

**UN Committee on Migrant Workers General Comment No. 5 on
Migrants' Human Right to Liberty and their Protection from Arbitrary Detention**

**Questionnaire
December 2018**

This questionnaire has been created to collect information from States, civil society organizations, intergovernmental entities, academic institutions, and other interested parties for the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) in its drafting of General Comment No. 5 on Migrants Workers' Right to Liberty and Protection from Arbitrary Detention. CMW invites these stakeholders to submit responses to this questionnaire in accordance with their expertise and capacity. Parties are asked to provide detailed information including sources, data, statistics, evidence, and documentation as available. Parties need not answer every question, and may submit information in alternate formats.

Input may be sent electronically in Word format to the email: cmw@ohchr.org with the subject line, "Submission for General Comment on Migrants' Right to Liberty." **Submissions should not exceed ten pages in length and should be received by 1 April 2019.** Written contributions will not be translated and should preferably be submitted in English. Submissions in French and Spanish will also be accepted.

Organization Information

Name of Organization Completing Form:

- Platform Kinderen op de vlucht / Plate-forme Mineurs en exil
- Ligue des Droits Humains

Country: Belgium

Contact Information:

- mz@sdj.be

Date: March 2019

Part A: General Information

1. Please describe the process by which migrants are detained in your country. Which authorities are tasked with this responsibility? Who or what body oversees these authorities?

The Immigration Office¹ falls under the Home Affairs FPS². The Office's employees are divided over the central services in Brussels and the five detention centres.³ The Office is lead by a director-general who is assisted by several advisor-generals and advisors who are specialised in specific matters.

2. Where do arrests and detentions take place? Is force typically used during arrest or detention? Are there standards for treatment of migrants during an arrest? To what extent are migrants informed of what is going on during an arrest (why they are being detained, possible charges against them, etc.)?

The police officers that apprehend the families at their homes wear uniforms. The standard procedure is as follows: There is 1 police officer for every family member + 1 extra police officer (in a case of a single mother with 5 children: 7 police officers). Transport to the return houses or closed family units is done in the standard grey vans used by the immigration authorities. We have knowledge of cases where part of the children are separated from their mother during transport to the closed centre (oldest and youngest child in a separate van, mother and other children in another van).⁴ Migrants are informed upon arrest, but as no use is made of interpreters, there is no guarantee that they are really aware of what is going on.

3. Who are the personnel that staff facilities that hold people in detention (corrections officers, law enforcement, social workers, etc.)? What are the professional qualifications of staff at these detention facilities? Who oversees staff at detention facilities?

The detention facilities employ about 1000 people, among these: safety supervisors⁵, qualified social workers⁶, group supervisors⁷, nurses⁸. These people are directly employed by the Immigration Office.

¹ Dienst Vreemdelingenzaken (DVZ) / L'Office des étrangers (OE)

² FOD Binnenlandse Zaken/ SPF Intérieur

³ At Bruges, Merksplas, Vottem, and two detention centres at Steenokkerzeel: Transitcentre Caricole and repatriation centre 127bis (the latter including the closed family units). About 1000 people are employed in the five detention centres.

⁴ Information from JRS Belgium

⁵<https://www.selor.be/nl/nieuws/2017/08/40-veiligheidsbegeleiders-gezocht-voor-de-gesloten-centra-te-holsbeek-en-steenokkerzeel/>

⁶<https://www.selor.be/nl/vacatures/job/ANG18100/Sociaal-assistent-m-v-x-voor-de-gesloten-centra-te-Steenokkerzeel-en-Holsbeek>; a Bachelor degree in social work is required

⁷<https://www.selor.be/nl/vacatures/job/ANG19021/Monitor-Groepsbegeleider-m-v-x-voor-de-gesloten-centra-van-Dienst-Vreemdelingenzaken>

4. Who owns the facilities used to house migrants who are detained? Who operates the facilities used to house detained migrants? Are facilities that house detained migrants public or private?

The detention facilities are of a public character, they are managed by the Immigration Office, “Department Control Interior and Borders”⁹.

5. Does your country monitor detention facilities? Who monitors detention facilities? What are the standards that detention facilities must adhere to?

Belgium has not yet appointed an independent authority to perform regular monitoring and reporting on the running of its immigration detention centres. It is important to note that the Belgian authorities have signed the OPCAT, but still haven’t ratified it.

The Royal Decree of 2nd August 2002 sets the operating rules for the detention centres managed by the Immigration Office on the Belgian territory, where foreigners can be detained, placed under government control or held, according to article 74/8 §1 Alien Act. Art. 42 of this Decree states that parliamentarians always have access to the detention centres in the exercise of their duties.

In its article 44, this Decree also provides that UNHCR, the European Committee for Human Rights, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Federal Migration Centre (Myria), asylum authorities, both regional children’s rights officers (*Kinderrechtencommissaris* and *Délegué Général aux Droits de l’enfant*), the Belgian federal Ombudsman and the UN Committee against Torture have access. However, as these international and national institutions have many missions in addition to monitoring the detention centres in Belgium, they don’t visit the centres regularly.¹⁰

There are several NGOs that visit the centres on a weekly basis, after they received official accreditations for visiting the detention centres and/or return houses. Their first aim is to provide moral and psychological support to detainees and to assure social and legal aid. In addition, they also monitor the conditions of detention and issue recommendations to the authorities in charge. It is important to note that the actions of these NGOs are not officially recognised as “monitoring” by the Belgian authorities.

A complaint procedure is foreseen by these Royal Orders, however, Vluchtelingenwerk Vlaanderen found that this procedure has serious shortcomings.¹¹

6. During detention, do detainees have access to communication with their families, legal counsel, and their own consular authorities? Are detainees provided with information on the process they are going through?

Chapter III, Division I of the Royal Order of 2 August 2002 deals with “Correspondence and telephone use”. Article 19 of the Order guarantees the right of detainees to conduct unlimited correspondence. However, as established by Article 20, correspondence can be subject to control in order to verify that it does not contain dangerous objects. Moreover, Article 21 foresees that, in cases where there are indications of a danger for national public order, criminal offences or risks for the safety of the centre, the correspondence can be subject to a control by the centre direction. Only in the latter case, the centre personnel can take note of the content of correspondence. In this case, the Minister must be notified. In principle, according to Article 21/1, correspondence between a detainee and his legal counsel is not subject to controls. Article 21/2 lists a whole range of institutions and people to whom the detainee can write a letter, which will not be subject to control (inter alia: the Federal Migration Centre Myria, the Children’s Rights Commissioners, the OPCAT, Comité P, the ombudsman, ...). Article 22 foresees that the personnel of the detention facilities should assist detainees in drafting or reading their letters if they ask for such help. Articles 24 and 25 deal with telephone usage: which is allowed between 8 AM and 10 PM, on the detainees’ own charge. The private character of telephone conversations must be guaranteed by the centre’s personnel.

7. Are the particular needs of women and other groups of people met? Is consideration given to the status of asylum seekers, victims of torture and trafficking, and other migrants who are particularly vulnerable?

Article 48/9 Alien Act foresees “special procedural needs or guarantees”, see Question C-2 for more information about how the status of “vulnerability” affects the procedure for international protection.

Asylum seekers who apply for asylum at the border are systematically detained, without preliminary assessment of their personal circumstances. No exception is made for asylum seekers of certain nationalities or asylum seekers with a vulnerable profile other than being a child or a family with children. Families with children are placed in so-called open housing units, which are more adapted to their specific needs, but which are also legally still considered to be border detention centres.

⁸<https://www.selor.be/nl/vacatures/job/ANG18083/Verpleegkundige-m-v-x-voor-de-gesloten-centra-te-Steenokkerzeel> ; a degree in nursing is required

⁹ See the Organigram of the Home Affairs SPF, available under: https://dofi.ibz.be/sites/dvzoe/FR/Documents/_Organigramme_FR.pdf

¹⁰ International Detention Coalition, End Child Detention Scorecard

¹¹ See December 2016 Report, available under: https://www.vluchtelingenwerk.be/sites/default/files/rapport_-_gesloten_centra_in_belgie.pdf

8. Does the detention process look any different if minors are involved?

Since August 2018, 4 family units have been in use on the premises of the closed detention center 127bis, near the landing strip of Brussels Airport Zaventem. These family units are said to be “adapted to the needs of children”. There is a possibility for the families to cook and a gaming console and other games are at the disposal of the families. There is an outside “playground” and a teacher is present at a regular basis. The maximum period of detention is shorter when families with children are involved (see question B-4).

Part B: Legal Treatment

1. What is the legal basis for detaining migrants in your country? What purpose does detention of irregular migrants serve? How has this purpose been articulated through legislation and through the judicial system and public policies? Please identify any relevant cases in your country’s court system.

General rule: Articles 74/5 and 74/6 Alien Act; Royal Order of 2 August 2002, modified by the Royal Order of 7 Octobre 2014.

For families with children: Article 74/9 Alien Act; Royal Order of 22 July 2018

General purpose of detention: “In the framework of the immigration policy, the detention centres of the Immigration Office have the specific task to retain foreigners pending their potential removal. **Pending removal**, the centres grant their inhabitants shelter, psychological, medical and social support with respect for fundamental human values such as safety, privacy, health, religious experience and personal development. The centres represent an important element in the battle against irregular migration.”¹²

People who demand international protection at the border (in practice mostly the airport of Brussels, Zaventem), or people who do not fulfill the entry requirements - the so called INADs¹³ - are systematically detained in the “Transit Centre Caricole” near the airport. The asylum seekers stay there until a decision is taken regarding their demand for international protection.

Asylum seekers at the border have a genuine chance of attacking their detention before the Chamber of First Instance, based on the ECHR decision *Thimothawes v. Belgium*, in which the Court stated that the systematic detention of people who introduced a demand for international protection at the border, goes against Articles 7§3 and 8 of the Reception Directive and Article 5§1 of the European Convention on Human Rights.¹⁴ These provisions ask for an individual motivation of the need to detain the person in question.

People involved in a Dublin procedure can be detained to prevent them from “absconding” before the Dublin transfer can be realised. The notion of absconding has been very broadly defined in Belgian law: Article 1§2 of the Alien’s Act foresees 11 possible situations in which one can speak of a risk of absconding.

Families with children: It was the intention of the legislator to prevent the detention of minors.¹⁵ In first instance, article 74/9 Alien’s Act stipulates the prohibition of the detention of minors. In the further alternative, however, the article foresees exceptional circumstances in which families with children can be detained for a limited period of time and in conditions adapted to their needs.¹⁶ The provision makes a difference between two categories of families: (1) families on the territory in irregular stay (§§1 and 3), and (2) families who arrive at the border without the necessary documents to enter the territory (§2).

The Royal Order of 22 July 2018 determines the regime and operational measures of the closed family units. The Order foresees a **cascade system** by stipulating that detention of families with children is only allowed after alternatives have been proposed (see Question D -1). In case a family does not respect the conditions, detention is possible, “unless other sufficient but less compulsory measures can be effectively applied”.¹⁷

2. Is immigration governed by criminal law or administrative law?

Immigration is governed by **administrative law**; Act of 15 December 1980¹⁸ on entry, stay, settlement and removal of foreign nationals (Alien Act).

3. Does the immigration detention proceed *ex officio* or is there an individualized analysis of its pertinence and proportionality?

Although the Alien Act¹⁹ foresees the need of individualised analyses before proceeding with detention, in practice, detention occurs rather ***ex officio***.

The Alien Act provides that a person cannot be detained at the border for the sole reason that he or she has made an application for international protection. Nevertheless, this provision still does not guarantee protection against arbitrary detention. UNHCE recommended border detention guarantees under Article 74/5 of the Alien

¹²<https://www.selor.be/nl/vacatures/job/ANG19021/Monitor-Groepsbegeleider-m-v-x-voor-de-gesloten-centra-van-Dienst-Vreemdelingenzaken>

¹³ INAD: inadmissible passengers

¹⁴<https://www.nansen-refugee.be/wp-content/uploads/2018/12/demandeurs-asile-frontiere-procedure-frontiere-detention.pdf>

¹⁵ Constitutional Court, decision of 19 December 2013, nr. 166/2013, p. 10.

¹⁶ Constitutional Court, decision of 19 December 2013, nr. 166/2013, p. 22.

¹⁷ Examples of these measures are a warning, detention in an open family unit or preventive measures as foreseen in Article 74/14 of the Alien’s Act and article 110quaterdecies of the Royal Order of 8 Octobre 1981 (See Question D - 1).

¹⁸http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=1980121530

¹⁹ Inter alia articles 51/5, §5 and 74/5 Alien Act.

Act to be aligned to those of territorial detention under Article 74/6 (necessity test, evaluation of alternatives to detention etc.), this suggestion has not been taken into account. There is a systematic detention of applicants for international protection at the border, Article 74/5 Alien Act does not foresee individual assessments, necessity tests or the evaluation of less coercive measures. Asylum seekers who apply for asylum at the border are systematically detained, without preliminary assessment of their personal circumstances.

For people who already found themselves on the Belgian territory, but lost their residence permit and now find themselves in immigration detention, legislation foresees certain preventive measures, which could be applied as an alternative to detention. However, these alternatives are not put into use and people, which find themselves on the Belgian territory without a valid permit to stay, will be put into migration detention.

Detention of people concerned by the Dublin Regulation is also common due to a broad interpretation of the “risk of absconding” as defined by the criteria in Article 1, §2 Alien Act.

4. Does legislation establish a maximum amount of time for immigration detention? What is the maximum amount of time that someone can be detained? Are there any exceptions or extensions allowed by law?

Detention at the border: The general rule is maximum 2 months (+ the 10 days of the delay of the appeal). However, the competent Minister can extend the detention measure up to 5 months and when it is “required for the protection of the public order or the national security”, the detention can be extended with one month at a time, but the maximum delay of detention at the border is **8 months**. (Article 74/5 Alien Act)

Detention on the territory: The general rule is maximum 2 months (+ the 10 days of the delay of the appeal). However, the Immigration Office can extend the delay of detention by 2 months for reasons of public order or the national security”. Lastly, the Minister can twice extend the detention period by one month. The maximum delay of detention on the territory is **6 months**. (Article 74/6 Alien Act)

Dublin Detention: Maximum period of **two times 6 weeks**:

- first 6 weeks: determination of the responsible Member State (Article 51/5, §1 Alien Act)
- second 6 weeks: execution of the Dublin transfer (Article 51/5, §2 Alien Act)

Families with children: the duration of the detention must be as short as possible. The **Royal Order of 22 July 2018** and the **article 74/9 Alien Act** stipulate that families with minor children can be detained for a period of two weeks. After this period, the detention of the family can be extended with a maximum of two more weeks provided that the Director General gives the responsible minister written motivation for the extension of the detention. In practice, this written motivation is very poor and no external advice (i. e. of a paediatrician or pedo-psychiatrist) is sought.

In response to the Council of State’s advice, the Royal Order highlights that the period of detention must be as short as possible; the period of two weeks is not a standard period, but the maximum period. A prolongation of the detention period is not possible if it has become clear from the first period of detention, that a prolongation could present a risk to the physical or psychological integrity of the minor.

5. Does legislation provide any mechanism to challenge the legality of the detention?

After every period of detention of 30 days, it is possible to introduce an appeal against the detention measure before the Court of First Instance²⁰; possibly followed by further appeals before the Chamber of Indictments²¹, and in latest instance, the Supreme Court - the Court of Cassation²². In some cases, an annulment and suspensive appeal against the detention title²³ is possible before the CALL²⁴.

6. Is there any national legislation that guarantees legal representation or interpreters in immigration proceedings? Is there a guarantee of access to free legal representation?

Legal representation:

Legislation: Article 39/56 of the Alien Act

In practice: Free legal representation for migrants in immigration detention is possible via the “*pro deo*” system. However, the lawyers on the pro deo lists are not always specialised in immigration legislation, so the people who can afford it, will prefer to pay a lawyer specialised in this field of law.

Interpreters:

Legislation: Articles 37 ; 39/18 ; 39/63 ; 48/6 and 51/4 of the Alien Act

In practice: People in the detention centres and families with children in the closed family units often communicate with the personnel of these centres in broken English or they try to express themselves in French, Dutch or another language. As a consequence, people are often confused and badly informed about what is happening in their procedure. Fellow countrymen often assume the role of interpreter.

²⁰ Raadkamer/ Chambre de Conseil

²¹ Kamer van Inbeschuldigingstelling/ Chambre des mises en accusation

²² Hof van Cassatie/ Cour de cassation

²³ Annexe 39bis (detention during the asylum procedure)

²⁴ Council for Alien Law Litigation

7. Is there any legislation that establishes the right to consular assistance for migrants? Is this right guaranteed in practice?

Legal basis: Royal Order of 2 August 2002, Articles 29 and 32 regulate the visits of diplomatic or consular representatives. The diplomatic or consular representatives can visit their national at any given moment of the day. However, visits outside the usual hours (between 8 AM and 10 PM) may not lead to abuse. The duration of the visits of diplomatic or consular representatives is in principle unlimited. The duration of the visit can only be limited in accordance with necessities of the detention facility's services. In practice: Providing they announced their visit in advance to the staff of the detention facility, diplomatic or consular representatives can have access to people detained in these centres.

8. Does your country recognize the due process rights of non-citizens to the extent that it recognizes the due process rights of citizens? If not, what are the differences?

Legal Basis: Title III of the Alien's Act deals with "procedural safeguards and legal remedies".

We observe the following trend, curtailment of the rights of foreign nationals: stricter rules for family reunification, limited access to social rights, stricter return policy.²⁵ When rights are being curtailed, procedural safeguards are of an even bigger importance. The Belgian system shows the following shortcomings:

- ECtHR judgment of 2015²⁶: "The procedure of requesting the suspensive effect of a decision rejecting an asylum application and ordering the transfer of an applicant to another Member State does not amount to an effective remedy under the Convention." → adoption on 9 November 2017 of a large-scale reform of the Alien Act transposing the recast Asylum Procedures Directive and recast Reception Conditions Directive²⁷: The policy note, criticised by civil society organisations for intensifying restrictions against people seeking protection, announces measures in several areas including differentiated information provision, Safe countries of origin, faster procedures and a review of protection status.
- A foreign national concerned by a detention decision pending removal, cannot challenge this decision before the CALL; the Court of First Instance and the Chamber of Indictments are the competent judicial authorities.
- There is a diminished, but persisting backlog in the number of appeals (especially in the annulment procedure) before the CALL²⁸ → longer term of treatment of annulment procedures²⁹
- In 2014, the Constitutional Court spoke out about the lack of an effective remedy for applicants for international protection who come from a country deemed to be safe³⁰, see the list of "safe countries"³¹. However, the Council of State, in February 2018, confirmed the existing list of safe countries.³²
- Harmonisation of the CALL jurisprudence with the restrictive interpretation of the right to be heard in return procedures by the EU Court of Justice: not an absolute right, restrictions are justified by the purpose of the Return Directive, namely combating irregular migration.³³

See pp. 103-105 of the 2018 AIDA Country Report Belgium.

9. Is information available to detainees regarding the processes of requesting asylum or applying for refugee status?

Yes, this information is available via the social workers in the centre. However, the visitors of the Transit group (see Question A-5) observe that detainees are often badly informed about the status of their procedure. Rumours circulating among detainees also contribute to confusion.

There are also issues regarding the information of families with children detained in the closed family units. NGOs are not allowed to visit them unless the family signs a document agreeing to receive a visit. However, there is no control over whether families are informed correctly about the ways NGOs can help the detained families.

10. What do proceedings that determine migration status look like? Who is the decision-maker or decision-makers? What are the qualifications of the decision-makers? Are they appointed or elected?

The person's status will be determined on the basis of the reason why the person came to Belgium. The reasons for obtaining a visa are: tourism, family visit, studies, work, humanitarian reasons. Once on Belgian territory, the

²⁵ See Chapter 10 of the Myria's 2015 Report "Migration in numbers and rights"

²⁶ ECtHR - V.M. and others v. Belgium, Application no.60125/11, 7 July 2015

²⁷ See ECRE: <https://www.ecre.org/belgium-adopts-asylum-reform-and-announces-further-restrictive-plans/> and see AIDA:

<http://www.asylumineurope.org/news/10-07-2017/belgium-reform-reducing-asylum-standards-belgium-minimum-requirements>

²⁸ "In 2018, a total of 13.239 appeals were introduced and a total of 16.596 rulings were pronounced. As a consequence, the Council was able to partly eliminate the backlog, which, 4 years ago, amounted to 24.364 appeals, and now has been reduced to 13.847 appeals. The backlog mostly occurs at the level of the annulment procedure." See the monthly update on the website of the CALL: <http://www.rvv-cce.be/fr/actua/conseil-en-chiffre-mise-jour-mensuelle>

²⁹ In 2015: an average term of treatment of 450 days for an annulment procedure, See Myria 2015 Report, p. 184

³⁰ See Judgment of the Constitution Court of 16 January 2014, Nr. 1/2014.

³¹ Determined by the Royal Order of 17 Decembre 2017: Albania, Bosnia-Herzegovina, FYROM, Kosovo, Montenegro, Serbia, India and Georgia

³² Council of State, 20 February 2018, Nr. 240.767

³³ Court of Justice of the European Union PRESS RELEASE No 174/14 Luxembourg, 11 December 2014 Judgment in Case C-249/13 Khaled Boudjlida v Préfet des Pyrénées-Atlantiques: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2014-12/cp140174en.pdf>

visa may be extended or other procedures may be introduced such as family reunification or regularization. Finally, persons who submit an application for international protection to Belgium are considered as asylum seekers and cannot be subject to a deportation order until there is a decision of the CGRS or the CALL who allocate the refugee status or the subsidiary protection based on the Geneva Convention.

Visas are issued by embassies and consular authorities following a decision taken by the Immigration Office, which is the administration in charge of implementing migration policy. This administration is under the umbrella of a State Secretariat for Asylum and Migration, linked to the Federal Public Service of the Interior. All Immigration Office staff are civil servants or contract staff who have at least passed the administrative competition organized by the Federal Administration Selection Office (SELOR). The Secretary of State is a member of the federal government.

The issuance of humanitarian visas (short or long stay) is under the discretionary power of the Immigration Office or the Secretary of State. The legislation does not specify any specific criteria, so it is a favour and not a right per se³⁴. The same applies with regard to the procedures for humanitarian (9bis) and medical (9ter) regularisation. The Federal Centre for Migration - Myria recommends that clear criteria be established to prevent arbitrary practices from taking place, for example by favouring certain religious communities or philosophical minorities over others, without objective justification³⁵.

A refugee status or subsidiary protection may be granted either by the the CGRS at first instance or by the CALL at second instance in the event of a negative decision by the CGRS. The CGRS is an independent body vis-à-vis the administration of the Immigration Office. Its members are civil servants and/or contract staff, but as an official body, it is not dependent on the Immigration Office, the Secretariat of State or any other public service.

The CALL is an independent and competent administrative court for appeals against decisions of the CGRS but also against decisions of the Immigration Office or against all other individual decisions taken pursuant to the Act of December 15 1980 on access to the territory, residence, establishment and expulsion of foreigners. The Council is composed of judges, clerks and legal advisers.

11. Is there a duty to ensure that decisions are duly motivated by legal reasoning? How is that ensured in practice?

Legal Basis: Title III of the Alien's Act deals with "procedural safeguards and legal remedies", Chapter I of Title III deals with "the right to be heard, motivation and notification of administrative decisions and appeals". Article 62, §2: "*Authorities must disclose the reasons justifying administrative decisions. The facts that justify these decisions are to be mentioned [...].*" In practice, we often see the same general formulations (among others about the "risk of absconding") are reproduced to "motivate" a detention decision.

12. How much time elapses after arrest before a determination of migration status is made? How long does the initial determination of status process take?

In the **common procedure** for international protection (asylum or subsidiary protection) on the territory³⁶, the processing time can take up to 6 à 21 months. The maximum delay to introduce an appeal is 30 days. Once an appeal has been introduced, the decision of the CALL can be expected within 3 months (Article 39/76, §3 Alien Act). In case someone introduces a demand of international protection **from a detention facility**, the processing time is much shorter, applicants mostly get their decision within 2 weeks. Where the applicant is detained in a closed centre located at the border, the CGRS has four weeks to decide on the asylum application. The applicant is admitted into the territory if no decision can or has been taken within that time limit. (Article 57/6/4 Alien Act). The delay to introduce an appeal from detention is 10 days (Article 39/57 Alien Act).

13. If families are involved, are their cases determined separately or together? Is consideration given to the special circumstances of children?

Legal basis: Article 57/1 Alien Act

In case an adult or a family with children introduces a demand for international protection (IP), the authorities will presume that this demand also applies to any minor accompanied by the applicant(s). However, an accompanied minor can ask to be heard himself by the CGRS up to 5 days before the personal interview of its parent(s). If there are special reasons to do so and if it's in the interest of the minor, the CGRS can decide to hear an accompanied minor. The latter can refuse to be heard. This refusal has no bearing on the capability of the CGRS to take a decision, nor shall it have negative effects on the decision of the CGRS. An accompanied minor can also explicitly request that the demand introduced by its parent(s) be considered as having been introduced in its own name. The CGRS can also take a decision based on other elements as those provided by the minor, such as the elements brought forward by the parent(s) in the demand for IP.

The CGRS takes the declarations of minor asylum seekers into consideration in accordance with their age, maturity and vulnerability. During the interview, the minor will be accompanied by a lawyer and, where appropriate, by a confidant.

According to the Alien Act, the best interests of the child are of overriding consideration and must lead the CGRS during the examination of the demand for IP. Moreover, the Belgian Constitution stipulates that the interests of

³⁴ Myria, « *Les Visas Humanitaires. Frontières et droits fondamentaux* », MyriaDocs #4, Mai 2017, p.3.

³⁵ Ibidem, p.28, and Myria, *La migration en chiffres et en droits 2018*, Chapitre 7, Mai 2018, p. 145.

³⁶ Article 57/6, §1 Alien Act

the child are **the** primary consideration in every decision that concerns the child. However, in practice, the principle of the (best) interests of the child must be further analysed, and a method for BIA and BID must be developed.

The CGRS or CALL can take a separate decision or judgment on part of an accompanied minor in case these authorities identify special elements that dictate such a separate decision.

However, in cases of demands for regularisation on humanitarian or medical basis (the so-called 9bis and 9ter procedures), the demands are being examined by the Immigration Office in both procedures. Accompanied children are not granted the right to be heard and child-specific risks are not being considered. In these procedures, children are still seen as an appendix of the adults, rather than as a legal person with rights.

14. What are the consequences of a finding of irregular migration? Is an individual who is found to have entered the country in an irregular manner returned to detention or moved to a different facility? Are the conditions different for individuals found to be irregular migrants? Are irregular migrants eligible to be released on bond/bail until a final determination has been made?

In the frame of an ID control, the police have to be in touch with the Immigration Office in case of a control of a person without a clear permit to stay on the territory. In a delay of 24-hour max, the Foreign Office has to decide if it is going to deliver a (new) Order to leave the territory or not, with or without a decision of maintaining the person in a closed center, etc. While waiting for the FO decision, the police must maintain the person at the police station and in case of a detention decision from the FO, the police will be in charge of the transfer to the closed center.

There are no clear criteria on which the Immigration Office bases its decision of transfer in a closed center or not. We can only assume that it will depend on the presence of a free spot or not. Also, since July 2018, the originally "Centrum voor repatriëring 127 bis" is now exclusively in charge of the detention of 'transit migrants', which is different from the "standard way" of detention in Belgium; The detention is very short, about 1 to 3 days. The main goal seems to be identification rather than deportation (the traditional target are young migrant boys trying to reach Great Britain one way or the other). Also, the federal police is now in charge of the 127bis center, not the Immigration Office personnel.

In Belgium, a bail system does exist in the field of migration (but not in the penal field). However, until today, it is not applied in practice. The "preventive measures to prevent disappearances" as stipulated in article 110^{quaterdecies} of the Royal Order of 8 October 1981 on the entry, stay, settlement and removal of foreign nationals foresees inter alia the payment of a deposit as a measure both for families with children and adults, "for as long as the term for voluntary departure has not expired"

We would like to point out that the preventive measures to prevent disappearances, in our opinion, currently do not meet all conditions of the concept of "alternatives to detention" (no "warrant to detention" is issued, and these measures can be imposed while it is not yet proven that the return is possible or imminent). Nevertheless, these measures are mentioned here because the government labels them as "alternatives to detention" and because in our opinion they can be an opportunity for both the beneficiaries and the government and can be developed into fully-fledged alternatives.

Families with children on the territory who are found to be without residence permit are brought to return houses, where they will receive (limited) guidance towards a return to their country of origin. If the stay in the return house turns out ineffective (read: when it does not lead to return) or when the family absconds, the next step would be detention in a closed family unit pending removal.

Legal basis: Art. 74/7 Alien Act, The police forces can place a person who does not hold any identity documents in administrative detention for a period of maximum 24 hours pending a decision of the Minister or his representative.

In September 2018, in response to the "transmigration issue", the detention centre 127bis was partly transformed in a "national administrative centre".

15. Is there a right to appeal of finding of irregular migration status? What does the appeal of a finding of irregular migration status look like? How much time elapses from a judgment of irregular migration status to an appeal? What due process guarantees are given during the appeal process of a finding of irregular migration status? Does the appeal process have suspensive effect regarding deportations?

Against any decision/order to leave the territory, the foreigners' litigation council (CALL) is competent for an appeal. The suspensive and the annulment character must be explicitly demanded in the appeal. When the person is in a closed center, the suspensive character of the appeal is generally accepted by the CALL. The delay to enter the appeal is extremely short, 5 calendar days.

Even if a suspension is accorded, it doesn't mean that the person will be released from the detention facility during the time the Council will statue on its files. It will only suspend a potential deportation.

In the case of a request for international protection (IP) **in detention:**

While in detention, the appeal period in a first request for international protection amounts to 10 days. This appeal is **suspensive**.

However, the appeal is **not suspensive** and does not protect against a forced removal in case the subject of the appeal is a decision of inadmissibility of a:

- First subsequent request for IP, if this request has been introduced within the year after the definitive negative decision on the first request for IP and if the request has been introduced from detention.
- Second subsequent request for IP or further subsequent requests.

Part C: Impact on Detainees

1. Please describe the impact that detention has on detainees' physical and mental health.

Research has repeatedly shown that detention has a disastrous impact on the health, development and wellbeing of children, even if the detention is of a very short period and if the detention takes place under relatively "humane" circumstances.³⁷ *"There is solid evidence on the impact that detention has on children. Reports refer to high rates of suicide, self-harm and development problems. Even very short periods of detention can undermine the child's psychological well-being and cognitive development. Children deprived of liberty are also at a higher risk of violence, abuse and ill-treatment."*³⁸

Children experience pain and suffering differently to adults owing to their physical and emotional development and their specific needs. In children, ill-treatment may cause even greater or irreversible damage than for adults.³⁹ Moreover, healthy development can be derailed by excessive or prolonged activation of stress response systems in the body, with damaging long-term effects on learning, behaviour and health. A number of studies have shown that, regardless of the conditions in which children are held, detention has a profound and negative impact on child health and development. Even very short periods of detention can undermine the child's psychological and physical well-being and compromise cognitive development. Children held in detention are at risk of post-traumatic stress disorder, and may exhibit such symptoms as insomnia, nightmares and bed-wetting. Feelings of hopelessness and frustration can be manifested in acts of violence against themselves or others. Reports on the effect of detention on children have found higher rates of suicide, suicide attempts and self-harm, mental disorder and developmental problems, including severe attachment disorder.⁴⁰ The threshold at which treatment or punishment may be classified as torture or ill-treatment is therefore lower in the case of children, and in particular in the case of children deprived of their liberty.

Adults also suffer from immigration detention, they have a **feeling of injustice**, they feel **criminalised** (this feeling is enhanced by the fact that, just like people convicted to a prison sentence, they have to appear before the Court of First Instance or the Chamber of Indictments when challenging their detention). Visitors of the detention centres are often confronted with detainees who think about suicide. They have feelings of insecurity about the future and feelings of helplessness.

2. Please describe the varying impacts on particularly vulnerable groups, including racial and ethnic minorities. What systems or practices are in place to prevent discrimination in both proceedings and detention?

Legal basis: Articles 6 and 7 of the Royal Order of 2 August 2002

Article 6: The residents of the detention facilities must respect each others opinion and individuality, inter alia in the areas of religion, philosophy, culture and politics. Article 7: The personnel of the detention facility will treat every resident equally, correctly and respectfully, with respect for the privacy and and free of any discrimination. See AIDA Country Report Belgium 2018 Update, pp. 48-56.

The Alien Act defines as vulnerable persons: minors (accompanied and unaccompanied), disabled persons, pregnant women, elderly persons, single parents with minor children and persons having suffered torture, rape or other serious forms of psychological, physical or sexual violence.⁴¹ The Reception Act mentions more profiles, and reflects the non-exhaustive list contained in Article 21 of the recast Reception Conditions Directive, referring to "children, unaccompanied children, single parents with minor children, pregnant women, disabled persons, victims of human trafficking, elderly persons, persons with serious illness, persons suffering from mental disorders and persons having suffered torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation."⁴² However, there is no definition of what the notion vulnerability contains.

³⁷ See UNICEF, DIVERSION NOT DETENTION: A study on diversion and other alternative measures for children in conflict with the law in East Asia and the Pacific, available under:

https://www.unicef.org/eap/sites/unicef.org/eap/files/2018-10/Diversion_Not_Detention_-_Alternative_Measures_for_Children_in_Conflict_with_the_Law_in_East_Asia_and_Pacific.pdf?fbclid=IwAR1sc_42H_a_4aWF2ETE_fhjH2ba7e1fGfP59-rWCim0LVgPjdtnzZAYNs

³⁸ UNICEF, A home away from home for refugee and migrant children, August 2016, available under:

https://idcoalition.org/wp-content/uploads/2016/10/A-home-away-from-home_29-08-2016-1-2.pdf

³⁹ See for example Anthony Lake and Margaret Chan, *Putting science into practice for early child development*, UNICEF, New York and WHO Geneva, 20 September 2014; and Michael D. De Bellis et al., "Developmental Traumatology Part II: Brain Development", *Biological Psychiatry*, vol. 14, No. 10 (15 May 1999), pp. 1271-1284.

⁴⁰ See The heart of the nation's existence: a review of reports on the treatment of children in Australian detention centres, ChilOut, 2002, appendix E, Michael Dudley and Bijou Blick; Sarah Mares and Jon Jureidini, "Psychiatric assessment of children and families in immigration detention – clinical, administrative and ethical issues", *Australian and New Zealand Journal of Public Health*, vol. 28, No. 6 (2004) pp. 520-526; Human Rights and Equal Opportunity Commission, "A last resort? National Enquiry into Children in Immigration Detention", April 2004; Zachary Steel et al., "The politics of exclusion and denial: the mental health costs of Australia's refugee policy", 12 May 2003, p. 10.

⁴¹ 181 Article 1(12) Alien Act

⁴² 182 Article 36 Reception Act.

Both the Alien Office and the CGRS have arrangements in place for the identification of vulnerable groups. In 2014 the Alien Office started a "Vulnerability Unit" to screen all applicants upon registration on their potential vulnerability. The Vulnerability Unit consists of officials interviewing vulnerable cases, who have had specific training and are supposed to be more sensitive to the specific implications vulnerability might have on the interview.⁴³

Since August 2016 the Alien Office uses a registration form in which it is indicated if a person is a (unaccompanied) minor, + 65 years old, pregnant, a single woman, LGBTI, a victim of trafficking, a victim of violence (physical, sexual, psychological), has children, or has medical or psychological problems.⁴⁴ These categories offer a broader definition than the one provided in the Alien Act and the Reception act. The form further offers an empty space for additional information, which is often used in practice to indicate if there are urgent needs, e.g. medical needs. For the asylum seekers concerned, the process of registration will be faster and certain (emergency) reception centres, such as emergency centres, won't be assigned to them.

Following the reform that entered into force on 22 March 2018, it is now clearly provided that asylum seekers should, at the start of the asylum procedure, fill in a questionnaire determining any specific procedural needs.⁴⁵ In practice, this has led the Immigration Office to ask the asylum seeker whether he or she has medical or psychological problems that might influence the interview, if she/he would like his/her partner to be present during the interview, if she/or he would prefer a male or a female interpreter, as well as asking pregnant asylum seekers about the impact of their pregnancy.⁴⁶

3. Please describe the way in which detention of migrants in your country particularly affects children who are detained. How does the detention affect education? Are educational resources available in the facilities in which they are held? Please describe any of these programs.

Legal basis: The Royal Order of 22 July 2018 stipulates that the needs of the families and minor children must be taken into consideration in the organisation and functioning of the centrum. Although the general rules that are applicable to the closed centres do also apply for families, in some cases these rules will be adapted to the specific needs of (individual) families. The Order provides that the experience and protection of children will be taken into account as to ensure a strongly diminished experience of detention. The point of departure is to offer a temporary housing environment in a closed setting. The supervision is aimed at the security of the present inhabitants and will not be explicitly visible for the families. Moreover, the Order foresees that the families will obtain additional support, they will be accompanied by a multidisciplinary team, including a coach who will accompany them. For the children, sufficient means of recreation will be provided. Toys will be made available and activities for children will also be organised. Furthermore, they will have access to a garden, where there will be sufficient playground. Regarding **education**, the Order stipulates that children subject to compulsory education, will be enabled to enjoy adapted education during their stay in the centre.

Of course, a closed setting can never be adapted to the needs of children, as children need freedom in order to develop. There is a traumatic impact of being apprehended at the family house, and fear of the police and "people in uniform". This makes children lose confidence in their parent(s), who cannot protect them from this experience. The parent(s) cannot fully exercise their role as parents while staying in the closed family units (loss of control). This negatively influences the child-parent relationship. Moreover children experience stress from the sudden change in daily routine and sudden uprooting from their habitual environment. They also have bad night rest, nightmares, stomach aches, headaches, ...⁴⁷

See the IDC Captured Childhood Report:

<https://idcoalition.org/wp-content/uploads/2012/03/IDC-Captured-Childhood-Report-Chap-5.pdf>

4. Is consideration given to keeping families together?

Legal basis: When there is a decision to terminate the stay of a foreign national, the nature and closeness of family ties of the concerned person, as well as the duration of the stay and the existence of family ties or cultural or social ties with the country of origin is taken into consideration.⁴⁸

The detention of couples or families with adult children is only possible in the detention centres in Bruges and Caricole in Steenokkerzeel

.When the removal of a family with children is at stake, the Belgian government argues that their choice to keep families together results in the necessity to detain families in closed family units pending their removal. In the logic of the government, if families wouldn't be kept together, for instance only the father would be detained, the remaining family members would abscond. We have observed a case in which a mother with two children has

⁴³ CBAR-BCHV, Trauma, geloofwaardigheid en bewijs in de asielpcedure' (Trauma, credibility and proof in the asylum procedure), August 2014, available in Dutch at: <http://bit.ly/1MiiYbk>, 66-69

⁴⁴ Fedasil, Study into vulnerable persons with specific reception needs, February 2017, available at: <http://bit.ly/2JA2Yhj>.

⁴⁵ 185 Article 48/9(1) Alien Act.

⁴⁶ Fedasil, Kwetsbare personen met specifieke opvangnoden: definitie, identificatie en zorg, 6 December 2018, available in Dutch at <https://bit.ly/2S7NtO5>, p. 25.

⁴⁷ https://www.jrsbelgium.org/IMG/pdf/advies_jrs_wetsvoorstel_verbod_opsluiting_kinderen.pdf & findings of paediatricians and other medical professionals who visited the families in the closed family units.

⁴⁸ Article 1/2, §3 of the Alien Act

been detained in the family units, while the father, who was not in the family house at the time of the arrest, remained unfound. The mother was deported to her country of origin with her two children.

5. Are children typically kept in detention? How long?

Since August 2018, families without legal stay in Belgium or families that arrive at the border can be detained in a new specific closed centre for families, near the airport. They can be detained for a maximum of 14 days. If there are no objections concerning the mental or physical health of the children, the detention is renewable once for another period of 14 days by the Director-General, providing that he communicates the reason of the prolongation to the responsible Minister.⁴⁹ In practice, this written motivation is very poor, is not made public, and no external advice (e.g. of a paediatrician or pedo-psychiatrist) is sought.

People who declare to be minor during their intake interview, but whose minority is challenged by the Immigration Office, stay in the detention facility pending the result of their age determination test⁵⁰. In the meantime, these migrants should be able to enjoy the protection of a temporary guardian, however, in practice, temporary guardians are rarely appointed.

6. How does the detention of migrants in your country particularly affect women? Are health resources for women made available to women in detention? How can women in detention access health resources? Are resources available for pregnant women in detention? How are pregnant women accommodated with respect to the conditions of detention?

Pregnancy does not protect a woman from detention or removal. The dispositions in the Alien Act with regard to the situation of pregnant women are listed here below. Since the decision of the Constitutional Court of 1999, a “medical impossibility to remove” was introduced, which has as a consequence that the people in question are, under certain circumstances, temporarily irremovable. Pregnant women can be in this situation, a forced removal is only possible until 24 weeks of pregnancy, and a consented removal till 34 weeks of pregnancy.

The following 3 texts refer to pregnant women:

- A circular of 2009⁵¹ which stipulates that a pregnant woman cannot be forcibly removed after 28 weeks of pregnancy.
- The Reception Act of 2007⁵² foresees a prolongation of material support to pregnant women at the earliest as of seven months of pregnancy until two months after the birth at the latest. Seven months of pregnancy covers week 27 till 30 of the pregnancy.
- The Royal Order of 2002 on the functioning of the closed detention centres⁵³ contains a chapter titled “Birth”. This chapter counts two articles, which cover the situation in which a woman would give birth during the period of her detention, and the resulting administrative steps that must be undertaken in such a case.⁵⁴

In practice, we have no knowledge of childbirths in a closed detention centre. Since a removal cannot be performed at the end of the pregnancy, the person in question will in principle be released before childbirth.

According to the annual reports of the closed detention centre, several pregnant women are being detained each year. In 2017, 59 women. There are no specific provisions regarding the conditions of detention for pregnant women. In practice, pregnant women are regarded as vulnerable persons, who will be followed by the medical service of the centre at their arrival in the centre. In case of specific needs, pregnant women can, according to an internal memo of the Immigration Office on the follow-up of pregnant women in detention, demand special care (access to a gynaecologist, ...). They could also enjoy the “Special Needs” programme, introduced to support vulnerable persons.

Myria, established that there is no clear regulation that protects a pregnant woman before the birth of her child nor a young mother and her newborn after childbirth from a removal. This situation leaves flexibility to the authorities. The mere starting point of the number of weeks is unclear and varies depending on the courts and the assessment of the Immigration Office.⁵⁵

⁴⁹ See Article 3 of the Royal Order of 22 July 2018.

⁵⁰ See Katja Fournier, L'estimation de l'âge des MENA en question : problématique, analyse et recommandations, 2017: <http://www.mineursenexil.be/files/Image/mena-Cadre-juridique/Estimation-de-l-age-as-printed.pdf>

⁵¹ Circular of 29 May 2009 regarding the identification of irregularly residing aliens, Belgian State Gazette (Belgisch Staatsblad/Moniteur Belge) of 15 July 2009.

⁵² The Act of 12 January 2007 regarding the reception of asylum seekers and of certain other categories of aliens, Article 7 §2, Sentence 2

⁵³ Royal Order laying down the regime and the operational measures applicable to the places located on the Belgian territory, managed by the Immigration Office, where an alien is detained, at the disposal of the government or retained, as per the provisions mentioned in Article 74/8, §1 of the Act of 15 December 1980 on entry, stay, settlement and removal of foreign nationals.

⁵⁴ See Articles 122 and 123 of the Royal Order of 2 August 2002: Article 122 stipulates that: “The director of the centre or his deputy will deliver the Director-General (of the Immigration Office) a report, accompanied by an attestation of the doctor attached to the centre regarding each woman of which the date of childbirth is foreseen during the period of her detention”. Article 123 stipulates that: “The director of the centre or his deputy shall, within three days after the birth, make a declaration of the birth of the child to the civil officer of the place where the child was born, as per Article 55 of the Civil Code”.

⁵⁵ Myria: Myriadoc Detention 2018, p. 49

Part D: Alternatives to Detention

1. What alternatives to detention exist in your country? Please describe these alternatives to detention and how they are generally perceived and implemented in your country.

Belgian legislation foresees the following three alternatives to detention:

- ❖ The return houses, also called FITT⁵⁶-houses or open family units; implemented in October 2008, embedded in article 74/8 §1 of the Alien Act, regulated in the Royal Order of 14 May 2009.

Currently, the following 6 categories of families with children can be accommodated in the return houses:

- Families who stay on the territory without a legal stay;
 - Families on the territory who received a negative response on their demand for international protection;
 - Families who introduce a demand for international protection at the border;
 - Families at the border who did not introduce a demand for international protection;
 - Families concerned by the Dublin procedure (both on the territory and at the border);
 - Families without a legal stay who enjoy shelter on the basis of the Royal Order of 24 June 2008 – in this case, it's not a matter of detention!
- ❖ The possibility to stay in the family house pending a voluntary return; Transposition of article 7 of the European Return Directive, based on article 74/9 of the Alien Act; the Royal Order of 17 September 2017 determines the content of the agreement between the family and the Foreigner's Office.
 - ❖ The "preventive measures to prevent disappearances"; Transposition of the EU Return Directive, based on article 74/14§2 of the Alien Act, and stipulated in article 110*quaterdecies* of the Royal Order of 8 October 1981 on the entry, stay, settlement and removal of foreign nationals.

The law foresees the following measures, both for families with children and adults, "for as long as the term for voluntary departure has not expired":

- obligation to regularly report to the commune or the Foreigner's Office;
- to pay a deposit;
- to hand over copies of identity documents.

We would like to point out that the possibilities to stay in your own home in anticipation of the voluntary return (point 2.) as well as the preventive measures to prevent disappearances (point 3.), in our opinion, currently do not meet all conditions of the restricted definition of "alternatives to detention" (no "warrant to detention" is issued, and these measures can be imposed while it is not yet proven that the return is possible or imminent). Nevertheless, the IDC views alternatives to detention as "any law, policy or practice by which persons are not detained for reasons related to their migration status."⁵⁷ Unfortunately, these alternatives, although foreseen by law, are barely applied and do not receive sufficient funding. However, in our opinion they can be an opportunity for both the beneficiaries and the government and should be developed into fully-fledged alternatives.

2. Have all detainees access to alternatives to detention? How many persons get an alternative to detention in comparison with the number of detainees?

There are no real alternatives to detention for isolated adults. For families with children on the territory, the Alien Act foresees a cascade system. In principle, they must first pass through a return house. In case the stay in the return house was not effective (read: it did not lead to return), families with children on the territory can be detained in a closed family unit. For families with children who arrive at the border (in practice mostly Brussels Airport), it is possible to immediately detain them in the closed family units.

However, the notion of "danger to public order" in the law leaves a certain margin of manoeuvre and thus discretionary power to the Immigration Office. Also, the law foresees preventive measures, which (under a broad interpretation) can be considered as alternatives to detention. However, these preventive measures are not applied in practice, which leads to believe that the Immigration Office chooses not to invest in these alternatives.

3. Have there been any policies proposed in your country that could achieve the same objectives as detention? How have these proposals for alternatives to detention been received in your country? Are proposals for alternatives to detention generally met with favor or have they been rejected? Please describe the criticisms of the policies for alternatives to detention by the general public. If these proposals have been rejected, what was the rationale for rejecting them?

NGOs propose to immediately stop the detention of children for immigration purposes and to both evaluate the existing alternatives to detention and to further develop (new) alternatives to detention. NGOs have started a campaign against child detention, this campaign enjoys the broad support of civil society. Moreover, more than 30.000 people have signed the campaign's petition against detention of children in closed family units.

⁵⁶ FITT stands for "Familie Identificatie en Terugkeer Team"; Family Identification and Return Team

⁵⁷ International Detention Coalition, There are alternatives, a handbook for preventing unnecessary immigration detention (revised edition), 2015, p. II.

In general, the public is not informed on alternatives to detention (such as preventive measures, guidance at the family house, stay in return houses pending return).

Since a few years, a platform of citizens, the Plateforme citoyenne de soutien aux réfugiés, accommodates a great number of migrants who would otherwise be detained or sleep in train station or on the streets of Brussels (Parc Maximilien). According to the (broad) IDC definition, this type of practice can be considered as an alternative to detention.

Part E. Additional information

Please add any other information that you consider to be relevant for the CMW to take into account in the elaboration of this general comments.

- AIDA Belgium Report 2018 Update,

https://www.asylumineurope.org/sites/default/files/report-download/aida_be_2018update.pdf

- Personnes inéloignables; article of Marleen MAES: De terugkeerrichtlijn en onverwijderbare vreemdelingen, in: *Tijdschrift voor Vreemdelingenrecht*, Number 3, 2011, p. 253.

- Office des Etrangers, Rapports statistiques 2017,

<https://dofi.ibz.be/sites/dvzoe/FR/Documents/Rapport%20statistiques%202017%20FR.pdf> .

- Le non-accès accès aux zones INAD.; Myria, Rapport: Les Centres INAD régionaux et les droits fondamentaux des étrangers, https://www.myria.be/files/MIG_PAPER_Centres_INAD_regionaux_Final_FR.pdf

- Le mécanisme de plaintes (commission de plaintes) + respect de l'OPCAT (mécanisme de surveillance); Deborah Weinberg, Myria, Le rôle possible de Myria dans l'application du mécanisme de contrôle national;

https://www.ctrg-ccsp.be/sites/default/files/weinberg_fr.pdf and,

Vluchtelingenwerk Vlaanderen, Gesloten centra voor vreemdelingen in België, een stand van zaken, December 2016 https://www.vluchtelingenwerk.be/sites/default/files/rapport_-_gesloten_centra_in_belgie.pdf, and Amnesty International, Mensenrechten en het Belgische terugkeerbeleid, Commissie 'Terugkeer', 18 juni 2018,

https://www.amnesty.be/IMG/pdf/final_amnesty_international_opmerkingen_commissie_terugkeerbeleid.pdf

- Myriadoc Détection 2018; https://www.myria.be/files/181205_Myriadoc_de%CC%81tention_2018.pdf

- Myria Report 2015, Chapter 10, Garanties procédurales;

<https://www.myria.be/files/Migration-rapport-2015-C10.pdf>

- note avis de JRS sur les alternatives pour la détention;

https://www.jrsbelgium.org/IMG/pdf/avis_jrs_proposition_de_loi_o_interdire_l_enfermement_des_enfants.pdf

- See the IDC Captured Childhood Report:

<https://idcoalition.org/wp-content/uploads/2012/03/IDC-Captured-Childhood-Report-Chap-5.pdf>