communities were encouraged to organise their own programmes in the summer of 2022.

Measures were also taken in the field of adult education and language learning. Adult beneficiaries of temporary protection have access to Dutch as a Second Language (*Nederlands als Tweede Taal (NT2)*) and other courses in the centres for adult education (*Centrum voor VolwassenenOnderwijs (CVO)*). Some centres developed a 'Welcome module NT2', which is a short module of 40 hours for persons fleeing the war in Ukraine in which they become acquainted with the Dutch language. Centres that provide such modules may be entitled to extra funding. The government has further allowed for more flexible use of funding (earmarked funding may be used for other projects or objectives than what it was initially earmarked for). Centres can flexibly adjust and expand their offer, such as by starting additional courses in the middle of the year, vary the intensity of the courses, combine in-person teaching with remote learning, etc. Individuals benefiting from temporary protection are exempt from registration fees in adult education, in the same way that applicants for international protection receiving material aid are. The exemption has retroactive effect, as of 4 March 2022 (i.e., reimbursement is possible in case a registration fee was initially paid). Finally, centres for the training of the self-employed and small and medium-sized enterprises, took measures to provide extra

hours of teaching and extra operating budget (if necessary, on the basis of the number of people following the education).

French Community

Mechanisms have been activated to help beneficiaries of temporary protection integrate into the French Community's schooling system and learn the language. These mechanisms were not specifically designed for the Ukraine crisis but are activated by school administrations when they receive newcomers, or pupils that can be assimilated to newcomers. In response to the Ukraine crisis, specific budget was earmarked to support the activation of these mechanisms.

Other measures to accommodate Ukrainian pupils and students include:

- ◆ **Support to primary and secondary schools and teachers:** schools receive pictograms developed by the European Union administration to facilitate exchanges between the pupil and the teacher. In addition, teachers received online tools to, for example, talk about the Ukraine crisis in the classroom, have books in Ukrainian at their disposal, etc.
- ◆ **In the field of special education,** more actors are allowed to determine the type of education that is appropriate for children with special needs.
- ◆ **Analysis to increase the resources** of the Psycho-Medical-Social Centres (*centres psycho-médicaux-sociaux*) that are associated with the schools and that play an accompanying role in supporting pupils. For that purpose, a webinar 'PMS Centres: How to better deal with the emotional dimension of the conflict in Ukraine and the arrival of refugees' was organised.
- ◆ **Waiver of French language requirement in the recruitment of Ukrainian teachers.**
- ◆ **In the field of higher education,** the temporary protection status was assimilated to the refugee status for urgent or unavoidable measures, such as for the payment of registration fees, the deadline for registration, financial measures, etc. With regards to the equivalence of Ukrainian higher education diplomas, in addition to a facilitated procedure (as is the case for refugees and beneficiaries of subsidiary protection), Ukrainian students have the possibility to follow courses in full-time higher education as 'free students' and can enrol more easily in the Social Promotion Education to follow the 'French as a Foreign Language' courses.



1.5 ACCESS TO MEDICAL CARE AND SOCIAL WELFARE

Beneficiaries of temporary protection, as 'entitled residents', have full access to public health insurance. They can prove their resident status with a registration certificate or a temporary protection certificate. Even if they are in the process of obtaining temporary protection or have not officially received it yet, they still have the right to urgent medical assistance. They can choose to join a health insurance fund of their preference. In the centre of Brussels, the Brussels Orientation Centre guided persons fleeing Ukraine through the Belgian health system, social rights, and access to medical assistance or mental health support (see Box 2). The centre was operational between May and December 2022.

Beneficiaries of temporary protection who do not have sufficient means of subsistence are entitled to receive aid equivalent to the social integration allowance through the Public Centres for Social Welfare (PCSW) (*Openbaar centrum voor maatschappelijk welzijn (OCMW) / Centre public d'action sociale (CPAS)*). The latter verify that beneficiaries meet all the conditions and determine their allowance category based on their living situation (single, cohabitant, with dependants, etc.). The social integration allowance grants automatic access to a social tariff for gas and electricity. Beneficiaries of temporary protection are also entitled to family allowances and can benefit from a one-off 'installation bonus' if they are homeless and find a home that serves as their main residence for the duration of the temporary protection.

Box 2: Specific actions in the field of mental health

In addition to the existing psychosocial infrastructure, beneficiaries of temporary protection can receive support through:

Solentra, an expert organisation in transcultural psychiatry which offers psychological care and support to young refugees, migrant children, and their families. They opened a free helpline service.

The **Centre for social well-being** (*Centrum Algemeen Welzijnswerk*) in the Flemish and Brussels-Capital Regions, which provides free psychological support for personal and psychological issues to displaced persons from Ukraine and their immediate social network. Support is available through in-person sessions or a free helpline.

The **Centres for Mental Health** (*Centra Geestelijke Gezondheidszorg*) subsidised by the Flemish government in each Flemish province and Brussels, which offers diagnostic and therapy services for displaced persons from Ukraine experiencing severe psychological symptoms.

1.6 FAMILY REUNIFICATION

Family reunification for beneficiaries of temporary protection is regulated by Articles 57/34 (for family members who are not beneficiaries themselves) and 57/35 (for family members who are beneficiaries in one or more other EU Member States) of the Immigration Act. Following the initial activation of the Temporary Protection Directive, the scope and application of these provisions were clarified to provide the best possible assistance to the family members concerned. This information has been widely distributed and can be found on the website of the Federal Public Service (FPS) Interior.

The **following categories of people are eligible for family reunification in Belgium:**

Members of the nuclear family of a third-country national authorised to reside in Belgium as a beneficiary of temporary protection, namely:

- ◇ Their spouse, or the partner with whom a partnership considered equivalent to marriage in Belgium has been concluded (partnership concluded in Germany, Denmark, Finland, Iceland, Norway, Sweden, and the United Kingdom);
- ◇ Their minor and unmarried children, including adopted children;
- ◇ The minor and unmarried children of their spouse or partner, including adopted children.

Members of the nuclear family can request family reunification even if the family bond was established after the beneficiary moved to Belgium. Additionally, members of the nuclear family can request family reunification even if they were not residing in Ukraine before 24 February 2022. They are authorised by law to reside in Belgium for more than 90 days (A-card) upon submitting a complete file with their residence application.

Other family members who lived with the beneficiary of temporary protection before 24 February 2022 and are dependent on the beneficiary. The Immigration Office has discretionary power to decide whether to grant authorisation to stay in Belgium for more than 90 days (A-card) based on the file submitted with the residence application.

Applicants for family reunification with beneficiaries of temporary protection are exempt from the administrative costs usually associated with a family reunification application and are not required to fulfil other material conditions.



The **required documents to support the application** vary depending on the category of family members. In general, an application must contain, at least, essential documents such as proof of identity and proof of family relationship. For family members who are not part of the nuclear family, proof of legal and effective residence in Ukraine before 24 February 2022 must be provided additionally. Family members whose application is accepted receive an A-card with a validity period identical to that of the beneficiary of temporary protection with whom they are reuniting. Family members who are abroad first receive a type D visa. They must present themselves to the municipal administration of their place of residence in Belgium within eight days of arriving on the territory and receive an A-card upon presenting their passport. In the case of a negative decision, applicants are informed by letter by the Immigration Office, or by the embassy in the case of a visa application. The decision must be justified both in fact and in law and may be appealed to the Council for Alien Law Litigation (CALL) within 30 days of notification.

1.7 GOING BACK TO UKRAINE

Fedasil provides assistance to Ukrainians and to third-country nationals with legal residence in Ukraine who wish to go back to Ukraine. Returning to Ukraine for a period of up to three months does not result in the loss of temporary protection status or the right of residence in Belgium. If beneficiaries of temporary protection leave Belgium for more than three months, they must notify their municipality of residence and ensure that their A-card is still valid upon re-entry in Belgium.

The procedure to go back to Ukraine is organised through bus transportation to various cities in Ukraine, including Kiev, Ivano-Frankivsk, Lviv, Ternopil, Zhytomyr, Mukachevo, Novohrad-Volynskyi, Uman, Rivne, Stryi, Uzhhorod, and Vinnytsia. Once an application is approved, Fedasil covers the cost of the bus trip between Belgium and Ukraine and provides financial support (€ 50 for adults, € 25 for children). For returnees with certain vulnerabilities, limited reintegration support may be provided locally in Ukraine (see section on Minors). For each application, **an individual assessment is made to determine whether this is possible and the type of support that can be provided.** This may include material and practical support provided by the local partner of Caritas International, for example to start a business, rent or renovate a home, and cover medical expenses.



Temporary protection of minors and other vulnerable groups (1)

In 2022, a total of 1 272 beneficiaries of temporary protection were unaccompanied minors. In order to ensure adequate protection of unaccompanied minors and other vulnerable groups, several measures were put in place:

◆ **When an unaccompanied minor presented themselves at the Immigration Office to register for temporary protection, the Guardianship Service of the FPS Justice was immediately notified.** The Guardianship Service determined if they were unaccompanied and if they had appropriate accommodation. Although their primary responsibility is to appoint a suitable guardian, the Service is currently facing a shortage of available guardians. Despite the significant protection offered by temporary protection measures, unaccompanied minors fleeing the war in Ukraine did not receive priority over other categories of unaccompanied minors. Third-country unaccompanied minors with vulnerabilities, regardless of their nationality, were given priority in the assignment of a guardian. In response to the influx of persons fleeing the war in Ukraine, the Guardianship Service received extra funding from IDP Ukraine and through the EU Asylum, Migration and Integration Fund (AMIF) to hire additional personnel (employee-guardians, interpreters, etc.).

◆ **Persons in need of accommodation and identified as being vulnerable could be accommodated at the emergency transit reception centre 'Ariane',** which is operated by the Red Cross. With regards to unaccompanied minors and separated children, several initiatives were taken by regional authorities to facilitate their integration into foster homes in Belgium. However, most unaccompanied minors fleeing the war in Ukraine stayed with their own family members, and could rely on the support of the PCSW to activate their social rights (financial support, family benefits, enrolment in schools, etc. (see 1.4 and 1.5).

◆ **With regards to the procedure to go back to Ukraine, local partners in Ukraine may offer limited reintegration support to individuals with specific vulnerabilities.** For persons requiring assistance during the journey, such as individuals with disabilities or unaccompanied minors, Fedasil assessed the necessity and feasibility of supervision. However, escorts were only possible up to the border and not into Ukraine.





Temporary protection of minors and other vulnerable groups (2)

Persons fleeing the war in Ukraine are exposed to the risk of human trafficking. To mitigate this risk, the Belgian government took the following measures:

- ◆ **Informing** individuals fleeing the war in Ukraine about the risk and about the help they could receive should they become victims of trafficking (info-ukraine.be);
- ◆ **Screening** applicants offering accommodation to persons fleeing the war in Ukraine (applicants must provide their criminal records) and monitoring quality standards (safety, health, equipment, privacy) of the accommodation offered;
- ◆ **Performing regular labour inspections** across the country, focusing on at-risk sectors and Ukrainian workers. A specific guidance note for labour inspectors was drawn up by the Social Intelligence and Investigation Service (SIOD);
- ◆ **Setting up a working group on human trafficking awareness** within the FPS Justice, to take initiatives to address the potential risks of trafficking and labour exploitation. In cooperation with the specialised centres for victims of trafficking in human beings, a brochure in English, Ukrainian and Russian was drafted to raise awareness about the risks of exploitation and, if necessary, refer individuals to organisations specialised in the reception, support and accommodation of victims (see also 9.3).





2

LEGAL MIGRATION



Economic migration can be understood as “migration done mainly for economic reasons or in order to seek material improvements to livelihood”.⁽²³⁾ This type of migration can essentially be broken down into two categories: persons who migrate for the purpose of employment, and persons who migrate for the purpose of pursuing higher education or research. Once an individual has been granted the right to stay on these grounds, they can introduce a request for family reunification, which can be understood as “migration by family members of a third-country national residing lawfully in an EU Member State”.⁽²⁴⁾

2.1 WORKING IN BELGIUM: THE SINGLE PERMIT

Since the sixth reform of the Belgian state, economic migration is a regional competence. The Flemish Region, Brussels-Capital Region, Walloon Region, and the German-speaking Community can each determine their own economic migration based on their labour market needs. Even though economic migration is regionalised, since 2021 requests for single permits are introduced via the single online platform ‘Working in Belgium’, and then transferred to the competent authorities: the regional authority gives the permission to work, while the Immigration Office gives the permission to enter the territory.

Single permit

A residence permit issued by the authorities of an EU Member State after a single application procedure allowing a third-country national to reside legally in its territory for the purpose of work.

Requests for single permits (see Glossary definition) can be introduced both from abroad and directly from the Belgian territory if the person introducing the request has a legal residence status. In 2022, **access to the single permit procedure from within the Belgian territory was extended to a larger category of people**. Previously, access to the single permit was only possible for people with legal short-term residence status or individuals whose stay was based on their status as a student or researcher. As of 30 December 2022, persons with a legal short-term residence permit or a long-term residence permit can apply for a single permit,⁽²⁵⁾ making it easier for persons to apply from the Belgian territory.

23 European Migration Network (EMN) Asylum and Migration Glossary, version 8.0.

24 European Migration Network (EMN) Asylum and Migration Glossary, version 8.0.

25 Amendment of Article 61/25-2 of the Immigration Act.

Nonetheless, a change of labour status is not always possible because some regional regulations only allow applications to be submitted from Belgium when the applicant is a long-term resident from another EU Member State who applies for a second residence in Belgium. In addition, some regulations only give access to applicants who can be exempted from a labour market test (see Glossary definition).

Labour market test

Mechanism that aims to ensure that migrant workers are only admitted after employers have unsuccessfully searched for national workers, EU citizens (in EU Member States this also means EEA workers) or legally residing third-country nationals with access to the labour market according to national legislation.

A labour market test is one of the means through which the competent region verifies whether the applicant for a work permit fits the needs of the national labour market.

In case of an application for a 'bottleneck profession', access to the single permit is simplified and the requirement of conducting an analysis of the labour market is lifted for certain categories of third-country nationals. **The list of professions that qualify as bottleneck were updated by the Walloon region and the German-speaking community:**

- ◇ In the [Walloon Region](#), the new list of bottleneck professions (valid from 1 October 2022 to 30 September 2023) contains **75** professions (33 more than the previous year);⁽²⁶⁾
- ◇ In the [German-speaking Community](#), the list of bottleneck professions was amended on 30 June 2022. The list contains **48** professions (6 more than the previous year).⁽²⁷⁾

26 Walloon Region, 'Occupation de travailleurs étrangers : liste de fonctions en pénurie 2022-2023', <https://emploi.wallonie.be/news/occupation-de-travailleurs-etrangeurs--liste-de-fonctions-en-penurie-20-2>, last accessed on 2 June 2023.

27 Government of the German-speaking Community, 'Arrêté ministériel fixant la liste des métiers en pénurie de main-d'œuvre qualifiée', <https://adg.be/fr/DownloadCount.aspx?raid=204402&docid=90999&rn=5ec14517-f720-45a1-9fd0-36c98d6acc41>, last accessed on 2 June 2023.



The Flemish and Brussels-Capital Regions did not update their bottleneck list in 2022:

- ◇ In the [Flemish Region](#), the new list of bottleneck professions was updated in 2021 and contains 22 professions;⁽²⁸⁾
- ◇ In the [Brussels-Capital Region](#), the new list of bottleneck professions was adopted in 2006 and only allows third-country nationals with a long-term residence permit, coming from another EU Member State, to benefit from labour market exemption.⁽²⁹⁾

In 2022, **the Flemish Region adapted its policy on bottleneck professions.**⁽³⁰⁾ The Flemish Economic Migration Service (*Dienst Werk en Sociale Economie*) now requires employers to classify middle-skilled bottleneck workers as 'skilled workers', which affects the determination of their minimum wage. Because they are no longer qualified as 'unskilled labour force', this category of employees can benefit from the wage conditions of the 'joint committee' (*paritair committee / commission paritaire*) applicable to their field of work.⁽³¹⁾ This policy change also applies when an employee renews their single permit: anyone who obtained a single permit in the past as a middle-skilled worker in a bottleneck profession, but who was not classified as a skilled worker according to the applicable joint committee at the time, will receive a wage increase with the renewal of their single permit. This reform improves the work conditions of middle-skilled migrant workers in bottleneck professions and allows the Flemish Region to become more attractive for foreign talent (see 2.3).

The single permit procedure is also simplified (in the form of an exemption from a labour market test) for certain categories of applicants⁽³²⁾ whose gross annual earnings exceed a certain minimum amount. This minimum wage benchmark is determined by each regional entity and adjusted annually. The table below (Table 1) shows the **new minimum wages for any application for a single permit or work permit** where employment starts on or after 1 January 2023.

28 VDAB, 'Knelpuntberoepenlijst', <https://www.vdab.be/trends/knelpuntberoepen>, last accessed on 2 June 2023.

29 Brussels-Capital Region, 'Lijst van de knelpuntberoepen', <https://economie-werk.brussels/vergunning-lijst-knelpuntberoepen>, last accessed on 2 June 2023.

30 Decision of the Flemish Government to implement the law of 30 April 1991 with regard to the employment of foreign employees (Besluit van de Vlaamse Regering houdende uitvoering van de wet van 30 april 1999 betreffende de tewerkstelling van buitenlandse werknemers), Articles 18 and 76.

31 In Belgium, the collective labour agreements concluded in each joint committee determine wage and working conditions in each field of work.

32 Note: other conditions may apply. In the category of 'highly skilled workers', individuals may be required to have obtained a certain diploma.

Table 1: Minimum gross annual wage (in €) per category of migrant worker

	Flemish Region ⁽³³⁾	Walloon Region ⁽³⁴⁾	Brussels-Capital Region ⁽³⁵⁾	German-speaking Community ⁽³⁶⁾
Highly-skilled workers	45 984 or 36 787,20 (for persons under 30 and nurses)	47 174 or 44 097 (for persons under 30 and nurses)	47 174	46 724
Executives	73 574	78 704	78 704	77 953
European Blue Card	55 181	60 998	60 998	60 999
Professional athletes	92 225 or 46 112,50 (for trainers without an employment contract for paid athletes)	92 225	88 320	88 320
Artists	38 629	39 353	39 353	38 977

2.2 DIRECTIVE (EU) 2016/801: STUDENTS, RESEARCHERS, VOLUNTEERS AND TRAINEESHIPS

In 2021, in a partial transposition of Directive (EU) 2016/801,⁽³⁷⁾ Belgium implemented the 12-month 'search year' permit for students who have graduated from a Belgian university. The aim of the search year is to allow third-country students to seek employment or to pursue self-employment after having completed their studies, with no restrictions regarding their employer, salary level or position. In 2022, a further **partial transposition of Directive (EU) 2016/801 extended access to the search year to researchers.**⁽³⁸⁾ This transposition came late, as Belgium was the

33 Flemish Region, 'Toelating tot arbeid – Lonen en toeslagen', <https://www.vlaanderen.be/toelating-tot-arbeid/toelating-tot-arbeid-lonen-en-toeslagen>, last accessed on 2 June 2023.

34 Walloon Region, 'Autorisations de travail et permis de travail B : seuils salariaux à respecter par les employeurs en 2023', <https://emploi.wallonie.be/home/news/page-content-inner/actualites/autorisations-de-travail-et-permis-de-travail-b--seuils-salariaux-a-respecter-par-les-employeurs-en-2023.html>, last accessed on 2 June 2023.

35 Brussels-Capital Region, 'Toelating tot arbeid', <https://economie-werk.brussels/gecombineerde-vergunning-arbeidskaart>, last accessed on 2 June 2023.

36 German-speaking Community, 'Kombinierte Erlaubnis für eine Beschäftigung von mehr als 90 Tagen', https://ostbelgienlive.be/desktopdefault.aspx/tabid-269/4602_read-55306/, last accessed on 12 June 2023.

37 Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing, <https://eur-lex.europa.eu/eli/dir/2016/801/oj>, last accessed on 2 June 2023.

38 Law of 21 August 2022 inserting new Articles 61/13/12 until 61/13/15 in the Immigration Act (Loi du 29 novembre 2022 modifiant la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers / Wet van 29 november 2022 tot wijziging van de wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, <http://www.ejustice.just.fgov.be/eli/wet/2022/11/29/2022034681/ Staatsblad>, last accessed on 2 June 2023).



last EU Member State to implement this specific provision (Article 25(1) of the Directive). In 2018, the European Commission had started an infringement procedure against Belgium for failure to fully transpose Directive (EU) 2016/801.

As of 1 January 2023, researchers who have completed their research are eligible for a search year, during which they have unlimited access to the labour market. This applies both to researchers who have completed their research at a recognised research institution in Belgium and researchers in another EU Member State who have made use of their intra-EU mobility and where Belgium is the second EU Member State. If, by the end of the search year, they find suitable employment or have become self-employed, they must apply for a change of status through the single permit or professional card procedure. As of 1 March 2023, the search year permit also gives family members of these researchers unlimited access to the Belgian labour market.

In 2022, amendments to the legal framework regarding students' right to stay,⁽³⁹⁾ adopted in 2021, were further implemented by ministerial decree.⁽⁴⁰⁾ This decree introduces **new standard documents for applying or renewing a student's residence permit**. In particular, three new mandatory forms were introduced:

- ◇ A higher education enrolment certificate: this new certificate must prove whether the stay is intended for a final enrolment or provisional admission, a preparatory year, an exchange year, or an enrolment for an admission test;
- ◇ An attestation of progress in studies (updated from the earlier 2018 version);
- ◇ A notification of mobility: third-country students who wish to pursue part of their studies in Belgium as a second country of study must apply for this through a Belgian educational institution.

Finally, **the minimum amount of means of subsistence necessary to apply for a student permit or a search year permit was indexed** from € 679 to € 730, in response to inflation.

39 Law of 11 July 2021 amending the Immigration Act for what regards students (Loi du 11 juillet 2021 modifiant la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers en ce qui concerne les étudiants / Wet van 11 juli 2021 tot wijziging van de wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, wat betreft de studenten, <https://www.ejustice.just.fgov.be/eli/wet/2021/07/11/2021031853/staatsblad>, last accessed on 2 June 2023).

40 Ministerial decree of 28 March 2022 on the establishment of standard forms, as mentioned in Articles 99, 103 and 104/3 of the Royal Decree of 8 October 1981 relating to the access, stay, establishment and removal of foreigners of the territory (Arrêté ministériel déterminant les formulaires standard visés aux articles 99, 103 et 104/3 de l'arrêté royal du 8 octobre 1981 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers / Ministerieel besluit tot vaststelling van de standaardformulieren zoals bedoeld in de artikelen 99, 103 en 104/3 van het koninklijk besluit betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, https://etaamb.openjustice.be/fr/arrete-ministeriel-du-28-mars-2022_n2022040721, last accessed on 2 June 2023).

In 2022, a **partial transposition⁽⁴¹⁾ of EU Directive 2016/801 created new rules for volunteers and trainees**, applicable as of 1 January 2023:

- ◇ Volunteers who work on European volunteer projects can obtain a single permit or a work permit. Before this amendment, there was no general system for volunteer related migration. In practice, applications were handled on the basis of the discretionary competence of the Immigration Office to grant a residence permit (Article 9 of the Immigration Act). Today, they have to apply for a single or work permit, but are exempted from the labour market test (see 2.2). These changes concern the situation of volunteer work at a Belgian-recognised not-for-profit volunteer project that is unpaid, except for a possible reimbursement of expenses and/or a living allowance.
- ◇ Trainees can obtain a single permit or a work permit even if the traineeship is conducted in the framework of a study programme, and are no longer subject to an age limit. Even though they must prove sufficient means of subsistence, the guaranteed average monthly minimum income no longer serves as a minimum limit. These changes do not apply to compulsory traineeships, follow-up degrees, or traineeships conducted at a Belgian administration or an international institution.

Finally, applications for single permits for volunteers and trainees must now be processed within 90 days from the declaration of admissibility from the competent region, as opposed to the period of 120 days that previously applied (see Box 3).⁽⁴²⁾

Box 3: Time limit to obtain a residence permit: from 120 days to 90 days

In 2021, the decision to shorten the time limit to process an application for residence permits for students from 120 days to 90 days had a **significant impact on the Immigration Office**, who struggled to deliver the permits in time. Since 2022, the same limit applies to the issuance of single permits for volunteers, trainees and to the decision on a residence permit for researchers who apply for a 'search year'.

In an Advice to the Belgian Parliament in February 2022, the Federal Ombudsman highlighted the challenges faced by the Immigration Office and gave the example of students who, in July 2022, had not yet received a renewal decision on their residence permit, which expired on 31 October 2021 (1). In the context of a parliamentary question, the State Secretary explained that the issuance and renewal of single permits were subject to delays, even though she assured that, even with the delays, the maximum time limits were respected.

41 Law of 21 August 2022 inserting new Articles 61/13/16 to 61/13/24 (trainees) and 61/13/25 until 61/13/32 (volunteers) to the Immigration Act (see reference above).

42 Reference in Box 3, (1): Federale Ombudsman, 'Aanbeveling Verlenging verblijfsvergunningen', 15 September 2022, <https://www.federaalombudsman.be/nl/aanbeveling-verlenging-verblijfsvergunningen>, last accessed on 2 June 2023.



She explained that this was caused by other big developments, which kept the Immigration Office's services busy and reassured that, by 2023, the service would drastically improve.

2.3 IMPLEMENTATION OF THE FLEMISH POST-COVID-19 ECONOMIC MIGRATION STRATEGY⁽⁴³⁾

On 9 July 2021, the Flemish government approved the Flemish Decree on professional activities performed in a self-employed capacity.⁽⁴⁴⁾ This regulatory framework took effect on 1 January 2022. The **new economic migration policy for foreign self-employed persons** is built on the following three pillars:

1. **Admission requirements tailored to the nature of the professional activities of self-employed individuals.** By introducing admission requirements, the Flemish Economic Migration Service can determine whether the project delivers innovative, economic, sporting, artistic or cultural added value to the region.
2. **A simplified and digital application procedure.** The application procedure is being digitised, which means that the enterprise counters (*ondernemingsloket / guichet d'entreprise agréé*) and the diplomatic posts no longer serve as intermediary for (paper) applications. As of 1 February 2022, third-country nationals can submit their applications for a professional card in digital form to the Flemish Economic Migration Service. The payment procedure and the issuing of the professional card is also fully digital.
3. **Increased focus on tackling misuse.** The professional card is granted for a maximum of three years (as opposed to the previous validity of five years), and is renewable. The professional card automatically loses its validity when the holder no longer has a legal residence status. When a professional card is refused or withdrawn, the applicant may not apply for a new authorisation for the same activity within one year. This may be waived by the Flemish Economic Migration Service if the applicant presents new, substantiated elements that are decisive to declare the application admissible.

This new policy falls in line with the strategy of streamlining and simplifying

43 For more information on the strategy, see: Vlaamse Adviesraad voor Innoveren & Ondernemen (VARIO), 'Economische migratie: een post-coronavisie', December 2021, <https://publicaties.vlaanderen.be/view-file/48849>, last accessed on 2 June 2023.

44 Flemish Decree of 15 October 2021 regarding the exercise of a self-employed profession by foreigners (Vlaams decreet van 15 oktober 2021 over de uitoefening van zelfstandige beroepsactiviteiten door buitenlandse onderdanen, <http://www.ejustice.just.fgov.be/eli/decreet/2021/10/15/2021033701/staatsblad>, last accessed on 2 June 2023).

procedures for foreign workers, while at the same time clarifying the requirements. Nonetheless, the policy change added an extra requirement for the 'classic' self-employed person, in case they are to be admitted on the basis of an economic added value: the new policy requires an applicant to have a start-up capital of € 18 600.

Finally, a **targeted information website** 'Talent for Flanders – Flanders for Talent'⁽⁴⁵⁾ was developed where individuals can easily find information on all aspects of living in Flanders (work, education, housing, etc.). The website is expected to launch in 2023 and constitutes an implementation of the third pillar of the new strategy (see Box 4).

Box 4: Attracting foreign talent to Flanders

On 29 October 2021, **the Flemish government approved a concept note outlining a new vision for its post-pandemic economic migration policy.** The objectives of this new vision are two-fold: (i) to tackle bottlenecks in the labour market, and (ii) to support Flemish innovation and economic policies.

These ambitions should be realised by means of an integrated strategic plan based on partnerships between local authorities, higher authorities, employers, and knowledge institutions. The plan itself consists of three links:

- 1. Access to Flanders**, which includes a rebranding of the region and an active detection of promising start-ups and scale-ups;
- 2. Flanders for Talent**, which aims to facilitate and tailor the process of accessing the labour market;
- 3. Talent for Flanders**, which aims to ensure a soft landing of workers once they arrive in the country.

2.4 FAMILY REUNIFICATION: JURISPRUDENCE AND OTHER PROCEDURAL CHANGES

Family members of persons who have a residence permit in Belgium can apply for family reunification. In 2022, **the period of validity for an initial long-stay visa (D-type visa) obtained on these grounds was extended from six months to twelve months.** Consequently, individuals whose application for family reunification has been accepted now have 12 months to reach Belgium and apply for a residence permit on the territory. After the initial 12-month period, the validity can be extended in exceptional cases if the visa holder is prevented from traveling to Belgium and if the conditions for family reunification are still met (thorough check).

⁴⁵ The website will be available at: Flemish Region, 'Your future in Flanders, let's make it work', <https://www.vlaanderen.be/en/nieuwsberichten/your-future-in-flanders-lets-make-it-work>, last accessed on 2 June 2023.



Under the previous system, the visa was only valid for an initial six-month period, after which it could be extended to another six months if the visa holder was prevented from traveling to Belgium during the initial period. After the initial six-month period, the Immigration Office performed a minimum check. Beyond one year (six-month initial visa plus six-month extension), it was possible to extend the period of validity of the visa if the visa holder was prevented from traveling and if the conditions for family reunification were still fulfilled. In this case, the Immigration Office performed a more thorough check. The maximum validity period for the second extension was one year.

In 2022, a number of important judgments and decisions were passed by judicial instances, which have important consequences on the right to family reunification in practice, especially relating to the family reunification of minors (see section on Minors).⁽⁴⁶⁾ The Council for Alien Law Litigation (CALL) declared that **the Immigration Office may not implicitly refuse an application for family reunification with a recognised refugee (Article 10 of the Immigration Act) by transforming it into an application for a humanitarian visa (Articles 9 and 13 of the Immigration Act)**.⁽⁴⁷⁾ Article 10 of the Immigration Act prescribes the procedure for family reunification with a recognised refugee. In comparison, the permission to stay under Articles 9 and 13 of the Immigration Act is less broad and subject to stricter conditions than the right of residence requested on the basis of family reunification. The CALL recalled that the Immigration Office must assess “all other valid evidence” of the family relationship, which is a condition for family reunification.⁽⁴⁸⁾ By implicitly refusing the family reunification application in favour of a humanitarian visa, thereby considering that the family relationship is not proven, the Council found that the Immigration Office violates the formal obligation to motivate refusal as well as Article 12bis of the Immigration Act.

Finally, in response to inflation, **the monthly allowance for persons who do not have sufficient means of subsistence (so-called ‘integration income’ (*leefloon / revenu d’intégration*)) was adjusted**. The increase in integration income affects the right to family reunification, as family reunification may depend on the condition of having ‘stable and sufficient resources’. In 2022, this amount rose to € 1 969 per month.

46 References in Section on Minors are: (1) CJEU, Case C-279/20, Judgment of the Court (Third Chamber) of 1 August 2022; (2) Council of State, nr. 255.380, 23 December 2022 (3) CJEU, Case C-230/31, Judgment of the Court (Third Chamber) of 17 November 2022.

47 CALL, decision n° 268.111, 11 February 2022.

48 Circular of 17 June 2009 relating to certain modifying provisions on matters of family reunification (Circulaire du 17 juin 2009 portant certaines précisions ainsi que des dispositions modificatives et abrogatoires en matière de regroupement familial / Omzendbrief van 17 juni 2009 houdende bepaalde verduidelijkingen en wijzigings- en opheffingsbepalingen inzake de gezinshereniging, https://etaamb.openjustice.be/nl/omzendbrief-van-17-juni-2009_n2009000435, last accessed on 2 June 2023.



Family reunification of minors

In 2022, the Court of Justice of the European Union (CJEU) passed two major rulings relating to the family reunification of minors:

- ◆ **The Court of Justice of the European Union (CJEU), in case C-279/20, ruled that the reference point for determining minority in the application for family reunification of a minor with an adult beneficiary of international protection is the moment when the beneficiary applies for international protection** (1). Before this case, applications were refused when minors who had become adults during the procedure applied for family reunification with their adult family members. In response, the Immigration Office adapted its practice but required applications to be submitted within the 'reasonable delay' mentioned by the Court (i.e., within three months of the date on which international protection was granted to the parent sponsor). Three months after the ruling by the CJEU, the Belgian Council of State (*Conseil d'Etat / Raad van State*) rendered judgment no. 255.380 on the notion of 'reasonable delay', clarifying that under Belgian legislation, the reasonable time limit to submit an application for family reunification is one year, and not three months (2).
- ◆ **The Court of Justice of the European Union (CJEU), in case C-230/21, answered a Preliminary Question from the Belgian Council for Alien Law Litigation on the right to family reunification of married unaccompanied minors** (3). More specifically, it found that Article 10(3)(a) of Council Directive 2003/86/EC on the right to family reunification, read in conjunction with Article 2(f) of the same Directive, must be interpreted to mean that an unaccompanied refugee minor residing in a Member State does not have to be unmarried in order to acquire the status of sponsor for the purposes of family reunification with his or her first-degree relatives in the direct ascending line. Previously, national practice in Belgium did not allow the reunification of married unaccompanied refugee minors with their parents. This case effectively changes this practice.





3

INTERNATIONAL PROTECTION



In Belgium, the process of applying for international protection involves three key governmental instances, each with different responsibilities and intervening at different stages of the process:

- ◇ The *Immigration Office*, which manages access to, removal from, and residence and settlement on the Belgian territory, is responsible for the **registration** of applications for international protection. It also decides on the application of the Dublin Regulation (3.3).
- ◇ Applications for international protection, subsequent applications and applications for international protection for which Belgium is responsible under the Dublin Regulation, are transferred to the *Office of the Commissioner General for Refugees and Stateless Persons (CGRS)* for **examination**. The CGRS is an independent federal administration exclusively responsible for the first-instance procedure in terms of examining and granting, refusing or withdrawing refugee and/or subsidiary protection (3.1).
- ◇ **Appeals against a decision** made by the Immigration Office and the CGRS are handled by the *Council for Alien Law Litigation (CALL)*, an administrative court.

3.1 KEY STATISTICS ON INTERNATIONAL PROTECTION⁽⁴⁹⁾

In 2022, access to the asylum procedure was not always guaranteed. For several weeks, not all persons presenting themselves at the Arrival Centre to register for international protection were able to do so on the same day due to the limited places available in the reception network or the limited registration capacity of the Immigration Office. In December 2022, following the implementation of several measures by the Belgian State, the Immigration Office was again able to register all applications on the first day.

The pressure on asylum and migration instances is reflected in the numbers: **in 2022, a total of 36 871 individuals applied for international protection in Belgium**, including 32 141 first-time applications, 4 652 subsequent applications (see Glossary definition), and 71 persons who arrived in Belgium through resettlement.⁽⁵⁰⁾ This number is significantly higher than the 25 971 applicants recorded in 2021. The proportion of first-time applications was also higher in 2022 (87.2% versus 75.4% in 2021), though for some countries such as Iran and Iraq, the percentage of subsequent applications remained high (38.1% and 45.1%, respectively).

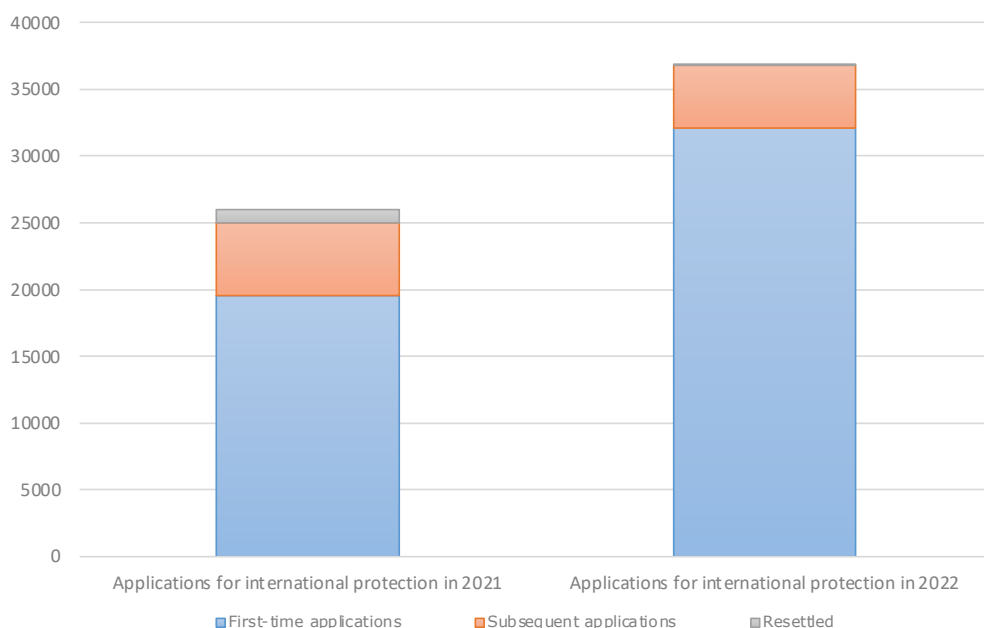
⁴⁹ All statistics are derived from the CGRS. More statistics are available on their website.

⁵⁰ To determine the number of arrivals, the CGRS and Fedasil use the date of transfer, whereas Eurostat uses the date of registration of the asylum application. According to the Eurostat definition, 78 transfers took place in 2022.

Subsequent application for international protection

A further application for international protection made after a final decision has been taken on a previous application, including cases where the applicant has explicitly withdrawn their application and cases where the determining authority has rejected an application following its implicit withdrawal in accordance with Art. 28 (1) of Directive 2013/32/EU (Recast Asylum Procedures directive)

Graph 1: Applications for international protection in 2021 and 2022



Other **key figures** on applications for international protection in 2022 include:

- ◇ 70.6% of applicants were men *versus* 29.4% of women. For certain countries such as Afghanistan, the proportion of male applicants is significantly higher (93.2%).
- ◇ The main countries of origin of applicants were Afghanistan, Burundi, Eritrea, Palestine, and Syria.
- ◇ 3 853 persons declared themselves unaccompanied minors at the time of their application for international protection, an increase of 12.3% compared to 2021. Following examination by the Guardianship Service,

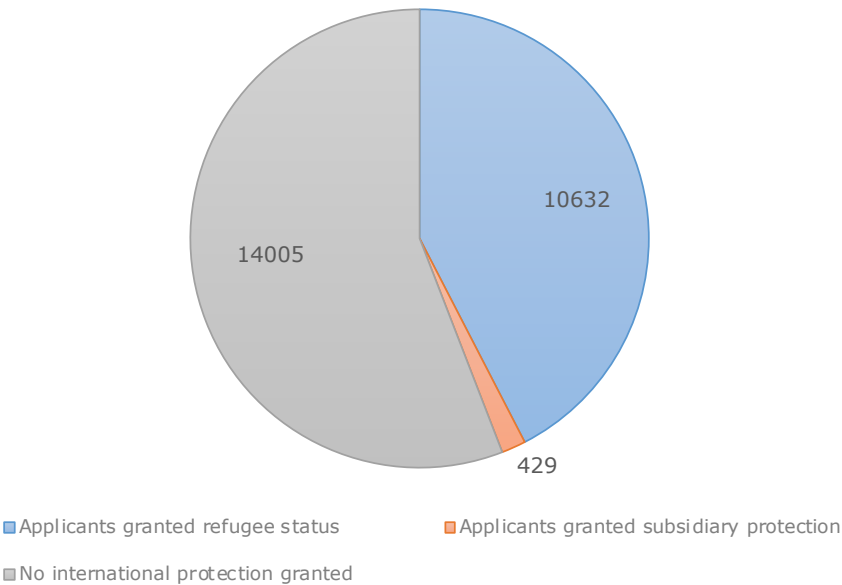


2 272 were effectively identified as unaccompanied minors.⁽⁵¹⁾

- ◇ Almost all applicants who declare themselves unaccompanied minors were boys (93.8%) and the vast majority were Afghan nationals (67.6%).

In 2022, **the CGRS took first-instance decisions for 25 066 persons, of which 11 061 were granted an international protection status:** 10 632 were granted refugee status and 429 persons received subsidiary protection status. Although the total number of decisions taken in 2022 was 10.8% higher than in 2021, the protection rate (43%) remained the same.

Graph 2: Applicants with first-instance decisions taken in 2022



Despite an increase in the number of decisions taken in 2022 compared to the previous years, **the CGRS still faces an important workload**, defined as the number of applications for which no decision has yet been taken. As of end January 2023, the workload amounted to 17 374 cases, concerning 20 379 individuals. This is more than three times the number of cases that could be considered ‘normal workload’ based on the current inflow of applications and the capacity of the staff. The backlog of applications at the CGRS, partly due to a high influx of applicants for international protection and the increasing impact of secondary movements, has been frequently

51 Note that age test data for 2022 are not complete, as some age assessments have not yet been performed or are still pending a decision by the Guardianship Service.



cited as one of the causes of the reception crisis in Belgium. Due to the lengthiness of the asylum procedure, applicants residing in the reception network while awaiting their applications to be processed occupy places for a longer period of time.

3.2 DEVELOPMENTS RELATED TO CERTAIN COUNTRIES

Following the Taliban takeover and the subsequent developments that unfolded in **Afghanistan** in the fall of 2021, the CGRS decided to temporarily and partially suspend the notification of decisions for applicants from Afghanistan. The rapid evolution of events meant that the country of origin information (see Glossary definition) and the processing policy note were no longer valid.

Country of origin information (COI)

Information used by the EU Member States authorities to analyse the socio-political situation in countries of origin of applicants for international protection (and, where necessary, in countries through which they have transited) in the assessment, carried out on an individual basis, of an application for international protection.

The partial suspension of the notification of decisions meant that interviews could still take place, decisions could still be taken, and decisions could be notified in case of (i) recognition of refugee status, or (ii) inadmissibility for applicants with protection status in another EU Member State. Assessments of the need for subsidiary protection and decisions on subsequent applications, on the other hand, were generally suspended. By the end of May 2022, once the country of origin information was updated, the CGRS fully resumed the processing of decisions on international protection applications from Afghanistan, and additional training was delivered to protection officers for an updated understanding of the situation (see 3.4).

On 14 January 2022, the new **list of safe countries of origin** (see Glossary definition) was adopted by Royal Decree.⁽⁵²⁾ It contains the same countries as under the previous Royal Decree, namely: Albania, Bosnia and Herzegovina, Georgia, India, Kosovo, Montenegro, the Republic of North Macedonia,

52 Royal Decree of 14 January 2022 implementing Article 57/6/1, § 3, fourth section, of the Immigration Act establishing the list of safe countries (Arrêté royal du 14 janvier 2022 portant exécution de l'article 57/6/1, §3, alinéa 4, de la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers, établissant la liste des pays d'origine sûrs / Koninklijk besluit van 14 januari 2022 tot uitvoering van het artikel 57/6/1, §3, vierde lid, van de wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, houdende de vastlegging van de lijst van veilige landen van herkomst, <http://www.ejustice.just.fgov.be/eli/besluit/2022/01/14/2022020096/staatsblad>, last accessed on 2 June 2023.



and Serbia. The list is updated annually, but can be renewed faster if the situation in the country changes. Applications from individuals with the nationality of countries considered safe can be the subject of an accelerated procedure.

Safe country of origin

A country where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Art. 9 of the Directive 2011/95/EU (Recast Qualification Directive), no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict.

3.3 OPENING OF A NEW FACILITY FOR THE DUBLIN PROCEDURE

On 24 August 2022, **a new facility named the 'Dublin centre' opened to provide reception for applicants subject to an accelerated procedure under the Dublin Regulation** (see Glossary definition).

The centre is operated by the Immigration Office, which is responsible for all procedural aspects such as intake, follow-up of the Dublin procedure, individual case management, coaching, etc. The Federal Agency for the Reception of Asylum Seekers (Fedasil) offers operational support for the day-to-day administration of the centre. The centre is located in Zaventem and can accommodate families, single men, and women, with a capacity of 224 beds.

When an application for international protection is registered, the Immigration Office assesses whether the person is subject to a Dublin examination. An interview is scheduled in general within three working days after the application is submitted and takes place either in the registration centre (where the application for international protection was submitted) or in the Dublin centre. The applicant may be assigned to the Dublin centre. Upon arrival at the Dublin centre, the individual subject to a Dublin procedure receives coaching towards voluntary return to the responsible EU Member State. Individuals for whom a transfer to the responsible EU Member State cannot be executed are not allocated to the Dublin centre.

Dublin Regulation

The Dublin Regulation, which entered into force on 1 January 2014, lays down the criteria and mechanisms for determining the (EU) Member State responsible for examining an application for international protection lodged in one of the (EU) Member States by a third-country national or stateless person.

Note: A 'Dublin transfer' refers to the transfer of responsibility for the examination of the merits of an application for international protection from one (EU) Member State to another (EU) Member State.

The opening of the new Dublin centre does not have any consequences on the actual procedure, which remains the same as before. Instead, it pursues two main objectives: (i) to facilitate Dublin transfers by keeping the procedure as short as possible; and (ii) to reduce pressure on reception facilities by addressing the outflow.

3.4 PROCEDURAL DEVELOPMENTS WITHIN INTERNATIONAL PROTECTION ADMINISTRATIONS

One key development in the processing of international protection applications is the resumed practice of **conducting remote interviews**.

From 2017 to 2020, the CGRS already conducted remote interviews with applicants for international protection residing in closed centres. In 2020, following an application for suspension as a matter of extreme urgency filed by various associations, the Council of State ordered the suspension of this practice.⁽⁵³⁾ It argued that the CGRS was not competent to change the conditions in which interviews take place, as these could only be amended by law. On 19 September 2022, amendments to the Royal Decrees determining the functioning of the CGRS and the Immigration Office⁽⁵⁴⁾ entered into force, explicitly providing the possibility for these instances to organise interviews

⁵³ Council of State, n°249.163, 7 December 2020.

⁵⁴ Royal Decree of 26 November 2021 amending Royal Decree of 11 July 2003 determining the procedure and functioning of the CGRS, and Royal Decree of 26 November 2021 amending Royal Decree of 11 July 2003 determining certain elements of the procedure to be followed by the Immigration Office charged with the examination of asylum applications on the basis of the Immigration Act (Arrêté royal du 26 novembre 2021 modifiant l'arrêté royal du 11 juillet 2003 fixant la procédure devant le commissariat général aux réfugiés et aux apatrides ainsi que son fonctionnement et Arrêté royal du 26 novembre 2021 modifiant l'arrêté royal du 11 juillet 2003 fixant certains éléments de la procédure à suivre par le service de l'Office des étrangers chargé de l'examen des demandes d'asile sur la base de la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers / Koninklijk besluit van 26 november 2021 tot wijziging van het koninklijk besluit van 11 juli 2003 tot regeling van de werking van en rechtspleging voor het commissariat-generaal voor de vluchtelingen en de staatlozen en Koninklijk besluit van 26 november 2021 tot wijziging van het koninklijk besluit van 11 juli 2003 houdende vaststelling van bepaalde elementen van de procedure die dienen gevolgd te worden door de dienst van de Dienst Vreemdelingenzaken die belast is met het onderzoek van de asielaanvragen op basis van de wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, <http://www.ejustice.just.fgov.be/eli/bsluit/2021/11/26/2021034164/staatsblad> and <http://www.ejustice.just.fgov.be/eli/bsluit/2021/11/26/2021034165/staatsblad>, last accessed on 2 June 2023).



remotely. As a result, the CGRS resumed this practice with applicants residing in closed centres.

In a remote interview, the interviewer or the interpreter is located in a different room from the applicant, and communication is facilitated through tools that enable real-time conversation. To ensure impartiality, the interpreter is always in a separate room from the applicant. Recording the interview through audio, visual or audio-visual means is prohibited. In cases where the applicant for international protection is a minor, the possibility for the minor's guardian to also attend remotely was suspended by the Council of State on 3 October 2022 (see section on Minors).⁽⁵⁵⁾

As part of a wider digitalisation effort across Belgian immigration and asylum instances (see Overarching asylum and migration developments), the development of the '**Electronic file**' continued its deployment in 2022. This multi-year project aims to convert all paper files into a fully digital case management system by 2024. The launch of the new application is scheduled to start in 2023. In the same vein, the CALL undertook a similar digital reform, with the **launch of the J-BOX application** on 1 March 2022. This platform allows users to introduce appeal petitions and other procedural documents digitally, instead of the previous system, which only allowed documents to be submitted by registered letter. The CALL can also make use of this platform to notify parties of the issuance of procedural documents, such as invitations for hearings, judgments, etc.

Finally, the CGRS also provided its staff with additional training and resources, namely:

- ◆ **Deontology training for interpreters**, as part of a wider strategy of recruitment and evaluation of interpreter staff;
- ◆ **Recruitment of 92 additional protection officers and 26 administrative staff members**, to address the issue of backlog (see 3.1);
- ◆ **Specific training on Afghanistan** for over 160 protection officers, following the rapid evolution of events and the need to have an updated understanding of the situation;
- ◆ **Conduct of six fact-finding missions** by the country of origin information research unit (Cedoca) to Georgia, Guinea, Israel/Gaza, Ivory Coast (joint project with Switzerland), Turkey, and Sudan (joint project with Norway);
- ◆ **Creation of a working group on statistical data** within the Cedoca unit to better understand the methodology behind data and the use of visualisation of statistical data in reports;

55 Council of State, n°254.655 and n°254.656, 3 October 2022.

- ◆ **Recruitment of 8 social media specialists** to strengthen the Cedoca team.

On 9 December 2022, the Council of Ministers approved an additional budget to recruit, train and deploy additional staff members in 2023.⁽⁵⁶⁾

3.5 INTERNATIONAL PROTECTION THROUGH RESETTLEMENT AND HUMANITARIAN CORRIDORS

As shown in the statistics on applications for international protection (3.1), a very small proportion of applicants for international protection arrived in Belgium as part of a resettlement procedure (see Glossary definition). Resettlement is a programme run by the UNHCR which involves selecting and transferring refugees from a State where they have sought protection to another State (in this case, Belgium) which agrees to receive them as refugees.

Resettlement or relocation?

In the EU context, *resettlement* refers to the transfer, on a request from the UNHCR and based on their need for international protection, of a third-country national or stateless person, from a third-country to an EU Member State, where they are permitted to reside with one of the following statuses:

- (i) refugee status within the meaning of Art. 2(d) of Directive 2011/95/EU (Recast Qualification Directive)
- (ii) a status which offers the same rights and benefits under national and EU law as refugee status.

In the EU context, relocation refers to the transfer of persons having a status defined by the Geneva Refugee Convention and Protocol or subsidiary protection within the meaning of Directive 2011/95/EU (Recast Qualification Directive) from the EU Member State which granted them international protection to another EU Member State where they will be granted similar protection, and of persons having applied for international protection from the EU Member State which is responsible for examining their application to another EU Member State where their applications for international protection will be examined.

⁵⁶ Belgium.be, 'Decisions of the Council of Ministers of 9 December 2022', 9 December 2022, https://www.belgium.be/en/news/2022/decisions_council_ministers_9_december_2022, last accessed on 13 June 2023.



In 2022, **the resettlement programme in Belgium was suspended** due to the ongoing reception crisis and the high influx of ‘regular’ applicants for international protection. Fedasil, which is responsible for operating the programme in Belgium⁽⁵⁷⁾, faced a shortage of reception places, which led to delays in transferring selected refugees to Belgium. As a result, only 71 transfers could be organised, all of whom were refugees who had been selected in 2021. Due to the uncertainty of transfers, Belgium decided not to conduct further selection missions in 2022. The accommodation shortage not only affected the resettlement of refugees but also the commitment made by Belgium under the European Resettlement programme for 2023. Due to the challenges faced in 2022, the original commitment of resettling 1 400 individuals in 2023 was brought down to 500.

In order to facilitate the integration of resettled refugees into Belgian society, Fedasil, in collaboration with civil society organisations, runs **‘Community sponsorship’** programmes. Following a matching procedure, some refugees selected for resettlement in Belgium are sponsored by a community, and therefore do not follow the standard reception path designed for resettled refugees. In 2022, 26 refugees resettled from Lebanon, Jordan and Egypt, were hosted through this programme. Fedasil, assisted by the Migration Policy Institute (MPI Europe), is currently developing a Monitoring and Evaluation framework for the resettlement programme as a whole and the Community sponsorship programme in particular. Thanks to an increase in funding allocated to the resettlement programme in 2022, Fedasil planned to launch an awareness campaign in 2023 for local authorities and civil society organisations to attract more partners and create more reception places for resettled refugees.

Finally, parallel to resettlement programmes, **Belgium welcomed applicants for international protection through a humanitarian corridor implemented and financed by the Community of Sant’Egidio**. The humanitarian corridors project aims to assist vulnerable refugees from crisis regions in the Middle East, Africa, and Asia by providing them with international protection in Belgium. The project prioritises refugees who are at risk due to factors such as gender, age, illness, and family status. Additionally, refugees who belong to a threatened minority and have potential ties to Belgium are also considered for the programme. Beneficiaries receive a humanitarian visa and are required to apply for international protection upon arrival in Belgium. Religious communities are responsible for organising their reception, accommodation, and support. In a Memorandum of Understanding signed between the Secretary of State for Asylum and Migration and the

57 The CGRS is responsible for the selection of refugees.

Community of Sant'Egidio, the parties agreed on a total of 250 individuals to benefit from this humanitarian corridor in the period 2022-2024. Due to the crisis in Ukraine, the programme was delayed, and the first submissions (Syrians residing in Lebanon) were made in May 2022. The first 16 individuals arrived in November 2022.



International protection of minors

In 2022, **3 853 persons** declared themselves unaccompanied minors at the time of their application for international protection, but following age assessments by the Guardianship Service (which have not yet all been conducted), 2 272 individuals were effectively identified as unaccompanied minors. Almost all applicants who declared themselves unaccompanied minors were Afghan boys.

Minors, both accompanied and unaccompanied, are particularly vulnerable during the international protection procedure. In 2022, **the CGRS organised extra training** for 32 protection officers on interviewing minors.

The possibility to conduct remote interviews (see 3.4) also raises particular issues when the applicant is a minor. On 3 October 2022, the Council of State, in two judgments, ordered the suspension of respectively Article 7 of the Royal Decree of 9 September 2021 (Immigration Office) and Article 4,2° of the Royal Decree of 9 September 2021, which stipulate that the minor's guardian can also attend the interview remotely, except if issues of confidentiality prevent it. The Council of State **suspends these provisions insofar as they prevent guardians from being guaranteed to assist their minors** at every – both from the Immigration Office and CGRS – remote interview. According to the Council of State, this is contrary to Article 9 of the Guardianship Act, which stipulates that a guardian must always be able to attend all stages of the international protection procedure of a minor.





4

RECEPTION



In Belgium, applicants for international protection are entitled to material reception conditions during the entire period of their asylum procedure.⁽⁵⁸⁾ Applicants for international protection are not obliged to stay in the reception structure allocated to them, although the majority of them do. The reception is organised in open reception facilities, managed by the Federal Agency for the Reception of Asylum Seekers (Fedasil) or one of its reception partners.

The saturation of the reception network, which culminated in a reception crisis in September 2021, persisted in 2022. An increased inflow of applicants for international protection, in conjunction with a reduced outflow, due to, among other things, lengthy international protection procedures, led to extreme pressure on Fedasil's reception network. In response, several measures were implemented both to increase the reception capacity and to improve the overall management of the crisis (4.1). Despite efforts, the shortage of reception places continued and had important legal and humanitarian consequences (4.2).

4.1 IMPLEMENTATION OF MEASURES TO RELIEVE THE PRESSURE ON THE RECEPTION NETWORK

Applications for international protection are usually registered directly at the Arrival Centre of Fedasil. In the summer of 2022, the situation at the centre became chaotic, with people camping in the streets to be first in line to register, and frustration grew among people trying to make their asylum application and the staff of the Arrival Centre who denounced the unsafe situation. In an attempt to control the situation and manage the crowds, **the Secretary of State for Asylum and Migration decided to split reception and registration.** From 29 August 2022, individuals needed to report directly to the Immigration Office (Pacheco building) in order to register their applications, after which those in need of accommodation had to present themselves at Fedasil's Arrival Centre. Another measure implemented by the Secretary of State was the extension of the three-day registration period to ten days.⁽⁵⁹⁾

At the request of Belgian authorities, **the European Union Agency for Asylum (EUAA) launched an Operational Plan** to support the reception network by providing containers, experts and interpreters, with the aim to increase reception capacity and improve reception quality. On 7 November

58 Reception is part of the international protection system and is interdependent with asylum determination. Any changes in the asylum procedures and qualification criteria will automatically reflect changes in the reception system.

59 Article 16/2 of the Immigration Act allows the extension of the registration period to ten days if simultaneous applications for international protection by a large number of third-country nationals or stateless persons make it difficult to respect the time limit.

2022, the **European Commission allocated € 200 million** to Belgium through the Asylum, Migration and Integration Fund (AMIF) to help Belgium to quickly find solutions to the shortage of reception places.

In parallel, Fedasil took **measures to rapidly expand its capacity to provide accommodation** for all rights holders:

- ◇ 14 new reception centres were opened, including 6 federal centres managed by Fedasil (Bredene, Brussels Bordet, Dilbeek, Jabbeke, Machelen, Molenbeek and Theux). Fedasil also took over the management of the reception centre in Spa, previously managed by a private operator. In parallel, Fedasil's temporary reception centres in Geel and Lombardsijde closed their doors because the locations had to be made available again for their regular purposes.
- ◇ In September, a call to local governments was launched to open additional Local Reception Initiatives (*Lokaal opvanginitiatief / Initiative locale d'accueil*). For the first time, the Council of Ministers created an annual impulse fund (€ 500 000 per year) to provide additional support to local authorities until 2024. However, the call was rather unsuccessful as local authorities were already under severe pressure themselves due to the energy crisis, the reception and accompaniment of beneficiaries of temporary protection fleeing the war in Ukraine, an increasingly acute staff shortage and the aftermath of the COVID-19 pandemic.
- ◇ In October, a tender for the private sector to open 3 500 additional reception places was issued, and the four sites already operated by private operators were extended until 15 March 2023.
- ◇ In December, two emergency reception centres were created to provide short-term accommodation, with limited services, pending a reception in the regular network. The centre in Glons (Liège), made available by the Ministry of Defence, provided 150 reception places in tents by the end of the year and will, over time, provide emergency reception to a maximum of 816 asylum-seekers. The centre in Jabbeke, owned by the Directorate-General Civil Security (*Algemene Directie Civiele Veiligheid / Direction générale Sécurité civile*), offered 50 reception places in barracks and tents and will be expanded to a maximum of 414 emergency reception places.
- ◇ 1 200 places of the homelessness network in Brussels were requested through a co-financing agreement between Fedasil and the Brussels-Capital Region for registered applicants for international protection who could not access the reception network. These so-called 'humanitarian places' were managed by humanitarian actors and Fed-



asil progressively reintegrated the applicants accommodated there in its own reception network depending on the availability of places.

- ◇ **516 additional reception places were made available for unaccompanied minors**, in response to an increased inflow notably from Afghanistan. By the end of 2022, a record 3 231 places were available for unaccompanied minors, which is almost double the capacity available in January 2020 (see section on Minors).⁽⁶⁰⁾

By the end of 2022, Fedasil had increased its network to include 33 499 reception places, an additional 4 053 places compared to the beginning of the year. Fedasil also **recruited an additional 804 new staff members**, bringing the total number of employees to 2 700. In addition, the Agency launched a call for the secondment of staff members from other government departments, the so-called 'Special Federal Forces'. By the end of 2022, approximately 50 officials had been seconded to Fedasil. Finally, to increase the outflow from the reception network, the government requested the CGRS to increase the number of decisions taken (see 3.4), and Fedasil issued an instruction to facilitate the freeing of places from the network (see Box 5).

Box 5: Lifting of 'code 207': aiming to increase the outflow from the reception network

On 10 November 2022, **Fedasil issued an instruction to lift the compulsory place of registration**, also known as 'code 207', on a mandatory as well as a voluntary basis, with the aim of increasing the outflow from the reception network:

Code 207 must be lifted when persons accommodated in the reception network meet two conditions: (i) a stable employment contract; and (ii) sufficient income.

Code 207 can be lifted on a voluntary basis for persons who meet four conditions: (i) at least 4 months of uninterrupted stay in the reception network; (ii) an ongoing application for international protection for which Belgium is responsible; (iii) be employed, have been working regularly for the past four months or can demonstrate concrete prospects of employment in the very short term and (iv) have a durable residence solution that allows them to leave the reception network within 30 days of the request.

60 Reference in Section on Minors (1): Royal Decree of 12 July 2022 granting an exceptional and temporary subsidy to associations with whom the Guardianship Service concluded agreements (Arrêté royal du 12 juillet 2022 portant attribution d'une subvention exceptionnelle et temporaire aux associations dont le Service des Tutelles a conclu un protocole d'accord en exécution de l'article 7bis et 13, § 3, de l'arrêté royal du 22 décembre 2003, modifié en dernier lieu par l'arrêté royal du 6 décembre 2018 / Koninklijk besluit houdende toekenning van een uitzonderlijke en tijdelijke subsidie aan de verenigingen waarmee de dienst Voogdij protocolakkoorden heeft afgesloten in uitvoering van de artikelen 7bis en 13, § 3, van het koninklijk besluit van 22 december 2003, en laatst gewijzigd bij besluit van 6 december 2018, <http://www.ejustice.just.fgov.be/eli/besluit/2022/07/12/2022015613/moniteur>, last accessed 2 June 2023).

4.2 LEGAL AND HUMANITARIAN CONSEQUENCES OF THE LACK OF RECEPTION CAPACITY

Despite efforts to reduce pressure on the reception network, it remained saturated and Fedasil could not provide reception to all those entitled. Priority was given to unaccompanied minors, families, and other vulnerable applicants, leaving a large number of single men without reception and on a waiting list pending place in Fedasil's reception network. For a short period of time in October, not even all families and unaccompanied minors received reception (see section on Minors). This led to a situation where many applicants without reception resorted to finding shelter in tents, squats, and through civic support initiatives. For instance, in November, hundreds of people occupied an empty government building, which became commonly known as the 'Palais des Droits' in Schaerbeek (Brussels), where they lived in deplorable conditions. The limited places in the reception network also had an impact on the access of applicants for international protection to social assistance (see Box 6).⁽⁶¹⁾

Box 6: Lifting of 'code 207' and access to social assistance

Applicants for international protection with a code 207 (compulsory place of registration) are not entitled to social assistance from the Public Centres for Social Welfare (PCSW) (Article 57ter of the PCSW Act) (1). In view of the reception crisis, on 28 September 2022, **the French-speaking Brussels Labour Court issued a judgment (2) that ordered Fedasil not to assign or to lift code 207 if Fedasil failed to provide reception to the applicant within 48 hours** (Article 11§3 of the Reception Act, which entitles applicants for international protection to social assistance from the PCSW). The Dutch-speaking Labour Court of Brussels made a similar ruling on 20 December 2022 (3).

In practice, Fedasil rarely lifted code 207 for asylum-seekers from the waiting registry, and PCSW were faced with applicants who presented a conviction against Fedasil and demanded a living wage equivalent to what they would receive had their code 207 been lifted. However, as PCSW were not involved in the proceedings in which Fedasil was convicted, the conviction did not apply to them. Furthermore, the waiting registry is an official source of information, and PCSW are expected to take its data into account. Applicants had no option but to appeal against the PCSW's refusal decision, after which the Labour Court ruled against the PCSW.

61 References in Box 6 are: (1) Loi organique du 8 juillet 1976 des centres publics d'action sociale / Organieke wet van 8 juli 1976 betreffende de openbare centra voor maatschappelijk welzijn, <https://www.ejustice.just.fgov.be/eli/wet/1976/07/08/1976070810/justel>, last accessed 13 June 2023 ; (2) Brussels Labour Court, 2022/KB/14, 28 September 2022; (3) Brussels Labour Court, 2022/KB/23, 20 December 2022.



In November, in order to prevent the waste of judicial and PCSW resources, the Federal Public Service for Social Integration, Fight against Poverty and Social Economy, in conjunction with Fedasil, decided to review the relevant files on a case-by-case basis. Provided there was no reason not to do so, Fedasil had to promptly lift code 207. Once this was done, the PCSW could grant an equivalent living wage if the other eligibility criteria were met.

In response, **human rights and civil society organisations consistently raised concerns about the dire humanitarian situation.** Throughout 2022, frequent reports, recommendations, petitions, and conferences were organised to denounce the ineffective reception policy. Below are a few examples:

- ◇ 'This is not an asylum crisis': roadmap published by *Ciré, Médecins du Monde/Dokters van de Wereld, Médecins sans Frontières, Samusocial and Vluchtelingenwerk Vlaanderen*. Signed by 50 other organisations, it contains short- and long-term solutions to the reception crisis.⁽⁶²⁾
- ◇ 'The reception crisis and the failure of the federal government': a joint note by the Federal Migration Centre (Myria), the Federal Institute for Human Rights, the Federal Onbudsman, the *Délégué général aux droits de l'enfant*, and the *Kinderrechtencommissariaat*, examining the findings, practice, case law and most recent figures. The institutions also formulated a number of short- and long-term recommendations.⁽⁶³⁾

The limited ability to provide reception and the resulting humanitarian situation led to a **high number of convictions of the Belgian state and its institutions.** In total, Fedasil was convicted more than 6 000 times in 2022 by Belgian courts for not being able to provide reception to first-time applicants and those needing to reintegrate the reception network:

- ◇ On 19 January 2022, **the Brussels Court of First Instance** condemned the Belgian state for the first time for its inability to provide, for an undetermined number of applicants, the possibility to present and introduce an application for international protection. The Court ordered the state to take all necessary measures under penalty of a fine of € 5 000 for each time that at least one person wishing to register an application for international protection was denied this right. The Court also condemned Fedasil for a violation of the right to life with dignity

62 Vluchtelingenwerk Vlaanderen, 'Dit is geen asielcrisis: oplossingen aan de overheid', 13 September 2022, <https://vluchtelingenwerk.be/nieuws/dit-is-geen-crisis>, last accessed on 13 April 2023.

63 Myria, 'Mensenrechteninstellingen trekken aan de alarmbel over de opvang crisis', 21 December 2022, <https://www.myria.be/nl/publicaties/mensenrechten-instellingen-trekken-aan-de-alarmbel-over-de-opvangcrisis>, last accessed on 13 April 2023.

and ordered the Agency to pay a lump sum of € 5 000 for each day at least one registered applicant for international protection was unable to access reception.⁽⁶⁴⁾ On 25 March 2022, the Court of First Instance increased the lump sum to € 10 000 per day and with a ceiling of three months.⁽⁶⁵⁾ Subsequently, the appeal decision of the Court of Appeal maintained the lump sum of € 10 000 per day, with no cap. On 28 November 2022, the Brussels Labour Court imposed on the Belgian state and Fedasil a penalty of € 250 per person per day of delay to provide reception.⁽⁶⁶⁾ Other Belgian courts have rendered similar rulings, condemning Fedasil and/or the Belgian state to provide access to reception and the international protection procedure, even though Fedasil was still not able to provide reception to everybody who registered their application for international protection.

- ◇ Between 1 September 2022 and 19 April 2023, the [European Court of Human Rights \(ECtHR\)](#) indicated 1 656 interim measures to the Belgian state, to prevent individual applicants of international protection who saw their access to the asylum procedure and/or to accommodation and material aid denied, to suffer from irreparable harm.⁽⁶⁷⁾

The Belgian government and asylum authorities took several measures but were not able to provide immediate reception to all applicants. On 9 January 2023, 2 923 people were still waiting for a reception place that had been ordered by a court. Since penalties were not paid, goods were seized from the head office of Fedasil and the Cabinet of the Secretary of State for Asylum and Migration in February 2023.

64 Tribunal de première instance francophone de Bruxelles, 2021/164/C, 19 January 2022.

65 Tribunal de première instance francophone de Bruxelles, 2022/13/C, 25 March 2022.

66 Tribunal du travail francophone de Bruxelles, 22/189/C, 28 November 2022.

67 On 21 April 2023, EMN Belgium received confirmation of this number directly from the Press Office of the European Court of Human Rights.





Reception of minors and other vulnerable groups (1)

Despite the measures taken by Fedasil (creation of an additional 516 places for unaccompanied minors, and decision to give priority to minors and other vulnerable applicants for international protection), minors and other vulnerable groups were greatly affected by the shortage of reception places and the measures taken to curb the reception crisis in 2022, notably:

First, the temporary relocation of registration for international protection from the main Fedasil Arrival Centre to the Pacheco Centre of the Immigration Office (see 4.1) meant that the Fedasil social team had **less time to screen the minors for vulnerabilities** before their transfer to a reception centre.

Second, **young applicants whose self-declared minority was questioned by the Immigration Office were deemed to be adults until their age tests could be conducted**, and were therefore denied reception as priority was given to minors.

Third, **unaccompanied minors faced considerable delays in the appointment of a guardian**, with waiting times ranging between four and seven months. In December 2022, 1 858 unaccompanied minors were waiting for a guardian. To tackle this, the Guardianship Service had to prioritise the appointment of a guardian to certain categories of unaccompanied minors, including those who were denied entry to the territory, those with additional vulnerabilities, such as serious medical or psychological problems, suspected victims of trafficking, exploitation or abuse, pregnant girls and teenage mothers. To gain time in the recruitment procedure for employee-guardians, an exceptional and temporary subsidy of € 593 600 was granted by Royal Decree (1). The subsidy was granted to the associations with a protocol agreement with the Guardianship Service, including the Flemish Red Cross, the Centre for General Welfare Work *Brabantia*, the *Service Social des Solidarités*, and the *Solidarités Etudiants du Monde*. By the end of 2022, the Guardianship Service recruited 95 new guardians following a call for volunteer and independent guardians. These guardians will complete a five-day basic training before taking up guardianship in early 2023.



Reception of minors and other vulnerable groups (2)

In 2022, there were also **many cases of unaccompanied minors disappearing from reception centres** in Belgium and Europe at large. To address this issue, the Guardianship Service worked with Child Focus to create guidelines and organise trainings for guardians on how to prevent and respond to disappearances. Trainings of this kind were held twice in 2022 and will now be held annually. The Guardianship Service also collaborated with Fedasil, the Immigration Office, the Public Prosecutor's Office, the Federal Police, and Child Focus to establish a working group called 'Disappearances of Unaccompanied Minors'. This working group developed a roadmap for front-line staff to distribute in 2023.





5

INTEGRATION AND INCLUSION



In Belgium, integration falls under the responsibility of the three language-based Communities: Flemish Community, French Community, and German-speaking Community:

- ◇ In the **Flemish Community**, integration is managed by the Agency for Integration and Civic Integration (*Agentschap Integratie en Inburgering (AgII)*), with contact points at some 70 locations across six regions in Flanders, and the reception office for newcomers (*Brussels onthaalbureau voor nieuwkomers (Bon)*), in cooperation with the Dutch Language House, in Brussels. In the cities of Antwerp and Ghent, the Agency Integration and Civic Integration Antwerp (Atlas) and the Agency Integration and Civic Integration Ghent (Amal) are responsible, respectively.
- ◇ In the **French Community**, integration is spread across eight Regional Integration Centres (*centres régionaux d'intégration (CRI)*) in the Walloon Region, and three integration offices (*bureaux d'accueil pour primo-arrivants*) in the Brussels-Capital Region.
- ◇ In the **German-speaking Community**, integration is managed by the Info-Integration service of the Belgian Red Cross.

In the EU context, integration is commonly understood as a dynamic, two-way process of mutual accommodation both by migrants themselves (5.1) and by the host society (5.2). Access to basic services is also an essential component of integration (5.3).

5.1 CIVIC INTEGRATION PROGRAMMES

In 2022, the most important developments with regard to integration policies and the implementation of civic integration programmes (see Glossary definition) took place in the Flemish Community and in the Brussels-Capital Region, where both the Flemish and the French Communities coexist.

Flemish civic integration policy

In March 2022, the **Flemish civic integration policy was redesigned**⁽⁶⁸⁾ with the goal of making it more decisive and effective, as outlined in the Flemish Coalition Agreement of 2019.⁽⁶⁹⁾ The changes aimed to promote economic self-reliance, encourage fast and active social participation, promote thorough Dutch language acquisition, and increase knowledge of Flemish values and society.

68 Amendment to the Decree of 7 June 2013 on Flemish integration and civic integration policy (Decreet van wijziging van het decreet van 7 juni 2013 betreffende het Vlaamse integratie- en inburgeringsbeleid, <http://www.ejustice.just.fgov.be/eli/decreet/2021/07/09/2021032190/staatsblad>, last accessed on 2 June 2023.

69 Flemish Government, 'Regeerakkoord van de Vlaamse Regering 2019-2024', 30 September 2019, p. 16, <https://www.vlaanderen.be/publicaties/regeerakkoord-van-de-vlaamse-regering-2019-2024>, last accessed on 13 June 2023.

Integration programme

Set of measures put in place by the State and/or civil society organisations to support the integration of legally residing migrants/third-country nationals into the host society.

The main changes introduced include:

- ◇ A compulsory registration with public employment services in the Flemish Region (VDAB) or Brussels-Capital Region (Actiris);
- ◇ The completion of the social orientation course with a standardised test;
- ◇ A strengthening of the language proficiency level: individuals who are not working or studying 24 months after obtaining their civic integration certificate are required to demonstrate their verbal (listening and speaking) command of the B1 Dutch language level.⁽⁷⁰⁾

Other modifications to the policy include a stricter demarcation of the target group, which excludes applicants for international protection and focuses only on persons with a permanent residence status. There is also increased emphasis on shared values and standards, with a provision on essential rights and duties added to the civic integration contract, and key values, norms and principles made explicit in the social orientation training. The civic integration programme (*inburgeringstraject*) became more flexible and tailor-made for each person, with self-study or a digital learning package being made available as options. The result commitment has also been tightened, with the obligation to achieve the objectives of each part of the pathway as a function of the integration certificate. The enforcement of the obligations has been extended through the sanctioning procedure, and fees have been introduced for the social orientation course and its compulsory standardized test, starting on 1 September 2023.

⁷⁰ For illiterates and low-literates, the current A2 language level continues to apply.



Box 7: Integration of beneficiaries of temporary protection

Across all three Communities, persons fleeing the war in Ukraine who received a **temporary protection status** (see 1.1) can but are not required to follow a civic integration programme. In the Flemish Community, a tailor-made preliminary course was developed by the AgII. This course is 18 hours in total and consists in online sessions that include information on their residence situation, family and upbringing, living in Flanders, and working in Flanders (in cooperation with the VDAB – see also 1.3).

Since 1 March 2022, the amended Decree on Flemish integration and civic integration policy also introduced a new document: the 'declaration of efforts to achieve an integration certificate' (*verklaring van geleverde inspanningen tot het behalen van een inburgeringsattest*). This document applies to third-country nationals who, due to limited learning capacities, cannot successfully complete the civic integration programme. This change has important consequences notably for the acquisition of Belgian citizenship (see 6.1).

Another important change regards the **introduction of a social networking and participation programme to the Flemish civic integration trajectory**. In addition to the first three pillars (Dutch lessons, social orientation, and strengthening of economic self-reliance), the new fourth pillar creates an additional tailor-made programme of 40 hours to strengthen participants' social network to enable them to better participate in society. The programme focuses on initiatives that lead to participation at a social level, and where there is a possibility of speaking Dutch and interacting with others. This can take the form of a buddy project, a work placement at a company, association, organisation or local government, voluntary work or an introduction pathway to culture, youth, or sports association. The programme is optional for persons working or studying. This new pillar will be activated from 1 January 2023.

The introduction of the fourth pillar also creates an **increased role for local governments in the civic integration programme**. Local governments will be required to facilitate access to initiatives at their level. The Association of Flemish Cities and Municipalities (*Vereniging van Vlaamse Steden en Gemeenten (VVSG)*) noted that achieving a high-quality fourth pillar offer tailored to the diverse group of persons integrating will require commitments from various social sectors, organisations and citizens, as well

as cooperation with other local authorities.⁽⁷¹⁾ To experiment with fourth pillar actions, 26 pilot projects were established in 55 cities and municipalities. These projects were funded through the EU Asylum, Migration and Integration Fund (AMIF) and ran from early 2021 until the end of 2022. The Research Institute for Work and Society (*Onderzoeksinstituut voor Arbeid en Samenleving (HIVA)*) of the KU Leuven was responsible for guiding the process and supporting local governments in setting up, managing, monitoring, and evaluating the projects. The institute was also responsible for the overall evaluation and for drawing necessary lessons for the development of the fourth pillar.⁽⁷²⁾

Civic integration programmes in the Brussels-Capital Region

Civic integration programmes in the Brussels-Capital Region are managed by both the French Community Commission (*Commission communautaire française (COCOF)*), which organises the French-speaking programme (*parcours d'accueil*) and the Flemish Community, which organises the Dutch-speaking programme (*inburgeringstraject*), depending on the language of integration chosen by the foreigner. In 2022, a number of changes entered into force to progressively harmonise civic integration programmes, both between Communities in Brussels, and with those applicable in the rest of the country.

First, the **civic integration programmes in Brussels became mandatory** as of 1 June 2022.⁽⁷³⁾ This applies to third-country nationals who register for the first time in the foreigners' registry of a Brussels municipality with a residence permit of more than three months, who are between 18 and 65 years old, and who have legally resided in Belgium for less than three years (with some exceptions). This brings the integration conditions in Brussels in line with those applicable in the rest of the country, as Brussels was so far the only region where the civic integration programme could be followed on a voluntary basis.

71 VVSG, '1 januari 23: start vierde pijler inburgering, het participatie – en netwerk traject', 21 December 2022, <https://www.vvsg.be/nieuws/start-vierde-pijler-inburgering-het-participatie-en-netwerktraject-op-1-januari#:~:text=Met%20deze%204de%20pijler%20volgt,vereniging%2C%20organisatie%20of%20lokaal%20bestuur>, last accessed on 2 June 2023. The VVSG is an advocate, knowledge provider and network builder of and for local governments.

72 More information on KU Leuven, 'Vierde pijler inburgering – AMIF', <https://hiva.kuleuven.be/sites/vierdepijlerinburgering>, last accessed on 2 June 2023.

73 Decision of 5 May 2022 of the COCOM fixing the date of entry into force of the Ordinance of 11 May 2017 and the Decision of 19 July 2018 establishing mandatory integration programme for Brussels (Arrêté de la Commission Communautaire Commune de Bruxelles-Capitale du 5 mai 2022 modifiant l'arrêté du 19 juillet 2018 du Collège réuni portant execution de l'ordonnance de la Commission Communautaire commune du 11 mai 2017 concernant le parcours d'accueil des primo-arrivants / Besluit van het Verenigd College van de Gemeenschappelijke Gemeenschapscommissie van 5 mei 2022 tot vaststelling van de datum van inwerkintreding van de ordonnantie van de Gemeenschappelijke Gemeenschapscommissie van 11 mei 2017 betreffende het inburgeringstraject voor de nieuwkomers en van het besluit van het Verenigd College van 19 juli 2018 tot uitvoering van de ordonnantie van de Gemeenschappelijke Gemeenschapscommissie van 11 mei 2017 betreffende het inburgeringstraject voor de nieuwkomers, <http://www.ejustice.just.fgov.be/eli/besluit/2022/05/05/2022041177/staatsblad>, last accessed on 2 June 2023).



The Common Community Commission (*Commission communautaire commune (COCOM) / Gemeenschappelijke Gemeenschapscommissie (GGC)*), which imposes this obligation, became responsible for monitoring the paths of individuals obliged to follow a civic integration programme in Brussels. For the time being, the French Community Commission and the Flemish Community remain responsible for organising their respective civic integration programmes. Furthermore, an amendment was added to the Ordinance of 11 May 2017 to include a provision on the processing of personal data. This amendment regulates the **development of an IT tool that allows local governments to follow newcomers' integration journeys in Brussels.**

Secondly, the **civic integration programmes in Brussels became accessible to all foreigners.** Previously, only those residing in Belgium legally for less than three years could follow the programme organised by the French Community Commission. Since 1 April 2022, the programme became accessible to all foreigners with a residence permit of more than three months.⁽⁷⁴⁾ This widening of the public also allows foreigners wishing to apply for Belgian citizenship to be able to prove their social integration by successfully following the civic integration programme organised by the competent authority (see 6.1). Nevertheless, newcomers (who have a legal obligation to follow the civic integration programme) have priority over other foreigners who may still be able to meet citizenship requirements through other means. Under the cooperation agreement between the Flemish Community, the French Community Commission, and the Common Community Commission,⁽⁷⁵⁾ at least 4 000 spots must be reserved for newcomers with a legal obligation to follow the civic integration programme.

5.2 THE ROLE OF HOST COMMUNITIES IN FOSTERING INTEGRATION

The role of host communities and local stakeholders in the integration of foreign nationals is increasingly highlighted by government policies, such as with the new 'Plan Living Together' of the Flemish Government (see Box 8).

In 2022, Community governments took various initiatives to increase their cooperation with partner organisations in the field of migrant integration. On 1 January 2022, the **non-profit organisation 'LEVL' became the rec-**

74 Amendment of the French Community Commission Decree of 18 July 2013 relating to the integration programme for newcomers (Projet de décret de de la Commission communautaire française modifiant le décret du 18 juillet 2013 relatif au parcours d'accueil pour primo-arrivants en Région de Bruxelles-Capitale, <https://www.ejustice.just.fgov.be/eli/decret/2013/07/18/2013031655/moniteur>, last accessed on 2 June 2023.

75 Cooperation Agreement of 12 May 2022 (Ordonnance portant assentiment à l'accord de coopération du 12 mai 2022 conclu entre la Communauté flamande, la Commission Communautaire française et la Commission communautaire commune modifiant l'accord de coopération du 20 décembre 2018 entre la Communauté flamande, la Commission communautaire française et la Commission communautaire commune relatif au parcours d'accueil obligatoire des primo-arrivants à Bruxelles-Capitale.

ognised participation organisation for the Flemish integration and civic integration policy for the period 2022-2026. LEVL is an independent network organisation working towards an inclusive society free from racism and discrimination. It brings together the former Minderhedenforum and Join.Vlaanderen, and became a network organisation of all partners willing and able to contribute to the objectives of the integration policy. In the Brussels-Capital Region, the **French Community Commission developed specific partnership agreements with vocational training establishments** of French-speaking Brussels. With these partnerships, establishments are mandated to offer 'French as a foreign language' courses to foreigners learning French in the framework of the civic integration programme.

Box 8: Launch of the Flemish 'Plan Living Together'

On 1 October 2022, the Flemish government launched the 'Plan Living Together' (*Plan Samenleven*) with the aim of promoting living together in diversity and acknowledging the importance of the local level in integration policies. Local authorities can access funding through a matching funding scheme, including project grants for a maximum of 3 years and capacity-building support. To support the plan's roll-out, the Flemish Minister for Home Affairs, Administrative Affairs, Civic Integration and Equal Opportunities allocated € 14 million, with additional contributions from local authorities. Currently, 106 Flemish municipalities are involved in 50 grants.

The **7 objectives of the plan** are:

- ◇ Increasing safety and quality of life
- ◇ Strengthening Dutch language skills
- ◇ Strengthening competences
- ◇ Guiding towards the labour market and entrepreneurship
- ◇ Strengthening citizens' networks
- ◇ Fighting discrimination and exclusion
- ◇ Strengthening diversity in education and youth activities



Initiatives were also taken to **foster opportunities for local communities to interact with migrants**, in an effort to promote a more empathetic approach to migrant integration, as well as to fight racism and discrimination. In the Walloon Region for instance, two new axes were introduced in the call for local integration initiatives launched every two years:

- ◇ 'Duo towards inclusion': a form of sponsorship where a person voluntarily forms an individual relationship with a foreign person. The aim of this axis is to promote better access to fundamental rights, establish a bond of trust with the host society, and create an enriching space for intercultural exchange between two people.
- ◇ Fight against racism, hate speech, discrimination, and deconstructing racist prejudices and stereotypes.

In line with Belgium's commitments as a signatory to the Durban Declaration of 2001, the fight against racism was also emphasised at the federal level, with the **adoption of the contribution of the federal government to the Interfederal Action Plan to Combat Racism (2021-2024)**, which is still awaiting the contributions of the federated entities (Communities and Regions). On 15 July 2022, the federal government adopted over 70 measures covering all federal competencies.⁽⁷⁶⁾ Measures related to asylum and migration include:

- ◇ An increased attention to the issue of racism, unconscious bias and unintentional prejudice in the training delivered to the police and frontline actors, including asylum case officers;
- ◇ Studying the question of digitisation of identity checks;
- ◇ Systematic organisation of debriefings by the Police, with emphasis on the issue of diversity during interventions;
- ◇ Zero-tolerance approach to abuse and discriminatory behaviours within institutions, and systematised complaint procedures.

In March 2022, the Federal Parliament approved a **new law granting labour inspectors more power to fight discrimination and racism in the labour market** via 'situation testing' and 'discrimination tests', to assess whether an employer is being discriminative in their recruitment process.⁽⁷⁷⁾

⁷⁶ Federal measures in the National Action Plan against Racism (2021-2024), available on FPS Justice, 'Action plans', <https://equal.belgium.be/en/introduction/action-plans/action-plan-against-racism>, last accessed on 2 June 2023.

⁷⁷ Law of 1 April 2022 amending the Social Penal Code (Wet van 1 april 2022 tot wijziging van afdeling 2/1 van het Sociaal Strafwetboek betreffende de bijzondere bevoegdheden van de sociaal inspecteurs op het vlak van de vaststellingen inzake discriminatie, <http://www.ejustice.just.fgov.be/eli/wet/2022/04/01/202202069/staatsblad>, last accessed on 2 June 2023).

Finally, **several initiatives were launched to combat polarisation, hate speech and disinformation** in Belgium. To name a few:

- ◇ The [Association of Flemish Cities and Municipalities \(VVSG\)](#) surveyed its members on radicalisation and polarisation. One of the 10 recommendations in the resulting report⁽⁷⁸⁾ was to establish a comprehensive and integrated online hate and polarisation action plan, in collaboration with social media platforms, to tackle conspiracy theories, disinformation campaigns and fake profiles more effectively. Results of this survey will be used by 'PolarProf',⁽⁷⁹⁾ a project carried out by the [Hannah Arendt Institute](#) in the context of setting up learning paths and networks for local governments in dealing with online and offline polarisation, disinformation and hate speech.
- ◇ The NGOs [11.1.11](#) and [Vluchtelingenwerk Vlaanderen](#) developed a three-year programme 'Other Talk on Migration' aiming to bring nuance to the polarised migration debate in Flanders. Other Talk operates in the areas of education, civil society and the media, and offers tools to integrate the perspectives of people with a migration background, and to learn to communicate more effectively about migration.⁽⁸⁰⁾

5.3 INTEGRATION THROUGH ACCESS TO BASIC SERVICES

The EU Action Plan on Integration and Inclusion 2021-2027⁽⁸¹⁾ recognises that access for third-country nationals to institutions, as well as to public and private goods and services, on a basis equal to national citizens and in a non-discriminatory way is a foundation for integration. Migrant integration is measured in terms of employment, education, health, and access to institutions, goods, services, and society in general (see also section on Minors).⁽⁸²⁾

In the Coalition Agreement of 30 September 2019, the Flemish government committed to tightening residence conditions for access to social protection and reforming the care budget for elderly individuals in residential care centres. The Decree of 18 June 2021 **amended regulations for Flemish social protection and introduced new conditions regarding legal residence and civic integration obligations**.⁽⁸³⁾ Since 1 January 2022, heav-

78 VVSG, 'Radicalisering en polarisering', <https://www.vvsg.be/veiligheid/radicalisering>, last accessed on 2 June 2023.

79 Hannah-Arendt Instituut, 'PolarProf: lokale besturen voor verbinding', <https://hannah-arendt.institute/wat-we-doen/vormingen-opleidingen/polarprof-samen-naar-verbinding/>, last accessed on 2 June 2023.

80 11.11.11, 'Other Talk - On Migration', <https://11.be/other-talk-migration-0>, last accessed on 2 June 2023, and Vluchtelingenwerk Vlaanderen, 'Other Talk on Migration', <https://vluchtelingenwerk.be/othertalk>, last accessed on 2 June 2023.

81 European Commission, 'EU Action plan on Integration and Inclusion 2021-2027', COM(2020) 758 final, <https://ec.europa.eu/migrant-integration/?action=media.download&uuiid=CDFE0088-C151-66D5-846F7C422DE2A423>, last accessed on 2 June 2023.

82 References in Section on Minors (1): Decree of 1 July 2022 amending Article 5 of the Decree of 30 April 2004 (Decreet tot wijziging van artikel 5 van het decreet van 30 april 2004 tot oprichting van het intern verzelfstandigd agentschap met rechtspersoonlijkheid Opgroeien regie, tot wijziging van het Groeipakketdecreet van 2018 en tot uitlegging van artikel 8 van het Groeipakketdecreet van 2018, <https://www.ejustice.just.fgov.be/eli/decreet/2022/07/01/2022041616/staatsblad>, last accessed on 15 June 2023).

83 Flemish Region, 'Regerakkoord van de Vlaamse Regering - 2019-2024', <https://www.vlaanderen.be/publicaties/regerakkoord-van-de-vlaamse-regering-2019-2024>, last accessed on 10 April 2023.



ily dependent persons can only access care budgets after a minimum of ten years of residence – of which at least five years uninterrupted – in the Flemish Region or the Brussels-Capital Region, or be socially insured in an EU or EEA Member State or Switzerland, and fulfil the civic integration obligation. The same decree also introduces a civic integration condition and a stricter residence requirement of five years of uninterrupted, lawful residence in the Flemish or the Brussels-Capital Region, or being socially insured for at least five years in an EU or EEA Member State or Switzerland, to benefit from a reduced care premium (€ 27 instead of € 54).⁽⁸⁴⁾

However, there are uncertainties about these new regulations, and annulment appeals against some articles of this Decree have been filed with the Constitutional Court. In the past, the same residence conditions have been annulled by the Constitutional Court for other types of social security, such as the guaranteed income for the elderly and the allowance for handicapped persons, due to the absence of reasons of public interest justifying the significant decline in protection levels.

84 Decree of 18 June 2021 amending regulations within the framework of Flemish social protection (Decreet van 18 juni 2021 tot wijziging van regelgeving in het kader van de Vlaamse sociale bescherming, <http://www.ejustice.just.fgov.be/eli/decreet/2021/06/18/2021021422/staatsblad>, last accessed on 10 April 2023).



Access to basic services for minors

On 1 July 2022, an amendment to Article 68 of the Flemish Growth Package Decree was made to **limit the allowances for children in the reception network of Fedasil to one-third of the amount of child allowance** foreseen by the Decree (1). Previously, children accommodated in the Fedasil reception network received the full amount, while those in the Flemish Community's Youth Care Services received only one-third of it, as most of the costs were already covered by the facilities of the Flemish Community. This amendment therefore aims to ensure equal treatment of children receiving material support from federal, regional or local organisations. The scheme that previously applied to children placed in a facility of the Flemish Community is now extended to children in reception structures under the Reception Act, and those who waive their right to material reception conditions but are entitled to medical assistance.

To **avoid discrimination against minors** with a provisional right of residence, Article 4 of the amended Decree clarifies that the attestation of immatriculation – the 'orange card' – does not constitute admission or authorisation of residence. Therefore, children with an attestation of immatriculation do not meet the conditions of residence in Article 8 of the Growth Package Decree, except for unaccompanied minors and children victims of human trafficking and human smuggling with a provisional right of residence pending the final decision related to the residence application.





6

CITIZENSHIP AND STATELESSNESS



Belgian citizenship can be obtained through *attribution* (for minors) or *acquisition* (for adults and emancipated minors). In most cases⁽⁸⁵⁾, the acquisition of citizenship requires the submission of a 'declaration of citizenship', which must answer to a set of conditions outlined in the Belgian Nationality Code⁽⁸⁶⁾ (6.1 and 6.2). Persons without a nationality can be recognised as stateless by the family courts in Belgium (*familierechtbank / tribunal de la famille*) (6.3), while the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) remains competent for delivering documents or certificates to recognised stateless persons.

6.1 PROVING 'SOCIAL INTEGRATION' TO APPLY FOR BELGIAN CITIZENSHIP

One of the requirements for third-country nationals applying for Belgian citizenship is to demonstrate their 'social integration'.⁽⁸⁷⁾ The requirement is intended to ensure that candidates for citizenship have integrated well into Belgian society and are actively participating in the country's social and cultural life. One of the ways in which applicants can demonstrate social integration is the successful completion of a civic integration programme, which are organised by the language-based Communities (French, Flemish, or German).⁽⁸⁸⁾

In the **Brussels-Capital Region**, where both the French and Flemish Communities coexist, the French-speaking civic integration programme was previously only available to third-country nationals who had been legally residing in Belgium for less than three years. This meant that foreigners who had been in the country for over three years could not rely on the civic integration programme to demonstrate their social integration.

Box 9: Belgian federalism and the acquisition of citizenship

Contrary to the procedure to obtain citizenship, which is regulated at the federal level, the organisation of integration programmes falls within the competence of the language-based Communities (French, Flemish, or German). This leads to **organisational discrepancies between integration paths** across the country.

85 Acquisition of citizenship can also be done through the process of *naturalisation*, but it is only granted on the grounds of exceptional merits or for recognised stateless persons.

86 Code de la nationalité belge du 28 juin 1984 / Wetboek van de Belgische nationaliteit van 28 juni 1984, https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1984062835&table_name=wet, last accessed on 2 June 2023).

87 Article 12bis of the Belgian Nationality Code.

88 Other criteria to demonstrate social integration are: a diploma from a Belgian secondary school, a certificate of completion of vocational training of minimum 400 hours, and the exercise of a professional activity for an uninterrupted period of five years (Article 12bis of the Belgian Nationality Code).

The extension of the French-speaking integration programme in Brussels to all third-country nationals, regardless of duration of residence, goes towards the harmonisation of integration paths across the country.

With the recent amendment to the French Community Commission Decree of 18 July 2013,⁽⁸⁹⁾ **the French-speaking civic integration programme in Brussels is now accessible to all third-country nationals who hold a residence permit of more than three months**, regardless of the duration of their stay in Belgium. According to the legislator, this enlargement of the target group is motivated by the ambition “to put all foreigners residing in Belgium on an equal footing in the context of an application for citizenship”.⁽⁹⁰⁾ To reflect this change, the programme was renamed from ‘welcome course for newcomers’ to ‘welcome and support course for newcomers *and foreigners*’.⁽⁹¹⁾ This change not only has a significant impact on the acquisition of Belgian citizenship but also brings the integration conditions in Brussels in line with those in place in the rest of the country, where access to civic integration programmes is not limited by the duration of residence (see Box 9).

In the **Flemish Community**, among the many changes that were adopted in 2022 with regard to the civic integration programme (see 5.1), one amendment, in particular, has an impact on the acquisition of citizenship. The amended Decree on Flemish integration and civic integration policy of 7 June 2013 introduces the **possibility for individuals who are unable to complete the Flemish integration programme due to limited learning capacities to obtain a ‘declaration of efforts to achieve an integration certificate’** (*verklaring van geleverde inspanningen tot het behalen van een inburgeringsattest*).⁽⁹²⁾ This declaration can be considered sufficient proof to fulfil the social integration criterion for the acquisition of Belgian citizenship. It is important to note, however, that whereas the successful completion of a civic integration programme is sufficient to demonstrate both social integration and language competence (which is another requirement for the acquisition of citizenship),⁽⁹³⁾ the ‘declaration of efforts to achieve an integration certificate’ serves as proof of social integration but does not

89 Amendment to the French Community Commission Decree of 18 July 2013 relating to the integration programme for newcomers.

90 Amendment to the French Community Commission Decree of 18 July 2013 relating to the integration programme for newcomers.

91 Emphasis by author.

92 Amendment to the regulations on the Flemish integration and civic integration policy (Besluit van de Vlaamse Regering van 17 december 2021 tot wijziging van artikel 1 van het besluit van de Vlaamse Regering van 16 mei 1995 betreffende de invordering van niet-fiscale schuldvorderingen voor de Vlaamse Gemeenschap en de instellingen die eronder ressorteren, tot wijziging van de regelgeving over het Vlaamse integratie- en inburgeringsbeleid en tot bepaling van de inwerkingtreding van artikel 3 van het decreet van 22 december 2017 houdende bepalingen tot begeleiding van de begroting 2018, <http://www.ejustice.just.fgov.be/eli/bsluit/2021/12/17/2022030677/staatsblad>, last accessed on 2 June 2023).

93 Article 12bis of the Belgian Nationality Code.



prove language competence. Consequently, though the introduction of this document can be seen as a loosening of social integration conditions in the acquisition of citizenship, it does not offer solutions to the situation of candidates for citizenship who are illiterate, and who still face significant challenges to meet the language competence requirement.⁽⁹⁴⁾

6.2 CREATION OF A NEW 'CENTRAL AUTHORITY ON CITIZENSHIP'

As of 31 December 2022, several amendments to the Belgian Nationality Code (BNC) came into effect.⁽⁹⁵⁾ The amended BNC now contains a **new Article 24ter, which creates a 'Central Authority on citizenship'** (*Centrale Autoriteit inzake nationaliteit / Autorité Centrale en matière de nationalité*) within the Federal Public Service (FPS) Justice. This Authority has the mandate to issue non-binding opinions on citizenship matters. Opinions are rendered within six months of receiving all necessary documents, which can be extended for an additional six months. This competence is not new in itself, as the Nationality Service of the FPS Justice already issued non-binding advice in practice. The legislator has now anchored this practice in the BNC. However, for matters pertaining to Article 10 of the BNC, which concerns children recognised as stateless, this advisory role is placed within the competence of the Public Prosecutor (see section on Minors).

6.3 CONTINUED POLITICAL DISCUSSIONS TO CREATE A SEPARATE RESIDENCE STATUS FOR STATELESS PERSONS

In 2022, the new State Secretary for Asylum and Migration, Nicole de Moor, announced her **intention of submitting a proposal to the federal government to create a specific right of residence for stateless persons** (see Box 10).

Under the current legal regime, the recognition of statelessness status has no consequence on the right of residence. Stateless persons who have no residence status may introduce a request on the basis of exceptional circumstances, namely Article 9bis of the Immigration Act (regularisation on humanitarian grounds).

94 AgII, 'Verklaring geleverde inspanningen tot het behalen van een inburgeringsattest is bewijs maatschappelijke integratie bij nationaliteitsverklaring', 27 July 2022, <https://www.agii.be/nieuws/verklaring-geleverde-inspanningen-tot-het-behalen-van-een-inburgeringsattest-is-bewijs#:~:text=Volgens%20het%20Inburgeringsdecreet%20wordt%20de,d-e%20andere%20trajectonderdelen%20van%20het>, last accessed on 2 June 2023.

95 Law of 6 December 2022 for a stronger, faster and more humane justice (Loi du 6 décembre 2022 visant à rendre la justice plus humaine, plus rapide et plus ferme IIbis / Wet van 6 december 2022 om justitie menselijker, sneller en straffer te maken IIbis, <http://www.ejustice.just.fgov.be/eli/wet/2022/12/06/2022034748/staatsblad>, last accessed on 2 June 2023.

As stated in her Policy Note:

"This article (Article 9bis) creates little legal certainty for a category of persons that can in fact be precisely specified. That is why I have a bill ready that will soon go to Parliament, in order to create a separate right of residence in the Immigration Act. The Commissioner General for Refugees and Stateless Persons plays a central role in this proposal. This not only does justice to the name of the institution but is also a logical choice given the expertise on countries of origin that is already present within the service."⁽⁹⁶⁾

Box 10: A right of residence for stateless persons?

The right of residence for stateless persons has been a topic of debate in Belgium for several years. While the proposals put forward by the government aim to facilitate the **regularisation** of stateless persons, various stakeholders continue to push for a more comprehensive and inclusive approach to protecting the rights of stateless individuals. In the absence of a specific regime, stateless persons in Belgium often lack the ability to obtain a legal status and are therefore unable to access basic services and rights.

6.4 CASE-LAW

At the judiciary level, a number of court rulings relating to the acquisition of citizenship and the recognition of statelessness status can be highlighted, as they constitute important developments.

◆ **The Constitutional Court ruled that parental leave does not constitute an interruption of employment to acquire Belgian citizenship.**⁽⁹⁷⁾ As highlighted above, one of the ways in which an applicant for citizenship can demonstrate social integration is to prove five years of uninterrupted employment.⁽⁹⁸⁾ On 9 June 2022, the Court issued a ruling in the case of an applicant who had been refused citizenship on the basis that she did not meet the criterion of uninterrupted employment, as she had taken parental leave for a few months.

In its ruling, the Court stated that the interpretation that parental leave interrupts the period of employment is a violation of the right to private and family life, enshrined in Article 8 of the European Convention on Human Rights (ECHR) and Articles 22 and 22bis of the Belgian Constitution.

96 Belgian Chamber of Representatives, 'Note de politique générale Asile et Migration / Algemene beleidsnota Asiel en Migratie', 2934/006, 28 October 2022, <https://www.dekamer.be/finwb/pdf/55/2934/55K2934006.pdf>, last accessed on 2 June 2023.

97 Belgian Constitutional Court, ruling n°79/2022, 7654, 9 June 2022.

98 Article 12bis, §1, 2°, d of the Belgian Nationality Code.



Article 8 ECHR

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

- ◆ **The Court of Cassation limits the list of reasons on the basis of which the Public Prosecutor can issue a negative opinion on the acquisition of Belgian citizenship.**⁽⁹⁹⁾ Once an application for the acquisition of citizenship is submitted, the Public Prosecutor may, within four months, issue a negative opinion on the acquisition of citizenship if there are serious grounds to oppose it (Article 15§3 of the Belgian Nationality Code). On 17 June 2022, the Court of Cassation ruled that the list of reasons substantiating a negative opinion issued on this basis is limited to those reasons specified in Article 1§2 of the Belgian Nationality Code and Article 2 of the Royal Decree of 14 January 2013 amending the Belgian Nationality Code.⁽¹⁰⁰⁾ This means that Public Prosecutors can no longer oppose the acquisition of citizenship on other grounds, such as traffic infractions or smaller infringements.
- ◆ **The Court of Cassation recognises statelessness status *res judicata* authority.** In Belgium, statelessness status is granted by the family courts (*familierechtbank / tribunal de la famille*).⁽¹⁰¹⁾ On 2 September 2022, the Court of Cassation ruled that a judgment recognising statelessness has *res judicata* effect,⁽¹⁰²⁾ meaning that it must be accepted by all other judicial and administrative authorities. This is because statelessness is a status that relates to the status of persons. In practice, this means for instance that once statelessness status is granted, an authority responsible for examining the right of residence of a person recognised as stateless cannot question the applicant's lack of nationality.

99 Belgian Court of Cassation, ruling n° C.20.0448.F/1, 17 June 2022.

100 Royal Decree of 14 January 2013 amending the Belgian Nationality Code (Arrêté royal du 14 janvier 2013 portant execution de la loi du 4 décembre 2012 modifiant le Code de la nationalité belge afin de rendre l'acquisition de la nationalité belge neutre du point de vue de l'immigration / Koninklijk besluit van 14 januari 2013 tot uitvoering van de wet van 4 december 2012 tot wijziging van het Wetboek van de Belgische nationaliteit teneinde het verkrijgen van de Belgische nationaliteit migratieneutraal te maken, <http://www.ejustice.just.fgov.be/eli/arrete/2013/01/14/2013009022/moniteur>, last accessed 2 June 2023).

101 Law 'Pot-pourri V' of 6 July 2017 (Loi du 6 juillet 2017 portant simplification, harmonisation, informatisation et modernisation de dispositions de droit civil et de procédure civile ainsi que du notariat, et portant diverses mesures en matière de justice / Wet van 6 juli 2017 houdende vereenvoudiging, harmonisering, informatisering en modernisering van bepalingen van burgerlijke recht en van burgerlijk procesrecht alsook van het notariaat, en houdende diverse bepalingen inzake justitie, https://www.ejustice.just.fgov.be/mopdf/2017/07/24_1.pdf#Page448, last accessed on 2 June 2023).

102 Belgian Court of Cassation, ruling n° C.19.0197.F, 2 September 2022.



Statelessness relating to minors

In 2022, amendments to the Belgian Nationality Code (BNC) included the following with regards to Article 10, which concerns children recognised as stateless:

- ◆ **Eliminating the need for recognition of the statelessness status of children.** In its previous version, Article 10 BNC provided that a child born in Belgium who would otherwise be stateless is Belgian. The Law of 6 December 2022 replaces the word “stateless” with the phrase “has no other nationality”. In other words, a child born in Belgium who has no other nationality at any time before the age of 18 is Belgian. The previous wording made it difficult for the civil registrar to prove that a child has no other nationality, which requires establishing the nationality of the parents and checking whether the child could be granted the nationality of his or her parents in light of the citizenship law of that country. The new wording makes it clear that the family court (which is responsible for granting statelessness status – see 6.4) must not first recognise the child as a stateless person in order for the civil registrar to apply Article 10 BNC. This was always the intention of the legislator, but in practice, the civil registrar sometimes asked for official recognition of statelessness status.
- ◆ **Clarifying the identification of the competent civil registrar.** The amending law specifies that it is the civil registrar of the child’s place of birth who is responsible for the application of Article 10 BNC. Previously, it was unclear which registrar was competent for this task.
- ◆ **Formalising the involvement of the Public Prosecutor in case of doubt about a child’s lack of nationality.** This amendment introduces the possibility for civil registrars to seek advice, in the form of non-binding opinions, from the Public Prosecutor’s Office. Previously, advice was usually sought from the Nationality Service of the FPS Justice. However, the amended BNC now specifies that advice can be sought from the Justice FPS (via the newly-created Central Authority on citizenship – see 6.2) only in matters for which the Public Prosecutor is not competent. This amendment thus introduces a derogation from the general advisory power of the Central Authority on citizenship.





7

BORDERS, VISA AND SCHENGEN



In order to enter the Belgian territory, individuals who do not have Belgian nationality must be able to prove that they meet certain requirements for legal entry. As Belgium is a signatory to the Schengen Agreement, which eliminates controls at the internal borders of the Schengen area, conditions for accessing the territory are only checked at external borders.⁽¹⁰³⁾ Border security is managed by the Federal Police (7.1), whereas the Immigration Office is responsible for issuing visas, working hand in hand with the diplomatic and consular network (7.2). Whereas long-term stays (more than three months) are a national competence, access to the territory for short-term stays falls under a common European visa policy, as part of a wider Schengen governance (7.3).

7.1 BORDER SECURITY: IMPROVED DATA MANAGEMENT AND COOPERATION WITH THIRD-COUNTRIES

In the early months of 2022, border management was still **greatly affected by the COVID-19 pandemic**. To contain the spread of the virus, border control measures such as PCR tests and vaccination certificates were in place. By the end of May 2022, these measures were gradually lifted.

As the Schengen area is shared across multiple countries, information sharing is a key component of border security. In 2022, **several developments took place with regard to the digital border management systems** that exist to facilitate this coordination between members of the Schengen area.

- ◇ The **Schengen Information System (SIS)** is the largest information-sharing system for security and border management in Europe. It provides information on wanted or missing persons, third-country nationals with no legal residence in the EU, and lost or stolen objects. In 2022, the Belgian government prepared the operational and technical readiness of an upgraded version of the SIS. The revised SIS was enhanced to include *inter alia* new categories of alerts, biometrics such as palm prints, fingerprints, and DNA records for missing persons. The upgrade also foresees preventive alerts to protect vulnerable persons and deter irregular migration.
- ◇ The **Entry/Exit System (EES)** is a new digital system that will replace the manual stamping of passports for third-country nationals entering and exiting the Schengen area. The EES will store this information in a central database, making it easier to manage external borders

¹⁰³ The Belgian external borders of the Schengen area are: international airports (Brussels, Antwerp, Ostend-Bruges, Brussels South Charleroi, Liège and Kortrijk-Wevelgem); ports (Antwerp-Bruges, Ostend, Ghent, Nieuwpoort, Blankenberge); and the Eurostar terminal at Brussels-Midi railway station (as the United Kingdom is not part of the Schengen area).

and verify compliance with authorised stay periods. To prepare the launch of EES, the Federal Police and the Immigration Office installed new software at all external border posts. This software connects the Federal Police's IT platform, 'Bordertasks', to the EES database and collects and verifies biometric data, ensuring high-quality data is available. Overall, the EES aims to improve the management of external borders, making the verification of compliance more efficient.

- ◇ The **European Travel Information and Authorisation System (ETIAS)** is a new digital system designed to strengthen security at external borders of the Schengen area by providing a pre-screening process that will identify potential security, migratory and health risks. It will require visa-exempt visitors to obtain a pre-travel authorisation online before their arrival. This authorisation will be valid for a period of up to three years. In 2022, the Belgian national unit started developing an application that would allow them to perform certain actions (e.g., related to the ETIAS watchlist) which are not provided for by the central European ETIAS software. They have integrated this software with simulators and plan to test and fine-tune it in 2023. Additionally, the national unit established a connection with the ETIAS central system and drafted the ETIAS law for adoption in 2023.

At the national level, the collection, processing and storing of data on passengers entering the Schengen area through Belgium is done by the Belgian Passenger Information Unit (BelPIU), which is part of the Crisis Centre of the Federal Public Service (FPS) Interior.⁽¹⁰⁴⁾ In 2022, **BelPIU increased its data management capacity**, and now processes 99% of air passenger data in Belgium, which is a 5% increase from the previous year. 65 air carriers now transmit Advance Passenger Information (API) and Passenger Name Record (PNR)⁽¹⁰⁵⁾ data to BelPIU, 17 more than in previous years. In November 2022, the budget requested by BelPIU in 2021 under the Border Management and Visa Instrument fund was awarded. This funding will help to develop additional functionalities to continue implementing Council Directive 2004/82/EC, the so-called 'API Directive'⁽¹⁰⁶⁾, which complements the Schengen Convention and aims to fight irregular migration and improve border controls. Furthermore, BelPIU and the Federal Police launched a **project to crosscheck data from the SIS with API and PNR data**. A Memorandum of Understanding between both organisations was drafted and is expected to be signed in 2023.

104 The BelPIU collects, saves and analyses information of passengers who use international transportation from, to or in Belgium. It became operational in January 2018, in the framework of measures in the fight against terrorism and crime. More information on BelPIU can be found on the website of the National Crisis Centre.

105 The Passenger Name Record (PNR) refers to a record of each passenger's travel details, which enables the carrier or tour operator to make reservations for each journey (e.g., name, address, telephone number).

106 Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data, <http://data.europa.eu/eli/dir/2004/82/oj>, last accessed on 2 June 2023.



Throughout 2022, **several agreements and forms of cooperation with third countries were completed, signed, or entered into force.** These initiatives aim to strengthen operational capacity in combating irregular migration and controlling external borders:

- ◇ A [Cooperation Agreement between Belgium and Morocco](#) entered into force on 1 June 2022. It aims to facilitate information exchange between the two countries' police forces to combat organised crime and terrorism.⁽¹⁰⁷⁾
- ◇ The [United States \(US\) preclearance programme](#) was ratified by the Belgian Parliament on 2 June 2022, and Brussels Airport is set to become the first airport on the European mainland to offer US preclearance facilities. This programme enables passengers traveling to the US to undergo checks at Brussels Airport instead of their final destination, allowing them to be treated as domestic travellers upon arrival.
- ◇ The '[Improvement of the Operational and Strategic Capacity for a More Effective Border Management in the Kasai Province \(Tshikapa\) in the DR Congo](#)'⁽¹⁰⁸⁾ project was initiated in 2022. The goal of this project is to strengthen the DR Congo's operational capacity in controlling external borders and combating irregular migration.

7.2 VISA POLICY: NEW MEASURES FOR THIRD COUNTRIES

In 2022, **Belgium implemented measures in line with decisions by the Council of the EU to limit visa access** to nationals from three third countries:

1. [The Russian Federation](#): following the invasion of Ukraine, the Council decided on the partial suspension of the application of the agreement between the EU and the Russian Federation on the facilitation of the issuance of visas to citizens of the EU and the Russian Federation. The decision includes sanctions for Russian nationals and regional representatives, holders of diplomatic passports, businesspeople, and representatives of business organisations.⁽¹⁰⁹⁾

107 The Cooperation Agreement is set out in the Law of 26 May 2016 (Loi du 26 mai 2016 portant assentiment à la Convention de coopération entre le gouvernement du Royaume de Belgique et le gouvernement du Royaume du Maroc en matière de lutte contre la criminalité organisée et le terrorisme, faite à Bruxelles le 18 février 2014 / Wet houdende instemming met het Samenwerkingsverdrag tussen de regering van het Koninkrijk België en de regering van het Koninkrijk Marokko inzake de bestrijding van de georganiseerde criminaliteit en het terrorisme, opgemaakt te Brussel op 18 februari 2014, <https://www.ejustice.just.fgov.be/eli/loi/2016/05/26/2016015132/moniteur>, last accessed on 2 June 2023).

108 Amélioration des capacités opérationnelles et stratégiques pour une gestion efficace des frontières dans la Province du Kasai (Tshikapa) en République démocratique du Congo.

109 Council Decision (EU) 2022/333 of 25 February 2022 on the partial suspension of the application of the Agreement between the European Community and the Russian Federation on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation, <http://data.europa.eu/eli/dec/2022/333/oj>, last accessed on 13 June 2023.

2. The Republic of Vanuatu: temporary suspension of the visa exemption for nationals of Vanuatu who are holders of ordinary passports (issued by Vanuatu as of 25 May 2015). This decision aims to put pressure to end the Vanuatu Citizenship and Investment Programme offering Vanuatu nationality to non-Vanuatu nationals in exchange for major investments in Vanuatu. Beneficiaries of this programme are mainly citizens of third countries subjected to visa obligations to enter the Schengen area.⁽¹¹⁰⁾

3. The Gambia: increased visa fee for Gambian nationals from € 80 to € 120 (except for certain categories of applicants).⁽¹¹¹⁾ With this decision, the EU hopes to send a clear signal to the Gambian authorities to improve cooperation on readmission agreements (see also 11.1).

With regards to visa application processes, Belgium signed a new contract (effective from 13 December 2022) with an **external service provider called 'Capago' to process visa and legalisation applications in Burkina Faso**. Similar to the previous major public tenders in 2021, this contract includes provisions for digitalisation and connecting Visa-On-Web with the appointment system of Capago. The FPS Foreign Affairs anticipates that this will reduce the processing time for visa applications and improve the user experience when applicants book an appointment for a visa application.

Finally, the **digital seal (2D barcode) for Schengen visas** mandated by the European Commission in 2020 was further implemented in Belgium in 2022. The 2D barcode digitally signs the content of a Schengen visa and ensures the authenticity of the data, and is therefore expected to reduce visa fraud.

7.3 MONITORING AND EVALUATING SCHENGEN GOVERNANCE

On 1 October 2022, **the new Schengen Evaluation and Monitoring Mechanism (SEMM) regulation came into effect**. To comply with the new SEMM regulation, Belgium established a pool of national experts from the Federal Police, the FPS Foreign Affairs, the Immigration Office, and the FPS Interior for each area involved in Schengen evaluation and monitoring activities. This will enable Belgian experts to perform Schengen evaluations under the new 'SEMM Regulation', which aims to verify the correct implementation of Schengen rules by EU Member States.⁽¹¹²⁾

110 Council Decision (EU) 2022/366 of 3 March 2022 on the partial suspension of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver, <http://data.europa.eu/eli/dec/2022/366/oj>, last accessed on 13 June 2023.

111 Council Implementing Decision (EU) 2022/2459 of 8 December 2022 on the application of an increased visa fee with respect to The Gambia, http://data.europa.eu/eli/dec_impl/2022/2459/oj, last accessed on 13 June 2023.

112 Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, and repealing Regulation (EU) No 1053/2013, <http://data.europa.eu/eli/reg/2022/922/oj>, last accessed on 13 June 2023.



On 12 and 13 September 2022, **a Schengen Visa evaluation of Belgium was conducted** to assess the implementation of Regulation (EC) 810/2009 ('Visa Code') by Belgian consulates and embassies.⁽¹¹³⁾ This evaluation was originally scheduled for 2020 but was postponed due to the COVID-19 pandemic.

On 24 May 2022, **the European Commission presented the first annual 'State of Schengen Report'**⁽¹¹⁴⁾, which identifies current challenges and recommends priority actions for the way forward in the Schengen cycle. The report provides regular 'health checks' on the state of Schengen to detect problems early, ensure common responsibility among Schengen countries, and ensure appropriate measures are taken. Belgium is an active partner in the development of the Schengen cycle and contributes constructively to the development of European priorities and joint strategies. Belgium also plays an active role in the Schengen Forum, which allows for an exchange of views on the state of the Schengen area based on the State of Schengen Report 2022.

113 In accordance with Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen.

114 European Commission, 'State of Schengen Report 2022', https://home-affairs.ec.europa.eu/schengen-package_en, last accessed on 2 June 2023.

Definitions of key abbreviations

Advance passenger information (API): information concerning the passengers whom carriers will transport to an authorised border crossing point through which these persons will enter the territory of a Schengen Member State, which carriers are obliged to transmit, by end of check-in, at the request of the authorities responsible for carrying out checks on persons at external borders.

Entry/Exit System (EES): system which registers entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Schengen States.

European Travel Information and Authorisation System (ETIAS): an automated online system for identifying irregular migration, security or public health risks associated with visa-exempt third-country nationals traveling to the EU prior to their arrival.

Schengen Information System (SIS): a joint information system that enables the relevant authorities in each EU Member State, by means of an automated search procedure, to have access to alerts on persons and property for the purposes of border checks and other police and customs checks carried out within the country in accordance with national law and, for some specific categories of alerts (Art. 96 of the Schengen acquis), for the purposes of issuing visas, residence permits and the administration of legislation on aliens in the context of the application of the provisions of the Schengen Convention relating to the movement of persons.

Schengen Evaluation and Monitoring Mechanism (SEMM): a mechanism established to verify the application of the Schengen acquis in the Schengen Member States to which it applies in full as well as in Schengen Member States to which, in accordance with the relevant Protocols annexed to the TEU and to the TFEU, the Schengen acquis applies in part to ensure an effective, consistent and transparent application of the Schengen rules and regulations while at the same time maintaining a high level of mutual trust between those Member States.





8

IRREGULAR MIGRATION INCLUDING MIGRANT SMUGGLING



Despite the existing border security measures designed to combat *inter alia* irregular migration, this phenomenon persists and refers to the movement of persons outside the regulatory framework of sending, transiting or receiving countries. When this movement of persons benefits a third-party, directly or indirectly, financial or material, the irregular entry becomes a case of migrant smuggling (see Glossary definitions under section 9).

8.1 PREVENTING IRREGULAR MIGRATION THROUGH DISSUASION CAMPAIGNS

In Belgium, the fight against human trafficking and smuggling was declared a priority in the Government Agreement of 30 September 2020.⁽¹¹⁵⁾ As a result, a **special parliamentary commission** was established within the Belgian Chamber of Representatives in February 2022 to evaluate the existing legislation and policies related to human trafficking and smuggling. This special commission is tasked to take stock of and assess the current fight against human trafficking and human smuggling, the applicable legal provisions for both the prosecution of perpetrators and the protection of victims, and to evaluate and examine international cooperation in the fight against trafficking (see also 9.1).

In 2022, **several campaigns to discourage irregular migration and combat false rumours were initiated or continued:**

- ◇ In **Albania**, the ARISE-ALL project, launched by IOM Albania, Belgium and the Netherlands in 2021, aims to raise awareness about local development initiatives and encourage regular migration. In September 2022, IOM Albania visited Belgium, and the Secretary of State for Asylum and Migration addressed the Albanian diaspora in Belgium.
- ◇ In January 2022, the Immigration Office organised an information session for the **Filipino** diaspora in Belgium, in cooperation with the Embassy of the Philippines in Belgium, to counter false rumours about applying for international protection.
- ◇ In May 2022, the Immigration Office distributed flyers to **Moldovan** applicants for international protection who had already applied in other EU Member States.
- ◇ In September 2022, the Secretary of State visited **Georgia** to dissuade Georgians from applying for international protection when migrating to Belgium for economic reasons. In 2022, the number of applications for international protection of Georgians increased substantially, as Georgians are exempted from visa requirements when travelling to

¹¹⁵ Belgium.be, 'Accord de gouvernement', 30 September 2020, https://www.belgium.be/sites/default/files/Accord_de_gouvernement_2020.pdf, last accessed on 2 June 2023.

the EU since 2017. However, Georgians generally have a low recognition rate and their applications put pressure on the already saturated reception network.

8.2 INCREASED EFFORTS AND COOPERATION TO COMBAT MIGRANT SMUGGLING

Belgium is an important country of transit for migrants attempting to reach the United Kingdom (see Box 11). However, in recent years, **the number of transit migrants passing through Belgium has drastically decreased**. In 2018, the Belgian police intercepted 12 848 transit migrants on Belgian territory. By 2022, this number had gone down by 90%, to 1 065. According to the Minister of Justice, this reduction is due to several factors, including numerous police actions, extensive international cooperation against migrant smuggling, the data-driven analysis of confiscated smartphones, and severe penalties for smugglers.

Since the end of 2021, police have been intercepting a growing number of vehicles carrying equipment intended for crossing the English Channel from northern France. Such equipment included inflatable boats, boat motors, life jackets, and jerry cans. On 4 June 2022, the **operational guidelines for police** services were updated with the aim to prosecute suspected smugglers caught in the act, collect evidence and information on organised crime groups supplying the materials for crossing the Channel, and share that information with EUROPOL in order to disrupt the supply chain. These guidelines ensure a uniform response to the interception of vehicles carrying equipment to cross the Channel.

Box 11 – Migrant smuggling in practice: Essex case

In October 2019, a devastating tragedy occurred when 39 Vietnamese migrants were found dead in a sealed and refrigerated container inside a lorry in Essex (UK). They had suffocated due to a lack of oxygen. The trailer had been transported from the port of Zeebrugge (BE) to Purfleet, Essex. An investigation was launched, involving the national authorities of the UK, Belgium, Ireland and Vietnam, with the Essex police leading the effort.

In January 2022, **19 people were convicted in Belgium for their involvement in a human smuggling** ring linked to this tragedy. The prime suspect responsible for the Essex lorry deaths was sentenced to 15 years in prison, along with several Vietnamese and Belgians of Vietnamese origin. The convicts were found guilty of procuring supplies for the migrants, transporting them in taxis, and serving as lookouts at 'safe houses'.





9

TRAFFICKING IN HUMAN BEINGS



Trafficking in human beings (or human trafficking) is the act of exploiting people for financial gain through sexual (prostitution, child pornography exploitation) or economic means (degrading working conditions, exploitation of begging), and can include acts such as organ removal or forced criminality (see Glossary definition). Though human trafficking does not necessarily entail a cross-border element, migrants are particularly vulnerable to trafficking during their journey, and migrant workers are more at risk of labour exploitation. Because human trafficking is a crime, the fight against it involves the existence of a national legal and policy framework (9.1), the detection, identification and protection of victims (9.2 and 9.3), the prosecution of perpetrators and the fight against criminal networks (9.4).

In Belgium, various actors are closely involved in the fight against human trafficking. The Inter-departmental Coordination Unit for Action against Trafficking in and Smuggling of Human Beings, under the authority of the Federal Public Service (FPS) Justice, is the main coordinating body (*Cellule interdépartementale de coordination de la lutte contre la traite et le trafic des êtres humains / Interdepartementale Coördinatiecel ter bestrijding van de mensensmokkel en mensenhandel*). A Bureau staffed by representatives from various departments (*inter alia* the Federal Prosecutor's Office, the Federal Police, the Immigration Office, the Social Inspection Service, etc.) handles the unit's day-to-day work and prepares and executes decisions, recommendations and initiatives. The Communities and Regions are also represented. Three specialised reception centres for victims of trafficking run by the NGOs PAG-ASA in Brussels, Payoke in Antwerp and Sürya in Liège, which can accommodate adult victims, are part of the Inter-departmental Unit. Myria, the Federal Migration Centre acts as the independent National Rapporteur on human trafficking and maintains its role as an observer within the Inter-departmental Unit and its Bureau.

In June 2021, the Inter-departmental Unit adopted a new Action Plan on Fighting human trafficking,⁽¹¹⁶⁾ which focuses on enhancing legislative or regulatory instruments; training stakeholders; refining victim status and improving the situation of reception centres; maintaining international vigilance; and raising awareness.

116 Service de la Politique criminelle, 'Action plan Fighting human trafficking 2021-2025', http://www.dsb-spc.be/doc/pdf/NAP_TIP_2021_2025_ENG.pdf, last accessed on 14 June 2023.

Trafficking or smuggling ?

Trafficking in human beings refers to the recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Smuggling of migrants refers to the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the irregular entry of a person into a (UN) Member State of which the person is not a national or a permanent resident.

Note: Whereas human trafficking is *exploitation-based*, smuggling is *transportation-based* and always involves a cross-border element. They can be interlinked, as a crime may start out as human smuggling but quickly turn into human trafficking. Both human trafficking and migrant smuggling are punishable in Belgium.

9.1 NEW LEGISLATIVE, POLICY AND EVALUATION FRAMEWORKS

On 29 January 2022, **Belgium ratified the Council of Europe Convention against Trafficking in Human Organs**,⁽¹¹⁷⁾ demonstrating its commitment to eliminating human organ trafficking. The ratification introduces new offenses to supplement existing legal instruments related to trafficking in human beings for organ removal.

On 1 June 2022, a **new law on the reform of sexual criminal law** proposed by the Minister of Justice came into effect.⁽¹¹⁸⁾ The new law amends the Act of 13 April 1995 containing provisions to fight human trafficking and smuggling. The amendments clarify who can be considered a victim of human trafficking and aggravated forms of smuggling. The amendments also require authorities to refer all victims, both Belgian and foreign, to specialised reception centres and provide a legal basis for subsidising these centres.

New evaluation mechanisms were also set up to monitor the fight against human trafficking. In February 2022, **a special Commission for the evaluation of the legislation and policies on human trafficking and hu-**

117 Law of 29 January 2022 acceding to the Council of Europe Convention against Trafficking in Human Organs (Loi du 29 janvier 2022 portant assentiment à la Convention du Conseil de l'Europe contre le trafic d'organes humains, <http://www.ejustice.just.fgov.be/eli/loi/2022/01/29/2022031260/moniteur>, last accessed on 2 June 2023).

118 Law of 21 March 2022 amending the Criminal Code regarding sexual criminal law (Loi du 21 mars 2022 modifiant le Code pénal en ce qui concerne le droit pénal sexuel / Wet van 21 maart 2022 houdende wijzigingen aan het Strafwetboek met betrekking tot het seksueel strafrecht, <http://www.ejustice.just.fgov.be/eli/loi/2022/03/21/2022031330/moniteur>, last accessed on 2 June 2023).



man smuggling was set up within the Belgian Chamber of Representatives. This special Commission is tasked to take stock of and assess the current fight against human trafficking and human smuggling, the applicable legal provisions for both the prosecution of perpetrators and the protection of victims, and to evaluate and examine international cooperation in the fight against trafficking.

The Commission will also pay particular attention to the situation of minors and other vulnerable persons. The Commission consists of 13 members and as many substitutes from political parties. Two additional experts provide assistance and supervise the drafting of recommendations.

Box 12: Myria's annual report on human trafficking: focus on Vietnamese victims

Myria, the Federal Migration Centre and independent national rapporteur on trafficking in human beings, published its annual report analysing the fight against human trafficking in Belgium. This 2022 report is titled **"Trapped by debt"** and focuses on the trafficking and smuggling of Vietnamese nationals to and within Europe. Myria offers the following recommendations: providing first-line services with sufficient resources to detect vulnerable victims of trafficking, using social media and mobile phones to collect key information and evidence during investigations, and making greater use of international cooperation for complex trafficking investigations to dismantle criminal organisations.

At supranational level, **the Group of Experts on Action against Trafficking in Human Beings (GRETA) of the Council of Europe published the third evaluation report on Belgium.**⁽¹¹⁹⁾ This report analysed in detail how the Belgian authorities ensure access to justice and effective remedies for victims of trafficking in human beings. Among other conclusions, the GRETA stated that the Belgian authorities should strengthen the provision of information to presumed victims of trafficking concerning their rights, and that they should take additional measures to guarantee their effective access to compensation. According to the report, Belgian authorities should also ensure that the formal identification of victims of trafficking and assistance measures to victims are not conditional on their cooperation with the justice system or on the outcome of criminal proceedings. The GRETA also considered that Belgian authorities should improve the assistance to unaccompanied minors.

¹¹⁹ Council of Europe (Group of Experts on Action against Trafficking in Human Beings – GRETA), 'Evaluation report Belgium – Third evaluation round: Access to justice and effective remedies for victims of trafficking in human beings', 20 October 2022, p. 4-5, <https://rm.coe.int/3rd-greta-evaluation-report-on-belgium/1680a8940b>, last accessed on 2 June 2023.

9.2 DETECTION AND IDENTIFICATION OF VICTIMS

Victims of human trafficking do not easily come forward to report their situation, for various reasons: lack of trust in authorities, lack of information on available resources, fear of consequences... In 2022, efforts to improve the detection and identification of victims focused on the provision of clear and readily available information and reporting tools, as well as the delivery of specialised training for front-line staff of public authorities.

On 30 July 2022, the FPS Justice launched a **new website called 'Stop Human Trafficking'**.⁽¹²⁰⁾ The website is available in 13 languages and provides information on the definition, forms, and indicators of human trafficking, as well as contact details for the three specialised reception centres for victims of human trafficking. It also allows for online reporting of potential cases of human trafficking, which can be done by both victims and witnesses.

In the same vein, **a reporting tool was created on the website of the Social Intelligence and Investigation Service (*Sociale Inlichtingen-en Opsporingsdienst (SIOD) / Service d'Information et de Recherche Sociale (SIRS)*) to report situations involving labour exploitation**.⁽¹²¹⁾ Victims and citizens alike can use the reporting tool to facilitate reporting of labour exploitation, with the aim of investigating trafficking cases and providing assistance to victims.

Parallel to these information and reporting tools, a number of training sessions were delivered to public authorities, namely:

- ◆ **The specialised anti-trafficking labour inspectors of the National Social Security Office (ECOSOC teams) followed a training on multicultural communication.** This training was intended to help labour inspectors better approach foreigners who are presumed victims of labour exploitation in order to gain their trust and encourage them to speak up.
- ◆ **New staff of the Immigration Office was offered the possibility to follow a webinar on how to detect, inform and guide potential victims of human trafficking.** The webinar provided information on definitions, indicators, procedures and documents for potential victims. On 8 December 2022, the staff of the 127bis closed centre received additional information on the procedure foreseen for potential victims of human trafficking.
- ◆ **The Fedasil staff working in reception centres expressed the need for new training on trafficking in human beings in an internal**

¹²⁰ Available at <https://www.stophumantrafficking.be/>.

¹²¹ Available at <https://www.meldpuntsocialefraude.belgie.be/en/>.



survey conducted in 2021. In 2022, two training modules were developed: the first, to be proposed online to all staff members, provides an introduction to human trafficking and facilitates the detection and support of potential victims. The second, to be proposed face-to-face to staff acting as single points of contact for human trafficking as well as staff members working with unaccompanied minors, deepens the material of the first module through case discussions and practical exercises. The two modules are expected to be delivered in 2023 and 2024, respectively.

Box 13: Raising awareness on human trafficking: the Blue Heart Campaign

Many people in Belgium are unaware of the existence of human trafficking and exploitation, which makes it difficult for them to identify potential victims. To address this, Belgian authorities and partners support the annual **Blue Heart Campaign** of the United Nations, which aims to raise awareness and inspire action to stop human trafficking and its impact on society. The 2022 campaign focused on the role of technology in both enabling and impeding human trafficking. The campaign was launched by the FPS Justice in Brussels on 25 July 2022, with speakers from the United Nations Office on Drugs and Crime (UNODC), EU institutions, and NGOs.

Five days later, on the **World Day Against Trafficking in Persons**, several cities, municipalities and even sports clubs joined the campaign by illuminating their town halls and other important buildings with blue lights. The famous Manneken Pis statue also wore a Blue Heart costume. The specialised reception centres, PAG-ASA and Sūrya, set up information stands in various cities to raise public awareness. In collaboration with the FPS Justice, they developed posters and brochures with the slogan “Shine the Light on Human Trafficking”. The message urged everyone to remain vigilant and report potential cases of human trafficking.

9.3 PROTECTION AND ASSISTANCE TO VICTIMS

Once detected and identified, victims of trafficking must receive essential information about the availability of protection and assistance mechanisms, as well as the possibilities of obtaining compensation from perpetrators. For victims of labour exploitation, this may include recovering lost wages, which can be calculated by the labour inspectorate based on salary scales in Belgium. To make it easier for victims to recover lost wages, **a working group composed of representatives of the FPS Justice and the three specialised reception centres for victims of trafficking published an**

information booklet titled “Victim of human trafficking, exploitation or an accident at work – How can I seek compensation?”. This booklet was finalised in June 2022 and is now available and distributed. The creation of this booklet is part of the 2021-2025 Action Plan on Fighting human trafficking.

In 2022, the Immigration Office continued to play an important role in granting residence permits to victims of trafficking. According to Articles 61/2 to 61/5 of the Immigration Act, victims of trafficking may be granted a temporary three-month residence permit, provided that they have filed a complaint or issued a statement against the traffickers. Depending upon developments in the investigation, and provided that certain conditions are met, a six-month residence permit may be issued and may be renewed every six months until the judicial proceedings have concluded. In addition, a victim can obtain a permanent residence permit if their complaint or declarations are of major interest for judicial proceedings, even if they do not result in a conviction. In 2022, **the Immigration Office’s discretionary power was expanded to issue an unlimited residence permit for humanitarian reasons** to the person (who has always been considered a victim and who has always cooperated with the authorities) if the conditions are met. The Immigration Office could already make use of this discretionary power when the Labour Auditor or the Public Prosecutor’s Office decided to close a case without further action. Since autumn 2022, the Immigration Office can also make use of this discretionary power when the Council Chamber (*Raadkamer / Chambre du Conseil*) closes the proceedings with an order of nonsuit. At the time of writing this report, no major impact has been noticed yet but it is likely that the broadening of the scope of this discretionary power will allow more cases to fulfil the conditions for the granting of a right of residence.

9.4 INCREASED COOPERATION AND RESOURCES IN THE FIGHT AGAINST HUMAN TRAFFICKING

The ‘Borealis’ case (see Box 14) and increased reporting of cases of irregular employment by EU companies of third-country nationals working in sub-standard or exploitative conditions, particularly in the construction sector, have highlighted the need for (i) increased human resources allocated to labour inspection, and (ii) improved inter-institutional cooperation.

First, in order to address the shortage of labour inspectors specialised in detecting and investigating cases of trafficking and labour exploitation, **the Belgian government allocated additional human resources to specialised units of the National Social Security’s Inspectorate.**



In 2023, these so-called 'ECOSOC' units will recruit 10 additional specialised inspectors, bringing their headcount from 40 to 50.

Second, social inspection services joined forces to focus on social dumping and labour exploitation among third-country nationals, with targeted inspections organised monthly.

Box 14: Human trafficking and labour exploitation in practice: case 'Borealis'

In May 2022, one of the biggest cases of human trafficking and economic exploitation in Europe was uncovered in Belgium. In the port of Antwerp, at a construction site of the chemical company 'Borealis', **174 victims came forward** with claims of labour exploitation.

Belgian authorities and specialised partner organisations faced capacity challenges to respond to the needs of the many exploited persons who needed immediate assistance.

Inter-institutional cooperation has also proven essential in responding to cases of sexual exploitation among young Afghans. In October 2022, following worrying reports from various field partners, a first coordination meeting was organised at the initiative of the specialised reception centre PAG-ASA. Actors involved, including Minor-Ndako (see section on Minors), the platform 'Minors in exile' (*Platform Kinderen op de vlucht / Plateforme Mineurs en exil*), the Guardianship service, the General Delegate for Children's Rights and Myria, the Federal Migration Centre, exchanged information. The Cabinet of the Secretary of State for Asylum and Migration and the Cabinet of the Minister of Justice decided that cooperation between national authorities should be pursued in 2023. All departments concerned will meet in 2023 to draw a clearer picture of the phenomenon, to make an inventory of the initiatives already taken in this context and to decide on new actions to be implemented to take care of young victims and prevent these situations in the future.

At the European level, cooperation between EU Member States is crucial to tackle transnational criminal networks engaged in human trafficking. According to the Belgian Federal Police, these networks have become more professional and well-resourced, using digital technologies to coordinate their activities across multiple EU Member States and beyond, making it difficult for law enforcement to detect and combat their actions. In 2022, Belgian actors have responded to this challenge by **continuing to encourage the creation of and participation in Operational Task Forces to better coordinate efforts** with European partners.



Trafficking of minors

Several indicators point to a growing trend in the exploitation of both accompanied and unaccompanied minors in various forms of sexual abuse and exploitation as well as forced criminality. Since 2022, **the Federal Judicial Police is developing a 'strategic image project'** (*project strategische beeldvorming / projet d'image stratégique*), both at national and international level, with the aim of gaining a better understanding of the exploitation of minors, as well as to identify trends, threats and challenges regarding the exploitation of minors. The Federal Judicial Police wants to develop a policy on collecting, analysing and coordinating information on this form of criminality.

To respond to the need for more safe places for unaccompanied minors who are potential victims of human trafficking, the Flemish non-profit organisation Minor-Ndako opened, on 1 March 2022, a **new reception facility called 'Meza'**. It is a small-scale living facility for unaccompanied girls (14 to 18 years old), who are suspected victims of human trafficking, with a priority for victims of sexual exploitation. It can accommodate six girls.

Finally, the **updated version of the Handbook for Guardians**, published by the Guardianship Service of the FPS Justice, contains extensive information on human trafficking and smuggling, focusing on the detection and protection of child victims.





10

INFORMING AND GUIDING IRREGULARLY STAYING MIGRANTS TOWARDS LONG-TERM SOLUTIONS



In response to the growing complexity of the migration landscape in Belgium, the Federal Agency for the Reception of Asylum Seekers (Fedasil) and the Immigration Office have developed various projects to guide migrants in irregular stay (see Glossary definition) towards long-term solutions.

10.1 PROVIDING SHELTER AND ORIENTATION TO HOMELESS MIGRANTS

In 2022, Fedasil initiated **small-scale Shelter and Orientation projects for homeless migrants who have been living in an irregular situation for a prolonged period**. These projects are run operationally by civil society organisations and managed by city administrations. The projects are supported financially and operationally by national authorities. The aim is to provide stability, as well as intensive coaching and guidance for individuals without legal residence who have been homeless for a long time and are committed to finding a lasting solution for their future.

Irregular stay

The presence on the territory of an EU Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Art. 5 of the Regulation (EU) 2016/399 (Schengen Borders Code) or other conditions for entry, stay or residence in that EU Member State.

Civil society organisations provide guidance and shelter while maintaining a trust-based relationship with the individual concerned. Their neutral role is vital in creating a safe space to guide migrants in their decision-making process. These organisations act as the first line of contact and do not influence the migrant's administrative status. After they have been informed of their options, third-country nationals who are ready to discuss their situation with federal authorities receive case resolution services from the Immigration Office, through their ICAM (Individual Case Management) service, informing irregularly-staying migrants about their situation, looking into possible new residence procedures, and helping and encouraging them to return voluntarily. Third-country nationals engaged in an ICAM coaching trajectory are protected from detention under certain conditions (see 10.3 and Figure 1). Fedasil return counsellors inform migrants about voluntary return trajectories and reintegration assistance in the country of origin in close cooperation with IOM and Caritas counsellors.

10.2 REACHING OUT TO MIGRANTS OUTSIDE OF THE RECEPTION NETWORK

Fedasil adapted its services to (re)connect with irregularly staying third-country nationals (with or without a return decision) who are not residing in a reception facility. Fedasil's low-threshold services, such as mobile outreach teams, approach migrants who are on the streets, living in squats, or frequenting day centres. With the help of intercultural mediators, these teams proactively establish contact with individuals in need of orientation, providing information that can help resolve their case.

To expand its reach, **Fedasil increased its investment in 'Reach Out' projects.** Since 2019, the European Return and Reintegration Network (ERRIN) has initiated Reach Out 1.0 (2019-2020) and Reach Out 2.0 (2021-2022) projects, which have created a transnational community of practice. This community has developed an outreach methodology and a blueprint for initiating outreach activities in urban environments. Between 2020 and 2022, a binational French-Belgian team reached out to undocumented migrants in Belgium and Northern France. Through these activities, an innovative methodology of 'micro-counseling' was created, which aims to reach migrants who are hesitant and suspicious of authorities in brief one-to-one encounters. The Franco-Belgian cooperation ended on 30 April 2022 with the end of ERRIN funding. The Belgian Reach Out team continued its activities on its side of the border and was significantly expanded through funding from the EU Asylum, Migration and Integration Fund (AMIF), both in terms of geographical reach and human resources, including the recruitment of additional intercultural mediators.

10.3 OFFERING INDIVIDUAL COACHING TOWARDS A LONG-TERM SOLUTION

In June 2021, the Immigration Office established a new 'Alternatives to Detention' (ATD) Department, to implement measures that would replace the detention of third-country nationals in a situation of irregular stay. This move was prompted by the Government Agreement in September 2020⁽¹²²⁾ and the recommendations of the Bossuyt Commission⁽¹²³⁾, which highlighted the need for a more adherent policy.

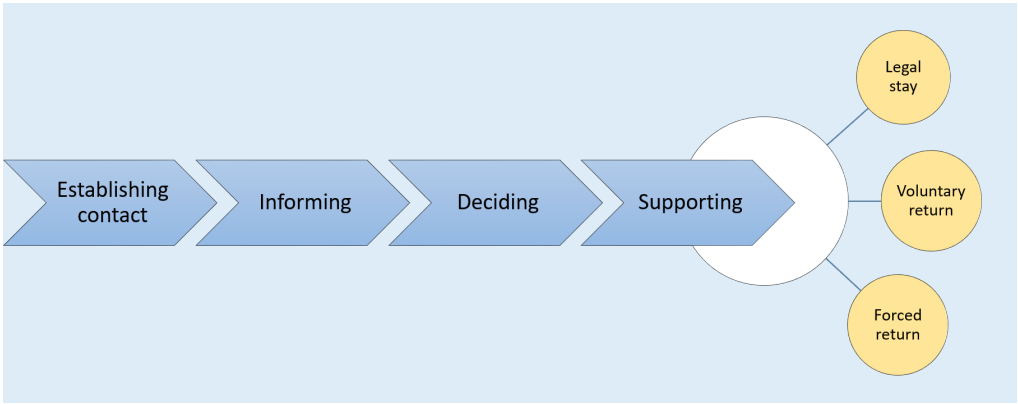
122 Belgium.be, 'Accord de gouvernement', 30 September 2020, p. 92-95, https://www.belgium.be/sites/default/files/Accord_de_gouvernement_2020.pdf, last accessed on 2 June 2023.

123 General Police Inspection, 'Rapport final de la Commission chargée de l'évaluation de la politique du retour volontaire et de l'éloignement forcé d'étrangers', 21 September 2020, <https://www.aigpol.be/fr/rapport-final-de-la-commission-chargee-de-levaluation-de-la-politique-du-retour-volontaire-et-de>, last accessed on 2 June 2023.



In this framework, the Immigration Office deployed ICAM Coaches, who are tasked with supporting and informing individuals towards a long-term solution: a legal stay in Belgium or a return procedure (see Figure 1 and see also 11.1). In 2022, **ICAM Coaches were active in almost all Belgian provinces**. However, the mobilisation of ICAM Coaches to register arrivals from Ukraine limited their work with irregular-staying third-country nationals. In 2022, the ATD Department also organised several information sessions for partners such as the Federal Police and municipalities to increase partners’ understanding of the mandate and tasks of the Department, as well as to ensure close collaboration.

Figure 1 – ICAM Coaching procedure



Source: adapted from website of the Immigration Office







11

RETURN AND READMISSION



The Belgian return policy has two pillars: voluntary and forced return. Fedasil manages the assisted voluntary return programme, in partnership with Caritas International and the IOM (11.1). This programme is designed for all migrants, whether they are applicants for international protection, applicants who have been turned down, or migrants without a residence permit. The return journey is organised from Belgium to the country of origin. Based on the migrants' situation, the programme includes a return grant and reintegration support into their country of origin. In the case of non-compliance or refusal to leave the territory, the Immigration Office may decide to place an individual in a detention facility in order to implement their removal from the territory. Families with minor children are not held in detention facilities but in dedicated family units. During their stay in a detention facility or a family unit, the Immigration Office provides information about voluntary and forced procedures (11.2).

11.1 VOLUNTARY RETURN: INCREASED SUPPORT TOWARDS REINTEGRATION

After two years marked by the COVID-19 pandemic, **the number of assisted voluntary return procedures increased remarkably**. In 2022, Fedasil provided return assistance to 2 673 people willing to return voluntarily to their country of origin, which is 10% more than in 2019, and 36% more than in 2021.⁽¹²⁴⁾ In addition to an increase in the number of return procedures, Fedasil also expanded its services and strengthened its institutional cooperation with local organisations in countries of origin in support of return and reintegration programmes.

In July 2022, the Immigration Office and Fedasil signed a '**Memorandum of Understanding on the Return and Reintegration Facility (RRF)**' with the International Centre for Migration Policy Development (ICMPD). Funded by the European Commission (DG HOME), the Return and Reintegration Facility supports EU Member States and Schengen Association Countries to increase the effectiveness of their return and reintegration programming. With this MoU, the Immigration Office and Fedasil aim to benefit from the RRF's operational and financial support to develop and implement projects and activities in the area of return and reintegration, as well as to engage in the RRF's knowledge capacity initiatives (workshops, exchanges) to strengthen evidence-based and knowledge-driven project development.

In the same vein, Frontex also offers support services to EU Member States

¹²⁴ This number includes all persons who have made use of the Belgian voluntary return programme of Fedasil (divergence with Eurostat Statistical Annex, as Eurostat data only includes data on returned persons who do not have EU or EFTA nationality and have received an order to leave the territory).

for the implementation of voluntary return programmes. As of 2022, **Fedasil joined Frontex's Joint Reintegration Service (JRS) project** in order to benefit from reintegration assistance. This assistance intervenes during the first days following arrival in the country of origin (post-arrival assistance), and for up to twelve months post-return to help returnees re-integrate into society. Caritas International, one of the partners of Fedasil in its voluntary return programme, also operates as one of the reintegration partners within the JRS project. Along with local partner organisations, Caritas International was selected in a second phase as a reintegration partner in 18 countries. Fedasil will therefore make use of JRS in a selected number of countries where Caritas International is active.

Finally, in 2022, Fedasil also increased its support both to returnees and to local reintegration partners:

- ◊ With regard to returnees, **Fedasil extended its reintegration assistance services to various target groups**, including irregularly-staying migrants and applicants for international protection (see section on Minors).⁽¹²⁵⁾
- ◊ **Local integration partners in selected countries received additional financial support** in the form of an increased service fee (funding to deliver specific services in the context of the reintegration programme), as well as structural funding. These partner countries were selected based on clear criteria, such as the presence of potential returnees in and outside Fedasil's reception network. Fedasil also revised the monitoring and reporting methodologies and requirements for local reintegration partners to improve the quality of services rendered to returnees.

11.2 FORCED RETURN: NEW DETENTION FACILITIES AND FRAMEWORK ON APPREHENSION

The Immigration Office manages six detention facilities, so-called 'closed centres', where persons who are refused entry at the border and persons who have received an order to leave the territory are detained in view of their return. In February 2022, the federal government reached an agreement on the **construction of four new detention facilities**. These will be located in Zandvliet (144 places), Jumet (200 places), Steenokkerzeel (50 places), and Jabbeke (112 places), the latter replacing the detention facility in Bruges. The construction of these new facilities should almost double the number of places by 2030 (from 635 to 1 145).

¹²⁵ Committee on the Rights of the Child, Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 73/2019, CRC/C/89/D/73/2019, 22 March 2022.



On 5 October 2022, a decision by the Belgian Court of Cassation in the case of *Belgium v. A.O.M.*⁽¹²⁶⁾ may lead to **important changes in the legal framework on the apprehension of irregularly-staying third-country nationals**. In Belgian law, the inviolability of the home is protected by Article 15 of the Constitution. This article specifies that no home search may take place except in cases provided for by law and in the form prescribed by law. In its verdict on 5 October 2022, the Court of Cassation ruled that if police enter a private residence – such as to intercept an irregularly-staying third-country national in order to bring them to a detention facility – without a court order, the resident must provide written consent to the police. Additionally, the police must conduct these searches between 5 AM and 9 PM. Some measures have already been taken to align with the Court of Cassation’s decision.⁽¹²⁷⁾

126 Belgian Court of Cassation, decision P.22.1200.F, 5 October 2022, https://juportal.be/JUPORTAwork/ECLI:BE:CASS:2022:ARR.20221005.2F.11_FR.pdf, last accessed on 3 June 2022.

127 In January 2023, an Ad-Hoc Query launched by EMN Belgium, at the request of the Immigration Office, examined the practice of other Member States relating to the apprehension of irregularly-staying third-country nationals in their homes or reception centres.



Return of minors and other vulnerable groups

With regards to voluntary return, in 2022 **Fedasil strengthened its reintegration assistance services to families with children and other vulnerable groups**, who can benefit from additional psycho-social and education support.

With regards to forced return, **Belgium was condemned for failing to consider alternatives to detention in a case of a family detained in a closed centre**. On 22 March 2022, the UN Committee on the Rights of the Child concluded that Belgium had violated Article 37 of the Convention on the Rights of the Child, read in conjunction with Article 3, in the case of a family with two daughters who was arrested at their home (1). The family was issued an order to leave the territory and taken to a “family house” at a closed centre. The family remained at the centre for three weeks and two days, on the basis of the regime of Royal Decree of 22 July 2018. In its findings, the Committee considered that “by failing to consider possible alternatives to the detention of the children, the State Party has not given due regard, as a primary consideration, to their best interests, either at the time of their detention or when their detention was extended”. The current government coalition has prohibited this practice.





12

MIGRATION AND DEVELOPMENT COOPERATION



In Belgium, the link between migration and development cooperation has increased over the years and the actors involved in this field have multiplied. The [Directorate-General for Development Cooperation and Humanitarian Aid \(DGD\)](#) of the Federal Public Service (FPS) Foreign Affairs, Foreign Trade and Development Cooperation looks after the various aspects of Belgian Development Cooperation. Additionally, [Enabel, the Belgian development agency](#), implements the policy priorities of Belgian governmental cooperation and promotes sustainable international development. Enabel's human mobility department promotes the improved governance of human mobility for development at national, regional and local levels and, amongst others, aims at improving the protection and resilience of (displaced) individuals and communities. Finally, [IOM Belgium and Luxembourg](#) manages several projects related to diaspora engagement and skills mobility, which have a development component.

More generally, the Belgian Development Cooperation brings together all the development cooperation actions at the federal level. These are governmental (from country to country), non-governmental (NGOs, universities, trade unions, etc.) and multilateral (international institutions). Its core mission is to do its part to create a world with less poverty and inequality. To this end, it supports actions, especially in the Sahel region, the Great Lakes region, North Africa and the Middle East. It also includes an important humanitarian aid component.

12.1 MIGRATION-DEVELOPMENT NEXUS: NEW STRATEGIC NOTE AND INSTITUTIONAL COOPERATION

In early 2022, the DGD of the **FPS Foreign Affairs published a Strategic Note on migration as a lever for development.**⁽¹²⁸⁾ This note provides a framework on migration for Belgian development actors and serves as a basis for political dialogue with the governments of countries where the Belgian development cooperation is active,⁽¹²⁹⁾ the EU, and other donors and multilateral partners.

The note outlines four strategic objectives:

- ◇ Supporting and promoting good management of migration by various actors at all levels (international, national, regional and local);
- ◇ Promoting public debate on the migration-development nexus in Bel-

128 FPS Foreign Affairs, 'Strategienota: migratie als hefboom voor duurzame ontwikkeling', <https://diplomatie.belgium.be/nl/beleid/ontwikkelingssamenwerking-en-humanitaire-hulp/wie-zijn-we/strategienotas>, last accessed on 2 June 2023.

129 12 out of the 14 partner countries of the Belgian development cooperation belong to the least developed countries in Africa. Furthermore, 22 of 31 countries of intervention of non-governmental cooperation are also among the least developed countries, including 20 which are located in Africa. Special attention is given to the Sahel Region and West Africa, the Great Lakes region, North Africa and the Middle East.

gium and in countries where the Belgian development cooperation is active;

- ◇ Promoting the protection and respect of human rights, and the well-being and resilience of migrants, refugees and host communities;
- ◇ Using and promoting the potential of migration for sustainable development.

These objectives are further broken down into priority areas for future action on migration and development, and then translated into operational activities and concrete outcomes for action plans of the DGD and other stakeholders. They also serve as benchmarks for the annual monitoring and evaluation of the strategy's implementation within a common platform that brings together all stakeholders.

In terms of dialogue with Belgian development partners, **the DGD held a bilateral consultation with the IOM** in Brussels on 6 October 2022. During the consultation, detailed discussions took place on the following topics:

- ◇ Strategic priorities of both partners;
- ◇ The link between migration and development, including the impact on the ground (input was received from interventions in Mali, Nigeria and Ukraine);
- ◇ Funding and accountability;
- ◇ Cooperation with other partners (Enabel, Fedasil and the Immigration Office); and
- ◇ Visibility and future prospects.

12.2 IMPLEMENTATION OF MOBILITY PROJECTS

In 2022, development cooperation actors in Belgium launched, continued, or ended several mobility projects with partner countries.

Projects launched:

Enabel launched the Project for Entrepreneurial Mobility between Côte d'Ivoire and Belgium (PEM-CIV).⁽¹³⁰⁾ Funded by the EU, this circular mobility scheme started in November 2022 and will run for a period of 42 months. It will be implemented in coordination with institutional partners in

¹³⁰ Enabel, 'Human mobility – Project for Entrepreneurial Mobility between Ivory Coast and Belgium', <https://open.enabel.be/en/CIV/2516/p/human-mobility-project-for-entrepreneurial-mobility-between-ivory-coast-and-belgium.html>, last accessed on 2 June 2023.



both Côte d'Ivoire and Belgium, including the Regional Economic Agencies, the Immigration Office, Fedasil, and other economic actors, such as incubators and diaspora-led businesses. The project aims to increase the socioeconomic added value created by Ivorian small and medium enterprises by providing circular mobility opportunities to 120 talented entrepreneurs from Côte d'Ivoire. This mobility scheme follows up on the pilot project 'PEM-WECCO' on entrepreneurial mobility between Belgium and Senegal.

With this new project, Enabel aims to further test new labour mobility pathways, this time focusing on entrepreneurs who visit Belgium with a business visa, and to implement an innovative approach to circular migration (see Glossary definition) between economic operators from Côte d'Ivoire and Belgium.

Circular migration

A repetition of legal migration by the same person between two or more countries.

IOM Belgium and Luxembourg publically launched the Displaced Talent for Europe (DT4E) project. This is a three-year pilot project (December 2021 to December 2024) funded by the EU. The goal of the project is to facilitate and strengthen labour mobility schemes by connecting displaced foreign talent in Jordan and Lebanon with employers in Belgium, Ireland, Portugal and the UK. The project is led by the IOM and involves other stakeholders such as Talent Beyond Boundaries, Fedasil, Alto Comissariado para as Migrações and law firm Fragomen. The project has four main objectives:

- ◇ To test displaced talent mobility pathways;
- ◇ To engage the private sector in addressing skills shortages through labour mobility schemes;
- ◇ To support a minimum of 250 talents and their families through tailored pre-departure and post-arrival assistance;
- ◇ To create a community for discussing knowledge and experience on displaced talent mobility.

Through this project, the organisers hope to create a sustainable solution for displaced talent, while addressing skills shortages in the participating countries.

Ongoing projects:

Enabel implemented new activities as part of its THAMM-Enabel project, which stands for 'Towards a Holistic Approach to Labour Migration Governance and Labour Mobility in North Africa'. The project is a mobility initiative between Morocco, Tunisia and Belgium based on the concept of 'Global Skills Partnership'. Its aim is to promote mutually beneficial labour mobility through legal pathways (see Glossary definition).

Legal pathway

In the EU context, every legal mechanism and policy that enables regular migration from a third country to an EU Member State, for both international and humanitarian protection needs and labour market needs (labour migration, family reunification, student migration).

In 2022, several activities were launched as part of this project, including:

- ◇ Pre-departure training in collaboration with Fedasil for talents moving to Belgium;
- ◇ Selection of professions in shortage common to Morocco, Tunisia and Belgium;
- ◇ Analysis of training curricula in the countries of origin in comparison to those in Belgium;
- ◇ Preparations for the first job dating event in Morocco with the Flemish and Walloon public employment services (VDAB and LeForem, respectively);
- ◇ Development of a thematic cooperation plan to enhance the skills of employment agencies in the countries of origin.

Projects ended:

In November 2022, **the IOM MATCH project ended its operations and services related to the pre-selection of Senegalese and Nigerian talents for EU companies**. Migration of African Talents through Capacity-building and Hiring (MATCH) was a 39-month initiative funded by the EU that seeks to provide skilled talents to European companies whose needs for qualified staff could not be satisfied by the offer available on the EU labour market.



The project implemented complementary activities such as skills development training for African talents, capacity-building activities in Senegal and Nigeria for both the public and the private sector, and trainings for companies on intercultural competences, diversity and inclusion, practical and legal requirements for international recruitment.

Some main outcomes from the MATCH project were:

- ◇ 118 vacancies from European companies were collected, including 71 from Belgian employers;
- ◇ 374 talents were pre-selected;
- ◇ 7 placements with European companies were facilitated, of which 3 with Belgian companies;
- ◇ 14 capacity-building activities were implemented in Nigeria and Senegal for the public and private sector, of which 9 in 2022;
- ◇ 6 trainings on diversity, inclusion and intercultural competences were organised for European companies, including 3 in Belgium.

12.3 DIASPORA ENGAGEMENT

In 2022, two additional development projects that focus specifically on diaspora engagement were further implemented.

Enabel's PAMMOD-project is aimed at harnessing the potential of the Guinean diaspora in Africa and Europe to contribute to the socioeconomic development of Guinea. The project has two specific objectives:

- ◇ To identify and mobilise the potential of the Guinean diaspora in France, Belgium, Senegal and Côte d'Ivoire for the economic, social and cultural developments of their country of origin; and
- ◇ To strengthen local entrepreneurial capacities through a pilot scheme of tailored support to entrepreneurs in the targeted territories of Conakry, Mamou, Labé, and Boké by diaspora actors through the development of specific partnerships.

In 2022, PAMMOD launched a survey inquiring the Guinean diaspora's needs and (economic) expectations in France, Belgium, Côte d'Ivoire and Senegal.

IOM Belgium and Luxembourg continued its engagement with the Rwandan diaspora in Belgium and other European countries as part of a project co-financed by the Belgian government and the EU.⁽¹³¹⁾ The project aims to address the needs of the Technical and Vocational Education and Training (TVET) and Health sectors in Rwanda through the engagement of diaspora members in Belgium and other EU countries. A selection of highly qualified diaspora professionals was temporarily relocated to Rwanda to provide technical trainings to TVET professors and students in identified priority courses of the Rwanda Polytechnic's host institutions, as well as to support health professionals in various departments in Rwanda. The project is set to end in 2023.

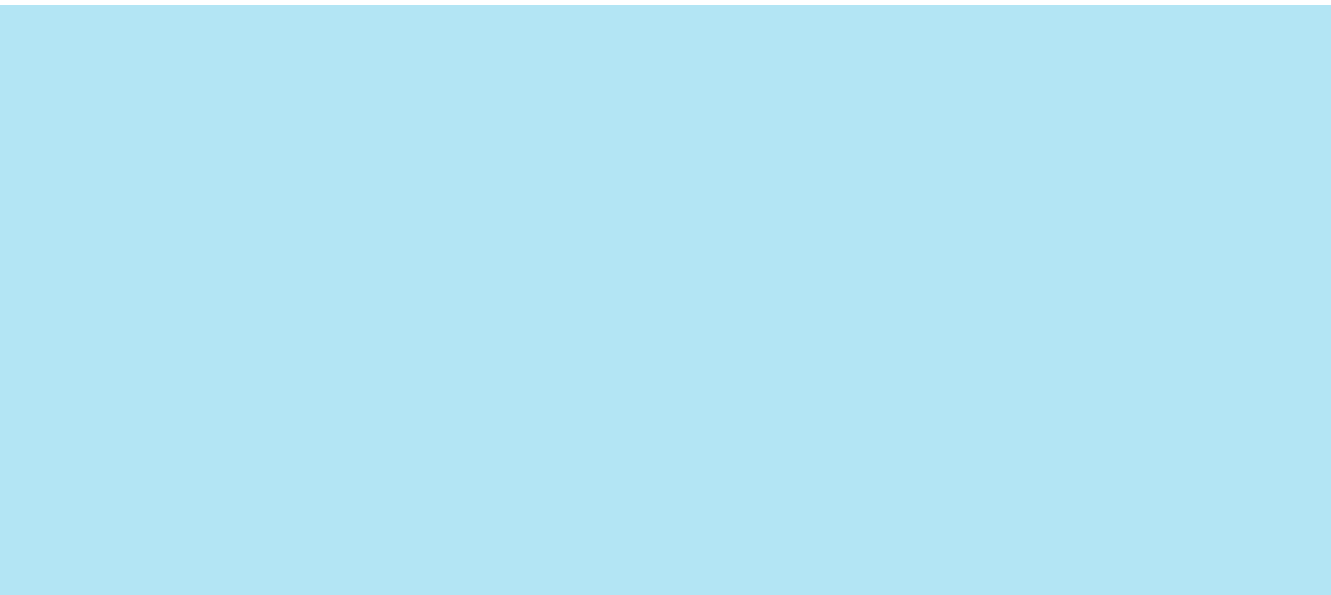
Box 15: EMN Belgium's engagement with development actors

In 2022, the **Belgian National Contact Point to the European Migration Network (EMN Belgium)** hosted its national conference on the topic of '**Skills Mobility Partnerships**', in partnership with Enabel and IOM Belgium and Luxembourg. The event was the result of extensive discussions between these organisations and various stakeholders at the local, regional, national and European levels who are involved in developing Skills Mobility Partnerships. The conference brought together over 250 public and private stakeholders to discuss policy and best practices. The event was held over two days (1 and 2 June 2022, in Brussels) and focused on the concept of Talent Partnerships as a whole, and Skills Mobility Partnerships in particular.

Later that year, **EMN Belgium participated in two thematic meetings of the Rabat Process**. In September 2022, the meeting on 'State Cooperation as a Key to Success in Labour Migration' focused on the African perspectives on labour migration and the prospects of the European Dialogue partner countries as destination countries, on the exchange of good practices of Euro-African and intra-African cooperation in the area of labour migration, and on how a multi-stakeholder approach may strengthen cooperation on labour migration. In November 2022, EMN Belgium participated in the High-Level Thematic Meeting on 'Remittances and Sustainable Development', co-chaired by Belgium and Ghana.

¹³¹ IOM Belgium and Luxembourg, 'Rwandan diaspora engagement projects', <https://belgium.iom.int/rwandan-diaspora-engagement-projects#:~:text=IOM%20is%20still%20looking%20for,February%202022%20for%20health%20professionals>, last accessed on 2 June 2023.





ANNEX: PUBLICATIONS OF THE EUROPEAN MIGRATION NETWORK (2022)



The present annex lists the studies and informs published by the European Migration Network (EMN) in 2022. Studies are the longest publication format, with information collected and analysed over the span of four to six months. They compile the answers provided by Member and Observer Countries to around 18 to 25 detailed questions on a specific topic. For most studies, EMN Belgium produces an additional 'standalone' publication specifically on the Belgian context. Informs are a shorter publication (approximately 6 to 10 pages) and aim to provide a quick but comprehensive overview of the practice and policies of Member and Observer Countries on a specific topic. They compile the answers provided to a total of 12 detailed questions.

All studies and informs are available for download at: www.emnbelgium.be.

The EMN also produces ad-hoc queries, which are the fastest and most used outlet to collect information across the network. Following a quality and relevance-check internal system, anyone can make use of the ad-hoc query system and launch a query on any topic related to asylum and migration. Because of the large number of ad-hoc queries, these are not systematically uploaded on our website. Results of most Ad-hoc queries can be made available on request.

Studies	
September 2022	Integration of migrant women (no BE standalone)
August 2022	Detention and alternatives to detention in international protection and return procedures (BE standalone in progress)
May 2022	Third-country national victims of human trafficking: detection, identification and protection

Informs	
November 2022	Transition of unaccompanied minors to adulthood
November 2022	Arrangements for accommodation, housing and access to services for beneficiaries of temporary protection from Ukraine
September 2022	Bilateral readmission agreements
September 2022	Secondary movements of beneficiaries of international protection
July 2022	Incentives and motives for voluntary departure
July 2022	The application of the Temporary Protection Directive
July 2022	Mapping of mental health policies for third-country national migrants
April 2022	Attracting and retaining international researchers
March 2022	Misuse of the authorisation to reside for studying
March 2022	Skills Mobility Partnerships: exploring innovative approaches to labour migration (joint EMN-OECD inform)
February 2022	The use of digitalisation and artificial intelligence in migration management



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