



Représentation permanente du Royaume de Belgique
à Genève

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Ref : TN/CC 2023/134

Vos ref : AL BEL 1/2023

La Mission permanente de la Belgique auprès des Nations-Unies et des autres organisations internationales à Genève présente ses compliments au Haut-Commissariat aux Droits de l'Homme et a l'honneur de se référer à la communication conjointe des procédures spéciales, Ref : AL BEL 1/2023, datée du 30 mars 2023 et transmise à la Belgique par le Rapporteur spécial sur les droits humains des migrants, la Rapporteuse spéciale sur le droit qu'a toute personne de jouir du meilleur état de santé physique et mentale possible, le Rapporteur spécial sur le logement convenable en tant qu'élément du droit à un niveau de vie suffisant, ainsi que sur le droit à la non-discrimination à cet égard et le Rapporteur spécial sur les droits à l'eau potable et l'assainissement, concernant « la détérioration continue du système d'accueil des demandeurs d'asile en Belgique ».

La Mission permanente de la Belgique a l'honneur de soumettre en pièce jointe, la réponse de la Belgique à propos de cette communication. Elle saurait gré au Haut-Commissariat de bien vouloir en accuser réception et de bien vouloir transmettre ces documents aux auteurs de ladite communication.

La Mission permanente de la Belgique auprès des Nations-Unies et des autres organisations internationales à Genève saisit cette opportunité pour renouveler au Haut-Commissariat aux Droits de l'Homme les assurances de sa haute considération.

Fait à Genève, le 31 mai 2023



Haut-Commissariat aux Droits de l'Homme

registry@ohchr.org



Sender : Lambertstraat 2, 1000 Brussel

To the attention of Beatriz Balbin
Cheffe Service des procédures spéciales HCDH
e-mail: ohchr-registry@un.org

Your message of
30.03.2023

Your reference
AL BEL 1/2023

Our reference
CAB/NdM/SD/4331

Enclosure(s)

Concerning: Mandats du Rapporteur spécial sur les droits de l'homme des migrants; de la Rapporteuse spéciale sur le droit qu'à toute personne de jouir du meilleur état de santé physique et mentale possible; du Rapporteur spécial sur le logement convenable en tant qu'élément du droit à un niveau de vie suffisant, ainsi que sur le droit à la non-discrimination à cet égard et du Rapporteur spécial sur les droits à l'eau potable et l'assainissement

Dear Rapporteurs,

Belgium has been under high pressure for a long period of time, and more particularly since the Summer of 2021. My country observed a particular increase of people seeking protection in 2022. In addition to the more than 63.000 Ukrainians registered under the Temporary Protection Directive, 36.871 people have filed an asylum application in Belgium in 2022. In other words, in the past year over a 100,000 people sought protection in Belgium. In 2023, the steady inflow of asylum seekers continues. 11.456 people have submitted an asylum claim in Belgium since January 2023; the number of Ukrainians with a temporary protection status is now close to 70.000. It goes without saying that this puts enormous pressure on our services: reception facilities, but also the education system, the housing market, social services and the like.

That does not mean we have accepted this situation. In response to the first signs of the Belgian reception network becoming saturated, my country has taken the necessary steps to ensure that applicable regulations can be respected. Continuous measures have been taken to (1) expand the reception network, (2) accelerate outflows from the reception network, including through an additional large-scale recruitment of staff to handle asylum cases and (3) address irregular and secondary flows to Belgium, together with other EU member states. The Belgian federal government, consisting of seven political parties, agreed on a major migration and asylum deal in March 2023, which shows that there is no unwillingness nor inaction on the part of the Belgian state to tackle this crisis.

First, Belgium's federal government decided in the summer of 2021 to establish a historic number of "buffer places" that can be used in times of crisis. This resulted in a more permanent and more predictable reception network. Today, we have the largest reception network in the history of our country, consisting of over 34.000 places with 8.000 extra places created the last year. In recent months, the Belgian government has also established several emergency shelters. A partnership with the Brussels regional government is providing 1,200 additional emergency humanitarian places for those that are on the waiting list for receiving shelter at the Federal asylum service (Fedasil); a plan to increase this to 1,500 places is in the making.

Since the start of the crisis, it has been my decision to always prioritize the reception requests of those with special needs. When assigning places, my services give priority to the most vulnerable, such as families, single women, people with special needs, and (unaccompanied) minors. The wellbeing of minors has always been a top priority. The federal government coordinates its children- and youth policy with the Belgian regional authorities competent for youth assistance. This has resulted in the opening of several new centers specifically adapted to the needs of minors, a government-wide consultation on unaccompanied minors (in the form of an inter-ministerial conference), the funding of federal outreach workers looking for and assisting unaccompanied minors (the so-called *Caritas Xtra MENA project*), and the funding of projects for Maghrebi street children and minors transiting through Belgium. All minors in an asylum procedure are receiving an education.

Since November 2022 we have been able to provide all vulnerable people and single women with a reception place in our network on the day of their application. Only for a brief period, the government was unable to shelter young adults whose age could not be established and that had to undergo an age test. With regard to the 24 young adults referred to in your letter, it was in fact the Belgian government that reported their disappearance. Through an intensive action in cooperation with other actors in the field, 7 of them could be located and integrated in the asylum system; the others most likely traveled to another EU member state. To tackle this issue in a more sustained way, a roadmap on disappearances will be launched later in the coming days.

But despite the various measures taken, the most important of which I list in this letter, Belgium continues to face a shortage of available reception places. I regret that there are periods in which my services are not able to provide a reception place to all asylum applicants the same day of filing for international protection. Some asylum seekers have squatted empty buildings in the city of Brussels resulting in dangerous circumstances even when offered alternative shelter places. The occupants of these premises were living together with people without legal residence and activists, making it difficult for the government to identify who was entitled to shelter and who was not. The evictions reported upon in your letter were executed by the city of Brussels to the best of its ability. In one instance, the situation was chaotic, also because more asylum seekers presented themselves than had been staying in the squat, but could be finalised in time without anyone being injured. Other evictions were executed serenely.

An amendment to the national Reception Legislation has been agreed upon, preventing the extension of the stay of persons in reception facilities whose asylum procedure has ended. On the basis of this new policy, more than 1,200 asylum seekers have left the reception network since January 2023, creating places for new applicants. This resulted in a drop of the people on the waiting list to under 3,000 people. Of course, not all of these people on the waiting list are homeless: many have found a (temporary) solution in their own network, through NGOs either in hotels or elsewhere, and in emergency shelters operated by the government that provide basic services ensuring the respect for human dignity. NGOs have and continue to play an important role in managing this crisis, and receive direct and indirect financial support from the government to do so.

The Belgian government actively directs all asylum applicants towards governmental and non-governmental facilities offering help. In this way, those asylum seekers that are on a waiting list do receive basic support by the Belgian government and NGOs, access to sanitary services, and medical and psychological support. Medical expenses of those outside of government reception accommodations are reimbursed and the Belgian government funds a mobile hospital operated by the Red Cross. It should thus be reiterated that medical care has always been offered to asylum seekers throughout the crisis. In June, we are also opening an information point where all asylum seekers will receive socio-legal counseling.

As is rightly mentioned in your letter, the fact that not everyone receives a reception place on the first day of arrival, has resulted in court cases before the Belgian courts as well as in interim measures taken by the European Court for Human Rights. Several legal proceedings are still ongoing. Not all of the court decisions could be implemented immediately. This is by no means a political decision, but a sheer material impossibility.

Second, I aim to eliminate the existing structural deficit in the treatment of asylum applications. Investing in the asylum services and their staff will avoid applicants for international protection having to wait too long for a decision in their individual case. This we have done by significantly extending the number of people working on asylum applications throughout our administration. I have increased the number of case handlers handling individual applications for international protection. Since April 2021, an additional 177 FTE were added to the Office of the Commissioner General for Refugees and Stateless Persons (CGVS/CGRA), responsible for taking asylum decisions in our country. I have also invested in the Immigration Department, which registers applications for international protection and handles Dublin-hits, as well as in the Council for Alien Law Litigation, the administrative tribunal dealing with immigration matters. The measure resulted in more decisions being taken (2,677 in March and 2,463 in April), compared to an average of 2,000 decisions in 2022. Faster procedures lead to greater legal certainty and more asylum seekers leaving the reception network in a reasonable time.

During a short period, the number of new asylum seekers was so high that the operational limit of registrations per day was reached, resulting in the fact that they could only register their

asylum request in the following days as is in accordance to the EU's Directive on common procedures for granting and withdrawing international protection. This is no longer the case for a number of months: all asylum claims are registered immediately. These requests are evaluated on an individual basis and thoroughly by the CGVS/CGRA, an independent body. The depth of that investigation is one of the reasons for the procedural delays we face.

A third challenge my country is facing concerns secondary migration flows. In Belgium, a large part of the asylum applications is done by people that (a) have a status elsewhere in the European Union, (b) have been registered elsewhere; or (c) have started a procedure elsewhere. Almost 50% of our applications are in such case, many more we suspect – and this may even be more problematic – have never been registered even though Belgium was not their first country of arrival. The challenges in Belgium with regard to an increased inflow of primary and secondary migration is not very different from those in neighbouring countries. We consider the current common European asylum system to be insufficient. Moreover, while our national situation is stable, it remains fragile. That is why my country is also working intensively at the European level to find political agreement on a durable political reform in the form of a new European Asylum and Migration Pact.

The emergency measures are being implemented on a daily basis, but the structural measures obviously take time to show results. Rest assured I will relentlessly continue to work on the durable improvement of the Belgian asylum and reception system.

I am of course willing to provide further and detailed information on the various measures Belgium is taking to address this situation.

Yours sincerely,



Nicole de Moor