



The Organisation of Asylum and Migration Policies

Factsheet: Belgium

1. Introduction

This factsheet provides an overview of how asylum and migration policies are organised in **Belgium**, including the organisation of the institutional and regulatory context and framework for dealing with third-country nationals coming for the purpose of legal immigration or for international protection. It is based on information provided in the Belgium National Report of the EMN Study *The Organisation of Asylum and Migration Policies in EU Member States*¹, as at August 2012. The Report was based on desk research: key sources were the Immigration Department, the Office of the Commissioner General on Refugees and Stateless Persons, the Centre for Equal Opportunities and the Opposition against Racism as well as various internet sources (of organisations involved in migration and asylum) and Belgian and European studies and reports.

2. Overview of organisation of political, legislative and institutional framework

2.1 The political system and institutional context

Belgium is a federal state with a complex structure: the federal level and regional level (Communities and Regions) all have their competences. Hence, in the field of migration and asylum there are many levels and actors, each with their autonomous role. However, most responsibilities and Departments in this field are at a federal level. The State Secretary of Migration, Asylum and Social Integration is politically responsible for entry, stay and removal of foreigners, as well as for the reception of asylum seekers. The public administrations involved include: the Federal Public Service Home Affairs (incl. the Immigration Department), responsible for entry, stay and removal of foreigners; the Federal Public Planning Services Social Integration responsible for integration and reception of asylum seekers; the Federal Public Service of Justice, responsible for Belgian citizenship; and the Federal Public Service Employment, Labour and Social Dialogue and the Regions responsible for labour policy. Implementation of labour policy is the responsibility of the regional governments, and integration the responsibility of the Communities in the Brussels Capita-Region, the Walloon Region in Wallonia and the Flemish Authorities in Flanders.

2.2 The legal framework

The most relevant law is the Law of 15 December 1980 on entry, stay, settlement and removal of foreign nationals, which has been modified several times. The law also governs the asylum procedure. Foreigners' access to work is regulated by the Law of 30 April 1999 and its implementation decree of 9 June 1999. A Set of other laws, Royal Decrees and Circular Letters complete the legislation.. The Council for Alien Law Litigation is an administrative court responsible for person-related decisions in asylum cases and in appeals against the decisions of the Immigration Department. Appeals against detention can be lodged with the Tribunal of First Instance and the Court of Appeal.

3. Development of migration and international protection systems

As a reaction to pressure on migration channels such as family reunification and asylum) and due to the influence of European legislation, a more global approach on migration and asylum has been undertaken. Also, more pro-active measures towards migration have been applied and more focus was put on the fight against fraud and misuse of procedures.

¹ Available on the EMN website

4. Organisation of policy

4.1 Overview of migration and international protection policy

Third-country nationals must meet the following conditions prior to entry for short stays (not exceeding three months per six-month period): possession of valid travel documents; possession of a valid visa if required, justification of the purpose and the conditions of stay; adequate means of subsistence (for the duration of the stay and the return trip); not flagged for non-admission in the SIS; not considered a threat to the public order or national security. An application for asylum will be examined initially by the border police where after the applicant, if not rejected, will be transferred to a detention or reception centre.

Embassies and consulates can issue visas. Short stay (type C) visa encompass e.g. the following categories: tourists, business, family visit and medical treatment. Long stay (longer than three months) includes those of a limited duration (such as employees, self-employed, au pairs, students and internships) and those of possibly unlimited duration (family reunification in different cases, victims of trafficking, refugees and some regularised persons). All persons legally residing need a valid residence permit. Asylum applicants are issued a Certificate of Immatriculation, and when recognised as a refugee, a permit for unlimited duration is granted. Subsidiary protection provides entitlement to temporary residence (for one year) with the possibility of extension.

There are no integration requirements in relation to residence permits, only material conditions. However, Flanders has a mandatory integration programme for certain types of migrants. Several Regions and Communities have taken up policy measures with regard to integration. The Walloon Region is also working on a mandatory integration programme. Citizenship can be obtained in four ways: 1) by declaration, 2) opting for Belgian nationality between 18 and 22 years of age, 3) by marriage, or 4) by naturalisation (after three years of residence). Conditions and procedures for obtaining citizenship will probably change on the 1st of January 2013, and integration (and language) requirements will be included.

For access to the labour market, in principle both a residence permit and a work permit are required. A prior authorisation is needed to gain access, both regarding paid employment and self-employed. The most common permit (category B) is valid for up to 12 months. There are certain exceptions to the general conditions for e.g. highly skilled workers, persons undertaking a management position and researchers and professors meeting certain criteria. For self-employment, third-country nationals must in principle apply for a professional card.

Returns are carried out by the Immigration department in cooperation with the Federal Police - the possibility of detention is foreseen. The Federal Agency for Reception of Asylum Seekers implements voluntary return programmes in collaboration with the International Organization for Migration.

4.2 Links with other policies

Migration policy is linked to labour market policy in the sense that economic migration has a role to play vis-à-vis (individual) labour demands of employers, not least with respect to highly skilled professionals. The fight against racism and discrimination on all levels of society is of course also linked with migration and asylum policy. Foreign Affairs are linked with focus on tackling human trafficking and smuggling and in promoting stabilisation of certain regions.

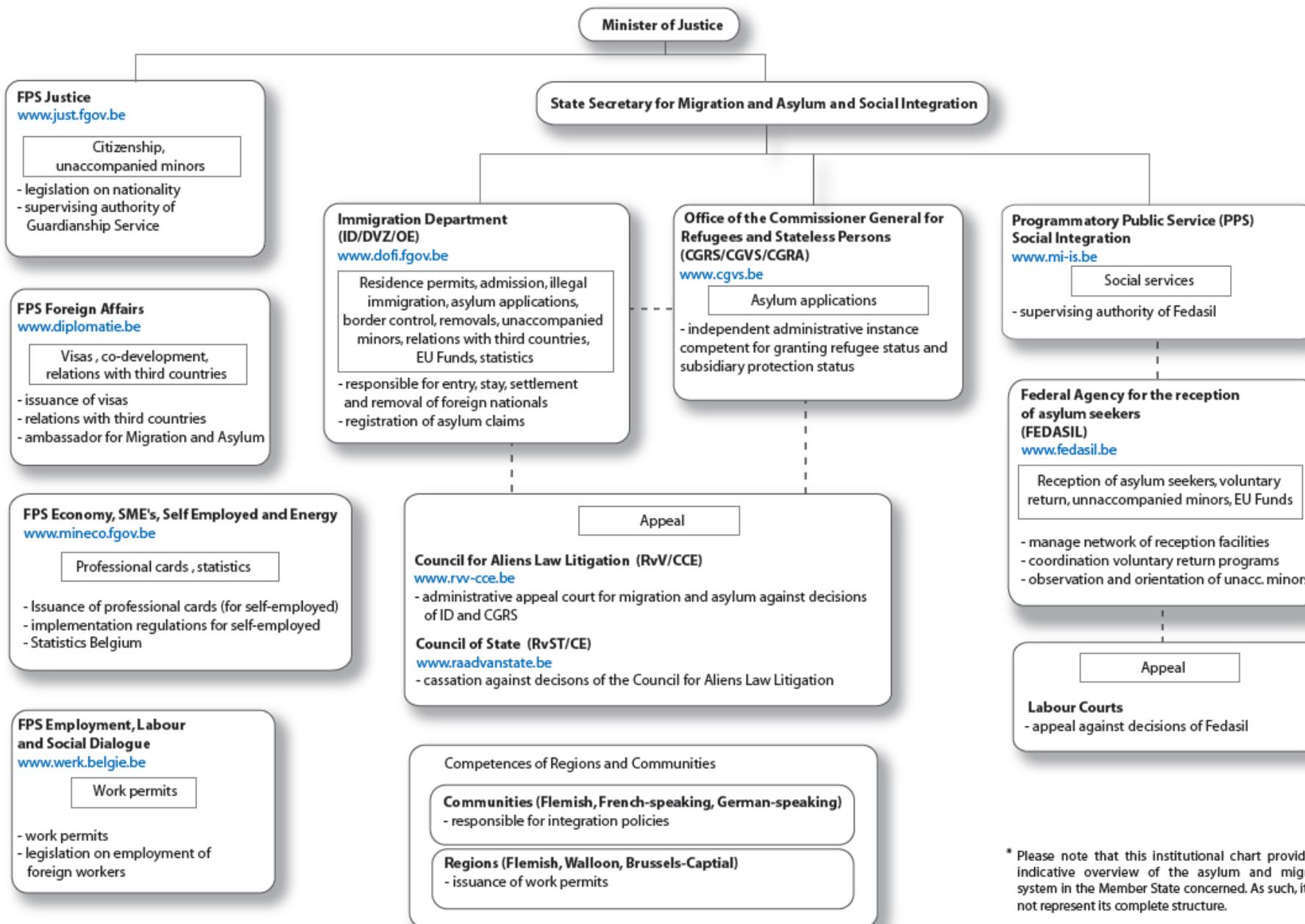
5. Analysis of asylum and migration systems

There have been continuous efforts to increase effectiveness and legitimacy of legal provisions in the field of migration and asylum as well as to develop a more pro-active approach to migration. The latest developments have also been driven by the need to transpose EU directives, the need to manage a shortage in reception places for asylum seekers as well as a need to counter pseudo-illegal migration. Profound changes were made in the existing rules on family reunification, and concerning the stay for medical reasons. Also concerning return there was an important policy shift: a range of measures was taken to increase the number of returns and to follow-up on return decisions. At the time of writing, a political agreement was also found on a new legislative proposal to change the nationality law and make it more strict.

ANNEX: Institutional Chart for Belgium

ANNEX: Institutional Chart for Belgium

Belgium : Institutional Framework for immigration and asylum polices*



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