

BELGIUM

EMN COUNTRY FACTSHEET

2022

MAIN DEVELOPMENTS IN MIGRATION AND INTERNATIONAL PROTECTION

OVERARCHING CHANGES

- In 2022, more than 100 000 persons applied for protection in Belgium. 63 356 persons fleeing Ukraine received a temporary protection status which entitled them to, i.a. access the labour market, housing and social and medical aid. In addition, 36 871 persons applied for international protection.
- An increased influx of applicants for international protection in need of reception, in conjunction with, i.a. a longer duration of the asylum procedure, led to a reception crisis. The Belgian State and the Federal Agency for the Reception of Asylum Seekers (Fedasil) were convicted numerous times for their inability to provide accommodation.
- At regional level, the Flemish Region changed its policy on middle-skilled bottleneck workers and approved a Decree on professional activities performed in a self-employed capacity. In Brussels-Capital Region, the civic integration programmes became mandatory, bringing them in line with the practice in the rest of the country.

The **COVID-19 pandemic** had a significant impact on the national migration and asylum system. In 2022, the impact was still notable, specifically in the areas of return and border management. The organisation of forced return was challenging as strict COVID-19 related measures applied. Border management control measures remained in place until May 2022.

In February 2022, the Council of Ministers approved the concept note that contains the global architecture for the new **Migration**

Code that will replace the current Immigration and Reception Act.

On 28 June 2022, a **new Secretary of State for Asylum and Migration** was appointed. In October 2022, she presented the conclusions of an **external audit** of the asylum and migration services to the Federal Parliament including the recommendation to merge the three asylum agencies into one single organisation capable to manage and monitor processes from start to finish.

In 2022, **more than 100 000 persons applied for protection in Belgium**. 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. In addition, 36 871 persons applied for international protection.

An increased influx of applicants for international protection in need of reception, in conjunction with a reduced outflow, due to, among others, a longer duration of the asylum procedure, led to **an extreme pressure on the reception network** of the Federal Agency for the Reception of Asylum Seekers (Fedasil). Despite Fedasil's efforts to rapidly upscale its reception capacity and various measures taken to reduce pressure on the reception network, Fedasil could no longer provide accommodation for all those entitled. In 2022, the **European Court of Human Rights** repeatedly ordered the Belgian State to adopt interim measures to prevent irreparable harm.



LEGAL MIGRATION AND MOBILITY

WORK-RELATED MIGRATION

In the field of work-related migration, considerable developments took place on both the federal and regional level.

On the **federal level**, a law was adopted that makes it possible again for people with a legal short-term residence permit or long-term residence permit to apply for a single permit from the Belgian territory. Additionally, the government partially transposed Directive 2016/801, specifically regarding volunteers and trainees. The latter development aims at facilitating participation to European volunteer projects and to give third-country nationals increased access to traineeships on the Belgian territory. Finally, in 2022, two new mobility projects were launched: Displaced Talent for Europe (DT4E, by IOM Belgium and Luxembourg) and the Project for Entrepreneurial Mobility (PEM-CIV) by Enabel, the Belgian development agency.

On the **regional level**, the Flemish Region changed its policy on middle-skilled bottleneck workers; this category of workers can no longer be qualified as unskilled. This will positively affect the determination of their minimum wage and improve working conditions for middle-skilled migrant workers in bottleneck professions. On 9 July 2021, the Flemish government approved a Decree on professional activities performed in a self-employed capacity. The new policy is built on three pillars, such as the introduction of a simplified and digital procedure to apply for a professional card. The regulatory framework took effect on 1 January 2022.

STUDENTS AND RESEARCHERS

In 2022, Belgium partially transposed Directive 2016/801 on researchers, making them legally **eligible for a search year**. This means that, after completing their research, they can apply to stay for up to 12 months to search for work or to set up a company. The transposition came very late, with the Commission having started an infringement procedure in 2018 for failure to properly transpose the Directive.

FAMILY REUNIFICATION

The most important developments in the field of family reunification are related to recent case-law of the European Court of Justice (CJEU). The Immigration Office's practice was adapted to the CJEU's findings in **C-279/20**: the reference point for determining minority in the application for family reunification of a minor child with an adult beneficiary of international protection is the moment when the beneficiary applies for international protection. After this case, the **Council of State** followed up on the notion of 'reasonable delay', which the CJEU set on a minimum of three months. More specifically, it clarified that the application for family reunification must be made within a reasonable period, i.e., within one year of the date on which refugee status was granted to the parent sponsor.

On 17 November 2022, the CJEU answered a Preliminary Question originating from the Belgian Council on Alien Law Litigation in the

case **C-230/21**. More specifically, it found that Article 10(3)(a) of the Council Directive 2003/86 on the right to family reunification, read in conjunction with Article 2(f) of that Directive, means 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.

Finally, the Immigration Office **extended the basic validity of visa** for family reunification from six months to one year.



RESPONSES TO THE INFLUX OF PERSONS FLEEING THE WAR IN UKRAINE

Many Belgian stakeholders worked together to ensure the proper implementation of the **Temporary Protection Directive**. The scope of application was interpreted widely on the Belgian level, though for some categories of people, such as in the case of irregularly staying Ukrainians, a more thorough case-by-case approach was adopted.

A **registration centre** was opened to facilitate the registration of applicants for temporary protection. As of 21 March 2022, an online appointment system was rolled out to avoid queues and to guarantee applicants the possibility to register. Currently, when an individual clearly meets the conditions for temporary protection, the Immigration Office immediately issues a temporary protection certificate. Nonetheless, if an individual case requires further investigation or if additional documents need to be submitted, the Immigration Office first issues a certificate of registration, after which a temporary protection certificate is issued if all conditions are met. The registration of third-country nationals who have a residence permit in Ukraine and cannot go back to their country of origin in safe and durable conditions follows a more elaborate registration procedure.

Access to the labour market is a regional competence. All regions took initiatives to

facilitate access to the labour market for beneficiaries of temporary protection. Self-employed persons who are beneficiaries of temporary protection are exempted from the obligation to hold a professional card for the exercise of an independent professional activity. All regions focused on providing elaborate information in Ukrainian on access to the labour market.

Regarding **accommodation**, the Belgian authorities recommend that, when possible, persons fleeing from Ukraine stay with family, friends or acquaintances in Belgium. For persons who do not have a place to stay, housing assistance is provided in two phases: first, crisis reception, followed by a second phase of long-term accommodation. The latter is regulated on the regional and local level. The Flemish and Brussels-Capital Regions constructed 'emergency villages' and prefabricated homes, respectively.

In Belgium, beneficiaries of temporary protection have, as 'entitled residents', full access to Belgian **public health insurance**. In addition to the already existing initiatives for psychological support, which is equally available for persons fleeing the war in Ukraine, Belgium has also put in place specific actions. Beneficiaries of temporary protection who do not have sufficient means of subsistence can receive **aid equivalent to the social integration allowance**, provided by the Public Social Welfare Centres.

Belgium's three linguistic Communities are competent for most issues related to **education**. Various mechanisms were put in place or existing ones were activated to cope with the influx of minors fleeing Ukraine, thereby making sure that they could benefit from the right to education, which is enshrined in the Constitution. Measures related to the education of adults included adapted language classes and the extension of procedural benefits for beneficiaries of international protection to beneficiaries of temporary protection.

Family reunification 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 Home Affairs Federal Public Service, among others.

Belgium, generally speaking, faces a shortage of **guardians to accompany unaccompanied children**. Nonetheless, the Guardianship Service of the Justice Federal Public Service received extra funding to help with unaccompanied minors coming from Ukraine. More specifically, they received budget from IDP Ukraine for new staff, extra employee-guardians and interpreters, and extra AMIF-funding to hire three new employees that need to identify unaccompanied minors fleeing Ukraine.



INTERNATIONAL PROTECTION

LEGISLATIVE AND POLICY DEVELOPMENTS RELATED TO INTERNATIONAL PROTECTION

By judgment of 19 January 2022, the Brussels court of first instance ordered the Belgian State to **ensure access to the international protection procedure**. This came as a consequence of the fact that since autumn 2021, the number of persons who could register for international protection was limited to the places available in the reception network. Due to the general increase in international protection applications and an increase in new arrivals following the invasion of Ukraine, many applicants were not able to register immediately.

The entry into force of two Royal Decrees on 19 September 2022 now allows for the Immigration Office and the Office of the Commissioner General for Refugees and Stateless persons (CGRS) to **conduct remote interviews**.

In August 2022, a new reception facility opened to provide reception for applicants subject to an accelerated Dublin procedure. It is operated by the Immigration Office with the

support of Fedasil. The on-site procedure should **facilitate Dublin transfers** and shorten the process.

In May 2022, the CGRS **fully resumed processing decisions on international protection applications from Afghanistan** after a temporarily and partially suspension of the notification of decisions in August 2021 considering the situation in Afghanistan.

In the field of **digitalisation**, considerable developments took place within the asylum authorities. In 2022, the digitalisation strategy e-migration was translated into a comprehensive Enterprise Architecture wherein not only the Immigration Office, but also the CGRS and the Council for Alien Law Litigation (CALL) are included. The CGRS continued the development of a full electronic case management. The application 'J-Box' (launched in March 2022) now allows to digitally introduce documents to the CALL and for the CALL to send procedural documents to the parties.

RELOCATION AND RESETTLEMENT

In November 2022, the first persons under the **Humanitarian Corridor of Sant'Egidio** arrived in Belgium.

In 2022, **the Belgian Resettlement Programme was put on hold** due to a lack of reception places. Only 71 transfers could be organised and no selection missions took place. The 2023 pledge was reduced from 1 400 to 500.

To attract more reception partners and therefore create more reception places for resettled refugees, the **resettlement funding** was increased and extended to organisations and institutes.

Fedasil, assisted by 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.



MINORS AND OTHER VULNERABLE GROUPS

MINORS

In 2022, the **number of unaccompanied minors applying for international protection in Belgium continued to rise**, impacting the identification and age assessment, the appointment of guardians and the availability of reception places.

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 (14-18 years old) who are suspected victims of human trafficking (primarily sexual exploitation). The facility has six places and is recognised by the Flemish government as a 'safe haven'.

On 22 March 2022, the Committee on the Rights of the Child concluded that **Belgium had violated Article 37 of the Convention**, read in conjunction with Article 3, and ordered the State to adequate compensation. It 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".



INTEGRATION

NATIONAL INTEGRATION STRATEGY

In Belgium, migrant integration is the competence of the language-based Communities (French, Flemish and German-speaking Community). In 2022, the Flemish Government launched the 'Plan Living Together', which aims to support local governments to promote living together in diversity. It contains 7 objectives and 24 actions to be developed by the local governments themselves.

ACTIVE PARTICIPATION OF MIGRANTS AND RECEIVING SOCIETIES IN INTEGRATION

The **civic integration programme** organised by the Flemish Community was amended to contain two additional components, namely a compulsory registration with the public employment services, as well as a 40-hour 'networking and participation' trajectory to strengthen the (labour market) integration. The existing components, social orientation and Dutch as a second language, were also strengthened in terms of content and methodology. Furthermore, changes were made to the target group, now excluding applicants for international protection; the introduction of a statement of rights and obligations; the completion of the social orientation course with a standardised test; the sanctioning; and the trajectory will no longer be free of charge (from 1 September 2023 onwards).

In the Brussels-Capital Region, the **civic integration programmes** became mandatory, bringing them in line with the practice in the rest of the country.

Fedasil created a new department "Participation to society". This department focuses on stimulating, implementing and coordinating the policy and actions in the field of labour integration and developing the skills of international protection applicants.



CITIZENSHIP AND STATELESSNESS

ACQUISITION OF CITIZENSHIP

In Brussels-Capital Region, **the civic integration programme**, previously only accessible to third-country nationals residing in Belgium legally for less than three years, **became accessible to all third-country nationals, regardless of the duration of their stay in Belgium**. The successful completion of a civic integration programme being one of the ways through which candidates for Belgian citizenship can prove their social integration, 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. This widening of the public also harmonises the integration conditions with the rest of the country, as the Walloon and Flemish Regions do not have similar restrictions based on duration of residence.

STATELESSNESS

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 **no recognition as a stateless person is required to grant Belgian nationality to a child born in Belgium without nationality**. The change of wording from a child "being stateless" to a child "having no other nationality" is an important nuance as the official recognition of statelessness status poses considerable challenges in practice. 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 deviation from the general advisory power of the newly established 'Central Citizenship Authority' within the Justice Federal Public Service.



BORDERS, SCHENGEN AND VISAS

BORDER MANAGEMENT

In the first months of 2022, border management was still highly impacted by the **COVID-19** crisis. Border control measures were in place to combat the spread of the virus (PCR-test, check of vaccination, recovery certificates, etc.). At the end of May 2022, most of these measures were lifted.

In 2022 the Federal Police and the Immigration Office continued the preparation of the upcoming Entry Exit System (EES).

New **software** was installed at all external border posts.

SCHENGEN GOVERNANCE

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



IRREGULAR MIGRATION INCLUDING MIGRANT SMUGGLING

PREVENTING FACILITATION OF IRREGULAR MIGRATION ('SMUGGLING') AND PREVENTING IRREGULAR STAY

Since the end of 2021, the Belgian Police intercepted an increasing number of vehicles carrying equipment to **cross the English Channel** from the coast of Northern France.

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



TRAFFICKING IN HUMAN BEINGS

NATIONAL STRATEGIC POLICY DEVELOPMENTS

On 1 June 2022, the **law on the reform of sexual criminal law** entered into force. The new law clarifies who can be considered a victim of trafficking in human beings. In addition, it explicitly requires authorities to refer all victims of trafficking in human beings or aggravated forms of trafficking to specialised reception centres. The new law also changes the definition of pimping.

In February 2022, a **special parliamentary commission** for the evaluation of the legislation and policies on trafficking and smuggling was set up. This commission is tasked to take stock of and assess the current situation regarding the 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 human trafficking.

IDENTIFICATION AND INFORMATION TO VICTIMS OF TRAFFICKING IN HUMAN BEINGS

Social inspection services joined forces and focused on social dumping and labour exploitation among posted third-country nationals. Targeted inspections were organised monthly. In this context, a major case of labour trafficking in the construction sector was investigated in the second half of 2022 – the so-called **Borealis case** – involving huge numbers of presumed victims of labour trafficking.



RETURN AND READMISSION

MAIN NATIONAL DEVELOPMENTS

In 2022, the **COVID-19 pandemic** impacted the organisation of **forced return**. As the Immigration Office could not enforce testing and/or vaccination, the organisation of forced return remained challenging when strict COVID-19 measures were in place. Irregularly staying migrants who were not willing to deliver certificates of vaccination or tests could not be returned. Moreover, as the COVID-19 legislation did not contain any provision regarding requesting certificates by third persons, the Immigration Office could not check whether persons had received a vaccination.

In 2022, after two years marked by the pandemic, **the number of assisted voluntary return increased remarkably** (10% higher than in 2019 and 36% higher than in 2021). Fedasil provided return

assistance to 2 673 people willing to return voluntarily to their country of origin. The number of migrants returning with reintegration support has also remarkably increased.



MIGRATION AND DEVELOPMENT

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

In 2022, **two new mobility projects were launched**: Displaced Talent for Europe (DT4E, by IOM Belgium and Luxembourg) and the Ivory Coast Project for Entrepreneurial Mobility (PEM-CIV, by Enabel, the Belgian Development Agency).

