

ADMITTING THIRD-COUNTRY NATIONALS FOR BUSINESS PURPOSES IN BELGIUM

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

AUTHORS: JO ANTOONS AND EVELYNE VAN DER ELST
(FRAGOMEN GLOBAL LLP, BRUSSELS)

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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 Federal Migration Centre and the Office of the Commissioner General for Refugees and Stateless Persons.

Further information on the Belgian National Contact Point of the European Migration Network and its work can be obtained from:

www.emnbelgium.be

The Belgian Contact Point can be contacted through the following channels:

Benedikt.Vulsteke@ibz.fgov.be Tel. +32 (0)2/ 793 92 30

Alexandra.Laine@ibz.fgov.be Tel. +32 (0)2/ 793 92 32

Peter.Vancostenoble@ibz.fgov.be Tel. +32 (0)2/ 205 56 97

Ina.Vandenberghe@ibz.fgov.be Tel. +32 (0)2/ 793 92 31

Martine.Hendrickx@ibz.fgov.be Tel. +32 (0)2/ 793 92 34

Or by ordinary mail at the following address:

EMN Belgium National Contact Point
Immigration Office, WTC II 24th floor
Antwerpsesteenweg 59B,
1000 Brussels



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.

Belgian study and EU comparative study

This is the **Belgian Contribution** to the EMN focused study on “Admitting third-country nationals for business purposes”. **Other EMN National Contact Points** (NCP’s) produced a similar report on the topic for their (Member) State.

The different National reports were prepared on the basis of a **common template** to ensure, to the extent possible, comparability.

On the basis of all national contributions, a **Synthesis Report** is produced by the EMN Service Provider in cooperation with the European Commission and the EMN NCP’s. The Synthesis Report gives an overview of the topic in all (Member) States.

The **aim of this EMN study** is to:

- (1) Understand the **definition** used by Member States for immigrant investors and immigrant business owners and the **national rules/restrictions** on admission and stay (if relevant) that apply;
- (2) Identify and investigate the national rules / restrictions on admission and stay (if relevant) that apply to other business persons coming to the EU;
- (3) Investigate the **experience** of the above categories in Member State immigration systems (via consultation with the business community within Member States);
- (4) Compare and assess the **different national policies in place** for non-EU investors, business owners and other business persons at the various stages of migration (pre-entry, entry and stay), identifying the **main actors** involved, and exploring specific policy **objectives** to attract such third-country nationals;
- (5) Identify **misuse/abuse of immigration channels for business purposes**, specifically in relation to immigrant investors, immigrant business owners and other business persons, and identify the national measures in place to detect and prevent misuse/abuse;
- (6) Examine the **challenges** associated with the implementation of policies for immigrant investors, immigrant business owners and other business persons in Member States;
- (7) Examine the challenges associated with the immigration/mobility of third country national business persons in Member States (in consultation with the business community);
- (8) Identify and collect **good practices and lessons learnt** in devising secure, “business friendly” immigration systems for immigrant investors, immigrant business owners and other business persons.

The Belgian report is available on the **website** www.emnbelgium.be.

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Top-line “Factsheet”

Context

Belgium has **no definition or national rules** on admission and stay specifically applying to the categories brought forward in this EMN study, that is to say i) immigrant investors, ii) immigrant business owners and iii) other business persons. In Belgium, these third-country nationals have to resort to national rules on admission and stay applying to those willing to work on the territory, either as employees or self-employed individuals, and on this basis, they may be entitled to enter and stay on the territory. For this reason, the Belgian contribution to this study is greatly oriented towards admission and stay of the concerned categories of third-country nationals for the purpose of employment and self-employment.

Recently, major changes affected the **division of competences** regarding the employment policy in Belgium. As of 1 July 2014, the **regional governments** have authority over the employment of foreign workers. This entails that each region is now competent, with few exceptions, in terms of regulation, enforcement, control of and compliance with work permits and professional cards. However, at the moment of completion of this study, the regional authorities hadn't yet adopted any changes to the previously existing national legislation.

Having regard to the topic of this study, other policy areas and **actors at federal level** are involved. The Federal Public Service Interior, through the Immigration Office, remains responsible for issuing residence permits to third-country nationals. The Federal Public Service Foreign Affairs, Foreign Trade and Development Cooperation, through its embassies and consulates abroad, participates in the issuance of visas. The (i) Federal Public Service Economic Affairs, SMEs, Self-Employed and Energy, (ii) Federal Public Service Finance and (iii) Federal Public Service Foreign Affairs, Foreign Trade and Development Cooperation also play a key role in promoting foreign trade and attracting foreign investments.

National policies

Belgium has no documented **immigration policy or rules** in place applying specifically to persons seeking to enter or stay on the territory for business purposes as envisaged in this study. The immigration legislation distinguishes between (i) entry and short stay (less than three months) on the one hand and (ii) long stay (more than three months) on the other hand.

Policies regulating the access of third-country nationals to **employed and self-employed activities** are therefore currently key in facilitating the arrival of the concerned categories of business persons in Belgium. Although the rules for granting work permits and professional cards aren't specifically targeted to them, they can resort to these channels to enter, stay and work on the territory.

Significant efforts are however invested in **other policy areas to promote Belgium's attractiveness and business opportunities** in the country. Measures are notably taken in the field of **tax** policy (competitive tax regime) and **foreign affairs** policy (attraction of foreign investments). Various information dissemination mechanisms are used to ensure that Belgium's assets (in terms of location and infrastructures, open economy, tax incentives, competitive sectors such as research and development, etc.) are known and attractive enough for business persons to move to Belgium.

Based on the research and interviews conducted for this study, it is noteworthy that efforts undertaken to promote Belgium's attractiveness and business opportunities haven't been complemented by and linked to immigration schemes related to access and stay in the country for business persons. It is also worth

noting that, while the immigration policy is a key political matter in Belgium and as such often debated in Parliament, this is so far much less the case with regard to the economic migration policy.

In particular, with regard to the categories singled out for attention in this study, the following can be pointed out:

Immigrant investors

The category "immigrant investors", as defined¹ for the purpose of this study, does not exist in Belgian law. The Belgian legislative framework doesn't foresee the possibility for third-country national immigrant investors to obtain a (long-stay) visa for the purpose of making a substantial financial investment in financial products or in a business. The mere **investment of monetary funds** in the Belgian economy does **not imply a right to enter or reside** on the Belgian territory. Belgium has no experience with "immigrant investors" as defined here and has no scheme in place to specifically manage their admission to or stay on the territory.

Business owners and other business persons

There are no specific admission or residence rules/programs tailored to immigrant business owners² and other business persons³ in Belgium. The entry and stay of these third-country nationals is possible through the use of **standard immigration channels**, including for reasons of work on the territory.

Immigrant business owners and other business persons who wish to work in Belgium, may do so either as "**employees**" and for this purpose require a "work permit" or as "**self-employed**" and in this respect need a "professional card". The work permit or professional card authorizes the exercise of their activities in Belgium. On the basis of this, the third-country nationals concerned may then receive a residence permit which authorises their stay on the territory.

The procedure which is to be followed by immigrant business owners and other business persons in an employment relationship is an easy and straightforward process. However, the procedure which is to be followed by immigrant business owners seeking to set-up a company or willing to perform self-employed activities in Belgium, might result in a more burdensome and time-consuming process. Measures have been taken though to smoothen the application process to which self-employed are exposed, through inter alia the creation of **enterprise counters** (tasked inter alia to facilitate the issuance of professional cards). Within the Immigration Office, the "**SMEDEM**" has been set-up inter alia to facilitate procedures applying to economic migrants. Belgium has also developed measures to facilitate access of short-term business owners and other business persons by **exempting** them, under certain conditions, from any

¹ Immigrant investor is defined as „Third-country national meeting the criteria set by a Member State and admitted on a long-stay visa to a Member State for the purpose of making a (substantial) financial investment either in financial products or in a business but without involving in the day to day operations or in the management of business" (see common template of the study, p. 7)

² Immigrant business owner is defined as „Third-country national meeting the criteria set by a Member State and admitted on a long-stay visa to the Member State to i) set up a business and be involved in its management; ii) take over the running of a business or businesses and be involved in its management; iii) or for self-employment" (see common template of the study, p. 7)

³ Other business persons are defined as „All categories included in (but not limited to) the "Temporary Movement of Natural Persons (or "Mode 4" categories) admitted to a Member State on a short-stay visa or a long-stay visa for the purpose of doing business which are nor immigrant investors nor immigrant business owners" (see common template of the study, p. 7)

work- or self-employment authorization and by **facilitating visa issuance** on their behalf (if not falling under the visa waiver program).

Statistics

No statistics exist to accurately count the number of third-country nationals admitted or staying on the Belgian territory for business purposes.

Firstly statistics on **short-stay visas C and long-stay visas D** don't include all those admitted for business purposes, such as those falling under the visa waiver program. In addition to this, they don't give a clear view of the activities undertaken by those granted such visas. Having said this, they still provide some useful elements in the framework of this study. The statistics provided by the Immigration Office on the number of short-stay Schengen visas issued for professional purposes show that most third-country nationals visiting Belgium for business purposes tend to do so for a short stay of less than 90 days. In 2013, 210 long-stay visas D were issued on the basis of a professional card.

Secondly statistics on **professional cards** provide useful information on the nationalities being granted such cards but again very few on what activities they engage into. When analysing the nationalities of applicants for a professional card, the top 5 consists of Moroccan, Chinese, Indian, Pakistani and Turkish nationals. As stated above, there is no information available on the type of businesses that these foreign nationals intend to set up.

Thirdly statistics on **work permits** are differentiated by categories but the said categories aren't those put forward in this study and they are often not interpreted in the same way from region to region. In 2013, 200 work permits were issued to executive staff. Besides this, the number of work permits issued to highly skilled foreign employees might also include some business owners and other business persons as specified in this study, but it is not possible to extract them from other categories of highly skilled workers.

Overall, the available immigration statistics seem to indicate a limited success of the existing immigration channels for the long-term settlement of immigrant business owners and other business persons in Belgium. Given the above mentioned limitations described above, it seems **very difficult to draw well-founded conclusions** about the total number of the concerned categories of business persons in Belgium.

Future perspectives

Considering the priorities of the new government, recently described in Davos by the Prime Minister as a "business friendly government"⁴ and having regard to the new competences transferred to the regions, involved both in the attraction of foreign investments and as of now in the regulation of work permits and professional cards, the timing is good to make changes and **enhance complementarities between these policy areas**. However the risk exists that the regions keep applying, with minor changes, the existing legislation on the employment of foreign workers. In addition to this, it is unclear whether and how **immigration issues**, in particular national rules on admission and stay, will also contribute to facilitating the arrival and stay of third-country nationals for business purposes in Belgium.

⁴ Belgian Prime Minister Speech in Davos, 25 January 2015: <http://www.premier.be/fr/speech-davos>

Due to the number of federal and regional actors involved and their different ways of approaching the question, it is a **challenge** for Belgian authorities to **act comprehensively and coherently** on this, addressing this matter in all its aspects and from all angles and levels.

Section 1: National frameworks for admitting third-country nationals for business purposes

GENERAL OUTLINE OF THE BELGIAN IMMIGRATION FRAMEWORK

Division of legislative competences in Belgium:

Belgium is a federal state, composed of communities⁵ and regions⁶. There are three distinct regions: the Brussels-Capital region (Brussels), the Flemish region (Flanders) and the Walloon region (Wallonia). Hence competences are in the hands of various partners, who independently exercise their authority within their domains.

Historically, Belgium's federal government has been responsible for the development of immigration legislation and policy, including the legislation and policies for admitting TCNs for business purposes. The federal government is also competent for the enforcement of these policies as regards the entry and stay of TCNs for business purposes and the authorization of self-employed activities by TCNs. The regions have been in charge of enforcing the legislation and the policies related to the employment of TCNs.

However, as of 1 July 2014, Belgium's federal government transferred the competence over employment-based immigration policy to the regional governments. The three regions – Brussels-Capital, Flanders and Wallonia – are now free to develop their own work authorization policies, programs, requirements and exemptions. Hence, each regional government has full decision-making authority over all matters related to the employment of foreign nationals in its region, including work permits and professional cards previously issued under federal rules.

At the moment of drafting this report, the regions have not yet taken any initiative to amend the existing federal laws and to implement a separate new policy. Consequently, the existing federal legislation remains in force.

Belgium's federal government retains legislative authority over the admission and residence rights of foreign nationals (and the work rights of foreign nationals who reside in Belgium on a basis other than employment). In this regard the Immigration Office (within the Federal Public Service Interior) continues to decide on the issuance of visas/residence permits.

The attraction of foreign investment in Belgium involves synergies between the federal and regional governments. To this end, a Federal-Regional Liaison Unit for Foreign Investment was set up. In this regard the three regional organizations - Flanders Investment and Trade (FIT), the Walloon Export Agency (AWEX) and the Brussels Export Agency (BEA) - cooperate with partners at federal level, including (i) the Federal Public Service Economic Affairs, SMEs, Self-Employed and Energy, (ii) the Federal Public Service Finance and (iii) the Federal Public Service Foreign Affairs, Foreign Trade and Development Cooperation. The policy aimed at attracting foreign investments is closely connected to economic policies as well as foreign affairs policies, but not expressly to the immigration policies.

⁵ Belgium comprises three communities (1) the Dutch-speaking *Vlaamse Gemeenschap* ("Flemish Community"), (2) the French-speaking *Communauté française* ("French Community") and (3) the German-speaking *Deutschsprachige Gemeinschaft* ("German-speaking Community"), as well as and four language areas (1) the Dutch language area, (2) the French language area, (3) the German language area and (4) the Bilingual Brussels-Capital area.

⁶ The country is further divided into 10 provinces and 589 municipal councils.

Documents required to work and reside legally on the Belgian territory

In order to work and reside legally on the Belgian territory, a TCN needs two types of documents, more in particular: (1) a **residence permit** that authorizes his/her stay in Belgium and (2) a permit which authorizes the TCN to take up economic activities.

- When taking up economic activities as an employee (in the meaning of work under a link of subordination to another person irrespective of whether the work is performed within the framework of an employment contract), a **work authorization and work permit** are required for TCNs. The work permit application is submitted by the employer (or authorized representative) to the regional administration responsible for the effective working location of the worker. There are three types of work permits that grant limited or unlimited access to the Belgian labor market: type A, type B and type C. The eligibility criteria for the work permit depend on the type of work permit to be issued.
- A separate system applies to self-employed TCNs. 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 Public Service Economy. The TCN submits the application with the competent Belgian embassy in the country of residence which forwards the application to the Federal Public Service Economy.

Once the work permit or professional card has been issued, it provides a basis for the holder's **right to stay** in Belgium. If the TCN isn't exempt from visa obligation, he/she has to apply for a long stay visa D on the basis of the work permit or professional card with the competent Belgian embassy abroad. Upon arrival in Belgium, the TCN must register with his/her local municipality and receives a residence permit. TCNs who are exempt from visa obligation, can apply for the residence permit directly upon arrival in Belgium.

Applying the national framework to this study

The common template of this study is designed to collect information about national policies in relation to immigrant investors, then in relation to immigrant business owners and finally to other business persons. In this way, it is important to note that the study template is not adapted to the Belgian context:

Immigrant Investors:

In order to immigrate to Belgium (> 90 days) and to obtain a residence right, a TCN must be in possession of either a work permit or a professional card. In order to obtain such a permit, a foreign national must engage in economic activities.

The Belgian legislative framework does not foresee the possibility for TCNs immigrant investors to obtain a residence right for the single purpose of making a substantial financial investment in financial products or in a business without taking up any activity in that business. As a consequence, Belgium has no experience with immigrant investors as defined within the scope of this study and has no scheme to manage their admission.

There are no alternative measures in place which make it possible for investors to obtain a residence right in Belgium. Other existing immigration channels include family reunification or immigration for humanitarian or medical reasons. These are available to all TCNs, including immigrant business investors. The Belgian nationality code does not foresee the possibility to acquire the Belgian nationality on the basis of financial investments.

Immigrant Business Owners:

The Belgian legislation does not provide a definition of immigrant business owners. The authorities perceive business owners as foreign nationals who either set-up a business in Belgium or who take over an existing business. These TCNs can have the status of self-employed individuals or employees. Consequently, they have to apply for a professional card or a work permit providing a basis for their right to stay in Belgium. They have to resort to standard immigration channels as explained above.

Other Business Persons:

Belgian legislation does not foresee specific immigration categories for each type of other business persons as described in this study. These TCNs have to apply for a work permit or a professional card. Depending on the duration and the nature of their activities in Belgium, they may, under certain circumstances, be exempted from the work permit or professional card. They have to resort to standard immigration channels as explained above.

SECTION 1.1: IMMIGRANT INVESTORS: OVERVIEW OF NATIONAL POLICIES

Please note that the Belgian legislative framework does not foresee the possibility for TCN immigrant investors to obtain a (long-stay) visa for the purpose of making a substantial financial investment in financial products or in a business in Belgium. The mere investment of monetary funds in the Belgian economy does not imply a right to enter or reside on the Belgian territory.

In order to be entitled to a long-stay visa, a TCN immigrant investor must set-up a business or engage in the actual management of a business in Belgium. On the basis of these activities a TCN immigrant investor would be entitled to a professional card or a work permit which does grant the right to a long-stay visa. (see section 1.3 Business owners).

Q1. How does the national legislation define immigrant investors?

Nor the law of 15 December 1980 on the access to the territory, the stay, settlement and removal of foreign nationals (hereafter called **Immigration Act**), nor any other national law in Belgium foresee a definition of "immigrant investors".

The Belgian public authorities which deal with immigrant investors perceive immigrant investors **as TCNs who move to Belgium to set up a business or take over an existing business** (see section 1.3 Business owners).⁷

The National Bank of Belgium does have a **definition of foreign investments**: a direct investment from country X in Belgium is any type of link between a resident of country X and a company in Belgium, which allows the foreign investor to significantly influence the governance of the company (at least 10% of the capital).⁸ The National Bank uses this definition to monitor the yearly evolution of

⁷ Interview Ms. Colette Vandstraelen, Federal Public Service Economy, Small and Medium Enterprises (SME) and self-employment, Service Foreign Investment, 27 October 2014.

The Belgian investors' guide which is published by the Federal Public Service Economy only refers to the establishment of new businesses or the take-over of existing companies by foreign nationals. The available information on foreign investment (federal websites, AWEX, FIT, etc.) do not include any reference to the mere investment of monetary funds.

⁸ Belgian Chamber of Representatives, written and oral questions and answers, QRVA51-43, p. 6644.

direct investments in Belgium by analysing statistical information on financial flows in the balance of payments. This definition serves an economic objective rather than referring to immigration legislation.

At this moment, there is no information/evidence regarding possible attempts or proposals from policy makers or the Belgian administration to create an “immigrant investor” category in Belgium. However, the immigration law firm Fragomen, as part of its **practice**, acknowledges receipt, on a weekly basis, of requests from foreign nationals who are seeking to obtain Belgian nationality or permanent residence in Belgium on the basis of substantial financial investments.

Q2. Does Belgium have a specific policy, programme or scheme for immigrant investors?

No, Belgium has no experience with immigrant investors as understood in the scope of this study and has **no scheme to manage their admission** (see note above).

A review of parliamentary discussions related to foreign investment over the past 5 years shows that the authorities perceive foreign investment as a mere transfer of capital into the Belgian economy. There is however no link between financial investment and immigration. The authorities⁹ stress the **need for foreign investments** in Belgium and do work to enhance the attractiveness of Belgium by **promoting the economic advantages** that Belgium has to offer (location close to major ports, close to the EU institutions, tax incentives, etc.). Nonetheless the attraction of investments is not linked to the acquisition of residence rights. Over the past 5 years, no one parliamentary question linked the attractiveness of Belgium for foreign investment to the issuance of residence rights.

Q3a. What is/are the main actor(s) and institution(s) involved in the development of policies to attract immigrant investors? If multiple authorities are involved, how are they coordinated? Is there an official mandate – e.g. an Action Plan - governing the involvement of these authorities?

N/A (see note above + Section 1.3 Business owners).

Q3b. Which actor/institution is responsible for the promotion of the policy with the target group?

N/A (see note above + Section 1.3 Business owners).

Q4. Does Belgium have specific measures in place to attract immigrant investors?

N/A (see note above + Section 1.3 Business owners).

Q5a Does Belgium have any bilateral or other agreements in place with Third Countries to attract immigrant investors?

N/A (see note above + Section 1.3 Business owners).

Q5b. Does Belgium share information with/consult other Member States with regard to immigrant investors?

N/A (see note above + Section 1.3 Business owners).

⁹ These include: the Federal Public Service Economy, the Federal Public Service Foreign Affairs and the regional authorities competent for the attraction of foreign investment.

SECTION 1.2: IMMIGRANT INVESTORS NATIONAL POLICIES: PRE-ARRIVAL STAGE (ADMISSION CRITERIA) AND STAY (RENEWAL)

As mentioned under 1.1, please note that the Belgian legislative framework does not foresee the possibility for TCN immigrant investors to obtain a (long-stay) visa for the purpose of making a substantial financial investment in financial products or in a business. The mere investment of monetary funds in the Belgian economy does not imply a right to enter or reside on the Belgian territory.

In order to be entitled to a long-stay visa, a TCN immigrant investor must set-up a Belgian business or engage in the actual management of a business. On the basis of these activities a TCN immigrant investor would be entitled to a professional card or a work permit which does grant the right to a long-stay visa. (see section 1.3 Business owners).

Q6. Please indicate which of the list (*minimum financial amount to invest, investment plan, expected impact of proposed investment, minimum education/professional skills, language knowledge, age requirement for applicant, security/health/background checks in place, other*) **act as criteria to admit immigrant investors in Belgium in the table below.**

N/A (see note above).

Q7. If the criteria for admission are satisfied what initial document is issued? Please provide any detail on: *type of document issued (e.g. short-stay visa, authorisation to stay, long-stay visa, residence permit, etc.), its duration, whether it is longer than the usual duration which applies to other categories of third-country nationals, whether its validity differs (and how) from its renewal.*

N/A (see note above).

In practice TCN immigrant investors often apply for a **short stay Schengen visa C for business purposes** in order to visit Belgium and conduct inspections. The Schengen visa allows them to stay in the Schengen area for 90 days within a 180-day period.¹⁰

Q8. Where and by which institution/organisation (internal or abroad) are the documents issued? (*e.g. diplomatic mission in the third country; other responsible representative; intermediary agency, etc.*)

N/A (see note above).

Q9. Please provide information on the criteria to be met in case of extension of the document issued for the stay of immigrant investors. *Please provide details of the type of document issued and its duration.*

N/A (see note above).

SECTION 1.3: IMMIGRANT BUSINESS OWNERS: OVERVIEW OF NATIONAL POLICIES

Q10. How does the national legislation define immigrant business owners?

¹⁰ Interview Wouter Boucique, Advicer-General - Visa Service at the Federal Public Service for Foreign Affairs, 20 October 2014.

Belgian legislation **does not foresee a definition of immigrant business owners.**

The authorities perceive business owners as **foreign nationals who either set-up a business in Belgium or who take over an existing business.** They can have the status of self-employed individuals or employees.¹¹

The law of 19 February 1965 as changed by the law of 2 February 2001 regarding the exercise of **self-employed** activities by a foreign national, states that each foreigner who exercises "self-employed activities" in Belgium, whether as a physical person or within an association or company, has to be in possession of a professional card. Self-employed activities are activities that do not fall within the scope of the legislation on the employment of foreign employees.¹²

With the legislative change in 2001, all self-employed activities in Belgium whether remunerated or not became subject to the professional card obligation.¹³ This legislative change was implemented to prevent fraud as the existing legislation was often abused by foreign nationals evading the professional card obligation under the pretext of engaging in non-remunerated activities.¹⁴

The law of 30 April 1999 on the employment of foreign **employees** applies both to employees and employees equivalent staff, meaning foreigners who work under a link of subordination to another person irrespective of whether the work is performed within the framework of an employment contract or not.¹⁵ The definition stipulated in the Royal Decree of 9 June 1999 on the employment of foreign executive staff is also worth mentioning. Executive staff is defined as staff holding a managerial position being in charge of the day-to-day management of the company, who is authorised to represent the employer and enter into legal agreements with others on the employer's behalf.¹⁶ 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.¹⁷

Q10a. Does Belgium have a specific policy, programme or scheme for immigrant business owners?

Yes

Q10b. If yes, please provide more information about the specific policy, programme or scheme, including a) the name of the policy / programme / scheme: b) its main policy objectives (Neutral, pro-active); whether it targets c) specific type of businesses and / or d) economic sectors / geographical areas / strategic partners; and whether d) a quota / limitation system is in place to govern the number of entries or permits that can be issued to immigrant business owners?

¹¹ Interview Ms. Colette Vanstraelen, Federal Public Service Economy, SME and self-employed, Service Foreign Investments, 27 October 2014.

¹² Art. 1, law of 19 February 1965 regarding the exercise of self-employed activities by foreign nationals, BS 26 February 1965, 2007.

¹³ Art. 4, law of 2 February 2001, amending the law of 19 February 1965 on the exercise of self-employed activities by foreign nationals, BS 08 March 2001, 7362.

¹⁴ Draft bill from 19 July 2000 regarding the modification of the law of 19 February 1965 on the exercise of self-employed activities by foreign nationals, DOC50-0823/001, p. 5.

¹⁵ Art. 3, law of 30 April 1999 on the employment of Foreign nationals, BS 21 May 1999, 17800.

¹⁶ Art. 1,13° Royal Decree of 9 June 1999 regarding the implementation of the law of 30 April 1999 on the employment of foreign nationals, BS 26 June 1999, 24162. (Hereafter: RD on the employment of foreign nationals)

¹⁷ Art. 1, 16° RD on the employment of foreign nationals, referring to art. 4 of the law of 4 December 2007 regarding the social elections of 2008.

a) Name of policy / programme:

Belgium has a scheme in place but it is not specific to immigrant business owners and it is fragmented over the **legislation on the employment of foreign employees and foreign self-employed individuals**.

The preparatory works of the law on the exercise of self-employed activities in Belgium clarify the framework in which the policy was set out. The law stated that any foreign national who wants to engage in self-employed activities in Belgium must be in possession of an a priori authorisation, being the professional card. This authorisation was created to pursue an **economic objective**, such as the prevention of any risk of unbalance caused by external flows, in particular to protect the already saturated sectors. In this regard, the legislation aims to control the access of self-employed foreign nationals to the Belgian economy in order to protect it. Over the years, the legislation has changed in order to allow foreign nationals, already permanently residing in Belgium, to engage in self-employed activities without restrictions. However, this had no influence on the access of TCN business owners who were not yet settled in Belgium.¹⁸

b) Main policy objectives:

The legislation is not designed to attract business owners. The scheme is limited to the creation of several legislative initiatives to simplify and facilitate their immigration to Belgium.

The immigration legislation requires prior authorisation for business owners to engage in their activities and is therefore **rather restrictive**. Over the years, measures have been created to facilitate and welcome business owners (see answer to Q.12b).

c) Type of business (e.g. any specific sector, knowledge-based sector, start-up / spin-off, etc.)

The immigration framework is general in nature but Belgium has certainly worked towards the attraction of certain businesses (Pharma, R&D, Chemistry, Distribution) by way of fiscal rulings and subsidies (see below Q. 12b).

d) Priority national economic sectors / priority national geographical areas / countries of origin targeted / strategic partners required

See above: R&D, Distribution, Pharma, Chemistry, Audio-visual Sector¹⁹

Countries of origin targeted include China, US, Brazil, through Belgian diplomatic posts in the countries of origin and the local Chamber of Commerce.

e) Quotas in place:

No.

Q11a. What is/are the main actor(s) and institution(s) involved in the development of policies to attract immigrant business owners? If multiple authorities are involved, how are they coordinated? Is there an official mandate – e.g. an Action Plan – governing the involvement of these authorities?

¹⁸ Draft bill from 19 July 2000 regarding the modification of the law of 19 February 1965 on the exercise of self-employed activities by foreign nationals, DOC50-0823/001, p. 3-6.

¹⁹ These sectors were mentioned as the primary economic sectors for which Belgium is known. Interview Ms. Colette Vanstraelen, Federal Public Service Economy, SME and self-employed, Service Foreign Investments, 27 October 2014.

It is worth noting that the term **“foreign investment”** refers to the activities of immigrant business owners as understood in the scope of this study. In this regard, the core of the Belgian policy aimed at attracting foreign investments focuses on the **enhancement of the economic attractiveness** of Belgium and isn't linked with the immigration policy.

Each **region** (Flanders, Wallonia, Brussels) is competent to set out its own policy aimed at attracting foreign business owners. Each region established its own institution to develop this policy area. In Flanders: the Flanders Investment & Trade, in Wallonia: the Agence Wallonne à l'Exportation et aux Investissements étrangers (AWEX) and in Brussels: Invest in Brussels.

However, the regulation of foreign investment is also influenced by a number of federal matters. The legislation regarding the access and stay on the Belgian territory and the setting of the general economic and fiscal framework are federal competences. The following **federal institutions** participate in the development of the policy on foreign investment:

The Federal Public Service Economic Affairs, SMEs, Self-Employed and Energy has a 'welcome service' for foreign investors which distributes an investors' guide, maintains the website "[Invest in Belgium](#)" and provides updates on European regulations and administrative formalities applying to investors; coordinates the Interministerial unit of the federal authorities and the regional authorities responsible for the investments. This unit meets every month to assess the investment climate;

The Federal Public Service Finance draws up bilateral agreements together with the FPS Foreign Affairs, Foreign Trade and Development Cooperation on the mutual safeguarding of investments and agreements designed to avoid double taxation;

The Federal Public Service Foreign Affairs, Foreign Trade and Development Cooperation regulates multilateral (WTO, OECD) and European trade policy; selects advisors on foreign trade and honorary consuls.²⁰

The federal government and the regions concluded a cooperation agreement on foreign investment on 1 February 1995.²¹ The responsibilities and competences of each of these institutions are stipulated in the Cooperation Agreement on Foreign Investment.²² As a result of this cooperation agreement, **the Liaison Office Federal-Regions Foreign Investments** was created in 1995. The Liaison Office has a mission to bring important issues concerning the investment climate in Belgium to the attention of stakeholders involved and to bring all Belgian authorities involved in attracting foreign investment together to discuss these issues on a monthly basis.

Even though the legislation on the access and stay on the Belgian territory is a federal competence, the Immigration Office is not considered as an institution which is actively involved in the development of policies to attract foreign business owners. Other regional and federal institutions, as mentioned above have worked to increase the economic attractiveness of Belgium towards foreign business owners (by promoting the Belgian economy and expertise in country, fiscal advantages, etc.). The immigration authority doesn't (yet) seem to be included in this exercise. This is illustrated by the fact that the Immigration Office is not incorporated in the (above-mentioned) Liaison Office Federal-Regions Foreign Investments. Based on interviews conducted in the framework of this study, attempts have been made

²⁰ Federal Public Service Foreign Affairs, http://diplomatie.belgium.be/en/policy/economic_diplomacy/division_of_powers/.

²¹ Belgian Senate, Oral questions, commission negotiations 5-28COM, 26 January 2010.

²² Cooperation Agreement "Foreign Investments" of 7 February 1995,, BS 29 June 1995.

in the past by the Federal Public Service Economy (Service Public investment) to cooperate with the Immigration Office in order to facilitate the immigration process for foreign business owners.

11b. Which actor/institution is responsible for the promotion of the policy with the target group?

The regional institutions, the Federal Public Service Economy (Service Foreign Investment), the Belgian diplomatic posts and the King/ministers during economic missions reach out to the target groups.²³

For further information on their tasks, please see below answer to Q.12b

Q12a. Does Belgium have specific measures to attract immigrant business owners?

Yes

Q12b. If yes, Please complete the table below with regard to the policy measures in place to attract immigrant business owners in Belgium.

Measures	Brief description of the measure in the Member State
<p>What do these specific measures entail? (active promotion / information dissemination / campaigns / events including in third countries, etc.)</p>	<p><u>Active promotion and information campaigns:</u></p> <ul style="list-style-type: none"> - During the Belgian royal economic missions in third countries, seminars are organized whereby a target audience of potential investors is informed on the investment possibilities in Belgium.²⁴ - If foreign delegations visit Belgium, they receive detailed information on investment opportunities in Belgium and they meet representatives of the regional institutions that deal with foreign investment. - The Federal Service Foreign Investment created an information booklet which provides an overview of Belgium and its business opportunities. Every Belgian diplomatic post has this information available and distributes it to interested parties.²⁵ - The Federal Public Service Economy created a Cell 'Fiscal Department for Foreign Investments' which has the responsibility to inform and support potential investors and answer their questions related to the fiscal implications of their activities in Belgium. Most of the questions that the cell answers, relate to the notional interest deduction, the deduction for patent income and other tax measures in the field of research and development.²⁶ The Cell assists foreign investors and guides them through the administrative procedures that have to be

²³ 7 February 1995, Cooperation Agreement "Foreign Investments", BS 29 June 1995.

²⁴ Belgian Chamber of Representatives, written questions and answers, QRVA52-93.

Interview Mr. Dominique Vanderhaegen, Flanders Investment and Trade, 29 October 2014.

²⁵ Belgian Chamber of Representatives, written questions and answers, QRVA51-43, p. 6644.

²⁶ Belgian Senate, written questions, commission negotiations 5-28COM, 26 January 2010.

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	<p>completed to set up a business in Belgium. They are available 24/7 and assist free of charge.²⁷</p> <p>- Each of the regional institutions also develops specific measures regarding the attraction of foreign investors.</p> <p>For example: The AWEX India Welcome Office is a business incubator providing soft landing incubation services to Indian investors willing to test the Belgian and the European markets. Within this business centre, brand new and fully equipped offices, as well as personalized services are available free of charge (excluding telecommunications costs) to Indian companies who can devote themselves exclusively, at no cost, to the launch of their business. A permanent multilingual expert helps understand the language and culture, advises on practical and logistical matters, provides administrative support, market studies, and relevant contacts all over Europe.²⁸</p>
<p>Does a list of specific procedural facilitations for admission exist? If yes, please explain what they entail (<i>reduced costs, shortened processing time, reduced documentary requirements, minimum residence period required (per year), possibility of renewal, etc.</i>)</p>	<p>- Immigrant business owners who want to set-up a business in Belgium as self-employed individuals need a professional card (see Section 1.4).</p> <p>There was a fast-track procedure in place which allowed immigrant business owners to obtain this card within a period of 2 weeks.²⁹ Nowadays this procedure is no longer in place.</p> <p>The professional cards are issued by one of the enterprise counters³⁰. This allows a self-employed foreign national to immediately initiate the (business) registration procedure. By giving this competence to the</p>

²⁷ Interview Ms. Colette Vanstraelen, FPS Foreign Affairs, Service Foreign investment, 27 October 2014.

²⁸ <http://www.investinwallonia.be/contact-us/welcome-offices/india-welcome-office/?lang=en#sthash.E8s1LkpN.dpuf>

²⁹ In 1997 the Federal Public Service Economy and the Federal Public Service Interior established a practice whereby an investor visa was issued to certain foreign business owners who were planning to either set-up a business in Belgium or to take-over an existing company. The immigrant investors reached out to one of the regional institutions that deal with foreign investments and they submitted a provisional business plan and some other documents to substantiate their request. The regional institution forwarded the documents to the Federal Public Service Economy which took a decision on the visa application. The positive decision was forwarded to the relevant regional institution, the competent Belgian embassy abroad and the Federal Public Service Interior. Upon receipt of the decision, the Belgian diplomatic post could issue an investor visa. This visa had a validity of 8 months and allowed the immigrant business owner to come to Belgium for a period of 8 months in order to complete all formalities required to set-up a business in Belgium. During this period the foreign investor requested a professional card, which then allowed him to stay in Belgium after the expiry of the visa. The entire immigration process was finalized in 2 weeks. This practice is no longer in use and the last investor visa was issued in 2010. The use of this fast-track procedure extinguished over time. The issuance of the investor visa was an administrative practice agreed between two governmental institutions and dependant on the discretion of the authorities. There is no set date or reason why this fast-track procedure is no longer in place. It has always been a rarity and due to little use and exposure, the practice died out. (Interview Ms. Colette Vanstraelen, 27 October 2014)

³⁰ An enterprise counter registers data concerning the commercial activities of a business (the address at which the activities take place, the activities themselves) and verifies the entrepreneurial skills of the self-employed individual. Belgium has 8 different Enterprise Counters which have been acknowledged by the Federal Public Service Economy, SME and self-employment.

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	<p>enterprise counters, the processing times for the issuance of a professional card were reduced.³¹</p> <ul style="list-style-type: none"> - For the issuance of the long stay visa on the basis of a work permit, an accelerated procedure exists. Embassies are allowed to issue the visa D automatically without prior consultation of the Immigration Office. The visas have an average processing time of 5-10 working days. This accelerated process applies in principle to all cases. The visa officers decide at their own discretion whether or not to forward the file to the Immigration Office. - SMEDEM (Service Migration Economique - Department of Economic Migration) was founded in 2008 by the former Minister for Migration and Asylum Annemie Turtelboom. SMEDEM operates as a separate counter within the Immigration Office for economic migrants with a work permit type B or a professional card. The service treats the residence applications of these economic migrants with priority. Overall, the service retains a processing time of 10 days after receipt of the application.
<p>Do specific support measures exist? (financial / logistic, business support to applicants to establish a business plan, recognition of qualification etc.)</p>	<ul style="list-style-type: none"> -The regional institutions install specific measures to support foreign business owners with setting-up their business (see answer above) -The Cell 'Fiscal Department for Foreign Investments' assists foreign business owners (see answer above)
<p>Are there specific tax incentives? (benefits, exemptions, etc.)</p>	<p>Yes,</p> <p>Specific tax incentives:</p> <p><u>R&D- tax incentives</u></p> <ul style="list-style-type: none"> • Partial exemption from payment of wage tax for researchers • Tax exemption on allowances and capital and interest subsidies awarded by regional institutions to support corporate R&D • Tax deduction on patent income • Increased investment deduction • Tax credit for R&D <p><u>Favourable fiscal tax status for coordination, distribution and service centres</u>³²</p>

³¹ Royal Decree 2 August 1985 regarding the implementation of the law of 19 February 1985 on the exercise of self-employed activities by foreign nationals, BS 24 September 1985, 13668. (Hereafter: RD on the exercise of self-employed activities by foreign nationals).

³² To qualify as a distribution center, the business activities of the center must be limited to the storage, management and handling of raw materials, finished products and goods for resale. Distribution centres are not allowed to engage in purely commercial activities or to intervene in the production process. The business activities of Service centers are similar but are situated more at an intellectual level (preparatory operations, information delivery to the clients, contributing passively to sales operations, activities which imply an active interference in the sale of products). (Circular n° CI.RH.421/483.766, 26 July 1996)

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	<p><u>Tax shelter for audio-visual Sector</u></p> <p>General tax incentives:</p> <p><u>Notional Interest Deduction</u></p> <p>Belgium is the only country where companies can benefit from the Notional Interest Deduction. A company in Belgium is able to make a deduction from his taxable profits depending on the portion of equity financing. The regime is applicable to all Belgian companies and to Belgian establishments of foreign companies, whatever the size.</p> <p><u>Expatriate tax regime for foreign executives</u></p> <p>Thanks to the expatriate tax regime, qualifying³³ expatriates will be considered Belgian non-residents. So expat staff is taxed only on their Belgian source income. They are exempt from taxation in Belgium on foreign passive sources of income such as dividends and real estate. The expatriates are entitled to tax free expat allowance to a certain ceiling.</p> <p><u>Investment deduction</u></p> <p>When a company acquires new tangible or intangible fixed assets used in Belgium for business purposes one can claim an investment deduction of 13.5% (one-time deduction) or 20.5% (staggered deduction for the duration of the depreciation) on the taxable profit amounting to a percentage of the acquisition or investment value.³⁴</p> <p><u>Ruling Commission for company taxes</u></p> <p>Taxpayers can apply for an advance decision on the application of direct or indirect tax laws to a particular situation or transaction before the ruling commission which is part of the Federal Public Service Finance. The Belgian tax authorities are bound by the ruling.</p>
<i>Are immigrant business owners granted access to social benefits?</i>	Yes, if subject to the Belgian social security either as an employee or as self-employed.
<i>Are immigrant business owners granted access to citizenship?</i>	The standard rules on the acquisition of Belgian nationality apply. There is no specific entitlement to Belgian nationality for foreign business owners.
<i>Does the possibility exist for immigrant</i>	Yes. Family members (spouse and underage children) are also entitled to

The sole business objective of coordination centers must be the development and centralization of certain activities of a preparatory or auxiliary nature for the benefit of other entities belonging to the same group. (Art. 1, Royal Decree n° 187 of 30 December 1982 regarding the set-up of coordination centers.)

³³ In order to qualify for this favorable tax regime, both the employer and employee must meet certain conditions. The employee must be a foreign national who exercises an executive function. The employment in Belgium must be of a temporary nature and the employee must demonstrate that he/she holds personal and economic ties abroad. The employee cannot have a local Belgian employment contract.

³⁴ Invest in Flanders, Business incentives, <http://www.investinlanders.be/EN/Sector/Life-sciences/chapter/Setting-up-your-business/page/Business-incentives>

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<p>business owners to be accompanied by family members?</p> <p>Are family members allowed to access the labour market?</p>	<p>residence for the duration of the validity of the professional card/work permit that is issued to the principal (sponsor)³⁵. They have access to the labour market without a labour market test, but are in principle not exempted from work permit (They must apply for a work permit B for family members of self-employed foreign nationals).³⁶</p>
<p>Other (please state)</p>	<p>/.</p>

Q13a Does Belgium have any bilateral or other agreements in place with Third Countries to attract immigrant business owners?

Within the framework of the Belgian-Luxembourg Economic Union, Belgium concluded several Bilateral Investment Agreements with Third countries.³⁷

Q13b. Does Belgium share information and coordinate its policies with other Member States? Does Belgium consult other Member States on the issuing of the documents listed in Q15 to immigrant business owners?

No.

SECTION 1.4: IMMIGRANT BUSINESS OWNERS NATIONAL POLICIES: PRE-ARRIVAL STAGE (ADMISSION CRITERIA) AND STAY (RENEWAL)

Q14a. Please indicate the criteria to admit immigrant business owners in Belgium in the table below. All listed requirements imply a Yes/No answer: in affirmative cases, please describe the criteria. If possible, also explain whether the same criteria apply to third-country nationals admitted to the national territory under a different immigration channel (family reunification, study, etc.) but willing to change their status into immigrant investors. If possible, also explain whether the same criteria apply to third-country nationals admitted to the national territory under a different immigration channel (family reunification, study, etc.) but willing to change their status into immigrant investors.

As mentioned in the answer to Q.10, please note that immigrant business owners are perceived as foreign nationals who either set-up a business in Belgium or who take over an existing business. They can have the **status of self-employed individuals or employees**. Self-employed foreign individuals must obtain a professional card in order to exercise self-employed activities in Belgium while foreign employees require a work permit.

Based on this, the **admission criteria for the acquisition of a professional card are different from the admission criteria for a work permit** (see table below).

³⁵ The residence rights of the dependants depend on the sponsor/ business owner. The dependants must provide proof of health insurance and they cannot be a threat to public health or public security. The sponsor must provide proof of sufficient housing and sufficient resources to support his/her family.

³⁶ Art. 9, 16° RD on the employment of foreign nationals.

³⁷ An overview of these agreements is to be found on the following website:
<http://nadia-burger.vlaanderen.be/nadia/zoeken/show.do>

Admission criteria ³⁸	Explanation	Do the same criteria apply to third-country nationals present in Belgium who have another status and are willing to change it into business owners?
<p>Evidence of entrepreneurial skills (<i>experience in running businesses, turnover of activities in the country of origin, etc.</i>)</p>	<p><u>Self-employed:</u> Evidence of entrepreneurial skills is as such not a criteria that has to be fulfilled to obtain a professional card. However, Belgian legislation states that any self-employed individual who exercises commercial activities for which registration in the Crossroads Bank of Enterprises is required, must be able to prove basic business management skills.³⁹ Whether this criteria is fulfilled is assessed at the moment of registration in</p>	<p><u>Self-employed:</u></p> <ul style="list-style-type: none"> • TCNs with a right to unlimited stay in Belgium are exempt from the obligation to request a professional card.⁴⁰ • TCN family members⁴¹ of EU citizens/Belgian nationals are exempt from the obligation to request a professional card.⁴² • TCN family members of a foreign national who is working in Belgium on the basis of a professional card, are entitled to a work permit type B without the need to show a minimum

³⁸ Please note that the relevant Belgian legislation does not provide an exhaustive list of documents or criteria that have to be met in order to be eligible for the professional card. The authorities assess the eligibility for a professional card on a case by case basis, taking into account the economic importance of the project for Belgium. The only fixed conditions relate to the applicant's right to legal stay in Belgium, the individual's compliance with regulatory requirements, particularly those related to the anticipated activities and the interest of the project for Belgium.

The admission criteria for a work permit depend on the type of work permit that is issued. Business owners usually work in a senior position. Therefore, they would apply for a work permit type B for executive staff (Art. 9, 7° RD on the employment of foreign nationals). Managerial employees benefit from a work permit exemption if they work in service of a coordination centre or a Belgian headquarter. (Art. 2,12° and 2,33° RD on the employment of foreign nationals).

³⁹ Royal Decree of 21 October 1998 on the implementation of Chapter I, Title II of the programme law of 10 February 1998 on the promotion of entrepreneurship, BS 19 November 1998, 37300.

The evidence of basic business management skills is delivered by a valid diploma, adequate professional experience, completion of an exam set by the Federal Public Service Economy or through a third person.

If a TCN provides evidence of his business management skills through a foreign diploma, the Belgian authorities must verify whether this diploma is acceptable. This investigation sometimes creates delays in the processing times of the professional card.

⁴⁰ Art. 1, 3° Royal Decree of 3 February 2003 regarding the professional card exemptions for certain categories of foreign nationals who engage in self-employed activities, BS 4 March 2003, 10517. (Hereafter: RD on professional card exemptions)

⁴¹ The following family members of EU nationals and Belgian nationals are exempt from the professional card obligation: spouses, descendants below the age of 21 who are still dependent on the principal and ascendants who are dependent upon the principal.

⁴² Art. 1, 1° en 2°, RD on professional card exemptions.

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	<p>Belgium with an enterprise counter. The authorities which issue the professional card are as such not competent to issue a final decision on the fulfilment of this criteria but they make a first assessment.</p> <p><u>Employees:</u> N/A</p>	<p>level of professional or educational skills.</p> <ul style="list-style-type: none"> • Other TCNs with a temporary right to stay in Belgium must meet the same criteria as newly admitted immigrant business owners. <p><u>Employees:</u></p> <ul style="list-style-type: none"> • TCNs with a right to unlimited stay in Belgium are exempt from the obligation to request a work permit.⁴³ • TCN family members⁴⁴ of EU citizens or Belgian nationals are exempt from the obligation to request a work permit.⁴⁵ • TCN family members of a foreign national who is working in Belgium on the basis of a work permit, are entitled to a work permit type B without the need to show a minimum level of professional or educational skills.⁴⁶ • Other TCNs with a temporary right to stay in Belgium must meet the same criteria as newly admitted immigrant business owners.
<p>Minimum level of educational achievement / professional skills <i>(please specify)</i></p>	<p><u>Self-employed:</u></p> <p>There is no minimum level of educational achievement set by law. Depending on the anticipated activities, the applicant must submit proof of educational qualifications or professional experience which indicate that he/she is able to exercise the intended activities.⁴⁷</p>	<p>Idem</p>

⁴³ Art. 2, 3° RD on the employment of foreign nationals.

⁴⁴ The following family members of EU nationals and Belgian nationals are exempt from the work permit obligation: spouses, descendents below the age of 21 who are still dependent on the principal and ascendants who are dependent upon the principal.

⁴⁵ Art. 2, 2° R on the employment of foreign nationals.

⁴⁶ Art. 9, 16° RD on the employment of foreign nationals.

⁴⁷ Interview. Mr. Philippe Lengler and Mr. Nelson Garcia, Federal Public Service Economy – department Professional cards, 10 October 2014.

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	<p>Self-employed individuals wishing to exercise a regulated profession must also furnish proof of competence to exercise that specific activity.⁴⁸</p> <p><u>Employees:</u></p> <ul style="list-style-type: none"> • Executive foreign nationals have to provide a CV to prove that they have sufficient experience/skills/knowledge to exercise the function at hand. • Managerial employees have to present a CV and/or degree to prove that they have sufficient experience/skills/knowledge to exercise the function at hand. 	
<p>Evidence of capital (minimum sum required)</p>	<p><u>Self-employed:</u></p> <p>There is no minimum sum required. The authorities analyse the amount of capital that is available to a certain applicant. Based on the activities that the TCN will perform and the nature of the business, the authorities assess whether the amount is sufficient. This is a case by case assessment.⁴⁹</p> <p><u>Employees:</u></p> <p>In order to be eligible for the work permit type B for executive staff, the foreign national must have an annual gross salary of at least 65.711 EUR (amount for 2014).</p>	Idem
<p>Contribution to the economy / employment of the Member State (national interest, "jobs - created", contribution to specific sector,</p>	<p><u>Self-employed:</u></p> <p>The authorities analyse the importance of the anticipated project for Belgium; interest being assessed in terms of economic benefits, i.e.: it meets an economic need, job creation, useful investments, the economic impact on businesses in Belgium,</p>	Idem

⁴⁸ Artikel 6, §2, Royal Decree of 2 August 1985 houdende uitvoering van de wet van 19 februari 1965 betreffende de uitoefening van de zelfstandige beroepsactiviteiten der vreemdelingen.

The regulated professions are divided into three sectors of activity: cycles and motor vehicles, construction and electronics, and body care.

⁴⁹ Interview. Mr. Philippe Lengler and Mr. Nelson Garcia, Federal Public Service Economy – department Professional cards, 10 October 2014.

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<i>innovativeness of activity, introduction of new technologies, etc.)</i>	<p>promoting exports, innovative or specialized activity. The authorities perform a case by case assessment.⁵⁰</p> <p>There are no specific benchmarks in place that need to be met in order to obtain the professional card.</p> <p><u>Employees:</u></p> <p>N/A</p>	
Business plan <i>If a business plan is required, please complete the table in Q14b</i>	<p><u>Self-employed:</u></p> <p>The business plan is not a binding document. However, the authorities often request a business plan in order to evaluate the interest of the business for Belgium. The objective is only to assess the project, consequently, there are no pre-set requirements for the business plan.⁵¹</p> <p><u>Employees:</u></p> <p>N/A</p>	Idem
Language knowledge <i>(certification, pre-entry tests, mandatory courses, etc.)</i>	<p><u>Self-employed:</u></p> <p>No language knowledge is required.</p> <p>However, if a TCN states that he wants to set up a business in Belgium and he has no knowledge of French, Dutch, German or English, this could be considered as an indication that the applicant is not able to perform the intended activities.⁵²</p> <p><u>Employees:</u></p> <p>N/A</p>	Idem
Age requirement for applicants <i>(minimum /</i>	No	Idem

⁵⁰ Interview. Mr. Philippe Lengler and Mr. Nelson Garcia, Federal Public Service Economy – department Professional cards, 10 October 2014.

⁵¹ Interview. Mr. Philippe Lengler and Mr. Nelson Garcia, Federal Public Service Economy – department Professional cards, 10 October 2014.

⁵² Ibid.

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<i>maximum)</i>		
Insurance requirement <i>(personal and/or for the investment)</i>	No Family members of self-employed foreign nationals and foreign employees must provide proof of health insurance prior to immigration to Belgium. (In Walloon and Brussels region, proof of submission to the Belgian or foreign social security scheme is required to obtain the renewal of the permit)	Idem
Security / background checks in place <i>(fraud checks, tax avoidance, previous bogus activities, money origin / money laundering, etc.)</i>	<u>Self-employed:</u> The applicant has to submit a Police clearance certificate with the application for the professional card. ⁵³ In some third countries the officers at the Belgian diplomatic post conduct an investigation into the allegations of the applicant. In this regard they can run a background check . ⁵⁴ <u>Employees:</u> The applicant has to submit a police clearance certificate covering the one-year period prior to the filing of the application.	Idem

⁵³ Art. 6, §1, RD on the exercise of self-employed activities by foreign nationals.

⁵⁴ Interview. Mr. Philippe Lengler and Mr. Nelson Garcia, Federal Public Service Economy – department Professional cards, 10 October 2014. A background check could consist of an investigation in the field whereby the officers verify the allegations of the applicant (E.g. Visit the business premises of the applicant in the country of origin).

Q14b. In case a business plan is required, please complete the table below. All listed requirements imply a Yes/No answer: in affirmative cases, EMN NCPs are asked to describe the requirements with additional information:

Business plan	Explanation
National institution responsible for the approval / Self-assessment	The authorities that take a decision on the issuance of the professional card (Federal Public Service Economy) review the business plan. The assessment of the business plan is achieved on a case by case basis. If a business plan is submitted, it is reviewed together with all other documents that are added to the application package.
Information required on legal aspects of the business (<i>form of the business, principal activity, subsidiary of existing activity</i>)	No specific rules on the content of the business plan exist. The more supportive information, the higher the likelihood that the professional card is issued (without request for further clarifications).
Information required on the commercial and financial aspects (<i>type of business / services, origin of the capital to invest, target groups, preliminary contracts, nature of the investment, performance indicators, feasibility analysis, etc.</i>)	No specific rules on the content of the business plan exist. The more supportive information, the higher the likelihood that the professional card is issued (without request for further clarifications).
Duration of examination of the business plan	There are no specific rules on the time that is spent on the examination of each application/ supporting document.
Documentation required (<i>please provide a list of the documents required</i>)	No specific list exists.
Review period	No specific rules on the review period exist. In practice, it takes 1-3 months to issue a professional card if the authorities do not have to request additional clarifications.
Other	/.

Q15. If the criteria for admission are satisfied what initial document is issued? Please provide any detail on: type of document issued (e.g. short-stay visa, authorisation to stay, long-stay visa, residence permit, etc.), its duration, whether it is longer than the usual duration which applies to other categories of third-country nationals, whether its validity differs (and how) from its renewal.

Self-employed:

The TCN submits the **application for obtaining the professional card simultaneously with the visa application** at the Belgian diplomatic post responsible for his/her place of residence abroad.⁵⁵

Within 5 working days from the moment of application, the diplomatic post forwards the professional card application to the Federal Public Service Economy, which takes a decision on the professional card. The Federal Public Service Economy has the possibility to consult the Immigration Office.⁵⁶

The Federal Public Service Economy forwards the positive decision to the Belgian diplomatic post and asks confirmation of the issuance of the **visa D (long stay visa for Belgium)**. The decision on the issuance of the visa is taken by the Belgian diplomatic post (or the Immigration Office). At that same moment the Federal Public Service Economy contacts the TCN applicant and informs him/her on the delivery of the professional card and instructs him/her to contact the Belgian embassy. The validity period of this type of visa **corresponds to the validity period of the professional card**. Within the period of validity of this visa, the TCN can travel to Belgium and must initiate the registration process in Belgium within the first 90 days of his arrival.

The Belgian diplomatic post forwards a copy of the visa D to the FPS Economy which subsequently sends the professional card to the indicated enterprise counter for delivery. Once arrived in Belgium, the TCN must visit the enterprise counter⁵⁷ which issues the actual **professional card**. The professional card is granted for a **maximum period of five years**. Generally, a first card for a **trial period of two years** is granted.⁵⁸ The length of the validity of the professional card is decided by the Federal Public Service Economy on a case by case basis. The professional cards can be renewed upon expiry. After 5 years of legal stay on the basis of a professional card, the TCN can obtain a right to permanent stay in Belgium.⁵⁹

In order to receive a **residence permit**, the TCN must report him/herself to the local town hall with the visa D and the professional card.⁶⁰ The period of validity of the residence permit corresponds to the **period of validity of the professional card**.

⁵⁵ Art. 1, §2, Royal Decree on the exercise of self-employed activities by foreign nationals.

⁵⁶ Art. 2, Royal Decree on the exercise of self-employed activities by foreign nationals.

⁵⁷ The TCN is free to choose any enterprise counter, irrespective of the place where the business (activities) are located. The TCN indicates the preferred enterprise counter on the application form for the professional card.

⁵⁸ Art. 3, §2 Law on the exercise of self-employed activities by foreign nationals.

⁵⁹ In practice the Immigration Office issues a right to unlimited stay to TCNs who have legally resided on the Belgian territory on the basis of a professional card/ work permit during 5 years. Once a TCN has a right to unlimited stay, he/she is exempted from the professional card/ work permit obligation. Please note that the application of this practice depends on the discretion of the authorities.

⁶⁰ Art. 25/2 Royal decree of 8 October 1981 on the access to the territory, the stay, settlement and removal of foreign nationals, BS 27 October 1981, 13740.

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. Several stakeholders have pointed out that 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. 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,

Employees:

The regional employment authorities issue the **work permit type B** for executive staff. This work permit is valid for an **initial period of 1 year** and may be renewed annually. After 5 years of legal stay on the basis of a professional card, the TCN obtains a right to permanent stay in Belgium.

The TCN submits the visa application for Belgium at the Belgian diplomatic post responsible for his place of residence. He/she has to **submit the actual work permit with the visa application**. The Belgian diplomatic post issues the visa **D (long stay visa for Belgium)**. The validity period of this type of visa corresponds to the **validity period of the work permit + 1 month**. Within the period of validity of this visa, the TCN can travel to Belgium and must initiate the registration process in Belgium within the first 90 days of his/her arrival. The validity of the visa D does not differ from other categories of immigrant TCNs.

In order to receive a **residence permit**, the TCN must report him/herself to the local town hall with the visa D and the work permit. The validity period of the residence permit corresponds to the **validity period of the work permit + 1 month**.

Q16. Where and by which institution/organisation (internal or abroad) are the documents issued? (e.g. diplomatic mission in the third country; other responsible representative; intermediary agency, etc.)

- The **long stay visa D** is issued by the competent Belgian diplomatic post in the third country
- The **professional card** is issued by the enterprise counter in Belgium and the decision approving the issuance of the professional card is taken by the Federal Public Service Economy, Service Professional Cards
- The **work permit** is delivered by the town hall and the decision approving the issuance of the work permit is taken by the competent Regional Employment Authority
- The **residence permit** is issued by the local town hall in Belgium and the decision to grant the right of stay is taken by the Immigration Office

Q17. Please complete the information requested in the table below in relation to registration of businesses by immigrant business owners in Belgium:

Registration of businesses by immigrant business owners in Belgium	Explanation
National institution responsible for the registration of the business in Belgium	<p>In Belgium several institutions are involved in the registration process of a business: 1) the Crossroads bank of enterprises, 2) the Enterprise counters, 3) the Commercial Court.</p> <p>The Crossroads Bank for Enterprises is a register containing comprehensive identification data related to businesses and their establishments. It includes data from the national register of legal entities, the trade register and VAT information. The crossroads Bank resides under the administration of the</p>

registration with local health insurance fund....) for the individual. The policymakers could consider setting up a specialised relocation office at major town halls. (Cfr. Ms. Colette Vanstraelen (Federal Public Service Economy) and Mr. Dominique Vanderhaegen (FIT)).

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	<p>Federal Public Service Economy, SME and self-employed.</p> <p>The Enterprise counter registers data concerning the commercial activities (the address at which the activities take place, the activities themselves) and verifies the entrepreneurial skills of the self-employed individual. Belgium has 8 different Enterprise Counters which have been acknowledged by the Federal Public Service Economy, SME and self-employment.</p> <p>The Commercial Court is a specialized court, competent to give rulings on trade disputes and commercial matters.</p>
<p>Type of business (main business, subsidiary or branch. Please explain whether it is a transparent or non-transparent entity for tax reasons, i.e. determining if the business owners registers himself/herself as an individual or as a legal entity).</p>	<p>Process:</p> <p>A self-employed TCN (natural person) must as a rule visit the enterprise counter of his/her choice once (s)he obtained the professional card, in order to:</p> <ul style="list-style-type: none"> • obtain an enterprise number; • register with the Enterprise Crossroads Bank. <p>Depending on the type of business activity and compliance with social security totalisation agreements, he/she must also:</p> <ul style="list-style-type: none"> • register for VAT; • register with a social insurance fund for self-employed workers. <p>→ These formalities must be completed before the individual may start any self-employed activities</p> <p>In order to establish a business (legal entity), an extract from the articles of incorporation must be registered with the commercial court, competent for the legal district in which the registered office is located.</p> <p>Following the registration with the commercial court, the company is registered with the Enterprise Crossroads Bank and receives its enterprise number.</p> <p>In addition, if the company engages in commercial activities, it must:</p> <ul style="list-style-type: none"> • obtain access to the profession via an enterprise counter; • register its activities with an enterprise counter; • register for VAT.⁶¹
<p>Place of registration of business (in Belgium or in the country of origin / a third country. Is it mandatory for a third country national to be present in a country when registering a business or can this be done outside (using an agent / third party)?</p>	<p>The registration must be completed in Belgium.</p> <p>The registration of a business must be completed at the commercial court of the location where the headquarter of the company is established. The enterprise counter is chosen, irrespective of where the business is located.⁶²</p> <p>A third party might complete these formalities if that party has an official mandate to do so.</p>

⁶¹ Business in Belgium, Setting up a business, http://business.belgium.be/en/managing_your_business/setting_up_your_business/main_steps/company_number/

⁶² Federal Public Service Economy, SME, self-employed, How to set up your own business in Belgium, September 2014, p. 26.

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<p>Main requirements for registration of business (<i>capital, employees. Please state whether the requirements is different from that applied to EU nationals</i>)</p>	<ul style="list-style-type: none"> Any individual who engages in the daily management of a commercial company must as a rule be able to prove basic business management skills.⁶³ If the TCN wants to exercise a regulated activity, he/she must provide: a license to exercise these activities, an evidence of recognition of foreign degrees required for the activities / evidence of access to the profession.⁶⁴ In order to register a company with the commercial court, the articles of incorporation must be drawn up. To have articles of incorporation drawn up, one must provide a financial plan and open a bank account.⁶⁵ <p>All these criteria also apply to EU nationals who want to register a business in Belgium.</p>
<p>Does Belgium impose restrictions to admit immigrant business owners based on the type of business, the specific sector or their country of origin?</p>	<p>No</p>
<p>Other (<i>Health, etc.</i>)</p>	<p>/. </p>

Q18. Please provide information on the criteria to be met in case of extension of the document issued for the stay of immigrant business owners. Please provide details of the type of document issued and its duration.

Renewal criteria	Explanation
<p>What are the requirements related to the purpose of stay (business) that need to be met in order to prolong/extend the initial authorisation of stay/ long-stay visa/residence permit?</p>	<p><u>The professional card:</u></p> <ul style="list-style-type: none"> The professional card is renewed if the TCN has respected all applicable fiscal and social obligations⁶⁶ and if the intended activities have been realized. To this end, the authorities check the annual accounts, VAT returns, tax and social security bills, accounting reports, invoices, proof of achievements, contracts, etc. . They also evaluate to what extent the initial objectives have been realized. <p>When scrutinizing the realization of the activities, the authorities</p>

⁶³ Federal Public Service Economy, SME, self-employed, How to set up your own business in Belgium, September 2014, p. 7.

⁶⁴ Federal Public Service Economy, SME, self-employed, How to set up your own business in Belgium, September 2014, p. 9.

⁶⁵ http://business.belgium.be/en/managing_your_business/setting_up_your_business/main_steps/articles_of_incorporation/.

⁶⁶ Art. 6, §3, RD on the exercise of self-employed activities by foreign nationals.

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	<p>are flexible and take a case-by-case decision, taking into account the personal situation of each applicant.</p> <p>In some cases, when an individual has had no activity during the period covered by the professional card, the authorities conduct an interview to understand what prevented the individual from exercising the anticipated activities. The authorities assess whether there are <u>objective reasons</u> for the non-compliance and the <u>prospects</u> for believing that the individual will launch its activity upon renewal of the professional card.⁶⁷</p> <ul style="list-style-type: none"> • Upon approval of the renewal, a new professional card is issued. The professional card can only be granted for a maximum period of five years. Generally, a first card for a trial period of two years is granted. The professional cards can be renewed upon expiry. After 5 years of legal stay on the basis of a professional card, the TCN can obtain a right to permanent stay in Belgium and is then exempted from the professional card requirement. The authorities decide on the validity of the professional card on a case by case basis. <p><u>The Work permit:</u></p> <ul style="list-style-type: none"> • The Work permit is renewed if all criteria relevant to the specific type of work permit (job function, salary) have been respected during the first year of employment and if they will persist to exist in the second year of employment.⁶⁸ • A work permit is renewable on a yearly basis.
<p><i>Is there a requirement that a business is active during the extension of permits?</i></p> <p><i>If so, what indicators are used to assess this?</i> (Volumes of turnover, amount of paid taxes, staff employed, compliance of immigrant investors and their investment, etc.)</p> <p><i>Who assesses this information?</i></p>	<p>See above</p>
<p><i>Are there time-related requirements during which a business needs to have been started up, taxes paid and staff employed in order to get the validity of the document extended?</i></p>	<p>No, the authorities are flexible and make a case-by-case assessment, taking into account the personal situation of each individual.</p>

⁶⁷ Interview. Mr. Philippe Lengler and Mr. Nelson Garcia, Federal Public Service Economy – department Professional cards, 10 October 2014.

⁶⁸ Art. 31-33, RD on the Employment of Foreign nationals.

SECTION 1.5: OTHER BUSINESS PERSONS: OVERVIEW OF NATIONAL POLICIES

Q19. How are the following categories (listed in Annex 2) defined under the national legislation in Belgium?

Categories of other business persons	Definitions
<i>Business visitors for establishment purposes (BVEP)</i>	<p>There is no specific definition for BVEP foreseen in the Belgian legislation. There are 2 options: either the BVEP qualifies as an employee (executive level) or the BVEP is a self-employed individual. (For the definition of both, see Section 1.3 - Q9.)</p> <p>Belgium has no specific policy for BVEP. They have to follow the standard immigration channels.</p>
<i>Intra-corporate transferees (ICT)⁶⁹</i>	<p>The ICT directive 2014/66/EU is not yet implemented in Belgium. There is no specific category for ICT foreseen in the Belgian legislation.</p> <p>ICT require a standard work permit. They can qualify as highly skilled worker, specialised technicians or as executive staff.</p> <ul style="list-style-type: none"> • <u>Specialized technicians</u> must install, and/or repair machinery or equipment produced, supplied or designed by his foreign employer on client site, during assignments of less than 6 months, while being linked to an employment contract in their home country. • A <u>highly skilled foreign employee</u> is an employee that holds at least a bachelor degree and has an annual gross salary of 39.422 EUR (amount 2014).⁷⁰ • For the definition of <u>executive staff</u>, see Section 1.3 - Q9. <p>Note that the Belgian legislation on the employment of foreigners does foresee the category of <u>intra-company trainees</u>. Intra-company trainees are foreign employees that are seconded to the Belgian seat of the multilateral group to which their foreign employer belongs within the framework of the traineeship agreement between the foreign and Belgian entity of the multinational group. The training is defined as an activity or a bunch of activities that aim at providing the trainees with more competences in order to enable them to work more effectively. The training cannot entail any productive work. Depending on the duration of the training, the nationality of the trainee or the location of the foreign employer, the trainee is exempted from the Belgian work permit or not.</p> <p>Belgium has no specific policy for ICT. ICT have to follow the standard immigration channels.</p>
<i>Business sellers (BS)</i>	<p><u>Self-employed BS:</u></p> <p>Self-employed BS are TCNs who undertake business in Belgium, provided that the duration of stay required for this business does not exceed three consecutive</p>

⁶⁹ For intra-corporate transferees, please indicate where the scope of current legislation and the definition used therein differ from Directive 2014/66/EU on intra-corporate transferees.

⁷⁰ Art. 9,6° RD on the employment of foreign nationals.

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	<p>months. As business is to be understood: the movements made in Belgium by TCN, for their own account or on behalf of their company and who do not have primary residence in Belgium, with the purpose to visit, explore and develop professional contacts, negotiate and conclude contracts, participate in fairs and exhibitions to present their products to propose and sell, or to participate in the Boards of Directors or general meetings of companies .⁷¹ These TCN are exempted from the professional card obligation.</p> <p><u>BS employees:</u></p> <ul style="list-style-type: none"> • <u>Sales Representatives</u> are foreign nationals who have their main place of residence abroad and travel to Belgium to visit clients. These activities must be limited to a duration of 3 consecutive months. The sales representative must hold a legitimation card according to Art. 10 of the International Agreement on the simplification of custom formalities (°73 November 1923).⁷² If a foreign national qualifies as a sales representative, he/she is exempted from the work permit requirement. • <u>Other</u> TCNs (employees) seconded to Belgium for a short time to attend meetings in a closed circle for a maximum of 20 consecutive calendar days per meeting, up to maximum 60 working days per calendar year.⁷³ According to the preparatory works of the LIMOSA legislation, very diverse types of meetings are accepted, such as negotiations of a contract with a client.⁷⁴ These TCNs are exempted from the work permit requirement.
<i>Independent professionals (IP)</i>	<p>There is no specific category for IP foreseen in the Belgian legislation.</p> <p>Every TCN who exercises an independent professional activity on the Belgian territory either as a physical person either within an organization or company, should be in possession of a professional card.⁷⁵</p> <p>The legislation on professional cards defines a self-employed activity as any activity that is not covered by the rules governing the employment of foreign nationals.</p>
<i>Contractual services suppliers (CSS)</i>	<p>There is no specific category for CSS foreseen in the Belgian legislation.</p> <p>The CSS qualify as standard seconded employees and require a work permit as highly skilled employee or specialised technician in order to be exempted from the labour market test and nationality condition.</p> <ul style="list-style-type: none"> • <u>Highly skilled foreign employees</u> are foreign employees that hold at least a bachelor degree and that have an annual gross salary of at least 39.422 EUR (2014).⁷⁶ • <u>Specialized technicians</u> must install, and/or repair machinery or equipment produced, supplied or designed by his foreign employer on client site, during assignments of less than 6 months, while being linked to an employment

⁷¹ Art. 1, 6° RD on the professional card exemptions.

⁷² Art. 2, 10° RD on the Employment of Foreign nationals.

⁷³ Art. 2, 28° RD on the Employment of Foreign nationals.

⁷⁴ Art. 1,4°, Royal decree of 31 August 2007 regarding the modification of the royal decree of 20 March 2007 regarding the implementation of Chapter 8, Title IV of the programme law of 27 December 2006.

⁷⁵ Art. 1, law on the exercise of self-employed activities by foreign nationals.

⁷⁶ Art. 9, 6° RD on the Employment of Foreign nationals.

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	contract in their home country.
<i>Graduate trainees (GT)</i>	GT are defined as employees who receive a practical training as a continuation of a prior formation confirmed by a certificate or diploma. ⁷⁷
<i>Other (please describe)</i>	/.

Q20. Does Belgium have a specific policy (programme, scheme) for other business persons as defined by the study template?

No, Belgium does not have a specific scheme or policy in place for other business persons.

The other business persons have to resort to the standard immigration channels. In this regard, they have to obtain either a work permit or a professional card or qualify for an exemption to support their business activities in Belgium.

Q21. Considering the specific policy (programme, scheme) in the previous question, what are the actor(s) and institution(s) involved in the development and implementation of policies on other business persons? If multiple authorities are involved, how are they coordinated? Is there an official mandate – e.g. an Action Plan - governing the involvement of these authorities? Which actor / institution is responsible for the promotion of such policy abroad?

N/A (see answer to Q20).

⁷⁷ Art. 9, 5° (iuncto art. 20-23) RD on the Employment of Foreign nationals.

SECTION 1.6: OTHER BUSINESS PERSONS NATIONAL POLICIES: PRE-ARRIVAL STAGE (ADMISSION CRITERIA) AND STAY (RENEWAL)

Q22. What are the criteria for the admission of other business persons to Belgium? Please answer by completing the table below entering in the last column also useful information on any pre-entry assessment which may be required (labour market test, proof of minimum period of employment, evidence of commitment to return after the temporary stay, minimum education / professional skills, language knowledge, qualifications/certifications, entry quotas, age requirement, insurance requirement, etc.).

Categories of other business persons	Are these categories admitted/endorsed in your systems (under a different name)? (Yes/No)	If yes, under which name are they registered in your systems?	What is the maximum duration of their stay?	What kind of document is issued when admitting other business person?	Is there a (exhaustive) list of admission criteria? If yes, please indicate the criteria.
<i>Business visitors for establishment purposes (BVEP)</i>	No , Belgian legislation does not foresee a specific category for BVEP. BVEP either need a professional card (for activities as self-employed individual) or a work permit (for activities as employee) when they visit Belgium to establish a business.	N/A	There is no maximum duration set by law. <u>The Work Permit for executive staff</u> is valid for an initial period of max. 12 months and may be renewed annually. ⁷⁸ The residence permit which is issued on the basis of the work permit is generally valid for the same duration as the work permit (plus one month) and may be renewed based on the underlying immigration status (i.e., work permit). <u>The professional card:</u>	Employees receive a work permit and a residence permit. Self-employed individuals receive a professional card and a residence permit.	<u>Employees:</u> The admission criteria depend on the type of work permit that is issued. <u>Eligibility criteria for the work Permit for executive staff:</u> <ul style="list-style-type: none"> • have an annual gross salary of 65.711 EUR (2014); • have an executive function⁸¹ <u>Self-employed individuals:</u> <ul style="list-style-type: none"> • Have a right to legal stay⁸² • Comply with regulatory requirements, particularly those related to the activity;⁸³

⁷⁸ Art. 4, §2, RD on the Employment of Foreign nationals.

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			The professional card can be granted for a maximum period of five years. ⁷⁹ Generally, a first card for a trial period of two years is granted. ⁸⁰		<ul style="list-style-type: none"> • Have an important project for Belgium; interest being assessed in terms of economic benefits, i.e.: it meets an economic need, job creation, useful investments, the economic impact on businesses in Belgium, promoting exports, innovative or specialized activity. (case by case assessment by the authorities)⁸⁴
<i>Intra-corporate transferees (ICT)</i>	No , Belgian legislation does not foresee a specific category for ICT. ICT must apply for a standard work permit .	N/A	<p>The validity of the work permit depends on the type of work permit that is issued.</p> <ul style="list-style-type: none"> • The <u>B Work Permit</u> is generally valid for an initial period of maximum 12 months and may be renewed annually. • The validity of the <u>Work permit for specialized technicians</u> is limited to 6 months.⁸⁵ 	A work permit and a residence permit.	<p>The criteria depend on the type of work permit issued:</p> <ul style="list-style-type: none"> • <u>Work Permit for executives</u>: must hold a managerial function, have an annual gross salary of 65.711 EUR (2014) • <u>Work permit for highly skilled</u>: must hold at least a bachelor degree and have an annual gross salary of 39.422 EUR (2014) • <u>Work permit for specialized</u>

⁸¹ Art. 9, 7° RD on the employment of foreign nationals.

⁸² Art. 4, §1, law on the exercise of self-employed activities by foreign nationals.

⁸³ Art. 6, §2, RD on the exercise of self-employed activities by foreign nationals.

⁷⁹ Art. 3, §2, law on the exercise of self-employed activities by foreign nationals.

⁸⁰ Interview. Mr. Philippe Lengler and Mr. Nelson Garcia, Federal Public Service Economy – department Professional cards, 10 October 2014.

⁸⁴ Interview. Mr. Philippe Lengler and Mr. Nelson Garcia, Federal Public Service Economy – department Professional cards, 10 October 2014.

⁸⁵ Art. 9, 9° RD on the Employment of Foreign nationals.

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					<p><u>technicians:</u> must install and/or repair machinery or equipment produced, supplied or designed by the foreign employer on client site, during assignments of less than 6 months, while being linked to an employment contract in the home country.⁸⁶</p>
<i>Business sellers (BS)</i>	Yes	See definitions in Section 1.5	<p><u>Self-employed BS:</u> Maximum stay is limited to 3 consecutive months.⁸⁷</p> <p><u>BS Employees:</u></p> <ul style="list-style-type: none"> • The sales activities of the <u>sales representative</u> in Belgium must be limited to max. 3 consecutive months in order to be exempted from a work permit. • For those that do not qualify as a sales-representative: activities in Belgium must be limited to 60 working days/ calendar year and cannot exceed 20 consecutive calendar days per visit.⁸⁸ 	<p>Belgian legislation foresees a professional card and work permit exemption for the BS. No specific documents are issued.</p> <p>If the BS is a visa national, he/she has to apply for a Schengen visa to cover his stay in Belgium.</p>	<p><u>Self-employed BS:</u></p> <ul style="list-style-type: none"> • The BS cannot have a main place of residence in Belgium • The aim of the travel to Belgium must be limited to one of the following activities: identify business partners, develop professional relationships, negotiate/conclude contracts, participate in expositions, attend meetings of the board of directors.⁸⁹ <p><u>BS Employees:</u></p> <ul style="list-style-type: none"> • Sales representatives must have their main place of

⁸⁶ Art. 9, 9° RD on the Employment of Foreign nationals.

⁸⁷ Art. 1, 6° RD on professional card exemptions.

⁸⁸ Art. 2, 28° RD on the Employment of Foreign nationals.

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					<p>residence abroad, must come to Belgium to visit clients and must hold a legitimation card according to Art. 10 of the International Agreement on the simplification of custom formalities (°73 November 1923)</p> <ul style="list-style-type: none"> Those who do not qualify as 'sales representatives' are exempted from the standard work permit if they do not participate in any productive activities. The activities must be limited to business meetings, such as negotiating contracts.
<i>Independent professionals (IP)</i>	<p>No, Belgian legislation does not foresee a specific category for IP.</p> <p>IP must apply for a professional card.</p>	N/A	<p>There is no maximum duration set by law. The professional card is granted for a maximum period of five years. Generally, a first card for a trial period of two years is granted.</p>	<p>A professional card and a residence permit.</p>	<ul style="list-style-type: none"> Have a right to legal stay Comply with regulatory requirements, particularly those related to the activity; Have an important project for Belgium; interest being assessed in terms of economic benefits, i.e.: it meets an economic need, job creation, useful investments, the economic impact on businesses in

⁸⁹ Art. 1, 6° RD on professional card exemptions.

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					Belgium, promoting exports, innovative or specialized activity. (case by case assessment by the authorities) <ul style="list-style-type: none"> • A service agreement should be included in the application package.
<i>Contractual services suppliers (CSS)</i>	No , Belgian legislation does not foresee a specific category for CSS. CSS must apply for a standard work permit for a seconded employee (either highly skilled or specialized technician).	N/A	<ul style="list-style-type: none"> • The B Work Permit for highly skilled and seconded ICT is valid for a maximum period of 12 months and may be renewed annually. • Specialized technician (see ICT) 	A work permit type B and a residence permit.	The criteria depend on the type of work permit that is issued. <ul style="list-style-type: none"> • Specialized technician (see ICT) • Highly skilled: The employee must hold at least a bachelor degree and have an annual gross salary of 39.422 EUR (2014).
<i>Graduate trainees (GT)</i>	Yes	Trainees	The maximum duration of the traineeship is limited to 1 year . ⁹⁰	A work permit and a residence permit.	<ul style="list-style-type: none"> • The trainee must be at least 18 years old and cannot be older than 30 years at the moment of filing the WP application • The duration of the traineeship is limited to 1 year • The trainee must hold at least a bachelor degree and the traineeship must be a continuation of his/her

⁹⁰ Art. 20 RD on the Employment of Foreign nationals.

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					studies <ul style="list-style-type: none"> The traineeship must be full-time⁹¹
<i>Other (please describe)</i>	/.	/.	/.	/.	/.

⁹¹ Art. 20 RD on the Employment of Foreign nationals.

Q23. Please provide information on the criteria to be met in case of extension of the document issued for the stay of other business persons. Please provide details of the type of document issued and its duration.

Categories of other business persons	What are the requirements related to the purpose of stay (business) that need to be met in order to prolong/extend the initial documents issued?
<i>Business visitors for establishment purposes (BVEP)</i>	<p><u>Self-employed individuals</u>: the professional card is renewed if the BVEP respected all fiscal and social obligations and if the intended activities were realized. The authorities are flexible and take a case-by-case decision, taking into account the personal situation of each individual.⁹²</p> <p><u>Employees</u>: the work permit is renewed if all criteria relevant to the specific type of work permit were respected in the first year of employment and if they will persist to exist in the second year of employment.⁹³</p>
<i>Intra-corporate transferees (ICT)</i>	<p><u>Employees</u>: the work permit is renewed if all criteria relevant to the specific type of work permit were respected in the first year of employment and if they will persist to exist in the second year of employment.</p>
<i>Business sellers (BS)</i>	<p>N/A: The work permit and professional card exemption that is foreseen for BS is limited to a maximum duration of approximately 3 months (infra). Therefore, there is no applicable renewal process.</p>
<i>Independent professionals (IP)</i>	<p><u>Self-employed individuals</u>: the professional card is renewed if the IP respected all fiscal and social obligations and if the intended activities were realized. The authorities are flexible and take a case-by-case decision, taking into account the personal situation of each individual.</p>
<i>Contractual services suppliers (CSS)</i>	<p><u>Highly skilled</u>: The work permit is renewed if all conditions relevant to the specific type of work permit were respected in the previous year of employment and if the conditions will be met during the second year of employment.</p> <p><u>Specialized technicians</u>: renewal up to 6 months maximum.</p>
<i>Graduate trainees (GT)</i>	<p>N/A: The work permit exemption for trainees is limited to a maximum duration of 1 year. Therefore, there is no applicable renewal process.</p>
<i>Other (please describe)</i>	/.

⁹² Art. 6, §3, RD on the exercise of self-employed activities by foreign nationals.

Interview. Mr. Philippe Lengler and Mr. Nelson Garcia, Federal Public Service Economy – department Professional cards, 10 October 2014.

⁹³ Art. 31-33, RD on the Employment of Foreign nationals.

Section 2: Measures to prevent misuse / abuse of immigration channels for business purposes

Q24. Please provide the following information with respect to the prevention and detection of misuse abuse of immigration channels for immigrant investors, business owners and other business persons at admission stage and during stay. Please provide the definitions of misuse and abuse according to the national legislation and identify differences where possible.

Issue	Immigrant Investors	Business owners	Other business persons ⁹⁴
<p>Does your national legislation provide for a definition of misuse and and/or abuse?</p> <p>If yes, do they differ? Please describe</p> <p>If no, how are they defined in practice?</p>	N/A	Improper use of the social status of self-employed individuals is defined as “using the status in order to obtain a residence permit without a genuine intention to establish professional activities” . ⁹⁵	
<p>What are the specific measures in place in the Member States to monitor, detect and prevent misuse/abuse at <u>admission stage</u>? (in addition to the criteria to be satisfied as reported under Sections 1.2)</p>	N/A	TCNs have to apply for a professional card with the Belgian diplomatic post in their country of residence. The visa officer in charge can provide the relevant Belgian authorities with a positive or negative advice on the application. This advice is based on their experience and their conversations with the applicant . In several countries, the Belgian embassy has officers who investigate the viability of the applications by conducting research in the field . The advice is not binding but acts as an indication for the Belgian authorities which decide on	<p><u>Short stay Schengen visa:</u></p> <ul style="list-style-type: none"> The visa officers verify the purpose of the visit to Belgium. Therefore, they thoroughly analyze the invitation letters and any type of official documents that are submitted. The visa officers also check whether the applicant is registered in the Schengen Information System.

⁹⁴ The information provided below is applicable to all TCNs who are employed on the basis of a Work Permit. There is no distinction between different categories of employees. Therefore, the information is not specific to “other business visitors”.

The information on self-employed individuals is stipulated in the column for business owners.

⁹⁵ General management committee for the social status of self-employment, Report 2012/02, p. 3.

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		the professional card application ⁹⁶ .	
<p>What are the entities responsible for the monitoring of compliance of immigrant business owners and immigrant investors and what are their specific responsibilities? (Labour Inspectorate, Labour Exchange office, Tax authorities, Ministry of Interior, Migration services)</p> <p>Does a national referral mechanism (or its equivalent) exist? (Yes/No).</p> <p>If yes, how is information shared between stakeholders involved?</p> <p>Is there an obligation to inform about misuse/abuse identified by other institution (migration services, police, tax authority, etc.)</p>	N/A	<ul style="list-style-type: none"> • The Service for economic authorizations at the FPS Economy has the ability to issue professional cards with a limited validity. This allows them to check any cases of abuse/misuse at the moment of renewal.⁹⁷ • The Social Inspection at the FPS Social Security is responsible for performing the actual inspections. They either receive instructions to perform the inspection or they execute spontaneous controls at their own initiative. • The following entities can request the inspection authorities to perform inspection: judicial authorities, FPS social security, employees, FPS economy, SME and middle class, third parties.⁹⁸ • The Inspection Social Laws at the FPS Work also engages in actual inspections when manifest problems are reported (Ex. presumption of bogus self-employment). They perform inspections in the field.⁹⁹ 	<p><u>Work permit holders:</u></p> <ul style="list-style-type: none"> • The Inspection Service at the FPS Work and Social Economy is the entity responsible for performing the actual inspections. They either receive instructions to perform the inspection or they have spontaneous controls at their own initiative. • The following entities can request the inspection authorities to perform inspection: Arbeidsauditoraat, Police, Immigration Office, FPS Social security, monitoring Social Laws and Social Inspection.¹⁰² • The Inspection Social Laws at the FPS Work also engages in actual inspections when manifest problems are reported (e.g. employees are not paid). They perform inspections in the field, verify the activities of foreign nationals after refusal of a work permit, provide advice to the regional employment authorities on the different components that count towards the immigration salary threshold.¹⁰³

⁹⁶ Interview. Mr. Philippe Lengler and Mr. Nelson Garcia, Federal Public Service Economy – department Professional cards, 10 October 2014.

⁹⁷ Interview. Mr. Philippe Lengler and Mr. Nelson Garcia, Federal Public Service Economy – department Professional cards, 10 October 2014.

⁹⁸ Federal Public Service Social Security Annual report Social Inspection 2012, p.12 iuncto p.106.

⁹⁹ Interview Mr. Niel Vandeput, Federal Public Service Work, Employment and Social Consultation, Service Social Inspection, 24 November 2014.

¹⁰² Department Work and Social Economy, Annual Report Inspection service 2013, p. 6.

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		<ul style="list-style-type: none"> Self-employed foreign nationals coming to work temporarily/partially in Belgium, must make a LIMOSA declaration prior to the start-up of their activities in Belgium. The temporary economic activity of a foreign national in Belgium must be declared to the authorities in advance.¹⁰⁰ All Limosa notifications are registered within the Limosa-register (governed by the FPS social security). The social inspection services have access to this register and use it to battle social fraud (through data matching and data mining).¹⁰¹ Several other institutions (Immigration Office, regional employment authorities, etc.) have acquired access to the registry. 	<ul style="list-style-type: none"> Foreign companies, that wish to employ a foreign employee in Belgium for temporary or partial activity must make a LIMOSA declaration prior to the start-up of the employee's activities in Belgium. All Limosa notifications are registered within the Limosa-register (governed by the FPS social security). The social inspection services have access to this register and use it to battle social fraud (through data matching and data mining). Several other institutions (Immigration Office, regional employment authorities, etc.) have acquired access to the registry.
What is the frequency of control?			
What are the main sectors where misuse/abuse occurs?	N/A	<ul style="list-style-type: none"> Catering industry Construction sector¹⁰⁴ 	<ul style="list-style-type: none"> Catering industry Construction sector Agriculture-

¹⁰³ Interview Mr. Niel Vandenput, Federal Public Service Work, Employment and Social Consultation, Service Social Inspection, 24 November 2014.

¹⁰⁰ The aim of the LIMOSA declaration is to allow the monitoring and control of temporary activities performed by foreign employees or self-employed individuals on the Belgian territory. The governmental authority which is competent for this type of monitoring is the Service Social Inspection at the FPS Social security. The aim of the monitoring is to safeguard the social interest of all parties involved and to combat social and fiscal fraud as well as to protect the financial balance within the Belgian social security system. (B. DE PAUW, *De Limosa-meldingsplicht voor zelfstandigen in de context van het vrij verkeer van diensten beoordeeld door het Europese Hof*, in Migratie en Migrantenrecht 15 – Ontkellingen in het Europees, Belgisch en Vlaams arbeidsmigratierecht, Die Keure, 2014, p.171).

¹⁰¹ Information provided by Mr. Bruno De Pauw, Department social security, Service international relations.

¹⁰⁴ Interview. Mr. Philippe Lengler and Mr. Nelson Garcia, Federal Public Service Economy – department Professional cards, 10 October 2014.

Mr. Lengler and Mr. Garcia only mentioned 2 sectors.

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<p>(real estate, transfer of capital, national funds / bonds, business investments, etc.)</p> <p>Please list the top three</p>			<p>horticulture¹⁰⁵</p>
<p>If misuse/abuse is detected, what are the penalties imposed on the third-country national concerned (withdrawal of long-stay visa/residence permit, loss of any other related right/benefit, loss of the certificate of establishment, legal proceedings, fines, removal order, confiscation of activities/revenues, etc.)</p>	N/A	<ul style="list-style-type: none"> • Penal and administrative fines from EUR 300 (x6) to EUR 3000 (x6), imprisonment from 6 months to 3 years. • Judicial authorities have the ability to order the closure of the establishment or to annul the professional card¹⁰⁶ • If the professional card is annulled, the foreign national loses the basis for his/her residence rights in Belgium and risks expulsion. 	<ul style="list-style-type: none"> • Withdrawal of the work permit. If the work permit is annulled, the foreign national loses the basis for his/her residence rights in Belgium and risks expulsion. • Foreign nationals who work in Belgium without proper authorization are subject to deportation and/or prohibition from conducting work at the Belgian company for a period of 1 month to 3 years.
<p>What other circumstances might result in the withdrawal / non-renewal of a long-stay visa / residence permit?</p>	N/A	<ul style="list-style-type: none"> • TCN operated activities which were prohibited by the Council for Economic Research or ignored an order of closure. • TCN deceitfully obtained the professional card • TCN hindered the inspections and didn't cooperate. • TCN knowingly provided false information or false documents to the officers and agents charged with supervision, or to the Council for Economic Research on Immigration.¹⁰⁷ 	<ul style="list-style-type: none"> • Withdrawal of the work permit for employees (as a consequence also the residence permit) • The employer has used deceptive practices or improper or incomplete misrepresentation to obtain the work permit. • The employment is contrary either to public policy or public security, or with the laws and regulations, or even with the international conventions and agreements relating to recruitment or employment

¹⁰⁵ Department Work and Social Economy, Annual Report Inspection service 2013, p.19.

Please note that these sectors were identified following general controls performed on all foreign employees in Belgium. There is no distinction between categories of employees. Therefore, the numbers are not specific to "other business visitors".

¹⁰⁶ Art. 13-15 law on the exercise of self-employed activities by foreign nationals.

Art. 227, Social Penal Code, BS 1 June 2010, 43712.

¹⁰⁷ Art. 13, 2^o-5^o law on the exercise of self-employed activities by foreign nationals.

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			<p>of workers of foreign nationality;</p> <ul style="list-style-type: none"> • The employer does not comply with legal and regulatory requirements relating to the employment of workers; • The employee is not employed in accordance with the wages and other working conditions that apply to Belgian employees; • The employer does not comply with the conditions attached to the work permit; • The work permit of the employee has been repealed but the employment did not stop.¹⁰⁸
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Q25a. Is there any evidence of the effectiveness of the measures used in Belgium to monitor, detect and prevent misuse / abuse and the problems/challenges faced (lack of instruments, lack of cross-analysis, access to data, etc.)?

No

Q25b. If yes, please indicate to which business persons the evidence refers to (investors, business owners, other business people) and please summarise the main findings here and include a reference to the source in an annex to your national report.

N/A

¹⁰⁸ Art. 35, §2 RD on the Employment of Foreign nationals.

Section 3: Evaluation of policies to admit third-country nationals for business purposes, challenges and barriers

It is worth noting that Belgian policies and political debates on “foreign investments” refer to such investments seen as including: (1) investment of mere monetary funds in Belgium as well as (2) set-up of new businesses and (3) take-over of existing companies by immigrant business owners (see Section 3.1 AND Section 3.2). In this regard, it is difficult to provide information that is exclusively linked to either section 3.1 or 3.2 below.

The analysis of the attractiveness of the policies described above are of a purely economic nature. The link with the Belgian immigration policy is non-existent within these analyses. Therefore, the bulk of information is not fully aligned with the study objective.

SECTION 3.1: IMMIGRANT INVESTORS

Q26a. Have any evaluations or studies in Belgium considered the effectiveness of national policies to attract immigrant investors?

No. As explained in Section 1.1 the Belgian government doesn't have a specific policy on the attraction of immigrant investors. In this regard, Belgium focuses on attracting foreign investments (being the transfer of financial funds to Belgium) and not on the attraction of resident immigrant investors.

Q26b. If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report. If no, please provide also any other evidence/indicator that may be available in Belgium in this regard (media reporting, media debates, assessment by experts etc.).

Parliamentary questions

In the past 5 years, a few parliamentary questions have been raised regarding the increase/decrease in foreign investments¹⁰⁹ in Belgium.

A written question asked in Parliament by Bruno Valkeniers on 20 February 2013 focused on the amount of foreign investments in Belgium. The following information was provided:

“1. The following are the foreign investments in Belgium published by the NBB (National Bank of Belgium) as part of the balance of payments. They include the share capital and other capital but not reinvested profits. The figures in respect of capital include set-up of new companies, the take-over of existing companies, as well as the purchase and sale of real estate. The other component consists of other capital where loans are made between related companies, including the very short term transactions. The NBB departs from the definitions used by the OECD (Organisation for Economic Co-operation and Development) and the IMF (International Monetary Fund). These data are not always a good indicator of the investment climate in Belgium since these data are strongly influenced by purely financial flows. This is also part of the explanation for the high volatility of the investment. (...) Balance of payments figures: Total EUR million (M) 2008: 131 331 2009: 35 485 2010: 56 089 2011: 65 696 2012: The figure of 2012 will be available soon. If we only consider the share capital we obtain the following figures (in M): 2008: 102 860 2009: 39 640 2010: 63 108 2011: 24 299 The latest UNCTAD

¹⁰⁹ As noted above, these ‘foreign investments’ include the following: investment of monetary funds in Belgium but also the set-up of new businesses and take-over of existing businesses by immigrant business owners (see Section 3.2). Based on this, it is difficult to provide information that is exclusively linked to foreign investments.

report (United Nations Conference on Trade and Development) of 2011 already indicates that the amount of foreign investment in 2012 will decrease globally. The importance of acquisitions is growing as a whole. 2. The NBB (National Bank of Belgium) does not have figures by region. Each region has its statistics, but the definition of a foreign investment is not necessarily the same in each region. The Top 5 countries that invest most in Belgium are (M): - 2008: Luxembourg (42 960), the Netherlands (27 252), France (23 286), Norway (5120), Germany (4300) - 2009: Luxembourg (15 439), France (11,938), Norway (6106), Sweden (3330), Italy (3073) - 2010: Luxembourg (33 963), the Netherlands (16 463), Germany (4279), Hungary (3877), Sweden (3150) - 2011: Luxembourg (38 235), the UK (10,661), Germany (7340), The Netherlands (7100), France (5881)."¹¹⁰

Apart from these debates, there is no (publically available) standard evaluation of concerned policies by the government in Belgium. The available studies are the result of initiatives taken by private actors. Please find below a reference to a relevant study:

EY Activity barometer ¹¹¹

See Q.27b below

Q27a. Have any evaluations or studies in Belgium considered the effectiveness of the national policies to attract immigrant investors to the growth of the national economy and/or in competing with other larger economies, and have specific indicators been developed?

No

Q27b. If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report. If no, please provide also any other evidence/indicator that may be available in Belgium in this regard (media reporting, media debates, assessment by experts etc.).

EY Activity barometer- Main conclusions:

In 2013 Belgium retained the **5th place in the ranking of the most attractive investment destinations**. The number of foreign investments in Belgium has increased from 169 to 175 in 2013, an increase of 4%. From the total of 175 foreign investments, 118 were new investment projects (67.5%). The number of foreign direct investment in Wallonia decreased from 52 in 2012 to 36 in 2013. Flanders has had a sharp increase last year. The number of investments increased from 80 to 110, the best result since 2005, and is good for 63% of all foreign investment in Belgium.

Q28a. Have any evaluations or studies in Belgium considered the impact of the national policies to attract immigrant investors on other social issues (employment, access to housing, discrimination, etc.) and have specific indicators been developed?

No

¹¹⁰ Chamber of Representatives, Written answers and questions, QRVA52/111, p. 65.

¹¹¹ EY, Barometer van de Belgische attractiviteit 2013, [http://www.ey.com/Publication/vwLUAssets/Belgium_Attractiveness_Survey_2013_-_NL/\\$FILE/Belgium-Attractiveness-Survey-2013_NL.pdf](http://www.ey.com/Publication/vwLUAssets/Belgium_Attractiveness_Survey_2013_-_NL/$FILE/Belgium-Attractiveness-Survey-2013_NL.pdf)

Q28b. *If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to this report. If no, please provide also any other evidence/indicator that may be available in Belgium in this regard (media reporting, media debates, assessment by experts etc.).*

Parliamentary questions:

The member of Parliament Eva Brems requested an analysis of the **influence of Bilateral Investments Treaties on the job creation** in Belgium. In his answer, the Minister of Economy stated that it is extremely difficult to obtain figures in this matter and stated that the job creation following foreign investment is obvious.¹¹²

EY Activity barometer – Main conclusions:

Where Belgium in 2011 in terms of job creation was still on the 13th place in Europe, Belgium drops out of the top 15 in 2012. In 2 years we therefore decline by more than 25% on job creation. Only 2939 jobs were created on the 169 projects. In addition the labour intensity of the investment projects drops (from 25 in 2010 to 23 in 2011 to only 17 in 2012). This decrease in job creation clearly shows that **heavy labour costs play a role in investment decisions.**

Q29. *What evidence exists (policy documents, political discourses, media coverage, NGO campaigns, case law examples etc.) that immigrant investors are perceived as abusing national migration rules in Belgium?*

N/A.

SECTION 3.2: BUSINESS OWNERS

Q30a. *Have any evaluations or studies in Belgium considered the effectiveness of national policies to attract immigrant business owners?*

No.

Q30b *If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report. If no, please provide also any other evidence/indicator that may be available in Belgium and provide any examples of good practice in this regard.*

See Q.26b

Q31a. Have any evaluations or studies in Belgium considered the effectiveness of the national policies to attract immigrant business owners to the growth of the national economy, and/or in competing with other larger economies, and have specific indicators been developed? For this question please consider also the contribution of immigrant business owners who are already present on the territory.

Yes

¹¹² Chamber of Representatives, Written answers and questions, QRVA52/121, p. 102.

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Q31b. If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to this report. If no, please provide also any other evidence/indicator that may be available in Belgium and provide any examples of good practice in this regard.

See Q.27b

Q32a. Have any evaluations or studies in Belgium considered the impact of the national policies to attract immigrant business owners on other social issues (employment social security, discrimination, etc.) and have specific indicators been developed?

Yes

Q32b. If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report. If no, please provide also any other evidence/indicator that may be available in Belgium in this regard (media reporting, media debates, assessment by experts etc.).

See Q.28b

Q33. What evidence exists (policy documents, political discourses, media coverage, NGO campaigns, case law examples etc.) that immigrant business owners are perceived as abusing national migration rules in Belgium?

None

SECTION 3.3: OTHER BUSINESS PERSONS

Q34a. Have any evaluations or studies in Belgium considered the effectiveness of national policies to attract other business persons?

No. In Section 1.5, it was noted that Belgium has no specific policy aimed at attracting 'other business persons'. The different categories of 'other business persons' must resort to the existing immigration channels which allow them to obtain a work permit or professional card. As the different categories of business persons must qualify for one of the existing immigrant employees categories mentioned in the Royal Decree on the employment of foreign nationals (or as self-employed), it is particularly difficult to identify an evaluation or study which explicitly envisage "other business persons" as a group.

Q34b. If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report. If no, please provide also any other evidence/indicator that may be available in Belgium and provide any examples of good practice in this regard.

None.

Q35a. Have any evaluations or studies in Belgium considered the effectiveness of the national policies to attract other business persons to the growth of the national economy, and/or in competing with other larger economies, and have specific indicators been developed?

No.

Q35b. If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report. If no, please provide also any other evidence/indicator that may be available in Belgium and provide any examples of good practice in this regard.

None.

Q36. Does any evidence exist on the impact of other business persons on increased volume of trade, increased mobility, increased visibility, etc. for Belgium?

None.

Q37. What evidence exists (policy documents, political discourses, media coverage, NGO campaigns, case law examples etc.) that other business persons are perceived as abusing national migration rules in Belgium?

None.

SECTION 3.4: CHALLENGES AND OBSTACLES TO ADMITTING THIRD COUNTRY NATIONALS FOR BUSINESS PURPOSES**Q38. What are the main challenges related to the admission of immigrant investors, immigrant business owner and other business persons in Belgium?**

Categories of other business persons	Challenges for national stakeholders associated with the design and implementation of policies for other business persons. <i>If possible studies should be included (sourced as appropriate).</i>	Challenges for applicant at both admission (pre-arrival) and stay stages (e.g. documentation required, waiting times, restrictions, etc.) <i>If possible, the views of the business community, of the immigrant community and studies should be included (sourced as appropriate).</i>
<i>Immigrant investors</i>	The category of resident business investors is unknown in legislation and policies. Immigrant business investors do not have any entitlement to a resident status irrespective of the investments made.	N/A
<i>Immigrant business owners</i>	There is no link between the immigration policy and the economic policies in place to attract foreign investment. Immigrant business owners must resort to the standard immigration channels and request a professional card or work permit depending on their status as self-employed or employee.	The existing application process for the professional card is a time-consuming process without a legally set processing time. The process and the review that is performed by the relevant authorities are not considered as transparent. The review consists of a case by case assessment at the discretion of the authorities without legally set eligibility conditions. (i.e. applications are reviewed on a case by case basis, there are no specific guidelines regarding the composition of an application package and the eligibility requirements for a professional card).
<i>Business visitors for establishment purposes (BVEP)</i>	There is no link between the immigration policy and the economic policies in place to attract foreign investment. The category of BVEP does not exist in the Belgian immigration legislation therefore BVEP must resort to the standard immigration channels. There is no work permit or professional card exemption	The existing application process for the professional card is a time-consuming process without a legally set processing time. The process and the review that is performed by the relevant authorities is not transparent. The review consists of a case by case assessment at the discretion of the authorities without legally set eligibility conditions. (applications are reviewed

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	foreseen for BVEP.	on a case by case basis, there are no specific guidelines regarding the composition of an application package and the eligibility requirements).
<i>Intra-corporate transferees (ICT)</i>	<p>There is no immigration framework in place for ICT and the ICT directive has not yet been implemented.</p> <p>The implementation of the directive should result in further improvement of the existing immigration channels available to ICTs and not create restrictions of the current immigration channels (e.g. insert the need for prior seniority as an eligibility criteria. This requirement is not set in the current legislation).</p>	None
<i>Business sellers (BS)</i>	The work permit and professional card exemption for business visitors should be aligned in both the legislation on the employment and self-employment of foreign nationals in Belgium. At this moment the exemptions for employees business visitors and self-employed business visitors are not harmonized.	None
<i>Independent professionals (IP)</i>	It might be worthwhile to establish a facilitated immigration process for self-employed foreign service providers (or for a professional card exemption). The category of IP does not exist in the Belgian immigration legislation, therefore IP must resort to standard immigration channels and request a professional card.	The existing application process for the professional card is a time-consuming process without a legally set processing time. The process and the review that is performed by the relevant authorities are not considered as transparent. The review consists of a case by case assessment at the discretion of the authorities without legally set eligibility conditions. (i.e. applications are reviewed on a case by case basis, there are no specific guidelines regarding the composition of an application package and the eligibility requirements).
<i>Contractual services suppliers (CSS)</i>	<p>The category of CSS does not exist in the Belgian immigration legislation therefore CSS must resort to the standard immigration channels.</p> <p>It might be worthwhile considering to create a work permit or professional card exemption for CSS or a facilitated process for these immigrant business persons.</p>	None
<i>Graduate trainees (GT)</i>	None	None
<i>Other</i>	/.	/.

Section 4: Good practices and lessons learned

This Synthesis report will highlight any good practices of Member States that have successfully attracted and facilitated the arrival of immigrant investors, immigrant business owners and other business persons. This section will also tackle the extent to which these practices have favoured the (positive) contribution of third-country nationals to the national economy and their likelihood to be promoted and replicated in other Member States and also the extent to which has created monitoring mechanisms to detect misuse / abuse of these migration channels.

This section will include also lessons learned from the practical implementation of specific policies, programmes or schemes for the targeted categories of third-country nationals: lessons learned may address also assessments of the expected and/or unintended (positive and negative) consequences of specific policies, programmes or scheme (i.e. A so-called investor programme has facilitated the admission of wealthy third-country nationals to boost national economy in the real-estate sector. However, as consequence, admitted third-country nationals have invested their money but many properties remain empty due to inflated market rates).

If there are specific examples of good practices that you would like to highlight, please do so below.

Based on information provided in sections above, Belgium can hardly conclude that it has been particularly successful in attracting and facilitating the long term settlement of immigrant investors, immigrant business owners and other business persons on the Belgian territory. Hence it is hard to further assess the contribution of the above mentioned TCNs to the national economy. Therefore it is particularly difficult for Belgium to provide examples of good practices likely to be replicated by other Member States.

Nevertheless some lessons have been learnt, including the following points:

Alignment/Coherence of policies

Reading legislation, parliamentary discussions and other relevant documents gives rise to the observation that immigration policies have so far been insufficiently connected to economic policies in Belgium. Although efforts have been devoted to enhancing Belgium's attractiveness for foreign investment, equivalent measures haven't been taken to specifically facilitate the admission and stay of immigrant investors, immigrant business owners and business persons. As a consequence of this, immigration policies might have unintendedly undermined economic policies and might have impeded the contribution of the concerned TCNs to the national economy. Such policy areas are interconnected and coherent policies should be sought at national and regional levels.

Flexibility vs legal certainty

As described under section 1.4, there are currently no set eligibility criteria for the acquisition of a professional card for self-employed TCNs in Belgium. Belgian authorities review each professional card application on a case by case basis. This method of working creates flexibility and gives each self-employed foreign national an opportunity to obtain a professional card, irrespective of his/her prior education, the available capital, knowledge level, etc. The downside is that the case by case assessment also creates legal uncertainty. The business community, whilst valuing a certain degree of flexibility, also needs transparent procedures and specific processing times that also facilitate their immigration plan and business project.

Section 5: Conclusions

In Belgium, there is an awareness of the need for and **importance of attracting foreign investments and promoting business opportunities** in the country. In this regard, specific actions are undertaken inter alia to enhance the attractiveness of the Belgian economy, to develop a competitive tax regime, and to increase cooperation and support to investment projects (through the Federal-Regional Liaison Unit for Foreign Investments for example). High-level officials, including the King, Prime-Minister and Ministers (through economic missions, speeches etc.), are committed to and involved in promoting these areas. Thanks to these efforts, Belgium ranked 5th in the Ernst & Young 2013 Barometer of European Attractiveness.

At the same time, however, Belgium **hasn't developed a specific immigration policy or scheme** targeted at immigrant investors, business owners and other business persons. There is no definition of such categories in the immigration legislation. Third-country nationals willing to work as employed or self-employed individuals in Belgium, may be authorized to do so according to **national rules regulating the employment of foreign employees and self-employed individuals** and may be authorized to stay in Belgium on this basis. While working as an employee or a self-employed individual in Belgium can entitle third-country nationals to a right of residence, the mere financial investment of monetary funds in the Belgian economy doesn't imply a right to enter or stay on the territory.

Over the last 10 years, legislative initiatives have been taken to facilitate the immigration of business owners and other business persons in Belgium, inter alia through the introduction of **professional card and work permit exemptions** for business visitors. Also the procedure for reviewing professional cards' applications has been implemented in a **flexible** way (i.e. case by case assessment), allowing a variety of business owners, irrespective of their education, available capital etc. to engage in self-employed activities in Belgium. Nonetheless **measures remain fragmented** in the legislation on the employment of foreign employees and self-employed individuals and, as a result, remain less visible and accessible to the groups concerned.

Other initiatives have been taken to facilitate the admission of third-country national for business purposes to Belgium. For example, in 2008, the **SMEDEM** (i.e. service for economic migration) has been set up within the Immigration Office with a view to facilitating the residence procedure of economic migrants. In practice, however, the groups concerned still report difficult accessing reliable information and **understanding and successfully completing procedures** to enter and stay on the territory.

In the light of the above, it results that Belgium **hasn't so far sufficiently developed an overall approach aligning economic and immigration policies** to the benefit of immigrant investors, business owners and other business persons. Hence, efforts to promote the economic attractiveness of the country aren't complemented and potentiated by specific immigration policies and rules targeted at these categories.

The lack of specific policy, scheme or program for immigrant investors, business owners and other business persons creates **difficulties in collecting data** on their numbers or their specific activities in Belgium. An analysis of national data relating to short-stay Schengen visas (i.e. number of Schengen visas issued for commercial activities and for professional activities) as well as relating to long-stay visas (i.e. visas D issued on the basis of a professional card and on the basis of a work permit), shows that most third-country nationals coming to Belgium for business purposes do so **for less than 90 days**. However the type of data collected and information provided doesn't allow to draw any well-founded conclusions on the long-term settlement of immigrant business owners and other business persons in Belgium. The **lack of accurate and reliable data** also doesn't enable to assess national rules in place and their impact on immigrant investors, business owners and other business persons.

It results from the above that Belgium could **do more to specifically regulate and facilitate** the admission of third-country nationals for business purposes in the country, to **accurately track** the numbers and types of business persons admitted and to evaluate policies in place.

Future perspectives

Current changes in the distribution of competences relating to economic migration are an opportunity to examine and address this issue in a more coordinated way. In fact on 1 July 2014, **competences** relating to economic migration issues have been **transferred to the regions**. This transfer of competences implies a transfer of budgets and staff, that become effective later¹¹³. During the transition period, a transitional regime was in place and part of the competences were still temporarily exercised by the federal staff acting on behalf of the regions. The regions, who have now authority over both the policy on the attraction of foreign investments and on the policy on work authorizations and professional cards, are now **free to align both policy areas** so that they better complement each other. These developments have to be closely followed after this study.

In this context, it is worth noting that **regional government agreements** respectively in Flanders and in Wallonia, make reference to the development of such a global legislative framework. In Flanders, the government agreement 2014-2019 refers to an "active economic migration policy"¹¹⁴ and stresses the need to "better match labour demand and supply"¹¹⁵. In Wallonia, the government agreement 2014-2019 includes a specific section entitled "a better framework for economic migration" and refers inter alia to the need to "define clear criteria for the issuance of professional cards and publish a list of sectors facing economic needs"¹¹⁶. However these plans are still unclear and haven't yet materialized in legislative initiatives.

In order to develop a **solid and transparent policy** on the immigration of business owners and other business persons, consistent with existing policies aimed at attracting investments and businesses in Belgium, competent stakeholders have to **identify and define the categories** of business people who are essential to businesses/sectors in the country. As regards the category of immigrant investors, it could be insightful to examine good practices and lessons learnt from other Member States to explore the possibility of and possible interest in facilitating the admission of this category to Belgium.

A **consistent and transparent procedure for the acquisition of professional cards** can certainly also contribute to facilitating the admission of immigrant business owners. Although the flexibility of the current procedure is valued, there are no set eligibility criteria and processing times are lengthy and not legally prescribed. The latter elements make it more difficult for foreign business visitors to plan projects in advance and they create legal uncertainty. In this respect, a **fast-track process for self-employed service providers** would also benefit the movement of foreign business people.

In addition to this, existing **work permit and professional card exemptions** could be modified further in such a way that more (temporary) business activities are allowed without requiring prior work authorization. Also, work permit and professional card exemptions for business visitors should be aligned in both legislations.

¹¹³ The transfer of competences is accompanied by a transfer of budgets on 1 January 2015 and a transfer of staff of the Federal Public Service Economy normally on 1 April 2015.

¹¹⁴ Government agreement 2014-2019, Flemish government, p. 145

¹¹⁵ Government agreement 2014-2019, Flemish government, p. 7

¹¹⁶ Government agreement 2014-2019, Walloon government, p. 17

Finally Belgium did not yet **implement the intra-corporate transferees (ICT) directive**. The implementation of the directive should result in further improvement of existing immigration channels available to ICTs and not in a restriction of the current legislation (e.g. inserting the need for prior seniority as an eligibility criteria, that is not required in the current legislation).

Abbreviations

Third-Country Nationals	TCN
Small and Medium Enterprises	SME
Federal Public Service	FPS
Research and Development	R&D
Agence Wallonne à l'exportation et aux Investissements étrangers	AWEX
Flanders Invest and Trade	FIT
Royal Decree	RD
SMEDEM	Service Migration Économique – Dienst Economische Migratie
European Union	EU
Curriculum Vitae	CV
Work Permit	WP
NBB	National Bank of Belgium
OECD	Organisation for Economic Cooperation and Development
IMF	International Monetary Fund
UNCTAD	United Nations Conference on Trade and Development

Bibliography

Interviews

Interview. Mr. Philippe Lengler and Mr. Nelson Garcia, Federal Public Service Economy – Department Professional cards, 10 October 2014.

Interview Wouter Boucique, Advicer-General - Visa Service at the Federal Public Service for Foreign Affairs, 20 October 2014.

Interview Ms. Colette Vanderstraelen, Federal Public Service Economy, Small and Medium Enterprises and self-employment, Service Foreign Investment, 27 October 2014.

Interview Mr. Dominique Vanderhaegen, Flanders Investment and Trade, 29 October 2014.

Interview Mr. Niel Vandenput, Federal Public Service Work, Employment and Social Consultation, Service Social Inspection, 24 November 2014.

Mr. Bruno De Pauw, Department social security, Service international relations.

Legislation

Law of 19 February 1965 regarding the exercise of self-employed activities by foreign nationals, BS 26 February 1965, 2007.

Royal Decree n° 187 of 30 December 1982 regarding the set-up of coordination centres, BS 13 January 1983, 502.

Royal Decree 2 August 1985 regarding the implementation of the law of 19 February 1985 on the exercise of self-employed activities by foreign nationals, BS 24 September 1985, 13668.

Cooperation Agreement "Foreign Investment", 7 February 1995, BS 29 June 1995.

Circular n° CI.RH.421/483.766, Tax Bulletin n° 763, August-September 1996.

Royal Decree of 21 October 1998 on the implementation of Chapter I, Title II of the programme law of 10 February 1998 on the promotion of entrepreneurship, BS 19 November 1998, 37300.

Law of 30 April 1999 on the employment of Foreign nationals, BS 21 May 1999, 17800.

Royal Decree of 9 June 1999 regarding the implementation of the law of 30 April 1999 on the employment of foreign nationals, BS 26 June 1999, 24162.

Draft bill from 19 July 2000 regarding the modification of the law of 19 February 1965 on the exercise of self-employed activities by foreign nationals, DOC50-0823/001, p. 5.

Law of 2 February 2001, amending the law of 19 February 1965 on the exercise of self-employed activities by foreign nationals, BS 08 March 2001, 7362.

Royal Decree of 3 February 2003 regarding the professional card exemptions for certain categories of foreign nationals who engage in self-employed activities, BS 4 March 2003, 10517.

Royal decree of 31 August 2007 regarding the modification of the royal decree of 20 March 2007 regarding the implementation of Chapter 8, Title IV of the programme law of 27 December 2006

Social Penal Code, BS 1 June 2010, 43712.

Questions and answers – Parliament and Senate

Belgian Chamber of Representatives, written and oral questions and answers, QRVA51-43, p. 6644.

Belgian Senate, Oral questions, commission negotiations 5-28COM, 26 January 2010.

Belgian Chamber of Representatives, written questions and answers, QRVA52-93.

Belgian Chamber of Representatives, written questions and answers, QRVA51-43, p. 6644.

Belgian Senate, written questions, commission negotiations 5-28COM, 26 January 2010.

Chamber of Representatives, Written questions and answers, QRVA52/121

Chamber of Representatives, Written questions and answers, QRVA52/111, p. 65.

Others

Federal Public Service Foreign Affairs,
http://diplomatie.belgium.be/en/policy/economic_diplomacy/division_of_powers/.

Invest in Flanders, Business incentives, <http://www.investinlanders.be/EN/Sector/Life-sciences/chapter/Setting-up-your-business/page/Business-incentives>

Business in Belgium, Setting up a business,
http://business.belgium.be/en/managing_your_business/setting_up_your_business/main_steps/company_number/

Federal Public Service Economy, SME, self-employed, How to set up your own business in Belgium, September 2014.

General management committee for the social status of self-employment, Report 2012/02.

Federal Public Service Social Security, Annual report Social Inspection 2012.

Department Work and Social Economy, Annual Report Inspection service 2013.

B. DE PAUW, *De Limosa-meldingsplicht voor zelfstandigen in de context van het vrij verkeer van diensten beoordeeld door het Europese Hof*, in Migratie en Migrantenrecht 15 – Ontwikkelingen in het Europees, Belgisch en Vlaams arbeidsmigratierecht, Die Keure, 2014.

EY, Barometer van de Belgische attractiviteit 2013,
[http://www.ey.com/Publication/vwLUAssets/Belgium_Attractiveness_Survey_2013_-_NL/\\$FILE/Belgium-Attractiveness-Survey-2013_NL.pdf](http://www.ey.com/Publication/vwLUAssets/Belgium_Attractiveness_Survey_2013_-_NL/$FILE/Belgium-Attractiveness-Survey-2013_NL.pdf)

Annex 1

Statistics from Member States will be used in the Synthesis Report to contextualise the statistics provided in this annex.

Notes:

- Belgium has statistics on the number of long stay visas D that are issued on the basis of a professional card. However, there is no distinction made between the specific activities that are supported by those professional cards. Therefore, we cannot make a distinction between the different types of business visitors or business owners that requested/obtained a visa D.
- Belgium has statistics on the number of work permits issued by the (3) different regions. There is a division made between the different types of work permits that are issued. Consequently, numbers are available regarding the work permits issued to certain categories of business visitors (i.e. executive staff, trainee, ICT trainee). However, these figures do not mention the duration of the employment in Belgium or whether the TCN was already in Belgium at the moment of filing the application or not. Therefore, it can't be stated how many visas (D or C) were issued on the basis of these work permits.

Table 1: Statistics on immigrant investors and immigrant business owners

Indicators	2009	2010	2011	2012	2013	Source / further information
Statistics on immigrant investors¹¹⁷						
Number of visa applications (national D type visas)						
Number of visa issued (national D type visas)						
Number of visa refused (national D type visas)						
Number of applications for residence permits (perhaps an estimate e.g. admissions)						
Number of residence permits issued (perhaps an estimate e.g. admissions)						
Number of residence permits refused / withdrawn (perhaps an estimate e.g. admissions)						
Average age of migrant investors who were granted residence permits (and national D type visas?)						
Statistics on immigrant business owners¹¹⁸						

¹¹⁷ For Ireland and the United Kingdom, statistics refer to the relevant visas on immigrant investors, but please indicate the name of the visa category to which the data refer to.

¹¹⁸ For Ireland and the United Kingdom, statistics refer to the relevant visas on business owners, but please indicate the name of the visa category to which the data refer to.

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Number of visa applications (national D-type visas)	165	162	204	257	259	Visa applications which were filed on the basis of a professional card. (activities as self-employed) ¹¹⁹ Statistics provided by FPS Foreign Affairs, Visa department.
	2774	3214	3513	3185	3401	Visa D applications which were filed on the basis of a work permit ¹²⁰ (all types of work permits and not only business persons within the scope of this study). Statistics provided by FPS Foreign Affairs, Visa department.
Number of visa issued (national D-type visas)	127	123	149	186	210	Visa D on the basis of a professional card. Statistics provided by FPS Foreign Affairs, Visa department.

¹¹⁹ Please note that these numbers refer to the total number of visa D applications which are based on a professional card. There is no specific distinction made between the types of activities in which the self-employed foreign national engages. Professional cards are issued to all foreign nationals who engage in self-employed activities. Therefore, these numbers refer to more categories than just business owners.

¹²⁰ Please note that these numbers refer to the total number of visa D applications which are based on a work permit. There is no specific distinction made between the different types of work permits that support the visa application. Therefore, a distinction can't be made regarding the number of visas D issued to business owners. Statistics aren't available on the amount of work permits that were issued to executive staff (annex). Please note that not every work permit automatically represents a visa application.

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	2628	2993	3282	3069	3247	<p>Visa D applications which were filed on the basis of a work permit.</p> <p>Statistics provided by FPS Foreign Affairs, Visa department.</p>
Number of visa refused (national D-type visas)	8	1	10	13	5	<p>Visa D on the basis of a professional card.</p> <p>Statistics provided by FPS Foreign Affairs, Visa department.</p>
	58	63	61	54	37	<p>Visa D applications which were filed on the basis of a work permit.</p> <p>Statistics provided by FPS Foreign Affairs, Visa department.</p>
Number of applications for residence permit ¹²¹						
Number of residence permits issued (perhaps an estimate e.g. admissions)						
Number of residence permits refused / withdrawn (perhaps an estimate e.g. admissions)						
Number of residence permits reflecting a change of status into business owner (specifying, if possible, from which category – i.e. student, family member, beneficiary of international protection, etc.)				26	29	<p>Number of residence permits issued¹²².</p> <p>Statistics provided by the FPS Internal</p>

¹²¹ TCNs who travel to Belgium on the basis of a long stay visa (type D) have to initiate the registration process at their local town hall upon arrival in Belgium. The registration process basically entails the exchange of the visa type D for a residence permit. Therefore, each issued visa D should correspond to a residence permit application. Since the applicant is already in possession of a long stay visa D (for which a review of the eligibility criteria was required), the residence permits are rarely refused.

¹²² The number of residence permits issued in the context of change of status applications by foreign nationals who were admitted or permitted to stay more than 3 months in Belgium as another category and who acquired a professional card for which they requested a change of status.

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						Affairs.
Average age of immigrant business owners						
Statistics on other business persons corresponding to Annex 2 (EU Mode 4 categories) and other business persons as recognised by Member States						
Number of third-country nationals admitted under EU Mode 4 categories or equivalent categories indicated in Q22. If available data can be broken down according to the categories in Annex 2, please provide them in a separate spreadsheet. ¹²³						
Number of visa applications (national D-type visas) ¹²⁴						
Number of visa issued (national D-type visas)						
Number of visa refused (national D-type visas)						
Number of visa applications (Schengen C-type visas)			39704	38532	33648	Number of Schengen visas requested for commercial ¹²⁵ activities (with invitation letter). Statistics provided by the FPS Internal Affairs.
			25079	25092	27313	Number of Schengen visas requested for professional activities ¹²⁶ . Statistics provided by the FPS Internal Affairs.

¹²³ Please consult the additional spreadsheet which provides an overview of the number of work permits type B that are issued to TCNs.

¹²⁴ Please note that we only have statistics which show the total number of visa D applications that are based on a professional card or a work permit. There is no specific distinction made between the type of activities in which the foreign national engages. Professional cards and work permits are issued to all foreign nationals that engage in economic activities. There is no distinction made between the specific economic activities that the TCN engages in. Therefore, we cannot provide an overview of the number of visa D issued to other business persons.

¹²⁵ All activities in relation to commercial transactions (prospection – trading)

¹²⁶ Professional activities include the following: site visits, negotiations, continuation professional contacts etc.

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Number of visa issued (Schengen C-type visas)			37001	35309	30801	Number of Schengen visas requested for commercial activities (with invitation letter). Statistics provided by the FPS Internal Affairs.
			22918	22860	25014	Number of Schengen visas requested for professional activities. Statistics provided by the FPS Internal Affairs.
Number of visa refused (Schengen C-type visas)			2161	2584	2368	Number of Schengen visas requested for commercial activities (with invitation letter). Statistics provided by the FPS Internal Affairs.
			1264	1426	1632	Number of Schengen visas requested for professional activities. Statistics provided by the FPS Internal Affairs.

*Admitting third-country nationals for business purposes***Table 2: indications of the average length of time needed for each of the following indicators**

The table below is not intended as having detailed, 'hard' statistics on the average length of time taken, but rather as approximate indications. In case you concrete statistics or data are available however, please provide them separately.

- Please indicate with 'X' the (approximate) average length of time needed for each of the indicators.

Average length of time expected (in days)	A few days	From a few days to a week	Up to two weeks	Up to a month	More than a month
Average time expected between lodging an application and the final decision for a visa application of an <u>immigrant investor (national D-type visa)</u>					
Average time expected between lodging an application and the final decision for a visa application of an <u>immigrant business owner (national D-type visa)</u>				X ¹²⁷	
Average time expected for registering a business (from application to establishment)					
If possible to change status: the average time expected for third-country nationals already present in the Member State to change their status into <u>immigrant investor</u> (from family reasons, study reasons, asylum, etc.)					
If possible to change status: the average time expected for third-country nationals already present in the Member State to change their status into <u>immigrant business owner</u> (from family reasons, study reasons, asylum, etc.)					

Please indicate if statistics are available on businesses established by immigrant business owners and by Business Visitors for Establishment Purposes (BVEP): (such as total number of businesses established by third-country nationals; number of FTEs created by migrant investors and business owners; number of survived / closed businesses; share of businesses per size (share of 1; 2-10, 11-19, 20-49, 50+ employees). If possible, EMN NCPs are asked to indicate whether data refer to newly admitted business owners or they include also those third-country nationals already living in their Member States

- Please indicate if statistics are available on the economic effects of immigrant investments or businesses (such as the share of migrant investments out of total annual national investments; number of FTEs created/supported as a result of investments by third-country nationals;

¹²⁷ Visa D on the basis of a work permit: The Belgian diplomatic post spends an average of 3 days and 17hours on the issuance of a visa D when the visa is issued without consultation of the Federal Public Service Interior. It takes approximately 53 days and 18 hours when the application is forwarded to the FPS Interior prior to taking a decision.

Visa D on the basis of a professional card: The Belgian diplomatic post spends an average of 28 days and 12 hours on the issuance of a visa D when the visa is issued without consultation of the Federal Public Service Interior. It takes approximately 102 days and 19 hours when the application is forwarded to the Federal Public Service Interior prior to taking a decision. (Statistics provided by the FPS Foreign Affairs)

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the tax contribution to the national revenue systems of immigrant business owners and investors; the increased economic ties / trade volumes with specific third countries as a result of immigrant business owners and investors).

Annex 2

Table 1: Temporary Movement of Natural Persons under international trade agreements – the EU “Mode 4” categories

Category	Criteria	Length of stay
BVEP: Business visitors for establishment purposes'	<p>Natural persons</p> <ul style="list-style-type: none"> - working in a senior position who: - are responsible for setting up an enterprise, - do not offer or provide services or engage in any other economic activity than required for establishment purposes. - do not receive remuneration from a source located within the host Party. 	Up to 90 days in any twelve month period
ICT: 'Intra-corporate transferees'¹²⁸	<p>Natural persons who:</p> <ul style="list-style-type: none"> - have been employed by a juridical person or have been partners in it for at least one year - are temporarily transferred to an enterprise, the host entity, that may be a subsidiary, branch or head company of the juridical person in the territory of the other Party, - belong to one of the following categories: <p>1. Managers:</p> <p>Persons holding a senior position, who primarily direct the management of the host entity, receiving general supervision or guidance principally from the board of directors of the business or equivalent; that position shall include:</p> <ul style="list-style-type: none"> – directing the host entity or a department or sub-division of the host entity – supervising and controlling the work of other supervisory, professional or managerial employees 	Up to 3 years

¹²⁸ Definition as in Directive 2014/66/EU

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	<ul style="list-style-type: none"> - having the authority to recommend hiring, dismissing or other personnel action; <p>2. Specialists:</p> <p>Persons working within a juridical person who possess specialised knowledge essential to the host entity's areas of activity, techniques or management. In assessing such knowledge, account shall be taken not only of knowledge specific to the host entity, but also of whether the person has a high level of qualification including adequate professional experience referring to a type of work or activity requiring specific technical knowledge, including possible membership of an accredited profession;</p>	
GT: Graduate trainees / trainee employees ¹²⁹	Natural persons with a university degree who are transferred to a host entity for career development purposes or in order to obtain training in business techniques or methods, and are paid during the transfer;	Up to 1 year
BS: Business sellers	<p>Natural persons who:</p> <ul style="list-style-type: none"> - are representatives of a services or goods supplier of one Party, - seeking entry and temporary stay in the territory of the other Party for the purpose of negotiating the sale of services or goods, or entering into agreements to sell services or goods for that supplier - do not engage in making direct sales to the general public - do not receive remuneration from a source located within the host Party - nor are they commission agents. 	Up to 90 days in any twelve month period
CSS: 'Contractual services suppliers'	<p>Natural persons:</p> <ul style="list-style-type: none"> - employed by a juridical person of one Party which itself is not an agency for placement and supply services of personnel nor acting through such an agency, has not established in the territory of the other Party and has concluded a bona fide contract to supply services with a final consumer in the latter Party, requiring the presence on a temporary basis of its employees in that Party, in order to fulfil the contract to provide services - must be engaged in the supply of a service on a temporary basis as employees of a juridical person, which has obtained a service contract not exceeding twelve months. 	A cumulative period of not more than 6 months or, in the case of Luxembourg, 25 weeks in any twelve month period or for the duration of the contract, whichever is less.

¹²⁹ Directive 2014/66/EU

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	<ul style="list-style-type: none"> - should be offering such services as employees of the juridical person supplying the services for at least the year immediately preceding the date of submission of an application for entry into the other Party. - must possess, at the date of submission of an application for entry into the other Party, at least three years professional experience in the sector of activity which is the subject of the contract. - must possess a university degree or a qualification demonstrating knowledge of an equivalent level - must possess professional qualifications where this is required to exercise an activity pursuant to the laws, regulations and legal requirements of the Party where the service is supplied. - shall not receive remuneration for the provision of services in the territory of the other Party other than the remuneration paid by the juridical person employing the natural person.. 	
IP: 'Independent professionals'	<p>Natural persons:</p> <ul style="list-style-type: none"> - engaged in the supply of a service - established as self-employed in the territory of a Party who have not established in the territory of the other Party - who have concluded a bona fide contract (other than through an agency for placement and supply services of personnel) to supply services with a final consumer in the latter Party, requiring their presence on a temporary basis in that Party in order to fulfil the contract to provide services - must be engaged in the supply of a service on a temporary basis as self-employed persons established in the other Party - must have obtained a service contract for a period not exceeding twelve months. - must possess, at the date of submission of an application for entry into the other Party, at least six years professional experience in the sector of activity which is the subject of the contract. - must possess a university degree or a qualification demonstrating knowledge of an equivalent - must possess professional qualifications where this is required to exercise an activity pursuant to the laws, regulations or legal requirements of the Party where the service is supplied. 	<p>A cumulative period of not more than 6 months or, in the case of Luxembourg, 25 weeks in any twelve month period or for the duration of the contract, whichever is less.</p>