



GMS Flash Alert

Immigration Edition

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Belgium – COVID-19 Measures Taken by Belgian Immigration Authorities

The competent Belgian federal authorities have announced that they would only accept visa applications for essential functions or needs. Most Visa Application Centers will be closed.¹

At the same time, federal and regional authorities are taking measures to assure the continuance of immigration approval processes where needed. In addition, adapted procedures are instituted allowing employers to legally employ in Belgium their third-country national employees who are currently stuck in Belgium due to current travel restrictions.

This newsletter highlights the measures taken by the various competent authorities involved.

WHY THIS MATTERS

The COVID-19 outbreak affects businesses, employees, their families, and their travel.

Due to the many travel bans which are being imposed worldwide, employees might be unable to travel out of Belgium and might be confronted by expiring permits that have allowed them to stay and work in Belgium. Global mobility managers should take into account the current situation in Belgium and plan accordingly to help ensure continued compliance with Belgian immigration laws.

An additional complexity is that the right to stay or reside is granted by the Federal Immigration Office, while the right to work is decided upon by the regional authorities. Businesses and their employees need to make sure that both rights are extended timely.

Third-Country Nationals Planning to Come to Belgium

The Federal Immigration Office has published a news alert² announcing that following the decision of European leaders to close the external borders, Belgian Embassies and Consulates abroad will no longer accept visa applications. Consequently, most Belgian Visa Application Centers will be closed.

Exceptions will be made for travellers with essential functions or needs.

KPMG NOTE

KPMG in Belgium is in contact with authorities to obtain further clarification as to which functions and needs will be considered essential. We expect authorities to give a narrow and strict interpretation in this respect.

Individuals who are in possession of a visa to travel to the Schengen zone/Belgium are strongly encouraged to postpone all non-essential travel.

Already-Filed Visa Applications and Short-Stay Visa Applications

Visa applications which had already been filed will be further processed by the authorities. If a positive decision is taken, the visa itself will not yet be issued unless the applicant has an essential function or need.

With respect to “short-stay” visa applications, the visa can be issued once the travel restrictions have ended, provided the applicant is still meeting conditions to obtain a short-stay visa.

Third-Country Nationals Currently in Belgium

Federal Immigration Office and Town Halls – Right to Stay

The Federal Immigration Office has published a news alert as a reminder that third-country nationals have the right to apply for an extension of their right to stay in Belgium if they are unable to leave the country due to *force majeure*.³

The following information and documents will need to be included in the application:

- Copy of the passport;
- Copy of initial declaration of arrival;
- Letter confirming the reason why the individual was not able to timely leave the Schengen territory;
- Third-party documents confirming the inability to leave the Schengen territory, e.g., cancellation of the return flight;
- Health-care travel insurance valid for the duration of the extended stay;
- Address in Belgium and e-mail contact address.

Third-country nationals who are unable to return to their home countries and whose current right to stay is expiring can ask their local town hall to issue a temporary 'declaration of arrival' (annex 3). This document will entitle them to legally stay in Belgium for two months as from the expiration date of their current permit.

Depending on the town hall, this has to be done in person or electronically.

Many town halls, certainly in the larger cities, have decided to suspend all appointments for the issuance of permits and decided to deliver temporary documents electronically, either by e-mail or through portals accessible by the individual using their electronic residence permit or Single Permit.

If a personal appearance remains necessary, the majority of town halls work with appointments only. Only the most urgent cases will be handled. In extremely urgent cases it is possible to address requests to extend the stay in Belgium directly to the Immigration Office. These decisions will be communicated by e-mail.

KPMG NOTE

The declaration of arrival in itself does not allow a person to work in Belgium, regardless whether the individual is working in Belgium for a foreign or local employer. Work authorisations need to be obtained additionally with the competent regional authority of the place of work of the individual (see our comments below).

Regional Authorities – Right to Work

Flemish Region

The KPMG International member firm in Belgium was already vetted to apply and renew work permits B and Single Permits electronically. The authorities have confirmed that they continue to process all applications which have been and will be filed.

In addition, for third-country nationals who are temporarily unable to leave Belgium due to *force majeure* and who obtained the right to stay, (see above) the possibility is foreseen that they may also obtain the right to work.

- **Work Permit B: Maximum three months employment in Belgium** – After obtaining the 'declaration of arrival' (see above), the employer, or its mandate holder, can submit an application for a work permit B with a validity of a maximum three months. The application will have to include the required information and documents for a standard work permit B application.

This is an exceptional fast track procedure and the work permit B can be delivered rapidly by email.

It is not possible to extend a work permit B. Should an extension of the right to work in Belgium be needed, a Single Permit can be applied for.

- **Single Permit: More than three months employment in Belgium** – After obtaining the 'declaration of arrival', the employer, or its mandate holder, can submit an application for a Single Permit, with a maximum validity of three years. The application will have to include the required information and documents for a standard Single Permit application.

- **Work Permit B and Single Permit: Prolonged period to answer to requests for information** – Standard procedure prescribes that the employer needs to respond within 15 days to requests for additional information from the authorities, otherwise the file will be rejected.

To accommodate longer document collection processes by employers due to the COVID-19 outbreak, Flemish authorities have decided not to reject the application if the employer is unable to provide the requested information within 15 days. The file will remain pending with authorities until the employer is able to provide the requested documents or information.

- **Work permit B and Single Permit: Minimum salary thresholds and temporary unemployment** – As a result of the COVID-19 outbreak, many employers will decide to put their employees on temporary unemployment because of *force majeure* or because of economic reasons. This is a specific form of unemployment instituted by the company, which is temporary and entitles the employee concerned to obtain an unemployment allowance from the authorities during the period of unemployment. The allowance in the framework of temporary unemployment is available for employees subject to Belgian social security.

Flemish authorities have decided that for individuals who are temporarily unemployed, the minimum salary thresholds applicable for highly-qualified employees or management positions do not need to be met for the period of unemployment. Consequently, a prorata calculation will be made.

Walloon and Brussels Regions

The Walloon Region and the Brussels Region have decided to accept applications by email as well. It is however important to keep all the original documents on file as they might be requested later on.

In an informal communication, Walloon authorities have confirmed that they will also take a lenient position towards response times for requests for additional information and minimum salary thresholds in situations of temporary unemployment.⁴

Although not formally confirmed, it is our expectation that the Brussels Region will take the same positions.

FOOTNOTES:

1 For news of the federal government's activities and efforts in response to the COVID-19 crisis, see (in English): https://www.belgium.be/en/news/2020/coronavirus_reinforced_measures .

For COVID-19 information and actions by the Belgian government in brief, see the webpage for the U.S. Embassy in Belgium at: <https://be.usembassy.gov/health-alert-u-s-embassy-brussels-belgium/> .

2 For updates on activities and efforts by the Federal Immigration Office (in English), see: <https://dofi.ibz.be/sites/dvzoe/EN/Pages/home.aspx> .

3 For updates on activities and efforts by the Federal Immigration Office (in Flemish and French), see: <https://dofi.ibz.be/sites/dvzoe/NL/Pages/home.aspx> and <https://dofi.ibz.be/sites/dvzoe/FR/Pages/home.aspx> .

4 For updates on activities and efforts by the Walloon regional government authorities (in French), see: <https://emploi.wallonie.be/home/travailleurs-etrangers/permis-de-travail.html> .

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Contact us

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



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

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