

# GMS Flash Alert



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## Belgium - Modifications to Processing of Family Members' Visas, Residence Permits

During 2016, several acts and decrees entered into force<sup>1</sup> introducing changes to the Belgian Residence Act<sup>2</sup> and the Residence Decree<sup>3</sup>. In this *GMS Flash Alert*, we report on those changes that affect the processing of visas for family reunification purposes and residence permits, including those intended for unlimited duration.

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### WHY THIS MATTERS

Individuals seeking to obtain the Belgian long-term visa type D based on family reunification with a third country national already residing in Belgium, might face longer waiting times before being able to travel to Belgium to obtain long-term residence.

Also, when long-term residency based on family reunification can be applied for in one of Belgium's communes, the family member might be unable to leave Belgium for a long period of time.

Third country nationals relocating to Belgium for work and their employers should take into account the lengthier processing times the family members might face.

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### Family Reunification

In instances where third country nationals have a limited or unlimited right to reside in Belgium, their third-country national family members can apply for a right to reside in Belgium on the basis of "family reunification." In cases where these family members apply separately, under new rules, the Belgian Foreign Office has nine months to process the file.

In practice, this means that obtaining a visa type D for family reunification through a Belgian embassy or consulate abroad can take up to nine months from the initial filing of a complete application. Also, for Belgian residence permit applications,

which can be introduced directly through one of Belgium's communes, it might also take nine months before the residence permit is granted.

Whereas in the past the applications for family reunion had to be processed by the competent authorities within six months, this processing period has been extended by the new rules to nine months.

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## KPMG NOTE

This means that as long as the visa type D is not granted, the family member cannot come to Belgium to take up long-term residence.

During the processing of the individual's file by the commune, the family member can receive a temporary Belgian identity document, the so-called "orange card" (*attestation d'immatriculation* or *attest van immatriculatie*), which will allow the individual to legally remain in Belgium. As long as the individual does not have a Belgian residence permit, although he or she may have an orange card, the individual will not be able to travel outside of Belgium.

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### Possible Extensions of Processing Times

As was applicable in the past, the initial processing time can be extended twice by three months in cases of special circumstances and those which are complex. The maximum processing time can thus be 15 months instead of 12 months (as was the case in the past).

In some specific cases – i.e., the third country national already legally residing in Belgium is a long-term resident and has obtained a Belgian residence card B or is a European Blue Card holder – the processing time only takes four months; potentially it may be prolonged a single time by three months.

### Unlimited Residency

Foreign nationals working in Belgium will only be able to apply for a Belgian residence permit for unlimited duration as from the moment they have been legally living on Belgian territory for a minimum of five years. The Immigration Office will thus only issue a Belgian residence permit for unlimited duration at the earliest starting from the fifth year after the registration in the "aliens register."

The same applies for family members of third country nationals working in Belgium. They will only be able to receive a Belgian residence permit for unlimited duration starting from the moment they have been legally living on Belgian territory for five years (instead of three years, which was the case in the past).

## FOOTNOTES:

1 Act of 4 May 2016\*, 17 May 2016<sup>†</sup> and 1 June 2016<sup>#</sup> (entering into force on 7 July 2016 and on 8 July 2016) and Royal Decree of 17 May 2016<sup>^</sup> (entering into force on 6 June 2016).

\* *Loi du 4 mai 2016 portant des dispositions diverses en matière d'asile et de migration et modifiant la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers et la loi du 12 janvier 2007 sur l'accueil des demandeurs d'asile et de certaines autres catégories d'étrangers.*

<sup>†</sup> *Loi du 17 mai 2016 modifiant les articles 10ter et 12bis de la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers.*

<sup>#</sup> *Loi du 1 juin 2016 modifiant la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers.*

<sup>^</sup> *Arrêté royal du 17 mai 2016 modifiant l'arrêté royal du 8 octobre 1981 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers.*

2 Act of 15 December 1980. *Loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers.*

3 Royal Decree of 8 October 1981. *Arrêté royal du 8 octobre 1981 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers.*

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### **New Back to Basics: Business Immigration 101**

We are pleased to announce the publication of "[Back to Basics: Business Immigration 101](#)," the fifth installment of our Back to Basics thought leadership series!

Global mobility program managers often have the responsibility of managing the many complexities of immigration globally in support of both employee service delivery as well as compliance goals. The severity of potential risks and resulting liabilities necessitate a solid operational framework by organizations for immigration compliance, administration, and service delivery. This newest issue of Back to Basics has been developed to serve as an introduction to understanding key definitions and concepts associated with global business immigration. We also highlight certain leading practices in immigration program management.

We have created [a page on the KPMG TaxWatch Web site](#) for the other articles in the GMS practice's Back to Basics series. This current article as well as past articles (covering home leave, repatriation, short-term assignments, and assignment letters) are in .pdf format on the TaxWatch site.

## Contact us

For additional information or assistance, please contact your local GMS or People Services professional\* or one of the following professionals with the KPMG International member firm in Belgium:



**Nele Godefroid**  
Tel. + 32 2708 3846  
[ngodefroid@kpmg.com](mailto:ngodefroid@kpmg.com)



**Saâdia Abdi**  
Tel. + 32 2708 4389  
[sabdi@kpgm.com](mailto:sabdi@kpgm.com)

\* Please note that KPMG LLP (U.S.) does not provide immigration services.

**The information contained in this newsletter was submitted by the KPMG International member firm in Belgium.**

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