Analytical Report on Legislation

RAXEN National Focal Point BELGIUM

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1. Executive summary

This report presents an overview of the current situation in Belgium with respect to legislation concerning anti-discrimination and anti-racism, integration of migrants and other legislative initiatives facilitating diversity. Since 1980 the French and the Flemish communities are responsible for the reception and integration of migrants, for the territory of the Walloon Region, the Flemish Region and the Brussels Capital Region. As a consequence, from then on, the communities developed their own policies concerning the reception and integration of migrants. The matters of migration (admittance policy, the judicial residence position and the expulsion) and the development of a policy against racism remained a federal competency.

The Federal Policy. Until the eighties, migrants were mainly considered as temporary guest workers, that would, in time, return to their home countries. It is only in the second half of the eighties that one started to realise that these migrants had become an integral part of the Belgian population. In 1989, the Royal Commission on Migrant Policy (KCM/CRPI) was established which outlined the general policy on migrants – conceptualised as an integration policy. In 1993 the Centre for Equal Opportunities and Opposition to Racism (CEOOR) took over the tasks of the Royal Commission on Migrant Policy.

The Flemish Policy. Since the Flemish community gained competence over the reception and integration of migrants in 1980, a shift was made from employment guidance for guest workers to care for integration of migrants and their families by means of a group specific (labelled as 'categorial') welfare policy. Halfway the nineties the scope of the Flemish migrant policy was substantially broadened in order to include refugees and caravan dwellers. The Interdepartmental Commission Ethnic-Cultural Minorities (ICEM) elaborated a strategic plan for the Flemish policy concerning ethnic-cultural minorities, which can be considered as the first step to an elaborated policy for minorities. The strategic plan aimed to prevent and fight discrimination systematically and to ameliorate communication between autochthonous persons and persons of foreign descent. The decree of 28 April 1998 concerning the Flemish policy towards ethnic-cultural minorities constituted an important second step in the development of the minorities' policy. Since 2000, the Flemish government has an experimental insertion policy for newcomers. The Decree of 28 February 2003 concerning the Flemish insertion policy formalises this policy in a legal document. The insertion policy consists of an individual trajectory including three areas, namely language learning, community orientation and support to find a job in the labour market.

The policy of the French-speaking community. In 1981 an Advisory body for migrants in the French Community (Conseil consultatif des immigrés auprès de la Communauté Française, CCIF) was created. The French Community favoured a migrant policy focusing on two dimensions: the societal insertion in the host community in order to facilitate equal chances and the recognition of cultural identities. In 1986 the CCIF was renamed as the Advisory body for population groups of foreign origin of the French Community (Conseil consultatif des populations d'origine étrangère de de la Communauté Française, CCPOE). The switch from 'migrants' to 'population groups of foreign origin' indicated a change in the perspective of the French Community

concerning migration. The idea of a temporary labour presence was replaced by the acceptance that population groups stemming from migration were settling for a long time on the Belgian territory. From the beginning of the nineties, the attention was no longer focused on integration and intercultural exchange but on processes of social exclusion. The CCPOE disappeared from the institutional horizon when the French Community transferred the competency over issues concerning support to individuals to the Walloon Region and to the French community Commission of the Region of Brussels-Capital. With respect to education the French Community maintained its policy towards the population groups stemming from migration. For instance, in 1998 the decree on positive discrimination in schools was enacted. This decree aimed at promoting equal chances of pupils in primary and secondary education. The French Community also developed a school program to teach the language and the culture of the country of origin.

In 1996 the Walloon Region that had become competent in this respect created a regulative instrument that can be defined as a categorial policy (the decree of 4 July 1996). The Advisory Body had recommended not to neglect the national and cultural specificity of migrants, a specificity that differentiates them from the autochthonous underprivileged. As such, contrary to the French Community Commission (Cocof) in the Brussels Capital Region, the Walloon government has a specific policy against social exclusion and a reception and integration policy towards people with a foreign nationality and those of foreign descent.

The Brussels Policy. Different governments rule the Brussels Capital Region: the Brussels Capital Region (Council or parliament and government), the Flemish Community Commission (VGC), the French Community Commission (COCOF) and the Common Community Commission (CCC-GGC). Two aspects can be differentiated in the integration policy of the Brussels Capital region: the general aspect of the regional policy concerning employment, revaluation of quarters and public places, housing on the one hand, and the categorial policy concerning insertion-cohabitation of the French Community Commission on the other hand. The Flemish Community Commission aims to foster the ties with Flanders and the Flemish Minority Policy in the Brussels Capital region. The French Community Commission (COCOF) promotes the social integration of 'problematic' neighbourhoods through the integration policy.

Belgium has several legal instruments at the international and national level with respect to the fight against racism, xenophobia, anti-Semitism and intolerance. In this report we will focus on the two most important national instruments, namely: the anti-racism law and the general anti-discrimination law. Both laws are the most relevant legal instruments to fight racism and discrimination in Belgium.

On 30 July 1981 the law penalising certain acts determined by racism and xenophobia, briefly known as the anti-racism law, was implemented. This law states that discrimination for specific reasons such as so-called race, colour of skin, descent, or national or ethnic origin is liable to punishment. As a consequence, the following grounds of discrimination fall outside the scope of the law: religious conviction, sexual orientation, language, birth, political conviction or gender. The anti-racism law penalises expressions or intentions as well as acts or deeds. As far as words and intentions are concerned, these are solely incitement to discrimination expressed publicly or attempts to publicise one's intention to discriminate expressed publicly. With regard to acts and deeds, this relates to, on the one hand, discrimination in supplying goods or services, at

the workplace or in the exercising the duties of a civil servant and on the other hand, belonging to or extending support to a group or association practising or announcing discrimination or segregation on purpose and repeatedly in public.

The anti-racism law ranks is a criminal law, which prescribes that one is innocent until proven guilty. Therefore the burden of proof is on the public prosecutor assisted in second instance by the victim, or the person who claims to be discriminated against. Evidently, it is very hard to actually provide hard evidence when it comes to complaints of racism. The weak spot of 'burden of proof' is overcome by the very recent general anti-discrimination law of 25 February 2003 (passed in the Senate on 12 December 2002, published in the official journal on 17 March 2003, effective on 27 March 2003). This law prohibits every form of direct and indirect discrimination (difference in treatment that is not objectively or rationally justified) on the basis of gender, a so-called race, skin colour, origin or national or ethnic origin, sexual orientation, civil status, birth, wealth, age, religion or philosophy of life, present or future state of health, disability or physical characteristic. As pointed out above, the key element of this law are the civil law provisions making it easier for a victim of discrimination to institute a rapid civil action. The President of the Court may order the cessation of the discrimination and may sentence the perpetrator to a penalty for default if the discrimination has not ceased. The quintessential issue in this respect is the shift of the burden of proof.

The impact of the Belgian anti-racism and anti-discrimination legislation can be measured by means of different indicators. First of all, the instalment of the CEOOR as a specialised body in the fight against racism and discrimination can be mentioned. Recently, in accordance with the implementation of the new general anti-discrimination law, the competencies of the CEOOR were substantially broadened. The registration of complaints by the CEOOR allows us to compare the levels of complaints on racism and xenophobia over the years. In comparison to 2001 an increase in the number of complaints with 6% (1316 versus 1246) was observed. The general pattern of the complaints, however, remained the same. As in 2001, most of the complaints concerned public services, employment, community, police and education. As in previous years, complaints concerning public services ranked number one in the list. However, one has to take into account that the majority of these complaints pertain to complaints of status of residence. Moreover, it needs to be pointed out that there was a substantial decrease of complaints in this domain (185) compared to 2001 (215) and 2000 (214). With respect to the domains of employment, community, police and education, one can say that the trend of increasing complaints as observed in 2001 is continued. There was also a substantial increase in complaints on racist propaganda (72 in 2002 versus 28 in 2001), mainly on the French-speaking part (44 of the 72 files pertain to French propaganda). Finally, an extra category of complaints was added to the categorisation system. For the first time, complaints concerning racism on the Internet were filed separately: These complaints made up 6% of the total amount of complaints, and this proportion increases weekly. It will be clear that the Internet as a growing means of dissemination of racism should be carefully monitored in the future. Evidently, it is very hard to draw firm conclusions on these statistics of complaints in terms of societal evolutions of the phenomenon of racism or in terms of the (lack of) impact of the anti-racism and anti-discrimination legislation. However, the figures do indicate that the problems of racism and xenophobia remain significantly present in Belgian society.

Taking this conclusion into account, the analysis by the statistical analysts of the Ministry of Justice (College of Procurators-Generals) on the number of racism-cases in jurisdiction is quite striking. Their report shows that the majority (2415 out of 3693, i.e. 65%) of the racism / xenophobia cases of the period 1998-2002 have, at the moment of the data analysis (i.e. February 2003), remained without consequences. Of these 2415 cases without consequences, 68,8% involved a technical dismissal, 29,7% were dismissed because of opportunist reasons and 1,6% because of another motive. In only 112 cases (i.e. 3%) at least one accused was summoned to appear in court. 93 of these 112 cases were sentenced: 69% of these sentences involved a conviction for racism. If the analysis is based on the final verdicts, i.e. not on the qualification allocated on the level of the public prosecutor, it is shown that 120 persons were convicted for racism during the period 1998-2002[1]. This number of convictions can be interpreted as quite limited for a period of five years. Nevertheless, we need to point out that in comparison to the years before this number constitutes a spectacular amelioration. The new anti-discrimination law is expected to increase the effective legal power in the current fight against discrimination and racism.

[1] Evidently, this number is a reflection of a temporary status quo: A number of cases have not reached the final stage of the judicial proceedings at the time of the report. As a consequence, the number should be considered as an underestimation.

2. Table of contents

Glossary/definition of terms and concepts used

In our report we will use the terms as they are used in the official governmental publications.

The general anti-discrimination law 25 February 2003 differentiates direct and indirect discrimination.

- Art. 2. §1: 'One speaks of *direct discrimination* when a difference in treatment that is not objectively or rationally justified is directly based on gender, a so-called race, skin colour, origin or national or ethnic origin, sexual orientation, civil status, birth, wealth, age, religion or philosophy of life, present or future state of health, disability or physical characteristic.'
- Art. 2. §2: 'One speaks of *indirect discrimination* when an apparently neutral definition, criterion or behaviour has damaging repercussions on persons on which one of the discrimination grounds mentioned in §1 is applicable, unless this definition, criterion or behaviour is objectively or rationally justified.'

Since the Flemish and the French communities differ with respect to their policies towards ethnic minorities, they also use different terms to refer to ethnic minorities.

2.1. THE FLEMISH COMMUNITY

In the Dutch-speaking part of Belgium, until recently, the term 'migrant' was used to refer to the non-EU migrants, mostly Moroccans and Turks. Since a few years the term 'migrant' has increasingly been usurped by the term of 'allochthonous people', denoting generally the same group of people. Since the Minorities Decree of 28 April 1998, the term 'ethnic-cultural minorities' is used in official documents, and also increasingly in the media and the general discourse. The Minorities Decree of the Flemish government defines the following relevant terms.[2]

- *Allochthonous persons*: individuals who stay legally in Belgium, irrespective of their nationality, and who fulfil two conditions: 1. At least one of their parents or grandparents is born in another country than Belgium, 2. The persons find themselves in a position of deprivation because of their ethnic origin or their weak social-economic situation.
- *Refugees*: individuals who are in Belgium fulfilling one of the following conditions: 1. Belgium recognises them as refugees on the basis of the International Geneva Convention 2. The individuals asked for asylum in Belgium and their request was not definitely refused.
- *Caravan dwellers*: individuals with a nomadic lifestyle who are living or who lived in a caravan and who are legally in Belgium, special attention goes to autochthonous travellers and gypsies, and to those who live with them or are relatives in the first remove

[2] Minderhedendecreet Vlaamse Gemeenschap, 28 April 1998. Chapter 1: General definitions

- *Ethnic-cultural minorities*: the total group of allochthonous people, refugees and caravan dwellers and other foreigners who stay in Belgium without legal documents and who ask for assistance because of their emergency situation.
- *Newcomers* are foreigners who join allochthonous persons in the Dutch-speaking region or in the bilingual region of Brussels Capital, in the context of family reunion or family formation, or who enter Belgium as an asylum seeker. One can only be 'newcomer' during a limited period after one has migrated.

2.2. THE FRENCH COMMUNITY

In the French-speaking part of Belgium the term 'ethnic minorities' does not fit within the framework of the pursued general policy towards immigrants. The policy of the French-speaking Community does not constitute a specific policy towards immigrants. Instead of the term 'ethnic minorities', the term *'personnes issues de l'immigration'* (people with immigration background) is preferred.

- People of foreign descent (*personnes d'origine étrangère*): this term is used to denote people with a migration background. Yet they are not labelled allochthonous, as they are not a separate category in society, but rather members of the larger host society with a migration background.

The quite recent term 'primo-arrivant' refers to the same category of newcomers that is used in the Flemish Community.

3. Introduction

Belgium is bound by several general and specific legal instruments at the international and national level with respect to the fight against racism, xenophobia, anti-Semitism and intolerance.

With respect to the international level we can refer to Art. 14 of the European Convention on Human Rights and art. 26 of the Covenant on Civil and Political Rights, which guarantee in various ways the equality before the law, the prohibition of discrimination in the exercise and enjoyment of fundamental rights.

Different national instruments can be discerned:

- the anti-racism law of 30 July 1981,
- the general anti-discrimination law, which has been passed on 12 December 2002,
- the Belgian Constitution,
- the law against the denial, minimising, justifying or approving of the genocide carried out by the German National Socialist regime during the second World War,
- the culture pact law of 16 July 1973 which guarantees the protection of ideological and philosophical tendencies
- the amendments to the law on the financing of political parties. The Law of 10 April 1995 limits the financial support to those political parties that have included in their statuses or programs a provision in which they oblige themselves to respect the rights as guaranteed by the European Convention on Human Rights.

In this report we will focus on the two most important national instruments, namely: the anti-racism law and the general anti-discrimination law. Both laws are the most relevant legal instruments to fight racism and discrimination in Belgium. The anti-racism law has recently been strengthened, whereas the general anti-discrimination law has only very recently been implemented.

We will present both an analysis of the complaints on racism and xenophobia registered by the CEOOR and of the analysis of racism-cases in jurisdiction. Both sets of data can be considered as indicators of the phenomenon of racism in Belgium. At the same time, together with the presentation of relevant court cases, these analyses give us an idea of the impact of the anti-discrimination legislation. Finally a number of initiatives and good practices for further developing this legislation will be discussed.

4. Background

4.1. DEMOGRAPHIC CONTEXT

The official population statistics of Belgium are based on the criterion of nationality. As there is no ethnic registration, the figures concerning the foreign population only apply to those with a foreign nationality: naturalised Belgians of non-EU descent 'dissolve' in the pool of Belgians.

The following demographic figures are based on the document 'Statistiques démographiques. Population étrangère au 1.1.2002', issued by the NIS/INS (National Institute of Statistics). In January 2002 the total Belgian population comprises of 10.309.725 people. About 58 % lives in the Flemish region, 33% in the Walloon Region and 9% in the Region of Brussels Capital. The distribution of the 846.734 foreigners (8% of the total population) differs substantially from the general population distribution over the regions: 31% of the foreign population live in the Brussels Capital Region, 32% in Flanders and 37% in Wallonia. It is clear that, in comparison to the general distribution, there is a very high concentration of foreigners in the relatively small region of Brussels Capital.

During the year 2001, 62.982 foreigners became Belgian, in 2000 there were 61.980 foreigners who changed their nationality (see Table 2). The new law constituted since May 2000 makes it easier for certain categories of foreigners to obtain the Belgian nationality.

Table 1. Total number of foreigners in the different regions for the years 1998-2002.

	1998	1999	2000	2001	2002
Brussels-Capital Region	279.810	272.146	273.613	262.771	260.040
Flemish Region	288.007	289.065	293.650	280.962	275.223
Walloon Region	335.303	330.769	329.847	317.952	311.471
Belgium	**903.120**	**891.980**	**897.110**	**861.685**	**846.734**

Source: NIS, population statistics

Graph 1. Number of foreigners in the different regions for the years 1999-2002 in comparison to the number of foreigners in 1998 (=100%).

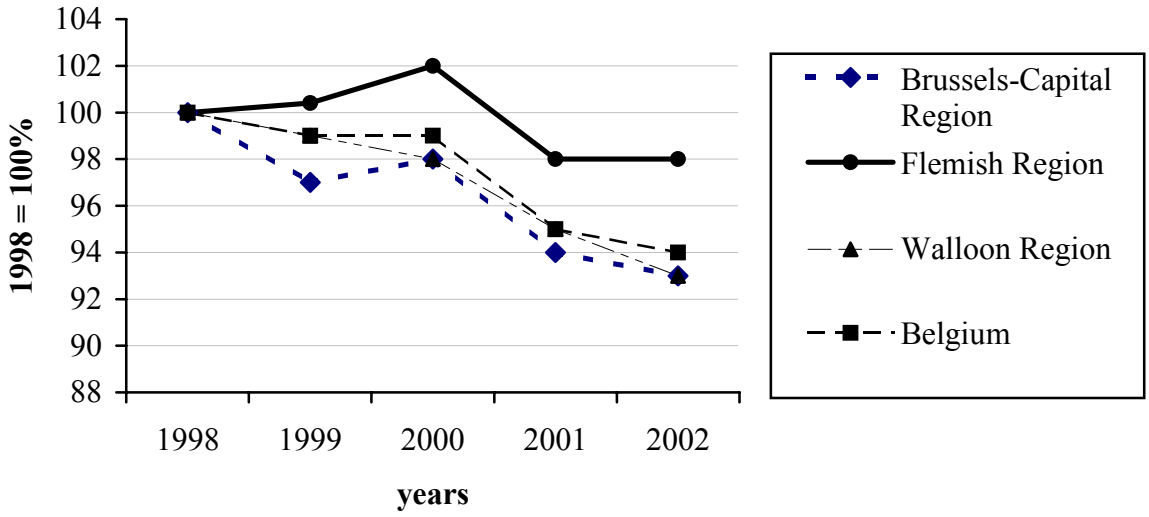

Table 2. Overview of number of persons adopting the Belgian nationality.

YEAR	Number of persons adopting the Belgian nationality
1988	8366
1989	8797
1990	8657
1991	8457
1992	46368
1993	16376
1994	25787
1995	26129
1996	24581
1997	31687
1998	34034
1999	24196
2000	61980
2001	62982

Source, Federale Overheidsdienst Economie, KMO, Middenstand en Energie
http://ecodata.mineco.fgov.be/mdn/Bevolkingsloop.jsp;jsessionid=22piekylj1

Table 3 shows that the largest category of foreigners in Belgium is constituted by persons of Italian origin, followed by persons of French, Dutch, Moroccan and Turkish origin. Most of the foreigners are to be situated in the age groups 25 to 29 years old (12,1%), 30 to 34 years old (12,4%) and 35 to 39 years old (11,2%).

Table 3. Number and proportion of the largest population groups in Belgium by region on 1 January 2002.

	Brussels Capital Region*		Flanders*		Wallonia*		Total	% of pop.	% of foreign.
Italy	28.508	11%	23.868	9%	138.416	44%	190.792	1,85	22,5
France	36.967	14%	17.383	6%	56.796	7%	111.146	1,08	13,1
Netherlands	5.154	2%	80.680	29%	6.727	2%	92.561	0,90	10,9
Spain	20.847	8%	10.339	4%	13.772	4%	44.958	0,44	5,3
Germany	7.145	3%	11.379	4%	16.136	5%	34.660	0,34	4,1
UK	8.936	3%	12.612	5%	4.815	2%	26.363	0,26	3,1
Portugal	15.627	6%	5.375	2%	4.751	2%	25.753	0,25	3,0
Greece	9.124	4%	3.703	1%	4.751	2%	17.578	0,17	2,1
Total EU	**142.431**	**55%**	**170.965**	**62%**	**250.776**	**81%**	**564.172**	**5,47**	**66,6**
Morocco	47.657	18%	29.332	11%	13.653	4%	90.642	0,88	10,7
Turkey	13.577	5%	21.328	8%	10.961	4%	45.866	0,44	5,4
Congo	6.815	2%	2.122	1%	4.037	1%	12.974	0,13	1,5
USA	3.057	1%	4.309	2%	4.448	1%	11.814	0,11	1,4
Non EU	**117.609**	**45%**	**104.258**	**38%**	**60.695**	**19%**	**282.562**	**2,74**	**33,4**
Total Foreigners	260.040 31%		275.223 32%		311.471 37%		846.734 100%	8,21	100
Belgian nationality	718.344 8%		5.697.558 60%		3.047.089 32%		9.462.991 100%	91,79	
Total population	**978.384** **9%**		**5.972.781** **58%**		**3.358.560** **33%**		**10.309.725** **100%**	**100**	

** Including percentage of foreigners in the region involved.*

4.2. THE BELGIAN IMMIGRATION AND INTEGRATION POLICIES

As a consequence of the federal structure of the Belgian State (see **Annex 1**), we need to discuss the situation, position and policies towards immigrants, ethnic-cultural minorities or people of foreign descent on a federal and on a regional level.

Due to the reform of the Belgian state (8 August 1980) all the matters concerning the lives of individual persons and their relations with the public authorities – are attributed to the Flemish and French communities. As such, since 1980 the French and the Flemish communities are responsible for the reception and integration of migrants, for the territory of the Walloon Region, the Flemish Region and the Brussels Capital Region. As a consequence, from then on, the communities developed their own policies concerning the reception and integration of migrants. The matter of migration, however, remains a federal competency implying that the communities are not competent with respect to the admittance policy, the judicial residence position and the expulsion of foreigners from the Belgian territory. The matter of attribution of voting power to foreigners also remains a federal competency. At the end of 1980s, the development of a policy against racism is also explicitly considered as a responsibility for the federal government.

4.2.1. Federal policy: from migrants to equal chances policy

Until the eighties, migrants were mainly considered as temporary guest workers, that would, in time, return to their home countries. As a matter of fact, in 1984 the government even launched an active return policy of immigrants as the country was facing an unprecedented high rate of unemployment. The royal decree of July 17 1985 provides for a re-instalment fee for those immigrants of non-EU countries and who were out of a job for three years. The voluntary return program, however, did not prove to be successful as a very low number of immigrants chose to return. This can be attributed to the relatively low re-instalment fee, which hardly covered all the return expenses. Moreover, there were no job perspectives in the country of origin. Contrary to the recommendation by the Council of Europe, there were no co-operation programs between the host society and the country of origin. As a consequence, the official return policy was abandoned in 1991.

It is only in the second half of the eighties that one started to realise that these migrants had become integral parts of the Belgian population. Moreover, in the mid-1980s family formation (by a non-Belgian spouse) and reunification (consisting of minor children and relatives) constituted a new migration source. In 1989, the Royal Commission on Migrant Policy (KCM/CRPI) was established which outlined the general policy on migrants – conceptualised as an integration policy. This integration policy can be briefly summarised as:

- With respect to public order, migrants have to assimilate.
- Migrants were to be stimulated to adapt to the social principles of the Belgian society, referring to modern western concepts of modernity, emancipation and pluralism.
- Both autochthonous persons and migrants should respect cultural diversity as mutual enrichment.

The Royal Commission on Migrant Policy clearly stated that a policy should be pursued that structurally involved minorities in the activities and objectives of the government. The Commission issued various recommendations aiming to remedy the weak position of migrants as well as to fight discriminatory practices hindering their integration.

The parliamentary elections of 24 November 1991 resulting in an overwhelming electoral success of the extreme right political party Vlaams Blok – also referred to as 'Black Sunday' – make the migrant issue and especially the themes of racism and xenophobia even more important for the political agenda. In 1993 the Centre for Equal Opportunities and Opposition to Racism (CEOOR) is established in order to replace the Royal Commission on Migrant Policy (see paragraph 7 of this report).

ANNEX 2 outlines three important aspects of the federal policy concerning migrants in Belgium: voting power, naturalisation and the position of Islam in Belgium.

As a consequence of the World Conference against Racism, on 30 April 2002 the CEOOR organised a round-table discussion representing the public authorities (administrations and ministries) and the social partners (trade unions, NGO's, organisations, actors involved, etc.). This round-table was the occasion to make a first

synthesis of the World Conference and to discuss it with the different parties involved. Before the World Conference the CEOOR had already organised two preparatory reunions with the same parties.

In September 2003, the CEOOR finished a proposition for a National Action Plan against Racism. This proposition includes suggestions for specific national programs aimed to guarantee access to social services, such as education, health care, decent housing, and means for protection of victims. On the basis of this document an inter-ministerial working group is to be created to study the proposition of the action program. Subsequently an elaborate consulting round needs to be organised among NGO's, trade unions, other social partners concerned, target groups, youth sector, local authorities, relevant governmental institutions, specialised national bodies and other relevant statutory bodies. After these phases the national action program can be finalised with respect to both contents and budget. This finalised action program needs to be accepted by the federal, regional and community parliaments, and approved by the government before it can be published and disseminated. A final phase is the creation of a body that is charged with the follow-up of the realisation of the national action program. This body needs to be constituted by representatives of the competent ministries, the social partners and the target groups.

Belgium still has to ratify the additional protocol 12 of the European Convention on Human Rights prohibiting discrimination. The ratification of this protocol creates new ways of action for victims of discrimination, by both national and international procedures (European Court for Human Rights).

4.2.2. Flemish policy: from integration over focus on the underprivileged to minorities policy

Since the Flemish community gained competence over the reception and integration of migrants in 1980, a shift was made from employment guidance for guest workers to care for integration of migrants and their families by means of a group specific (labelled as 'categorial') welfare policy. The instances that were responsible for the reception of 'guest-workers' were changed into services guiding migrants in their integration process, serving as an intermediary between migrants and the established welfare, health, education and housing services.

In the 1980s this integration policy was mainly based on specific actions (like language lessons and individual assistance) initiated by private organisations. The effects of these actions were rather limited due to insufficient financial means and a general lack of substantial response of the government. At the end of the eighties (partly due to the growing electoral success of extreme-right), the issue of migrants, which had 'merely' been a welfare issue, became a priority in the policy of the Flemish government[3]. The first policy document '*Migrant Policy*' of the Flemish government (1989) stipulates the

[3] The Flemish community and the Flemish Region have one Flemish Government and one Flemish Parliament. The Flemish Government consists of 7 departments, among which the Department of Welfare, Health and Cultural Affairs. As such, this department is also responsible for the welfare and equal opportunities and societal integration of special groups like youth, elders, sick, persons with a handicap, ethnic-cultural minorities and the underprivileged.

establishment of an Interdepartmental Commission of Migrant Policy (ICM). At a Federal level, the Royal Commission on Migrant Policy (KCM/CRPI) outlined the general policy on migrants – conceptualised as an integration policy (see above). Evidently, this policy also determined the elaboration of the migrant policies in the communities.

In 1990 the regulation on integration centres for migrants was approved by the Flemish Executive. Private and public organisations that were already dealing with integration before 1990 were, from then on, confirmed in their functioning. This regulation was an important step in the development of the 'migrant sector'. On the level of the community a Flemish Centre for the Integration of Migrants (VCIM) was established, 8 different regional integration centres (RIC) and, at the bottom of the organisational hierarchy, 43 local integration centres (LIC) were recognised. The disadvantaged position and the discrimination of immigrants were issues to be addressed in the integration sector. In reality this sector had evolved into a service, which mostly deal with welfare issues in the form of individual assistance in employment projects and the organisation of language lessons. Until the mid 1990s the migrant policy of the Flemish Government was limited to providing funding for private initiatives of the categorial sector.

Halfway the nineties the scope of the Flemish migrant policy was substantially broadened in order to include other groups that are often confronted with social exclusion and discrimination because of their ethnic or cultural background: refugees and caravan dwellers. The interdepartmental commission for migrants (installed in 1990, and renamed in 1996 as The Interdepartmental Commission Ethnic-Cultural Minorities, ICEM) elaborated a **strategic plan for the Flemish policy concerning ethnic-cultural minorities**. This strategic plan can be considered as the first step to an elaborated policy for minorities. Basically, the Flemish government put forward three policy objectives.

- The central objective was defined as the emancipation policy, striving for a full-fledged participation of ethnic minorities to the Flemish community. More specific objectives in this respect are for instance: increasing political participation and offering minorities chances to influence society, increased recognition of immigrant and minorities' organisations, realisation of a better language competency in Dutch, facilitating employment by countering discrimination, improving access to social-cultural infrastructure, etc.
- A new policy objective was constituted by the reception or welcome policy ('*onthaalbeleid*'), which focuses on 'newcomers' that arrive in the context of family construction or reunion or as refugees. The objective is to familiarise these persons as quickly as possible in the Flemish society in order to stimulate autonomous functioning. By means of an insertion program the government stimulates social, educational and professional autonomy of newcomers. This is organised by the new insertion decree that was proposed in 2002 to the Flemish Parliament.
- The reception or relief policy ('*opvangbeleid*') focuses on foreigners without legal documents who require help and assistance because of their precarious position. This policy is strictly complementary to the federal policy, since the final responsibility in this matter is situated at the federal level.

This strategic plan aimed to prevent and fight discrimination systematically and to ameliorate communication between autochthonous persons and persons of foreign

descent.[4] This policy concerning minorities was now formally defined as inclusive and co-ordinated. The main idea is to embed projects concerning ethnic-cultural minorities in the existing structures. 'Inclusive' refers to the fact that the policy towards minorities concerns the entire Flemish government. The different sectors involved in the minorities' policy (education, housing, employment, welfare, health care, culture,…) are explicitly given the final responsibility for the realisation of the policy objectives within their own competencies. This inclusive approach evidently implies adequate co-ordination in order to maintain a coherent policy and to avoid overlaps and contradictions.

The decree of 28 April 1998 concerning the Flemish policy towards ethnic-cultural minorities, also referred to as **the Minorities Decree**, constituted an important second step in the development of the minorities' policy. This decree provided the objectives outlined in the strategic plan, the co-ordination of the policy, the organisation of the inclusive policy, the involvement of the target groups in the policy and the categorial sector with a decretal basis. As such, the three pillars of minorities' policy – the Flemish government, the categorial sector and the target groups – got a legal basis. The Flemish government is responsible for the preparation, realisation and evaluation of the policy concerning minorities. The categorial sector[5] is now seen as partner of the Flemish government in the realisation of the minorities policy and is attributed – contrary to before – a policy supporting role. The target groups are actively involved through three channels: involvement in the inclusive minorities policy, involvement in the decision-making of existing advisory bodies and recognition of a forum of organisations of ethnic-cultural minorities as a discussion partner[6].

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[4] See Verhoeven, H., Anthierens, J., Neudt, D., Martens, A. (2003). Het Vlaams minderhedenbeleid gewikt en gewogen. Evaluatie van het Vlaams minderhedenbeleid (1996-2002). Verhoeven et al. summarise the different specific objectives, projects and actions of this strategic plan. With respect to the objective of removing (indirect) discriminating obstructions on the labour market they refer to a number of specific actions: diversity projects to promote proportional labour participation of target groups (2002), best practices in enterprises to promote labour participation of target groups (2000), positive action plans in organisations in order to promote labour participation of target groups (1999-2002), anti-discrimination training of VDAB-personnel and organisation personnel. The authors conclude their analysis that the majority of planned projects included in the Strategic Plan have actually been done. Nevertheless, the question whether these measures have actually contributed to the realisations of the conceived objectives is hard to answer because of a lack of systematic follow-up and evaluation of the different measures. The authors suggest that their inventory of policy measures is taken as the starting point for a systematic evaluation of the effect of the different projects.

[5] The term 'categorial sector' refers to the network of centres and services that are financially supported by the Flemish government in order to realise the policy towards minorities in the field.

[6] The 'integration sector' was seriously criticised by many leaders of migrant organisations, pointing out that the traditional integration centres work for them and not with them. The inclusion and participation of immigrants in the integration sector was considered to be too weak. In 1993 the Intercultural Centre for Migrant (ICCM) was set up as an umbrella organisation supporting local organisations set up and run by immigrants. In the period 1993-1995 280 local (mostly migrant, few refugee) organisations were supported. After three years of experiment the structure was consolidated in 1996 with the establishment of supra-local federations, which are regrouped in the umbrella organisation 'Forum of ethnic and cultural minorities'. In 1995 8 national federations were recognised. Ever since the number has increased with one organisation in 1996, 1998 and 1999. At the beginning of 2002 there were in total 14 recognised national federations, of which 3 are Turkish federations, 2 Moroccan federations, 2 Italian federations, 2 intercultural federations and 2 African national associations, one national organisation of Muslim associations and one national women organisation and one national Latin American federation.

The Minorities Decree (fully implemented in January 2000) outlines a reorganisation of the integration sector. The decree recognises one centre on the Flemish level to support the categorial sector: The Flemish Minorities Centre (VMC). This centre was recognised on 1 May 1999 along with three support centres that are part of the VMC: the Support Centre for Allochthons (OCA), the Consultative centre for the Integration of Refugees (OCIV) and the Flemish Centre *Woonwagenwerk* (VCW). The objective of the VMC is to elaborate and guard the coherence and integration of the activities of the support centres. Moreover, the VMC should, in co-operation with the support centres and members of the target groups and their organisations, support the sector ethnic-cultural minorities in order to allow them to realise the objectives of the minorities policy.

In total 8 integration centres were recognised: Five provincial (West-Vlaanderen, Oost-Vlaanderen, Vlaams-Brabant, Limburg, Antwerp), one regional (in Brussels) and 2 local (in Antwerp and Ghent). The integration centres can also develop local offices in municipalities or quarters in the big cities. Most of the time these are transformations of the former local integration centres. Besides integration centres, integration services associated with municipal OCMW can be distinguished (to date 14 integration services are registered).

Currently ICEM is working on a new strategic plan, which further refines the existing strategic plan. Moreover the minorities policy is currently being evaluated by researchers of the Catholic University of Leuven.
Since 2000, the Flemish government has an experimental insertion (*inburgering*) policy for newcomers. The Decree of 28 February 2003 concerning the Flemish insertion policy formalises this policy in a legal document. The insertion policy consists of an individual trajectory including three areas, namely language learning, community orientation and support to find a job in the labour market. Newcomers who qualify for such a policy are those who have resided in Flanders less than one year. Secondly s/he has the status of family formers, family reunification, asylum seekers who are declared receivable, recognised refugees, regularised people and others. The rationale for organising these trajectories is to facilitate the insertion of these people in the Flemish society.
With respect to the Flemish minorities policy in the Brussels Capital region, the Flemish Community Commission (VGC) assumes a number of tasks that are assigned to local authorities in the Flemish Region. Moreover, the VGC pursues a proper minorities policy (elaborated in co-operation with the regional integration centre Foyer) which is complementary to the Flemish policy.

4.2.3. Walloon policy

On 1 January 1994, the French Community transferred (mainly because of financial reasons) the competency over issues concerning support to individuals to the Walloon Region and to the French community Commission of the Region of Brussels-Capital.

Moreover in 2002 the working of the ICCM was stopped because of the idea that cultural diversity should be developed by all Flemish cultural centres (*steunpunten*). Since 1 May 2002 SoCiuS – the centre for social cultural work – was assigned to assume the different tasks of the ICCM and to integrate them in the actions of the centre.

4.2.3.1. The French Community

Before 1980, the French community subsidised organisations that focused on cultural activities for migrants. In opposition to the situation in Flanders, these cultural activities were hardly co-ordinated since they were realised by non-specific organisations stemming from socialist or Christian circles or by migrant organisations themselves. After the reform of the institutions in 1980, the French Community exerted the competencies that were previously assigned to the Regions, with the exception of work permits and the application of the regulation concerning employment of foreign employees, which remained Regional competencies.

In 1981 an Advisory body for migrants in the French Community (Conseil consultatif des immigrés auprès de la Communauté Française, CCIF) was created. This advisory body insisted on the structural character of migration in Belgium. The French Community favoured a migrant policy focusing on two dimensions: the societal insertion in the host community in order to facilitate equal chances and the recognition of cultural identities.

In 1986 the CCIF was renamed as the Advisory body for population groups of foreign origin of the French Community (Conseil consultatif des populations d'origine étrangère de de la Communauté Française, CCPOE). The switch from 'migrants' to 'population groups of foreign origin' indicated a change in the perspective of the French Community concerning migration. The idea of a temporary labour presence was replaced by the acceptance that population groups stemming from migration were settling for a long time on the Belgian territory. At that time, four regional centres were created to deal with the questions and the needs of the population groups of foreign origin. The CCPOE continued what CCIF had initiated by proposing to develop categorial policy lines for integration of the population groups stemming from migration. In 1989 the CCPOE addressed a memorandum to the Royal Commission on Migrant Policy in which it deplored the fact that the French Community had not developed a global policy nor created an institutional framework in order to adequately deal with matters of integration.

In 1991 a number of riots involving young persons of foreign origin gave cause to a shift in public opinion on migrants: in stead of integration and intercultural exchange the attention was focused on processes of social exclusion, which could be controlled by a more general societal policy. From then on, the CCPOE focused on a policy social work and societal actions towards the underprivileged and victims of social exclusion.

The CCPOE disappeared from the institutional horizon when the French Community transferred the competency over issues concerning support to individuals to the Walloon Region and to the French community Commission of the Region of Brussels-Capital. With respect to education the French Community maintained its policy towards the population groups stemming from migration. For instance, in 1998 the decree on positive discrimination in schools was enacted. This decree aimed at promoting equal chances of pupils in primary and secondary education[7]. The French Community also developed a school program to teach the language and the culture of the country of origin.

[7] The main objective of the decree of 30 June1998 is to ensure the equal opportunities for social emancipation for all pupils of primary and secondary schools through positive discriminations. This ordinance has seven action points:

- to indicate the educational institutions, where actions of positive discriminations are to be installed

4.2.3.2. The policy of the Walloon region

As explained above, the insertion policy of population groups stemming from migration in the Walloon region were for a long time limited to cultural actions aimed at these population groups. Subsequently, the policy was focused on general social actions towards the underprivileged. In 1996 the Walloon Region that had become competent in this respect created a regulative instrument that can be defined as a categorial policy. The decree of 4 July 1996 on the integration of people with a foreign nationality and those of foreign descent can be considered as the result of the considerations initiated by the CCPOE of the French Community and subsequently adopted by the Royal Commission on Migrant Policy. The Advisory Body had recommended not to neglect the national and cultural specificity of migrants, a specificity that differentiates them from the autochthonous underprivileged. As such, contrary to the French Community Commission (Cocof) in the Brussels Capital Region (see below), the Walloon government has a specific policy against social exclusion and a reception and integration policy towards people with a foreign nationality and those of foreign descent.

The decree takes into account the diversity of population groups in Wallonia and instructs the regional integration centres (Charleroi, La Louvière, Liege, Mons, Namur, Verviers and Tubize) to organise, in co-operation with the local authorities and organisations, the necessary actions for a harmonious insertion in the Walloon society. The relevant domains are outlined: social-professional insertion, housing, health, education, collection of data and determination of indicators, dissemination of information, support of persons,

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- to grant these educational institutions supplementary means for the installation of actions of positive discriminations
- to promote the pedagogical actions, enhancing the equal opportunities of social emancipation of the pupils
- to ensure co-ordination of the means provided by different public establishments
- to prevent dropping out and absenteeism
- to prevent violence, with specific attention for certain institutions
- to organise schooling for minors, residing illegally in the territory accompanied by parents or legal guardian

The target group of this ordinance consists of minors with foreign nationality, of foreign descent and finally those, who are undocumented but accompanied. Positive distinction is defined as a distinction, benefiting educational institutions offering primary and secondary schooling, on the basis of social, economic, cultural and pedagogical criteria. In order to organise actions of positive discriminations, supplementary means are granted to the selected educational institutions. These means consists of human and material means.

Two structures were set up to ensure that all pupils have equal access to social emancipation through the specific actions of positive discriminations. The first structure is the Commission for Positive discriminations, which is the general supervising organ between the French community and the field. On the one hand, it has to provide advice and expertise concerning positive discriminations. On the other hand, it co-ordinates the implementation of the programme in the field, while linking these actions to other organisations or actions at other levels such as the European level. The mediation council has the main task to prevent violence and early dropping out of school of pupils attending vulnerable secondary schools. From a more constructive perspective, the mediation council aspires to establish a climate of confidence in the relations between pupil, his/her parents or legal guardians. Structurally, this council falls under the authority of the Commission for Positive discriminations.

evaluation of local initiatives, participation of persons to the societal and cultural life, promotion or intercultural exchange and the respect for differences. The decree is focused on regional centres, local authorities and the organisations in the field, it promotes categorial actions towards migrants and it recognises positive discrimination as an important instrument to foster integration. These positive discrimination actions vary from alphabetisation, over social professional insertion programs to public information campaigns (e.g. on the symbol of the headscarf for Muslim women).

4.2.4. Brussels policy

The Brussels Capital Region is undoubtedly the most diverse city in Belgium. It consists of the city of Brussels and the 18 municipalities. It is the meeting point of at least two majority groups and cultures, ethnic minorities, languages, religions and daily practices. It has a bilingual policy structure, notably French- and Dutch-speaking policy structures. It is different from Flanders and Wallonia in that it has a bilingual policy structure, a multicultural demographic composition and metropolitan functions. Different governments rule the Brussels Capital Region: the Brussels Capital Region (Council or parliament and government), the Flemish Community Commission (VGC), the French Community Commission (COCOF) and the Common Community Commission (CCC-GGC).

4.2.4.1. Brussels Capital Region

Two aspects can be differentiated in the integration policy of the Brussels Capital region: the general aspect of the regional policy concerning employment, revaluation of quarters and public places, housing on the one hand, and the categorial policy concerning insertion-cohabitation of the French Community Commission on the other hand.
The first general policy lines are contracts of quarters (1994) aiming at the development of four-yearly programs and partnerships for the renovation of buildings and the revaluation of housing in seriously damaged quarters in which the inhabitants cumulate different social handicaps. Security and prevention contracts (1992) aim to prevent delinquency. Contracts are made to promote the opening of shops in old quarters of the Region (1998). Initiatives are created with respect to socio-professional insertion and discrimination in employment.
In 1992 the Regional Government created the Regional Inter-ministry Delegation for Urban Solidarity (DRISU) in order to support local projects on socio-professional insertion and social development of the city. DRISU was replaced by the Regional Secretary for Urban Development (SRDU) in 2001.

4.2.4.2. The Flemish community commission (VGC)

The Flemish Community Commission (VGC) aims to foster the ties with Flanders and the Flemish Minority Policy in the Brussels Capital region. The Flemish Community recognised one regional integration centre and several local integration centres in Brussels (see above). The Dutch speaking Brussels organisations of ethnic minorities are financially supported, because they are considered as emancipatory and stimulating

integration. But the Flemish Community Commission also subsidises self-organisations and other 'community initiatives'. Explicit attention and means are attributed to language courses Dutch.

Despite the fact that the VGC is not directly responsible for employment, it is concerned with the training matters improving the labour market conditions of immigrants. Within this policy objective 'training for work' different projects targeting 'job seekers at risk'. These are people, who due to their low schooling and/or professional ability or from social need are unemployed and consequently find themselves in a subordination position or are vulnerable to such a position. A significant part of this group consists of immigrant youngsters. The main points for this policy objective 'training for work' are:

- promotion of the Dutch-speaking job offers/facilitation of this group to Dutch-speaking partners
- promoting language training/support of Dutch as a second language or NT2
- 'training the trainers' or improving the expertise of the teachers, assistants and entrepreneurs
- promoting and supporting professional initiatives
- promoting the learning and working experience.

One specific project is worthwhile mentioning, notably *Tracé*. It is an information and promotion service, assisting job seekers in finding the right training and job. *Tracé* co-operates closely with ORBEM/BGDA, the Employment Service of the Brussels Region and VDAB. The VDAB is the counterpart in Flanders of ORBEM/BGDA. Among the clients of Tracé there is a considerable number of immigrants.

4.2.4.3. The French Community Commission (COCOF)

The French Community Commission (COCOF), has the power to issue decrees and is competent in matters relating to French-speaking education and French-speaking cultural and person-specific matters. Within this legal framework it also promotes through the integration policy the social integration of 'problematic' neighbourhoods. Starting from 1997 it aims to improve impoverished neighbourhoods. The principle of this integration policy is double: on the one hand it attempts to fight exclusion of certain neighbourhoods and on the other hand it aims to make municipalities more responsible for these areas through a common co-financing scheme.

The action of the Cocof towards the organisations prefers a more general policy of social inclusion without explicitly referring to one's nationality or one's ethnic origin. In practice this action provides support to associations, active in the area of social inclusion. In order to reach this objective the internal coherence of the different programmes and the co-operation between the different projects, established by the associations within the framework of the 'co-habitation' project, must be assured. Furthermore, the actions of the COCOF support organisations, which respond to the needs of foreigners and those of foreign origin.

In the areas of labour, training and social-cultural activities aiming to insert foreigners and those of foreign descent in the labour market is signed between two organisations,

namely ORBEM-BGDA and Bruxelles-Formation (Brussels Training) on the one hand and the local neighbourhood shops and associations on the other hand. ORBEM/BGDA or the Brussels Regional Service for Labour Negotiation is a bilingual public institution of placement and training in the Brussels Capital Region. Its mission is twofold. It helps job seekers finding a job in the labour market. Secondly, it supports employment in the management of HRM. Given the precarious social and economic position of most immigrants and second and third generation, they often make use of these services.

5. Legislation against discrimination on racial/ethnic/religious/cultural grounds

Belgium is bound by several general and specific legal instruments at the international and national level with respect to the fight against racism, xenophobia, anti-Semitism and intolerance.

INTERNATIONAL INSTRUMENTS

- The international treaty concerning elimination of all forms of racial discrimination (UNO Treaty of New York, 7 March 1966).

Art. 14 of the European Convention on Human Rights and art. 26 of the Covenant on Civil and Political Rights, which guarantee in various ways the equality before the law, the prohibition of discrimination in the exercise and enjoyment of fundamental rights.

NATIONAL INSTRUMENTS

- the anti-racism law of 30 July 1981,
- the general anti-discrimination law of 25 February 2003 ,
- the Belgian Constitution,
- the law of 23 March 1995 against the denial, minimising, justifying or approving of the genocide carried out by the German National Socialist regime during the second World War,
- the culture pact law of 16 July 1973 which guarantees the protection of ideological and philosophical tendencies
- the amendments to the law on the financing of political parties. The Law of 10 April 1995 limits the financial support to those political parties that have included in their statuses or programs a provision in which they oblige themselves to respect the rights as guaranteed by the European Convention on Human Rights.

We will focus on the anti-racism law and the general anti-discrimination law because these two laws are the most relevant legal instruments to fight racial discrimination with respect to education, employment, housing and health. We will outline the implications for these themes when relevant. Due to the scope of this general legislation report and the complex federal structure of the Belgian State, we will not elaborate on more specific (often regional or communal) policies and legislation with respect to these themes. These

are elaborated in the respective Raxen 4 reports on racial violence, education, employment and housing.

5.1. THE ANTI-RACISM LAW OF 30 JULY 1981

In 1960 a bill was submitted in the Chamber of Deputies to adopt a law for the prevention of incitement to racial hatred and anti-Semitism. Around the same time a bill was introduced in the Senate with a similar objective. It aimed to penalise expressions of racial hatred or religious intolerance in order to curb the rise of anti-Semitism and Neo-Nazis in Belgium. In 1966 a bill was submitted to penalise certain acts determined by racism or xenophobia. This Glinne bill did not only aspire to counter racism but also to integrate 'foreign workers'. However despite the multiple submissions in subsequent years, it was never approved due to political circumstances.

It was not until **30 July 1981** when finally the law penalising certain acts determined by racism and xenophobia, briefly known as **the anti-racism law**, was implemented. The first article of this law defines discrimination as *any distinction, exclusion, restriction or preference which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life*[8]. This definition is largely based on the UN Convention of 1966 relating to eliminating all forms of racial discrimination. The terms 'racism' and 'xenophobia' on the other hand are not defined by the law. This lack of definition clearly provides the court with large interpretation margins.

It needs to be stressed that this anti-racism law does not state that discrimination in itself is punishable. Instead it states that discrimination for specific reasons such as so-called race, colour of skin, descent, or national or ethnic origin is liable to punishment. As a consequence, the following grounds of discrimination fall outside the scope of the law: religious conviction, sexual orientation, language, birth, political conviction or gender.

The anti-racism law penalises expressions or intentions as well as acts or deeds. As far as words and intentions are concerned, these are solely incitement to discrimination expressed publicly or attempts to publicise one's intention to discriminate expressed publicly (Art. 1). The anti-racism law does not provide for any sanction against "racist insults". A mere insult against a person based on race is not punishable on the basis of the anti-racism law. A specific intention, i.e. that expresses the wish to incite third parties to commit racist or xenophobic acts, is required. The insult must be an incitement to hatred. In this respect, the final text differs from the original Glinne bill in which insults expressed against persons based on race and similar, can be penalised. Insulting individuals is dealt with separately in the Penal Code (Article 561, paragraph 7), like libel and slander (Articles 443 *et. seq.* of the Penal Code). As a consequence, the anti-racism law is not meant to be used in cases of mere private insults. Rather it deals with the intentional public insults against a person or group on grounds of race aimed not only at the person in question but to provoke disdain by the general public.

[8] The original 1981 law did not provide a definition of discrimination, the description of discrimination mentioned in the text was added by the 12 April 1994 amendment of the law.

With regard to acts and deeds, this relates to, on the one hand, discrimination in supplying goods or services, at the workplace or in the exercising the duties of a civil servant (Art. 2, 2bis, 4)) and on the other hand, belonging to or extending support to a group or association practising or announcing discrimination or segregation on purpose and repeatedly in public (Art. 3).

An illustrative example of discrimination in the supply of goods could be found in the domain of housing. The original version of article 2 of the law of 30 July 1981 merely aimed to guarantee free access to public places or to services for public like means of transport, hotels, discotheques, restaurants, pubs, etc. As a consequence, discriminatory refusal to let, pronounced in a private conversation between proprietor and candidate tenant was considered as not within the scope of this law. The only way to penalise this kind of discrimination was to demonstrate that the proprietor had publicly incited to discrimination by, for instance, hanging posters or putting discriminatory advertisements. This was changed by the law of 12 April 1994: This amendment did not only increase the penalty but it also explicitly made discrimination with respect to the use of a good punishable. Moreover, since this amendment abolished the requirement of publicity, a discriminatory refusal that was pronounced in a private place also became punishable. In this way the law provided an instrument to counter the frequent cases where letting is refused in the mere presence of the proprietor and the candidate tenant (by the phone, or after a visit of the house). The refusal to let is not illegal if it is based on a valid reason. For instance: the fact that a house can not accommodate more than two persons is a valid reason to refuse letting to a large family (be it foreigners or not).

Evidently, when there is a lack of material evidence (e.g. advertisements, posters), it is often very hard to actually prove that one was discriminated against because of invalid reasons, e.g. one's descent (burden of proof). This brings us to the problems of the actual implementation of the anti-racism law. Basically, three types of problems in applying the anti-racism law can be discerned:

- initial filtering in the registration process by the police
- action by the Public Prosecutor's Office
- the burden of proof

5.1.1. The initial filtering in the registration process by the police refers to many things such as, for instance,

- the difficulty on the part of the migrants to overcome their hesitation to take legal steps;
- complaints are sometimes not recorded in a report by the police or only partially recorded;
- complaints about racism are not always taken seriously
- the reversal of the victim-offender relationship

5.1.2. In the area of actions undertaken by the Public Prosecutor's Office, there is ample room for improvement.

- frequent occurrence of dismissed cases
- many complaints are unsuccessful in court as they are insufficiently substantiated by proof regarding the discriminatory intention of the alleged offender

5.1.3. Burden of proof

The anti-racism law ranks as criminal legislation, which prescribes that one is innocent until proven guilty. Therefore the burden of proof is on the public prosecutor assisted in second instance by the victim, or the person who claims to be discriminated against. Evidently, it is very hard to actually provide hard evidence when it comes to complaints of racism. This is certainly the case when 'intentions' are involved, but also when it comes to proving that e.g. a service was refused because of a racist motivation. This lack of civil law provisions (e.g. shift of burden of proof) constitute the major shortcoming in the 1981 antiracism law. This explains the very low number of cases where an actual judgement was passed. To be more precise when looking at the period 1981-1991 95.5 per cent of all the cases for which a judgement was passed ended up being dismissed. In paragraph 7 we will show that about 65% of the racism and/or xenophobia cases for the period 1998-2002 was without consequences.

5.2. THE GENERAL ANTI-DISCRIMINATION LAW OF 25 FEBRUARY 2003

On 14 July 1999 Senator Mahoux et al. introduced a bill to combat discrimination. The government made some amendments conforming to the two council directives of 2000, notably the directive implementing the principle of equal treatment between persons regardless their racial or ethnic origin of June 29 2000 and the directive establishing a general framework for equal treatment in employment and occupation of 27 November 2000. These amendments concerned the grounds of discrimination, the definition of discrimination, the scope of the law, criminal law provisions and civil law provisions.

Grounds of discrimination. The government proposed to include 'religion or philosophy of life' in the list of discrimination. In sum, the anti-discrimination law takes over all the grounds of discrimination provided for in the Article 13 of the Treaty of Amsterdam and the two Council Directives. However, the Belgian government adopts a narrow interpretation. This means that this particular ground covers only religious or philosophical convictions related to the existence or non-existence of a god, and therefore political or other convictions are excluded.

The definition of discrimination. Two forms of discrimination, direct and indirect, are differentiated. Art. 2. §1: 'One speaks of direct discrimination when a difference in treatment that is not objectively or rationally justified is directly based on gender, a so-called race, skin colour, origin or national or ethnic origin, sexual orientation, civil status, birth, wealth, age, religion or philosophy of life, present or future state of health,

disability or physical characteristic.' Art. 2. §2: 'One speaks of indirect discrimination when an apparently neutral definition, criterion or behaviour has damaging repercussions on persons on which one of the discrimination grounds mentioned in §1 is applicable, unless this definition, criterion or behaviour is objectively or rationally justified.' In view of compliance with the two Council Directives §5 of Article 2 stipulates that in the area of labour relations as defined in the second and third clause of paragraph 4 the difference in treatment is based on an objective and reasonable justification if such a characteristic, due to the nature of the professional activity or context, within which it has to be carried out, constitutes an essential and prescribed part of the professional activity. The reason for including an 'objective ground of justification' has to do with the large scope of this law (see infra). Moreover, this law covers more discrimination grounds than those indicated in the directives, notably health condition of a person, physical characteristic and fortune. It is purposely opted for an open interpretation of direct discrimination instead of a closed definition, in which case an exhaustive list of all the exceptions to the rules needs to be established.

It is important to point out that - in opposition to the anti-racism law - it is no longer necessary to have the deliberate intention to discriminate in order to speak of discrimination. Obviously, unintentional discrimination still is discrimination. Since the anti-discrimination law files under Civil Law this form of unintentional discrimination is not penalised, but it can be stopped by the civil court.
For 'gender' as a ground of discrimination, the government specifies law of 7 May 1999 on the equal treatment of men and women with regard to the employment, access to employment and chances for promotion, access to self-employment and complimentary social security schemes is and remains applicable with regard to discrimination in the area of employment. In addition, there is the collective agreement 38 in the domain of employment, which forbids discrimination on the grounds of ethnic background, gender, sexual orientation, handicap or political conviction at the recruitment. This collective agreement has been declared universally binding (CAO 38, 6 December 1983).
Important to note that the government also follows the directive when it proposes that 'harassment shall be deemed to be a form of discrimination when unwanted conduct relating to any of the above-mentioned discrimination grounds takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment'.

In terms of scope, every form of direct and indirect discrimination is prohibited in:

- -supplying goods and services
- -offering and processing vacancies
- -entering and ending employment contracts
- -appointing officials or designating officials for a particular department
- -entry in an official document
- -distributing, publishing, or publicly announcing a text, report, sign or any other carrier of discriminatory statements
- -any other performance of an economic, social, cultural or political activity

On the whole, the scope of this Belgian anti-discrimination law largely corresponds with that of the first Council directive on racial and ethnic origin. Concerning the other

grounds of discrimination, the government goes further than the second Council directive on equal treatment in employment and occupation, since this is confined to the two mentioned areas. Although housing is not explicitly stated, housing is easily categorised as a service rendered in the public sphere and is thus covered by this bill.

Criminal law provisions. As we pointed out, the general anti-discrimination law files under Civil Law, nevertheless the anti-discrimination law also penalises in a number of cases. In analogy with the anti-racism law, the general anti-discrimination law penalises expressions, which incite and/or give publicity to discrimination on the basis of one of the discrimination grounds. Moreover, a person in a public function, who commits discrimination on one of the non-racial grounds of discrimination, is also punishable by this law. Finally, the anti-discrimination law introduces "reprehensible motives as an aggravating circumstance". For certain articles of the Penal code such as murder, injuries, indecent assault, fire-raising, destruction of somebody's property, the law provides aggravating circumstance if the criminal offence has been committed on the basis of one of the racial (a so-called race, skin colour, origin or national or ethnic origin) or non-racial grounds of discrimination (see above).

Civil law provisions. The key element of the bill on the fight against discrimination are the civil law provisions making it easier for a victim of discrimination to institute a rapid civil action before the Court of First Instance or, where appropriate, before the Commercial Court or Labour Court. The President of the Court may order the cessation of the discrimination and may sentence the perpetrator to a penalty for default if the discrimination has not ceased. The quintessential issue in this respect is the shift of the burden of proof. It is very difficult for a victim of discrimination to prove that s/he is discriminated against. In this perspective the Council Directives provide that the Member States must in their national judicial systems take measures to make sure that victims of discrimination can before a court or other competent authority establish facts from which it may be presumed that there has been direct or indirect discrimination, and it is for the respondent to prove that there has been no breach of the principle of equal treatment. This is in itself sufficient reason for instituting civil procedures against discrimination as this shift in the burden of proof cannot be applied in criminal cases because of the criminal law principle of presumed innocence. In civil cases, however, the key point does not revolve around guilt or innocence but rather whether discrimination has taken place or not. Moreover, it should be noted that discrimination is not always the result of malicious intent.

The Belgian anti-discrimination law has been passed in the Senate on 12 December 2002 and published in the official journal, Belgisch Staatsblad - Moniteur Belge, on 17 March 2003. It became effective on 27 March 2003.

6. Impact of anti-discrimination legislation

6.1. INSTALMENT OF A SPECIALISED BODY

On 15 February 1993 the Centre for Equal Opportunities and Opposition to Racism (CEOOR) was set up as a specialised body fighting racism and xenophobia, replacing the Royal Commission on Migrant Policy. The CEOOR is an autonomous and public institution, linked to the Prime Minister's Office. As a federal institution it is competent for the entire country. Parallel to the instalment of the general anti-discrimination law in 2003, the competencies of the CEOOR were enlarged. More specifically, a meeting of the Council of Ministers of 17 March 2000 decided on the basis of Article 13 of the Treaty of Amsterdam to expand the competencies of the centre to non-racial discriminations. As a consequence, the CEOOR has the task to promote equal opportunities and to fight each form of distinction, exclusion, restriction or preference on the basis of a so-called race, skin colour, origin or national or ethnic origin but also on the basis of sexual orientation, civil status, birth, wealth, age, religion or philosophy of life, present or future state of health, disability or physical characteristic. Other Tasks of the CEOOR are: drawing up advice regarding immigration and integration, training and raising awareness in the wide areas of migration, integration and racism, fighting poverty, the fight against trafficking in human beings and migration monitoring.

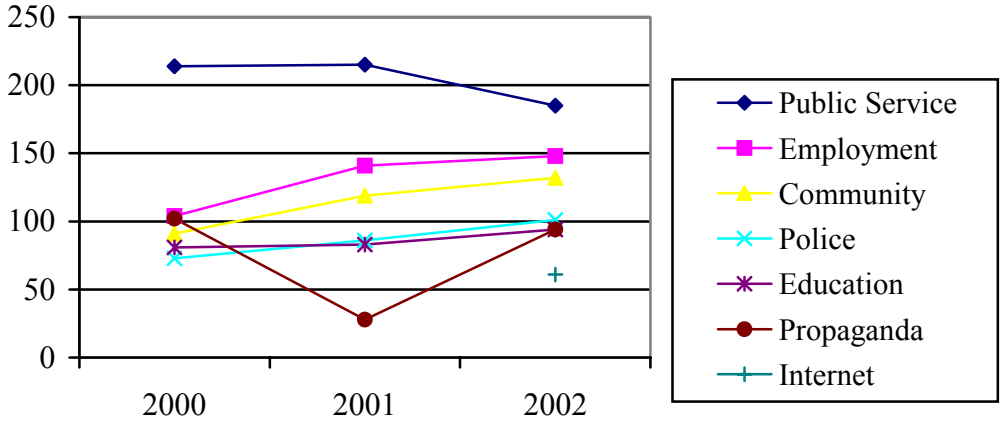
6.2. ANALYSIS OF COMPLAINTS RECEIVED BY THE CEOOR

A number of trained lawyers and social scientists are working at the CEOOR, dealing directly with individual complaints about racism. In 2002 the CEOOR registered a total of 1316 complaints on racism. One out of four complaints was labelled as 'racism' by the CEOOR. More specifically these complaints concerned discriminatory treatment (10 %), instigation to racism (13%) and denial of the holocaust (2%). Slightly more than one out of four complaints is filed as 'unfounded' (12%) or 'incompetent' (15%, indicating that complaint does not pertain to issues within the competency of the CEOOR). Slightly less than one out of four complaints could be attributed to the quality of service (13%) and improper government (6%). The remaining 20% of the complaints are still being treated or could not be assessed due to lack of information.

As in previous years, the most important reasons to file complaints were harassment and arguments. Other common reasons were maltreatment, insult and leasing/letting. In 34% of the complaints 'origin' was indicated as the reason for discrimination. In addition, 10% of the complaints indicate nationality and 5% colour of skin as the main reason of discrimination. As a consequence, nearly 1 out of 2 complaints concerned reasons to which the anti-racism law applies. In 7,5% of the complaints religion was pointed out as the ground for discrimination. Mainly in education settings and with respect to Internet complaints explicit reference is made to Islam, e.g. the issue of wearing a headscarf. Finally, in 19% of the complaints the statute of residence was indicated as a ground for discrimination.

There were no substantial changes with respect to the origin of the persons who filed a complaint in comparison to previous years. There was a slight increase of the proportion (+ 4%) of complaints from persons with Belgian nationality (53%). This pattern could be attributed to the steady increase of naturalisations of allochthonous persons, see paragraph 5. The majority of the non-Belgian persons that filed a complaint at the CEOOR had African origins (North-Africa 12% and Black Africa, 17%).

Figure 1. Number of complaints by domain for 2000-2002.



In comparison to 2001 a general increase in the number of complaints with 6% (1316 versus 1246) was observed. The general pattern of the complaints, however, remained the same. As in 2001, most of the complaints concerned public services (17% of all complaints registered in 2002 versus 21% in 2001), employment (13 % versus 14%), problems in the community (12% versus 11%), police (9% versus 8%) and education (8% versus 8%). Together these five domains take 59% of all the complaints into account.

As in previous years, complaints concerning public services ranked number one in the list. Nevertheless, it needs to be pointed out that there was a substantial decrease of complaints in this domain (185) compared to 2001 (215) and 2000 (214). Moreover, one has to take into account that the majority of these complaints pertain to complaints of status of residence. Taking this into account, one could say that the domain of employment yields in fact the most frequent complaints on racism and discrimination. With respect to the domains of employment, community, police and education, the trend of increasing complaints as observed in 2001 is continued. The number of complaints regarding employment increased by 5% in comparison to 2001(148 versus 141), regarding community by 11% (132 versus 119), regarding *police* by 17% (101 versus 86) and regarding education by 11% (94 versus 83).

Two other trends are also worth mentioning. First of all, a substantial increase in complaints on racist propaganda was observed (72 in 2002 versus 28 in 2001), mainly on the French-speaking part (44 of the 72 files pertain to French propaganda). As can be seen in Figure 1, there was a peak in complaints regarding propaganda in 2000, which can be attributed to the municipal elections that took place in that year. Secondly, an extra category of complaints was added to the categorisation system. For the first time, complaints concerning racism on the Internet were filed separately: previously the complaints were filed as “media’-complaints. These complaints made up 6% of the total

amount of complaints, and this proportion increases weekly. On the whole, racist statements in the media occurred quite frequently (5% of the complaints).

66% (869 out of 1316) of the complaints could be localised to a specific city/town. The other complaints were situated on federal level or on the local, regional or provincial level. Considering these localisable complaints reveals that the majority (i.e., 60%) originates from Brussels (41%) and the province of Antwerp (19%). This dominance of the cities of Brussels and Antwerp in the topographical distribution of complaints was also reported in 2001.

It will be clear that one should be careful in interpreting the patterns in these complaints as reliable and valid indicators for racism and discrimination in the Belgian society. First of all, it can be assumed that the complaints that are registered by the CEOOR are only a minimal reflection of the problems of racism and discrimination. Not every criminal act results in a complaint. Evidently, the same goes for racism and discrimination: not every incident is reported to the CEOOR. Secondly, it can well be that the reporting behaviour (i.e. the act of filing a complaint) is 'domain specific'. Recent sensitising campaigns or specific court cases that get strong media coverage can facilitate reporting behaviour in specific domains. Nevertheless, the systematic data on complaints registered by the CEOOR remain a very relevant source of information to tap trends (within these yearly data sets) and to indicate the presence of the phenomena in Belgian society.

6.3. RELEVANT COURT CASES.

In 2002 there were a number of important court cases with respect to instigation to discrimination, hate and violence (7), structured racism (3) and holocaust denial (1).

6.3.1. Instigation to discrimination, hate and violence

- There were three juridical verdicts regarding making a Hitler salute. Two persons were sentenced, one person was found not guilty because he had made the salute during a heated argument with a policeman and the act was not proven to be intentional. The two convictions conformed with the judgement of the Correctional Court of Brussels of 15 July 1996 stating that "the Hitler salute is indisputably linked with a fascist regime that, on the basis of an alleged supremacy of one race over another, committed all kinds crimes among which genocide. Making a Hitler salute can not but be interpreted as reference to these practices and, as such, this act instigates to discrimination, hate, violence and segregation of a group on the basis of race, colour of skin, descent or nationality ".
- The Court of Appeal of Antwerp confirmed on 20 June 2002 the judgement of the Correctional Court of Antwerp of 26 March 2001, sentencing a person for making a Hitler salute towards the council of Antwerp. The court judged that the penalty (20.000 Belgian Franks) was in accordance to the consequences that were intended by making the Hitler salute, namely instigation to intolerance towards others and the provocation of violence making neighbourhoods uninhabitable and damaging the essence of society.

- The Correctional Court of Antwerp also sentenced an elected person of the Vlaams Blok party because he had made a Hitler salute while taking the oath for the council. The accused was convicted to 3 months imprisonment with postponement and to a penalty of 991 €.
- A DJ was sentenced because he had played the song "Makkakkendans" which instigates to hatred towards, violence against and discrimination of Turkish people. The correctional Court of Mechelen was of the opinion that it was an intentional act because the DJ knew the lyrics of the song and had deliberately included the song in his set-list.
- On 24 December 2002 the Correctional Court of Dendermonde sentenced a Chief of Police to an imprisonment of 9 months with three years postponement for the instigation of police force members to violence against migrants, and for the act of discrimination in his function of Chief of Police (art. 4). The statements of numerous force members and employees showed that the suspect put forward his racist ideas in a rude manner: "you have to squeeze the shit out of their bodies until you drop dead yourself" and "you have to beat them until you drop dead yourself, otherwise you haven't done your job properly". The judge was of the opinion that it was intolerable that a Chief of Police instigated his subordinates to beat up migrants. Even the fact that a small group of migrant youngsters caused trouble in the community could not justify the punishable behaviour of the defendant.
- On 12 November 2002 the Correctional Court of Veurne sentenced 5 extreme-right persons who had beaten up an Egyptian because of his nationality. The court sentenced each of the accused to a fine of 1000 € and an improsenment of one year (partly with postponement) because "a severe punishment is necessary to make the defendants realize that the committed offences are very serious, and to keep them from recidiving in similar criminality and to protect society from their dangerous racist criminal attitude". Three minor perpetrators particpated in this scuffle, one of these was the son of the first defendant.
- On 19 February 2002 the Correctional Court of Tournai sentenced a man for slander and instigation to racism because he had publically shouted at a policeman: "that they should better do their job on Algerians rather than bothering him" and "that authorities should take their responsabilities concerning those strangers". The allochthonous person he quarrelled was confronted with the words "dirty Arab, *bougnoul*, return to your country".

6.3.2. Structured racism

- On 23 April 2002 the Magistrate's Court of Brugge sentenced members of "Civil Initiative Oostende" to a penalty of 495,79 € because of the distribution of racist pamphlets which criminalised habitants of a transit centre by stating that foreigners retrained themselves to be criminals, drugsdealers and prostitutes.
- The accused were cleared of infringements on article 3 of the anti-racism law (making the organised dissemination of racism and discrimination punishable) because the judge was of the opnion that, at the moment of the facts, "Civil Initiative Oostende" was not an organisation in the sense of the law because of a lack of a certain permanence and minimal structure to realise its goals.

- On 28 January 2002 the Magistrate's Court of Liege convicted an extreme right leader to 4 months effective imprisonment and a fine of 4.957 €. It was the second time he was sentenced for incitement to hatred. Moreover, he was also sentenced to membership of two organisations that promote segregation and racial hatred, REF and Bloc Wallon (art. 3).
- The CEOOR, the Liga voor Mensenrechten (League for Human Rights) and the Public Ministry accused three non-profit organisations of the Vlaams Blok party (Vlaamse concentratie, Nationalistisch Vormingsinstituut en Nationalistische Omroep Stichting) of infringement of the anti-racism law of 30 July 1981. These three non-profit organisations are the basis of the political party Vlaams Blok. On 29 June 2001 the correctional court of Brussels declared itself uncompetent in the case because it considered it as a political case: A political crime is to be judged by an Assize Court.
- Both the CEOOR, the League and the Public Ministry have lodged an appeal against this verdict. In its arrest of 26 February 2003 the Court of Appeal in Brussels has confirmed the first verdict by declaring itself uncompetent on the basis of the political nature of the crime. Again, this arrest is in contradiction with the advise of the Sollicitor General. Until this day the court has not made a judgement on the core of the case. The CEOOR, the League and the Public Ministry have decided to appeal to the court of cassation against the arrest of 26 February 2003: They are of the opinion that the term 'political crime' is interpreted in a way that is incompatible with the constant jurisdiction of the court of Cassation.

Evidently, the 'example function' of these cases on organised forms of racism is not to be neglected. The effective conviction of racist organisation will constitute an important sensitising factor for both the general public and the magistrates. For this reason, it is deplorable that the cases of convictions for organised forms of racism have been rather rare up till now.

6.3.3. Holocaust denial

On 15 January 2002 the Correctional Court of Brussels sentenced a person that had disseminated between December 1997 and February 1999 racist and negationist texts via the internet. After his neglection of repeated warnings, the provider filed a complaint. The judge sentenced the accused in absentia to one year of imprisonment because of infringements against the anti-racism law and the law on the denial of the holocaust.

6.4. RACISM FILES IN JURISDICTION: REPORT OF STATISTICAL ANALYSTS OF THE MINISTRY OF JUSTICE.

In this paragraph, we will briefly present an analysis by the statistical analysts of the Ministry of Justice (College of Procurators-Generals) on the number of racism-cases in jurisdiction [9].

The data obtained stem from two phases in the judicial/criminal procedure. In general, four phases are differentiated in the judicial/criminal procedure: the phase of police investigation, the phase of the location and persecution by the public prosecutor, the phase of trial in front of the courts and, finally, the phase of the punishment. Evidently, not every person who is guilty of a criminal act passes through all of these phases: Not all criminal acts are registered by the police, not all criminal acts are transferred from the police to the public prosecutor, the public prosecutor does not transfer all cases to the courts and not every adjudged person is penalised. The report that is presented focuses on the way in which the public prosecutor and the correctional courts function with respect to racism.

The identification of racism files is done in two phases, related to two clearly differentiated phases in the judicial/criminal procedure.

- At the beginning of the judicial procedure, at the level of the public prosecutors, the charge determines the selection of the racism files. For every case / file the public prosecutor assigns one principal charge. Most of the time, the public prosecutor confirms and specifies the charge that was indicated as the most important by the booking authority. At this stage, each case gets an identification number ('notitienummer').
- At the end of the judicial procedure, the qualification of the criminal act according to the verdict of the judge determines whether a person is convicted for racism or discharged. Again, on the basis of the verdict a registry number ('griffienummer') is assigned.

As a consequence, each case has an identification number but does not necessarily have a registry number, because not every case results in a summoning or a sentence. On the other hand, a single registry number can be associated with several identification numbers since a person can be summoned and sentenced for several files at the same time. These facts have consequences for the reporting of the judicial data: the data are presented by case before the summoning, whereas they are presented by person in the phase of the sentence.

As explained above, the office of the public prosecutor puts together a case or a file on the basis of every charge or every complaint that has been introduced to them. To each file a principal charge is attributed (e.g. 56A for 'racism' or 56B for 'xenophobia'). Additional crimes are often not registered on this level. This implies that cases in which racism or xenophobia are considered as secondary charges, could not always be included

[9] This report can be found as an annex to the publication "1993-2003. 10 jaar CGKR. Van integratie naar diversiteit." of the CEOOR.

in the analyses. According to the college of prosecutors-generals, the fact that additional charges are not registered results in a slight underestimation of the total number of racism and/or xenophobia cases.

Over the last five years, 3693 files were registered because of charges of racism and/or xenophobia. About 41% of these charges are to be situated in the jurisdiction of Brussels. In 2001 729 racism and/or xenophobia cases were registered. This number reveals a sharp contrast with the increasing trend that was observed since 1998: 653 cases in 1998, 690 in 1999, 792 in 2000 and 829 in 2001. About 44% of the cases in 2001 were registered in the jurisdiction of Brussels, and about 20% were registered in Antwerp.

Table 4. Number of cases of racism and/or xenophobia (by district) between 1998 and 2002.

	1998	**1999**	**2000**	**2001**	**2002**	**TOTAL**	
Antwerp	138	133	136	169	138	**714**	*19%*
Brussels	296	268	321	363	281	**1529**	*41%*
Ghent	75	126	158	127	113	**599**	*16%*
Liege	81	76	109	108	122	496	*13%*
Mons	63	87	68	62	75	355	*9%*
BELGIUM	**653**	**690**	**792**	**829**	**729**	**3693**	***100%***

Source: Report of statistical analysts of the Ministry of Justice

As was indicated above, a number of public prosecutors registered a secondary charge besides the principal charge. The database used in the report included 208 files (i.e. 6%) with codes that did not pertain to racism for the period 1998-2002 (see Table 5). It will be clear that the number of these secondary charges is minimal. Nevertheless, it is interesting to point out that the majority of secondary charges accompanying the charges of racism/xenophobia involve threats, deliberate strokes and wounding and slander.

Table 5. Secondary charges in addition to charges of racism and/or xenophobia in 1998-2002.

Charge	**Number**	**%**
Threats	38	18,27
Deliberate strokes and wounding	37	17,79
Slander	23	11,06
Damaging – destruction	17	8,17
Recalcitrance towards the government or persons with a public function	14	6,73
Insults	12	5,77
Other	67	32,21
TOTAL	**208**	**100**

Table 6 presents an overview of the state of advancement of the 3693 different racism / xenophobia files of the last five years (1998-2002) on the moment of analysis (February 2003). When different decisions were made with respect to one case (e.g. for the different persons involved) the most serious decision (i.e. the one which is the most decisive with respect to the criminal prosecution) was taken as an indicator.

Table 6. Most recent state of advancement of racism / xenophobia files of 1998-2002 by district.

	Antw.	Bruss.	Ghent	Liege	Mons	TOTAL	
Without consequences	484	931	420	320	260	**2415**	*65,4%*
Criminal investigation	87	121	22	47	14	**291**	*7,9%*
Joining	61	267	58	54	23	**463**	*12,5%*
Put at the disposal of another Belgian court	31	130	52	41	53	**307**	*8,3%*
Friendly arrangement	6	17	7	4	-	**34**	*0,9%*
Mediation in criminal cases	6	2	-	4	-	**12**	*0,3%*
Summons, court session, verdict, arrest	29	36	28	16	3	**112**	*3%*
Investigation, court sitting in chambers or the chamber of indictment	10	25	12	10	2	**59**	*1,6%*
All decisions	**714**	**1529**	**599**	**496**	**355**	**3693**	*100%*

The table above clearly shows that the majority (2415 out of 3693, i.e. 65%) of the racism / xenophobia cases have, at the moment of the data analysis (i.e. February 2003), remained without consequences. Of these 2415 cases without consequences, 68,8% involved a technical dismissal[10], 29,7% were dismissed because of opportunist reasons[11] and 1,6% because of another motive. In only 112 cases (i.e. 3%) at least one accused was summoned to appear in court[12]. 93 of these 112 cases were sentenced: 64 (i.e. 57%) of these sentences resulted in a conviction for racism (codes 56.01, z56.01, z56.02).

In 7,9% the criminal investigation was still running. Friendly arrangements and mediation in criminal cases are two decisions that extinguish criminal proceedings, but apparently they are rarely used in racism files. A substantial proportion of racism cases (12,5%) is joined with another file making it a daughter file of a mother file with another charge. 8,3% of the racism files were put at the disposal of another Belgian court. The current database does not allow extracting the decisions that were made in these files from then on. 59 files were still in the hands of the examining magistrate or someone on the level of the court sitting in chambers or the chamber of indictment.

It is possible that a file is not taken in as a racism file, but that the final sentence does label it as a racism file: the initial charge does not have to be the same as the final verdict. The report of the analysts of the Ministry of Justice concludes with an analysis of the persons involved in cases that resulted in a verdict with racism qualification codes (codes 56.01, z56.01, z56.02). If the racism qualification of one sentence pertained to two or more (n) persons, than the sentence is taken into account several (n) times.

[10] Examples of technical dismissals are: the facts are not punishable, a lack of evidence, the criminal proceedings are expired (e.g. the preclusion of criminal proceedings by reason of lapse of time, perpetrator deceased, …) or not permissable (e.g. immunity, exemption, …) or the perpetrator remained unknown.

[11] Examples of dismissals because of opportunist reasons are: the facts have limited social repercussions, the perpetrator has no police record or is very young or has compensated the victim, a lack of capacity for investigation or more important priorities.

[12] It needs to be pointed out that this number reflects the situation on the moment of analysis (i.e. February 2003). It is quite likely that a number of the cases in the categories 'criminal investigation', 'joining', 'put at the disposal of another Belgian court' and 'investigation, court sitting in chambers or the chamber of indictment' will be added to the category of 'Summons, court session, verdict, arrest' in the future.

Table 7. Persons that were sentenced for racism: contents of the verdict (1998-2002).

	Number	Percentage
Conviction	64	32,7
Discharge	34	17,3
Conviction + postponement	56	28,6
Normal postponement of the sentence	18	9,2
Other	24	12,2
TOTAL	**196**	**100**

Table 7 shows that the majority (120 persons) of the 196 accused for racism (in the phase of the final verdict) were actually convicted. The convictions and the convictions with postponement constitute more than 60%. 17% of the persons that were charged of racism (in the phase of the final verdict) during the period 1998-2002 were discharged. It is interesting to point out that about 43% of the persons that were sentenced for racism / xenophobia was initially involved in a file without any charge of racism / xenophobia at the level of the public prosecutor.

The number of 120 persons convicted for racism or discrimination during the period 1998-2002 (based on the final verdicts), nuances the figure of 64 (see above), that was based on cases that were labelled as racism files at the level of the public prosecutor. Nevertheless, 120 convictions for racism and discrimination on a period of five years still can be interpreted as quite limited. Taking into account the recent history of the judicial fight against racism, this apparently 'limited' number of convictions in the last five years is rather impressive.

Since the report of the statistical analysts of the Ministry of Justice does not present statistical data of the years before 1998, we will base our argumentation on the court cases involving the anti-racism law of 30 July 1981 as they are reported on the CEOOR-homepage. On this homepage the CEOOR reports all the cases that they have knowledge off, which is less than the number of cases that is presented in the report of the statistical analysts of the Ministry of Justice. Due to this lack of exhaustive information and the fact that the units of analysis by the CEOOR are court cases (instead of individual persons), we will not compare these data with the data from the report of the statistical analysts of the Ministry of Justice. We will only use the data provided on the CEOOR homepage to make a period-relative analysis.

For the period 1982-1997 the CEOOR reports 40 court cases pertaining to the anti-racism law of 30 July 1981: in 23 (i.e. in 58%) of these cases a conviction for the infringement upon at least one of the articles of the anti-racism law was obtained in the period of 16 years. For the period 1998-2002 the CEOOR reports 46 court cases pertaining to the anti-racism law of 30 July 1981 in 37 (i.e. in 80%) of these cases a conviction for the infringement upon at least one of the articles of the anti-racism was obtained in this period of five years. These figures show a spectacular increase of the number of court cases pertaining to the anti-racism law in the last five years. Moreover, the proportion of convictions for racism and discrimination also increased substantially. As a consequence, we can conclude that a substantial progress in the judicial fight of racism was made during the last five years. It goes without saying that it would be very interesting to complement this analysis with an analysis on the exhaustive data set of the Ministry of Justice. To this day, however, these data are not available.

7. Strategies, initiatives and good practices for further developing legislation against discrimination, racism and exclusion, for equal treatment, diversity, and integration.

Evidently, the most important developments in this respect are the recent strengthening of the anti-racism law and the effective implementation of the general anti-discrimination law (see paragraph 6). In the near future we will be able to evaluate these two crucial legal instruments.

In this paragraph we will discuss three recent positive developments in the legislation against discrimination, racism and exclusion, for equal treatment, diversity, and integration.

7.1. REPORT ON REGISTRATION OF ORIGIN BY THE FLEMISH GOVERNMENT ADMINISTRATION

In 2001 Dr. Frank Caestecker wrote a report with suggestions on the registration of foreigners in support of the Flemish policy of positive action for ethnic minorities (PUBBE0165). In order to set an example as an employer, the Flemish government strives to obtain a proportional representation of the working population in its own personnel. For this purpose the government applies a positive action policy in order to remedy the under-representation of persons of foreign descent in the governmental personnel. A major problem in developing adequate strategies in this respect is the issue of the registration of members of ethnic minorities. Until this day, statistics on (un)employment of ethnic minority members are based on nationality, as a consequence persons of foreign descent who have adopted the Belgian nationality (by naturalisation or by birth in Belgian) disappear as 'foreigners' from these statistics. In order to obtain a proportional labour representation it is necessary to develop a registration instrument that allows to adequately monitor and evaluate the positive action measures.

Caestecker points out that the registration of origin should be both reliable and valid. The instrument of registration should be able to provide a valid and complete identification of the target group. The author analyses different registration methods in terms of reliability and validity.

7.1.1. Registration of origin on the basis of self-identification.

This method recognises the subjective character of belonging to a social group. In this method of categorisation the individual can autonomously determine whether he considers himself as a member of population groups stemming from migration. This also opens the possibility to identify third, fourth, … generations of immigrants (to the extent that the candidate employee considers this as relevant). The fact that minority members can also refuse to consider themselves as ethnic minority members could raise problems

with respect to the validity of the instrument. In order to minimise this problem, it is necessary to clearly explain the logic of the registration to the candidate employee and to explicitly stimulate the persons involved to indicate and to positively value their foreign origins.

The validity of this registration method largely depends on the extent to which the target group members actually recognise themselves in the identification categories that are presented to them. On the basis of a limited empirical study Caestecker presents a number of self-identification categories. First of all he points out that the denominating category "allochtoon" (which is very current in the Flemish discourse on ethnic minorities) is rejected by a number ethnic minorities because it reduces the diversity of different population groups to the dichotomy minority / majority. The author proposes to present a list of possible identifications on the basis of the country of origin, but also leaving open the possibility to fill out an own category. (Persons can also mark different options simultaneously. The order of presentation is based on the length of the proposition.)

EXAMPLE:

"What is your nationality?"
"If you have the Belgian nationality, what is your origin?" (You are allowed to indicate more than one option.)

- of Italian origin
- of Asiatic origin
- of Belgian origin
- of Turkish origin
- of American origin
- of Moroccan origin
- of Black-African origin
- of Eastern-European origin
- origin form another European country
- of ……. origin (fill out origin)

The main advantage of this registration method is that it is very efficient and brief. Moreover, irritation or refusal to answer questions on country of origin or familial immigration history are avoided.

7.1.2. A mixed registration method: country of origin and self-identification.

Example: "If you have the Belgian nationality, what is your native country and what is the native country of your parents and grandparents?". The advantage of this registration method is that it is based on a neutral and objective criterion. The disadvantages however are numerous, but the most important are the arbitrariness involved and the laboriousness. First of all native country is not a unambiguous criterion since being born abroad does not necessarily mean that one is of foreign origin. Secondly, the determination of the origin on the basis of the native country of the person himself, the parents and the grandparents

always implies an arbitrary choice if the respective native countries differ. Moreover, the candidate employee could be intimidated or irritated by these detailed questions on his family in the context of a job application procedure.

7.1.3. A mixed registration method: (familial) immigration history and self-identification.

Example: "If you have the Belgian nationality, have you, a parent or a grandparent migrated to Belgium? If yes, from which country (countries)?" This method is also based on an objective criterion, but it avoids the problem of the coincidental birth in a foreign country. Nevertheless, it needs to be pointed out that, in the context of a job application, questions about the personal migration history are very sensitive. Evidently, the questions about the native country of the parents and the grandparents are likely to be considered as irrelevant for the selection procedure. This question should certainly be accompanied by the possibility to indicate the subjective self-identification. In this way persons can point out "My parents come from X, but that does not mean that I consider myself as a Belgian of X origin".

Caestecker recommends the single registration method by self-identification as the most efficient, reliable and valid. At the same time he underlines the importance of providing adequate information to the candidate employees in order to increase the reliability and validity of the registration. In general, organisations of ethnic minorities are quite reluctant towards the idea of registration of origin in the context of job application. Therefore, it is necessary to provide clear information that allows ethnic minority members to estimate to what extent registration of origin serves their own interests. The author formulates a possible explanation that can accompany the registration question: "Although persons of foreign origin constitute a significant part of the Flemish population, they are hardly present in the personnel of the Flemish government administration. The Flemish government administration wants to remedy this situation and wants to give everyone equal opportunities. The information on your origin enables the Flemish government administration to find out to what extent new measures on equal opportunities in the context of the Flemish minority policy (decree of 28 April 1998) achieve their aim." Moreover, the candidate employee should be given the guarantee that the data on his origin are strictly used by the Flemish administration in order to evaluate the labour market participation of ethnic minorities that are under-represented in the personnel. They should also be assured to have the right to have the data regarding ethnicity deleted from their file at any time.

In the Publication "Positive action plan 2003: In order to increase equal opportunities and proportional representation of men/women, ethnic minority members, and persons with a handicap in the Flemish public administration" (PUBBE0168) the Dienst Emancipatiezaken (Emancipation Affairs) indicates that since 2001 the Flemish government decided to provide a registration system in which people with a handicap and ethnic minority members can register themselves, on their own volition. For this person, the personnel identification system (called 'Vlimpers'[13]) was developed in the first half of

[13] Vlimpers stands for "Vlaams Intermodulair Personeelssysteem" (Flemish Intermodular Personnel system) and will, in time, replace the current personnel system. It is a fully automated

2002. Office-seekers can indicate that they have a handicap or are of foreign origin. This can be done in the phase of recruitment or afterwards. Only the person involved and the personnel administration have access to this information and the information can only be used for policy monitoring. Other measures are: reporting the system to the privacy commission, an evaluation group, elaboration of adequate anonymous data analysis, communication to personnel administration and the target groups concerning purpose of the registration system and how to deal with it. In 2003, the Flemish government strives to fully communicate the system to the target groups and the personnel administrations, and to evaluate it.

7.2. ACCESS TO GOVERNMENT OFFICES FOR ETHNIC MINORITIES.

The Royal Commission for Migrant Policy already pointed out the importance of accessibility of non-Belgians to government jobs, because the government should serve as an example. In the context of the Inter-ministerial Conference on migrant Policy of 29 April 1998, it was decided that the Federal Ministers of Labour and Employment and of Administrative Affairs would take the initiative to introduce a regulation stimulating positive action towards foreigners in administrative services. An equal opportunities plan was to be drawn up in all administrative services after the model of the Royal Decree concerning equal opportunities for men and women. An analysis of the situation was to be performed, as well as a description of aims and of specific positive actions that needed to be elaborated as well as a schedule to actually implement these measures. Until this day this decision was not acted upon. As a consequence, the lack of specific realisations changed the initiative of a good practice into a bad practice for the time being.

In the Brussels Capital Region, on the other hand, an ordinance on the expansion of the nationality conditions for admittance to jobs in the regional offices was implemented on 5 August 2002. This ordinance allows persons that do not have the Belgian nationality and who are not citizens of EU member states to assume jobs in the service of the Brussels Capital Region regarding "civil offices that do not imply direct or indirect participation to public authority or involve activities that serve to protect the general interests of the state or other public instances". Up till now only the Brussels Capital Region has taken such an initiative. The federal, Flemish, Walloon and French community public offices are still restricted for citizens of a Member state of the EU, under the same conditions as those that apply to Belgians (except for those that relate to the compliance with the exception as foreseen under issue 4 of article 48 of the Treaty of Rome of 25 March 1957).

Recently, a positive initiative was taken at the level of the federal parliament. On 6 December 2002 a bill (Coenen-Grauwel) was introduced to broaden the nationality conditions concerning access to jobs at the federal administrative services. This bill aims to provide access to jobs at the federal administrative services, which do not imply participation to public power. On the suggestion of the CEOOR, the Inter-ministerial Conference on migrant Policy of 17 July 2002 has created a workgroup in order to clarify which functions indeed imply such a participation to public power, and to propose a uniform definition of this notion for the different public authorities.

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system based on Internet technology. Vlimpers consists of different components that will be implemented in different phases (from January 2002 till mid-2004).

7.3. THE FLEMISH DECREE ON PROPORTIONAL PARTICIPATION IN THE LABOUR MARKET

The decree of 8 May 2002 on proportional participation in the labour market is based on the EU Council directive of 29 June 2000 implementing the principle of equal treatment between individuals irrespective of racial or ethnic origin and the Council directive of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. The two basic principles are proportional participation and equal treatment which guaranteed on the basis of following grounds: sex, so-called race, skin colour, descent, sexual inclination, national or ethnic origin, civil status, birth, fortune, age, religion or philosophy of life, the current and future state of health, a disability or physical quality. The decree applies to labour negotiation, professional training, career support and labour conditions. It applies also to the Flemish government and the services dependent on the Flemish government including schools. Moreover, the decree obliges the Flemish services and mediators on the labour market to pursue a policy of equal participation and encourages companies to pursue a policy of diversity.

8. Conclusion

Since the beginning of the eighties the different Belgian communities developed their own policies concerning the reception and integration of migrants. The matters of migration (admittance policy, the judicial residence position and the expulsion) and the development of a policy against racism, however, remained a federal competency. As a consequence, the anti-discrimination and anti-racism legislation is to be situated on the federal level.

On 30 July 1981 the law penalising certain acts determined by racism and xenophobia was implemented. Although, this was a very important first step, initially this anti-racism law seemed to be lacking real judicial power. The first years after the implementation resulted in a very limited number of court cases with respect to racism. Evidently, this could also be attributed to the fact that this law was very new, and that it took some time for the judicial system to actually make use of it. The last years, however, we find that the anti-racism law is much more frequently applied. For the period 1982-1997 the CEOOR reports 40 court cases pertaining to the anti-racism law: in 58% of these cases a conviction for the infringement upon at least one of the articles of the anti-racism was obtained in the period of 16 years. For the period 1998-2002 the CEOOR reports 46 court cases pertaining to the anti-racism law: in 80% of these cases a conviction was obtained in this period of five years. These figures show a substantial increase of the number of court cases pertaining to the anti-racism law in the last five years. Moreover, the proportion of convictions for racism and discrimination also increased substantially. As a consequence, we can conclude that a significant progress in the judicial fight against racism and discrimination was made during the last years.

This progress is also reflected in the recent implementation of the general anti-discrimination law of 25 February 2003. It prohibits every form of direct and indirect discrimination (difference in treatment that is not objectively or rationally justified) on the basis of gender, a so-called race, skin colour, origin or national or ethnic origin, sexual orientation, civil status, birth, wealth, age, religion or philosophy of life, present or future state of health, disability or physical characteristic. Moreover, this law counters the weak spot of the anti-racism law (burden of proof) by providing a shift of the burden of proof.

ANNEX 1: The federal structure of the state Belgium

During the last decade, Belgium was restructured as a federal state by four reforms (1970, 1980, 1988-89 en 1993). The power over the state is now spread over different partners that have their own competencies. The reorganisation of competencies was performed by two major principles. The first principle pertains to language, and more broadly to culture resulting in three communities: Flemish-, French- and German-speaking Communities. The second principle of the state reform was historically inspired by economic interests. The Regions that strive for more economic autonomy express these interests. As a consequence three Regions were differentiated: Flanders, Wallonia and the Brussels Capital Region.

Broadly speaking, the powers of the Federal State cover everything connected with the general interest of all Belgians: public finances, the army, the state police, the judicial system, social security (unemployment, pensions, child benefit, health insurance), foreign affairs and development aid as well as substantial parts of public health and home affairs.

Communities have powers for culture (theatre, libraries, audio-visual media, etc.), education, the use of languages and matters relating to the individual which concern on the one hand health policy (curative and preventive medicine) and on the other hand assistance to individuals (protection of youth, social welfare, aid to families, immigrant assistance services, etc.).

Regions have powers in fields that are connected with their region or territory: economy, employment, agriculture, water policy, housing, public works, energy, transport (except Belgian Railways), the environment, town and country planning, modernisation of agriculture, nature conservation, credit, foreign trade, supervision of the provinces, communes and inter-communal utility companies.

ANNEX 2: Three aspects of the federal migrants policy

In this Annex we outline three important aspects of the federal policy concerning migrants in Belgium: voting power, naturalisation and the position of Islam in Belgium.

RIGHT TO VOTE AND POLITICAL PARTICIPATION

At the end of the 1970's and at the beginning of the 1980's, voting right for migrants (at the time still referred to as 'guest-workers') was made a political issue. For defenders of the right to vote for foreigners, it was considered as a channel to facilitate integration in Belgian society, ultimately leading to emancipation of this group. In the context of the Treaty of Maastricht in 1999, foreigners from within the EU were granted voting power for the municipal elections. Non-EU foreigners, on the other hand, were excluded from this right to vote. Opponents who refuse to grant immigrants the right to vote argue that the naturalisation law has become so liberal so that if one wants to vote and thus want to participate in the local, regional and political life, s/he can easily adopt the Belgian nationality. Others, who are in favour of granting voting power, argue that in neighbouring countries, such as in the Netherlands, granting voting right at the municipal level works very effectively. Moreover, local politicians would take the needs of migrants entitled to vote more seriously into account.

With respect to political participation of non-EU migrants it needs to be pointed out that a large number of this group is naturalised and has the Belgian citizenship. Among the second generation of immigrants there is a handful which is politically active and have become member of Parliament, or member of the Senate. However, this is a minority. In 1994 there are 10 elected representatives in the Flemish Region and 14 in the Brussels Capital Region. With the elections of 13 June 1999 candidates of ethnic descent at the supra local level emerged on the election lists of several political parties. At present there are 2 members of ethnic origin out of the total of 150 members of the Chamber of Representatives and 3 out of the 71 senators in the Senate. In the Brussels Capital Council 8 out of 75 elected members are of ethnic background. Compared to the election in 1995 this number has doubled from 4 to 8 members (Martiniello, 1998).

ACQUISITION OF BELGIAN NATIONALITY

In general, two perspectives on the role of full citizenship (as is, to date, limited to persons with Belgian nationality) can be discerned. The more traditional view considers granting citizenship as the final phase of a successful integration process. Others claim that obtaining the citizenship constitutes the first step in the integration process.

The law of naturalisation pertaining to the acquisition of Belgian nationality has been liberalised in different steps. The law of 28 June 1984 has simplified significantly the terms of granting and obtaining of the Belgian nationality since 1932, particularly for the second and third generation migrants. Nevertheless, this law is still characterised by administrative and judicial barriers. The administrative burden refers to the high costs and the long period it takes for the completion of the naturalisation process. The judicial barrier refers to the fact that the candidate's 'willingness to integrate' has to be assessed. Due to the lack of objective measurement criteria, the assessment of this vague notion was quite arbitrary performed by the local civil servants.

In the course of the 1990s, both barriers have been dismantled. The rights, which needed to be paid for the naturalisation procedures, have been significantly diminished at the end of 1989 and in 1999 completely abolished. The law of 13 April 1995, reinforced by the law of 12 December 1998, provides for a very strict procedure, of which the term during which the file is pending cannot exceed more than one year. Moreover, the difference between a 'small' and a 'big' naturalisation has been discarded. A 'small' naturalisation provided all the rights except the right to participate in elections and to hold office. Henceforth, this discrimination has been abolished. All naturalised Belgians share the same rights and obligations as other Belgian citizens. The law of 1 March 2000 (also referred to as "the Rapid-Belgian-law") provides an even shorter time of processing and the shortening of the sojourn in Belgium for candidates aspiring to obtain the Belgian citizenship. Moreover, the willingness to integrate is no longer assessed. Now, every person born in Belgium or someone who has lived for at least 7 years in the country can obtain Belgian nationality by a simple declaration. Only the Public Prosecutor can issue a negative advice within the time framework of one month.

The multiple amendments to the naturalisation law have a particularly strong impact on the second and third generation. The law of 1984 resulted in a sudden increase of naturalisations caused by children of the third generation. In the mid-1980s until 1990 especially Southern Europeans have made use of the liberalised naturalisation law. From the 1990 onwards a great number of descendants of the former 'guest workers' began to obtain the Belgian nationality. The decreasing number of EU migrants adopting the Belgian nationality needs to be linked with the judicial position they enjoy as citizens of the European Union. For non-EU migrants, obtaining the Belgian nationality means securing full rights as citizen of the Belgian federal state.

POSITION OF ISLAM

The relation between religion and state in Belgium is characterised by: 1) freedom of religion; 2) separation between church and state and 3) the system of the official recognition of religions. While the first two characteristics is quite common for European countries, the system of the recognition of religion is specific for the Belgium. The system of recognised religion is based on the principle that religion serves a social and moral need. In fulfilling this need it fosters a general sense of well being. The recognition of a religion includes a range of advantages:

- - the payment of the salaries of the religious officials
- - corporate personality of institutions, which are related to worship
- - renovation and upkeep of religious venues
- - budget of the locations, where the worship is held
- - tax concessions
- - payment of religious councillors in detention centres and hospitals
- - right to broadcast religious programmes on radio and television
- - religious education in state run schools.

Currently there are six recognised religions in Belgium: Roman Catholic church, the Islam, Protestant church, Orthodox church, Jewish church, and the Anglican church. Apart from these religions, moral services with a non-confessional philosophy of life is also recognised and financially supported since 1993. Once a religion is recognised a

commission is instituted by law or royal decree to manage its own material resources and to serve as an intermediary with the government.

Islam was recognised in the 19 July 1974 law. Formally this recognition granted to the Islam equal status to the other faiths but de facto there was no such equality because the Islam in Belgium did not have an 'Executive' (which is the official institution functioning as a spokesman with the authorities) since the Islam does not have a religious hierarchy and not even a clergy. In addition, the different Muslim communities are rather scattered and fragmented. Prior to the formal recognition of the Islam Muslims have undertaken several steps to gain recognition for their faith. This process already started in the 1960s, culminating in the recognition of the Islamic and Cultural Centre (ICC) as an independent legal entity in 1968. In the subsequent year it was granted the use of the Mosque in the Cinquantennaire Parc in Brussels, a complex serving as a place of worship, a cultural centre and a co-ordination centre for mosques. The ICC was not supported by the local Muslim communities. It was initiated by the diplomatic representatives of predominantly Islamic countries. Given the lack of an official liaison body with the authorities, the ICC has fulfilled this function without any legal basis. The first instruction of Islam was organised in 1975. The Islam instructors, nominated by the ICC, did not have full status as regular teachers in state run schools. This means that their remuneration was different. Their diplomas were not recognised. They didn't follow an official programme.

In the 1980s the Muslim continued their efforts to establish a representative body but without tangible results. In 1989 this process gained momentum with the set up of the El Ghazali School. At the same time the Royal Commissariat General for Migrant Policy also actively intervened in the development of an organisational structure of the Islam. After consultation with the Imam director of the ICC and the majority of the actors, who were representative of the Muslim communities in matters concerning worship an effort was made to organise elections for the establishment of a High Council of Muslims in analogy with their counterpart of the other recognised faiths. However, this proposal was rejected by the government.

In 1990 the authorities discontinued the informal role of the ICC as a liaison body. Instead it installed a Provisional Council of Experts. It was responsible for working out proposals for an organisational structure of the Islam in Belgium. However, this Provisional Council of Experts, officially endorsed by the government was not supported by the Muslim communities. In 1991 the ICC organised through the mosques elections, which resulted in the General Council for Muslims in Belgium. This in turn chose the High Council for Muslims in Belgium. These two organisations were not recognised by the government. However, the Provisional Council of Experts was dissolved because of malfunctioning.

In 1994 the recognition of the Islam became a fact with the establishment of a Provisional Muslim Executive and the Body Head of the Worship for 10 years. The Body acts in a neutral way as a liaison body with the government. Finally the material conditions linked to a formal recognition of the religion are now fulfilled. Since 1998 Islam has become one of the officially recognised religion in Belgium both in theory and in practice, although the process of organising elections for an official liaison body representing the Muslim communities has been a painstaking and difficult experience rife with problems.