

**Reception Systems, their Capacities and the
Social Situation of Asylum Applicants within the
Reception System in the EU Member States**

***European Migration Network
Belgian Contact Point***

Content

1. Short Historical Overview of the Development of Reception Facilities	3
2. Asylum Application Procedures and Legal Framework	4
2.1 Asylum Application Procedures	4
2.2 Legal Framework of Reception Conditions	7
3. Organisation, Number and Capacities of Reception Facilities	7
3.1 Organisation of Reception Facilities	7
3.2 Number, Capacities and Distribution	9
3.3 Problems and Strengths of the Reception System	11
4. Provisions and benefits	11
4.1 Social Situation in Accommodation Centres and Other Reception Facilities	11
4.2 Benefits of Asylum Applicants	12
4.3 Provision of Services	13
5. Other Approaches	15

1. Short Historical Overview of the Development of Reception Facilities

Belgium is a state party to the 1951 Geneva Convention and the 1967 Protocol and has pledged to protect refugees on its soil. Any individuals who believe with good reason that they are likely to suffer persecution in their home country on account of race, religion, nationality, political views or membership of a particular social group are considered to be a "refugee". Although any individual may claim asylum, not all will be granted refugee status at the end of the asylum process. Belgium considers asylum application on a case-by-case basis and provides accommodation for individuals during the asylum process. Although the process falls within the remit of the Minister of the Interior, it is the Minister for Social Integration who oversees the reception of asylum applicants.

Since 1995, Belgium has housed asylum applicants in various facilities: federal accommodation centres (run directly by Fedasil), accommodation centres run by the Belgian Red Cross, the Belle Vue centre at Erezée (socialist mutual assistance societies), and private accommodation such as local reception initiatives (LRI's), either run by public local welfare centres (CPAS/OCMW) or arranged by NGOs (Vluchtelingenwerk Vlaanderen and CIRE). Together these various facilities make up the reception network.

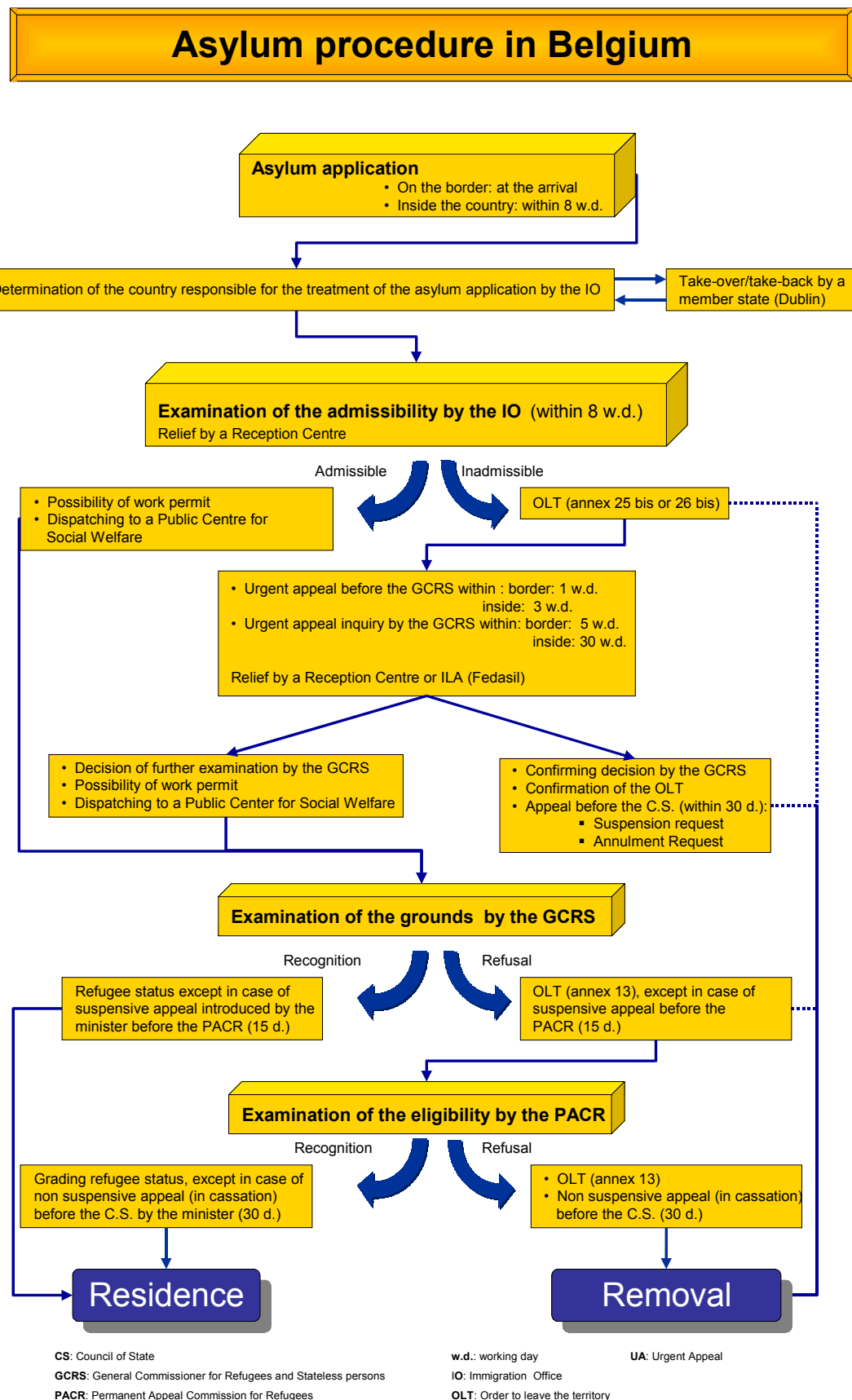
Creation of Fedasil

The reception network was expanded in response to a substantial increase in asylum applications, which peaked at 42.691 in 2000. In January 2001, the Belgian federal government decided that asylum applicants would no longer receive financial social assistance during the first stage of the asylum process during which the admissibility of their application is assessed, but only material assistance provided by the reception facilities. In subsequent years, the number of asylum applications dropped significantly with 16,940 applications recorded in 2003. At the same time, the overall capacity of the reception network in Belgium has gradually increased over the years from 8.246 places in 2000 to 15.754 in 2003.

The withdrawal of financial social assistance involved, among other things, developing the reception network and organizing it more efficiently. To this end, through the programme law of 19 July 2001 (Articles 60 to 64), the Belgian federal government decided to create the Federal Agency for the Reception of Asylum Applicants (Fedasil).

2. Asylum Application Procedures and Legal Framework

2.1 Asylum Application Procedures



A foreigner may claim asylum at the Belgian border or at the Immigration Office in Brussels. There are three stages in the asylum procedure:

1. Assessment of the application under the Dublin Convention: which Schengen country is to handle the application?

2. Admissibility: are the conditions met for examining the grounds of the claim?

3. Examining the grounds of the claim: the asylum applicant either is or is not recognized as a refugee.

The Minister of the Interior is responsible for the asylum procedure. Fedasil provides accommodation for asylum applicants for at least as long as it takes for a decision to be made on the admissibility of their application.

A foreigner arriving in Belgium may claim asylum:

- at the border (e.g. at the airport in Zaventem): generally individuals wishing to enter the country without valid papers;
- in Belgium itself: foreigners who have entered the country either legally (e.g. on a tourist visa at the airport) or illegally (e.g. by train or car without the required visa):
 - in the Immigration Office in Brussels
 - if the person stays in prison or in a detention centre, the application can be addressed to the Head of the institution

The asylum procedure begins as soon as the application is registered. There are three stages:

1. The Dublin Convention

On the basis of the Dublin Convention, the Immigration Office determines which Schengen country will handle the asylum application.

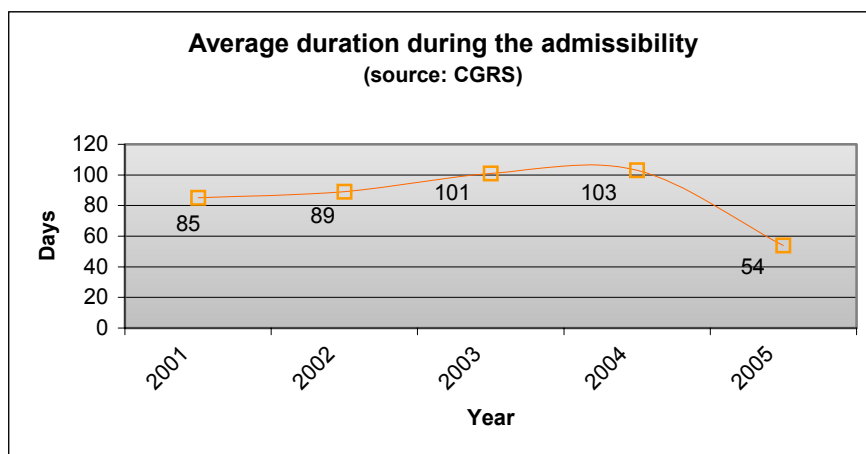
At this stage, only the Council of State may suspend or reverse a decision.

2. Admissibility

If the Immigration Office decides that Belgium should handle the application, the first step is to assess whether there are grounds for the application to be considered further (whether or not it is considered admissible). The Immigration Office makes the initial ruling.

If the Immigration Office declares the application inadmissible, an urgent appeal may be lodged with the Commissioner General's Office for Refugees and Stateless Persons (CGRA/CGVS). If the CGRA/CGVS also declares the application inadmissible, an appeal for suspension or reversal of the decision may be lodged with the Council of State.

The next graph shows the average processing time for an application in the first stage of the procedure.



NB: in the graph, only the closed cases are taken into consideration

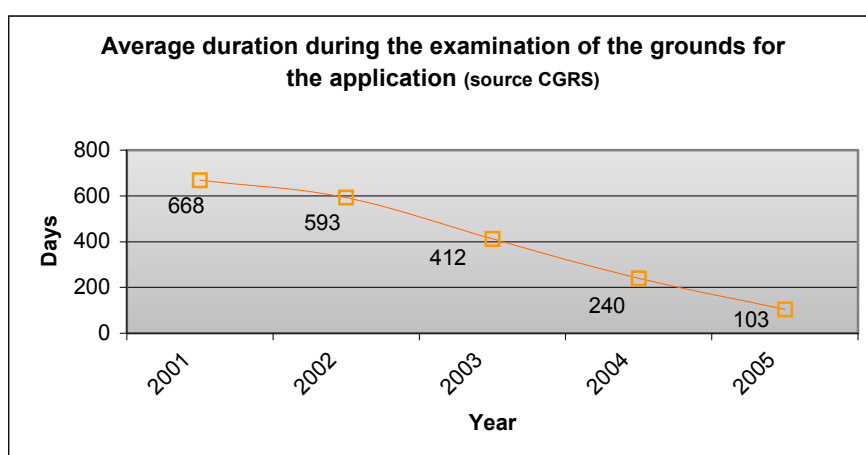
3. Examining the grounds for the claim

If the asylum application is ruled admissible, the grounds for the claim are examined to determine whether the asylum applicant may be considered a refugee. The grounds for application are assessed in accordance with the Geneva Convention.

The Commissioner General's Office for Refugees and Stateless Persons (CGR/CGVS) makes an initial assessment.

If the CGR/CGVS rejects the grounds for the application, an appeal may be lodged with the Permanent Appeal Commission for Refugees (CPRR/VBV). If the CPRR/VBV also rejects the grounds for application, the Council of State is the only body with which an appeal may be lodged.

The graph below shows clearly that the average processing time for an application has decreased considerably in recent years.



NB: in the graph, only the closed cases are taken into consideration

Legal assistance during the procedure

An asylum applicant without income is entitled to benefit from legal assistance, called "pro deo". So he/she will be able to benefit from the free

services of a lawyer for any legal advice and the filing of any appeal during the procedure.

Language of the procedure

At the very beginning of the examination of the application, an asylum applicant has to choose the language of the procedure, French or Dutch.

If the applicant doesn't master enough one of these two languages, he can ask in writing for an interpreter. This choice is irrevocable. If an interpreter is requested, the Immigration Office will choose the language of the procedure and all the documents of the procedure will be translated in this language. The rule will be valid for the entire subsequent procedure.

2.2 Legal Framework of Reception Conditions

Fedasil's powers and responsibilities

Fedasil's mission has been formulated as follows: "Fedasil's mission is to organize and manage the various aspects of reception of asylum applicants, and to coordinate voluntary return and agreements concluded with third parties to provide reception services for asylum applicants. Fedasil is also responsible for monitoring standards in all reception facilities." (Article 62).

The 2001 programme law also stipulates that Fedasil is answerable to the minister responsible for the reception of asylum applicants and is responsible for preparing, devising and implementing reception policy. The creation of Fedasil is also enshrined in two royal decrees: that of 15 October 2001 specifies its structure, organization and method of operation, while that of 22 October 2001 focuses on staff measures designed to help Fedasil operate more efficiently. Fedasil was officially created in May 2002.

The programme law of 19 July 2001 - Fedasil's legal basis - was amended by the programme law of 22 December 2003, which assigned Fedasil fresh responsibilities in a number of areas, such as: assigning the compulsory place of registration (code 207); organizing and managing community services performed by asylum applicants; coordinating the reception of unaccompanied foreign minors; allocating material assistance to illegal minors.

3. Organisation, Number and Capacities of Reception Facilities

3.1 Organisation of Reception Facilities

Foreigners who apply for asylum at the Immigration Office are sent to Fedasil Dispatching unit in the same building. Dispatching assigns asylum applicants to a reception facility and tries to ensure that the load is evenly distributed.

Immigration law stipulates that anyone staying in Belgium must have an address. This is why Dispatching admits the asylum applicant to a reception facility either in accommodation centers or in a local reception initiative (see below).

Every morning, Dispatching is informed of the number of free places at each accommodation centre. Using these figures, it can then assign asylum applicants to the various facilities in as balanced a manner as possible. However, some centers will have specific requests. For instance, if a centre already has 50 single Iranian men, then Dispatching will not send it any more.

Whilst the admissibility of an asylum applicant's claim is being determined, asylum applicants are given 'material reception' in various types of accommodation centres: at the initial placement stage, one third of asylum applicants are sent to a federal accommodation centre, one third to a centre run by the Red Cross or a partner organization, and one third to a local reception initiative.

Large-scale reception

The federal accommodation centres run by Fedasil and the Red Cross accommodation centres organise large-scale, collective reception. This takes the form of open accommodation centres.

Small-scale asylum reception

NGO partners, such as Vluchtelingenwerk Vlaanderen (Advisory Centre for the Integration of Refugees) and CIRE (Coordination and Initiatives for Refugees and Foreign Nationals), and the mutuelle social security association in Erezée offer accommodation places in small-scale housing, private accommodation. They are free to choose the accommodation they use and are responsible for paying rent and give the asylum applicants an allowance to meet their day-to-day needs.

As there are sometimes not enough places in existing accommodation centres for all new asylum applicants, local authorities may agree with Fedasil to organise local reception initiatives (LRI's). A local reception initiative usually consists of furnished private accommodation with facilities to meet asylum applicants' basic daily needs. The public social welfare centre (CPAS/OCMW) is responsible for providing social and medical support for residents of a local reception initiative.

As in accommodation centres, this type of accommodation is provided for asylum applicants in the first stage of the asylum process (determining admissibility).

Asylum applicants who do not want to live in a accommodation centre, but, for example, would prefer to stay with friends or family members, may do so but will only be entitled to medical support from the accommodation centre to which they were assigned.

B During the stage of the asylum procedure where the grounds for the individual's asylum claim are investigated, asylum applicants look for accommodation themselves outside the accommodation centre and receive financial support from the public social welfare centre to which they are assigned.

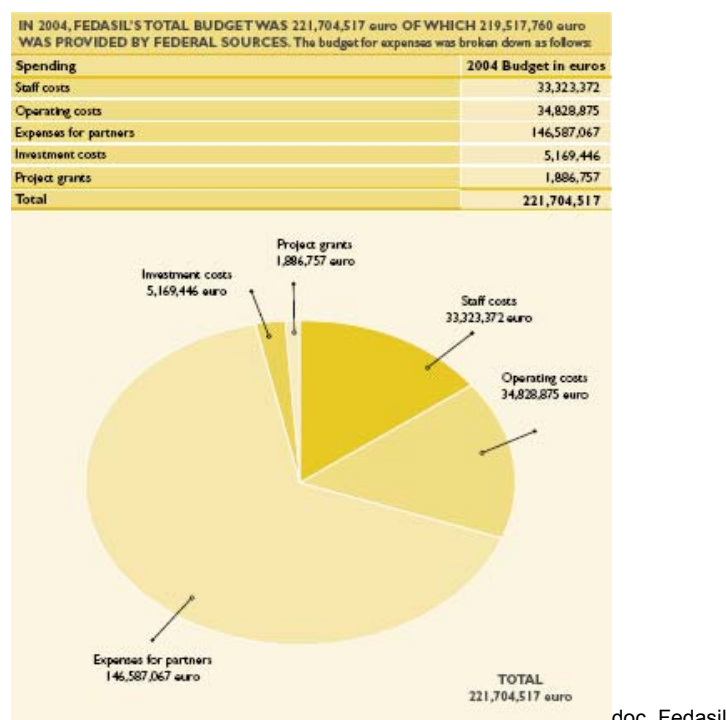
Fedasil coordinates all reception facilities for asylum applicants: federal accommodation centres (managed directly by Fedasil), centres run by the Belgian Red Cross, small-scale reception provided by the French-speaking and Flemish-speaking refugee organisations Vluchtelingenwerk Vlaanderen and CIRE respectively, and 'local reception initiatives' run by Public Social Welfare Centres (CPAS/OCMW) in the communities.

Fedasil works hard to ensure that all asylum applicants receive the same high quality reception regardless of the type of facility in which they are placed.

In accordance with its statute Fedasil receives its annual budget from the Public Programming Service (Ministry) of Social Integration.

Fedasil paid for all the costs of the Federal centres (staff costs, operating costs, investment costs).

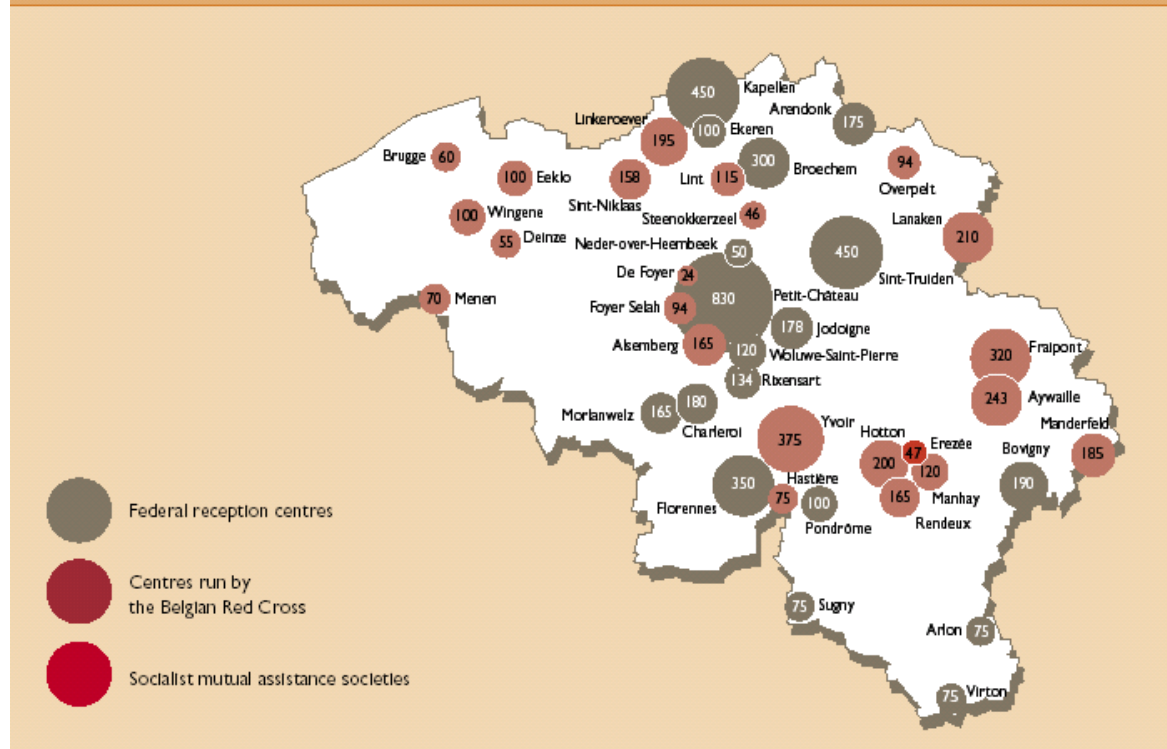
As part of its mission, Fedasil also pays subsidies to fund the reception of asylum applicants by other facilities (62% of the total budget): local reception initiatives (organised by the public social welfare centres), the Belgian Red Cross, CIRE and Vluchtelingenwerk Vlaanderen (NGO partners), and the IOM. In 2003, subsidies to public social welfare centres accounted for over 52% of spending allocated to third parties. These subsidies also cover the voluntary return programmes organised by the IOM.



3.2 Number, Capacities and Distribution

Federal accommodation centres house between 75 and 850 residents. They are dotted across Belgium's towns and countryside, and are located in former barracks, schools, hospitals and holiday villages.

The reception facilities of Fedasil and its partners form a network with a total capacity, as at 31 December, of 15,637 places (15,467 not including emergency reception places).



doc. Fedasil

Federal accommodation centres for asylum applicants are open centres: residents are free to come and go as they please.

There are no global statistics available on the average number of days spent in a centre. Nevertheless, an estimate carried out on the basis of the data available in one centre makes it possible to think that a resident remains between 150 to 200 days in a centre.

More or less half of the residents have already received a confirmatory decision from the CGRS and have lodged an appeal with the Council of State. In this way the continuation of the social assistance rendered to them and, in consequence, of their presence in a centre or some other accommodation facility (Judgement of the Court of Arbitration, October 21, 1998) is guaranteed.

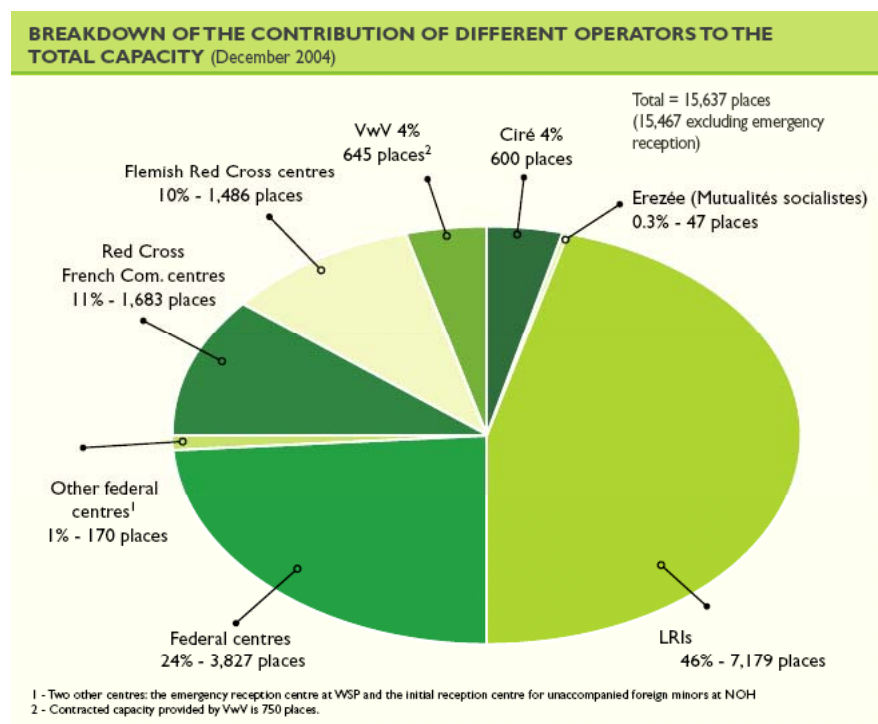
In 2000 a record number of new asylum applicants arrived in Belgium, yet the total amount of refugee accommodation appeared to be insufficient.

In 2001, the government decided to give materiel help to asylum applicants, many accommodation facilities were set up and the government body Fedasil was established. The aim at the time was to create a capacity of 18.000 persons in accommodation centres.

Today there are 15.637 places in the accommodation centres and the aim should be to have a capacity of 15,840 persons and thus to increase somewhat the current capacity yet again. Even though the number of new asylum applications is decreasing, the occupancy rate of the centres remains

high (94-95 % of the capacity). The reason for this is the fact that occupants who lodge an appeal against the rejection of their asylum application keep their social assistance (Judgement of the Court of Arbitration, October 21, 1998) and, as a consequence, stay in the accommodation facilities for a longer time.

If necessary, Fedasil is in a position to provide a lot of new reception capacity in the short run, thanks to the local reception initiatives (LRI's).



doc. Fedasil

3.3 Problems and Strengths of the Reception System

In the collective reception facilities, "mental health problems" which are connected to the extension of the stay in these facilities, the lack of autonomy, the promiscuity, the lack of perspective and so on, are increasing.

Such problems are less frequent in facilities where the occupants are more in charge of their everyday life.

4. Provisions and benefits

4.1 Social Situation in Accommodation Centres and Other Reception Facilities

Accommodation

The accommodation centres ensure that asylum applicants have a roof over their head as soon as they apply for asylum. Families are generally given a separate room, while single individuals receive a bed in a shared room varying from 1 to 16 people.

In private facilities, the occupants live in a flat, prepare their own meals for which they receive vouchers and fill their leisure time. Fedasil encourages the Public Social Welfare Centres to organize all sorts of activities.

Activities

The Events and Activities service tries to organise activities for asylum applicants in the accommodation centre that reflect the diverse mixture of people living there: activities can include sports, films and cultural outings. Asylum applicants also help maintain the accommodation centre.

The Events and Activities services tries to make the most out of the very tight budget available: the 'fitness room' might be nothing more than a bench and a few rugs thrown on the floor, or they might contact a local swimming pool and negotiate a special price or reserve a slot in the schedule.

Indoor and outdoor

Some centres have multi-purpose sport rooms (for volleyball, basketball and table tennis) or an area suitable for outdoor games.

Apart from sports activities, each centre has a TV room, videos are shown regularly, and concerts and events are organised.

Some activities take place outside the centre, but mobility is often a problem. Depending on the possibilities in the neighbourhood, asylum applicants go skating, swimming or to shows and exhibitions.

In some centres, families have a separate kitchen and are given food vouchers so they can buy groceries, but most residents eat in the dining hall where meals are provided by an outside catering firm.

4.2 Benefits of Asylum Applicants

Asylum applicants are entitled to social assistance for the entire duration of the assessment period.

Social assistance

Social assistance is provided in the form of either material or financial assistance depending on what stage the individual's application is at in the asylum process.

Material assistance

Under Article 57b of the law of 8 July 1976 (organic law on public social welfare centres), since January 2001, asylum applicants have been given material social assistance throughout the period during which the admissibility of their asylum application is being assessed.

This material assistance includes housing, food, social and administrative support, and medical treatment.

It is provided in the reception facility specified on the basis of the compulsory place of registration (code 207) to which every asylum applicant is assigned as soon as they submit an asylum application. This means that the stipulated reception facility is the only facility at which the asylum applicant in question

may receive this assistance. They may choose to live elsewhere in Belgium, but in that case they receive only medical treatment.

Financial assistance

As soon as an individual's asylum application is ruled admissible, he is entitled to receive financial assistance from a public social welfare centre (at another compulsory place of registration) without being obliged to live in that specific location. He then leaves the reception facility and is sent by its Social Assistance unit to the appropriate public social welfare centre.

Withdrawal of social assistance

If the asylum authorities (Immigration Office, and the Commissioner-General for Refugees and Stateless Persons, CGRA/CGVS) deny an application to reside in Belgium, then entitlement to material social assistance is generally withdrawn.

A failed asylum applicant must therefore leave the reception facility and ultimately leave Belgium as per the instructions issued to them. However, if a failed asylum applicant lodges an appeal with the Council of State against a ruling by the Commissioner-General for Refugees and Stateless Persons to deny his asylum application, he remains entitled to material social assistance.

Such individuals are in an ambiguous situation since on the one hand they must prepare to leave the country as per the instructions issued to them, but at the same time they receive material social assistance for as long as they remain in Belgium.

4.3 Provision of Services

Children of asylum applicants attend school, while adult asylum applicants can take training courses inside or outside the accommodation centre.

Children

Children of compulsory school age go to school in the neighbourhood in which the accommodation centre is located. School is important because it gives children the opportunity to step out of their daily lives at the accommodation centre and to experience the 'real' world with Belgian children of a similar age.

Support staff enrol children in school. Almost all young children go to pre-school, unless their parents insist on keeping them at home. The older children go to primary or secondary school, where they attend ordinary classes or are placed in reception classes specially designed to give new arrivals intensive language training.

The counsellor's job is not to act as a surrogate parent and certainly not to raise the children. The counsellor is more like an intermediary in case of problems or conflicts. For instance, they may accompany parents to school meetings, check the school diary, or help the child with homework.

There are lots of obstacles: puberty, the culture gap, the language barrier and falling behind at school. But very few young people skip school – they

understand that going to school will give them the opportunity to make something of themselves.

Adults

Associations, volunteers and asylum applicants themselves organise a wide range of lessons in the accommodation centre: arts and crafts, language courses, sewing workshops, computer lessons, cookery and so on.

The accommodation centres cater to asylum applicants' basic needs, but also encourage them to spend their days productively in activities that will offer them the best possible opportunities in their future lives. Even if an asylum applicant ultimately has to leave Belgium, the aim is still to enhance his or her skills.

Language courses and technical classes are the most popular. Where appropriate, some residents take evening courses outside the accommodation centre.

Access to the labour market

In Belgium, an asylum applicant is only allowed to work if certain conditions are met. As long as the asylum applicant has not received a decision regarding the admissibility of his/her application, he/she has no legal right to be employed.

If the application is declared admissible, paid employment is allowed under the condition that the asylum applicant has obtained a work permit, model C.

This work permit C is a personal work permit of limited duration, valid for all paid jobs and employers in Belgium. The period of validity is indicated explicitly in the permit and may not exceed 12 months. However, if the holder of this work permit loses his/her right or authorisation to reside in Belgium, the work permit ceases immediately to be valid and both employer and worker must immediately terminate the employment relationship.

The work permit may be renewed under the same conditions and according to the same procedures that governed the initial request. Any request for renewal must be introduced in theory one month before the permit expires, in the same form and following the same procedure as the initial request.

Since 9 June 1999 recognised refugees are no more obliged to be in possession of a work permit.

Medical and Psychological support

Children, teenagers, adults, families and the elderly all live together at the accommodation centre on a daily basis. Like the disadvantaged and homeless, asylum applicants are vulnerable to illness. The medical service monitors residents' physical and mental health.

The medical service provides preventive and therapeutic care. This includes diagnosing contagious diseases, monitoring chronic ailments, monitoring pregnancies, distributing medicines and contraceptives, monitoring patients with diabetes and heart conditions, and supporting patients with emotional disorders.

The service works together with the national childcare authorities K&G and ONE to regularly check infants' psychomotor development, give them vaccinations and ensure that they are feeding properly.

New arrivals at the accommodation centre are given a medical check-up as soon as possible. The long journey to Belgium usually takes its toll on asylum applicants both mentally and physically. If necessary, doctors may transfer asylum applicants to a hospital.

Residents can arrange appointments with the Medical service – it's not much different from going to any other family doctor. The nurse listens to them describe their symptoms and then sends them to the in-house doctor if necessary.

Fedasil takes great pains to detect tuberculosis. Asylum applicants arriving in Belgium are tested for TB at the earliest possible opportunity. The TB diagnosis service (located in the Immigration Office building) X-rays each individual asylum applicant. Every six months they have to report for a fresh X-ray. Any contagious individuals who pose a public health risk are immediately hospitalised instead of being sent to a accommodation centre.

Minors

As regards the non-accompanied minors, 497 places are reserved for this category of aliens at present, in the centres managed by Fedasil, in the Red Cross centres or in the LRI's. The reception of these minors will be intensified and made uniform before long.

4.4 Duties

According to the centre rules, residents are responsible for keeping their rooms clean and tidy.

Asylum applicants also help with maintenance of the accommodation centre. They mop the corridors and communal rooms, mow the grass and sweep the courtyard.

Asylum applicants can earn extra weekly pocket money by signing up for chores such as cleaning staff areas and toilets, or helping in the second-hand clothes store or laundry.

Every asylum applicant is given a turn to sign up for chores. There is a long waiting list for all kinds of chores because everyone wants to do something useful and earn a bit of extra cash. This system not only helps to boost the residents' respect for their shared infrastructure, but also keeps the centre's maintenance costs down.

5. Other Approaches

A bill transposing Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers is in the process of elaboration.

A first draft of the bill will be brought before the Chamber of Representatives during the first half of the year 2005. The draft should focus on the quality and the consistency of the reception of asylum applicants in accordance with the aforementioned directive. The legislation should clarify the rights as well as the duties of asylum applicants, the framework within which the participants in the reception may intervene and the limits to be put to material assistance. Material aid shall be subject to verifiable and flexible standards of quality, in order to match the variety of ways in which asylum applicants are being accommodated.