



National Summary Report

Case study: Belgium



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Exploration and analysis of further public and civic alternatives to RR: case studies at multiple levels

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Disclaimer

This document provides a concise summary of the key findings of the WP7 national report in Belgium. For detailed analysis, evidence, and comprehensive insights, please refer to the full report. The information in this summary should not be considered complete or fully representative of the entire study.



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1. Introduction

In Belgium, the primary means by which third-country nationals (TCNs) can gain stable residence status and access various rights is through regularisation procedures. Such regularisations, granted on humanitarian or medical grounds, are becoming less frequent. The last national-level collective regularisation measure took place in 2009. The rights available to undocumented TCNs - of whom there are an estimated 120,000 in Belgium - are limited to access to emergency medical care and compulsory education until the age of 18. Correspondingly, they are not permitted to work and have no preferential access to housing, including social housing. This leads to a significant number of them becoming homeless, including highly vulnerable individuals who are ill or suffer from mental health issues, often due to the violence they faced during their migration journey.

Against this backdrop, federal authorities responsible for migration and asylum management have developed initiatives to provide undocumented migrants with legal support. Examples include ICAM, managed by the Immigration Office (IO), which is responsible for implementing Belgian government policy on managing migration flows. Another initiative is One-Stop Shops, run by Fedasil, the federal agency responsible for receiving asylum seekers and organising voluntary returns. These projects form part of an overarching strategy to provide legal support and facilitate a 'lasting solution' for undocumented migrants based on the case management model.

Within the limits of their powers, local authorities have also developed alternatives to support TCNs in an irregular situation. One such initiative is the Shelter and Orientation project, which provides an alternative to detention and has been implemented in several Belgian cities, with Liège Ville Hospitalière being another example. The Shelter and Orientation project aims to provide accommodation and socio-legal support to irregular and homeless TCNs, helping them to find a long-term solution, whether this involves regularising their residence status or voluntary return.

This report is based on a documentary analysis, supplemented by a series of interviews conducted as part of WP 4 and 5 with stakeholders, some of whom were involved in the project, and civil society groups providing support to undocumented TCNs.

2. Alternatives

2.1 Legal alternative: Difficulty in achieving regularisation

The only legal way to secure long-term stability in Belgium and avoid deportation is to apply for regularisation, a process that has become increasingly challenging. Restrictive approaches to regularisation have led to an increase in the number of undocumented migrants. In Belgium, there are two possible routes to regularisation: the first is based on article 9 bis of the 1980 Immigration Act and is intended for exceptional circumstances, while the second is based on article 9 ter of the same Act and is granted on medical grounds. Moreover, the number of positive decisions on applications for regularisation has recently decreased on both routes. In addition, three one-off regularisation campaigns have been carried out in Belgium. However, no permanent mechanism has yet been established, despite calls for this to happen for several years, including from undocumented migrants themselves.

Furthermore, obtaining regularisation does not necessarily lead to permanent residence. Even if the application is successful, the authorities still reserve the right to reduce its scope, as they determine whether regularisation of residence is temporary or indefinite. For example, all regularisations based on humanitarian grounds granted by the IO in 2022 were for temporary residence permits (Myria, 2023: 4). The majority of positive decisions on applications for regularisation on medical grounds were also temporary (160 out of 170). Furthermore, the Immigration Office re-examines each case annually and decides whether to grant an extension of residence for a further year. In many cases, it is likely that the permit will not be renewed the following year. For example, in 2022, the IO issued 301 temporary residence extension agreements, but rejected 82 renewal applications (Myria in figures, 2023: 8). The procedure for renewing a temporary residence permit is cumbersome, and people may lose their right to residence if they fail to provide the requested documents to the IO in time.

Moreover, several stakeholders in Belgium expressed concerns about the lack of clarity in the application criteria. The criteria for regularisation on medical grounds are so vague as to be unworkable, and those for humanitarian regularisation are even more opaque. Concerns have also been raised about the length of the regularisation application process, during which time migrants may find themselves in a particularly vulnerable position.

In conclusion, given these difficulties, some potential beneficiaries of regularisation may choose not to apply at all. Others fear being subjected to an order of removal if their application is rejected.

2.2 Project-based alternatives

Several project-based alternatives have recently been developed in Belgium. These initiatives are all implemented at a local level, the result of partnerships between the host municipalities and various public and civil society actors. Some have been established by the federal authorities responsible for migration or asylum management. Examples include ICAM, managed by the Immigration Office (IO), which is responsible for implementing Belgian government policy on managing migration flows. Another initiative is One-Stop Shops, run by Fedasil, the federal agency responsible for receiving asylum seekers and organising voluntary returns. These projects form part of an overarching strategy to provide legal support and facilitate a 'lasting solution' for undocumented migrants based on the case management model.

Other projects have been developed by local authorities to promote the social integration of undocumented migrants in an increasingly hostile national context. In Ghent, for example, municipal funds are available to cover unpaid school fees for the children of undocumented migrants. The local social services department has also set up a system for the accelerated reimbursement of medical expenses. As the housing crisis in Belgium is particularly acute, other projects have been established to provide housing for undocumented migrants, usually on a temporary basis. These projects are typically set up through a collaborative agreement between the city and housing association partners with the aim of securing the right to housing.

2.2.1 Shelter and Orientation pilot project

This pilot project provides housing and socio-legal support for TCNs in an irregular situation who have experienced long-term homelessness in Belgium. The Shelter and Orientation Project is based on 'sanctuary city' policies and the inclusive practices that accompany them. Urban municipalities implement such policies to support irregular migrants in the face of restrictive national-level migration policies. With the help of federal funding, the project was chosen for its 'whole-of-society' approach, which is founded on partnerships between national authorities, local administrations in Belgian cities, and civil society organisations.

This project demonstrates great potential, as its primary goal is to provide shelter and guidance to individuals who have, on average, been residing in Belgium irregularly for a long time. In return, migrants must cooperate with social workers to find a 'lasting solution'. They are provided with a comprehensive programme in which both legal stay and voluntary return pathways are examined and discussed in depth. The project has implemented a two-tier

support system, with civil society organisations providing primary support and offering migrants a safe space in which to make informed decisions. Federal institutions provide second-line support, offering services to resolve individual cases and investigating possible new residence procedures. They also encourage and assist migrants who wish to return voluntarily. Third-country nationals engaged in an ICAM coaching programme are protected from detention under certain conditions, provided they collaborate with the institutions.

The appeal of these solutions lies in their adoption of an approach to migration policy geared towards alternatives to return. However, given the diversity of stakeholders involved in these projects, they are not without risk. This results in differences in how the objectives are assessed, how the scheme is implemented, and how it is evaluated. Federal authorities, who view the scheme as a migration policy instrument, believe that cases should be processed quickly and that a balance must be struck between the number of residence permits and of voluntary returns. Local actors, especially those from civil society, believe that the project must primarily support highly vulnerable populations who often require long-term support before they can be reintegrated into society. Despite these tensions, the scheme has enabled a small number of undocumented migrants to obtain regularised residence status thanks to an assessment of their situation and the prioritisation of their cases at a federal level.

2.2.2 Liège Ville Hospitalière Motion and Carte Ardente

The Liège Ville Hospitalière Motion forms part of the sanctuary city movement. Initiated by civil society, its aim is to make the city more 'hospitable'. In 2017, the city of Liège adopted a specific motion to join this movement. This motion aims to promote the integration of undocumented migrants at a local level, ensuring they have access to local services such as administrative services, schools, hospitals and the police, regardless of their administrative status.

The Liège motion is the result of consultations between municipal authorities and the Liège Collective for Migration Justice, comprising citizens and around fifty organisations. This initiative is consistent with the city's long-standing dedication to promoting intercultural dialogue and upholding the human rights of foreign residents. The motion clearly articulates the rights of individuals, ensuring the most favourable interpretation for migrants in terms of housing, access to training and healthcare, and more. Furthermore, the city's cultural and sports services are encouraged to promote access to their activities for undocumented migrants, ensuring that neither the cost nor the migrants' administrative status is a barrier to entry.

As part of this commitment to hospitality, the city plans to issue an official document to anyone



residing in the municipal territory, regardless of their immigration status. The aim is to implement an inclusive policy in the city and thus strengthen residents' sense of belonging: presence in the territory determines access to rights, regardless of administrative status or nationality.

According to Clarebout (2023: 106), Carte Ardente is an example of local migration governance, embodying a local response to the 'non-reception' of migrants in an irregular situation that is advocated at a national level. This initiative provides undocumented migrants with access to rights they would not usually have. It is a collaboration between the municipal authorities and civil society.

3. Conclusion

In a national context where migration policies increasingly focus on organising the return of migrants in an irregular situation, alternatives run by federal authorities and municipalities at the local level offer undocumented and homeless third-country nationals genuine psychosocial and legal support, and may ultimately lead to the regularisation of their stay.

However, when implemented by federal authorities, these alternatives bring together public institutions and civil society actors who are not accustomed to cooperating. Partnerships between local institutions dedicated to social assistance and federal institutions responsible for managing migration policies can lead to tension. This can, in turn, result in differences in how objectives are assessed, how the scheme is implemented, and how it is evaluated. Federal authorities, who view the scheme as a migration policy instrument, believe that cases should be processed quickly and that there should be a balance between residence permits granted and voluntary returns accepted. Local actors, especially those from civil society, believe that the alternatives must primarily support highly vulnerable populations who often require long-term assistance to integrate into society.

However, the resolution of individual cases must not replace advocacy activities calling for a structural overhaul of migration policy. While the Shelter and Orientation pilot project merits praise for offering local solutions, it is part of the acceptance of current migration policy and significantly reduces the potential to challenge it (Ballet et al., 2025: 15). The balance lies in offering individual support to migrants through local expertise, while also opposing a national migration policy that increasingly focuses on organising the return of undocumented migrants.

Therefore, it is necessary to restore the dignity of TCNs in an irregular situation by calling for a permanent regularisation mechanism based on clear and transparent criteria, as requested in the 'In my name' campaign. This campaign aimed to put a citizens' initiative bill on the regularisation of undocumented migrants on the House of Representatives' agenda.

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