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Asylum in Belgium

The Office of the Commissioner General
for Refugees and Stateless Persons





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Foreword

In view of the Belgian Presidency of the Council of the European Union that started on 1 July 2010, it is my pleasure to explain the mission of the Office of the Commissioner General for Refugees and Stateless Persons by means of this brochure.

The right to asylum is one of the cornerstones of the European Union. Since its creation in 1988, the CGRS in Belgium has carried the important responsibility to determine whether or not asylum seekers are eligible for international protection status. We work with a constant awareness of dealing with people day in, day out. Each decision, whether positive or negative, has a huge impact on the life of the asylum seeker. For that reason, the CGRS aims at investigating asylum applications within a **reasonable term**, with attention for the objective situation in the country of origin and for the asylum seeker's individual situation. Efficiency and quality go hand in hand in the process.

In my capacity of Commissioner General, for many years I have been arguing in favour of further harmonisation of the asylum procedures of the European Member States so that Europe fully asserts itself as a **solidary protection area**. Anyone in real need of protection should be able to receive it. From a global asylum vision I also argue in favour of a policy that pays attention to protection of refugees in their region of origin.

I aim to fulfil the mission of the CGRS with integrity and conviction, together with all my staff members and in a permanent dialogue with national, European and international partners.

Dirk Van den Bulck
Commissioner General for Refugees and Stateless Persons

Office of the Commissioner General for
Refugees and Stateless Persons

Mission and values

The Office of the Commissioner General for Refugees and Stateless Persons offers **protection**

- to foreigners with a well-founded fear of persecution in the sense of the Geneva Convention (refugee status), and
- to foreigners who face a real risk of suffering serious harm (subsidiary protection status).

CGRS staff investigate each asylum application

- thoroughly
- individually
- in accordance with Belgian, European and international standards.

Furthermore, the CGRS issues register office certificates to recognised refugees and stateless persons.

All staff adopt the values and attitudes from the CGRS Charter.



impartiality
openness
reliability

decisiveness
respect
integrity

Structure and organisation

The CGRS is the central asylum institution in Belgium. It is headed by the Commissioner General, who is assisted by two deputies. Their decisions in individual asylum cases are taken in a fully **independent manner**.

The Federal Public Service for Home Affairs allocates personnel and resources to the CGRS for implementing its mission.

The CGRS employs over **400** people, the majority of whom are charged with the assessment of asylum applications. The legal department, the documentation and research centre (Cedoca) and coordinators specialised in specific themes such as gender and un-accompanied foreign minors offer their expertise in support of the asylum staff.

Determining eligibility for protection is a **complex task** that requires extensive knowledge. Furtherance of expertise and specialisation is therefore crucial. The European Asylum Curriculum (EAC) provides a means to this end. The aim of the EAC programme is to ensure that in time, all employees of the various EU Member State asylum institutions receive the same training, starting from the same principles. Within the CGRS, the Knowledge and Learning Centre (KLC) is charged with staff training.



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Photo: In the presence of the European Commissioner for Home Affairs Cecilia Malmström (1) and Belgian Secretary of State for Migration and Asylum Policy Melchior Wathelet (2), recently employed asylum staff attend the training session 'Inclusion' of the European Asylum Curriculum (EAC). Also in this picture: the Commissioner General for Refugees and Stateless Persons, Dirk Van den Bulck (3), Deputy Commissioners for Refugees and Stateless Persons François Bienfait (4) and Eva Vissers (5) and Coordinator for ONPRA Burundi (Office National de Protection des Réfugiés et Apatrides) Didace Nzikoruriho (6). CGRS, Brussels, 5 July 2010.

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Asylum procedure

Aliens Act

The Belgian asylum procedure is defined in the Act of 15 December 1980 on the access to the territory, residence, establishment and removal of foreign nationals, also called “Aliens Act”. Over the years, the Act has been amended several times in accordance with changing realities and in order to transpose European legislation. The most recent significant reform dates from 2006 when, among other things, subsidiary protection status was integrated into Belgian law.

Registration and preliminary investigation

Upon entry into Belgium, the asylum seeker submits an asylum application to the **Immigration Department**. The Immigration Department registers the application and records statements about the identity and travel route of the asylum seeker. It also inquires into the basic motives for fleeing the country of origin. The Immigration Department takes the foreign national's fingerprints to check which EU Member State is responsible for the asylum investigation (Dublin and Eurodac procedures). In the event the asylum seeker has submitted an asylum application in Belgium on a previous occasion, and if the asylum seeker does not submit new elements that indicate a well-founded fear of persecution or a real risk upon return to the country of origin, the Immigration Department will refuse to consider the asylum application.

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Investigation

The Immigration Department forwards the asylum application to the **Office of the Commissioner General for Refugees and Stateless Persons** for a detailed investigation.

Appeal

The asylum seeker can file an appeal against a negative decision from the CGRS with the **Council for alien law litigation**.

Reception

The Federal Agency for the Reception of Asylum Seekers (**Fedasil**) assigns the asylum seeker a place in a reception facility for the duration of the investigation of his/her asylum application. During that time, the asylum seeker is entitled to material, medical, social and legal assistance.



Hearing and investigation

The CGRS is the only asylum institution having authority to carry out the **substantive investigation** of asylum applications in Belgium.

The asylum officer will first assess whether the foreign national has a well-founded fear of being persecuted in his country of origine for reasons of race, religion, nationality, political opinion or membership of a particular social group (**Geneva Convention**).

If the asylum application does not meet the provisions of the Convention, the asylum officer will, during the same procedure, investigate whether the asylum seeker faces a real risk of suffering serious harm if (s)he were to return to his/her country of origin (**subsidiary protection status**).

Hearing

Each asylum seeker is given the opportunity to explain the motives for his/her flight during an extensive hearing. An asylum officer with a university degree will lead the hearing. This officer has **specialist knowledge** of the asylum seeker's region of origin.

In 2009, the CGRS started to use some 50 new **hearings rooms**. Their set-up and design contribute to optimum hearing circumstances. The hearing is often conducted in the presence of an **interpreter** who speaks the asylum seeker's language. About 170 interpreters (who are self-employed) carry out their assignment in a neutral manner. A **lawyer** or a trusted person can also attend the hearing. A detailed **report** is drawn up of each hearing.

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Research

The asylum officer weighs the asylum seeker's statements against the objective situation in the country of origin. He also checks the **credibility** of the asylum statement.



Researchers of the documentation and research centre (Cedoca) supply tailor-made **Country of Origin Information** (COI). Each year, Cedoca prepares about 150 thematic memorandums and answers more than 2,000 written questions regarding individual asylum applications. The researchers organise some 40 country-related courses for the asylum officers per year.

If possible, **Fact Finding Missions** to the regions of origin are carried out for additional research purposes.

Any element of **fraud** found in an asylum application while it is being processed may lead to the rejection of the application.

Accelerated procedure

For asylum applications from nationals from an EU or candidate EU Member State, the CGRS applies an accelerated procedure.

Vulnerable groups

During the hearing as well as afterwards, for the assessment of the asylum application the CGRS pays specific attention to vulnerable groups such as unaccompanied foreign minors, victims of human trafficking and persons with gender-related flight motives (e.g. sexual orientation) or with mental/psychiatric disorders.

Decision and appeal

Each asylum decision contains a **thorough explanation** of the grounds on which it is based, and it is checked by a supervisor.

There are several types of decisions.

- The CGRS **grants refugee status**, in 2009-2010 (until July) mainly to persons from Iraq, Guinea, Russia, China and Afghanistan.
- The CGRS **grants subsidiary protection status**, in 2009-2010 (until July) mainly to persons from Iraq, Afghanistan and Somalia.
- In 2009-2010 (until July), the CGRS decided to **deny** recognition of refugee status and subsidiary protection status in two out of three asylum applications.
- Sometimes the CGRS decides to **withdraw** or **cancel** a protection status.
- If there are serious reasons to assume that the asylum seeker has committed crimes against humanity or war crimes, the CGRS has the option of **excluding** that person from protection status.

Processing time

In 2009, one in three asylum seekers received a decision within three months after submitting their application. In another one third of the cases, the CGRS notified its decision within three to six months. In some complex cases it can take longer for the CGRS to take a decision.



Appeal

After a negative decision, the asylum seeker has the option to file a suspensive appeal with the **Council for alien law litigation**. This is a written procedure. The subsequently held public hearing will in principle only deal with the arguments that have been stated in writing.

- The judge of the Council for alien law litigation may either grant or deny refugee status or subsidiary protection status.
- If the judge concludes that the investigation performed by the CGRS is incomplete or contains substantial errors, he will annul the decision. In that case the CGRS will have to reopen the case and take a new decision.

Asylum seekers can only appeal a negative decision of the Council for alien law litigation before the **Council of State**. A special filter procedure is in place for this purpose. The Council of State does not assess the content of the case; it merely verifies whether the decision of the Council of alien law litigation has been rendered in accordance with the law.

In the event an asylum application is not granted, the Immigration Department will order the asylum seeker to leave the Belgian territory. If the foreign national does not comply with this request, the Immigration Department may remove the person by force.

Partnership and coordination

The CGRS will assist and guide the asylum seeker where possible during the procedure. To that end we regularly **consult** with all stakeholders. Our key partners are: the Immigration Department, Fedasil, the Red Cross, the several Belgian Bar Associations, national and international refugee organisations, the Guardianship Service for unaccompanied foreign minors and representatives from UNHCR and IOM (International Organization for Migration).

Proper **information** to asylum seekers and the public is also of the essence. The Communication, Information and Press Department develops various information tools specifically tailored to the target group, such as brochures, a multilingual website, oral information sessions and a DVD. It frequently cooperates with the abovementioned partners.

Coordinated approach

The CGRS highly values the development of a global, coordinated approach to asylum issues. The International Relations Unit represents the CGRS at European and international forums and offers policy supporting activities regarding three different domains:

- Developing **legislative initiatives** such as EU directives regarding asylum.
- **Solidarity**, both with third countries and between EU Member States, is crucial. Complementary to the national asylum procedure, the CGRS argues in favour of the introduction of a resettlement policy in Belgium. Together with its partners, it initiated a pilot project for the resettlement of 47 Iraqi refugees from refugee camps in Syria and Jordan in 2009. The project received a positive evaluation.



Photo: UN High Commissioner for Refugees, António Guterres addresses CGRS staff during a work visit. CGRS, Brussels, 2 February 2010.

- Furthermore, the CGRS is actively involved in several concrete international projects of **practical cooperation** such as expertise exchange within the scope of Eurasil, the Temporary Desk on Iraq (TDI) and the European Asylum Curriculum (EAC). To have these ad hoc cooperation concepts institutionalised into the European Asylum Support Office (EASO) that will soon be established in Malta will be an important step towards a Common European Asylum System, which has the CGRS' full cooperation.

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