

**REGULARISATION 7/2009**  
**Summary established by the lawyers' office**  
**www.casabel.be**

**Procedure**

- Those who have already introduced an application :
  - Don't have to introduce a new application
  - Can make an additional letter with proof establishing they fulfill the criteria
  
- Those who never introduced an application :
  - have to introduce one with the Mayor ( burgemeester or bourgmestre ) according to the procedure article 9bis
  
- FOR EVERYONE : Unless the asylumprocedure is still pending, obligation to present identity documents of the country of origin :
  - Passport, even if expired
  - Identity card
  - If not possible :
    - o Other documents : attestation of the embassy explaining why they can't issue a passport
    - o Attempt to submit documents of civil status : degree ( diploma ), drivers' licence ...
    - o And explain why no documents can be presented
  
- Deadlines :

There are four categories of persons aimed by this regularisation.

- For the first three categories, there is no deadline.
- For the last one, the application has to be introduced between september 15th and december 15th, 2009.

## Criteria

There are 4 categories of criteria :

1. Asylumprocedure of long duration without Council of State ( Raad van State-Conseil d'Etat) and without 9.3 or 9bis
2. Asylumprocedure of long duration with Council of State (Raad van State-Conseil d'Etat) and 9.3 or 9bis
3. Urgent humanitarian situations
4. Durable local integration

## Exclusion

- Persons who represent an present danger for the public order and national security
- Persons who attempted in an evident way to deceive the Belgian public authorities or who committed fraude.

### **1. Asylumprocedures of long duration without Council of State ( Raad van State-Conseil d'Etat) or 9.3 /9bis.**

- Duration ?
  - 3 years : families with children who go to school  
Toddler school, basic education, secondary school and/or higher education  
During the asylum procedure and/or after the asylumprocedure
  - Or 4 years : singles, other families
- Which procedure ?
  - Asylum procedure for :
    - The Foreigners' office ( Dienst Vreemdelingenzaken-Office des étrangers),
    - the Commissariat-general for refugees and stateless persons ( Commissariaat-generaal voor de vluchtelingen en de staatlozen-Commissariat-général aux réfugiés et aux apatrides )

- the Council of Contentieux of foreigners (de Raad voor Vreemdelingenbetwistingen-Conseil du Contentieux des étrangers)
- or the Permanent appeal's Commission for Refugees ( Vaste Beroepscommissie voor de Vluchtelingen-Commission Permanente de Recours des étrangers )
- (or the Council of State ( Raad van state-Conseil d'Etat ) when there has been an annulment )

## **2. Asylum procedures of long duration with Council of State ( Raad van State-Conseil d'Etat) and 9.3/9bis**

- duration ?
  - 4 years : families with children going to school  
Toddler school, basic education, secondary school and/or higher education  
During the asylum procedure and/or after the asylumprocedure
  - or 5 years : singles, other families
- which procedure ?
  - asylum procedure
    - for the Office of foreigners (de Dienst Vreemdelingenzaken-Office des étrangers)
    - the Commissariat-general for refugees and stateless persons ( Commissariaat-generaal voor de vluchtelingen en de staatlozen-Commissariat-général aux réfugiés et aux apatrides )
    - the Council of Contentieux of foreigners ( de Raad voor Vreemdelingenbetwistingen-Conseil du Contentieux des étrangers )
    - The Permanent Appeals' Commission for Refugees ( de Vaste Beroepscommissie voor Vluchtelingen- Commission Permanente de Recours des étrangers )
    - The Council of State ( de Raad van State-Conseil d'Etat)
  - and the procedure 9.3. or 9 bis subsequently to the asylum procedure
- when ?
  - ! The appeal before the Council of State ( Raad van State-Conseil d'Etat ) or the application 9.3 or 9bis still has to be pending today or closed after march 18th, 2008.

- The application article 9.3. or 9 *bis* has to be introduced before march 18th, 2008.
- The application for regularisation has to be introduced within a period of five months subsequently to the decision closing the asylum procedure ( with Council of State ( Raad van State-Conseil d’Etat ). But ! this period only counts in the length of the delay of 4 or 5 years for maximum 2 months.

### **3. Urgent humanitarian situations**

- Foreigner, parent of a minor Belgian child
  - Who leads a real, effective family life with his/her child
  - Without distinction as to the way of obtaining the Belgian nationality
- Foreigners, parent of a minor child, citizen of the EU
  - Given that this child has sufficient means of existence,
  - Possibly obtained by this parent,
  - And that the parent takes care of the child in a real way
- Family members of a citizen of the EU
  - Who don’t fall under the scope of the family unification (article 40 of the law)
  - Of which the right of residence has to be facilitated (European Directive 2004/38),
  - namely, the family members, regardless of their nationality,
    - who are on charge of the citizen of the EU in the country of origin
    - or who live with him/her,
    - or who, because of serious health reasons, need personal care by the citizen of the EU
- foreigner who has been authorised or admitted to an illimited residence permit in Belgium when he/she was a minor
  - who has returned to his/her country of origin, forcibly or not
  - who can’t invoke a right to return
  - under the condition that he/she can present proof of this situation
- spouses who can’t live together abroad
  - who have different nationalities and
  - who come from countries that don’t accept their family reunification and

- whose expelling to their respective countries of origin would cause the break up of the family cell,
- especially when they have a common child.
- Foreigners who have a pension or an invalidity pension, paid by the Belgian state
  - Who have lost their right of residence in Belgium because of their returning to their country of origin
- Families with children going to school
  - The asylum procedure is closed or pending
  - Uninterrupted residence of at least five years in Belgium ( counting from the first asylum application)
  - Having introduced an asylum application before June 1st, 2007
  - The examination of this asylum application by the Office of foreigners ( de Dienst Vreemdelingenzaken-Office des étrangers ), the Commissariat-general (CGVS-CGRA ), the Council of Contentieux of foreigners ( de RVV-CCE ) or the Permanent appeals' Commission for foreigners ( de VBV-CPRR ) has lasted at least one year;
  - Children going to school
    - Since at least September 1st, 2007
    - in a recognized institution of education
    - regular attending of the lessons
    - toddler -, basis - , secondary – and/or higher education
    - during the asylum procedure and/or the period subsequently to the asylum procedure

#### **4. Durable local integration**

*!applications are to be introduced between 15/9 and 15/12/2009*

- = foreigner who has established the center of his/her affective, social and economic interests in Belgium
- Sovereign appreciation by the Office of foreigners ( de Dienst Vreemdelingenzaken-Office des étrangers )

Criteria: C + either A or B

- A. Uninterrupted residence of long duration in Belgium of at least 5 years

- die, vóór 18 maart 2008 legaal in België heeft verbleven : alle verblijfsvergunningen, behalve toeristenvisum
  - of die, vóór die datum, geloofwaardige pogingen heeft ondernomen om een legaal verblijf te verkrijgen
- B. OR uninterrupted residence in Belgium at least since march 31st, 2007 and employment
    - Has a contract of employment with a certain employer,
      - Either for a certain duration of at least one year
      - Either of an indefinite duration,
    - Salary that equals at least the minimum guaranteed salary
    - Work permit
      - Within 3 months after the application, a positive advice of the regions ( FOREM, ACTIRIS, VDAB ) concerning the issuing of the work permit B
      - Or a work permit B issued on the basis of an attestation of immatriculation of 3 months issued in this purpose.

In that case :

- Issuance of a residence permit for one year, under the suspensive condition of issuance of a work permit B.
  - Will only be renewed when a work permit B is issued and in case of effective employment during the first year
- C. AND in these two cases the following factors are taken into consideration :
    - Social attachments: school trail and integration of the children.
    - Knowledge of one of the national languages or courses of alphabetisation
    - Professional history and the will to work,
    - Possession of qualifications and skills adapted to the labour market (namely in connection with the professions confronted with a particular scarcity of candidates)
    - Perspective to be able to exercise a professional activity and /or possibility to fulfill his/her basic needs.
    - In some cases, the advice of local authorities or a recognized service for one or every one of the elements mentioned above.

Procedure : evaluation by the Office of foreigners ( de Dienst Vreemdelingenzaken-Office des étrangers ).

If OK => decision by the Office of foreigners ( de Dienst Vreemdelingenzaken-Office des étrangers )

If not, presentation of the file to the Consultative Commission of foreigners for a non-binding advice.

The Commission can convoke the person and hear him/her.  
When the Office of foreigners diverges from this advice, she must motivate her decision.