



Migratory Pathways for Start-Ups and Innovative Entrepreneurs in Belgium

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The European Migration Network Belgium is a multi-institutional entity composed of experts from the Immigration Office, the Office of the Commissioner General for Refugees and Stateless Persons (CGRS), Myria - the Federal Migration Centre, and Fedasil - the Federal Agency for the Reception of Asylum Seekers. It is coordinated by the Federal Public Service Home Affairs.

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Belgian study and EU comparative study

Belgian report: This is the Belgian contribution to the EMN focused study on Migratory Pathways for Start-Ups and Innovative Entrepreneurs in the European Union. The EMN National Contact Points (NCPs) of 24 countries produced a similar national report on this topic (AT, BG, CY, CZ, DE, EE, ES, FI, FR, HR, HU, IE, IT, LV, LT, LU, MT, NL, PL, PT, SE, SI, SK and UK).

Common Template and Synthesis Report: The different national reports were prepared on the basis of a common template with study specifications to ensure, to the extent possible, comparability. On the basis of the national contributions of 25 NCPs, a *Synthesis Report* was produced by the EMN Service Provider in collaboration with the European Commission and the EMN NCPs. The Synthesis Report gives an overview of the topic in all the (Member) States.

Aim of the study: The objective of the present study is to provide an overview of the migratory pathways available for start-ups and other innovative entrepreneurs coming to the EU. The study identifies the factors and prerequisites for attracting and retaining start-up founders and innovative entrepreneurs from third countries, as well as examining the different admission pathways available, including specific start-up schemes. The Study also explores the role of cities, regions and particular locations as entrepreneurial hubs in attracting start-up founders and employees from third countries.

Scope of the study: The study focuses on 'start-ups' and 'innovative entrepreneurship'. Innovative start-ups are distinct from general self-employment, which falls outside the scope of the study. Although the focus of the study is start-ups and innovative entrepreneurs, it explores all migratory channels (e.g. residence permits and visas) through which third-country national start-up founders and innovative entrepreneurs can be admitted. The study covers the period from 2014-2018.

Available on the website: The Belgian report, the Synthesis report and the links to the reports of the other (Member) States are available on **www.emnbelgium.be**.

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Executive summary

Context

Historically, Belgium's federal government has been responsible for the development of all immigration legislation and policies, including the legislation and the policies for admitting third-country nationals for business purposes. On 1 July 2014, the employment-based immigration policies were transferred to the Regions: the Flemish, the Walloon and the Brussels-Capital Region. The regional governments became competent to develop their own work authorisation policies, programmes, requirements and exemptions, including work permit and professional card regulations. As a consequence, the policy on attracting foreign business owners, including the migratory pathways for start-ups and innovative entrepreneurs, became a regional competence.

This transfer of competence allowed the Regions to draft their own legislation, but at the time of drafting this report the regional authorities did not yet adopt any new legislation, leaving the previously existing national legislation in place. However, there are differences between the regions in practices and policies.

The abovementioned transfer of competence did, however, not eliminate the importance of the federal government, as several federal actors remain involved in the policies for admitting third-country nationals for business purposes. The Federal Public Service Home Affairs, through the Immigration Office, remains responsible for issuing residence permits to third-country nationals. The Federal Public Service Foreign Affairs, Foreign Trade and Development Cooperation, through its embassies and consulates abroad, participates in the issuance of visas. The Federal Public Service Economic Affairs, SMEs, Self-Employed and Energy, the Federal Public Service Finance and the Federal Public Service Foreign Affairs, Foreign Trade and Development Cooperation also play a key role in promoting foreign trade and attracting foreign investments.

This division of competences, together with Belgium's complicated state structure creates a difficult playing field for third-country national business owners and innovative entrepreneurs.

Business environment and national policies

Belgium is more than ever working towards promoting itself as an attractive and competitive business environment, with first and foremost the recent changes to the Belgian Company Code.

In fact, in 2019 the Belgian Company Code went through one of the most profound changes in decades, with the aim of promoting Belgium as an attractive and competitive country for both Belgian and foreign companies. Among other changes, the legal company forms have been brought back to four and the minimum capital requirements have been abolished. Though there is no specific mention of start-ups, this new legislation should make it easier for entrepreneurs to set up their business in Belgium, with the new company form, the 'private limited liability company' as the go to structure for small and medium-sized companies.

Belgium is also an investor friendly country due to different incentives and subsidies, the knowledge levels, financing solutions and the updated corporate tax system¹. Until recently, Belgium had one of the highest nominal tariffs in the OECD and even in the world with a tariff of 33,99%. However, these tariffs were lowered since 2018.²

There is no policy in place specifically directed at foreign start-up owners or innovative entrepreneurs. And although benefits and incentives are present, foreign national start-up owners and innovative entrepreneurs do not always find their way to these measures.

Start-ups and innovative entrepreneurs

There is no specific residence scheme in place for third-country national start-up owners or innovative entrepreneurs in Belgium. This is partly due to the fact that Belgium does not have a legal definition for start-up or innovative entrepreneur. Indeed, start-up owners and innovative entrepreneurs are considered to be self-employed in Belgium, limiting the available migratory pathways to one: the professional card.

The professional card legislation is limited and to a certain degree outdated, leaving the process burdensome and time-consuming. Most of the requirements are based on practice and deviating policies in the different Regions also create a form of legal uncertainty concerning the procedures.

Belgium has adopted measures to smoothen the application process, but none specifically directed to start-ups or innovative entrepreneurs. The regional authorities have started to realise the added value and importance of third-country national start-ups and are working towards a policy and in Flanders even a legislative change. The biggest challenge will be to get the necessary political interest and overcome the issues related to the division of competences in Belgium.

Statistics

No statistics were provided due to the following reasons mentioned:

- Belgium does not have a specific scheme for start-ups or innovative entrepreneurs in place. The available statistics are therefore related to all professional card applications.
- The federal authorities kept very limited information on file in regards to the professional card applications. In addition the storage of this information was not very trustworthy.
- The transfer of competences from the federal to the regional level in 2014 has created an overlapping period for which the data is not trustworthy. As for a period of about one year it was unclear who was competent to store the data.
- After 2014, the different regions started to request deviating data and stored this data in different ways.

The statistics do not provide accurate information on the renewals of the professional cards issued, which leaves it impossible to track the success rate of the issued permits. In

¹ The nominal corporate income tax rate will gradually be reduced from 33.99% to 29.58% in 2018 and to 25% in 2020. Small and Medium sized Enterprises (SMEs) benefit from a reduced rate of 20.4% on the first tranche of EUR 100,000 taxable income as of 2018 (further decreased to 20% by 2020).

² Federation of Enterprises in Belgium, *Hervorming van de vennootschapsbelasting 2018-2020*, https://www.vbo-feb.be/globalassets/actiedomeinen/fiscaliteit/vennootschapsbelasting/kamer-keurt-verlaging-vennootschapsbelasting-goed-investeringen-zullen-toenemen/2017.12.19_brochure_vennootschapbelasting_nl_v22017-12-19.pdf.

addition, no data is available on the number of jobs created, the generated investment, the annual turnover or tax revenues.

All this makes it difficult, and even impossible, to draw well-founded conclusions on the applications and success rate of start-ups and innovative entrepreneurs. Stakeholders hope that the different competent authorities will gather and store the data in a more strict way in the future. From the various interviews conducted in the framework of this study, it is clear that it is the intention to proceed in a positive direction in Flanders and Brussels.

1. Introduction: rationale, aims and scope

1.1. Policy and legal background

Recent years have seen a proliferation of admission schemes for 'start-ups' and 'innovative entrepreneurs', both within the EU and globally. Such schemes provide incentives to attract innovative entrepreneurs from third (i.e. non-EU) countries to start their business in the country of destination. The notions of 'start-up' and 'innovative entrepreneurship' relate to an environment where individuals are motivated to innovate, create new products or services, and take risks. Entrepreneurship can have a beneficial impact on the economy, through job creation, innovation and investment. Start-up admission schemes thus generally aim at fuelling economic growth, innovation, and making the country more competitive in the globalised knowledge economy.

According to the European Commission, if the EU is to remain a globally competitive player it needs to find better ways to attract migrant innovative entrepreneurs and support those already present in the EU.³ Although there is no EU-level instrument for attracting start-ups, the EU nevertheless plays an active role in this field, with attracting and retaining start-up founders and employees from third countries forming part of the objective of upgrading the single market.⁴ The Competitiveness Council, in its Conclusions adopted on 27 May 2016 (9510/16), invited both the Commission and interested Member States to explore whether a European start-up visa scheme could provide added value at EU level, boost cross-border expansion of start-ups, and improve the EU's attractiveness for innovators, while respecting national competences. Although the primary rationale is rooted in an economic policy perspective, attracting start-ups is also in line with the broader objectives of EU migration policy, such as tackling demographic change and satisfying labour market needs.

1.2. Study aims

The overall aim of this study is to provide an overview of the migratory pathways available to start-ups and other innovative entrepreneurs in Belgium.

More specifically, the study aims to:

- Describe the processes and requirements for obtaining a start-up visa/residence permit or other type of residence permit/visa for innovative entrepreneurs.
- Examine the incentives in place to attract and retain third-country national start-up founders/ employees or other innovative entrepreneurs.
- Outline the challenges and good practices in the attraction and retention of third-country national start-up founders/ employees or other innovative entrepreneurs.

³ ICF report commissioned by European Commission (2016). 'Admission of migrant entrepreneurs'. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/legal-migration-policy/volume-ii-admission-of-migrant-entrepreneurs_en.pdf.

⁴ European Commission (2015). Upgrading the Single Market: more opportunities for people and business. Communication of 28 October 2015. Available at: <https://ec.europa.eu/transparency/reqdoc/rep/1/2015/EN/1-2015-550-EN-F1-1.PDF>.

1.3. Key definitions and scope of the study

This study specifically focuses on 'start-ups' and 'innovative entrepreneurship'. Although definitions in the literature vary, broadly speaking, a 'start-up' is a business less than five years old that aims to create, improve and expand a scalable, innovative, technology-enabled product with high and rapid growth. An innovative entrepreneur is someone who creates a (radically) new product/service or provides a new solution through a viable business model to meet a marketplace need or problem. 'Innovation' can be defined in this context as new expertise that an entrepreneur brings to the market, whether through a new or improved product, a new method of production, a new market, a new source of supply or the reorganisation of management.⁵

Important actors, which typically facilitate and provide financial or other type of support to start-ups, are business angels, private investors, and incubators or accelerators. Business angels are understood as individuals who invest their money in the initial phase of start-ups, in exchange for a share in the business. Incubators and accelerators are organisations designed to accelerate the growth and success of entrepreneurial companies through an array of business support resources and services that could include physical space, capital, coaching, common services, and networking connections. Incubators 'incubate' or generate innovative or generate innovative and promote ideas for a new business, while accelerators tend to 'accelerate' the development and growth of an existing business.

This study specifically focuses on 'start-ups' and 'innovative entrepreneurship'. This is distinguished from general self-employment, which falls outside of the scope of the study. While concentrating on start-ups and innovative entrepreneurs, the study explores all migratory channels (e.g. residence permits and visas)⁶ through which third-country national start-up founders and innovative entrepreneurs can be admitted. The study furthermore seeks to identify the factors and prerequisites for attracting and retaining start-ups and innovative entrepreneurs from third countries.

Finally, the study examines the role of cities, regions and particular locations as entrepreneurial hubs and ecosystems in attracting start-up founders and employees from third countries. An 'Ecosystem' (also known as a hub) is understood as an environment made of private and public players, which nurture and sustain start-ups and entrepreneurs, making the action of entrepreneurs easier. For example, the existence of prior ventures, the availability of start-up financing mechanisms, a patent system and a culture tolerating failure all facilitate the creation of new firms.

This study is based on desk research of relevant legislation, policy documents, reports and other literature conducted by Nivard Bronckaers and Jo Antoons from Fragomen Global LLP, Brussels. Another important source was the input and information Fragomen received from Flanders Investment & Trade, Flanders Innovation & Entrepreneurship Agency (VLAIO), the Regional Public Service Economy and Employment of Flanders, of Brussels and of Wallonia, the Brussels Agency for Business Support hub.brussels – Department Inward Investment. And from the non-profit organisation Startups.be which is a one-stop-shop for tech entrepreneurs and the company Alaska, a Belgian economic partnership of independent accounting and advisory organisations.

⁵ ICF report commissioned by European Commission (2016).

⁶ The terms 'visas' and 'residence permits' are used to refer to the means to allow entry and stay for a certain period of time for setting up a business/start-up.

2. Contextual overview of the business environment for start-ups in Belgium

To provide context for the rest of the study, this section focuses on national policies and practices for fostering start-ups in general, including start-ups set by Belgian and EU nationals. The remaining sections of the Study focus on national policies and practices for start-ups and innovative entrepreneurs from third countries.

2.1. Setting up a business in Belgium

Fostering start-ups is considered a **national policy priority** in Belgium with various specific measures, policies and strategies in place. But the competence to regulate and draft policies is scattered across different governmental levels in Belgium. These governmental levels implemented specific policies which aim at fostering start-ups, going from subsidies, a tax shelter and fiscal incentives for crowdfunding to affordable office space specifically designed for start-ups. On the other hand, there is no specific mention of innovative entrepreneurs.

Concept of start-up and innovative entrepreneur

There is no national consensus on the concepts of 'start-up' and 'innovative entrepreneur'. Some associate the concept of start-up with the innovative nature of a project, while for others a start-up is per definition a newly established company. As a consequence there is no legal definition, e.g. provided in legislation or soft law, of either of the concepts in Belgium. There is, however, a **working definition of 'start-up'**,⁷ created by the Federal Public Service Economy, SMEs, Self-employed and Energy or FPS Economy in short. In the execution of a 2016 study⁸ on the statistic economic indicators relevant for measuring and analysing the phenomenon of start-ups in Belgium, ordered by the FPS Economy, the cumulative conditions for start-ups agreed upon were defined by the length of time the company has been established, being a small or micro enterprise and a minimum capital increase and annual turnover:

1. Micro-enterprise or small enterprise;
2. Recently established;
3. Established less than four years ago;
4. Minimum capital increase of 50,000 EUR implemented over a period of 4 years;
5. Annual turnover of 25,000 EUR reached at least once over a period of 4 years.

It was also agreed upon that following company structures could never be a start-up:

- Companies established to conclude management contracts or who derive the majority of their profit from management contracts;
- Investment companies, cash societies or financing companies;

⁷ Federal Public Service Economic Affairs, SMEs, Self-Employed and Energy, Baromètre de la société de l'information 2018 - Barometer van de informatiemaatschappij 2018, <https://economie.fgov.be/nl/publicaties/barometer-van-de-4>.

⁸ This study was never finalised because the FPS Economy felt that the period to which the data related and the date of publication fell too far apart, e-mail Mr. Pierre Strumelle and Mr. Karim Benseghir, Federal Public Service Economy, S.M.E.s, Self-employed and Energy, General Directorate of Economic Regulation, 8 May 2019.

- Companies that gather an essential part of their income from real estate;
- Companies that have already paid out dividends;
- Listed companies.

The Belgium Start-up Ecosystem has been developing fast over the past few years. With its international population and small size, it offers excellent test conditions for multi-lingual start-ups. The typical Belgium founder is male (88.9%) and holds a university degree (84.0%).⁹

Tech remains the most popular sector for start-ups, specifically health-related tech. Other strong industries include financial services, advertising, healthcare, manufacturing, media, retail, education, and security. The majority of Belgian start-ups are business-to-business (B2B), which outnumber business-to-consumer (B2C) start-ups by more than two to one.¹⁰

Requirements for starting up a business basis

The **requirements for starting up a business** in Belgium are defined on several levels.

On a **personal level**, the following requirements must be met in order to start up a business:¹¹

- Individuals must be aged 18 or over,
- Individuals must enjoy their civil rights,¹²
- Individuals must be legally competent.

In Belgium, there is no residence condition as such, but for certain actions, such as opening a bank account - which is a requirement in Belgium for starting up a business – residence conditions are in place.

In addition to the general obligations that apply to all self-employed persons, there are also special formalities for certain categories of self-employed persons. It concerns **entrepreneurial skills** (basic knowledge of business management and professional competence), and the **conditions for exercising or pursuing a title of a liberal profession or a service-providing intellectual profession**, and the conditions for obtaining a number of specific permits and authorisations.

The requirement to provide **proof of a basic knowledge of business management** was abolished in the Flemish Region in September 2018.¹³ But when starting a business in Brussels¹⁴ or Wallonia¹⁵, one still needs to show proof of this basic knowledge. This can be done through providing a relevant diploma, providing proof of practical experience or by taking an exam on basic business management at the Central Examination Committee of the Brussels or Walloon Region¹⁶.

⁹ European Commission - Executive Agency for Small and Medium-sized Enterprises (EASME): Annual report on European SMEs 2018/2019. Research & Development and Innovation by SMEs and Fact Sheet Belgium, https://ec.europa.eu/growth/smes/business-friendly-environment/performance-review_en.

¹⁰ Interview Mr. Frederik Tibau, Director of International Relations - Startups.be, 22 May 2019.

¹¹ Federal Public Service Economic Affairs, SMEs, Self-Employed and Energy, *Comment s'installer à son compte? - Zelfstandige worden*, <https://economie.fgov.be/nl/publicaties/zelfstandige-worden>.

¹² Persons convicted of a criminal offence may not exercise a self-employed professional activity during their sentence.

¹³ Vlaanderen, *Een eigen zaak starten*, <https://www.vlaanderen.be/economie-en-ondernemen/een-eigen-zaak-starten/hoewebijstudebasiskennisbedrijfsbeheer>.

¹⁴ Brussels Economy and Employment, *Connaissances de base en gestion*, http://werk-economie-emploi.brussels/fr_FR/connaissances-de-gestion-de-base.

¹⁵ Public Service of Wallonia Economy, Employment, Research, *Connaissances de gestion de base*, http://economie.wallonie.be/Dvlp_Economique/Projets_thematiques/Regionalisation/Starter/gestion_base.html.

¹⁶ http://economie.wallonie.be/Dvlp_Economique/Projets_thematiques/Regionalisation/Starter/jury.html.

Furthermore, certain occupations are regulated in Belgium, which means one must have specific professional competences to practice certain professions and **proof of this professional knowledge is needed to access these professions**. This requirement is mainly applicable to professions in construction, food, personal care and sale and maintenance of cycles and motor vehicles. The obligation to proof professional competence was abolished in Flanders on 1 January 2019, but is still in place for certain professions in Wallonia and Brussels. As is the case for the basic knowledge of business management, proof of professional skills can be provided with a diploma, evidence of professional experience or through an exam at the Central Examination Board of the Walloon and Brussels-Capital Region.

There are also **activity-specific conditions**:¹⁷ In addition to the general requirements – as mentioned above and applicable to all self-employed activities – Belgian legislation foresees formalities for trade and craft professions, for liberal professions and for service-providing professions. There are also specific permits and authorisations that can be required, as for example when working with food.¹⁸

Lastly, there is the **nationality condition**:¹⁹ Belgian nationals, nationals of the European Economic Area and Swiss nationals can freely take up self-employed activities in Belgium and start a business. Third-country nationals on the other hand will need to request a professional card, which is the work authorisation for self-employed activities.²⁰ There are of course some activity-specific exemptions to this rule. The Regions are competent for professional cards.

In addition, for setting up a new business in Belgium a number of other **administrative formalities**, such as trade registration and registration with the social security system and with the tax authorities, have to be fulfilled.

Process of setting up a new business

The exact **process** of setting up a new business in Belgium will **depend on the specific company form** the founder decides upon. Belgium knows different enterprise forms and one can even decide to work outside of any company form as a natural person. According to the FPS Economy's 2018 'Digital Barometer',²¹ more than 75% of start-ups in Belgium were set up as private limited liability companies.²²

Since 1 May 2019, the new Belgian Company Code²³ revised the Belgian enterprise law with the aim to modernise Belgian company and association law by simplifying it, making it more flexible and adjusting it to the progress of European law. With this reform, the

¹⁷ Federal Public Service Economic Affairs, SMEs, Self-Employed and Energy, Comment s'installer à son compte? - Zelfstandige worden, <https://economie.fgov.be/nl/publicaties/zelfstandige-worden>.

¹⁸ Business in Belgium, *Setting up your business*, https://business.belgium.be/en/setting_up_your_business.

¹⁹ Federal Public Service Economic Affairs, SMEs, Self-Employed and Energy, Comment s'installer à son compte? - Zelfstandige worden, <https://economie.fgov.be/nl/publicaties/zelfstandige-worden>.

²⁰ https://www.belgium.be/en/work/coming_to_work_in_belgium/self_employment.

²¹ Federal Public Service Economic Affairs, SMEs, Self-Employed and Energy, Barometer van de informatiemaatschappij 2018, <https://economie.fgov.be/nl/publicaties/barometer-van-de-4>.

²² Federal Public Service Economic Affairs, SMEs, Self-Employed and Energy, Baromètre de la société de l'information 2018 - Barometer van de informatiemaatschappij 2018, <https://economie.fgov.be/nl/publicaties/barometer-van-de-4>.

²³ Companies and Associations Code of 23 March 2019, *Belgian Official Gazette*, 4 April 2019, available in Dutch and French on

http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=2019032309&table_name=wet and Voka Ondernemers West-Vlaanderen, *Nieuwe vennootschapswet maakt België aantrekkelijker*, <https://www.koengeens.be/news/2019/03/22/nieuwe-vennootschapswet-maakt-belgie-aantrekkelijker>.

Belgian legislator intended to make Belgium more competitive and attractive for (foreign) investors. One of the most important simplifications is the **reduction of the number of company forms**. The company form 'Besloten Vennootschap met Beperkte Aansprakelijkheid (BVBA)' or 'Société privée à responsabilité limitée (SPRL)' no longer exists, but would now correspond to the new company structure of **private limited liability company**.

To identify the process of setting up a business in Belgium, this new company structure, which in Dutch is called 'Besloten Vennootschap' and in French 'Société à Responsabilité Limitée'²⁴ will serve as example. The private company is the company form of choice for small and medium sized enterprises, enabling to use default regulations to set up the business. This company form provides a lot of flexibility in drafting the articles of association to accommodate the structure for the activities to be launched. A private company can issue different types of shares and securities with different rights attached to them. In addition, the articles of association can include a mechanism to exclude or dismiss shareholders, while the company form is also flexible when it comes to the timing of dividend distributions.

Several steps must be followed when setting up this kind of company:²⁵

As a first step the founder will need to draw up a **financial plan** to justify the level of capital or assets of the company and to show that this is sufficient to conduct the contemplated activities for at least two years. The financial plan must include at least 6 chapters: description of the activities, overview of all financing sources, opening balance sheet and project balance sheet at 12 and 24 months, profit and loss account at 12 and 24 months, estimate of income and costs for a period of at least 2 years, description of the assumptions and – if applicable – name of the expert who provided counsel to draft the financial plan. Since 1 May 2019, there is no longer a minimum investment required (a minimum share capital), but the company is legally bound to have sufficient assets to commence and operate its planned activities which makes the financial plan more important than ever. For this step the supervision of an accountant is required.²⁶

As a next step the founder needs to **open a current business account** in the company's name with a financial institution that is established in Belgium. The minimum investment that was decided upon in the financial plan will need to be deposited on this bank account. The bank will provide a statement attesting to this.

This bank statement, together with the financial plan will be brought to a Belgian notary, who will draft the **instrument of incorporation**. This document will include the name of the company, the legal form, the duration for which the company is set up and the goal of the company. The instrument of incorporation will be deposited at the Commercial Court²⁷

²⁴ Federal Public Service Justice, *Société mise en lumière : la SRL*, https://justice.belgium.be/fr/themes_et_dossiers/societes_associations_et_fondations/societes/societe_mise_en_lumiere_la_srl.

²⁵ Interview Veerle Slagmeulder, Partner - Alaska Brussels, 20 May 2019. Alaska is a Belgian group of accountants, auditors and advisors.

²⁶ The legislator abolished the minimum capital of EUR 18,550 for private companies. It is up to the founder to ensure that there is a sufficient starting capacity. How much this minimum must be is no longer legally determined.

²⁷ 'Ondernemingsrechtbank' in Dutch and 'Tribunal de l'entreprise' in French.

by the accountant, where the **registration in the Crossroads Bank for Enterprises**²⁸ will be taken up, as well as the notification in the Belgian Official Gazette.

If needed, the founder will **register with the General Administration of Taxation** to receive a VAT-identification number.²⁹

And finally, self-employed workers have their own social status and a specific social security scheme. As such, the self-employed person must **join a social security insurance provider** for self-employed persons of their choice and pay quarterly social security contributions.

In Belgium there is **no maximum timeframe for the registration** of a company. The duration of the process will fully depend on practicalities as for example the preparatory work that was already done by the applicant before starting the process, the waiting time to get an appointment with a notary, etc. Before the revision of the Belgian Companies and Associations Code, the set-up of a business could in practice be handled in approximately one month³⁰. But as of 1 May 2019, the Companies and Associations Code requires additional preparatory works to be done. Among other things, before setting up the business, one is required to draft a detailed financial plan with the assistance of an accountant. This delays the process, but should in principle contribute to more successful business creation.³¹

Various costs are associated with setting up a business.

There are **fixed costs** to register the business:

- Registration with the Crossroads Bank for Enterprises: € 88,50 for 2019. The fee is adjusted yearly according to the index.³²
- Only for a company set up: deposit deed of incorporation: between € 228,93 and € 283,38³³.

And there are **variable costs**:³⁴

- Notary costs: usually range between € 1 000 and € 2 500, but only required in case the founder decides to work in a company structure.
- Accountancy fees: range between € 1 500 and € 2 500.

The total costs of registering a business in Belgium cannot be accurately identified as too many variables are involved.

²⁸ The Crossroads Bank for Enterprises (CBE) is a database owned by the FPS Economy containing all the basic data concerning companies and their business units. The purpose of the CBE is twofold: increasing the efficiency of public services; and simplifying administrative procedures for companies.

²⁹ Any entity that performs an economic activity on a regular basis and independently supplies goods or provides services that are listed in the Belgian VAT Code must pay and/or charge VAT. More information is available on <https://economie.fgov.be/fr/themes/entreprises/creer-une-entreprise/demarches-pour-creer-une/identification-la-tva>.

³⁰ In 2016, Belgium held the 10th place in the global ranking of the IMD World Competitiveness Yearbook with only 4 days needed to set up a business.

³¹ Interview Veerle Slagmeulder, Partner - Alaska Brussel, 20 May 2019.

³² Federal Public Service Economic Affairs, SMEs, Self-Employed and Energy, *Démarches auprès d'un guichet d'entreprises - Te ondernemen stappen bij een ondernemingsloket*, <https://economie.fgov.be/nl/themas/ondernemingen/een-onderneming-oprichten/belangrijkste-stappen-om-een-te-ondernemen-stappen-bij-een>.

³³ Federal Public Service Justice, *Belgian Official Gazette – Tarifs - Tarieven*, https://www.ejustice.just.fgov.be/tsv_pub/tarif_n.htm.

³⁴ Interview Veerle Slagmeulder, Partner - Alaska Brussel, 20 May 2019.

2.2. Support for start-up businesses and entrepreneurs

The **Belgian start-up ecosystem**³⁵ is quite dynamic with a variety of actors involved, primarily from the **private sector** in particular with a significant presence of initiatives from the corporate world and investors' community, both traditional investors like commercial banks and alternative financing such as venture capitalist and business angels.³⁶ Belgium's start-up ecosystem currently ranks 8th in Europe in terms of capital investment in Fintech according to 2018 figures, with EUR 35 million invested throughout the year 2018. According to the OECD's 2018 Entrepreneurship at a Glance report,³⁷ it is also a healthy environment for new start-ups. There were around 120 new enterprise creations and over 150 new venture capital-backed companies in the country in 2017.

The governments of the **Flemish, the Walloon and the Brussels-Capital Region** have authority over the employment-based immigration policies and are competent for the policy on the attraction of foreign business owners and therefore start-ups. The different Regions in Belgium therefore inevitably play a vital role in entrepreneurial ecosystems and start-up hubs. Each Region is free to develop its own work authorisation policies, programmes, requirements and exemptions, including for start-up owners and innovative entrepreneurs. As a result, each Regions can decide on how to assist and support companies and start-ups, which creates a certain level of competition between the Regions. And through cooperation between the different actors and cities, the Regions seem to position themselves rather as a country to the rest of the world³⁸. Notwithstanding the competition between the Regions, there is a level of cooperation through monthly meetings between the Regions and the federal authorities. Common goals and issues are discussed and addressed. For example, the economic missions carried out by the Royal Family are decided upon together.³⁹ These missions support the Belgian economy rather than a specific Region and therefore cooperation is vital.

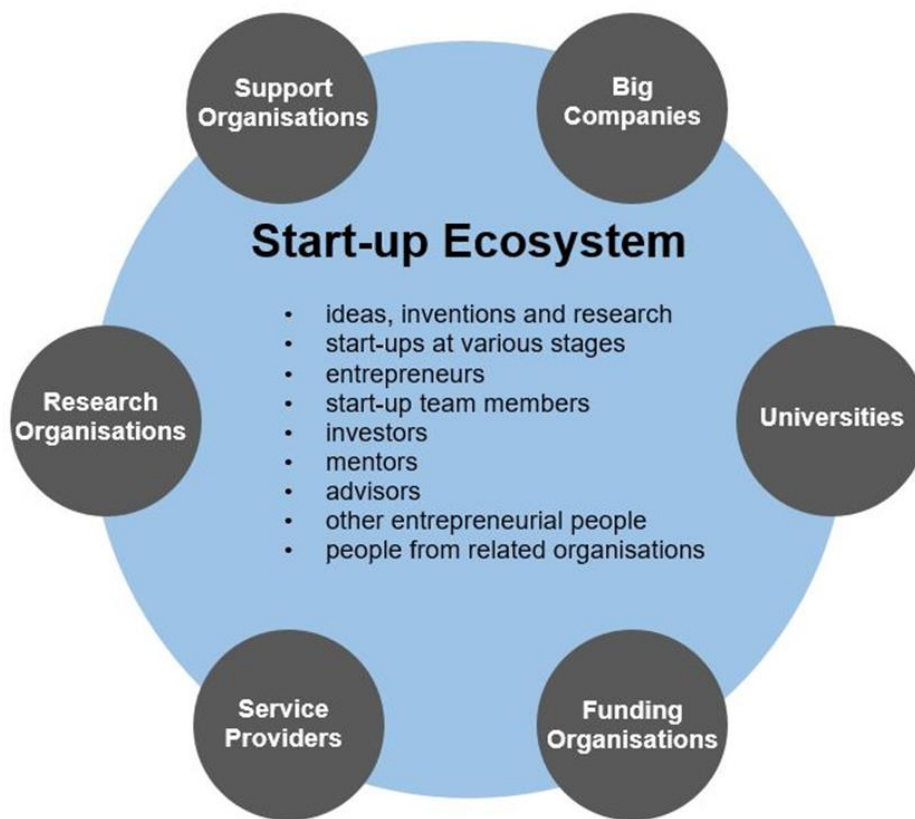
³⁵ A startup ecosystem is formed by people, startups in their various stages and various types of organisations in a location (physical or virtual), interacting as a system to create and scale new startup companies. These organisations can be further divided into categories such as universities, funding organisations, support organisations (like incubators, accelerators, co-working spaces etc.), research organisations, service providers (like legal, financial services etc.) and large corporations. Local Governments and Government institutions such as commerce, industry and trade departments also play an important role in the start-up ecosystem. Different organisations typically focus on specific parts of the ecosystem function and startups at their specific development stage(s). An non-exhaustive overview of the Belgian Startup Ecosystem is available on <https://github.com/Pronovix/Belgian-startup-ecosystem/wiki/The-Belgian-Startup-Ecosystem> and https://data.startups.be/actors?actor_type=LegalEntity.

³⁶ http://www.super-project.eu/pdf/SUPER_Country_Profile_BE_new.pdf.

³⁷ <http://www.oecd.org/sdd/business-stats/EAG-2018-Highlights.pdf>.

³⁸ Interview Anneleen Baetens, John Verzele, Olivier Van Orshoven (Flanders Investment & Trade) and Ellen Cardon and Astrid Deneve, Flanders Innovation & Entrepreneurship Agency (VLAIO), 14 May 2019.

³⁹ Interview Anneleen Baetens, John Verzele, Olivier Van Orshoven (Flanders Investment & Trade) and Ellen Cardon and Astrid Deneve, Flanders Innovation & Entrepreneurship Agency (VLAIO), 14 May 2019.



The three different Regions in Belgium are each their own hub with some notable differences.⁴⁰ Flanders is said to have the strongest players with Ghent ranked 131 globally in the 2019 startup ecosystem rankings, followed by Antwerp (376) and Hasselt (492), Waterloo (538), and Liege (549), though there are some very strong exceptions in Brussels.⁴¹ Brussels is the largest hub with the highest number of start-ups, ranking 62nd globally in the 2019 startup ecosystem rankings. The concentration of business incubators⁴² in the Brussels Capital area is due to the presence of large multinational corporations, headquarters of commercial banks as well as the presence of crucial research and academic institutions. Another factor that may play in favor of Brussels as location of choice of most incubators and accelerators is its “bilingual” and hence “neutral” stance in a highly fragmented and strongly federal country such as Belgium.

The Walloon region has been running behind and knows the smallest number of start-ups, but is making a strong effort to catch up.

Besides the regional hubs, there are also other **hubs centred around for example tech giants**. As such, the Flemish city of Leuven is known as the Flemish technology hub centred

⁴⁰ Interview Frederik Tibau, Director of International Relations - Startups.be, 22 May 2019.

⁴¹ Brussels hosts the only Belgian start-up to have reached unicorn status: Collibra.

⁴² When it comes to definitions and terminology, there is not a clear taxonomy of what constitutes a “business incubator”, as the term is often used to describe various services. In addition, the term “accelerator” is also becoming predominant in the Belgian entrepreneurship promotion ecosystem. The existence of “incubators” and “accelerators” overlaps in Belgium, where there is not a clear distinction between hand-holding and coaching entrepreneurs to be to establish a business (typical of incubation) and supporting the growth of an existing enterprise (typical of an accelerator).

around the tech giant 'imec'⁴³. Furthermore, there are different ecosystems originating from **spin-offs around the university hospitals** in Belgium.

Cities – in and outside of the framework set out by the Regions – do also play an important role in creating and supporting entrepreneurial ecosystems and start-up hubs, as they often set up their own incentive measures to support businesses in order to compete in attracting business and start-ups. For example: the city of Antwerp created 'StartupVillage',⁴⁴ an area in the middle of the historical centre where start-ups, major companies, mentors and investors meet. The city recognised the potential of the fast growing start-up scene and set up initiatives such as affordable office space specifically for start-ups via flexible lease agreements. In Belgium, **co-working spaces** are perceived to be similar to an "incubator" due to not only access to facilities, typically an office space, a Wi-Fi connection, printer and conference room, but also the opportunity to work together with other young professionals and potentially to generate ideas and to launch business ventures. As such, in Brussels there is a self-proclaimed "co-working community", not mere shared office spaces, but a fully dedicated space for co-working with a facilitator dedicated to connecting members, building trust and promoting and encouraging collaboration, interaction and serendipity. Another example of measures implemented by cities can be found in Ghent, where starters can recuperate up to € 5 000 in professional trainings and advice expenses⁴⁵.

Annex 2 provides a non-exhaustive overview of the start-up ecosystem in Belgium.

2.3. Challenges regarding the business environment in Belgium

There have been several evaluations and debates on the business environment in Belgium, which identify various administrative and structural barriers to setting up a business.

A first and important debate on Belgian companies legislation was recently concluded by the entry into force of the new **Companies and Associations Code** on 1 May 2019.⁴⁶ Throughout the years the existing legislation became outdated, leaving the legislative landscape unclear for companies and businesses. In addition, Belgium applied the European rules in a much stricter form than the neighbouring countries, which caused large numbers of companies to set up headquarters in these countries instead of Belgium.⁴⁷

The keywords of the new legislation are **flexibilisation, modernisation and simplification** and according to the Minister of Justice, the updated legislation will stimulate entrepreneurship in Belgium and identify the country as a competitive player⁴⁸. Foreign investments should find their way again to Belgium and the already established companies will be stimulated to stay.

This updated legislation also meets a second issue that was identified in Belgium being **the high costs when setting up business**. Next to several "smaller" costs, as for example

⁴³ <https://www.imec-int.com/nl/about-imec>.

⁴⁴ Ondernemen in Antwerpen, *StartupVillage*, <https://www.ondernemeninantwerpen.be/startupvillage>.

⁴⁵ Gent: Werken & ondernemen, *Starterscontract*, <https://stad.gent/werken-ondernemen/producten/starterscontract#sheet-pricing>.

⁴⁶ Companies and Associations Code of 23 March 2019, *Belgian Official Gazette*, 4 April 2019.

⁴⁷ Voka Ondernemers West-Vlaanderen, *Nieuwe vennootschapswet maakt België aantrekkelijker*, <https://www.koengeens.be/news/2019/03/22/nieuwe-vennootschapswet-maakt-belgie-aantrekkelijker>

⁴⁸ <https://www.advocatennet.be/nieuwe-vennootschappenwet-verleidt-belgische-ondernemers-en-vennootschappen/>.

setting up a bank account, and notary costs, there was the requirement of a minimum investment when establishing a company structure in Belgium. For example, for setting up a private limited liability company in Belgium a minimum capital of € 18 550 was applicable. Though this capital would become available after the establishment of the company, the deposit of this large sum was needed at the time of establishment. This used to be an issue for founders that wanted or needed to start small and did not have investors. This was taken into account in the debate on the new Company Code and since the entry into force on 1 May 2019, one can set up business without the need of this minimum investment. The new requirement is that a **detailed business plan** is drafted at the time of set up with the assistance of an accountant, ensuring that sufficient funding is available.⁴⁹ During the interviews conducted while drafting this report, a new practical issue was identified following the abolishment of the minimum investment. When setting up a bank account to start a business, banks now more and more ask to see the applicants in person instead of being able to open an account online.⁵⁰ This is often an issue and especially so for visa-nationals. And as mentioned above, the requirement to draft a detailed financial plan with the assistance of an accountant, delays the process to set up a business in Belgium.

The **administrative formalities and limited social security for self-employed workers** has always been a barrier in Belgium. But here as well, change has been subject to debate. When working as an employee, the employer takes up social security payments through the wages, but self-employed workers need to take care of their own social security by registering with a social insurance fund and paying social contributions. The biggest difference between employees and self-employed workers has always been the unemployment and pension rights.⁵¹

The requirement to provide a **certificate showing basic knowledge of business management** was identified as a barrier for business founders. Since 1 September 2018 business founders no longer need to provide this certificate when setting up their business in Flanders⁵². Until further notice, the Brussels-Capital⁵³ and the Walloon⁵⁴ region are still holding on to this requirement. The requirement of this certificate at the time of set-up of the business can obstruct competent founders of setting up their business in Belgium. The requirement to **provide proof of professional knowledge for certain professions**, mainly in construction, food, personal care and sales and maintenance of cycles and motor vehicles, can also be noted. The obligation to proof this professional competence was also abolished in Flanders, but is still in place for certain professions in Wallonia and Brussels.

According to the SUPER – Start-Up Promotion for Entrepreneurial Resilience project⁵⁵, the Belgian federalism is quite relevant pertaining to Belgium’s business environment as it reveals a degree of **fragmentation that may lead to unnecessary inter-regional**

⁴⁹ Art. 215 of the Companies and Associations Code of 23 March 2019, *Belgian Official Gazette*, 4 April 2019.

⁵⁰ Interview Veerle Slagmeulder, Partner - Alaska Brussel, 20 May 2019.

⁵¹ 2015 knew a radical change in the calculation of the social contributions for self-employed workers. Since 1 January 2015 social contributions for self-employed workers are calculated on the basis of their income for the current year instead of on the income of three years earlier. This change was set up in an attempt to match the contributions with the actual economic situation of the self-employed worker.

⁵² Vlaanderen, *Een eigen zaak starten*, <https://www.vlaanderen.be/economie-en-ondernemen/een-eigen-zaak-starten/hoe-bewijst-u-de-basiskennis-bedrijfsbeheer>.

⁵³ Brussels Regional Public Service Economy and Employment, *Connaissances de base en gestion - Basiskennis bedrijfsbeheer*, <http://werk-economie-emploi.brussels/fr/connaissances-de-gestion-de-base>.

⁵⁴ Wallonie Economie SPW, *Connaissances de gestion de base*, http://economie.wallonie.be/Dvlp_Economique/Projets_thematiques/Regionalisation/Starter/gestion_base.html.

⁵⁵ SUPER – Start-Up Promotion for Entrepreneurial Resilience project, Country Profile for Belgium – Identification of Existing State of Business Incubation, http://www.super-project.eu/pdf/SUPER_Country_Profile_BE_new.pdf.

barriers to entrepreneurship and potential missed opportunities due to low economies of scale. Moreover, the high degree of fragmentation leads to a dimension issue of having three (if not more) sub-optimal sized markets that may lead to overall misalignment of expectation and implementation when it comes to promoting entrepreneurship and business incubation that, by nature, require an open and networked ecosystem to nurture entrepreneurial talent.

In the report of the 2019 EY's Belgian Attractiveness Survey, EY Belgium recommends to encourage **greater cooperation among Belgium's three Regions** to ensure that the success of one region reinforces another and that their individual advantages are combined to maximise overall attractiveness of Belgium.⁵⁶

3. Legal and policy framework for admission of start-up founders and innovative entrepreneurs from third countries

This section provides an overview of the admission conditions and business environment for start-ups and innovative entrepreneurs from third countries.

3.1. Admission conditions

Visa and residence permits

There is no specific migratory pathway foreseen for **start-ups founders or innovative entrepreneurs** from third countries. The entry and residence of these third-country nationals is possible through the use of the standard self-employment-based immigration channel.

The activities of start-up owners and innovative entrepreneurs qualify as self-employed activities in Belgium. According to the applicable legislation any foreign national exercising self-employed activities in Belgium – whether as a physical person or within an association or company – has to be in possession of a **professional card**.⁵⁷

Though the professional card serves as the basis for the right of residence, it does not automatically cover the right of residence.⁵⁸ Generally, when the authorisation to pursue a self-employed activity in Belgium is granted, the person concerned has to lodge an application for a **long stay visa D** on the basis of the professional card with the Belgian diplomatic or consular missions competent for the person's place of stay or residence abroad. Upon arrival in Belgium, he/she must register with his/her local municipality and will receive a **residence card**. This so-called electronic A card is the proof of registration in the foreigners' register for a limited period of time and is valid for one year.

Visa-exempt foreign nationals also have the option to apply for the residence permit directly at the municipality, without the need of applying for the visa D.

⁵⁶ The EY Attractiveness Survey 2019 Belgium, https://www.ey.com/en_be/attractiveness.

⁵⁷ Art. 1 of the Law of 19 February 1965 regarding the exercise of self-employed activities by foreign nationals, *Belgian Official Gazette*, 26 February 1965.

⁵⁸ Art. 4 of the Law of 19 February 1965 regarding the exercise of self-employed activities by foreign nationals, *Belgian Official Gazette*, 26 February 1965.

The start-up founder can **employ third-country nationals**, but the general scheme of employment for third-country nationals is applicable. No deviating rules are available.

Professional card

General principles

A professional card is the document authorising a foreign person to exercise a specific activity as a self-employed person on the Belgian territory, in a certain capacity and for a certain period (1 to 5 years maximum). The professional card is required for each foreigner who:

- will exercise this activity in the capacity of a natural person or as a representative of a partnership or an association (whether remunerated or not);
- does not have the Belgian nationality;
- does not have the nationality of one of the Member States of the European Economic Area (the 28 Member States of the European Union and the three EFTA countries: Iceland, Norway and Liechtenstein);
- does not have the Swiss nationality;
- is not exempted from this formality because of other reasons.⁵⁹

As of 1 January 2015, the Regions are competent for the regulatory framework and the implementation of economic migration policy, including the processing and the issuance of professional cards.

Applications for professional cards are still submitted via the same channels:

- via the diplomatic post for persons residing abroad;
- via the one-stop-shop for business support for people who already have a valid residence permit in Belgium.

The applications for a professional card will be sent on to the Economic Migration Service of the competent Region.

To define the territorial delimitation of powers between the three Regions (Flanders, Wallonia and the Brussels-Capital Region), the following criteria are applicable:

- the competent Region is defined by the place of the operating unit (place of business);
- if there are activities in various establishments, the registered office is taken into consideration;
- if there is no operating unit in Belgium, the place of the effective activity is taken into account.

Award criteria

The legislation regulating the professional card was not designed to attract business owners, but was set up to find a balance between the expectations of foreign nationals wishing to set up their self-employed activities in Belgium and the economic, social and cultural interests of Belgium and now the specific Regions. The requirements are not strictly regulated and are mostly based on practice.

⁵⁹ Certain categories of foreigners are exempted from the obligation to be holder of a professional card, either because of the nature of the activity, of the nature of the right to reside or because of the implementation of international treaties. The list of exempted categories is available on <https://www.werk.be/en/information-services/professional-cards/general-principles/exemptions>.

There are three criteria for awarding (or refusing) a professional card:

- the **right to reside**: if the person concerned does not have a permit for residence in Belgium, an application for this residence permit must be lodged at a diplomatic mission or consular post simultaneously with the application for a professional card;
- compliance with **regulatory obligations**: for a first application it is examined whether the person concerned has access to the profession, if this is required for the activity. If it concerns an application for renewal, it is also examined whether the person concerned has paid the taxes and social security contributions correctly.
- the **importance of the project for the Region**: its importance is assessed in terms of **economic value**. For example, it is examined whether it meets economic needs, creates employment, involves useful investments, what economic impact it has on enterprises in the Region and whether it promotes export, innovative or specialised activity. Another evaluation may also be conducted to determine whether the project is of value to society, culture, art or sports. When an application for renewal is lodged, it is examined whether the added value for the Region that was set in the first application for a professional card (e.g. job creation, investments, etc.) was effectively realised.

For applicants for whom the right to reside has another reason than a self-employed activity (e.g. work permit, regularisation, etc.), only the right to reside and compliance with the regulatory obligations are tested. As a result, the professional card, if awarded, will give no right to reside. If the situation of the person concerned changes and the professional card should give the right to reside, he/she can submit a modified application which specifically refers to this. In this case, the Economic Migration Service will also examine the importance of the project for the Region.

The most important requirement to obtain a professional card is still the need to **show the added economic value of the project** to the Region. As mentioned above, this added value is measured through different objectives: meeting an economic need of the Region, creating employment opportunities, useful investments, the economic impact on companies in the Region, promotion of export, the innovative or specialised nature of the activity, etc. The social, cultural or sportive nature of a project can be considered as well. However, **these requirements are vague and unclear, leaving most to the discretion of the Regional Employment Authorities**. In the Flemish Region there is a tendency to rely on the positive advice of Flanders Invest & Trade (the regional agency for international business). If an application is supported by Flanders Invest & Trade, it is more likely to receive a positive outcome.⁶⁰ This is also the case in Brussels, but limited to a small number of files.⁶¹

Besides the economic value, the right of residence (if the person concerned does not have a residence permit in Belgium, s/he must apply for this residence permit at the diplomatic or consular missions at the same time as the application for the professional card) and the compliance with the regulatory obligations related to the specific activity (for a first

⁶⁰ Interview Isabelle De Boer, Head of Service Professional cards - Regional Public Service Economy and Employment Flanders – Service Economic Migration, 13 May 2019.

⁶¹ Interview Jeroen Maes, Director, Regional Public Service Economy and Employment Brussels – Direction Economic Migration, 13 May 2019.

application, it will be checked whether the person concerned has access to the profession) will be considered in the approval of the application.⁶²

Since the transfer of competence from the federal to the regional level it was noted that the different Regions are emphasising **different accents through practice and policy**.⁶³ The Flemish Region for example focusses on the need of a detailed business plan and the profitability of the project.⁶⁴ In comparison, the Brussels Region does not have the absolute need to see a business plan and will rather provide a professional card with a limited validity period, allowing the applicant to proof him/herself.⁶⁵

Processing time and validity

The legislation does **not provide a maximum processing time**, leaving this up to practice. Practice shows a lengthy process, which varies between Regions.

Average processing times range between two and four months for the professional card application, but the Flemish Region also mentions exceptions of up to 17 months.⁶⁶

As mentioned before, the professional card does not automatically cover the residence of the holder, meaning that the above-mentioned processing times only cover the first step in the process. The full processing times will depend on the country of origin of the applicant, the nationality of the applicant, whether or not the applicant will bring his/her family members, etc. On average, the overall process takes about one to eight months, including the visa D and residence application.

The **professional card** can be granted for a period between one and five years,⁶⁷ autonomously decided upon by the regional authorities. In practice, there is an average validity period of 2 years, but in case of doubt, a professional card of one year will be granted.⁶⁸ In very exceptional circumstances the professional card can be granted for five years. This is the case if the expected economic added value for Belgium is very significant, which is demonstrated among other things by considerable investment of capital, very high turnover, additional employment, etc. The professional card can be renewed upon expiry.

As the professional card is the basis for the right of residence in Belgium, the validity of the **residence permit** is linked to the validity of the professional card. In practice the residence permit is issued for a maximum period of one year, but can be renewed.

Competent authorities

⁶² Art. 6 of the Royal Decree of 2 August 1985 regarding the implementation of the Law of 19 February 1965 on the exercise of self-employed activities by foreign nationals, *Belgian Official Gazette*, 24 September 1985.

⁶³ Interview Jeroen Maes, Director, Regional Public Service Economy and Employment Brussels – Direction Economic Migration, 13 May 2019; and interview Isabelle De Boer, Head of Service Professional cards - Regional Public Service Economy and Employment Flanders – Service Economic Migration, 13 May 2019; and interview Stéphane Thirifay, Regional Public Service Economy and Employment Wallonia – Direction Employment and Work Authorisations, 22 May 2019.

⁶⁴ Interview Isabelle De Boer, Head of Service Professional cards - Regional Public Service Economy and Employment Flanders – Service Economic Migration, 13 May 2019.

⁶⁵ Interview Jeroen Maes, Director, Regional Public Service Economy and Employment Brussels – Direction Economic Migration, 13 May 2019.

⁶⁶ Interview Jeroen Maes, Director, Regional Public Service Economy and Employment Brussels – Direction Economic Migration, 13 May 2019; and interview Isabelle De Boer, Head of Service Professional cards - Regional Public Service Economy and Employment Flanders – Service Economic Migration, 13 May 2019; and interview Stéphane Thirifay, Regional Public Service Economy and Employment Wallonia – Direction Employment and Work Authorisations, 22 May 2019.

⁶⁷ Art. 3 §2 of the Law of 19 February 1965 regarding the exercise of self-employed activities by foreign nationals, *Belgian Official Gazette*, 26 February 1965.

⁶⁸ Interview Isabelle De Boer, Head of Service Professional cards - Regional Public Service Economy and Employment Flanders – Service Economic Migration, 13 May 2019; and interview Jeroen Maes, Director, Regional Public Service Economy and Employment Brussels – Direction Economic Migration, 13 May 2019

As a consequence of the specific division of power within Belgium, more than one authority is involved in the process of granting the professional card and the associated residence permit.

Historically Belgium's federal government was fully responsible for the professional card scheme, but in 2014 this competence was transferred to the three Regions. As a consequence, since 1 January 2015, the regional services of economic migration now grant the professional card.

And since the professional card does not automatically grant residence to the holder, a separate residence application is needed. In this procedure, the Belgian diplomatic or consular missions, the Immigration Office of the Federal Public Service Home Affairs and the local authorities (municipalities) are involved.

Planned changes regarding the admission of start-up founders and innovative entrepreneurs from third countries

As mentioned, the different Regions in Belgium have started to realise the importance of targeting start-ups and have started to work towards structuring the existing legislation and incentives for start-ups. On the other hand, there is no focus on innovative entrepreneurs.

In practice, it is mainly the Flemish Region that has already taken steps in changing the **law and policy on self-employed activities**.⁶⁹ The preparatory works have been done to change the existing legislation. However, the government did not manage to push through the changes before the elections of May 2019 and it is unsure at the time of drafting this report what will happen with the planned changes after the elections.

In the other regions there is an interest to change the law and policy at the level of the executing authorities,⁷⁰ but there is a lack of political interest at the governmental level.

At the moment there is no evidence that Belgium is planning to introduce any **special schemes to facilitate the immigration** of start-up founders and innovative entrepreneurs from third countries. From the meetings and interviews held with the different authorities in the framework of this study it is clear that the aim is to change the existing immigration legislation in order to facilitate the migratory pathway for foreign start-ups rather than to introduce new regulation. If the necessary political interest can be found, the existing legislation would start working around different accessibility criteria for different kind of businesses.

Public and policy debates on facilitating immigration of start-ups and innovative entrepreneurs from third countries

There has been some **public and policy debates** with regard to facilitating the immigration of start-ups and innovative entrepreneurs from third countries. The different Regions competent for employment-based immigration have realised the importance of third-country nationals for the start-up scene and, mainly the Flemish Region, started

⁶⁹ Interview Isabelle De Boer, Head of Service Professional cards - Regional Public Service Economy and Employment Flanders – Service Economic Migration, 13 May 2019.

⁷⁰ Interview Jeroen Maes, Director, Regional Public Service Economy and Employment Brussels – Direction Economic Migration, 13 May 2019.

working towards setting up a facilitated process to provide third-country nationals start-ups with a professional card. For Flanders a 2018 vision nota on exploiting foreign employment potential in Flanders mentions the need for change.⁷¹ The nota indicates the need for an updated legislation and a differentiation between different types of self-employed activities. The federal level, however, is lagging behind when it comes to facilitating the residence process which follows the professional card.

It is clear that the will to set up a facilitated process is present on various levels and with different authorities, but the complicated state structure of the Belgium is hindering the process.

3.2. Challenges and good practices regarding the admission of start-ups and innovative entrepreneurs from third countries

Challenges regarding admission of start-ups and innovative entrepreneurs

The main challenge in Belgium can be brought back to the **need for an updated legislation**. The admission of third-country national start-ups and innovative entrepreneurs is still regulated by the Law of 1965 on the exercise of self-employed activities by foreign nationals, which centers around the need of an a priori work authorisation for third-country nationals wishing to take up self-employed activities in Belgium. The need to request an a priori work authorisation is not necessarily an issue, but the fact that the legislation was drafted with the sole aim of protecting the own economy is. Only years after the introduction of this legislation, did it become apparent that there is a need to attract foreign businesses.

The legislation has also been updated and adjusted to facilitate the possibilities for third-country nationals to set up a business, but the original objective of the 1965 legislation remains in place: to be allowed to take up activities as a start-up or innovative entrepreneur one still needs to show the economic benefit of the project to Belgium or the specific Region.

In addition, the legislation is **vague and unclear**. Today, the admissibility criteria are described as follows in the Law on the exercise of self-employed activities by foreign nationals:

- right of residence;
- regulatory obligations;
- importance of the project in terms of economic value.

With no further guidelines, this lack of a detailed framework brings it all back to the discretionary power of the regional authorities handling the application. Practice and custom - which can deviate substantively between the different Regions - determine the document requirements, the way applications are handled and which applications are approved.

Furthermore, no **processing times** are set in the existing legislation, leaving authorities free to handle applications in their own pace. In extreme cases this has led to processing times going up to 17 months.

Though this open legislative framework has some advantages, it is clear that there is a need for a certain measure of objectification. Companies in general, but especially start-

⁷¹ https://www.ewi-vlaanderen.be/sites/default/files/bestanden/visienota_arbeidsmigratie.pdf.

ups, require a fast and clear process. And this especially if Belgium wants to compete with neighbouring countries.

During the interviews conducted while drafting this report, it became apparent that the regional authorities for economic migration are also asking for an updated legislation, to allow them to handle applications in a fast and precise manner.

Since 2014 this has been a challenge for the regional governments, as the competence for the admission of third-country nationals for business purposes was transferred to the Regions in that year. Though it has been some years, the Regions have not yet adopted their own legislation and there does not seem to be a real political interest for this. It should be noted that an exception can be noted in the Flemish Region where this challenge was recognised. Preparatory research was conducted, and the basis of a new legislation and policy was drafted. However, elections were held at the time of drafting this report and it is uncertain what will happen with this draft legislation in the near future.

Good practices regarding admission of start-ups and innovative entrepreneurs

When it comes to the admission of third-country national start-ups and innovative entrepreneurs, there are clearly some good practices to be identified.

First and foremost, the **willingness** of the different regional authorities to give start-ups a change became clear during the interviews conducted for this report. The Regions tend to use their discretionary power to deliver a professional card with a limited validity of one year. During this 'trial period' of one year, new business and start-ups can show the authorities that the business plan is being followed and that the necessary efforts are being made to make the new business successful. When the authorities deem the efforts to be sufficient, they will deliver a new professional card with a validity of two years. This is where the discretionary power and the limited legal framework are being used in a positive way.

It is also noticed that the regional authorities have realised the need for change and are also **asking for an updated legislation with clear guidelines**. In general, the political interest is still missing, but the Regions are using their discretionary power to set out their own policies and guidelines through practice.

3.3. Case study scenarios

With the use of **fictional scenarios**, the report aims to provide an understanding of the possible admission options of different types of third-country national start-ups founders and innovative entrepreneurs in Belgium.

For each of the fictional scenarios, the following questions are answered:

1. What are the migratory pathways (visas/residence permits) available?
2. Would the person qualify for the permit and if yes, under what specific conditions?
3. Which authority would assess the eligibility of the applicants?
4. What is the application process?
5. How long would it take for the person to obtain the permit?

The scenarios are available in Annex 3.

4. Attracting start-up founders and innovative entrepreneurs from third countries

This section presents the measures and incentives in place to attract third-country national start-ups and other innovative entrepreneurs in Belgium.

4.1. Extent to which attracting third-country national start-up founders and entrepreneurs is a policy priority

The attraction of start-ups and innovative entrepreneurs from third countries is **not a major national policy priority** in Belgium.

As mentioned before, Belgium has a specific state structure with a division of competences between the federal and regional level. Attracting foreign business owners, and therefore start-ups, is a **regional competence** in Belgium, with the three Regions free to set their own policy and conclude their own legislation. Regions can autonomously decide whether attracting start-ups and innovative entrepreneurs is a priority, making it complicated to discuss the attraction of start-ups and innovative entrepreneurs as a national policy.

The Regions have a focus on the **attraction of foreign investments** and even have specific agencies set up for the task: Flanders Investment & Trade⁷² for the Flemish Region, the hub.brussels invest & export⁷³ for the Brussels Capital Region and the Wallonia Export-Investment Agency (AWEX)⁷⁴ for the Walloon Region. However, the Regions have become only recently aware of the importance of attracting foreign national start-ups. They have started working on specifically targeting third-country national start-ups, but at a different pace. The Flemish Region is leading the way and has begun to map out the competition in the neighbouring countries through studies and started working towards creating Flanders as one brand for foreign start-ups. The Brussels Region is also looking into creating a specific policy, but only as from the year 2020 onwards and the Walloon Region was lagging a bit behind at the moment of drafting this study.

There is a necessity to encourage a greater cooperation among Belgium's three Regions to combine the individual advantages in order to maximise the overall attractiveness of Belgium.⁷⁵

As the federal government remains responsible for the admission and residence of foreign nationals, cooperation with this level is also needed to create a fast and facilitated process for these kinds of applications. Unfortunately, this does not seem to be a priority at federal level, leading towards a fragmented and hollowed out framework for third-country national start-ups in Belgium.

⁷² <https://www.flandersinvestmentandtrade.com/en>.

⁷³ <http://why.brussels/about>. Since 1st January 2018, Brussels Invest & Export has merged with Atrium and Impulse to create one single agency for business support in Brussels: hub.brussels invest & export, which is the foreign trade and investment department of hub.brussels, which aims to promote the internationalisation of the Brussels economy. hub.brussels is the economic development agency of the Brussels Capital Region.

⁷⁴ <http://www.investinwallonia.be/>.

⁷⁵ This was, among others, expressed by the EY Attractiveness Survey 2019 Belgium, https://www.ey.com/en_be/attractiveness.

Furthermore, there does not seem to be a targeted interest in innovative entrepreneurs in any of the Regions.

4.2. Specific measures to attract start-up founders and innovative entrepreneurs from third countries

Specific measures for third-country national start-up founders and innovative entrepreneurs

At the moment of drafting this report, there were **no specific measures in place to attract start-up founders and innovative entrepreneurs from third countries**. None of the various initiatives provided by the Regions to attract foreign investments and companies – although available for third-country national start-up founders and innovative entrepreneurs – are specifically targeted at third-country national start-ups.

The different **regional agencies responsible for attracting foreign investment** do assist start-ups, but only after the start-ups founders have found their way to these authorities and agencies on their own.⁷⁶ This makes Belgium a less attractive landing spot for start-ups, especially considering that the neighbouring countries did invest in the attraction of these start-ups.⁷⁷

Targeted measures for innovative entrepreneurship and start-ups for third-country nationals already present in Belgium

Once established, a foreign-owned company is treated in the same way as a Belgian-owned company, entailing that third-country national start-ups and innovative entrepreneurs can make use of the same benefits, measures and incentives available to Belgian start-ups.

There are some **targeted measures to encourage and foster innovative entrepreneurship and start-ups for third-country nationals already present in Belgium**.

For example, specific actions are being taken in Flanders to stimulate entrepreneurship among newcomers and, in particular, refugees, mainly through a call for projects of the European Social Fund. For example, the 'Entrepreneurship in Flanders for Refugees project, AZO!' guides applicants for international protection, recognised refugees and beneficiaries of subsidiary protection towards entrepreneurship. Through a broad partnership⁷⁸, financed by the European Social Fund (ESF) and the Flemish Cofinancing Fund (VCF), a trajectory towards entrepreneurship was set out specifically aimed at refugees in Flanders.⁷⁹

In Brussels and Wallonia, the non-profit organisation Groupe One, has the objective to facilitate the creation of sustainable businesses. The organisation launched a pilot project because it noticed that some migrants, who were entrepreneurs in their country of origin, failed to prove their abilities or to restart their own activity in Belgium. Many of them had

⁷⁶ Interview Emmanuel De Beughem, bub.brussels – Department Inward Investment, 15 May 2019.

⁷⁷ Interview Anneleen Baetens, John Verzele and Olivier Van Orshoven (Flanders Investment & Trade) and Ellen Cardon and Astrid Deneve (Vlaams Agentschap Innoveren & Ondernemen), 14 May 2019.

⁷⁸ Stebo vzw, Starterslabo, UNIZO (Organisation for the Self-Employed and SMEs), Smart, Microstart, Exchange vzw, Zenitor, Vluchtelingenwerk Vlaanderen, IDrops, SYNTRA Flanders, the Flemish Public Employment Service (VDAB) and the Agency for Integration and Civic Integration (Agentschap Inburgering en Integratie).

⁷⁹ <https://projectazo.be/en/home-en/>.

to leave their country in a hurry and could not provide a diploma or proof of professional qualification or the necessary basic knowledge of business management required to set up a business in Brussels and Wallonia. And newcomers often lack access to information, funding opportunities, and social capital to start their entrepreneurial project. Groupe One also found many administrative errors, resulting from insufficient information or cultural features of the newcomers: 'false' self-employed persons, incorrect registrations, hastily signed leases, etc. Some newcomers are also unaware of the numerous rules imposed by the official authorities that only work in the official languages. Despite the offer of free services, the support structures for business creation in place, in particular the local economy desks, are not always well equipped for the support of newcomers because of language barriers and the longer-term approach required. Therefore, Groupe One Brussels developed an 'Entrepreneurial trajectory for Newcomers' (Parcours Entrepreneurial pour Primo Arrivants - PEPA) in partnership with the non-profit organization VIA, a platform for welcoming and training newcomers to Brussels.⁸⁰ The project offers to raise awareness, information and adequate individual support to the newcomers in their entrepreneurial journey. The project also informs and equips the Brussels support structures to guide newcomers and offers information sessions in partnership with VIA asbl entitled 'The journey of the Brussels entrepreneur' in French, easy French and translations into Arabic, English, etc.⁸¹

4.3. Actors involved in attracting and encouraging start-ups from third countries

A host of actors are involved in attracting and supporting start-ups and innovative entrepreneurs, including private sector actors, such as privately funded incubators and accelerators, higher education institutions and local and regional authorities (see 2.2. support for start-up businesses and entrepreneurs and annex 2). However, the efforts of these actors to attract and encourage start-ups do not target start-up founders and entrepreneurs from third countries specifically.

Private sector

Private sector companies facilitate start-ups in various ways, acting as capital providers and investors, mentors and consultants, or incubators and accelerators. Examples of the support offered by private actors are available in Annex 2.

In addition, there are various ways in which **Belgian authorities and the private sector work together** towards fostering start-ups. An example can be found in private enterprises, such as 'EY' partnering up with governmental agencies as Flanders Innovation & Entrepreneurship to attract start-ups⁸² and the non-profit organisation 'Startups.be' which receives government subsidies to assist start-ups.

Universities and higher education institutions

A number of Belgian higher education institutions provide opportunities to students to combine starting up a business with higher education. Examples of the initiatives of higher education institutions are available in Annex 2.

⁸⁰ Bureau d'accueil pour primo-arrivants (BAPA), <http://www.via.brussels/en/>.

⁸¹ <https://www.groupeone.be/pepa/>.

⁸² <https://thefactory.works/start-ups-scale-ups/>.

Local and regional authorities

As mentioned, attracting foreign investment is a regional competence. Various measures are in place and can be used by start-ups and innovative entrepreneurs, though they are not specifically targeted at third-country nationals. The same applies to initiatives taken and support offered by cities.

4.4. Rights and incentives to attract third-country national start-up founders and innovative entrepreneurs

As third-country nationals, start-up founders and innovative entrepreneurs enjoy certain rights and incentives.

Rights

Rights	Brief description of the rights granted
Facilitation to access permanent residence	Under EU-rules, third-country nationals are entitled to permanent residence after five years of continuous and legal residence in a Member State. Belgium does not grant any preferential access to permanent residence for third-country national start-up founders and entrepreneurs, but applies these standard provisions.
Access to employment	<p>The available option for the start-up founders is the professional card, which allows them to take up self-employed activities for the specific activity, capacity and duration for which the professional card is provided. By obtaining this professional card they are by default allowed to perform these activities.</p> <p>Should start-up founders wish to take up other self-employed activities, they might need to obtain a new professional card by filing a new application. Should they wish to take up activities as an employee, they will need to file a separate application for respectively a work permit or single permit.</p>
Possibility to be accompanied by family members	In line with the Family Reunification Directive (2003/86/EC) ⁸³ , family members can accompany start-up founders and entrepreneurs from third countries for the duration of the validity of the professional card that is issued to the principal. This is subject to certain conditions specified in the Directive, such as financial means to support the family. Family members are allowed to apply for family reunification together with sponsors and to accompany them to the country immediately or shortly after.
Family members allowed to access the labour market	<p>Since January 2019, family members of professional card holders are allowed to access the labour market as employees without the need to apply for a separate work permit⁸⁴. They need however be legally residing in Belgium.</p> <p>Should the family members wish to take up self-employed activities, they still need to obtain a professional card. The legislative change of early 2019 has created a clear distinction between self-employed activities and</p>

⁸³ Family Reunification Directive (2003/86/EC), <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:251:0012:0018:en:PDF>.

⁸⁴ Art. 10 of the Royal Decree of 2 September 2018 implementing the Law of 9 May 2018 on the employment of foreign nationals who are in a specific residence situation, *Belgian Official Gazette*, 17 September 2018.

	<p>activities as an employee. However, a professional card is provided in an easier manner for applicants already legally residing in Belgium⁸⁵. This means that family members, whose residence rights are based on the main applicants' status, can more easily obtain a professional card linked to the duration of their residence permit.</p> <p>It should also be noted that a specific exemption is in place for foreign nationals who assist or replace their spouse in the exercise of their independent professional activity. No professional card is needed for these activities⁸⁶.</p>
Other rights	<p>Belgium grants access to additional rights to start-up founders and entrepreneurs. These include access to social benefits in line with other third-country nationals, as well as access to public services, such as healthcare.</p>

⁸⁵ Interview Jeroen Maes, Director, Regional Public Service Economy and Employment Brussels – Direction Economic Migration, 13 May 2019; and interview Isabelle De Boer, Head of Service Professional cards - Regional Public Service Economy and Employment Flanders – Service Economic Migration, 13 May 2019.

⁸⁶ Art. 1,5° of the Royal Decree of 3 February 2003 regarding the professional card exemptions for certain categories of foreign nationals who engage in self-employed activities, *Belgian Official Gazette* 4 March 2003.

Incentive measures

Measure	Brief description of the measure	Campaign-like or permanent measures	Implementing actor	Applies to	
				TCN only	General
Facilitations for admission	There is no facilitated admission process, such as shortened processing time, reduced documentary requirements etc., foreseen for start-ups or innovative entrepreneurs in Belgium. Though the regional authorities for foreign investment have been asking for a facilitated admission, the regional governments have not yet adopted legislation or policies in this regard.	n.a.	n.a.		
Access to special funding and investments (e.g. micro-loans)	<p>Special funding aimed at attracting companies and entrepreneurs is available on different levels in Belgium. Mostly the subsidies are set up on a regional level.</p> <p>In the Flemish Region, the Flanders Innovation & Entrepreneurship Agency (VLAIO) brought the most important financing options and government measures together in a brochure, "Looking for financing? Discover what the government can do for you".⁸⁷</p> <p>The Brussels-Capital Region offers a whole range of subsidies for enterprises, self-employed persons or starters. Information on this subsidies is available in the</p>	Both	Mainly Regions, provinces and cities		X

⁸⁷ Flanders Innovation & Entrepreneurship Agency, *Op zoek naar financiering? Ontdek wat de overheid voor jou kan doen*, 2019, <https://www.vlaio.be/nl/publicaties/op-zoek-naar-financiering>.

	<p>brochure "Financial support for Brussels entrepreneurs. Enjoy a number of premium to boost for your activities!"⁸⁸</p> <p>Information on financial aid for the creation or development of an activity, training for staff and provision of services in Wallonia are available on the portal website "1890.be"⁸⁹ which is the single regional gateway to information and guidance for entrepreneurs in Wallonia.</p> <p>A number of cities, municipalities and provinces also try to support entrepreneurship by providing subsidies.⁹⁰</p>				
Co-working and dedicated spaces	<p>In Belgium, co-working spaces are perceived to be similar to "incubators" since they do not only provide access to shared facilities (typically office space, a WiFi connection, printer and conference room), but also the opportunity to work together with other young professionals and potentially generate ideas and launch business ventures.</p> <p>Various co-working spaces are available for rent in Belgium. In comparison with neighbouring countries, rental prices are still affordable in Belgium, which leads to very affordable office and co-working spaces.⁹¹</p>	n.a.	Mainly Regions and cities		X
Access to incubation/ accelerator	On the one hand the ecosystem in Belgium is vibrant and accessible with many actors involved and a significant number of business incubators and accelerators. On the other, business incubation and acceleration as a policy	Both	Regions, cities, universities, private sector		X

⁸⁸ Service Public Régional de Bruxelles Economie et Emploi, *Les aides financières pour les entrepreneurs bruxellois. Profitez de nombreuses primes pour booster vos activités!*, available in Dutch and French, http://werk-economie-emploi.brussels/fr_FR/subsides-pour-entrepreneurs and <http://werk-economie-emploi.brussels/documents/16195/1308609/Brochure+FR/48c2e390-5745-4cca-8ecb-725ef81c6f69>.

⁸⁹ <https://www.1890.be/>.

⁹⁰ For examples see: <https://www.vlaio.be/nl/subsidies-financiering/subsidi databank/premies-op-gemeentelijk-en-stedelijk-niveau> and <https://www.wallonie.be/fr/demarches/financer-son-entreprise-avec-des-moyens-exterieurs>.

⁹¹ Examples of co-working and dedicated spaces in Belgium are provided in Annex 2.

support programmes	theme is neither studied nor observed by policy stakeholders, academic or sector participants. ⁹²				
Tax incentives: benefits, reductions, exemptions, etc.	<p>Tax incentives are available for start-ups and entrepreneurs.</p> <p>Both federal and regional authorities offer support via direct subsidies and fiscal measures such as the federal tax shelter for start-ups⁹³.</p> <p>For example, in the Walloon Region, the "Coup de Pouce" loan allows individuals to lend money to businesses and self-employed persons in Wallonia. In return, they receive a tax benefit in the form of an annual tax credit which amounts to 4% during the first four years, then 2.5% over the following four years. This mechanism thus aims to provide a response to the low level of equity in SMEs and to stimulate the entrepreneurial spirit by bringing individuals closer to the entrepreneurial world.⁹⁴</p>	Temporary and permanent	Federal state and Regions		X
Consultation services/facilitators help in networking/accessing networks	The Belgian's start-up ecosystem comprises a lot of public and private actors that provide consultation services in almost any area of expertise (finance, ICT, management, etc.). Furthermore start-up meetups, founder networks and network of networks are available. ⁹⁵	Both	Regions, cities, universities, non-profit and profit organisations		X

⁹² Examples of start-up incubators and accelerators in Belgium are provided in Annex 2.

⁹³ <https://startuptaxshelter.be/en/>.

⁹⁴ <http://www.pretcoupdepouce.be/>.

⁹⁵ Examples of consultation services and networks in Belgium are provided in Annex 2.

Training programmes for start-ups	<p>There are various training and coaching programmes available for start-ups in Belgium. It concerns individual guidance trajectories, workshops and business dates and events. Some of the programmes, such as the ones of UNIZO (GO4BUSINESS)⁹⁶ and Voka (Bryo)⁹⁷ are sponsored by the regional governments and accessible at a low cost.</p> <p>The Flanders Innovation & Entrepreneurship Agency offers, through their SME e-wallet, subsidies for the purchase of services provided by registered service providers in the areas of training and advice.⁹⁸</p>	Both	Regions, cities, universities, entrepreneurs organisations, private sector		X
Financial support to cover administrative and/or staff costs	<p>All employers in the private sector and employees who are fully subject to Belgian social security can benefit from a structural reduction of social security contributions. In addition to this, employers can benefit from target group reductions on social security contributions due to first recruitments: lifelong exemption of social security contributions for a first employee hired (period 2016-2020) and from 2016 onwards social security contribution reductions for the next five employees (2 to 6) hired. There are several target group reductions on social security contributions applicable to certain categories of employees: older employees, young and unskilled employees, unemployed former employees.⁹⁹</p>	Both			X
Other	<p>Many competitions for starters and entrepreneurs are organised throughout the year. Often by a government or with the support of a government, but there are also many private initiatives. The</p>	Campaign	Regions, private sector		X

⁹⁶ Thanks to the support of the Flemish Agency for Innovation & Entrepreneurship and the Brussels-Capital Region, UNIZO, the Union of Self-Employed Entrepreneurs, can offer the Go4Business guidance programme for EUR150 (the total cost of a programme is more than EUR 1,100).

⁹⁷ The European Training Foundation rated the Bryo Startup programme as a good practice. Organised by the Flemish Chamber of Commerce, Bryo provides interactive workshops and organises networking events that give young entrepreneurs the opportunity to meet with more experienced ones, (<https://www.etf.europa.eu/sites/default/files/2019-05/INFORM%2025%20Start-up%20training.pdf>). More information on Bryo is available in Dutch on <https://www.voka.be/bryo>.

⁹⁸ <https://www.vlaio.be/nl/andere-doelgroepen/flanders-innovation-entrepreneurship/information-foreign-investors/government>.

⁹⁹ <https://www.flandersinvestmentandtrade.com/invest/en/investing-in-flanders/labor-costs/how-reduce-your-social-security-contributions-in-flanders>.

	prizes are very diverse: a cash prize, coaching programmes, access to networks or access to financing. By way of example, 'Bizidee' is a business planning competitions for entrepreneurs in Flanders. ¹⁰⁰				
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¹⁰⁰ The business plan can be submitted in English after contact with the organisation. More information in Dutch on <https://www.bizidee.be/>.

4.5. Promotional activities and dissemination of information targeting start-up founders and innovative entrepreneurs

As they are trying to position themselves, the different Regions are each promoting their industries, sectors and cities for foreign investments. Start-ups and innovative entrepreneurs are being picked up by these activities though are not specifically targeted.

From the interviews conducted, it did become clear that this will change in the coming years, as the different Regions became aware of the added benefits of start-ups and will start working on creating activities and information with a special focus on start-ups. An example already in place concerns the non-profit organization 'Startups.be' which is invited by the Flemish governmental authorities responsible for foreign investments to join in with trade missions and to bring along specific knowledge on start-ups.

There are specialised information services, resources and websites such as the national **business.belgium.be website**¹⁰¹ providing official information in English on the reasons to invest in Belgium, the tax benefits and information on managing a business in Belgium. This website also gives access to a digital guide with information about the procedures and requirements incumbent upon Belgian and foreign businesses wishing to set up in Belgium or carry out temporary activities.¹⁰²

Information and services for start-ups are also offered in English (and other languages) on the **websites of the regional agencies for attracting foreign investment**: hub.brussels¹⁰³, Wallonia Export-Investment Agency (Invest in Wallonia)¹⁰⁴ and Flanders Investment & Trade¹⁰⁵. In addition, the **one-stop shop business services or enterprise counters**, authorised by the Belgian Federal Public Service Economy, S.M.E.s, Self-employed and Energy, provide information and services to self-employed persons, including foreign nationals, such as help and advice on applying for a professional card.¹⁰⁶

Furthermore, several organisations provide information on Belgium's ecosystem by mapping start-ups, incubators and tech hubs and include information on the various supports and incentives available for start-ups in Belgium. For example: Startups.be provides an insight to the Belgian Tech Ecosystem with a database of innovators, investors and enablers who are shaping the Belgian tech landscape.¹⁰⁷ Digital Wallonia offers a complete mapping of Walloon start-ups, organised by products, services and sectoral ecosystems. The website also provides information on specific financing for start-ups.¹⁰⁸

¹⁰¹ <https://business.belgium.be/en> and <https://www.belgium.be/en/economy/business>.

¹⁰² http://procedures.business.belgium.be/en/procedures-iframe/?_ga=2.118242249.1315106583.1583416777-1027090758.1583416777.

¹⁰³ <https://hub.brussels/en/motivation/start/> and <https://hub.brussels/en/blog/startup-guide-brussels/>.

¹⁰⁴ <http://www.investinwallonia.be/your-project/creating-an-innovative-start-up>.

¹⁰⁵ <https://www.flandersinvestmentandtrade.com/invest/en/investing-in-flanders/setting-business-in-flanders-easier-you-think>.

¹⁰⁶ A business counter is the preferred point of contact for companies. It performs a number of tasks for which the entrepreneur previously had to contact various authorities. In addition to the mandatory administrative formalities, the business counter can also offer a wide range of additional services. Eight business counters have been recognised. They have numerous offices across the country, more information: <https://economie.fgov.be/fr/themes/entreprises/creer-une-entreprise/demarches-pour-creer-une/demarches-aupres-dun-quichet/les-quichets-dentreprises>.

¹⁰⁷ https://data.startups.be/actors?actor_type=LegalEntity.

¹⁰⁸ <https://www.digitalwallonia.be/en/projects/Startups#posts>.

4.6. Factors affecting the attraction of start-ups

Various factors **affect the attraction of start-up founders** in Belgium. The location of Belgium in itself is a factor that attracts start-up founders. Located in the hearth of Europe with numerous international corporations and intergovernmental decision-making organisations, and easy transport options to most of Europe, Belgium is the perfect location to start up a business and there is plenty of affordable talent available due to the highly recognised universities.

Belgium, and especially Flanders, has a history and mentality of entrepreneurship. Belgian nationals tend to encourage entrepreneurship and also invest in new ideas and company set ups.¹⁰⁹ Furthermore, one of the most important 'pull' factors for founders is Belgium's start-up scene and the presence of hubs and locations where start-ups can develop and grow.

While cost of living, including housing and office space, is extremely expensive in cities in neighbouring countries, cities in Belgium are still affordable for starters. In addition, Belgian cities also have incentives in place creating affordable office spaces for very low prices, specifically for start-ups.¹¹⁰

As mentioned throughout this study, there is a wealth of measures and incentives available to start-ups in Belgium. The issue, however, is often the language barrier since information on measures and incentives is not always available in English, making it harder for third-country national start-ups and innovative entrepreneurs to access this measures.

4.7. Main challenges and good practices in attracting start-ups and innovative entrepreneurs from third countries

Challenges

The main challenges experienced by Belgium in attracting start-ups and entrepreneurs is the discrepancy between policy makers' intentions to attract highly skilled third-country nationals on the one hand, and the often restrictive policies or absence of special provisions in place for this group of migrants, on the other hand.

Furthermore, none of the measures or incentives available for start-ups and entrepreneurs in Belgium are aimed specifically at start-up founders and entrepreneurs from third countries. So, although the necessary incentives and measures, such as funding, the correct mindset, talent, office space, affordable living conditions, etc. are in place, they are never directed towards start-ups founders or innovative entrepreneurs from third countries. This remains a challenge for the regional governments in Belgium and the designated regional agencies for the attraction of foreign investment. Experts state that until third-country national start-ups are targeted directly, Belgium will not be able to compete with neighbouring countries and will therefore have issues attracting these start-ups and innovative entrepreneurs.¹¹¹

¹⁰⁹ Interview Frederik Tibau, Director of International Relations - Startups.be, 22 May 2019.

¹¹⁰ Interview Frederik Tibau, Director of International Relations - Startups.be, 22 May 2019; and interview Emmanuel De Beughem, hub.brussels – Department Inward Investment, 15 May 2019.

¹¹¹ This statement is based on the information obtained during the various interviews conducted in the framework of this study.

A next and important challenge lies in the specific set-up of Belgium. Because of the division of competences, the Regions are responsible for the work authorisation policies, including the professional card, while the Federal Government remains competent for the visa and residence aspect. In order to create a structured and clear application process, these different governmental bodies should cooperate. During interviews conducted in the framework of this study it was made clear that – even though the Regions wish to facilitate the process for start-ups – the federal authorities have no interest in creating a fast track application process for the visa and residence part of the process, while this is vital for start-ups to be able to take up their activities immediately when the opportunity arises. If the federal authorities do not wish to cooperate and improve the existing process, the unstructured, unclear and lengthy procedure does not allow start-ups to take up their activities in Belgium fast enough and Belgium will not be able to compete with neighboring countries or other start up countries in the EU.¹¹²

Good practices

The three Regions each have a designated agency to work towards attracting foreign investment: Flanders Investment & Trade¹¹³ for the Flemish Region, the hub.brussels invest & export¹¹⁴ for the Brussels Capital Region and the Wallonia Export-Investment Agency (AWEX)¹¹⁵ for the Walloon Region. One of the missions of these agencies is to assist foreign investors seeking to set up shop in Belgium. The agencies aim to provide the assistance needed by foreign investors to speed up procedures and connect them to the right people at all the relevant government departments, regional institutions, associations and professional organisations.

The agencies have started to work on creating tailor-made packages for third-country national start-ups. Each Region is doing this separately and each at its own pace. Flanders has progressed most in setting up the above-mentioned tailor-made packages. The preparatory studies have been conducted and the legislation on the professional card could even be changed in the future. The Brussels Region will start working on a new approach towards start-ups in the coming year and from the information received during interviews it seems that the Walloon region is also making a strong effort towards attracting third-country national start-ups.

For example, hub.brussels invest & export explicitly aims to provide the assistance needed by foreign investors to speed up procedures and connect them to the right people at all the relevant government departments, regional institutions, associations and professional organisations in Brussels that can make their project both successful and profitable. To enable investors to assess the benefits of establishing in Brussels, they offer them a 'Welcome Package' which includes an equipped office space at no cost for three months and access to a broad range of services, including taxation and legal information, company registration and access to public grants and other incentives.¹¹⁶

Once established, foreign-owned companies are treated in the same way as Belgian companies and therefore have the same right to the incentives and measures to support

¹¹² This statement is based on the information obtained from the various interviews conducted and the EY's Attractiveness Survey Belgium 2019, available on https://www.ey.com/en_be/attractiveness/19/7-key-findings-from-the-belgian-attractiveness-survey-2019.

¹¹³ <https://www.flandersinvestmentandtrade.com/en>.

¹¹⁴ <http://why.brussels/about>.

¹¹⁵ <http://www.investinwallonia.be/about-us/our-services>.

¹¹⁶ <http://why.brussels/try-brussels-for-free>.

startups in place. It is mainly a question of foreign start-ups and innovative entrepreneurs knowing their rights and finding their way to access these incentives and measures.

5. Renewal of residence permits and retention measures for start-ups and innovative entrepreneurs from third countries

This section explores the possibilities for renewal of residence permits granted to start-up founders and innovative entrepreneurs, as well as retention measures.

5.1. Renewal of residence permits

Possibility to extend and renew the residence permit

A professional card is issued for a maximum period of five years. Usually, the professional card is provided for an initial period of one to two years,¹¹⁷ allowing for enough time to develop an independent activity. After the expiration of the validity period, the professional card may be renewed until a period of five years is reached.¹¹⁸ The renewal request needs to be introduced three months prior to the expiry of the professional card.¹¹⁹

With the renewed professional card, the holder can turn to the local authorities (municipalities) and renew her/his residence permit. The renewed professional card allows the municipalities to automatically renew the residence permit.

However, the validity of the professional card is linked to the cardholder's right of residence. If this right is revoked, the professional card can no longer be used and must be returned to an enterprise counter.

The professional card holder will need to renew her/his residence permit on a yearly basis until s/he has reached the period of five continuous years in Belgium. After five years of legal residence in Belgium, based on the professional card, the third-country national will be eligible for permanent residence.¹²⁰ A permanent resident will no longer need a professional card to conduct self-employed activities.¹²¹

Main requirements for the renewal of a professional card

It remains up to the regional authorities to decide on the renewal of the professional card. The requirements for renewal are based on practice and can differ per Region.

¹¹⁷ Interview Jeroen Maes, Director, Regional Public Service Economy and Employment Brussels – Direction Economic Migration, 13 May 2019; and Interview Isabelle De Boer, Head of Service Professional cards - Regional Public Service Economy and Employment Flanders – Service Economic Migration, 13 May 2019; and Stéphane Thirifay, Regional Public Service Economy and Employment Wallonia – Direction employment and work authorisations, 22 May 2019.

¹¹⁸ Art. 3 §2 Law of 19 February 1965 regarding the exercise of self-employed activities by foreign nationals, *Belgian Official Gazette*, 26 February 1965.

¹¹⁹ Art 4 Royal Decree of 2 August 1985 regarding the implementation of the law of 19 February 1965 on the exercise of self-employed activities by foreign nationals, *Belgian Official Gazette*, 24 September 1985.

¹²⁰ The third-country national can either apply for a status as EU-long term resident or he can be granted the Belgian equivalent of this scheme. This Belgian equivalent can be granted after five years of continuous residence based on (self-)employed activities, but is fully based on the practice of the Federal Immigration Office.

¹²¹ Art. 1 Royal Decree of 3 February 2003 regarding the professional card exemptions for certain categories of foreign nationals who engage in self-employed activities, *Belgian Official Gazette*, 4 March 2003.

Furthermore, the renewal applications are handled on a case-by-case basis, taking into account the company set-up and the personal situation of the applicant.

In practice the following requirements for renewal are evaluated in the three Regions:

A first important consideration is whether the applicant complied with **all regulatory, tax and social obligations**¹²² and whether there is an **actual business activity**.

The actual establishment of the business is checked through the documents and information requested by the authorities at the time of the renewal application. In case the provided information causes any doubt, the regional inspection services will check the company address of the start-up and perform the necessary verifications.¹²³

The original application and business plan will also be taken into account and the authorities will analyse to what extent the founder has met the objectives that were set out. Should the figures deviate from the original plan, it is important to provide a clear explanation to the authorities together with a plan on how the company will move forward.

The turnover is not an absolute requirement, but it is important that the company is generating enough income for the founder to live a normal life in Belgium.¹²⁴ Income from other sources can be taken into account and an important consideration is whether the founder needs to sustain a family as well. When processing a renewal application, the regional authorities tend to take into account the fact that a start-up is not necessarily profitable in the first years.¹²⁵

The regional authorities will also check if the economic value criterion for the issuance of the professional card is met.

Procedures for third-country nationals with residence permits

Where a business **ceases to be a 'start-up'**, for example because it develops into a successful company, this does not have any impact on the professional card and the residence permit or the renewal process, as there is no deviating process for start-ups in place to start with.

If a **start-up fails**, the professional card will not be renewed. Since the applicant's right to reside in Belgium is dependent on the professional card, the applicant will also lose her/his right of residence. The founder or entrepreneur can therefore receive an order to leave the territory from the Immigration Office. However, this does not happen automatically as different factors such as the length of residence, the presence of school-age children in the family, etc. can alter the outcome. The start-up founder or innovative entrepreneur will be asked to provide reasons why s/he should not leave the country, but ultimately it will be the Immigration Office taking the decision under its discretionary power.

¹²² Art. 6 §3 Royal Decree of 2 August 1985 regarding the implementation of the law of 19 February 1965 on the exercise of self-employed activities by foreign nationals, *Belgian Official Gazette*, 24 September 1985.

¹²³ Interview Jeroen Maes, Director, Regional Public Service Economy and Employment Brussels – Direction Economic Migration, 13 May 2019

¹²⁴ Interview Jeroen Maes, Director, Regional Public Service Economy and Employment Brussels – Direction Economic Migration, 13 May 2019; and interview Isabelle De Boer, Head of Service Professional cards - Regional Public Service Economy and Employment Flanders – Service Economic Migration, 13 May 2019.

¹²⁵ Interview Jeroen Maes, Director, Regional Public Service Economy and Employment Brussels – Direction Economic Migration, 13 May 2019; and interview Isabelle De Boer, Head of Service Professional cards - Regional Public Service Economy and Employment Flanders – Service Economic Migration, 13 May 2019.

The founder or entrepreneur can also apply for a change of status, for example, for the purpose of employment, self-employment or other legal reasons such as study and family reunification.

In the case the founder **changes the business plan** after approval, minor changes will not have an impact on the status or the application, but as the professional card is provided for a specific activity, substantial changes to the business plan can require the professional card holder to file a new application or at least notify the competent authorities of the changes.

5.2. Retention of start-ups and innovative entrepreneurs

Retention measures for start-up founders and innovative entrepreneurs

There are no simplified renewal processes for professional card or residence permits in place for start-up founders and innovative entrepreneurs. However some measures are in place which could also have an impact on the retention of start-up founders and innovative entrepreneurs.

A **tax shelter for investments** in start-ups was launched in 2015.¹²⁶ Individuals investing in a start-up can enjoy a tax benefit of 45% or 30% depending on whether the investment was made in a micro or small enterprise.¹²⁷ The investment is limited to 100.000 EUR per person on a yearly basis. In order to be able to take advantage of the full tax benefit, the investor has to hold onto the investment (shares) at least four years. This was set up with the aim of supporting small enterprises of maximum four years old and in need of capital to finance their start. Legislation that entered into force on 1 February 2017 further extended **tax shelters for crowdfunding** investments.¹²⁸ Therefore, investments via approved crowdfunding platforms are also considered for the tax benefit.¹²⁹

Furthermore, there are **structural and target group reductions on social security contributions**. The so-called “first employee rule” was created to allow starters to hire their first employee in a more affordable way by exempting them from paying social contributions¹³⁰ (first employer in the period between 01/01/2016 and 31/12/2020). And, from 2016 onwards, social security contributions reductions exist for the next five employees hired.¹³¹

¹²⁶ Programme Law of 10 August 2015, *Belgian Official Gazette*, 18 August 2015, Articles 48-57 on Tax shelter for start-ups.

¹²⁷ <https://startuptaxshelter.be/en/>. Micro-enterprises, or early-stage start-ups, receive a higher tax reduction of 45% of the invested amount because they are considerably more risky.

¹²⁸ Law of 18 December 2016 regulating the recognition and delineation of crowdfunding and containing various provisions regarding finances, *Belgian Official Gazette*, 20 December 2016.

¹²⁹ Approved by the Financial Services and Markets Authority (FSMA), an autonomous public institution, established by law that carries out independently the tasks in the general interest entrusted to it by Parliament. The FSMA, alongside the National Bank of Belgium (NBB), supervises the Belgian financial sector. More information in French (https://www.fsma.be/sites/default/files/public/fsma_2017_03_fr.pdf) and Dutch (https://www.fsma.be/sites/default/files/public/content/NL/circ/fsma_2017-03_nl.pdf).

¹³⁰ Federal target group reduction for first recruitments, <https://www.vlaio.be/nl/subsidies-financiering/subsidiedatabank/doelgroepvermindering-eerste-aanwervingen-federaal>.

¹³¹ <https://www.flandersinvestmentandtrade.com/invest/en/investing-in-flanders/labor-costs/how-reduce-your-social-security-contributions-in-flanders>.

Challenges and good practices in retaining start-up founders and innovative entrepreneurs

Challenges

When it comes to challenges regarding the retention of start-up founders and innovative entrepreneurs, the same obstacles can be identified as with the admission and the attracting of start-up founders and entrepreneurs.

The **outdated legislation** does not only play a role in the admission process, but is also at the basis of a difficult renewal process. The legislative framework is not clear on the renewal requirements for the professional card, does not provide a fixed list of the documents to be provided and does not determine the processing for the renewal process. As with the admission of third-country national start-ups and innovative entrepreneurs, this legislative framework – or the lack thereof – leaves the renewal process almost entirely to the discretion of the regional economic migration authorities, which creates legal uncertainty for the innovative entrepreneurs and start-up founders.

Some companies providing immigration services, see issues with the **document heavy and unclear renewal procedure** in their day to day work. It is unclear to applicants what they should bring to authorities at the time of the renewal. In addition, the **processing times are often too long**, leaving applicants in limbo for an undefined period of time and even forcing them to cease their activities pending the outcome of their renewal application. To be able to retain start-ups and innovative entrepreneurs, an update of the applicable legislation is needed, creating clear guidelines, maximum processing times and a higher level of objectification. It is vital for start-up founders and entrepreneurs to know at an early stage whether or not they can continue their activities in Belgium and, if not, how to appeal this decision in a fast and straightforward manner. If it is unclear how to ensure ongoing business activities in Belgium, it is unlikely that foreign start-ups and entrepreneurs will set up or keep their business in Belgium. They are more likely to divert their businesses to a more welcoming country.¹³²

It is up to the regional governments to update the existing legislation or create a new legislative framework. In the meantime the regional economic migration authorities should handle the renewal process in a fast(er) and precise way and by making it clear to third-country national start-ups and innovative entrepreneurs what documents should be provided and which requirements should be taken into account.

Another challenge for the retention of start-ups and innovative entrepreneurs lies in **the incentive measures available** in Belgium. As mentioned, many incentive measures are available and this on different levels. The issue is that these are not tailored or directed specifically at third-country national start-ups or innovative entrepreneurs. And although once established, foreign-owned companies are treated in the same way as Belgian-owned companies and therefore have the same rights to these incentives and attracting measures, it remains difficult for third-country nationals to find their way to these measures and incentives. Amongst other obstacles, language barriers and administrative formalities make it difficult for third-country nationals to benefit from incentives in the same way as Belgian nationals.

¹³² Law firm Fragomen, for instance, recognises this bottleneck on the basis of the many complaints it receives in the day to day handling of professional card applications. Business owners tend to be discouraged by the unpractical and long process and have more than once decided to cease activities in Belgium and set up business elsewhere.

Good practices in retaining start-up founders and innovative entrepreneurs

Both the regional economic migration authorities and the regional agencies tasked with attracting foreign investment are – to a certain extent – **aware of the challenges and have realised the need to tackle these issues.**

The regional agencies for the attraction of foreign investment, Flanders Investment & Trade for the Flemish Region, the hub.brussels invest & export for the Brussels Capital Region and the Wallonia Export-Investment Agency (AWEX) for the Walloon Region, have **realised the need to create a tailor-made package and work on the visibility of the existing measures and incentives** for start-ups and entrepreneurs. They are working towards – or are planning this in the coming year – a more specific focus on third-country nationals, which will aid these start-ups and entrepreneurs to benefit from the same measures as Belgian owned companies and therefore to compete on an equal basis.

The Flemish regional economic migration authority is also **preparing an updated legislation**, with specific requirements for third-country national start-ups and has indicated that it is taking into account the specific situation of start-ups in the renewal process of the professional card until an updated legislation is in place. The Brussels regional economic migration authority has a practice to request additional information and documents, instead of going immediately towards a decision of refusal of the professional card in the case of unfulfilled renewal requirements. The authorities are aware of the issues and are making an effort to facilitate the process within the existing legislative framework.

Misuse of the migratory pathway for start-ups and innovative entrepreneurs¹³³

The professional card procedure has been misused in the past by third-country nationals to gain access to the country and obtain permanent residence or even nationality. The regional authorities describe this as a rather marginal phenomenon, although there are no statistics available on the misuse of the professional card route.¹³⁴

5.3. Survival rates of start-ups launched by third-country nationals

There is **little to no information available on the survival rate¹³⁵ of start-ups** launched by third-country nationals in Belgium and this due to a number of factors.

A first issue is that Belgium has no special scheme available for start-ups. The migratory pathway of the professional card is not targeted at start-ups, leaving no statistics available on how many start-ups are set up by third-country nationals.

A second issue is that the available statistics are not very trustworthy. Until 2014-2015 the federal authorities were responsible for gathering and storing information on the professional card. According to the different regions this task was not taken up properly,

¹³³ Misuse of migratory pathways refers solely to the cases in which someone has used the start-up visa/residence permit channel but does not intend to actually set up a business and does not refer to potential illegal practices start-ups may be involved in as part of their business.

¹³⁴ Interview Jeroen Maes, Director, Regional Public Service Economy and Employment Brussels – Direction Economic Migration, 13 May 2019 and interview Isabelle De Boer, Head of Service Professional cards - Regional Public Service Economy and Employment Flanders – Service Economic Migration, 13 May 2019.

¹³⁵ Survival rate refers to the number of start-ups that manage to become profitable businesses.

leaving very little information available from before 2014-2015.¹³⁶ After the transfer of competences in 2014, the Regions took over this task of gathering and registering information, but the Regions do not apply a coordinated approach, making it very difficult to compare numbers.

A last issue is that the available information is not clear on the renewal of professional cards and no data is available on the number of jobs created, the generated investment, the annual turnover or generated taxes of start-ups.

The combination of these factors implies that no trustworthy information is available on the survival rate of start-ups launched by third-country nationals and therefore no statement can be made on this matter.

5.4. Evaluation of third-country national start-ups and innovative entrepreneurs

There have been some studies on the available routes for start-ups and entrepreneurs in general.

The Federal Public Service Economy, SMEs, Self-Employed and Energy ordered a study to get a better overview of the phenomenon of start-ups and an evaluation of the Belgian performance in that area. Though the Federal Public Service also participated in this study, it was never finalised as the period to which the data related and the date of publication were too far apart.¹³⁷

In the past year the Flanders Innovation & Entrepreneurship Agency (VLAIO) has been working on a working package “the acquisition of foreign start-ups” with the objective of tracing the contours of an integrated acquisition and retention policy through coordinated cooperation between the actors involved in the Flemish ecosystem¹³⁸. The study looked at a number of practical examples outside of Belgium, interviews were conducted and workshops were organised. These activities were aimed at collecting substantive input, but were not aimed at creating policies or guidelines.

¹³⁶ Interview Jeroen Maes, Director, Regional Public Service Economy and Employment Brussels – Direction Economic Migration, 13 May 2019 and interview Isabelle De Boer, Head of Service Professional cards - Regional Public Service Economy and Employment Flanders – Service Economic Migration, 13 May 2019.

¹³⁷ E-mail Pierre Strumelle and Karim Benseghir, Federal Public Service Economy, S.M.E.s, Self-employed and Energy, General Directorate of Economic Regulation, 8 May 2019.

¹³⁸ Interview Anneleen Baetens, John Verzele and Olivier Van Orshoven (Flanders Investment & Trade) and Ellen Cardon and Astrid Deneve (Vlaams Agentschap Innoveren & Ondernemen), 14 May 2019.

6. Conclusions

Belgium has **no specific migration policies and programmes in place for start-ups or innovative entrepreneurs**, as the categories of start-up and innovative entrepreneur are altogether unknown in Belgium's migration legislation and thereby leaving only the option of the self-employed route for third- country nationals wishing to set up their business in Belgium.

The self-employed route in Belgium falls back to the **professional card**, which is still regulated by the 1965 Law on the exercise of self-employed activities by foreign nationals. This legislation is vague, unclear and still centred around the need of an a priori work authorisation in order to protect the Belgian economy. In addition the legislation leaves an excessively high degree of discretionary power to the regional authorities.

This leaves the third-country national start-ups and innovative entrepreneurs with a **cumbersome, long and unclear process**, which does not help in making Belgium an attractive start-up destination.

However, Belgium does have **a business friendly environment and has the potential to be a thriving business destination for start-ups and innovative entrepreneurs**. The country has lots to offer to new businesses through subsidies, investment incentives, tax breaks, a well-situated geographical location, the correct socio-economic factors, the perfect culture for entrepreneurship, etc.

There is also the issue that **none of these measures are directly targeting foreign start-ups and entrepreneurs**, because the different Regions in Belgium have only recently started to realise the importance of the start-up scene. By contrast, there are many incentives in place in Belgium targeting start-ups and entrepreneurs in general. It is indeed so that – once established – a foreign-owned company is treated in the same way as a Belgian-owned company and therefore has the same access to these rights and incentives, but they have to find their way to the available measures mostly by themselves. This has left Belgium running behind in the start-up scene in comparison with neighbouring countries.

This situation is currently changing, as the different regional agencies responsible for foreign investment have realised the importance of foreign start-ups. **New policies are being set up or are planned to be set up** in the coming year, specifically targeting foreign start-ups, which will bring the already available measures and incentives to the attention of third-country national start-ups and should increase the attractiveness of Belgium as a start-up destination.

The most pressing matter is, however, still **the cumbersome migratory pathway which is not yet being handled**. A consistent and transparent procedure for the acquisition of the professional card and the associated visa and residence permit would greatly benefit the attraction of third-country start-ups and innovative entrepreneurs. At this moment, professional card applications are still reviewed on a case by case basis, without legally determined eligibility criteria. In addition, the process has lengthy, non-legally prescribed processing times which impedes the foreign start-up owner or innovative entrepreneur from planning their project in advance and creates legal uncertainty. And even when the professional card is approved it can still take months for the start-up owner or innovative entrepreneur to obtain his visa and residence permit, allowing him/her to take up residence and travel.

The biggest issue standing in the way of an updated and clear process is the **complicated state structure of Belgium with its corresponding division of competences.**

In 2014 the employment-based immigration policies were transferred from the federal level to the three Regions – Flanders, Brussels and Wallonia – and as a consequence, the policy on attracting foreign business owners, including the migratory pathways for start-ups and innovative entrepreneurs, became a regional competence. On the other hand, the Federal Public Service Interior, through the Immigration Office, remains responsible for the residence part of the process.

Annex 1: Definitions

The following key terms are used in this study. The definitions are taken from the EMN Glossary v6.0¹³⁹ unless specified otherwise in footnotes.

'Accelerator programmes': see 'Incubator' below.

'Entrepreneur/business-founder' is an individual who founds and runs a business, assuming all risks and rewards of the venture. Commonly seen as an innovator, a source of new ideas, goods, services and business/or procedures (Source: Investopedia¹⁴⁰)

'Entrepreneurship' is the capacity and willingness to develop, organise and manage a business venture along with any of its risks in order to make a profit (Source: BusinessDictionary¹⁴¹)

'Entrepreneurial culture' refers to the social environment in which entrepreneurship is seen positively, individuals are encouraged to start and grow a business and entrepreneurial success is celebrated. Risk-taking and innovation are prized and not excessively penalised (Source: EY G20 Entrepreneurship Barometer 2013¹⁴²)

'Ecosystem' (also known as a hub) is an environment made of private and public players, which nurture and sustain start-ups and entrepreneurs, making the action of entrepreneurs easier. For example, the existence of prior ventures, the availability of start-up financing mechanisms, a patent system and a culture tolerating failure all facilitate the creation of new firms (Source: Lexicon, The Financial Times¹⁴³)

'Employee' means a worker holding an explicit or implicit employment contract, which gives them a basic remuneration that is not directly dependent upon the revenue of the unit for which they work

'Employer' means any natural person or any legal entity, for or under the direction or supervision of whom or which the employment is undertaken;

'Family members' is a third-country national, as specified in Art. 4(1) of Directive 2003/86/EC (normally members of the nuclear family – i.e. the spouse and the minor children), who has entered the territory of the European Union for the purpose of family reunification

'Highly qualified migrant' is defined in the EU context as a third-country national who seeks employment in an EU Member State and has the required adequate and specific competence, as proven by higher professional qualifications (EMN Glossary Version 6.0)

'Hub': see 'Entrepreneurial ecosystem' above

'Incubator' is an organisation designed to accelerate the growth and success of entrepreneurial companies through an array of business support resources and services that could include physical space, capital, coaching, common services, and networking connections.

'Innovative entrepreneur' is someone who creates a (radically) new product/service or provides a new solution through a viable business model to meet a marketplace need or problem. 'Innovation' can be defined in this context as new expertise that an entrepreneur brings to the market, whether through a new or improved product, a new method of production, a new market, a new source of supply or the reorganisation of management (Source: ICF¹⁴⁴)

'Labour shortage' is defined as a shortage of labour of a particular type in a particular labour market which may be said to exist when the number of vacancies has been (or is expected to be) above a level considered to represent 'normal' turnover at the prevailing wages and working conditions for an extended period

'Long-stay visa' means an authorisation issued by a Member State as provided for in Article 18 of the Schengen Convention or issued in accordance with the national law of Member States not applying the Schengen acquis in full

¹³⁹ Available at: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary/index_a_en.

¹⁴⁰ <https://www.investopedia.com/terms/e/entrepreneur.asp>; see also <https://ec.europa.eu/epale/en/blog/innovative-entrepreneurs-why-are-they-different-others>.

¹⁴¹ <http://www.businessdictionary.com/definition/entrepreneurship.html>.

¹⁴² <https://www.g20yea.com/images/reports/EY-G20-Entrepreneurship-Barometer-2013-Report.pdf>.

¹⁴³ <http://lexicon.ft.com/Term?term=entrepreneurial%20ecosystem>.

¹⁴⁴ ICF report commissioned by European Commission (2016).

'Pull factor' is the condition(s) or circumstance(s) that attract a migrant to another country (EMN Glossary Version 6.0)

'Residence permit' is an authorisation issued using the format laid down in Regulation (EC) No 1030/2002 entitling its holder to stay legally on the territory of a Member State

'Start-up' is an independent for-profit organisation, which is younger than five years and is aimed at creating, improving and expanding a scalable, innovative, technology-enabled product with high and rapid growth (European Startup Network¹⁴⁵)

'Short-stay visa' is the authorisation or decision of an EU Member State with a view to transit through or an intended stay on the territory of one or more or all the EU Member States of a duration of no more than 90 days in any 180-day period

'Survival rate' is defined as the rate of start-ups which are still operating after a certain period of time (Hyytinen A. et al (2015))

'Third-country national' is any person who is not a citizen of the European Union within the meaning of Art. 20(1) of TFEU and who is not a person enjoying the Union right to free movement, as defined in Art. 2(5) of the Schengen Borders Code

¹⁴⁵ <https://europeanstartupnetwork.eu/vision/>

Annex 2: Examples of the Belgian Start-up Ecosystem

Introduction

The Belgian start-up community is an extensive network of different players. Several organisations provide an overview to help people explore this continuously evolving ecosystem. These lists are a good starting point to new start-uppers and a handy who-is-who for experienced entrepreneurs. The overview below is a non-exhaustive directory, compiled on the basis of the information provided by The BootCircle Team.¹⁴⁶

Banks

The following banks provide financial information, but besides that they also help you with validating your business plan. They can give you insights and concrete pointers on how to improve your business.

BNP Paribas Fortis: The market leader in Belgium. BNP offers various packages and financial solutions to private clients and enterprises.

KBC Start it: A network of services for startups and start-uppers. Beside financing, they can help you validate your idea, and they provide networking opportunities and mentoring as well.

ING Starters Package : when opening a professional current account, ING provides a starters package for all self-employed, liberal professions or companies founded in the last 18 months, including business coaching.

Business networks

The following business networks have a combined knowledge about their field of expertise. Getting in touch with them will get you contacts, field research and to-the-point answers to any of your questions.

Agoria: The federation of the Belgian technology industry. It defends the interests of the companies doing business on this field. Their motto “No future without technology” is pretty good news if your startup is ICT related.

IAB Europe: A Europe-wide network of digital businesses protecting and promoting the interests of Europe based online advertising, media, research and analytics industries. The network includes 27 countries from all over Europe.

Business schools

Need to polish some entrepreneurial skills? Or do you want to learn more about marketing, business models, financing etc.? The following schools provide you with useful courses to expand your skill set.

Solvay Entrepreneurs: The Solvay Entrepreneurs Business School is part of the Free University of Brussels. It focuses mainly on entrepreneurs, but their programmes are not simply about teaching, but about coaching, training and networking as well.

Vlerick Business School: They offer accredited programmes for their applicants where theoretical and practical knowledge are mixed in one useful package.

¹⁴⁶ <https://github.com/Pronovix/Belgian-startup-ecosystem/wiki/The-Belgian-Startup-Ecosystem>.

Publications

Keeping up-to-date about new developments or companies is very important. Here are some links which provides you with the latest news about a certain topic or field of expertise.

Hockey Stick Weekly: A weekly dose of inspiration for growing and scaling your technology business through a newsletter.

Smart Business: How to make use of the latest IT developments to make your business more efficient.

Technologium: Keeping you up-to-date about any technological improvements or new products world wide.

Trends Top: An online platform for up-to-date company information, that helps you find others and makes your company visible. It also provides many online tools for analysis and management.

Co-working space

Everything is much nicer when it can be shared with others. This also includes your working space! When you don't need a full-time office of yourself (or if you just want to reduce costs), but you do wish to get out of the house to work in a quiet environment or network with other companies, co-working spaces is the ideal solution for you!

Bar d'Office: A network of coworking spaces shattered all across the Flemish part of Belgium. Get inspired and work from one of the professional offices.

Betacowork: The largest coworking space in Brussels. You can not only work in an inspiring environment which improves your productivity, but you also have the opportunity to grow your network.

Co.Station: A post-accelerator providing admission to new markets for startups that already have an income and a working business model.

CoWorking: Coworking spaces in Ghent to boost productivity and stimulate inspiration and connections.

EEBIC: Much more than a business center. Provides office space, co-working areas,... And works with an easy in, easy out principle, which gives you maximum flexibility for your business.

LikeBirds: Creative coworking space in Ghent, aiming at freelancers, creative people and entrepreneurs in search of inspiration.

Officenter: They provide office space/ meeting rooms where you can work in quiet or network with other companies.

Parkoffice: Flexible coworking space and administrative support in Ghent & Kortrijk.

Silversquare: A business centre in Brussels that offers flexible services to companies such as registered addresses, virtual and fixed offices and fully equipped meeting rooms.

Consultants

Managing your own business takes a lot of work and research. Thankfully there are a lot of companies who love to share their knowledge with you. You can find help of consultants in almost any area of expertise.

Accenture: One of the world's largest organizations offers management consulting and technical services. Accenture has four growth platforms for developing knowledge capital and first class capabilities.

Congaz: Operating in the field of HR, this company assists organizations with managing the people dimension of their business.

Ernst & Young: EY provides a wide range of services for entrepreneurs in the field of consulting. The company has an international reach that makes its programs very effective.

Grant @Vice: Advises companies and research institutions in the area of innovation, technology and grants. After an intake interview G@V presents available financial solutions.

HP: Well-known multinational information technology corporation. HP consultants help to solve the most pressing technology challenges which could emerge in a company.

Porta Creatio: Porta Creatio provides a business boost through professional and individual counseling by experienced entrepreneurs. The company also offers a 9-month coaching plan and various inspiration events.

Starterslabo: Starterslabo provides interactive workshops which will teach you how to set up your business plan and will give you advice on the feasibility of it.

ICT consultants

Do you have an idea that is ICT related? Or do you want to build a digital presence for promoting your company? There are a lot of companies available to help you out with any questions you might have.

Combelle: A hosting company offering tailored solutions for clients. It helps startups with an extensive, free and one year long hosting service.

Cronos: Provides hi-tech technological (both hardware and software) solutions for companies with ICT related claims.

Duval Union: A network of specialised marketing services agencies and marketing technology start-ups, helping companies and brands to be the disruptor instead of the disrupted, by putting technology in the heart of marketing.

Little Miss Robot: A product design partner that turns the right products and services from idea into reality.

Microsoft: One of the world's biggest ICT company. As such, it has a huge amount of experience in the field of technology.

Pronovix: A Belgian-Hungarian software development and consulting company providing help with idea validation, content strategy, community marketing and digital prototyping.. They are committed to startups and open source software communities.

THINK with people: Cronos Group initiative that helps people build a real business from an innovative idea. Translating science and digital technology to business.

Wijs BVBA: Digital agency that truly involves its customers in the working process. Wijs defines a digital strategy for the business that makes future directions clear.

Strategy consultants

How do you see your business in a few years? How to get there? Having a great strategic plan helps you to reach your company goals. Get in touch with a strategy consultant if you need some assistance in putting together a strategy plan.

Pimento Map: Has a methodology based on the research on tons of businesses. They will evaluate your business model based on their methodology in order to calculate the chances of success.

WFMC: Supports companies to achieve their goals with business consulting, management, startup mentoring and consultancy on various fields.

Student entrepreneurs

Taking care of your business and getting your degree can be tough. Luckily there are some initiatives that work together with your high school/ university who can give you guidance and help to find the perfect combination for managing school with your company.

Accio: An initiative of Arteveldehogeschool, to support students with an entrepreneurial vision. Accio helps students to get from idea to a valuable startup. Setting up a business takes time, so students get a personal coach assigned to help them keep track of things.

Centrum voor Ondernemen: They advise, facilitate and coach HoGent student-entrepreneurs.

Durf Ondernemen: The centre of expertise for student entrepreneurship of UGent. They inform, help and advise student-entrepreneurs.

Student Ghentrepreneur: A place where students, lectors and business partners come together to exchange ideas and knowledge about entrepreneurship, innovation and passion. Each year there's a boot camp where students can join and get help to develop their idea to a potential startup.

Management consultants

Handling a business takes a lot of time. Don't get burned out and ask for professional help. A lot of great companies are willing to give you a hand with managing your administrative, HR or management tasks.

Acerta: A website which will provide you with information on anything you need to know when you decide to start your own company.

ADMB: Active on the social administration and HR area.

Alumnos: Provides internal coaching and training for companies to increase or maintain an optimal quality level.

Forte: Gives management advice for companies in the IT sector. Forte focuses on medium-large and large companies.

SD Worx: Offers a complete service in the HR, payroll, fiscal and social department.

Securex: An international participant of the HR and social administration area. Securex takes care of the customer's social status and human resource management.

Unizo: Unite, inform, advise and give entrepreneurs maximum support for their ambitions to start their own company. Biggest entrepreneur organisations of the Flemish part of Belgium.

VAP Vlaanderen (Flemish Acceleration Platform): An acceleration platform that provides a very intensive, 100-day coaching period for startups. The program helps from the very beginning of the business.

Zenito: Zenito helps to set-up all administrative tasks you need to perform for setting up your own company. They also provide services for helping with administrative & HR tasks.

Crowdfunding

Share your idea with potential investors on one of the following websites to receive the needed funds to further develop your business. Or meet potential business partners to take your company to the next level.

angel.me: A crowdfunding platform that connects the entrepreneurs and investors ("Angels") to share innovative projects and to realize great ideas.

Be Angels: Business support and smart early stage financing.

Bolero: A financial crowdfunding platform designed by KBC. A place where Belgian investors and entrepreneurs can find each other and invest in growth together.

CroFun: Financial crowdfunding platform designed to get the financial support your startup (or other project) needs.

My Micro Invest: MMI is a crowd-investor platform that allows people to invest in startups, innovative companies, while enabling the startups to complete a necessary capital increase.

Founder networking

Ever heard the saying "you are the average of the 5 people you connect with the most"? If you're confident on reaching your startup goals, make sure you are surrounded with people that lift you higher. Investing in great business relations is one of the most important things in the business scene. Reaching out to fellow startup/ business owners is a great way to get inspired and feel connected to like-minded people.

Aerey: Community for and by entrepreneurs. Makes strong connections among businesses and supports the community.

Betagroup: A non-profit organization that aims to connect entrepreneurs and startups from the tech industry. Provides a platform for startups to make a demo of their products.

Bizcamp: A networking and knowledge-sharing event organized by entrepreneurs for entrepreneurs.

BootCircle: A peer to peer meetup for bootstrapping entrepreneurs with monthly meetups in Ghent and Leuven (Brussels and Antwerp coming soon). A great place to get feedback and advise about your startup.

Bryo: Offers many different methods of assistance for startups or pre-starter projects, such as meetings, scanning, assistance of "role models" etc.

Finance for Startups (Brussels): The purpose of this group is to spread some basic financial concept to startups.

Growth Hacking Belgium: A meetup organised in several big cities all over Belgium. Growth hacking is about using tools to boost your marketing efforts. During these events people can discuss and advise each other on which tools work and which don't.

Leuven Startups: Organises events, meetups and other social events aimed at bringing the Leuven startup-scene together.

WeStartup: Helps to find investors from the local business network to non-profit companies and builds an entrepreneurial network (from experienced to young entrepreneurs) in order to transfer knowledge.

Accelerators and Incubators

Business incubators provide entrepreneurs with the opportunity to turn their ideas into real companies. Or even if you already have a company, they can be a huge help for further developing it. Most of them have a thorough programme where you can get coached, advised and helped with, by supporting you in different aspects of making your company sustainable.

Brussels Life Science Incubator: Provides a dynamic environment to boost your innovations in the field of life sciences.

Bryo: An initiative which aims at young persons between the age of 18 and 36 with an entrepreneurial mindset and high potential. They offer a 3 year support for participants who get selected.

Founder Institute: the world's largest entrepreneur training & startup launch programme.

ICAB: Offers many services to help start a business, such as accommodation, infrastructure, entrepreneurial environment and variable strategic solutions.

iCUBES: ICT incubator that provides full-service facility and inspiring business environment to startups.

Idealabs: Ideas are important, but they are worthless without execution. Telenet Idealabs provides opportunity to turn ideas into real companies.

iMinds: iMinds' incubation and entrepreneurship programs connect entrepreneurs and researchers, enabling them to join forces and achieve stronger market potential. It's an independent institute founded by the Flemish government.

Incubaid: A technology incubator that helps its members grow into successful companies.

inQube: European female digital incubator located in Brussels as an initiative of the Digital Leadership Institute.

LeanSquare: A Walloon incubator programme. They provide a startup ecosystem which will boost your idea/ start-up.

Microsoft Innovation Center Flanders: A non-profit organization that aims to encourage the development of Walloon companies in the IT sector.

NEST'up: First TechStars-style startup incubator in Belgium.

Startathlon: An incubator programme from technology company Sirris. Aimed at boosting your SaaS startup company.

Starter coaching: An incubator for entrepreneurial talents. Offering an intense 6 month program with personal one-on-one coaching.

The Faktory: Private tech startup accelerator and seed investment fund.

Ubiz: Private tech startup Accelerator dedicated to organic growth through business development. Targets startups having already some proven traction. Focus on European and African markets. Thematic tracks.

Unizo: See description above.

WSL: A Walloon incubator for engineering sciences. More than just an incubator, a community of entrepreneurs.

Innovation partners

To make sure your company keeps growing and doesn't get out-dated, you need to innovate. In order to keep up-to-date about recent developments in your field of expertise, the following initiatives can help you out. They can also offer you a motivating community where you can exchange knowledge and ideas.

CETIC: A research centre in the ICT field to support economic development by transferring the results of the latest research about ICT to companies.

CityMiX: CityMiX is a project of MiX, the iMinds Media Innovation Center. Each month they visit a different city to infiltrate in the local media scene to start a debate on innovation.

Corda Campus: A motivating business community for innovative businesses and startups. CC is the place to be for fruitful partnerships and a fascinating exchange of knowledge and ideas.

iMinds: See above.

Share: Offers many different support services, such as business plan, prototyping and funding for start-ups.

Sirris: A non-profit organization that helps companies by focusing on their markets and technologies to achieve their goals.

International

Do you have international ambitions? Take a look at the following initiatives to get visibility abroad.

Webmission: A group of Belgian web, tech and mobile entrepreneurs that travel abroad to promote their companies and to networking. Their mission is to increase the companies' visibility.

Investors

If you're in need of financial resources to further develop your company, it could be wise to look for an investor. Keep in mind that they allocate capital with the expectation of a future financial return.

Business Angels Network Vlaanderen: BAN Vlaanderen is a network of entrepreneurs who want to invest in startups and other prosperous companies.

Europe Unlimited: Provides critical business resources to innovative technology entrepreneurs, corporations, investors and researchers, allowing them to successfully build and maintain a healthy economy.

Gimv: The company's mission is to enter into temporary partnership, on the basis of selected strategic investment platforms, with entrepreneurial and innovative companies having strong growth potential, with the objective of supporting their growth into market leaders.

Qunova: Aims to initiate, develop, deliver and manage projects and businesses in innovative ways by bringing together creative people with significant experience in different areas.

Smartfin Capital: European private equity fund investing in smart technologies aimed at the financial technological market.

Volta Ventures: Seed & early stage venture capital and coaching for internet & software companies in the Benelux.

Network of Networks

Join in on any of the following networks aimed at helping out fellow entrepreneurs. Get inspired or get helpful feedback on your visions. These networks are also a great place to get in touch with potential partners.

Betagroup: The largest tech community of Belgium. Each month you can present your idea and get instant feedback of this large community.

Startup Nations: Shares ideas about what is working and what is not in the group members' respective environments. SN is an organic and nimble network that promotes knowledge sharing and collaboration.

Voka: Flemish network of enterprises. Jong Voka is directed at young entrepreneurs or high potentials.

Meetups

The three most popular start-up Meetups are

Growth hacking Belgium: provides innovative manners to startups to grow

BigData : everything concerning Big Data, NoSQL and other data science technology

Finance for Startups: information on funds for start-ups

Support

Do you need a helping hand? Don't hesitate to get in touch with following organisations, they are here to help!

1819: A telephone information service where start-uppers or managers of existing companies can ask practical questions about starting or running a business.

Agence du Numerique (ex-AWT): The ICT platform of Wallonia, set up by the Walloon Government.

Agentschap Innoveren en Ondernemen: Flanders Innovation & Entrepreneurship Agency helps start-uppers set up a business in Flanders by providing the information they are looking for on various fields of business.

Bridee: Bridging design, entrepreneurs & education. Co-creation platform which brings together design & business students with creative business owners.

City Ghent: They provide help in any field of expertise to entrepreneurs.

City Antwerp: Supports entrepreneurs who want to start their own business. The city also gives customized advice for the customers.

Flanders Investment & Trade: Promotes international enterprise in Flanders. They assist, support and stimulate companies in international business. Flanders Investment & Trade offers tailored advice and guidance.

SOS Idee: An initiative of Flanders DC. SOS Idee offers free services to anyone with an idea.

Flanders DC: Flanders DC is the Flemish organisation for entrepreneurial creativity.

Green Bridge: A sustainable breeding ground for technical businesses, initiated by the University of Ghent.

Hub.brussels: hub.brussels is the Brussels Business Support Agency. It was launched on 1 January 2018 and is the result of a merger between Atrium.Brussels, Brussels Invest & Export and impulse.brussels.. The Agency informs, guides and supports businesses in a whole series of areas such as business creation, financing, innovation, town planning, the environment, international partnership, etc.

Incorporated Angels: A place where you can share your idea or business plan to have intelligence angels to build the business for you. Don't let good ideas go to waste!

Innotek- Bedrijven Creëren Bedrijven: Supports and assists new business initiatives and offers flexible office and laboratory space to startups. Through these activities, Innotek aims to contribute to the creation of additional employment in Flanders.

Leaders in Security (LSEC): An international IT - & Information Security cluster, a non-profit organization that promotes Information Security and expertise in Europe. Founded by the University of Leuven, supported by European Commission.

Microsoft Innovation Center Belgium: A non-profit organization based in Mons, resulting from a partnership between the public (Wallonia) and private (Microsoft, HP and VOO) sectors, which aims to encourage the development of Walloon IT companies.

Pulse Foundation: A private initiative that brings together entrepreneurial families, industrialists and entrepreneurs under the same philanthropic ideal: to contribute to the prosperity of the country by stimulating entrepreneurship.

Software in Brussels: A cluster that gathers more than 150 high-growth potential software companies, private and government support organizations. It provides a unique business-oriented platform where members can share knowledge and best practices.

The Egg Brussels: A site spread out over 5000m² in the heart of Brussels, offering perfect modular accommodation where event organizers can give free rein to their creativity when organizing their events for 2 to 999 guests.

Vlaamse Bedrijvencentra: The group is established by the government and various companies to support entrepreneurs in their growth towards stability. The group provides not only offices or storage space but contacts and knowledge sharing.

WSL: A Walloon incubator of engineering science. It is the first incubator to be recognised outside of the USA.

Annex 3: Case study scenarios

With the use of **fictional scenarios**, the report aims to provide an understanding of the possible admission options of different types of third-country national start-ups and innovative entrepreneurs in Belgium.

For each of the fictional scenarios, the following questions are answered:

1. What are the migratory pathways (visas/residence permits) available?
2. Would the person qualify for the permit and if yes, under what specific conditions?
3. Which authority would assess the eligibility of the applicants?
4. What is the application process?
5. How long would it take for the person to obtain the permit?

Third-country national outside of the EU, has not set up business yet: Start-up at business plan stage, has not registered the company in the Member State, wants to apply from outside the EU
<i>Vihaan is a highly skilled professional from India with a Master's degree from University of Delhi, currently living in Delhi. For the past few months he has been working in an IT company there, but he plans to start his own business in the near future. He already has a business plan for a service-based app that he thinks could do well in Belgium. His goal is to come to your Member State and start his company there. What is the process that Vihaan would have to go through to build his start-up in Belgium?</i>
<p>1. Taking into account that Vihaan would be starting his own company, he will need to apply for the professional card, allowing him to set up this business and take up the activities on a self-employed basis. The professional card will in its turn form the basis for a Belgian long term visa (D Visa) and a Belgian residence permit (applied for in Belgium).</p> <p>2. Vihaan would most likely qualify for a professional card, though the decision will fall under the discretionary power of the regional service economic migration.</p> <p>Through his business plan and supporting documents, Vihaan will need to show the viability of his company, the availability of sufficient funds, the possibility to support himself (and accompanying family members if applicable) and in addition he will need to show the economic benefit of his project to the specific Region where he wishes to set up his business. The economic benefit of his project can be shown through investments, plans of employing locals, opportunities for other/local business owners, etc.</p> <p>3. The main assessment is made by the regional service economic migration, as this is the authority deciding autonomously on the issuance of the professional card. The Immigration Office will be involved to provide insight on the residence rights of the applicant.</p> <p>Once the regional service economic migration has approved the application, the Belgian Embassy in India (Delhi) will automatically deliver the visa, though under the condition that all documents for the residence section were provided.</p> <p>With the visa Vihaan can travel to Belgium, where he will need to request his Belgian residence permit at the local municipality authorities.</p>

4. Vihaan will need to prepare and file his application before travelling to Belgium. The application is filed at the Belgian Embassy in India (Delhi) and needs to contain all documents related to the professional activities he wishes to conduct in Belgium (including the business plan), as well as the documents related to his residence in Belgium.

Within 5 working days from the application, the diplomatic post forwards the professional card application to the regional service economic migration, which takes a decision on the professional card application. The Immigration Office can be consulted in regards to Vihaan's right to reside in Belgium.

After assessment of the application, the regional service economic migration forwards the positive decision to the Belgian Embassy and asks confirmation of the issuance of the visa D (long stay visa for Belgium). The Belgian Embassy can automatically decide on the issuance of the visa – though they always have the discretion to involve the Immigration Office¹⁴⁷. Vihaan is contacted and instructed to contact the Belgian Embassy to pick up his visa. The visa has a maximum validity of one year and within this period, Vihaan must travel to Belgium and initiate the registration process in Belgium.

The Belgian Embassy forwards a copy of the visa D to the regional service economic migration which subsequently sends the professional card to the indicated enterprise counter for delivery. Once arrived in Belgium, Vihaan must visit the enterprise counter¹⁴⁸ which issues the actual professional card.

As a last step, Vihaan must present himself to the local municipality with the visa D and the professional card. Here he will be presented with a Belgian residence permit, the validity of which corresponds to the period of validity of the professional card (up to maximum one year but renewable).

5. Depending on the region where Vihaan would be setting up his business and depending on the city where Vihaan would be living in Belgium, the process will take between 1 and 8 months.

Third-country national already in the EU, working as a highly skilled employee: Highly skilled third-country national who came on an EU Blue Card or an alternative national permit for highly skilled workers working for a company in a certain industry; after 2 years of working for the company wants to start his/her own business

Amel is a Tunisian citizen working for "B Solutions", a biotech company in Belgium on an EU Blue Card permit or an alternative national permit for highly skilled workers arranged through her employer. After having worked for the company for two years, she feels that she is ready to take on a new challenge. She would like to start her own business in the same sector and set up a company that offers high-tech solutions to recycle waste in new, innovative ways, remaining in Belgium. What are her possibilities?

¹⁴⁷ If the correct documents are provided, the Embassy/Consulate has the power to automatically deliver the visa, but is also free to decide on the need for additional documents and even an interview. The Embassy/Consulate can forward the application to the Immigration Office in Belgium in case of doubt.

¹⁴⁸ The third-country national is free to choose any enterprise counter, irrespective of the place where the business (activities) are located. The foreign national indicates the preferred enterprise counter on the application form for the professional card.

1. As there is only one option in Belgium for self-employed individuals, Amel will need to request a professional card just like in scenario 1 and 3, with the difference that the application is filed in Belgium and that she will need to change her status from employee to self-employed.
2. Though the decision will fall under the discretionary power of the regional service economic migration, it is very likely that Amel would qualify for the permit. Just as Vihaan she will need to show the viability of her company, the availability of sufficient funds, the possibility to support herself (and accompanying family members if applicable) and in addition she will need to show the economic benefit of her project to the specific Region where she wishes to set up her business. The economic benefit of her project can be shown through investments, plans of employing locals, opportunities for other/local business owners, etc. In addition Amel will need to show that she is in legal stay in order to be allowed to file the application in Belgium.
A good point in her application will be that she can show experience in the same sector in Belgium.
3. It will be the regional service economic migration, which takes a decision on the professional card application. The Immigration Office can be consulted in regards to her right to reside in Belgium. The local authorities (municipality) will be involved to provide a new residence permit, linked to the professional card.
4. The application needs to be introduced with a recognised enterprise counter. The enterprise counter will forward the application to the regional service economic migration. The regional service economic migration will first check whether the application was filed in conformity with the applicable legislation and if this was the case the application will be checked against the requirements as mentioned in Q14b. The fact that Amel already gained experience in the same sector in Belgium will certainly be taken into account by the authorities.
A decision will be taken and Amel will be informed through the enterprise counter. In case of a positive decision, the professional card will be delivered immediately. With this card, Amel will need to turn to her local municipality, where a change of status request will be introduced. The municipality can automatically issue a new residence permit, linked to the validity of the professional card. In practice the residence permit will be valid for one year and will need to be renewed upon expiry.
5. There is no legally determined timeline for this kind of applications. In practice we do see that processing times for in country applications tend to be shorter, as there is no need to file a visa application. About 4-6 months should be taken into account to have the full procedure finalised.

Third-country national outside of EU, registered company: Start-up just started, registered company outside the EU would like to set up in the Member State

Sergey from Minsk, Belarus owns a company "Icomp Technologies", a manufacturing company which has just launched the production of electronic components in IoT (Internet of Things) technology sector. The company has already shipped some experimental production to third country markets, such as Japan and Malaysia, and based on the initial success it was decided to reallocate company's headquarters to Belgium for further business development. What is the process that Sergey would have to go through to move the headquarters? Are there any additional provisions for other staff members aiming to reallocate to a Member State?

1. The answer is identical to the answer in scenario 1: Sergey will need to apply for the professional card, allowing him to set up this business and take up the activities on a self-employed basis. The professional card will in its turn form the basis for a Belgian long term visa and a Belgian residence permit (in Belgium).

When it comes to the other staff members: work authorisation in the form of a work permit or single permit will be needed in order for them to be legally employed in Belgium.

2. As with all applications for a professional card, the decision falls under the discretionary power of the regional service economic migration, but Sergey would most likely qualify for the permit and be allowed to set up his business in Belgium. He will need to show the viability of his company, the availability of sufficient funds, the possibility to support himself (and accompanying family members if applicable) and in addition he will need to show the economic benefit of his project to the specific Region where he wishes to set up his business. As he already has an established company, it should be easier to provide proof of experience and financial figures for the future years. If the company in Belarus is financially healthy and he can show an economic benefit for the region, the professional card should be delivered.

3. The main assessment is made by the regional service economic migration, as this is the authority deciding autonomously on the issuance of the professional card. The Immigration Office will be involved to provide insight on the residence rights of the applicant.

Once the regional service economic migration has approved the application, the Belgian Embassy in Moscow will automatically deliver the visa, though under the condition that all documents for the residence section were provided.

With the visa Sergey can travel to Belgium, where he will need to request his Belgian residence permit at the local municipality authorities.

4. Identical to scenario 1

5. There is no legally determined timeline for this kind of applications, but in practice we see that the full process (from document gathering to having the professional card and residence permit in hand) takes roughly 4-8 months.

Third-country national already in the EU, PhD or master student

Auri is a Dominican PhD student at a university in Belgium in the field of biotechnology studies. In parallel to her studies (outside her PhD contract), Auri researched fermentation and revealed yet unknown characteristics of the investigated ferment. Auri discovered that the reaction between the researched ferment and a specific enzyme could have a particular effect on human's skin regeneration. She was approached by a potential investor who saw the potential of the discovery in the medical cosmetology sector. Auri would like to register a company in Belgium and undertake further necessary research to receive patents and start the production of agents as a next stage. What are her possibilities?

1. The migratory pathways will depend on Auri's residence status in Belgium. In case Auri is residing in Belgium on a temporary legal basis, she will need to apply for a professional card, as Amel in Scenario 2. However, should Auri have already secured a residence status of unlimited duration, she is allowed to set up her business without the need of a professional card application. The general rules on setting up a business will of course still need to be taken into account.

2. Though the decision will fall under the discretionary power of the regional service economic migration, it is very likely that Auri would qualify for the permit. Just as Amel she will need to show the viability of her company, the availability of sufficient funds, the possibility to support herself (and accompanying family members if applicable) and in addition she will need to show the economic benefit of her project to the specific Region where she wishes to set up her business. The economic benefit of his project can be shown through investments, plans of employing locals, opportunities for other/local business owners, etc. In addition she will need to show that she is in legal stay in Belgium and that her legal status is compatible with a professional card in order to be allowed to file the application in Belgium.
3. The regional service economic migration determines whether the conditions are met and whether the professional card can be provided. The Immigration Office will be involved to determine whether the applicant is in legal stay in Belgium and whether the status of professional card holder is compatible with this status. A decision will be taken and the applicant will be informed through the enterprise counter. In case of a positive decision, the professional card will be delivered at once. With this card, she will need to turn to her local municipality, where a change of status request will be introduced. The local town hall can automatically issue a new residence permit, with a validity linked to the validity of the professional card (up to maximum one year but renewable).
4. The application needs to be introduced with a recognised enterprise counter. The enterprise counter will forward the application to the regional service economic migration. The regional service economic migration will first check whether the application was filed in conformity with the applicable legislation and if this was the case the application will be checked against the requirements as mentioned in Q14b. The fact that Auri can show studies in the same field and the fact that she has already resided in Belgium will be an added benefit.
5. There is no legally determined timeline for this kind of applications. In practice we do see that processing times for in country applications tend to be shorter, as there is no need to file a visa application. About 4-6 months should be taken into account to have the full procedure finalised.

Annex 4: Relevant Sources and Literature

An important source of information for this study was the information received from the competent authorities during the research, more specifically from:

- ⇒ Flanders Investment & Trade
- ⇒ Flanders Innovation & Entrepreneurship Agency (VLAIO)
- ⇒ Regional Public Service Economy and Employment Flanders –Service Economic Migration Service
- ⇒ Regional Public Service Economy and Employment Brussels – Direction Economic Migration
- ⇒ Regional Public Service Economy and Employment Wallonia – Direction Employment and Work
- ⇒ hub.brussels – Department Inward Investment
- ⇒ Startups.be which is a one-stop-shop for tech entrepreneurs
- ⇒ Alaska, a one-stop-shop with in-house synergy between accountants, auditors, tax consultants and lawyers.

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Veerle Slagmeulder, Partner – Alaska, Brussels

Anneleen Baetens, John Verzeele and Olivier Van Orshoven - Flanders Investment & Trade

Ellen Cardon and Astrid Deneve - Flanders Innovation & Entrepreneurship Agency (VLAIO)

Isabelle De Boer, Head of Service Professional cards – Regional Public Service Economy and Employment Flanders

Jeroen Maes, Director - Regional Public Service Economy and Employment Brussels, Direction Economic Migration

Stéphane Thirifay - Regional Public Service Economy and Employment Wallonia, Direction Employment and Work Authorisations

Emmanuel De Beughem - hub.Brussels, Department Inward Investment

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Annex 5: Publications by EMN Belgium (2009-2019)

The present annex lists the studies and reports published by EMN Belgium between 2009 and 2019. The other EMN National Contact Points produced similar reports on these topics for their (Member) State. For each study, the EMN Service Provider, in cooperation with the European Commission and the EMN NCPs, produced a comparative Synthesis Report, which brings together the main findings from the national reports and places them within an EU perspective.

The Belgian reports mentioned below are available for download on www.emnbelgium.be.

The reports from the other NCPs as well as the Synthesis Reports are available on:

http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/index_en.htm.

2009

<i>April 2009</i>	The Organisation of Asylum and Migration Policies in Belgium
<i>June 2009</i>	Annual Report on Asylum and Migration Policy in Belgium – 2008
<i>July 2009</i>	Unaccompanied Minors in Belgium - <i>Also available in French and Dutch</i>
<i>October 2009</i>	Programmes and Strategies in Belgium Fostering Assisted Voluntary Return and Reintegration in Third Countries - <i>Also available in French and Dutch</i>
<i>December 2009</i>	EU and Non-EU Harmonised Protection Statuses in Belgium

2010

<i>January 2010</i>	Annual Report on Asylum and Migration Policy in Belgium – 2009
<i>August 2010</i>	Satisfying Labour Demand Through Migration in Belgium

2011

<i>January 2011</i>	Temporary and Circular Migration in Belgium: Empirical Evidence, Current Policy Practice and Future Options
<i>March 2011</i>	Annual Report on Asylum and Migration Policy in Belgium – 2010
<i>May 2011</i>	EU and Non-EU Harmonised Protection Statuses in Belgium (update)
<i>October 2011</i>	Visa Policy as Migration Channel in Belgium

2012

<i>January 2012</i>	Practical Measures for Reducing Irregular Migration in Belgium
<i>March 2012</i>	Annual Report on Asylum and Migration Policy in Belgium – 2011
<i>April 2012</i>	Misuse of the Right to Family Reunification: Marriages of Convenience and False Declarations of Parenthood in Belgium - <i>Also available in French and Dutch</i>
<i>September 2012</i>	Establishing Identity for International Protection: Challenges and Practices in Belgium - <i>Also available in French and Dutch</i>
<i>September 2012</i>	The Organization of Migration and Asylum Policies in Belgium (update)
<i>October 2012</i>	Migration of International Students to Belgium, 2000-2012
<i>December 2012</i>	Intra-EU Mobility of Third-Country Nationals to Belgium - <i>Also available in French</i>

2013

<i>May 2013</i>	Annual Report on Asylum and Migration Policy in Belgium – 2012
<i>July 2013</i>	Attracting Highly Qualified and Qualified Third-Country Nationals to Belgium
<i>August 2013</i>	Organisation of Reception Facilities in Belgium
<i>October 2013</i>	Identification of Victims of Trafficking in Human Beings in International Protection and Forced Return Procedures in Belgium

2014

<i>February 2014</i>	Migrant Access to Social Security – Policy and Practice in Belgium - <i>Also available in French and Dutch</i>
<i>June 2014</i>	Good Practices in the Return and Reintegration of Irregular Migrants: Belgium's Entry Bans Policy and Use of Readmission Agreements
<i>June 2014</i>	Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Belgium
<i>July 2014</i>	Annual Report on Asylum and Migration Policy in Belgium – 2013
<i>October 2014</i>	Policies, Practices and Data on Unaccompanied Minors in Belgium (2014 Update)

December 2014 Admitting Third-Country Nationals for Business Purposes in Belgium

2015

June 2015 Determining Labour Shortages and the Need for Labour Migration from Third Countries in Belgium - [*Also available in French*](#)

July 2015 Annual Report on Asylum and Migration Policy in Belgium – 2014

August 2015 Dissemination of Information on Voluntary Return: How to Reach Irregular Migrants Not in Contact with the Authorities in Belgium

2016

May 2016 Changes in Immigration Status and Purposes of Stay in Belgium

May 2016 Integration of Beneficiaries of International Protection into the Labour Market in Belgium

June 2016 Annual Report on Asylum and Migration Policy in Belgium – 2015

December 2016 Returning Rejected Asylum Seekers: Challenges and Good Practices in Belgium

December 2016 Resettlement and Humanitarian Admission in Belgium

2017

June 2017 Annual Report on Asylum and Migration Policy in Belgium – 2016

July 2017 Family Reunification with Third Country National Sponsors in Belgium

August 2017 Illegal Employment of Third Country Nationals in Belgium

November 2017 Challenges and Good Practices for Establishing Applicants' Identity in the Migration Process in Belgium

2018

May 2018 Changing Influx of Asylum-Seekers in 2014-2016

July 2018 Effectiveness of Return in Belgium: Challenges and Good Practices Linked to EU Rules and Standards

<i>August 2018</i>	Annual Report on Asylum and Migration Policy in Belgium – 2017
<i>September 2018</i>	Labour Market Integration of Third-Country Nationals in Belgium
<i>September 2018</i>	Impact of Visa Liberalisation on Countries of Destination
<i>December 2018</i>	Socio-Economic Profile and Socio-Economic Careers of People Granted International Protection in Belgium, 2001-2014

2019

<i>June 2019</i>	Annual Report on Asylum and Migration Policy in Belgium – 2018
<i>July 2019</i>	Beneficiaries of International Protection Travelling to their Country of Origin: Challenges, Policies and Practices in Belgium

2020

<i>Forthcoming</i>	Comparative overview of national protection statuses in Belgium 2010-2019
<i>Forthcoming</i>	Pathways to Citizenship in Belgium
<i>Forthcoming</i>	Annual Report on Asylum and Migration Policy in Belgium – 2019