



## Guide for mobile researchers

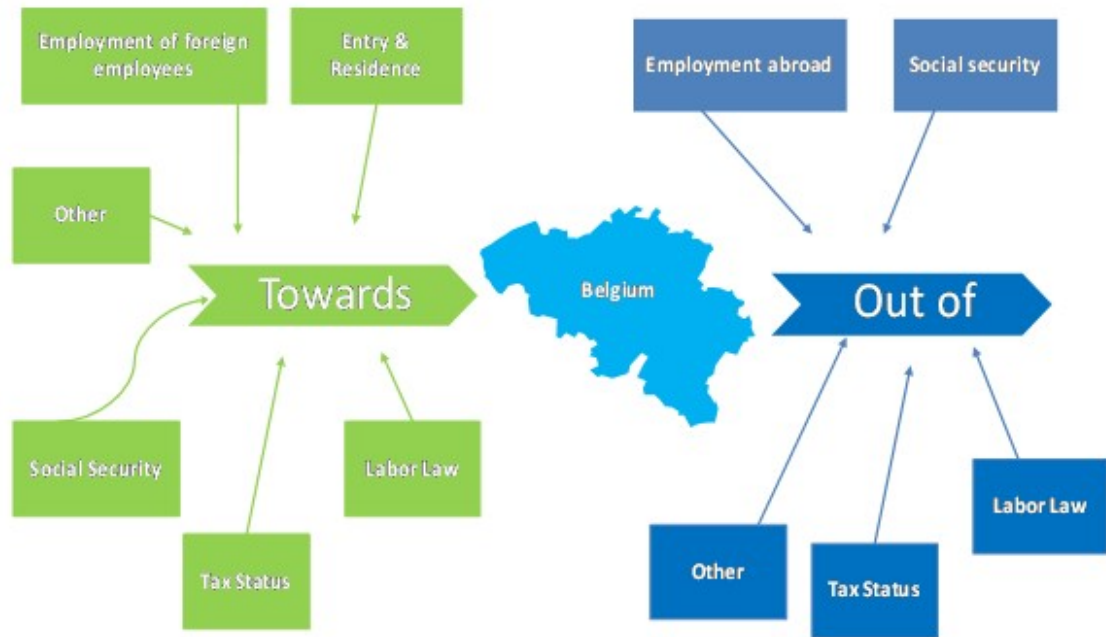


Living and working in another country is an exciting experience full of opportunities and challenges.

The purpose of this guide is to give mobile employees a practical, high level insight on what is possibly perceived as a less glamorous side of being an expatriate, but which cannot be disregarded.

Items discussed are amongst others; immigration, social security coverage, individual tax status, labour law, relocation and housing.

Difference is made between moving towards and out of Belgium.



# GUIDE FOR MOBILE RESEARCHERS

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# TOWARDS BELGIUM

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## 1 Employment of foreign employees

### 1.1 EEA Nationals

#### Regular employees

The principle of free movement of workers is one of the fundamental freedoms enjoyed by citizens of the European Union which are enshrined in the Treaty of Rome. Free movement of workers means that nationals of the European Economic Area (hereafter EEA)<sup>1</sup> and Switzerland can move to another Member State to work there. They are also entitled to equal treatment with regard to access to work, working conditions, tax and social security in particular. However, until the end of 2011 transitional rules still apply for Bulgarian and Romanian nationals. Therefore, certain conditions may be applied that restrict the free movement of workers from, to and between these Member States. These restrictions only concern the freedom of movement for the purpose of taking up a job. For the purpose of this practical guide Bulgarian and Romanian nationals can be treated as non-EU nationals and we therefore refer to the second part of this guide "[Out of Belgium](#)".

#### Students

EEA-nationals have the right to enjoy Belgian education without filing a visa request. The entry and registration formalities for students are detailed below. While they study in Belgium, students are allowed to perform employed activities as would be the case for Belgian students.

It is though important to be aware that from a tax point of view, one must be aware that Belgian income taxes can be due if a student earns more than a specific amount.

More information on student jobs can be found on the regional employment websites (e.g. [Link NL](#)).

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<sup>1</sup>Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lichtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

## Trainees

Sometimes and mainly during summer months, Belgian companies work with voluntary trainees. These voluntary trainings are usually performed by persons who are still studying or who have just finished their studies and who are seeking to build up some experience.

There exist basically two ways of working with voluntary trainees. Either the voluntary training takes place further to a direct contact between the student and the company, or the voluntary training is organised through the school or university of the student.

A voluntary training is in principle not remunerated.

Some companies however yet pay out a reimbursement of costs to the trainee (e.g. travel from home to training location and back – travel during working time, drinks, lunch ...). This is however entirely left to the appreciation of the company.

As long as the training is not remunerated, the trainee will not enjoy the normal social security coverage which a regular employee yet enjoys. This might have important consequences especially in case an accident occurs to the employee during the hours of the training. In case the training would effectively not be remunerated, the company should therefore check whether it disposes of an accurate accident and liability insurance in order to cover this kind of situations.

## Researchers

Researchers in the broad sense, including PhD (doctoral) students, hosts with or without a fellowship enjoy the freedom of movement within the EU as mentioned [above](#).

No specific formalities are required to enable them to legally exercise their activities in Belgium.

## 1.2 Non-EEA Nationals

In Belgium the current regulations (which are in place since 1999) state that any employer wishing to employ a foreign employee (non-EEA citizens, Bulgarian and Romanian nationals [see above](#)) in the country must first apply for and obtain a work permit for that employee.

There are different types of work permits available in Belgium:

**Work permit type A**, which is issued (provided all the required conditions are met) for an indefinite period and is valid for all employers on Belgian territory. It is granted to foreign nationals who can prove 4 working years that are covered by a work permit type B, during a maximal and uninterrupted residence period of 10 years.

**Work permit type B**, which is a temporary permit (it is valid for a maximum of 12 months but is renewable) and is strictly limited to one employer.

**Work permit type C**, which is valid for one year (but is renewable) for all salaried jobs and is granted to persons with a specific residence status such as students, refugees, etc.

The employer in Belgium is responsible for requesting the right to employ a foreign citizen and for the work permit type B application. If the employer is not established in Belgium, then a person or company based in Belgium needs to be appointed to take care of the application formalities on its behalf.

Over 30 work permit exemptions exist in Belgium of which some are applicable towards researchers and students under specific conditions. We will discuss them hereunder.

### Regular employees

As you may know, an employer (in Belgium) may not employ a foreigner (not belonging to the European Economic Area) in Belgium unless it first obtains permission from the competent immigration authority.

In addition, to work in Belgium, a foreigner (not belonging to the EEA) must be in possession of a work permit. This work permit must be applied for in the region where the employment will be carried out (Flemish, Brussels or Walloon region).

Belgian immigration regulations foresee several categories of foreign nationals that are exempt from obtaining a work permit in Belgium, amongst others the employees who are not citizens of the EEA but who are married to a national of the EEA; the employees who are not citizens of the EEA but who are employed by a company located in a member state of the EEA and who will come to Belgium to perform



professional activities , researchers who concluded a guest agreement with a Belgian recognized research center etc...

When one does not fall within one of the exempted categories a work permit will though be required before the professional activities in Belgium can be started.

In general, work permits are only issued if it is absolutely impossible to find a suitable local employee on the labour market within a reasonable time.

In addition, such permits are only issued to nationals of countries that have signed international treaties about employment of employees.

However, these rules do not apply to, amongst others, highly qualified employees and executives.

Foreign highly qualified employees, whose employment in Belgium is limited to 4 years (extendable with another 4 years under certain conditions), will be entitled to work permits, even if suitable labour is available in Belgium to fill the vacancy, as long as their gross salary exceeds EUR 36 604 per year.

The executives fulfilling a leading function will be entitled to work permits on the condition that their yearly gross salary exceeds EUR 61 071.

These amounts are linked to the conventional salaries' index and will be reviewed each year. These salary amounts are applicable as from January 1, 2011.

It currently takes about 2 to 4 weeks to process a work permit application with the authorities, depending on the region.

The hereafter mentioned documents should be joined with the application for a work permission and work permit:

- a full copy of your passport, including all blank pages;
- an original signed medical attestation

The medical attestation has, in principle, to be completed by a physician who is affiliated with the local Belgian Consular authorities in your country of residence (i.e. where you have your official domicile) and these Belgian Consular authorities will need to legalize the original medical form. Please note that the medical certificate should contain your complete name as mentioned on your passport and your complete address in your current country of residence. A general examination is sufficient. The medical certificate cannot be older than three months at the moment of introducing the work permit application.

Alternatively, you can also have your medical exam done by a doctor of your choice in Belgium (for example when you come over to Belgium for house hunting). In this case, no legalization of the medical certificate is required. Please keep in mind however that the medical certificate still needs to indicate your official address of residence (abroad).

- a job description of your function in Belgium;
- a copy of your curriculum vitae (résumé);
- a copy of your diploma's (degree(s));
- a copy of your employment contract.

In some cases foreigners do not receive a local contract, but are sent by their employer abroad to Belgium. When a work permit is applied for on behalf of such a seconded (or assigned) employee, the employment contract must be replaced by an assignment letter, drafted by the home company abroad and duly signed by all parties.

In case an employee is seconded to Belgium, additional documents must be applied for.

More detailed information on obtaining a work permit in the different Belgian regions can be found:

For employment in the Flemish region you can find more information on the following link: [Link NL](#)

For employment in the region Brussels Capital, more information can be found on: [Link ENG](#)

Finally for employment in the Walloon region, we refer to the following link: [Link FR](#) or [Link FR](#)

#### Business trips and scientific congresses

Be aware that foreign employees who are assigned to Belgium for short trips are in principle also obliged to obtain a work permit as explained above. However, there exists an exemption for employees who are attending business meetings. To enjoy such an exemption, the employee may not spend more than a total of 60 days per year attending business meetings. Furthermore, each of those meetings may not last longer than 20 consecutive calendar days. Therefore, in case the foreign employee is staying in Belgium to attend business meetings for not more than 20 consecutive days, his employer is exempt to apply for a work permit. However, if the foreign employee is attending business meetings for more than 20 days or if he will be performing work activities (even in case he is only staying in Belgium for less than 20 days) his employer must apply for a work permit.

A similar work permit exemption exists for foreigners who attend scientific congresses in Belgium. This exemption is, unlike the exemption for business trips, not limited in time.

## Students

Students who are legally residing in Belgium and who are inscribed in a school in Belgium for a full-time educational schedule and who will exclusively work outside school vacations can obtain a work permit type C on the condition that their employment does not exceed 20 hours per week. The employment must be consistent with the studies (i.e. no overlap of work- and school hours).

Unlike the work permit type B, the work permit type C must be applied for by the student him/herself.

Note though that students who must fulfil an obligatory training for the purpose of their studies in Belgium are exempt from being in possession of a work permit. A second exemption category is created for students who are legally residing in Belgium and who are inscribed in a school in Belgium for a full-time educational schedule and who will exclusively work during school vacations.

More detailed information on the different rules for obtaining a work permit in the different Belgian regions can be found:

For employment in the Flemish region: [Link NL](#)

For employment in the Brussels region: [Link ENG](#)

For employment in the Walloon region: [Link FR](#)

## Trainees

### Regular trainees

A non-EU national who comes to Belgium to fulfil an internship with a company after his studies is required to obtain a work permit for trainees.

The Belgian immigration rules define a trainee as a person who fulfils a training with an employer in continuation of a formation that is confirmed through a diploma or certificate. Please be informed that the status of trainee in Belgium can only be attributed to persons who are at least 18 years old and less than 30 years old. The duration of the training/internship cannot exceed 12 months and should be full-time. Furthermore, the remuneration cannot be less than the legal minimum.

In this respect, the Belgian authorities will not verify whether there are Belgian or EU nationals available on the local labour market who can fill the same position.

A work permit will normally be issued after about 2 to 4 weeks, although it can take longer, depending on the region and the period (holidays, ...).

## Intra-company trainees

It is also worthwhile mentioning that a specific work permit can be applied for on behalf of trainees who come over to Belgium to follow a training of more than 3 months in the Belgian subsidiary of a multinational group in the framework of a trainee agreement between the companies of the multinational group to which they belong.

Since 2007 there exists an exemption for trainees who come over to Belgium to follow a training of not more than 3 months in the Belgian subsidiary of a multinational group in the framework of a trainee agreement between the companies of the multinational group to which they belong (article 2,29° of the Royal Decree of June 9, 1999). There exist however a limitation as to which activities they can perform (no participation to the production process of the company) and with respect to their citizenship. Indeed, in case the trainee is not an employee of a company situated in the EU, the trainee must be a national of a country belonging to the OESO/OECD (such as Japan, Korea, Mexico, etc.). Should this not be the case, a work permit will need to be applied for as explained above.

Conditions to be exempted from a work permit are:

- a) they come over to Belgium for a training of no more than 3 calendar months;
- b) they are assigned "intra-group";
- c) a trainee agreement has been concluded between the Belgian seat and the sending company;
- d) the activities of the trainee are mostly limited to observation and classroom instruction.

Note that the exemption from a work permit does not release the employer from the obligation to pay a remuneration that cannot be less than the legal minimum applicable in the joint committee of the company.

In case such a traineeship would take more than 3 months, a specific work permit type B for intra-company trainees should be applied for.

## International agreements

According to article 2, 20° of the Royal Decree of June 9, 1999, trainees who are employed by an international public institution, established in Belgium, of which the status is regulated by a treaty who has become effective, or who are employed in the framework of a program which has been approved by that institution (e.g. Leonardo De Vinci, Phare, Erasmusprojects) are exempted from the obligation to be in possession of a work permit for the duration of this program.

More information on the rules and procedures can be found:

For employment in the Flemish region: [Link NL](#)

For employment in the Brussels region: [Link ENG](#)

For employment in the Walloon region: [Link FR](#)

## Researchers

Non-EU researchers and guest lecturers who are coming to Belgium are in principle obliged to obtain a work permit type B. Note that in order to obtain this work permit type B, the company/university/institution is not be obliged to verify whether other EU nationals would be suitable for this position. The process to obtain the work permit is largely similar as for [regular employees](#).

There exist however several exemptions from the obligation to apply for such a work permit for specific categories of researchers:

### Post-doctoral researchers: Article 2, 25° Royal Degree of 9 June 1999

Non-EU Post-doctoral researchers completing fundamental scientific research at a host university and enjoying a fellowship are exempted from the obligation to apply for a work permit. The university must notify the competent authority within one month of the student/researcher's arrival. Please note that the duration of this exemption is limited to a period of 3 years.

### Researchers who sign a host agreement: Article 2, 26° Royal Degree of 9 June 1999

Non-EU researchers who are coming to Belgium in order to perform research at an acknowledged research institution are not obliged to apply for a work permit. The duration of the exemption is limited to the duration of the research project. In order to enjoy this exemption, the Non-EU national must sign a host agreement with the approved research institute and must declare his arrival in Belgium.

A list of the recognized research institutes can be found on: [Link NL](#) [Link FR](#) [Link ENG](#)

The same website equally provides detailed information on the conditions and process to obtain recognition as a research institute. Public or private research organisations wishing to obtain approval must make an application for approval. This application must be submitted to the Federal Science Policy Office and presupposes a capacity to provide evidence of Research and Development activities. If the Federal Science Policy Office accepts the application, approval is granted for a period of 5 years.

### Researchers attending scientific congresses: Article 2, 27° Royal Degree of 9 June 1999

[As mentioned above](#), there also exists a work permit exemption for foreigners who attend scientific congresses in Belgium. This exemption is, unlike the exemption for business trips, not limited in time.

### **Blue card (not yet into force)**

As part of the efforts to attract foreign highly-qualified workers, the European Union has accepted the idea of an EU work permit - the so-called "Blue Card" - allowing employment to non-European nationals in any country within the EU.

On 23 October 2007, the Commission adopted two long-awaited legislative proposals on economic migration, being the draft Framework Directive on the admission of highly-qualified workers to the EU and a draft Directive establishing a single application procedure for a single residency and work permit and a common set of rights for third-country workers legally residing in the EU.

The Blue Card scheme is inspired by the U.S. "Green Card" program and aims to attract top talent to the European Union to combat the aging population and declining birth rate problems. The hope is that the Blue Card, named after the colour of the European Union flag, will make the EU more economically competitive and to reverse a current trend under which highly qualified workers, mostly from Asia and Africa, emigrate to the US to find work.

The card will allow these highly qualified workers to travel and work in any country within the European Union, rather than deal with all the different visa and work permit requirements of each member nation. The card will also allow workers to bring along their immediate family members.

The Blue Card will however not be "a blank cheque" to all highly-skilled workers. In practice, a Russian or Mexican engineer will be allowed to come to an EU member state after presenting a valid work contract or a binding job offer and when earning a remuneration of at least 3 times the respective member states' minimum wage. At first, the work permit will be limited to a stay of maximum two years, followed by the possibility to move to another EU state, as long as there was a valid work contract available.

The Blue Card scheme will entail a fast-track procedure for the admission of highly qualified third-country workers (maximum 90 days processing time) based on common criteria, a specific scheme for "young professionals" and special residence and work permits (the "EU Blue Card") which entitle the workers to some socio-economic rights and favourable conditions for family reunification.

It will however remain an exclusive competence of member states to set specific numbers of economic immigrants entering their territory in order to seek work. So far, the Belgian legislator has not yet taken initiative to implement these rules within the national legislation.

## 2 Entry and residence

### 2.1 EU Nationals

#### Principles of free movement within the EU

The principle of free movement is one of the cornerstones of the European Community. The right to move and reside freely within the territory of the Member States is granted to every citizen of the Union (art. 21 TEU), the EEA<sup>2</sup> and Switzerland.

In 2004, EU Directive 2004/38 was adopted on the right of citizens and their family members to reside freely within the territory of the Member States. The aim of this Directive was to establish the administrative formalities to be met for the realisation of the right to free movement. This Directive has abolished the residence permit requirement for Union citizens (and their family members). However, a registration requirement is allowed.

With regard to entry and residence of EU nationals, the administrative formalities depend upon the type of residence: [a stay of maximum 3 months](#) or a [stay of more than 3 months](#).

#### Stay of maximum 3 months

For residence up to 3 months, EU nationals can enter Belgium by presenting a valid identity card or passport. They do not need to apply for a visa before coming to Belgium.

According to Belgian legislation, all foreigners who stay in Belgium for a period of less than 90 days need to inform the communal authorities of their place of residence by requesting a declaration of arrival within 10 days upon their arrival. In case a foreigner is residing in a hotel, this formality will be completed by the hotel management. However, in practice this formality is hardly ever fulfilled by foreigners and non-compliance with this rule is not sanctioned.

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<sup>2</sup> Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lichtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

## Stay of more than 3 months (registration requirements)

For residence longer than 3 months, EU nationals can enter Belgium by presenting a valid identity card or passport. They do not need to apply for a visa before coming to Belgium.

According to EU Directive 2004/38 the Union citizens need to be economically active or to dispose of sufficient resources as well as a comprehensive sickness insurance in order to avoid that they become an unreasonable burden on the social security system of the host Member State. In this respect, the EU national must prove:

- to be looking for work;
- to have a job as an employee;
- to have a job as a self-employed person;
- that he/she does not have a job under the condition that he has sufficient resources in order not to become a burden on the Belgian social security system and that he is in the possession of a health insurance.

In case their stay in Belgium exceeds 3 months, they will have to register in person with the communal authority of their intended place of residence. At the commune, they have to submit the following documents:

- passport;
- proof of (self-)employment or proof of sufficient financial resources;
- registered rental agreement or proof of ownership of house/apartment;
- some passport-sized photographs;
- proof of medical insurance.

Spouse's and children will need to provide the following documents:

- passport;
- original legalized marriage certificate / original legalized birth certificate;
- original legalized translation of the marriage certificate / birth certificate, issued by a sworn translator (in case the original certificate is not issued in Dutch, French or German. Some communes do accept documents in English);
- some passport-sized photographs;
- proof of medical insurance.

Please note that this list is not exhaustive. Depending on the rules and regulations specific to the practice of each separate commune, additional documents or information may be required as well.

The commune will provide the EU national with a proof of registration.



## Formalities further to leave

When EU-citizens, registered in Belgium, are moving out of Belgium they will need to inform the communal authorities of their new place of residence with regard to their departure.

A few days before the planned leave, EU-citizens should present themselves at the commune in order to hand over their Belgian residence permit. In return, they will receive a 'Model 8' which proves that they were registered and fulfilled the necessary formalities in order to deregister. This document can be requested by customs when leaving Belgium.

With regard to their definite departure, EU nationals should also comply with the following formalities:

- Cancel their Limosa-Declaration (if applicable).
- Terminate their rental agreement in case the EU national rented an apartment or house in Belgium.
- Cancel their A1 form ([if applicable](#)).

## 2.2 Non-EU Nationals

### Entry requirements

Non-EU nationals must be in possession of a valid passport and must likely obtain a visa prior to their departure to Belgium.

The application for a visa must be done at the Belgian Embassy or Consulate in their home country or their current country of residence (should this not be the same). Their addresses can be found on the following website: [Link ENG](#)

There exist several sort of visa. For short periods (visa type C for up to 90 days), for long periods (visa type D for more than 90 days) and even specific visas for scientists.

### Visa or not?

In order to check whether and what kind of visa is needed, the following website can be consulted: [Link ENG](#)

## Input on visa application (main applicant & dependent family members)

### Residence less than 90 days

Non-EU-citizens who plan on visiting Belgium for a **short term**, i.e. less than 3 months, need to apply for a short stay visa (visa type C).

Following documents will mostly be required when applying for the visa:

- a national passport valid for at least 3 months longer than the planned stay in Belgium, in which a visa can be affixed;
- two visa application forms, duly completed - in print or typed - dated and signed;
- documents that proof the purpose of the trip and the circumstances of the planned stay;
- proof of sufficient financial sources to cover your stay and return;
- proof of travel insurance;
- proof that you intend to leave Belgium before the visa expires.

When the visa is approved, a copy of the return ticket (in name of the non-EU-citizen and non-transferable) will be asked.

Depending on the reason of the visit (for example, business trip, medical treatment, ...) additional documents can be asked for.

Be aware that nationals of certain countries, such as Australia, the USA and Canada, do not require a visa to come over to Belgium if their intended stay is less than 90 days. You can verify whether you need a visa to come over to Belgium on the website of the Belgian Ministry of Internal Affairs: [Link ENG](#)

## Residence more than 90 days

When non-EU-citizens need to stay in Belgium for more than 3 months, i.e. **long term stay**, they need to apply for a Temporary Residence Visa (visa Type D) at the Belgian Consular authorities in either your home country or current country of residence (should this not be the same), i.e. when a visa is needed ([see above](#)).

In this respect, it is important that foreigners maintain their current residence in one of these countries until delivery of the visa, as relinquishing one's residence may lead to a declaration of incompetence by the Embassy or Consulate and, consequently, to the denial of the visa.

Following documents will mostly be required when applying for the visa:

- a national passport valid for at least 15 months, in which a visa can be affixed;
- two visa application forms, duly completed - in print or typed - dated and signed;
- two recently issued passport-sized photographs;
- a certificate of good conduct covering the last 5 years (in case the foreigner is in possession of a work permit a certificate of good conduct covering the last year is sufficient). If the non-EU-citizen has been legally residing in more than 1 country during the 5 previous years, a certificate of good conduct should be applied for in each country of residence;
- an original work permit, signed guest agreement with a recognized Belgian research facility, professional card or proof of sufficient financial sources;
- a visa fee.

The spouse's of non-EU-citizens will generally need to present the following documents at the Embassy or Consulate:

- a national passport valid for at least 12 months, in which a visa can be affixed;
- two visa application forms duly completed - in print or typed - dated and signed;
- two recently issued passport-sized photographs;
- an official copy of the marriage certificate or registered partnership and birth certificate;
- an official copy of the divorce ruling, divorce certificate or death certificate for the previous spouse if the spouse had been married before;
- a certificate of good conduct covering the past 5 years, to be applied for with the police authorities of the place of residence abroad. If the spouse has been legally residing in more than 1 country during the previous 5 years, the certificate should be applied for in each country of residence;
- a original legalized medical certificate;
- proof that the spouse is covered for health and sickness costs during the stay in Belgium.
- proof that the spouse will have a decent accommodation while residing in Belgium (only in case the spouse files a visa request when the non-EU-citizen is already residing in Belgium).
- a visa fee.

Finally children of non-EU-citizens, under the age of 18, will need to present the following documents at the Embassy or Consulate:

- a national passport valid for at least 12 months, in which a visa can be affixed;
- two visa application forms duly completed - in print or typed - dated and signed by parent;
- two recently issued passport-sized photographs;
- an official copy of the birth certificate;
- an official declaration of the child's guardian or divorced parent which who the child does not live with, that the child may leave the country and move to Belgium (if applicable);
- a visa fee.

For children as of the age of 18 proof will need to be provided that they are depending on their parents. Please note that this is a question of fact and will be decided upon by the Belgian immigration services. No standard form in this respect can be completed or standard document can be provided.

Please note that local visa requirements, as well as visa processing time can vary depending on each Embassy/Consulate. The visa application needs to be filed by the applicant in person.

More information in this respect can be found on the following website: [Link ENG](#)

As always, please keep in mind that this list is not exhaustive. Additional documents or information can always be requested for by the responsible Embassy/Consulate.

## Registration formalities (main applicant & dependent family members)

### Residence less than 90 days

According to Belgian legislation, all foreigners (EU-citizens and non-EU-citizens) who stay in Belgium for a period of **less than 90 days** need to inform the communal authorities of their place of residence of their presence in Belgium in person by requesting a declaration of arrival. In case a foreigner is residing in a hotel, this formality will be completed by the hotel management. In this case the foreigner will not physically be in possession of a declaration of arrival.

A declaration of arrival can be obtained at the communal authorities of the place of residence of the foreigner. In order to obtain this document, the foreigner will need to pass by, within 10 days after arrival, together with the passport and one passport-sized photograph. Depending on the communal authorities of residence, a fee must be paid.

In practice this formality is hardly ever fulfilled by foreigners and non-compliance with this rule is not sanctioned.

## Residence more than 90 days

Foreigners who plan on staying in Belgium for **more than 90 days (over a 6 month period)**, will have to register with the communal authorities of their place of residence in Belgium (within 8 days after arriving in Belgium) and obtain a Belgian identity card.

### Foreigners in possession of a visa

In order to obtain a Belgian identity card, you will need to submit the following documents at the communal authorities in Belgium:

- original passport, including the visa type D;
- original work permit, host agreement (for researchers employed by a recognized research institute), professional card or proof of sufficient financial sources;
- a registered rental agreement;
- some passport-sized photographs;
- copy of rental agreement;
- some passport-sized photographs.

In order to enable a spouse to file a registration request, the following documents will need to be submitted:

- original passport, including the visa type D;
- some passport-sized photographs;
- original legalized marriage certificate;
- an original legalized translation of the marriage certificate, issued by a sworn translator (in case the original marriage certificate is not issued in Dutch, French or German. Most communes do accept documents issued in English.)

Please note that this list is not exhaustive. Depending on the rules and regulations specific to the practice of each separate commune, additional documents or information may be required as well. Processing time in order to obtain a Belgian residence permit will take at least 6 to 8 weeks, although it can take longer, depending on the region and the period (holidays, ...).

### Foreigners exempt from being in possession of a visa

As mentioned above, some foreigners are visa exempt in order to enter the Schengen area. In practice, this means that they can travel to and stay in the Schengen States on the basis of a valid passport (i.e. without a visa) for a period of 90 days in a total period of 6 months.

Please also note that foreigners who have the right to stay in the Schengen area for a period of 90 days and who are in possession of a valid Belgian work permit, and their family members, can register at the communal authorities in Belgium and apply for a Belgian residence permit on the basis of a valid passport (i.e. without first obtaining a visa type D at the Belgian Consular authorities in the home country).

It is however important that at the time of filing the request for registration, you did not exceed the 3 months of legal residence within all Schengen states during the last 6 months.

Following this option, several documents will need to be provided at the communal authorities in Belgium. Mostly the documents requested correspond to the documents required in order to file a request for a Temporary Residence Visa, i.e. visa type D (see above).

Please also note that experience learns that this can be a time consuming procedure and this procedure is not advisable in case family members will accompany you to Belgium as they will not immediately receive a Belgian residence card upon arrival in Belgium, but will need to wait for such a card for at least 9 months.

### **Extension of residence**

A temporary Belgian residence permit is granted for a maximum period of one year, yet renewable. Depending on the reason that the residence permit is granted, different documents can be required in order to extend a temporary Belgian residence permit.

For example:

- employees need to provide a new work permit and an employer's attestation
- a self-employed person needs to provide a new (or still valid) professional card
- ...

An application to extend a temporary Belgian residence permit must be submitted with the communal authorities of the foreigner's place of residence at the latest one month prior to the expiry date of the Belgian residence permit.

## Impact of interruption of stay in Belgium

The Belgian legislation relating to the entry to the territory, the residence, the establishment and the expulsion of foreigners states that a foreign national who is in possession of a valid Belgian residence or establishment permit and who leaves the territory of Belgium, has the right to return to Belgium during a period of 1 year. The foreign national intending to be absent on the Belgian territory for a period that will exceed the validity of his residence permit, can obtain an early prolongation or renewal of this residence permit.

Article 39 of the Royal Decree of October 8, 1981 relating to the entry to the territory, the residence, the establishment and the expulsion of foreigners stipulates that the right to return to Belgium is subject to the following conditions:

- upon return to Belgium, the foreign national needs to be in possession of a valid residence or establishment permit;
- the foreign national has to present himself at the commune of his place of residence within 15 days after his return to Belgium in case he has been absent for a period of more than 3 months.

The foreigner intending to be absent on the Belgian territory for a period of more than 3 months has to inform the commune of his place of residence of his intention to leave the country and to return afterwards before he leaves Belgium.

The foreign national who is in possession of a valid Belgian residence or establishment permit can execute the right to return to Belgium after an absence of more than 1 year provided that:

- before his departure, he has demonstrated that he keeps his main interests in Belgium and that he has informed the commune of his place of residence of his intention to leave the country and to return afterwards;
- upon return to Belgium, the foreign national needs to be in possession of a valid residence or establishment permit;
- the foreign national has to present himself at the commune of his place of residence within 15 days after his return to Belgium.

The foreigner who wishes to return to Belgium after the date the residence or establishment permit has expired, must apply for the renewal or the prolongation of the permit before leaving Belgium.

## Formalities further to leave

With regard to their definite departure, non-EU nationals should comply with the following formalities:

- Return their work permit or professional card to the responsible authorities.
- Deregistration from the register of foreigners in the commune: to that purpose, the non-EU nationals must inform the foreigners department of their commune of residence in Belgium about their new address abroad and should hand over their Belgian residence permit. They will receive a document “Model 8” proving their deregistration. In case a foreign national received a Belgian driver’s licence, he/she should transfer this driver’s licence to the foreigners department in order to retrieve their home country’s driver’s licence.
- Cancel their Limosa-Declaration (if applicable).
- Terminate their rental agreement in case the non-EU national rented an apartment or house in Belgium.
- Cancel their Certificate of Coverage ([if applicable](#)).

## If you want to leave to another EU country – residence status and visa application

Once in Belgium, the Belgian residence card entitles the holder to travel freely within most EU countries for a period of maximum 90 days over a 6 month period.

Note though that immigration rules in particular countries may require to obtain a work permit or other authorization to execute professional activities in another country, even though you would already be in possession of a Belgian work permit.

When travelling to another country in the EU for a period of more than 90 days over a 6 month period, a residence visa must be applied for with the Embassy of your new host country.

Contact details of the different Embassies and consular authorities of other countries in Belgium can be found on: [Link ENG](#)



## Status of long term resident

The status of long term resident can be obtained by foreigners who are residing in an EU Member State for a certain period in order to grant them a status comparable to that of Union citizens. The status of long term resident in Belgium can be granted to foreigners who are residing in Belgium for a certain period and to foreigners who have obtained this status in another Member State.

Long term residents have the advantage to receive the right to stay in another EU-country (except for the United Kingdom, Ireland and Denmark) for more than 3 months in order to work, study or an acceptable other reason.

It is important to know that the exact conditions must be obtained from the EU-country where the long term resident is planning on going to.

Foreign nationals can obtain the status of long term resident in case the following conditions are met:

- He is not a Union national or recognised refugee.
- He has five years' continuous legal residence (for an unlimited period) in Belgium. Please note that absences from Belgian territory for less than six months or for specific reasons (military service, secondment for work purposes, serious illness, maternity, research or studies) will be regarded as not interrupting the period of residence in case the total absence from Belgian territory does not exceed a period of 10 months. Furthermore, half of the legal residence period as a student in order to follow a professional education will be taken into account for the calculation of the five year residence period.
- The foreigner must prove that he has stable resources and is covered by a sickness insurance.
- The foreigner may not be a treat to the public order and national safety.

Member States may refuse to grant long-term resident status on grounds of public policy or public security.

The competent authority (commune of the place of residence) must take a decision on whether to grant long-term resident status no more than five months after the application is lodged. Decisions to reject an application must be notified in writing to the person concerned, stating the reasons and indicating the redress procedures available and the deadline for action on the part of the applicant. In case the long-term resident status is granted, the authority will receive a resident permit that is standard for all Member States, valid for five years (but can be renewed) even though the long term resident status is granted for an undefined duration.

Long-term resident status may be withdrawn only on certain grounds which are set out in the Directive (absence from the territory for more than two years, fraudulent acquisition of the status).

Persons who have acquired long-term resident status will enjoy equal treatment with nationals as regards:

- access to paid and unpaid employment, conditions of employment and working conditions (working hours, health and safety standards, holiday entitlements, remuneration and dismissal);
- education and vocational training, recognition of qualifications;
- welfare benefits (family allowances, retirement pensions, etc.) and sickness insurance;
- social assistance (minimum income support or retirement pensions, free health care, etc.);
- social benefits, tax relief, access to goods and services;
- freedom of association and union membership; freedom to represent a union or association.
- free access to the entire territory of the Member State concerned.

Long-term residents enjoy enhanced protection against expulsion. The conduct on which expulsion decisions are based must constitute an actual and sufficiently serious threat to public order or domestic security that affects a fundamental interest of society. Such decisions may not be founded on economic considerations. The Member States undertake to consider specific factors before taking a decision to expel a long-term resident (age of the person concerned, duration of residence, etc.).

The provisions of the Directive do not prevent Member States from issuing permanent residence permits on terms that are more favourable than those set out in the Directive. Nevertheless, such residence permits do not confer the right of residence in the other Member States.

A long-term resident may exercise the right of residence, for a period exceeding three months, in a Member State other than the one which granted him the status, subject to compliance with certain conditions laid down in this proposal, including:

- exercise of an economic activity in an employed or self-employed capacity; or
- pursuit of studies or vocational training; or
- other purposes.

However, a Member State may limit the number of residence permits if, at the time of the adoption of this Directive, limitations for the admission of third-country nationals are already set out in existing national law. At the same time, for reasons of labour market policy, Member States may give preference to Union citizens.

When the application for a residence permit is lodged, the competent authorities in the second Member State may require the presentation of certain documents (such as the long-term residence permit, an identity document, an employment contract, documentation with regard to appropriate accommodation, etc.) and evidence of stable and regular resources and medical insurance.

The second Member State may refuse applications for residence only where there is an actual threat to public policy, public security or public health.

As soon as they enter the second Member State, long-term residents will enjoy all the benefits which they enjoyed in the first Member State under the same conditions as nationals.

Long-term residents living in the second Member State will retain their status in the first Member State until they have acquired the same status in the second Member State. If they so wish, they may, after being legally resident in the second Member State for five years, apply to be considered as long-term residents in that Member State.

As a general rule, the first Member State will be obliged to readmit, together with their family members, long-term residents whose residence permits have been withdrawn by the second Member State.

### Unlimited stay

In order to be entitled to an unlimited stay, a foreigner should in principle be working in Belgium for at least three consecutive years (covered by a work permit B) with the same employer on the basis of a **local employment agreement** valid for an unlimited period of time. The years he worked as highly qualified employee are normally not taken into account.

If these conditions are met simultaneously, an application for an unlimited stay in Belgium can be filed with the foreigner's department of the commune of residence, who will forward the file to the Ministry of Internal Affairs. The communes of residence of the foreign employees principally need to verify whether these conditions are complied with at the time of the work permit renewals. Since some years, the Office for Foreign Nationals (of the Ministry of Internal Affairs) also grants an unlimited stay to foreign non-EU employees who satisfy all the conditions mentioned below:

- The foreign employee must be in possession of his/her fifth successive work permit 'B' and,
- The foreign employee must have maintained legal and uninterrupted residence in Belgium for the period of time corresponding with the length of validity of these work permits.

Please note that these rules are not laid down in any law/royal decree or other official decision. Therefore, it is also important to note that the Office for Foreign Nationals has discretionary authority at its disposal with regard to the granting of unlimited stay for foreign employees.

Finally, it should be mentioned that the unlimited stay is sometimes also granted by the communal authorities without prior verification of the file with the Office for Foreign Nationals. It therefore sometimes happens that foreign nationals are granted an unlimited stay although they are not legally entitled to it.

Foreigners who retrieved an unlimited stay in Belgium are exempt from being in possession of a work permit.

## Belgian nationality

Belgian nationality can be obtained through different means.

The most common procedures to obtain Belgian nationality are through declaration of nationality and through naturalization.

### Declaration of nationality

From the age of 18 you can obtain Belgian nationality by signing a nationality declaration if you fall within one of the following categories:

- You were born in Belgium and have had your main place of residence in Belgium, without any interruptions, since you were born. Under these circumstances, the declaration of nationality may only be made before the registrar in your municipality in Belgium.
- You were born abroad and one of your natural or adoptive parents had Belgian nationality at the time of the declaration (insofar as the adoption became effective before you had reached the age of 18 years or before you were emancipated). If your main place of residence is located abroad, your natural or adoptive parent of Belgian nationality should have his or her main place of residence in Belgium when submitting the declaration and you should show that you have preserved the effective connections with this natural or adoptive parent. The declaration of nationality may be made before either the registrar in your municipality if you reside in Belgium or the head of the Belgian mission or consular post in your principal place of residence if you reside abroad.
- Your legal main place of residence has been Belgium for at least seven years and you have an unlimited residence permit or authorisation to settle in Belgium. In this case, the nationality declaration can only be signed in front of the registrar in your municipality in Belgium.

### Naturalization

In order to be able to apply for the Belgian nationality through naturalization, following conditions should be complied with:

- Being 18 years old;
- Having established the main residence in Belgium for at least 3 years;
- Provide evidence of a fluency in either the Dutch or French language and have knowledge of the language of the region where you are residing.

We would like to draw your attention to the fact that “main residence” is strictly interpreted by the Commission on Naturalization of the Chamber. At this moment, the naturalization Commission is of the opinion that this residence in Belgium cannot be precarious and certainly not irregular, and in practice. Residence abroad can be assimilated to residence in Belgium in the event the concerned person can prove that he remained effectively bound with Belgium during the said term.

Furthermore, please note that the Commission on Naturalization always has a margin of appreciation in deciding whether to grant Belgian nationality.

Additionally we would like to draw your attention to the fact that the condition of having established the main residence in Belgium for at least 3 years will likely be changed into 5 years in the near future.

The naturalization itself is free of charges. The translation and legalization of certain documents, which should be provided, may, however, entail some additional expenses.

The deed of naturalization is decided upon by the Chamber of Representatives and ratified by the King and comes into force as from the publication in the Belgian State Journal. Further to your naturalization you will automatically receive all rights and duties linked to the Belgian citizenship.

More information on the different procedures can be found on: [Link ENG](#)

## 3 Social security

### 3.1 Local social security scheme<sup>3</sup>

Principally, the employee who works on the Belgian territory and whose employer is located in Belgium or, if the latter is located abroad but has an exploitation seat in Belgium from which the employee depends, is subject to the Belgian social security legislation, unless international conventions or directives on social security would decide otherwise.

An employee is deemed to be bound to a Belgian exploitation seat if he remains under the continuous authority of this seat which gives orders to the employee, to which the employee must report and which pays the salary of the employee

#### Social security contributions

##### Employee social security contributions

All employees must pay “employee social security contributions”. These contributions amount to 13,07% of the employee’s gross salary (not taking into account the programs of reductions of the contributions). The employer must deduct this amount from the employee’s gross salary and pay it to the National Social Security Office.

##### Employer social security contributions

In addition to the employee social security contributions, the employer must pay “employer social security contributions”. These contributions amount to approx. 35 % of the employee’s unlimited gross salary.

#### Social security benefits

The Belgian social security scheme for employees provides the following benefits to those who contribute:

- health benefits;
- invalidity benefits;
- old age pensions;
- family benefits; and
- unemployment benefits.

(This list is non-exhaustive but provides an overview of the most important benefits).

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<sup>3</sup> Numbers valid for 01.01.2010

### Health benefits

Coverage is provided for medical care which includes hospital costs, doctor's fees, dental fees, medicines, etc.

This coverage is limited up to a certain percentage, depending on the type of medical care.

### Invalidity benefits

For the first 30 days of invalidity, employees are remunerated as usual by the employer (this is the so-called guaranteed salary).

From the 31st day of invalidity onwards, the state sickness fund intervenes.

During the first year (the so called primary invalidity period), the state sickness fund pays up to 60% of the gross daily remuneration, with a maximum limit of EUR 71,02 a day (figure 2010).

As from the second year (so-called invalidity period), the invalid employee is entitled to a certain percentage of his gross remuneration. The percentage is calculated according to the employee's family situation:

- 65% if the employee has dependants
- 40% if the employee lives with someone else
- 55% if the employee lives alone and has no dependants

with a maximum of respectively EUR 76,94, EUR 47,35 or EUR 65,10 per day (figures 2010).

No extra social security contribution is required. No withholding tax is applied.

An amount of 3,5% is withheld on invalidity allowances for contributions to the employee's old age pension.

There is no maximum limit in time.

### Old age pensions

Retired employees are entitled to a pension. The pension amount is calculated in function of the duration of the employee's career and the wages earned during that career.

The pension amounts to:

- 75% if the retired employee has dependants,
- 60% if the retired employee has no dependants.

To calculate the pension amount to be paid to a retired employee, the salary earned during a full career is evaluated within certain limits:

This results in a minimum and maximum pension (for a full career of 45 years) of:

- Yearly minimum:
  - with dependants: ± 14.629,39 EUR
  - with no dependants: ± 11.707,19 EUR
  
- Yearly maximum:
  - with dependants: ± 27.604,80 EUR
  - with no dependants: ± 22.083,84 EUR

Depending on the actual length of the career the amount will of course be adjusted.

More information can be found on: [Link NL/FR/DE/ENG](#)

### Family benefits

As a general rule under Belgian social security legislation, employees are granted the following monthly amounts (exclusive age increases):

- for the first child: 83,40 EUR
- for the second child: 154,33 EUR
- for other children: 230,42 EUR

A child is entitled to family benefits until the 31<sup>st</sup> August of the calendar year in the course of which he reaches the age of 18. There are however many extensions to this rule (i.e. students, disabled children, etc.)

At the ages of 6, 12 and 18, the above mentioned amounts are raised with an adjustment.

In certain situations a supplement is granted to the employee (single parent, disabled child,...).

### Unemployment benefits

Upon unemployment, an employee is entitled to a maximum allowance of EUR 1.323,92 a month. The amount will vary depending on the last earned salary and the family situation of the employee.

More information can be found on: [Link NL/FR/DE/ENG](#)



## 3.2 Secondment from abroad

### EU Regulation 883/2004

EU Regulation 883/2004 on the coordination of social security systems applies to all nationals of the EEA member states and Switzerland, who are or who have been covered by the social security legislation of one of those countries, as well as to the members of their family who are moving within these states.

Despite the general rule, which states that an employee must be subject to the social security scheme of the country where he works, the EU regulation 883/2004 enables to continue being subject to home country social security during a secondment to e.g. Belgium in case the conditions for secondment are fulfilled.

The main condition for secondment is that the seconding employee continues to be dependent on the seconding company. This means that there should remain an organisational link between the seconded employee and the seconding company as to the relation of subordination.

One of the decisive criteria for secondment is the existence of a direct relationship between the seconding company and the employee it recruits. Furthermore, in order to establish whether such a direct relationship continues to exist and to determine whether the employee remains in the employment of the seconding company, a number of elements have to be taken into account, including responsibility of recruitment, employment contract, power of dismissal and determination of the nature of work.

In concrete terms, it is the sending employer

- who decides upon the employment conditions of the seconded employee, such as remuneration and advantages, duration of secondment, promotion and salary increase ...
- whom the seconded employee will receive his instructions from and whom he will report to;
- who pays the social security contributions;
- who decides to call back or to dismiss the seconded employee;
- ...

Under these conditions, there are two possibilities to second an employee from one member state to another, while the social security legislation of the member state where the sending employer is established shall remain applicable.

Article 12 of the EU-Regulation 883/2004 states that in case of secondment from one member state to another, the social security regulation of the member state where the company is established remains applicable. However, article 12 provides for a secondment which may not exceed 24 months.

Art. 16 of the EU-Regulation provides for a deviation from the usual period of secondment limited to 24 months (as stated in article 12) and is only granted to employees on condition that it can be proved that keeping the employee under the social security regulation of the home country is in the interest of the employee.

Generally, secondments on the basis of art. 16 are granted for a maximum period of 5 years.

In case the assignment of the employee complies with the above mentioned conditions, he/she will remain subject to the home country social security legislation during his/her assignment to Belgium.

Please note that under the new EU Regulation 883/2004, it is no longer possible to opt for the application of host country social security for secondments that do not exceed 2 years. This means that home country social security will compulsory continue to apply (and thus that an A1 certificate will need to be applied for with the competent authorities) in case:

- all conditions for secondment are being complied with;
- the secondment equals maximum 24 months;
- the secondment takes place between EEA member states and Switzerland.

Opting for host country social security remains possible (until further notice) for secondments outside of the EEA and Switzerland (i.e. within a bi-lateral treaty context see below), even if it concerns secondments of less than 24 months, as well as for secondments within the EEA and Switzerland exceeding 24 months as from the start.

## **Bilateral agreements**

The main purpose of the bilateral agreements on social security is to protect the pension rights of persons who have paid social insurance contributions in one country and have reckonable periods in the other country. Reckonable periods in the other country may be periods of insurance or of residence depending on the social security system in that country. The Agreements protects pension rights by allowing reckonable periods in each country to be taken into account in either country in determining entitlement to certain benefits where there would be no entitlement if only national legislation applied.

In addition to protecting pension entitlements, the Agreements contain provisions to determine the correct legislation applicable in situations where double liability for social insurance contributions might exist: e.g. workers who are sent on temporary assignments from one country to another country with which there is a bilateral agreement and vice versa. The provisions (which vary in the different agreements) ensure that such persons are subject to the legislation of a single country.

The provisions for eliminating dual coverage with respect to employed persons are similar in all agreements. Each one establishes a basic rule that looks to the location of a worker's employment. Under

this basic "territoriality" rule, an employee who would otherwise be covered by both the home and a foreign system remains subject exclusively to the coverage laws of the country in which he or she is working. Each agreement (except the one with Italy) includes an exception to the territoriality rule designed to minimize disruptions in the coverage careers of workers whose employers send them abroad on temporary assignment. Under this "detached-worker" exception, a person who is temporarily transferred to work for the same employer in another country remains covered only by the country from which he or she has been sent. A U.S. citizen or resident, for example, who is temporarily transferred by an American employer to work in an agreement country continues to be covered under the U.S. program and is exempt from coverage under the system of the host country upon receipt of a so-called Certificate of Coverage. The worker and employer pay contributions only to the U.S. program.

The detached or seconded worker rule in agreements generally applies to employees whose assignments in the host country are expected to last 5 years or less, dependent on each different agreement.

More information can be found on [Link NL](#) [Link FR](#) [Link ENG](#)

An overview of the bilateral agreements that Belgium has concluded can be found on [Link NL](#) [Link FR](#)

## No agreement

The Belgian social security legislation provides that "*without prejudice of the provisions of international treaties (...) the present law is applicable to the workers occupied in Belgium at the service of an employer established in Belgium or attached to a place of business established in Belgium*".

In other words, for the Belgian social security system to apply, it suffices that an employee renders his services on Belgian territory and that his employer is established in Belgium or, if established abroad, possesses a place of business on Belgian territory to which the employee is attached. All employees, whatever their nationality, who participate in the activity of a place of business located in Belgium, are deemed to be attached to said place of business.

A Supreme Court decision (November 5, 1979, Pas., I, 768) has ruled that the concept of Belgian "*place of business to which an employee is attached*" from a social security point of view, must meet the following conditions:

- The employer's authority must be exercised by the Belgian place of business.
- The worker must receive his instructions and orders from the Belgian place of business.
- The worker must report to the Belgian place of business.
- The worker's remuneration must be paid by the Belgian place of business.

Taking into account the broad terms of the scope of the Belgian social security, a simultaneous double affiliation of foreign employees both to the Belgian social security and to the social security scheme of another country is therefore not only theoretical.

Like many other countries, Belgium has therefore signed international social security treaties in order to ensure an alleviation of double affiliations to different social security schemes (Bilateral treaties, E.C. Regulation 883/2004, etc.). Said international agreements avoid the “*double affiliation principle*” by imposing rules according to which the employee is exclusively subject to the social security legislation of only one country.

However, with some countries, like for instance China, Russia or Brazil, Belgium is not bound by an international treaty concerning social security. For nationals of those countries, there exists a real risk of a simultaneous affiliation to both the Belgian and the home social security system. Administrative guidelines of the Belgian Social Security Administration, relying on Article 3 of the Law of June 27, 1969 and on the above Supreme Court’s decision, have in these cases tried to alleviate the simultaneous affiliation of said foreign employees.

In conformity with these guidelines, there exists indeed a possibility for employees to be exempted from paying Belgian social security contributions as employee, provided it is demonstrated that they are assigned by the foreign company to Belgium and that they remain in a position of subordination towards the foreign company.

If it can be proven that the employee is not bound to the Belgian exploitation seat and that he remains *under the authority of the foreign employer*, to whom he must report, the employee could be considered as seconded employee from the foreign company.

The employee remains bound to the foreign employer and not to the exploitation seat in Belgium if the employee is *temporarily* seconded to this seat in order to *organise, reorganise or control* the activities of the Belgian seat.

In case the employee is employed in Belgium in conformity with the above mentioned conditions, the Belgian social security administration might consider that this employee is not subject to the Belgian social security system and will remain affiliated to home social security regime, since said employee is not “attached to a place of business established in Belgium”.

## 4 Labour law

### 4.1 Brief input on applicable labour law

In order to determine whether Belgian law is the applicable law to the employment contract of foreign employees, regard must be had to the Treaty of Rome of 19 June 1980 on the law applicable to contractual obligations, in particular its articles 3, 6 and 7.

#### **Choice of law (article 3 of the Rome Convention)**

According to article 3 of the Treaty of Rome of 19 June 1980, also called the Rome Convention, the employer and the employee can choose which law will be applicable to their employment contract. A choice of applicable law to the employment contract is thus possible.

#### **Mandatory provisions of the law of the country of habitual employment (article 6 of the Rome Convention)**

However, the fact that the employer and the employee have chosen for a particular labour law cannot exclude the application of Belgian labour law if Belgian law would have been the normally applicable law to the employment contract, i.e. the law that would have been applicable to the employment contract in case the employer and the employee would not have chosen for another law. In the context of an employment relationship is the employee considered to be the weaker economic party who needs extra legal protection. This legal protection in the form of legal provisions the employment contract may not derogate from, the so called mandatory provisions, cannot be set aside by any choice of law clause in the employment contract. According to article 6 of the Rome Convention, the normally applicable law to the employment contract is the law of the country where the employee habitually works, i.e. the law of the country of habitual employment. Thus, Belgian law is the normally applicable law to employment contracts for workers whose country of habitual employment is Belgium. In order to find out whether Belgium is the country of habitual employment, two criteria, a quantitative and a qualitative, have to be fulfilled. The quantitative criterion means in essence that the employee spends most of his working time in the country in question, i.e. Belgium. The qualitative criterion means in essence that it is the intention of both employer and employee that the employee will at least work and settle for a considerable time in Belgium.

However, in general, Belgium will not be considered the country of habitual employment in relation to employees who are only seconded to Belgium. The reason for this is that the country of habitual employment of these employees remains the law of the country where they come from, i.e. from where they are seconded. In most cases, this will be the law of the country of origin.

## Overriding mandatory provisions of the law of the country of temporary employment (article 7 of the Rome Convention)

Finally, according to article 7 of the Rome Convention, regard must be had to the overriding mandatory provisions of the law of the country of temporary employment, i.e. the law of the host country where the seconded employees work temporarily.

Are meant by overriding mandatory provisions, provisions that are so fundamental to the legal, moral, political, social and economic order of a country that they must apply to all contracts that may have a link to that country, even if these contracts are normally subject to the law of another country. In the context of labour law, Belgium has taken a very broad view as to what is meant by overriding mandatory provisions. Indeed, the Belgian Act of 5 March 2002 states that all rules of Belgian law that protect the interests of workers, that cannot be derogated from by contract and infringements of which are sanctioned penally are to be considered overriding mandatory provisions. This means in essence that nearly all rules of Belgian labour law would be applicable to employees seconded to Belgium, since penal sanctions (prison sentences and penal fines) are attached to nearly all rules of Belgian labour law. Moreover, nearly all rules of Belgian labour law protect the workers' interests and cannot be derogated from by contract.

## 4.2 Pension entitlements

This input can be found above. See [Link](#).

More information can be found on [Link NL/FR](#)

## 4.3 Unemployment entitlements

This input can be found above. See [Link](#).

More information can be found on [Link NL](#) [Link FR](#) [Link ENG](#)

# 5 Tax status

## 5.1 General input on individual taxation

### Residency rules

#### Principles

A foreign employee taking up an employment in Belgium will in principle become liable to income tax in Belgium. According to Belgian tax legislation, foreign citizens can be considered belonging to one of the following three categories:

- Belgian residents;
- Ordinary non-residents;
- Non-residents qualifying for the special tax status ([see below](#))

Under which of these categories a foreign employee will fall, is always a matter of fact determined on the basis of a series of key indicators.

#### Key indicators for tax residency

Individuals are considered Belgian tax residents if they have their place of residence or center of economic and vital interest in Belgium.

The following questions are crucial in determining tax residency:

- Will you be living in Belgium during your employment here?
- Did you register in the local population register at a Belgian commune?
- Will your family (spouse and/or children) be joining you to Belgium?
- How long is the Belgian employment anticipated for?

Depending on your answers to these questions, Belgian tax authorities will determine whether or not you are to be considered a Belgian tax resident or not.

Registration at a Belgian commune will immediately imply Belgian tax residency, unless counter proved (short term assignment, residence abroad, etc.). Belgian tax residency will irrefutably arise for married people residing in Belgium with their family.

## Impact

In general, Belgian tax residents are taxed on their worldwide income, whereas Belgian non-resident taxpayers are taxed on their Belgian source income only (i.e. Belgian source professional income, property income and investment income).

If certain specific conditions are fulfilled, foreign employees that would in principle be considered as Belgian tax residents may be granted the special tax regime for foreign executives, implying that they are fictitiously considered a non-residents with certain benefits ([see below for more information](#)).

## Individual income tax in Belgium

### Income tax rates/deductions/communal tax

The following progressive tax rates are applicable on the taxable income of both Belgian tax residents as non-residents\*:

0,00 EUR		8.070,00 EUR		25%
8.070,00 EUR		11.480,00 EUR		30%
11.480,00 EUR		19.130,00 EUR		40%
19.130,00 EUR		35.060,00 EUR		45%
		> 35.060,00 EUR		50%

\* indexed on a yearly basis

The taxable income subject to these progressive tax rates is the gross taxable remuneration deducted by the following elements:

- Compulsory social security contributions paid by the employee in Belgium or abroad
- Professional expenses (either on an actual or on a lump sum basis)

Depending on the circumstances, certain personal deductions and reductions can also be taken into account.

The taxes then calculated are to be increased with additional communal taxes:

- For resident tax payers: rates vary between 0 and 9% on the tax payable (depending on the commune)
- For non-resident tax payers: fixed rate of 7% on the tax payable



## Formalities

The Belgian tax year runs from January 1 to December 31.

Residents will need to file an annual income tax return by June 30 of the year following the income year. Non-residents will need to file a tax return for their Belgian source income in the autumn of the year following the income year (exact date varies from year to year).

The tax authorities will issue an official tax bill notifying the taxpayer of his/her tax liability within 6 months following the filing of the Belgian resident / non-resident income tax return.

## Double taxation

### Principle

In practice, it is possible that you will be considered a tax resident both in the work state as in the home state based on the internal legislation of both states, or that income is derived in both states.

To ensure that income that has already been taxed in one country is not taxed again in the other country, Belgium has concluded a number of treaties to avoid this double taxation.

A full list of in force treaties that Belgium has concluded with different countries can be found on the website of the Belgian tax authorities [Link NL](#), [Link FR](#).

### Treaty – No treaty countries

The double tax treaties basically determine which country can tax which income an individual receives. As such, it will thus also determine which country will provide an exemption or give a tax credit on the income.

To the extent no tax treaty is concluded between the home country and Belgium, the internal tax legislation of the home country should be looked into to see whether local rules/systems exist to avoid possible double taxation.

### General principles to avoid double taxation

Below, you can find the relevant general principles based on the OECD model convention. In most of the treaties concluded with Belgium, these principles have been applied. It is, however, of the utmost importance to verify the wording of the actual double tax treaty concluded between countries to determine in which country income will be subject to tax.

- Employment income:
  - General rule - taxation in the state of residence
  - Exception - Taxation of the employment income in the state of work if:
    - The individual is present more than 183 days in the State of work, and
    - The remuneration is paid by, or on behalf of, an employer who is not a resident of the work state, and
    - The remuneration is not borne by a permanent establishment which the employer has in the work state
- Real estate income: taxation where the property is situated
- Investment income (interest/dividends): joint tax authorization, but limited in the country of source

## 5.2 General input on special tax status for expatriates

For Belgian individual income tax purposes, foreign citizens coming to Belgium can be considered belonging to one of the following three categories:

- Belgian residents
- Ordinary non-residents
- Non-residents qualifying for the special tax status for foreign executives

The special tax status implies a fictitious non-residency status and is an advantageous taxation system for foreigners coming to Belgium - See [Link for the administrative circular installing the system](#).

A foreign executive under the special tax status will be taxable on his worldwide professional income (whether this income is paid in Belgium or not) and on other Belgian source income. However, he will be allowed to exclude from his worldwide earned income:

- the “tax-free allowances”
- the “travel exclusion”

Consequently, the advantage of the system lies in the fact that two additional deductions from earned income are allowed in comparison to Belgian residents and ordinary non-residents, before the normal progressive income tax rates are applied.

## Benefits

The benefit of the special tax status should be for the benefit of the company.

The employee will be allowed to exclude the following elements from his worldwide earned income:

### Tax-free allowances

#### Expenses proper to the employer

Tax free allowances are allowances considered to represent the reimbursement of costs incurred on behalf of the employer during the assignment to Belgium in excess of what the expatriate would have incurred in his home country.

According to administrative legislation (See [Link NL](#) – 142/3), the following expenses can be considered:

- Non-repetitive expenses
  - Moving costs in the year of arrival and departure;
  - Costs of setting up a household in Belgium.
  
- Repetitive expenses
  - Cost of living allowance (Cola) – difference in cost of living between Belgium and home country;
  - Housing differential (HD) – difference in cost of housing between Belgium and home country;
  - Tax equalization (TE) – difference in tax cost between Belgium and home country;
  - Home leave;
  - School fees for primary or secondary level.

These expenses are determined on the basis of actual costs made, except for the Cola, the HD and TE, that can be computed on the basis of a company policy (if applied for with the tax authorities) or, in the absence thereof, on the basis of the Technical Note set forth by the Belgian tax authorities.

Annual limitation: EUR 11.250/EUR 29.750

The tax-free allowances are limited to maximum:

- **EUR 11.250** for executives in operating companies;
- **EUR 29.750** for executives in recognized headquarters or research and development centres.

However, the non-repetitive expenses and the specified school fees are not to be included in the relevant ceiling.

### Application of the higher limitation of EUR 29.750

The maximum amount of € 29.750 can be granted to expatriates who have a coordinating function within recognized headquarters or who have a research and development function within a recognized R&D center.

- Recognized headquarters: exclusive objective is controlling or coordinating the activities or operations of companies and/or branches which are part of an international group of enterprises
- R&D centers: Laboratories and scientific research centers with activities that exclusively consist of scientific or technical research in every possible field.

The application of the higher limit should be requested in an application file and is therefore subject to an official approval of the Belgian tax authorities.

After analysis of the different departments and job descriptions of the expat population, the Belgian tax authorities can recognize a specific department within a company as qualifying for the higher limit of EUR 29.750.

### Travel exclusion

In addition, the income related to foreign activities will be excluded from the total income on the basis of business days spent abroad over total working days. For the general principles on how the travel exclusion percentage is determined can be found in the [circular letter](#).

The travel exclusion is within the expat status an important element to lower the taxable basis. It is obvious that the tax authorities upon a potential audit will thoroughly review the travel details to avoid abuses. See this [Link NL](#) for the documents accepted as proof of foreign business days.

### Qualifying conditions

#### For the employer

The Belgian branch or company employing expatriates must be part of an international group or at least have presence abroad:

- Belgian Enterprise or Belgian branch of foreign company;
- Office of control and coordination;
- Laboratories and scientific research centres (international character not necessary).

## For the employee

The special tax regime applies to executives who:

- possess a foreign nationality;
- exclusively perform functions which require special knowledge and responsibility;
- work in Belgium because:
  - they have been posted to Belgium by a foreign enterprise to work here temporarily either in one or more establishments of this enterprise;
  - they have been posted to the country by a foreign enterprise which is part of an international group, to work here temporarily in one or more Belgian companies forming part of the said group;
  - they have been recruited directly from abroad by a Belgian company which is a branch or subsidiary of a foreign company or forms part of international group to work temporarily in the Belgian company.

In order to be granted the special tax status, the executive must not be found to have established his domicile or the center of his personal and economic interest in Belgium. This must be based on a whole of precise and consistent elements highlighting the temporary nature of the presence in Belgium – [See Link – 139/9 for a summary of these elements.](#)

## Procedure – Application file

To obtain the application of the special tax regime, the Belgian company which employs the executive as well as the executive himself must submit a request to the Foreigners' Tax Service.

The employee application file should demonstrate that the individual has maintained the center of his economic interest outside Belgium and should also contain details as to the method of compensation and the determination of the tax-free allowances. It should also contain a whole of precise and consistent elements highlighting the temporary nature of the presence in Belgium.

The employer request should demonstrate that the qualifying conditions are fulfilled in the hands of the employer.

The requests should be submitted before the end of the sixth month as of the first day of the month following the start of the assignment in Belgium - [See Link NL.](#)

There is no fixed number of years during which the executive may qualify for the special tax status. However, the expat status may, in principle, be reviewed annually.

## 6 Other

### 6.1 Driving in Belgium

Not all types of driving licences are recognized in Belgium. Whether or not your current driver's licence is recognized depends on the country where your current drivers licence is issued and the date of obtaining the driving licence, i.e. whether a bilateral agreement has been signed.

You can find out whether or not your driving licence is recognized on the following website: [Link NL](#)

#### **Countries with bilateral agreement (driving licence recognized in Belgium)**

When your driving licence is recognized in Belgium, you will simply need to convert your current driving licence into a Belgian/European drivers licence once your registration request has been finalized, i.e. as soon as you are in possession of a Belgian residence permit.

In order to do so, you will simply need to pass by the communal authorities of your place of residence in Belgium and hand over your current driving licence and provide them with (mostly) one passport-sized photograph. Depending on the work load, you will be able to collect your Belgian/European driving licence in 1 to 3 weeks.

#### **Countries without bilateral agreement (driving licence not recognized in Belgium)**

In case there is no bilateral agreement between the country that issued your driving licence and Belgium your drivers licence cannot be exchanged for a Belgian/European drivers licence.

In order to obtain a Belgian / European drivers licence, the hereafter described procedure needs to be followed.

#### **Take a theoretical exam**

You will need to schedule an appointment with an examination centre in order to take a theoretical examination for your drivers licence.

The following examination centres are able to take an English examination:

Examencentrum 1021  
Labeurstraat, 3-9  
1070 Anderlecht  
tel. 02 529 07 74

Examencentrum 1001  
Kolonel Bourgstraat, 118  
1140 Evere  
tel. 02 726 91 52

More information on the recognized examination centres can be found on the following websites: [Link NL](#) and [Link FR](#)

In order to enable the examination centre to take your examination, you will need to show them your valid Belgian residence permit.

### Take a practical exam

When you succeed for the theoretical examination, you will be able to schedule an appointment to take the practical examination.

In order to enable the examination centre to allow you to start your practical exam, the following documents will be required:

- your valid Belgian residence permit;
- proof of succeeding the theoretical exam;
- your actual valid drivers licence.

### Application and collection of your Belgian / European drivers licence

Once you have succeeded the theoretical and practical examination, you will receive a document that allows you to apply for your Belgian / European drivers licence at your commune of residence.

Therefore, you will need to present yourself at the communal authorities of your place of residence in Belgium, with the following documents:

- your valid Belgian residence permit;
- proof of succeeding the theoretical and practical examination;
- some passport-sized photographs;
- a small cash amount.

In general you will be able to collect your Belgian / European drivers licence the next day.

## 6.2 Relocation

Relocation companies are specialized in assisting foreign employees with all the issues connected with their relocation. They aim to make moves convenient, cost-effective, and stress-free for expats. They guide you through the entire relocation process, ensuring that your needs are met through a multitude of assistance services such as: cost of living analysis, temporary housing, home marketing and home finding assistance, quality household goods mover selection, changing your mailing address, scheduling utility connections, getting your driver's license and registering your automobile, finding day-care, and more.

An overview of local relocation service providers can be found on [Link ENG](#)

## 6.3 Housing

Should I rent or buy? This is an important question to consider before starting a house hunt. Foreign employees often prefer to rent than to buy, especially at the beginning of their arrival in Belgium, for different reasons. It is in principle quicker and easier to rent and it gives more flexibility especially if you will only stay in Belgium for a short period of time. Note that you can choose between furnished or unfurnished.

If you are considering renting a property, please note that there exist different types of lease in Belgium:

- Short-term fixed lease for 3 years or less: in principle the tenant is committed to pay for the entire period. Note that one can include a diplomatic clause in case one has to leave the country, however, such clause is not guaranteed by the Belgian Courts.
- Long-term lease for 9 years or more: this is most favourable as it can be ended any time provided you give 3 months notice. However, if you leave within the first 3 years, you will need to pay an indemnity of 1, 2 or 3 months, depending on the time you break the contract.
- Lifetime lease which is for the lifetime of the tenant.

Be aware that you fully understand the lease before signing it. Should any repairs or decoration be necessary, make sure that you have a written declaration or addendum which must be signed before or at the signing of the lease. Furthermore, rent is not regulated and is therefore negotiable. The rent is fixed for the entire period and can only be increased by indexation, once a year and in writing.

In case you are planning to stay more than 5 years, you might consider buying. In this case, it is worth finding a Notary up front or plan a meeting at a bank. Alternatively, you can contact a relocation agent, who can do some research for you as well as help you negotiating. The advantage of an independent relocation consultant is that there is no vested interest in selling you a particular property. They will show you the best properties regardless of which agency holds the listing.



## 6.4 Private health coverage

Upon arrival in Belgium, you need to affiliate with a mutual health insurance company. Belgium has several health insurance companies who differ through political affiliation and the fact that they are denominational or independent. You can freely choose between all health insurance companies.

When affiliated, you are entitled to a full or partial refund of the costs of medical care and a price reduction at the pharmacist. All will depend on the policy you have chosen.

All individuals who are affiliated with a health insurance company in Belgium receive a SIS-card as proof of affiliation.

Principally all individuals who are residing in Belgium must be affiliated with a health insurance company. However some categories are exempt e.g. temporary assigned employees.

## 6.5 Schooling (public & private)

Whilst the state sets the laws regarding education, responsibility for schools lies with the language communities. Therefore, in Belgium there exist three different national education systems: the French, the Flemish and the German-language schools.

As well as state schools there are subsidized 'free' and independent schools, often run on religious lines, though their curricula and certification are recognized equally within the system. The compulsory school age in Belgium is 6-18 years. Belgian education is structured as follows:

- Basic education (in the Dutch or French language)
  - Pre-school: for children of between 3 and 6 years old
  - Primary school: for children between 6 and 12 years old
- Secondary school: for children between 12 and 18 years old
- Higher education: for children from 18 years old
- University: for children from 18 years old

Most expat families who are staying in Belgium for a short period of time send their children to a local public school or an international school where English is the main language of instruction. However, in all schools, French and/or Dutch classes are offered as well.

## Public schools

There are some advantages to sending children to public schools in Belgium:

- Foreign children can very quickly learn the regional language
- They get to know other children who mostly live nearby
- Extra costs associated with school supplies and school outings are kept at a minimum

Belgian public schools tend not to offer as many extra-curricular activities as e.g. American schools do. However, each community can provide a list of places offering sports, dance, art, music lessons and other leisure based activities.

As of the second year, students choose particular course option, be them general, technical, artistic or professional in nature. Exams are given each year (starting in primary school) to assess the readiness of students for the next academic year.

## International schools

The main advantage of international schools in Belgium is that foreign children will most likely find other children who speak their mother-tongue, the system used is more familiar to them. These commonalities make the transition of foreign children to Belgium sometimes a lot easier. Furthermore, once returning to their home country, children can often continue the system in their home country.

Considering the complexity of inscriptions and assessments at public schools, expat families with secondary students may find it easier entering their children into an international or private school.

With small discrepancies between Belgian public and international schools, the academic year begins September 1 and ends June 30. Students are required to be present each day that is not an official school holiday. As of the compulsory age of 6 years old (primary school), students are required to present a doctor's certificate for any sickness-related absence.

In case you are looking for schools, more information can be found on:

- Antwerp International School [Link ENG](#)
- Brussels English Primary Schools [Link ENG](#)
- Boston university (in Brussels) [Link ENG](#)
- The British School of Brussels [Link ENG](#)
- Da Vinci International School [Link ENG](#)
- Internationale Deutsche Schule Brüssel [Link DE](#)
- ISB [Link ENG](#)
- Kiddy & Junior Classes [Link ENG](#)
- Vesalius college [Link ENG](#)
- World International School [Link ENG](#)

## 6.6 Opening a bank account

In order to open a bank account in Belgium, you will need to prove your identity and your residence in Belgium. In practice this can be done by showing your Belgian residence permit. However, it often occurs that the registration process with your commune of residence has not yet been completed when you need to open a bank account.

The following documents generally need to be provided in order to open an account:

- international passport;
- proof that you have initiated a registration request (copy of Model 2 or Annex 15 that is provided when you file a request for registration).

It is of course always possible that some banks ask for additional documents.

Please keep in mind that:

- in case you wish to withdraw money in another country than Belgium, you will need to request for a 'maestro' function;
- most banks provide home-banking as well. If you wish to use this service, it must be requested.

Once the bank account is opened, you will receive a debit card. This debit card has to be signed and activated.

From the bank, you will receive a separate letter with a PIN code. You must activate your card by passing by a cash dispenser and using the code provided by your bank. It is advisable to change the code you received to a personal code.

Next to a debit card, a credit card can be obtained as well. The conditions that need to be met in order to be entitled to this type of card depend on the bank you have chosen.

From the bank, you will receive a separate letter with a PIN code. You must activate your card by passing by a cash dispenser and using the code provided by your bank. It is advisable to change the code you received to a personal code.

Next to a debit card, a credit card can be obtained as well. The conditions that need to be met in order to be entitled to this type of card depend on the bank you have chosen.

## 6.7 Recognition of your mobility experience: getting an Europass

Whether you are planning to enrol in an education or training programme, looking for a job, or getting experience abroad, it is important to be able to make your skills and competences clearly understood.

Europass is a new way of helping people to:

- make their skills and qualifications clearly and easily understood in Europe
- move anywhere in Europe

Europass consists of five documents:

- two documents you can fill in yourself:
  - Europass CV see [Link ENG](#)
  - Europass Language Passport [Link ENG](#)
- and three other documents filled in and issued by competent organizations:
  - Europass Certificate Supplement [Link ENG](#)
  - Europass Diploma Supplement [Link ENG](#)
  - Europass Mobility [Link ENG](#)

## 6.8 Funding opportunities: EURAXESS jobs

In case you, as a researcher, are looking for up-to-date vacancies or if you, as an employer, are looking for qualified talent ...

EURAXESS jobs is a free of charge recruitment tool which contains a wealth of constantly updated information on job vacancies, funding opportunities and fellowships for researchers. Researchers can post their (Europass) CV online and search for up-to-date vacancies. Academic institutions, private research organisations and public research bodies (both within and outside the EU) can post their vacancies free of charge and search for CV's from international top-notch researchers.

More information about EURAXESS jobs can be found on [Link ENG](#)

## 6.9 International Private Law: where to find advice?

International Private Law, also called the conflict of laws, is a set of procedural rules which determine which legal system, and the law of which jurisdiction, applies to a given dispute. The rules typically apply when a legal dispute has a cross border element.

More information regarding International Private Law can be found on:

- Hague Conference on Private Law [Link ENG](#)
- International Institute for the Unification of Private law [Link ENG](#)
- United Nations Commission on International Trade Law (UNCITRAL) [Link ENG](#)
- European Commission [Link ENG](#)
- Universiteit Gent [Link NL](#) [Link FR](#)
- Max Plank Institut für ausländisches und internationales Privatrecht Hamburg [Link DE](#)
- T.M.C. Asser Instituut [Link ENG](#)

# OUT OF BELGIUM

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## 7 Employment abroad

### 7.1 Immigration formalities

Immigration rules in most countries will require to obtain a work permit or other authorization to execute professional activities in a country which is not one's home country.

As immigration formalities depend from one country to another and likely take some time, you should verify the formalities with the relevant authorities in the other country in due time.

### 7.2 Entry and stay requirements

Once in Belgium, the Belgian residence card entitles the holder to travel freely within most EU countries for a period of maximum 90 days over a 6 month period.

When travelling to another country in the EU for a period of more than 90 days over a 6 month period, a residence visa must be applied for with the Embassy of your new host country.

Contact details of the different Embassies and consular authorities of other countries in Belgium can be found on: [Link ENG](#)

### 7.3 Formalities further to leave

When EU-citizens, registered in Belgium, are moving out of Belgium they will need to inform the communal authorities of their place of residence with regard to their departure.

A few days before the planned leave, EU-citizens should present themselves at the commune in order to hand over their Belgian residence permit. In return they will receive a 'Model 8' which proves that they were registered and fulfilled the necessary formalities in order to deregister. This document can be requested by customs.

Please note that when EU-citizen move (within the same country or to another country), the communal authorities of their new place of residence is obliged to inform the communal authorities of their previous place of residence that the EU-citizen has moved. Experience learns however that when moving within the same country this formality is complied with. Unfortunately when moving to another country, the communes hardly ever comply. Therefore, we recommend fulfilling this formality in person.

## 7.4 Quid with Belgian residence

The Belgian legislation relating to the entry to the territory, the residence, the establishment and the expulsion of foreigners states that a foreign national who is in possession of a valid Belgian residence or establishment permit and who leaves the territory of Belgium, has the right to return to Belgium during a period of 1 year. The foreign national intending to be absent on the Belgian territory for a period that will exceed the validity of his residence permit, can obtain an early prolongation or renewal of this residence permit.

Article 39 of the Royal Decree of October 8, 1981 relating to the entry to the territory, the residence, the establishment and the expulsion of foreigners stipulates that the right to return to Belgium is subject to the following conditions:

- Upon return to Belgium, the foreign national needs to be in possession of a valid residence or establishment permit;
- The foreign national has to present himself at the commune of his place of residence within 15 days after his return to Belgium in case he has been absent for a period of more than 3 months.

The foreigner intending to be absent on the Belgian territory for a period of more than 3 months has to inform the commune of his place of residence of his intention to leave the country and to return afterwards before he leaves Belgium.

The foreign national who is in possession of a valid Belgian residence or establishment permit can execute the right to return to Belgium after an absence of more than 1 year provided that:

before his departure, he has demonstrated that he keeps his main interests in Belgium and that he has informed the commune of his place of residence of his intention to leave the country and to return afterwards:

- upon return to Belgium, the foreign national needs to be in possession of a valid residence or establishment permit;
- the foreign national has to present himself at the commune of his place of residence within 15 days after his return to Belgium.

The foreigner who wishes to return to Belgium after the date the residence or establishment permit has expired, must apply for the renewal or the prolongation of the permit before leaving Belgium.

## 8 Social security

### 8.1 EU Regulation 883/2004

Like for all nationals of the EEA member states and Switzerland who are coming to Belgium, EU Regulation 883/2004 equally applies to all nationals of the EEA member states and Switzerland who are leaving Belgian in order to move towards one of those countries.

Therefore, this more information can be found above [see Link](#).

### 8.2 Bilateral agreements

The same bilateral agreements regarding i.e. pension rights are applicable to people moving out of Belgium as apply to people moving towards Belgium.

This input can be found above.

### 8.3 No agreement

Based on the Belgian social security legislation it is possible to keep an employee who is assigned for a short period to a country with which Belgium has not concluded a social security treaty under the Belgian mandatory social security scheme (RSZ).

In principle this is only possible for a period of 6 months with a potential extension for an additional 6 months. For the first 6 months no action needs to be taken in order to benefit from the continuous coverage. After the first 6 months a formal extension needs to be requested with the Belgian authorities.



## 8.4 DOSZ/OSSOM

### Non-treaty countries

In case your Belgian employer assigns you abroad for a maximum period of 6 months, you will automatically remain subject to Belgian social security (which can be extended for another period of 6 months in case your employer informs the RSZ before the end of the first 6 months). In this respect, your employer must apply for a so-called K/TM 138 bis form (and a K/TM 138ter form in case of extension). In case you are in the possession of such a form, you are not able to affiliate with the OSSOM. As there is no treaty, no agreement from the host country authorities is needed. Additional affiliation abroad is also possible.

In case your Belgian employer assigns you abroad for a period exceeding a period of 12 months you are no longer subject to Belgian social security. In this case you are able to affiliate with the OSSOM.

### OSSOM

The OSSOM is a Belgian federal institution that provides for social security coverage/insurance for employees who are

- working outside the European Economic Area ('EEA') and Switzerland,
- a national of a country within the EEA or Switzerland, OR whatever their nationality is, employed by a company with its registered seat in Belgium

The OSSOM-scheme provides coverage with regard to:

- Pension
- Invalidity
- Medical coverage
- Accidents at work

Note that dependent family members can also be registered with the OSSOM for medical coverage.

## Reimbursement under the OSSOM

Upon your transfer into the social security scheme of your host country you should notify your Belgian health insurance fund about your registration with the OSSOM.

Consequently, your Belgian health insurance fund will no longer make reimbursements of medical expenses for the entire period of registration with OSSOM.

- Your medical expenses originating in Belgium should be submitted to the OSSOM.
  - Upon registration with the OSSOM you will receive a booklet containing blue forms. Each medical bill you send to the OSSOM should be accompanied by a blue form from this booklet. This blue form must be signed and must mention a payment and contact address.
  - Bills can be sent to the OSSOM up till 24 months after the expenses were incurred.
  - For doctor & hospital bills, the official attestation from the doctor/hospital ('attest van verstrekte zorgen') has to be submitted to the OSSOM.
  - For pharmacy bills, the official pharmacy attestation should be submitted (mentioning 'mod.704').
  - The OSSOM will reimburse you directly and will send you a detailed list of the amounts reimbursed. The OSSOM will reimburse at RIZIV rate (i.e. same level of reimbursement as if you were still with a Belgian health insurance fund).
  
- Medical expenses originating in the host country must be submitted directly to the OSSOM (as per the procedure with blue booklet - see above)
  - For doctor's bills, you have to submit the attestation or original bill (fax or copy is not allowed) The attestation should mention which care/exam was provided and which amount corresponds to each intervention.
  - It should be drafted in one of the following languages: Dutch, French, German, English, Spanish, Portuguese or Italian. Otherwise the attestation should be translated into Dutch, German or French.
  - The attestation should be duly signed and accompanied by the receipt.
  - For pharmacy bills, you should submit also the doctor's prescription. Name and price of each medication should be mentioned.
  - The OSSOM will reimburse you directly and will send you a detailed list of the amounts reimbursed. The OSSOM will reimburse 75% of the actual expenses, irrespective of in which country the expenses originated (given of course that these expenses are recognized as expenses which are reimbursed under the OSSOM scheme).

Regarding medical expenses originating in another country than Belgium or the host country, the OSSOM will always reimburse 75% of your expenses originating abroad (given of course that these expenses are recognized as expenses which are reimbursement under the OSSOM scheme). In this respect, the country of origin makes no difference.

This means that the OSSOM not only covers you on a private vacation, but also on a business trip to any country.

## Family members

### Your partner/children are residing with you as your dependants

In this case, your partner and children (if any) will be co-registered with the OSSOM as dependent persons for medical insurance purposes only. The same arrangements apply as for your own medical expenses.

The OSSOM will reimburse at RIZIV rates for expenses originating in the host country, and at 75% for expenses originating abroad (i.e. in any country in the world).

### Your partner/children do not reside with you abroad and your partner has his/her own income

Your partner is residing in Belgium and is registered with a health insurance fund in his/her own name. The procedure for reimbursement of medical expenses remains the same as before.

The same also applies to the children (if any) if they are residing in Belgium and are registered with the sickness fund in their father's or their mother's name (i.e. in name of the partner who is residing in Belgium).

If however your children are residing in Belgium and were previously registered with your health insurance fund, there are two options:

- they need to be registered in the name of the partner residing in Belgium (action required by the employee with his health insurance fund to transfer the children), OR
- they are co-registered with the OSSOM as dependent persons. As per the above, the reimbursement of medical expenses originating in Belgium will incur at RIZIV rates.

## 9 Labour law

### 9.1 Brief input on applicable labour law

This input can be found above.

# 10 Tax status (individual taxation)

## Residency rules

### Principles/key indicators

Taxation in Belgium for Belgian nationals working abroad will depend on whether or not Belgian residency will be maintained during the foreign employment.

In practice, Belgian tax authorities have stated that residency can only be broken if the family of the employee moves abroad together with the employee and the foreign employment lasts for a minimum period of 24 months. Note that keeping a domicile in Belgium will still imply a presumption of residency, be it that this can be refuted.

In all other events (e.g. family stays in Belgium, short term foreign employment, etc.), individuals will still be considered Belgian tax residents according to internal legislation.

### Impact/Formalities

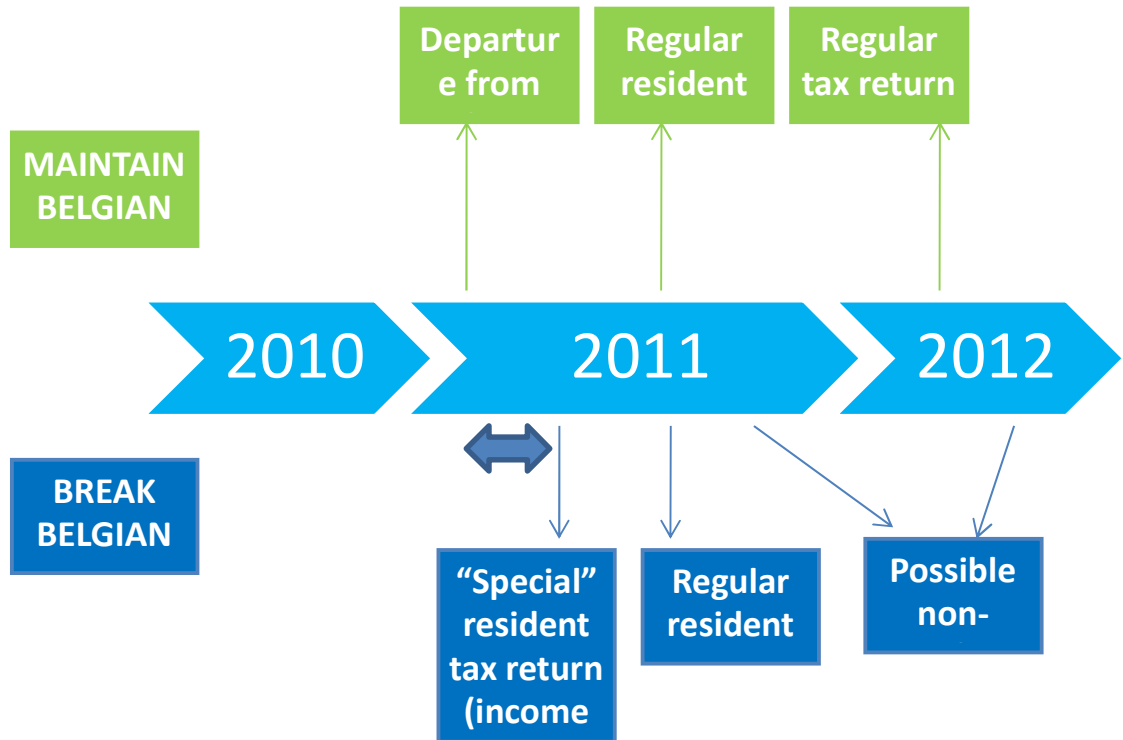
In the event that Belgian tax residency is maintained:

- the employee will be taxable in Belgium on his worldwide income (with exemption of foreign source income or reduction of taxes).
- a resident income tax return will need to be filed by June 30 following the income year, as usual

In the event that Belgian tax residency is broken:

- the employee will be taxable in Belgium on his worldwide income up to the date the Belgian tax residency is broken.
- the income of the period of residency (January 1 – date of breach) needs to be declared in a “special” departure tax return within 3 months following the date of breach of Belgian residency (normally date of deregistration from the commune). This “special” tax return form is not sent automatically and needs to be requested with the local tax inspector
- note that a normal tax return should still be filed for the worldwide income of the previous year if not yet done at the moment of breach, as usual
- the special tax return ends all tax obligations in Belgium, unless the employee would have other source Belgian income for which a filing obligation exists (to be verified on a case by case basis). Upon the moment Belgian tax residency would again be set into place, the individual will again become taxable on his worldwide income in Belgium as of that moment.

Please see below for a graphical example of the formalities in case of a departure in 2011, both in the scenario that Belgian residence is maintained and broken.



## Double taxation

### General principles to avoid double taxation

The double tax treaties basically determine which country can tax which income and which country will thus allow an exemption or give a tax credit.

In the event that Belgium would not have the power to tax according to the relevant extract of the double tax treaty, it will grant an exemption with progression for foreign source income (meaning that the foreign income will still be taken into account to determine the tax rate applicable on other income).

To the extent no tax treaty is concluded between Belgium and the work state, internal Belgian tax legislation foresees that in case of international double taxation the Belgian taxes on the corresponding part of the professional income will be reduced by half.

## General information

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**Disclaimer.** This guide is an informative publication for some administrative procedures related to Belgium. The principles and recommendations do not substitute the official information sources and information given by official administration should in any case be taken into account. The information provided in the guide gives no right for claims or legitimate expectations of any kind.

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