

# Right of residence

## Who decides?

The Immigration Office (OE)



The Immigration Office manages access to Belgian territory. The Office investigates cases for a decision to grant or not the stay, except for the application for asylum (it receives the request and forwards it to the General Police Department for Refugees and Stateless Persons). In all cases, it is the Office that grants, renews or withdraws residence permits, except certain documents issued by the CGRA to persons recognized as refugees (birth and marriage certificate, certificate of recognition of status).

It is also the Office that decides on expulsion measures (return to one's own country).



Whatever the state of my procedure is, I have to always make sure to contact the Immigration Office when a change occurs in my life.

The General Police Department for Refugees and Stateless Persons (CGRA)

The CGRS is the body that takes care of refugees in Belgium: it is the only one that can make a decision on refugee status or subsidiary protection. The CGRA summons the asylum seeker who may be accompanied by his counsel or by a trusted person. Attention, the professional advice of a lawyer is strongly advised!





The CGRA verifies that the applicant enters the conditions of asylum (fear of personal persecution for reasons of race, religion, nationality, political opinions or belonging to a particular social group) or subsidiary protection (serious threats in a country at war). In case of negative decision, an appeal may be lodged to the Litigation Council for Foreigners (CCE).

## The Litigation Council for Foreigners (CCE)

The CCE is an independent legal body that examines appeals.

A negative decision of the CGRA or OE can be appealed. The procedure is written and the intervention of a lawyer is necessary because an appeal is subject to strict conditions.

Depending on circumstances, this appeal will be suspensive (the decision is "suspended" until the CCE decides) or not (the Order to Leave the Territory issued without awaiting the decision of the CCE).

## The Council of State

This is a legal body that checks only if the procedure was properly treated, it does not comment on the merits. Therefore at this stage there is no longer a question to tell one's story or provide new arguments.

The lawyer comes alone to this court after setting a file as complete as possible. The Council of State will first decide quickly on the admissibility of the request and then will examine the file. It may order the cancellation or suspension of the last received decision.

An appeal to the State Council is never suspensive. The Order to Leave the Territory remains in application.

# The lawyer



The right of residence is a complex matter, mainly governed by the Act of 15 December 1980 on access to territory, residence, establishment and deportation of aliens. We present here an outline because the procedures require the intervention of a specialized lawyer<sup>2</sup>.



The lawyer is a legal expert who studied the Law. He is a person of confidence that listens to me, advises me and represents me in my course of procedure. It may help me during my auditions and defend my interests. He is bound by professional secrecy, so I can speak to him without fear.

If I do not know any lawyer, I can go to a House of Justice or a Legal Aid Office. Lawyers are there on duty to answer general questions and guide me toward competent services.

I can apply there for the designation of a lawyer.



<sup>2</sup> Regional Centers for Integration and some associations offer free legal advice



## The application for asylum and subsidiary

The Geneva Convention provides protection to anyone personally threatened in his country for political, racial, religious, nationality or belonging to a social group reasons. The application is lodged at the border or at the Immigration Office within 8 days from arrival (or before the expiration of the stay, if it is a long stay): the file is made up and forwarded to the General Police Department for Refugees and Stateless Persons (CGRA), that receives the person, reviews the evidence of threat and decides on granting the refugee status. At the same time the CGRA examines the possibility of protection called "subsidiary" for which, in certain specific cases, evidence of a personal threat may be replaced by an appreciation of a temporary global threat.

- An alien who has applied for asylum after May 31, 2007 will receive, after a positive control of residence, a registration certificate (orange card) valid for 3 months, renewable three times every three months, then every month until he gets a final decision. In case of negative decision of the CGRA, an appeal may be lodged to the Litigation Council for Foreigners (CCE): this is a suspensive appeal.
- If granted the refugee or subsidiary protection status, the person receives a one-year limited CIRE<sup>3</sup> that is renewable under certain conditions (Card A) or a permanent residence (card B). After 5 years, the right of residence becomes unlimited.

## The application for regularization on humanitarian grounds (9bis)

Any request for permission to stay longer than three months must be made within the country of origin, to the Belgian embassy or consulate. 9bis is therefore an exception of the rule: an alien who is already present in the territory, if he has a passport, may, in exceptional circumstances, apply for regularization to the Municipal Administration, which transmits it to the Immigration Office. However, as he has not received a positive response to his request, he remains in an irregular situation, that is to say illegal.

- If the regularization is granted, the person receives a one-year limited CIRE, renewable under certain conditions (Card A) or a permanent residence permit (Card B).

<sup>3</sup> Registration Certificate in the Register for Aliens.



## The application for regularization for medical reasons (9ter)

This procedure can be started at the Immigration Office for an alien residing in Belgium, who has an identity document and who has an illness causing a risk to his life or physical integrity, a risk of inhuman treatment while there is no adequate treatment in his country of origin. The request must be sent by registered mail directly to the OE.

The examination of the application is done in two steps. When the application is accepted as receivable and after a positive control of residence, the person receives a registration certificate (orange card) valid for 3 months, renewable three times every three months, then every month. Then, if the right of residence is acknowledged, the person receives a limited CIRE (Card A) at least for one year, renewable. After 5 years, the person may receive an unlimited CIRE (Card B).

## The trade of Human Beings

If the person considers himself a victim of human trafficking (operating through a network of organized trafficking or by any other exploiter), there is a special welcome in exchange for his cooperation to dismantle networks. The procedure is complex and requires the lodging of a complaint to the judicial authorities. The application for residence is lodged at the office MINTEH to the Immigration Office.

## The family reuniting

The procedure is submitted to the embassy or consulate in the country of origin or, in some cases, at the Municipal Administration.

A foreign national of a third country that has an unlimited residence (Article 10) gives the rights to certain family members (spouse, registered partner, minor child, his handicapped dependent child of more than 21 years old, parent of a MENA recognized refugee or benefiting from subsidiary protection) to join him, provided that he can prove a stable, regular and adequate income, as well as sufficient housing, health insurance, a medical certificate and absence of criminal record. The person asking for reunification comes then with a D visa (long stay) and receives, after controlling for positive residence, a limited stay (Card A). After three years, the person may request an unlimited residence (Card B) at the Municipal Administration, which transmits it to the Immigration Office. If there is a



separation or loss of income during the three years, the residence Card is withdrawn, unless there is an exceptional reason (e.g. domestic violence). A suspensive appeal against such decisions may be lodged to the Litigation Council for Foreigners (CCE). The conditions are the same for reunification with a foreign national of a third country that has a limited stay (art.10bis) except that the limited stay (Card A) cannot exceed the validity of residence permit of the person who reunites.

An alien who is already a legal resident in Belgium may apply to the Commune for a change in status: for example, a student who is getting married. He then receives a registration certificate (orange card) for six months, extended twice for three months. If the right of residence is recognized, he receives a limited CIRE (Card A) for one year, renewable. After three years, his stay can become final (Card B).

A foreign national of a third country who is a family member of a citizen of the European Union or European Economic Area (Article 40bis) can come to Belgium for a short stay of less than 3 months: he has to report his arrival in the Municipality within 10 days from his arrival. If he wants to settle longer, he must apply for permission to stay in his Commune of residence before the expiry of his visa. We are then in the context of family reunification, subject to conditions of income, housing and health insurance. If the family connection is established (spouse, registered partner, minor child, his handicapped dependent child of more than 21 years old, parent of a MENA recognized refugee or benefiting from subsidiary protection), after a positive controlling for residence, the person receives a certificate of registration for six months. He has then three months to complete his file. If the right of residence is recognized, the Commune issues a Card F. After three years, the stay can become final (Card F+). In case of refusal, an appeal is possible to the Litigation Council for Foreigners.

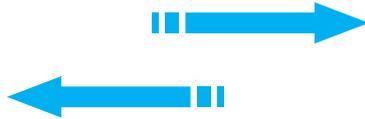
## Short stay

A foreign national of a third country who arrives in Belgium with a short stay visa or visa-exempt must present himself to the Commune and make there a statement of arrival. He then receives an appendix 3 in which the duration of his stay is mentioned.

# Relationship with the Office and CGRA



Throughout the procedure, it is essential to inform the Immigration Office and/or CGRA about any change or new information concerning my situation in Belgium: change of address, change of household composition (e.g. the childbirth), renewing my residence card.



## Change of adress

The Office and / or CGRA should know at any time whether I'm still on Belgian territory. If I no longer live in Belgium, my case can be closed. It is therefore very important to report by mail any change of residence.



How? By writing a letter sent by registered mail to the Immigration Office and, if necessary, the CGRA. This step is made at the post: I get a document proving that the mail has been sent. Warning, this letter must be accompanied by a certificate from the Commune guaranteeing the change of address.

## Change of address for Service

The address for Service is the address to which I would like to receive letters from the Immigration Office and the CGRA. This may be my personal address, the one of my attorney or the one of someone I trust. I receive at it notably all my summonses and official notifications..

# Relationship with the Office and CGRA



Whenever I want to change this address, I must report it by registered letter.

## Change in household composition

The household composition is an administrative document of the Commune which specifies who lives with me under the same roof.

Any change must be reported to the Immigration Office and the CGRA because it can affect my procedure: to have or adopt a child, get married, be cohabiting, divorce, losing a spouse or a child ...

## Renewal of the residence card

When my residence document expires, I have to go to the Commune to the office for foreigners to renew it, if possible **two months before the expiration date**.

If it is a **CIRE or the F card**, I have to bring to the Commune proves that the conditions required by the Immigration Office for a renewal are fulfilled. These conditions are stated on the document that accompanies my CIRE and I must be particularly careful concerning deadlines. I can send my own file in my Commune of residence myself so that the Immigration Office can examine these conditions. It is therefore the Immigration Office that decides and sends instructions to the Commune. If I need the help of my lawyer or the requirements are complex, I ask him to send all the documents in my possession.

If this is about a **registration certificate** (orange card), a new stamp must be affixed on it every three months, then monthly. In this case, I go to the municipal Administration **on the expiration date** to apply the stamp. Example: My registration certificate is valid until Tuesday, March 20. I must renew it on Wednesday, March 21. If the Commune is closed during the weekend, I have to go there on the Friday before

# Relationship with the Office and CGRA



Attention, when the card is covered with seals, the Administration will deliver me a new one: therefore I have to bring a new passport photo.

**I remain vigilant: I note the dates for renewing my residence card, I provide the best proof that I respect the conditions and I shall immediately report any change in my situation.**

If necessary, I appeal to a service of public writers: Regional Centers for Integration and some associations offer free assistance in writing.





## Changement de domicile élu

CGRA  
Rue Ernest Blerot, 39  
1070 Bruxelles

### Demande de changement d'élection de domicile élu

Je soussigné() .....N°SP : .....

Déclare vouloir modifier mon domicile élu.

Nouveau Domicile élu :

.....  
.....  
.....  
.....

Fait à ..... le .....

Signature :

# Les adresses importantes

## Office des Étrangers

Boulevard Pacheco, 44

1000 Bruxelles

Tél : 02/793.80.00



Email : [infodesk@biz.fgov.be](mailto:infodesk@biz.fgov.be)

## CGRA

Rue Ernest Blerot, 39

1070 Bruxelles

Tél : 02/205.51.11



Email : [cgra.info@ibz.fgov.be](mailto:cgra.info@ibz.fgov.be)

## CCE

Rue Gaucheret, 92-94

1030 Bruxelles

Tél : 02/791.60.00



Email : [info.rvv-cce@ibz.fgov.be](mailto:info.rvv-cce@ibz.fgov.be)

## Conseil d'État

Rue de la Science, 33

1040 Bruxelles.

## Haut Commissariat des Nations Unies pour les Réfugiés

Comité Belge d'Aide aux Réfugiés

Avenue Louise, 283

1050 Bruxelles

Tél : 02/627.59.99



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