

# GMS Flash Alert

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## Belgium – For Long-Term Residency Rights, Need to Demonstrate Integration Efforts

Under the terms of a recent law, all individuals who have applied for long-term residency in Belgium as from 18 February 2017, either for limited or unlimited duration, will need to demonstrate that they are prepared to and intend to (if they haven't already) undertake sufficient effort in regards to integrating in Belgium. In case they cannot prove this, the Immigration Office can end their right of residence in Belgium.

On 18 February 2017, the Law of 18 December 2016 entered into force.<sup>1</sup> The new law amends the Law of 15 December 1980 on access to the territory, residence, settlement, and expulsion of foreigners.

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### WHY THIS MATTERS

Many companies in Belgium employ third country nationals who will be affected by the new condition of the Law of 18 December 2016. It is critical that employers inform their foreign employees about this new condition, help them to prepare to meet the new condition, and if necessary, support them in their ability to respond to questions from the Immigration Office in this respect.

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### New Rules for Securing Long-Term Residency

As from 18 February 2017, foreign nationals who apply for Belgian long-term residency rights for more than three months, either for a limited or unlimited duration, will need to demonstrate their efforts to integrate in Belgium and will need to be able to provide evidence of their willingness to integrate in Belgian society.

Individuals who hold a Belgian resident permit "A-card" – this includes economic migrants – will need to prove their efforts to integrate in Belgian society at the latest one year following renewal of their first A-card.

For holders of all types of Belgian residency permits, the Immigration Office can audit efforts made to integrate within Belgian society within a period of four years after the end of the first year of the foreign national's residency in Belgium. Upon audit, proof needs to be provided in this respect to the Immigration Office. The Immigration Office can end the individual's right of residency in Belgium in case it makes the assessment that the individual did not make sufficient effort to integrate in Belgium.

### **Certain Criteria Looked At**

Certain criteria – which are overall the same criteria taken into account when applying for Belgian citizenship – are taken into account in order to evaluate whether the individual has put sufficient efforts into integrating in Belgian society:

- The individual successfully completed an assimilation course;
- The individual performs an activity as an employee, clerk, or self-employed;
- The individual has obtained a degree, certificate, or proof of registration provided by an organized, recognized, or subsidized educational institution;
- The individual has followed a competent authority-recognized vocational training;
- The individual knows the language applicable in the region where he or she is registered in the Population or Aliens Register;
- The criminal justice record of the individual;
- The individual actively participates in social life.

Additional criteria might be taken into account. It is to be expected that performing an economic activity as an employee, clerk, or self-employed will be considered a strong element of integration. However, as the legislation has only recently come into effect, there is little information available on the way the Immigration Office will apply this legislation in practice.

In case the Immigration Office arrives at the assessment that the individual did not make sufficient efforts to integrate, it will first further investigate how long the individual has been in Belgium, the solidity of his or her family ties in Belgium, and the existence of social, cultural, and family ties with the country of origin. Only afterwards will the Immigration Office be able to make a decision about expelling the individual.

### **Exemptions**

Certain individuals are not subject to the new condition regarding residency. It concerns, amongst others, individuals who apply for long-term residency in Belgium based on the facts that they are: European Economic Area (EEA) and Swiss citizens and their family members, holders of residence permits as long-term residents of another EU member state, beneficiaries of the association agreement between the EEA and Turkey, students, recognized refugees, etc.

### **Time for Processing Family Reunions**

Whereas in the past applications for family reunion had to be processed by the competent authorities within six months, this processing period has been extended by the new rules to nine months. (For prior coverage, see GMS [Flash Alert 2017-025](#), 7 February 2017.)

## Newcomer's Declaration

The new law also provides for the possibility of requiring a "newcomer's declaration," which would be a condition for submitting an admissible application for a Belgian residence permit.

The declaration – which stipulates that the individual signing the declaration understands the fundamental values and norms of Belgian society and will act accordingly – would need to be signed by the individual at the point of applying for Belgian residency.

This newcomer's declaration has not yet entered into force and is pending an official cooperation agreement that needs to be signed by the different Belgian communities and regions.

## FOOTNOTE:

1 Law of 18 December 2016 published in the Belgian Official Gazette (*Moniteur Belge/Belgisch Staatsblad*) on 8 February 2017. 18 Décembre 2016 - *Loi insérant une condition générale de séjour dans la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers.*

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## Contact us

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\* Please note that KPMG LLP (U.S.) does not provide immigration services.

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