

Factual analysis of Member States Investors' Schemes granting citizenship or residence to third- country nationals investing in the said Member State

Deliverable B.II Investors' Residence Schemes in Belgium

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I. GENERAL BACKGROUND

■ *Legal background*

Third country nationals can acquire Belgian residence through investment by following two cumulative procedures: one procedure to obtain a professional card and a second procedure to obtain a residence permit.

The legal basis for the acquisition of a professional card in Belgium is the Act of 19 February 1965 regarding the exercise of self-employed professional activities by foreigners.¹ The Royal Decree of 2 August 1985 implements this Act.²

The legal basis for the acquisition of a residence permit in Belgium is the Act of 15 December 1980 regarding the access to the territory of Belgium, the residence and expulsion of foreigners.³ In particular, Articles 9 and 13 of the Belgian Aliens Act determine the right of residence for third country nationals, not belonging to the EEA, who want to reside in Belgium as self-employed persons. The Royal Decree of 8 October 1981 implements the Belgian Aliens Act.⁴

The legal basis for the acquisition of Belgian nationality is the Belgian Nationality Code of 28 June 1984.⁵ On the basis of Article 12bis §1, 2° Belgian Nationality Code, a foreigner who has reached the age of 18 years can obtain Belgian nationality by declaration after five years of legal residence in Belgium if he proves his knowledge of one of the three national languages as well as his social integration and economic participation. The two last conditions are deemed to be fulfilled after having worked as a self-employed person in Belgium for a continuous period of five years and having paid during this period the required social security contributions.

In the government agreement of October 2014, the Belgian government stated that for the grant of

¹ Act of 19 February 1965 regarding the exercise of self-employed professional activities by foreigners (*Wet betreffende de uitoefening van de zelfstandige beroepsactiviteiten der vreemdelingen*), Belgisch Staatsblad 26 February 1965, available at http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?DETAIL=1965021930%2FN&caller=list&row_id=1&numero=1&rech=2&cn=1965021930&table_name=wet&nm=1965021902&la=N&ddfm=02&chercher=t&dt=WET&language=nl&choix1=EN&choix2=EN&fromtab=wet_all&nl=n&sql=dt+contains+++%27WET%27+and+dd+between+date%271965-02-19%27+and+date%271965-02-19%27+and+actif+%3D+%27Y%27&ddda=1965&tri=dd+AS+RANK+&trier=afkondiging&ddfa=1965&dddj=19&dddm=02&ddfj=19&imgcn.x=15&imgcn.y=9, hereafter ‘Professional Card Act’.

² Royal Decree of 2 August 1985 regarding the implementation of the Act of 19 February 1965 regarding the exercise of professional activities by self-employed foreigners (*Koninklijk besluit houdende uitvoering van de wet van 19 februari 1965 betreffende de uitoefening van de zelfstandige beroepsactiviteiten der vreemdelingen*), Belgisch Staatsblad 24 September 1985, available at http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?DETAIL=1985080266%2FN&caller=list&row_id=1&numero=1&rech=1&cn=1985080266&table_name=WET&nm=19850818112&la=N&ddfm=08&chercher=t&dt=KONINKLIJK+BESLUIT&language=nl&choix1=EN&choix2=EN&text1=zelfstandige&fromtab=wet_all&nl=n&sql=dt+contains+++%27KONINKLIJK%27%2526+%27BESLUIT%27+and+dd+between+date%271985-08-02%27+and+date%271985-08-02%27+++and+%28%28+tit+contains+++%28+%27zelfstandige%27%29+++%29+or+%28+text+contains+++%28+%27zelfstandige%27%29+++%29%29and+actif+%3D+%27Y%27&ddda=1985&tri=dd+AS+RANK+&trier=afkondiging&ddfa=1985&dddj=02&dddm=08&ddfj=02&imgcn.x=34&imgcn.y=10

³ Act of 15 December 1980 regarding the access to the territory of Belgium, the residence and expulsion of foreigners (*Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen*), Belgisch Staatsblad 31 December 1980, available at http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=1980121530, hereafter ‘Belgian Aliens Act’.

⁴ Royal Decree of 8 October 1981 regarding the access tot he territory of Belgium, the residence and expulsion of foreigners (*Koninklijk besluit betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen*), Belgisch Staatsblad 27 October 1981, available at http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=1981100831&table_name=wet

⁵ Belgian Nationality Code of 28 June 1984 (*Wetboek van de Belgische nationaliteit*), Belgisch Staatsblad 12 July 194, available at http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=1984062835

naturalisation next to sportive, sociocultural and scientific merits, also economic merits would be taken into account. The Belgian government added that to that effect a legal definition would be developed.⁶ So far, the legislation regarding naturalisation has not been amended.

■ *Competent authorities*

In Belgium, **residence rights are a federal issue**. In particular, the **Immigration Office**, as part of the Home Affairs Federal Public Service, is entrusted with granting residence permits.⁷

By contrast, since 1 January 2015, the **federated entities are competent for economic integration**. In particular, the Flemish region, the Walloon Region and Brussels-Capital Region decide in concrete cases whether or not to grant a professional card. In particular, the application for a professional card has to be submitted to the **Office of Economic Immigration of the competent region**.

A professional card is the document authorising a foreign self-employed person to exercise a specific activity, either as natural person or within an association or a partnership in fact or in law, on Belgian territory. Which region is competent depends on the place of business. If the company carries out activities in multiple places of business, the company's registered office is decisive. If there is no place of business in Belgium, the place of actual activity is decisive.

The **Belgian embassy abroad** (in case of residence of the applicant abroad) or a **local enterprise office** (in case of legal residence of the applicant in Belgium) will accept the application for the professional card and send it to the competent region. Applications submitted to a region that is not competent are declared inadmissible.

⁶ Government agreement 11 October 2014, page 156 available at <http://www.premier.be/nl/regeerakkoord>.

⁷ Immigration Department of the Federal Government Service on Home Affairs (*Dienst Vreemdelingenzaken van de FOD Binnenlandse zaken*) website, available at <https://dofi.ibz.be/sites/dvzoe/index.html>.

II. PROCEDURES, COMPETENT AUTHORITIES AND APPLICABLE CRITERIA

1 APPLICATION PHASE

1.1 PROCEDURES

The rule is that every foreigner who exercises self-employed professional activities in Belgium has to have a professional card.⁸ However, the Royal Decree of 3 February 2003 provides exemptions for specific categories of foreigners.⁹ Exempted from the obligation to have a professional card in order to exercise self-employed professional activities are: (1) citizens of Member States of the European Economic Area and specific family members (2) the spouse of a Belgian citizen and specific family members (3) foreigners with a permanent right of residence in Belgium (4) refugees who are recognised in Belgium (5) the foreigner who assists his spouse in the self-employed professional activities (6) foreigners who are in Belgium for business trips for less than three months (7) foreigners who are in Belgium for conferences for less than three consecutive months (8) foreign journalists for less than three consecutive months (9) foreign sportsmen for less than three consecutive months (10) foreign artists for less than three consecutive months (11) foreign students taking up a traineeship in Belgium (12) foreigners taking up a traineeship in Belgium in the framework of development co-operation or exchange programmes based on reciprocity.¹⁰

The professional card is personal and stipulates the activities which are carried out by the professional card holder.¹¹ The validity of the professional card is limited to five years, but the card can be renewed.¹² The professional card depends on the right of residence of the foreigner in Belgium: in the event of the abrogation of the residence permit, the validity of the professional card automatically ends.¹³

The **application for a professional card** is lodged at a local Enterprise Office if the self-employed foreigner resides legally in Belgium, that is to say if the foreigner has a ‘certificate of registration model A’ or an ‘electronic residence card type A’.¹⁴ If the foreigner has (not yet) a right to reside in Belgium, the application for a professional card is lodged at the Belgian embassy abroad.¹⁵

The application clearly defines the nature and the place of the activities for which the professional card is requested.¹⁶ An excerpt from the criminal records has to be added to the application.¹⁷ For a professional activity which is subjected to regulatory obligations, a document has to be added which

⁸ Article 1 Professional Card Act.

⁹ Royal Decree of 3 February 2003 to exempt specific categories of foreigners from the obligation to hold a professional card for the exercise of professional activities as a self-employed person (*Koninklijk besluit tot vrijstelling van bepaalde categorieën van vreemdelingen van de verplichting houder te zijn van een beroepskaart voor de uitoefening van een zelfstandige beroepsactiviteit*), Belgisch Staatsblad 4 March 2003, available at http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?DETAIL=2003020337%2FN&caller=list&row_id=1&numero=9&rech=11&cn=2003020337&table_name=wet&nm=2003011066&la=N&ddfm=02&chercher=t&dt=KONINKLIJK+BESLUIT&language=nl&choix1=EN&choix2=EN&fromtab=wet_all&nl=n&sql=dt+contains+%27KONINKLIJK%27%2526+%27BESLUIT%27+and+dd+between+date%272003-02-03%27+and+date%272003-02-03%27+and+actif+%3D+%27Y%27&ddda=2003&tri=dd+AS+RANK+&trier=afkondiging&ddfa=2003&dddj=03&dddm=02&ddfj=03&imgcn.x=47&imgcn.y=12.

¹⁰ Article 1 Royal Decree of 3 February 2003.

¹¹ Article 3§1 Professional Card Act.

¹² Article 3§2 Professional Card Act.

¹³ Article 4 Professional Card Act.

¹⁴ Article 1§1 Royal Decree of 2 August 1985 implementing the Professional Card Act.

¹⁵ Article 1§2 Royal Decree of 2 August 1985 implementing the Professional Card Act.

¹⁶ Article 3§1 Royal Decree of 2 August 1985 implementing the Professional Card Act.

¹⁷ Article 5 §1 Royal Decree of 2 August 1985 implementing the Professional Card Act.

confirms that these conditions are met.¹⁸

For each application for a professional card, the applicant has to pay a fee of EUR 140.¹⁹ If the professional card is granted, the applicant has to pay EUR 90 per year for which the card is granted (hence EUR 180 if the professional card is granted for two years).²⁰

Although not established in the Professional Card Act nor in the implementing Royal Decree, the websites of the Flemish region,²¹ the Walloon Region²² and Brussels-Capital Region²³ all **provide three criteria for granting or refusing a professional card**. First of all, the professional card is linked to the right of residence. If the applicant does not have a residence permit in Belgium, he has to make a request for a visa at the Belgian embassy abroad. Secondly, the specific profession may be subjected to legal obligations. In that case, it is verified whether the applicant satisfies the requirements. Thirdly, the importance of the project for the Flemish region or the Walloon Region or Brussels-Capital Region is assessed. In most cases this is assessed in economic terms. In particular, **for the assessment of the economic added value of a professional activity** account is taken of high company capital, economic needs of the region, economic repercussions for companies in the region, creation of employment, promotion of export, undertaking of innovative or specialised activities.²⁴ It is also possible that the applicant proves the importance of the project for the region in social, cultural, artistic or sportive terms.

The **applicant has to provide a comprehensive file with information on the professional project** in order to enable the Office of Economic Immigration of the competent region to make a detailed analysis of the case in order to decide whether or not there is added value for the region.²⁵ The Office of Economic Integration has access to several databases of the government such as the national register, Cross Roads Bank for Enterprises and Cross Roads Bank for Social Security where it can check and find (additional) information. Neither the Professional Card Act, nor the implementing Royal Decree, nor the websites of the regions provide more specific details on financial thresholds such as a minimum investment or minimum income which are necessary in order to prove economic added value and obtain a professional card. The Office of Economic Integration decides on a case by case basis. However, internally, they have more specific guidelines concerning minimum income, minimum investment, not becoming a burden of Belgian social security, etc.²⁶

The **test of (economic) added value only applies to applicants whose right of residence depends upon the professional card**.²⁷ By contrast, if the applicant for the professional card already legally resides in Belgium on the basis of other grounds such as family reunification, only the right of residence and compliance with regulatory obligations for the specific profession will be checked.

During the stakeholder consultation, the Office of Economic Immigration of the Flemish government

¹⁸ Article 6 §2 Royal Decree of 2 August 1985 implementing the Professional Card Act.

¹⁹ Article 3§2 Royal Decree of 2 August 1985 implementing the Professional Card Act.

²⁰ Article 9 Royal Decree of 2 August 1985 implementing the Professional Card Act.

²¹ Flemish Work and Social Economy (*Werk en Sociale Economie*) website, 'Professional Card. General conditions', available at <https://www.werk.be/online-diensten/beroepskaarten/algemene-principes>.

²² Walloon Work website, 'Professional Card', available at <http://emploi.wallonie.be/home/travailleurs-etrangers/carte-professionnelle.html>.

²³ Flemish Work and Social Economy (*Werk en Sociale Economie*) website, 'Professional Card for non-EU nationals' available at http://werk-economie-emploi.brussels/nl_BE/carte-professionnelle-pour-ressortissants-etrangers.

²⁴ For applicants that have the status of permanent resident in another EU Member State, the income and the profile of the applicant (relevant work experience, diplomas, etc.) are assessed instead of economic added value.

²⁵ See Table 'Type of investment' in Section II.2 of this Report and Flemish Work and Social Economy (*Werk en Sociale Economie*) website, 'Professional Card', available at <https://www.werk.be/en/information-services/professional-cards/how-apply/evidence>.

²⁶ Information obtained through consultation with legal representative of Office of Economic Integration of the Flemish region on 16 April 2018.

²⁷ If the foreigner already has the right to reside in Belgium when he applies for a professional card, the test of (economic) added value does not apply.

gave the following example: An application for a professional card is rejected for the opening of a night shop or carwash if the right of residence of the applicant depends upon this professional card. In this case it is considered that there is no economic added value. However, a professional card is granted for a night shop or carwash if the applicant has already a right of residence on another basis, for instance, on the basis of family reunification.²⁸

If the granting of a professional card is refused, the foreigner can appeal within thirty days upon notification of the refusal.²⁹ The **appeal is lodged with the Employment Minister of the competent region**. If the Minister confirms the refusal of the granting of the professional card, appeal can be lodged with the **Belgian Council of State** within sixty days upon notification of the Minister's refusal.³⁰

If the application for a professional card is successful, it is usually granted for a period of two years. The Belgian embassy and the applicant are informed accordingly by the competent region. The applicant then lodges another application at the Belgian embassy abroad, this time an application for a national visa, a so-called 'D-visa', in order to enter the Belgian territory.³¹

For this second procedure in order to obtain a D-visa, the applicant has to pay EUR 350.³² The applicant has to submit several documents: (1) proof of payment of the fee, (2) a completed and signed application form (3) passport to which the visa can be attached (4) proof of the professional card that is granted (5) medical certificate that applicant does not have a disease which is a risk for public health (6) an excerpt of criminal records.³³

If the applicant provides all these documents, the Immigration Office grants the D-visa, unless the applicant is in one of the situations described in Article 3 Belgian Aliens Act. For instance, if the foreigner is blacklisted in the Schengen Information System or if the foreigner poses a threat to national security, the Immigration Office refuses to issue the D-visa.³⁴

If the Immigration Office refuses to issue the D-visa, the foreigner can appeal within thirty days upon notification of the refusal.³⁵ The action for annulment and/or suspension is lodged at the Council for Alien Law Litigation.³⁶

If the D-visa is granted, the foreigner has to go to the municipality of the place of residence within eight days from arriving in Belgium, in order to get registered in the Register of Foreign Nationals and in order to request the issuing of a residence card type A.³⁷ The **residence card type A** is usually granted for a period of one year. The **residence card can be renewed**, the foreigner has to request a renewal between the 45th and 30th day before the expiration date of the residence card.

1.2 COMPETENT AUTHORITIES AND NON-PUBLIC BODIES

The **Office of Economic Immigration** of the Flemish Region, the Walloon Region and Brussels-Capital Region assesses whether the application satisfies the conditions for obtaining a professional

²⁸ Information obtained through consultation with legal representative of Office of Economic Integration of the Flemish region on 16 April 2018.

²⁹ Article 6 the Professional Card Act.

³⁰ Article 6 the Professional Card Act.

³¹ Articles 9 and 13 Belgian Aliens Act.

³² Article 1/1/1 Royal Decree of 8 October 1981 implementing the Belgian Aliens Act.

³³ Article 25/2 Royal Decree of 8 October 1981 implementing the Belgian Aliens Act.

³⁴ Article 3, 5° and 7° Belgian Aliens Act.

³⁵ Article 39/57 Belgian Aliens Act.

³⁶ Articles 39/82 and 39/2 §2 Belgian Aliens Act.

³⁷ Article 25 §1 Royal Decree of 8 October 1981 implementing the Belgian Aliens Act. The municipality has no discretion in granting the residence card type A or not, it is an intermediary body between the Immigration Office and the foreigner.

card.³⁸ The appeal authority is the **Employment Minister** of the competent region.³⁹

The Immigration Office, as part of the Home Affairs FPS, is the competent authority for granting a 'D-visa'.⁴⁰ An appeal against its decision can be lodged at the Council for Alien Law Litigations.⁴¹ The **municipality of the place of residence** grants the residence card type A.⁴² No non-public bodies are involved in the processing of applications.

1.3 MONITORING OF THE PROCEEDINGS AND THE AUTHORITIES INVOLVED

The law does not set a limit on the number of investors that can apply for a professional card. No scrutiny mechanisms are in place.

Myria, the Belgian Federal Migration Centre, is an independent public body that examines and follows the evolution of migration movements, focusing on their nature and characteristics. It provides public authorities, civil society, and wider society with accurate information on migration movements (both inward and outward) and residence of foreign nationals. Its role is to publish demographics and studies around specific issues.

1.4 INFORMATION ON APPLICATIONS

There is no obligation to disclose information about successful applicants. There are no numbers available for requests for residence by investors and the number of successful applications.

The statistics provided in the table below cover the requests and grants of professional cards. For the purposes of the Professional Card Act, the activity which does not fall within the scope of the regulations on employment of workers of foreign nationality is considered a self-employed activity. Hence, not every holder of a professional card is an investor. For instance, also the managing director of a large company can be the holder of a professional card.

Year	Total no. of requests for residence	No. of requests for professional cards	No. of successful applications	No. of turned down applications	Sources ⁴³
2012	Not available	Not available	Not available	Not available	
2013	Not available	1587 requests, 1887 decisions	1104 (59%)	41%	https://emnbelgium.be/sites/default/files/publications/federaal_migratiecentrum_jaarverslag_migratie.pdf
2014	Not available	1586 requests, 1620 decisions	+ - 66 %	+ - 34%	http://www.myria.be/files/Migratie-verslag-2015-H6.pdf
2015	Not available	1590 requests 1603 decisions	+ - 59%	+ - 41%	www.myria.be/files/Migratie2016-5-Vrij_verkeer_en_economische_migratie.pdf

³⁸ Article 3 Professional Card Act.

³⁹ Article 6 Professional Card Act.

⁴⁰ Article 9 Belgian Aliens Act.

⁴¹ Article 39/1 and 39/2 Belgian Aliens Act.

⁴² Article 25 §1 Royal Decree implementing the Belgian Aliens Act.

⁴³ Myria, the Belgian Federal Migration Centre - an independent public body that analyses migration, defends the rights of foreigners and combats human smuggling and trafficking.

Year	Total no. of requests for residence	No. of requests for professional cards	No. of successful applications	No. of turned down applications	Sources ⁴³
2016	Not available	1713 requests, 1577 decisions	934 (59%)	41%	http://www.myria.be/files/Hoofdstuk_6.pdf
2017	Not available	Not available	Not available	Not available	

1.5 INFORMATION ON APPLICATIONS BY FAMILY MEMBERS

Article 10bis Belgian Aliens Act establishes the right to family reunification for a third country national with a right of residence of limited duration. In particular, the family members that can join the foreigner who is a self-employed person with a professional card and residence card type A are: the spouse, the legal partner, the minor child and the adult child with disabilities.

The family members have to satisfy certain conditions. First of all, they have to prove their identity and their relationship with the sponsor. They have to demonstrate that they will live together with the sponsor and that they do not constitute a danger for public health and public safety.⁴⁴ Moreover, in case of the spouse or legal partner, the spouse or legal partner must have reached the age of 21 (or the age of 18 if the marriage took place before the sponsor arrived in Belgium or, in case of the legal partner, the age of 18 if the partners lived at least one year together before the sponsor arrived in Belgium).⁴⁵

The sponsor must also satisfy certain conditions.⁴⁶ For family reunification with all the categories of family members, the sponsor has to prove that he and his family members have a sickness insurance cover, that they have a reasonable accommodation to stay in, that they have stable, regular and sufficient means and will not become a burden on the Belgian social security system.

For family reunification with his spouse or legal partner, he must have reached the age of 21 (or 18 if they marriage took place before he arrived in Belgium, or the age of 18 if the partners lived at least one year together before the sponsor arrived in Belgium).⁴⁷ For family reunification with a legal partner, the sponsor cannot be married to another person nor have a stable relationship with another person.⁴⁸ For family reunification with his child, the sponsor has to have the right to custody when the parents are divorced.⁴⁹

The Belgian Federal Migration Centre provides numbers for successful applications for residence permits on the basis of family reunification, but not specifically for residence permits obtained by family members of third country nationals who have a professional card and residence permit in Belgium. Therefore, statistics for the number of successful applications for residence permits by family members of investors are not available.

⁴⁴ Article 10bis §2, Belgian Aliens Act.

⁴⁵ Article 10, §1, 4° and 5° Belgian Aliens Act.

⁴⁶ Article 10bis §2 Belgian Aliens Act.

⁴⁷ Article 10 §1, 4° Belgian Aliens Act.

⁴⁸ Article 10 §1, 5° Belgian Aliens Act.

⁴⁹ Article 10 §1, 7° Belgian Aliens Act.

2 TYPE OF INVESTMENT⁵⁰

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
<p>Business</p> <p>Belgian legislation does not explicitly provide for residence for investors. However, a foreigner can obtain a professional card and on this basis also residence. Hence it is always about self-employed professional activities, always in the context of business. However, the legislation does not</p>	<p>No financial thresholds in Professional Card Act/Implementing Royal Decree, however, financial considerations are taken into account on the basis of guidelines of the competent authority.</p> <p>(hence possibly differences between regions of Flanders, Walloons and Brussels)</p> <p>Internally, the competent authority has specific guidelines concerning minimum income, minimum investment, not</p>	<p>Verification of investment criterion: before granting a professional card and in case of renewal (in the case of renewal, the first expectations are compared to realisations during the first period of usually two years)</p> <p>The applicant has to provide a comprehensive dossier in order to demonstrate the economic value of his/her self-employed professional activities for the region:</p> <ul style="list-style-type: none"> ■ Overview of full CV and evidence of relevant work experience (e.g. letters of reference or recommendations, payslips, copy of employment contracts, etc.); ■ Copies of diplomas; ■ Proof of income of the last 12 months (e.g. payslips, tax returns, bank statements, etc.); ■ Evidence that the applicant's company can give proof of management skills⁵² or is exempted from this, for example by means of a statement of the Crossroads Bank for Enterprises (KBO/BCE), a declaration of a recognised one-stop-shop for business support⁵³, a copy of a diploma (if relevant for management skills), etc.; ■ Certificate of family composition; ■ Motivation letter in which at least the following subjects are discussed: <ul style="list-style-type: none"> ■ Short overview of the applicant's project; ■ The reason(s) for choosing Flanders/Wallonia/Brussels-Capital as a hub for entrepreneurial activity; ■ Knowledge of Dutch or French or the efforts the applicant is willing to make to learn this language. If the applicant is of the opinion that the knowledge of Dutch is not required for a successful operation his company, he must explain this in this letter; ■ The relevance of the applicant's studies and/or previous professional activities for this activity; ■ The income the applicant expects to raise personally from the self-employed activity proposed; ■ The division of tasks between the applicant and the other partners of the company if there are several; 	<p>The Office of Economic Immigration of the Flemish Region, the Walloon Region or Brussels-Capital.</p> <p>In particular, the account manager makes an analysis of the specific case of the applicant and advises whether or not to grant the professional card. The head of the Professional Card Team controls the analysis and signs the granting or dismissal of the application.</p> <p>There are no scrutiny mechanisms or reporting</p>

⁵⁰ For the purposes of this Table, the term 'investment' covers any pecuniary disbursement required as part of the process for obtaining residence under the investors' residence scheme.

⁵² Business Belgium website, available at http://business.belgium.be/en/managing_your_business/setting_up_your_business/main_steps/management_skills/.

⁵³ Business Belgium website, available at http://business.belgium.be/en/managing_your_business/full_list_of_procedures/points_of_single_contact/.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
<p>speaking about pecuniary disbursement, this is possible, but not necessary. The third country national can also obtain a professional card as, for instance, CEO of a multinational company which has its place of business in Belgium.</p>	<p>becoming a burden of Belgian social security, etc. It is not necessary to buy or purchase property, but this can be taken into account since cases are assessed and decided on a case by case basis.⁵¹</p>	<ul style="list-style-type: none"> ■ The possible move of the applicant's spouse and children to Belgium, their possible role in the company and their source(s) of income, if applicable; ■ If the applicant is convinced that his activity has a special social, cultural, or artistic added value or delivers added value to sports development in Belgium, he can explain this in the motivation letter. The applicant must attach sufficient evidence (for example reference letters, portfolio, etc.) that can provide proof of this and can show that he is able to make a living. In this case, the evidence mentioned below must not be attached; ■ If the applicant wants to come to Belgium at the request of the current manager of a company that already exists in Belgium, a motivation letter of the present manager explaining why the company wants to use his services must be annexed. If a search for personnel or partners with the same qualifications or the same profile has already been undertaken in Belgium, proof of this search must be attached; ■ If the applicant has or expects sources of income other than those generated by the proposed self-employed activity, he must give an explanation and provide evidence. The applicant must be able to prove that he has sufficient liquid assets, on the one hand, to make the investments intended and, on the other hand, to support himself (and his family, if applicable); ■ Proof of the applicant's relevant experience with Belgium, if applicable (e.g. copies of diplomas earned in Belgium, references of potential clients, clients, trade partners, etc.); ■ If the applicant becomes active in a company that was created more than two years ago: <ul style="list-style-type: none"> ■ A recent balance sheet and profit and loss account; ■ Explanation on the weak financial results of the company, if applicable; ■ Overview of the distribution of shares in the company; ■ If the applicant is already doing business in a country other than Belgium: a copy of the deed of incorporation, the articles of association, a recent balance sheet and profit and loss account. ■ If the applicant is founding a new company, taking over a company or becoming active in a company that was established less than two years ago, a business plan must be attached to the dossier. This business plan must contain information on at least: <ul style="list-style-type: none"> ■ Personal details; ■ The product or the service (including price breakdown); ■ The organisation; ■ A market analysis focusing on the company's own product or service; 	<p>obligations in place.</p>

⁵¹ Information obtained through stakeholder consultation of the Economic Immigration Office of the Flemish Region on 16 April 2018.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
		<ul style="list-style-type: none"> ■ A financial plan with at least turnover and cash flow projections, including calculations; ■ Specification and estimate of job creation and investments; ■ If the applicant established a new company, the following documents must be attached according to the type of company: <ul style="list-style-type: none"> ■ in case of one-man businesses (natural person): the opening balance sheet and a bank statement of the company mentioning the invested amount; ■ in case of partnerships (legal person): the deed of incorporation, the opening balance and a bank statement of the company; ■ If the applicant is a freelancer or consultant: copies of the contract(s) for services from which it appears that he (will) work as a freelancer; ■ Evidence (e.g. patents or references of knowledge institutions etc.) demonstrating the innovative nature of the product or service for Flanders/Wallonia/Brussels-Capital; ■ Evidence of job creation in the own company; ■ Information on the intended investments; ■ If the applicant's company imports or exports (or will do so in the future), the applicant must also answer the following questions: <ul style="list-style-type: none"> ■ What products are involved? ■ From which countries does (will) the company import and to which countries does (will) the company export? ■ What is the ratio import/export? ■ Which are the (future) suppliers and which are the (future) markets for these products? ■ Evidence: copies of invoices, orders or contracts or proof of contacts already made; ■ Other documents in support of the applicant's dossier: copy of purchase and sales invoices, contracts, cooperation agreements, etc. 	

3 RESIDENCE PHASE

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
<p>First, a D-Visa is granted in order to enable the third-country national to enter Belgium.</p> <p>Within 8 days from arrival the third-country national must go to the municipality of his place of residence in Belgium in order to get registered in the Register of Foreign Nationals and in order to request the issuing of a residence card type A.</p> <p>The residence card type A is usually granted for one year and this gives the right to reside in Belgium for one year. The residence card can be renewed annually.</p> <p>Article 9 Belgian Aliens Act, Article 25§1 and 25/2 Royal Decree Implementing the Belgian Aliens Act.</p>	<p>Having the right to reside is one of the three criteria that is checked by the Economic Immigration Office when making the assessment to grant (or not) a professional card to the applicant.</p> <p>If the applicant has not yet the right to reside in Belgium, he must start a second procedure in order to obtain a D-visa and subsequently an electronic residence card type A.</p> <p>A residence card type A gives the right to reside in Belgium for a limited period, usually one year. The foreigner can travel outside Belgium for less than three months, but has to make sure that the residence card is still valid upon the planned date of returning to Belgium (otherwise it has to be renewed before leaving Belgium). The foreigner can leave Belgium for more than three months, but less than one year after registration at the municipality of the place of residence and receiving the certificate 'annex 18'.</p> <p>Article 39, 6° Royal Decree implementing the Belgian Aliens Act</p> <p>Hence, there is no requirement for constant presence in Belgium.</p>	<p>The Immigration Office is competent for granting a D-visa (Article 9 Belgian Aliens Act). It assesses whether the foreigner satisfies the conditions.</p> <p>The municipality of the place of residence is competent for granting a residence card type A (Article 25 §1 Royal Decree). It is an intermediary body between the Immigration Office and the foreigner, it has no discretion.</p> <p>There are no reporting obligations in place. Scrutiny is possible on the basis of Article 7 Belgian Aliens Act (see point 4, below)</p>	<p>The residence card type A is usually granted for one year and can be renewed. An application for renewal of the residence card for another year has to be done between the 45th and 30th day before the expiration date of the residence card at the municipality of the place of residence in Belgium. The applicant has to prove that he or she continues to exercise self-employed activities (usually the professional card is granted for two years and then the third-country national gets a renewal of the residence card on the basis of the fact that the professional card is valid for another year).</p>

4 DUE DILIGENCE CRITERIA AND SECURITY CONSIDERATIONS

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<p>Certificate of good behaviour and morals or excerpt of criminal record of max. 6 months old issued by the government of the country where the third country national resides at the moment of the application</p> <p>Medical certificate (Article 25/2 Royal Decree implementing Belgian Aliens Act)</p> <p>Criteria for refusing a right of residence on the basis of due diligence and security considerations can be found in Article 3 Belgian Aliens Act. Important criteria are: blacklisted via the Schengen Information System (Article 3, 5°), a threat for public security (Article 3, 7°), a threat for public health (Article 3, 10°).</p>	<p>Whether the applicant has a clean criminal record is double checked: a document has to be presented both for the procedure of the professional card and for the procedure of residence rights.</p> <p>Whether the applicant is not a threat for public health is checked during the procedure of obtaining residence rights.</p>	<p>The Office of Economic Immigration of the Flemish Region, the Walloon Region or Brussels-Capital is competent for granting the professional card.</p> <p>The Immigration Office is competent for granting a D-visa (Article 9 Belgian Aliens Act). It assesses whether the foreigner satisfies the conditions.</p> <p>The municipality of the place of residence is competent for granting a residence card type A (Article 25 §1 Royal Decree). It is an intermediary body between the Immigration Office and the foreigner, it has no discretion.</p> <p>The police forces are responsible for ensuring compliance with the legal provisions regarding the access to the Belgian territory, the residence and the expulsion of foreigners. They detect foreigners who are not holders of identity papers or documents required by the Belgian Aliens Act.</p> <p>Article 21 of the Act of 5 August 1992 on the Police Service (<i>Belgisch Staatsblad</i> 22 December 1992).</p>	<p>On the basis of Article 7 Belgian Aliens Act, the residence permit can be withdrawn (same criteria as in Article 3 Belgian Aliens Act when refusing to issue a residence permit).</p> <p>Moreover, on the basis of fraud, for instance by submitting fake diplomas, a residence permit can be refused or withdrawn - Article 74/20 and 74/21 Belgian Aliens Act.</p> <p>There are cases where misuse is reported. The most common examples concern undeclared work (e.g. Council of Alien Law Litigation judgment no. 198 186 of 18 January 2018) or marriages of convenience (e.g. Council of Alien Law Litigation judgment no. 191 800 of 11 September 2017).</p>

III. RIGHTS GRANTED BY THE PERMITS

1 RIGHTS GRANTED TO INVESTORS

The foreigner obtains the right to be self-employed in Belgium when he or she obtains a professional card.⁵⁴ Then the foreigner also has the right to market access and the right to be active in the business. Article 191 of the Belgian Constitution determines that all foreigners on Belgian soil benefit from the protection provided to persons and property, except for those exceptions provided for by the law. On the basis of this provision, third country nationals who have a professional card and legally reside in Belgium can benefit from the same rights as Belgian nationals regarding working conditions, freedom of association, education and vocational training, access to social security services and access to goods and services unless the Belgian legislation explicitly provides for an exception. Moreover, the anti-racism Act of 30 July 1981, as amended by the Law of 10 May 2007, prohibits direct and indirect discrimination on grounds of nationality, race, colour of skin, social and ethnic origin.

2 RIGHTS GRANTED TO THE INVESTORS' FAMILY MEMBERS

Article 10bis Belgian Aliens Act establishes the right to family reunification for a third country national with a right of residence of limited duration. In particular, the family members that can join the foreigner who is a self-employed person with a professional card and residence card type A are: the spouse, the legal partner, the minor child and the adult child with disabilities.

The spouse, the legal partner, the minor child and the adult child with disabilities have the right to reside in Belgium.⁵⁵ Moreover, the spouse who assists in the self-employed professional activities is exempted from the obligation of having a professional card.⁵⁶

3 OTHER BENEFITS

No other benefits apply to third-country nationals.

⁵⁴ Article 1 Professional Card Act.

⁵⁵ Article 10bis Belgian Aliens Act.

⁵⁶ Article 1 Royal Decree of 3 February 2003.

IV. INTERACTION BETWEEN RESIDENCE AND CITIZENSHIP SCHEMES

The legal basis for the acquisition of Belgian nationality is the Belgian Nationality Code of 28 June 1984.⁵⁷ On the basis of Article 12bis §1, 2° Belgian Nationality Code, a foreigner who has reached the age of 18 years can obtain Belgian nationality by declaration after five years of legal residence in Belgium if he proves his knowledge of one of the three national languages as well as his social integration and economic participation. The last two conditions are deemed to be fulfilled after having worked as a self-employed person in Belgium for a continuous period of five years and having paid during this period the required social security contributions.

Article 12bis has to be read together with Article 7bis Belgian Nationality Code which defines legal residence for the purposes of the Belgian Nationality Code. In particular, legal residence is understood as having a right of residence of unlimited duration. In practice, after five years of residence on the basis of residence card type A, the Immigration Office grants a residence card type B, which gives a right of residence of unlimited duration. However, on the basis of Article 9 Belgian Aliens Act, the Immigration Office has discretionary power in this regard and can refuse to issue in specific cases a residence card type B after five years of residence on the basis of a residence card type A.

The foreigner makes the declaration in order to obtain the Belgian nationality at the municipality of the place of residence. The public prosecutor assesses whether the conditions are satisfied.⁵⁸

In the government agreement of October 2014, the Belgian government stated that for the grant of naturalisation next to sportive, sociocultural and scientific merits, also economic merits would be taken into account. The Belgian government added that to that effect a legal definition would be developed.⁵⁹ So far, the legislation regarding naturalisation has not been amended.

Statistical data on the number of third country nationals who obtained citizenship on the basis of investor's residence permit is not available. However, statistical data is available for the number of third country nationals who obtained citizenship on the basis of Article 12bis Belgian Nationality Code which determines how Belgian nationality by declaration can be obtained. This is much broader than only third country nationals who obtained citizenship after working five continuous years as a self-employed person in Belgium.

Year	Number of TCNs who obtained citizenship on the basis of Article 12bis Belgian Nationality Code	Source
2012	14.479	http://www.myria.be/files/Hoofdstuk_8.pdf
2013	11.020	http://www.myria.be/files/Hoofdstuk_8.pdf
2014	8.840	http://www.myria.be/files/Hoofdstuk_8.pdf
2015	12.224	http://www.myria.be/files/Hoofdstuk_8.pdf
2016	17.560	http://www.myria.be/files/Hoofdstuk_8.pdf
2017	No numbers yet	

⁵⁷ Belgian Nationality Code of 28 June 1984 (*Wetboek van de Belgische nationaliteit*), Belgisch Staatsblad 12 July 194, available at http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=1984062835

⁵⁸ Article 15 Belgian Nationality Code.

⁵⁹ Government agreement 11 October 2014, page 156 available at <http://www.premier.be/nl/regeerakkoord>

V. ECONOMIC AND FINANCIAL EFFICIENCY OF RESIDENCE PERMITS FOR FOREIGN INVESTORS

There are no mechanisms in place to monitor the economic impact and financial revenues of investors who have been granted residence. No information on the economic and financial efficiency of these residence permits is available.⁶⁰

⁶⁰ Information confirmed through stakeholder consultation of account manager of the Office of Economic Integration of the Flemish region on 19 April 2018.

VI. OTHER COMMENTS

The fact that the first procedure in order to obtain a professional card is a regional competence, whereas the second procedure in order to obtain a residence permit is a federal competence results in difficulties in relation to obtaining information in general and for third country nationals in specific cases to obtain a professional card and residence permit. For employed persons, the federal and regional governments are working on a cooperation agreement for a 'single permit' for work and residence.⁶¹

The regions continue to use the Professional Card Act of 1965 and the Royal Decree of 2 August 1985 (both federal instruments because at the time it was a federal issue), but these legal instruments remain quite vague on several points. The criteria for granting a professional card, in particular the criterion of (economic) added value and any financial thresholds are not visible in the legislation.

⁶¹ Walloon Work and Social Economy website, available at <https://www.werk.be/sites/default/files/E-zines/20170926/single-permit.htm>.