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Scriptie voorgedragen door:
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Important basic social rights for asylum seekers, refugees and subsidiary protected people upon arrival, during the asylum procedure and after the procedure

Tot het behalen van het diploma van Bachelor in het Bedrijfsmanagement
Afstudeerrichting: **Rechtspraak**

Promotor: Dhr. Tom Claeys



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MOVING MINDS

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1. Preface

Since I'm finalizing my studies, it is time to thank some people who have been there for me throughout this study.

First of all, I really want to thank Mr. Tom Claeys, my promoter, who supported me throughout this process. His unconditional dedication has been a tremendous help for me.

Besides that, I want to thank all my colleagues from Deloitte and especially Mr. Matthias Lommers. I had a blast during my internship and it was not always effortless to go to the library after my hours, but their support strengthened me and they encouraged me a lot.

Also, my parents, Peter and Ann, deserve a very warm thank you. Without them, I was not able to study. Their love, support and trust throughout my study and throughout my whole life are very much appreciated and I will never forget this.

Lastly, I want to thank my brothers, Nicolas and Alexander, for being there for me, for being my brothers and for reading this thesis. Also, my girlfriend, Janne, who believed in me this whole time.

Thank you.

Simon Deboutte

2. Abstract

Migration is an issue that the world is facing for already quite some decades. Wars, political instability, better future prospects ... Various reasons convince people to move to another country. A lot of these migrants are people who want to file for asylum here, people whose integrity is in danger. Families with young children are looking for a better place to live and in order to find that place, they are willing to sacrifice a lot. Despair and fear are the ingredients to move to another country.

The aim of this thesis is to sum up important basic social rights which are applicable on migrants and more specific on asylum seekers who are filing a request for asylum. These rights are stipulated in various national and international documents and policies. They should safeguard and guarantee a humane treatment for these people while they are waiting for a final decision. The right to work and social security rights can definitely improve the integration process of people. It enhances the independency of people and their security on a financial base.

It is also important to know what people must do after a file for asylum has been rejected. This in comparison with the principle of non-refoulement, basically the right to reside on a territory because it is not safe to go back to the home country.

A study in depth shows us that there are a lot of laws and policies available but in reality, it is not that easy to implement these laws and policies. Often, countries do not have the (right) resources to receive so many people in good faith. On the other hand, states are doing their utmost best to receive these people. The problem of migration is probably unsolvable but, states should not stop trying to receive these people because they deserve a humane life and treatment just like other citizens.

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4. Introduction

Today, the migration crisis is affecting the public opinion and the society. The world is facing the biggest migration crisis, since World War I and World War II, and the social impact of this crisis should not be underestimated.

In June 2015, the United Nations High Commissioner for Refugees (UNHCR) published a report about the current situation in the world.¹ The results are shocking: almost 60 million people are on the run, either for war or for political instability or for another reason. Half of them are children. Most of the migrants come from Syria, Somalia, Eritrea, Afghanistan and South Sudan. The current situation is problematic because host countries no longer have the needs and resources to provide migrants with a humane treatment.²

In the past, migration fluxes were caused by World War I & II and by genocides all over the world. Nowadays, it is quite clear that the Arab Spring followed by the gruesome show of force of ISIS started the recent migration crisis. Innocent civilians are fleeing their countries due to the wars and political instability.

Migrants are protected by several laws on international and national level as from their arrival in the host country. Upon arrival and during their stay and applicable procedures and even after such procedures. Some countries refuse to receive migrants because of possible perils. However, other countries like Germany and Sweden consider the migrants as an opportunity for the country to solve problems, such as the ageing of their population and destabilization of pensions.³ Immigration also enriches the culture and the social activities.⁴ It is clear that host countries play a significant role in the process and success of integration. The right to work and social security rights are in my opinion vital in this process and can prevent the fact that these people are excluded from society and being discriminated.

In order to ensure a decent and humane reception of migrants, international and national laws were established. Often, migrants do not choose to flee their countries and should be granted basic rights, sometimes even more than citizens of the host country because these migrants face huge difficulties.

In the course of this thesis, I will first describe some sub-categories of migrants which are relevant for this topic.

Then I will give an overview of the applicable legal provisions. The human rights treaties and other important international treaties will be discussed first. Then, I will focus on the European asylum and migration policy. At last I will discuss the Belgian laws and policies.

The next chapter will be dedicated to the actual situation when people arrive in Belgium. What happens with them upon their arrival and during the procedure? Which rights (e.g. social rights, right to work, etc.) do they have before, during and after the procedure? After a decision has been made, people can appeal that decision. The role of the public centre for social welfare (Openbaar Centrum voor Maatschappelijk Welzijn 'OCMW') will, due to their important role, also be discussed. I will also discuss the reasons why someone will be asked to leave Belgian's territory or why someone is sent back to their home country. This in comparison with the principle of non-refoulement.⁵ Finally, I will compare the situation in Germany with the current situation in Belgium.

¹ X, "Global Trends 2015", 2015, <http://www.unhcr.be/nl/home/artikel/3a76c8183e32015ed69bdc7b14ff408d/global-trends-rapport-2015.html> ; X, "Global refugee crisis in numbers, 2015, <https://www.amnesty.org/en/latest/news/2015/06/global-refugee-crisis-in-numbers/>.

² D. GOREVAN et al., "Right to a future. Empowering refugees from Syria and host governments to face a long-term crisis", 2015, 8 <https://www.savethechildren.net/sites/default/files/Report%20final-%20Syria.pdf>.

³ Z. NIE, "The effects of refugees on host countries", 2015, <https://globaledge.msu.edu/blog/post/30996/the-effects-of-refugees-on-host-countrie>.

⁴ Communication of the Commission to the Council, the European Parliament, the European Economic & Social committee of the regions regarding immigration, integration and employment, Brussels, June 3, 2003, 10.

⁵ See paragraph 8. The order to leave the territory vs. the non-refoulement principle.

As a conclusion, I will provide an overview of the most important findings of my thesis with regard to my subject *"Important basic social rights for asylum seekers, refugees and subsidiary protected people upon arrival, during the asylum procedure and after the procedure"*. Through my thesis, the aim is to give a general overview of the most important rights, based on laws and treaties, which can facilitate the integration of foreigners in a host country and more specific in Belgium.

5. Migration and related difficulties

Migration is not new. Migrants from all over the world are seeking a better future for themselves and their families. The reasons why people leave their countries are various. Some people move from their country looking for a better job. Others flee their country due to political instability or wars.

Therefore, there are different categories that can be distinguished. I will discuss three of them, namely asylum seekers, refugees and people who obtain subsidiary protection. These categories can all be seen as migrants. Although there are more categories to be distinguished, I will only discuss those three due to their coherence. The difference between these categories is important because there are different rules applicable.

5.1 Categories

First of all, there is the category of asylum seekers. These people are a subcategory of migrants who apply for asylum in a specific country. Basically everybody can apply for asylum, but not everyone will be granted a certain status through the procedure. The reasons to file a request for asylum are numerous. People flee their country due to wars or political instability. It is possible that people go to another country because of the poverty rate in their home country. Also, people go to another country because they are seeking a better future for themselves as for their families. It is a fact that a lot of migrants are highly-skilled; they are ambitious and determined to build up a career in a country with better future perspectives.⁶ Family is also a motive to move to another country; people often follow their family for a reunification.⁷

Next, we have the category of refugees. In the Refugee Convention of 1951 a definition of refugees is given.

"For the purposes of the present Conventions, the term 'refugee' shall apply to any person who:

(1) has been considered a refugee under the arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization; [...]

(2) as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of this nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, [...].⁸

In order to be recognized as refugee some conditions, prescribed in several laws⁹, should be met. A refugee is defined as someone who flees his or her home country because of a well-founded fear of being persecuted for reasons of race, religion, nationality ...¹⁰ People who are crossing the Mediterranean Sea, for example Syrians or Afghans, flee their

⁶ X, "Missing out. Refugee Education in Crisis", 2016, <http://www.unhcr.org/57d9d01d0>.

⁷ L. BEERNAERT, "Zeg niet migrant tegen een vluchteling. En ja, het onderscheid is belangrijk", September 2, 2015, <http://www.demorgen.be/buitenland/zeg-niet-migrant-tegen-een-vluchteling-en-ja-het-onderscheid-is-belangrijk-b7f3edaa/>.

⁸ Art. 1 of The 1951 Convention relating to the Status of Refugees, *BS* July 28, 1951.

⁹ Under the arrangements of May 12, 1926 and June 30, 1928; under the arrangements of October 28, 1933 and February 10, 1938; under the Protocol of September 14, 1939 and under the Statute of International Refugee Organization.

¹⁰ The 1951 Convention relating to the Status of Refugees, *BS* July 28, 1951.

country because of civil wars and conflicts.¹¹ Although the States are obliged to protect refugees, they also have the power to diminish the freedom of movement when they have a specific reason.¹² For example in rare situations, such as a threat for the national security or when someone entered a country illegally.¹³ A refugee needs to prove that there is a risk for being pursued because of who they are, what they do or what they believe in.¹⁴

The last category is the group of subsidiary protected people. These people obtain this status when they are not eligible for the status of refugee.¹⁵ This status protects people who are on the run for a (civil) war, inhumane treatment, torture, death penalty or execution.¹⁶ Similar to refugees, this category of people need to prove that there are serious grounds to grant them the protection. They cannot go back to their home countries because of the risk of being pursued or being treated inhumane with a possible exposure of their physical integrity.¹⁷ This protection is initially temporarily.¹⁸ After a period of 5 years and after filing a request for asylum, people can reside in Belgium for an unlimited time.¹⁹ When the conflict is still ongoing in a specific country, people who are already granted subsidiary protection, can obtain a permanent residence permit.²⁰ So, in the end, a subsidiary protected person can obtain the status of a foreigner with a final regularization.²¹

So the term migrants covers asylum seekers, refugees and subsidiary protected people. People obtain the status of refugee or subsidiary protected people through an asylum procedure.

5.2 Importance of the distinction between the categories

According to the 1951 Convention, refugees are entitled to basic protection. When they have arrived in the EU, they can apply for asylum or for another form of protection. Legally, refugees cannot be sent back to countries where their lives are at stake. This is called the principle of non-refoulement.²²

People who did not obtain any specific status, do not have the same level of protection and countries can send them back when they arrive without any formal documents. The result is that a lot of EU politicians label people who are coming to Europe as people who are not applying for asylum; people who do not want to obtain a certain status and thus people who are illegally residing here. Next, these people are treated in accordance with national migration laws and policies. Refugees are protected under international treaties.²³ Although there is a difference in protection, the human rights will always protect all migrants in the first place.

Due to the very specific situation of the refugees, they need specific help and protection to establish a humane life and have the right to be treated equally and without being discriminated.

¹¹ B. CHISWICK, "Are migrants favorably selected? An economic analysis" in C. BRETTELL and J. HOLLIFIELD (eds.), *Migration Theory. Talking across the disciplines*, New York, Routledge, 1999, 52.

¹² G. GOODWIN-GILL and J. MCADAM, *The refugee in international law*, Oxford, Oxford University Press, 2007, 35.

¹³ G. GOODWIN-GILL and J. MCADAM, *The refugee in international law*, Oxford, Oxford University Press, 2007, 462.

¹⁴ A. VAN ERP, "Migrant of vluchteling? De uitdaging van gemengde migratie", June 20, 2015, <http://www.knack.be/nieuws/wereld/migrant-of-vluchteling-de-uitdaging-van-gemengde-migratie/article-normal-580311.html>.

¹⁵ Art. 48/4 Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, *BS* December 31, 1980.

¹⁶ A. VAN ERP, "Migrant of vluchteling? De uitdaging van gemengde migratie", June 20, 2015, <http://www.knack.be/nieuws/wereld/migrant-of-vluchteling-de-uitdaging-van-gemengde-migratie/article-normal-580311.html>.

¹⁷ L. DENYS, *Overzicht van het vreemdelingenrecht*, Heule, INNI Publishers, 2015, 386.

¹⁸ "Subsidiary protection", 2012, <http://www.cgvs.be/nl/asiel/subsidiar-beschermden>.

¹⁹ X, "You are eligible for subsidiary protection in Belgium. Your rights and obligations", Office of the Commissioner General for Refugees and Stateless Persons, 2015, 7. 32p

²⁰ <http://www.kruispuntmi.be/thema/vreemdelingenrecht-internationaal-privaatrecht/verblijfsrecht-uitwijzing-reizen/asiel/wat-zijn-de-voorwaarden-voor-asiel-en-subsidiaire-bescherming>.

²¹ Art. 49/2 Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, *BS* December 31, 1980.

²² See paragraph 8. The order to leave the territory vs. the non-refoulement principle.

²³ X, "UNHCR's standpunt: vluchteling of migrant. Wat is juist?", 2015, <http://www.unhcr.be/nl/home/artikel/3829f2dc9fc715b0b695d52f59873b78/unhcrs-standpunt-vluchteling-of.html>.

5.3 Challenges for the home countries

However, the reception of refugees also creates some problems for states and Europe and even undermines European principles. Many member states re-introduced or increased border controls, which is of course questionable. Indeed, article 21 and 45 of the Treaty on the functioning of the European Union stipulates the freedom of movement within the member states and that member states must ensure an area with freedom of movement for workers.²⁴ Also article 3.2 of the Treaty of the European Union refers to the freedom of movement for workers.²⁵ Article 13 of the Universal Declaration of Human Rights states the same right.²⁶ Next to these provisions, we have the Schengen Agreement, a treaty upon which member states have agreed to abolish internal border controls.²⁷ The migration flux is really challenging these legal provisions, certainly because some people wanted to suspend the functioning of the Schengen Agreement.²⁸

Furthermore, it will be a huge challenge how states will organize their policy regarding the treatment of refugees and subsidiary protected people when they arrive. Countries like Italy, Greece and Germany, which have seen thousands of refugees entering their countries, do not have enough space anymore to accommodate them. The consequence is that the asylum seekers are being victimized by the local police. Especially in Italy where the people are being treated inhumane and disrespectful.²⁹

A state has the obligation to take care of its citizens and also migrants. So basically for every human being residing on their territory. However, a lot of countries avoid their responsibilities and find it too expensive to receive migrants. The costs in Belgium have exceeded the amount of 1 billion EUR.³⁰ The reasons why Belgium is popular for migrants is because of the fact that Belgium has a good and beneficial social security system, the unemployment rate is low, and Belgium has a stable political climate. However, migration could be seen as an opportunity and a solution for the threat Belgian social security is facing, namely the population ageing.³¹ The costs for the elderly will increase enormously.³² Compared with the European average, the total revenues and costs (in GNP ratio) of the Belgian Social Security are slightly higher. So there might be an opportunity for Belgium.

In order to protect the migrants from arbitrary and discriminatory treatment, a lot of laws are established. The next chapter will discuss some important treaties and laws concerning the position of refugees and subsidiary protected people. The law must protect human beings, but sometimes they are violated and discriminated because officials and aid workers simply do not care about the sake of refugees.³³ This cannot be tolerated. Migrants and refugees deserve a humane treatment and they should be protected due to their specific situation.

6. Legal provisions

In what follows, some rights and treaties will be discussed to provide an overview regarding the rights of migrants. Both international and national laws/treaties will be discussed.

²⁴ Art. 21 & 45 of the Treaty on the functioning of the European Union, *BS* December 25, 1957.

²⁵ Art. 3, 2° of the Treaty of the European Union, *BS* October 30, 1993.

²⁶ Art. 13 of the Universal Declaration of Human Rights, *BS* March 31, 1949.

²⁷ Schengen area and cooperation Treaty, *BS* March 26, 1995.

²⁸ K. VIDAL, "Schengen in het vriesvak. Europese migratieministers hebben principeakkoord over verlenging nationale grenscontroles", January 26, 2016, <http://www.demorgen.be/dmsselect/schengen-in-het-vriesvak-b6ce850a/>; X, "Groen licht voor verlenging grenscontroles in Schengenzone", 2017, http://www.standaard.be/cnt/dmf20170207_02717337.

²⁹ X, "Hotspot Italy: How EU's flagship approach leads to violations of refugee and migrant rights", 2016, <https://www.amnesty.org/en/documents/eur30/5004/2016/en/>.

³⁰ BELGA, "Asielcrisis kost België 1,3 miljard", October 22, 2016, <http://www.demorgen.be/buitenland/asielcrisis-kost-belgie-1-3-miljard-bf93cba7/>.

³¹ D. MOENS, M. MINGIEDI & C. NUYENS, "Sociale bescherming in België ESSOBS data 2014", 2016, <http://socialsecurity.belgium.be/sites/default/files/essobs-2014-nl.pdf>.

³² P. PESTIEAU and J. STIJNS, "Social security and retirement in Belgium" in J., GRUBER & D., WISE, *Social security around the world*, Chicago, University of Chicago Press, 1999, 37-71.

³³ <https://www.amnesty.org/en/latest/campaigns/2016/11/hotspot-italy/>.

6.1 Human rights treaties

As mentioned before, the human rights treaties will protect migrants (asylum seekers, refugees and subsidiary protected people) in the first place and some of these applicable basic human rights will be discussed.

6.1.1 Universal Declaration of Human Rights

First of all, the Universal Declaration of Human Rights is one of the most important legal documents in the world regarding human rights. The right to be treated equal in dignity and rights, the right to life and the right to equal treatment before the law are in my opinion the most important articles.³⁴ If people are not treated equally, they will not have the same rights and opportunities to achieve something in life. The right to life is a very broad right, but it is probably the most basic right in one's life.

Article 13 is the first article which actually stipulates something about the freedom of movement. It is stated that everybody has the right to freely go and stand within the borders of every state and should be able to travel to a country and returning without any constraints. Article 14 is about the right to apply for asylum in other states. This right is not absolute; people who are a risk for the national security or public safety can be expelled from international protection.³⁵ Lastly, article 23 stipulates the right to work. People get a lot of recognition through work and they become financially independent.

All these rights of this milestone document are equally important and should be bared in mind. Thus, it is seen as a common standard.

6.1.2 Convention on the Rights of the Child

Beside the Universal Declaration of Human Rights, there is the Convention on the Rights of the Child.³⁶ The United Nations have proclaimed that children need additional and special care because they are vulnerable and the future of our society. They are convinced that children should grow up in an environment full of family, love and peace.³⁷ Filippo Grandi, UN High Commissioner for Refugees, remarks that more than half of all asylum-seekers are minors. So it is important that they get the best care and assistance.³⁸

Article 22 provides the right for additional assistance for children who are seeking a refugee status. Children, without any parents or family, are extremely vulnerable in situations where they do not know anybody. States must take convenient measures to ensure protection for these minors.³⁹ Next, article 26 stipulates the right for children to benefit from the social security. Literally, it says 'benefit' because minors do not have a right on social security. Parents or a guardian are entitled to that right; children have the right to benefit from it.⁴⁰

6.1.3 International Covenant on Economic, Social and Cultural Rights

The dignity of a person is important. A human should be able to enjoy life without living in fear. A human must enjoy his economic, social and cultural rights.⁴¹ This is why the International Covenant on Economic, Social and Cultural Rights ('ICESC') is established.⁴² Article 6 says that everybody has the right to work and the right to gain a living. This is an

³⁴ Arts. 1, 3 & 7 of the Universal Declaration of Human Rights, *BS* March 31, 1949.

³⁵ S. KAPFERER, "Art 14(2) of the Universal Declaration of Human Rights and Exclusion from International Refugee Protection", in *X, Refugee Survey Quarterly*, Oxford, Oxford University Press, 2008, 55. 53-75.

³⁶ Convention on the Rights of the Child, *BS* January 17, 1992.

³⁷ Convention on the Rights of the Child, 2017, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>.

³⁸ X, "Missing out. Refugee Education in Crisis", 2016, <http://www.unhcr.org/57d9d01d0>.

³⁹ S. DETRICK, *A commentary on the United Nations Convention on the Rights of the Child*, The Hague/Boston/London, Martinus Nijhoff Publishers, 1999, 364. (801p)

⁴⁰ W. VANDENHOLE, *A commentary on the United Nations Convention on the Rights of the Child, article 26: The Right to Benefit from Social Security*, The Hague/Boston/London, Martinus Nijhoff Publishers, 2007, 15. (48p)

⁴¹ International Covenant on Economic, Social and Cultural Rights, 2017, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.

⁴² International Covenant on Economic, Social and Cultural rights, *BS* July 6, 1983.

important article as ICESCR is one of the two treaties that gives legal force to the Universal Declaration (together with the International Covenant on Civil and Political Rights).⁴³ As mentioned above, work is the first step towards security and independency. These rights form undoubtedly the basis for human dignity. When people are working, they will be able to provide for their families without asking the authorities for money or allowances.⁴⁴ Next, article 7 says that every person must have the enjoyment of just and favorable conditions of work. This article refers to equal rights during employment. People may not be discriminated because they have a different ethnic background. Lastly, article 9 stipulates the right for everyone to social security including a social insurance. Social security includes healthcare, pensions and other allowances. Social security is important to prevent social exclusion and it can help bringing down the poverty rate.⁴⁵

6.1.4 1951 Refugee Convention

Finally, the 1951 Refugee Convention, lists several articles⁴⁶ in which it stipulates a lot of rights for the refugees. Article 17 for example says that every state has to treat every refugee, who is residing on a regular basis in a specific state, with respect to employment. This right is stated in several other treaties. The importance of this right cannot be underestimated. A good job creates opportunities to a better future and ambitious people should make the best of it. Articles 18 and 19 elaborate this topic by stating the same for self-employment and liberal professions such as doctors and notaries. Lastly, article 24 handles the equal treatment in labour legislation and social security rights.

It is vital that the international society agrees on some fundamental rights for the refugees which guarantee their securities. Several treaties repeat similar rights. This emphasizes the importance of these rights. However, it is sometimes not enough to provide refugees with the resources and care they deserve. There is always room for improvement. In the following paragraphs, it will become clear that also on the European and on national level, a lot of laws are established.

6.2 European migration and asylum law

The European migration and asylum policy is quite elaborated. The basis for this policy is stipulated in article 67 and 78 of the Treaty on the functioning of the European Union⁴⁷ and article 18 of the EU Charter of Fundamental Rights.⁴⁸ The EU Charter also stipulates important rights regarding education, asylum rights, access to the labour market and social security rights.⁴⁹ The European Court of Human Rights (ECHR) plays an important role in maintaining the policies.

In 1999, the European Council came together in what is called the 'Tampere summit'. This agreement led to the establishment of the Common European Asylum System (CEAS).⁵⁰ The aim of CEAS is to improve the legal framework in Europe regarding asylum. I will describe a lot of initiatives which have been taken afterwards.

⁴³ <https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties/international-covenant-economic-social>.

⁴⁴ General Comment No. 18: The Right to Work (Art. 6 of the Covenant), UN Committee on Economic, Social and Cultural Rights (CESCR), February 6, 2006.

⁴⁵ General Comment No. 19: The right to social security (Art. 9 of the Covenant), UN Committee on Economic, Social and Cultural Rights (CESCR), February 4, 2008.

⁴⁶ Arts. 17-19 & 24 of the 1951 Convention relating to the Status of Refugees, *BS* July 28, 1951.

⁴⁷ Arts. 67 and 78 of the Treaty on the functioning of the European Union, *BS* December 25, 1957.

⁴⁸ Art. 18 of the EU Charter of Fundamental Rights, *BS* December 18, 2000.

⁴⁹ Arts. 14, 18, 29 & 34 of the EU Charter of Fundamental Rights, *BS* December 18, 2000.

⁵⁰ Tampere European Council, 15 & 16 October 1999, presidency conclusions, SN 200/99.

6.2.1 The Dublin Convention and Eurodac

In 1990, several European states have signed a treaty called the Dublin Convention.⁵¹ It determines which country is responsible for the asylum procedure. In 2003⁵², the treaty was converted into law, which led to the direct effect character of the law.⁵³ 10 years later⁵⁴, member states adjusted the text slightly. The ratio legis behind the law is that on the one hand countries avoid their responsibility in any case. On the other hand, asylum seekers can go to every EU country until they finally receive an approval from a country. The purpose of the Dublin procedure is to guarantee that the asylum procedure is handled by the responsible authorities and that people do not file multiple requests in different countries to extend their stay in Europe.⁵⁵ States also wanted to avoid that an asylum seeker is sent from country to country. However, in reality this is actually the case.

For example, a man arrives in Italy, but he has to go to France because of the fact that his family lives there. The country with the strongest bond with the individual is responsible for the asylum procedure and the primary rights of the asylum seeker.⁵⁶ The Dublin Convention obliges the state to inform the applicant properly.⁵⁷ As soon as a request is filed, the immigration office provides information about the consequences of the Dublin Convention. They also provide the criteria and ranking to determine which country is responsible for the request.⁵⁸

To facilitate this whole procedure, Eurodac⁵⁹ is established to support the functioning of the Dublin Convention. This is a European database containing digital fingerprints of asylum seekers and people without any formal documents. Countries always check the fingerprints at the beginning of an asylum procedure to make sure whether they are responsible for that person and for the following procedure.

The whole system is far from effective. In Europe, every country should apply the same asylum procedure, which is certainly not the case.⁶⁰ States try to pass their responsibility to other states, which results in people who have to flee constantly from country to country.

In the past, Belgium has been sentenced by the European Court of Human Rights because of a violation of article 3 of the European Convention on Human Rights⁶¹ for sending back a person to Greece where he was treated inhumane and in a degrading way.⁶² An Afghan had let Kabul behind him to flee the civil wars. In the end he arrived in Greece where he had to give his fingerprints. However, he did not want to apply for asylum because he had family in the Netherlands (and since Belgium is closer to The Netherlands than Greece) and he was determined that Belgians are more polite and

⁵¹ X, "Wat is Dublin? Vluchtelingenwerk Vlaanderen", 2016, https://www.vluchtelingenwerk.be/sites/default/files/wat-is-dublin_v04-201602-distribution.pdf.

⁵² Council Regulation (EC) No 343/2003 of 18 February 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, *BS* February 17, 2003.

⁵³ HvJ February 5, 1963, *Van Gend en Loos*.

⁵⁴ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, *BS* July 19, 2013.

⁵⁵ X, "I'm in the Dublin procedure – what does this mean?", Leaflet EU, 2014, 4.

⁵⁶ X, "Wat is Dublin? Vluchtelingenwerk Vlaanderen", 2016, https://www.vluchtelingenwerk.be/sites/default/files/wat-is-dublin_v04-201602-distribution.pdf.

⁵⁷ S. JACOBS, *Het opvang*

recht en andere sociale rechten voor meerderjarige asielzoekers tijdens de asielprocedure, onuitg. Masterproef, KULeuven, 2013, 9.

⁵⁸ L. DENYS, *Overzicht van het vreemdelingenrecht*, Heule, INNI Publishers, 2015, 315.

⁵⁹ Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention, *BS* December 15, 2000.

⁶⁰ X, "Asylum applicants and first instance decisions on asylum applicants: 2014", 2015, <http://ec.europa.eu/eurostat/documents/4168041/6742650/KS-QA-15-003-EN-N.pdf/b7786ec9-1ad6-4720-8a1d-430f9c55018>.

⁶¹ Art. 3 of the European Convention of Human Rights, *BS* August 19, 1955; Cfr. *Infra*.

⁶² EHRM January 21, 2011, *M.S.S. v. Belgium and Greece*.

hospitable. The Belgian authorities gave him the order to leave the country because the authorities were of the opinion that Greece was responsible for this person.

In the end, there was a lot of confusion about the applicable conditions to be responsible for the asylum procedure. Is it decisive when a person files a request for asylum or is the country responsible when a person enters its territory illegally? If a person has a family member in another Dublin country, that country will be responsible for the asylum procedure. Then there are the conditions of filing an asylum request and providing the fingerprints. Lastly, a country can be responsible when the person has travelled to that country. These factors are in order of importance.⁶³

6.2.2 European migration policy

A couple of years ago, states felt the need to have a coherent migration system available. In 2008⁶⁴, some thoughts were put together. A common migration policy for Europe started to develop. Based on ten principles, divided in the 3 most important principles of the European Union, prosperity, solidarity and security, a document was drafted. A partnership between the EU states and institutions was established to deliver the policy. States agreed on an annual follow-up of the system. First of all, it is important to create a policy that is transparent and accessible for everyone. The fair treatment of the EU nationals should be guaranteed through this policy. Integration is also an important topic. This can be done by promoting integration programs or by developing means to increase the participation of migrants in society. States believed that solidarity would increase through coordination between EU countries and goodwill by non-EU countries, by means of a partnership.⁶⁵ Another crucial fact is that the policy has to protect the people and that it must fight against illegal migration. There is a zero tolerance policy for people who are illegally residing in a country or people who are involved in human trafficking. Furthermore, a border control is necessary when thousands of people are coming to Europe, with respect for the Schengen Area.

Having heard all the initiatives and bright ideas, EU states finally agreed on the formulation of a migration policy to safeguard that migration in the EU is regulated effectively, to enhance the current situation for migrants and to facilitate the cooperation between home and host country. The goals of the policy are listed in The Stockholm Programme, a guideline for enhancing the EU's migration policy.⁶⁶ The measures and scope of this Programme are a reflection of the initial initiatives of 2008.⁶⁷ It is a global approach to migration. It is the extrinsic dimension of the European Union's policy. A structure is created to facilitate interaction and cooperation with non-EU countries. Three main goals are included in the Programme. First of all, it is important to strengthen the mobility and legal migration through Europe. Next, the policy has to provide a consistent framework of policy making within the European Union. Finally, legal migration must be supported and at the same time, the policy has to fight against illegal migration. Cooperation and coordination with third party countries is of vital importance to succeed.

6.2.3 European Social Fund, European Migration Network and the tackling of terrorism

Besides all these legal documents, some institutions are established to facilitate this whole process and to support member states. In order to provide people with better and fairer jobs, the European Social Fund ('ESF') has been established.⁶⁸ The purpose of this institution is to support jobs, helping people get better jobs and to make sure that everyone has access to fair job opportunities in the EU. Work is the most effective way to make people feel independent. Moreover, financial security is vital and the feeling that people belong to a certain group will definitely help the integration process. Racism, discrimination and not being able to speak the language in a host country results in the

⁶³ X, "I'm in the Dublin procedure – what does this mean?", Leaflet EU, 2014, 7.

⁶⁴ X, "A common immigration policy for Europe", 2011, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:jl0001>.

⁶⁵ X, "A common immigration policy for Europe", 2011, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:jl0001>.

⁶⁶ X, "The Stockholm Programme. An open and secure Europe serving and protection the citizens", 2009, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/the_stockholm_programme_-_an_open_and_secure_europe_en_1.pdf.

⁶⁷ X, "The future of the EU migration policy", 2016, http://ec.europa.eu/immigration/who-does-what/more-information/the-future-of-the-eu-migration-policy-general-context-and-new-initiatives_en.

⁶⁸ X, "Europees Sociaal Fonds. Iedereen een kans", 2013, <http://ec.europa.eu/esf/main.jsp?catId=50&langId=nl>.

fact that people stay in the margin of society.⁶⁹ ESF funds thousands of projects around Europe to give people, who are struggling in society and people who are underprivileged, the opportunity to acquire certain competences in the first place. Once people are ready for the labour market, they guide people to get a job. ESF strives to tackle social exclusion. They emphasize the importance of jobs to eliminate discrimination, exclusion and poverty out of society. In 2008, the Council made a decision which resulted in the establishment of a European Migration Network ('EMN').⁷⁰ Some years earlier, there was a lot of lobbying to set up an institution which provides countries with up-to-date migration information which is objective and decisive. This information can help society to support the regulatory functioning in the European Union.⁷¹

European institutions and legal documents are established for the well-being of asylum seekers. It is a good thing that Europe is willing to help the asylum seekers (and not necessarily every migrant because not every migrant need help) by giving them primary help. However, nowadays it is very hard to meet the standards of a humane treatment because of the huge influx of foreigners in Europe. Furthermore, we are under a constant threat of terror which makes border controls, for people who are entering the European Union, more and more important. Europe has invented a new system, per analogy the ESTA-form of the USA, Australia and Canada, with the objective to tackle terrorism.⁷² The purpose of this system is to reduce the safety risks. As from 2020, the system should be integrated in Europe. Such solid and transparent policies regarding the procedures can help member states to fulfill their responsibilities.

6.3 Belgian law

6.3.1 Belgian Constitution

If we have a look at the national level, everything starts with the Belgian Constitution⁷³. Article 22 stipulates the right to respect the family and private life. Article 22 *bis* lists up the same rights for children. Article 23 continues with the right on a decent life, which is for example the right to labour and the freedom of choice regarding employment. There is one specific article which deals with foreigners, namely article 191. It says that every foreigner, who is residing on Belgian soil, must have the same protection as Belgian citizens regarding their goods and the personal integrity, apart from exclusions by the law.

6.3.2 Belgian law regarding access to the territory, the stay, location and expulsion of foreigners

In 1980, a Belgian law regarding access to the territory, the stay, location and expulsion of foreigners was established.⁷⁴ Article 9bis stipulates that two categories of people do not need to have an ID to stay on Belgian soil. First of all, the asylum seekers whose request is not rejected or whose request is handled by the Raad van State for an appeal. Next, foreigners who can prove legitimately that they do not have any documents. Article 10 continues listing up the categories that are allowed to stay in Belgium for longer than 3 months. For example a foreigner whose right to stay is acknowledged by a law or treaty or a foreigner with all the necessary conditions to become a Belgian citizen. As already stated above, it is important to know for a person, when he or she is obliged to go back to his or her home country. This is the case when a person forms a threat for the national security or when a person does not live up to imposed conditions.⁷⁵ Vice versa, it is good to know when a person cannot be sent back, for humanitarian reasons for example (= non-refoulement).⁷⁶ In 2016, the law has been modified. One of the most important changes is that people, who

⁶⁹ X, *The European Social Fund at work. More jobs, less marginalization*, EU Publications Office, 2013, 4.

⁷⁰ Council Decision of May 14, 2008 establishing a European Migration Network, 2008/381/EC, *BS* May 21, 2008.

⁷¹ <https://www.emnbelgium.be>.

⁷² A., PIROTTE, "Europa verstrengt toegang tot grondgebied", *De Juristenkrant* 2016, nr. 339, 2.

⁷³ Coordinated Constitution of Belgium, *BS* February 17, 1994.

⁷⁴ Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, *BS* December 31, 1980.

⁷⁵ Art. 20 Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, *BS* December 31, 1980.

⁷⁶ Art 21 Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, *BS* December 31, 1980.; Cfr. *Infra*.

are a threat for the public health, can be sent back to their home country or can be transferred to another country. The modification was necessary to comply with the Schengen Code.⁷⁷

6.3.3 Belgian law for the reception in Belgium for refugees and other categories of foreigners

The reception of migrants needs to be sufficient to provide these people with basic rights and resources. The law of January 12, 2007⁷⁸ is important for the reception in Belgium, for refugees and other categories of foreigners. This law has converted the Directive of the Council of the European Union.⁷⁹ The objective of the law is to sum up standards for the reception of people in need to assure them a humane treatment. The law also wants to harmonize the standards of the different member states. Material support⁸⁰, such as food, clothing, medical, social and psychological help is provided when people meet several conditions. I will come back to this when I am discussing the asylum procedure and the rights applicable on asylum seekers.

Theo Francken, State Secretary for Asylum and Migration, has put forward the idea of a 'new arrival declaration'.⁸¹ People who are arriving here, have to sign a declaration in which they respect the European rights, duties and values. The purpose of this document is to make 'new arrivals' aware of the European standards and values, but also of the Belgian Constitution. This declaration counts as condition for an admissible request of stay. However, the authorities have not yet reached an agreement on this topic. Anyway, 'new arrivals' have to show effort and intention that they really want to integrate in a certain country. If a foreigner fails to show some commitment, his or her stay can be terminated.⁸²

To sum up, I can conclude that a lot of international and national laws and policies are established. However, in reality it is often the case that the theory is not the same as practice. The implementation of the theory in practice cannot be underestimated. The next part will discuss the asylum procedure and the rights which are applicable on the refugees and subsidiary protected people.

7. Arrival in Belgium, access to the Belgian labour market and the right to social rights

As mentioned before, the Belgian social security provides a good protection. For social insurance schemes such as pensions, unemployment and health insurance, the rule is that everybody, who is legally residing and working in Belgium, can benefit from the system. This means that practically everybody, Belgians and migrants, have to participate in the system in order to benefit from it.⁸³

Accessibility to employment is crucial for the integration of a migrant. A lot of migrants and people who have obtained international protection, are highly-skilled. These people can help growing the economy of the European Union.⁸⁴

⁷⁷ Wet van 4 mei 2016 houdende diverse bepalingen inzake asiel en migratie en tot wijziging van de wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen en de wet van 12 januari 2007 betreffende de opvang van asielzoekers en van bepaalde andere categorieën van vreemdelingen, *BS* June 27, 2016.

⁷⁸ Wet van 12 januari 2007 betreffende de opvang van asielzoekers en van andere categorieën van vreemdelingen, *BS* May 7, 2007.

⁷⁹ Council Directive 2003/9/EG of January 27, 2007 laying down minimum standards for the reception of asylum seekers, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3A133150>.

⁸⁰ <http://fedasil.be/nl/inhoud/wettelijk-kader-0>.

⁸¹ T., T. "Francken past nieuwkomersverklaring aan na kritiek Raad van State", June 9, 2016,

<http://www.demorgen.be/binnenland/francken-past-nieuwkomersverklaring-aan-na-kritiek-raad-van-state-b02edc8a/>.

⁸² X, Behoud verblijf wordt afhankelijk van integratie-inspanningen, Agentschap integratie en inburgering, January 18, 2017, <http://www.kruispuntmi.be/nieuws/behoud-verblijf-wordt-afhankelijk-van-integratie-inspanningen>.

⁸³ V. CORLUY, I. MARX & N. MUSSCHE, "Toegang van migranten tot de sociale zekerheid. Beleid en praktijk in België. Studie voor het Belgische Nationaal Contactpunt van het Europese Migratienetwerk, 6, https://emnbelgium.be/sites/default/files/publications/toegang_van_migranten_tot_de_sociale_zekerheid._beleid_en_praktijk_in_belgie.pdf.

⁸⁴ Communication of the Commission to the Council, the European Parliament, the European Economic & Social committee of the regions regarding immigration, integration and employment, Brussels, June 3, 2003, 20.

Education and trainings have a key factor in a successful integration. Migrants, who have a poor history, are facing big issues when they have to approve their academic degrees and qualifications. Also, language is important; host countries find it important that migrants are able to speak the language.⁸⁵ Belgium has a structural resettlement program to receive people in good faith. The aim is to seek for a long-term solution for people who are fleeing their countries. In 2013, Belgium agreed to resettle 100 refugees. In 2016 and 2017, Belgium agreed on the resettlement of 550 people in each year. However, not everyone is eligible for resettlement. In order to be resettled, a person must meet the criteria stipulated in the 1980 Immigration Act.⁸⁶

7.1 Asylum procedure

What does the asylum procedure look like? Where are asylum seekers being received? Which rights do they have during the asylum procedure? All these questions will be answered in this part of the thesis. An overview of the procedure and main rights of asylum seekers will be given.

Before the actual discussion of the procedure, it is useful to look into some facts and figures. In January 2015, more than 1.700 asylum requests have been filed. 2015 has been a record year since there were more than 44.500 asylum requests. If we compare it with 2016, there is a significant decrease in requests; 'only' 18.710 requests were filed. The future prospects teach us that the requests in 2017 will decrease further.⁸⁷

7.1.1 Actual procedure

The procedure consists of 4 different phases. First of all, the asylum seeker files a request for asylum at the immigration office (= Dienst Vreemdelingenzaken 'DVZ'). This request has to be filed within 8 days upon arrival on Belgian's territory.⁸⁸ As from that moment, the procedure has started and it is possible that the individual will be interrogated and that officials will search his/her body just out of precaution.⁸⁹ During the procedure, the asylum seeker has the right to stay in Belgium. After the first phase, the immigration office has registered the request. They investigate if Belgium is responsible for the asylum procedure.⁹⁰ There are 2 possibilities. On the one hand, it is possible that the immigration office sends the asylum seeker to another country because Belgium is not responsible. The asylum seeker has the right to appeal this decision at the Council for Alien Law Litigation (=Raad voor Vreemdelingenbetwistingen 'RvV'). On the other hand, it is possible that the immigration office sends the request to the Commissioner General for Refugees and Stateless Persons ('Commissariaat-Generaal voor de Vluchtelingen en Staatslozen' 'CGVS').

Phase 3 starts with an investigation of the CGVS. This institution has the power to grant the status of subsidiary protection or the refugee status. There will be an overall investigation if the person meets the conditions to be granted a certain status: the person will be heard, a questionnaire has to be filled out, an address has to be provided ...⁹¹ The first option is that the asylum seeker obtains recognition as refugee according to the Refugee Convention of 1951. Next, the asylum seeker can obtain the temporary status of a subsidiary protected person. The last option is that the asylum request is denied.⁹² The consequence is that the asylum seeker gets the order to leave the territory.

The last phase in the procedure is the 'appeal phase'. Both the authorities and the asylum seeker can appeal at the RvV. During that appeal, the asylum seeker has the right to stay in Belgium and to enjoy his rights. The Council can

⁸⁵ Communication of the Commission to the Council, the European Parliament, the European Economic & Social committee of the regions regarding immigration, integration and employment, Brussels, June 3, 2003, 21.

⁸⁶ Resettlement and humanitarian admission in Belgium. Study of the Belgian contact points of the European Migration Network (EMN), December 2016, 5-11.

⁸⁷ CGVS asielstatistieken overzicht 2016, http://www.cgvs.be/sites/default/files/asielstatistieken_2017_feb_nl.pdf.

⁸⁸ Art. 50 Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, *BS* December 31, 1980.

⁸⁹ Art. 51/3bis Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, *BS* December 31, 1980.

⁹⁰ Conform the Dublin Convention.

⁹¹ Art. 52 e.v. Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, *BS* December 31, 1980.

⁹² X, *Gids van de asielprocedure in België (Nederlands)*, Brochure CIRE Brussel, 2008, 33.

confirm the decision of the CGVS which results in a denial. The Council can also reform the decision of the CGVS. This gives the asylum seeker the right to stay. The third and last option is that the Council breaks down the decision of the CGVS. The file will be sent back to the CGVS for further investigation.⁹³

It is obvious that individuals who are applying for asylum, are granted some basic rights. We have seen that there are multiple categories of people in this migration issue. It is important to distinguish between these categories because different categories mean different rights and different policies. In what follows, some basic rights will be discussed for the asylum seeker and more specific for the refugee who is recognized under the Refugee Convention and the subsidiary protected people.

7.1.2 Several basic rights

In order to be entitled to important rights, such as the right to work and other rights, foreigners need to have a legal document to reside on Belgium's territory. 'Bijlage 26' (or 'Bijlage 25' when they file a request for asylum at the border) and a document of registration suffice for asylum seekers. Refugees under the 1951 Convention need a residence permit type A (before July 2017, they needed a residence permit type B). Subsidiary protected people also need a residence permit type A.⁹⁴

7.1.2.1 Right to work

Work will definitely help individuals to integrate into society. Through employment, they gain money to participate in society, they get to know people... They are simply doing something useful; useful for themselves and for society. If we have a look at the different categories, we will see that different rules are applicable for each status. Before the different categories are discussed, it is useful to set out the different work permits. Work permit type A, which grants the person to work for an unlimited time as employee (every profession is eligible for this type of work permit). Next, work permit type B grants people to work for maximum 12 months and for 1 single employer. Lastly, work permit type C is for every profession for a limited period of time.⁹⁵ Normally, foreigners need a permit to work, but there is an exception.

First of all, asylum seekers are entitled to work if on the one hand they have filed a request for asylum and on the other hand after a 'waiting period' of four months wherein investigations take place.⁹⁶ The period of four months starts as from the request. The CGVS cannot take any decision during that period. The asylum seekers can work with a work permit type C until the CGVS or the RvV has taken a decision. Next, refugees under the 1951 Convention have the same social rights as Belgian citizens.⁹⁷ Normally, refugees can only work as an employee when the employer is legally entitled to offer the job and when the employee (i.e. the refugee) has a work permit type B.⁹⁸ But, there is an exception for refugees under the 1951 Convention. They are exempted from these two conditions, as mentioned here. This means that this category of migrants can work without a work permit. This is a result of article 17 of the 1951 Convention which states the right to work.⁹⁹ The last category, subsidiary protected people, have largely the same social rights as Belgians. They have a foreigner permit A, which has to be renewed every year in order to work with a work permit type C.¹⁰⁰ It is also possible that they work as a self-employed person. Another result of this policy is that, after 5 years, when they are entitled for an unlimited stay, they do not need a work permit anymore to work.¹⁰¹

⁹³ Welk traject legt een asielzoeker af? Welke rechten heeft een vluchteling of subsidiair beschermd? 14 juli 2016, Agentschap integratie & inburgering, 2.

⁹⁴ Vluchtelingen: traject, statuut, sociale rechten ... Agentschap integratie & inburgering. 19-20, http://www.integratie-inburgering.be/sites/default/files/atoms/files/PPT_infomomentenvluchtelingen_traject%20en%20statuut.pdf.

⁹⁵ Art. 3 Royal Decree regarding employment of foreign employees, *BS* June 26, 1999.

⁹⁶ Art. 17, 1° a/b Royal Decree regarding employment of foreign employees, *BS* June 26, 1999.

⁹⁷ Arts. 23-24 of the 1951 Convention relating to the Status of Refugees, *BS* July 28, 1951.

⁹⁸ Art. 4-5 Royal Decree regarding employment of foreign employees, *BS* June 26, 1999.

⁹⁹ Art. 17 of the 1951 Convention relating to the Status of Refugees, *BS* July 28, 1951.

¹⁰⁰ Art. 17, 2° Royal Decree regarding employment of foreign employees, *BS* June 26, 1999.

¹⁰¹ Art. 2, 3° Royal Decree regarding employment of foreign employees, *BS* June 26, 1999.

Each category can do voluntary work. The formalities, which will not be discussed in this thesis, depend on the category.¹⁰²

7.1.2.2 Housing

Only the rules applicable in Flanders will be discussed here. Subsidiary protected people and refugees under the 1951 Convention are eligible for social housing or rent subsidies under a few conditions. It is important to note that asylum seekers, during the procedure, do not have these rights. They are entitled to the federal support regarding housing, financially supported by the federal government.

Both subsidiary protected people and refugees under the 1951 Convention can enroll for a subsidized housing program. There is no primacy in the allocation of a house but there are a few conditions to be allocated a house: they need to be registered at the commune, willing to learn the Dutch language and to integrate in the society and they have to fulfill some payment and property conditions.

When they are granted the right to subsidized housing, they are put on a waiting list. After a period of four years, they can obtain a rent allowance.¹⁰³ There are obviously also some conditions to be eligible for this allowance. People with a low income, can be granted a rent subsidy. In order to be granted such a subsidy, people cannot earn more than 17,500.00 EUR (plus 1,570.00 EUR per dependent person). Once a person is granted a subsidy, he or she gets 125.57 EUR (plus 20.93 EUR per dependent person) during a period of maximum 9 years or for the period while being on the housing list.¹⁰⁴

7.1.2.3 OCMW support

The OCMW supports individuals in need in different kinds of disciplines. They offer overall social services such as healthcare, housing, reception of asylum seekers ... OCMW supports categories of individuals who are not supported because of the fact that they do not meet certain conditions.¹⁰⁵ The law states that every individual who cannot live a humane life, is eligible for OCMW support.¹⁰⁶ Foreigners are often in a precarious and uncertain situation which makes social support from OCMW essential. The advantage of the support is that they do not set nationality as a condition. So every foreigner is eligible for OCMW support, when some conditions are met.¹⁰⁷ However, even this system has its restrictions. It is imperative that a foreigner resides legally on Belgium soil.¹⁰⁸ Again, there is an exception to the exception, namely people who are in need for urgent medical help and families with children.¹⁰⁹

The city or commune where the individual is registered, determines the responsibility of a certain OCMW. Note that this support is in most cases not for illegal foreigners (asylum seekers whose request is denied).¹¹⁰ When an asylum request has been approved, the refugee or the subsidiary protected individual gets a residence permit and he or she can start seeking for a place to stay. During that journey, they can stay for another two months in the place where they have resided during the asylum procedure and they are entitled to have help of a social assistant.¹¹¹

¹⁰² Vluchtelingen: traject, statuut, sociale rechten ... Agentschap integratie & inburgering. 19-20, http://www.integratie-inburgering.be/sites/default/files/atoms/files/PPT_infomomentenvluchtelingen_traject%20en%20statuut.pdf.

¹⁰³ Sociale (grond)rechten van asielzoekers, erkende vluchtelingen en subsidiair beschermden. Kapstokken voor een integrale begeleiding, March 16, 2017, Agentschap integratie & inburgering, 28.

¹⁰⁴ Welk traject legt een asielzoeker af? Welke rechten heeft een vluchteling of subsidiair beschermd? 14 juli 2016, Agentschap integratie & inburgering, 4-6; <https://www.vlaanderen.be/nl/bouwen-wonen-en-energie/huren-en-verhuren/de-vlaamse-huursubsidie>.

¹⁰⁵ D. TORFS, "De vreemdeling en het recht op maatschappelijke dienstverlening", *Soc. Kron.* 2015, nr. 2, 49.

¹⁰⁶ Art. 1 Organieke wet betreffende de openbare centra voor maatschappelijk welzijn, *BS* August 5, 1976.

¹⁰⁷ X, *Gids van de asielprocedure in België (Nederlands)*, Brochure CIRE Brussel, 2008, 54.

¹⁰⁸ Art. 57, §2 Organieke wet betreffende de openbare centra voor maatschappelijk welzijn, *BS* August 5, 1976.

¹⁰⁹ Arbitragehof June 30, 1999, nr. 80/99, *BS* November 24, 1999.

¹¹⁰ F. CRAUWELS, *OCMW en vreemdelingen. Verzamelmap instructies en richtlijnen*, Brussel, Politeia, 2013, 6.

¹¹¹ Art. 31 Wet van 12 januari 2007 betreffende de opvang van asielzoekers en van andere categorieën van vreemdelingen, *BS* May 7, 2007.

Since the "Opvangwet" of 2007, the OCMW's are no longer responsible for offering reception and shelter to asylum seekers.¹¹² Article 10 of the "Opvangwet" stipulates this and article 57ter from the OCMW law goes further on this matter.¹¹³ There is still so much that OCMW can do for people. Asylum seekers are entitled to B-B-B (Bed, Bread & Bath). So basically, they are offered basis provisions.¹¹⁴ Both subsidiary protected people and refugees under the 1951 Convention are entitled to OCMW support by means of an allowance ('leefloon').¹¹⁵ The financial support from the OCMW, granted to refugees and subsidiary protected people, can already be given as from the allotment of those two specific positions.¹¹⁶

The right on material reception ends when the asylum procedure has come to an end.¹¹⁷ When an asylum seeker's request has been denied, he or she has to leave the country. When a request is approved or when a status is being granted, different rules and policies will be applicable.

7.1.2.4 Healthcare

The right to be treated compassionate and to live a humane life is vital and in my opinion the most important right that an individual can have. It is for example stated in the Belgian Constitution.¹¹⁸ Healthcare is an important element regarding this topic. Everybody should have the right to be offered medical help. Asylum seekers and other people who are eligible under the Opvangwet, have the right to healthcare and medical support in order to live a humane life.¹¹⁹ The law stipulates the medical support that will be given.¹²⁰ It is important to notice that the medical help and support under the Opvangwet is not the same as the OCMW support. The support from the latter is only in cases when people need urgent medical help and when they are not eligible for help under the Opvangwet (illegal people/people who received a denial for example).¹²¹

When an asylum seeker has paid invoices from a hospital for example, they have the right to be reimbursed by Fedasil¹²² or OCMW. The reimbursement varies from the situation. When the asylum seeker is working, he or she needs to join a health insurance. A subsidiary protected individual or a refugee under the 1951 Convention is obliged to join a health insurance as well as their family members. But there are exceptions. Sometimes, the OCMW can decide to cover the costs when a person is for example being hospitalized or when the costs are high. The OCMW takes this decision autonomously.¹²³

¹¹² D. TORFS, "De vreemdeling en het recht op maatschappelijke dienstverlening", *Soc. Kron.* 2015, nr. 2, 61 (49-62).

¹¹³ Art. 10 Wet van 12 januari 2007 betreffende de opvang van asielzoekers en van andere categorieën van vreemdelingen, *BS* May 7, 2007; Art. 57 Organieke wet betreffende de openbare centra voor maatschappelijk welzijn, *BS* August 5, 1976.

¹¹⁴ Vluchtelingen: traject, statuut, sociale rechten ... , Agentschap integratie & inburgering. 19, http://www.integratie-inburgering.be/sites/default/files/atoms/files/PPT_infomomentenvluchtelingen_traject%20en%20statuut.pdf.

¹¹⁵ Vluchtelingen: traject, statuut, sociale rechten ... , Agentschap integratie & inburgering. 19-20, http://www.integratie-inburgering.be/sites/default/files/atoms/files/PPT_infomomentenvluchtelingen_traject%20en%20statuut.pdf.

¹¹⁶ Welk traject legt een asielzoeker af? Welke rechten heeft een vluchteling of subsidiair beschermde? 14 juli 2016, Agentschap integratie & inburgering, 3.

¹¹⁷ P. BAEYENS en L. OKLADNICOFF, "De opvang van asielzoekers en vluchtelingen: wat houdt het recht op opvang in en welke rol hebben de lokale besturen daarin?", *T. Gem.* 2016, 181-185.

¹¹⁸ Art. 23 Coordinated Constitution of Belgium, *BS* February 17, 1994.

¹¹⁹ P. BAEYENS en L. OKLADNICOFF, "De opvang van asielzoekers en vluchtelingen: wat houdt het recht op opvang in en welke rol hebben de lokale besturen daarin?", *T. Gem.* 2016, 188.

¹²⁰ Arts. 23-29 Wet van 12 januari 2007 betreffende de opvang van asielzoekers en van andere categorieën van vreemdelingen, *BS* May 7, 2007.

¹²¹ P. BAEYENS en L. OKLADNICOFF, "De opvang van asielzoekers en vluchtelingen: wat houdt het recht op opvang in en welke rol hebben de lokale besturen daarin?", *T. Gem.* 2016, 189.

¹²² They are responsible for the reception of asylum seekers and they strive for equal services and help; <http://fedasil.be>.

¹²³ Verblijfsstatuten & gezondheidszorg voor vreemdelingen. Procedures om medische zorg te verkrijgen, rekening houdend met het verblijfsstatuut. Kruispunt migratie & integratie, 2013, 7-8, http://www.kruispuntmi.be/sites/default/files/bestanden/documenten/overzicht_verblijfsstatuten_en_gezondheidszorg_nl.pdf.

7.1.2.5 Education

It is an understatement that education will improve the integration process of people. Minors who arrive here are obliged to fulfill their compulsory education within 60 days upon arrival.¹²⁴ Obviously, they are granted a special treatment because in many cases, the minors are not able to speak the language. The purpose of this treatment is to assure that minors can properly speak Dutch (or another official Belgian language) after one year. Even though, when families are not registered at a commune, minors have the right to go to school; they are actually obliged to go to school. Schools cannot refuse them because of this.¹²⁵ The obligation to go to school is stipulated in the Wet betreffende de leerplicht.¹²⁶

Regarding the recognition of foreign degrees, Belgium has a system to adjust them with Belgian degrees. 'Naric-Vlaanderen' recognizes degrees for people who want to work in Flanders.¹²⁷ This procedure is costless for every category of people. In order to facilitate the procedure, it is important that the individual gathers as many documents such as the degree, course program ... The more information, the better.¹²⁸

Individuals residing legally in Belgium, are not directly entitled to go to universities. There are more important conditions such as language and records which show previous degrees. The tuition fee depends on the status of the individual. The institution decides autonomously the fee for asylum seekers.¹²⁹ Once obtained a status, refugees and subsidiary protected individuals can enjoy a grant, in which case the fees vary from 105 EUR to 890 EUR.¹³⁰

7.1.2.6 Travelling

Individuals coming to Belgium to obtain the status of refugee or people who seek subsidiary protection, are often living in a precarious situation. However, it is likely that, once they have requested for asylum or once obtained a certain status, they want to travel to other countries because they want to visit family members and friends.

Asylum seekers, waiting for a decision, are not allowed to travel. Even with a valid, original passport and a valid visa, they cannot return to Belgium to continue the procedure once they have left the territory. However, an exception can be made in very specific cases. For example a school trip during primary or high school inside the European Union/EEA.¹³¹

It is different for refugees under the 1951 Convention or subsidiary protected people. A valid and original passport and a residence permit suffice to travel abroad and to return to Belgium. For refugees, a special travel passport, will be provided. Individuals, who are granted subsidiary protection, normally have to apply for a passport in their home country. If it is impossible to obtain such a document, Belgium will deliver a special passport.¹³²

¹²⁴ Welk traject legt een asielzoeker af? Welke rechten heeft een vluchteling of subsidiair beschermd? 14 juli 2016, Agentschap integratie & inburgering, 8.

¹²⁵ <http://onderwijs.vlaanderen.be/nl/leerplicht-voor-kinderen-met-een-andere-nationaliteit>.

¹²⁶ Art 1 Wet betreffende de leerplicht, *BS* July 06, 1983.

¹²⁷ <http://www.naricvlaanderen.be/>.

¹²⁸ Welk traject legt een asielzoeker af? Welke rechten heeft een vluchteling of subsidiair beschermd? 14 juli 2016, Agentschap integratie & inburgering, 7.

¹²⁹ Sociale (grond)rechten van asielzoekers, erkende vluchtelingen en subsidiair beschermden. Kapstokken voor een integrale begeleiding, March 16, 2017, Agentschap integratie en inburgering, 48.

¹³⁰ Amounts for 2016-2017

¹³¹ Sociale (grond)rechten van asielzoekers, erkende vluchtelingen en subsidiair beschermden. Kapstokken voor een integrale begeleiding, March 16, 2017, Agentschap integratie en inburgering, 55.

¹³² Welk traject legt een asielzoeker af? Welke rechten heeft een vluchteling of subsidiair beschermd? 14 juli 2016, Agentschap integratie & inburgering, 9.

Important to note is that, when individuals are travelling to their home country, they risk losing their right to stay in Belgium.¹³³ Besides that, individuals have to inform the OCMW or the agency for job placement (Rijksdienst voor Arbeidsvoorziening 'RvA') if they are abroad for a longer period.¹³⁴

Also, it depends if an individual travels inside the Schengen Area or outside the Schengen area (and Switzerland). In the first case, there is no need to have a visa. A special travel document will suffice (blue card or grey card). Travelling outside the Schengen area and Switzerland requires the permission of the destination and the specific travel document (blue or grey).¹³⁵

7.1.2.7 Integration

Integration focusses on different aspects. Personally, I find it very important that foreigners do their utmost best to find a job and to learn one of the three official languages of Belgium. Working will definitely improve the situation of an individual because there is interaction between people which facilitates the integration process. People are forced to talk with each other. Also, when people work, they gain money which makes them independent from others and institutions such as OCMW. With that money, they can buy clothes, food and pay their own housing. An important ruling of a Belgian court says that people must be willing to work. If not, they risk losing their financial support. This is however not the case when a foreigner refuses to go to school to learn the Dutch language.¹³⁶

It is a win-win situation. On the one hand, foreigners are working on their future and on the other hand, the local economy will flourish and locals will gain new insights in different cultures and values.

Theo Francken, State Secretary for Asylum and Migration, has introduced a 'new arrival declaration'.¹³⁷ People arriving in Belgium who want to stay here, will have to sign this in order to get a residence permit.¹³⁸ I think that this document will improve the effectiveness of the whole integration process.

Integration starts with willingness; willingness to develop yourself to the fullest and to face tough, but challenging situations. Willingness from the individuals but also from the host countries by providing them all the resources and knowledge necessary for a full and overall integration process.

8. The order to leave the territory vs. the non-refoulement principle

Sometimes, an asylum request is denied due to several reasons. What will happen with the asylum seeker and his or her family? Are they being expelled from Belgium's territory immediately, without any appeal or say?

Sometimes, people get the order to leave the territory when a request is definitively denied. It depends on the reason when an order is given: DVZ refuses a 'Dublin-investigation'; CGVS decides to refuse the request after an independent investigation ... The order mentions a due date when a person has to leave Belgium. When the date expires, people will reside illegally on Belgium's territory. The consequence is that people are sometimes being locked up while waiting for the actual expel.¹³⁹ Furthermore, illegally residing in Belgium is punishable.¹⁴⁰

¹³³ Vluchtelingen: traject, statuut, sociale rechten ... , Agentschap integratie & inburgering. 19-20, http://www.integratie-inburgering.be/sites/default/files/atoms/files/PPT_infomomentenvluchtelingen_traject%20en%20statuut.pdf.

¹³⁴ Sociale (grond)rechten van asielzoekers, erkende vluchtelingen en subsidiair beschermden. Kapstokken voor een integrale begeleiding, March 16, 2017, Agentschap integratie en inburgering, 58.

¹³⁵ <http://www.kruispuntmi.be/thema/vreemdelingenrecht-internationaal-privaatrecht/verblijfsrecht-uitwijzing-reizen/reizen/reizen-als-derdelander#3>

¹³⁶ Arbh. Antwerpen 3 februari 2014, *T. Vreemd.* 2014, 339.

¹³⁷ T., T. "Francken past nieuwkomersverklaring aan na kritiek Raad van State", June 9, 2016,

<http://www.demorgen.be/binnenland/francken-past-nieuwkomersverklaring-aan-na-kritiek-raad-van-state-b02edc8a/>.

¹³⁸ Wet van 24 november 2016 tot invoering van een algemene verblijfsvoorwaarde in de wet van 15 december 1980 betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, *B.S.* January 16, 2017.

¹³⁹ <http://www.kruispuntmi.be/thema/vreemdelingenrecht-internationaal-privaatrecht/verblijfsrecht-uitwijzing-reizen/asiel/verblijf-na-afwijzing-van-je-asielaanvraag>.

¹⁴⁰ Art. 1, 4° en 74/11 Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, *BS* December 31, 1980.

Another consequence is that a person could be sentenced to an entry ban after they have been expelled.¹⁴¹ This means that a person is denied to enter a certain country for a certain period.¹⁴²

This sounds harsh, certainly when people risk to being expelled out of Belgium without any property abroad or in their home country, without any basic things such as money, food, clothes... But there are exceptions. An asylum seeker, whose right is denied, retains the right to have basic rights until the due date to leave the territory. Also, it is possible that this right continues when a person files for appeal or when he or she needs medical care.¹⁴³ The most important international right is the right based on the principle of non-refoulement; it is the most essential component of a refugee status.¹⁴⁴ This principle is one of the core values to the 1951 Convention: "1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. 2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country".¹⁴⁵

This principle is really a pillar of asylum and migration law. This follows undoubtedly out of article 14 of the Universal Declaration of Human Rights.¹⁴⁶

It is very important that the absence of a status of refugee will not determine the right derived from the non-refoulement principle.¹⁴⁷ The UN 1951 Refugee Treaty applies this principle explicitly. Even though, it is possible that a refugee is expelled from this principle when he or she is a threat for the public safety or when there are reasonable doubts on the necessity of giving him or her asylum.¹⁴⁸

9. Comparison with Germany

It is always useful and interesting to look into different legal systems.¹⁴⁹ I decided to discuss Germany because they have received a tremendous number of migrants and there was a lot of criticism on the migration policy of Angela Merkel.¹⁵⁰

In Germany, asylum is a right that is protected by its Constitution. Article 16a of the German Constitution has been reformed a lot over the years. First, it was only possible to get asylum in Germany for political refugees. But, to bring it in accordance with the growing flux of migrants, the law was reformed. People who were rejected in other European

¹⁴¹ P. BAEYENS, S. BOUCKAERT en N. VANDERSCHEUREN, *Handboek Verblijfsrecht*, Mechelen, Wolters Kluwer, 2016, 58-59.

¹⁴² Art. 1, 4° en 74/11 Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, *BS* December 31, 1980.

¹⁴³ V. VEREECKE, *Vreemdelingenrecht in de praktijk*, Turnhout, Story Publishers, 2016, 292-293.

¹⁴⁴ Note on Non-Refoulement (Submitted by the High Commissioner) EC/SCP/2, 23 August 1977, <http://www.unhcr.org/afr/excom/scip/3ae68ccd10/note-non-refoulement-submitted-high-commissioner.html>.

¹⁴⁵ Art. 33/1 of the 1951 Convention relating to the Status of Refugees, *BS* July 28, 1951.; T. KREVER, "Mopping-up: UNHCR, Neutrality and *Non-Refoulement* since the Cold War", *Chinese Journal of International Law* 2011, 593. (587-608); M.-T. GIL-BAZO, "Refugee Protection under International Human Rights Law: From *Non-Refoulement* to Residence and Citizenship", *Refugee Survey Quarterly* 2015, 23.

¹⁴⁶ Art. 14 Universal Declaration of Human Rights, *BS* March 31, 1949.

¹⁴⁷ UNHCR Note on the Principle of Non-Refoulement, November 4, 1997, <http://www.refworld.org/docid/438c6d972.html>.

¹⁴⁸ M. MAES, "De terugkeerrichtlijn en onverwijderbare vreemdelingen", *T. Vreemd.* 2011, nr. 3, 256. 253-267; Art. 19 Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen, *BS* December 31, 1980.

¹⁴⁹ E.-M. POPTCHEVA & A. STUCLIK, "Work & social welfare for asylum-seekers and refugees", *European Parliamentary Research Service* 2015, 16.

¹⁵⁰ J. DE PRETER, "Factcheck: bracht Merkel met 'wir schaffen das' de vluchtelingenstroom op gang?", January 12, 2017, <http://www.knack.be/nieuws/wereld/factcheck-bracht-merkel-met-wir-schaffen-das-de-vluchtelingenstroom-op-gang/article-normal-800863.html>.

countries, could not file a request for asylum. Later on, in 2000, this changed again to facilitate the integration of foreigners in Germany.¹⁵¹

The Federal Office for Migration and Refugees has a very important task in investigating the asylum request. It is important because their decision can change people's life.¹⁵² Every individual who seeks asylum is reported. When people arrive, they have to give their fingerprints and a photograph is taken. In return, they receive a proof of arrival (*Ankunftsnachweis*). It proves that a person is registered and with that document, they can legally reside in Germany. After that, asylum seekers go to the closest center where they are being received and where they get basic things, comparable with the Belgian BBB (Bed, Bread & Bath). Since the authorities dispose over the fingerprints, the Dublin-procedure is set up to determine whether Germany in this case is responsible for the procedure.

After a personal interview, which is very important and decisive because there is a detailed examination and there will be a decision in concreto, the Federal Office decides on the procedure. There are four possible outcomes: a person can be granted asylum, a person can get refugee protection, subsidiary protection or he/she can get the order to leave the country.¹⁵³

During the procedure and after the procedure, some rights are applicable. Rights that can facilitate the integration process and that are there to support these people.

Asylum seekers are entitled to work after a period of three months after the asylum request.¹⁵⁴ In order to be granted this right, the Federal Employment Agency has to give its approval. A work permit can be given, based on two conditions. On the one hand, the Federal Employment Agency can issue a labour market test to look into the specific details of the employment and it also looks if the job suits the person. On the other hand, a priority review checks whether the job can be exercised by a German citizen or another EU-country citizen.¹⁵⁵ Not every asylum-seeker is allowed to work. People, from countries which Germany qualifies as safe, are not allowed to work during the procedure. Furthermore, they cannot engage in self-employment. The German law prescribes that, in order to be self-employed, people need a valid residence permit.¹⁵⁶

Refugees can be granted a residence permit for three years. When this period expires, they obtain a permit for unlimited stay. This is the case for refugees with international protection. People with subsidiary protection get a permit for one year, which is renewable up to 3 years in total. These two categories are both allowed to work, without any restrictions.¹⁵⁷

Next to the right to work, they are entitled to some social benefits. Asylum seekers have the right to receive basic things, such as food, clothes and healthcare. These goods are distributed, most of the times, 'in kind' in the centers where they are being received. This means that the people get the goods in their hands. When these basic things cannot be given in kind, people get a financial sum. The amount depends on the fact if the asylum seeker is living in a center or not.¹⁵⁸ Besides the basic things, healthcare is also important, certainly for families with children. Asylum seekers can benefit from social assistance when they are in Germany for a period of 15 months (without leaving the country!).¹⁵⁹

¹⁵¹ Art. 16a Basic Law for the Federal Republic of Germany, *FLG* 23 May 1949.

¹⁵² The Stages of the German asylum procedure. An overview of the individual procedural steps and the legal basis, Federal Office for Migration and Refugees, 1.

¹⁵³ The Stages of the German asylum procedure. An overview of the individual procedural steps and the legal basis, Federal Office for Migration and Refugees, 11-16.

¹⁵⁴ Art. 61(2) Asylum Act, *FLG* September 2, 2008.

¹⁵⁵ Art. 39 Residence Act, *FLG* February 25, 2008.

¹⁵⁶ Art. 7, 10 & 21(6) Residence Act, *FLG* February 25, 2008.

¹⁵⁷ Art. 25(1) Residence Act, *FLG* February 25 2008.

¹⁵⁸ E.-M, POPTCHEVA & A. STUHLIK, "Work & social welfare for asylum-seekers and refugees", *European Parliamentary Research Service* 2015, 16.

¹⁵⁹ Art. 1, Book 12, Social Code, *FLG* December 27, 2003.

Lastly, as already mentioned, education is important for integration; it facilitates the process. Comparable with Belgium, education is compulsory for every minor residing in Germany. Furthermore, if people want to develop themselves further, they can follow a professional training. In order to be granted access, a priority review and a labour market test are being issued.¹⁶⁰ People who are granted international protection have the same rights as German citizens.¹⁶¹ They are also eligible for integration courses; moreover they have to follow these courses when they receive social assistance.¹⁶²

The migration policies and laws in Germany are quite comparable to the ones in Belgium. All the minors residing in Belgium are obliged to go to school, asylum seekers have the right to work after a period of four months and when they have filed a request for asylum. Also, when people are granted the refugee status, they enjoy more or less the same rights as Belgian citizens.

¹⁶⁰ E.-M, POPTCHEVA & A. STUCHLIK, 'Work & social welfare for asylum-seekers and refugees', *European Parliamentary Research Service* 2015, 17.

¹⁶¹ Art. 23(1), Book 12, Social Code, *FLG* December 27, 2003

¹⁶² Art. 43 Residence Act, *FLG* February 25, 2008.

10. Conclusion

Through this thesis, a lot of laws and policies are discussed. International, European and national laws/policies. It became clear that there are enough legal documents that should protect foreigners who are arriving in Belgium. There are a lot of initiatives to receive foreigners in good faith and to provide them with the basic things they need to live a humane life. An overview of important basic rights, such as the right to work, the right to healthcare, the right to housing and the right to education has been given, rights that are applicable before, during and after the asylum procedure.

It is an added value that Belgium has a good and elaborate integration process which stimulates people to adapt themselves to the Belgian culture and the language. The support from the authorities will definitely contribute to deliver more hopeful results and they should better not decrease the budget for the migration problem.

But, unfortunately, I do not think that these rules are very effective. They are not that effective because Belgium is not used to receive so many people and they do not have the right and/or enough resources. The theory is always better than the practice. However, Belgium and other states in the world should bear in mind that they have a moral duty to receive people. Moreover, there are also some positive things about receiving people. A lot of people are highly-skilled and willing to work. This can be a solution for the ageing in Belgium. There have been already some great sacrifices and states are willing to work together in order to control this problem. I say 'to control the problem' because I think that the migration problem can never be solved. We can only try to receive people in good faith and provide them with the basic things they need, but we cannot solve this problem.

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