



# Attracting Highly Qualified and Qualified Third Country Nationals to Belgium

Focussed Study of the Belgian National Contact Point of the European Migration Network (EMN)



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The European Migration Network was set up with the purpose of providing up-to-date, objective, reliable and comparable information in the areas of asylum and migration for the European institutions, national authorities and other stakeholders.

The Belgian National Contact Point is a mixed point composed of experts from the Immigration Office, the migration observatory of the Centre for Equal Opportunities and Opposition to Racism and the Office of the Commissioner General for Refugees and Stateless Persons.

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*The European Migration Network (EMN) is coordinated by the European Commission with National Contact Points (EMN NCPs) established in each EU Member State plus Norway.*

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## **Table of Contents**

<i>Summary</i> .....	4
Section I. National measures and policies.....	6
Section II. Evaluation and effectiveness of the measures.....	20
Section III. Challenges and Barriers.....	27
Section IV. Conclusions.....	32
<i>Bibliography</i> .....	34
<i>Annexes</i> .....	37

**EMN FOCUSED STUDY 2013**  
**ATTRACTING HIGHLY-QUALIFIED AND QUALIFIED**  
**THIRD-COUNTRY NATIONALS**

**National Contribution from BELGIUM**

*Disclaimer: The following responses have been provided primarily for the purpose of completing a Synthesis Report for the above-titled EMN Focussed Study. The contributing EMN NCPs have provided information that is, to the best of their knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of an EMN NCPs' Member State.*

## Summary

Although there is no specific written policy to attract highly qualified and qualified Third Country Nationals (hereinafter TCN) and despite the migration stop, highly qualified TCN have in practice facilitated access to the Belgian labour market.

In principle the core of Belgian (economic) migration policy still is to restrain immigration: the so-called "migration stop". In practice, however, many exceptions to the migration stop have been instated, resulting in a situation where the migration stop as such is effectively circumvented.

### **Work permit B system and Blue Card System**

The Belgian labour migration policy is shaped by the Federal authorities; The Regional authorities implement the legislation.

There are two co-existing systems that allow for employment authorisation of highly-qualified third-country nationals in Belgium: the work permit type B for highly qualified personnel, which is the most widely-used work permit for highly qualified third-country nationals, and the Belgian Blue Card, recently introduced through the implementation of the European Blue Card Directive.

The basic principle of Belgian economic migration policy states that a foreign worker is only allowed to work in Belgium when a labour market test indicates that on the Belgian or EEA labour market no suitable candidate can be found within a reasonable term. However, in order to attract foreign investment by facilitating international mobility, various categories of workers are exempt from the work permit requirement, or can obtain a work permit without the need to have a labour market test performed.

There is no definition of a qualified third-country national as this category is not specifically addressed in the legislation. Skilled workers who are not highly qualified should as a rule complete the procedure of the labour market test.

The Belgian labour migration policy mostly seems to respond to labour demand and labour shortages. By granting exemptions for broad categories of foreigners, the standard procedure that solely aims at specific labour demands in individual situations is circumvented.

The regional authorities compile lists of "bottleneck jobs", which contain positions for which there is a shortage on the regional labour market. Next to low-skilled and technical positions, these lists encompass positions that are to be filled by qualified or highly qualified employees, such as engineers, topographers, nurses, IT-specialists and others. As such, these jobs can be fulfilled by third-country nationals with EU long term resident status and workers from the new EU Member States in the transition phase, involving only minimal formalities in the work permit application procedure, and a processing time of maximum 5 days.

### **Statistics**

In Belgium, migration policy is a sensitive political matter and often subject to discussions both in the parliament and in the media. Nevertheless, this is much less the case with regards to economic migration policy.

A large part of third country nationals are employed in Belgium on the basis of their residence status (work permit C – students,... - or work permit B – family reunification, ...-).

The number of work permits granted for qualified and highly qualified in 2011 are about 25% of all work permits B. They represent though more than 50% of all work permits B if one does not take into account the large number of work permits B issued to Romanian and Bulgarian nationals (based mainly upon the bottleneck jobs listing).

It should be noted that no statistics exist to perfectly track the amount of highly qualified and qualified TCN's working on the Belgian territory.

### **The way ahead**

It is clear that 2013 and 2014 will be exiting years whereby policy makers in Belgium will face many interesting challenges and will have many great opportunities.

Within the framework of the institutional reform, policy makers can now further develop a solid and transparent policy on economic migration, clearly defining the category of highly qualified and qualified TCN and including the category of the students. A policy, adapted to the new forms of employment and to the needs of the labour market.

The new policy should also comprise a consistent procedure, taking into account possible digitisation and electronic filing and an expedited service for migrant workers in every stage of the process. In this respect, the single permit directive, introducing a single combined (work and residence) permit and a single application procedure, will create interesting challenges.

Finally, a system of monitoring should be set up, allowing the policy makers to have a perfect view on the TCN working on the territory. This will allow them to effectively measure the effects of policies.

## Section I: National Policies and Measures

*This section reviews the national policies and measures that Member States employ in order to attract highly qualified and qualified third-country nationals. Reference is made to the International Standard Qualifications as regards education (ISCED) and occupation (ISCO-08) and/or the respective salary threshold when outlining the target group of these policies and measures.*

### 1.1 Policies

#### **Q.1. Are there national policies in place for the attraction of highly qualified and qualified third-country nationals?**

The core of Belgian (economic) migration policy is to restrain immigration: the "migration stop". As such, migration to Belgium by third-country nationals is in principle not possible, except in a number of predetermined circumstances, such as asylum and certain types of labour migration.

In practice, however, there are many exceptions to the migration stop, resulting in a situation where the migration stop as such is effectively circumvented: the principle exists, but has no practical meaning. For instance, a third country national (TCN) is in principle only allowed to work and live in Belgium when the employment is aimed at meeting specific labour market or economic needs, but in practice many categories of TCN don't have to fulfil this requirement. Furthermore, certain categories of third country nationals who have the right to stay in Belgium based on a different basis than labour migration (e.g. students, asylum seekers, family members of migrants) may qualify for access to the labour market based on their residence rights in Belgium.

The Belgian labour migration policy is shaped by the Federal authorities, who provide the legislative framework with regards to both labour migration and other types of migration. The issuing bodies who assess work authorisation applications – and consequently implement portions of the labour migration legislation – are subject to the authority of the regional governments. As such, the legislation regarding labour migration may be interpreted differently in the regions, depending on the region where the effective working location of the employee is located.

There are three types of work permits that grant limited or unlimited access to the Belgian labour market: type A<sup>1</sup>, type B and type C<sup>2</sup>. The most common type of work permit for highly

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<sup>1</sup> The **work permit type A** grants free access to the Belgian labour market, and is not linked to a specific employer. The permit is valid indefinitely and can be obtained after having worked with a work permit type B for a certain number of years, depending on whether the worker has a spouse and children who reside in Belgium, and whether a manpower agreement with the worker's country of origin is in place. This type of work permit is available to those employees with a work permit type B for executive staff, but not to those with a work permit type B for highly qualified personnel in the sense of article 9,6<sup>o</sup> Royal Decree of 9 June 1999 (see below).

<sup>2</sup> The **work permit type C** grants the holder free access to the Belgian labour market, and is not linked to a specific employer. This type of work permit can be obtained by individuals whose right to stay in Belgium is based on different grounds than labour migration (e.g. students, asylum seekers,...). This type of work permit is renewable and has a maximum validity period of 12 months, which will never exceed the validity period of the holder's residence permit. It is not available, however, to family members of labour migrants.

qualified third-country nationals is the type B work permit. This type of work permit is linked to a specific employer and has a limited validity period, depending on the category to which the holder belongs. Most categories of workers will be able to have this work permit renewed yearly.

The basic principle states that a foreign worker is only allowed to work in Belgium when a labour market test indicates that on the Belgian or EEA labour market no suitable candidate can be found within a reasonable term. Furthermore, a manpower agreement must have been concluded between Belgium and the country of the nationality of the worker, a specific employment contract must have been signed between the employer and the employee, and the foreign candidate must be abroad at the time the work permit application is filed.

However, there are quite a few categories of workers that can obtain the work permit type B, without the need for the labour market test and manpower agreement. This approach is by far the most common one for highly qualified and qualified third-country nationals. Below we will discuss the most important categories of workers for whom a labour market test does not need to be performed.

In principle, the application for this work permit will need to be filed while the worker is abroad. Highly qualified workers, however, are exempt from this criterion. Once the work permit has been issued, the holder will base his right to stay in Belgium on his work permit type B.

As stated above, economic reasons have led to a further development of the migration policy. Various categories of workers can obtain a work permit without the need to have a labour market test performed. Additionally, several categories of highly qualified and qualified third country nationals receive favourable treatment as they are exempt from the work permit obligation itself (e.g. researchers, business visitors, executives and individuals employed by Belgian headquarters, persons whose employer is based in another EEA Member State and who come to Belgium to perform services, etc...).

As such, by facilitating the eligibility conditions and procedures for (highly) qualified workers, Belgian migration policy indirectly aims at attracting these individuals. In addition, an Economic Migration Service was established in 2008 within the Immigration Office with the purpose to improve the administrative burden for highly skilled migrants and investors (see later).

Furthermore, Belgium has set up a policy to address specific needs of the labour market. The regions have drafted lists of so-called "*bottlenecks-jobs*", which are (mainly) low-skilled but can also be highly skilled and technical jobs. As such, these jobs can be fulfilled by third-country nationals with EU long term resident status and workers from the new EU Member States in the transition phase, involving only minimal formalities in the work permit application procedure, and a processing time of maximum 5 days.

Although the Belgian economic migration policy does provide possibilities for highly qualified third country nationals to work and reside in Belgium, it generally does not grant access to the Belgian labour market to qualified third-country nationals, except if a labour market test is positive, or if they come to Belgium to undertake very specific activities, often limited to a short duration.

**Q1.a. If Yes, please indicate the following:**

- **National definition of highly qualified third-country nationals, including references to relevant international standards such as ISCED/ISCO and/or salary thresholds;**

There are two co-existing systems that allow for employment authorisation of highly-qualified third-country nationals in Belgium: the work permit type B for highly qualified personnel, which is the most widely-used work permit for highly qualified third-country nationals, and the Belgian

Blue Card, recently introduced through the implementation of the European Blue Card Directive.

➤ **Highly qualified personnel (Art 9, 6° Royal Decree 1999)**

Even though the Belgian legislation contains clauses that apply specifically to highly qualified workers, no definition for this is provided. Interpretations are given by the issuing bodies within the regions as "Persons who have completed university education, higher education or similar education and who are employed in that capacity for a minimum salary laid down in the Royal Decree".

As such, only the criteria of education and salary level are taken into account:

- Degree (see above)
- Minimum gross annual salary of €38,665 (for the year 2013)

For employees meeting these requirements, both those linked to an employment contract with a Belgian employer, as those who are seconded by their foreign employer to Belgium, a work permit type B can in principle be obtained.

In defining the notion of salary for immigration purposes the Belgian immigration legislation refers to the Employment Law Act of July 3, 1978. In this legal text the salary is defined as the remuneration that an employee receives in return for the work performed within the framework of his employment agreement.

As such, all elements that are taken into account for the calculation of the severance pay count towards the immigration salary threshold, such as the salary in cash (monthly gross salary, holiday pay, 13<sup>th</sup> month, premiums and bonuses), as well as the benefits in kind (company car, employer's premiums into the group insurance, meal vouchers,...). Cost allowances, whether lump sum payments or reimbursements based on vouchers are not taken into account. In practice however, there tend to be issues with the interpretation of this notion, and the different regional authorities may not apply the same interpretation to locally employed and seconded employees.

➤ **Highly skilled worker within the framework of the Blue Card**

Whilst implementing the Directive on the European Blue Card, the Belgian legislation has introduced a definition of a worker with higher education qualifications: it is a worker who holds "any diploma, certificate or other evidence of formal qualifications issued by a competent authority attesting the successful completion of a post-secondary higher education programme, namely a set of courses provided by an educational establishment recognised as a higher education institution. A higher education qualification shall be taken into account, on condition that the studies needed to acquire it lasted at least 3 years". Belgian authorities have decided not to make use of the possibility to allow at least 5 years of professional experience of a level comparable to higher education as an indicator of being highly qualified.

Hence, the following legal criteria must be fulfilled:

- Degree (see above)
- Minimum gross annual salary of €49.995 (for the year 2013)

The Belgian Blue Card can only be obtained for those integrated into the Belgian labour market and consequently subject to Belgian social security.

Furthermore, on the Blue Card application form, the relevant ISCO-code<sup>3</sup> must be provided. This is not a legal requirement, but is used by the government administration to streamline the way

<sup>3</sup> The International Standard Classification of Occupations (ISCO) is a ILO classification system in which jobs are grouped into pre-defined categories, depending on the tasks and responsibilities associated with the position. Each group is linked to a unique code, which is to be used in the Blue Card application procedure.



in which the job description is communicated. The ISCO code is not required for the application for other types of work permits.

- **National definition of qualified third-country nationals, including references to relevant international standards such as ISCED/ISCO and/or salary thresholds.**

There is no definition of a *qualified third-country national* as this category is not specifically addressed in the legislation. Skilled workers who are not highly qualified should as a rule complete the procedure of the labour market test and comply with the nationality condition, except in case of the aforementioned bottleneck jobs. The legislation does foresee measures for a specific category of qualified third country nationals, i.e. the category of "specialised technicians", for whom the conditions for obtaining a work permit are more lenient. In this respect, the specialised technician must remain linked to a foreign employer by virtue of an employment contract, and should come to Belgium to perform the initial installation or the repair of equipment produced or designed by the foreign employer on a client site. This work permit has a maximum validity period of six months.

**Q1.b. If Yes, do the policies distinguish between highly qualified and qualified third-country nationals?**

Yes, see above.

**Q1.c. If Yes, please indicate the rationale for their distinction.**

The answer is not known but one may presume that the rationale can be found in the "migration stop" which applies to TCN with the exception of the highly qualified TCN which could help Belgian business and economy to boost (Infra Q1.d.).

**Q1.d. If Yes, what is the main rationale for these policies? What is the objective? Please consider whether this rationale is linked to circular, temporary or permanent migration.**

From the preparatory works, we can deduct that there are various reasons underlying the political decision to facilitate the conditions for working in Belgium for certain categories of workers. The policy mostly seems to respond to labour demand and labour shortages. By granting exemptions for broad categories of foreigners, the standard procedure that solely aims at specific labour demands in individual situations is circumvented. Furthermore, other reasons such as administrative simplification and economical motives play a role.

With regards to highly qualified foreigners, the motive for granting them more favourable conditions, seems to be threefold. Firstly, administrative simplification creates a win-win situation for all parties involved. Cumbersome administrative procedures not only burden the administrations but also hamper the development of professional activities in Belgium. Secondly, the employment of highly qualified third country nationals can be a stimulating factor to Belgian economy. Thirdly, the legislation should be prepared for globalisation and the most probable need for an increasingly skilled workforce.

**Q1.e. If Yes, briefly outline the main features of the policies. Please consider whether the following exists:**

- *Employer-driven system*

Belgian economic migration policy is mainly focussed on satisfying labour demands. If the third country national is not work permit exempt or entitled to a work permit A or C, the employer needs to obtain a work authorisation and a work permit B on behalf of the worker. As such, through specific application procedures, the employer applies for and obtains both the work

authorisation and the work permit. With the work permit issued, the employee obtains the visa, if required, and the residence permit after arrival in Belgium. Hence, the Belgian system for granting third country nationals with a work permit is a classic employer-driven system. Such a system allows employers to select the workers they need, provided all eligibility conditions are met.

The work permit application is submitted by the employer or authorised representative to the regional administration responsible for the effective working location of the worker. This competent labour migration department of the region verifies if all eligibility conditions are met and takes (in general) a decision within 2 to 4 weeks, after which the employer is notified.

The required information and documents for the application differ from one region to another as there is no longer any Royal Decree in place on the application process.

In case of a negative decision, there is a possibility to submit an administrative appeal to the minister and a further appeal to the Council of State. In case of a positive decision, the employer or authorised representative must collect the work permit at the local town hall and send it to the worker in the country of origin. If required, the worker can then apply for a type C or D visa at the Belgian Diplomatic Post on the basis of such work permit. Upon arrival in Belgium, the worker must register at the town hall responsible for his/her place of residence, after which he/she will receive the residence permit.

- *Points-based system (i.e. a system that admits third-country nationals who have a sufficient number of qualifications and experiences from a list that typically includes language skills, work experience, education and age<sup>4</sup>);*

No.

- *Hybrid system (i.e. combination of points-based and employer-driven model<sup>5</sup>);*

No.

**Q.2. Are other groups of third-country nationals included in the national policies on attracting (highly) qualified third-country nationals?**

Yes.

**Q2.a. If Yes, please indicate what other groups are included (i.e. investors, entrepreneurs, international graduates, transferred workers etc.)?**

**Self-employed third country nationals**

A separate system applies to self-employed third country nationals. These individuals need a professional card in order to be able to work. A crucial criterion for granting the professional card is the expected added value of the activities to the Belgian economy, which is assessed by the Federal Department for SMEs (small and medium-sized enterprises). The added value can consist of the creation of new jobs, a positive economic impact on the enterprises based in Belgium, the innovation or specialised nature of the activity, or the social, cultural, artistic or sport-related benefit of the activity.

It is important to note that, in order to be allowed to set up a business, the self-employed individual (whether Belgian or foreign) must have the required professional certificates and at least the certificate of 'business management'.

<sup>4</sup> Definition from: <http://www.migrationpolicy.org/pubs/rethinkingpointssystem.pdf>

<sup>5</sup> Ibid

**Groups of third-country nationals who are expressly addressed by the legislation, and can be considered as (highly) qualified**

Work permit B for executive staff and managerial employees

Executive staff is defined as staff holding a managerial position being in charge of the day-to-day management of the company, who are authorised to represent the employer and enter into legal agreements with others on the employer's behalf.

Managerial employees are defined as employees who perform higher level functions in a business, which are generally only performed by those who hold a university degree or have an equivalent level of professional experience.

A minimum gross annual salary threshold of €64,508 (amount for 2013) applies.

Work permit C for students

The Foreigners Act recognises that third-country students in higher education programmes at university or in preparatory programs to initiate such studies, have the right of residence in Belgium, and are allowed to work under certain conditions. These students are work permit exempt during the school holidays, and are allowed to work outside of school holidays (up to 20 h/week) if they obtain a work permit type C for these periods.

Students are also exempted from the work permit requirement in case of a compulsory traineeship within the framework of their studies in Belgium or within the EEA (or Switzerland).

Researchers

Researchers coming to Belgium to conduct research at a recognised research institute under a host agreement for the duration of the research project are exempted from obtaining a work permit. In view of obtaining recognition as a research institute, relevant criteria that are taken into account are the object of the institute, its scientific activities, its inclusion in the POW (Belgian Federal Science Policy Office) permanent inventory of Belgian scientific potential, recognition as a scientific institute in the context of fiscal measures for the promotion of scientific research. Relevant documentation for this assessment is the annual activity report for the previous year.

Work Permit B for trainees

Young people between the age of 18 and 30 years old can obtain a work permit B as trainee (without labour market test) provided that the traineeship in Belgium can be considered as a continuation of higher education, the traineeship last for maximum 1 year and the legal minimum salary is met and set out in a traineeship agreement.

Work Permit B for intra-group trainees

Foreigners who come to Belgium to attend training sessions at the Belgian entity of a multinational group to which their employer abroad belongs are granted privileged access to the labour market. Depending on the trainees' nationality and the location of their employer such trainees may be exempt from the work permit requirement up to 3 consecutive months (in which case they are obliged to notify the authorities of their training) or can obtain a work permit B without a labour market test. A training agreement must be drafted between the registered office of that multinational group, the sending entity and the trainee.

Managerial staff and executive personnel employed by a Belgian head office.

These individuals are exempt from the work permit requirement. A Belgian Head office of a multinational group is defined as an office providing services to the other members of the group, such as preparatory and support activities, information activities, activities assisting sales in an active or passive way. As a proof of such 'service centre', an official certificate of a recognised statutory auditor must be sent together with a prior notification of the start of the employment to the Regional authorities.

The gross annual salary threshold amounts to 64,508 EUR (amount for 2013).

Business visitors

Individuals coming to Belgium for a maximum of 20 consecutive calendar days, up to a maximum of 60 business days per year to attend meetings in confined circles are exempt from a work permit. Examples of meetings in limited circle are the negotiation of a client contract, evaluation conversations, strategic meetings in multinationals, ...

Service providers

Third-country nationals are exempt from the Belgian work permit requirement if they are seconded to Belgium within the framework of a service agreement concluded between their employer located in an EEA Member State (the service provider) and the Belgian company/client. These workers must have valid work and residence permits in the other EEA Member State for the entire duration of their secondment.

Other categories

Next to the above-mentioned categories, the following qualified and highly-qualified workers are exempt from the work permit requirements (not exhaustive): sales representatives, journalists, professional athletes, etc. These workers can make use of such work permit exemptions as long as the duration of their stay in Belgium is limited, ranging from a few days to a few months.

**Q.3. Do the policies in your Member State focus on specific areas of occupations?**

Yes.

***If Yes, please briefly indicate the specific areas of occupations and their link with the policies.***

Please refer to the work permit exemptions above. Furthermore, the aforementioned lists of bottleneck jobs also contain positions that are to be filled by qualified or highly qualified employees, such as engineers, topographers, nurses, IT-specialists and others. For these specific jobs, workers from new EU Member States in the transition phase (at the moment: Bulgaria, Croatia and Romania) can obtain a work permit subject to very lenient conditions. These work permits are issued within 5 working days and do not require a labour market test to be performed.

Furthermore, the regional Minister has given privileged access to the labour market for certain occupations. The Minister has the discretionary power to grant access to the labour market to individual workers, without the need to revert to a labour market test. In such a process, the Minister delegates his signing authority to the competent civil servant avoiding the need to go into appeal and immediately allowing a positive decision. So far this process has only been applied to nurses and workers in the horticultural sector

**Q.4. Has the transposition of EU Directives<sup>6</sup> led to more favourable legislation/measures/conditions for specific groups of (highly) qualified third-country nationals?**

Yes

**Q4.a. If Yes, please indicate the relevant Directives and the more favourable legislation/measures/conditions which were created for these specific groups (i.e. EU Blue Card Directive and Researchers Directive).**

**Blue Card directive**

The implementation of the Blue Card Directive imposes stricter conditions in order to be entitled to work in Belgium, compared to the work permit type B for highly qualified staff (see above: higher salary threshold and employment contract subject to Belgian social security). Furthermore, the employer is required to notify the authorities when the employment circumstances of the Blue Card are significantly altered.

The key advantage of the European Blue Card is the relative ease with which the beneficial EU long-term resident status can be obtained. Long term residence status can be obtained after holding a Blue Card for 5 years, part of which can be spent in another EU Member State with a Blue Card issued in this State. In comparison, the work permit type B only allows this status after 7 or 9 years (depending on whether the applicant is a highly qualified worker or managerial staff).

Moreover, the European Blue Card allows for more mobility within the EU, and may make it easier for the holder to work in other EU member states.

The holder also has a right of longer absence from Belgian soil without losing his/her favourable immigration status.

Finally, even though the law grants the administration a longer delay for handling the Blue Card application procedure, it seems that the simplified nature of the procedure allows the administration to issue the Blue Card within a significantly shorter timeframe than the type B work permit. It is worth mentioning, however, that the total number of Belgian Blue Card applications so far is very low, which means that it is not yet possible to draw solid conclusions regarding the process and the processing time.

**Researchers directive**

With the implementation of the European Directive 2005/71 (for admitting TCN for the purpose of scientific research), the Belgian legislation has exempted the TCN researchers from the work permit requirement provided that they enter into a host agreement with a recognised Belgian research institution.

Although R&D departments within companies may have tax benefits linked to specific research activities (reduction of withholding taxes or higher tax-free expat allowance ceilings), they do not seem to have undertaken the procedure in order to be recognised as research institute for immigration purposes.

**Q.5. Are the national policies addressing the aspect of brain drain in the countries of origin.**

Yes.

<sup>6</sup> E.g. EU Blue Card Directive and Researchers Directive

**Q.6. Are the national policies addressing the aspect of brain circulation with the countries of origin?**

Yes, to a certain extent.

**Q6.a. If Yes, please briefly indicate how the national policies address these aspects, supporting your answers with reference to research or any other sources of information.**

In implementing the European Blue Card Directive, the Belgian legislation states that the authorities can refuse a work permit application in case the relevant sector in the worker's country of origin is experiencing a lack of qualified workers (art. 15/1, 2° RD 9/6/1999).

Furthermore, Belgium participates in several programmes and projects which establish a link between migration and development, and in general consist of circular migration projects.

The MIDA Great Lakes Program is a large scale long term project that is executed in several phases, and aims at capacity building and the transfer of competences and resources, both financial and intellectual, of the African diaspora to the countries of origin<sup>7</sup>.

Another example is the Mobilisation for Morocco of Moroccans living abroad program, which focuses on the mobility of the expertise and the resources of the Moroccan diaspora living in Belgium<sup>8</sup>.

A third similar planned project is a pilot project for circular migration between Belgium and Senegal. It offers paid internships of 1 year in a Belgian company for university graduates of Senegal. This project, however, has been put on hold due to the difficulties for Belgian employers to hire the project's participants as a result of the economic downturn<sup>9</sup>.

**Q.7. Have your national policies been the subject of public debate?**

Yes

**Q7.a. If Yes, please briefly indicate the main features of the policies which were debated as well as the reasons for such debate and the level at which these occurred (e.g. Parliament, society, media). Please support your answer with reference to research or any other sources of information.**

In Belgium, migration policy is a sensitive political matter and often subject to discussions both in the parliament and in the media. Nevertheless, this is much less the case with regards to economic migration policy. It seems that public debate on migration policy in Belgium is often dominated by other issues, such as asylum, family reunification and regularisation criteria.

Political parties in Belgium do not tend to view economic migration as a priority. Only the Flemish parties made explicit references to migration in their election programmes prior to the 2010 federal elections. Labour migration, however, was mostly viewed as a way to complement existing migration and labour market policy, and not as an important focal point by itself.

Next to the media, various entities that shape and inform the public debate regarding the national policies have been set up. In essence, economic migration policy is shaped through the standard law making procedures as applied by the competent legislative institutions. There is an Advisory Committee for Foreign Workers at the FPS (Federal Public Service) of Employment and Labour, in which various bodies are represented: FPS Internal Affairs, the FPS Foreign Affairs,

<sup>7</sup> EMN Belgian National Contact Point, *Temporary and Circular Migration in Europe: Empirical evidence, current policy practice and future options*, January 2011, p. 20.

<sup>8</sup> EMN Belgian National Contact Point, *Temporary and Circular Migration in Europe: Empirical evidence, current policy practice and future options*, January 2011, p. 22.

<sup>9</sup> [www.migrationcirculaire.be](http://www.migrationcirculaire.be)

the FPS Economy, the FPS Employment, Labour and Social Dialogue, the Immigration Office, Social Affairs and the Centre for Equal Opportunities. Furthermore, the regional employment services and the social partners are represented. Economic migration of qualified and highly qualified workers, however, does not seem to be a main agenda point of the Advisory Committee.

In addition, a smaller technical group was created in which a selection of specialists gathers and discusses issues related to economic migration policy.

## **1.2 Measures**

### ***Q.8. Does your Member State employ concrete measures in order to satisfy the policy goals***

Yes.

As to the standard application procedure, the most prominent feature is the labour market test. In practice, the regional authority automatically denies every work permit application for workers who do not belong to one of the categories that are exempt from the labour market test. A labour market test will only be carried out in case an appeal is filed against the negative decision, after which a work permit can be granted, in case of a positive labour market test.

Highly qualified third country nationals are exempted from the labour market test. Consequently, their applications can be handled in a relatively fast and flexible way.

Other specific categories of skilled workers (see above) are exempted from the work permit or from the labour market test.

In September 2008, a special "service for economic migration" was created within the Immigration Office aiming at handling applications for economic migration with priority and in a fast and flexible way.

#### ***Q8.a. If Yes, please indicate the measures that contribute to the implementation of the national policies and indicate their specific goals.***

##### ***➤ Employer sponsorship and/or involvement in migration process***

No, the employer takes the lead in the application procedure, but there is no system of employer sponsorship.

##### ***➤ Free access to the labour market***

Work permits type B are valid for one year and are renewable. Highly qualified staff can hold this work permit for a maximum of two consecutive 4-year periods. Type B work permits are linked to one employer and do not grant free access to the labour market. After 4 or 5 years (depending on which administration handles the file), however, the highly skilled worker (and seconded managerial staff) may obtain the right to unlimited stay, in which case they are automatically granted free labour market access.

Managerial staff subject to Belgian social security may become eligible for unlimited stay after 2 years. The right to unlimited stay is granted as a favour from the immigration authorities and cannot be appealed. In practice, however, if the necessary conditions are met, most workers applications for unlimited stay will be approved.

Alternatively, managerial staff subject to Belgian social security can obtain a work permit type A



– and as a result gain free access to the labour market – after having worked and stayed in Belgium with a work permit type B for 2 to 4 years (depending on their citizenship and whether their dependents live in Belgium).

The work permit C, as it is not linked to any employer, gives free access to the labour market. It is only available, however, to third-country nationals whose right to stay in Belgium is not based on labour, but on other grounds (such as studies, asylum seekers,...). Furthermore, dependents of labour migrants are excluded from obtaining this work permit.

➤ *Fast-tracking of procedures*

There is no special system that foresees a fast-track procedure for economic immigrants. The same general legislation on migration and residence as adopted in the Foreigners Act of 15 September 1980 is applicable on all foreigners. However, in 2008 a special economic migration service was founded within the Immigration Office. The aim of this special service is to facilitate and accelerate procedures for foreigners whose intentions are of economic interest and to prevent them from being hampered in their business due to slow administrative procedures. Compared to many other countries, however, processing times for Belgian work permits are fast ranging between 2 to 4 weeks.

➤ *Attendance of recruitment fairs abroad;*

In early 2012, the Flemish employment agency VDAB<sup>10</sup> participated in job fairs in Spain and Portugal, organised by the employment agencies of those countries, in an effort to recruit workers for two bottleneck jobs: nurses and engineers. Further job fairs are planned to take place in 2013 and regular virtual job fairs are organised as well.

At these job fairs, mostly EU nationals are recruited, which further shows the tight nature of the link between the Belgian labour market and the labour markets of the other EU Member States.

➤ *Cooperation with institutions/organisations in third countries;*

**Q8.b. If Yes, are there any measures aimed at facilitating the integration of (highly) qualified third-country nationals?**

Yes.

➤ *Improvement of language proficiency*

The regional government in Flanders has an integration policy, which entails that all migrants that register for the first time on the territory must follow an integration program. However, this is not compulsory for economic migrants, but they are free to participate.

In the Walloon and the Brussels region there are no such compulsory programs, but the regional governments are in the process of developing an integration pathway. This process started in 2012 and is still ongoing.

There are many language courses (with often very low attendance fee) available for foreigners which are conducive to their integration process. As a practical note, however, many skilled workers complain that the free lessons, organised by the communities, in many cases take place during the day when they are at work. Government-subsidised language lessons taught in the evening, however, are also available.

➤ *Provision of information and civic orientation*

Several organisations provide relevant information to expats on what is going on in Belgian society. Examples being the TV program "Fans of Flanders", the paper magazine "The Bulletin"

<sup>10</sup> *Vlaamse Dienst voor Arbeidsbemiddeling, [www.vdab.be](http://www.vdab.be)*



or online [www.expats.com](http://www.expats.com).

The aforementioned integration programs and policies provided by the three regions include information and civic orientation sections.

➤ *Social and legal guidance.*

Law firms and relocation agencies offer all kinds of services, from legal advice and services to practical help with housing, education for children, etc.

**Q.9. Do public policies exist in your Member State that specifically aim at positively influencing the immigration decision of (highly) qualified third-country nationals?**

Yes.

**Q9.a. If Yes, please also indicate such incentives.**

➤ *Family reunification rights*

Yes. Family members (spouse and underage children) are also entitled to residence for the duration of the employment of the foreign worker. They have access to the labour market without a labour market test, but are in principle not work permit exempt (work permit B for family members of labour migrants).

➤ *Tax incentives*

Yes, there is the so-called expat tax status for highly qualified and managerial employees aiming at reducing their tax liability. These employees can, to a certain extent, benefit from tax-free allowances, tax exemptions on foreign travel and have the non-resident tax status in Belgium.

The conditions to benefit from these advantages are the following : having a foreign nationality, qualifications or experience that are very difficult to find in the Belgian labour market, having been recruited abroad or transferred from abroad, having no intention to stay in Belgium on a permanent basis, and being employed by a company that is part of an international group.

The basic principle of this system is to support the retention and expansion of investments in Belgium.

➤ *Social security / other welfare benefits*

Yes. As a general rule, all workers who are subject to the Belgian social security regime have the same rights and obligations. However, Belgium has concluded several social security totalisation agreements. Such agreements have been concluded with Algeria, Australia, Canada, Chile, Croatia, FYROM, India, Israel, Japan, South-Korea, Morocco, The Philippines, Quebec, San Marino, Switzerland, Tunisia, Turkey, US, Uruguay and Yugoslavia. New agreements are to be ratified with Argentina and Brazil.

Under these agreements, workers who are seconded temporarily to Belgium by their home company employer can continue to pay social security contributions in their home country (with an exemption from host social security liability up to maximum 5 years/7 years). As such, these workers can benefit from accrued pension benefits while on assignment. If social security contributions have to be paid in Belgium, the long-term benefits built up in Belgium can to a certain extent be exported to their home country. Moreover, Belgian insurance periods are taken into account for the determination of entitlement and calculation of benefits in the home country.

➤ *Equal treatment / anti-discrimination measures*

Belgian social and fiscal legislation foresees for equal treatment based upon nationality or other grounds.

It is important to note that with the implementation of the European Directive 96/71 concerning the posting of workers, Belgian law states that seconded employees, as from the first day of their employment in Belgium, should at least benefit from the same employment and salary conditions as locally employed workers, provided that these rights are subject to penal sanctions.

### **1.3 Relations with third countries and labour migration agreements**

#### ***Q.10. Do the policies in your Member State focus on specific third countries?***

Yes, there are manpower agreements with Switzerland, Algeria, Morocco, Tunisia, Turkey, FYROM, Serbia, Montenegro, Kosovo and Bosnia Herzegovina (apart from the EEA and association agreements). Belgium is also participating in the EU mobility partnerships with Georgia and Armenia (and in the near future with Morocco).

In this context it is also worthwhile mentioning that the legislation foresees a work permit exemption for intra-group trainees up to 3 months for nationals of the Belgian manpower agreements and nationals of the OECD countries.

#### ***Q10.a. If Yes, please list these third countries, providing a brief indication of the reasons for focusing on specific third countries?***

The manpower agreements were concluded in the 1960s, 1970s and 1980s with the aim of facilitating the temporary employment in Belgium of so-called guest workers from certain countries such as Italy, Morocco and Turkey, who would come to Belgium on a temporary basis in order to work in coal mines.

The impact of these agreements on contemporary Belgian economic migration policy is rather small. The aforementioned basic requirement regarding foreigners from countries with which Belgium has a manpower agreement is still in place and is at times used as a ground of denial of a work permit application.

Mobility partnerships were concluded with neighbouring countries of the EU, such as Georgia and Armenia. These agreements have much in common with the association agreements which were concluded within the framework of candidate Member States, but the provisions are far less elaborate and are non-binding.

#### ***Q.11. Has your Member State entered into labour migration agreements relating to attracting qualified and/or highly qualified third-country nationals to the national territory?***

No.

#### ***Q.12. Has your Member State adopted legislations facilitating labour migration from specific third countries ('country-specific legislation')?***

Yes.

#### ***Q12.a. If yes, please elaborate concisely.***

See manpower agreements and mobility partnerships under Q10 and Q 10.a

**Q.13. Has your Member State entered into other more favourable arrangements with non-EU/EEA countries and/or regions relating to attracting qualified and/or highly qualified third-country nationals to the national territory?**

No.

## Section II: Evaluation and Effectiveness of Measures

**This section reflects on the effectiveness of national measures as described in Section 1 and the methods used for evaluation. This analysis shall help to identify good practices and lessons learnt in Section 4.**

### 2.1 Evidence of effectiveness based on statistics

This part of the study evaluates the measures and assesses the effectiveness of the measures set out in Section I. Firstly, available Eurostat statistics are being examined. They focus on the employment of third country nationals in highly skilled occupations according to the ISCO and ISCED classifications. Secondly, the national statistics are examined. In order to have a common base for conclusions, we focus on the statistics on a Belgian level of the year 2011. There are no statistics of the year 2012 yet available on Belgian level. Reference is also made to statistics on regional level. These statistics are more recent and sometimes more specific. However they are not complete for all regions and cannot be used as a base for comparison.

#### (1) Labour Force Survey employment data<sup>11</sup>

##### Employment of Third-Country Nationals by ISCO Classification

**Table 1.1: Employment of Third-Country Nationals in high-skilled occupations (1 000)**

Occupation according to ISCO categorisation	2008	2009	2010	2011	2012
OC1 Legislators, senior officials and managers	7.2 (u)	7.4 (u)	7.6 (u)	6 (u)	6.5 (u)
OC 2 Professionals	7.6 (u)	7.6 (u)	10.2	9 (u)	10.9
OC 3 Technicians and associate professionals	:	:	:	6 (u)	6.7 (u)
<b>Total</b>	<b>17.7</b>	<b>17.9</b>	<b>21.5</b>	<b>21.0</b>	<b>24.1</b>

**Table 1.2: Employment of Third-Country Nationals in high-skilled occupations and sex (1 000)**

Age breakdown	2008	2009	2010	2011	2012
Male	13.0	11.7	14.4	15.5	15.3
Female	:	6.2 (u)	7.1 (u)	5.6 (u)	8.8 (u)
<b>Total</b>	<b>17.7</b>	<b>17.9</b>	<b>21.5</b>	<b>21.0</b>	<b>24.1</b>

**Table 1.3: Employment of Third-Country Nationals in high-skilled occupations and**

<sup>11</sup> The statistical data were provided by Eurostat. Please note that (u) stands for "unreliable".

**age (1 000)**

Age breakdown	2008	2009	2010	2011	2012
25-34	8.3 (u)	7.5 (u)	9.7 (u)	10.5	11.2
35-44	5.6 (u)	6.9 (u)	7 (u)	6.2 (u)	8 (u)
45-54	:	:	:	:	:
55-64	:	:	:	:	:
Total	17.7	17.9	21.5	21	24.1

**Employment of Third-Country Nationals by ISCED Classification**

**Table 1.4: Employment of highly educated Third-Country Nationals (1 000)**

Level of education according to ISCED categorisation	2008	2009	2010	2011	2012
First stage of tertiary education (ISCED level 5)	24.6	23.9	26.6	29.0	31.2
Second stage of tertiary education (ISCED level 6)	:	:	:	:	:
Total	25.3	24.7	27.7	29.8	33.4

**Table 1.5: Employment of highly educated Third-Country Nationals by sex (1 000)**

Age breakdown	2008	2009	2010	2011	2012
Male	16.3	15.5	16.3	19	20.1
Female	9 (u)	9.2 (u)	11.5	10.8	13.4
Total	25.3	24.7	27.7	29.8	33.4

**Table 1.6: Employment of highly educated Third-Country Nationals by age (1 000)**

Age breakdown	2008	2009	2010	2011	2012
25-34	11.9	9.7 (u)	13.6	14.7	13.9
35-44	7.9 (u)	9.7 (u)	8.5 (u)	8.7 (u)	13
45-54	:	:	:	:	5.8 (u)
55-64	:	:	:	:	:
Total	25.3	24.7	27.7	29.8	33.4

**Table 1.7 Self- employed and highly qualified Third-Country Nationals**

Country	2008	2009	2010	2011	2012
BELGIUM	:	:	5.9 (u)	:	:

These statistical data do not provide us with any information regarding the effectiveness of the existing policy and measures, but indicate that highly qualified and qualified third country nationals in Belgium are mostly male (twice as much as females) and between 25 and 44 years old. Moreover it seems that Belgium has an increase of non-EEA highly skilled individuals in the intellectual and science professions (OC2) compared to managerial and executive personnel (OC1).

## (2) National statistical data

Preliminary remark: please kindly note that only the statistics of the year 2011 on a Belgian level will serve as a base to draw conclusions<sup>12</sup>. It should also be noted that in these numbers, both first applications and renewals of work permits are included.

**Table 2.1 Belgium: Migration flows 2011 – reason of issued residence permits**

Reason for migration	Percentage
International protection	6%
Humanitarian reasons	10,3%
Family reunion with EU national	25,6%
Family reunion with TCN	16,8 %
Studies	6,7 %
Professional activities	7,6%
Other reasons	27%

Source: Immigration office

**Table 2.2 Belgium: Work permits 2007 – 2011**

	2007		2008		2009		2010		2011	
	A & B	C	A & B	C	A & B	C	A & B	C	A & B	C
Africa	1134	12492	1414	11763	1687	11780	2197	12443	2875	13209
America	2098	886	2537	1026	2404	811	2174	708	2382	444
Asia	4974	6932	6082	6628	5330	6040	6014	6631	6386	8014
Europe	30982	5575	40614	5379	20617	4540	16048	4586	20760	4129
Oceania	147	29	159	36	136	10	126	11	128	8
Others	1	286	5	281	6	245	5	238	7	296
<b>Total</b>	<b>39336</b>	<b>26200</b>	<b>50811</b>	<b>25113</b>	<b>30180</b>	<b>23426</b>	<b>26564</b>	<b>24617</b>	<b>32538</b>	<b>26100</b>

Source: FPS Employment, Labour and Social Dialogue (FOD WASO)

**Table 2.3 Belgium: Work Permits B – 2011**

Categories	Brussels	Flanders	Wallonia	Total
Au-pairs (art. 9.14)	50	316	54	420

<sup>12</sup> More specific and more recent statistical data can be found in the annexes

Seconded trainees (art. 9.10)	-	103	41	144
Athletes (art. 9.11)	25	144	84	253
Guest professors (art. 9.8)	-	32	6	38
Specialized technicians (art. 9.9)	-	101	85	186
Limited stay spouse or child (art. 9.16 & 9.17)	1026	1133	183	2342
Highly qualified personnel (art. 9.6)	2655	3064	801	6520
Managers (art. 9.7)	581	1019	118	1718
Researchers (art. 9.8)	14	67	94	175
Artists (art. 9.15)	29	46	3	78
LTR - bottleneck jobs (art. 38septies)	70	368	33	471
New EU-member states (art. 38quater)	313	205	-	518
Trainees	93	87	12	192
Regularized stay by work (RD 7 October 2009)	809	757	308	1874
Bottleneck jobs for EU citizens (art. 38quater)	297	14661	600	15558
Others	719	345	452	1516
<b>Total</b>	<b>6681</b>	<b>22448</b>	<b>2874</b>	<b>32003</b>
<b>Percentage</b>	<b>20.9</b>	<b>70.1</b>	<b>9</b>	<b>100</b>

Source: FPS Employment, Labour and Social Dialogue and regional authorities

**Table 2.4 Belgium: Work Permits C – 2011**

Categories	Brussels	Flanders	Wallonia	Total
Asylum-seekers (art. 17.1)	1343	5110	4101	10554
Subsidiary protection (art. 17.2)	179	1345	239	1763
Victim Human Trafficking (art. 17.3)	136	90	87	313
Application 9ter (art. 17.4)	94	178	310	582
Application 9bis (art. 17.5)	580	1282	334	2196
Application 9bis or 9ter (old art. 17.4)	240	-	-	240
Application family reunification pending (art. 17.6)	75	153	98	326
Recognized family reunification (art. 17.7)	940	1129	509	2578
Cohabitation (old art. 17.3)	381	12	-	393
Family reunification (old art. 17.5)	43	511	-	554
Spouse citizen EEA (old art. 17.7)	8	2	2	12
Student (art 17.8)	1900	1560	2123	5583
Family diplomatic personnel (art. 17.9)	8	14	0	22
Temporary stay (art. 17.10)	0	633	0	633
Others	1	8	-	9
<b>Total</b>	<b>5928</b>	<b>12027</b>	<b>7803</b>	<b>25758</b>
<b>Percentage</b>	<b>23</b>	<b>46.7</b>	<b>30.3</b>	<b>100</b>

Source: FPS Employment, Labour and Social Dialogue and regional authorities

Table 2.1 provides us with an insight into the different reasons for migration and their share in the overall migration flows. With only 7,6 %, we learn that work (not necessarily highly qualified or qualified work) is clearly not the main reason for persons to migrate to Belgium. Immigration into Belgium is mainly based upon family reunification with EU nationals (25,6%) and with TCN's (16,8%).

The statistical data in table 2.2 show that approximately 32.000 work permits B were granted and approximately 26000 work permits C (asylum seekers, foreigners granted with subsidiary protection, students, family reunification,...) were issued in 2011.

These data prove that an important part of third country nationals are employed in Belgium on the basis of their residence permit (work permit C – 26.000 in 2011) or following their residence status (concerns work permit B holders on the basis of family reunification, regularization, etc... another 4.000 at least)<sup>13</sup>. It remains unclear how many third country nationals in these groups are highly qualified or qualified. Presumably, their share is rather low.

When considering the distribution per continent, we learn that most work permit C holders come from Africa (13.000), Asia (8.000) and Europe (4.000). Most of our work permits B are issued to Europeans (20.000). Most of them are for bottleneck jobs (15.000). One could think that America would come on a second place, however, Belgium issued 6.000 work permit B to Asians, 3.000 to Africans and only 2.000 to Americans.

In order to have an idea of the number of work permits B issued for highly qualified and qualified workers, one should look at the figures of the highly qualified category in article 9,6° RD 1999, but equally to those of the researchers, managers, trainees, specialised technicians,... The figures show that, when adding up the numbers of these relevant categories, in 2011 approximately 8.500 work permits B were issued for highly qualified and qualified third country nationals over a total of approx. 32.000. Half of the work permits B are granted to nationals of the EU Member States in transition stage (Romanian and Bulgarian nationals) and their family members (through bottleneck jobs, family reunification or integration in the labour market). . The statistics do not allow us to verify how many highly qualified and qualified nationals are amongst this group of new EU citizens and their family members. We may presume that a large part of the granted work permits for this group, even within the bottleneck jobs are not for qualified positions.

Work permits B for highly qualified third country nationals are granted far more often in the regions of Flanders and Brussels than in the region of Wallonia<sup>14</sup>, which is mostly due to the higher presence of businesses in these regions. If we look at the percentage of these categories compared to the overall amount of work permits B issued in those regions, we learn that in the region of Brussels, these categories represent 50% of the work permits B whereas in the Walloon region 35% and in the Flemish region only 20%<sup>15</sup>.

Important to indicate is that several highly qualified and qualified third country nationals are exempted from the work permit requirement (post PHD foreigners, researchers,...). This means that these highly qualified and qualified third country nationals do not show up in the above mentioned statistics. The Immigration Office indicated that in 2012, 311 applications for a visa and 558 applications for a residence permit renewal based on the work permit exemption were approved. The Immigration Office also indicated that 80 percent of the residence permit renewal applications are researchers with a local host agreement and Post PHD students. The major drawback of the statistical data that are at our disposal is that they provide us only with limited information. Basically, the statistics show us how many highly qualified or qualified third country

<sup>13</sup> See also the statistics of the Flemish and Walloon regions of the year 2012, annex 2 and annex 5

<sup>14</sup> See annexes 2, 5, 8 and 9

<sup>15</sup> Also important is to make the distinction between the highly qualified personnel and managers that are employed with a Belgian business/company and those temporarily seconded by their foreign employer to Belgium. In the Flemish region, foreign managers are about 3 times more seconded instead of locally hired. In the Walloon region there are two times more managers who are seconded. In the Flemish region there are a bit more highly qualified third country nationals seconded (1700) while in the Walloon region, the majority of the foreign highly qualified workforce has a local contract.



nationals are allowed to work in Belgium on the basis of the categories laid down in article 9 of the RD. However, the available statistical data received in the framework of this study did not allow us to quantify the total of highly qualified or qualified third country nationals working in Belgium, and this because of the many work permit exemptions (postings). Consequently, it was not possible to assess the effectiveness and impact of the above mentioned measures.

Finally, it also should be noted that in Belgium, there were only 2 blue cards issued so far (in Flanders in 2013). However, since the blue card was only introduced in September 2012, it is still too early to evaluate the impact and effectiveness of this system.

### **National statistical data: Self-employed – 2012**

#### Professional cards

In 2012 there were 1450 applications for a professional card, and 1382 decisions were taken by the competent authorities (also regarding applications from previous years).938 professional cards were issued to third-country nationals.

Please note that some categories of third-country nationals are exempted from obtaining a professional card.

#### ***Q.14. Is there any evidence (quantitative and/or qualitative) of a link existing between the measures outlined in Section 1 and the immigration of highly qualified and qualified third-country nationals?***

Yes

##### ***Q14.a. If yes, please elaborate concisely.***

The work permits B which are issued swiftly without labour market test and without manpower agreement represent more than 90% of all work permits B in 2011.

Amongst those work permits B, the permits for highly skilled (as per article 9,6° of the Royal Decree of 1999) and other qualified TCN such as researchers, managers, specialised technicians,... constitute clearly more than 50% (if we only take into account the work permits B for TCN and not those issued to the nationals of the new EU Member States in transition stage ; Bulgarian/Romanian nationals- and their family members).

#### ***Q.15. Is there a quota for highly qualified and qualified third-country nationals?***

No

#### ***Q.16. Is there any evidence (quantitative and/or qualitative) of a link existing between the labour migration agreements (also in the framework of Mobility Partnerships) outlined in Section 1 and the immigration of highly qualified and qualified third-country nationals?***

No

## **2.2 National methods of evaluation**

#### ***Q.17. Does primary research (using any methods) exist in your Member State evaluating the national policies, related practical measures and labour migration agreements (also in the framework of Mobility Partnerships) implemented to attract highly qualified and qualified third-country nationals?***

No

**2.3 Policy makers' or other stakeholders' (i.e. academics, non-governmental or private sector representatives) experience**

***Q.18. If evidence (see 2.1 and 2.2) is not available, what is then the national policies makers' or other stakeholders' experience and assessment regarding the (perceived) effectiveness of measures (see also questions under 2.2)?***

In Belgium there is no explicit migration policy that aims at attracting highly qualified and qualified third country nationals. Though, work permits for highly skilled workers are issued rather fast, and the conditions to be met are not severe and flexible applied. Those measures that facilitate the immigration of highly skilled workers have proven effectiveness in practice.

## Section 3 Challenges and Barriers

*This section reflects on possible challenges and barriers that may affect the attractiveness of a Member State for highly qualified and qualified third-country nationals' immigration.*

### 3.1 Possible challenges and barriers

**Q.19. Have challenges and barriers in your country been identified based on previous research which affect the attractiveness of your Member State for (highly) qualified third-country nationals?**

Yes

**Q19.a. If Yes, please indicate these factors.**

#### 1. Further development of a Economic Migration Policy

It is established that there are no explicit policies in place directed at attracting highly qualified and qualified foreign individuals; only certain measures (although flexible for highly skilled personnel) exist favouring their employment in Belgium.

There is clearly room for a more effective and concrete policy on economic migration (see below).

#### 2. Differentiation between 'immigration subie' and 'immigration choisie'

One of the challenges for the policy makers and the media is to differentiate (more) between economic migration and other types of immigration. Since there is no clear differentiation between such groups, migration is generally identified in the public opinion as 'asylum immigration', 'family reunification' (see above), etc...

Policy makers should move towards an **active** economic migration policy next to the policies regarding asylum migration, family reunification,..

#### 3. Elaborating on definitions of highly qualified and qualified foreign workforce

In order to pursue a policy around skilled workforce, there needs to exist a legal definition of highly skilled personnel. Moreover, the legislation should expressly address the skilled workforce and elaborate on a broad and flexible definition of specialists possessing unique, essential and specific business, technical and/or scientific knowledge and having relevant professional experience.

Note that with the implementation of the EU Blue Card directive, Belgium did not opt in favour of the 'experience' criterion as an alternative requirement to the qualifications. Today, qualified (experienced) foreign workers as a rule need to apply for a regular work permit which would automatically be rejected due to a lack of a manpower agreement, during which

the procedure would lead to a labour market test after an appeal at Ministerial level. Such a procedure can easily take around 3 months before it is completed and provides no legal certainty whatsoever.

#### **4. Drafting a policy adapted to new forms of employment**

The on-going economic challenges continue to impact business and immigration needs. Modernisation and globalisation of the economy leads to new forms of employment: there is a decrease in long-term and full-time traditional expatriate assignments and an increase in short-term cross-border travel such as business travellers, qualified workforce involved on rotation in a client project, highly qualified personnel with regional or global corporate responsibilities with multiple and simultaneous employment in several countries, home work, ....

Economic migration policies should be adjusted to the current business trends.

#### **5. Developing an economic migration policy adapted to the needs of the labour market**

The current 'bottleneck jobs' listings for immigration purposes date from 2006 and have not been updated ever since. Moreover, these lists are only used for the nationals of the new EU Member States in the transition period and the TCN long term residency permit holders.

This shows that in practice, economic migration does not sufficiently fulfil the needs of the labour market.

The Flemish authorities have recently instructed the University of Antwerp to conduct a study on how to interlink the needs of the labour market and economic migration policy.

Based upon various discussions, it seems that policy makers consider a kind of flexible regional list of 'bottleneck jobs', which is adjusted and amended every 6 months. The challenge here lies in compiling listings where job titles, job descriptions and job competences interact.

An important question is how the skilled workforce will be addressed in the legislative changes. Will the legislator clearly incorporate skilled positions in the new flexible listings of "bottleneck jobs" and/or will there be a separate and general clause for simplified access to the labour market for skilled workforce (based upon a broad and flexible definition of specialist – supra 3.1. point 3)?

#### **6. Development of a policy on students**

In order to enhance brain circulation and avoid brain drain, the current Belgian legislation indirectly introduced the principle that foreign students (from outside the EEA) at Belgian universities need to return to their home country after having finished their studies.

We did not find any statistics on the mobility of third country students: it is not clear how many foreign students at Belgian universities enter the labour market, return to their home country or take up job opportunities in other developed countries (USA, ...).

According to the authors of the report, Belgian policy makers should both boost the mobility of students (e.g. enabling foreign students at foreign non-EEA or Swiss universities to do traineeships with Belgian businesses) and enable students to enter the Belgian labour market

easier after finishing their studies in Belgium.

### **7. Need for a more transparent residency legislation**

The economic migrants are subject to the same residency legislation as other foreign nationals – no privileged or specific groups are addressed in the legislation, circular letters, or instructions to the local town halls. A more transparent and clear residency legislation for foreigners for work purposes in Belgium, would certainly positively influence the attraction of qualified and highly qualified workers.

### **8. Expedited and consistent registration processes**

Former Minister of Asylum and Migration, Annemie Turtelboom, founded the workgroup on economic migration called SMEDEM ("Service Migration Economique – Dienst Economische Migratie"). This unit is to be the partner of the regional administrations, local town halls, business firms (employers) and economic migrants living in their jurisdictions. The main objective is to provide support and process queries coming from the above-mentioned parties within a maximum period of 48 hours and to finalise assessments on economic migration queries within a time frame of one week. The team exists of five to ten professionals who have broad expertise in the field of (economic) migration. In practice, it seems that SMEDEM is functioning very well and sets the correct priorities when managing the requests entered into their system.

Once arrived in Belgium, the foreigner needs to initiate his/her registration process at the local town hall in order to obtain an electronic residence card. In practice many issues arise at this point in the immigration process.

Firstly, it is not always clearly indicated by the relevant town hall which documents need to be provided by the foreign national. Within the framework set out by the law, each town hall may freely decide which documents they actually require to receive. Home Affairs FPS – Immigration Office instructs the different town halls on requirements for the immigration processes via a central network called GEMCOM. Due to the lack of means these instructions are not updated since 2009.

Secondly, economic migrants may have to spend (amongst all other types of migrants) hours queuing at their town hall in order to start up the registration, or even to obtain an appointment.

Thirdly, the registration process at some town halls takes up to several months which causes major issues (e.g. general immigration compliance issues, travel restrictions, no driving license, opening bank account, registration with local health insurance fund....) for the individual.

The policymakers could consider setting up a specialised relocation office at major town halls (as is put to practice at the town hall of Antwerp).

### **9. Role of Diplomatic Posts in the field of economic migration**

Diplomatic Posts have to issue the relevant visa to the economic migrant based upon the work permit B or work permit exemption.

It is important to note that recently (July 2013) a "Committee for good services of Diplomatic Posts" was set up. This Committee could focus among others things on the improvement of

both knowledge and information dissemination when it comes to economic migration (especially given procedural complexities that may arise as a result of the regionalisation of economic migration policy).

### **10. Digitisation and electronic applications**

At the moment, the applications for work authorisations and work permits must be submitted to the authorities via registered mail. The authors of the report encourage policy makers to shift towards a system enabling work permit applications to be submitted electronically, and to have all data interlinked in a Central Database ('Kadaster').

Such Central Database leads to administrative simplification and swift processing of applications but also smoother control and audit. Ultimately, this could also be used for the creation of "trusted partnerships" for those companies which declare and show full compliance with the applicable laws and regulations.

### **11. Need for a public debate on economic migration**

As noted previously, the public debate conducted in the media, generally covers issues as asylum, return, family reunification,... As such, it is important to shift the focus to economic migration, in order to make sure this type of migration is catered to more adequately.

Even when debates on migration are being conducted by expert groups, economic migration is poorly covered by these.

### **12. Need for better monitoring**

There is a stringent need to compile relevant statistics that can be used to better monitor the flow of economic migration into and out of Belgium. As we have seen in the scope of this focussed study, it was not possible to produce complete and concise statistics that give an overview of the total (annual) inflow of TCN highly qualified and qualified workers.

These figures could also help us to understand whomever amongst the holders of a work permit type B in the sense of article 9,6° of the Royal Decree of 9 June 1999 (highly qualified personnel) could be eligible to obtain a European Blue card.

However, various projects are underway. For example, on September 5<sup>th</sup>, 2013 the so-called "Socio-economic monitoring project" will be presented to the public. This monitoring project has been developed by the Federal Department Employment, labour and social dialogue (FOD WASO/SPF ETCS), the Centre for Equal Opportunities and Opposition to Racism (CGKR/CECR) and, amongst others, the Federal Department Database social security (Kruispuntbank sociale zekerheid/Banque Carrefour sécurité sociale). In general, this project will divide all workers, residing less than 5 years in Belgium, of the national registry by their income in groups of 10 percent. This will allow to define the share of highly qualified and executive managers in the highest income groups. Such a monitoring can be used to assess the effects of policies to attract highly qualified and qualified TCN in comparison with the total amount of TCN that relocated to Belgium.

### **13. Regionalisation of the economic migration policy?**

Currently, the legislative framework on the employment of foreign nationals is a federal competence. The regions (Flanders, Wallonia and Brussels-Capital Region) are in charge of the

execution (among others, granting permits). The competence regarding the right of the migrant worker to travel to Belgium and to reside on the territory is a federal competence. The Institutional Agreement in the current Government Agreement (also called: "Di Rupo Agreement") announced by Prime Minister Di Rupo stipulates that the regulatory competence in terms of work permit A, B and the professional card will shift to the regions (the right to travel and to reside on the territory remains a federal competence). The Di Rupo Agreement is a political agreement between the political parties that currently form the federal government. The Agreement is in the process of being executed but this process is not yet finalized.

The regionalisation of the legislation aims at providing the regions with the necessary powers to have an economic migration policy adjusted to the needs of the labour market. It seems though that the regions will not be competent on the employment of foreigners who reside in Belgium based upon other grounds than work (such as studies, family reunification,...). As such, the regions will not have legislative powers for major groups of foreigners who can/will enter the local labour markets.

A policy in respect of economic migration will therefore require intensive consultation with various policy makers (migration, education ...) as well as with the Immigration Office as the economic migrant will in most cases still need a visa/residence permit, which remains a federal competence. Important is also to pay attention to the Inspection Services as the sanction mechanism remains a federal competence.

There is a risk that (labour) migrants go 'shopping' between the regions if they do not cooperate or even harmonise their legislation in a sufficient way.

Harmonised legislation in terms of work permit exemptions and eligibility conditions, with flexible regional 'bottleneck' listings (see above) seems to be a desirable path to follow.

#### **14. The Single Permit Directive**

Next to the regionalisation of the legislation, the Single Permit Directive will have to be implemented into the Belgian legislation before December 25, 2013. The Directive requires one single application procedure for a combined work and residence permit.

The implementation of the Single Permit Directive will oblige Belgium to review the current time consuming three-step application process for economic migrants (the application for the work permit B with the Regional Employment Authorities, the application for the long-term visa D with the competent Belgian Diplomatic Post abroad and the application for the residence permit with the local town hall upon arrival in Belgium).

Belgium currently has only one combined permit, being the Blue Card. The application procedure for a Blue card already differs from the application procedure for work permit B's, however, this cannot yet be considered a single application procedure. In the Blue card application procedure (1) the employer applies for a temporary work authorization with the Regional Employment Authority and, simultaneously, the employee applies for a long-term visa D with the competent diplomatic post abroad. (2) The Regional Employment Authority delivers the temporary work authorization to the employer and informs the Immigration Office of its decision. (3) The Immigration Office checks the file and informs the competent diplomatic post that a visa can be issued. (4) When in possession of a visa, the migrant worker can travel to Belgium and, upon arrival, apply for his blue card at his local town hall.

Within the framework of one single application process, Belgium will have to designate one single competent authority ("eenheidsloket/guichet unique") where an application should be filed. The question pops up at which level (regional with the Employment Authorities or federal with the Immigration Office) this competent authority should be located. The appointed authority should then be competent for the entire procedure.

## Section IV Conclusions

### **Policies and measures**

In principle (and since 1974), a "migration stop" applies in Belgium. TCN that would like to work in Belgium should, in general, apply for a work permit. In Belgium, a TCN can (1) be exempt from a work permit (2) apply for a work permit A (after several years of legal stay), (3) apply for a work permit B (employer lead system) (4) be entitled to a work permit C (based on the residence status) or (5) to a Blue card, in case all conditions are complied with.

There is no specific policy in Belgium to attract highly qualified and qualified Third Country Nationals (TCN). There are however concrete measures in the Belgian legislation that facilitate the access of highly qualified third-country nationals to the labour market. Contrary to the category of highly qualified TCN, a general category of "qualified TCN" as such, is currently non-existing in the legislation.

Although there is no specific written policy to attract highly qualified and qualified TCN and despite the migration stop, highly qualified TCN have in practice facilitated access to the Belgian labour market. This is due to the simplified application procedure, the low salary threshold, the fast processing times, SMEDEM,... (however, by lack of a definition of "qualified TCN" the same reasoning does not apply to them in general).

### **Definitions and statistics**

Some highly qualified and qualified TCN are to be found in the category of work permit exemptions. There are no concrete statistics to monitor this and, thus, it is currently impossible to clearly identify their number.

Furthermore a part of the highly qualified or qualified TCN might perform labour on the basis of a work permit C. There are no specific statistics to extract the highly qualified and qualified from this group (but presumably only a small percentage of the work permit C holders are highly qualified or qualified).

The group highly qualified and qualified TCN are mainly to be found in the category of work permit B holders. Statistics from 2011 show that the percentage of highly qualified TCN as defined in article 9,6° of the Royal Decree of 1999 are an important part of the work permit B holders. In addition, one should keep in mind that some other categories of migrant workers, outside of the definition of article 9, 6 of the Royal Decree of 1999, that hold work permits B are also to be considered "highly qualified" or "qualified". If one counts together all work permits B for qualified and highly qualified TCN, they represent clearly more than 50% of all work permits B for TCN (whereby the large number of work permits B for nationals of the new EU Member States in transition stage are not taken into account).

In general, one can state that there are no overall statistics covering the employment of highly qualified and qualified TCN in Belgium.

Article 9,6° of the Royal Decree of 1999 defines a highly qualified TCN by referring to a salary threshold and a degree. In general, the salary threshold is considered low (38.655 EUR gross per year, subject to yearly indexation).

The Blue card holder is also defined by referring to a salary threshold and a degree. The salary threshold should be at least 1,5 times the gross average remuneration in Belgium and is set



at 49.995 EUR gross per year (amount of 2013, subject to yearly indexation).

One is considered a highly qualified TCN by meeting a salary threshold and having a higher degree. Being in possession of certain skills or specific professional experience is not taken into account.

Finally, it should be noted that no definition exists for qualified TCN. This has as consequence that hardly any specific measures exist to attract this category (except for the specialised technicians).

### **Procedure**

The basic principle is that, in the work permits B employer lead system, no other suitable candidate must be available on the EEA labour market that can fill up the position and a manpower agreement should exist between Belgium and the country of origin. Specific categories of migrant workers, however, can benefit from a labour market test and manpower agreement exemption. In practice, most work permits B are granted via this simplified process (such as the work permit for the highly qualified TCN). Processing times to obtain the work permit B through the simplified process vary generally between 2 to 4 weeks. In principle the employee should reside outside Belgium while his application is submitted, however, an application can also be launched when the employee is already (legally) residing in Belgium (e.g. students, tourist visa,...)

### **Challenges and barriers**

With the upcoming further regionalisation of economic migration policies, the federal and regional policy makers in Belgium face great challenges as well as major opportunities.

Policy makers can further develop a solid and transparent policy on economic migration, clearly defining the category of highly qualified and qualified TCN, including the category of the students. A policy, adapted to the new forms of employment and to the needs of the labour market. The policy should also comprise a consistent procedure, taking into account possible digitisation and electronic filing and an expedited service for migrant workers in every stage of the process. In this respect, the single permit directive, introducing a single combined (work and residence) permit and a single application procedure, will create interesting challenges.

Finally, a system of monitoring should be set up, allowing the policy makers to have a perfect view on the TCN working on the territory. This will allow them to effectively measure the effects of policies.

## **Bibliography**

### **Relevant legislation and preparatory works**

#### Residency

- Law of 15 December 1980: Law relating to access to territory, stay, establishment and removal of third-country nationals
- Royal Decree of 8 October 1981: Royal decree relating to access to land, stay, establishment and removal of third-country nationals

#### Employment

- Law of 30 April 1999: Law relating to the occupation of third-country nationals
- Royal Decree of 9 June 1999: Royal decree concerning implementation of the law of 30 April 1999
- Royal Decree of 3 August 2012: Royal decree relating to the methods for making requests and issuing authorization for temporary work granted as part of the request made by a third-country national worker to obtain a European blue card

#### Self-employment

- Law of 19 February 1965: Law relating to third-country nationals carrying out freelance professional activities
- Royal Decree of 2 August 1985: Royal decree concerning implementation of the law of 19 February 1965
- Royal Decree of 3 February 2003: Royal decree exempting certain categories of third-country nationals from the professional card needed to perform a freelance professional activity

### **Interviews**

Meetings or conference calls had place with the following persons:

- FPS - Service for Foreigner Affairs – Department economic Migration (Sven van Parijs)
- Federal Social Security Services – Department international relations (Bruno de Pauw)
- FPS for Employment, Labour and Social Debate – Department supervision social laws (Niel Vandeput)
- Regional Employment authorities - Service for labour migration – Region of Flanders (Frank Hex, Henri Romain, Wouter Ottevaere)
- Regional Employment authorities - Service for labour migration –Region of Wallonië (Vincent Berger)
- Regional Employment authorities - Service for labour migration – German speaking community (Elfriede Lenz)
- Cabinet of the Federal Secretary of State for the reform of the state (Benjamin Dalle)
- VDAB (responsable regarding labour market test)
- Actiris (responsable regarding labour market test)
- Dr. Ninke Mussche (UA, Center for Social Policy Herman Deleeck)
- Cabinet of the Federal Secretary of State for Asylum and Migration Policy (Sam Van Camp and Christine Pelfrenne)
- Cabinet of the Flemish minister for Employment (Helena Muyldermans)
- Cabinet of the Federal minister for Work (Ludo Beck)
- Center for Equal Rights and against Racism (Koen Dewulf),
- Immigration Office (Jacques Goriya)
- BE NCP EMN staff

### **Statistics**

- LFS statistics were provided by the European Commission and Eurostat
- Relevant statistics listed in "*Dienst Arbeidsmigratie en Uitzendkantoren Vlaams Subsidieagentschap voor Werk en Sociale Economie, Jaarverslag 2011*"
- Relevant statistics listed in "*Centrum voor gelijkheid van kansen en voor racismebestrijding, jaarverslag 2012*"
- Relevant statistics listed in "*Rijksinstituut voor de sociale zekerheden der zelfstandigen, jaarverslag 2012*"
- Several statistics published by the authorities on their websites
- The most recent statistics that were not published yet and were provided to us by the authorities: FPS - Service for Foreigner Affairs, FPS for Employment, Labour and Social Debate, Regional administrations Regional Employment authorities - Service for labour migration

### **Literature**

- R. Blanpain, "*Vrij verkeer van diensten en arbeidsrecht*", 2007, Brugge, Vanden Broele
- S. Bouckaerts & M.-C. Foblets, "*De tewerkstelling van buitenlandse arbeidskrachten in België*", Migratie en Migrantenrecht, 2003, Brugge, Die Keure
- Centrum voor gelijkheid van kansen en voor racismebestrijding, "*Het centrum in 2012, voorrang aan debat en dialoog*", 2012
- Centrum voor gelijkheid van kansen en voor racismebestrijding, "*Jaarverslag 2012*"
- Centrum voor gelijkheid van kansen en voor racismebestrijding, "*Welk economisch migratiebeleid voor België?*", 2009
- L. Denys, "*Overzicht van het vreemdelingenrecht*", 2012, Kortrijk-Heule, UGA,
- Dienst Arbeidsmigratie en Uitzendkantoren Vlaams Subsidieagentschap voor Werk en Sociale Economie, "*Jaarverslag 2011*"
- Dienst Arbeidsmigratie en Uitzendkantoren Vlaams Subsidieagentschap voor Werk en Sociale Economie, "*Jaarcijfers 2012. Arbeidskaarten en arbeidsvergunningen in het Vlaams gewest.*"
- European Migration Network, Belgian contact point, "*Conditions of entry and residence of Third-country Highly Skilled Workers in Belgium*", December 2006
- European Migration Network, Belgian contact point, "*Intra EU Mobility of Third -country Nationals to Belgium*", December 2012
- European Migration Network, Belgian contact point, "*Temporary and Circular Migration in Belgium*", January 2011
- European Migration Network, Belgian contact point, "*Satisfying Labour Demand through Migration in Belgium*", August 2010
- M.-C. Foblets, "*Anno 2006: de Belgische wetgever brengt het vreemdelingenrecht in lijn met de Europese regelgeving. Een tussentijdse stand van zaken*", R.W., 2006-2007
- FOD WASO, Afdeling beleid van het departement werk en sociale economie, "*Overzichtsrapport arbeidsmigratie*", 2010
- M. Haesendonck, "*Arbeidsmigratie in Europa: opportuniteit of bedreiging?*" (Workshop Vleva)
- M. Martiniello, "*Nieuwe migraties en nieuwe migranten in België*", 2011, Gent, Academia Press
- J. Niessens en Y. Schibel, "*Immigration as a labour market strategy (European and North American Perspectives)*", Migration Policy Group, 2005
- Rijksinstituut voor de sociale zekerheden der zelfstandigen, "*Jaarverslag 2012*"
- A. Sacher, "*The Race for Talent: Highly Skilled Migrants and Competitive Immigration Regimes*", innovationlaw.org, 2012
- S. Sarolea, "*De tewerkstelling van buitenlandse werknemers*", Migratie en Migrantenrecht, Recente Ontwikkelingen: sociale grondrechten, 2000, Brugge, Die Keure
- UNIZO Studiedienst, "*Niet-Belgische ondernemers in België*", september 2011
- F. Van Overmeiren, "*Buitenlandse arbeidskrachten op de Belgische arbeidsmarkt. Sociaal recht en vrij verkeer*", 2008, Gent, Larcier

- H. Verschueren., "*Internationale Arbeidsmigratie, De Toegang tot de arbeidsmarkt voor vreemdelingen naar Belgisch, internationaal en Europees gemeenschapsrecht*", Brugge, Die Keure, 1990

#### **Other documentation**

- most relevant websites:
  - [www.werk.be](http://www.werk.be)
  - [www.kruispuntmi.be](http://www.kruispuntmi.be)
  - [www.dekamer.be](http://www.dekamer.be)
  - [www.vlaanderen.be](http://www.vlaanderen.be)
  - [http://justitie.belgium.be/nl/overheidsdienst\\_justitie/organisatie/belgisch\\_statsblad/](http://justitie.belgium.be/nl/overheidsdienst_justitie/organisatie/belgisch_statsblad/)
  - [www.vld.be](http://www.vld.be)
- Research in archives parliament

## Annexes

### Annex 1: Flemish region: Evolution work permit B

YEAR	WORK PERMITS B GRANTED
2006	22 449
2007	18 188
2008	21 485
2009	40 175
2010	31 404
2011	22 449
2012	25 920

Source: Dienst Arbeidsmigratie en Uitzendkantoren Vlaams Subsidieagentschap voor Werk en Sociale Economie, "Jaarcijfers 2012. Arbeidskaarten en arbeidsvergunningen in het Vlaams gewest."

### Annex 2: Flemish region: work permit B

CATEGORIES	2011	2012	2013
Highly Qualified	3 064	3 300	1 338
Managers	1 019	983	399
Specialized technicians	101	163	64
Visiting professors	32	25	15
Researcher	67	61	17
LTR (bottleneck)	368	405	185
Bulgarians/Romanians (bottleneck)	14 661	17 499	7 117
Bulgarians/Romanians (not bottleneck)	205	255	118
Training multinational group (EU)	<i>no stat</i>	3	6
Training multinational group (non-EU)	<i>no stat</i>	53	63
Trainee	<i>no stat</i>	98	32
Family reunification		1700	
Regularization		800	
Total	22 449	25 920	
Blue Card			2

Source: Dienst Arbeidsmigratie en Uitzendkantoren Vlaams Subsidieagentschap voor Werk en Sociale Economie, "Jaarcijfers 2012. Arbeidskaarten en arbeidsvergunningen in het Vlaams gewest" + additional information received from Flemish Region

### Annex 3: Flemish region: work permit B – secondment

CATEGORIES	2012	2013
Highly Qualified	1 501	520
Highly Qualified – seconded	1 799	818
Managers	234	86
Managers – seconded	749	313

Source: information received from Flemish regional authorities

#### Annex 4: Flemish region: work permit C – 2012

CATEGORIES	2011	2012
Spouses / children of diplomatic personnel	14	<i>no stat</i>
Spouses of citizens EEU	2	<i>no stat</i>
Family reunion	511	1 700
Candidate refugee	1 479	5 200
Cohabitation	12	<i>no stat</i>
Students	523	1 700
Temporary residents	633	<i>no stat</i>
Subsidiary protection	410	2 000
Humanitarian regularization	1 282	1 589
<b>Total</b>	<b>12 027</b>	<b>12 683</b>

Source: Dienst Arbeidsmigratie en Uitzendkantoren Vlaams Subsidieagentschap voor Werk en Sociale Economie, "Jaarcijfers 2012. Arbeidskaarten en arbeidsvergunningen in het Vlaams gewest"

#### Annex 5: Walloon Region: work permit B - 2012

CATEGORIES	First application			Renewal			Total		
	M	F	Total	M	F	Total	M	F	Total
Bottleneck jobs for new EU	172	203	375	168	221	389	340	22	764
LTR	46	9	55	9	2	11	55	21	67
Artists	3	0	3	1	0	1	4	0	4
Researchers	18	13	31	42	16	58	60	29	89
Athletes	55	5	60	9	0	9	64	5	69
Sports trainers	3	0	3	0	0	0	3	0	3
Directors	16	3	19	57	8	65	73	11	84
whereof seconded	12	1	13	42	2	44	54	3	57
HQ	294	115	409	353	148	501	647	263	910
whereof seconded	155	41	196	140	24	164	295	65	360
Guest professors	3	0	3	3	0	3	6	0	6
Au-pairs	6	42	48	0	2	2	6	44	50
Trainee	9	8	17	0	0	0	9	8	17
Spouse (limited stay)	24	66	90	13	90	103	37	156	193
Children (limited stay)	2	2	4	2	8	10	4	10	14
Personnel seconded for training	14	0	14	0	2	2	14	2	16
Specialised technician	33	0	33	3	0	3	36	0	36
Regularised stay for work	237	45	282	136	55	191	373	100	473
Non specified	126	189	315	123	64	187	249	253	502
<b>Total</b>									<b>3 297</b>
<b>Total - Seconded</b>									<b>433</b>

Source: [www.emploi.wallonie.be](http://www.emploi.wallonie.be)

#### Annex 6: Brussels Region – Work permit

		2007	2008	2009	2010	2011	2012
Work permits	A	50	25	48	65	85	102
	B	5.370	7.636	6.088	5.743	6.911	7.520
	C	8.136	8.134	7.266	6.118	5.985	5.923

Source: FOD WASO

### Annex 7: Brussels region: Work permit B – 2012

B	First application	Renewal	Total
Art. 9,16°	428	602	1,030
Art. 9,17°	15	27	42
Art38quat§1	88	289	377
Art38quat§3	241	115	356
Art38septies	27	29	56
Researcher	4	7	11
Manager seconded	117	245	362
Manager	65	103	168
Trainee. 9, 19°	23		23
HQ seconded	806	617	1,423
HQ	626	784	1,410
Trainee Univ.	10	4	14
Trainee	61	11	72
Others	27	7	34
Others	76	245	321
Others	17	2	19
Others	130	96	226
Others	1	2	3
Others	32	1	33
Others	8	11	19
Others	11	9	20
Others	53	1	54
Others	24	16	40
Others		5	5
Others	667	650	1,317
Others		2	2
Others	21	53	74
<b>Total</b>	<b>3,578</b>	<b>3,933</b>	<b>7,511</b>

Source: regional authorities Brussels

### Annex 8: Brussels region: Work permit B – 2013 (1 January - 30 June)

B	First application	Renewal	Total
Art. 9,16°	185	448	633
Art. 9,17°	12	16	28
Art38quat§1	12	178	190
Art38quat§3	114	81	195
Art38septies	16	17	33
Researcher	1	1	2
Manager seconded	45	114	159
Manager	17	54	71

Trainee. 9, 19°	8	1	9
HQ seconded	574	397	971
HQ	238	475	713
Trainee Univ.	7	3	10
Trainee	30	9	39
Others	4		4
Others	103	439	542
Others	1	1	2
Others	4	31	35
Others	9	10	19
Others	22	166	188
Others	41	59	100
Others	2	2	4
Others	1		1
Others	10	4	14
Others	2	8	10
Others	16	1	17
Others	5	11	16
Others		3	3
<b>Total</b>	<b>1,479</b>	<b>2,529</b>	<b>4,008</b>

*Source: regional authorities Brussels*

**Annex 9: German speaking region: Work permit B - 2012**

First application		Renewal		Total
male	female	male	female	
30	8	27	12	77

*Source: FPS Employment, Labour and Social Dialogue + information received from the authorities of the German speaking Community*