

BELGIUM

1 Arrivals

1 Total number of applications for asylum lodged, with monthly breakdown and percentage variation between years

Table 1:

Month	2003	2004	Variation +/- (%)
January	1449	1310	-9.6%
February	1103	1159	+5%
March	1276	1447	+13%
April	1188	1295	+9%
May	1115	1032	-7,5%
June	1279	1155	-9.6%
July	1545	1175	-23%
August	1394	1220	-12.5%
Sept.	1674	1277	-23.7%
October	1627	1304	-19.8%
November	1558	1398	-10.2%
December	1732	1585	-8.5%
Total	16,940	15,387	-6.7%

Source: Office des Etrangers, Ministry of Interior, Statistics 2004, <http://www.fgov.dofi.be>

Comments

The number of asylum applications is at more or less the same level as last year. Since the record number of 42,000 asylum applications in 2000, there has been a constant decrease in the number of applications. This is the first year since 2000 where the number is more or less stable, although still slightly decreasing. It is difficult to determine a specific reason for the slight decrease of asylum applications compared to 2003.

2 Breakdown according to the country of origin/nationality of applicant, with percentage variation

Table 2:

Country	2003	2004	Variation +/- (%)
DRC	1778	1471	-17.3%
Russia	1680	1361	-18.9%
Serbia Montenegro	502	778	+54.9%
Slovak Rep.	390	730	+87%
Guinea	354	565	+59.6%
Kosovo	675	516	-23.5%
Iran	1153	512	-55.5%
<i>Others</i>			
Country	2003	2004	Variation +/- (%)

Source: Office des Etrangers, Ministry of Interior, Statistics 2004, <http://www.fgov.dofi.be>

Comments

There is no solid explanation for the sharp increase in applications from Serbia Montenegro, the Slovak Republic (the accession of Slovakia to the EU might be a factor) and Guinea. The sharp decrease in

applications from Iran can be explained by the fact that the high number in 2003 was due to some 500 Iranian nationals being allowed to introduce a second asylum application after an action at the ULB (see 2003 report).

3 Persons arriving under family reunification procedure

Figures not available.

4 Refugees arriving as part of a resettlement programme

Belgium does not operate any resettlement programmes.

5 Unaccompanied minors

A total number of 599 unaccompanied minors applied for asylum in Belgium in 2004 (2003: 589).

2 Recognition Rates

6 The statuses accorded at first instance and appeal stages as an absolute number and percentage of overall decisions

Table 3:

Statuses	2003		2004		2004		2004	
	First instance Number	%	Appeal Number	%	First instance Number	%	Appeal Number	%
No status awarded	4,962		2009		6,096	72.81	2041	95
Convention status	1201		183		2,277	27.19	99	5
Subsidiary status								
Other								
Total								

Source: Commissariat-general for Refugees and Stateless Persons, Decisions 2004 and Permanent Appeals Board for Refugees, Situation at 28/02/2005.

Comments

In the Belgian asylum procedure, refugee status can only be granted in the second stage of the procedure (on the substance of the claim) the cited numbers concern only decisions taken in the second stage of the procedure; The first stage being admissibility of the application and the second stage the examination of the substance of the application. The total number of decisions taken by the Commissariat-General for Refugees, including the decisions taken on admissibility was not known at the time of writing. The number of negative decisions taken by the Permanent Appeals Board is the overall number, including inadmissible appeals, appeals that were withdrawn or appeals that were rejected for a technical reason. No subsidiary status exists in Belgian legislation. No temporary statuses were granted in 2004.

7 Refugee recognition rates (1951 Convention: as an absolute number and as a percentage of total decisions) according to country of origin, at first instance and appeal stages

Table 4:

Country of origin	2003		2004	
	First instance Number	Appeal %	First instance Number	Appeal %
Russia			774	39.96
Rwanda			510	70.64
Serbia-Montenegro			187	37.63
DRC			98	13.94
Iraq			67	52.76
Iran			57	8.56
Syria			55	26.32
Albania			39	25.66
Bosnia- Herzegovina			37	52.11
Belarus			37	39.36
Total				

Source: Commissariat-general for Refugees and Stateless Persons, Decisions 2004.

Comments

No statistics on the recognition rates according to country of origin for the Permanent Appeals Board are available. The recognition rates only concern the percentage of the total of decisions on the substance of the asylum claims taken by the Commissioner-General for Refugees. The overview begins with the highest number of statuses granted in descending order, rather than the highest percentages. Other nationalities have higher recognition rates, but only represent a very low total number of statuses granted:

Table 5:

Country of origin	Total number of refugee statuses granted	% of total number of decisions on the substance
Eritrea	1	100%
Namibia	1	100%
Tunisia	2	100%
Zimbabwe	1	100%
Guinea-Bissau	8	100%
Jordan	4	80%
Vietnam	2	66,67%
Cambodia	2	66,67%
Djibouti	25	64,10%
Guatemala	3	60%

3 Returns, Removals, Detention and Dismissed Claims

9 Persons returned on safe third country grounds

No figures available.

10 Persons returned on safe country of origin grounds

The concept of 'safe country of origin' does not exist in Belgian legislation.

11 Number of applications determined inadmissible

No figures available.

12 Number of asylum seekers denied entry to the territory

232 asylum seekers were denied entry to the territory in 2004 (nationality breakdown not available) (Source Immigration Office, Ministry of Interior) 2003 figure not available.

13 Number of asylum seekers detained, the maximum length of and grounds for detention

According to the Aliens Act every rejected asylum seeker (or any third country national illegally residing in Belgium) can be put in detention awaiting his/her removal. The maximum length of detention is two months. This can be extended by up to two months if the necessary steps for removing the person have been taken within a period of seven working days and these efforts are being continued and effective removal can be executed within a reasonable time period. After one extension of two months, the decision to further detain a person must be taken by the Minister of the Interior. After a maximum period of eight months the person must be released. In practice, however, the Immigration Office takes a new decision to detain any person who has refused cooperation during a deportation. As a consequence, a new two months detention period starts. This has been considered lawful by the *Cour de Cassation* (Supreme Court). The result is that some persons are being detained longer than the maximum period of eight months laid down in the Aliens Act. Statistics are only partially available for a limited number of detention centres (five in total). The average length of detention in 2003 in detention centres was as follows: Bruges (32.6 days), Merksplas (41.9 days), Vottem (41.0 days), transit centre (127 days) and Melsbroek (22 days). In 2004 the average length of detention in Bruges, Merksplas and Vottem increased to 42.9 days; 50.7 days and 43.52 days respectively. Other figures are not yet available.

14 Deportations of rejected asylum seekers

In 2004, a total number of 1,066 rejected asylum seekers were forcibly returned (nationality breakdown not available). (Source Immigration Office, Ministry of Interior) 2003 figure not available.

15 Details of assisted return programmes, and numbers of those returned

There are no specific assisted return programmes for third country nationals residing legally in Belgium (e.g. refugees). The International Organization for Migration (IOM) is the only organisation assisting third country nationals to return. Some NGOs are assisting asylum seekers whose claims have been rejected in preparing for return and reintegration. In 2004, a total number of 3,275 departures were registered. The main destination countries were: Brazil (637), Ukraine (232), Russian Federation (205), Armenia (188), Slovakia (166), Ecuador (154), Kosovo (136), Republic of Moldova (123) and Bulgaria (107).

1,303 cases concerned asylum seekers whose cases had been rejected, 1,716 concerned those persons illegally residing in Belgium who had not applied for asylum and 256 concerned asylum seekers who had withdrawn their asylum applications.

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(In 2003, a total number of 2,814 departures were registered. The main countries to which returns were made were: Brazil (365), the Russian Federation (272), Slovak Republic (225), Ecuador (184), Armenia (168), Bulgaria (133) and Kosovo (129). Out of 2,814 voluntary returns, 1,549 concerned rejected asylum seekers, 1,124 concerned those persons illegally residing who had not applied for asylum and 141 concerned asylum seekers who had withdrawn their asylum applications.)

Nationals of the new EU Member States will be allowed to make use of the Return and Emigration of Asylum Seekers ex Belgium-programme (REAB) until 30 June 2006, but without a return grant. IOM normally arranges the departure and provides both financial and material assistance.

The NGO Caritas International ran a reintegration project in Ukraine and Bulgaria. 40 returnees received assistance additional to REAB (medical help, information, vocational training, housing). *Vluchtelingenwerk Vlaanderen* (Consultation Centre for Refugees) organised 10 information sessions about possibilities at the end of the asylum process (including assisted return) for Russian-speaking asylum seekers whose cases had been rejected. An average number of 25 asylum seekers participated.

IOM ran reintegration projects for asylum seekers at the end of the process, asylum seekers from the Democratic Republic of Congo and Angola, returnees to Afghanistan and unaccompanied minor asylum seekers. The project for asylum seekers at the end of the process targeted 200 asylum seekers staying in a limited number of reception centres. Additional financial assistance was offered for reintegration in Armenia, Azerbaijan, Guinea, Iran, Cameroon, FYROM, Nigeria, Russian Federation, Serbia-Montenegro and Turkey. Four persons applied for the assistance.

The project for asylum seekers from the Democratic Republic of Congo (additional return grant, vocational training, micro-business support and specific help for vulnerable groups) targeted 50 persons. It has been extended for the year 2005 in order to reach this number.

27 persons received assistance within the framework of the Angola project (additional return grant, vocational training, micro-business support and specific help for vulnerable groups).

The reintegration project in Afghanistan (extra return grant, information upon arrival, reception, transit, vocational training, micro-business support) is a European project called RANA - Return, Reception and Reintegration of Afghan Nationals to Afghanistan: 10 Afghans staying in Belgium returned on this programme in 2004.

No unaccompanied minor asylum seeker applied for reintegration assistance (additional return grant and a 3 months' monitoring of the reintegration) in 2004.

(Source: IOM, Caritas International, *Vluchtelingenwerk Vlaanderen*).

16 Number of asylum seekers sent back to the Member State responsible for examining the asylum application under the Dublin II Regulation

No figures available.

4 Specific Refugee Groups

17 Developments regarding refugee groups of particular concern

Afghan Refugees

The measure implemented in August 2003 concerning Afghan refugees who applied for asylum before 1 January 2003 and received a negative decision was prolonged twice in 2004 (circular of 24 February 2004 and 24 August 2004). According to these circulars, the expulsion order notified to these Afghan refugees after a negative decision in the asylum procedure is suspended for a 6-month period. The measure has been implicitly suspended in 2005 as well. It means that these Afghan refugees cannot be expelled. At the same time this group was granted a right to work. The measure was taken after a massive hunger strike of 300 Afghan Refugees in a church in the centre of Brussels. The hunger strike lasted for three weeks. As a consequence, the Minister of Home Affairs implemented the measure described above and laid down criteria for the regularisation of these persons. According to the new policy of the Minister those people whose asylum procedure has lasted for three years (families with

children at school age) or four years (single persons) can be granted a permanent residence permit. The prolongation of the expulsion order can be taken into account to determine whether or not the asylum procedure lasted three or four years. As indicated above, the measure only concerns those Afghan asylum seekers who introduced an asylum claim before 1 January 2003. Those Afghans arriving after that date cannot benefit from this measure, although the measure has come about due to the insecure situation in Afghanistan. The discrimination between both groups (rejected Afghan asylum seekers who applied for asylum before 1 January 2003 and those who applied after that date) or indeed, vis-à-vis other groups that can not be expelled due to the situation in the country of origin, was never justified by the Minister of the Interior.

Chechen Refugees

In 2004, most Chechen asylum seekers received a positive decision on admissibility. In 2004 the Commissioner-general started examining the substance of Chechen cases. The highest number of Refugee statuses granted concerned Chechens. A number of Chechens protested by way of a hunger strike against their removal to Austria under the Dublin regulation. UNHCR confirmed an acute reception problem in Austria, which was solved in the course of 2004. In the beginning of 2005 Belgium started to apply the Dublin regulation very strictly to Chechen asylum seekers arriving from Poland. More and more Chechens are detained before being removed to Poland under the Dublin regulation (in most cases Poland agrees with the Belgian request to take over the applicant). Many, however, are absconding from the decision on Dublin and becoming illegal. At the same time, the jurisprudence of the Permanent Appeals Board for Refugees has become extremely generous towards Chechen refugees, recognizing that Chechens are persecuted as a group. This is inter alia based on the 2005 judgements of the European Court of Human Rights condemning Russia for violating article 2 and 3 systematically in Chechnya.

Iraqi Refugees

Most Iraqi's received a positive decision on the admissibility of their claim. In case a negative decision is taken in this stage of the procedure, a non-removal clause (preventing the Aliens Office from expelling the person) is inserted in the decision. The Commissioner-General restarted examination of the substance of these asylum claims in 2004. After the fall of the Saddam Hussein –regime, the examination of Iraqi cases had been suspended. The Commissioner-General now also provides a non-removal clause in negative decisions on substance in Iraqi cases, although according to the Aliens Act, a non-removal clause is only possible in negative decisions on admissibility. The Aliens Office does not automatically grant a prolongation of the expulsion order in these cases, whereas it does for non-removal clauses attached to negative decisions at the admissibility stage.

Tsunami affected regions

No specific measures were taken. As regards return, the Aliens Office applied a strict case by case approach.

5 Legal and Procedural Developments

18 New legislation passed

Two laws of 1 September 2004 implement Directive 2001/40 EC of 28 May 2001 on mutual recognition of expulsion decisions. A first law inserts a new Article 8 in the Aliens Act and implements the core of the Directive: The Minister of Home Affairs can recognise an expulsion decision taken by an administrative authority of another EU Member State bound by the Directive in cases where a non-national is staying on the territory of Belgium without having a residence permit of more than three months and where the expulsion order is based on either the danger to public security or non-compliance with the legislation on entry and residence of non-nationals in the other EU Member State. The expulsion decision may not have been suspended or withdrawn by the other Member State. In order to verify whether Belgium can recognise the expulsion order of another EU Member State, a non-national may be detained for a maximum period of one month. In order to execute the expulsion order,

the non-national can be detained for up to five months. A second law amends the current Article 71 of the Aliens Act, providing the possibility to appeal a detention measure to include these situations.

A Royal Decree of 15 July 2004 finally provides access to the labour market for beneficiaries of temporary protection. They are granted a so called work permit C, which gives access to the labour market under the same conditions as asylum seekers whose applications for asylum have been declared admissible under the normal asylum procedure (work permit valid for one year (as long as the asylum procedure including appeal stage continues) and for all employers. The Decree was published in the "Moniteur Belge" on 20 August 2004.

19 Changes in refugee determination procedure, appeal or deportation procedures

1) Two Royal Decrees Of 11 July 2003 concerning the procedure before the Commissioner-General for Refugees and Aliens Office were published in January 2004 and entered into force in February 2004. Until now, no legislation whatsoever existed on the procedural rights of asylum seekers during the examination of their asylum claim by both asylum bodies. A Royal Decree of 1993 lays down these rights for the procedure before the Permanent Appeals Board.

The Royal Decree on the procedure before the Aliens Office (deciding only on the admissibility of the claim) lays down rules concerning: the obligation for the Aliens Office to give correct information to the asylum seeker; the code of conduct during the interview (right to an interpreter and the right to ask for another interpreter for "valid reasons" (these are at the discretion of the Aliens Office and not listed in the Decree), obligation to confront the asylum seeker with contradictory statements, the right to be interviewed by a person of the same sex), the obligation to give a written summary of the interview to the asylum seeker and to make an extensive report of the interview for the file.

The Royal Decree on the procedure before the Commissioner-General for Refugees (deciding both on admissibility as appeal body and on the substance as a first instance body) contains similar provisions but contains additionally, the principle that every asylum seeker should be interviewed at least once (either in the admissibility or the substance stage), the obligation for the Commissioner-General to confront "in principle" the asylum seeker with contradictory statements (weaker than in the Royal Decree on the Aliens Office), some rules on the way an urgent appeal can be introduced to the Commissioner-General (up until now there were no written rules) and rules on the content of invitations for interviews sent to asylum seekers.

Generally, it can be stated that both Royal Decrees merely codify already existing practice within both administrations without adding new guarantees for asylum seekers. However, at least a legal provision exists.

2) The law of 16 March 2005 (published in the Moniteur belge dd. 10 May 2005) amends Article 57/12 of the Aliens Act on the functioning of the Permanent Appeals Board for Refugees. It introduces the examination of the appeal by one judge as a rule and abolishes the notion of manifestly unfounded appeal. Only in case the responsible judge is convinced that the case raises questions of principle can he refer the case to a chamber with three judges (including the referring judge). Previously appeals were only dealt with by one judge in cases where the appeal was found to be manifestly unfounded. All other cases had to be dealt with by a chamber of three judges. Only three judges could grant refugee status. From now on refugee status can be granted by a single judge. Further more, the law confirms explicitly for the first time the status of the Permanent Appeals Board for Refugees as an administrative court.

20 Important case-law relating to the qualification for refugee status and other forms of protection

Decision VB/04-1680/E530 of 2 December 2004 of the Permanent Appeals Board for Refugees (Mongolia)

The case concerns a pregnant woman who was raped by her brother in law in the absence of her husband. In self-defence, she killed her brother-in-law. She got a 5-year prison sentence. Meanwhile her brother got a 15-year prison sentence for killing the brother of her former brother-in-law. The woman's case was reopened, mostly to be used as an example for public opinion. Because of a requalification of her case she risked a prison sentence of 15 to 25 years. After a suicide attempt she managed to escape from prison and came to Belgium where she submitted an asylum application. UNHCR intervened actively on her behalf. She was granted refugee status as the Permanent Appeals Board found that she had a well-founded fear of persecution because of her membership of a social group. International reports state that violence towards women within the family is a big problem in Mongolia while at the same time the issue is under a taboo. In most cases this is seen as a private matter and the Mongolian authorities do not offer protection against these forms of violence. The Court did not take into account the fact that she acted in self-defence and the sentence was disproportionate. The Board accepted that she ran a risk of being persecuted again in Mongolia. In resisting her male offender she was socially rejected and seen as someone who broke tradition and denied male family-members their "privileged position" i.e. possession of the female family members. The Board stated that analogous to an implicit political opinion, she was attributed an implicit "social" opinion and thus was a member of a social group: women who break centuries old taboos and encourage other women to act likewise. In her case, this characteristic was unchangeable for her.

This case has been mentioned because it contains a very wide interpretation of membership of a social group and contains an interesting reasoning on an implicit "social opinion".

Decision VB/03-3407/E534, 10 December 2004 of the Permanent Appeals Board for Refugees (Chechnya)

This case concerns a person of Chechen origin who was actively involved in the Chechen resistance during the first and the second Chechen war. Before he arrived in Belgium he introduced an asylum claim in Poland. He lied about this earlier asylum application during the procedure. This was discovered by the Commissioner-General who rejected his application solely due to lack of credibility. The Permanent Appeals Commission granted the refugee status despite the fact that the applicant lied about the asylum application in Poland. All objective sources confirm that the situation in Chechnya is extremely bad and that Chechen citizens are constantly victims of serious human rights violations. The fact that he lied about the asylum application in Poland did not mean that he did not have a well-founded fear of persecution based on the objective situation in the country of origin. This decision is important because normally the Permanent Appeals Board is very severe as regards fraudulent statements during the asylum procedure. In later decisions the (French-speaking section of the) Permanent Appeals Board even accepted that in principle Chechens can be considered as being victims of group-persecution (see e.g. CPPR, 04-3503/F1761, 4 March 2005).

21 Development s in the use of the exclusion clauses of the Refugee Convention in the context of the national security debate

No developments.

22 Developments regarding readmission and cooperation agreements

In 2004, readmission agreements, in the framework of the BENELUX, were concluded with the following countries:

Slovak Republic: law of 8 March 2004 approving the conclusion of the readmission agreement with Slovak Republic on 21 May 2002 (Moniteur belge, 29 April 2004).

Slovenia: law of 25 April 2004 approving the conclusion of the readmission agreement with Slovenia on 16 November 1992 (Moniteur belge, 10 June 2004).

Croatia: law of 14 July 2004 approving the conclusion of the readmission agreement with Croatia on 11 June 1999 (Moniteur belge, 23 September 2004).

Outside the framework of BENELUX, the Belgian Parliament adopted the law of 14 July 2004 approving the conclusion of a readmission agreement between Belgium and Albania on 17 April 2001 (published in the Moniteur belge, 6 October 2004).

6 The Social Dimension

23 Changes in the reception system

As a consequence of a judgement of the Court d'Arbitrage (Constitutional Court) of 22 July 2003, social welfare centres are obliged to give social aid to children of third country nationals staying illegally on the territory under three conditions: where the parents are unwilling or unable to support their children, the allowance must only cover the expenses necessary for the education of the child and the social welfare centre must assure that the financial aid will only be used for the education of the child. The government translated the judgment in the loi-programme of 22 December 2003 (Moniteur belge, 31 December 2003). In order to prevent the social welfare centres from becoming overburdened with such requests, the same law makes FEDASIL, the governmental body coordinating all reception centres for asylum seekers in Belgium, the competent body to provide for reception in these cases.

A Royal Decree of 24 June 2004 (Moniteur belge, 1 July 2004) sets down a procedure for dealing with such requests: the parents or the child still have to claim an allowance at the social welfare centre that examines whether the request meets the criteria. If so, a proposition for reception in one of the large scale centres of FEDASIL is made to the person concerned. The person is free to accept the offer or not, but he or she cannot get social welfare assistance elsewhere. Both the loi-programme and the Royal Decree remain silent on the position of the parents of the child and do not explicitly contain provisions on maintaining family unity. Finally, a circulaire of 16 August 2005 solved that problem by stating that parents can join their children in the offered reception centre in case their presence is necessary for the general education of the child. In practice the presence of the parents is always considered to be necessary.

The loi programme of 22 December 2003 also lays down the obligation for social welfare centres to keep a register where every request for support must be noted, even when it is obvious that another welfare centre (in another city) is competent to deal with the request. The welfare centre that received the request must contact the competent welfare centre within 5 days and ask for a transfer. In case that deadline is not met, the centre where the request was introduced becomes responsible for the person concerned as long as the requested centre has not accepted its competence.

Finally, the loi programme of 22 December 2003 settles the old problem of voluntary work by asylum seekers who are still in the first phase of the asylum procedure in reception centres. Asylum seekers have always had the opportunity to do small jobs in the reception centre for which they receive a small amount of money (pocket money). However, there was no legal basis for such practice. In fact, as only asylum seekers whose asylum applications have been declared admissible (second phase of the procedure) have access to the labour market, this practice was actually illegal. The loi programme now lays down the principle that such voluntary work is not considered to be labour, and the money received is not considered a wage as defined by the legislation on foreign labour forces.

The loi programme of 9 July 2004 (Moniteur belge, 15 July 2004) amended the legislation on social welfare regarding the centre competent for providing financial assistance to rejected asylum-seekers and people whose temporary protection status has ended. According to this law, the social welfare centre in the city of de facto residence is competent in cases where these categories would apply for social assistance for exceptional reasons, not the social welfare centre of the city to which the person was originally assigned (in fact in numerous cases, the asylum seeker may during the procedure have his residence in one town, while he can only get his financial allowance in another town. As soon as the asylum application is declared admissible a social welfare centre is assigned in application of the

distribution plan for asylum seekers. During the rest of the asylum procedure, that centre would be the only one competent for the financial allowance for the asylum seeker. Asylum seekers are however not obliged to live in that particular town. In practice, a lot of asylum seekers live in another city to the social welfare centre competent for their allowance). With this new law, the competence of the assigned centre ends at the end of the procedure. The social welfare centre of their place of de facto residence becomes the competent centre for any claim asylum seekers whose applications have been rejected or people whose temporary protection status has ended, may still have.

During a special meeting in March 2004, the government in principle agreed on a number of measures on reception of asylum seekers and unaccompanied minors. As far as reception of asylum seekers is concerned these measures include inter alia: initial orientation for every asylum seeker upon arrival in a specialised open centre, a maximum length of residence in a large scale centre, individual guidance of asylum seekers etc... None of these measures have been implemented yet, but should be incorporated into the planned reception-law (see next paragraph). As far as unaccompanied minors are concerned, a two stage model for reception has been agreed: a first phase (two weeks) of observation and orientation and a second phase where the unaccompanied minor is transferred to a reception facility that is well-suited to his or her individual case (may be a federal reception centre or a host family...). Such a system has been in place since the beginning of 2005. An orientation centre for unaccompanied minors was opened in Brussels.

The EU reception directive has still not been implemented in Belgian legislation, although a comprehensive legal study was prepared for which all actors involved in reception of asylum seekers were consulted. The government plans an ambitious reception law that would cover all aspects of reception policy. However, so far no draft law has been discussed within the government.

24 Changes in the social welfare policy relevant to refugees

No developments.

25 Changes in policy relating to refugee integration

In 2003 the Flemish Community adopted a Decree on integration of recently arrived immigrants. The purpose of the measure is to create a number of facilities for third country nationals arriving in Belgium to make integration into Flemish society easier. A number of categories of immigrants have a “right” to these “integration-projects”, others have an obligation to follow an “integration project”. Persons with refugee status and asylum seekers whose asylum applications have been declared admissible belong to the latter group, as well as people arriving under family reunification rules. They are under an obligation to present themselves to an “integration-bureau” in the city where they are registered within a period of three months dated from their arrival. Refugees/successful asylum applicants are entitled to work before they have completed their integration programme which can also be undertaken while working. The integration project includes language courses, courses on Flemish society and orientation courses concerning future professional activities. A second Decree of 30 January 2004 implements these principles. The new policy entered into force on 1 April 2004. Newcomers that do not comply with the “integration-obligation” can be sanctioned. According to the Decree of 28 February 2003, they risk a fine of maximum 25 €. The Flemish government is now considering other sanctions such as a bar to social housing or even lowering social allowances.

26 Changes in family reunion policy

No developments.

8 Political Context

31 Government in power during 2004

After the elections of 18 May 2003, a coalition of Liberals and Socialists came into power (the Green Parties lost heavily and were no longer needed to have a majority in Parliament). Guy Verhofstadt (Flemish Liberal) remained Prime Minister and began his second term. In 2004 he was candidate to become President of the European Commission.

32 Governmental policy vis-à-vis EU developments

Also in 2004 the Belgian government was promoting more European integration and harmonisation in many policy areas. As regards asylum and immigration, like many other Member States, one of the big concerns of the Belgian delegation was to be able to keep the existing national asylum system intact as far as possible. Officially, the Belgian government is in favour of a more harmonised approach on asylum issues at the European level. It seems to be in favour of an EU-resettlement scheme but has so far not made any public statements on the subject.

33 Asylum in the national political agenda

Throughout 2004, the backlog at the Conseil d'Etat remained an important issue. A formal proposal for a new law amending the current procedure before the Conseil d'Etat was elaborated by the Minister of Home Affairs. The proposal was however rejected by the government as such and was never brought before Parliament. As a result of this, the Minister of Home Affairs presented a paper containing general principles for a major reform of the asylum procedure in June 2005, including the abolition of the admissibility phase as such, the extension of competences of the Permanent Appeals Board (nearly all appeals concerning asylum + other aliens law matters) and the creation of a "leave to appeal" system at the Conseil d'Etat. This would also entail major changes in the current reception system. It is still too early to say whether or not there is a real chance that this ambitious plan will be implemented in practice.

After a campaign of a network of NGO's in December 2004, the Minister of Home affairs gave informal instruction to the Office des Etrangers (Foreign office) to start an operation of regularisation of old asylum cases. Asylum seekers who have not received a final decision in the asylum procedure within a period of four years (or three years for those families with school-attending children) and could not be considered a threat to public security will obtain a permanent residence permit. Integration is not a condition, at least for those asylum seekers whose asylum application was still pending on 1 January 2005. Asylum seekers who had a long asylum procedure in the past can also obtain regularisation, but they have to present proof of integration in Belgian society and the residence permit will initially be valid for only one year. The Office des Etrangers does apply these criteria in practice. By the end of March 2005, 2,370 positive decisions were taken.

Biography

Kris Pollet, Katrijn Pauwels

VLUCHTELINGENWERK VLAANDEREN

The mission of Vluchtelingenwerk includes:

- enlarging public support for a generous asylum policy
- advocacy towards policymakers
- stimulating consultation and coordination
- supporting organisations active in the field of asylum seekers and refugees

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