
Belgium Country Report

Work Package 2

Undocumented Worker Transitions

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In an environment where access to the labour market is limited while migratory pressure and the demand for informal work is growing, all the conditions are met for developing illegal and semi-legal subcontracting and increasing the risk of gross exploitation

Centre for equal opportunity and opposition to racism (2006)

1. Introduction

During the 19th century Belgium was more a country of emigration than immigration, with more Belgians living abroad (especially in France) than other nationalities settling in Belgium. From 1920 Belgium saw the first waves of migration of workers from Italy, Eastern Europe and the Maghreb. They came to work mainly in the coalmines deserted by native Belgian workers. This immigration was concentrated in the industrial areas of Wallonia. After the economic crisis in the thirties, unemployment increased dramatically and the government decided to send unemployed foreigners back to their country of origin. In 1936, to limit the migration of foreign labour, a royal decree introduced the requirement to have a work authorization (work permit) both for workers and employers.

After the Second World War Belgium signed eight bilateral labour agreements with Italy (1946), Spain (1956), Greece (1957), Morocco and Turkey (1963), Tunisia (1969), Algeria and Yugoslavia (1970). This migration was mainly by men, but at the beginning of sixties family migration was encouraged, which gradually began to feminize both the legal migratory flows (family reunification) and “illegal” ones (trafficking of human beings). The Belgian OECD report on migratory flows (SPF ETCS, 2006) confirms the strong feminization of the new migrations, particularly those coming from Thailand (79 per cent women), former Yugoslavia (64 per cent), Bulgaria (62 per cent), Morocco (55 per cent) and China (53 per cent).

In 1974, migration was officially stopped in Belgium, so the only means to enter the country legally and to obtain a residence permit were family reunification, marriage, study or seeking asylum. Family reunification has constituted the major migration flow in recent years, while asylum applicants represent a small share, continuously decreasing since 2000.

1.1. Refugees

For 20 years the number of asylum applications in Belgium, like elsewhere in Europe, have increased, with two important peaks: 1989-1993 and 1998-

2000. Asylum applications reached their highest points in 1993, with more than 26,882 applications from Congo, Romania and the former Yugoslavia, mainly from Bosnia, and in 2000 with a peak of 42,691 applications. Since then, the number of applications, as well as recognition of refugee status, has decreased. This period corresponds to the “first crisis of asylum” (Perrin, 2006) at the beginning of the 1990s when asylum claims began to be perceived more as an economic mode of migration, since the possibility of migration for work was ended after 1973 in the majority of European countries.

Following the Bosnian and Kosovar crises, Belgium became one of the main host countries for asylum seekers. After the relative stabilization of these areas, several changes of procedures and the abolition of direct financial assistance to asylum applicants, the number of requests for asylum dramatically reduced. Asylum seekers mainly come from Congo (R.D.C.), Russia (mainly Chechnia), Serbia-Montenegro (mainly Kosovo), and Iraq.

1.2. Undocumented migrants

During the 1980s and the 1990s the number of undocumented migrants increased dramatically. According to the Ministry of the Interior, the term illegal immigration (“immigration illégale”) refers to foreigners settled in the Belgian territory and who do not fulfil the legal conditions for entry and permission to stay. It refers specifically to non-nationals who are not in possession of documents required to enter and stay in the country (without passport, identity card or visa), those who are carrying out a professional activity without the authorization required (work permit, professional card) and those whose legal period of stay has ended and they become ‘illegal’.

There is generally a distinction made between two categories of undocumented migrants in Belgium. On the one hand, there are ‘undocumented’ migrants who entered Belgium legally, but their residence permit has expired and has not been renewed for various reasons related to their legal status (i.e. as tourists, students, asylum applicants etc). On the

other hand, there are 'clandestine' migrants who entered the country illegally, and who have never had legal documents (neither residence nor work permits). The latter category experience a very different migration trajectory, as well as institutional, social and material resources (Adam et al., 2002).

Belgium has had two regularization operations. The first was carried out in 1974, following the decision to close the borders. The second took place in January 2000. According to the Senate Commission Report of the Interior in March 2000, the number of undocumented migrants was estimated at between 70,000 and 90,000. The regularization process allowed almost 37,000 applications, covering more than 50,000 people (Galand, 2001). Nearly 80 per cent of the eligible cases led to regularization. During this operation, which lasted more than 24 months, candidates for regularization did not receive any financial or material assistance from the authorities. Thanks to denunciation by NGOs of the unbearable economic conditions for migrants, the Belgian Minister of Labour made a decree granting a provisional work permit to the candidates for regularization. Indeed, these people on low income were the ideal prey for employers who systematically recruited them to the informal workforce.

The "one off" regularization operation did not end the question of undocumented migrants, as many are still living in Belgium today, and are demanding a clear and continuous regularization process¹. Movements of undocumented migrants are mobilizing to fight for better living and working conditions. On February 25, 2006, 10,000 people demonstrated in Brussels to support the claims of undocumented migrants. Most undocumented migrants in Belgium are Afghans, Iranians, Moroccans and South Americans (Adam et al., 2002).

¹ They are also demanding the end to detentions, raids and expulsions, and the abolition of detention centres for illegal migrants.

2. Summary of the immigration and employment legislative system

2.1. Historical account of national migration policies and legislation

Belgian migration policy consists of two main strands. The first is the management of the new migratory flows that are still permitted, i.e. family reunification and refugees. This policy is accompanied by a firm policy of detection and expulsion of “clandestine”, or undocumented, migrants. The main effect of this policy is to criminalise all migrants.

The second strand consists of a policy of integration of migrants, established at the beginning of the 1990s. This policy is built on two pillars: on one hand, easier access to Belgian nationality for migrants and their children, and on the other hand, the fight against racism and discrimination in all aspects of life (work, housing, schooling etc) in order to ensure equal treatment between citizens officially settling in Belgian territory.

In addition, this migratory policy has been complemented by the reinforcement of several measures aiming to combat ‘illegal work’ (including migrants without residence permit and work permit as well as nationals), forced labour and human trafficking. The fight against Islamic terrorism at the international level after September 11 has had a significant impact on Belgian migration policy, which contributes to the stigmatisation of the Muslim population.

2.2. Overview of current immigration legal framework

The major national act concerning migrants is the Law of 15 December 1980 on the access to the territory, stay, settlement and removal of foreigners. This law controls the administrative status of migrants at all stages of their stay in Belgium. After the ending of legal migration of workers in 1974, except for very specialist labour not present in the Belgian labour market, the possibilities for coming to Belgium were dramatically reduced. Through successive reforms, the right to live in and access the territory were restricted

to family reunification (1984), foreign students (1982, 1984), and free movement for tourists (visas required since 1986). Asylum seekers' and refugees' rights were also curtailed through the law of 1987 that reinforced border controls, the law of 1991 allowing the detention of asylum seekers at the border and in 1993, the first detention centres were created.

Two major legislative changes occurred in 2006, mainly because Belgium had to conform to EU directives on migration and asylum², but also to deal with the accumulation of asylum seeker applications. The two new laws of 15 September 2006 dramatically changed the conditions of recognition of refugee status, in order to simplify the procedure. They introduce a new kind of protection for asylum seekers, called subsidiary protection, which applies when the asylum seeker does not meet the Geneva Convention criteria, but fears persecution, such as the death penalty or execution, torture or ill treatment, or violence in the case of armed conflict.

The Belgian Citizenship Act of 1984 (*Code de la nationalité belge*) was reformed several times (in 1991, 1995, 1998) in order to facilitate access to citizenship, which is seen as the best way to integrate migrants into Belgian society (Carlier and Rea, 2001). The reform of 1 March 2000 allows foreigners to apply for Belgian nationality after seven years of legal residence, without any condition on integration.

Belgium was one of the first EU countries to adopt a law against human trafficking in 1995³, recently reformed in order to conform to EU and international dispositions. This law punishes trafficking in human beings as well as human exploitation (sexual or economic exploitation). A Protocol of collaboration to fight the trade in human trafficking was concluded between the social inspectorate of the Minister of the Social Security and the social

² Directive 2003/86/C on family reunification; Directive 2004/81CE on the delivery of a residence permit to victims of human trafficking; Directive 2004/83CE concerning the minimum standards.

³ Law of 13 April 1995 contenant des dispositions en vue de la répression de la traite et du trafic des êtres humains, *M.B.*, 25 avril 1995, last modification: law of 10 August 2005, *M.B.*, 2 septembre 2005.

inspectorate of the Minister of employment which increased the number of controls in the most affected sectors, such as cleaning, restaurants and prostitution.

The first criminal law against racism was adopted in 1981 and amended several times (1994, 1995, 1999, 2003). A wider reform was the law against discrimination of 2003, implemented in order to transpose the EU 'Race' and 'Employment' directives. This law represents a reinforcement of the legislative framework by introducing civil measures that increase the rights of victims, particularly in the field of employment, and measures on victimisation and the option to choose between criminal or civil law at employment tribunal. A new reform was adopted in April 2007 to comply with new EU directives and to harmonize protection on all grounds of discrimination, which will offer a new and quicker system of compensation to victims.

Other than through measures to combat racism, Belgian integration policy is mainly implemented through social policies at different levels (federal, regional, local), the aim of which is to calm tensions in urban areas and combat social disadvantage (Carlier and Rea, 2001). The principal measures concerning the integration of migrants in employment are led by the Integration Section of the Centre for Equal Opportunity through the implementation of policies directed towards labour market diversity. Some activities are focused on migrants, such as the development of professional opportunities for migrants or ethnic minorities, or specific programmes for integration of migrant women into the labour market. However it is difficult to evaluate the impacts of such measures: for some (Martens, Verhoeven, 2006), this is due to the lack of a coherent system of registration and monitoring of members of minority ethnic groups. There is a debate about the whether to start ethnic monitoring in Belgium (Ouali, 2004).

The Fonds d'Impulsion à la Politique des Immigrés (FIPI), created after the Brussels riots in 1991, finances priority projects dedicated to the inclusion of young people of migrant background, the prevention of discrimination, and

intercultural dialogue. In 2005 the FIPI budget was 7.5 million Euros. Social and professional integration is becoming one of the main priorities of the fund.

The Centre for Equal Opportunities and the Fight against Racism, created in 1993⁴, deals with the promotion of equal opportunities and the fight against racial and ethnic discrimination and, since the 2003 reform, also covers discrimination based on age, disability, sexual orientation, and religious and political conviction. The centre is also responsible for monitoring migration and integration policy - its missions include the observation and evaluation of the conditions of detention and expulsion of undocumented migrants in the light of their fundamental rights, and the fight against human trafficking.

Recent measures have been adopted in order to combat illegal work, through the *Partnership Convention on the fight against illegal work*. The Minister of employment has developed a sectoral policy on illegal work covering cleaning, building and private security. Efforts to combat illegal work and social services fraud are being put in place through several instruments. The law of 3 May 2003⁵ provides a co-ordinated institutional framework for policies to combat illegal work and social services fraud through, for example, a focus on prevention measures, the presentation of proposals to Ministers, and the establishment of recommendations for legal changes in relation to the fight against illegal work.

2.3. Employment Law framework for migrant workers

Access by foreigners to the labour market in Belgium has been regulated since 1936, and there is a clear distinction between the private and public sectors.

Public sector employment was strictly reserved for Belgian citizens, although EU citizens have had access to these jobs since 1968 (Ouali, 1997). Since

⁴ Loi du 15 février 1993 créant un centre pour l'égalité des chances et la lutte contre le racisme, *Moniteur Belge.*, 19.02.1993.

⁵ MB 10 June 2003.

1994 it is not only European citizens who get access to education, health and civil service employment. At the regional level, in Brussels the Ordinance of 11 July 2002⁶ opens access to regional civil service employment to foreigners. It offers non-EU citizens the opportunity to work for the Brussels administration, although there are some exceptions for jobs related to finances and the armed forces, for example.

Private sector employment is regulated by two laws, one for salaried and the other for self-employed workers. The royal decree n°285 of 31 March 1936 regulated foreigners' access to the labour market until 1999. This required a double authorization: the employer had to obtain authorization for recruiting a migrant worker, which would only be granted if there was shortage of workers in the sector concerned; and employees had to obtain a work permit and, on the basis of this, a residence permit. In 1999, the legal framework for foreigners' access to the labour market was reformed (Ouali, 1999) and implemented in 2003 by two ordinances⁷, which simplified procedures and facilitated access to the labour market for migrants and refugees. The main changes concerned the link between the right to stay and the right to work: foreigners who have the right to stay for an unlimited period automatically obtain the right to work without the need for a work permit. All other migrants, such as regularised migrants or victims of human trafficking, obtain a limited work permit for a maximum of 12 months. Another change is the creation of a new work permit: permit C (valid for all employers and for a maximum of one year). Three categories of work permit now exist: *permit A*, a long-term permit valid for all employers and all sectors; *permit B*, a short-term permit for one or several employers; and *permit C*, a one-year permit only for all employers. The latter is available to those staying legally and temporarily in Belgium for a reason other than work (i.e. eligible asylum seekers or students). Work permit

⁶ M.B. 23 July 2002.

⁷ Arrêté royal of 6 February 2003 (MB 27 February 2003) and Arrêté royal of 2 April 2003 (MB 9 April 2003).

exemptions have been given to foreign spouses of Belgian citizens and, since 2006, this has been extended to specific categories such as researchers, international company managers, and experts on short assignments in Belgium.

For self-employed workers, according to the 19 February 1965 Law, non EU foreigners need a professional card (*carte professionnelle*) delivered by the Ministry of Economy for five years maximum (renewable). This card indicates the economic activity that could be done. Some foreigners are exempted from the obligation to hold the professional card as refugees, foreigners with a long-term permit of residence. (AR 3rd February 2003).

Citizens of the European Economic Area have free access to the labour market in Belgium. Nevertheless, for citizens of the new Eastern European EU member States⁸, a work permit is required for an interim period of seven years from 1 May 2004. From 1 May 2006, access to the labour market became easier, particularly in certain sectors of labour shortage. In 2006, two Belgian reports (*Centre pour l'Égalité des Chances et la Lutte contre le Racisme, 2006*; *Conseil Supérieur de l'Emploi, 2006*) and an EU Communication⁹ suggested abandoning these transitional measures to respect the principle of free movement of European citizens and due to the fact that migratory flows had been controlled during the first transitional period.

A significant recent development concerns the institutionalisation of the fight against the illegal work and social services fraud through several instruments. The law of 3 May 2003¹⁰ provides a co-ordinated institutional framework for policies to combat illegal work and social services fraud through, for example, a focus on prevention measures, the presentation of proposals to Ministers,

⁸ Estonia, Cyprus, Hungary, Latvia, Lithuania, Malta, Poland, the Czech Republic, Slovakia, Slovenia, and since the first January 2006, Bulgaria and Romania.

⁹ Commission des Communautés européennes, COM (2006) 48: « Rapport sur le fonctionnement des dispositions transitoires visées au traité d'adhésion de 2003 (période du 1er mai 2004 au 30 avril 2006) », 2006.

¹⁰ MB 10 June 2003.

and the establishment of recommendations for legal changes in relation to the fight against illegal work.

2.4. Migrant registration and control processes

There are several state institutions dealing with registration of migrants and refugees in Belgium. The Register of the population records individuals who have the right to live in Belgium; as Belgians, EU citizens and non-EU legal residents and refugees who been in Belgium for 5 years. The national Register contains data on individuals, including nationality. These data come from the Population Register (all Belgians), the Foreigners Register (all legal foreigners) and Refugees Register. Another Register (BCSS) includes all persons who are not registered, or no longer registered, in the general population Register, for example, those who have left Belgium or transborder workers.

A law of 2006¹¹ introduces a new system of registration in order to better control the employment of foreign workers (self-employed, employees, student or trainee) who come to Belgium for a short time for work. Declaration should be made to the National Office of Social Security (ONSS) before starting work.

Migration control takes place at different levels. At the EU level, it is based on Schengen (co-ordination of visa controls at external borders of Member States) and Dublin Agreements (determination of the Member State of the European Union responsible for examining an application for asylum lodged in one of the Member States). At the national level, control is mainly through the imposition of a visa, complemented by domestic control in the form of on-the-street identity control and through control of illegal employment and illegal economic activities, as already mentioned.

¹¹ Loi-programme (I) du 27 décembre 2006, Moniteur belge du 28 décembre 2006, 3ème édition.

3. Statistical data on migration

On 1 January 2004 there were 860,287 legal foreigners in Belgium (Table 5), one of the highest proportions of foreigners in the population in the EU (8.3 per cent). Most are European citizens (68 per cent), mainly from EU15 States (66 per cent are Italian, French or Dutch). Among migrants from the new EU member States, Polish citizens are the largest group. Among non-EU citizens, Moroccans, Turks and Congolese are the largest groups.

Table 1: Foreigners in Belgium, by age and nationality 2004

Nationality	< 18 years	18-64 years	> 65 years	Total
<i>Belgium</i>	<i>2167374</i>	<i>6448927</i>	<i>1780120</i>	<i>10396421</i>
<i>Foreigners</i>	<i>126321</i>	<i>634846</i>	<i>99120</i>	<i>860287</i>
Belgians	2041053	5814081	1681000	9536134
Italians	11851	135757	35413	183021
Moroccans	14801	60459	6503	81763
Turkish	7075	30615	3646	41336
Congolese (Rép dém)	3417	9975	431	13823
Refugees	2808	6325	1155	10288
Stateless and unknown	934	1331	97	2362

Source : INS 1/1/2004

Table 2: Distribution of the population in Belgium born abroad according to country of birth and sex (2000-2003)

Country of birth	2000	Women %	2001	Women %	2002	Women %	2003	Women %
France	150,301	57.1	151,892	56.8	152,518	56.7	153,010	56.6
Italy	135,226	47.7	132,223	48.1	130,466	48.2	128,737	48.3
Morocco	107,276	44.7	118,764	44.7	126,504	44.9	134,248	45.5
Netherlands	92,267	52.2	97,813	51.6	101,252	51.3	104,402	51.2
Germany	83,714	56.4	83,434	56.1	80,135	55.7	83,346	56.0
Turkey	66,528	48.2	71,631	48.3	78,575	48.4	78,574	48.4
Congo (RD)	46,762	50.8	50,771	51.3	52,696	51.5	53,814	51.9
Spain	37,335	53.0	36,962	53.6	36,642	53.8	36,207	54.0
United Kingdom	26,148	50.9	26,089	50.3	25,909	50.0	25,634	49.6
Ex-Yougoslavia	21,924	47.8	21,106	48.4	23,586	48.2	25,827	48.3
Portugal	21,189	51.1	21,331	51.1	21,657	50.8	22,324	50.6
Poland	18,398	66.2	20,437	66.2	21,927	65.9	23,037	65.5
Greece	15,362	47.7	15,129	48.1	15,069	48.3	15,081	48.2
USA	14,134	51.7	14,045	51.9	14,107	51.7	14,071	51.6
Algeria	14,014	44.0	15,121	44.3	16,027	44.0	16,956	43.8
Congo (Rép)	13,807	51.8	14,948	51.5	15,492	51.2	15,654	51.3
Ex-USSR	10,700	63.8	11,044	65.1	12,908	65.3	14,612	66.0
Luxembourg	10,402	56.9	10,502	56.3	10,597	56.0	10,811	55.5
India	8,779	53.9	9,778	52.2	10,515	50.8	11,158	50.8
Tunisia	7,463	32.4	8,148	32.9	8,576	32.8	8,975	33.4
Vietnam	7,004	50.8	7,215	51.9	7,382	52.3	7,536	52.7
Romania	6,216	55.8	7,662	55.9	8,718	55.7	9,459	56.5
Rwanda	5,818	53.8	6,918	53.3	7,469	53.4	8,033	53.6
China	5,569	55.4	7,125	56.4	8,986	55.7	10,138	56.7
Philippine	5,073	76.7	5,846	76.2	6,306	76.7	6,600	76.7
Others	127,388	52.8	146,224	52.7	157,780	52.7	167,212	52.6
Total	1,058,797	51.8	1,112,158	51.8	1,151,799	51.7	1,185,456	51.8
% Total populat	10.32	0.0	10.79	0.0	11.12	0.0	11.4	0.0
Of whom EU	551,658	53.1	591,425	53.0	590,619	52.9	595,813	52.9

Source INS

The main nationalities of asylum seeker applicants in 2005 in Belgium are the following.

Table 3: Top 10 countries of origin of asylum seeker applicants in 2005

Country of origin	Number of asylum seekers
Russia	1,438
Congo (RD)	1,272
Serbia	1,203
Iraq	903
Slovakia	773
Armenia	706
Guinea	643
Rwanda	565
Nepal	557
Cameroon	530
Other countries	7,367
Total	15,957

CGRA Annual Report 2005

In 2005 a third of the applicants for asylum in Belgium were women, mainly coming from the Democratic Republic of Congo, Russia, Serbia Montenegro, Slovakia, Rwanda and Armenia. Among the refugees recognized in 2005 by the Belgian authorities, the proportion of women reached 45 per cent. They were from Russia, Rwanda, Republic democratic of Congo, Serbia Montenegro, Burundi, Iran, Iraq and Guinea. Women claimed they were at risk of genital mutilation, imposed marriage, sexual violence, crimes of honour, persecutions due to their sexual orientation or for political or ethnic reasons (CGRA, 2005).

In 2005 the number of cases recognised as refugees reached 3,059, an increase of 34 per cent compared to 2004. The total number of recognitions (figures CGRA + CPRR) rose to 3,748 people, most of whom were from Russia, namely, 1,256 cases recognised out of 3,059 or 41 per cent. The others are refugees from Chechnya, Rwanda (445 cases), Democratic Republic of Congo (204), Serbia-Montenegro (166) and Iran (112).

Table 4: Number of asylum seeker recognitions in 2005

	Number of recognitions by CGRA	Number of recognitions by CPRR ¹²	Total Number of recognitions
2000	1,198	208	1,406
2001	898	259	1,157
2002	1,168	160	1,328
2003	1,201	183	1,384
2004	2,275	99	2,374
2005	3,059	689	3,748

CGRA, Rapport annuel 2005

The only statistics on non-European migrant workers entering Belgium are from the number of work permits issued (A and B). It also includes the eight new EU Member States during the transitional period. In 2004, 4,312 first work permits B were issued to migrant workers (see table 5) of whom 1,123 were women (26 per cent).

Table 5: First work permit A and B issued

	Total				Women			
	1991	1995	2000	2004	1991	1995	2000	2004
Poland	329	125	296	1046	109	87	62	346
India			413	666			54	74
USA	659	481	686	504	162	116	177	106
Japan	392	282	350	405	52	24	31	29
China			266	131			71	40
Canada	118	62	222	107	41	12	49	35
Romania		182	165	105		75	64	61
Turkey	2946	1612	336	95	1228	706	104	29
Hungary	43	28	107	91	11	14	32	26
Ex-Yougoslavia	516	114	743	89	92	45	213	15
Russia		53	191	71		20	57	24
Morocco	4963	2531	639	55	2123	875	161	22
Others	6310	2736	3053	947	2349	1013	1026	316
Total	16276	8206	7467	4312	6167	2987	2101	1123

Source SPF ETCS (2006)

In 2004, almost 25 per cent of work permits were issued to Polish workers (1,046 permits of whom 346 were women). This is followed by Indians (666 permits), USA (504) and Japanese (405). The number of work permits issued has decreased constantly since 1991 (16,276 in 1991 and 1,123 in 2004).

¹² Commission permanente de recours des réfugiés

Since 2003 a new work permit C has been issued to those staying legally and temporarily in Belgium for another reason than work, such as eligible asylum seekers or students who wish to work while studying. The total number issued in 2004 was 29,550 including 11,106 to women.

Table 6: Work permit C issued in 2003 and 2004 by gender

	Total		Women	
	2003	2004	2003	2004
Europe				
Ex-Yugoslavia	1404	1512	518	580
Hungary	30	36	19	32
Poland	172	292	120	220
Romania	188	288	134	196
Russia	2725	3456	1131	1437
Turkey	660	789	184	231
Africa				
Algeria	528	411	82	82
Cameroon	1053	1219	358	443
Congo (RD)	2341	3092	1059	1456
Morocco	2170	2306	397	570
Tunisia	101	132	20	30
North America				
Canada	29	42	17	24
USA	35	83	10	37
Asia				
China	1058	1983	461	928
India	111	155	43	62
Iran	804	1246	253	413
Japan	20	32	18	27
Refugees and Stateless	88	178	30	81
Others	10626	12298	3449	4257
Total	24143	29550	8303	11106

Source: SPF ETCS, 2006.

3.1 Migration data from statistical reports

The rate of economic activity for migrants (48 per cent) was lower than for the Belgian population (69 per cent) in 2004. The employment rate is also higher for Belgians (62 per cent) than for foreigners (50 per cent), while the unemployment rate is much higher for foreigners (25 per cent) than for Belgians (12 per cent).

The activity rate (36 per cent) and employment rate (37 per cent) for non-Belgian women is lower than for foreign men (59 per cent and 62 per cent). It is also lower than that of Belgian men (61 per cent and 70 per cent) and Belgian women (43 per cent and 54 per cent). But their unemployment rate is the highest: twice the rate for Belgian women, three times that of Belgian men and 7 per cent higher than foreign men.

Table 7: Position in the labour market by gender and nationality, 2004

2004	Activity rate*	Employment rate	Unemployment rate
Belgians	69.00	62.00	11.93
<i>Men</i>	60.72	70.00	8.53
<i>Women</i>	42.74	54.00	16.38
Foreigners	48.12	50.00	25.33
<i>Men</i>	58.71	62.00	21.49
<i>Women</i>	35.97	37.00	32.52
Total	51.06	61.00	13.08
<i>Men</i>	60.52	69.00	9.79
<i>Women</i>	42.18	53.00	17.50

Sources :INS. INASTI. CIMIRe. ONEM. BNB. Calculs SPF ETCS

*Activity rate : the total population divided by population aged between 15 to 64 years

The migrant labour market in Belgium is segmented and segregated: ethnic minorities and foreign men and women are over-represented in a few sectors and professions. Vertommen and al. (2006) revealed through statistical analysis¹³ the ethnostratification of the labour market by calculating a

13 This analysis is based on data from the National Office for Social Security, the National Office for Employment and the State Register. The Central Social Security Bank linked the data with the State Register, which enabled us to determine the origin of the individuals. As data come from official agencies, the information concern only the regular labour force, undocumented people and workers are not in the database.

concentration index in different sectors. A concentration index equals the share of employees of a specific origin group in a sector over the share of native Belgian employees in that sector. An index equalling one signifies an equal representation in a sector, one greater than one signifies over-representation and an index smaller than one signifies under-representation. The study makes a distinction between native Belgians, Belgians of foreign origin (naturalised foreigners) and foreigners. Six main groups have been examined by gender: native Belgian, North and West European, South European, Moroccan, Turkish and Sub-Saharan African workers.

The analysis shows the five largest sectors of employment for native Belgians. For men these are public administration and defence, construction, land transport, education and wholesale and commission trade. For women these are health and social work, public administration and defence, education, retail trade, advice and services to companies and people. The public sector, more specifically health and social care, education and public administration, are very common. More than half of female employees are employed in one of these sectors, as are one out of four men¹⁴. Public administration is followed by construction (10.2 per cent) and land transport (6.9 per cent). It was clear that women are concentrated to a large extent in a smaller number of sectors: the five largest sectors cover more than 65 per cent of the female working population (compared to 44 per cent of the male population).

Belgian employees with North & West European origin have a very similar pattern of employment to native Belgians, with the exception of a slightly smaller proportion in the public sector. South European men work to large extent in secondary sectors: manufacture of basic metals and manufacture of metal products. For both the new Belgians (naturalised foreigners) and non-nationals, the top five consist of three secondary sectors. Construction employs the largest proportion of men. Belgian women of South European

¹⁴ 4 per cent of native Belgian men are employed in education.

origin have almost the same top five as the native Belgian and N&W European women, which implies high employment in the public sector.

The sector hierarchy of the Moroccan workforce shows a different pattern from that of European employees. The sectors 'industrial cleaning', 'hotels and restaurants' and 'temporary employment' employ a very large share of Moroccan employees: on average 25 per cent of new Belgians and 40 per cent of foreigners. The high concentration indexes reveal the strong over-representation of Moroccan employees in these sectors. Compared to native Belgians, Belgian Moroccan men are 24 times more likely to work in 'industrial cleaning', and women are 9.6 times more likely.

A similar distribution of sectors is shown for Turkish workers. There is an over-representation of Turks in blue-collar jobs: they work to a large extent in 'industrial sectors', 'industrial cleaning', 'agriculture' and 'temporary employment' (see table 8). The concentration-indexes of these sectors all reflect strong over-representation. Compared to foreigners, Belgian Turks are more over-represented in the industrial sectors. Foreigners have a disproportionately larger share of employees in 'industrial cleaning' and 'agriculture', and women have a large concentration of employees in agriculture. This sector employs as many as 71 times more foreign Turkish women and 31 times more Belgian Turkish women than native Belgian women. Turkish employees are even less represented in public and/or high-wage sectors than the Moroccan working population. For women, even the health sector shows poor concentration indexes. The sectors of under-representation are comparable to those of Moroccans.

**Table 8: The five largest sectors of employment for Turks in Belgium
June 2001**

Men – New Belgians	%	Men - Foreigners	%
Construction	16.8	Construction	24.3
Manufacture of motor vehicles, trailers and semi-trailers	8.6	Industrial cleaning	9.8
Manufacture of fabricated metal products, except machinery and equipment	7.2	Temporary employment agencies and employment	9.2
Temporary employment agencies and employment	6.7	Agriculture	6.7
Industrial cleaning	5.4	Manufacture of fabricated metal products, except machinery and equipment	5.3

Women – New Belgians	%	Women - Foreigners	%
Industrial cleaning	16.3	Agriculture	33.4
Agriculture	14.4	Industrial cleaning	30.9
Health and social work	12.1	Temporary employment agencies and employment	5.2
Temporary employment agencies and employment	9.0	Health and social work	4.7
Public administration and defense; compulsory social security	6.3	Hotels and restaurants	4.3

Source: Vertommen, Martens and Ouali (2006).

Sub-Saharan Africans, both men and women, work to a large extent in 'hotels and restaurants', health and social work' and 'temporary employment'. This last sector is the largest sector of employment for new Belgian and foreign men. Compared to other men, Sub-Saharan Africans are found to a greater extent in the health sector and to a lesser extent in 'construction'. A relatively large proportion of Sub-Saharan Africans work in the public sector. The concentration indexes show an over-representation in 'health and social work', but also in recreational, cultural and sporting activities' and 'activities of membership organizations'. 'Public administration' also employs a reasonable proportion of Sub-Saharan Africans; including foreign Sub-Saharan women.

3.2 Estimates of undocumented migration

There are different official sources of estimates of undocumented migrants in Belgium, due to their 'invisibility' in society, the complex range of institutions and authorities involved in migration control. A variety of administration are responsible for different areas of control: the federal police force, the office of foreigners, the social and work inspectorates, and the federal Council against illegal work and social fraud. This diversity of sources makes an estimate of 'illegal' migration difficult.

The response of the Minister of Labour to two questions from members of Parliament illustrates the statistical difficulty. Following the death of a Polish worker after falling from a roof in Flanders, a senator addressed a series of questions concerning the number of undocumented migrants in the country, undocumented workers, confinement in detention centres and prisons, and measures taken to combat undocumented workers and work¹⁵.

The Ministers answer is incomplete as the figures on undocumented workers are based only on figures provided of various inspections that found infringements in relation to employment of undocumented workers. The latter are defined as people authorised or not to reside for three months in the

¹⁵ Questions et Réponses. Sénat, 24 mai 2005 (n° 3-41).

country and who did not get a work permit¹⁶. There were 1,804 in 2002, 1,965 in 2003 and 2,014 in 2004. According to the two main inspection services (control of social laws and social inspection of the Ministry for Social Security) figures on undocumented workers were 1,447 in 2001; 1,619 in 2002; 1,996 in 2003; and 1,669 in 2004. The minister indicated that these figures do not include data from the regional inspections of work.

Very different figures have been provided by the Flemish federation of small and medium-sized companies in the construction industry (Bouwunie), which has estimated that in 2001 between 80,000 and 135,000 undocumented migrants were working in Belgium, compared to the figure of 1,669 from the annual report of social inspection, given above¹⁷. To explain the important disparity between the figures, the Minister of Labour stated that the figures from Bouwunie are based on an estimate, whereas those of the inspection are based on data from inspection control carried as a result of tackling trafficking in human beings. The Minister also highlighted the frequent confusion between the informal work, which consists of non-declaration to social security, and the 'illegal' employment of workers who do not have the required residence permit or work permit.

3.2.1 Border controls

The authorities controlling migrants at the border are the Federal Police Force and the Office des Etrangers, who assess the number of undocumented migrants on the basis of those arrested at the border, and who were unknown by the authorities before their arrest. It means, for example, that the rejected asylum seekers are not included in these figures. Repatriation programmes also give an estimate of the number of undocumented migrants who voluntarily wish to go back to their country of origin.

¹⁶ In Belgium, a migrant can get a residence permit which does not allow her/him to work. For this, s/he has to obtain a work permit.

¹⁷ Sénat de Belgique, séances plénières, jeudi le 22 décembre 2005, 3-142.

The figures on 'illegal immigration' by the Office des Etrangers are based, not on estimates but on objective data published annually from frontier control¹⁸. Thus, all those without a right to stay can be held in detention centres awaiting expulsion, according to the number of places available. A set of priorities was thus established for the detention of 'illegal' migrants. They are non-nationals whose entry to the country was refused at the border; those considered as compromising public order or national safety or convicted non-nationals arrested during checks by the police force, the Public Prosecutor's department or social inspection; and non-nationals who received an order to leave the country and were subject to control at their address by the Office des Etrangers.

In 2004, 13,771 undocumented migrants were arrested. This was a slight decrease from the figure of 16,715 in 2003, although there was a relatively stable number of arrests - around 15,000 each year - during the period 1994-2004 (see table 9). However, it corresponds to the limits of control activity by the authorities, rather than the real fluctuation of 'illegal' migrants. The figures do not indicate whether the same person has been captured several times, nor the number of actions actually carried out by the police (which can vary each year).

¹⁸ For this research, we proposed a new parliamentary question to the Ministry of Interior in order to obtain the official definition of "illegal immigration" and to know the way that the administration defines and estimates illegal immigration in Belgium. Question orale de Zoé GENOT, Députée écologiste, à Monsieur Patrick DEWAELE, Ministre de l'Intérieur.

Table 9: Number of undocumented migrants arrested, 1994 - 2004

Year	Number
1994	14001
1995	14335
1996	13562
1997	14394
1998	12704
1999	13471
2000	15263
2001	14913
2002	17319
2003	16715
2004	13771

Source: Office Étrangers

3.2.2 Social security and social law control

Enforcement action by the inspectorate of social laws of the Ministry for the Social Affairs in 1998 found that out of 1,955 recorded infringements, approximately 10 per cent were related to undocumented workers.

Analysis by industry shows that certain sectors seem more inclined to social fraud than others.

Table 10: Infringements and illegal employment by sector

Sector	Total Infringements: 2,233 = 100%	Illegal employment = 8.5%
Agriculture	3.6	15.2
Food	3.3	13.7
Textiles	1.6	11.1
Construction	12.9	9.7
Retail (including garage)	19.4	9.2
Hotels, restaurants	43.4	8.8
Health, education, associations	4.3	4.2

In 2001, the social Inspection of the Ministry of Social security and the Control of social laws of the Ministry of Employment, Work and Social Dialogue signed a draft agreement in order to better combat illegal working by migrant workers. In 2004, 891 establishments and 3,016 workers (of whom 1,363 were migrants) were inspected (including 240 self-employed). Among migrants, 333 were working illegally. The main sectors where infringements (table 12) were noted (in absolute numbers) are Chinese restaurants (17.7 per

cent of all illegal work) and other ethnic restaurants (11.1 per cent), construction (16.5 per cent) and agriculture and horticulture (9 per cent).

Considering the number of infringements in relation to the number of inspections carried out, it is private households, garages and petrol stations, and the food sector that had the highest numbers of undocumented migrant workers. According to the Ministry of Labour, since the methods of targeting establishments for inspection are different, the interpretation of results is delicate. For example, checks on private households were made after police surveillance, which explains why 100 per cent were effective (table 11). Chinese workers face more checks than others, and are found to be the most numerous group employed illegally. The proportion of people working irregularly is highest among Bulgarians (81 per cent of Bulgarians inspected were working illegally), Romanians (74 per cent) and Ghanaians (69 per cent).

Table 11: Mini-protocole TEH 2004 illegal workers by sector

Sectors	Foreign workers stopped	Illegal activities	Rate of illegal work
Agriculture and horticulture	288	30	10.4
Chinese restaurants	235	59	25.1
Construction	189	55	29.1
Other ethnic restaurants	138	37	26.8
Prostitution	115	13	11.3
Meat industry	88	27	30.7
Hospitality	63	18	28.6
Night shops	62	18	29.0
Cleaning	34	8	23.5
Carwash	30	6	20.0
Bakery	23	8	34.8
Retail dealers	21	9	42.9
Private household	11	11	100.0
Garages and petrol stations	10	7	70.0
Sports clubs	9	5	55.6
Garment retail	9	2	22.2
Phone shops	9	3	33.3
Food	8	5	62.5
Other	18	12	66.7
Total	1,363	333	24.4

Source : COLUTRIL in Rapport SPF emploi 2006

3.2.3 The last regularisation campaign

The regularisation campaign of 2001¹⁹ granted regularisation to around 50,000 people. An ad hoc Commission individually examined each application for regularisation. The main countries of origin of the applicants were: Congo (15.2 per cent), Morocco (14.5 per cent) and Pakistan (6.7 per cent).

By June 2005, 25,597 (70 per cent) applications had received a positive response, 6,177 (17 per cent) had received a negative response, 810 (2 per cent) had been rejected for public order reasons and 4,016 (11 per cent) had been declared “not founded” (duplicate applications, those having obtained the refugee status in the meantime). There is also a regularization procedure for asylum applicants whose application has lasted for more than four years.

After this campaign, an NGO and academic researchers carried out a survey of 340 undocumented migrants to discover how many had requested regularization. It appeared that more than half (57 per cent) had submitted a claim. This percentage served to establish an estimation of the number of undocumented migrants in Belgium. The estimate was worked out by multiplying the total number people regularized 50,000 by 100/57, giving a total of 87,700. These results must be put in context, considering the small sample size (340 people) and the fact that the migrants were in contact with NGOs, which increases the chances that they submitted a regularization claim.

3.2.4. The Observatory of Migratory Flows

The Observatory of Migratory Flows is a section of the Centre for Equal Opportunity and Opposition to Racism. It is in charge of both the analysis and the estimation of migratory flows in Belgium and the production of measures for policy makers. Its last report (2006) on migration flows from the new Member States of the European Union tried to profile Eastern European migration to Belgium, and found three models of migration: economic

¹⁹ It was the first campaign after the one carried out in 1974.

migration (work migration: legal, semi-legal and illegal), humanitarian migration (political asylum) and social migration (marriage, family reunification). The main countries of origin are Poland for economic and social migratory flows and Slovakia for humanitarian migratory flows. In 2005, despite Slovakia joining the EU, 773 Slovaks applied for political asylum in Belgium, who were mainly Roma who have seen their claims systematically rejected.

Three types of work migration from Eastern countries were identified: legal, semi-legal and illegal migration.

Legal work migration is currently concentrated in agriculture and horticulture where, in recent years, many Polish seasonal workers have been recruited. A migration flow of Polish self-employed workers also grew, in particular following the conclusion of PECO agreements in the middle of the 1990s. In 2004, 4,547 nationals of the EU new Member States were self-employed workers, 2,803 of them Polish.

Semi-legal migration: generally short-term migration organised by foreign agencies, operating from neighbouring countries: Netherlands, Germany or the United Kingdom, that have not obtained approval for practising in Belgium. Mostly they supply Polish workers with a German passport (obtained as ethnic Germans, *Aussiedler*) who are having problems with social rights.

Illegal work migration where illegality is related to entry to the country, the right to stay or work. The extent of this migration is difficult to evaluate, but it is concentrated in the building sector for men and the care and domestic sector for women. This migration process began more than a decade ago, with the movement of 'tourists' after the fall of the Iron Curtain and the suppression of visa restrictions at the beginning of the 1990s. It has been clearly stimulated by the demand for work in the sectors concerned. It benefits from extensive Polish social networks in Belgium, which facilitate and regulate migration, and access to the informal labour market. These workers are increasingly in

competition with Bulgarians and Romanians at the bottom of the informal labour market. In some cases, the working conditions of these workers are very dangerous and may be forced labour.

Belgium attracts mainly unskilled or semi-skilled migrants, in contrast, for example, to the UK, which also attracts a younger generation of Poles who have obtained higher education and who seek professional experience in a global environment.

4. The impact and experience of undocumented migration

4.1. The impact of undocumented migration

There has been no research carried out on this issue in Belgium.

4.2. The experience of undocumented migrants

Several studies on undocumented migrants in Belgium have been carried out over the last seven years. Some deal with migration experiences in terms of trajectories and networks, and with illegal work. The most recent study is a survey of around 130 undocumented people in eight large cities in Belgium (Liege, Brussels, Antwerp, Charleroi, Ghent, Verviers, Turhout and St Niklaas), carried out between April 2000-June 2001. Various categories of migrants who became undocumented were contacted: eligible refugee applicants, rejected asylum seekers, tourists, students, legal workers who became undocumented (Adam et al 2002).

The study covers the migratory path followed (individually or collectively), the development of the migratory project, the survival strategies and the regularization of their status (as a refugee or long-term resident). It covers housing, work and incomes, social relations, education and training, and health. The interviews reveal that controls in the countries of emigration and immigration do not prevent people leaving and, in spite of dangers and well-known risks, they continue to leave their country and hope for a better life. According to Adam et al (2002), the existing of networks (family, political, associations, religious) in the host country seem to have some 'attraction' and can speed up migration flows, without being the cause of it.

The study distinguishes two kinds of migrants: the ones who entered the country illegally and those who became 'illegal' when their legal stay expired. The latter lived several years and developed many links in the host country.

“Their stay is characterised by the search for invisibility and confinement in clandestinity and, sometimes, they are constrained to mix with some forms of criminality, like the frontier runners” (Adam et al., p. 203).

Another study on clandestine immigration indicates that undocumented workers have, as a rule, to cope with deskilling, in particular the new migrants, who often have better levels of qualifications than migrants after the Second World War. On the other hand, Slimane (1995) noted that many undocumented migrants left a better social and economic position than the peasants and workers of the 1950s to 1970s. For qualified migrants, their migration is due to the absence of employment opportunities in line with their qualifications and expectations.

Two major issues concern undocumented migrants who arrived illegally in Belgium: leaving their undocumented status and avoiding arrest and expulsion. They try to develop formal strategies for obtaining a residence permit (regularisation, naturalisation), which require a minimum of resources, knowledge and links. They also build up formal strategies, which require the intervention of a third party (lawyer) for marriage or adoption. Informal strategies consist of the action of a third party who will be able to have an influence on the undocumented migrant's position (lawyer, school, NGO, trade unions etc.).

The weakness of social relations is an important cause for confinement in clandestinity. A lack of confidence in the authorities prevents them from applying for regularization. They adopt strategies of moving around in public to avoid identity controls, acquire a false identity or present out-of-date documents.

The accounts of undocumented migrants showed that they had to develop everyday strategies of survival in all aspects of life: housing, work, income, education of their children, social relations and health. They are very dependent on social networks, which are often community. Asylum seekers

and rejected asylum seekers have more contacts with institutions they contacted (CPAS, associations) and bonds of dependence also exist there.

A study on undocumented migrant women (Colfen, 2001) collected accounts and tried to identify the causes which led them to emigrate to Belgium: sexual and physical violence, divorce, family rejection, family oppression and religion, war, poverty, forced prostitution, political reasons etc. In their accounts of their migratory paths, women also recalled their arrival in Belgium, their difficulties with procedures and confinement in detention centres. The authors evoke the uncertainty of the migratory project due to the difficulty of finding work, and different forms of exploitation faced: economic exploitation, human trafficking and prostitution. The very harsh living conditions of migrant women in detention centres is also mentioned (Colfen, 2001).

Most of migrants confirmed that their employment is normally in the informal sector. Undocumented workers are concentrated in cleaning, building industry, hospitality and agriculture. Pay and working conditions and safety are very precarious, and they are often hired by small companies, sub-contractors and small entrepreneurs. In the building industry, the use of undocumented workers supports businesses for many entrepreneurs, who would not survive competition with other companies. Undocumented workers are required for their flexibility, docility, low remuneration and their capacity to endure hard and devalued work. In the domestic sector, servants are the most exploited and despised by employers (Krezslo, 2002).

Mostly, these poor and precarious working conditions do not facilitate the migrants aims in migration and return to their country of origin. In spite of difficult conditions and insecurity over their right to remain, the future often seems better in Belgium than in their home country (Center for Equal Opportunity, 2006).

4.3. Informal economy

We do not know the exact scale of the informal economy in Belgium, but several methods suggest that the informal economy in Belgium may be expected to account for between 15.3 per cent and 20.8 per cent of Gross National Product. Pacolet and Marchal (2003) made the following estimates for undeclared social security contributions.

Source and purpose of the estimate	Estimate	Applied
Social laws inspectorate, social security fraud; 1995	Between 6-15% of social security contributions	Between Euro 1.76 and 4.4 billion
Administration for Employment and Labour, Social Security Fraud, 1995		Euro 1 to 1.24 billion
ORSEU, black economy, 1995	12.9% of social security contributions	Euro 3.5 billion
Pacolet J. and Geeroms H., black economy, 1995	Between 12-20% of GDP	Between Euro 24.12 and 40.2 billion
Frank M. tax fraud.1998	Between 17.9 and 20,2% of total tax revenue	Between Euro 13.9 and 16.09 billion

Source: CECLCR, 2005

Most undeclared employment is undertaken by Belgian nationals (making a bit on the side in addition to their regular working hours or while claiming benefits). There are no precise figures on the percentage of undocumented or documented migrants working in the informal sector.

The informal economy exists in various sectors of the Belgian economy. The Social Inspectorate identifies several sectors where human trafficking and economic exploitation are likely to develop, and found regional differences (MERI, 2003).

Thus, the high-risk sectors for informal work are minority ethnic restaurants (in particular Chinese restaurants and kebab shops (generally Turkish or

Lebanese), the construction industry (in particular renovation), minority ethnic retail outlets, night shops and phone shops.

The enforcement authorities have identified some types of activities and the areas where they are located:

- Farming and market gardening (West and East Flanders, Limbourg, Flemish Brabant, Namur, Luxembourg);
- Prostitution (West Flanders, Limbourg, Flemish Brabant, Namur, Luxembourg);
- The rag trade (East Flanders);
- Abattoirs and meat processing industry (East Flanders);
- Turkish pastry shops (East Flanders);
- Stallholders (Ecuadorians) (East Flanders, Walloon Brabant, Luxembourg);
- Domestic workers (Walloon Brabant);
- Car cleaning firms (Liège);
- Riding schools (Liège);
- Cleaning firms (Antwerp).

The Social Inspectorate highlights some characteristics of the sectors and undocumented workers. In 2003, a total of undocumented workers from 71 countries were intercepted. The largest group of undocumented workers come from Eastern Europe, mainly Poland and Bulgaria, followed by workers from Asia: China, Turkey and India. Among Latin Americans, Ecuadorians were most commonly found. More than 75 per cent of undocumented workers

apprehended were men. Undocumented female workers tended to work in prostitution and domestic work.

By sector, construction is a significant user of undocumented labour: 24 per cent of those apprehended (either employees or self-employed), with most coming from Poland or Brazil. Hospitality accounted for 30 per cent of those apprehended, with significant groups from Asia (Pakistan, China, Turkey), Eastern Europe (Bulgaria) and North Africa (Egypt, Morocco). In agriculture and horticulture, the majority of undocumented workers are from Eastern Europe: Poland, Romania and Bulgaria. On average, in agriculture one worker in five who was stopped was found to be in breach of permission to work or reside, although the recruitment of undocumented workers had decreased compared to previous years (COLUTRIL, 2005). Prostitution is common for women, with the majority of workers in the sex industry coming from Poland and Hungary, although there are also African women.

4.4. Gender and migration

The migrant labour market is segmented by gender. Among illegal activities, men are generally involved in human trafficking, drugs and other activities in which women and children are the victims. A Brussels survey found that among Nigerians, for example, men was involved in exporting second-hand cars, whereas women were often involved in the sex industry (Leman, 1995).

The amended law against human trafficking (see 4.5) increased enforcement in the most vulnerable sectors, such as cleaning, restaurants and prostitution. Three centres in Brussels, Flanders and Wallonia have been set up to protect female victims of human trafficking, particularly in the sex industry. These centres collect information about women using the centres for the Centre for Equal Opportunity and Opposition to Racism. In 2005, the number of notifications of women per centre decreased dramatically compared to 2004 (Table 13), although no reason for the decline was given in the annual report.

Table 12: Number of notifications per centre 1999-2005

Centre*	1999	2000	2001	2002	2003	2004	2005	Total
Pagasa	163	258	243	210	337	278	33	1,522
Payoke	72	106	222	183	196	228	31	1,038
Surya	0	0	3	0	134	80	48	265
Total	235	364	468	393	667	586	112	2,825

CECLCR, Traite des êtres humains, rapport annuel, nov. 2005.

*NGO's dealing with women victims of human trafficking and prostitution located in three Belgian regions

In other sectors women are employed in flexible and precarious employment where wages are low and working conditions are particularly harsh, such as industrial cleaning, hospitality (hotels, restaurants and coffee shops), clothing, travel agencies, hairdressing salons and domestic work.

Women are the majority of workers in domestic work (cleaning, cooks, childcare, eldercare etc). At the end of the 1980s migration of domestic workers began with 'pendular'²⁰ migration from the Eastern European countries (mainly Poland), followed Latin America and West and North Africa. These workers respond to a high demand by private households as a result of increased female education and access to work, the improvement of living conditions in the majority of the European countries, and the lack of childcare facilities, particularly in large cities.

The sector experiences segmentation on the basis of both gender and nationality. Women from Eastern European countries tend not to live in the household where they work, whereas African, Filipino and Latin American women tend to live in. There are substantial differences in wages and working conditions between the two categories: the wages of cleaners who do not live in the households of their employers, with or without residence or work permit, are not necessarily lower than those of native Belgians (Leman, 1995). However for residential domestic workers, this is not the case and some are victims of employer exploitation, facing: low or no income at all, long working

²⁰ They are characterized by regular comings and goings between the country of origin and host country. The labour marked access is as a rule in black employment and the wages earned in a few months correspond to an annual wages in their country of origin.

hours and heavy workload; some experience physical violence and sexual abuse²¹, as has been reported in the media in several European countries (Ouali, 2003-2).

4.5. Forced labour and trafficking

The latest Belgian report on human trafficking (CECLCR, 2005) points out both the absence of international consensus on the definition of human trafficking and a long-standing confusion between the smuggling of human beings, human trafficking and 'illegal immigration'. The Belgian Law of 13 April 1995 failed to provide a definition of what is understood by trafficking in human beings. This gave rise to problems of interpretation in practice, particularly in making a distinction between trafficking in and smuggling of human beings.

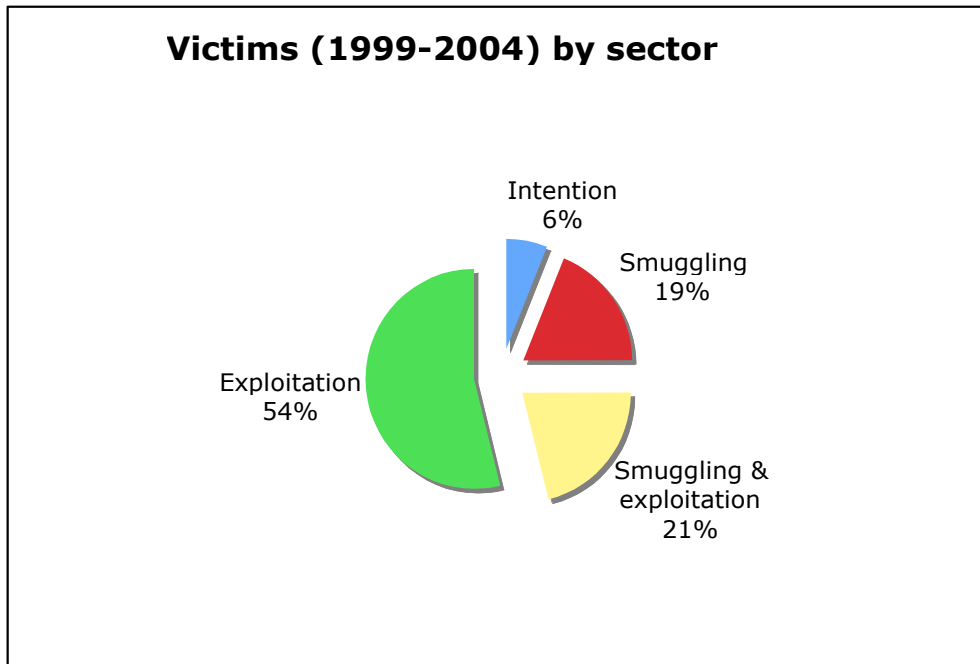
The law of 10 August 2005, amending the 1995 law, defines in the penal code human trafficking as the act of recruiting, transporting, transferring, lodging, taking in a person, passing or transferring control exerted over her/him with the aim of exploitation. The areas where this occurs are the sex industry (prostitution) and child pornography; exploitation of begging; labour without human dignity; organ removal; or forcing a person to commit a crime or an offence (for example, theft or drug dealing).

The smuggling of human beings²² is defined as assisting, in whatever manner, directly or through an intermediary, in allowing the entry, transit or stay of a person without permission to enter an EU Member State, in violation of the legislation of this State, in order to obtain, directly or indirectly, a patrimonial advantage. It distinguishes human trafficking from smuggling, which consists of assisting illegal immigration in order to benefit from it.

²¹ An exploratory study described the living and working conditions of live-in domestic workers working for middle class families, multinational corporations, civil servants of international organizations and diplomatic corps (Foundation King Baudouin, 2003). It mentions notably passport confiscation, non-declaration to social security, sequestration, the obligation to refund travelling expenses, deplorable housing conditions and degrading treatment.

²² New article 77 of the law on foreigners of 15 December 1980.

Data on victims shows the difficulties of defining the boundary between trafficking and smuggling. For example, 21 per cent of victims helped by one of the three specialist reception centres between 1999 and 2004 were in fact victims of both trafficking and smuggling.



Source: CECLCR, Traite des êtres humains, Rapport Annuel, Nov. 2005, p. 24

The definition of forced labour put forward by the International Labour Organization (ILO) identifies six criteria which enable us to identify a situation of forced labour: the threat and/or the use of physical or sexual violence, the restriction of movement, debts/work for debts, deduction from salary or the absence of salary, retention of passport and identity documents and the threat of denunciation to the authorities.

The analysis of cases under the law on criminal organizations shows that only a minority refer to economic exploitation. Of 114 cases of human trafficking, 23 were related to economic exploitation, illustrating the problem in identifying cases of economic exploitation.

Table 13: Victims by categories and nationality

	Africa		America		Asia		Europe	
	<i>M</i>	<i>W</i>	<i>M</i>	<i>W</i>	<i>M</i>	<i>W</i>	<i>M</i>	<i>W</i>
Sexual Exploitation	1	68	0	12	0	14	0	204
Economic Exploitation	38	23	9	15	30	18	16	12
Other exploitation	0	6	1	2	0	0	4	7
Traffic + exploitation	1	48		5	26	7	4	92
Traffic	6	11	11	6	64	32	18	20
Intention	1	12	0	1	1	2	0	38
TOTAL	47	168	21	41	121	73	42	373

Source: CECLCR, Traite des êtres humains, rapport annuel, nov. 2005, p. 48

Table 14: Economic exploitation victims by nationality 1999-2004

	1999	2000	2001	2002	2003	2004	Total
China	1	1		2	7	16	27
Ecuador	0	3	5	4	5		17
Nigeria	0	5	5			3	13
Morocco	2	1	1	5	2	1	12
Romania	0	0	2	2	3	5	12
Ghana	2	0	1		6	2	11
Cameroon	2	1	1	2		1	7
India		1		2	3		6
Congo RD		1		1		2	4
Poland			2			1	3
Russia						3	3
Others	3	6	1	1	7	14	32
TOTAL	10	19	18	19	33	48	147

Source: CECLCR, Traite des êtres humains, rapport annuel, nov. 2005

References

- Adam I., N. Ben Mohammed, B. Kagné, M. Martinello, A. Rea. (2002). *Histoires sans papiers*. Bruxelles : Vista
- Alaluf M. (2001) Des clandestins aux sans papiers. in Pickels A (Éd) *À la lumière des sans papiers*. Bruxelles : Éd Complexe, 89-98.
- Alaluf M., R. De Schutter (2003). 'La régularisation des travailleurs clandestins (1974-2002)'. S. Bellal, Berns Th., Cantelli F., Faniel J. (Éds). *Syndicats et société civile : des liens à (re)découvrir*. Bruxelles : Labor, 93-102.
- Caesteker F. (2000). *Alien policy in Belgium. 1840-1940. The creation of guest workers refugees and illegal aliens*. Oxford : Berghan Books
- Carlier J-Y., A. Rea (2002). *Les étrangers en Belgique : étrangers, immigrés, réfugiés, sans-papiers*. Dossier du Crisp. n°54. Bruxelles
- Carlier J-Y. (2006). "L'évolution du droit des étrangers". *Penser l'intégration autrement*. Bruxelles: Bruylant, 105-113
- Centre pour l'égalité des chances et la lutte contre le racisme (2006). *Flux migratoires en provenance des nouveaux Etats membres de l'Union européenne vers la Belgique, Tendances et perspectives*.
- Centre pour l'égalité des chances et la lutte contre le racisme (2005). *La politique belge en matière de traite des êtres humains : Ombres et lumières*, Rapport annuel, Novembre.
- Colfen, (2001). *Femmes en migration*. Bruxelles : Femmes en Noir contre les centres fermés et les expulsions, Juin.
- Conseil supérieur de l'emploi (2006). «L'accès au marché belge du travail des ressortissants des nouveaux Etats membres de l'Union européenne : avis »
- Commission des Communautés européennes. COM (2006) 48 : « Rapport sur le fonctionnement des dispositions transitoires visées au traité d'adhésion de 2003 (période du 1er mai 2004 au 30 avril 2006)»
- De Bruycker P. (Éd) (2000). *La régularisation des étrangers illégaux dans l'Union européenne*. Bruxelles. Bruylant
- Desmarez P., P. Van der Hallen, N. Ouali (2004). *Minorités ethniques en Belgique : migration et marché du travail* Gent. Académia Press
- Doyen I. (forthcoming). "les lignes directrices de la réforme de la procédure d'asile". in *Année Sociale 2006*. Bruxelles : Institut de Sociologie
- Foblets MC. (2006). "Les changements de loi sur la nationalité belge". *Penser l'intégration autrement*. Bruxelles: Bruylant, 219-238
- Fondation Roi Baudouin (2003) *Le personnel domestique international en Belgique : protéger, prévenir les abus, sensibiliser*. Communiqué de presse. 26 février.
- Forget B. (sd) *Los clandestinos : mode d'emploi*. Collection migrations. Louvain-la-Neuve : Academia-Bruylant.
- Galand P-L. (2001). « La régularisation des sans-papiers. Le point de vue d'un membre de la commission » in *l'Année sociale*, Bruxelles : ULB, 90-96
- Institute for International Research on Criminal Policy (IRCP). *Le personnel domestique international en Belgique*. Université de Gand. 2003.
- Inspection sociale (2003). Rapport général relatif aux activités des cellules MERI (Mensenhandel en Risicosectoren, Traite des êtres humains et secteurs à risque) en 2003.

-
- Kagné B. (2001) « Sans-papiers en Belgique Éléments d'analyse d'une catégorie sociale à facettes multiples ». in Pickels A (Éd). (2001). À la lumière des sans papiers. Bruxelles : Éd Complexe, 41-59
- Kagné B. (2001) « Easy scapegoats Undocumented immigrants in Europe (Belgian report) ». Freudenberg Stiftung. Université de Liège : CEDEM, 19-27
- Kagné B. (2000). « Qui sont les sans-papiers en Belgique ». *Osmose*, Avril-Mai-Juin. n°19.
- Kesteloot C., Meert H. (1999) 'Informal Spaces: the geography of informal economic activities' in *International Journal of Urban and Regional Research*. Bruxelles. Tome 23. n°2.
- Krezslo E. (2002). « Le travail clandestin, la régularisation, les papiers, le séjour. Aperçu du marché du travail clandestin en Belgique et à Bruxelles en particulier ». *Travail-Emploi-Formation*, 3, 45-106.
- Leman J. (ed) (1995). *Sans documents : les immigrés de l'ombre : Latino-Américains. Polonais et Nigériens clandestins*. Bruxelles : De Boeck Université.
- Leman J. (1997). « Undocumented migrants in Brussels : diversity and the anthropology of illegality ». *New Community*. 23 (1). 25-41
- Martens A., H. Verhoeven (2006). "Les minorités ethniques sur le marché de l'emploi en Belgique". *Penser l'intégration autrement*. Bruxelles: Bruylant. 271-297
- Ministre de l'Emploi (2003) " Le personnel domestique international ". Février. Politique de la Ministre: [http://www/meta.fgov.be/](http://www.meta.fgov.be/)
- Ouali N. (1997) "Emploi: de la discrimination à l'égalité de traitement?". *La Belgique et ses étrangers. Les politiques manquées*. Paris-Bruxelles: De Boeck & Larcier, 145-165.
- Ouali N. (2000) "Modification de la législation sur le travail des étrangers : vers une sécurité juridique plus grande ?". *L'Année sociale 1999*. Bruxelles. 277-284.
- Ouali N. (2003-1). « Les Marocaines en Europe : diversification des profils migratoires ». *Hommes et Migrations* n°1242, Mars-avril, 71-82
- Ouali N. (2003-2). «Mondialisation et migrations féminines internationales: l'esclavage au cœur de la modernité». in M Hersent. C Zaidman (dir). Genre. travail et migrations en Europe. Paris : Cahiers du CEDREF n°10, décembre. 101-113
- Ouali N. (2004) « La catégorisation statistique des étrangers. des personnes d'origine étrangère et de leurs descendants en Belgique ». in P, Desmarez. P, Van der Hallen. N, Ouali. V, Degraef. K, Tratsaert (ed.). *Minorités ethniques en Belgique : migration et marché du travail*. Gent: Adademia press.181-231,
- Revue Belge de Sécurité Sociale (2003) *Travail au noir et fraude: une menace pour l'État providence en Belgique et en Europe*, n°3.
<http://www.socialsecurity.fgov.be/bib/frames/fr/N°3-2003-FR.pdf>
- Slimane L. (1995). *L'immigration clandestine de main-d'oeuvre dans la Région bruxelloise*. Bruxelles : Bruylant.
- Van Broeck A. (1995). "Les immigrés latino-américains sans documents" in J. Lemans *Sans document Les immigrés de l'ombre Latinos-Américains. Polonais et Nigériens clandestins*. Bruxelles : De Boeck Université. 31-70.
- Vertommen S., A. Martens and N. Ouali (2006). « Ethnical topography of the Belgian labour market. Employment, gender, age and ethnicity ». ULB-KUL, Brussels : King Baudouin Foundation.
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