



The Regularisation of Unauthorized Migrants: Literature Survey and Country Case Studies

Regularisation programmes in Belgium

Amanda Levinson

Centre on Migration, Policy and Society, University of Oxford

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VIII. Regularisation in Belgium

Background

Labour immigration has been an important aspect of Belgium's landscape since the end of World War I created a vacuum of labourers that required the recruitment of workers from surrounding countries, Italy, and Poland. After World War II, labour shortages in the coal industry forced authorities to pursue bilateral labour agreements to recruit foreign workers from Italy, Spain, Greece, Morocco, Turkey, Tunisia, Algeria and Yugoslavia. An economic recession in the late 1960s led to tightened measures for employing foreign workers, but did not stop their arrival. As in other European countries, the 1973 oil crisis led Belgium to enact strict legislation controlling the entry of foreigners into the country, and only to allow people into the country qualifications that were not available through the local labour pool. And, as in other European countries, new immigration measures did little to slow the flow of migrants into the country (Martiniello and Rea 2003). In fact, there is a general consensus that since 1962 legal entries into Belgium have never dropped below 35,000 (Gsir et al. 2003). Overall, Belgium has not been characterized as a country with a proactive immigration policy, and although this is changing, the discourse remains dominated by a language of restriction and closure of borders.

Legal Channels of Immigration into Belgium

- **Admission for economic purposes:** foreigners wishing to enter Belgium to work must have secured a work permit in advance. These are issued only when there are not enough workers available from the domestic market. Close to 100,000 work permits were issued to foreigners between 1974 and 1984, and the same number were also granted between 1985 and 1993 (Martiniello and Rea 2003).
- **Long-term residency:** foreigners intending to stay in Belgium long-term (more than 3 months) need to be employed, or to have come to the country to study, or for marriage or family reunification purposes. In 2002, 4,415 permits were issued for family reunification purposes.

Table 13: Foreign Population Belgium, 1990-2000

Year	Population foreigners	Total population	Population foreigners as percentage of total population
1990	904,500	9.9 million	9.3
1995	909,800	10.1 million	9.0
2000	879,000	10.2 million	8.3

Source: UNPD 2002, SOPEMI 1999

Demographic Context and the Undocumented Population

According to the United Nations Population Division (2002) and SOPEMI (1999) the total stocks and overall percentage of foreigners in Belgium has actually been on the decline over the past five years, from 909,800 in 1985 to 879,000 in 2000. In 2001, the net migration of

foreigners was 34,775, and the largest numbers were Italian (191,000), followed by French (111,000), Dutch (93,000), Moroccans (91,000), and Turks (46,000) (SOPEMI 2003).

There are few reliable figures or estimations as to the numbers or flows of undocumented immigrants in Belgium. The IOM (2003) quotes an estimate of 90,000 currently present in the country, while Jandl (2003) estimates that 15,000 unauthorized migrants arrived in the country in 2001. There are several categories of undocumented immigrants, identical to the categories identified in previous case studies. These are: persons who have overstayed their visa; those who were in a regular status but then lapsed for some reason (asylees whose claims have been denied, etc.); or those who entered the country with false documents or without being detected. In terms of the nationalities of the undocumented, one can merely conjecture based on applications during the regularisation campaign. The largest number of applicants came from the Democratic Republic of Congo, Rwanda, Burundi, and other countries in sub-Saharan Africa, although there were also a fair number of applicants from Morocco, Algeria, Tunisia and Turkey.

Belgium's Regularisation Programme

Aside from a small regularisation programme that was implemented in 1974 after the country developed more restrictive immigration policies, Belgium did not consider a large-scale regularisation programme until 1999.¹ Between 1980 and 1999, the country allowed for regularisation on a case-by-case basis, but only under exceptional circumstances. On June 13, 1999, a new governmental coalition came to power, and on January 6, 2000, they launched a massive "one-shot" regularisation programme with a Circular (Jamin 2003). The decision to create a regularisation programme was made for several reasons, not least of which was a growing movement of *sans papiers* who, in protest against the treatment of a Nigerian asylee who was suffocated while the police were deporting her, occupied churches and universities (Gsir et al. 2003). The undocumented immigrants formed an organization called the National Movement for the Regularisation of Undocumented Immigrants and Refugees (MNRSPR), and made four demands to the public authorities (Kagné 2000):

- across-the-board regularisation of immigrants who had been in Belgium for more than five years;
- regularisation of the status of foreigners whose asylum procedures had been in procedures for longer than three years;
- an examination by an independent commission of all pending cases for regularisation;
- the granting of protective status to persons who fled their countries due to fear of persecution.

The Belgium government met most of these demands in its final Decree on regularisation. In order to be regularized, applicants had to have been in Belgium before October 1, 1999, and fulfil one of the following conditions:

- to have had an asylum petition pending for a long period (4 years for individuals, or 3 years for families with minor children) without having been informed about the decision of their case;
- to not be able to return to their country of origin for humanitarian reasons;
- serious illness;
- to have lived in the country for six years without receiving an order to leave in the past five years.

¹ Between August 1974 and October 1975, 8,420 applications for regularisation were filed and 7,448 permits were granted, mostly to Turks and Moroccans (Apap et al. 2000, Fischer 2001).

The application process lasted for three weeks during January of 2000, and received 32,662 cases, representing nearly 50,000 persons with 23,000 children. Although 140 nationalities were represented, Congolese and Moroccans dominated the applications, with 17.6 percent and 12.4 percent of the applications (Martiniello and Rea 2003). Since applications are still being processed, it is still unknown as to how many people have benefited overall. According to Martiniello (2001), an undetermined number of immigrants who are not admitted are expelled.

Reactions to the success of the programme have been mixed. Belgium's Ministry of the Interior claims that the programme was not received very well by the population, but rather was seen as a "necessary harm: the regularisation of a phenomenon of the past, which the government had let develop underground," meaning that the government saw fit to legalize those it considered "lawbreakers" in hopes of starting over with a clean slate (Fischer 2001). Fischer also criticizes the administrative challenges and delays that have been a part of the programme. Indeed, it does appear that if not all decisions have been made even now, four years after the programme, that the programme has been too slow in accomplishing its objectives. The European Commission Against Racism and Intolerance, however, considers the regularisation programme an important measure for speeding up the processing of pending asylum applications, and in its third report on Belgium recommended that the country implement further campaigns (ECRI 2004).

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