

REPORT
on the Free Movement of Workers
in Belgium in 2005

Rapporteurs: Jean-Yves Carlier,
Professor at the Université Catholique de Louvain, avocat
and
Jean-Pierre Jacques,
Assistant at the Université Catholique de Louvain, avocat

November 2005

List of Abbreviations

art.	article
C.D.E.	Cahiers de droit européen
C.D.S.	Chronique de droit social
CE	Conseil d'État (Council of State, Supreme administrative court in Belgium)
C.E.D.H.	Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales
C.J.C.E.	Cour de Justice des Communautés Européennes (= ECJ)
C.T.	Cour du Travail (Labour Appeal Court)
ECHR	European Convention of Human Rights
ECJ	European Court of Justice
J.T.	Journal des tribunaux
J.T.D.E.	Journal des tribunaux-droit européen
J.T.T.	Journal des tribunaux du travail
M.B.	Moniteur Belge
R.D.E.	Revue du droit des étrangers
R.D.C.	Revue de droit commercial
Rev. b. sec. soc.	Revue belge de sécurité sociale
Rec.	Recueil
Rev. not. b.	Revue du notariat belge
R.T.D.E	Revue trimestrielle de droit européen.
Rev. trim. dr. fam.	Revue trimestrielle de droit familial
Rev. trim. dr. eur.	Revue trimestrielle de droit européen
Rev. trim. D.H.	Revue trimestrielle des droits de l'homme
ss.	et suivant
T.T.	Tribunal du travail (First Instance Labour Court)
T.R.V.	Tijdschrift voor rechtspersonen en vennootschap
T.V.R.	Tijdschrift vreemdelingen recht.

Introduction

Belgium has a long experience, reinforced by the presence of the European institutions in Brussels, in matters of free movement of European citizens and members of their family.

There are therefore many established rights (“*acquis communautaire*”) that are not issues any more. This is not always the case in other countries. Therefore, to make comparison easier, some of the established rights are reminded at the beginning of the chapters.

For the year 2005, one may see that the case law is poor in quantity. This does not mean that the Courts do not apply EC law on free movement of workers but, in our view, that there are fewer problems in Belgium in the application of the free movement of workers.

In Belgium, today, problems are more the questions linked to the EU citizenship as fundamental status and the criterion of “real link” or proximity through residence to benefit from different kinds of social assistance as EU citizen.

However, there is still a debate for the period of transition for the free movement of workers coming from the 8 new member States. It seems that for two more years, Belgium will postpone this free movement.

Chapter I

Entry, Residence, Departure

Summary of the Main Issues

- *Acquis*

Entry, residence and departure are regulated, in Belgium, by the Immigration law of 1980 (Law 15 December 1980 on access to the territory, residence, establishment and removal of foreigners).

This law has been amended more than 20 times since 1980. There is, in the law, a section on the Entry (Chapter II, Title I, “access and short stay”) and a section for EU citizens (Chapter I of Title II : “Foreigners from EC Member State, members of their family and foreigners members of the family of a Belgian national”). As shown by the translation of the title of this chapter, there is one particularity in Belgium: to avoid reverse discrimination, family members of a Belgian have the same rights as family members of an EU citizen.

As for the entry, no specific formality is required of an EU Member State citizen who is willing to enter or reside in Belgium. The EU citizen is automatically registered without taking any further step. Nor is any professional card required to exercise a professional activity.

For the family members of a Belgian or EU citizen, who are foreigners from third countries, they will normally need a visa to enter. But, this request is not absolute, in application of the MRAX case.

- *2005*

There is no important amendment in the law, nor case-law or new important practices in 2005 related to entry, residence and departure. Most of the new texts are transpositions of EU Directives that are not important. The transposition of the most important EU Directives, as 2003/86 on family reunification, 2004/38 on free movement of citizens and, 2003/19 on long term residents, are still draft legislation in the beginning of 2006.

The most important issue in 2005 related to practice of Belgians when delivering visas to third country family members is a judgement of the State Council refusing the admissibility of an application lodged by the Belgian (or EU) citizen in Belgium. Only the family members abroad may have sufficient interest to be the plaintiff as they are the subject of the decision to refuse entry visa. One has to look at the evolution of this case-law when the possibility to introduce a family reunification visa request in Belgium will be offered.

Entry

Text(s) in force

- *Maritime borders*

A Royal Decree dated 11 April 2005 (M.B., 04/05/2005) organises the border control at the external maritime frontiers (Annex n° 1). It aims to implement the 2002/6/EC Directive of 18 February 2002. It makes a clear distinction between members of the crew and passengers for the purpose of the control of free movement of persons at the external maritime borders. Both lists must be presented to the harbour authorities upon arrival as well as upon departure from the harbour. According to the State Council questioned in emergency on the draft legislation, the Royal Decree fails to comply with the Directive where the certification of the lists is not sufficiently justified to ensure the authorities of their authenticity.

The Royal Decree does not comply entirely with the 2002/6/EC Directive as it renders compulsory only the list of the members of the crew and the list of passengers. These lists required are those aimed by applications FAL n° 5 and 6 of the International Migration Organisation. The 2002/6/EC Directive requires also as compulsory the applications FAL n° 1, 3, and 4, whereas the Royal Decree

Belgium

does not mention them. The Home Minister answers that this implementation was dependent on the Minister of Finance.

- Asylum

In extremis, the Belgian authorities deleted the obligation for a foreigner who wants to introduce an asylum request within 8 days of the arrival on the territory. This is in conformity with Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers. In order to comply with the Directive, the law modification was adopted on 3 February 2005 three days before transition date (M.B. 08/02/2005) (Annex n° 2, R.D.E., n° 132, p.113-114)

Circulars

- Visa

A new administrative circular was enacted on 21 September 2005 (M.B. 11/10/2005) relating to new common mentions used when delivering Benelux visas A, B, C or D+C. These new rules clarify the mentions and codes used by the Belgian authorities for the delivery of visa D or temporary authorisation. The new codes required are used from 1 October 2005 and replace old mentions referred to in the Belgian law relating to access to the territory dated 15/12/1980. The same circular modifies several previous circular where mentions to previous codes were made (Annex n° 3).

As mentioned in the previous report, instructions are sent to Belgian diplomatic and consulate posts in Casablanca (Morocco), Tunis (Tunisia), and Istanbul and Ankara (Turkey) to deliver a return visa, during the summer holidays, to aliens who claimed family reunification as family members of a EU citizen, who went on holidays in their country of origin and who want to return to Belgium, where the family reunification application is still pending (Notice given to Mayors of the kingdom regarding particular cases of return visa delivered during the summer holidays 2005 to aliens who return to Belgium for proceeding a family reunification procedure based on articles 10 and 40 of the 15 December 1980 law, dated 14 July 2005, M.B. 05 August 2005 – Annex n° 4). The procedure does not change when compared with last year. A D-Type Schengen visa is delivered to the spouse and dependent children aged less than 21 years, of Belgian or EU citizens.

In 2004, visas delivered to descendants aged more than 21 years, to ascendants of a EU or Belgian citizen as well as to ascendants of Turkish nationals were subject to preliminary consultation of the “Office des étrangers” (Federal Public Service for Foreigners) in Brussels. This year again, it is regrettable that this notice was only published in the official journal at the end of the summer period, considering the beginning of the academic year is on the 1st of September. Relating to this circular on return visas, it cannot be assumed that it indicates the existence of an excessively long administrative procedure. Moreover, the measure is surely positive but can hide delays in treating requests. Here again, this is impossible to establish in the current situation and no case law has been found.

Judicial practice

- Visa for family members

The State Council Jurisdiction (Conseil d’Etat) ruled that an application lodged by a Belgian husband to obtain suspension of a refusal of visa for his wife, third-country family member, is inadmissible as he is not the recipient of the administrative act containing the refusal of visa of family reunification. According to the administrative jurisdiction, only his spouse and his child are concerned by the decision as only they justify a sufficient interest to claim the suspension of the decision of refusal (Annex n° 5, R.D.E., 134, p.405). This ruling has the result that only family members, who by nature are abroad, could lodge an application to the Belgian jurisdictions.

Regarding the 2003/86 Directive, the Belgian draft of law does not consider the possibility to allow members of family to lodge an action against a refusal of family reunification application. This lack could be inconsistent with art. 18 of 2003/86 Directive which provides: “The Member States shall ensure that the sponsor and/or the members of his/her family have the right to mount a legal challenge where an application for family reunification is rejected or a residence permit is either not renewed or is withdrawn or removal is ordered”.

Belgium

Administrative practice

- Reunification visa

The family reunification visa is delivered generally within 5 weeks from the introduction of the application at the Belgian diplomatic post abroad. The decision on the right to establish is taken within 5 months after the application for establishment made in Belgium through the local administration. According to the Home Affairs Minister, this procedure was, on March 2005, being evaluated in the light of the 2003/86/CE Directive dated 22 September 2003 which had to be implemented for 3 October 2005. At the present time, the evaluation of such procedure is not yet known and the regulations implementing the 2003/86/CE Directive is not yet applicable since not yet published (Annex n° 6, R.D.E., 133, p. 316).

- German Schengen visa in Ukraine

A European Member of Parliament denounced an abuse of German visa delivery from the German Embassy in Kiev (Ukraine). It challenged and interrogated the Belgian Minister via the Advisory Committee in charge of European questions on 25 February 2005. According to the EU MP, hundreds of thousands visas would have been fraudulently given. In Belgium, the competent Minister did not discover an abnormal number of Ukrainians citizens in possession of a German Schengen visa. 395 Ukrainians citizens were administratively screened amongst which 215 received an order to leave the territory and 48 were held in prison for expulsion. However in Belgium, the federal administration for foreigners (Office des Etrangers) applies supplementary controls. Belgian border police officers check whether the foreigner complies with provisions of article 3 of the Belgian Immigration Law that requires means of subsistence, reason for travel and public order control (Annex n° 7, R.D.E., 134, p. 505 and 506)

A conference organised by the Centre for Equal Opportunities and Combating Racism was held in Brussels on 10 November 2005 relating to the issue of visas under the title “Visas: necessary, useful or futile?”. Two workshops were held: one devoted to visa delivery and the other to visa control policy. (Annex n° 8)

A colloquium on “the Future of Free movement of Persons in the EU” was organised by the Odysseus network, at the University of Louvain-la-Neuve in May 2005. Materials including law and case-law are available at anne.dikenstein@int.ucl.ac.be. Proceedings are published in 2006 by Bruylant, Brussels.

Recent legal literature

J.-F. Delforge is a public servant at the *Office des étrangers* (Federal Public Service for foreigners). He actualised two publications mentioned in the previous report taking into consideration the EU enlargement of 1st May 2004 and the entering of citizens from the ten new member States. These publications contain guidelines to help the public servants in the local administrations. The second one will be found in Chapter V.

J.-F. Delforge, *Droit de séjour des ressortissants de l’U.E.: compétences, procédures et pratique administrative pour toutes les questions ne relevant pas du Regroupement familial* (Right to stay of EU nationals: competences, procedures and administrative practice for all questions not regarding family reunification), November 2005, Vanden Broele Editions, 75 pp. – Annex n° 9.

Ph. Marchat, ‘Quelles frontières pour quelle Europe?’, *Revue du Marché Commun et de l’Union européenne*, n° 486, mars 2005, p. 141

Residence

Miscellaneous

Answering a parliamentary question, the Home Minister gave the number of 4680 Dutch citizens living in one of the 19 local entities (communes) of Brussels-Capital Region. 75% of them chose the

Belgium

Dutch language when they registered at their commune of residence. (Annex n° 10, R.D.E., 132, p. 139-140)

The administrative practice about the “sufficient resources” asking personal resources will require a follow-up in the future, as the ECJ did condemn Belgium, considering “that an interpretation of the condition concerning the sufficiency of resources ... to mean that the person concerned must himself have such resources ... would add to that condition” (C-408/03, *Com. v. Belgium*, [2006-03-23], para. 41).

Recent legal literature

M. Candela Soriano, ‘Libre circulation et séjour dans l’U.E.: la directive 2004/38 au regard des droits de l’homme’ (Free movement and stay within the EU: the 2004/38 Directive confronted with human rights), *J.T.D.E.*, September 2005, p. 193-201 (Annex n° 11)

Departure

Text(s) in force

- Carrier’s sanctions

Article 74/4 of the Immigration law (Law 15/12/1980 on access to the territory, residence, establishment and removal of foreigners) has been modified by the law adopted on 22 December 2004 (M.B.18/01/2005) to comply with Council Directive 2001/51/CE of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985. The new article provides the obligation for carriers to return third country nationals when entry is refused to a third country national in transit if:

- (a) the carrier which was to take him to his country of destination refuses to take him on board;
- (b) or the authorities of the State of destination have refused him entry and have sent him back to the Member State through which he transited.

The new article 74/4 obliges carriers which are unable to effect the return of a third country national whose entry is refused to find means of onward transportation immediately and to bear the cost thereof, or, if immediate onward transportation is not possible, to assume responsibility for the costs of the stay and return of the third country national in question. (Annex n°12, R.D.E., 132, p. 109-110).

- Dublin II

On 11 April 2005, a Royal Decree enacted a new form of order to leave the country in application of the Dublin II regulation. This new appendix n° 10bis complies with the model of which is set out in Annex IV to the Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (Annex n° 13, R.D.E., 133, p. 270-272).

Miscellaneous

- Common manual (entry and departure)

Appendix n° 11 of the Royal Decree 08/10/1981 implementing the immigration law was renewed to comply with Council Regulation (EC) No 790/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for carrying out border checks and surveillance. The new appendix is in conformity with uniform application form of refusal of entry aimed by the Council decision of 29/4/2004 amending the common manual in order to

Belgium

include provisions for targeted border controls on accompanied minors (Annex n° 14, *R.D.E.*, 132, p. 131-134).

Implementation of the Council Regulation (EC) No 2133/2004 of 13 December 2004 on the requirement for the competent authorities of the Member States to stamp systematically the travel documents of third country nationals when they cross the external borders of the Member States, and amending the provisions of the Convention implementing the Schengen agreement and implementation of the common manual to this end were given by an administrative circular dated 07/04/2005 (M.B. 03/05/2005) related to the presumption of illegal stay on the territory in case of lack of entry stamp in the travel document of a non EU citizen.

In accordance with this Council regulation, the non EU citizen has the possibility to overturn the presumption where the third-country national provides, by any means, credible evidence such as transport tickets or proof of his or her presence outside the territory of the Member States, which shows that he or she has respected the conditions relating to the duration of a short stay.

In any case, decision is to be taken by the Border Inspection Service of the Federal Public Service called "Office des Etrangers". After examination, if it is negative, the third country national will receive an order to leave the territory in conformity with a new appendix joined to the circular (Annex n° 15)

Chapter II

Access to employment

Summary

- Acquis

In an important way, access to employment is not a problem any more for EU citizens in Belgium (unless from 8 new Members States, *infra* Chapter VIII). EU citizens do not need any working permit. Practices do not show many problems related to the language requirements, the recognition of diplomas and the nationality for captains of ships.

- 2005

There is no important new rule or practice in 2005. A debate on the workers who cross the border every day from France to Belgium could, in the future, raise a more general debate on the cross-border regions in Europe as the draft legislation about students also shows in Belgium (*infra*, Chapter XI).

Circulars

- Temporary workers

An administrative circular issued on 2 December 2005 relating to the procedure of attribution an ID number called “bis number” to foreigners who come temporarily in Belgium for employment as occasional workers (Annex n° 16, circular related to the procedure of attribution of an identification number called “Bis number” by the Banque-Carrefour of social security to foreigners who come temporarily in Belgium for employment as occasional workers). All foreign workers must be registered with an ID number in the Social security system and data base in order to allow the employer to declare workers specifically in the fields of agriculture, horticulture, restaurant, hotels and bars, and interim work.

The number given should facilitate the registration of the foreign worker at the local administration since the number is the proof of the regular registration in the data base system of social security even if the duration of the stay or work in Belgium is temporary.

The system imposed is different for EEE citizen workers and those coming from the 8 new EU Members States subject to the transition period. Work permit is still compulsory for them although a single proof of work activity given by the employer (work contract, employer certificate, or job declaration) is enough for the others.

- Recognition of diplomas

Some of the relevant and peculiar questions relating to this matter will be analysed *infra* in Chapter XI.

Miscellaneous

- Workers who cross the border every day

A Member of Parliament questioned the Minister for Employment about French Nationals who cross the border every day to work in Belgium. It seems, according to this MP’s information, that they earn better salaries than Belgian workers because of advantageous tax system and social security contributions, which are lower in Belgium than in France. The Employment Minister gave figures coming from the National Insurance for Illness and disability services. They reveal that between 1999 and 2004, the number of French workers who cross the border increased by 50% from 16.364 to 24.536. This seems to confirm the trends of one-way border crossing of workers between France and Belgium. It would be interesting to compare with the French situation if the same phenomenon is observed (Annex n° 17, *R.D.E.*, 133, p. 302 to 305).

Belgium

- High Council for Employment

The High Council for Employment is a governmental body created under the direction of the Minister for Employment. It is composed of federal civil servants as well as regional civil servants, as the matter is in the competences of both Federal and Regional authorities. It published an annual report divided into 3 parts: Part I, recent evolution of the labour market; Part II, The renewed Lisbon Strategy: new impulse for growth and employment; Part III, how to restore work as financially attractive. The majority of the recommendations are related to employment policy and does not concern free movement of persons in the EU. Summary of this report is however provided in Annex n° 18.

Recent legal literature

- J. Jacquain, 'Egalité de traitement entre travailleurs féminins et masculins' (Equality between female and male worker), *Journal des Tribunaux de Droit Européen*, December 2005, p. 289-294 (Annex n° 19)
- J. Jacquain, 'Et omnia discrimination', *Chroniques de droit social*, 2005/01, p. 1-5 (Annex n° 20)
- J. Jacquain, Observations under ECJ, Commission c. Belgium, C-469/02, 7 September 2004, *Chroniques de droit social*, 2005/05, p. 247-250 (Annex n° 21)

Chapter III

Equality of treatment on the basis of nationality

Summary

- *Acquis*

The application of non discrimination on the basis of nationality is broad in Belgium, even for non EU workers, since the ECJ case law about Moroccans in the nineties (C-18/90, *Kziber*, 1991). The ECHR case law seems also applied (*Gaygusuz*, *Koua Poirrez*).

- 2005

The main issue at the moment is the conditions of residence in Belgium to benefit from social rights like unemployment benefit. The Belgian case law here reported states that the requirement of residence is not a disproportionate obstacle to free movement of workers. Advocate general Geelhoed leads to the same conclusions in the *De Cuyper* case pending at ECJ. One has to wait the judgment.

Judicial practice

The industrial tribunal (Tribunal du travail) has ruled on 4 June 2004 that social benefits can be conditioned to residence criteria. This criterion is neither a violation nor an obstacle to free movement of workers in compliance with ECJ case law C-20/96, *K.A. Snares vs. Adjudication Officer* ruling on 4 November 1997 (Industrial Tribunal of Mons, 4 June 2004, *Chroniques de droit social*, 2005/10, pp. 578-579 – Annex n° 22).

This case has to be compared with the *De Cuyper* case pending at ECJ, with conclusion of Advocate general Geelhoed in the same way (see *infra*, chapter X).

Recent legal literature

ECJ, 16 December 2004, *G. My c/ O.N.P.*, C-293/03, *Chroniques de droit social*, 2005/10 p. 579-582 (Annex n° 23)

Chapter IV

Employment in the public sector

Summary

- *Acquis*

In principle, employment in the public sector in Belgium is quite open to EU citizens unless when there is direct or indirect participation in the exercise of powers conferred by the public law.

In practice, there does not seem to be much refusal of access to employment or of professional advantages due to language requirement, recognition of professional experience or of diplomas.

However, the rate of non-Belgian in the public sector seems to be low, until now.

- *2005*

To have a better picture of the real situation of EU citizens employment in the public sector, different questions have been asked by a Member of Parliament. Answers show that, at the moment, there are no precise figures available. This could change.

Miscellaneous

- *Data*

Several very relevant questions have been asked to the Minister of civil service by a Member of Parliament relating to the number of non-Belgian persons employed in the federal administration. The question aimed to obtain figures about non EU workers employed by region and by level in the administration. The competent Minister answered that no figure was available for 2002 because of technical problems. However, no figure could be given about 2003 and 2004 because the data system did not take in consideration the nationality as item. It seems that, at the present time, the federal authorities can give no data on that point (Annex n° 24, *R.D.E.*, 133, p. 296 à 297).

Chapter V Members of the family

Summary

- *Acquis*

The position of the members of family is strengthened in Belgium by the refusal of reverse discrimination for the members of Belgian citizens.

- *2005*

The transposition of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification is not yet done in Belgium and is still draft legislation in the beginning of 2006.

Draft legislation

Draft legislation from the Government is now in debate at the Parliament. The new law project aimed to implement different directives such as Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, and Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

Draft legislation, generally, comply with the EC Directives as it plans that the competent authorities shall give the person, who has submitted the application, written notification of the decision within a nine months delay from the date on which the application was lodged. After this period, residence permit will be automatically delivered.

Judicial practice

The lack mentioned above in the new governmental law project is serious considering the State Council ruling according to which an application lodged by a Belgian husband to obtain suspension of a refusal of visa for his wife, third-country family member, is inadmissible as he is not the recipient of the administrative act containing the refusal of visa of family reunification (see above, Chapter I, Entry, 3 Judicial practice).

Recent legal literature

J.-F. Delforge, *Etrangers: Le regroupement familial: articles 10 et 40 de la loi du 15/12/1980 – Compétences, procédure et pratique administrative* (Family reunification: articles 10 and 40 of the law dated 15/12/1980 - competences, procedures and administrative practice), September 2004, 56 pp. – Annex n° 25.

Marie Brooke, 'Demande d'établissement de l'étranger conjoint d'un Belge: exemples d'amalgames de la part du juge judiciaire entre les dispositions applicables aux différentes catégories d'étrangers établis par la loi' (Application for establishment from the foreigner spouse of a Belgian: examples of amalgams from the judge between the provisions applicable to the various categories of foreigners laid by the law), *Administration publique*, 4/2004, p. 273-285 (Annex n° 26).

M. Candela Soriano and C. Chenievre, 'Droit au regroupement familial et droit au mariage du citoyen de l'Union européenne et des membres de sa famille à la lumière de la directive 2004/38/CE' (Right to family reunification and right to marry of the citizen of the EU and members of his or

Belgium

her family at the light of the 2004/38/CE Directive), *Rev. trim. Dr. h.*, 2005, p. 923-953 (Annex n° 27)

Chapter VI

Relevance, influence and follow-up of recent ECJ Judgments

Summary

- *Acquis*

In general there is a good follow-up of the ECJ case-law in Belgium.

- 2005

No specific problem of follow-up of the case-law is known for 2005. For instance, in *Trojani*, Belgium was the State concerned by refusing social assistance to an EU citizen. One case is reported, since the judgment, of a Public centre for social action (CPAS) that refused social aid to an EU citizen. Contrary to the *Trojani* situation, the EU citizen did not have a right of residence in Belgium.

The Industrial Tribunal of Brussels ruled that a Spanish child of a woman in illegal stay in Belgium should receive social benefit according to article 8 of ECHR. The tribunal stated that, contrary to *Trojani* case, the Spanish child did not have the right of stay in regard with the Belgian immigration law. The stay did not meet the requirements of the EC law since article 18 of the EC Treaty recognizes to every citizen of the Union the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect. In the submitted case, the Tribunal noted that the Spanish girl did not comply with article 1, § 1 of the Council Directive 90/364/EEC of 28 June 1990 on the right of residence as the right of residence is granted provided that she and the members of her families are covered by sickness insurance in respect of all risks in the host Member State and have sufficient resources to avoid becoming a burden on the social assistance system of the host Member State during their period of residence. (Annex 53)

Chapter VII General texts and policies

- Economic Migration

A Senator, through a parliamentary question, pleaded for more dialogue and exchange of information within the context of EC Council about economical migration. It referred to a quota policy applied by Germany and USA considering the need of the labour market. The Home Minister argued with the different steps taken by the European Council of Tampere and Thessalonica and referred to the “Green book on the economic migration management”, and repeated that “In spite of the fact that it recognizes that the policy as regards the number of economic migrants allowed remains mainly a competence of the Member States, the Commission estimates that it is completely desirable that on the level of the EU, the rules and the criteria of admission of the economic migrants, transparent and more strongly harmonized”. It can also be recalled that the Commission will introduce a plan of policy on legal migration before the end of the year 2005 (Annex n° 28, *R.D.E.*, 133, p. 333-335).

- Illegal work

After the death of a Polish worker in the construction sector, a senator questioned the competent Minister about the effectivity of the control in that field and the struggle against illegal work. The figures given by the Minister are interesting as they concern the number of illegal workers in 2002, 2003 and 2004 but not directly selected by nationality. The figures given are incomplete since regional inspection services intervene in this field. It refers also to the creation of a Federal Council for combating illegal work and social fraud and a Federal Committee of coordination. As these institutions were created in 2005, no activity report can be available at the present time (Annex n° 29, *R.D.E.*, 134, p. 511).

- Legalisation of acts

On 29 April 2005, Belgian Foreign Affairs Minister received the Cyprus instrument of accession relating to the International Convention on the suppression of the legalization of acts in the Member States of the European Communities made in Brussels on 25 May 1987 (Annex n° 30, *R.D.E.*, 133, p. 295).

- Draft legislation

There are different draft legislations in the beginning of 2006. Some are mentioned in others chapters of this report, for example in chapter I, the draft legislation for the transposition of Directive 2004/38 on the free movement of EU citizens.

One of these draft legislations will introduce an important innovation in the procedure in the Belgian immigration law. In Belgium, there is no general administrative jurisdiction at the first level. There is only a State Council (Conseil d’Etat). This High Jurisdiction is overloaded by cases in immigration law. There is already an administrative jurisdiction for refugee law (refugee recourse Commission). This will be replaced by a Foreigner’s Council (Conseil des contentieux des étrangers). This jurisdiction will be competent in all case in immigration law, including EU citizens. It is not clear yet what will exactly be the competences of this new Court. Should it be a simple control of legality, without a control of opportunity, in which case it could be a problem regarding EC law, as there will not be advice from an independent consultative body before expulsions, even of EU citizens, any more. A simple control of legality (looking like the *Wednesbury* test) could be in contradiction with ECJ case law (C-136/03, *Dör & Ünal*, 2005).

Chapter VIII EU enlargement

Summary

- *Acquis*

Like most other old EU Member States, Belgium decided to impose a transitional period before the free movement of workers from the 8 new Member States.

- *2005*

Against the point of view of the Commission, the Belgian Government did decide a prolongation of 2 years for the transitional period. Paradoxically, this decision was mainly based on the Commission report, considering that it would prove to cause important movement from new Member States.

However, free movement of workers would be made easier in some activities.

Position of the Belgian Government

The Belgian government has decided to postpone the opening of borders to workers from EU-8 (all Members States that joined the EU on 1 May 2004 except Malta and Cyprus). Consequently, the provisional arrangements decided in 2004 will continue after 1 May 2006. The intentions of the Government were clarified in a press report issued after the Council of Ministers held on 24 February 2006.

According to the press report delivered by the Employment Minister (annex n°31), the government intends to fight irregular working practices as well as abusive use of free movement of services. It is reported that Belgian workers are fired and replaced by Polish workers who accept to work for very low wages via “Interim Offices”.

According to the Employment Minister, the decision to postpone the provisional measures was taken consequently to the conclusion made from the “High Council for Employment Opinion” issued on 24 February 2006 (Contents of the 105 pages is Annex n° 32). This document is different from the very huge 235 pages document mentioned under Chapter II (Access to employment). The government alleges that complete free movement of workers cannot be achieved without taking complementary measures to fight foreign workers exploitation. It is also alleged that the government is working on a registration system of all foreign workers. The registration of all cases of trans-border work as pre-condition should allow the authorities to have a better view on work migration.

The government also notes that the Belgian market faced a lack of workforce and a large number of vacancies for jobs in a certain number of sectors. It is planned to reinforce training and education in these sectors, whereas the Belgian authorities accept that workers originating from the 8 new EU Member States could be recruited in exceptional circumstances. For these jobs, workers from new EU Member States will be accepted, exempting them of requiring the work permit model B, as no study of the work market would be made in these area of work. The Belgian Government confirmed this position in a press report issued on 21 April 2006 (Annex 54). The list of jobs for which a work permit will be automatically delivered is divided into 4: one for the Flemish Region, one for the Walloon Region, one for the Brussels Region and the last for the German speaking Community.

The conclusions of the High Council for Employment

The High Council for Employment published a specific report on “Access to Belgian work market for citizen from new EU Members States” (a summary of the complete document (104 pages) is provided in Annex n° 33 and Annex n° 32 is the contents of the complete opinion).

Here are the main conclusions of this report.

“Within the current framework, 2300 work permits were granted to workers from new Member States, but flows of labour took undoubtedly the form, in addition to illegal entries, of a partly

Belgium

unsuitable use of alternative methods (self-employed, secondments). From the experience of the supervising authorities, it appears that, to avoid the rules relative to rest and working times, a certain number of citizens of the 8 new Member States take advantage of the freedom of establishment and provision of services. While being registered in Belgium under a self-employed statute or by providing services under a self-employed statute abroad they are, in facts, occupied in a bond of subordination.

No statistics allow measuring the extent of these frauds. They are undoubtedly not exceptional but are probably not the rule either.

Still, considerable labour movements exist right now between the new Member States and Belgium. In a series of cases, the recourse to the secondments and the services of self-employed workers is preferred to work permits, undoubtedly because of an advantage in terms of relative cost. An overall policy aiming at apprehending the whole of these channels is thus essential. The diversity of situations involves risks in terms of fair competition and compliance with the social rules, and requires an improvement of the mechanisms of control. Like international trade and foreign direct investments, freedom of movement of workers is an aspect of the process of integration of the new Member States in the European Union. Migratory flows are determined by various factors, among which differences in income and standard of living. The variations are still important, especially for the low wages and the workers of industry and construction, but a beginning of convergence is now observed.

Migratory flows are also determined by the relative situations on the labour market. The new Member States have a manifest surplus of labour, especially in the young people, but the prospect for medium-term employment is more favourable. These countries will be confronted more quickly than Belgium with ageing of their population and consequently, with a decrease of the offer of labour. In Belgium, in spite of an abundant labour supply, there remain shortages in certain segments of the market because of the existence of critical functions, a lack of mobility and an insufficient integration of certain groups (in particular unemployed, aged, immigrants). The migratory flows from the new Member States remain relatively limited, in Belgium as in the other old Member States. In that, things are not different from what had been observed at the time of the preceding adhesions. However, the majority of countries observed a strong increase of the secondments and recourse to self-employment. There is no reliable and exhaustive information on the number of illegal workers. The economic consequences of identified migratory flows are limited. They are positive if the offer of work of the migrants is complementary to that of indigenous labour.”

A special light must be given to the 28-page appendix to this opinion (Annex n° 34) where statistics and figures are given specifically related to the workers of the 8 new EU Member States (figures, work costs, unemployment figures). It is important to note that most of the information given comes from EC sources except figures relating to work permit, self-employed workers and secondments workers (p.4). It would be wise to draw the attention of the Commission to the use of the data that the European Union communicates to the Member States. Indeed, it seems that old Member States refer to the figures provided by the European Union to adopt their policy and decisions, whereas the concern of the Commission is to have national statistical data in order to evaluate if the national decisions and policies correspond to the situations described by the countries on the basis of their own data.

The position of the Employment Minister

The Employment Minister commented the issue of the Commission report on free movement of workers on 8 February 2006. The Belgian Minister gave some slight difference of interpretation of the results of this report as it did not take into consideration abuses such as illegal secondment workers, illegal work and false self-employed workers. Minister Vanvelthoven referred to the Swedish case “Laval”, which is currently pending at the European Court of Justice. On 31 January, the Belgian government decided to intervene in this trial, precisely because it constitutes a threat for the Swedish conditions of work and wages, and because the Swedish social model is seen jeopardized by the fraudulent secondments of foreign companies which make their personnel work under conditions contrary to the current rules. The Minister said “... As Minister of employment, I wish to open our

Belgium

Belgian labour market as soon as possible. The question is however to know when this objective can be achieved. It is essential to initially take care that the authorities are able to record all the immigrant workers who come to work in our country.” (Annex n° 35, press report released by the Belgian Minister for Employment on 9 February 2006)

The report of the Centre for Equal Opportunities and Combating Racism

The Centre for Equal Opportunities and Combating Racism, which is a governmental agency, published a comprehensive report called “Migratory flows coming from the new Member States of the European Union - Tendencies & prospects” in which it pleads for the opening of the borders and the complete free movement of workers from the new Member States (Annex n° 36).

The main conclusions of this report are summarized hereafter:

“The migration coming from the new Member States of the European Union should be underestimated neither in terms of extent, nor in terms of nature. One finds there the various traditional forms of migration: of an economic nature (legal, semi-legal or illegal migration of work), but also of humane nature (asylum) and social nature (marriage and family reunification). The principal countries of origin are Poland for economic and social migratory flows and Slovakia for humanitarian migratory flows.

This migratory dynamics will be modified when Belgium will put an end to the transitional period with regard to freedom of movement for the workers coming from the new Member States. As soon as Belgium declares that it wants no more limitations with this freedom of movement (what it can do constantly as from May 1, 2006), the Community legislation will be fully applicable from this point of view. It is only at this time that one will be able to speak of an accomplished internal market, where freedom of movement of the persons, goods, services and capital will be ensured, which is not yet the case today. However, at the present time, one must note a certain proliferation of professional statuses that already benefit from a free right of establishment in Belgium. Only the paid workers are excluded from it. This disparity makes the real situation complex and confused, more especially as this exclusion is easily circumvented and that many workers are in fact active in Belgium under the authority of legally established contractors. Sometimes tough competition between service providers, interim agencies, contractor and self-employed worker is played that prevents workers from having free access to the labour market as citizens of the European Union. If they became themselves direct actors of their migratory choice, it would be possible for them to better resist the downwards pressure on the working conditions.

Among economic migratory flows, one counts men as well as women, according to professional occupations. These flows generally require little or no qualifications, even if those which occupy them sometimes have a higher qualification. Work migration concentrates on various sectors and activities of Belgian economy: agriculture and horticulture, construction, the care sector and domestic help, transport, the food sector. One distinguishes three forms of work migration: legal, semi-legal and illegal.

Legal work migration currently concentrates in agriculture and horticulture. These last years, many Polish seasonal workers were recruited. Concretely, 979 work permits B were delivered in 2004 within the framework of seasonal work. In addition to this legal migratory flow of workers, a flow of migration of self-employed workers also developed these last years, coming from Poland in particular. This development started following the conclusion of PECO agreements in the middle of the Nineties. In 2004, 4547 nationals of the new Member States had a self-employed statute. 2803 of them are of Polish origin.

By semi-legal migration, the report understands the migratory flows organized by foreign interim agencies. They generally operate starting from the close countries: Netherlands, Germany or United Kingdom. In other words, this is a European phenomenon. However, the majority of these operators do not have the necessary approvals to practice their professions in Belgium. Most of the time, they propose Polish workmen having a German passport which they obtained as ethnic Germans (Aussiedler). There is thus no problem from the point of view of the right of stay. The problems are at the level of the social rights. These trade undertakings react skilfully to

the difficulties of recruitment to which many Belgian companies are confronted. These are generally short-term migrations here.

Lastly, the work migration can also be illegal. In this case, the illegality relates simultaneously to the travel, the stay and work. This illegal work migration is especially concentrated in the construction sector for the men and in the care sector and domestic assistance for the women. This phenomenon, which began more than one decade ago and which attracts the men as much as women, finds its origin in movements of “tourists” initiated during the Cold war. After the fall of the Iron Curtain and the suppression of the restrictions concerning visas in the beginning of the Nineties, this migration still developed, stimulated by the lack of workforce in the sectors concerned. These migratory flows profit from the support of vast Polish social networks in Belgium which facilitate and control the migration, the stay and the access to the informal labour market. The majority of illegal migratory flows from Poland towards Belgium come from the North-East of Poland. The extent of the illegal migration is difficult to determine. However, its importance is such that at the end of the Nineties, it led to a surplus production capacity of the offer of work, which perhaps generated a stabilization of illegal migratory flows and, thus, stopped the “vacuum effect” (*effet d’aspiration*).

Generally, the Polish illegal migrants have a good reputation: they work seriously and have good relationships with their employers. This report also applies to the migrants active in the legal and semi-legal circuit. This good reputation helps them to keep their position in the abstract labour market where, at the present time, they must face an increasing competition from workers coming from Bulgaria and Romania, two States candidates for adhesion. This increasing competition appears mainly at the bottom of the scale of the abstract labour market.

In certain cases, illegal migration and illegal use of nationals of the new Member States derive towards degrading working conditions or forms of forced labour. The complex “illegal work-trade of human beings” that the Centre already evoked in his annual report on the trade of human beings (2005) is also working in migratory flows coming from the new Member States. In an environment where access to the labour market is limited while the migratory pressure and the abstract application for a job are growing, all the conditions are met for illegal and semi-legal subcontracting circuits to develop, increasing the risk of overexploitation.

Migratory flows coming from Poland have a social component dependent on marriage and the family reunification it allows. Generally, the report notes that the legal migration coming from Poland is definitely female. The majority of these women migrate towards Belgium to marry or live with Belgian men. This is not an isolated phenomenon and confirms the report in which the “marriage market” in Belgium is the subject of an increasing globalization.

The third migratory flow, which developed methodically during the last years in Belgium, uses the procedure of asylum to which the people of Slovak nationality have especially recourse. In 2005, in spite of the formal accession of Slovakia to the EU, 773 Slovak citizens requested asylum in Belgium. They were systematically Roms gypsies. Their request for asylum was rejected in almost all the cases. According to the “Aznar Protocol”, a national of the European Union can ask for asylum only in a limited number of cases. Belgium issued a formal reserve and declared that in accordance with its obligations under the terms of the Geneva Convention of 1951, any request for asylum introduced by a national of another Member State would be treated individually. The preliminary draft of reform of the asylum procedure envisages an accelerated treatment of the requests for asylum of EU nationals in accordance with Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status.

Migratory flows coming from the new Member States have already considerably transformed the face of Belgian society, and not only at the economic or social level. These flows towards Belgium developed on a large scale during the inter-war period and following the Second World War. During the Cold war, dynamics weakened. Gradually, starting from the end of the seventies, under the impulse of the Polish communist regime, dynamics began again, made of “tourists”, who return foreign currencies with the profit of the Polish State. This migratory flow is at the base of the illegal work migration coming from Poland which followed. During the Nineties, the migration coming from the new Member States developed along four axes: the easing of the policy of visas delivery after the fall of the Iron Curtain, the agreements of association (which

Belgium

implied freedom of movement of services), the procedure of asylum and the regularization. The first two axes, in particular, were an important engines for the development of illegal work migration coming from Poland.

The profile of the Polish citizen is different from the work migrants of the Sixties in many aspects. First of all, the migration concerns men as well as women. Then, the majority of the Polish citizens do not intend to settle in one of the Member States. Because of the geographical proximity of Poland to these States, the majority of Polish citizens shuttle between Belgium or another Member State and their own country. Belgium attracts mainly work migrants with little qualification, contrary, for example, to the United Kingdom which exerts a strong attraction on the younger generation of Polish having made higher studies and which, because of the economic crisis in Poland, seek a professional experience in a dynamic work environment open to the world.”

After all this, which is not really new, the report of this governmental body concludes as follows.

“Freedom of movement for workers in Europe is not only an aspect of the internal market, but more and more a prerogative of each European citizen who has the right, *inter alia*, to circulate freely and to be established on the territory of another Member State as an effective or potential economic actor. The opening of our labour market to workers of the new Member States and the recognition which they now share with European fellow-citizens will constitute a gesture of first importance to obtain the necessary co-operation of the governments of these States in order to improve operation of the internal market, in particular to fight together against the excesses and the exploitation situations. As long as their workers will not have free access to the Belgian labour market, it will be difficult to obtain from these States a full collaboration in the common construction of a clean economic and social area.”

It is quite paradoxical to see two different reports from two different governmental agencies. The first, the High Council for Employment, using as a basis the EC Commission report, did propose a prolongation of the transition period. The second, the Centre for Equal Opportunities and Combating Racism, using a sociological analysis, did propose to open the free movement of workers. None used precise national statistics. This could be asked of Belgium for the follow-up of this period.

Chapter IX Statistics

Summary

There are no general statistics available.

As they are not recent enough and are difficult to cross, partial statistics are difficult to interpret in Belgium. They come from different governmental bodies at different levels (federal, regional, local). An effort could be asked of the Belgian authorities in this matter.

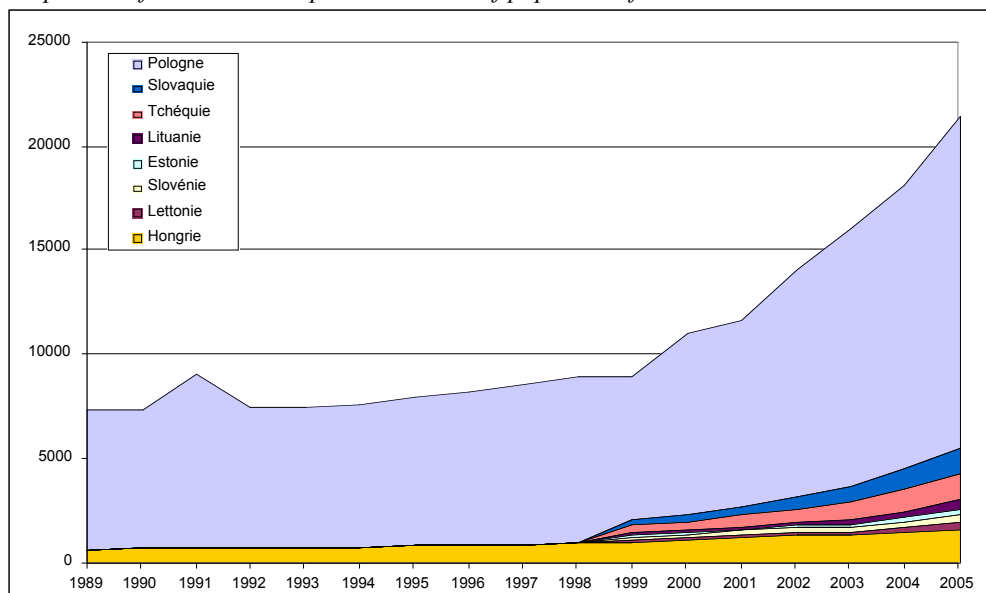
As far as possible one can deduce from the figures that there is no important increase of work migration from the new EU Member States. Poland is the most important country of origin. At the same time, there are still some asylum applications lodged by nationals coming from new Members States, mainly Gypsies from Slovakia.

Figures

- Work migration from new Member States

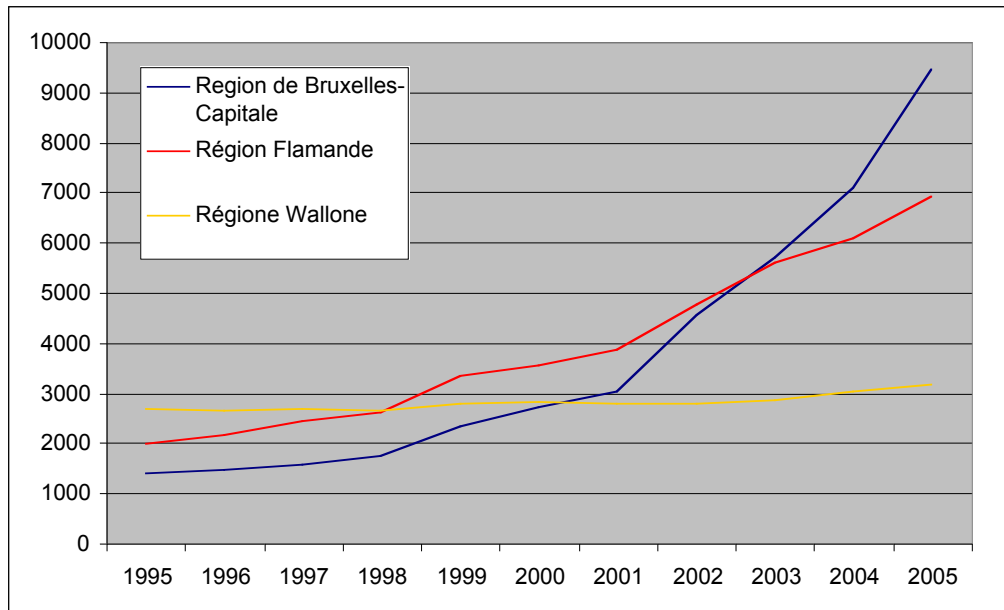
According to the Centre for Equal Opportunities and Combating Racism (CEOCR) in its report on Migratory flows coming from the new Member States of the European Union, official migratory flows coming from the new applicant countries increase constantly since 1991. Two nationalities arise clearly: first of all Poles and far behind, Hungarians. This is generally a limited number of immigrants. In 2003, a little more than 2.000 Poles migrated in Belgium. Between 1994 and 2004, the number of migrants of the new applicant countries increased by a little more than 100%, passing from 8.468 to 18.392. Once again, the Poles are the majority.

Graph n° 3 of the CEOCR report: Evolution of population from new Member States



Source: INS/ECODATA, SPF Economie, PME, Classes moyennes et Energie

Graph n° 4 of the CEOCR: Evolution of population from new Member States per Region



Source: INS/ECODATA, SPF Economie, PME, Classes moyennes et Energie

These last years, the number of work permits delivered for nationals of the new Member States systematically increased. These last five years, we noted an increase from 889 to 1910 units. Approximately one work permit B out of 5 delivered in Belgium for the period 2003-2004 was to natives of Central and Eastern Europe. The Flemish Region is the principal user of work force from Central Europe and the East. The majority of the work permits are delivered for Polish nationals, followed by the Slovaks and the Slovenians. In 2003, 851 licences were delivered (allowed A and B confused) with Polish workers. In 2004, the number of immigrant workers of Central and Eastern Europe increased by 15%. On the whole, they were always only 1910 work permits. 1425 work permits were delivered with Polish nationals.

Table 2 of the CEOCR Report: Work permit delivered to nationals from new Member States

	2003			2004		
	Permis de travail A et B		Carte de travail C	Permis de travail A en B		Carte de travail C
	Total	Dont 1ère carte		Total	Dont 1ère carte	
Tous les migrants	9.691	4.627	24.143	9.212	4.320	29.550
Estonie	10	4	4	10	5	11
Hongrie	145	67	30	157	93	36
Lettonie	21	11	10	20	14	19
Lituanie	20	11	12	31	26	15
Pologne	851	582	172	1.425	1.047	292
République tchèque	148	87	33	120	61	71
Slovaquie	256	154	27	136	61	42
Slovénie	205	151	2	11	6	3
Total nouveaux Etats membres	1.656	1.067	290	1.910	1.313	489

Belgium

Table 3 of the CEOCR report: work permit delivered to nationals from new Member States per Region

	2003			2004		
	Bruxelles-Capitale					
	Permis A et B		Permis C	Permis A et B		Permis C
	Total	Dont 1er permis		Total	Dont 1er permis	
	Estonie	3 0	1	4 2	1	
Hongrie	35 22	12	39 22	8		
Lettonie	4 2	1	5 3	1		
Lituanie	2 0	5	3 1	3		
Pologne	118 77	41	130 70	70		
République tchèque	25 5	7	27 12	9		
Slovaquie	24 8	4	29 15	3		
Slovénie	7 1	2	5 4	0		
Total 8 nouveaux pays membres	218 115	73	242 129	95		
	Région wallonne					
	Permis A et B		Permis C	Permis A et B		Permis C
	Total	Dont 1er permis		Total	Dont 1er permis	
	Estonie	1 1	0	2 1	0	
Hongrie	12 5	0	15 10	2		
Lettonie	3 3	0	3 3	3		
Lituanie	7 5	0	7 5	0		
Pologne	56 21	27	65 37	39		
République tchèque	12 6	3	13 6	0		
Slovaquie	81 47	3	14 5	4		
Slovénie	0 0	0	2 2	0		
Total 8 nouveaux pays membres	172 88	33	121 69	48		
	Région flamande					
	Permis A et B		Permis C	Permis A et B		Permis C
	Total	Dont 1er permis		Total	Dont 1er permis	
	Estonie	6 3	3	4 2	10	
Hongrie	89 39	18	94 61	25		
Lettonie	14 6	9	12 8	15		
Lituanie	11 6	7	19 19	12		
Pologne	655 477	104	1.200 927	183		
République tchèque	105 76	23	75 40	62		
Slovaquie	139 95	20	91 41	35		
Slovénie	198 150	0	4 0	3		
Total 8 nouveaux pays membres	1.217 852	184	1.499 1.098	345		

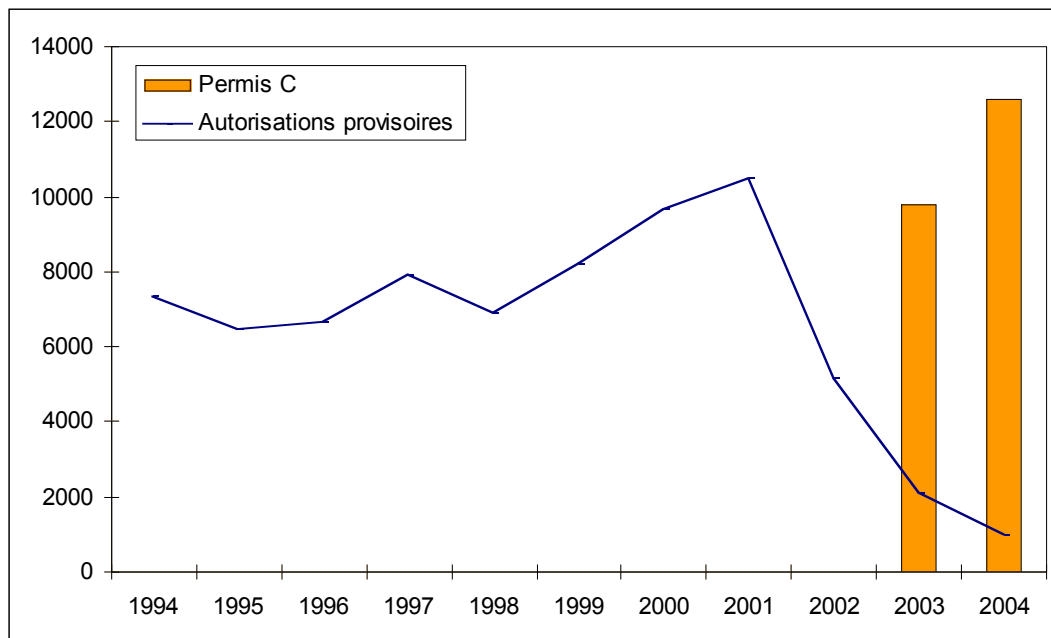
Source: Public Federal Administration for Employment, work and social negotiation

Although specialized technicians have been removed from the statistics of the work permits, the number of immigrant workers of East and Central Europe having received a work permit in 2004 increased. This increase in the number of work permits is explained mainly by a rise in the number of seasonal workers from the new Member States, more particularly of Poland. In 2004, 1003 work permits B were delivered, including 979 for Polish seasonal workers. The seasonal workers are mainly active in the horticulture sector. This tendency was confirmed in 2005, as can be deduced from the figures published by the Public service for Employment (VDAB) at the end of the year 2005 for "fruit harvesting". The final figures have not yet been published at the regional or federal level. We estimate

Belgium

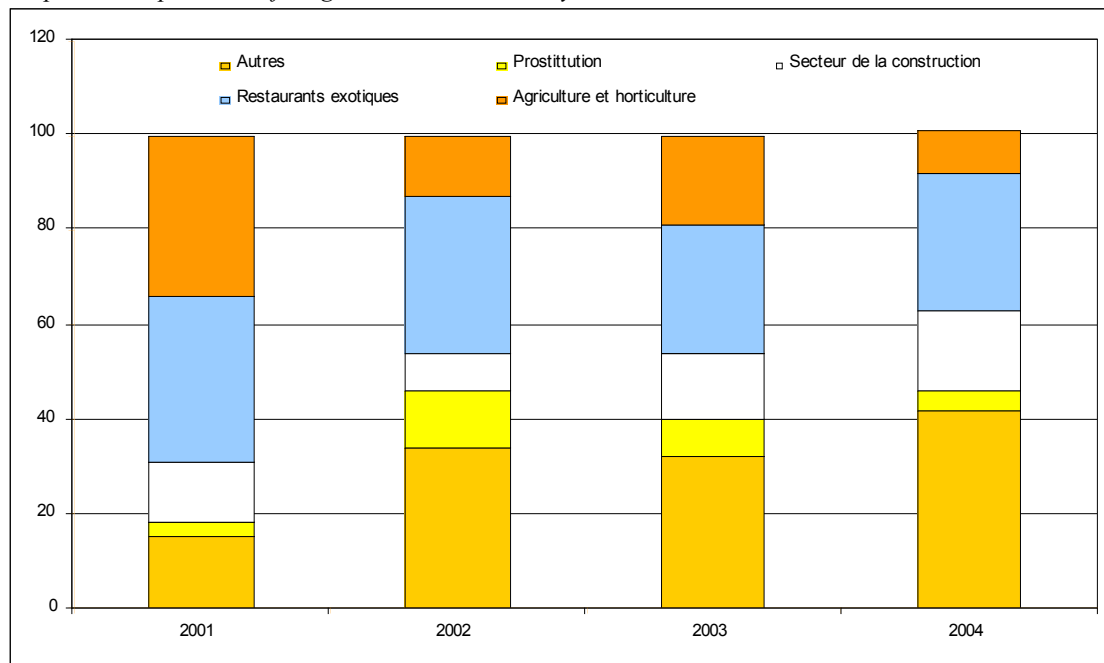
that in 2005, approximately 2.500 seasonal workers were employed. In 2005, 847 Polish seasonal workers were employed in Limbourg according to “fruit harvesting” figures of the VDAB.

Graph n° 7 of the CEOCR report: Evolution of the delivery of C permit and temporary employing authorisation



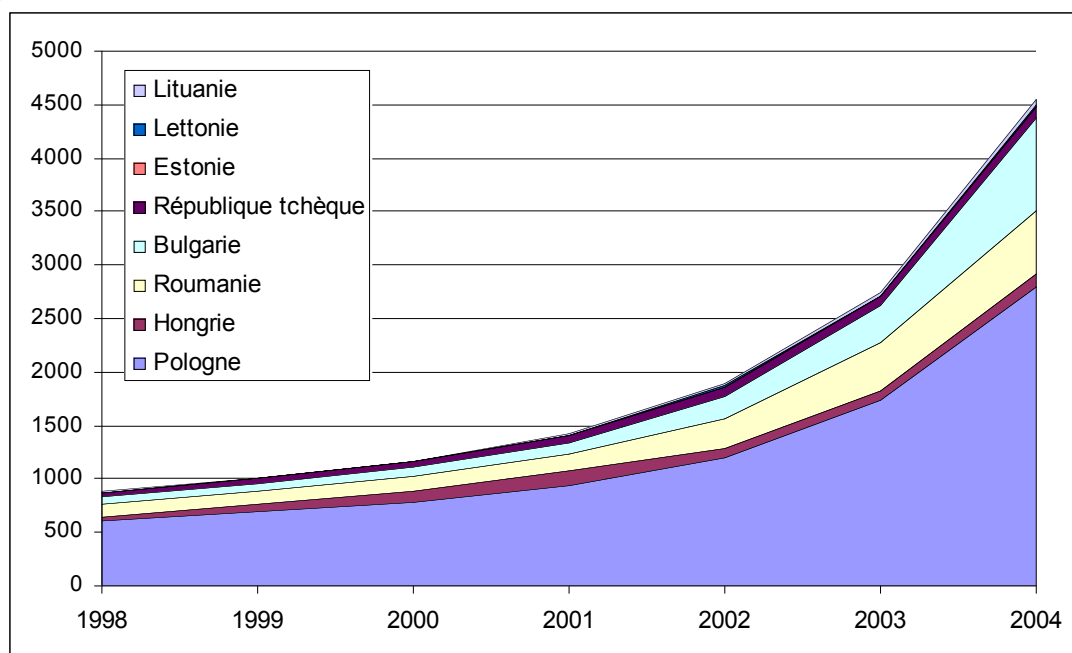
Source: Flemish Community Employment administration – Opportunities Department

Graph n° 8: repartition of illegal salaried workers by sectors



Source: Federal Committee for Combating illegal work and social fraud

Graph n° 10 of the CEOCR: Evolution of self-employed workers from new EU member States and from candidates Countries



Source: National Institute for social security for self-employed workers

According to the High Council for Employment, in 2005, some 5500 new work permits were granted, including 2300 to nationals of the new Member States (2100 Polish). With regard to the latter, more than 90% were delivered by the Flemish authorities and a vast majority of them were seasonal workers (Annex n° 37, report of the High Council for Employment)

These data can be crosschecked with the databank of the Social security administration.

On 2 august 2005, the public institutions of social security published a new CD-Rom containing source data relating to the labour market in Belgium. These source data can be used for studies. The new CD-Rom presents data of the year 2002 as a series of tables which allow to meet the most current needs as regards statistics relating to the labour market. Thus, information is provided concerning the situation on the labour market of the population of all the Belgian communes by neighbourhood and - for the large cities - by statistical sector. Moreover, it is possible to draw up the chart of the socio-economic evolution (from worker to unemployed, of salaried and of self-employed workers ...) of the working population over a one year period. The edition of this CD-Rom is an initiative carried out jointly by various institutions of social security: the Bank Crossroads of social security (BCSS), the College national intermutualist (CIN), Funds of industrial accidents (FAT), Funds of occupational diseases (FMP), the national Institute of illness insurance and disability (INAMI), the national Institute of Social Security for self-employed workers (INASTI), the National office of family benefits for employed persons (ONAFTS), the National office of employment (ONEM), the National office of pensions (ONP), the National office of social security (ONSS) and the National office of social security of the provincial and local administrations (ONSSAPL). The tables recorded on the CD-Rom are drawn up on the basis of a labour market database which is the fruit of collaboration between the above mentioned institutions of social security and the world of university research - Center of Sociology TEF and Steunpunt WAV. The CD-Rom can be obtained through the order form under the heading 'Statistics' at the following website: http://bcss.fgov.be/fr/statistiques/stats_home.htm (Annex n° 38, press report of the Bank Crossroads of social security (BCSS) 2/08/2005).

Unfortunately, the comparison between these statistics is limited since the most recent data in this last source are from 2002. It is regrettable that these figures are so "old" since these data relating to nationality are crossed with the variables "professional statute" and "branch of industry" (Annex n° 39, *R.D.E.*, 134, p. 513 et 514).

Belgium

Tableau 1. Main-d'œuvre de nationalité est-européenne en Belgique — 4e trimestre 2002

SPF — ETCS			
Nationalité	Salariés	Indépendants	Total
Bulgarie.	438	178	616
Estonie.	14	3	17
Finlande.	373	104	477
Hongrie.	258	92	350
Lettonie.	29	9	38
Lituanie.	39	25	64
Pologne.	2 209	1 194	3 403
Roumanie.	1 031	242	1 273
Slovénie.	23	2	25
Slovaquie.	189	31	220
République tchèque.	171	30	201
Total.	4 774	1 910	6 684

Source : BCSS, Datawarehouse.

Tableau 2. Part relative de quelques secteurs d'activité par rapport à l'emploi total de chaque nationalité
Belgique 4e trimestre 2002

SPF — ETCS			
Nace	Secteur d'activité	Nationalité polonaise	Nationalité est-européenne
D	Industrie manufacturière	12,6 %	11,6 %
F	Construction	10,6 %	7,9 %
G	Commerce de gros et de détail	15,4 %	14,1 %
H	Horeca	11,6 %	10,6 %
K	Immobilier, location et services.	17,1 %	20,3 %

Source : BCSS, Datawarehouse.

- Asylum from EU Member States

A Member of Parliament questioned the Home Affairs Minister about the number of citizens coming from the 8 new EU member States applying for asylum in Belgium. The Home Affairs Minister answered that in compliance with the Belgian Declaration annexed to The Amsterdam treaty and relating to the Protocol on the Right of asylum for citizens of EU members States (OJ n° C 340 of 11 November 1997), the right of each individual citizen applying for asylum in Belgium is granted.

821 nationals of new Member States have been recognized as refugee and now remain in Belgium. Among these, 560 are native of Poland, 183 of Hungary, 27 of the Czech Republic, 26 of Lithuania, 21 of Latvia and 4 of Estonia.

These are mainly foreigners who applied for refugee status more than 20 years ago. Since the enlargement of the European Union on May 1st, 2004, no national of these ten countries was recognized refugee.

At the present time, another 133 applications for asylum from nationals of the ten new Member States are being treated: 91 Slovaks, 13 Czechs, 11 Latvians, 8 Lithuanians, 5 Hungarians and 5 Poles. 110 applications are in the phase of admissibility with the General Commissioner for the Refugees and Stateless persons (CGRA), 16 in the phase on the merits with the CGRA and 7 with the permanent Refugees Recourse Commission.

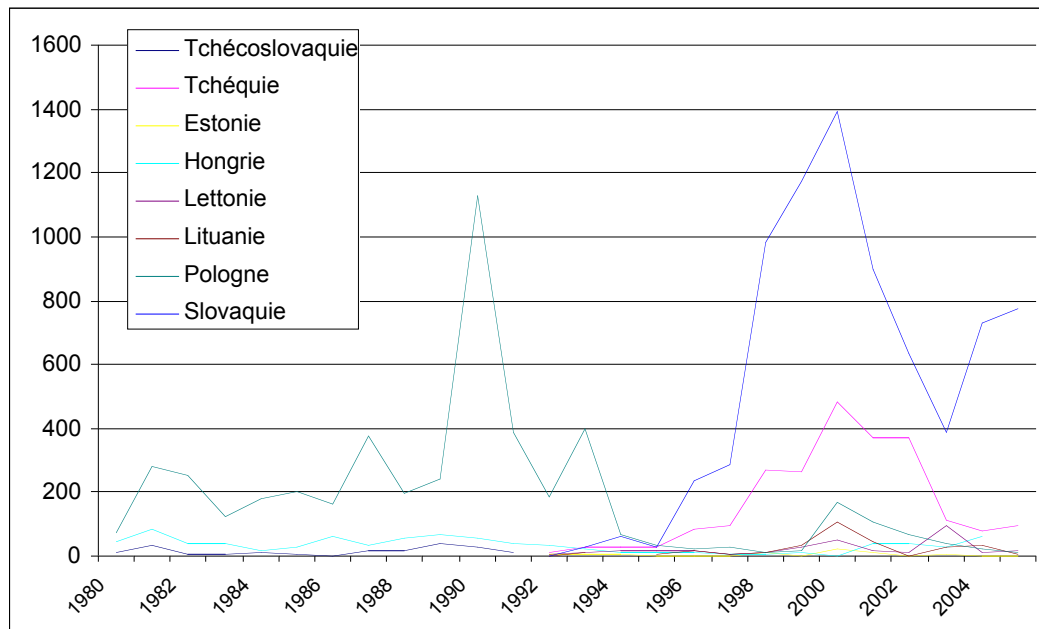
Lastly, since the widening of the EU, 344 nationals of the ten new Member States lodged a request for asylum, namely 277 Slovak, 30 Czechs, 18 Hungarians, 8 Poles, 5 Latvians, 5 Lithuanians and 1 Estonian (Annex n° 40, R.D.E., 133, pp. 325-326)

Belgium

These figures do not match those given by the Centre for Equal Opportunities and Combating Racism (CEOCR) in its report on Migratory flows coming from the new Member States of the European Union:

“If one examines the figures relating to asylum these ten last years, one notes an almost constant increase on behalf of the requests for asylum coming from these countries, of 1,1 % of 11.686 demands for 1995 to 5,2% of 41.940 demands for 2000 and to 6,2%, that is to say 903 of the 15.957 requests for asylum of 2005 including 773 presented by Slovak nationals, 93 by Czech nationals and 90 by Hungarian nationals. Before 2004, the three principal countries represented remained Slovakia, Czech Republic and Poland. By way of comparison: the number of requests for asylum presented by nationals of the Member States of the European Union in other Member States is unimportant. During the first nine months of the year 2005, 95 requests for this type were presented in Germany, 25 in the Netherlands, 13 in Finland, 11 in France, 8 in Spain, 5 in Ireland and any in the United Kingdom.”

Graph n°6 of the CEOCR report: evolution of asylum request coming from new Member States



Trends

Even if the figures are not recent enough to be precise in the year 2005 and are difficult to cross and control, there does not seem to be an important increase of migration from the new Member States in 2004 and 2005. Poland is still the most important country of origin from the new Member States for migration towards Belgium with approximately 1.000 work permits including a lot of seasonal workers.

Chapter X Social security

Summary

- *Acquis*

If there could still be problem regarding social security of work migration in Belgium, they are not so important any more

- *2005*

Today's problem is more the exportation outside Belgium of social security paid by Belgium, like the *De Cuyper* case, pending at ECJ for unemployment benefit of a Belgian resident in France.

Family benefits

Relationship between 1408/71 and 1612/68

A parliamentary question was put to the Minister for social affairs and public health in relation to an alleged discrimination with regard to the French frontier workers. The question concerns the frontier workers who, following the modification of article 73 of 1408/71 Regulation with effects at April 1, 1990, have a right to the French family benefits and not, as before, to the Belgian family benefits.

On the basis of a transitory regulation, registered in article 94, § 9 of the above mentioned Regulation, the frontier workers of Belgium mentioned above receive the difference between the Belgian amount which they could claim on November 15, 1989 and the French family benefits possibly due. Being given that the French family benefits are generally lower than the Belgian family benefits, the difference is guaranteed. This means that the maximum amount of the Belgian family benefits which can be paid is the one which was valid in November 1989, amount which cannot be adapted any more.

The frontier workers noted above can by no means call upon the Belgian amount such as given in the Royal Decree of 13 March 2001 in execution of article 102, § 1er, subparagraph 1st of the coordinated laws relating to family benefits for employed persons. This regulation is of application to the frontier workers who do not receive family benefits in France because, for example, their children are more than 20 years old, they have only one child over 3 years old or their incomes are too high. This is the consequence of the fact that the royal decree of March 13, 2001 allows the payment of family benefits if there is no right to the family benefits, neither on the basis of Belgian regulation, nor on the basis of payment.

The elaborate regulation does not grant rights "by difference" with the French regulation. In short, the regulation envisaged in article 94, § 9 from the 1408/71 Regulation contains transitional measures called to disappear which guarantee the rights acquired for these frontier workers who can claim French family benefits. This regulation is in force since April 1, 1990. Measures taken within the framework of the Royal Decree of March 13, 2001 aims these frontier workers who cannot claim family benefits for their children in France or elsewhere. The Minister for social affairs answered that it was consequently not indicated to intervene in a transitional legal regime called to disappear. According to the Minister, on December 31, 2004, the National Office of family benefits for employed persons still paid for 71 families within the framework of this regulation (Annex n° 41, *R.D.E.*, 133, p. 316-315)

Invalidity civil servant

The Cour de Cassation (Belgian Supreme civil court) ruled on 25 October 2004 that EEC Regulation n° 1408/71 has as base, context and limit, articles 48 and 51 of the Rome Treaty relative to the right to freedom of movement for workers inside the European Community, and to the addition, for allowing to claim and maintain these rights to social security as well as for their calculation, of all periods taken into account by the various national legislations. Since the invalidity benefits of a European civil ser-

Belgium

vant is not envisaged in a national legislation, it is not subject to the addition rule (Cass. 25 October 2004, S.N. c/ O.N.P., *Chroniques de droit social*, 2005/10, p. 567-570 – Annex n° 42).

Unemployment benefit

The opinion of Advocate general Geelhoed delivered on 2 February 2006 in the ECJ Case C-406/04, *Gérald De Cuyper c/ Office national de l'emploi*, supports the position of the Belgian government. In this case, the industrial Tribunal of Brussels referred questions to the Court under Article 234 EC, asking essentially whether a residence requirement contained in national legislation which must be satisfied in order to receive entitlement to a benefit is contrary to the right, under Articles 17 and 18 EC, of a citizen of the Union to move and reside freely within the territory of the Member States where the applicant is an unemployed person who is not required to be available for work. That initially raises an issue as to how the benefit should be classified in Community law. Once that classification is made, the main issue to be addressed is the exportability of the benefit under the Community social security rules. Advocate general is of the opinion that the Court should reply as follows to the questions referred by the industrial tribunal: It is not contrary to Articles 17 and 18 EC to require as a condition for the award of unemployment benefits under Article 66 of the Royal Decree of 25 November 1991, for an unemployed person aged over 50 who enjoys an exemption under Article 89 of that decree to reside in Belgium. If the ECJ follows A.G. opinion it raises new questions in the link between social rights and citizenship as fundamental status and could reinforce the role of residence in the exercise of citizenship (Annex n° 43).

Recent national reports, legal literature

- A-C Simon, 'L'accès aux soins de santé transfrontaliers dans l'Union européenne. La proposition Bolkestein consacre-t-elle la jurisprudence de la Cour de Justice?' (The access to the cross-border care of health in the European Union", *Journal des Tribunaux de Droit Européen*, January 2005, p. 12-16 (Annex n° 44)
- A-C Simon, 'L'arrêt Keller de la Cour de Justice ; un nouveau pas vers la suppression des frontières pour les patients en Europe?' (Keller case of the ECJ: a new step towards suppression of borders for the ill-person in Europe?), *Rev. belge de sécurité sociale*, 2005, pp. 205-224 – Annex n° 45
- H. Vollaard, 'Limites et fondements de la mobilité des patients dans l'Union européenne' (Limits and bases of the mobility of the ill-persons within the EU), *Rev. belge de sécurité sociale*, 2005, pp. 225-253 – Annex n° 46
- O. de Schutter & S. Deakin, *Social rights and Market Forces: is open coordination of employment and social policies the future of social Europe?*, Bruxelles, Bruylant, 2005, 351 pages

Chapter XI

Establishment, provision of services, students

Summary

- *Acquis*

Free movement of students and applications of the non-discrimination principle is an *acquis* in the Belgian law since the *Gravier* case (C-293/83, 1985)

- *2005*

However this could be challenged again as, in the French part of Belgium, the authorities are confronted with more and more French students, representing more than 30% to 50 % of the students in some studies, mainly paramedical. In fact, France is applying a *numerus clausus* in those studies. Belgium is not. A draft Decree could limit to 30% the part of students non resident in Belgium for at least 3 years before the studies, in this country.

Students

- *Restrictions to registration*

The French Community of Belgium adopted, on January 26, 2006, a Decree which blocks the registration of students in studies leading to the professions of obstetrician, occupational therapist, speech therapist, chiroprapist, physical therapist and veterinarian. This regulation is adopted before a decree which could come in application for the academic year 2006 which limits to 30 % maximum in the sectors of studies mentioned above, the number of non-Belgian students who are not resident for at least 3 years. This draft Decree is facing, in February 2006, opposition by the students, some schools particularly at the French border and some trade-unions. Like in the eighties, with the *Gravier* case (C-293/83) it could be in contradiction with EC law, namely the non-discrimination principle (Annex n° 47, Decree laying down the particular methods of inscription in the university institutions and the high schools for the academic year 2006-2007).

- *Recognition of diplomas*

The State Council rejected an application lodged against a refusal of recognition of Luxembourg diploma from the French Community authorities. The applicant wanted to pursue its university studies in Belgium after studying one year at Luxembourg University. He claimed the recognition of its Congolese secondary school diploma but the Belgian authorities refused the recognition. The Council of State confirmed the refusal decision for procedural reason (Annex n° 52). The case merits to be lighted as it raises the problem of lack of harmonization in the recognition of diplomas coming from third countries. Indeed, the applicant claimed that Belgian authorities were bound by the decision of the Luxembourg authorities which admitted him to the University without any procedure of recognition of its Congolese diploma. The question is still complex since it concerns recognition of the recognition obtained in another EU Member States. This problematic is not in the sphere of the EU law since no formal procedure has been defined and each Member State should trust the other. However this question could be compared with the question raised in the free movement of goods namely what is called “goods for free circulation” (Council Directive 79/695/EEC of 24 July 1979 on the harmonization of procedures for the release of goods for free circulation).

Recent legal literature

L. Defalque, ‘Liberté d’établissement et libre prestation de services (1er janvier 2003-31 décembre 2004)’ (Free establishment and free provision of services – 1 January 2003, 31 December 2004), *Journal des Tribunaux de Droit Européen*, September 2005, p. 201-204 (Annex n° 48)

Chapter XII Miscellaneous

-Bi-nationality

We asked, in the 2004 Belgian report, the question of loss of nationality: Is there legislation in Europe prescribing loss of nationality when a national has voluntarily access to another nationality (Chapter XI, A of 2004 report)? The question was answered by a comprehensive study held by the Council of Europe, Directorate General I, Legal Affairs, Legal co-operation, Legal relations between individuals with the State, Foreigners and citizen, European bulletin and national legislation where a European bulletin of nationality can be found.

The website address is the following link:http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Foreigners_and_citizens/Nationality/Documents/Bulletin/0_Index.asp#TopOfPage.

It shows that Austria, Denmark, France, Italy, Luxembourg, The Netherlands and Norway have the same regulation as the Belgian Nationality Code. Article 22 provides that a Belgian who has voluntarily access to another nationality will lose his or her Belgian nationality. There are propositions to suppress this article to allow double nationality in this case. However such modifications of the law should be accompanied by a denunciation of the International Convention of 6 May 1963 on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality and a ratification of the European Convention on nationality dated 6 November 1997.

Answering a parliamentary question, Minister for Justice said that this ratification would introduce much more modification to the present law because the effect of the European Convention on nationality would have effect on another provision of the present Belgian Code of nationality. A more complete evaluation of the incidence of the ratification of the European Convention on nationality has been asked by the Minister for Justice (Annex n°49, *R.D.E.*, 132 p. 151).

This question is of particular importance for the follow-up of the Garcia Avello case for persons with multiple nationalities from E.U.

- Asylum

On 28 December 2004, a Senator questioned the Home Affairs Minister about the implementation of Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers. The expiration date for implementing this Directive was 6 February 2005. The competent Minister mentioned several steps taken before aiming to implement the Directive in 2004. It referred to a work paper of the Federal Agency for the Reception of Asylum Seekers called "Reception of asylum seekers in Belgium: State of right and practice. Comparative legal study in comparison with the directive of January 27 2003 relative to minimal standards for the reception of the applicants of asylum in the Member States" (available at: http://www.fedasil.be/home/nieuws_detail/i/2804/).

It referred also to a symposium held in March 2004 and to an alleged consultation of the association active in the field. A work paper has been transmitted to the Minister which was on the way to be finalised when answering the Senator's question on 15 February 2005. The law in project was finally filed at the Parliament at the beginning of 2006 (Annex n° 50, *R.D.E.*, 133 pp. 328-329).

- Regularisation

At the end of 2005, beginning 2006, there is a debate between political parties about a new regularisation of foreigners, like in 2000. Most French speaking parties seem favourable, most Flemish speaking parties unfavourable.

- Recent legal literature

General Direction Office for Foreigners, *Annual activities report 2004*: available from the following website: www.dofi.fgov.be – One can be happy to note the existence of an annual report on the activities of this major federal administration active in the field since such a report did not exist before. It is regrettable that only 3 pages of this report are related to free movement of persons in 2004, year of the EU enlargement (annex n° 51).

Belgium

- D. Grisay and D. Piccininno, 'L'Espace européen de Justice' (European Space of Justice), *Journal des Tribunaux de Droit Européen*, April 2005, p. 97-103 (Annex n° 51)
- J.-Y. Carlier, 'Libre circulation des personnes dans l'Union européenne (1er janvier – 31 décembre 2004)' (Free movement of persons in the European Union (1 January - 31 December 2004)), *Journal des Tribunaux de Droit Européen*, March 2005, p. 71. The same case-law study from 1st January to 31 December 2005 will be published in *Journal des Tribunaux de Droit Européen* of March 2006
- S. Garcia-Jourdan, *L'émergence d'un espace de liberté, de sécurité et de justice*, Bruxelles, Bruylant, 2005, 761 pp.
- J-Y Carlier & S. Sarolea (Eds), *Droit des étrangers et nationalité* (Immigration law and nationality law), Bruxelles, Larcier, 2005, 347 pp.
- J-Y Carlier & Ph. De Bruycker (Eds), *Immigration and asylum law of the EU: current debates*, Odysseus Network, Bruxelles, Bruylant, 2005
- Fr. Julien-Lafferrière, H. Labayle & Ö. Edström (Eds), *The European Immigration and Asylum Policy: Critical Assessment five year after the Amsterdam Treaty*, Odysseus Network, Bruxelles, Bruylant, 2005

Answers to the comments of the Commission on the Belgium national report 2005

1. The 9-month period mentioned in the draft legislation seems to fail with the provision of Article 10 of Directive 2004/38/EC. The draft legislation has been discussed and adopted recently by the Parliament and still mentions a nine-month period for the authority to give its decision. Under exceptional circumstances due to the complexity of the demand and with especially motivated decision, the period can be extended twice for three months. The draft legislation still mentions that after this period, the residence permit has to be automatically delivered.
2. The small amount of information relating to the position of third-country national family members of EU migrants is due to the fact that the situation did not change during the concerned period of 2005 regarding the earlier reports mentioned on this issue.
3. The provision of Article 11, §1, c of Directive 2003/109/EC is not relevant for the case on the recognition of the Congolese diploma mentioned on p. 39 since Article 3, §2 of this Directive does not apply to third-country nationals who: (a) reside in order to pursue studies or vocational training. The applicant was a Congolese national claiming the recognition of the recognition given by the Luxembourg authorities to allow him to start the first year of university in Luxembourg.
4. If the literature lists do not include articles published in Dutch this year, it is because no articles were found for the period concerned. A specific attention will be given to literature published in Dutch language in the next report.

Table of Annexes

- Annex 1. Arrêté royal relatif au contrôle frontalier aux frontières maritimes externes. Moniteur belge, 4/05/2005.
- Annex 2. Arrêté royal modifiant l'arrêté royal du 8 octobre 1981 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers, Moniteur belge, 08/02/2005.
- Annex 3. Circulaire relative aux nouvelles mentions communes pouvant être utilisées en cas de délivrance d'un visa Benelux A, B, C ou D + C ainsi qu'aux nouvelles mentions nationales devant être utilisées pour la Belgique en cas de délivrance d'un visa D ou d'une autorisation de séjour provisoire. Moniteur belge, 11/10/2005
- Annex 4. Avis à Mmes et MM. Les bourgmestres du Royaume concernant le cas particulier du visa de retour délivré pendant la période des vacances d'été 2005 aux étrangers qui reviennent en Belgique pour y suivre une procédure de regroupement familial entamée sur la base de l'article 10 ou 40 de la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers, 14 juillet 2005, publié le 05/08/2005.
- Annex 5. Conseil d'État, 19 août 2004, X. c. État belge.
- Annex 6. Question n° 554 du M. Stijn Bex du 16 mars 2005 (N.) au vice-premier ministre et ministre de l'Intérieur, Revue du droit des étrangers, 2005, n° 133, p. 316.
- Annex 7. Questions posées aux ministres-membres du Conseil des ministres européens via le comité d'avis chargé de questions européennes Vice-premier ministre et ministre de l'Intérieur, Revue du droit des étrangers, 2005, n° 134, p. 505506
- Annex 8. Les visas : nécessaires, utiles ou futiles ? Journée d'étude du jeudi 10 novembre 2005. Programme.
- Annex 9. Jean-François Delforge, Etrangers. Droit de séjour des ressortissants de l'U.E., Edition novembre 2005, Vanden Broele.
- Annex 10. Question n° 405 de M.Bart Laeremans du 18/10/2004 au vice-premier ministre et ministre de l'intérieur, R.D.E., 132, p. 139-140.
- Annex 11. M. Candela Soriano, Libre circulation et séjour dans l'U.E. : la directive 2004/38 au regard des droits de l'homme. Journal des tribunaux, droit européen, septembre 2005, n° 121, 13e année.
- Annex 12. Loi modifiant la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers (1) 2005/00018/pa. 22 décembre 2004, Moniteur belge, 18/01/2005
- Annex 13. Loi modifiant l'article 57/12 de la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers, Moniteur belge, 10/05/2005.
- Annex 14. Arrêté royal modifiant l'annexe 11 de l'A.R. du 8/11/1981, R.D.E., 132, p. 131-134.
- Annex 15. Circulaire relative à la présomption de séjour illégal en cas d'absence de cachet d'entrée dans le document de voyage d'un ressortissant non UE, Moniteur Belge, 03/05/2005
- Annex 16. Circulaire relative à la procédure d'attribution d'un numéro d'identification, appelé « numéro Bis », par la Banque-carrefour de la sécurité sociale aux étrangers qui viennent temporairement en Belgique pour y travailler comme travailleurs occasionnels. Moniteur belge, 12/12/2005.
- Annex 17. Question n° 244 de Mme Sabine Lahaye-Battheu du 15 février 2005 (N.) à la ministre de l'emploi et de la Protection des consommateurs, Revue du droit des étrangers, 2005, n° 133, p. 302-305.
- Annex 18. Conseil supérieur de l'emploi, rapport 2005.
- Annex 19. J. Jacquain, Egalité entre travailleurs féminins et masculins. Journal des tribunaux, droit européen, décembre 2005, n° 124, 13e année.
- Annex 20. Jean Jacquain, ... Et omnia discriminatio, Chr. D.S. – Soc. Kron. 2005, 01, Ed. Kluwer
- Annex 21. Cour de justice des Communautés européennes (2e ch.), 7 septembre 2004, Commission c. Belgique (C-469/02).
- Annex 22. Tribunal du travail de Mons (sect. La Louvière, 7e ch.), 4 juin 2004, D.M. c. État belge (R.G. n° 4379/02/LL)

Belgium

- Annex 23. Cour de justice des Communautés européennes, 16 décembre 2004, G. My c. O.N.P., (C-293/03).
- Annex 24. Question n° 495 de Mme Annelies Storms du 15 février 2005 (N.) au ministre de la Fonction publique, de l'Intégration sociale, de la Politique des grandes villes et de l'égalité des chances, *Revue du droit des étrangers*, 2005, n° 133, p. 296.
- Annex 25. Jean-François Delforge, *Etrangers. Le regroupement familial*, Edition septembre 2005, Vanden Broele
- Annex 26. Marie Brooke, Demande d'établissement de l'étranger conjoint d'un belge : exemples d'amalgames de la part du juge judiciaire entre les dispositions applicables aux différentes catégories d'étrangers établies par la loi, *Revue du droit public et des sciences administratives*, 28^e année, T 4/2004.
- Annex 27. Mercedes Candela Soriano and Cédric Chenevière, Droit au regroupement familial et droit au mariage du citoyen de l'Union européenne et des membres de sa famille à la lumière de la directive 2004/38/CE, Mercedes Candela Soriano et Cédric Chenevière, *Revue trimestrielle des droits de l'homme*, 64/2005.
- Annex 28. Question n° 3-1979 de Mme Hermans du 7 janvier 2005 (N.), *Revue du droit des étrangers*, 2005, n° 133, p. 333-335.
- Annex 29. Question n° 3-2482 de M. Vandenberghe H. du 20 avril 2005 (N.), *Revue du droit des étrangers*, 2005, n° 134, p. 511.
- Annex 30. Convention relative à la suppression de la légalisation d'actes dans les États membres des Communautés européennes, faite à Bruxelles le 25 mai 1987 – Adhésion par la République de Chypre, *Moniteur belge*, 24/06/2005, *Revue du droit des étrangers*, 2005, n° 133, p. 295.
- Annex 31. Communiqué de presse du ministre de l'emploi du 24/02/2006
- Annex 32. High Council for Employment report on "Access to Belgian work market for citizens from new EU Member States", *Advies* 2006.
- Annex 33. Conseil supérieur de l'emploi. L'accès au marché belge du travail des ressortissants des nouveaux États membres de l'Union européenne. *Avis*. Février 2006.
- Annex 34. Conseil supérieur de l'emploi. L'accès au marché belge du travail des ressortissants des nouveaux États membres de l'Union européenne. 24 février 2006-03-16
- Annex 35. Communiqué de presse du Ministre fédéral de l'emploi du 09/02/2006. Le Ministre Vanvelthoven nuance les conclusions du rapport de la Commission européenne sur la libre circulation des travailleurs
- Annex 36. flux migratoires en provenance des nouveaux États membres de l'Union européenne. Tendances & perspectives. Rapport réalisé par le Centre pour l'égalité des chances et la lutte contre le racisme, Février 2006.
- Annex 37. Un nouveau CD-ROM contenant des données de base relatives au marché du travail en Belgique pour l'année 2002
- Annex 38. Question n° 3-2321 de M. Willems du 9 mars 2005 (N.), *Revue du droit des étrangers*, 2005, n° 134, p. 512-514.
- Annex 39. Question n° 3-1833 de M. Buysse du 14 décembre 2004 (N.), *Revue du droit des étrangers*, 2005, n° 133, p. 325-326.
- Annex 40. Question n° 257 de M. Roel Deseyn du 16 février 2005 (N.) au ministre des Affaires sociales et de la Santé publique, *Revue du droit des étrangers*, 2005, n° 133, p. 316-317.
- Annex 41. Cour de Cassation (3^e ch.), 25 octobre 2004, S.N. c. O.N.P. (S.01.0099.F)
- Annex 42. Demande de décision préjudicielle présentée par ordonnance du Hoge Raad der Nederlanden, rendue le 24 septembre 2004, dans l'affaire Staatssecretaris van Financiën contre Stichting Kinderopvang Enschede (aff. C-415/04), *Journal officiel de l'U.E.*, 20.11.2004
- Annex 43. Anne-Claire Simon, L'accès aux soins de santé transfrontaliers dans l'Union européenne. La proposition Bolestein consacre-t-elle la jurisprudence de la Cour de justice ? *Journal des tribunaux, droit européen*, 2005, p. 12.
- Annex 44. Anne-Claire Simon, L'arrêt Keller de la Cour de justice : un nouveau pas vers la suppression des frontières pour les patients en Europe ?, Anne-Claire Simon, *Rev. Belge de sécurité sociale*, 2005, p. 205-224.
- Annex 45. Hans Vollaard, Limites et fondements de la mobilité des patients dans l'Union européenne, Hans Vollaard, *Rev. Belge de sécurité sociale*, 2005, p. 225-253.

Belgium

- Annex 46. Arrêté fixant des modalités particulières d'inscription dans les institutions universitaires et les hautes écoles pour l'année académique 2006-2007, 27 janvier 2006.
- Annex 47. Lucette Defalque, Liberté d'établissement et libre prestations des services (1er janvier 2003 – 31 décembre 2004), *Journal des tribunaux, droit européen*, 2005, p. 201.
- Annex 48. Questions et réponses parlementaires. Question n° 412 de M. Alfons Borginon du 22 octobre 2004 (N.) à la vice-première ministre et ministre de la justice, *Revue du droit des étrangers*, 2005, n° 132, p. 151.
- Annex 49. Question n° 3-1844 de M. Mahoux du 28 décembre 2004 (Fr.), *Revue du droit des étrangers*, 2005, n° 133, p. 328-329.
- Annex 50. Rapport annuel 2004 de l'Office des étrangers, Service public fédéral intérieur.
- Annex 51. D. Grisay and D. Piccinino, L'espace européen de justice. *Journal des tribunaux, droit européen*, avril 2005, n° 118, 13e année.
- Annex 52. arrêt du Conseil d'État n° 152.844 du 16/12/2005, non publié.
- Annex 53. Tribunal du travail, 26 juillet 2005, Madame M.I.M / CPAS d'Anderlecht, RG n° 6641/05, http://www.sdj.be/admin/docs/TT_BXL_26-07-05.pdf
- Annex 54. Press report of the Council of Ministers held on 21 April 2006