

COUNTRY REPORT

Aspiring re-migrants' behaviour in mobility policies: the case of Belgium

Lucas Monteil*

Asuncion Fresnoza-Flot**

Vanessa Frangville***

Maëlwenn Chaperon****

* Université libre de Bruxelles (ULB), Laboratoire d'Anthropologie des Mondes Contemporains (LAMC) | lucas.monteil@ulb.be | ORCID no. 0000-0002-9316-4500

** Fonds National de la Recherche Scientifique (FNRS), LAMC (ULB) | asuncion.fresnoza@ulb.be | ORCID no. 0000-0002-4865-9686

*** Université libre de Bruxelles | vanessa.frangville@ulb.be | ORCID no. 0000-0002-2950-2501

**** Université libre de Bruxelles | maelwenn.chaperon@ulb.be

AspirE – Asian prospects in (re)migration to/within the EU – is a three-year research project (2023-2025) that examines the decision making of aspiring (re)migrants from selected Southeast and East Asian countries (China, Japan, Philippines, Thailand and Vietnam) to and within selected EU member countries (Belgium, the Czech Republic, Finland, Germany, Italy and Portugal).

Consortium partners:


Université libre de Bruxelles (ULB), Belgium (coordinator)
The Education University of Hong Kong, China
Masarykova univerzita, Czech Republic
Tampereen korkeakoulusäätiö sr, Finland
Johann Wolfgang Goethe-Universität Frankfurt am Main, Germany
Università degli Studi di Milano (UniMi), Italy
Waseda University, Japan
Scalabrini Migration Center Inc., Philippines
Iscte - Instituto Universitário de Lisboa, Portugal
Mahidol University, Thailand
Foundation for Isaan Education and Popular Media, Thailand
Institute of Sociology – Vietnam Academy of Social Sciences (VASS), Vietnam
Vietnam Asia Pacific Economic Center (VAPEC), Vietnam

Collaborators:

Centre for European Policy Studies (CEPS), Belgium: Sergio Carrera, Miriam Mir & Anjum Shabbir
External Experts Advisory Board: Elisa Fornalé (World Trade Institute, Switzerland), James Farrer (Sophia University, Japan), Stefan Rother (University of Hamburg, Germany) & Sureeporn Punpuing (Mahidol University, Thailand)
External Ethics Advisor: Roderick G. Galam (Oxford Brookes University)

Contact:

Asuncion Fresnoza-Flot
Laboratory of Anthropology of Contemporary Worlds (LAMC)
Institute of Sociology, Université libre de Bruxelles
Avenue Jeanne 44, 1050 Brussels, Belgium

 aspire@ulb.be | <https://aspire.ulb.be/>

 https://twitter.com/AspirE_EU_Asia

 <https://www.facebook.com/AspirE2023EUproject>

Authors:

Lucas Monteil, Asuncion Fresnoza-Flot, Vanessa Frangville & Maëlwenn Chaperon

Publication date:

March 2024

Citation suggestion:

Monteil, L., Fresnoza-Flot, A., Frangville, V. & Chaperon, M. 2024. *Aspiring re-migrants' behaviour in mobility policies: the case of Belgium* (Country report). Brussels: AspirE. Available at: <https://aspire.ulb.be/impact/reports/mobility-policy-report-belgium>

Editorial design:

Asuncion Fresnoza-Flot & Catherine Gonzalez



This project receives funding from the European Union's Horizon Europe research and innovation programme under the call HORIZON-CL2-2022-TRANSFORMATIONS-01-04 – Grant Agreement n°101095289.



<https://creativecommons.org/licenses/by-nc-nd/4.0/>

The contents of the document are the sole responsibility of the authors and do not necessarily reflect the views of the European Union. The European Union is not responsible for any use that may be made of the information it contains.

Executive summary

This report investigates the role of aspiring (re)migrants' behaviour within Belgian mobility policies, as part of the AspirE research project. It focuses on six categories of legal migration and corresponding Belgian policies: labour migration, family reunification, tourism, investment-based immigration, student migration, and Schengen policy. AspirE analyses how Belgium's migration regime takes into account aspiring (re)migrants' behaviours, such as changes in stay duration, status transitions, and geographical mobility. The analysis sheds light on how Belgium perceives and regulates (un)acceptable behaviour throughout the migration process. The report provides an overview of the evolution and characteristics of Belgium's migration regime, followed by a detailed examination of each policy's governance of Third-Country Nationals' entry and settlement. Central to Belgium's mobility policies are expectations of law-abidance and economic independence, as well as the prioritisation of local economic needs, which shapes Belgium's hierarchy among TCN migrant categories. These policies also show consistent scrutiny and concern over perceived "migratory risks" and "pull factors". Although Belgium recognises legal possibilities for behavioural changes, its predominantly temporary and conditional migration regime presents substantial administrative obstacles to accessing such provisions in practice.

Keywords

Migration, policy, Belgium, immigration, mobility, migrants' behaviour

Abbreviations

EU: European Union

EEA: European Economic Area

SIS: Schengen Information System

TCs: Third Countries

TCN: Third Country National

Table of contents

Introduction	7
General evolution of foreign, TCN, and (AspirE) Asian populations in Belgium	7
Geographical distribution	8
Gender characteristics	9
Distribution in the economic sectors	9
Migration status of TCNs in Belgium	10
(Im)mobility regime in Belgium	12
The organised labour migration regime (1945-1974)	12
The restriction of immigration since 1974	12
A regime of strictly temporary and conditional migration	13
Methodology	13
Human behaviour in Belgium’s mobility policies: key results	14
<i>Labour migration policy: a focus on adaptation to Belgian economic needs</i>	14
Policy dimensions and their underlying hierarchical categorisation	15
Behind policy themes	17
Conclusion	19
<i>Family reunification policy: a focus on changing human situation and</i>	20
Policy dimensions and their embedded suppositions	20
Policy themes and their suppositions	24
Conclusion	27
<i>Investment-based migration policy: a focus on interesting mobilities</i>	27
Investment-based migration policy: dimensional analysis	28
Themes analysis: behind investment-based migration policy	29
Conclusion	30
<i>Belgium’s policy on tourism: a focus on filtered free mobility</i>	30
Conclusion	31
<i>Student migration policy: a focus on selective mobility and establishment</i>	32
Policy dimensions: categorising student migration	32
A thematic analysis of student migration policy	33
Conclusion	35
<i>Schengen policy: a focus on “migratory risk”</i>	35
Discussion of research results	37
Generally expected characteristics of TCN migrants and associated guarantees	37
The conditional recognition of TCNs’ changing behaviour: stay and status modifications	38

Belgium's hierarchy of TCN mobilities and migrations _____	38
Conclusion _____	40
References _____	42
ANNEXES _____	45
Annex 1 – Mobility policies in Belgium _____	45
Annex 2 – Guide used for policy content analysis _____	102

List of tables

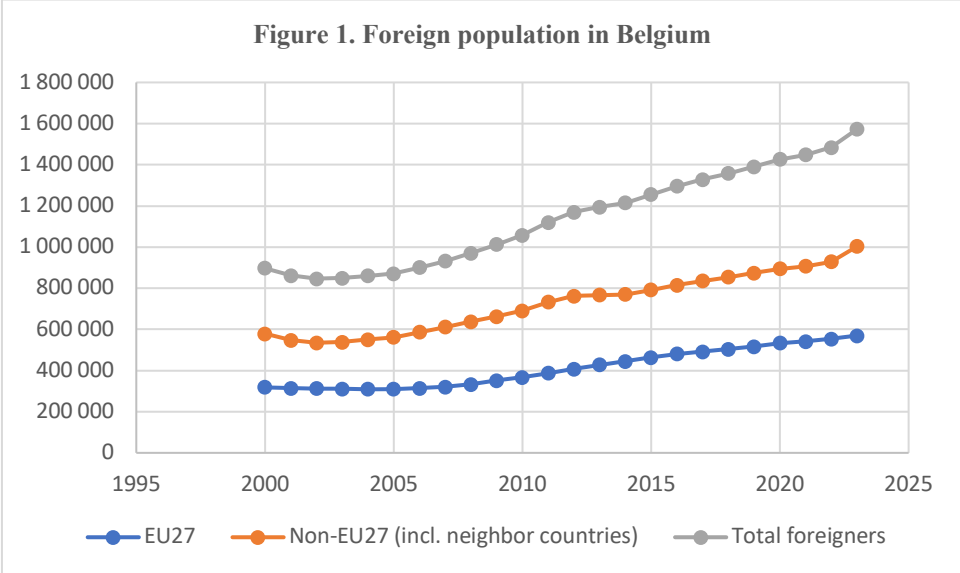
Main text of the report	
Table 1. Belgian population by region and nationality (2023/01/01)	8
Table 2. TCNs holding a valid residence card or document for at least 90 days	10
Table 3. First residence cards or documents delivered to TCNs by year and purpose of stay	11
Table 4. Temporality of application submitted	16
Table 5. Temporality of application submitted in Belgium	22
Table 6. Temporality of application submitted abroad	23
Annex 1 – Mobility policies in Belgium	
Table 1. Description of Belgium’s labour migration policy	45
Table 2. Description of Belgium’s family reunification policy	64
Table 3. Description of Belgium’s policy on tourism	83
Table 4. Description of Belgium’s investment-based immigration policy	87
Table 5. Description of Belgium’s student mobility policy	92
Table 6. Description of Belgium’s Schengen policy	98
Annex 2 – Guide used for policy content analysis	
Table 1. Dimensions and themes of policy content analysis	102

Introduction

Migration to Belgium, particularly from Third Countries (TCs), is a dynamic and evolving phenomenon. In this introduction, we delve into the broader evolution of this immigration trend over recent decades and discuss the primary characteristics of Third Country National (TCN) migrants. Subsequently, we introduce the novel policy analysis approach developed within the framework of this report as part of the Horizon Europe’s AspirE research project. Alongside, we present specific data pertaining to migrations from Asian countries covered in AspirE: China, Japan, the Philippines, Thailand, and Vietnam.

General evolution of foreign, TCN, and (AspirE) Asian populations in Belgium

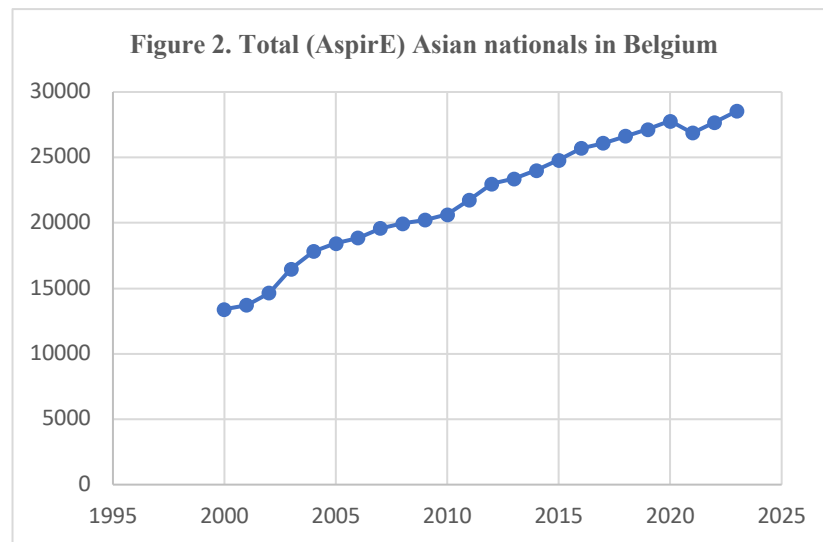
The total number of foreigners legally residing in the Kingdom of Belgium has nearly doubled since 2000, rising from 897,110 to 1,573,273 in 2023, and from 578,598 to 1,003,284 individuals for TCNs alone (Figure 1). In comparison, the number of Belgians has remained stagnant during the same period, with even a slight decrease from 10,239,085 individuals in 2000 to 10,124,284 in 2023. Consequently, the proportion of foreigners in the total population of Belgium has increased from 8.2% in 2003 to 13.4% in 2023, and immigration has become the main driver of the country’s demographic growth since the 2000s.



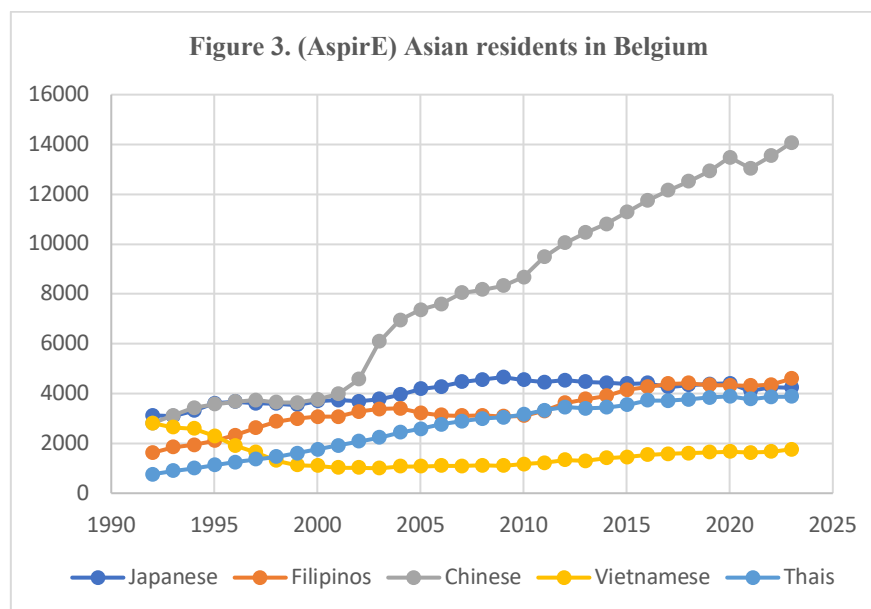
Source: Statbel (own representation by Monteil 2022)

Among all foreigners, migrations from Asia represent a minority phenomenon in Belgium. None of the nationalities included in the AspirE project are among the top ten most numerous populations of legal foreign residents in Belgium in 2023 (in order of numerical importance: France, Netherlands, Italy, Romania, Morocco, Spain, Poland, Ukraine, Portugal, Bulgaria) (SPF 2023, p. 4). Besides, the top ten most numerous populations of legal TCN residents include only three (South and West) Asian countries (Turkey, Afghanistan, and India), with no representation from East or Southeast Asian countries (ibid. p. 5).

Though a small-scale minority phenomenon, Asian migrations to Belgium from the selected countries have been dynamic in the last decades, with a continuous increase since 2000 (except during the Covid-19 crisis) (Figure 2). The total population of AspirE Asian nationals residing in Belgium has more than doubled between 2000 and 2023, increasing from 13,405 to 28,550 legal residents (Figure 3). An important factor has been the fast-increasing number of Chinese foreigners, whose population has multiplied by 5 in the same period, from 2,810 legal residents in 2000 to 14,075 in 2023.



Source: Statbel (own representation by Monteil 2022)



Source: Statbel (own representation by Monteil 2022)

Geographical distribution

Foreigners in Belgium constitute a predominantly urban population (CSE, 2018, pp. 40-41), with a disproportionate concentration in the Brussels-Capital region compared to the entire population (Table 1).

Table 1. Belgian population by region and nationality (2023/01/01)

Belgium and its regions	TOTAL	Belgians	Total foreigners	Japanese	Filipinos	Chinese	Vietnamese	Thais	Total AspirE national s
Belgium	11,697,557	10,124,284	1,573,273	4,241	4,597	14,075	1,756	3,881	28,550
Flanders	6,774,807	6,060,299	714,508	1,397	3,108	8,287	689	2,813	16,294
Wallonia	3,681,575	3,280,962	400,613	365	377	2,962	403	699	4,806
Brussels-Capital	1,241,175	783,023	458,152	2,479	1,112	2,826	664	369	7,450

Source: Statbel (own representation by Monteil)

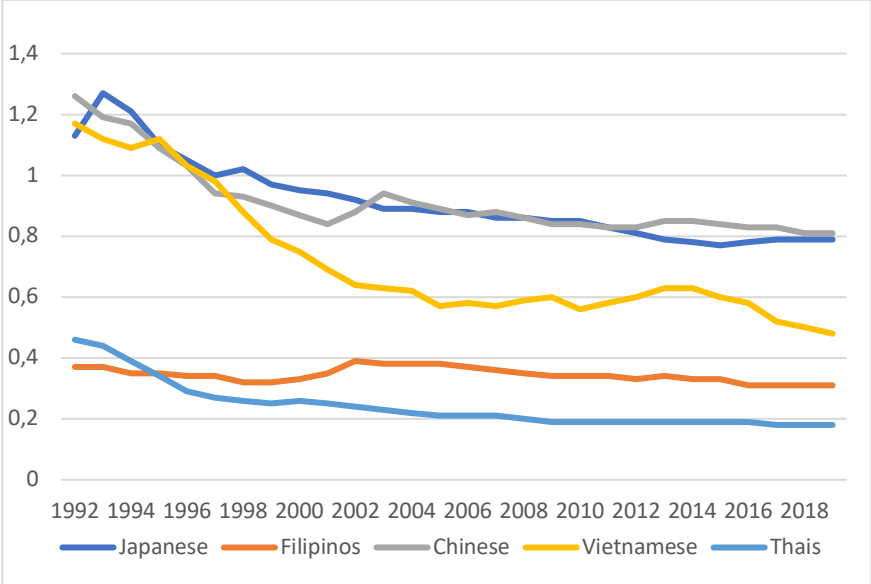
While the populations of Flanders and Wallonia regions comprise 10.5% and 10.9% foreigners in 2023, respectively, this proportion rises to 36.9% in Brussels-Capital, encompassing 458,152 individuals out of a total population of 1,241,175. Moreover, among all foreigners in Belgium, the proportion of residents in Flanders (45.4%) and Wallonia (25.5%) is lower than these regions' respective share in the total Belgian population (57.9% and 31.5%, respectively), whereas 29.1% of foreigners reside in Brussels-Capital, despite the latter representing only 10.6% of the Belgian population.

This trend is particularly pronounced in the regional distribution of (AspirE) Asians in Belgium. Their proportion in each regional population is only 0.13% in Wallonia and 0.24% in Flanders, but it rises to 0.60% in the Brussels-Capital region. Among all AspirE Asian residents in Belgium, 26.1% were also concentrated solely in the Brussels-Capital region (compared to 16.8% in Wallonia and 57.1% in Flanders).

Gender characteristics

The gender ratio (the number of men divided by the number of women in a given population) among all foreigners in Belgium is generally high, with 5,761,410 men for 5,936,147 women in 2023. This gender ratio of 1.003 is slightly higher than that among Belgians (0.966) and of the total population (0.971) (Statbel, 2023). In contrast, the population of selected Asian nationalities is notably feminised, with only 10,328 men for 18,222 women, resulting in a gender ratio of 0.5 men per woman. This situation stems from a continuous feminisation of these populations at least over the last three decades (Figure 4), particularly pronounced among Southeast Asian resident populations from Thailand, the Philippines, and Vietnam. The variations among the different selected Asian nationalities partly reflect the different types of migrations characterising each of them, notably the relative significance of family reunification or labour as migration purposes (see the subsection below on migration status).

Figure 4: Gender ratio among (AspirE) Asian residents in Belgium



Source: Statbel (own calculation by Monteil 2022)

Distribution in the economic sectors

The proportion of immigrants from Third Countries employed in Belgium's private sector is notably higher than that of the native population, accounting for 68% compared to 59% in 2014, with the native population being more prevalent in the public sector at 26% compared to only 16% among immigrants from Third Countries. However, the percentage of self-employed

individuals is similar between the two groups, but notably higher among immigrants from East Asia, particularly from China and Japan (CSE, 2018).

Migration status of TCNs in Belgium

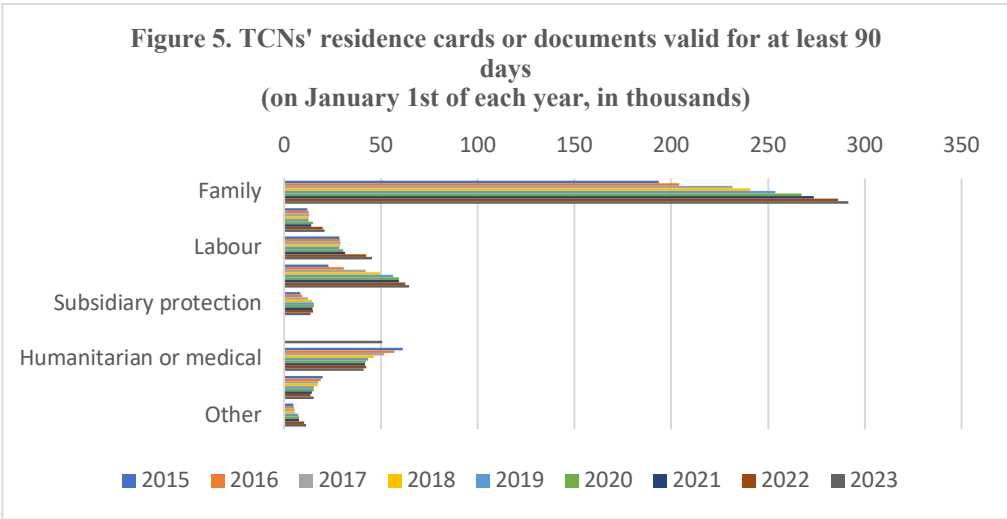
Family reunification stands out as the predominant purpose of stay for TCNs in Belgium. In 2023, 291,640 valid residence cards and documents were issued to TCNs for this purpose, representing the most rapid growth in absolute terms in recent years (see Table 2 and corresponding Figure 5).

Table 2. TCNs holding a valid residence card or document for at least 90 days

Year	Family	Studies	Labour	Refugees	Subsidiary protection	Temporary protection	Humanitarian or medical	Undetermined	Other	Total
2015	193 521	12,104	28,565	23,044	8,343	0	61,253	20,074	4,751	351 655
2016	204 223	12,828	28,768	30,716	9,460	0	56,929	18,823	5,043	366 79
2017	231 505	12,946	29,105	42,237	12,239	0	51,751	17,698	552	403 001
2018	240 804	12,708	29,023	49,785	14,347	0	46,362	17,142	5,827	415 998
2019	253 851	12,806	28,704	56,411	15,204	0	43,366	15,177	7,490	433 009
2020	267 274	15,078	30,394	59,234	15,174	0	42,035	15,190	7,870	452 249
2021	273 670	14,141	31,475	59,307	14,814	0	41,853	14,343	7,823	457 426
2022	286 294	20,065	42,303	62,534	15,027	0	42,378	13,793	10,494	492 888
2023	291 640	20,945	45,539	64,672	13,777	50 679	41,113	15,337	11,434	555 136

Source: SPF, 2022 (own representation by Monteil)

Since 2018, following the significant influx of refugees to Europe in 2015 and 2016, asylum has emerged as the second most common purpose of stay in Belgium, with 64,672 valid residence documents, surpassing humanitarian or medical reasons (41,113 valid documents). In terms of proportional growth, asylum has the most significant increase, nearly doubling between 2015 and 2023. When considering the number of residence documents issued under subsidiary and temporary protection grounds, this upward trend becomes even more pronounced, notably with the influx of over 50,000 Ukrainian refugees in 2022 fleeing the conflict instigated by Russia.



Source: SPF Intérieur, 2022 (own representation by Monteil)

Permits issued for labour or employment purposes ranked fourth during the period from 2015 to 2023. Following a sharp increase in 2022 and 2023 in the aftermath of the Covid-19 crisis, the said permits rose to third place for the first time in 2023 (with 45,539 permits issued). Concerning permits issued for studies, a notable increase was observed in 2021 after the Covid-19 crisis. In 2023, these permits numbering 20,945 were ranked fifth.

Excluding the exceptional influx of Ukrainians under temporary protection in 2022, family reunification has consistently been the primary purpose of long-term residence permits issued between 2010 and 2022, with 33,313 permits issued in 2022 (see Table 3). Permits for studies (9,297 in 2022) and labour (8,144) follow closely, before refugees (excluding subsidiary and temporary protection). Notably, the number of permits issued for labour purposes has nearly doubled over the period. Thus, in comparison with the EU average, Belgium has been issuing more residence permits for family reunification and international protection in recent years, but fewer for studies and significantly fewer for labour purposes (CSE, 2018). In addition, the proportion of each purpose of stay in the total permits issued has remained relatively stable over the last decade, despite a noticeable increase in the share of permits issued for studies and, to a lesser extent, for work. The share of family reunification has remained consistently above 50% (from 51.9% in 2010 to 51.7% in 2021), while that of studies and labour has increased respectively from 10% to 14.5%, and from 7.4% to 9.8% (SPF, 2022; see Table 3).

Table 3. First residence cards or documents delivered to TCNs by year and purpose of stay

Year	Family	Studies	Labour	Refugees	Subsidiary protection	Temporary protection	Humanitarian or medical	Undetermined	Other	Total
2010	30,547	5,899	4,346	2,245	820	0	10,994	3,188	822	58,861
2011	30,438	5,834	4,705	3,227	1,049	0	6,869	3,777	842	56,741
2012	25,060	5,813	4,647	3,392	1,551	0	3,813	3,427	781	48,484
2013	22,266	5,902	4,347	3,113	2,203	0	1,601	3,478	951	43,861
2014	23,114	6,286	4,768	4,499	1,497	0	800	3,624	925	45,513
2015	26,206	6,345	4,948	8,011	1,500	0	699	3,789	1,067	52,565
2016	26,325	6,288	5,179	11,284	3,030	0	665	4,299	1,131	58,201
2017	28,654	6,896	5,947	9,041	2,491	0	784	4,626	1,388	59,827
2018	29,551	6,908	6,073	8,194	1,782	0	964	4,622	1,530	59,624
2019	32,261	8,661	6,114	5,454	947	0	1,225	3,989	1,661	60,312
2020	25,712	5,675	4,110	4,128	838	0	2,675	3,281	1,221	47,640
2021	32,710	9,200	6,247	7,251	939	0	1,953	3,556	1,648	63,504
2022	33,313	9,297	8,144	8,097	433	51,945	1,693	5,609	1,936	120,467

Source: SPF Intérieur, 2022 (own representation by Monteil)

It is noteworthy that the distribution of different types of permits among each population of foreign residents, particularly from the Asian countries studied by AspirE, varies significantly and appears to be correlated with other characteristics, including gender. For instance, between 2011 and 2021, Japanese and Chinese were among the top ten nationalities obtaining a first residence permit in Belgium for work purposes, ranking third and fifth, respectively (following India and the USA, but preceding Morocco and Canada) (Myria, 2023, p. 10). Permits for labour purposes even accounted for a third of the total permits for Japanese residents in 2021. This observation should be considered in conjunction with the higher sex ratio among Japanese and Chinese residents in Belgium (as seen in Figure 4 above). In contrast, among Thai residents in Belgium, more or less than 50% were involved in a “mixed” marriage or registered relationship with a Belgian national over the last decade (Monteil’s calculations of Statbel data, 2024), a trend

that seems strongly correlated with the particularly high number of women in this population of foreign national residents.

Overall, family reunification now represents by far the primary purpose of stay for all TCNs in Belgium (among both the entire population of TCN residents and new permits issued), followed distantly by studies, international protection, and then labour (in terms of first permits issued). How this has become the main channel(s) of entry and stay for TCNs in Belgium, and its relation to the evolution and current characteristics of Belgium's migration policy, are among the questions explored in the AspirE project and at the core of this policy report.

(Im)mobility regime in Belgium

The regulation of entry and settlement of foreigners and TCNs in Belgium has undergone substantial changes over the past century. It notably transitioned from a period of extensive and organised labour immigration following World War II to a phase of restriction after Belgium's "Glorious Thirty". Subsequently, a migration regime characterised by temporariness, conditionality, and increased control has taken shape.

The organised labour migration regime (1945-1974)

After World War II, Belgium entered into a series of bilateral agreements to meet the significant and growing workforce demands of its heavy industries (coal and steel) (Bensaid, 2013; CSE, 2018; Ciré, 2024). Initially, these agreements involved neighbouring European countries, starting with Italy in 1946, followed by Spain and Greece in 1956, and later extending to include Morocco, Turkey, Tunisia, Algeria, and Yugoslavia after 1964. The Rome Treaty establishing the European Economic Community provided for the free movement of goods and persons, which was implemented in 1968, eliminating the need for visas and work permits for citizens of member states. However, during this period, the pressing need for labour sometimes resulted in rules regarding work permits not being strictly enforced, even for TCNs. In addition, efforts to attract and retain labour migrants in Belgium for economic purposes led to the inclusion of provisions for family reunification in the bilateral conventions, which favoured the long-term establishment of migrants.

The economic challenges of the late 1960s resulted in a gradual decline in labour migration and the issuance of work permits, followed by a complete halt after the 1974 oil shock (only certain qualifications lacking in the domestic labour market could then justify a work permit), and the suspension of bilateral agreements. This shift was accompanied by the regularisation of foreigners in irregular situations, and the reorientation of migration policies from organising labour migration to the integration of migrants who were already present and now perceived as likely to stay permanently (Ciré, 2024).

The restriction of immigration since 1974

While the cessation of organised labour immigration significantly reduced legal entry opportunities into Belgian territory (Bensaid, 2013), resulting in a decline in migrant workers' arrivals to the point of reaching a negative migratory balance. Immigration did not cease and even increased again after 1983. This can be primarily attributed to family reunification (CSE, 2018; Ciré, 2024), the major channel of immigration in Belgium from 1974 to 1991 (Martiniello & Rea, 2012).

During the 1990s, two other channels became increasingly popular: asylum and irregular labour migration (CSE, 2018). This period also witnessed the emergence of strict, closed,

dissuasive, and repressive rhetoric and laws on migration, leading to the establishment of closed detention centres for irregular foreigners, criminalisation of aiding irregular stay, and restrictions on the registration of foreigners in certain municipalities considered to have an excess of them, among other measures (Ciré, 2024). In the 2000s, the Belgium government recognised the need for economic migration. In 2000, the new “rainbow” governmental coalition led by Guy Verhofstadt (VLD) initiated a large-scale regularisation of irregular migrants. Another wave of regularisation took place in 2010, which was motivated by lengthy application processing, medical or humanitarian reasons, local integration, or labour purposes (CSE, 2018). These regularisations were accompanied by the abolition of financial aid to asylum seekers and by introducing in-kind assistance with the aim of limiting new immigrant arrivals. It is evident that immigration became highly politicised during the said period, with rhetoric around the migratory “pull” factor gaining prominence (Ciré, 2009; Corthier, 2019) and fuelled by the rise since the late 1980s of the nationalist Flemish party Vlaams Belang. This situation not only culminated in many controversies around migration and asylum issues, but also reinforced the linguistic and regional differences between Flemish and Francophone political representatives (see Coppi et al., 2023; Costa and Tatti, 2024; Hepburn and al., 2014).

A regime of strictly temporary and conditional migration

Since the cessation of the labour immigration policy in 1974, successive reforms of the laws governing the entry and stay of TCNs have taken an increasingly repressive direction (Bensaid, 2013). Despite moderate efforts to facilitate the migration of deemed useful high-skilled workers in the EU since 2009, which have seen limited uptake (ESPR, 2021; Myria, 2023, p. 14), the current Belgian migratory regime has become increasingly complex due to a series of reforms and heightened selectivity and entry controls (Merla et al., 2022).

This regime can be characterised by two main features. First, temporality, “at the heart” of this regime, ensures that residence permits are of a temporary nature—a trend that is also observed worldwide (ibid.). Second, residence permits are categorised according to specific purposes, such as family reunification, international protection, labour, and studies, each requiring a visa and/or stay authorisation. This categorisation, coupled with temporality, enables the Belgian state to continually verify that the specific legal conditions for a given type of stay and associated rights, such as the right to work, are consistently met. However, the complexity and frequency of administrative procedures required for migrants to renew their residence permits often result in a process of “irregularisation”, causing a significant proportion of legal migrants to experience periods of irregular status, especially when attempting to transition to another status (ibid.).

Methodology

The present report draws from the results of content analysis of Belgian policies concerning labour migration, family reunification, tourism, investment-based immigration, student migration, and Schengen policy. These policies were accessed through the official governmental [websites of the Moniteur belge and the Justel database](#), providing open online access to Belgium’s official publications.

The primary legislative text regulating the entry and stay of foreigners in Belgium is the Law of 15 December 1980 (consolidated as of 6 December 2023), which is examined in this report. Other relevant texts connected to this Law were also consulted to enrich the analysis: for example, the Schengen Border Code and the Belgian Law of 19 February 1965 (amended until 20 October 2023) regulating investment-based migration. To facilitate the policy content

analysis, the authors of this report organised themselves as follows: whereas the first author focused on four mobility policies (labour, studies, tourism, and investment) and the second author examined family reunification policy, the third and fourth authors scrutinised the implementation of the Schengen policy. The authors systematically carried out their respective tasks by using a standard analytical guide (see Annex 2) designed to cover the various dimensions and themes of the Law of 15 December 1980. Analysed dimensions included actors (potential applicants concerned or exempted by the policies), their expected characteristics (social, national, civil, legal status, etc.), and respective temporality provisions (such as visa duration and application processing time). The analysed themes encompassed all indicators of guarantees (requirements for/conditions of entry or stay), benefits (rights or privileges regarding entry and stay), penalties (provisions penalising non-compliance with legal rules regarding migration), and referrals (other EU or national mobility policies connected to the examined laws). Aside from policy content analysis, the authors conducted a review of related literature (i.e., scientific publications as well as journalistic, institutional, and NGO reports). They also partially drew from expert interviews with ministerial officials and statistical data of the Belgian statistical office (Statbel).

In the next part, the place of human behaviour in each selected Belgian mobility policies is presented. The part ends with a synthetic comparative discussion of the overall research results. The comprehensive research results of the authors' policy content analysis are available in the Tables in Annex 1, with a synthesis of key findings presented in the Tables' six related sections.

Human behaviour in Belgium's mobility policies: key results

The following sections provide a synthesised analysis of the findings regarding how the behaviour of TCNs is considered and framed within Belgium's mobility policies concerning labour, family reunification, tourism, investment-based migration, students, and Schengen policy (the comprehensive results of this analysis can be found in the Tables in Annex 1). These sections analyse the inherent dimensions and themes of these policies, including the actors involved, their required characteristics and associated temporality, as well as the guarantees, benefits, and penalties provided for these legal migration and mobility channels, along with their connections to other legal regulations.

Labour migration policy: a focus on adaptation to Belgian economic needs

The consolidated law of 15 December 1980 on access to the territory, residence, establishment, and expulsion of foreigners serves as the primary regulatory framework regulating foreign nationals' access to employment in Belgium, determined at the regional level. Since the Cooperation agreement of 18 February 2018 between the Belgian State and its regions (Brussels-Capital, Flanders, and Wallonia), Belgium has incorporated the EU regulation regarding the adoption of a single permit and procedure for both work and residence, which came into effect on 1 January 2019 on all the territory, as well as the EU directive 2009/50/CE aimed at facilitating the recruitment of high-skilled TCN workers, which had little success and was revised in 2022. But the policy determining the conditions and criteria for labour migration, as part of the broader economic policy, are under their regions jurisdiction and may therefore vary depending on the region. In practice, all regions condition the recruitment of a TCNs to a market analysis demonstrating that the employer cannot find another candidate on the "local labour market" (Myria, 2023, p. 11). Exceptions to this principle are granted for highly skilled workers (Blue-Card holders, executives, professors, researchers, individuals transferred within a group, interns); for professions facing shortages; and, depending on the region, for professional athletes, artists,

specialised technicians, vocational training, au pairs, and cross-border workers (ibid.). This section more generally examines Belgium's policy on labour migration, notably its transversal dimensions and themes (see Table 1 in Annex 1), which reveals the Belgian State's hierarchical categorisation of TCNs seeking to migrate for labour purposes.

Policy dimensions and their underlying hierarchical categorisation

The policy governing labour migration in Belgium presents three major dimensions – actors, characteristics, and temporalities – which underline some of its main structural logics.

In the **actor dimension**, there are three categories of applicants. The first category is based on their geographical location. They can be based in Belgium, which means that they should submit their labour permit application via their employer to the competent Belgian region. They can also be based outside of Belgium (in an EU or non-EU country); in this case, they should submit their application to a “competent Belgian diplomatic or consular representative” (art.12bis, §1). The second category is based on legal status: they can be EU nationals or TCNs either with current residence status in Belgium or with long-term or permanent residence in another EU country. The third category only concerns TCNs who are divided into two groups based on two grids: the type of labour/status they are intending to occupy in Belgium (researchers, trainees, volunteers, seasonal workers, highly skilled workers, workers undergoing a temporary intragroup transfer, other employed workers) and the duration of permit to stay (with long-time resident permit or not).

The actor dimension suggests that the Belgian State intends to filter prospective labour migrants who are either EU or non-EU nationals. By doing so, it can construct the second dimension of its labour migration policy – the ideal **characteristics** of prospective applicants (notably TCNs). These characteristics are mostly consistent to whatever type of labour the applicants may intend to engage. They cover the following aspects: age (below or above 18 years old: even though both categories are eligible to labour migration, applicants above 18 year-old must provide a clean criminal record); socio-economic situation (with a work activity allowed by the competent region, as well as stable, regular, and/or sufficient resources, including the income perceived from labour during their stay, in order to not risk becoming a burden to the social assistance system); and good health (with no threat to the Belgian public health). These characteristics correspond to the Belgian State's attention to the financial independence of labour migrants and their value for regional economic needs.

The third dimension of Belgian labour migration policy refers to **temporality**, that is, the waiting period to obtain the result of a labour residence permit application and the maximum duration of stay that the permit allows. Considering this dimension per category of applicants (see Table 4), a hierarchy of privilege can be observed. EU nationals occupy the upper echelon as there is no delay (immediacy of right to stay, no need of a work permit) in their application once provided the proof of work and other required documents (see Annex 1, Table 1). Their stay has no maximum duration (as long as effectively working), independently of the type of activity. The next echelon is composed of TCN researchers, who have only 60 days waiting period before receiving the result of their application and who obtain a renewable permit with a duration corresponding to that of their work authorisation. In the case of a short-term intra-EU mobility, researchers, along with workers undergoing a temporary intragroup transfer (commonly known as “expatriates”), also benefit an automatic authorisation to work, once provided the requirements (Annex 1, Table 1).

Aside from researchers, high-skilled workers (Blue card) also enjoy a certain privilege: a waiting period of a maximum of 90 days before receiving their application result and no maximum duration of stay. Workers undergoing a temporary intragroup transfer have the same waiting period and their duration of stay is up to 3 years (renewable). Other categories of long-term workers in Belgium are of lower priority, with a slight privilege given to long-time residents

in another EU country (excluding posted workers), that is, with a maximum waiting period of at least four months.

Table 4. Temporality of application submitted*

applicant	waiting period	maximum duration of stay	visa obtained (if submission from abroad)
EU nationals	no delay	none (right to work in Belgium)	exempt (Schengen space)
Researchers: short intra-EU mobility (TCN)	(automatic authorisation when required documents are provided)	180 days per period of 360 days	D
Temporary intragroup transfer: short intra-EU mobility (TCN)		90 days per period of 180 days	
Researchers: long stay or long intra-EU mobility (TCN)	60 days	none (depending on work permit, renewable)	
Highly skilled workers (Blue card) (TCN)	90 days	none (depending on work permit, renewable)	
Temporary intragroup transfer: long stay or long intra-EU mobility (TCN)		3 years for executives and experts, 1 year for employed trainees (renewable)	
Volunteers (TCN)		1 year	
Trainees (TCN)		6 months (renewable)	
Seasonal workers: long stay (TCN)		150 days per period of 360 days (renewable)	
Long-time resident in another EU country (TCN)**		4 months (extendable to 7 months)	
Employed workers (other) (TCN)	4 months (extendable to undefined time)	none (depending on work permit, renewable)	
Seasonal workers: short stay (TCN)	10 days up to 2 months (unless exempt)	150 days per period of 360 days (90 consecutive days max) (renewable)	C / Schengen (except exempt nationals)

Medium-term workers such as trainees, volunteers, and seasonal workers benefit a 90 day-maximum waiting time, but they are only allowed to stay for a shorter maximum duration. Conditional reduction of waiting periods, or even visa exemptions, may be granted for the

*Table 3 draws from the consolidated law of 15 December 1980 (see Annex 1, Table 1).

**This category excludes posted workers.

issuance or renewal of seasonal work permits provided that the applicant has fully complied with the law during previous stay(s) (art. 61/29-3; 61/29-8, §4). This reduction or exemption demonstrates the Belgian state's concern both for the prevention of irregular or fraudulent migration and for meeting short-term or medium-term local economic demands. Table 4 therefore unveils the Belgian State's desired characteristics for its prospective labour migrants, which manifests in the time taken to process their applications. The Belgian state focuses on the quality of the applicant in terms of both level of qualification (high/lower) of the workers, duration of the activity (short-/medium-/long-term), and nationality/residence status (EU/TCN). Indeed, EU citizens, followed by TCN researchers, occupy the top levels respectively; high skilled TCN workers and TCN workers undergoing temporary intragroup transfers are at the second level; medium-term workers (volunteers, trainees, seasonal workers) are at the third level; other TCN long-term workers can be found at the bottom level. The most favoured temporality ranges from immediacy to more than four months. By favouring TCNs with a higher education level, and to a lesser extent workers with a short- and medium-term activity in Belgium, the Belgian State privileges the migration of highly qualified workers and innovative (research) activities, the activity of multinational groups, and the circulation of workers with a temporary activity in Belgium. This hierarchy reflects the indexation of labour migration to given Belgian socio-economic needs and demands (see also the sections on Belgian family reunification, studies, and investment migration policies).

Behind policy themes

The five themes – guarantees, benefits, penalties, forgiveness, and referrals – present in the Belgian labour migration policy unveil what the Belgian State intends to pursue.

Through its labour migration policy, Belgium intends to receive **guarantees** for the entry or stay of TCN workers for the following purposes: to avoid irregular or fraudulent migration, not to be a burden to public authorities (notably to the social assistance system), not to be a threat to public health, not to be a danger to national security, and not to overstay in Belgium. Prospective labour migrants are therefore required to provide proofs of “sufficient means of subsistence” for the duration of their stay in the country. This subsistence corresponds to minimum wages determined by regions for various types of migrant workers (EMN, 2022, p. 53). TCN workers should also have sufficient housing in accordance with housing legislation, even when their housing is provided by their employer or host institution, like in the case of trainees and volunteers. All foreign workers should have health insurance covering the risks in Belgium; they can be refused to stay in Belgium if they have a serious illness considered to endanger public health. TCNs alone are required to prove not having such illness through a medical certificate at the time of their application. If aged more than 18 years old, TCNs alone are also asked to produce a criminal record extract dated less than 6 months attesting that they have not been convicted of crimes or offenses under common law (art.12bis, §2). The attention to the risk of irregular migration, overstay, and for safety is made particularly clear concerning certain categories of short- or medium-term workers, such as seasonal workers, for which the conditions of stay are facilitated for the sake of Belgian local economic needs (art. 61/29-4, §5; 61/29-5, §4). TCNs' stay can also be refused or ended based on only “reasonable doubt” concerning the authenticity of the supporting documents provided with the application or the accuracy of their content, the reliability of the statements made by the applicant, or their intention to leave the territory before the expiration of the intended duration of stay (art. 61/29-8, §2). Like in other Belgian mobility policies, both TCNs' duration of stay and personal situation (age, health condition, employment status, income and housing, criminal record) are considered. In definitive, this array of guarantees means that the Belgian State imposes and expects strict specific conditions for TCN workers' residence, creating the conditions of a continuous indexation of labour migrations to Belgian economic demands.

The successful labour migrant applicants enjoy several **benefits** once they enter Belgium. First, they can live in Belgium for more than 90 days, with a right of absence from and return to Belgium. In the case of researchers, they benefit from a single privilege: having the right to stay for one year after a research stay or intra-EU mobility to seek employment or to create a company in Belgium (art. 61/13/12, 61/13/15). Second, labour migrants can apply for an (illimited) long-time resident status (art. 61/25-6, §4; 15bis, §2) or “permanent” one (for EU citizens, art 42quinquies, §5) after five uninterrupted years of living in Belgium (art. 15bis, §4), and can also apply for obtaining the Belgian nationality after a similar period (also see family reunification section). These benefits point again to a hierarchy, on top of which are found high-skilled workers and EU citizens. First, TCN workers holding a permit to reside in Belgium for more than 90 days have a limited right of absence from Belgium of one year, but researchers in a long intra-EU mobility can return to Belgium as long as their permit is valid (art. 19, §1). Second, for TCN workers, an absence from Belgium of usually maximum six months consecutively and ten months in total per period of five years does not affect their right to a long-time residence permit (art. 15bis, §4). But for high-skilled workers, only an absence from EU territories and for more than 12 consecutive months and a maximum of 18 months in the period of five years (art. 15bis, §4) make them lose their right to a long-time residence permit. A privilege is thus given to highly skilled workers: they can accumulate the periods of stays spent in the various Member States of the European Union, provided that they have resided in Belgium during two years preceding the request, and they can be absent from the EU for a longer period, and still obtain the long-time resident status (art. 15bis, §2). For EU citizens, absences of maximum six months per year and up to 12 months under certain circumstances (pregnancy and childbirth, serious illness, studies or professional training or detachment for professional reasons) are possible (art. 42quinquies, §3). They can also access a permanent residence card before if they become incapacitated to work before five years of continuous presence, under certain conditions (art 42sexies). The Belgian State provides a set of rights and privileges to migrants not only to compensate their success of having met the conditions to work, but also to promote and recognise their long-term social, legal, and economic participation in Belgium. Finally, once long-time residents, TCN workers can return to Belgium within one year (art. 19, §2), but high-skilled TCN workers (and some other long-time TCN residents in determined cases) can be absent from the EU territories up to 24 months and keep their right of return (art. 19, §1), like long-time resident EU citizens (art 42quinquies, §7). The renewable long-stay visa is provided after a period deemed sufficient to incorporate themselves socially and economically in the country. Overall, the categories of labour migrants who receive a special consideration, preferential benefits, or conditions, are EU citizens and TCN high-skilled workers and researchers. This observation highlights the Belgian State’s clear preference and intent to be attractive for highly skilled and innovative (research) workforce from abroad and even within the EU, to favour their long-term establishment in Belgium, reflecting a commitment to supporting or enhancing the quality of its domestic economy.

Regarding **penalties**, it should first be noted again that foreign workers can be refused or lose the authorisation or permit to reside in Belgium if they do not meet anymore the required conditions, and therefore be obliged to leave the Kingdom within a given period (art. 7, §1). This concerns EU citizens (articles 44 and 44bis), and the various categories of TCN workers (under similar articles of the corresponding various sections of the law) when they are staying for other reasons that those they were permitted for; have used false information, documents, fraud or illegal means; are employed or hosted by an institution or business created or operating mainly to allow TCN to migrate; pose a threat to public health; endanger public order or national security, which cannot consist in economic considerations (art. 23, 1), and Belgium’s international relations; reached maximum duration of their stay; or in case of late submission of (renewal) application. Regarding long-term resident status, TCNs lose it when they acquire the

same status in another EU country (art. 18bis); when they are absent from EU territories during 12 months, except for highly qualified workers who are allowed to be absent for up to 24 months (art. 19, §1) - therefore benefiting from the same privileges as EU citizens (art. 42quiquies, 7); when they have left the country since at least six years (art. 19, §1er). Hence, legally prescribed penalties ensure strict compliance to Belgium's labour migration requirements, ensuring alignment with Belgian economic needs and, consequently, not burdening the social assistance system, while also safeguarding public health and national security.

Nonetheless, the Belgian state can make some exemptions or **forgiveness** to non-complying labour migrants. In case of duly justified impossibility to produce the due criminal record, as well as the medical certificate in the case of permit renewal, or for mid-term workers such as trainees, volunteers, and persons in temporary intragroup transfer in short mobility to Belgium, except for seasonal workers for which there is no such tolerance, the permit can still be given to the applicant. Another exception concerns workers undergoing temporary intragroup mobility in another EU country, in a short or long mobility to Belgium in this quality, who are not required a proof of sufficient resources (art. 61/42, 61/48). Foreigners can also stay beyond the duration of their permit (or even in the absence of permit) and be allowed to work if they are recognised victims of human trafficking and accept to cooperate with the competent authorities responsible for the investigation or prosecution of these offenses (art. 61/2). This means that the Belgian State intends to equally allocate rights (and punishments) to all legal residents, and the protection and assistance from different forms of risks and violence, especially to help dismantle human trafficking networks. In short, the Belgian state favours EU citizens, workers or not, who for instance benefit from more flexible considerations when evaluated their level of resources in comparison to TCNs. They only risk losing their right to stay as workers in Belgium if they represent an *unreasonable* burden on the social assistance system and benefit in this case the consideration of the temporary nature of their difficulties, the duration of their stay, their personal situation, the amount of assistance they receive, and their "social and cultural integration" (art. 42bis, §1). They also can access permanent stay before reaching five years of continued presence in Belgium in the case of work incapacity under certain conditions (42sexies).

In terms of **referrals**, the EU norms regarding mobility mentioned in the Belgian labour migration policy include: the Schengen policy, and the Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. Belgian policy on labour migration is also directly connected to the Directive 2011/98/EU of 13 December 2011 on a single application procedure for a single permit for TCNs to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State. The labour migration policy also mentions the following Belgian laws: the cooperation agreement of 18 February 2018 on single permits and the employment of foreigners (which implements in Belgium the previously mentioned Directive 2011/98/EU); the cooperation agreement of 6 December 2018 on specific categories of workers; the law of 26 May 2002 on social assistance and services, various articles of the Penal, Civil, and Criminal Codes, as well as the Visa Code. It is also indirectly connected to the law of 19 February 1965 on the exercise, by foreigners, of independent professional activities (see section on investment-based immigration).

Conclusion

The Belgian policy regarding labour migration appears underpinned by several assumptions, concerns, and preferences regarding the behaviour of prospective labour migrants.

A highly preferential treatment afforded to EU citizens is first to be noted within the framework of free circulation provided by the Schengen policy. They have immediate work rights in Belgium, enjoy favourable conditions for obtaining permanent residency, and they are subject to fewer requirements for their stay, face reduced penalties in case of non-compliance, and are

eligible for more exemptions. However, they are subject to similar assumptions and concerns as TCNs, as all foreigners are consistently monitored to ensure that during their stay, they will be financially independent and stable, and will not pose major threats to Belgian public health, order, and national security.

Unlike EU citizens, TCNs are noticeably and carefully monitored and filtered through a detailed legal sub-categorisation system based on the type of work activity they are to undertake in Belgium. They always need approval to work from the competent regions, which are key actors in assessing the desirability of prospective migrant workers in the context of Belgian territorial organisation. A transition from one work residence permit to another, or its extension, is generally provided for by law, but only within the framework of continuous compliance with similar legal requirements intended to ensure the ongoing alignment of labour migration with Belgian economic demands. Only after a deemed sufficient period (five continuous years) of working residence in Belgium are TCN workers generally granted access to more stable, permanent conditions of stay in recognition of their long and law-abiding economic contribution. These observations alone highlight that labour migration is only legally considered desirable if it serves Belgium's economic needs and does not impose a financial burden on the Belgian nation, echoing the influential rising political rhetoric and concern regarding the risk of "migratory pull" factors.

A further examination of the policy's themes and dimensions for each category of TCN workers nonetheless clearly indicates a hierarchy in terms of their desirability for the Belgian State. Preferential conditions are afforded to innovative (researchers), highly skilled workers, and employees of multinational groups settled in Belgium, notably in terms of temporality and/or granted benefits. To a lesser extent, the mobility of workers who can contribute to short- or medium-term economic demands in Belgium is also somewhat facilitated, but alongside a tighter scrutiny of the risk of irregular and fraudulent migration. The Belgian State's unequivocal preference and dedication to attracting highly skilled and innovative (research) prospective migrant workers, whether from outside or within the EU, and to facilitating their long-term establishment in Belgium, is a clear indication that Belgian policy on labour migration and mobility is strictly aligned with the overarching goal of serving and ideally enhancing the quality and output of the domestic economy.

Family reunification policy: a focus on changing human situation and behaviour

Asuncion Fresnoza-Flot

The analysis of the consolidated law of 15 December 1980 on the access to the territory, stay, establishment, and deportation of foreigners (*étrangers*) unveils the Belgian State's suppositions regarding TCNs applying for family reunification as sponsor or re-joining family member. These suppositions can be gleaned from specific dimensions and themes of the Belgian family reunification policy (see Table 2 in the Annex).

Policy dimensions and their embedded suppositions

The policy governing family reunification in Belgium displays three major dimensions: actors, characteristics, and temporalities. These interconnected dimensions provide hints on the structuring suppositions or ideas behind the policy.

In the **actor dimension** of the policy, several categories of people are mentioned. First, there is a distinction between the person acting as sponsor (*regroupant*[†]) and the applicant (*étranger rejoint*) who can be based either in Belgium or abroad. These persons can file their family

[†] This is the French term used in the explanation text about family reunification on the website of the Belgian Immigration Office (see DOFI, 2023a).

reunification application in Belgium or abroad in a “competent Belgian diplomatic or consular representative” (art.12bis, §1er). Nonetheless, if the sponsor and the applicant are both TCNs, they are only allowed to apply in Belgium if they fit one of the following situations: the applicant is “already authorised to stay” in the country for a limited period of time, exempted “from the visa requirement for a short stay in the Schengen area”, “received a visa to marry or cohabit legally in Belgium and got married before the visa expired”, and could not apply abroad because of “exceptional circumstances” (see art. 10; DOFI, 2023b). Second, both sponsor and applicant are categorised based on their nationality: EU national, a national of an EU associated country[‡], a Belgian national, or a TCN. Third, subcategories are present for Belgians and TCNs acting as either sponsor or applicant. Belgian nationals are categorised based on their legal age (minor and major) and based on the enactment of their right to free circulation/stay within the EU (those exercising it and those who do not yet). Concerning TCNs, there are several subcategories in the policy based on the nationality of the sponsor they intend to live with in Belgium: TCNs re-joining an EU national, those reuniting with a national of EU associated countries, with a Belgian national, and with another TCN. TCNs are further subcategorised based on their age (minor and major), their familial link to the sponsor (married spouse, registered partner, child, parent), their status (students, workers, researchers, etc.), duration of permit to stay (with long-time resident permit or not), and state of family reunion (with a family already reunited in an EU country or not yet).

The existence of TCNs’ variegated subcategories suggests the Belgian State’s important preoccupation with this group of people. The detailed (sub)categorisation of TCNs appears to be a way for the State to filter effectively and systematically family reunion applicants who are non-EU, non-EU associated country, and non-Belgian nationals. It allows the State to specify its desirable **characteristics** for different groups of TCN sponsors or applicants. These characteristics focus on several elements: age (below or above 18 years old or more than 21 years), economic and legal situations (dependency on the sponsor), filiation (parent, biological or non-biological child), and authenticity of non-married couple’s relationship (frequency and duration of contacts prior to application), among others. These characteristics imply what the Belgian State values most. For example, when a TCN sponsors a TCN for family reunification, certain provisions (for example, the condition of “stable, sufficient and regular means of subsistence” and “sufficient housing”) are disregarded when the sponsor and the applicant have a common child. The number of requirements appear also smaller for the TCN sponsor and applicant who are married than those who are in registered partnership. Likewise, the conditions for the re-joining common child of the TCN couple are lesser than those for the child of only one partner in the couple. These examples point to Belgian State’s valorisation of the institution of marriage and biological filiation. To avoid “undesirable” family migrants, the Belgian State specifies the ideal characteristics for TCN sponsors and applicants in its family reunification policy. Such specification unveils its supposition that potential TCN sponsors and applicants for family reunion may be the “undesirable” ones, that is, having the characteristics opposite to what it desires as detailed in the policy.

In terms of **temporality**, the waiting period to obtain the result of a family reunification application appears contingent on which category of sponsor or applicant is concerned. For instance, Table 5 shows that the most advantaged dyad (sponsor-applicant) among categories of concerned actors is Belgian-EU/associated country national with only three-month period of residency investigation. The least privilege dyad is TCN-TCN with nine-month residency investigation, and if the case appears complicated and needing more investigations (for example, those related to marriage and registered partnership), the waiting period can reach 15 months. Compared to other categories with six-month period of investigation, there is no deadline for the

[‡] The countries associated to the EU are Iceland, Liechtenstein, Norway, and Switzerland (Álvarez López & Razauskas, 2023).

investigation of TCN-TCN dyad. Such temporal uncertainty can intersect with the “biographical and daily timescales” of the sponsor and applicant affecting herein their overall life flow (see Merla & Smit, 2023). It is evident in Table 5 that the Belgian state focalises on the quality of the sponsor more than that of the applicant, which accentuates the significance of sponsor as “membership intermediary” when it comes to the “(in)formal membership” of their family members and their incorporation to the receiving country (Bonizzoni & Fresnoza-Flot, 2023). The Belgian State’s preoccupation on TCNs can be further observed in the temporality of family reunification (visa D) application filed at a Belgian diplomatic or consular office responsible in the applicant’s place of residence (art. 12bis, §1er, paragraph 1).

Table 5. Temporality of application submitted in Belgium[§]

sponsor	applicant	residency investigation	investigation deadline	card obtained
Belgian	EU & associated country national (ACN)	within 3 months (presentation of proof meeting the family reunion conditions)	within 6 months	EU*
EU & ACN	TCN	issuance of 6-month registration document (for applicant residing in the municipality of application)	within 6 months	F**
Belgian	TCN	issuance of 6-month registration document (for applicant residing in the municipality of application)	within 6 months	F
TCN	TCN	within 9 months extended to 15 months (for complicated cases****)	no deadline	A****

* Before 2021, it was called “card E”.
 ** This card is issued to the family members of EU citizens.
 *** This card is renewable and has one-year validity.
 **** See art. 12bis, §3 of the consolidated law of 15 December 1980.

Table 6 indicates that family members of a Belgium-based TCN researcher have the shortest waiting period for the result of their application. The ones with long period of waiting are TCNs who are not long-time residents in an EU country, highly qualified workers, or family members of a TCN student or a TCN highly qualified worker living in Belgium. Interestingly, the Table unveils a hierarchy of TCN applicants depending on their degree of desirability perceived by the Belgian State: Belgium-based TCN researcher’s family members occupy the top level; long-time resident in the EU, highly qualified workers, and their family members are positioned at the second level; Belgium-based TCN student’s family members are situated at the third level; and other TCNs not fitting the “desirable” categories can be found at the bottom level. This hierarchy implies that the Belgian State favours a specific temporality (between three and seven months)

[§] Table 5 draws not only from the consolidated law of 15 December 1980 but also from the synthesised information on the Immigration Office’s website about family reunification (residence) applications that are allowed to be submitted in Belgium (see DOFI, 2023c).

over the others (between nine and 15 months) to attract ideal applicants deemed useful in realising its socio-economic interests. By favouring the reunification between TCNs living in Belgium and their highly qualified or EU long-time resident family members, the Belgian State appears to encourage the former to stay longer in the country and contribute to its socio-economic development on the one hand and the latter to join them in this effort on the other hand.

Table 6. Temporality of application submitted abroad**

sponsor	applicant	waiting period	visa obtained
Belgian	foreign nationals	6 months	D*
TCN	long-time resident TCN in the EU	4 months (extendable to 7 months)	
	highly qualified TCN		
	highly qualified TCN's family member		
	TCN researcher's family member	3 months (90 days**)	
	TCN student's family member	9 months (extendable to 12 months***)	
	other TCNs	9 months (extendable to 15 months)	

* This visa (also called Temporary Stay Authorisation) is issued for studies, professional, or family reunification purposes.

** See art. 10ter, §2*quinquies* of the consolidated law of 15 December 1980.

*** See art. 10ter, §2 of the consolidated law of 15 December 1980.

The Belgian State's emphasis on the collective effort of reunited TCN families has also its own temporality, as the validity of the permit to stay of the re-joining family members is equal to that of the Belgium-based TCN or other foreign national sponsors. For example, the validity of the duration of stay of a TCN family migrant is contingent to that of their EU citizen sponsor living in Belgium and it should not exceed "five years from the date of delivery" (art. 42, 3). This is also the case of TCN family members of a TCN sponsor (see art. 13, §1er). The renewable long-stay visa of five years ensures the State that the reunited family members have collectively stable legal status for a period deemed sufficient to incorporate themselves socially, economically, and culturally in the country. In fact, a successful incorporation in Belgium can allow the reunited family members to renew their visa, to access permanent residence status, or to apply for the obtention of the Belgian nationality by declaration. In the latter two cases, a five-year legal stay in the country is the defining characteristic of three of the five allowed categories of foreigner applicants (SPF Justice, 2023). Hence, a family reunification visa is a passport towards a more permanent settlement and legal stability in Belgium. The temporalities it entailed reflect that Belgian State considers well the quality of foreigners pursuing family reunification, which exposes an underlying supposition that "high quality" foreigners would behave according to the receiving country's expectations such as exerting collective effort to contribute to the Belgian nation's socio-economic development.

** The data in Table 6 originated from the consolidated law of 15 December 1980 and from the synthesised information on the Immigration Office's website about visa D (family reunification) applications submitted in Belgian diplomatic or consular post responsible for the applicants' place of residence (see DOFI, 2023b).

Policy themes and their suppositions

The five themes that emerge from the analysis of Belgian family reunification policy are as follows: guarantees (conditions), benefits (rights and privileges), penalties (punishments), forgiveness (exemptions or exceptions), and referrals (connections with other mobility policies and related laws). These themes are indicators of how the Belgian State manages and controls the entry, stay, and settlement in its territory of foreign nationals from the EU and its associated countries, as well as from TCs.

The **guarantees** for the entry or stay of TCNs in Belgium within the context of family reunification suggest the salient objectives of the Belgian State: to avoid TCNs becoming a burden to public authorities (notably to the social assistance system) in the country, to ensure that they will not pose a threat to public health, and to be certain that they will not be a danger to national security. These objectives can be observed across the family reunification provisions for both TCN sponsors and TCN re-joining family members. For instance, TCN sponsors who have been authorised to stay in Belgium “since less than 12 months for an unlimited period” or who have been admitted to settle in this country since less than 12 months (see art. 10, §1er, 4^o) should provide proofs of “stable, sufficient and regular means of subsistence to support themselves and not to become a burden to public authorities” (art.10, §1er, §2). They should have “sufficient housing” to accommodate their re-joining family member(s) and prove through a medical certificate of not having a serious illness that “can endanger public health” (ibid.). They also need to have health insurance “covering the risks in Belgium” for themselves and their family members (ibid.). Likewise, a TCN applying to re-join an EU family member in Belgium should have the basic requirements, such as “stable, sufficient, and regular means of subsistence”, medical certificate, and if aged more than 18 years old, “criminal record or an equivalent document” (art.12bis, §2). Once the application for family reunification is successful, the foreigners allowed to enter and stay in Belgium should continuously make sure that the guarantees they provided in their application to the Belgian State remain existing within five years following the recognition of their right to stay in the country. In the case of TCNs, the admission to stay is recognised as long as they continue “to satisfy the conditions specified in article 10” (art. 12, §1er) of the consolidated law of 15 December 1980. The Belgian State re-evaluates if applicants still satisfy the conditions set by the law during their visa renewal. It examines if the applicants do not contradict the salient objectives of the family reunification policy. It does so by paying attention to the following aspects: an applicant’s duration of stay in the country, personal situation (age, state of health, family condition), and in case of economic difficulty, its temporary character and the amount of social help received from the Belgian system of social aids (art. 42ter, §1er). The State also adds in the original conditions the criterion of “social and cultural integration” of the applicant in Belgium (ibid.). The wide set of guarantees required for first-time applicants and those renewing their visa attests the constant State’s monitoring and filtering through time of family migrants. Its underlying idea points to the Belgian State’s careful vigilance of the changing personal situation and behaviour of migrants.

Given the difficulty of immediately satisfying the multiple conditions for family reunification, successful applicants obtain in return several **benefits** from the Belgian State. The right to enter and live in Belgium for more than three months is their first immediate benefit. The second one is the possibility to acquire a long-term resident status, and the Belgian government’s issuance of a resident permit is the evidence of this right (art. 42quinquies, §6). This residence permit allows the family migrants to work in Belgium. In 2019, Belgium implemented the Single Permit Directive 2011/98/EU that EU adopted in 2011 to facilitate the access of highly skilled migrants to the labour market (see Purkayastha & Bircan, 2023). Providing the “right to work and stay in the EU”, the Permit also allows other people “admitted for other reasons, such as family reunification” to be “covered for equal treatment, if they work” (Directorate-General for Migration and Home Affairs, n.d.; see also European Commission, n.d.). It therefore provides

another way for family migrants to easily incorporate themselves in the Belgian labour market. Aside from the right to work, family migrants have the right to permanent stay after five uninterrupted years of living in Belgium (art. 42quinquies, §1er), which is accompanied by two other rights: one to temporary and long absences and the other to return in the Belgian territory. The allowed temporary absence is “not more than 6 months per year”, whereas the acceptable “long absence” should be “due to military obligations” or to “important reasons such as pregnancy and childbirth, serious illness, studies or professional training or detachment for professional reasons outside of Belgium” for 1 year (art. 42quinquies, §3). These absences do not affect the continuity of stay of family migrants. It is interesting to note that the Belgian State seems to provide a set of rights and privileges to family migrants not only to compensate their success of having met the conditions for family reunification but also to promote their social, legal, and economic participation in Belgium. It appears that the logic behind the benefits granted is to ensure these migrants’ effective incorporation in the country, which can later contribute in their full access to Belgian citizenship.

In this vein, the Belgian State has a set of **penalties** for family migrants who do not satisfy anymore one or more conditions of the family reunification policy. The authorisation to enter and stay in Belgium may be ended when the EU or Belgian citizens and their family members no longer possess the guarantees (art. 10 bis and art. 40ter, §2) they provided when they applied for family reunification. It may also be stopped in the following cases concerning all foreigners: if the persons concerned no longer have an affective conjugal/familial relationship; have contracted a false marriage, partnership, or adoption; have an illness that can be a risk to public health; have been considered to pose a danger to public peace, order, and security, as well as to Belgium’s international relations (art. 3, 5°-7°); have been removed/expelled from Belgium for less than ten years (ibid., 8°); or extended their stay beyond the allowed duration (art. 13, §3). The right to reside in Belgium is terminated within five years following the recognition of the concerned persons’ right to stay as family members of an EU citizen, when the latter has left Belgium, died, or lost their own right to reside (art. 42quater, §1). Regarding long-term resident status, TCNs lose it when they acquire the same status in another EU country (art. 18bis); when they are absent from EU territories during 12 months, except for highly qualified workers and their family members who can be absent for up to 24 months (art. 19, §1), like EU citizens (art. 42quinquies, 7); when they have left the country since at least six years (art. 19, §1er). They may also lose it when they fail to renew on time their resident status; late renewal can mean a 200-euro administrative penalty to pay, specifically for TCN family members of an EU citizen (art. 42quinquies, §6). Other TCNs not fitting the categories (art. 40bis, §2) of allowed re-joining family members of an EU or Belgian citizen lose their right to stay for more than three months in Belgium if they fit one of the following cases: if the relationship with the EU citizen ended, if the family member of which the EU citizen needs to take care does not have a serious health problem anymore (see art. 47/1, 1°-3°). The persons who are no longer welcome to enter or stay in Belgium are expected to leave the territory within a period of minimum one month from the date of the notification of the decision to leave (art. 44ter, §2). The above-mentioned penalties suggest that the Belgian State ensures that only law-abiding family migrants and/or their sponsors can enter and stay in its territory, which is well aligned with its objectives of maintaining social assistance system, public health, and national security free from burdens, risks, and dangers.

Amidst its set of penalties for “undesirable” family migrants and/or their sponsors, the Belgian state offers **forgiveness** to certain categories of persons. The exemptions it provides from the penalties indicated in the previous paragraph suggest a hierarchy with TCN-EU as the most advantaged dyad, followed by EU-EU, and finally by TCN-TCN dyad. Both TCN and EU family members of an EU citizen can continuously enjoy their right to stay in Belgium if they fit one of the following situations: enjoying the right to free circulation/stay while being (non-)salaried workers or job seekers (art. 41ter, §2); being an EU citizen’s children registered in an education

institution in Belgium (art. 42ter, §2); or being a parent with the effective custody of EU citizen's children until the end of their studies (art. 42ter, §2). However, TCNs family members of an EU citizen have an additional exemption compared to their EU counterparts. This exemption can be enjoyed if they are in one of the following situations: if the EU citizen sponsor passes away or if the marriage or registered partnership with the EU citizen is respectively dissolved/annulled or ended. In the former situation, the TCN family members can keep their right to stay if they are (non-)salaried workers, staying in Belgium for at least one year, with sufficient resources for themselves and other family members to avoid being a burden to the Belgian system of social aids, with health insurance covering the risks in Belgium, or a member of a family already constituted in Belgium by a person responding to the conditions of the said reunification (art. 41ter, §3). In the latter situation, the TCN family members can keep their right to stay if the marriage or registered partnership with the EU citizen lasted at least three years including one year in Belgium. In the case of marriage dissolution, the spouse must be in good faith (art. 42 quarter, §4). The TCN family members can remain in Belgium if they have the right to custody or visit of the EU citizen's children in Belgium. Likewise, they can stay if they are a victim of violence within the family, marriage, or registered partnership as described in the Belgian Penal Code. They can enjoy this right to stay as victim of domestic violence if they demonstrate that they are (non-)salaried workers in Belgium, with sufficient resources not to be a burden to the Belgian system of social aids, with health insurance covering risks in Belgium, and members of a family already constituted in Belgium by a person responding to the conditions of the said reunification (art. 42 quarter, §4). As regards TCN family members of a TCN, their right to stay continues if they renew their permit to stay before its expiration (art. 13, §2) and if they are victims of (domestic) violence as indicated in Belgian Criminal Code. When deciding if a TCN's stay will be extended or not for the reason of public order and national security (art. 21; art. 22), Belgian authorities consider the "personal behaviour of the concerned person" and their decision "cannot be justified by economic reasons" (art. 23, §1er). The above exemptions imply that one of the underlying logics of Belgian State in providing such exceptions is protection and assistance to EU or Belgian citizen's vulnerable family members – children and victims of (domestic) violence. To ensure the well-being of children, the parent who has the right of custody or visit can stay in Belgium. Given the conditions that TCN victims of (domestic) violence need to satisfy to stay, exemptions have also a logic of protecting Belgian State's social security system from being burdened with demands and its public order and national security from threats. Interestingly, TCN's personal behaviour seems weighing more than economic reasons when it comes to ensuring the country's security.

Finally, the Belgian family reunification policy appears well connected to other Belgian State's mobility policies. **Referrals** are part and parcel of the Belgian consolidated law of 15 December 1980 on the access to the territory, stay, establishment, and deportation of foreigners. These referrals have two levels: regional (EU) and national (within Belgium). At regional level, the family reunification policy takes into account the Schengen policy and implements the Directive 2004/38/CE of the EU Parliament and The Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. At national level, it mobilises not only the law of 26 May 2002 on social assistance and services but also some articles of the Penal, Civil, and Criminal Codes. It also links itself to policies regulating students' mobility and labour migration, notably of highly skilled workers. Considering the referrals made in the consolidated law of 15 December 1980, it can be argued that the Belgian State connects its two or more mobility policies (notably Directive 2004/38/CE, the Council of 29 April 2004, and Schengen policy: see Table 6 in the Annex) to one another to form a cohesive, legitimate, and feasible mobility regime. The five themes – guarantees, benefits, penalties, forgiveness, and referrals – constituting the Belgian family reunification policy represent the interconnected pillars of the said regime. What lies beneath

these pillars seems to be the supposition that family migrants and their sponsor(s) are susceptible to behaviour change, needing therefore constant monitoring and regulation through time from the part of the State.

Conclusion

The analysis here of the Belgian family reunification policy unveils the said policy's specific dimensions and themes. It uncovers several suppositions behind the policy, what the Belgian State considers as "acceptable" or "unacceptable" human behaviour, and the extent to which it considers human behaviour in its family reunification policy.

Some of the suppositions identified in the analysis are as follows. First, potential TCN family migrants and to a certain extent their TCN sponsors usually possess "undesirable" characteristics that can later pose a burden to the country's social assistance system, a danger to public health, and a threat to public order and national security. They appear herein prone to vulnerability and need therefore protection from the State. Second, "high quality" foreigners—those who fully satisfy the conditions of family reunification—would behave according to Belgian State's expectations, such as exerting collective effort to contribute to the country's socio-economic development. That is why the Belgian State offers several benefits to family migrants accepted in its territory, benefits that can ensure these individuals' effective incorporation in the country subsequently providing them access to Belgian citizenship. Third, family migrants and their sponsor(s) once they are in Belgium are susceptible to situational and behaviour changes. This supposition explains why the Belgian State constantly monitors, regulates, and filters through time family migrants and their sponsors. Law-abiding individuals are the ones welcomed to enter, stay, or remain in its territory for a long time or indefinitely via access to Belgian citizenship.

For the Belgian State, what seems to be an "acceptable" behaviour of family migrants and their sponsors is abiding to the law, which means providing constant guarantees of "good" conduct—not to be a burden to the country's social assistance system and not to be a risk to public health, peace, and order, as well as national security. Interestingly, the quality and personal situation of (potential) family migrants and their sponsors appear for the Belgian State a sort of predictors of future human behaviour. The Belgian State allots considerable attention to these two aspects during the filtering process of family reunification applicants and sponsors, and it continues even many years after the settlement of family migrants in Belgium, notably during the renewal of their permit to stay and later during their application to acquire the Belgian nationality. Overall, it is evident that the Belgian State largely considers not only human behaviour and its changing nature but also evolving human situation in its family reunification policy.

Investment-based migration policy: a focus on interesting mobilities

The legal framework for investment migration in Belgium is primarily governed by the Belgian Law of 19 February 1965 (amended until 20 October 2023), regulating the practice of independent professional activities by foreigners. The Consolidated Law of 15 December 1980 on access to the territory, residence, establishment, and expulsion of foreigners provides general conditions for the entry and stay of all foreigners but does not specifically address investment migrants, unlike its provisions for employed workers. Therefore, unless stated otherwise, the provisions described in this section are part of the Belgian Law of 19 February 1965 concerning the practice of independent professional activities by foreigners.

Similar to the policy on labour migration, the policy on investment-based migration (including entrepreneurship) falls under the purview of regional authorities, as it is considered a facet of economic policy—a regional competence in the Belgian federal state. This is evident in the adaptation of the wording of the law of 19 February 1965 at both the federal and regional levels.

Consequently, Belgium does not have an official “golden visa” program; instead, prospective investor applications undergo individual assessments that are heavily influenced by regional economic priorities and policies.

The summary analysis below of this policy through the lens of underlying dimensions (actors, characteristics, and temporality) and themes (guarantees, penalties, forgiveness, and referrals) can shed light on the underlying assumptions, preferences, and concerns regarding (prospective) migrant investors.

Investment-based migration policy: dimensional analysis

The primary distinguishing factor among **actors** in the investment-based migration policy is nationality. While the conditions of entry and stay vary for EU citizens and TCNs according to the federal law of 15 December 1980, the law of 19 February 1965 does not differentiate between different investment-based migration actors based on nationality. However, it is important to note that both federal and regional governments have the authority to exempt certain categories of foreigners from the obligations outlined in the law, particularly considering the nature of their professional activity (art. 2). This aspect grants significant influence on regional policies regarding economic investment migration (besides the exemption of many categories of foreign residents, such as citizens of the EEA, long-term residents, and individuals helping their spouse in their independent activity (Myria, 2024).

Investment-based migrants must meet certain legally expected criteria (**characteristics**). To be authorised to invest in Belgium, they must hold a professional card (unless exempted) granted by the competent region, indicating their status as independent professionals (art. 1 and 4). They should demonstrate financial independence (not likely to need social assistance), possess health insurance, and have no criminal convictions.

The **temporality** of investment-based migration encompasses both the authorisation to work as a professional independent investor (professional card) and the authorisation to stay in Belgium. While EU citizens enjoy preferential conditions for short and long stays in Belgium (such as free circulation and an immediate right to stay if working - art. 40, §3; 40, §4), TCNs seeking stays of more than 90 days for investment purposes rely on the duration of their authorisation to work as independent professionals (professional card). TCNs who wish to travel to Belgium during less than 90 days for business visit “to establish or develop professional relationships or business ties” (including “participating in interviews, conferences, or events of a commercial, industrial, or professional nature”) can obtain a Schengen visa C for business purposes but are not permitted to work (DOFI, 2024c - also see section on Schengen policy). For long stays (more than 90 days), the outcome of their residence permit application is typically communicated as soon as possible, with a maximum timeframe of nine months following its submission (as per art. 12bis, §2, Law of 15/12/1980). However, this timeline is partly contingent on the processing of the application by the competent region, which may vary substantially based on factors including the nature of the activity. The professional card is valid for a maximum of five years, renewable and extendable if less than five years (art. 3). The duration of the residence permit aligns with the validity period of the professional card and ends accordingly (art. 4). Following a refusal of the professional card, a mandatory two-year waiting period is typically imposed before a new application for the same activity can be submitted (except in cases of refusal for inadmissibility or if new evidence is presented) (art. 5). This requirement underscores the intent of the Belgian State and regions to manage and possibly avoid being burdened by applications concerning investment activities or conditions that do not meet their economic criteria.

Hence, the temporal aspects (temporality) of investment-based immigration, while potentially entailing longer waiting periods compared to other types of work applications (see the section above on labour migration policy), can significantly vary in terms of waiting period and permit

duration (up to five years). This variation depends on the priorities of the respective Belgian regions, particularly concerning the nature of the investment activity and their processing of the application.

Themes analysis: behind investment-based migration policy

The examination of guarantees, penalties, forgiveness, and referrals within the Belgian policy offers deeper insights into Belgium's preferences, assumptions, and concerns regarding investment-based immigration.

The set of **guarantees** required for investment-based immigration aligns with the requirements for other types of migration, as outlined in sections on student and labour migration, for example. For TCNs seeking a residence permit (and visa if they are not yet authorised to stay), which must be applied for concurrently with the authorisation to work (professional card) (art. 4), several documents are required. These include proof of payment of the processing fee, an extract of the criminal record dated within the last six months attesting to the absence of convictions (except for permit renewal), and a medical certificate (except in cases of renewal) confirming the absence of any diseases posing a risk to Belgian public health (DOFI, 2024a). Notably, the specific eligibility conditions for professional card applications are determined by the competent regions (art. 3). For instance, the law of 1965/02/19 stipulates a condition of lasting added value for employment promotion in the case of the German-speaking community, determined with the possible advice of external experts in economic matters (art. 6 German-speaking Community). These observations highlight the significant discretion granted to the Belgian federated entities in assessing their economic interests when determining the guarantees required in exchange for investment-based immigration.

The Belgian policy on investment-based migration provides most of the usual **benefits** granted to legal migrants in Belgium. These include the authorisation to stay and invest in Belgium for more than 90 days, the right to absence and return within one year (art. 19, §1), and the possibility of acquiring long-term resident status after five years of continuous presence in Belgium (art. 15bis, §2) (also see the section on labour migration for more details on this similar benefit).

However, the system of **penalties** designed to ensure compliance by investment-based investors presents some notable specificities. On one side, like other TCNs, TCN investors risk losing their authorisation to stay for reasons related to public order, public health, or national security, for reaching the maximum duration of their permit, or for failing to meet the required conditions (art. 21 and 13, §3, Law of 15/12/1980). They can also lose their right of return to Belgium or their long-term residence permit in case of excessive absence, without any specific or favourable conditions under the federal law of 15 December 1980 (unlike, for instance, high-skilled workers – see the section on labour migration policy).

On the other hand, foreign independent investors are subject to special monitoring under the Law of 19 February 1965 regulating the practice of independent professional activities by foreigners. This law empowers a specific authority, the Economic Investigation Council for Foreigners (or its equivalent administrative body in some regions), to impose various sanctions on foreign independent investors or professionals (art. 7). These sanctions range from warnings to the termination of their activity, closure of their establishment, or permanent withdrawal of their professional card, which may result in the termination of their stay (as per article 13, §3 of the Law of 15 December 1980). The punishable acts include lending or transferring the card, employing foreigners without the required professional card or work permit, engaging in an independent activity different from that specified on their professional card, or failing to comply with attached conditions (art. 7). Additionally, failure to comply with legal, regulatory, and tax rules governing the activity, or a criminal conviction related or unrelated to the activity, can result in similar sanctions (*ibid.*). Furthermore, special administrative federal and regional agents are authorised to investigate foreign investors' offenses and control their independent activities under

the same law. They have the authority to enter their establishments day and night and seize their professional cards (art. 12). Finally, foreign investors and entrepreneurs risk criminal sentences ranging from eight days to six years of imprisonment and a fine of 250 to 6,000 euros (variable depending on the region), or one of these penalties only, which can be doubled in case of recurrence, for the illegal or irregular exercise of an independent professional activity in Belgium (art. 13 and 14).

The special array of penalties provided for independent investment-based and entrepreneurial activity by foreigners highlights the specific importance that Belgium gives to their scrutiny and monitoring, or at least to some of them. A noticeable element is the vigilance regarding the hiring of illegal workers, suggesting an associated concern about the possibility that investment-based migration could be used as a means or network for irregular labour migration.

The policy on investment-based immigration in Belgium includes **referrals** to EU regulations and national laws, including the Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State. It incorporates the national Cooperation agreement of 18 February 2018 on single permits and the employment of foreigners, and the Law of 26 May 2002 about social assistance and services.

The direct and detailed reference to regional laws underscores the significant competence and latitude of discretion that Belgian regions have concerning investment-based immigration. By referencing the country's penal, civil, and criminal codes, including specific administrative and criminal penalties for foreign investors, the policy demonstrates a particular concern for ensuring compliance with the law regarding foreign economic activities on Belgian soil.

Conclusion

The analysis of the themes and dimensions of the Belgian policy on investment-based immigration highlights two main general assumptions and concerns.

First, the Belgian federated entities have significant discretion in assessing and organising investor migration behaviours, primarily to align with their economic interests. While federal legislation sets general provisions regarding the conditions of entry and stay for TCNs and EU citizens, both the temporality (waiting period and duration of professional card) and guarantees (specific requirements) for foreign investors can vary considerably depending on regional processing. This variability reflects Belgian economic priorities assessed at a regional level.

Second, the specialised penalties and referrals concerning foreign investment activities in Belgium underscore a strong concern about illegal or irregular practices in investment and entrepreneurial activities. Such concerns are associated with a range of undesirable offenses, including those that could potentially facilitate irregular migration behaviours.

Belgium's policy on tourism: a focus on filtered free mobility

The Belgian tourism policy is primarily shaped by the Schengen policy, which governs the free movement of both EU citizens and TCNs within the Schengen area. This policy framework, established through the Convention implementing the Schengen Agreement, influences how tourism is regulated in Belgium (see section on Belgium's Schengen policy for more details). By analysing this policy, this report unveils the various actors involved, their desired characteristics, the guarantees required, potential penalties, as well as the temporality and benefits associated with their participation in tourism activities (see Annex 1, Table 5 for additional insights).

Nationality serves as the primary category distinguishing various **actors** in the Belgium's tourism policy. While EU citizens enjoy the right of free movement within the Schengen space for up to three months (as per art. 40, §3 of the law of 15 December 1980), TCNs are required to obtain a visa C (Schengen visa) for tourism purposes, unless exempted or if they already have

permission to stay for more than 90 days in a Schengen state (see Annex 1, Table 5). Exempted nationals include those from Japan and holders of a passport issued by Hong Kong and Macao special administration regions (studied by AspirE), as well as other countries like South Korea, Taiwan, Singapore, Canada, the USA, or Switzerland, all of them being deemed less likely to enter Belgium for purposes other than tourism and less prone to overstay. This underlying assumption and concern reflect an overarching preference and privilege for nationals from wealthier countries in the Belgian tourism policy. Regarding their desired and expected **characteristics**, all TCN tourists are thus required to demonstrate financial independence, accommodation arrangements, and possess health insurance coverage for the duration of their stay in Belgium.

In terms of **temporality**, TCNs typically have to wait between ten to 15 days, with potential delays of up to one or two months during peak periods, before receiving the outcome of their visa C application. A valid visa C grants them the freedom to travel within all Schengen countries for a maximum of 90 days per period of 180 days (art. 19, §1, Convention implementing the Schengen Agreement). They can obtain either a single-entry visa (permitting only one uninterrupted stay in Belgium for less than 90 days) or a multiple-entry visa allowing them to visit various Schengen countries for stays totalling less than 90 days within 180 days.

In exchange for their right to a short stay in Belgium for tourism purposes, TCN nationals not exempted from the Schengen visa requirement must fulfil several **guarantees**. These include possessing a valid passport or equivalent travel document, providing proof of sufficient financial means for their stay, and justifying the purpose and conditions of their tourist visit, including a travel and health insurance (DOFI, 2024c; art. 3, paragraph 4, law of 1980/12/15). These requirements appear to aim to ensure that prospective TCN tourists in Belgium are financially independent during their stay and are genuinely visiting for tourism purposes.

Various **penalties** also reflect this concern: in case of overstay in Belgium, TCN holders of a Schengen visa may face fines, deportation, or ban on entering the Schengen area for periods ranging from two years or more depending on the duration of their overstay. Their stay may also be ended if they cannot demonstrate sufficient financial resources for their stay and return, or for reasons related to public order, public security, public health, or international relations (art. 3, law of 1980/12/15).

Regarding **forgiveness**, a Schengen visa can only be extended in cases of late entry, humanitarian reasons, force majeure, or significant personal reasons, provided that the application for visa extension is submitted at least one week before the visa expires.

Conclusion

Belgium's tourism policy provides to promptly grant TCN tourists the authorisation (visa C) to reside and travel freely within its territory or throughout the entire Schengen area for a maximum period of 90 days, renewable only under strict and exceptional circumstances. However, the criteria for obtaining this authorisation vary significantly based on the nationality and economic status of prospective foreign tourists. While TCN nationals from countries of the global North and overall wealthy states are exempted from the obligation to hold a visa C for stays of less than 90 days, other TCN nationals must undergo closer scrutiny regarding the purposes and conditions of their stay to ensure the legitimacy of their intended tourist activities.

The crucial underlying assumption is that tourism may serve as an entry point for migration for poorer nationals or individuals, posing a risk of individuals staying for reasons other than tourism and potentially overstaying in Belgium. Related to this concern is the overarching requirement for all TCNs (EU citizens having the right to enter and reside freely within three months, according to art 40, §3 of the law of 1980/12/15) to have sufficient means for the duration of their stay. However, only TCN nationals not exempted from visa C are required to provide the corresponding proof ahead of their stay through their visa application, highlighting the same

disparity in scrutiny and control based on the economic situation and nationality of prospective TCN tourists.

Student migration policy: a focus on selective mobility and establishment

The possibility and conditions for foreigners to reside in Belgium for study purposes is regulated by the consolidated law of 15 December 1980 on the access to the territory, residence, establishment, and expulsion of foreigners. The latter incorporates a series of EU Directives, such as the Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of TCNs for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects, and au pairing. The Belgian policy on student migration is analysed using the same framework of dimensions and themes as other migration policies, aiming to highlight its main considerations, categories, and concerns.

Policy dimensions: categorising student migration

The Belgian student policy involves two main categories regarding the **actor dimension**. The first category corresponds to the nationality of prospective student migrants, whether from an EU member state or a TC. TCNs are the most scrutinised group. They are further subcategorised according to their residential and educational situation: whether they entered Belgium as their only or first EU member state of residence, or if they are already authorised to stay for study purposes in another EU country.

Certain similar **characteristics** are expected from the various categories of prospective migrant students. Their profile should reflect students who are effectively registered or admitted by a Belgian higher education institution, financially independent (not likely to resort to social assistance), in good health (with no disease posing a risk to Belgian public health), and have a health insurance (art. 60, §3; 61, §1). They can be above 18 years old or have the consent their parents or legal guardian if under 18 years old. On top of these traits, TCNs are required to prove that they have not been convicted for common crimes or offenses if they are above 18 years old. The Belgian migration policy, however, recognises students who are already residing in another EU country for study purposes as directly eligible for a study stay, thereby enacting and facilitating student mobility within the EU.

In terms of temporality, the Belgian State offers a long-term visa (visa D) of at least one year to the TCN students holding a certificate from a Belgian higher education institution, which can be adjusted to the duration of the intended study if it is shorter than one or two years by derogation (art. 61/1/1 §3). However, the legislation acknowledges the possibility that the certificate of enrolment in the higher education institution or the insurance certificate may not be provided at the time of visa application for practical reasons. In such cases, it grants an authorisation of temporary stay of maximum four months, with the student required to submit the certificate of enrolment 15 days before the expiration of this period (art. 61/1/1, §2, 4).

In the context of a TCN student mobility from another EU country, the duration of study stay in Belgium is also limited to a maximum of 360 days from the communication of the mobility project to the immigration administration by the host institution in Belgium. The administration reserves the right to oppose the mobility if it deems the student a threat to Belgium's public order, national security, or public health. Besides, students enrolled in a Belgian higher education institution participating in student mobility to another EU country have the immediate right to return to Belgium if their stay has been refused or terminated by that country.

In sum, the temporality framework provided for student migration by the Belgian State is designed to implement frequent and systematic monitoring of TCN students, ensuring their ongoing compliance with the set of expected characteristics throughout each year of their studies.

However, a relaxation of this principle has been introduced in the Belgian legislation with the law of 11 July 2021 amending the law of 15 December 1980 on access to the territory, residence, establishment, and expulsion of foreigners regarding students. This reform mandates that a two-year visa should be granted to facilitate the student mobility that is part of a Union or multilateral program involving mobility measures or covered by an agreement between two higher education institutions allowing student to pursue part of their studies in another EU country. This provision confirms the special consideration given to intra-EU student mobility in Belgium's student migration policy, thereby easing its otherwise systematic scrutiny of expected characteristics to some extent.

A thematic analysis of student migration policy

As for other mobility policies examined in the present report, the policy on students' movements can be further understood by examining the guarantees, benefits, penalties, forgiveness, and referrals it entails.

Belgium requires a range of **guarantees** in exchange for granting authorisation to stay in its territory for study purposes. TCNs must furnish a certificate issued by a higher education institution confirming their enrolment or admission, along with a health insurance certificate covering all risks in Belgium for the duration of their stay. They also must provide a medical certificate attesting to the absence of diseases deemed posing a risk to Belgian public health. If they are over 18 years old, they must also present a criminal record extract or equivalent document dated within the last six months, demonstrating no convictions for common crimes or offenses. Furthermore, TCNs are required to pay a fee covering administrative costs and demonstrate sufficient means of subsistence for the duration of their stay to prevent becoming reliant on the Belgian social assistance system. This proof can take the form of a scholarship or loan certificate, a commitment of financial support by an individual, or any other means of proof (art. 60, §3; 61, §1). The minimum amount of financial resources is set at 730 euros per month in 2022 (EMN, 2022, p. 54), which must be proven in advance for the duration of the stay. This requirement appears to establish an economic barrier or filter for foreigners seeking higher education in Belgium. In contrast, the guarantees required from EU nationals to study in Belgium are less stringent due to the framework of the Schengen space, requiring only proof of sufficient financial resources and health insurance during their stay (art. 40, §4). To facilitate intra-EU mobility, TCNs residing in a first member state who undertake student mobility in a Belgian higher education institution are exempted from providing guarantees, provided they have already been authorised to study in that EU country.

Once authorised to study in Belgium, foreign students are afforded a set of associated rights, or **benefits**. However, it is important to note that the time spent in Belgium for their studies cannot be included in the five-year period of continuous presence in Belgium, which opens the right to a long-term residence permit for other categories of TCNs (art. 15bis, §1). In other words, the long and continuous presence of TCN students is not compensated by the recognition of their social integration through the grant of a long-term authorisation to remain in the country, unlike for students of EU citizenship (art. 42quinquies). This noticeable element suggests the prevailing vigilance by the Belgian state that studies should not be used by TCNs to ultimately stay in Belgium for other purposes, pre-empting or suppressing, in the legislators' minds, an imaginable alternative desire to keep workers on its soil that the country has contributed to qualifying.

In addition to the pursuit of their studies, TCN students have the right to work part-time, framed by the Royal Decree of 2 September 2018 implementing the law of 9 May 2018 concerning the employment of foreign nationals in a particular residence situation. This right is provided under conditions intended to ensure that the students' work activities are compatible with their studies, limiting them to school vacations or a maximum of 20 hours a week.

On 11 July 2021, Belgium adopted a law amending the migration law of 15 December 1980 regarding TCN students, notably granting them a new right to stay in Belgium for one year to seek employment or create a business once they successfully graduate from a Belgian higher education institution. This amendment reflects the growing concern of Belgian legislators regarding the need for more skilled workers for the sake of the Belgian economy (see the section on Belgium's (im)migration regime), motivating this significant loosening of an otherwise strictly restricted right to study in Belgium. Nevertheless, verification is made to ensure that graduated prospective workers comply with the same general conditions required from TCN students, especially proof that they have sufficient resources for their future stay, which may be challenging to provide just after graduation, and proof of health insurance. They may also be required to demonstrate a real chance of finding employment or creating a business within three months after the issuance of their permit.

Overall, the set of benefits granted by the Belgian policy on student migration is designed to ensure that TCN students, like other students, can effectively pursue their studies in appropriate conditions, while ensuring they are not motivated by other purposes, especially the desire to ultimately stay in Belgium, which excludes them from the right to a long-term residence permit after five years of continuous presence. Nevertheless, they are granted a limited right to work during their studies. In addition, a new concern regarding Belgian economic needs for more skilled workers has led to the allocation of a new right to stay for TCN students after their graduation in Belgium. However, the condition that they must meet the country's employers' needs or create a new business within one year creates another economically selective filter to their establishment, ensuring the consistent indexation of TCN graduates' residence to the strict current productive needs in Belgium.

As main **penalties**, migrant students face the potential refusal or end of their residence permit if they fail to comply with the laws and requirements for their stay. This is particularly the case if there is credible and objective evidence or reasons to believe that their stay is for purposes other than study, if they have used false or misleading information, forged documents, or resorted to fraud or other illegal means to obtain their stay, and if they are considered a threat to public order, health, or national security (art. 61/1/3, 61/1/4). The same penalties can also result from irregularities committed by the host higher education institution itself: failure to fulfil legal obligations regarding social security, taxes, workers' rights, or working conditions; penalisation for undeclared work or illegal employment; undergoing liquidation or bankruptcy, or lack of economic activity, or establishment or operation primarily to facilitate the entry of TCNs into the Kingdom (*ibid.*). The last aspect especially highlights the Belgian State's assumption and concern regarding potential fraudulent TCN migration networks resorting to false or illegal higher education institutions. Similarly, a student permit can be terminated in the case of illegal or excessive employment by the TCN (art. 61/1/4, §2), reflecting the same vigilance regarding TCNs' compliance with the strict framework imposed for study purposes.

In addition, the Belgian policy provides limited **forgiveness** measures to offset this array of penalties, underscoring the stringency of the legal framework extended to TCNs for student migration in the country. These forgiveness measures primarily address penalties resulting from faults and irregularities committed by their host institutions, rather than from personal wrongdoing. For instance, if "the right to stay is terminated or not renewed due to the failure of the higher education institution where the student is enrolled to fulfil its obligations, the student may request admission to another higher education institution to pursue an equivalent program, allowing them to complete their studies" (art. 61/1/4, § 3).

The Belgian student migration policy incorporates various references (**referrals**) to corresponding EU regulations and national laws, including the Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of TCNs for the purposes of research, studies, training, voluntary service, pupil exchange

schemes or educational projects, and au pairing. It also encompasses the law of 11 July 2021 amending the law of 15 December 1980 on access to the territory, residence, establishment, and expulsion of foreigners regarding students; and the law of 9 May 2018 concerning the employment of foreign nationals in a particular residence situation. Like other Belgian mobility policies, it also makes reference to the country's penal, civil, and criminal codes.

Conclusion

The Belgian mobility policy is underlaid by several assumptions and concerns regarding student migration. The legal framework for student migration aims to recognise the right to study and continue studying in Belgium to TCNs admitted to the country's higher education institution. At the same time, it aims to mitigate the risks of stays for other purposes than studies, overstays, and institutionalised illegal migration networks. To achieve this, Belgium implements systematic and recurring monitoring of TCN (prospective) students, issuing residence permits limited to each year of study (or to shorter study durations). Prior to permit issuance, it also requires legal assurances that students will be financially independent throughout their stay, effectively establishing an economic selection process for access to higher education in Belgium. The special attention given by Belgium to intra-EU mobility results in the grant of certain favourable conditions in terms of temporality and guarantees for TCNs involved in intra-EU mobility in the country, including one-year student mobility rights in Belgium and a two-year visa for TCN students enrolled in certain mobility programs. Time spent in Belgium for studies is not counted towards the right to long-term stay after five continuous years of presence for TCNs. Alongside legislators' particular concern about the risk of fraudulent student migration and potential organised migration networks, this element underscores their strong assumption that studies may be used as a pretext for staying or overstaying in Belgium for non-study purposes. Recently, Belgium has adopted a provision allowing TCN students to remain in the country after graduation, contingent upon a second type of economic selection, that is, their ability to secure employment or establish a business within one year, ensuring that access to longer stays is strictly tied to the country's immediate economic interests.

Schengen policy: a focus on “migratory risk”

Vanessa Frangville and Maëlwenn Chaperon

Belgium is one of the main signatories of the Schengen Agreement in June 1985, along with France, Germany, the Netherlands, and Luxembourg. To this initial agreement was added an Implementation Convention after five years of negotiation, in 1990. The Schengen system was then based on both free crossing of international borders and compensatory measures in terms of internal security. These compensatory measures include immigration control, fight against crime, and the Schengen Information System (SIS), a shared database to report suspicious individuals circulating within the Schengen area. The Schengen agreement was ultimately implemented in Belgium in March 1995.

Typical reasons for entering the Schengen area with a short-stay visa are visiting family or friends, tourism (see the section on Belgium's tourism policy) a business visit, sports and culture, short traineeship, medical treatment, or a transit through the Schengen area. Holders of a Schengen visa (Visa C) issued in Belgium or another EU member state are allowed to circulate freely through all Schengen countries for up to 90 days per 6 month-period (Art. 19, §1 of the Convention implementing the Schengen Agreement).

Different types of Schengen Visa exist as follows:

(1) **transit visa** allows travellers going from one non-Schengen country to another non-Schengen country to pass through the Schengen zone.

(2) **single-entry visa** allows one uninterrupted stay for a limited period with a maximum duration of 90 days.

(3) **multiple entry visa** allows several stays within the Schengen area, provided that the total length of the visits does not exceed 90 days in any 180-day period.

If not staying in a hotel, hospital, or boarding house, holders of a Schengen visa must report their presence to the city hall of the municipality within 3 days after their arrival in Belgium, or 10 days for TCN family members of EU nationals. They will be issued a “declaration of arrival” (appendix 3), or a “declaration of presence” (appendix 3ter) for TCN family members of EU nationals.

Entry conditions are stipulated in the article 6 of the Schengen Border Code. They include the following **guarantees**:

- (a) a **valid travel document** entitling the holder to cross the border satisfying the following criteria, issued within the previous 10 years;
- (b) a **valid visa**, except when they hold a valid residence permit or a valid long-stay visa;
- (c) the **justification of the purpose and conditions of the intended stay**;
- (d) **proofs of sufficient means of subsistence**;
- (e) the **absence of an alert issued in the SIS** for the purposes of refusing entry; and
- (f) the **absence of a threat to public policy, internal security, public health, or the international relations** of any of the EU Member States.

Among other requirements, Schengen visa TCN applicants must prove that they have sufficient funds to cover their stay, show a proof of accommodation, and purchase a travel and medical insurance (all related to point c above). In Belgium, visa applicants must prove they will be able to cover at least 95 euros a day when staying at a hotel, or 45 euros a day when staying in any other accommodation. *Applicants may rely on a guarantor who must be of Belgian citizenship, reside in Belgium, and have an income of at least 2,048.53 euros net income per month (as of 1 December 2023).* This required income is equivalent to 120% of the amount referred to in Article 14, §1, 3°, of the Act of 26 May 2002 on the right to social integration. The economic criterion is therefore essential for Belgian authorities to issue, or not, a Schengen visa.

*Not all TCNs need a Schengen visa to enter Belgium. **Exceptions** include countries like Japan, South Korea, Canada, the USA, or Switzerland, from which nationals **are considered less prone to overstay and become irregular migrants**.* Other categories of people who are also exempted from the above-mentioned requirements are holders of diplomatic passport, countries that signed special agreements with Belgium (to facilitate exchanges and guarantee good relationships), and TCNs with family members of EU citizenship.

Extension is allowed in the case of late entry, humanitarian reasons, force majeure (emergency situations or impediments) and important personal reasons. Application for extension should be submitted at least a week before visa expiration. Failure to do so may subsequently translate into overstaying, which is subject to Belgian State’s **penalties**. Overstaying in the Schengen area may lead to fine, deportation, or ban to enter to travel on the Schengen zone for two years or more, depending on the length of the overstay (see Table 6 in the Annex 1).

Overall, a main concern in Belgium is the “**migratory risk**”: the risk that TCNs who hold a Schengen visa overstay and become irregular migrants or use the Schengen visa to apply for longer residency through family reunification, for instance. Therefore, multiple guarantees must be met before the visa is issued, including the possession of sufficient financial resources. This requirement excludes many poorer migrants from accessing tourism based on their economic situation. The extension of this visa is not straightforward as there are a set of guarantees that applicants need to provide. In other words, the Belgian State constantly makes sure that Schengen visa applicants and holders will not pose a migratory risk. The underlying supposition is that these individuals are likely to use the Schengen visa to remain in Belgium.

Discussion of research results

The analysis of six policies regarding legal migration in Belgium allows for a comparative and transversal discussion. This discussion focuses on the salient features of the studied policies, their main resemblances, and differences in the way they take into consideration TCN migrants' behaviour. Four dimensions of the migrants' behaviour in the Belgian policies emerge out of the preceding analysis: the expected behaviour regarding their status once allowed to stay, the decision to remain beyond their initial stay, the transition to another migratory status, and potential mobility within the EU. These dimensions are compared analytically across the actors of TCN migrations, their expected characteristics, temporality, guarantees, penalties, and forgiveness measures provisioned in Belgian migration policies.

Generally expected characteristics of TCN migrants and associated guarantees

The most transversal or universal requirements in the Belgian policy regarding prospective migrants of all kinds (TCNs and even EU citizens) concern their financial independence, that is, their disposal of sufficient means of subsistence and their absence of the right to resort to social assistance before at least five years of continuous stay. Another transversal imperative is that they should not present major risks regarding Belgian public order and public health. In other words, prospective migrants and their behaviour are first and above all considered under the prism of their potential cost for the Belgian nation.

A second set of general expectations, for which only a few minor specificities can be found regarding specific types of migrants, is their continuous abidance to the laws governing the conditions of entry and stay in the Kingdom's territory, upon which depends their right to stay or remain in Belgium. The scrutiny and possible termination of migrants' stay in Belgium is consistent for all types of legal migration. An indicator of this consistency is the laws' explicit and systematic vigilance regarding the possibility that migrants would pursue purposes different from those for which their authorisation to stay has been formally applied for and granted. Risks of fraud and irregularities committed by the prospective migrants or their host institutions (employer, universities) or sponsors (family member, financial guarantor) – i.e., false or irregular labour contracts, employment and work activities, marriages and couples, tourism intentions, activities, diplomas, and enrolment – are systematically and carefully considered and prevented by the Belgian laws regarding migration. Additionally, TCN migrants' stay in Belgium is consistently conditioned to their continuous satisfaction of the requirements associated with their migration status (for instance, effective and continuous employment, studies, marriage, financial independence, etc.). A rare exception to this contingency principle is the possibility for family members to stay in Belgium after the death or the dissolution of the link to their sponsor (in the case of divorce, for example), under certain conditions, manifesting a protective intent and a consideration for the vulnerability of family reunification migrants (see Annex 1, Table 2).

The concern of the Belgian State regarding the risks of legal migrants' illegal overstay and long-term establishment in Belgium is reflected by the set of penalties transversally provided to refuse, terminate, or refuse the renewal of their residence permit or authorisation in case they do not satisfy anymore the associated requirements. Such penalties are provisioned to sanction irregularities committed whether by the prospective migrant or their host institution, such as employers and universities (see Tables 1 and 5 in Annex 1), reflecting a concern over potential networks organising irregular TCN migration to Belgium. This concern is echoed by the specific control administration and penalties provisioned to frame and monitor the activity of migrant investors and entrepreneurs, notably regarding the risks that they may present for the organisation or recruitment of irregular migrants (see Table 4 in Annex 1). In the same vein, a specially

stringent vigilance appears concerning certain categories of migrants, reflecting the assumption that they also present greater risk in terms of irregular migration. Echoing the “migratory risk” carefully considered in Belgium’s Schengen policy (see Table 6 in Annex 1), an explicit vigilance is provisioned in the case of seasonal workers, whose mobility can be facilitated under certain conditions, notably if they have already respected the law during one or several previous stays in Belgium for seasonal work in the past, implying that they can therefore be considered more trustworthy (see Table 1 in Annex 1).

The conditional recognition of TCNs’ changing behaviour: stay and status modifications

The Belgian mobility policies widely recognise legal possibilities for TCN migrants to change or extend their stay beyond its end, but again under the condition that they remain law-abiding throughout all the process.

Regarding the renewal of residence permits, they can be ended if the maximum duration of the current stay has been reached, or if the guarantees associated with the stay are not met anymore. In addition, certain categories of residence permits for migrants cannot be renewed, or only under precise limits. This concerns permits with a maximum duration, provided to migrant activities in Belgium presenting a temporary character and responding to temporary economic demands. Such permits include those for tourists, volunteers, seasonal workers, and, within the context of short-term mobility, students, researchers, and workers in intragroup mobility. However, Belgian law usually offers legal possibilities to extend or renew temporary labour stays in Belgium, provided that they continue to fulfil economic demands and remain within a given time limit. For instance, there is a maximum of three years for executives and experts in temporary intragroup mobility, or 150 days per period of 360 days for seasonal workers – see the section on labour migration policy for more details.

The possibility for TCN migrants to change their status and transition from one type of residence permit to another is widely recognised, reflecting a similar consideration for and allowance of migrants’ behaviour and their potential change, as long as they meet the associated requirements for their new application. Migrants who already legally reside in Belgium are generally allowed to apply for another permit, including for family reunification, studies, research, high-skilled, and most working activities. However, certain activities must be applied for from abroad, or can only be extended within a maximum time limit in Belgium, given their temporary nature. These include workers in temporary intragroup mobility, trainees, volunteers, seasonal workers, or tourists and holders of a Schengen visa (with the latter activity allowed to be extended only under exceptional circumstances). Conversely, it is interesting to note that certain categories of legal migrants are provided with favourable conditions to even facilitate such transition. These include student migrants who graduated from a Belgian higher education institution and researchers who completed a mobility in Belgium, who are allowed to stay for one year to seek employment or create a company, reflecting the Belgian State’s current priority to attract more qualified workers for its economy. These observations regarding the extension or change of migration status highlight a hierarchy in terms of more or less favourable conditions provided for different types of migrations.

Belgium’s hierarchy of TCN mobilities and migrations

The comparative analysis of the sets of temporal provisions and benefits provided for each purpose of migration or mobility to Belgium clearly reveals the priorities and special treatments afforded to certain categories of migrants. This hierarchy manifests in the existence of special provisions regarding the speed with which the Belgian administration must respond to certain categories of migrants’ applications, as well as regarding the conditions their long-term establishment in Belgium is given.

The first type of privileged TCN mobilities in Belgium concerns mobility within the EU, reflecting the importance and the early integration of the Schengen area by Belgium (see the section on Schengen policy). EU citizens enjoy free circulation within this space and are the only group of foreigners who cannot be legally asked for any specific guarantee in this capacity neither ahead nor during their short stay (less than 90 days) in Belgium. But TCN tourists, holders or exempted from a Schengen visa, and holders of a residence permit in Belgium or another country of the Schengen area, also enjoy the right to free circulation in the Schengen area for up to 90 days. Besides the right to free circulation, certain categories of TCNs established in another EU country are afforded special conditions for an intra-EU mobility to Belgium. This is notably the case of workers, such as researchers and workers in temporary intragroup mobility who benefit from a rapid processing of their application, students who have the right to mobility in the EU within one year, and students in a Union program involving mobility measures (such as Erasmus Mundus) who are afforded a longer residence permit (two years instead of one year, renewable).

In terms of temporality, both in application processing and the duration of their stay, high-skilled workers are clearly privileged by Belgian migration policy. Alongside researchers and workers applying for intragroup mobility for a long stay in Belgium, they benefit from relatively short waiting periods before notification of their application result, although their activity in Belgium can be long-term, has no maximum duration and is renewable (see Table 3 in the labour migration policy section). On the contrary, certain activities, such as those of tourists, visitors with a Schengen visa, trainees, volunteers, and seasonal workers, are associated with similar waiting periods but are inherently temporary in nature. Other TCN workers, including those already residing in another EU country, and students, face longer processing times, indicating a lower priority for the Belgian state. These disparities highlight Belgium's economic interest as a key factor in its migration policies, with highly qualified and innovative workers at the top, followed by temporary migrants meeting short- or medium-term labour needs, and other workers and students at the bottom. The processing speed of prospective investors' applications and their position in this hierarchy may vary significantly depending on the economic priorities of the competent Belgian regions (see the section on investment-based immigration policy), while family reunification follows a somehow similar pattern, aligning with the waiting time for the residence permit of the family member in Belgium (see Tables 2 and 3), thus also confirming the prevailing importance of economic interest in this hierarchy.

Similar principles and hierarchy are evident when considering the benefits provided for the stay and establishment of different categories of legal migrants in Belgium, reflecting the Belgian state's intention to influence the behaviour of aspiring TCN migrants differently. In addition to provisions designed to facilitate the stay of certain categories of TCNs, such as researchers who have completed a mobility in Belgium and students who have graduated from a Belgian higher education institution, discriminating conditions are granted for the grant of long-term residence status and permit in exchange for long-term incorporation in Belgium after five years of continuous presence. High-skilled workers are the most advantaged group here, with the right to longer absences before and after the grant of a long-time residence permit, and the inclusion of their stay in other EU countries counting as their stay in Belgium for the calculation of their absence and of a five-year continuous presence (provided that they resided in Belgium for two years preceding their request).

On the contrary, other categories of TCNs are de facto or explicitly excluded from accessing long-term resident status in Belgium. Temporary workers, whose activity cannot be prolonged beyond a maximum duration of stay or immediately renewed, cannot reach five years of continuous presence in Belgium and are thus excluded from legal recognition of long-term resident status. Belgium also stipulates that time spent in Belgium for study purposes cannot be counted for the calculation of the five-year period, thereby excluding TCN students from long-term residence unless they find employment and continuously stay in Belgium for five years after

their studies. These compared results underscore the prevailing importance of an economic need or interest for Belgium in exchange for the recognition of rights associated with long-term incorporation and residence in the country. The Belgian policy thus distinguishes between TCN migrants and mobilities with only a temporary character, such as students, short- or medium-term workers, or visitors, from those destined to establish in Belgium on a long-term basis if they meet the required conditions, and those favoured to do so due to their considered added value for the Belgian economy.

Furthermore, the referrals within Belgian migration policies underscore the prevailing principles of the predominance of Belgian economic interests and of law compliance for the migration of TCN workers, students, their families, and visitors. These referrals contribute to a comprehensive legal framework governing TCN migrations, complementing the detailed legal provisions outlined in referred application decrees. The incorporation of EU directives ensures alignment with international commitments, while the indexation of migration policies to Belgian economic and social norms is ensured by references to laws governing social assistance, economic relations, and foreign employment. Furthermore, citations of criminal and civil codes reinforce the fundamental principle of migrant compliance with the law. The inclusion of regional norms in migration policies further aligns with the principle of economic interest, and its tailored assessments at the regional level.

Conclusion

Belgium's migration policies largely take into consideration and intend to regulate TCN migrants' behaviour. A primary concern is ensuring TCNs residing in the country strictly adhere to the law, particularly in relation to their designated purposes, which determines their continued stay.

Before reaching a minimum of five years of continuous legal presence in Belgium, the Belgian State's control involves scrutiny and monitoring to prevent hidden migratory agendas, fraudulent migrant applications, and overstaying (the "migratory risk"). Another central concern is the limitation of migrants' costs for the country, through maintaining economic independence and avoiding dependence on the social assistance system (also a strategy to mitigate the supposed risk of migration "pull factor"), nor present risks to public health and order. The primary consideration of the economic benefit for Belgium, determined and assessed at the regional level, prevails regarding labour and investment-based immigration, as well as the long-term establishment of students. It extends indirectly to the family members allowed to join those TCN migrants deemed economically beneficial. Alongside other channels such as international protection and free movement within the EU and the EEA, family reunification has become the most significant factor contributing to Belgium's net migration since the 1990s, which has been the primary driver of the country's demographic growth from the 2000s onward. It is noteworthy that Belgium's prioritisation of economic interests and the avoidance of costs in its migration policy is often motivated by political and electoral factors than empirical evidence or data, as expert interviews conducted in Belgium (Monteil, 2024) and other studies (Corthier, 2019; Ciré, 2009) (see also the section on Belgium's (im)migration regime).

On the other hand, Belgium's migration policy typically provides legal avenues for behavioural and situational changes, such as extending TCNs' stay beyond their initial term, provided that they continue to meet the requirements associated with their purpose of stay. It also includes special provisions to facilitate mobility within the EU for certain types of short- or medium-term work activities responding to Belgian temporary labour demands, as well as the establishment of high-skilled workers, researchers, and since 2021 of students who graduated

from a Belgian higher education institution, reflecting a hierarchy of more or less favoured and desirable TCN migrations. In addition, protective measures are provided under certain conditions for family members after the dissolution of their link to their sponsor, as well as for victims of human trafficking (see the “Discussion of research results” section).

Aside from these limited exceptions, Belgium’s policy offers no specific advantages for the renewal or change of migration status for TCN migrants already residing in the country, despite their economic, social or cultural contributions (under the same legal obligations but without the same social rights and benefits as citizens), or Belgium’s investment in their training, until they complete at least five years of continuous residence. In other words, Belgium’s policy does not consider as the principle of interests of these established TCNs. They are instead caught in a regime of “permanent temporality” (Merla and al., 2022), to the detriment of their personal and family living conditions. The costs associated with this regime of instability, including impacts on physical and mental health, well-being, precariousness, and integration of TCN immigrants, as well as broader implications for public order, tranquillity, and social cohesion, are not well integrated into Belgium’s migration policy calculations. Only through obtaining long-term residence status after five continuous years in the country can TCNs escape this regime of instability, but this status also requires strict conditions and excludes certain purposes and activities, such as temporary work or study.

In addition, the complexity of administrative procedures and their frequent repetition can lead to situations of irregularity, potentially resulting in deportation (*ibid.*). However, administrative complexity may not be the sole factor at play here, as it can hardly explain the authors’ observation that permit refusals occur more frequently after applications submitted specifically for a transition of migration status, following several years of legal presence, regardless of applicants’ level of qualification or nationality. An important factor at play may lie in administrative practices. Previous works in political sociology of street-level bureaucrats applied to immigration offices (Dubois, 2008; Infantino & Rea, 2012; Mascia, 2021) have demonstrated the significant discretionary power of administrative agents in charge of implementing migration policies, notably in terms of assessing and prioritising legal criteria in case processing. In the current Belgian regime, where migration is inherently tied to specific and temporary motives, heightened administrative suspicion may be directed towards TCNs seeking to change their migration motives, interpreting their behaviour as attempts to overstay or settle permanently and illegitimately in the territory. Thus, requests for changes in migration status, generally considered neutrally by Belgian law, may be regarded and treated differently in actual administrative practices, significantly limiting TCN migrants’ behavioural latitude.

References

- 15 DECEMBRE 1980. - *Loi sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers* (consolidated version as of December 23, 2023).
<https://www.ejustice.just.fgov.be/eli/loi/1980/12/15/1980121550/justel>
- 19 FEVRIER 1965. - *Loi relative à l'exercice, par les étrangers, des activités professionnelles indépendantes* (integrating modifications effective until October 20, 2023).
https://www.ejustice.just.fgov.be/img_1/pdf/1965/02/19/1965021902_F.pdf
- Adam, I., & Jacobs D. (2014). « Divided on Immigration, Two Models for Integration. The Multilevel Governance of Immigration and Integration in Belgium ». In *The Politics of Immigration in Multi-Level States*, edited by Eve Hepburn et Ricard Zapata-Barrero, 65-85. London: Palgrave Macmillan UK.
- Álvarez López, M. & Razauskas, A. (2023, October). *The European Economic Area (EEA), Switzerland and the North*. European Parliament.
<https://www.europarl.europa.eu/factsheets/en/sheet/169/the-european-economic-area-eea-switzerland-and-the-north>
- Bensaid, N. (2013). « La politique migratoire belge et ses conséquences sur les couples transnationaux : un regard des acteurs sociaux bruxellois »: *Migrations Société*, 150 (6): 109-22.
- Bonizzoni, P., & Fresnoza-Flot, A. (2023). Membership intermediaries: a study of pluri-generational mixed-status families in Italy and France. *Comparative Migration Studies*, 11(1), 1-17.
- Ciré (Coordination et initiatives pour réfugiés et étrangers) (2009). « Les politiques migratoires et le concept de l' « appel d'air » ».
<https://www.cire.be/wp-content/uploads/2011/10/politiques-migratoires-concept-appel-air.pdf>. Last consultation: January 15, 2024.
- Ciré (Coordination et initiatives pour réfugiés et étrangers) (2024). « Les quatre phases de la politique migratoire ».
[https://www.cire.be/les-4-phases-de-la-politique-migratoire/#:~:text=Entre%201946%20et%201949%2C%20environ,et%20la%20Grèce%20\(7.800\)](https://www.cire.be/les-4-phases-de-la-politique-migratoire/#:~:text=Entre%201946%20et%201949%2C%20environ,et%20la%20Grèce%20(7.800)). Last consultation: January 15, 2024.
- Coppi D., Demonty B., Santkin U. (2023, September 20). “Malgré les critiques, De Moor continuera à exclure les hommes seuls des places d'accueil », *Le Soir*.
<https://www.lesoir.be/538452/article/2023-09-20/malgre-les-critiques-de-moor-continuera-exclure-les-hommes-seuls-des-places>. Last consultation: January 15, 2024.
- Corthier I. (2019, May 14). « L'appel d'air des migrants n'existe pas. Leur contribution est bien réelle », *Caritasinternational.be*.
<https://www.caritasinternational.be/fr/urgence-et-developpement/lappel-dair-des-migrants-nexiste-pas-leur-contribution-est-bien-reelle/>. Last consultation : January 15, 2024.

- Costa Santos A., Tatti D. (2024). « Politique migratoire : répondre au massacre par la suspicion et la dissuasion », *Le Club de Mediapart*, February 5. <https://blogs.mediapart.fr/carta-academica/blog/050224/politique-migratoire-repondre-au-massacre-par-la-suspicion-et-la-dissuasion>. Last consultation : February 5, 2024.
- Directorate-General for Migration and Home Affairs. (n.d.). *A single permit for work*. European Commission. https://home-affairs.ec.europa.eu/policies/migration-and-asylum/legal-migration-and-integration/work/single-permit-work_en
- DOFI. (2024a). *Carte professionnelle*. Immigration Office (DOFI). <https://dofi.ibz.be/fr/themes/ressortissants-dun-pays-tiers/travail/carte-professionnelle>
- DOFI. (2024b). *Droit de retour vers la Belgique*. Immigration Office (DOFI). <https://dofi.ibz.be/fr/themes/entree/controle-aux-frontieres/visa/droit-de-retour-vers-la-Belgique>
- DOFI. (2024c). *Demande de visa d'entrée dans l'espace Schengen (visa C)*. Immigration Office (DOFI). <https://dofi.ibz.be/fr/themes/ressortissants-dun-pays-tiers/court-sejour/demande-de-visa-dentree-dans-lespace-schengen>
- DOFI. (2023a). *Regroupement familial*. Office des étrangers (DOFI). <https://dofi.ibz.be/en/themes/third-country-nationals/family-reunification>
- DOFI. (2023b). *Visa D application (family reunification)*. Immigration Office (DOFI). <https://dofi.ibz.be/en/themes/third-country-nationals/family-reunification/visa-d-application-family-reunification>
- DOFI. (2023c). *Residence application*. Immigration Office (DOFI). <https://dofi.ibz.be/en/themes/third-country-nationals/family-reunification/residence-application>
- EMN: European Migration Network. (2022). *Annual report on migration and asylum*. https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-publications/emn-annual-reports_en
- ERPS: European Parliamentary Research Service. (2021). « Revision of the EU Blue Card Directive ». [https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/603942/EPRS_BRI\(2017\)603942_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/603942/EPRS_BRI(2017)603942_EN.pdf). Last consulted: January 15, 2024.
- European Commission. (n.d.). *Belgium - Family member*. EU immigration portal. https://immigration-portal.ec.europa.eu/belgium-family-member_en
- Infantino, F., & Rea, A. (2012). « La mobilisation d'un savoir pratique local : attribution des visas Schengen au Consulat général de Belgique à Casablanca », *Sociologies pratiques*, 24 (1): 67-78.
- Martiniello, M., & Rea, A. (2012). *Une Brève histoire de l'immigration en Belgique*. Brussels: Enschedé/Van Muysewinkel.

- Mascia, C. (2021). « How Bureaucracies Shape Access to Rights: The Implementation of Family Reunification in Belgium ». *Journal of Ethnic and Migration Studies*, 47 (9): 2127-43.
- Merla, L., & Smit, S. (2023). Enforced temporariness and skilled migrants' family plans: examining the friction between institutional, biographical and daily timescales. *Journal of Ethnic and Migration Studies*, 49(1), 371-388.
<https://doi.org/10.1080/1369183X.2020.1857228>
- Merla, L., Sarolea S., & Schoumaker B. (2022). « Politiques migratoires : fabrique de l'incertitude ? » *Sociétés en changement*, n° 13.
- Monteil, L. (2024). “Aspiration to remigrate in Belgian policies and their implementation: effective rights?”. Presentation in the webinar *Aspiring (re)migrants' behaviour in mobility policies*. AspirE consortium, 29 January.
- Monteil, L. (2022). “Main socio-demographic characteristics of the population of Belgian-Asian couples in Belgium: Insights from public statistics data”. Presentation in the workshop *Situated mixedness. Understanding intimate diversity in contemporary Belgium*. Brussels: Université libre de Bruxelles, 31 May.
- Myria (Migration Federal Center). (2024). « Migration économique ». <https://www.myria.be/fr/droits-fondamentaux/migration-economique>. Last consultation: January 12, 2024.
- Myria (Migration Federal Center). (2023). “Migration économique, libre circulation et étudiants. Cahier du rapport annuel 2023”. https://www.myria.be/files/1654_-_MYRIA_MIGRA_2023-Migration_economique-FR-AS.pdf
- Purkayastha, D., & Bircan, T. (2023). Present but not counted: highly skilled migrant women in Belgium. *Journal of Ethnic and Migration Studies*, 49(1), 294-312.
<https://doi.org/10.1080/1369183X.2021.2003187>
- SPF Justice. (2023). *Déclaration de nationalité*. Service public fédérale belge. https://justice.belgium.be/fr/themes_et_dossiers/personnes_et_familles/nationalite/devenir_belge/declaration_dacquisition/declaration_de_nationalite
- Spire, A. (2008). *Accueillir ou reconduire: Enquête sur les guichets de l'immigration*. Paris: Raisons d'agir.
- Statbel (Belgian Statistical Office). (2024). “Diversité selon l'origine en Belgique ». <https://statbel.fgov.be/fr/themes/population/structure-de-la-population/origine#news>

ANNEXES

Annex 1 – Mobility policies in Belgium

Table 1. Description of Belgium’s labour migration policy

themes (indicators)	dimensions	actors	characteristics	temporality
<p>guarantee(s) (conditions of entry/stay)</p> <p>Right to stay up to three-month</p> <p>Right to stay (long stay) right to stay for all EU citizens who: - work or study in the kingdom - and have sufficient financial resources and a health insurance (art. 40, §4)</p> <p>***</p> <p>Authorisation to stay (long stay) requirements: - all requirements for a working residence permit (see corresponding sub-sections below) (art. 61/7, §1)</p>		<p>EU citizens</p> <p>***</p> <p>Third Country Nationals (TCN) with long-time resident permit in another EU country</p>	<p>- any EU citizen</p> <p>- any EU citizen working in Belgium - financially independent, and insured</p> <p>***</p> <p>- long-time resident in another EU country, except Denmark and Ireland - with any employed or self-employed activity in Belgium, or staying for other reasons – <u>except posted workers</u> - financially stable and independent</p>	<p>right to 90 days of free stay “without other conditions or formalities” (art. 40, §3)</p> <p>right to stay more than three months (art. 40, §4)</p> <p>***</p> <p>residence permit of more than 3 months in Belgium - result of application is communicated to the applicant within 4 months at the latest following the submission of application - in complicated situation within the context of investigation of the application, or when the required documents have not been provided, the</p>

			period of waiting can be extended one time to 3 months (art. 61/7, §3)
<p>Single permit for researcher requirements:</p> <ul style="list-style-type: none"> - proof of payment of the fee (art. 1/1) - passport or equivalent document - hosting agreement signed with a recognised research organisation in Belgium - proof (including the income he will receive during his stay as a researcher) that he will have <u>sufficient means</u> to cover the costs of his return journey and not become a burden to the social assistance system during the intended stay - medical certificate attesting that he is not suffering from any of the diseases listed in the annex to this law – except for the renewal of the residence permit application as a researcher - extract of the criminal record dated less than 6 months attesting that he has not been convicted of crimes or offenses of common law – except for the renewal of the residence permit application as a researcher, and if he is over 18 years old (<u>art 61/13/3 §1</u>) <p style="text-align: center;">***</p> <p>Entry and stay for short-term intra-EU mobility requirements for notification to the authorities (art. 61/13/5, §2):</p> <ul style="list-style-type: none"> - passport or equivalent travel document - hosting agreement signed with an accredited research organisation in Belgium or in the first Member State - proof (including income to be received during the stay as a researcher) that the researcher will have <u>sufficient means</u> to 	<p>Researchers (TCN)</p> <p style="text-align: center;">***</p> <p><u>TCN residing in another EU country</u></p>	<ul style="list-style-type: none"> - researcher, authorised to work as a researcher in Belgium by the competent region (art. 61/12, §1) - not convicted above 18 years old - with sufficient and regular resources/income suitable for the duration of stay and return trip (art 61/13/3, §1) <p style="text-align: center;">***</p> <ul style="list-style-type: none"> - researcher, authorised to stay as a researcher in another EU member state - in mobility to Belgium for research purposes, notified to the authorities by his research organisation in Belgium (art. 61/13/5, §1) - not convicted above 18 years old - with sufficient and regular resources/income suitable for the duration of stay and return trip 	<p>stay of more than 90 days</p> <ul style="list-style-type: none"> - permit issuance is decided <u>within 60 days</u> after notification that application is complete (art. 61/12, §4) <p style="text-align: center;">***</p> <p>right to stay for 180 days maximum for a period of 360 days</p> <ul style="list-style-type: none"> - short-term mobility can begin <u>as soon as the notification has been submitted</u>, provided that the researcher holds a valid researcher permit issued by the first member state (art. 61/13/5, §1).

<p>cover the expenses of the journey to the first Member State and will not become a burden on the social assistance system during the intended stay</p> <ul style="list-style-type: none"> - criminal record extract dated less than 6 months attesting that the researcher has not been convicted of crimes or offenses under common law - valid researcher permit issued by the first Member State, covering at least the period of mobility <p style="text-align: center;">***</p> <p>Single permit in the context of long-term intra-EU mobility <u>requirements (art. 61/13/8, 10):</u></p> <ul style="list-style-type: none"> - proof of payment of the fee - passport or equivalent travel document - hosting agreement signed with the accredited research organisation in Belgium - proof (including income to be received during the stay as a researcher) that the researcher will have <u>sufficient means</u> to cover travel expenses to the first Member State and to cover living expenses without becoming a burden on the social assistance system during the stay - criminal record extract dated less than 6 months attesting that the researcher has not been convicted of crimes or offenses under common law - valid researcher permit issued by the first Member State, covering at least the period of mobility <p style="text-align: center;">***</p> <p>Stay after research or research mobility, to seek employment or create a business (art. 61/13/12 & 61/13/15) <u>requirements:</u></p>		<p style="text-align: center;">***</p> <p><u>specific profile:</u> researcher who has completed their research in Belgium after a stay or intra-EU mobility as a researcher</p>	<p style="text-align: center;">***</p> <p>stay of more than 180 days</p> <ul style="list-style-type: none"> - permit issuance is decided <u>within 60 days</u> after notification that application is complete (art. 61/13/8, §3) <p style="text-align: center;">***</p> <ul style="list-style-type: none"> - up to 12 month-stay to find employment or create a company - permit residence issuance is notified within 90 days (art. 61/13/14, §1)
---	--	---	---

<ul style="list-style-type: none"> - proof of payment of the fee - passport or equivalent travel document - proof of health insurance coverage - hosting agreement signed with an accredited research organisation in Belgium - proof that the researcher has <u>sufficient means</u> of subsistence during the intended stay to avoid becoming a burden on the social assistance system - proof issued by the accredited research organisation in Belgium that the research activities have been completed 			<p><u>possible requirement of proof of real chance:</u> the TCN may be requested, no earlier than three months after the issuance of the residence permit, to prove that they have real chances of finding employment or creating a company (art. 61/13/14, §3)</p>
<p>Single permit for trainee requirements:</p> <ul style="list-style-type: none"> - passport or equivalent document - hosting agreement signed with the accredited research organisation in Belgium - proof (including the income the trainee will receive during their traineeship and any support provided by the host entity) that they will have <u>sufficient means</u> to cover their return expenses and not become a burden to the social assistance system during planned stay - if applicable, evidence that the hosting entity guarantees the trainee for the entire duration of their stay (particularly for subsistence and housing costs) - when the trainee is accommodated by the hosting entity for the entire duration of their stay, proof that the trainee will have housing ensuring decent living conditions - proof of comprehensive health insurance for the duration of the stay - medical certificate (unless renewed) attesting that they are not affected by any of the diseases listed in the annex 	<p><u>Trainees (TCN)</u></p>	<ul style="list-style-type: none"> - trainee, allowed to work by the competent region - with sufficient resources fitting to the duration of stay and his return trip - employed or hosted by a Belgian entity which guarantees his sufficient resources, housing, and return cost fees - not convicted - in good health (not posing threat to the Belgian public health) and insured 	<p>stay of more than 90 days (visa D if applied from abroad)</p> <ul style="list-style-type: none"> - stay limited to the duration of the traineeship, and to a maximum of 6 months (art. 61/13/24) - duration of residence permit corresponds to the duration of work permit (delivered by the competent Belgian region) - permit residence allowance is notified within 90 days after submission of complete application (art. 61/13/18, §4)

<ul style="list-style-type: none"> - extract from the criminal record dated within the last 6 months, certifying that they have not been convicted of crimes or offenses against common law - written commitment from the hosting entity or employer, stating that they will <u>bear the costs of stay and return in the event that a trainee remains irregularly</u> on the territory - internship agreement (art. 61/13/18, §23) 			
<p>Single permit for volunteer</p> <ul style="list-style-type: none"> - payment of the fee - passport or equivalent document - proof (including any support for subsistence and housing by the host entity) that the applicant will have <u>sufficient means</u> during the planned stay to avoid becoming a burden on the social assistance system - if applicable, evidence that the host entity guarantees the volunteer for the entire duration of their stay (especially for subsistence and housing expenses) - when the volunteer is accommodated throughout the stay by the host entity, proof that they will have housing ensuring decent living conditions - proof of comprehensive health insurance for the duration of the stay - medical certificate (except for renewal) attesting that the applicant is not affected by any of the listed diseases in the appendix - criminal record extract less than 6 months old, attesting that the applicant has not been convicted of crimes or offenses against common law - volunteer agreement entered into by the applicant (art. 61/13/27, 31) 	<p><u>Volunteers (European Voluntary Service) (TCN)</u></p> <ul style="list-style-type: none"> - payment of the fee 	<ul style="list-style-type: none"> - volunteer, allowed to work by the competent region - with sufficient resources fitting to the duration of stay and his return trip - hosted by a Belgian entity which guarantees his sufficient resources and housing - not convicted - in good health (not posing threat to the Belgian public health) and insured 	<p>Stay of more than 90 days</p> <ul style="list-style-type: none"> - stay limited to the duration of the traineeship, and to a maximum of 1 year (art. 61/13/32) - duration of residence permit corresponds to the duration of work permit (delivered by the competent Belgian region) - permit residence allowance is notified within 90 days after submission of complete application (art. 61/13/27, §4)

<p>Single permit for employed work (or its renewal) <u>requirements:</u> - payment of the fee (except for renewal) - passport or equivalent document - proof of <u>sufficient means</u> for the duration of the occupation - if applicable, <u>VAT number</u> of the employer - extract from the criminal record dated within the last 6 months, attesting that the person has not been convicted of crimes or offenses - medical certificate (except for renewal) attesting that the person is not affected by any of the diseases listed in the annex - proof of comprehensive health insurance for the duration of the stay (art. 61/25-2, §1)</p>	<p><u>Employed workers (other) (TCN)</u></p>	<ul style="list-style-type: none"> - worker, allowed to work by the competent region - residing abroad or permitted to stay in Belgium (art. 61/25-2, §2) - with sufficient resources fitting to the duration of stay and his return trip - employed by a Belgian employer, or with a professional activity in Belgium - with sufficient resources and housing - not convicted - in good health (not posing threat to the Belgian public health) and insured 	<p>stay of more than 90 days - residence permit allowance is decided within 4 months following the notification that application is complete (may be extended in exceptional circumstances related to the complexity of the examination of the request) (art. 61/25/5) - if a TCN is no longer authorised to work, their residence automatically ends 90 days after the expiration of work permit (61/25-2, §5)</p>
<p>Single permit for highly skilled worker (Blue card) (or its renewal) <u>requirements:</u> - payment of the fee (except for renewal) - passport or equivalent document - proof that he has <u>sufficient means</u> for the duration of his employment - criminal record extract dated less than 6 months, attesting that he has not been convicted of crimes or offenses against common law (except for renewal) - medical certificate (except for renewal) attesting that he is not suffering from any of the diseases listed in the annex - proof of comprehensive health insurance for the duration of the stay (art. 61/27-2, §1)</p>	<p><u>Highly skilled workers (Blue card) (TCN)</u></p>	<ul style="list-style-type: none"> - highly skilled worker, allowed to work by the competent region - residing abroad, or permitted to stay in Belgium for less or more than 90 days (art. 61/27-2, §2) - with sufficient resources fitting to the duration of stay and his return trip - employed by a Belgian employer, or with a professional activity in Belgium - with sufficient resources and housing - not convicted - in good health (not posing threat to the Belgian public health) and insured 	<p>stay of more than 90 days - residence permit issuance or renewal is decided <u>within 90 days</u> following the notification that application is complete - <u>this period cannot be extended under any circumstances</u> (art. 61/27-4, §2) - TCN residing in another EU country as holder of a Blue card since at least 18 months <u>can apply for residence permit in Belgium through their Blue card</u> (art. 61/27-1, §3) - permit renewal application must be submitted at the latest 2 months before</p>

<p>Short stay for seasonal work (permit + visa) <u>requirements:</u> - passport or equivalent document - short-stay visa issued for seasonal work - <u>except for nationals exempt from the short-stay visa requirement</u> - permit for seasonal work - comprehensive health insurance for the duration of the stay - <u>sufficient means</u> of subsistence for the duration of the stay (including income earned as a seasonal worker during the stay) - adequate accommodation (art. 61/29, §1-2)</p> <p style="text-align: center;">***</p> <p>Single permit for seasonal work (long stay) - payment of the fee (except for renewal) - passport or equivalent document - proof of <u>sufficient means</u> to avoid becoming a burden on public authorities (including income earned as a seasonal worker during the stay) - adequate accommodation - criminal record extract dated within the last 6 months, certifying no convictions for crimes or offenses (not applicable for renewal, except for requests to extend the short stay for seasonal work beyond 90 days) - medical certificate (except for renewal) confirming the absence of any listed diseases - comprehensive health insurance for the duration of the stay (art. 61/29-8)</p>	<p><u>Seasonal workers (TCN)</u></p>	<ul style="list-style-type: none"> - seasonal worker, residing outside Belgium - with a short-term visa for seasonal work (for nationals not exempted of visa for short stay) - or with a permit for seasonal work (for stays of more than 90 days) - allowed to work as seasonal worker by the competent region - applying from outside the Belgian territory, or applying for extension of his short stay beyond 90 days (art. 61/29-4, §2) - with sufficient resources and housing - health insured <p style="text-align: center;">***</p> <p>Same requirements as for short stay, <u>plus:</u> - not convicted - in good health (not posing threat to the Belgian public health)</p>	<p>stay of maximum 90 days - granted or renewed in the limit of a maximum duration as seasonal worker of 150 days per period of 360 days (art. 61/29-2) - temporality of visa delivering: 10-15 days up to 1-2 months (cf. Schengen Borders Code)</p> <p style="text-align: center;">***</p> <p>stay of more than 90 days - maximum duration of stay is 150 days per period of 360 days (61/29-9, §1) - residence permit issuance is decided <u>within 90 days</u> following the notification that application is complete - this period is reduced to 30 days if applicant is requesting the extension of their short stay for seasonal work beyond 90 days (art. 61/29-4, §4 paragraph 3), or the extension of his stay of more than 90 days (art. 61/29-5, §3) - this period is <u>reduced to 60 days</u> when an applicant has already been authorised to stay in the territory as a seasonal worker at least once in the last five years and <u>has complied, during each of these stays, with legislation</u> regarding the employment of foreign workers and legislation regarding access to the</p>
---	---	---	---

			territory, stay, establishment, and removal of foreigners - the validity period of the visa <u>corresponds</u> to the duration of the residence permit (article 61/29-7), which <u>aligns</u> with the duration of the work permit (art. 61/29-9, §1)
<p>Single permit for person undergoing a temporary intragroup transfer requirements:</p> <ul style="list-style-type: none"> - proof of <u>sufficient means</u> not to become a burden on public authorities (including income received during his stay as an intragroup transferee) - criminal record extract dated less than 6 months attesting that he has not been convicted of crimes or offenses under common law (except for renewal) - medical certificate (except for renewal) attesting that he is not suffering from any of the listed diseases in the annex - comprehensive health insurance for the duration of the stay (art. 61/39) <p style="text-align: center;">***</p> <p>Entry and stay in the context of short-term mobility of a person undergoing a temporary intragroup transfer requirements:</p> <ul style="list-style-type: none"> - passport or equivalent travel document - permit for a person undergoing intragroup transfer issued by the first EU Member State (art. 61/42) <p style="text-align: center;">***</p> <p>Single permit in the context of long-term mobility of a person undergoing a temporary intragroup transfer requirements:</p>	<p><u>Temporary intragroup transfers (TCN)</u></p> <p style="text-align: center;">***</p> <p><u>TCN residing in another EU country</u></p> <p style="text-align: center;">***</p>	<ul style="list-style-type: none"> - individual undergoing temporary intragroup transfer to Belgium - residing in Belgium (for renewal only), outside the EU, or in another EU Member State within the framework of a temporary intragroup transfer (intra-EU mobility) (art. 61/32, 34) - allowed to work as person in temporary intragroup transfer by the competent region (art. 61/35, §1) - financially stable and independent, and insured - in good health (not posing threat to the Belgian public health) and insured - not convicted <p style="text-align: center;">***</p> <ul style="list-style-type: none"> - person subject to an intragroup temporary transfer to another Member State, in mobility within this framework to Belgium (art. 61/45) <p style="text-align: center;">***</p> <p>same as for short stay mobility, <u>plus</u>:</p> <ul style="list-style-type: none"> - permitted to work by the competent region (61/45-46) 	<p>stay of more than 90 days</p> <ul style="list-style-type: none"> - maximum duration of stay in the EU is 3 years for executives or experts, and 1 year for employed trainees – another stay in this same capacity can be requested no earlier than 3 months after the expiration of this maximum duration of stay (art. 61/38, §2) - the duration of stay / residence permit is limited to the duration of the work permit (art. 61/41, §2) - residence permit issuance is decided <u>within 90 days</u> following the notification that application is complete (61/34, §4) <p style="text-align: center;">***</p> <p>right to stay of maximum 90 days in a period of 180 days (art. 61/43)</p> <ul style="list-style-type: none"> - maximum duration of stay in the EU is 3 years for executives or experts, and 1 year for employed trainees - stay duration cannot exceed duration of the permit delivered by the first EU member State <p style="text-align: center;">***</p> <p>stay of more than 90 days</p> <ul style="list-style-type: none"> - residence permit issuance is decided <u>within 90 days</u> following the notification that application is complete (61/45, §3)

<p>same as for short-term mobility plus:</p> <ul style="list-style-type: none"> - proof of payment of the fee (except for renewal) - comprehensive health insurance for the duration of the stay - criminal record extract dated less than 6 months attesting that the person has not been convicted of crimes or offenses against common law (except for renewal) 			<ul style="list-style-type: none"> - stay duration cannot exceed the duration of the permit delivered by the first EU member State (61/48, §1; 61/47, §2) - maximum duration of stay in the EU is 3 years for executives or experts, and 1 year for employed trainees – another stay in the same capacity can be requested no earlier than 3 months after the expiration of this maximum duration of stay (art. 61/38, §2)
---	--	--	--

benefits (rights/privileges of entry/stay)	penalty/ties (penalising clause/article for IFs)	forgiveness (forgiving clause/article)	referrals (connecting with other mobility policies)
<p>> permanent / long-term residence permits</p> <p><u>conditions of permanent resident card for EU citizen:</u> 5 years of uninterrupted stay in Belgium (art. 42quinquies, §1er); the Belgian government's issuance of an official document certifying their permanence of stay is the evidence of their right to permanent stay (art. 42quinquies, §5)</p> <p><u>conditions of long-term resident permit for high-skilled workers:</u> 5 years of uninterrupted stay in Belgium, or possibly including stays in other Member States of the EU (art. 15bis, §2)</p>	<p>All employed workers</p> <p><u>end of permanent resident card for EU citizens:</u> absence from Belgium during more than 2 consecutive years (art. 42quinquies, §7)</p> <p><u>loss of the right to obtain a permanent resident status:</u> absence from Belgium during more than 6 months per year (art. 42quinquies, §3)</p> <p><u>end of long-term residence permit for highly skilled workers:</u> absence from EU territories during more than 24 months (art. 19bis §1)</p> <p><u>loss of the right to obtain a long-term resident status for high-skilled TCN workers:</u> absence from EU territories during more than 6 months consecutively, and 12 months</p>	<p><u>possibility to regain the status of long-term resident for those who have lost their right of return</u> (under the conditions and cases set by a royal decree) (art. 19, §2)</p> <p><u>conservation of the right to obtain a permanent resident card for EU citizens:</u> - long absence due to military obligations or 12 consecutive months of absence because of important reasons such as pregnancy and childbirth, serious illness, studies or professional training or detachment for professional reasons outside of Belgium (art. 42quinquies, §3) - permanent residence card can be obtained before 5 years of continuous presence in the case of <u>work incapacity</u> under certain conditions (art. 42sexies)</p> <p><u>possibility to regain the status of long-term resident for those who have lost their right of return</u> (under the conditions and cases set by a royal decree) (art. 19, §2)</p>	<p><u>EU level:</u> - Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State - Directive 2004/38/CE of the EU Parliament and The Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States - Schengen Borders Code</p> <p><u>National level:</u> - Cooperation agreement of 18 February 2018 on single permits and the employment of foreigners - Cooperation agreement of 6 December 2018 on certain categories of workers - Law of 19 February 1965 on the exercise, by foreigners, of independent professional activities - Law of 26 May 2002 about</p>

<p><u>conditions of long-term residence permit for other TCNs:</u> after 5 years of uninterrupted stay, residence permit is renewed for an unlimited duration (art. 61/25-6, §4; 15bis, §2)</p> <p style="text-align: center;">***</p> <p>> residence permit of more than 90 days for a TCN with permanent residence permit in another EU country <u>consideration</u> when the residence permit is denied for reasons of public order or national security, the severity or nature of the offense committed against public order or national security, or the danger that the person in question represents, is taken into consideration; the reasons cannot be invoked for economic purposes (art. 61/7, §7)</p> <p style="text-align: center;">***</p> <p>> right of absence and return</p>	<p>consecutively and 18 months in total in the period of 5 years” (art. 15bis, §4)</p> <p><u>end of long-term residence permit for other TCNs:</u> absence from Belgium during more than one year (art. 19, §1)</p> <p><u>loss of the right to obtain a permanent resident status for other TCNs:</u> absence from Belgium during more than 6 months consecutively, and 10 months in total in the period of 5 years” (art. 15bis, §4)</p> <p style="text-align: center;">***</p> <p><u>refusal of permit</u> - a reason of public order or national security opposes the stay - applicant is affected by one of the diseases that could endanger public health (art 61/7, §1)</p> <p style="text-align: center;">***</p> <p><u>loss of the right to return:</u> - absence from Belgium for more than one year - <u>exception for researchers in long-term mobility</u> within the EU: right of return if their permit is valid (art. 19, §1)</p>		<p>social assistance and services</p> <p><u>Other national laws mentioned:</u> - Visa code - Penal Code - Civil Code - Criminal Code</p>
<p><u>consideration</u> every decision is made after an individual examination, taking into account all the circumstances specific to each case, including the interest of the TCN, and in accordance with the</p>	<p><u>Researchers</u></p>		

<p>principle of proportionality (articles 61/13/3, §4; 61/13/7; 61/13/10, §4)</p> <p>> permit for researcher</p>	<p><u>refusal of permit</u></p> <ul style="list-style-type: none"> - the person is in one of the cases mentioned in article 3, §1, 5° to 10° (including risks to public order, public safety, national security, international relations, or public health) - the individual has used false or misleading information, or forged or falsified documents, or has engaged in fraud or employed other illegal means that contribute to obtaining the residence permit - the accredited research organisation was established or operates primarily to facilitate access to the kingdom for TCN - the stay would pursue purposes other than those for which it was authorised (art. 61/13/3) <p><u>cancellation of residence permit</u></p> <ul style="list-style-type: none"> - use of false or misleading information, forged or falsified documents, fraud, or other illegal means (see above) - the accredited research organisation was established or operates primarily to facilitate access to the kingdom for TCN - the individual is staying for purposes other than those for which they were authorised (art. 61/13/3) <p><u>refusal to renew permit</u></p> <ul style="list-style-type: none"> - use of false or misleading information, forged or falsified documents, fraud, or other illegal means - the accredited research organisation was established or operates primarily to facilitate access to the kingdom for TCN - the individual is staying for purposes other than those for which they were authorised (art. 61/13/3) 	<p><u>tolerance for permit issuance:</u></p> <p>in case of duly justified impossibility to produce the required criminal record extract, the residence permit may be granted considering the circumstances (art. 61/13/3, §1)</p> <p><u>tolerance concerning permit cancellation:</u></p> <p>in case of duly justified impossibility to produce the required criminal record extract and medical certificate, and health insurance, the residence permit may be granted considering the circumstances (art. 61/13/3, §3),</p> <p><u>tolerance concerning permit renewal:</u></p> <p>in case of duly justified impossibility to produce the required criminal record extract and medical certificate, the residence permit may be granted considering the circumstances (art. 61/13/3, §3)</p>	
--	---	---	--

<p style="text-align: center;">***</p> <p>> short-term intra-EU mobility</p>	<p style="text-align: center;">***</p> <p><u>refusal of mobility:</u></p> <ul style="list-style-type: none"> - the maximum duration of 180 days on 360 has been reached - the person is in one of the cases mentioned in article 3, §1, 5° to 10° (including risks to public order, public safety, national security, international relations, or public health) - the individual has used false or misleading information, or forged or falsified documents, or has engaged in fraud or employed other illegal means that contribute to obtaining the residence permit - the host entity was established or operates primarily to facilitate access to the kingdom for TCN - the stay would pursue purposes other than those for which it was authorised (art. 61/13/7) <p><u>Cancellation of mobility</u></p> <ul style="list-style-type: none"> - the individual has used false or misleading information, or forged or falsified documents, or has engaged in fraud or employed other illegal means that contribute to obtaining the residence permit (art. 61/13/7) - the host entity was established or operates primarily to facilitate access to the kingdom for TCN 	<p style="text-align: center;">***</p> <p><u>tolerance for permit issuance:</u></p> <p>in case of duly justified impossibility to produce the required criminal record extract, the residence permit may be granted considering the circumstances (art. 61/13/5, §1)</p>	
<p style="text-align: center;">***</p> <p>> long-term intra-EU mobility</p>	<p style="text-align: center;">***</p> <p><u>refusal of permit:</u></p> <ul style="list-style-type: none"> - the person is in one of the cases mentioned in article 3, §1, 5° to 10° (including risks to public order, public safety, national security, international relations, or public health) - they have used false or misleading information or falsified documents, or engaged in fraud or employed other illegal means that contribute to obtaining residence - the researcher permit issued by the other 	<p style="text-align: center;">***</p> <p><u>tolerance for permit delivering:</u></p> <p>- in case of absence of a criminal record extract, the residence permit may be granted considering the circumstances (art. 61/13/10, §1)</p>	

<p style="text-align: center;">***</p> <p>> stay after research to seek employment or create a company</p>	<p>Member State has expired during the procedure (art. 61/13/10, §2)</p> <p><u>cancellation of permit</u></p> <ul style="list-style-type: none"> - the individual has used false or misleading information, or forged or falsified documents, or has engaged in fraud or employed other illegal means that contribute to obtaining the residence permit (art. 61/13/7) - the research organisation was established or operates primarily to facilitate access to the kingdom for TCN <p style="text-align: center;">***</p> <p><u>refusal of permit</u></p> <ul style="list-style-type: none"> - if the TCN is considered a threat to public order, national security, or public health (art. 61/13/14, §2) <p><u>withdrawal of permit</u></p> <ul style="list-style-type: none"> - if the TCN does not demonstrate that he has real chances of finding employment or establishing a business, at the sole request of the minister or his delegate 	<p><u>tolerance concerning permit cancellation:</u></p> <ul style="list-style-type: none"> - in case of absence of a criminal record extract (art. 61/13/10, §3) 	
<p><u>consideration</u></p> <p>any decision is made after an individual examination, taking into account all the circumstances specific to each case, including the interest of the third-country national, and in accordance with the principle of proportionality (art. 61/13/23, §3)</p>	<p><u>Trainees</u></p> <p><u>refusal of permit</u></p> <ul style="list-style-type: none"> - the person is in one of the cases mentioned in article 3, §1, 5° to 10° (including risks to public order, public safety, national security, international relations, or public health) - the individual has used false or misleading information, or forged or falsified documents, or 	<p><u>tolerance for permit delivering:</u></p> <p>in case of duly justified impossibility to produce the required criminal record extract and medical certificate, the residence permit may be granted considering the circumstances (art. 61/13/23, §1)</p>	

	<p>has engaged in fraud or employed other illegal means that contribute to obtaining the residence permit</p> <ul style="list-style-type: none"> - the employer or host entity was established or operates primarily to facilitate access to the kingdom for TCN - the stay would pursue purposes other than those for which it was authorised (art. 61/13/23, §2) <p><u>refusal of permit renewal</u></p> <ul style="list-style-type: none"> - the individual has used false or misleading information, or forged or falsified documents, or has engaged in fraud or employed other illegal means that contribute to obtaining the residence permit - the employer or host entity was established or operates primarily to facilitate access to the kingdom for TCN - the trainee is staying for purposes other than those for which they were authorised (art. 61/13/23, §3) 		
<p><u>consideration</u></p> <p>any decision is made after an individual examination, taking into account all the circumstances specific to each case, including the interest of the third-country national, and in accordance with the principle of proportionality (art. 61/13/31, §4)</p>	<p><u>Volunteers</u></p> <p><u>refusal of permit</u></p> <ul style="list-style-type: none"> - the person is in one of the cases mentioned in article 3, §1, 5° to 10° (including risks to public order, public safety, national security, international relations, or public health) - the individual has used false or misleading information, or forged or falsified documents, or has engaged in fraud or employed other illegal means that contribute to obtaining the residence permit - the host entity was established or operates primarily to facilitate access to the kingdom for TCN - the stay would pursue purposes other than those for which it was authorised (art. 61/13/31, §2, §2) <p><u>cancellation of permit</u></p>	<p><u>tolerance for permit delivering:</u></p> <p>in case of duly justified impossibility to produce the required criminal record extract and medical certificate, the residence permit may be granted considering the circumstances (art. 61/13/31, §1)</p>	

	<ul style="list-style-type: none"> - the individual has used false or misleading information, or forged or falsified documents, or has engaged in fraud or employed other illegal means that contribute to obtaining the residence permit - the host entity was established or operates primarily to facilitate access to the kingdom for TCN - the volunteer is staying for purposes other than those for which they were authorised (art. 61/13/32) 		
> residence permit for employed worker	<p><u>Employed workers (other) (TCN)</u></p> <p><u>refusal of permit</u> (art. 61/25-2)</p> <p><u>cancellation of permit</u> residence permit can be ended when:</p> <ul style="list-style-type: none"> - the person is in one of the cases mentioned in article 3, §1, 5° to 10° (including risks to public order, public safety, national security, international relations, or public health) - the individual does not have sufficient means of subsistence / is a burden on the social assistance system - the individual is staying for purposes other than those for which they were authorised (art. 61/25-7) 	<p><u>tolerance for permit delivering:</u> in case of duly justified impossibility to produce the required criminal record extract and medical certificate, and health insurance, the residence permit may be granted considering the circumstances (art. 61/25-2, §1)</p>	

<p>> residence permit for high skilled workers consideration dans le cadre de l'évaluation des ressources, il est tenu compte de la situation personnelle de l'étranger et, notamment, de la nature et de la régularité de ses revenus et du nombre de membres de la famille qui sont à sa charge (art. 61/27-6 §2)</p>	<p><u>Highly skilled workers</u> <u>refusal or end of permit</u> - the person is in one of the cases mentioned in article 3, §1, 5° to 10° (including risks to public order, public safety, national security, international relations, or public health) - the individual does not have sufficient means of subsistence - the individual is staying for purposes other than those for which they were authorised (art. 61/27-6)</p>		
<p>> residence permit for seasonal workers consideration any decision is made after an individual examination, taking into account all the circumstances specific to each case, including the interest of the third-country national, and in accordance with the principle of proportionality. In particular, what is taken into account is the fact that the person concerned has already resided in the country during the five years preceding his or her application, and has complied with the legislation on the employment of seasonal workers and the legislation on access to the territory, residence, establishment and expulsion of foreigners during each of his or her stays (art. 61/29-8, §4)</p> <p><u>exceptions to visa requirements</u> TCNs who have previously stayed as seasonal workers in the territory or in another Member</p>	<p><u>Seasonal workers</u> <u>refusal of entry or visa issuance, renewal or extension</u> - the maximum duration of stay of 150 days per period of 360 days has been reached (art. 61/29, §3-4) - the person is in one of the cases mentioned in article 3, §1, 5° to 10° (including risks to public order, public safety, national security, international relations, or public health) - if there are reasonable doubts about authenticity of the supporting documents provided with the application or the accuracy of their content, the reliability of the statements made by the applicant, or their intention to leave the territory before the expiry of the intended duration of stay - the individual is staying for purposes other than those for which they were authorised (art. 61/29-8, §2-3)</p> <p><u>special attention to the risk of irregular migration, safety, and the will to overstay:</u> during the examination of the application, <u>special attention is given to assessing the risk of illegal immigration</u> or the risk to the security of the</p>		

<p>State during the five years immediately preceding the application and who have fully complied, during each of their stays, with the conditions applicable to seasonal workers, may be exempted from the provisions and have their visa issuance facilitated (art. 61/29-3)</p>	<p>Member States posed by the individual, as well as their willingness to leave the territory of the Member States no later than the expiry date of their stay (art. 61/29-4, §5; 61/29-5, §4)</p>		
<p>> residence permit for temporary intragroup transfers</p> <p><u>consideration</u> any decision regarding a refusal of a permit is made after an individual examination, taking into account all the circumstances specific to each case, including the interest of the TCN, and in accordance with the principle of proportionality (art. 61/39, §5)</p> <p style="text-align: center;">***</p>	<p><u>Temporary intragroup transfers</u></p> <p><u>refusal of permit if:</u></p> <ul style="list-style-type: none"> - the person is in one of the cases mentioned in article 3, §1, 5° to 10° (including risks to public order, public safety, national security, international relations, or public health) - the maximum duration of stay has been reached - the person is staying for purposes other than those for which they were authorised autres (art. 61/39, §2) <p><u>refusal of permit renewal if:</u></p> <ul style="list-style-type: none"> - the maximum duration of stay has been reached - the person is staying for purposes other than those for which they were authorised - the person did not respect the rules of short- or long-term mobility (art. 61/39, §3) <p><u>cancellation (end) of permit if:</u></p> <ul style="list-style-type: none"> - the maximum duration of stay has been reached - the person is staying for purposes other than those for which they were authorised - the host entity was established or operates primarily to facilitate access to the kingdom for persons undergoing a temporary intragroup transfer - the individual has not complied with the rules regarding short or long-term mobility (art. 61/39, §3) <p style="text-align: center;">***</p>	<p><u>tolerance for permit delivering:</u> in case of duly justified impossibility to produce the required criminal record extract and medical certificate, the residence permit may be granted considering the circumstances (art. 61/39, §1)</p>	

<p>> mobilité intra-EU de courte durée</p>	<p><u>refusal or end of mobility if:</u></p> <ul style="list-style-type: none"> - the applicant does not meet the conditions fixed by the regional or municipal legislation applicable to matters of the occupation of the person who is on temporary intragroup transfer - the person is in one of the cases mentioned in article 3, §1, 5° to 10° (including risks to public order, public safety, national security, international relations, or public health) - the maximum duration of stay has been reached (art. 61/43) 		
<p>***</p>	<p>***</p>	<p>***</p>	
<p>> permis pour mobilité de longue durée</p> <p><u>consideration</u></p> <p>any decision regarding a refusal of a permit is made after an individual examination, taking into account all the circumstances specific to each case, including the interest of the TCN, and in accordance with the principle of proportionality (art. 61/48, §5)</p>	<p><u>refusal of permit</u></p> <ul style="list-style-type: none"> - the person is in one of the cases mentioned in article 3, §1, 5° to 10° (including risks to public order, public safety, national security, international relations, or public health) - the maximum duration of stay has been reached (art. 61/48, §2) <p><u>refusal of permit renewal</u></p> <ul style="list-style-type: none"> - if the individual is staying for purposes other than those for which they were authorised - the maximum duration of stay has been reached (art. 61/48, §2) <p><u>cancellation (end) of permit</u></p> <ul style="list-style-type: none"> - the individual is staying for purposes other than those for which they were authorised - the host entity was established or operates primarily to facilitate access to the kingdom for persons undergoing a temporary intragroup transfer (art. 61/48, §3) 	<p><u>tolerance for permit delivering:</u></p> <p>in case of duly justified impossibility to produce the required criminal record extract, the residence permit may be granted considering the circumstances (art. 61/48, §1)</p> <p><u>tolerance concerning permit renewal:</u></p> <p>proof of sufficient means of subsistence is not required for the renewal of the permit (art. 61/48, §3)</p>	

Table 2. Belgium’s family reunification policy¹

Asuncion Fresnoza-Flot

dimensions themes (indicators)	actors	characteristics	temporality
<p>guarantee(s) (conditions)</p>	<p>Sponsor: 1. citizen of an EU country</p>	<p><u>three-months circulation/stay in Belgium:</u> citizen of an EU country</p> <p><u>more than three-month stay in Belgium:</u> 21 years old above (art. 40bis, §2, 2°c); with the nationality of an EU country; 1) (non-)salaried worker, proof of being a job seeker and having chances to be employed; 2) with sufficient and regular resources/income fitting to the number of family member dependants, corresponding to the level of income on which to based his/her social aid benefit and preventing not to be a burden to the Belgian system of social aids; 3) registered in an organised and recognised educational institution where (s)he pursues a professional training with health insurance and sufficient resources (art. 40, §3); with health insurance covering possible risks (art. 40, §2, §4)</p>	<p>- right to three months of free circulation and stay “without other conditions or formalities” (art. 40, §3)</p> <p style="text-align: center;">&</p> <p>- right to stay more than three months (art. 40, §4, 1°-3°)</p>
<p><u>three-months circulation/stay in Belgium:</u> presentation of a valid identity card or passport, or a proof of being a beneficiary of the right to free circulation or stay (art. 41, §1er)</p> <p><u>more than three-month stay in Belgium:</u> with valid identification card or passport or other documents proving the right for free circulation and stay (art. 41), and satisfying the required “characteristics” in point 1 (art. 40, §4, 1°-3°)</p> <ul style="list-style-type: none"> - if the conditions of sufficient income/resources are not met, (s)he will be asked to send all documents and useful information to determine the amount art. 42, §1er) - the right to stay for an EU citizen is observed through declaration of registration in the foreigner and population registers (art. 42, §1er)/this aspects should be done at the expiration of 3 months following the entry date of at the municipal administration in the place of residence of the applicant (art. 42, §4) - renew the resident permit at the latest 3 months following the entry date (art. 42, §4) 			

¹ This Table draws from the consolidated law of 15 December 1980 on the access to the territory, residence, settlement, and removal of foreign nationals.

<p>- during the evaluation of application, the best interest of the child is taken into account (art. 12bis, §7)</p> <p>3b. apply for a visa in person at the Belgian diplomatic or consular office responsible for their place of residence abroad (art. 12bis, §1er, paragraph 1) <u>>requirements:</u> documents satisfying the conditions of article 10, §1er to 3, medical certificate proving that the applicant has no serious illness, extract of police record or equivalent document, and aged 18 years above</p>		<p>Belgium and has all the proofs satisfying article 10 and other requirements (e.g., medical certificate² proving that the applicant has no serious illness, extract of police record or equivalent document, and aged 18 years above) before the end of the said authorisation;</p> <ul style="list-style-type: none"> - authorised to stay for three months maximum, with a valid visa to get married or to establish a registered partnership, got married or entered in partnership prior to the end of the said period, and present proofs satisfying article 10 and other requirements before the end of the said authorisation; - in special circumstances impeding him/her to return to his/her country of origin to apply for a visa; and - authorised to stay for 3 months maximum, a minor or a tutor of a refugee minor or a minor child (art. 12bis, §2) <p>3b. those not fitting in the situations above should demand their visa in their home country</p>	<p>of 3 months in exceptional cases linked to the complexity of application evaluation or within the context of investigation of marriage/partnership (art. 12bis, §3)</p> <p>> the result of application is communicated to the applicant within 9 months at the latest following the submission of application; if the condition of sufficient resources is not fully satisfied, the minister or his/her representative shall determine the necessary means of subsistence not to be a burden to public authorities; in this case, the applicant can communicate the documents and useful information to determine the amount (art. 12bis, §2)</p>
---	--	--	---

² Medical examination can be carried out by a public doctor or by the doctor designated by the Minister or his/her representative (art. 12bis, §4).

<p style="text-align: center;">***</p> <p><u>three-months circulation/stay for EU citizen linked to an EU/Belgian citizen:</u></p> <ul style="list-style-type: none"> - presentation of a valid passport, or if appropriate, a valid entry visa (C) (art. 41, § 2) for the Schengen space - the above requirement is not needed if the TCN has resident permit or permanent resident card as family member of an EU citizen based on Directive 2004/38/CE and The Council 29 April 2004 on right of free circulation/stay (art. 41, § 2) - if the applicant does not have the required documents, (s)he is given a reasonable delay to obtain the necessary documents (art. 41, §2) <p><u>more than three-month stay in Belgium:</u> with a valid visa (D) for the Schengen space</p> <ul style="list-style-type: none"> - proof of stable and durable relationship (uninterrupted cohabitation in Belgium or other country at least during 1 year prior to family reunification application (art. 40bis, §2) - living together (art. 40bis, §2) - aged more than 21 years old with a proof or mutual knowledge for at least 2 years/18 years old if there is a proof of cohabitation of at least less than one year before the arrival of the re-joining foreigner in Belgium (art. 40bis, §2) - single and no stable and durable relation with another person (art. 40bis, §2) 	<p style="text-align: center;">***</p> <p>Applicant:</p> <p>1. EU citizen linked to an EU citizen</p> <p>2. EU citizen linked to a Belgian citizen</p>	<p style="text-align: center;">***</p> <ul style="list-style-type: none"> - with established relation with the EU citizen based on marriage, registered partnership or filiation. Descendants and ascendants of the EU citizen and those of his/her (married) partner are eligible to apply; - aged more than 21 years old with a proof or mutual knowledge for at least 2 years/18 years old if there is a proof of cohabitation of at least less than one year before the arrival of the re-joining foreigner in Belgium <ul style="list-style-type: none"> - EU family members of a Belgian citizen have the right to free circulation and stay as other EU citizens (art. 40ter, §1) - same characteristics as those linked to an EU citizen, except that ascendants of a Belgian citizen and those of the spouse/registered partner of a Belgian citizen are not eligible for family reunification in Belgium (art. 40ter, §2) 	<p style="text-align: center;">***</p> <p>> in complicated situation within the context of investigation of marriage, the period of waiting can be 2 times extended to 3 months (art. 12bis, §2)</p> <ul style="list-style-type: none"> - three-month circulation/stay based on article 41, paragraph 1 - more than three months of stay is possible based on the Directive 2004/38/CE of the EU parliament and The Council 29 April 2004 on right of free circulation/stay (art. 41, § 2) <ul style="list-style-type: none"> - three-month circulation/stay based on article 41, paragraph 1 - more than three months of stay is possible based on the Directive 2004/38/CE of the EU parliament and The Council 29 April 2004 on right of free circulation/stay (art. 41, § 2)
---	--	--	--

<p>- someone not indicated in articles 161-163 of the Penal Code (art. 40bis, §2)</p> <p>- someone not yet refused to marry based on article 167 of the Penal Code (art. 40bis, §2)</p> <p>- with sufficient resources so as not to be a burden to the system of social aids (art. 41, paragraph 2)</p> <p>- with health insurance covering all risks for him/her and all family members (art. 41, paragraph 2)</p> <p>> the right of stay is observed through a resident permit and registration in the foreigner register (art. 42, §3) > these two aspects should be done at the expiration of 3 months following the entry date of at the municipal administration in the place of residence of the applicant (art. 42, §4)</p>	<p>3. TCN linked to an EU citizen</p>	<p>> holder of (expired) ID card or passport issued in Belgium (art. 41, § 3)</p> <p><u>TCN family members with right to family reunification with an EU citizen:</u></p> <p>> 1a. married partner accompanying or reuniting with the EU citizen (art. 40bis, §2) / aged more than 21 years old like the EU citizen;</p> <p>> 1b. registered partner accompanying or reuniting with the EU citizen (art. 40bis, §2) / aged less than 21 years old like the EU citizen;</p> <p>> 1c. accompanying or reuniting descendants of the EU citizen and those of the married/registered partner of this EU citizen (art. 40bis § 2) / dependent and under the custody of the EU citizen or married/registered partner;</p> <p>> 1d. accompanying or reuniting ascendants of the EU citizen and those of the married/registered partner of this EU citizen (art. 40bis § 2) / dependent and under the custody of the EU citizen or married/registered partner</p> <p>> 1e. father or mother who is in charge or who has the custody of a minor EU citizen (art. 40bis, §2; art. 40ter, §2)</p>	<p>- more than three-month stay in Belgium</p> <p>- more than three months of stay in Belgium</p> <p>- the validity duration of the permit to stay is equal to that of the EU citizen not exceeding 5 years from the date of delivery of resident card (art. 42, §3)</p>
<p><u>family reunification with a Belgian citizen (more than 3-month stay:</u></p> <p>- with valid identity card;</p> <p>- accompanying or re-joining the Belgian citizen for family reunification (art. 40ter, §2);</p> <p>- the Belgian citizen whom they accompanied or re-joined should be in the situation described below:</p>	<p>3. TCN with link to a Belgian citizen</p>	<p><u>TCN family members with right to family reunification with a Belgian citizen:</u></p> <p>1) those mentioned in art. 40bis, 2, paragraph 1, 1°-3° - married/registered partner aged more than 21 years as the Belgian citizen and descendants of both the TCN family member and Belgian citizen (as long as the latter have</p>	

<p>1) with “stable, sufficient, and regular means of subsistence” at least equivalent to 120% of the amount mentioned in art. 14, §1er, 3° of the Law of 26 May 2002³;</p> <p>2) with adequate housing; and</p> <p>3) with health insurance covering risks for him/her and his/her family (art. 40ter, §2)</p> <p><u>family reunification with a TCN in Belgium (more than 3-month stay):</u></p> <p>1) family members of a TCN student in Belgium:</p> <ul style="list-style-type: none"> - the TCN student should have a “stable, regular, and sufficient means of subsistence” conformed to article 10, §5, to support his needs and those of his family so that they will not be a burden to the public authorities; - (s)he should have a decent housing that is sufficient to accommodate his family members and that conforms to the conditions set for a rented property as principal residence as indicated in article 2 of Book III, title VIII, Chapter II, Section 2, of the Civil Code; - (s)he should have a health insurance covering the risks in Belgium for him and his family; and - (s)he is not in one of the situations described in article 3 (paragraph 1, 5° to 8°⁴) and has no illness than can be a danger to public health (art. 10bis, §1er) - also applied to this case is article 12bis, §2: if the TCN applicant cannot prove his/her link with the TCN student in Belgium, the Belgian 	<p>3. TCN linked to a TCN in Belgium</p>	<p>their custody and the agreement of the other parent) (art. 40ter, §2); and</p> <p>2) the father or mother of a Belgian minor child (art. 40ter, §2)</p> <p>> family members linked to the TCN already in Belgium through marriage, (legal) partnership, or filiation (ascendants or descendants)</p>	<p><u>for the family members of TCN students, workers, researchers, and other categories mentioned in art. 10bis:</u> the notification regarding the result of application arrives at the latest 9 months following the submission of application (art. 10ter, §2); the procedure is extended to 3 months if the conditions for durable and stable relationship are not satisfactory fulfilled; if the resources are considered insufficient, additional supporting documents and useful information may be asked from the applicant; if no decision is given after 9 months and its extended period, the application is approved.</p> <p>- During examination of the application, the best interest of</p>
---	---	--	---

³ This amount mentioned in the said law refers to “8,800 euros for a person living [...] with a family under his care”.

⁴ Article 3 indicates the persons who can be refused to enter Belgium: for example, those who have been signalled in the SIS (Schengen Information System) or in the National General Data Bank, those “considered to be in danger of compromising the international relations of Belgium or of a State party to an international convention on the crossing of external borders, binding on Belgium”, those who are “considered likely to compromise public peace, order or national security”, and those who “have been removed or expelled from the Kingdom for less than ten years, where the measure has not been suspended or revoked”.

<p>Minister and his/her representative can consider other useful proofs produced by the applicant and can also conduct complementary investigations if necessary (including interviews with the applicant and the foreigner in Belgium) (art. 12bis, §6)</p> <p>2) family members of other TCNs (non-students) in Belgium:</p> <ul style="list-style-type: none"> - same conditions as those for TCN student's family members (art. 10bis, §2; also applied art. 12bis, §6) > 2b) family members of TCN workers (art. 61/27-4) who are already in Belgium to stay more than 90 days for work or for visa renewal (art. 10bis, §4): <ul style="list-style-type: none"> - same conditions as those for TCN student's family members (art. 10bis, §2; also applied art. 12bis, §6) - <u>exception</u>: if the family is already reconstituted in an EU country, there is no need for a proof of decent housing sufficient to accommodate re-joining family members. However, each family member's "stable, regular, and sufficient means of subsistence" is taken into account (art. 10bis, §4) - <u>requirements to avail the exception</u>: resident card issued by an EU country and a proof of resident as family member of an EU blue card holder (art. 10bis, §4) > 2c) family members of a TCN in temporary intragroup transfer (art. 61/39, art. 61/48) or who is already in Belgium to prolong his stay on this quality (art. 10bis, §5): <ul style="list-style-type: none"> - same conditions as those for TCN student's family members (art. 10bis, §2; also applied art. 12bis, §6) 			<p>the child is considered. (art. 10ter, §2)</p> <p><u>derogation of art. 10ter, §2 for TCN student's family members</u>: notification of the result arrives at the latest 4 months following the submission of application; this procedure is extended to 3 months as defined by art. 9 or 9bis; if no decision is given at the expiration of 4 months and its extended period, authorisation to stay is granted (art. 10ter, §2ter)</p> <p><u>derogation of art. 10ter, §2 for TCN researcher's family members</u>: notification of the result arrives at the latest 90 days following the submission of application (art. 10ter, §2quinquies)</p>
--	--	--	--

<p>- <u>exception</u>: if the family is already reconstituted in an EU country, there is no need for a proof of decent housing sufficient to accommodate re-joining family members. However, each family member's "stable, regular, and sufficient means of subsistence" is taken into account (art. 10bis, §5)</p> <p>- <u>requirements to avail the exception</u>: resident card issued by an EU country and a proof of resident as family member of an EU blue card holder (art. 10bis, §5)</p> <p>> 2d) family members of a TCN researcher who is already in Belgium to stay more than 90 days or to renew his/her visa on this quality (art. 61/13/3) and those of a TCN researcher who is allowed to stay more than 180 days in Belgium within the context of long-term mobility duration (art. 61/3/10) (art. 10bis, §6):</p> <p>- same conditions as those for TCN student's family members (art. 10bis, §2; also applied art. 12bis, §6)</p> <p>- same exception and requirements as other categories (art. 10bis, §6)</p> <p>3) family members of a TCN with long-time resident status in another EU country or former EU blue card holder</p> <p>- same conditions as those for TCN student's family members (art. 10bis, §2)</p> <p>4) member of a family already reconstituted in an EU country</p> <p>- decent housing requirement is not required but only individual family member's "stable, regular, and sufficient means of subsistence";</p> <p>- with an EU long-time resident permit or a resident permit from an EU country; and</p>			<p>- the notification regarding the result of application arrives at the latest 4 months following the submission date of application (art. 12bis, §3bis)</p> <p>- the waiting period can be extended 1 time to 3 months (art. 12bis, §3bis)</p> <p>- at the expiration of 4 months including the extended period, admission to stay is accorded as</p>
--	--	--	---

<p>- with a proof of residence as family member of a long-time resident in an EU country (art. 10bis, §3)</p> <p><u>Specific conditions:</u></p> <p>3a. the TCN with whom (s)he will be reunited should not be in a polygamous relationship (i.e., no other partner is living with him in Belgium at the time of the visa application of the re-joining partner) (art. 10, §1er, 7°); and should not have a disease that can put the public in danger (art. 10, §1er, §2)</p> <p>3a. case 1: the TCN with whom (s)he will be reunited has been admitted or authorised to stay in Belgium since less than 12 months for an unlimited period or authorised to stay since less than 12 months; and both partners should be more than 21 years old (art. 10, §1er, 4°). If their marriage existed already prior to the arrival in Belgium of the TCN with whom (s)he will be reunited or if the partners have a common minor child, the 12-month condition is disregarded. (art. 10, §1er, 4°)</p> <p>3a. case 2: the TCN with whom (s)he will be reunited has been admitted or authorised to stay in Belgium since less than 12 months for an unlimited period or authorised to stay since less than 12 months; and both partners should be more than 21 years old (art. 10, §1er, 4°). If their registered partnership existed already prior to the arrival in Belgium of the TCN with whom (s)he will be reunited or if the partners have a common minor child, the 12-month condition is disregarded. (art. 10, §1er, 5°)</p> <p>- other conditions for the re-joining partner in registered partnership with a TCN are as follows (art. 10, §1er, 5°):</p>	<p>3a. re-joining partner</p>	<p>3a. case 1: the re-joining person is linked to the TCN already in Belgium through marriage and aged more than 21 years old (art. 10, §1er, 4°) - same characteristics as those of TCN family members of an EU citizen</p> <p>3a. case 2: the re-joining person is linked to the TCN in the country through a law-based registered partnership.</p>	<p>long as the required documents are provided (art. 12bis, §3bis)</p>
---	-------------------------------	---	--

<p>1) proofs that the relationship with the TCN already in Belgium is durable and stable – uninterrupted legal cohabitation in Belgium or in other country for at least 1 year before the visa application; regular contacts via phone and electronic or postal mails, as well as meeting 3 times lasting more than 45 days in the period of 2 years to prove that the partners know each other since less than 2 years before the visa application; or having a common child</p> <p>2) coming to Belgium to live together</p> <p>3) both partners are aged more than 21 years old</p> <p>4) being single and no durable or stable relationship with another person</p> <p>5) not the person referred to in articles 161-163⁵ of the Belgian Civil Code</p> <p>6) not refused to marry based on article 167⁶ of the Belgian Civil Code</p>	<p>3b. common child of the couple</p> <p>3c. child of the re-joining partner</p>	<p>3b. the child should be less than 18 years old and single (art. 10, §1er, 4^o)</p> <p>3c. the child should be less than 18 years old, single and his/her re-joining parent should have the custody of him/her as well as the authorisation of his/her other parent (art. 10, §1er, 4^o)</p>	
--	---	---	--

⁵ These articles state that marriage is prohibited between ascendants and descendants or between the allies of the same line (art. 161); between brothers, between sisters, and between brothers and sisters (art. 162); and between uncle/aunt and niece/nephew (art. 163).

⁶ Article 167 states that the civil registrar refuses to marry a couple when the partners do not meet the conditions prescribed for entering marriage. (S)he also refuses to do so if (s)he thinks that marrying the couple is contrary to the principles of public order.

<p style="text-align: center;">benefits (rights/privileges of entry/stay)</p>	<p style="text-align: center;">penalty/ties (penalising clause/article for IFs)</p>	<p style="text-align: center;">forgiveness (forgiving clause/article)</p>	<p style="text-align: center;">referrals (connecting with other mobility policies)</p>
<p>> the right to stay during three months</p> <p style="text-align: center;">***</p> <p>> the right to stay during more than three months</p> <p>- family members receive a resident permit with validity identical to that of the resident permit of the TCN whom (s)he accompanied or re-joined (art. 13, §1er)</p> <p><u>consideration:</u> the minister or his/her representative considers the nature and strength of family ties, duration of stay in Belgium and familial, social, and cultural attachment with the country of origin (art. 13, §3)</p> <p><u>EU citizen and family members:</u> the right to stay more than 3 months is recognised rapidly during</p>	<p>> 200-euro administrative penalty for the absence of valid identity/travel documents</p> <p><u>EU citizen:</u> if (s)he is not in possession of a valid ID or national passport (art. 41, paragraph 2)/ if fails to do the declaration of registration</p> <p><u>His/her family members:</u> if she is not in possession of a valid national passport or entry visa if applicable (art. 41, paragraph 2)</p> <p style="text-align: center;">***</p> <p>> end of the right to stay</p> <p>- repatriation fees can be recovered from the TCN or re-joining person (art. 11)</p> <p><u>EU citizen:</u> if (s)he constitutes an unreasonable burden to the Belgian</p>	<p style="text-align: center;">***</p> <p>1. citizen of an EU country (including Belgium)</p> <p><u>Conservation of the right to stay in the following cases:</u></p>	<p><u>EU level:</u></p> <p>- Directive 2004/38/CE of the EU Parliament and The Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States</p> <p>- Schengen</p> <p><u>National level:</u></p> <p>- law of 26 May 2002 about social assistance and services</p> <p><u>Other national laws mentioned:</u></p> <p>- Penal Code</p> <p>- Civil Code</p> <p>- Criminal Code</p>

<p>at the latest 6 months after the application date (art. 42, §1er)</p> <ul style="list-style-type: none"> - during evaluation of application, the nature and regularity of income and the number of family member dependents, in other words, “the personal situation of the EU citizen” has been taken into consideration (art. 41, paragraph 2) <p><u>Consideration during the determination whether the EU citizen becomes an unreasonable burden:</u></p> <ul style="list-style-type: none"> - temporary character or not of his/her difficulties; - duration of stay in Belgium; - personal situation; and - amount of social help accorded to him/her by the Belgian system of social aids (art. 42bis, §1er) <p><u>Consideration during the making of decision to end the stay of an EU citizen:</u></p> <ul style="list-style-type: none"> - duration of stay in Belgium; - age; - state of health; - family and economic situation; - social and cultural integration in Belgium; and - intensity of links with the country of origin (art. 42bis, §1er) <p><u>Consideration during the planning of issuing an order to leave the Belgian territory:</u></p> <ul style="list-style-type: none"> - same consideration for other matters concerning an EU citizen (art. 42bis, §1er) 	<p>system of social aid (art. 41ter; art. 42bis, §1er)</p> <p>- if there is no right to stay anymore in Belgium, the EU citizen will be ordered to leave within a period of less than one month from notification of the decision to leave (art. 44ter, §2)</p> <p><u>EU family members of an EU citizen:</u> the right to stay may be terminated by the Belgian Minister or his/her representative within 5 years following the recognition of their right to stay as family members of an</p>	<ul style="list-style-type: none"> - incapacity to work temporarily because of a disease or accident; - involuntary unemployment after at least 1 year of employment and registered job seeker in a competent employment service; - involuntary unemployment at the end of a work contract with definite duration of less than 1 year or involuntary unemployment during a period of 12 months but registered as job seeker in a competent employment service, which in this case the EU citizen conserves his/her worker status during at least 6 months; and - taking a professional training. “Unless the person concerned is in a situation of involuntary unemployment, the training and the previous professional activity must be related to retain the worker status” (art. 42bis, §2) <p>2. EU family members of an EU citizen: <u>Conservation of the right to stay in the following cases:</u></p> <ul style="list-style-type: none"> - EU citizen and family members with right to free circulation/stay and have been (non-)salaried workers or job seekers (art. 41ter, §2) 	
---	---	---	--

<p><u>Consideration during the determination whether the right to stay of family member(s) of an EU citizen should be terminated or not:</u> - same consideration as for EU citizen (art. 42bis, §1er)</p> <p><u>Consideration during the making of decision to end the stay of family member(s) of an EU citizen:</u> - same consideration as for EU citizen (art. 42bis, §1er)</p> <p><u>Consideration during the planning of issuing an order to leave the Belgian territory:</u> - same consideration for other matters concerning an EU citizen (art. 42bis, §1er)</p>	<p>EU citizen (art. 42ter, §1er) in the following cases: 1) the right of stay of the EU citizen with whom they accompanied or re-joined is terminated; 2) the EU citizen with whom they accompanied or re-joined leaves the country; 3) the EU citizen with whom they accompanied or re-joined passes away; 4) the marriage or registered partnership with the EU citizen with whom they accompanied or re-joined is dissolved or annulled and common co-habitation ended; 5) became a burden to the Belgian system of social aids; and 6) if they fit with article 44 (art. 42ter, §1er): they “use false or misleading information or false or falsified documents, or when they have resorted to fraud or other illegal means that have contributed to obtaining” the right to stay (art. 44, §1er)</p> <p>- if there is no right to stay anymore in Belgium, the EU family members of an EU citizen will be ordered to leave within a period of less than one month from notification of the decision to leave (art. 44ter, §2)</p> <p><u>TCN family members of an EU citizen:</u> the right to stay may be terminated by the Belgian Minister or his/her representative within 5 years</p>	<p>- EU citizen’s children staying in Belgium and registered in an education institution (art. 42ter, §2); and - parent of the EU citizen’s children who has the effective custody until the end of their studies (art. 42ter, §2)</p> <p>3. TCN family members of an EU citizen: <u>Conservation of the right to stay in the following cases:</u></p>	
---	---	---	--

<p><u>Consideration during the determination whether the right to stay of TCN family member(s) of an EU citizen should be terminated or not:</u></p> <p>- same consideration as for EU citizen (art. 42bis, §1er) and for EU family members of an EU citizen (art. 42ter)</p> <p><u>Consideration during the making of decision to end the stay of family member(s) of an EU citizen:</u></p> <p>- same consideration as for EU citizen (art. 42bis, §1er) and for EU family members of an EU citizen (art. 42ter)</p>	<p>following the recognition of their right to stay as family members of an EU citizen (art. 42quater, §1er) in the following cases:</p> <p>- same cases as EU family members of an EU citizen (art. 42ter, §1er)</p> <p>- stay can be ended if the conditions stated in article 40ter (§2)⁷ are no longer satisfied</p>	<p>- same exceptions as for EU family members of an EU citizen (art. 41ter, §2)</p> <p><u>additional exception 1:</u> if the EU citizen passes away, the TCN family members can keep their right to stay in the following cases:</p> <ul style="list-style-type: none"> - they have been staying in Belgium for at least 1 year; - they are (non-)salaried workers in Belgium; - having resources for themselves and other family members sufficient enough not to be a burden to the Belgian system of social aids; - with health insurance covering the risks in Belgium; or - a member of a family already constituted in Belgium by a person responding to the conditions of the said reunification (art. 41ter, §3) <p><u>additional exception 2:</u> if the marriage or registered partnership with the EU citizen is dissolved or annulled and common cohabitation ended, the TCN family members can keep their right to stay in the following cases:</p> <ol style="list-style-type: none"> 1) if the marriage or registered partnership lasted at least 3 years including 1 year in Belgium during the beginning of the judicial proceeding of marriage dissolution/annulment or partnership ending. In case of marriage dissolution, the spouse must be in good faith (art. 42 quater, §4); 2) if the right of custody of the EU citizen's children is accorded to the TCN partner/spouse through an agreement of the partners or through judicial decision; 	
--	---	---	--

⁷ This article specifies who are the individuals who can apply for family reunification and their characteristics.

<p><u>Consideration during the planning of issuing an order to leave the Belgian territory:</u> - same consideration for other matters concerning an EU citizen (art. 42bis, §1er)</p>	<p>- if there is no right to stay anymore in Belgium, the TCN family members of an EU citizen will be ordered to leave within a period of less than one month from notification of the decision to leave (art. 44ter, §2)</p> <p><u>Other TCN family members of an EU citizen not fitting article 40bis, §2:</u> - their right to stay may be terminated within 5 years following the recognition of their right to stay; this termination occurs in the following cases:</p>	<p>3) if the right of visit to the minor child is accorded to the TCN partner/spouse through an agreement of the partners or through judicial decision, and if the judge determined that this right of custody be exercised in Belgium as long as necessary; 4) if the situations particularly difficult requires it: for example, when the family member demonstrated to be a victim of violence in the family or violence described in articles 375, 398 to 400, 402, 403 or 405 of the Penal Code within the context of marriage or registered partnership, as long as the concerned persons demonstrated that they are (non-)salaried workers in Belgium, with sufficient resources not to be a burden to the Belgian system of social aids, with health insurance covering risks in Belgium, and members of a family already constituted in Belgium by a person responding to the conditions of the said reunification (art. 42 quarter, §4)</p> <p>3. Other TCN family members of an EU citizen not fitting article 40bis, §2</p>	
---	--	---	--

⁸ This point 2 of article 40bis of the consolidated law of 15 December 1980 enumerates the persons considered to be the family members of an EU citizen.

<p><u>Consideration during the making of decision to end the stay of other TCN family members of an EU citizen:</u> - same consideration for other matters concerning an EU citizen (art. 42bis, §1er)</p> <p><u>Consideration during the planning of issuing an order to leave the Belgian territory:</u> - same consideration for other matters concerning an EU citizen (art. 42bis, §1er)</p> <p style="text-align: center;">***</p> <p>> the right to permanent stay <u>conditions for EU citizen and EU family members:</u> 5 years of uninterrupted stay in Belgium (art. 42quinquies, §1er); the Belgian government's issuance of an official document certifying their permanence of stay is the evidence of their right to permanent stay (art. 42quinquies, §5); the continuity of stay is not affected by temporary absence of not more than 6 months per year and by long absence due to military obligations or by 12 consecutive months of absence because of important reasons such as pregnancy and childbirth, serious illness, studies</p>	<p>1) the family member referred to in article 47/1 (1°), no longer maintains a lasting relationship with the EU citizen whom (s)he is accompanying or joining; and 2) the family member referred to in article 47/1 (3°), does not present anymore a serious health problem and that the EU citizen should not anymore imperatively and personally take care of him/her (art. 47/4)</p> <p>- if there is no right to stay anymore in Belgium, the other TCN family members of an EU citizen will be ordered to leave within a period of less than one month from notification of the decision to leave (art. 44ter, §2)</p> <p style="text-align: center;">***</p> <p>> end of the right to permanent stay <u>EU citizen, EU family members, and TCN family members:</u> absence in Belgium during more than 2 consecutive years (art. 42quinquies, §7)</p> <p>- if there is no right to stay anymore in Belgium, the EU citizen and the EU/TCN family members of an EU citizen will be ordered to leave within a period of less than one month from</p>		
--	---	--	--

<p>or professional training or detachment for professional reasons outside of Belgium (art. 42quinquies, §3)</p> <p><u>condition for TCN family members:</u> in common cohabitation with the EU citizen during 5 years; this condition is not applied to the following persons:</p> <p>1) family members of an EU citizen who passed away (art. 42quater, §3);</p> <p>2) family member whose marriage/registered partnership with an EU citizen is annulled/ended (art. 42quater, §4); and</p> <p>3) family members who conserved their right to stay as indicated in art. 42quater, §1er, paragraph 2.</p> <p style="text-align: center;">***</p> <p>- the Belgian government's issuance of a resident permit is the evidence of their right to permanent stay (art. 42quinquies, §6)</p> <p style="text-align: center;">***</p> <p>> the right to temporary and long absence</p> <p>- the continuity of stay is not affected by temporary absence of not more than 6 months per year and by long absence due to military obligations or by 12 consecutive months of absence because of important reasons such as pregnancy and childbirth, serious illness, studies or professional training or detachment for professional reasons outside of Belgium (art. 42quinquies, §3)</p>	<p>notification of the decision to leave (art. 44ter, §2)</p> <p style="text-align: center;">***</p> <p>> 200-euro administrative penalty for TCN family members of an EU citizen for failing to renew on time their resident permit (art. 42quinquies, §6)</p> <p style="text-align: center;">***</p>		
---	---	--	--

<p>- the admission to stay is recognised as long as the TCN family member continues to satisfy the conditions of article 10 (art. 12, §1er)</p>	<p>> <u>the right to enter or to stay is not accorded</u> if the applicant is in one of the following situations as indicated in art. 11, §1er, 1°-3° (art 10ter, §3): 1°-the foreigner does not (anymore) satisfy the conditions of article 10bis; 2°-the foreigner and his/her TCN partner are not (anymore) in an effective conjugal/familial life; 3°-except planned derogation by an international treaty, the foreigner is in one of the cases indicated in art. 3 (5°-8°)⁹ or (s)he has illness that can pose a danger to public health (art. 11, §1er)</p> <p>> <u>the right to stay is not anymore allowed</u> if the applicant is in one of the following situations: 1°-the foreigner does not anymore satisfy the conditions of article 10bis; 2°-the foreigner and his/her TCN partner are not (anymore) in an affective conjugal/familial life; 3°-the foreigner admitted and that of the foreigner (s)he re-joined got married or established a registered partnership with another person; and 4°-if it is established that the foreigner's marriage, partnership, or adoption was only concluded to be admitted to Belgium (art. 11, §2)</p> <p>> <u>additional situations:</u> - if the person concerned extended his/her stay beyond the limited allowed duration;</p>	<p>4. TCN family members of a TCN in Belgium</p> <p>- the Belgian Minister or his/her representative extends the authorisation to stay for a new period or does not end the admission to stay as long as the TCN renew his/her permit before its expiration (art. 13, §2)</p>	
---	---	--	--

⁹ See footnote 4 above.

<p><u>consideration when deciding to terminate the stay of a foreigner TCN</u>: nature and strength of family ties, duration of stay in Belgium, existence of familial ties with the country of origin (art. 11, §2)</p> <p>***</p> <p>> acquisition of long-term resident status in Belgium</p> <p>***</p> <p>> when going out of Belgium, the right to return within 1 year</p> <ul style="list-style-type: none"> - the concerned TCN should be resident permit holder - TCN can only be refused to return for the reason of public order or national security (art. 19, §1er; art. 21; art. 22); same rule for TCN researchers but with one addition: if they do not respect the conditions attached to their status (art. 19, §1er) 	<p>- if (s)he does not satisfy anymore the conditions inherent on his/her status (art. 13, §3¹⁰)</p> <p><u>control</u>: the minister or his/her representative can carry out specific controls anytime if there are founded presumption of fraud or if the marriage, partnership, or adoption was only concluded to allow the concerned person to be admitted to Belgium (art. 11, §2)</p> <p>***</p> <p>> loss of long-term resident status of TCN in Belgium</p> <ul style="list-style-type: none"> - when same status is accorded to him/her in another EU country (art. 18bis) <p>***</p> <p>> loss of the right to return</p> <ul style="list-style-type: none"> - categories concerned: established TCN, long-term resident TCN, TCN authorised or admitted to stay for more than 3 months since at least 10 years uninterrupted (art. 22) - concerning long-term residents, they lose their right to return if they leave the EU during 12 consecutive months or if they leave Belgium since at least 6 years (art. 19, §1er) 	<p><u>exception</u>: the minister or his/her representative does not end the stay of foreigners who are victim of violence in the form indicated in articles 375), 398, 400, 402, 403 or 405 of the Criminal Code</p> <p>***</p> <p><u>consideration when deciding to end the stay of a TCN based on articles 21 and 22</u>: exclusively founded on the “personal behavior of the concerned person and cannot be justified by economic reasons” (art. 23, §1er)</p>	
--	--	---	--

¹⁰ This point 3 of article 13 of the consolidated law of 15 December 1980 specifies the cases in which a foreigner with a limited allowed stay can be ordered to leave Belgium.

Table 3. Description of Belgium’s policy on tourism*

**NB: Belgium's tourism policy is largely derived from the Schengen policy, in particular regarding visa C for TCNs and the conditions for free circulation within the Schengen space (see section on Belgium’s Schengen policy).*

themes (indicators)	dimensions	actors	characteristics	temporality
<p style="text-align: center;">guarantee(s) (conditions of entry/stay)</p> <p>Right to stay up to 3 months “without other conditions or formalities” (art. 40, §3, law of 15/12/1980)</p>	<p>EU citizens</p>	<p>- any EU citizen</p>	<p>right to 3 months of free stay “without other conditions or formalities” (art. 40, §3, law of 15/12/1980)</p>	
<p>Short stay for tourism purposes requirements:</p> <ul style="list-style-type: none"> - valid passport or equivalent document - with a valid short stay visa (art. 2, law of 1980/12/15), unless exempt - with sufficient financial resources for the duration of their stay (art. 3, paragraph 4, law of 1980/12/15) <p>Schengen single entry visa (visa type C): Allowing 90 days of circulation/stay in the Schengen area.</p> <p>Schengen double-entry visa (visa type C): Allowing to enter the Schengen territory twice to travel for a total of 90 days.</p>	<p>TCN (Schengen visa C)</p> <p><u>Citizens from these countries:</u> <i>For Asia:</i> citizens of Bangladesh, Bhutan, Myanmar (Burma), Cambodia, China, Marianas Islands, Indonesia, Laos, Maldives, Mongolia, Nepal, Philippines, North Korea, Sri Lanka, Thailand, Vietnam</p> <p><i>Are exempted from visa C:</i> <i>For Asia:</i></p>	<ul style="list-style-type: none"> - TCNs with tourism and recreation purposes - financially and materially independent during their stay in Belgium - health insured 	<p>Stay of less than 90 days in any 180-day period</p> <p>Ideally, apply 6 weeks before the planned departure date. At the earliest, 3 months to 6 months before the planned date of travel. No later than 15 calendar days before the planned date of travel.</p>	

<p><u>Schengen multiple-entry visa (visa type C):</u> Allowing several stays within the Schengen area, provided that the total length of the visits does not exceed 90 days in any 180-day period. 3 types:</p> <ul style="list-style-type: none"> - 1-year multiple entry visa to enter the Schengen area multiple times within a year provided the total amount of days spent in the Schengen area does not exceed 90 days. - 3-year multiple entry visa (same withing 3 years). - 5-year multiple entry visa (same withing 5 years). <p><u>requirements:</u></p> <ul style="list-style-type: none"> - ETIAS online form authorizing stay in Schengen area (information transmitted to other MS) -Travel and medical insurance covering up to 30000€. -Cover letter stating itinerary and purpose of visit. -Proof of accommodation. -Proof of means of subsistence: Attestation from host (if lodging) agreeing to cover all expenses, or proof of financial credit or personal resources, for 95€/day in hotel or 45€/day in other accommodation. - Visa fees: <ul style="list-style-type: none"> o 80€ for more than 12 years old o 40€ between 6 and 12 years old o Are exempted: less than 6 years old, spouses/family members of EU-EEA-Swiss nationals, pupils, students, accompanying teachers on study or educational trips, researchers/scientists traveling for research purposes. 	<ul style="list-style-type: none"> -Citizens of South Korea, Japan, Malaysia, Singapore, Taiwan (for holders of passports issued by Taiwan that include an identity card number) -Holders of passports issued by the Hong Kong and Macao SAR, a valid residence permit or long-stay visa issued by a Schengen state, or certain travel documents issued by an EU member state <i>All countries:</i> see list here. -Holders of diplomatic passport. -Family member of an EU citizen holder of a valid residence permit issued by a MS of the EU (spouse/children). 		<p>Response time: usually 10 to 15 days, 1 or 2 months in busy periods.</p>
---	---	--	---

<p style="text-align: center;">benefits (rights/privileges of entry/stay)</p>	<p>Right to stay/circulate 90 days (out of 180 days) in the Schengen area.</p>		
<p style="text-align: center;">penalty/ties (penalizing clause/article for IFs)</p>	<p>Overstaying in the Schengen area may lead to fine, deportation or ban on the Schengen zone to enter to travel for 2 years or more depending on the length of the overstay.</p>		
<p style="text-align: center;">forgiveness (forgiving clause/article)</p>	<p>Extension allowed in case of:</p> <ul style="list-style-type: none"> - Late entry - Humanitarian reasons - Force majeure - Important personal reasons <p>Application for extension at least a week before visa expiration.</p> <p>Where to apply for extension? In Belgium: Immigration Office.</p> <p>Requirements:</p> <ul style="list-style-type: none"> - Copy of the passport (identifying features, visa, entry and exit stamps). - Copy of the declaration of arrival, if the foreigner is subject to this obligation (annex 3 of the Royal Decree of 8 October 1981). - Letter explaining the reasons for requesting the extension of the stay. - Documentation demonstrating the existence of compelling personal reasons, force majeure or humanitarian reasons. - Proof that the applicant has taken out Schengen medical travel insurance valid for the entire duration of the stay, with a minimum coverage of 30,000€. - Fees: <ul style="list-style-type: none"> o Personal reasons: 30€ o Humanitarian reasons and force majeure: free 		
<p style="text-align: center;">referrals (connecting with other mobility policies)</p>	<p>EU level: Schengen Borders Code : https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0392 (9 March 2016)</p>		

	Currently under revision (since September 2023) National level: - Immigration Office entry conditions: https://dofi.ibz.be/sites/default/files/2022-03/Entry%20conditions%20for%20Schengen%20area.pdf		
--	---	--	--

Table 4. Description of Belgium’s investment-based immigration policy*

* The provisions described in this section are part of the Belgian Law of 19 February 1965 concerning the practice of independent professional activities by foreigners, unless stated otherwise. The Consolidated Law of 15 December 1980 on access to the territory, residence, establishment, and expulsion of foreigners does not include provisions specifically related to investment-based migration, only its general provisions regarding the conditions of entry and stay for foreigners apply.

dimensions themes (indicators)	actors	characteristics	temporality
<p>Professional card (permit to work as independent professional) - any foreigner engaging in independent professional activity must hold a professional card (art. 1, 4) - the specific eligibility conditions for applications are determined by the competent regions (art. 3) (for the German-speaking community, the law itself provides as a condition the existence of lasting added value for employment promotion, determined with the possible advice of external experts in economic matters (art. 6 German-speaking Community))</p> <p style="text-align: center;">***</p> <p>Right to stay up to 3 months “without other conditions or formalities” (art. 40, §3, law of 15/12/1980)</p>	<p>All foreigners</p> <p><u>exempted actors</u>: the federal and regional authorities may exempt certain categories of foreigners from this obligation, either due to the nature of the profession, the nature of the right to stay, in compliance with international treaties or reciprocal measures, or finally due to refugee or stateless status (art. 2)</p> <p style="text-align: center;">***</p> <p>EU citizens</p>	<ul style="list-style-type: none"> - independent professional investor - allowed to work as an independent professional by the Belgian competent region - financially independent, and insured - not convicted of crimes <p style="text-align: center;">***</p> <p>- any EU citizen</p>	<p>authorisation to work in Belgium as an independent professional investor</p> <ul style="list-style-type: none"> - the validity period of the professional card (<i>i.e.</i>, work authorisation) cannot exceed 5 years - if it is less than 5 years, it can be extended up to this maximum - at the end of its validity, the professional card can be renewed (art. 3) - the withdrawal of the residence permit automatically terminates the validity of the professional card (art. 4) - after a refusal of the professional card, a mandatory two-year waiting period is required before being able to submit a new application for the same activity (except in cases of refusal for inadmissibility, or if new evidence is to be presented) (art. 5). <p style="text-align: center;">***</p> <p>right to 90 days of free stay “without other conditions or formalities” (art. 40, §3, law of 15/12/1980)</p> <p>right to stay more than 3 months (art. 40, §4, law of 15/12/1980)</p>

<p>Right to stay (long stay) right to stay for all EU citizens who: - work or study in the kingdom - and have sufficient financial resources and a health insurance (art. 40, §4, law of 15/12/1980)</p> <p>***</p> <p>Residence single permit for holders of a professional card requirements for TCN: - proof of payment of the fee - extract of the criminal record, attesting that the individual has not been convicted of common crimes or offenses (except in case of renewal) - medical certificate (except in case of renewal) attesting that the individual is not suffering from any diseases presenting a risk to Belgian public health (DOFI, 2024a)</p>	<p>TCN</p> <p>***</p>	<p>- any EU citizen working in Belgium - financially independent, and insured (art. 40, law of 15/12/1980)</p> <p>***</p> <p><u>additional characteristics concerning TCNs:</u> - allowed to work as independent professional by the competent region (holder of a professional card) (art. 4) - not convicted - in good health (not posing threat to the Belgian public health) (DOFI, 2024a)</p>	<p>***</p> <p>stay of more than 90 days - result of application is communicated to the applicant as soon as possible, and within 9 months at the latest following the submission of application (art. 12bis, §2, law of 15/12/1980). NB: this timeframe depends in part on the processing of the request granted by the competent region - authorisation to stay can be ended when the requirements for his stay (which includes the work permit) are not met anymore (art. 13, §3, law of 15/12/1980)</p>
---	-----------------------	--	---

benefits (rights/privileges of entry/stay)	penalty/ties (penalising clause/article for IFs)	forgiveness (forgiving clause/article)	referrals (connecting with other mobility policies)
<p>> permanent / long-term residence permit <u>conditions of permanent resident card for EU citizen</u> (same as for labour migration and family reunification): 5 years of uninterrupted stay in Belgium (art. 42quinquies, §1er); the Belgian government's issuance of an official document certifying their permanence of stay is the evidence of their right to</p>	<p><u>end of permanent resident card for EU citizens:</u> absence from Belgium during more than 2 consecutive years (art. 42quinquies, §7) <u>loss of the right to obtain a permanent resident status:</u> absence from Belgium during more than 6 months per year (art. 42quinquies, §3, law of 15/12/1980)</p>	<p><u>possibility to regain the status of long-term resident for those who have lost their right of return</u> (under the conditions and cases set by a royal decree) (art. 19, §2, law of 15/12/1980)</p> <p><u>conservation of the right to obtain a permanent resident card for EU citizens:</u></p>	<p><u>EU level:</u> - Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for</p>

<p>permanent stay (art. 42quinquies, §5, law of 15/12/1980)</p> <p><u>conditions of long-term resident permit for TCNs:</u> 5 years of uninterrupted stay in Belgium, or possibly including stays in other Member States of the EU (art. 15bis, §2, law of 15/12/1980)</p> <p style="text-align: center;">***</p> <p>> permit to invest in Belgium (professional card)</p>	<p><u>end of long-term residence permit for TCNs:</u> absence from Belgium during more than one year (art. 19, §1) (no specific conditions granted to investors by Royal decree, cf. DOFI, 2024b)</p> <p><u>loss of the right to obtain a permanent resident status for TCNs:</u> absence from Belgium during more than 6 months consecutively, and 10 months in total in the period of 5 years” (art. 15bis, §4)</p> <p style="text-align: center;">***</p> <p><u>warning, termination of activity or closure of the establishment, or permanent withdrawal of the investment authorisation</u> (professional card): Depending on the severity of the following acts, judged by the Economic Investigation Council for Foreigners (or its regional equivalent):</p> <ul style="list-style-type: none"> - lending or transfer of the card - hiring one or more foreigners who do not hold the professional card, street vendor card, or work permit and who were not exempted from holding them - engaging in an independent activity different from that specified on the professional card or failing to comply with the conditions attached to the issuance of this card - failure to comply with the legal, regulatory, and tax rules governing the activity - criminal conviction related or unrelated to the activity (art. 7) 	<ul style="list-style-type: none"> - long absence due to military obligations or 12 consecutive months of absence because of important reasons such as pregnancy and childbirth, serious illness, studies or professional training or detachment for professional reasons outside of Belgium (art. 42quinquies, §3) - permanent residence card can be obtained before 5 years of continuous presence in the case of <u>work incapacity</u> under certain conditions (art 42sexies) <p><u>possibility to regain the status of long-term resident for those who have lost their right of return</u> (under the conditions and cases set by a royal decree) (art. 19, §2, law of 15/12/1980)</p> <p style="text-align: center;">***</p> <p><u>opposition to the judgment</u> - the foreigner may lodge an objection to a default judgment rendered against him by the Economic Investigation Council for Foreigners provided that the objection is notified within fifteen days from the date of sending the notification of the judgment. (art. 11 - provisions regarding objection vary depending on the region)</p>	<p>third-country workers legally residing in a Member State</p> <ul style="list-style-type: none"> - Schengen Borders Code <p><u>National level:</u></p> <ul style="list-style-type: none"> - Cooperation agreement of 18 February 2018 on single permits and the employment of foreigners - Law of 26 May 2002 about social assistance and services <p><u>Other national laws mentioned:</u></p> <ul style="list-style-type: none"> - Visa code - Penal Code - Civil Code - Criminal Code <p>Regional level :</p> <ul style="list-style-type: none"> - Penal codes
--	---	---	---

<p style="text-align: center;">***</p> <p>> authorisation to stay</p>	<p><u>control of independent activity and seizure of professional cards:</u></p> <ul style="list-style-type: none"> - officials from federal and regional governments are authorised to investigate offenses under this law and the decrees issued for its implementation and to draw up reports. - they may enter, day or night, all industrial, commercial, and agricultural establishments (excluding dwellings) suspected of such offenses, and proceed with the seizure of professional cards suspected of being counterfeited or falsified (art. 12). <p><u>punishments leading to the revocation of the professional card leading to the end of associated residence permit (art. 13, §3 of the law of 1980):</u></p> <p>Imprisonment for 8 days to 3 years and a fine of 250 to 6,000 euros (variable depending on the region), or one of these penalties only (can be doubled in case of recurrence):</p> <ul style="list-style-type: none"> - exercising an independent activity without a professional card - exercising an independent activity against a prohibition of the Economic Investigation Council for Foreigners - obtaining a professional card through fraudulent maneuvers - obstruction of the agents' mission referred to in art. 12 - providing inaccurate information or documents to the agents responsible for this surveillance or to the Economic Inquiry Council for Foreigners (art. 13; art. 14) <p style="text-align: center;">***</p> <p><u>refusal and end of short stay</u></p> <ul style="list-style-type: none"> - public order, public health or national security reasons - no sufficient resources (art. 3, art. 7, law of 15/12/1980) <p><u>refusal or end of residence permit (long stay)</u></p> <ul style="list-style-type: none"> - the foreigner no longer meets the requirements for his stay (art. 13, §3) - or has reached maximum duration of their stay (art. 13, §3, law of 15/12/1980) 		
---	---	--	--

> right to absence and return	- or for public order or national security reasons (art. 21, law of 15/12/1980) <u>loss of the right to return:</u> absence from Belgium for more than one year (art. 19, §1, law of 15/12/1980)		
---	--	--	--

Table 5. Description of Belgium’s student mobility policy

themes (indicators)	dimensions	actors	characteristics	temporality
<p style="text-align: center;">guarantee(s) (conditions of entry/stay)</p> <p>Right to stay up (short stay) “without other conditions or formalities” (art. 40, §3)</p> <p>Right to stay (long stay) right to stay for all EU citizens who:</p> <ul style="list-style-type: none"> - study (or work) in the kingdom - with sufficient financial resources and a health insurance during their stay (art. 40, §4) 	<p><u>EU citizens</u></p>	<ul style="list-style-type: none"> - any EU citizen - any EU citizen studying in Belgium - financially independent (not likely to resort to social assistance), and health insured - above 18 years old, or if under 18, with proof of parental consent or, if applicable, guardian authorisation 	<p>right to 90 days of free stay “without other conditions or formalities” (art. 40, §3)</p> <p>right to stay more than three months (art. 40, §4)</p>	
<p>Student residence permit requirements (art 60, §3):</p> <ul style="list-style-type: none"> - valid passport copy or equivalent travel document - proof of payment of the fee covering administrative costs - certificate issued by a higher education institution proving enrollment in a full-time higher education programme or preparatory year, or admission to studies, or enrollment in an admission exam or test - proof of sufficient means of subsistence for the duration of stay to avoid becoming a burden on the Kingdom's social assistance system during the stay: 	<p><u>Third Country Nationals (TCN)</u></p>	<ul style="list-style-type: none"> - any TCN student admitted by a Belgian higher education institution - financially independent during stay - in good health and insured - not convicted if above 18-year-old 	<p>stay of more than 90 days, for the duration of the studies</p> <ul style="list-style-type: none"> - if the student holds a certificate from a Belgian higher education institution, the visa duration is at least 1 year. By derogation, if the duration of the intended course is <u>less than one or two years</u>, as applicable, the duration of the residence permit covers at least the <u>duration of studies</u> (art. 61/1/1 §3) - if the <u>certificate of enrollment</u> in the higher education institution or the 	

<p>scholarship or loan certificate, commitment of financial support by an individual, or any other means of proof (art. 61, §1)</p> <ul style="list-style-type: none"> - health insurance certificate covering all risks in Belgium for the duration of stay - medical certificate confirming absence of any diseases listed in the annex to this law, posing a risk to Belgian public health - if aged over 18, a criminal record extract or equivalent document dated within the last six months, confirming no convictions for common crimes or offenses <p style="text-align: center;">***</p> <p>Student say in the context of an intra-EU student mobility</p> <p><u>requirements for mobility to a Belgian higher education institution</u></p> <p>the mobility project must be communicated to the Belgian administration or his delegate by the higher education institution in the territory of the Kingdom where the student is enrolled (art. 61/1/6)</p> <p><u>requirements for mobility from Belgium to another EU country's higher education institution</u></p> <p>same requirements as for student permit (see above)</p>	<p style="text-align: center;">***</p> <p><u>TCN residing in another EU member state, in student mobility to Belgium</u></p> <p><u>TCN residing in Belgium in the context of a student mobility programme</u></p>	<p style="text-align: center;">***</p> <p>- any TCN admitted to study by another EU country</p> <p>- any TCN student admitted by a Belgian higher education</p>	<p><u>insurance certificate</u> cannot be provided at the time of visa application: right to a <u>temporary stay of maximum 4 months</u>, with a deadline of 15 days before expiry by which the student must submit these documents to the administration (art. 61/1/1, §2 and 4)</p> <p style="text-align: center;">***</p> <p><u>intra-EU student mobility within 1 year:</u></p> <ul style="list-style-type: none"> - a TCN who has been authorised by another EU state to stay as a student within the framework of mobility is admitted to the territory of the Kingdom for a stay <u>not exceeding 360 days</u> to complete a part of their studies, provided that the mobility project has been communicated to the Belgian administration by the higher education institution in the territory of the Kingdom where the student is enrolled (art. 61/1/6, §1) - the student's mobility may (or must if the student is considered a threat to public order, national security, or public health) be objected in writing, no later than <u>30 days</u> from the receipt of the complete notification <p><u>student mobility programme, 2 years:</u></p> <p>if the intended course of study is part of a Union programme or multilateral programme involving mobility measures,</p>
--	---	---	--

		<p>institution under an EU mobility programme</p> <ul style="list-style-type: none"> - financially independent during stay - in good health and insured - not convicted if above 18-year-old 	<p>or if it is covered by an agreement between two higher education institutions allowing the individual to pursue part of their studies in another Member State, the duration of the residence permit is at least two years, unless the conditions required by Article 61, §3) are not met for the two-year period or for the entire duration of the studies. In the latter case, the duration of the residence permit is at least one year. (art. 61/1/1, §3)</p> <p><u>immediate re-entry in case of refusal, end or withdrawal of student mobility in another EU state</u></p> <p>when the student no longer meets the conditions for mobility in the second member state or when the mobility in the second member state has ended during the mobility period, the Minister or his delegate shall authorise the student's re-entry into the Kingdom, <u>without formalities and without delay</u>, at the request of the second Member State (art. 61/1/8 §2)</p>
--	--	---	--

benefits (rights/privileges of entry/stay)	penalty/ties (penalising clause/article for IFs)	forgiveness (forgiving clause/article)	referrals (connecting with other mobility policies)
<p>> the right to stay during 1 year after graduation to seek employment or create a business</p> <p>after completing their studies in the Kingdom's</p>	<p><u>refusal or withdrawal of the right to stay after graduation to seek employment or create a business</u></p> <p>the TCN is considered to constitute a threat to public</p>		<p><u>EU level:</u></p> <p>- Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016</p>

<p>principle of proportionality" (art. 61/1/5)</p> <p>employed other illegal means contributing to the acquisition of residence (art. 61/1/3, § 1)</p> <ul style="list-style-type: none"> - or if there is credible and objective evidence or reasons to believe that the stay would pursue purposes other than studying (art. 61/1/3, §2) <p><u>host higher educational institution:</u></p> <ul style="list-style-type: none"> -work <p>end of student permit applicant</p> <ul style="list-style-type: none"> - the student's stay pursues purposes other than studies - the student has used false or misleading information, or forged documents, or resorted to fraud or other illegal means that contributed to obtaining the stay - the student excessively prolongs their studies - the student is considered a threat to public order, national security, or public health <p><u>host higher education institution</u></p> <ul style="list-style-type: none"> - has not complied with legal obligations regarding social security, taxes, workers' rights, or working conditions - is registered and penalized for undeclared work or illegal labour - was established or operates primarily to facilitate the entry of third-country nationals into the Kingdom - has undergone liquidation or bankruptcy proceedings, or if no economic activity is carried out there <p><u>refusal of the right to intra-EU student mobility</u></p> <ul style="list-style-type: none"> - the student has used false or misleading information, forged or falsified documents, or engaged in fraud and/or employed other illegal means - the maximum stay duration of 360 days has been reached - the student is considered a threat to public order, national security, or public health; - the student falls into one of the cases mentioned in Article 61/1/3, § 2 (art. 61/1/7 §1) <p>stay in the context of an intra-EU mobility from</p>	<p><u>failed its obligations</u></p> <p>if the right to stay is ended or not renewed because the higher education institution in which the student is registered has failed to abide its obligations as stated in art. 61/1/3 §2, the student is authorised to submit a request to be admitted to another higher education institution to pursue an equivalent programme, enabling them to complete their studies (art. 61/1/4, §3)</p> <p><u>remaining right to study in another higher education institution if host institution has failed its obligations</u></p> <p>if the right to stay is ended or not renewed because the higher education institution in which the student is registered has failed to abide its obligations as stated in art. 61/1/3 §2, the student is authorised to submit a request to be admitted to another higher education institution to pursue an equivalent programme, enabling them to complete their studies (art. 61/1/4, §3)</p> <p>***</p>	<p>- Criminal Code</p>
--	---	------------------------

<p>another EU country (up to 1 year)</p> <p style="text-align: center;">***</p> <p>> the right to work during studies TCN students have the right to work part-time under conditions provided by the law of May 9, 2018, concerning the employment of foreign nationals in a particular residence situation</p>	<p><u>end of student permit in case of illegal or excessive work</u> the TCN engages in illegal work activity or performs more work activities than those stipulated in Article 10, 2°, of the 2 S on the employment of foreign nationals in specific residence situations (art. 61/1/4, §2)</p>		
--	---	--	--

Table 6. Description of Belgium’s Schengen policy

Vanessa Frangville and Maëlwenn Chaperon

themes (indicators)	dimensions	actors	characteristics	temporality
<p style="text-align: center;">guarantee(s) (conditions of entry/stay)</p> <p>Schengen airport transit visa (ATV, visa type A): allowing travelers going from one non-Schengen country to another non-Schengen country to transit through the international parts of airports in Belgium. Travelers with a Schengen airport transit visa cannot leave the airport.</p> <p><u>Requirements:</u></p> <ul style="list-style-type: none"> - Visa application form, - Two identical and recent pictures, - Valid passport with at least two blank pages, - Proof of final destination: <ul style="list-style-type: none"> o flight ticket reservation for the destination country, and o visa of the final destination if required. - Travel insurance covering at least 30.000€ in emergencies like: <ul style="list-style-type: none"> o Sudden illness, o Physical injuries, severe injuries, and o Evacuation. - Proof of payment of transit visa fee (80€) <p style="text-align: center;">*****</p>	<p>TCN applicants for Schengen visa A</p> <p><u>Citizens from these countries:</u> Afghanistan, Bangladesh, Democratic Republic of the Congo, Eritrea, Ethiopia, Ghana, Iran, Iraq, Nigeria, Pakistan, Somalia, Sri Lanka, Dominican Republic, Guinea, Guinea-Bissau, Nepal, South Sudan, Sudan, Syria, Yemen</p> <p><i>Are exempted:</i></p> <ul style="list-style-type: none"> - Holders of a valid visa or residence permit issued by a Schengen state. - Holders of a residence permit from countries such as the Principality of Andorra, Canada, Japan, Republic of San Marino or the United States, vouching for any travel. - Holders of a valid Schengen visa or a visa valid for entry into one of the EFTA countries, as well as, Japan, or the United States, even if the traveler returns from these countries after using this visa. - Holders of a visa valid for a Member State of the European Union or the European Economic Area, Canada, Japan or the United States. - Family member of a citizen of the EU, EEA or Switzerland. - Holders of a diplomatic passport. - Flight crew member national of a contracting party to the Chicago Convention on International Civil Aviation. <p style="text-align: center;">*****</p>	<p>Airport transit only.</p> <p>For non-Schengen country citizens, non-UE citizens, non-members of one of those type of citizen family</p> <p>Application at the Belgium embassy or the consulate</p>	<p>Very short term: valid 24 hours for airport transit</p> <p>Ideally, apply 6 weeks before the planned departure date. At the earliest, 3 months to 6 months before the planned date of travel. No later than 15 calendar days before the planned date of travel.</p> <p>Response time: usually 10 to 15 days, 1 or 2 months in busy periods.</p>	

<p><u>Schengen single entry visa (visa type C):</u> Allowing 90 days of circulation/stay in the Schengen area.</p> <p><u>Schengen double-entry visa (visa type C):</u> Allowing to enter the Schengen territory twice to travel for a total of 90 days.</p> <p><u>Schengen multiple-entry visa (visa type C):</u> Allowing several stays within the Schengen area, provided that the total length of the visits does not exceed 90 days in any 180-day period. 3 types:</p> <ul style="list-style-type: none"> - 1-year multiple entry visa to enter the Schengen area multiple times within a year provided the total amount of days spent in the Schengen area does not exceed 90 days. - 3-year multiple entry visa (same withing 3 years). - 5-year multiple entry visa (same withing 5 years). <p><u>Requirements:</u></p> <ul style="list-style-type: none"> - ETIAS online form authorizing stay in Schengen area (information transmitted to other MS) -Travel and medical insurance covering up to 30000€. -Cover letter stating itinerary and purpose of visit. -Proof of accommodation. -Proof of means of subsistence: Attestation from host (if lodging) agreeing to cover all expenses, or proof of financial credit or 	<p>TCN applicants for Schengen visa C</p> <p><u>Citizens from these countries:</u> <i>For Asia:</i> citizens of Bangladesh, Bhutan, Myanmar (Burma), Cambodia, China, Marianas Islands, Indonesia, Laos, Maldives, Mongolia, Nepal, Philippines, North Korea, Sri Lanka, Thailand, Vietnam <i>All countries:</i> see list here.</p> <p><i>Are exempted:</i></p> <p><i>For Asia:</i></p> <ul style="list-style-type: none"> -Citizens of South Korea, Japan, Malaysia, Singapore, Taiwan (for holders of passports issued by Taiwan that include an identity card number) -Holders of passports issued by the Hong Kong and Macao SAR, a valid residence permit or long-stay visa issued by a Schengen state, or certain travel documents issued by an EU member state <p><i>All countries:</i> see list here.</p> <ul style="list-style-type: none"> -Holders of diplomatic passport. <p><u>Family member of an EU citizen holder of a valid residence permit issued by a MS of the EU (spouse/children).</u></p>	<p style="text-align: center;">*****</p> <p>For non-Schengen country citizens, non-UE citizens, non-members of one of those type of citizen family.</p> <p>Right to go from one non-Schengen country to another non – Schengen country to pass through the territories of the Schengen area member States.</p> <p>Purposes:</p> <ul style="list-style-type: none"> - Tourism and recreation - Business purposes - Visiting friends or family - Cultural and sporting events - Official visits - Medical treatment - Short-term study - Research purposes 	<p style="text-align: center;">*****</p> <p>The total length of the visits does not exceed 90 days in any 180-day period.</p> <p>Ideally, apply 6 weeks before the planned departure date.</p> <p>At the earliest, 3 months to 6 months before the planned date of travel.</p> <p>No later than 15 calendar days before the planned date of travel.</p> <p>Response time: usually 10 to 15 days, 1 or 2 months in busy periods.</p>
---	---	--	---

<p>personal resources, for 95€/day in hotel or 45€/day in other accommodation.</p> <p>- Visa fees:</p> <ul style="list-style-type: none"> ○ 80€ for more than 12 years old ○ 40€ between 6 and 12 years old ○ Are exempted: less than 6 years old, spouses/family members of EU-EEA-Swiss nationals, pupils, students, accompanying teachers on study or educational trips, researchers/scientists traveling for research purposes. 	<p>Right to transit through the international parts of airports in Belgium to travel from one non-Schengen country to another non-Schengen country.</p> <p style="text-align: center;">*****</p> <p>Right to stay/circulate 90 days (out of 180 days) in the Schengen area.</p> <p>Overstaying in the Schengen area may lead to fine, deportation or ban on the Schengen zone to enter to travel for 2 years or more depending on the length of the overstay.</p> <p>Extension allowed in case of:</p> <ul style="list-style-type: none"> - Late entry - Humanitarian reasons - Force majeure - Important personal reasons <p>Application for extension at least a week before visa expiration.</p> <p>Where to apply for extension? In Belgium: Immigration Office.</p> <p>Requirements:</p> <ul style="list-style-type: none"> - Copy of the passport (identifying features, visa, entry and exit stamps). 		
<p style="text-align: center;">benefits (rights/privileges of entry/stay)</p>			
<p style="text-align: center;">penalty/ties (penalizing clause/article for IFs)</p>			
<p style="text-align: center;">forgiveness (forgiving clause/article)</p>			

	<ul style="list-style-type: none"> - Copy of the declaration of arrival, if the foreigner is subject to this obligation (annex 3 of the Royal Decree of 8 October 1981). - Letter explaining the reasons for requesting the extension of the stay. - Documentation demonstrating the existence of compelling personal reasons, force majeure or humanitarian reasons. - Proof that the applicant has taken out Schengen medical travel insurance valid for the entire duration of the stay, with a minimum coverage of 30,000€. - Fees: <ul style="list-style-type: none"> o Personal reasons: 30€ o Humanitarian reasons and force majeure: free 		
<p style="text-align: center;">referrals (connecting with other mobility policies)</p>	<p>EU level: Schengen Borders Code : https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0399 (9 March 2016) Currently under revision (since September 2023)</p> <p>National level: - Immigration Office entry conditions: https://dofi.ibz.be/sites/default/files/2022-03/Entry%20conditions%20for%20Schengen%20area.pdf</p>		

Annex 2 – Guide used for policy content analysis

Table 1. Dimensions and themes of policy content analysis

themes (indicators) \ dimensions	actors	characteristics	temporality
guarantee(s) (conditions of entry/stay)	<p>Who is exempted? Who is not?</p> <p>concerned persons (citizens, non-citizens...)</p>	<p>What are the characteristics of the concerned actors?</p> <p>age gender filiation nationality civil status legal status social class ethnicity language</p>	<p>What temporality/ties are reinforced or produced in the process?</p> <p>Visa duration time requirement</p>
themes (indicators)			
benefits (rights/privileges of entry/stay)	penalty/ties (penalising clause/article for IFs)	forgiveness (forgiving clause/article)	referrals (connecting with other mobility policies)

Determining State's hidden suppositions (by themes)*:

- 1) Why the State requires a set of conditions for the entry or stay of a Third Country National (TCN) in its territory?
- 2) Why does the State provide specific set of rights/privileges when entry/stay conditions are met?
- 3) Why does the State penalize specific actor(s) when one or more conditions are not met?
- 4) Why does the State provide exemptions? Or why does it give no exemptions?
- 5) Why does the State connect its two or more mobility policies to each other?

Determining State's hidden suppositions (by dimensions)*:

- 6) Why does the State focus on one or more actors in its mobility policies?
- 7) Why does the State privilege or prioritize actors with a specific set of characteristics?
- 8) Why does the State favour a specific temporality over the others? Why does it limit to a specific duration a TCN's stay in its territory?

Concluding questions (considering the answers to the questions above):

- 9) What does the State consider as “acceptable” or “unacceptable” human behaviour in the context of a specific mobility policy?
- 10) To what extent the State considers or not human behaviour in its mobility policies?

* To find answers to these questions, ULB-based AspirE researchers took into account the literature on mobility policies.