

DETENTION CENTRES

FOR MIGRANTS



Report 2022



BELGIUM

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INTRODUCTION	5
IMMIGRATION DETENTION IN BELGIUM IN 2022	6
SOME PRELIMINARY FIGURES	7
COVID-19: THE END?	10
AFGHAN CITIZENS BECOMING UNRETURNABLE	11
DETENTION OF MOROCCANS: A SITUATION THAT NEEDS MONITORING	12
THE ADMINISTRATIVE DETENTION CENTRES	13
CARICOLE.....	14
BRUGES	18
MERKSPLAS.....	22
CENTRES FOR FAMILIES	26
NOTE ON METHODOLOGY	30

Every human being has a fundamental right to freedom. JRS Belgium and its partners from the Move coalition are joining forces to put an end to the detention of people for migration reasons. The term "(administrative) detention center" is therefore preferred to "closed center" to avoid confusion with open reception centers for international protection seekers - also known as open centers. This choice of terminology further highlights the harsh reality of detention. We also intend to include all other forms of detention for migration reasons, such as 'return houses', which we call "(administrative) detention centers for families".

Introduction

Out of the frying pan and into the fire

This is the second edition of our yearly report on administrative immigration detention centres (ADCs) in Belgium. As the main organisation monitoring places of detention the Jesuit Refugee Service (JRS) is able to shed light on these centres, which are questionable at best.

Since last year, the context has significantly changed; COVID-19, which had a major impact on the centres, the detainees and our visits, seems to be part of the past. The Immigration Office (IO) has scrapped the health protocols that imposed rules and restrictions and the capacity of the centres is increasing again.

The pandemic was barely behind us when Russia invaded Ukraine in February 2022, driving thousands of people into exile. In response, the European Union (EU) reactivated an old directive granting temporary protection to Ukrainian nationals. Belgium pulled out all the stops to issue these residence permits as quickly as possible, and there has been a huge show of public solidarity to ensure that Ukrainians who arrived here were housed. It however took some weeks before the last Ukrainian was released from immigration detention. People who had fled the conflict and were legally resident in Ukraine but did not have Ukrainian nationality did not have access to temporary protection when they arrived in Belgium. Many of these people ended up in ADCs and were eventually deported.

In March 2022, the Belgian government also agreed on the creation of new detention centres. A budget was agreed upon to replace the outdated centre of Bruges and create two new ADCs. We struggle to understand the rationale behind this agreement. The inhumanity of detention is reason enough to be alarmed at the expansion of the detention. However, this decision to reinject millions of euros into the creation of new centres is further surprising given the long-standing questions surrounding the effectiveness of detention, not to mention the incredibly high costs. Further, from a pragmatic viewpoint, the current centres are already struggling to operate at full capacity due to staff shortages.

After the Taliban seized power in the summer of 2021, the fate of many Afghan nationals in Belgium remained in limbo, as the Office of the

Commissioner General for Refugees and Stateless Persons (CGRS) - responsible for analysing applications for international protection - decided to "freeze" new applications. In January 2022, the CGRS announced the end of the freeze, and in March the first decisions were taken. According to the new policy, protection would not be granted to everyone, for although the humanitarian situation on the ground was recognised as disastrous, the cause of this situation could not be attributed to a specific actor, a legal requirement. The CGRA hence refused to grant a residence permit to a large number of people, *despite* recognising that they could not be deported without being subjected to inhumane treatment. At the same time, detaining them would be illegal, as their return is not possible. Some Afghans were nevertheless detained at the Caricole and Merksplas centres during their asylum procedure after arriving in Belgium.

In June, Sammy Mahdi, then Secretary of State for Asylum and Migration, was elected President of the Christian Democratic party. He was succeeded by Nicole De Moor. Her policy note took over the main points of her predecessor's one. At the same time, she inherited a reception crisis which had begun at the end of 2021 and has persisted throughout 2022. While this crisis had little influence on detention, its scale, continuance and the government's inability to respect the rights of those seeking protection deserve to be highlighted.

In Iran, the death of Mahsa Amini - who was arrested by the country's morality police for breaking hijab regulations - gave rise to demonstrations of an unprecedented scale from September 2022 onwards. Given the violence with which the authorities responded, it was legitimate to question the return of Iranian nationals. Several members of parliament accordingly called for a freeze on returns. The detention of Iranian nationals nonetheless continued and some were sent back to Turkey from where they risked being expelled to Iran.

This report looks at what happened in immigration detention in Belgium in 2022. It is divided into two parts: the first one contains general analyses of detention. The second deals with the figures and facts that have marked the different centres that JRS visits.



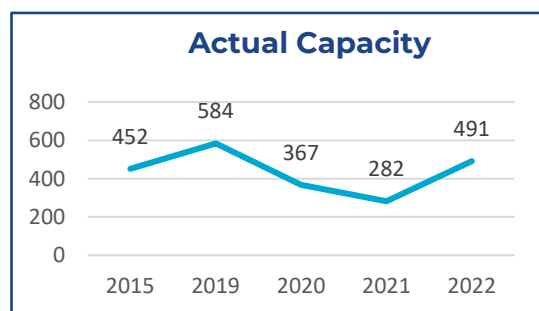
Immigration Detention in Belgium in 2022

Preliminary Figures

Administrative detention of foreigners has existed in Belgium since 1988. It is an instrument used by the authorities to deprive migrants of their freedom in order to remove them from the territory or to decide whether they should enter. Detainees are placed either in one of the country's six administrative detention centres or, since 2008, in a CDA for families in the case of families with minor children. They are detained simply on account of their administrative status, not because they have committed any crime.

Number of detention centres (for adults)	6
Capacity of the centres in 2022	491
Number of persons detained in the centres in 2022	4285
Number of detention centres for families	28 (spread over 5 sites)
Number of adult persons detained in detention centres for families in 2022	152
Number of children detained in detention centres for families in 2022	195

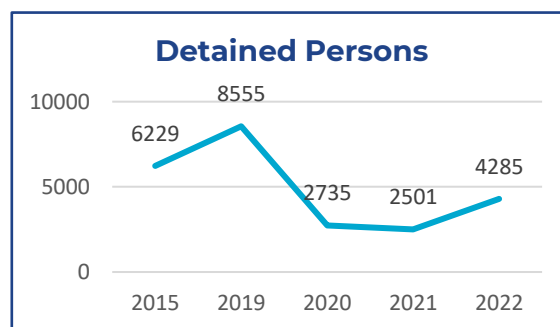
Evolution of the actual capacity of the CDA (for adults) and of detained people



Actual capacity of the CDA is influenced, among other things, by the need to renovate buildings and the human resources available. In 2020 and 2021, capacity dropped as a result of the health measures introduced by the Immigration Office, which decided to reduce it by half in order to allow for better social distancing during the pandemic. Thus, the number of detainees dropped in line with the new measures. In 2022, the health situation stabilised and actual capacity gradually increased again, reaching 491 by the end of the year.

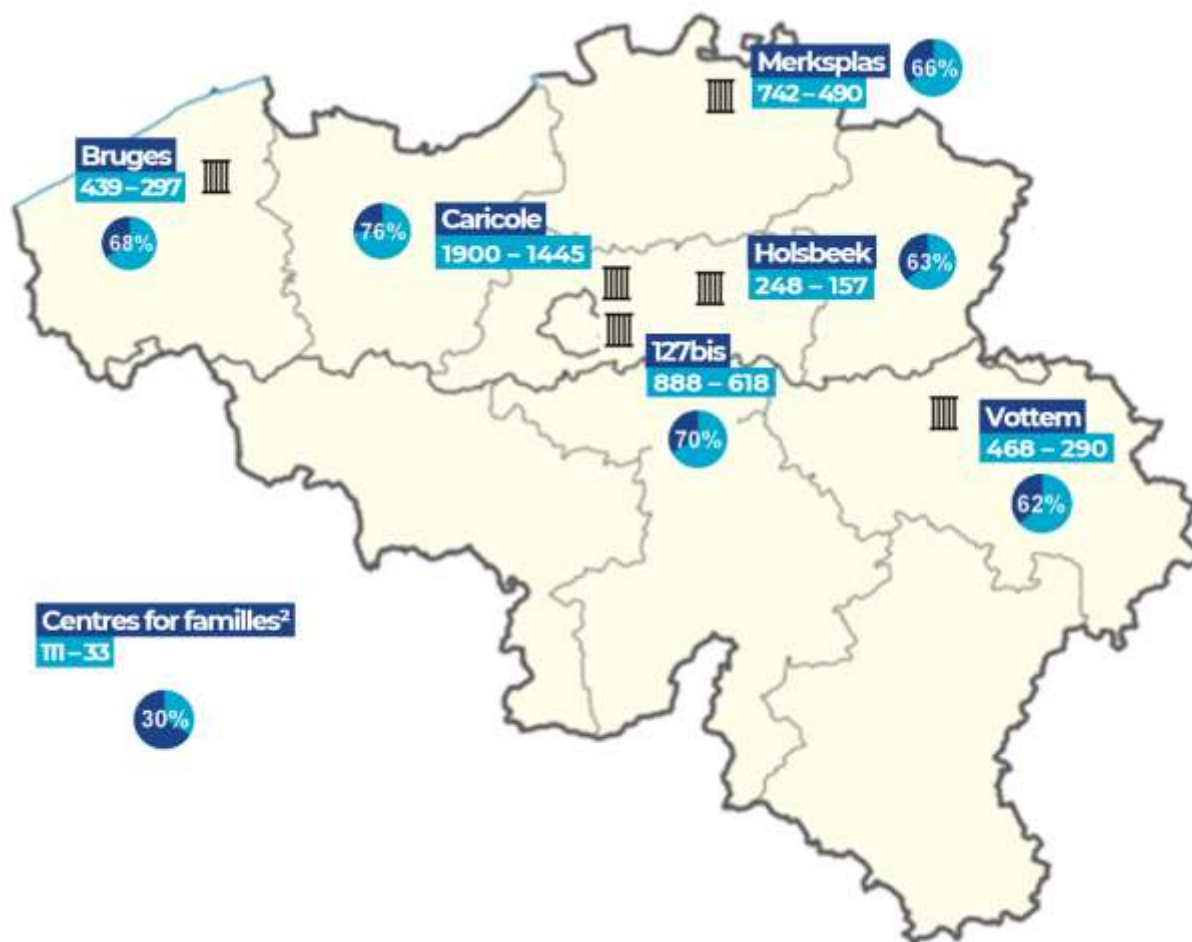
For various reasons, the number of detainees has not grown proportionally to that increase in capacity. In 2022, the average occupancy rate of the ADCs was 72.5%.

On 25 February 2022 the government approved the 'master plan' for the extension of immigration detention proposed under the Michel I government. As mentioned earlier, that plan involves building two new detention centres in Jumet and Zandvliet and replacing the centre of Bruges with a new one in Jabbeke. This would bring the total capacity to more than 1,000 places.



An overview of detention by centre

Persons detained and removed by detention centre¹



Name Place of the detention centre

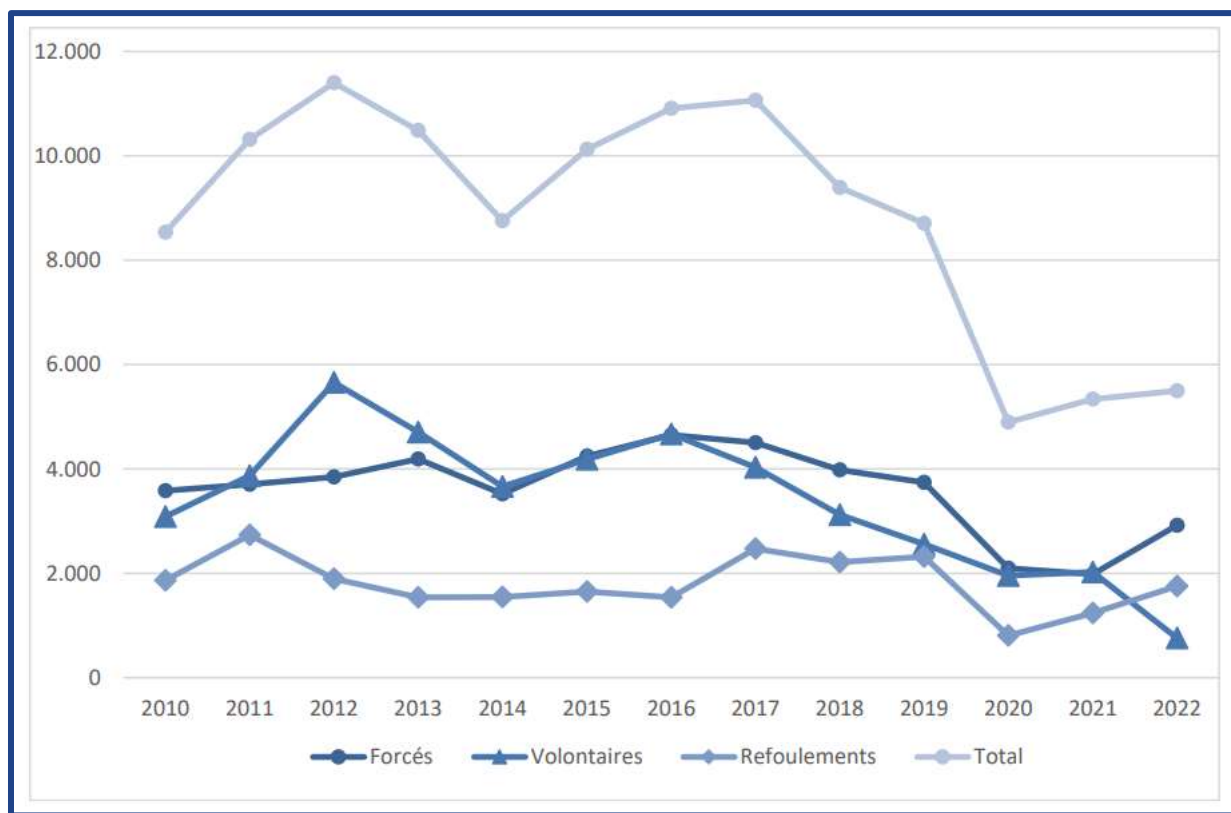
Figure Amount of people detained and returned in 2022. For the family centres it is the amount of families

Percentage Percentage of people/families that were returned

¹ Sources : Annual reports 2022 of the different centres and activity report of the Immigration office for the family centres.

² For the family centres, without an explanation from the Immigration office, we have assumed that the term « left from their own initiative » represents the families that absconded.

Evolution of the amount of returns & refoulements



A word on terminology; by "forced return" we mean the removal of an undocumented foreign national from the territory organised by the Immigration Office from the ADCs and prisons. This includes repatriations (return to the person's country of origin) as well as removals to other European countries (under the Dublin Regulation or by bilateral agreement).

"Refoulement" refers to foreign nationals detained at the border because they do not meet the conditions for entering the country, which includes applicants for international protection who are refused entry at the border. These people are returned to the country from which they arrived.

COVID-19 : The End?

By the end 2021, most of the measures related to the coronavirus pandemic had been reintroduced: limited visiting rights for detainees, quarantine on arrival in detention, and no access to the common rooms for JRS visitors, among other measures.

Phasing out health measures

Soon, from 10 January 2022, new directives came into force. Quarantine upon arrival was abolished for vaccinated people, who were no longer tested before joining the group of other detainees. After a high-risk contact, people were also no longer automatically quarantined if did not show symptoms.

It was also in January that several detainees in Bruges and Merksplas tested positive for COVID. As a result, the centres were quarantined and our visits suspended. They were able to resume a few weeks later.

It was not until March that the situation returned to normal. From 21 March, a rapid test was used to replace the quarantine period for people showing symptoms. March 28 marked the return of full visiting rights for prisoners and JRS. This is reflected in the number of people JRS met with (see table). It was in May that the last measures, such as the wearing of masks, were definitively abolished.

Back to normal: detention of vulnerable persons

As a result of the pandemic, the ADCs were significantly emptied. To allow better social distancing, the capacity of the centres was reduced and people considered as vulnerable were released.

Unfortunately, this policy was only temporary. The progressive abolition of health measures and consequential increase in the capacity of the centres has resulted in vulnerable people being detained once again. Hence, at Merksplas, we met people with serious psychological problems, as well as LGBT+ individuals. Because intolerance and discrimination against homosexuals prevail in many societies around the world, the reactionary violence (physical, verbal and/or psychological) that these individuals endure also takes place in detention. As a result also of increased air traffic, LGBT+ people have also been detained at Caricole. Because of the abuse she faced, a trans woman we met eventually decided to withdraw her asylum application and returned to her country. Nine pregnant women were further detained at Caricole, and we also met two people in wheelchairs.

The aftermath of the pandemic

Whilst the policy surrounding the detention of vulnerable persons changed, certain practices put in place during the pandemic have persisted.

This is the case for the resetting of the detention period when a PCR test required for travel is refused. This continued to be automatically interpreted by the IO as constituting an obstruction to return and resulted in longer detentions.

Asylum interviews by videoconference were moreover legalised with the adoption of a new Royal Decree. In last year's report, we highlighted the potential problems associated with this practice.

Afghan Citizens Becoming Unreturnable

In August 2021, the Taliban returned to power in Afghanistan. While the consequences for the people of Afghanistan were of course far-reaching, the change of regime also had repercussions in Belgium. Many Afghans present in Belgium at the time of the conflict or subsequently arriving to the country - have applied for international protection. Faced with the uncertainties linked to the changes in Afghanistan, the CGRS - the body responsible for processing these applications in Belgium - decided to freeze them.

This standstill, however, was not total. It concerned all subsequent applications (from people who had previously been refused protection), but the Office of the Commissioner continued to conduct hearings with people who were applying for the first time. If after this interview it was possible to grant refugee status, protection was granted. Any request for international protection has to be analysed in two stages: if a person cannot be recognised as a refugee, their case is then analysed from the perspective of subsidiary protection, which may be granted on the basis of the more general situation in the applicant's country. The CGRS limited itself to the first aspect. If the person could not be recognised as a refugee, their application was then frozen until more information was available to make a decision on subsidiary protection.

The standstill lasted until January 2022, but the first decisions from the CGRS were not issued until March. In these decisions, the CGRS notes that the socio-economic and humanitarian situation in Afghanistan is disastrous such that returning a person to the country will subject them to a risk of inhuman and degrading treatment, which is prohibited by the European

Convention on Human Rights. However, this situation is not (solely) due to the Taliban or any other actor, rather the result of a myriad of factors (for example, climatic and sanitary). Yet, for subsidiary protection to be granted, it is conventionally understood that the humanitarian situation must be clearly attributable. The CGRS has been reluctant to change this case-law and therefore refused to grant subsidiary protection to Afghan nationals.

The consequences of this position taken by the CGRS, which was confirmed by the appeal body - the *Conseil du contentieux des étrangers* - a month later, are unfortunate; by recognising that Afghan nationals cannot be deported without violating the European Convention on Human Rights, and at the same time refusing to grant them protection, the Commissariat is making them "unreturnable". It is impossible to return them to their country of origin, but at the same time they cannot get a residence permit in Belgium. Yet, in the absence of such a permit they are theoretically undocumented and therefore at risk of being detained, even though such detention would be illegal. As mentioned above, detention can only be used if there is a real chance of removal.

In 2022, the vast majority of Afghan nationals we met in detention were detained under the Dublin procedure. They were seekers of international protection whose application, according to the EU Dublin Regulation, had to be examined by another EU member state. Some have however decided to voluntarily return to Afghanistan during their detention.

Detention of Moroccans: a situation that needs monitoring

The vast majority of undocumented migrants intercepted on Belgian territory are held in four of the six detention centres: 127bis, Bruges, Merksplas and Vottem. In each of these four centres, Moroccan nationals were in the top three of the most detained nationalities in 2022. However, according to the cases we monitored at Merksplas and Bruges, their return is not always evident making the legality of their detention highly questionable.

In Merksplas, JRS followed eighteen Moroccan citizens in 2022: ten were released, four transferred to another centre, three repatriated and one sent back to another European country. In total, 22% were returned. The figures for Bruges are comparable:

	Released	Transferred	Repatriated	Sent back
Merksplas	10	4	3	1
Bruges	6	4	0	4

Official statistics do confirm that the majority of Moroccans who were detained in 2022 were not returned:³

	Total detained	Repatriated	Sent back (EU country)
Merksplas	60	11	18
Bruges	44	2	20
127bis	93	10	42
Vottem	47	2	Inconnu

Except for 127bis, the percentages of Moroccan citizens that were returned per centre do not exceed 50%. The figures of repatriation are

particularly low:

Rate of repatriation			
127bis	Bruges	Merksplas	Vottem
11%	4,5%	18%	4%

COVID measures that were in place in order to travel to Morocco – including a requirement to present proof of vaccination or a negative PCR test – do partly explain those statistics. Yet those measures were all lifted in September.

This however does not mean that half of the Moroccans were released from the centres. The rate of release for Moroccans varies from 11% in Bruges to 28% in Vottem.

By the end of 2022, many Moroccan citizens were in fact still detained in the centres that we visit. They were thirteen in Merksplas (22% of the total amount detained in 2022) and eight in Bruges. According to their detention order, all but one of these detainees are meant to be repatriated. This nevertheless seems to take time. As of 31 December 2022, the thirteen Moroccans detained in Merksplas had been held for an average of 130 days, 161 if we are to exclude the three whose detention began in December. In Bruges, the remaining Moroccans have been detained for 87 days and this figure rises to 125 if those locked up in December are excluded. These detention periods are well above average. This is probably due to the fact that Morocco unilaterally terminated the readmission agreement with Belgium. However, if it is no longer possible to send these people back, they must be released. JRS will continue to monitor the situation of Moroccans in 2023.

³. Vottem did not reply to our request to communicate those figures.



The Administrative Detention Centres



Caricole

Description of the centre

Director	Rika Goethaels
Opening	May 2012
Address	Tervuursesteenweg 302, 1820 Steenokkerzeel
Contact	caricole.visite@ibz.fgov.be 02/719.71.10
Capacity	114 spots
Cells	Rooms of 4 to 6 beds
Bathroom	Shower and toilets in the cell
Common area	3 common rooms accessible to all and differently equipped (television, pool table, table football,...) 1 internet room accessible 2x per week 1 gym accessible 1h per day 1 library accessible every day on demand 1 creative room where workshops are being organised
Courtyard	Divided in collective spaces accessible to all, and sports grounds accessible during activities
Service "resident's stay"	3 social workers and 2 return officers. 3 to 4 educators present every day
Medical staff	4 nurses

+ 1 part-time
4 doctors
+ 1 in training
1 psychologist

The centre and the external world

Visits	Every day from 1:30 to 3:30 pm
Access with public transport	Nossegem train station
JRS Belgium visitor	Ruben Bruynooghe (ruben@jrsbelgium.org) and 2 volunteers
Other NGOs	Nansen
Visits - lawyers	722 visits
Visits - family & friends	873 visits
Visits - politicians	Petya Obolenski (PTB) & Calvin Soiresse (Ecolo)
Partner hospital	AZ Jan Portaels
Catering	Aramark

Statistics

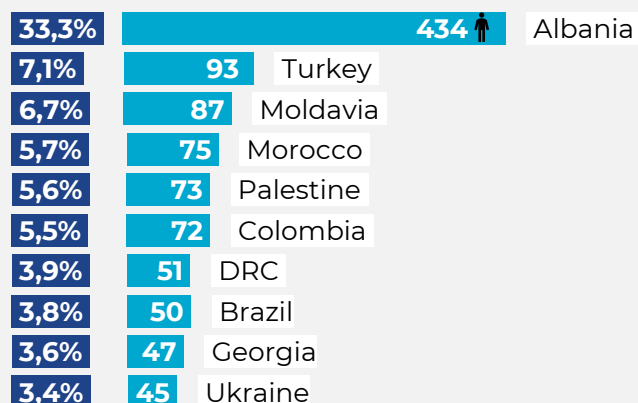


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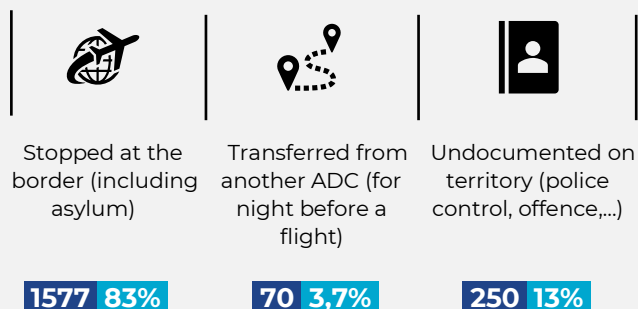
Persons were detained in the Transit Centre of Caricole in 2022. JRS met and followed the cases of 148 (8%)

78,5% were men
21,5% were women, **9** were pregnant
2 persons were allegedly minors but were declared adults

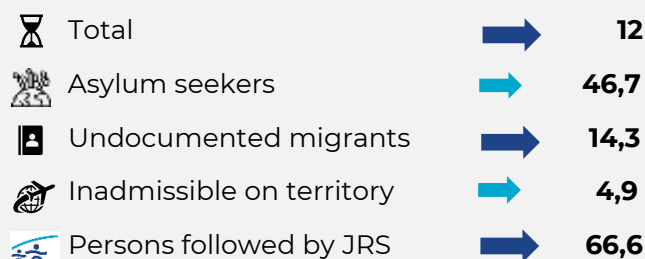
Main nationalities detained



Circumstances of arrest

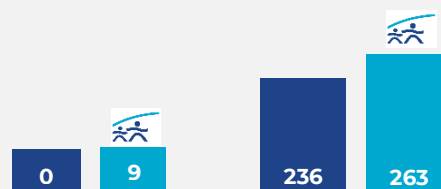


Average length of detention (in days)



Note : The figure is calculated by dividing the number of days by the number of detainees in 2022. The average therefore does not take into account people who were already detained in 2021 or continue to be detained in 2023. It also does not take into account the 80 people whose detention was extended in another centre (excluded from the JRS figure, based on 140 persons). On the other hand, people transferred from another ADC for the night are not included in this average.

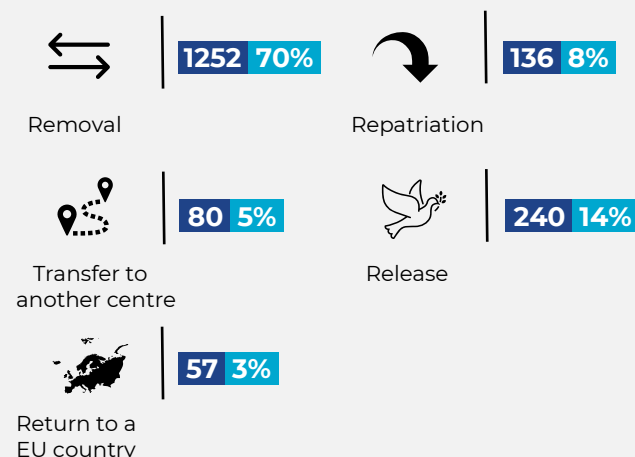
Minimum & maximum length



Note : some persons "inadmissible on the territory" (arrested at the border) stayed in the centre for less than 24hrs in wait of a following flight.

Note² : JRS takes into account people whose detention started in 2022 and ended in 2023.

Result of the detention (1776 persons)



	Liberation	61 – 43%
	Refoulement and repatriation	22 – 15%
	Voluntary return	43 – 30%
	Return to a EU country	10 – 7%
	Transfer to another ADC	6 – 4%

Red figures

- Suicide attempt : **1**
- Hunger strike : **10**
- Complaints : **8**
- Disciplinary isolation : **12**

Highlights

of 2022



Built to replace two centres that had to be closed, the Caricole transit centre has been operational since 2012. Located just a stone's throw from Brussels Airport, the vast majority of people held there are "inadmissible" (83% in 2022). In other words, they do not meet the conditions to enter Belgian soil and are therefore held at Caricole while they await to be sent back - "removed" - to the country from which they travelled. This can be done very quickly, simply by booking the next flight to that country. JRS rarely encounters clumsy tourists who sought to enter without the necessary permission. At Caricole, our visitors tend to meet people who have sought asylum at the border or once they have been detained.

Complicated resumption of tourism

During the COVID-19 pandemic, air traffic dropped significantly. The closure of borders, the ban on travel except for "essential reasons", the need to present a PCR test or to be vaccinated are all factors that contributed to a reduction in tourist travel.

Most of these barriers to tourism were lifted in 2022. The amount of tourists rose again, which has also been noticeable in the greater number of tourists arrested at the border at the airport and transferred to Caricole by the - sometimes strict - application of entry criteria on the territory.

Hence, we met many tourists who, despite having a valid visa, found themselves detained for various reasons: hotel booked but not yet paid for, absence of a return ticket, inability to answer certain geography questions or to give details on their travel agenda. The vast majority of these people were from the African continent.

It is worth highlighting the particular situation of a Lebanese woman who had transferred most of her savings to the account of her daughter who lives in Belgium. This is because money withdrawals are limited in Lebanon, which has plunged into a serious financial crisis. The woman, due to a supposed lack of funds,

was refused entry, detained and eventually returned to Lebanon.

Regular detention of Ukrainians

In 2021, Ukrainians were the 10th most detained nationality in Caricole. On 24 February 2022, Russia invaded Ukraine. Several days later, although Ukrainian airspace was closed and returns made impossible, Ukrainians were still being held in Caricole. On 4 March, the EU decided to activate temporary protection for Ukrainians seeking refuge in Europe. However, one Ukrainian continued to be detained in Caricole for several days after that date.

Throughout the year, 45 Ukrainian nationals were detained at Caricole. Despite the context, Ukrainians who arrived at the Belgian border remained the 10th most detained nationality despite that with their passport they did not need a visa to enter the country. According to the Immigration Office, this was done in order to ascertain whether these people had been granted residency or temporary protection in another Member State. Eighteen of these 45 persons eventually received temporary protection in Belgium and were released accordingly.

In total, 109 people were released from Caricole following the granting of a protection status. This represents almost half of all releases (45.4%). In addition to the Ukrainians, this includes 37 Palestinians (out of a total of 50 detained), 25 Turks (out of 35) and 11 Syrians (out of 17).

Note that several Russian men fleeing compulsory conscription were also detained in Caricole upon arrival at the border.

Impact of the housing crisis

Since September 2021, Belgium has been unable to accommodate applicants for international protection, a reception crisis that has continued throughout 2022.

Many people arriving at the border and subsequently detained at Caricole apply for international protection. When their application is delayed, some are released and supposedly housed by Fedasil. At the height of the reception crisis, in October, when women and children were no longer certain of being housed, many people detained at Caricole and then released also found themselves on the streets. This caused considerable stress among detainees who had to be released.

The increase in the number of applicants for international protection has also led to serious delays in the processing of these applications by the CGRS. The application of a person intercepted at the border and detained must, by law, be processed within four weeks. After this time, the person is supposed to be admitted to the territory and released. During summer, when many of the CGRS's staff were on holiday and capacity was insufficient, we found that some applications took several months to process. The people in question whose asylum application was still being processed had probably been admitted to the territory, but the Immigration Office must have had their detention extended based on another legal basis. The fact is that many applicants were detained for several months. These included a pregnant Burundian woman who was detained for 61 days.

Change of policy for Burundi

Burundi is the poorest country in the world. While the election of President Ndayishimiye in 2020 raised hopes of putting an end to the widespread human rights crisis, the CNDD-FDD, the party that has ruled the country since 2005, has maintained its monopoly on power. There have been reports of extrajudicial executions, arbitrary arrests and disappearances of people perceived to oppose the government.

As a result, Burundians who applied for international protection in Belgium were systematically granted protection. In August 2022, however, we noted an apparent change in policy on the part of the CGRS. Several Burundians detained at Caricole were refused international protection. While some were subsequently released after many weeks in detention and after appealing, the first escorted forced return to Burundi did take place in October.

“ This centre has been built to send people back, not for them to ask for asylum. ”

Hugo, a gay man detained in Caricole

“ We fled Afghanistan to not be thrown in prison, but when we arrived in Belgium the first thing they did was to lock us up. ”

Sayet, young Afghan women who asked for international protection and is being detained in Caricole with her family



Bruges

Description of the centre

Director	Yves Rahier
Opening	January 1995
Address	Zandstraat 150, 8200 Bruges
Contact	cib-directie@ibz.fgov.be 02/488.74.40
Capacity	112 spots (80 for men, 32 for women), but reduced to 104 in practice
Cells	4 dormitories of 20 beds for the men, 2 dormitories of 16 beds for the women
Bathroom	3 toilets next to each dorm, 1 shower room of 20 showers
Common area	3 wings. Movement in between them is not permitted 1 smoking room and 2 common rooms equipped with pool table, tv and computers per wing 1 gym accessible 1h a day during a fixed hour 1 library accessible on demand
Courtyard	Sports grounds accessible 3x40min/day (2x in winter) at fixed hours
Service « Resident's stay »	6 social workers, 15 educators

Medical staff 2 doctors, 4 nurses
2 psychologists

The centre and the external world

Visits	Every day from 2:30 to 3:30pm
Access with public transport	Bus n°52 or 55 from Bruges train station, stop St-Andries de Nieulant
Visitor JRS Belgium	Pieter-Paul Lembrechts (pieter-paul@jrsbelgium.org) & 1 volunteer
Other NGOs	Nansen
Visits - lawyers	112 visits
Visits - family & friends	579 visits + 27 intimate visits
Visits - politicians	Frank Casteleyn (CD&V), mayor of Jabbeke, Eva Platteau (Groen)
Partner hospital	AZ Sint-Jan
Catering	Aramark

Statistics



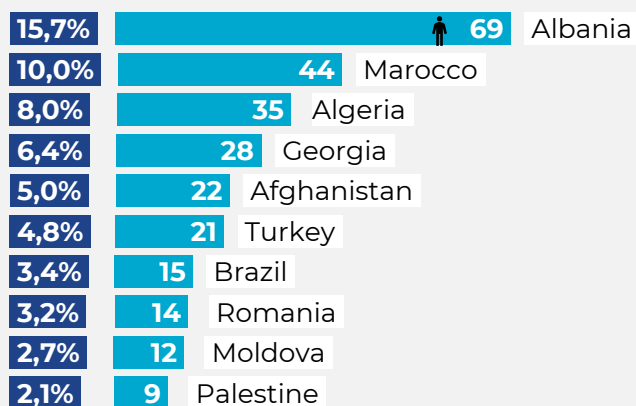
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Persons were detained in the centre of Bruges in 2022. JRS met and followed the cases of 122 (28%).

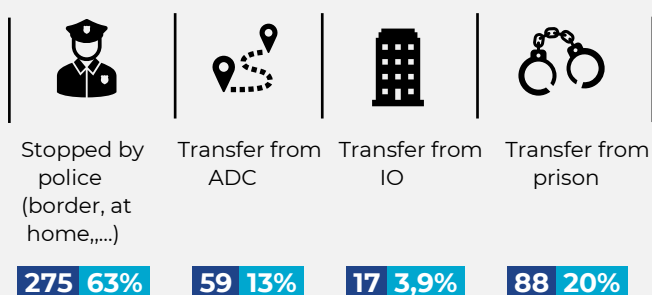
91% were men

9% were women (the women aisle only reopened in October)

Main nationalities detained



Circumstances of arrest



Average length of detention (in days)



Note : the centre's figure does not take into account a person may already have been detained in another centre (59 persons) or may continue to be detained in another (59 persons). The figure is calculated for all persons who indeed left the centre. Eleven persons were released less than 45hrs after arrival. JRS' figure takes transfers into account and is calculated based on 86 cases.

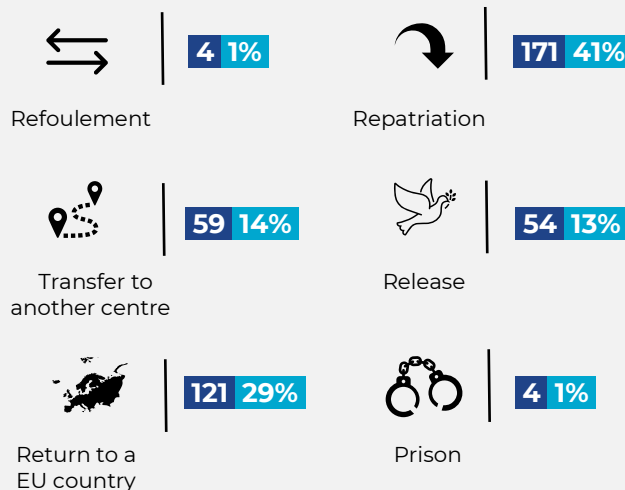
Minimal & maximal length



Note: Five persons were released right after their intake.

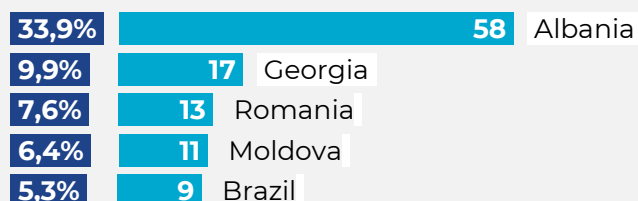
Note²: JRS takes into account detentions that started in 2022 and may have ended in 2023

Result of detention (414 persons)



	Release	23 – 19%
	Refoulement & repatriation	22 – 18%
	Voluntary return	9 – 8%
	Return to a EU country	33 – 28%
	Transfer to another ADC	15 – 13%
	Unknown	16 – 14%

Main nationalities repatriated



Note : these are repatriations. The amount of returns to EU countries in function of nationality is unknown.

Red figures

- Suicide attempt: **unknown**
- Hunger strike: **4**
- Complaints: **2**
- Disciplinary isolation: **145**

Highlights

of 2022



The centre of Bruges occupies the buildings of the former Sint-Andries women's prison. Indeed, prison-like elements are very much present in this dilapidated centre. The government has reiterated its intention to replace it in the medium term. Mainly undocumented migrants, both men and women, intercepted on the territory are being detained at this centre.

An idle centre

Bruges is the only centre that operates a true "group regime". Detainees are divided into groups with whom they are constantly in contact, from the dormitory to the showers, mealtime to spare time in the common areas. There is, in other words, little room for privacy.

This group regime was put to the test during the COVID period. Bruges was the centre that had the most difficulty in containing the spread of the virus, as inmates were in constant contact with each other. This was one of the reasons why the centre remained relatively empty during the pandemic. At the end of January 2022, some detainees tested positive for coronavirus. The centre was consequently quarantined and our visits unilaterally suspended for a couple of weeks.

Once the pandemic ended, the centre remained fairly empty for most of 2022. Numerous fights or conflicts broke out during the first few months of 2022, according to our information following attempts to increase the number of detainees. In particular in the first few weeks following the lifting of the measures linked to the pandemic we recorded incidents. Fights hence erupted during the weeks of 7 and 14 March, as well as during the week of 11 April. The amount of isolations for disciplinary reasons was even higher than before COVID despite the lower occupancy: 145 persons were placed in isolation in 2022 whereas 127 were in 2019 (whilst there were 1319 persons detained that year) and 131 in 2018 (for 1342 detainees).

"Here, you always have one foot in and one foot out. There's too much uncertainty and confusion, and that in turn creates frustration. In prison, at least people know when they're getting out."

Richard, a young man from Liberia detained in Bruges

That being said, the number of inmates hovered around 20 for the first few months and then around 40 until after the summer. The women's section, which reopened at the end of 2021, remained empty until October, due to a lack of staff. Only an additional 59 persons were transferred to Bruges in 2022. In 2021, a year where COVID had a way bigger impact and during which less people were detained, 108 persons were transferred to the centre. On average, the centre has had an occupancy rate of 54,6% per day in 2022.

The general state of the centre and its ongoing renovation are other factors contributing to its under-utilisation. In 2022 alone, the entrance gate was changed, the air conditioning installed, the roof repaired, the kitchen renovated and Wi-Fi installed. In total, €956 183 were spent in total in running costs, IT-equipment and lasting assets. The deployment of these resources and

the number of staff contrast with the under-utilisation of the centre.

Good practice: first-line legal aid

Every Friday morning, lawyers make themselves available to come to the centre to provide free legal advice to detainees. During

those drop-in sessions, detainees can receive legal information and ask questions on their situation to an independent qualified lawyer. Advance registration is required in order for the detainees to meet with the lawyers, after which social workers send the relevant files to each lawyer. Lawyers taking part in these initiatives cannot themselves take on the specific case of a person they are advising. The system is not meant to be a way for lawyers to increase their amount of clients.

Drop-in sessions started again mid-2022. They had previously been suspended not because of COVID, but because there was no demand for them, which can partly be explained by the low number of people detained in Bruges.

The confusion that detainees often experience is real, as their legal situation is usually far from evident. In this sense, it is therefore positive that there are lawyers conducting these visits. Nonetheless, it is important to mention that the advice detainees receive from their often *pro deo* lawyer is not always of the greatest quality, according to our observations. In 2022, only 112 detainees have met a lawyer in person. This figure includes the drop-in sessions. In other words, only 26% of the people detained in Bruges have been able to speak to a lawyer in person in 2022.

Staff strikes

On 9 November, a general strike took place in Belgium. The demonstrators wanted to voice their concerns about soaring energy prices and the cost of living.

Several of the centre's staff took part in the strike. They then continued to strike every Wednesday until the end of the year. This had an impact on the running of the centre, with visits from detainees' families or friends being suspended on several occasions due to a lack of security staff. JRS visits, which normally take place on Wednesdays, also had to be moved to another day of the week.

“ When I left Turkey and came to Belgium, for the first time in my life I had some hope of a better future. But here in detention I have the impression that they want to kill that hope. ”

Seliha, Turkish applicant for international protection detained in Bruges



Merksplas

Description of the centre

Director	Eric Kivit
Opening	January 1994
Address	Steenweg op Wortel 1A, 2330 Merksplas
Contact	cim.info@ibz.fgov.be , 014/63.91.10
Capacity	142, reduced to 94 due to works and lack of human resources
Cells	Rooms of 2 to 4 beds, equipped with tables and televisions
Bathrooms	In-room toilet and sink and common shower rooms. In-room showers in one of the 4 buildings
Common area	Buildings of 2 storeys. One section per floor. The sections are equipped with a television, a pool table, a ping-pong table or a table football Gym accessible 1x/day Computers accessible 3x/week for an hour Library accessible on demand
Courtyard	Two yards equipped with sports grounds, fitness machines, vegetable garden, accessible 3x/day during summer, 2x in winter

Service "resident's stay" 1 social worker/ return officer per wing + reserve

Medical staff 3 doctors, 7 nurses
1 psychologists and 2 assistants

The centre and the external world

Visits	Every day from 1:15 to 2:15pm
Access with public transport	Train station of Turnhout, bus n°432 towards Brecht, stop Kolonie
Visitor JRS Belgium	Guy Verstraeten (guy@jrsbelgium.org) & 2 volunteers
Other NGOs	Vluchtelingenwerk Vlaanderen
Visits - lawyers	Unknown
Visits - lawyers & friends	905
Visits - politicians	Nicole De Moor
Partner hospital	AZ Turnhout and PC Multiversum (+ZNA Stuivenberg)
Catering	Aramark

Statistics

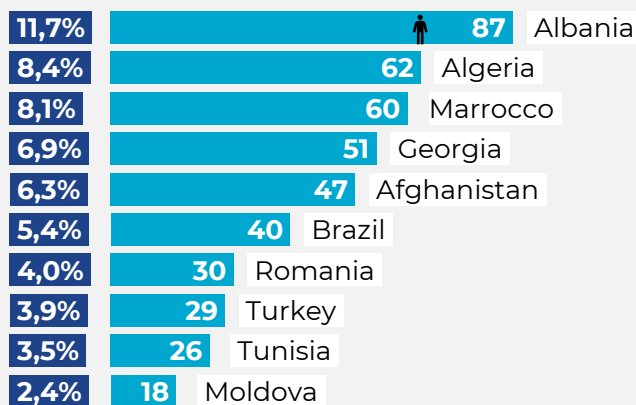


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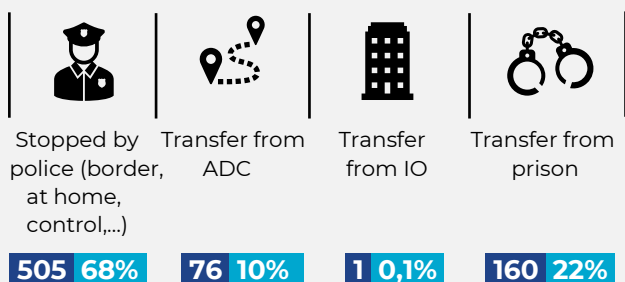
Persons have been detained in the detention centre of Merksplas in 2022. JRS met and followed the cases of 179 (24%).

100% were men (no women section)

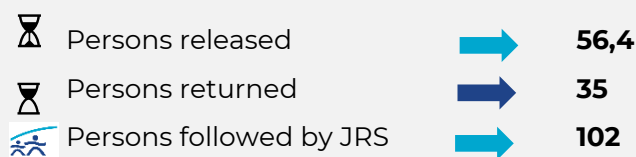
Main nationalities detained



Circumstances of arrest

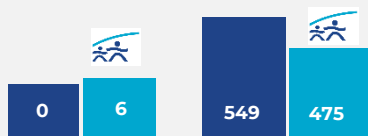


Average length of detention (in days)



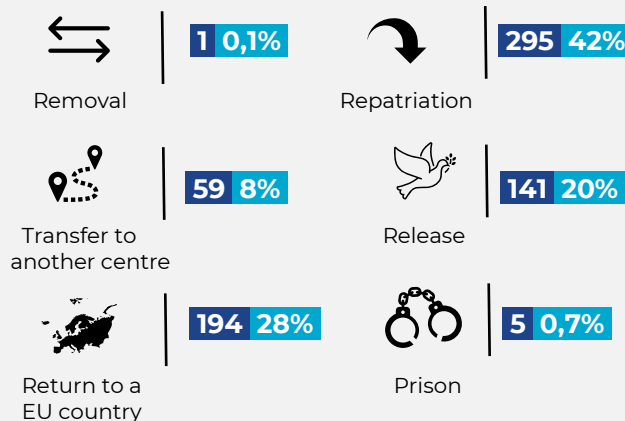
Note : The centre's figure does not take into account a person has already been detained in another centre (76 people) or may continue to be detained in another (59 people). JRS' figure takes this into account and is thus calculated on the basis of the length of 149 cases.

Minimal & maximal length



Note : the centre's longest detention concerns a person whose detention started in 2021. The shortest detentions mainly concern people whose detention order was not valid upon arrival.

Result of detention (695 persons)



	Release	71 – 40 %
	Removal & repatriation	43 – 24%
	Voluntary return	5 – 3%
	Return to a EU country	32 – 18%
	Transfer to another centre	27 – 15%

Main nationalities repatriated



Note : these are repatriations. The amount of returns to EU countries in function of nationality is unknown.

Red figures

Suicide attempt: 1

Hunger strike: 30

Complaints: **unknown**

Disciplinary isolation: 139

Highlights

of 2022



Originally built in 1875 to house what were then referred to as "vagrants", the Merksplas centre has been used to detain migrants since 1994. Situated on the Dutch border, the centre's isolated location makes it difficult to reach by public transport. The vast majority of detainees at Merksplas are undocumented migrants arrested on the territory. The centre has an imposing infrastructure consisting of five large two-storey buildings.

Detention de vulnerable profiles and opening of the special wing

The lifting of COVID-related measures, combined with the consequential increase in the number of detainees, has meant that more vulnerable people have once again been locked up. We came across numerous detainees with serious psychological or cognitive problems, young people claiming to be minors, LGBT+ people, and those who had reportedly self-harmed. In detention, LGBT+ people in particular are exposed to an increased level of harassment, discrimination and psychological, physical and sexual violence from other inmates.⁴

In December 2022, the "special wing" of Merksplas reopened. This wing, similar to the one in the Vottem centre, was closed in 2019 due to a lack of staff. Detainees who require a more 'specific' regime – for instance for security reasons or due to their vulnerable – profile, can be temporarily or permanently kept apart from others in this wing, which can accommodate up to 14 persons. The opening of the wing was accompanied by the creation of a special team consisting of six people whose role is to support those with particular needs (organisational, medical or psychological) throughout the centre.

Families under threat

In 2022, we have systematically met people who had a long-term partner - often Belgian - or even children outside the centre. Many of these people have often been in Belgium for several years but have not been able to regularise their family situation, sometimes due to multiple reasons including lack of time, sufficient funds or fear of approaching the authorities.

An application for family reunification is made to the municipality of residence. As part of the application process, the police carry out several home checks. With the creation of the SEFOR service within the Immigration Office some ten years ago, cooperation between the municipalities, the police and the IO has been strengthened. When the police arrives at a person's home, it is often unclear whether they are there as part of the reunification procedure or simply to arrest them. Indeed, many of the people we met in Merksplas had been arrested in their home whilst the applications for family reunion were pending. As legal family ties are only in the process of being established (marriage, legal cohabitation, recognition of a child), some people have been from the country and separated from their families as a consequence.

Eighteen months of detention

Under Belgium law, an undocumented person arrested on the territory can only be detained for a maximum of eight months and under narrow conditions. In 2022, a Somali national was repatriated after eighteen months of detention.

This was made possible by a practice introduced by the OE - and deemed legal by the *Cour de cassation* - which was used extensively during the pandemic, whereby the detention period is reset to zero. This happens usually when a person's detention status has changed (for

⁴ In response to this paragraph, the IO points out that detainees can lodge a complaint with the Complaints Committee and with the Centre's direction. However, Myria [pointed out](#) the problems

with the current complaints system in terms of impartiality, independence and transparency.

example, when they apply for international protection) or when a person opposes an attempt to be returned.

In this case, the person indeed refused a first flight to Somalia – a fairly unstable country - after eight months of detention. The authorities organised a second forced attempt to return the person seven months later, but this one had to be aborted because, according to the information we received, there were no escorts, no security staff, willing to go to Somalia.

In last year's report, we already highlighted the length of detentions at the centre of Merksplas. It seems clear to us that detention is harmful for both physical and mental health, and that the length of detention is a determining factor that accentuates its impact.

Incidents

Three protests or revolts have taken place at Merksplas in 2022: one in April, one in August and another one in September. On each occasion, the police intervened at the centre's request.

These incidents resulted in several people being placed in disciplinary isolation. In relation to the April incident, seven people were placed in isolation. Three people were placed in solitary confinement following the August incident and a further seven after the September one. The use of disciplinary isolation has more than doubled at Merksplas in 2022, rising from 68 in 2021 to 139 in 2022 (the amount of detainees has of course risen too). When a prisoner is

considered to be 'too problematic', the centre can also request that they be transferred to another CDA.

The incident in April followed the release of several inmates, but in general the causes of these protests are not always clear. According to the centre's direction, these events are linked to the increase in capacity of the centre and the increase of detainees whom

they describe as 'problematic', arrested as part of large-scale police operations, who 'struggle with being detained'.

“ If I've committed a crime, take me to prison. But don't put me in a centre like this. I have family outside. I have a wife and child. They have papers. I haven't been given time to put my file in order. I shouldn't be here. ”

Charles from Cameroon, detained in Merksplas



Centres for families

Description of the centres

Alternative names	FITT houses, return houses, community based open housing units
Opening	October 2008
Sites & capacity	Beauvechain (6 homes), Saint-Gilles-Waes (7), Tielt (3), Tubize (6) and Zulte (6)
Total capacity	28 homes
Home	Studio, apartment or maisonette with a varied amount of rooms
Bathroom	Private shower and toilet for each home
Common area	Shared kitchen and garden at each site
Exit options	Between 9am and 10pm, but an adult family member must always be present on the site
Medical staff	Immigration Office cooperates with local doctors

Service "resident's stay"	9 return officers
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The centres and the outside world

Visits	Maximum 5 persons (minor children not included). Registration necessary upon arrival
Visitors JRS Belgium	Kristien Vliegen (kristien@jrsbelgium.org) & Stephan Burger (stephan@jrsbelgium.org)
Other NGOs	None
Partner hospital	No agreements. People transferred to local hospitals when needed.
Visits - family & friends	Unknown
Visits - lawyers	Unknown
Visits - politicians	0 in 2022

Statistics



111

Families were detained in family centres in 2022. JRS met and followed the cases 37 (33%) of them

195 children, 105 women and 47 men composed these families

Main nationalities

Arrested at the border (83 families)

Nationalities unknown.

Arrested on the territory + Dublin procedure (28 families)

25%	7	Moldova
10,7%	3	Albanie
10,7%	3	Maroc
10,7%	3	Nigeria

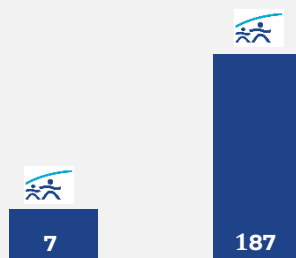
Circumstances of arrest

Stopped at the border (including asylum)	Arrested on the territory	Unknown (described by IO as Dublin cases)
83 75%	20 18%	8 7%

Average length of detention (in days)

	Total	41
	Visits JRS	30,8

Minimum & maximum length



Note : the figures of the IO are not available.

Note² : the longest detention concerns a family whose detention ended in 2023.

Result of detention (102 families)

Arrested at the border (80 families)

Removal	Released	Left on own initiative
28 35%	30 38%	22 28%

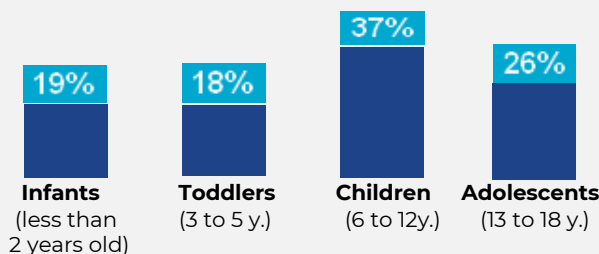
Note : families that absconded are according to us included in the category "left on own initiative"

Arrested on the territory + Dublin procedure (22 families)

Repatriation	Released	Left on own initiative	Return to a EU country
3 14%	5 23%	12 55%	2 9%

	Released	15 – 50%
	Absconded	7 – 23%
	Voluntary return	1 – 3%
	Unknown	7 – 23%

Age of minor children





From 2001 to 2008, families with minor children were held in 'regular' detention centres. In October 2006, the European Court of Human Rights however found that the conditions in these centres were inappropriate for children. The Belgian authorities consequently inaugurated the first family detention centres in 2008. This is where families with children who are undocumented or intercepted at the border are being held since 2008. Although the family detention centres guarantee a certain degree of comfort and privacy, which is regularly emphasised by families stopped at the border, and can difficultly be compared with the centres for adults, JRS considers these centres to be an alternative form of detention (and not an alternative to detention). Legally, a detention order is indeed issued against the families placed there and some of their basic rights are limited. This is the case, for example, for their ability to leave the centre (curfew from 10pm to 9am and obligation for a parent to be constantly present on the site).

In 2022, JRS met with 37 families. A total of 111 families were detained in the detention centres for families in 2022. This means that our analyses have some limitations, but it does allow us to identify potential trends about the situation of people in centres that we feel are worth reporting.⁵

The situation of Ukrainians

Around 35% of Ukrainians benefiting from temporary protection in the EU are minors. Sixty-three thousand Ukrainians received temporary protection in Belgium in 2022. In view of these figures, one might have assumed that many families with children would have ended up in the ADC for families whilst authorities were verifying whether they had not obtained protection in another country. After all, that is what systematically happened for adults who were detained in Caricole.

Fortunately, this did not happen: the only Ukrainian family we are aware of that has been detained in the family centres was at the very beginning of March 2022, before the temporary protection came into force. In other words, once temporary protection was activated, the Immigration Office seems either never to have resorted to the detention of Ukrainian families with minor children, or this detention was of very short duration.

Rights and well-being of children

In our 2021 report we highlighted that only 50% of the children in the family ADCs were attending school. In 2022, access to education remained challenging on most sites.

All the children of families placed in the Zulte site were attending school. At the other sites, it is not possible for families to send their children over the age of 12 to school, often for practical reasons. However, in 2022, a family detained on another site managed to continue sending their children (aged over 12) to their former school. In that case, the children had to make a fairly long journey, but the IO covered the cost of public transport. At a third site, we met seven children under the age of 12 who were subject to compulsory education, but not attending school. In the case of two families, it was the parents' wish for their children to not attend school. At a final site, most of the children under 12 were at school.

In response to these cases, the Immigration Office notes that families intercepted at the border or eligible for return to another European country are often only placed in the centres for a short time. According to the authorities, this is why steps towards the schooling of children are not undertaken.

Besides the right to education, children also have a right to leisure and must have access to recreational activities. This issue has been raised to the authorities in the past and we have since witnessed improvements at various sites. For

⁵ During our visits, we systematically ask people to sign a mandate so that we can process their data.

example, the Sint-Gillis-Waes site was recently equipped with a playground. In 2022, the children of three families told us explicitly how bored they were with during their stay at the centre. Two of these three families stayed at a ADC during the summer holidays. The 5-year-old daughter of the third family expressly linked her boredom to the fact that she was unable to go to school.

For families arrested on the territory (as opposed to the airport), the moment of arrest was systematically described as problematic for the children. In 2022, we met children whose sleep had been disturbed by the event and who were anxious at the thought that it might happen again.

Last but not least, one family with a child suffering from Down's syndrome was held in the detention centres for families in 2022.

Note on Methodology

This report is first and foremost based on first-hand observations made by staff and volunteers of JRS Belgium in immigration detention facilities.

Our visitors aim to visit the family centres and three of the six detention centres that exist in Belgium - Bruges, Caricole and Merksplas – on a weekly basis. Our role in detention can be summarized as follows: to accompany, to serve and to defend. Our visitors accompany persons who are detained by being present, by making themselves available and by providing a space for detainees to talk and be listened to. They serve detainees by providing them legal information about their rights and by liaising with the staff (social workers and management) as well as with the outside world (lawyers, families, and relevant organisations). Finally, this monitoring feeds into JRS's advocacy work, which aims to defend the rights of detainees. More specifically, it allows JRS to highlight the harms and inefficiencies of administrative detention, and call for humane alternatives.

JRS seeks to meet with and follow the cases of at least 10% of the detainees in the centres it visits. This in order that the data (length of detention, circumstances of arrest, etc.) we collect can be representative and used in quantitative analysis. We are well aware that this percentage must be influenced by the size of the statistical population and that a margin of error has to be calculated when we draw conclusions based on these data. In 2022, JRS met 449 people in detention centres and 37 families in family centres. For each of these individuals and families, a follow-up sheet was completed after each meeting.

In the centres of Bruges and Merksplas, we respectively met and followed the cases of 28 and 24% of the persons detained. In the centre

of Caricole, this figure drops to 8% of the total number of persons detained. However, as explained in the section on the centre below, this is mainly due to the amount of people who stayed there for a short period after having been stopped at the border, often just waiting to board the next plane. We believe that together with the figures of the Immigration Office, we can create a fuller picture of the situation. When our figures are being used, especially in the 'statistics section', they are indicated with the organisation's logo:



We have only taken into account people placed in detention in 2022 (and whose detention thus potentially ended in 2023), except for family centres, where we have taken into account families we met in 2022 and whose cases we followed. With regard to the length of detention, some people continued to be detained in 2023. This is taken into account when calculating the length of detention up to August 2023, when this report was written.

The Immigration Office's figures that we use, in particular in our statistical sheets of the centres, can be found in the IO's 2022 activity report, but also in the annual reports of the various detention centres which the IO shared with us.

A word on the definition of what we call "red figures" in the statistics sections. These figures come directly from those annual reports and the definitions given to the various terms can vary from one centre to another. This is, for instance the case for "hunger strike". At Caricole, a person is considered to be on hunger strike if they have not been to the refectory for either three consecutive days or nine consecutive meals. Bruges follows the same 3-

day policy. In Merksplas, however, the person must have eaten nothing for 48 hours. The number of complaints in the red figures includes those made by inmates to the management of the centres as well as those to the independent complaints committee. At the same time, the committee's complaint mechanism has been criticised for years. Finally, we do not know how suicide attempts are being distinguished from incidents of severe self-harm. All this to say that these red figures should be treated with caution.

In short, the reports compiled after each visit, together with the data and individual follow-up sheets, in addition to the activity reports of the Immigration Office and the centres constitute the main sources of this report. The IO was also invited to comment on this report before publication and sent us its observations, which have been implemented. It should lastly be remembered that although this report is based on the observations of our visitors, they are only able to visit the centres once a week, meaning they can miss a number of things.

