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OFFICE OF THE COMMISSIONER GENERAL FOR REFUGEES AND STATELESS PERSONS

# The right to be heard

For parents and guardians  
accompanied by minor children

.be

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This brochure is also available in Dutch,  
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[www.cgrs.be/en/publications](http://www.cgrs.be/en/publications).

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# **The right to be heard of the child who accompanies you**

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# **THE RIGHT TO BE HEARD: BROCHURE FOR PARENTS AND GUARDIANS ACCOMPANIED BY MINOR CHILDREN DURING THEIR PROCEDURE FOR INTERNATIONAL PROTECTION AT THE CGRS**

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Dear Madam, dear Sir,

You filed an application for international protection with the Belgian authorities. You are accompanied by one or more minor children, over whom you exercise parental authority or guardianship. You receive this brochure because your application for international protection also has consequences for the minor children who accompany you. This brochure explains what your application means for the minor children who accompany you. They will also receive a brochure to explain to them what an application for international protection means for them.

The right to be heard of the child who accompanies you



# WHAT IS AN APPLICATION FOR INTERNATIONAL PROTECTION ?

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You have asked the Belgian authorities for protection because you had or fear to have serious problems in your country of origin. For this reason, you think that you cannot return to your country. You filed your application for protection at the Immigration Office. If you did not apply for protection in another country before, the Office of the Commissioner General for Refugees and Stateless Persons (hereafter: CGRS) will examine your application for international protection. In order to explain the problems you had or fear to have, you will be invited for a **personal interview** at the CGRS..



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## THE PERSONAL INTERVIEW AT THE CGRS

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# THE PERSONAL INTERVIEW AT THE CGRS

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Once the Immigration Office has transmitted your case file, the CGRS invites you for a personal interview. This is a conversation during which you explain to a CGRS case worker the reason why you left your country and cannot return. The CGRS case worker will then assess your application for international protection. **As a person who exercises parental authority or guardianship, you are also responsible for the children who accompany you. You are best placed to defend your children's interests. This means that during the personal interview at the CGRS, you must also indicate what problems the minor children who accompany you experienced in your country or why you think that your children cannot return.** On the basis of your statements, the CGRS will take only one decision for you and for the minor children who accompany you. The children who have reached the age of majority and accompany you have a separate file as part of their application for international protection and are also invited for a personal interview.



## WHICH KIND OF DECISION ?

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Belgium offers two forms of protection: **refugee status and subsidiary protection status**.

## WHAT IS A REFUGEE ?

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Belgium signed the Geneva Refugee Convention. This is an international treaty which puts Belgium under the obligation to offer protection to persons who had, or fear to have, problems with the authorities of their country or other people in their country. You can be persecuted for various reasons:

- your political opinion;
- your religion;
- your race;
- your nationality;
- your membership of a particular 'social group'. By 'social group', we mean persons who share the same constant characteristic. Because of this characteristic, the majority of the people in your country or the authorities in your country treat these people in a hostile way. An example of this is a person who is persecuted because he is homosexual.

When you and the children who accompany you left your country and/or are unable to return for one or several of these reasons, you can obtain refugee status in Belgium.

## WHAT IS SUBSIDIARY PROTECTION ?

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If you do not obtain refugee status because of your situation, the CGRS will examine if you can receive subsidiary protection status.

The CGRS grants subsidiary protection if you run a real risk of suffering serious harm on returning to your country.

Serious harm is for example:

- death penalty or execution;
- torture or inhuman or degrading treatment;
- serious threat to your life in case of war or civil war.

After examining the application for international protection, the CGRS can decide:

- to grant refugee status;
- to refuse refugee status and to grant subsidiary protection status;
- to refuse both refugee status and subsidiary protection status.





# CHILDREN'S RIGHTS

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All children have special rights, called “rights of the child”. To make sure that children will assert these rights, the Convention on the Rights of the Child was adopted. Most countries in the world, including Belgium, have signed this treaty and thus commit themselves to making sure that children will enjoy their rights. One of these children’s rights is the right to be heard. This means that the children who accompany you, have the right to voice their opinion on an important decision that also involves them. They can give their opinion in any way they prefer: by talking, drawing, writing or in any other way. **This is a right, not an obligation and will in principle not be necessary at all. During your personal interview at the CGRS, you are expected to explain the problems of the children who accompany you.** There is no obligation for the children who accompany you to tell something at the CGRS.

The children who accompany you can only request to voice their opinion at the CGRS if they want to themselves. If they prefer not to do this, this does not have any consequence for your decision.

Because an interview at the CGRS inevitably causes much stress, it is important that the minor children who accompany you, decide for themselves if they want to voice their opinion individually at the CGRS.



**THE CHILDREN WHO  
ACCOMPANY YOU  
CHOOSE TO TELL ABOUT  
THEIR PROBLEMS AND  
FEARS INDIVIDUALLY**

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## HOW DO THEY HAVE TO DO THIS ?

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If one or all minor children who accompany you prefer to tell themselves why they have left your country or cannot return, the CGRS must be informed of this. Preferably, this is done by letter or e-mail, **at least five days before your personal interview takes place**. The children who wish to voice their opinion at the CGRS do not have to request this by themselves. You, your lawyer, a social worker, a trusted person etc. can also write this letter or e-mail or call the Service for Minors at the CGRS. You will find all the contact information and a sample letter at the end of this brochure.

## WILL THE CHILD WHO ASKS TO VOICE HIS/HER OPINION ALWAYS BE INVITED ?

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No. On the basis of the information present in the administrative file, the CGRS will first check whether your child is capable of voicing his/her opinion to the CGRS case worker. If the CGRS estimates that your child is too young to explain by him- or herself the reasons why he or she left his or her country, your child will receive a letter about this. If the CGRS decides to interview your child, your child will also receive a letter, which mentions where and on which day a CGRS case worker will listen to your child. This letter can also be shown at school in order to justify the child's absence on that day.



## THE TALK WITH THE CGRS CASE WORKER

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## WHERE WILL THE TALK WITH THE CGRS CASE WORKER TAKE PLACE ?

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The children who want to explain by themselves their problems or reasons that prevent them from returning to their country, will accompany you to the CGRS on the day of your personal interview. The children remain in the waiting room until your personal interview is finished. One of the parents remains with the children, while the other parent's personal interview takes place. If you are a single parent, the children can wait near the room where your personal interview takes place. As your interview can take quite a long time, you better bring something to occupy your child while he or she is waiting. Once your personal interview is over, the children who accompany you and who asked to voice their opinion, will be listened to. During their talk with the CGRS case worker, you can sit in the waiting room.

If for exceptional and practical reasons the CGRS cannot have a talk with your children on the same day as you, the talk will take place on another day.

## WHAT HAPPENS DURING THE TALK OF THE CHILD WITH THE CGRS CASE WORKER ?

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The talk with your child by a CGRS case worker often does not take long. Usually, it takes about half an hour. The case worker will listen to your child. Your child can tell him what happened and why he or she does not want to return to your country of origin. **This talk only deals with the problems and fears of your child, not with your problems and fears.** After all, during your personal interview, you have the opportunity to explain in detail your reasons for applying for international protection and those of the minor children who accompany you. Your child only needs to tell what he/she wants to tell. Therefore, the talk with your child is not comparable with your personal interview: during the talk with the child, the child is invited to tell freely what he/she wants to tell. The number of questions is limited as much as possible; an explanation is only asked if necessary. Your child is not obliged to answer the questions and can say that he/she does not know the answer.

## WHO WILL BE PRESENT DURING THE TALK WITH THE CHILD ?

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The talk takes place between the CGRS case worker and the minor child. **You cannot be present.** An interpreter, who makes sure that the child and the CGRS official understand each other, is also present. The interpreter cannot reveal the content of the talk to you or to other persons. The interpreter does not have any influence on the final decision.

The child who wishes to voice his/her opinion, can bring along **one person whom he/she trusts** to the talk with the CGRS official. Family members cannot be present during the talk with the child. The person who acts as the child's trusted person has to be someone who, by virtue of his profession, is specialized in assisting persons or in aliens' law and who has a relationship with the child. This can be the school teacher, a psychologist or the social worker. It would be better if you already mentioned in the letter or e-mail to the CGRS who will accompany your child for a talk at the CGRS. The CGRS case worker can decide not to allow this person to be present during the talk. The person who accompanies your child cannot make any statements neither in the child's name nor in your name.

During the talk with the CGRS official, your child must be assisted by a **lawyer. The lawyer's presence is obligatory.** This can be your lawyer or another person. The lawyer is bound by professional secrecy.

The trusted person and the lawyer can make comments at the end of the talk with your child.

## DOES THE CGRS ALWAYS COMPLY WITH WHAT YOUR CHILD WANTS ?

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No. When taking its decision, the CGRS will always take into account the child's opinion but this does not mean that the CGRS will agree with it or follow it. The CGRS will base its decision on all the information it could obtain.

Your statements are the most important elements for assessing your application for international protection. You are supposed to defend your minor children's interests and to mention problems your children had or could have during your personal interview.

## A SUBSEQUENT INTERVIEW IS POSSIBLE

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It is possible that the child has one or more other reasons than the ones you mentioned and that prevent your child from returning to his country of origin. This is very **exceptional**. If the facts mentioned by the child seem very serious, the CGRS can invite the child for an interview. In this case, it is very important that your child does come to the interview. This interview will be conducted by a CGRS case worker specialized in examining applications for international protection by children. In this case as well, your presence at the interview will not be allowed. During this interview, your child will be assisted by **a lawyer and, if desired, a trusted person**. If such an interview takes place, the lawyer who assists the child must be another lawyer than yours. Your lawyer will receive a letter from the CGRS on this subject. Your lawyer or social worker can help to look for a different lawyer for the child who is invited for an interview. If

after the additional assessment, the CGRS exceptionally decides that you cannot be informed of your child's statements, these statements will not be added to your administrative file. The notes of the interview with your child will not be communicated to you. **If your child's statements are not consistent with your own statements, this will not be used against you.**

## THE CGRS INVITES YOUR CHILD FOR AN INTERVIEW BUT THE CHILD DID NOT ASK FOR IT

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It is possible that after the personal interview with you, the CGRS exceptionally decides that it is useful to give one or several of the minor children who accompany you the opportunity to explain what happened to them in your country or what they fear upon returning. This can for example be the case when you mentioned facts that specifically relate to one of the children who accompany you. In this case, your child will receive a letter inviting him/her to an interview at the CGRS. During this interview, your child must be assisted by a lawyer. A trusted person can be present if wished for by the child. You cannot be present at this interview. The child who is invited for an interview does not have to accept this invitation. If your child prefers not to have an interview, this will not have any consequences for the decision that is taken for your family.



# THE DECISION





## THE DECISION

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When the CGRS case worker has gathered all the information, he will write the decision. This will generally be a single decision for you and your family. In exceptional cases however, the minor children who accompany you may receive a decision of their own. You always have the possibility to appeal against the decision of the CGRS.

The Council for Alien Law Litigation examines the appeals filed against the negative asylum decisions taken by the CGRS. Different appeal procedures exist, depending on the nature of the decision. The Council for Alien Law Litigation pronounces judgements which are duly motivated.

Read more at <https://www.cgrs.be/en/international-protection/appeals-procedures>



# **A schematic overview of a CGRA conversation**



# THE INTERVIEW AT THE CGRS

1

THE CHILD WOULD LIKE TO HAVE HIS/HER OWN SAY



NO OBLIGATION



PARENTS OR GUARDIAN NOT PRESENT AT INTERVIEW !

ASSISTED BY:

SHORT CONVERSATION

NO USE OF CONTRADICTIONS WITH PARENTS' DECLARATIONS  
DECLARATIONS

A LAWYER

IF POSSIBLE A TRUSTED PERSON



**ONE DECISION FOR FAMILY**

2

THE CGRS INVITES THE CHILD FOR AN INTERVIEW



NO OBLIGATION



PARENTS OR GUARDIAN NOT PRESENT AT INTERVIEW !

ASSISTED BY:

LONGER CONVERSATION, WITH TARGETED QUESTIONS

NO USE OF CONTRADICTIONS WITH PARENTS' DECLARATIONS  
DECLARATIONS

A LAWYER

IF POSSIBLE A TRUSTED PERSON



**ONE DECISION FOR FAMILY, SEPARATE DECISION WILL BE EXCEPTIONALLY POSSIBLE**

# Contact

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Website: [www.cgrs.be](http://www.cgrs.be)

## **THE CGRS UNIT FOR MINORS**

The CGRS has a coordinator for minors.

The coordinator knows everything that has to do with asylum applications from foreign unaccompanied minors. She follows up closely on all such applications. Guardians who have questions or observations about the asylum procedure can contact the coordinator for minors.

E-mail: [CGRA-CGVS.Mineurs@ibz.fgov.be](mailto:CGRA-CGVS.Mineurs@ibz.fgov.be)

Tel +32 (0)2 205 53 06

Fax +32 (0)2 205 50 05

As a central and independent asylum authority, the CGRS is in daily contact with many Belgian, European and international partners.

Read more on: [www.cgrs.be/en/partners](http://www.cgrs.be/en/partners)

**Learn more about the CGRS?**



**[www.cgvs.be](http://www.cgvs.be)**



**[@cgvs\\_cgra](https://twitter.com/cgvs_cgra)**



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