

Refugee Migration at Sea and Maritime Law

Questionnaire

THE CURRENT REFUGEE and MIGRANT CRISIS

A. What measures were taken by your jurisdiction in relation to massive refugee/migrant flows?:

(i) In relation to the rescue from boats?

(ii) In relation to the landing of rescued persons from boats?

(iii) In relation to granting humanitarian protection/refugee status to those rescued?

The actual situation in Belgium is equal in respect of rescuing refugees from boats or rescuing after landing.

Upon arrival in the country refugees can apply for asile. Under EU legislation they have to apply for this in the first country of arrival in the E.U. However there are quite some exceptions on this rule (e.g. refugees from Ukraine). One should rather say in the country where they had reasonable means for applying.

Applying should in any case be done at the immigration desk for asile and protection. They will undergo a preliminary screening in order to find out whether their considerations are either political or the result of war in their homeland, or whether their motives are purely economic.

Awaiting results of screening, the refugees are all obliged to stay in an open institution pending the authorities' outcome of the screening.

If the screening reflects no legal reasons to search for asile in the country, the refugees will be ordered to leave the Belgian territory. If they object they are held in closed institution for refugees, pending the final decision

After the short screening executed upon arrival and request for asile, those who are being considered war or political refugees will be offered a limited residence permission. This will allow them also to search for work employment.

An exception on this requirement are the Ukraine refugees. They need passing by the immigration desk but they are immediately granted a preliminary residence permit. Consequently there is no need for them to sojourn in an open institution.

After a thorough screening, the refugees are either offered a permanent residence permit or requested to leave the country.

B. Which authority (Department of State or Organisation) in your jurisdiction is responsible for implementing SAR activities ordered to leaving the Belgian territory.

(i) Which authority is responsible for deciding on the measures?

The authority in charge is the office of the national Department for inland affairs together with the special Department for immigration

(ii) Which authority is responsible for providing support in implementing the measures?

The measures are being implemented lawfully by the national parliament or the European legislation.

The support thereto is merely coming from the different governments in Belgium, federal government and regionals.

(iii) Did your authority implement measures to transfer those rescued to the state of origin (i.e. the State from which they started their journey)?

In the event of refugees being screened and considered not complying with the immigration requirement (no actual danger iro political considerations and/or purely economical immigration) they are being requested to leave the country. If they refuse they can seek for protection by applying to the court.

In case of a final denial of stay and continued refraining to leaving the Belgian territory, the police authorities who are working under the authority of the department for inland affairs, are responsible to execute the decision for leaving.

(iv) Did your authority implement measures to transfer those rescued to the state whose they are nationals?

See answers on B III

(v) Which authority or authorities is or are responsible for enforcing the various measures?

As said the authority to enforce the various measures is the department for inland affairs and the department for immigration.

(vi) Were maritime administrations within your jurisdiction consulted in relation to decisions taken within your jurisdiction?

Obviously there are no or few refugees entering Belgium coming from the sea, but there are quite some trying to get to the U.K. via small crafts. It concerns either those who considered Belgium either as a transit stage, or those who had no further tools

in hand to obtain a permanent residence permit and were requested to return to their homeland

C. Are those who take decisions in your jurisdiction aware of the requirements of:

(i) Geneva Convention on the status of refugees (1951)?

Belgium has ratified the Geneva Convention as major part of the world has done.

(ii) The ILO Conventions (nos. 97 and 143)?

In respect of the ILO conventions, Belgium has agreed the nr 97 but **not** to nr 143.

(iii) The SAR Convention?

The SAR convention has also been ratified and thus incorporated in Belgian law

In respect of question C, one should assume that those having to take decisions on refugee matters have notice of and apply the international Conventions Belgium has implemented.

D. In relation to free pratique:

(i) Are you aware if your jurisdiction has denied port access/free pratique to any vessel due to the fact that they carried rescued persons?

There have so far not been any cases wherein port access/free pratique of a vessel has been denied. As said already, Belgium is a country where refugees issues rather give raise to escaping from and not trying to get into Belgium.

The Ukraine case is obviously an exception to this statement. The former has however not lead to limiting port access

The government is moreover likely to apply a gentle policy and is obviously also obliged to follow the EU Commission position and their guidelines.

(ii) Are you aware if the current COVID-19 pandemic impacted the behavior of your jurisdiction regarding port access/free pratique to any vessel due to the fact that they carried rescued persons?

Not at all.

(iii) Are you aware if the the most recent Ebola outbreak(ongoing in the Democratic Republic of the Congo since August 2018) pandemic impacted the behavior of your jurisdiction regarding port access/free pratique to any vessel due to the fact that they carried rescued persons ?

The recent Ebola outbreak in August 2018 (D.R.C.) has had no impact at all with regard to Belgian port practice.