



# GMS Flash Alert

## Immigration Edition

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# Belgium – Indexation of Immigration Office Administrative Fee

The Belgian Immigration Office requests the payment of an administrative fee to cover the cost of processing a visa D application or a residence application. The Immigration Office has raised this fee as from 1 June 2020 (with a grace period until 31 July 2020) to EUR 63, EUR 207, and EUR 363, depending on the type of application.<sup>1</sup>

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## WHY THIS MATTERS

The proof of payment of the administrative fee is generally required, only once, when applying for a Belgian visa D or a Belgian long-term residence permit.

Companies employing non-European Economic Area (EEA) nationals in Belgium for a duration of longer than 90 days are legally required to obtain a Single Permit, including a visa type D, for their employees prior to the start of the employment in Belgium. The administrative fee is a cost companies incur in this respect.

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## Amount of Administrative Fee

Since 2 March 2015, the Belgian Immigration Office requires the payment of an administrative fee to cover the costs of processing a visa D application or a residence permit application. (For prior coverage, see [Flash International Executive Alert 2015-039](#), March 17, 2015, as GMS *Flash Alert* was previously known.) This fee is payable per person and per application and is payable in addition to the fee of EUR 180 that is paid to the consular authorities when submitting a visa D application.

The fee has been increased retroactively as from 1 June 2020, to the following amounts:

- EUR 363 when, for instance, applying to reside more than three months in Belgium to carry out professional activities;
- EUR 207 when, for instance, applying for residence as a family member of a foreigner who is authorised to reside in Belgium for an unlimited or limited period;
- EUR 63 when, for instance, applying to reside more than three months in Belgium after obtaining long-term resident status in another EU member state.

The following applicants are not required to pay this fee:

- Applications from those under 18 years old;
- Citizens of the European Union and their family members;
- Turkish citizens coming to work in Belgium and their family members;
- Others, as specified.

The Immigration Office will accept applications containing the proof of payment of the previous amounts until 31 July 2020. For any application filed from 1 August 2020, the increased fee amounts are due.

## Annulment of Administrative Fee – Impact in Practise

The Belgian Council of State annulled the requirement to pay the administrative fees in two separate rulings on 11 September 2019. According to the Council of State,<sup>2</sup> the Belgian government demonstrated insufficiently that the amount of the fee was based on the actual cost of the administrative processing.<sup>3</sup>

The Belgian Council for Alien Law Litigation also declared in a ruling on 18 November 2019, that the Immigration Office cannot refuse a visa D application or a residence application if no proof of payment of the administrative fee has been provided in the application.<sup>4</sup>

### Reimbursements and Reclaims

Although the Immigration Office never explicitly communicated about the consequences of these rulings, it implicitly agreed that a reimbursement could be claimed in certain situations:

- If a contribution was paid for a visa D application between 2 March 2015 and 26 June 2016, the full amount can be reclaimed;
- If the increased contribution was paid for a visa D application between 1 March 2017 and 2 January 2019, the difference can be reclaimed.

The amounts can be reclaimed by submitting a form published by the Immigration Office<sup>5</sup>.

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## KPMG NOTE

**At this moment the Belgian Immigration Office still refuses to handle visa D applications or long-term residence applications if the fee has not been paid by the applicant.**

## KPMG NOTE continued

There are three scenarios that organisations can consider:

- Pay the administrative fee;
- Pay the administrative fee and recover the full amount through the Court of First Instance;
- Refuse to pay the administrative fee and, when the authorities declare the application inadmissible due to the non-payment of the fee, seek the annulment of this decision before the Council for Alien Law Litigation.

In light of the costs associated with the two last scenarios, the KPMG International member firm in Belgium recommends paying the administrative fee.

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## FOOTNOTES:

1 Belgian Immigration Office, "Administrative fee" at: <https://dofi.ibz.be/sites/dvzoe/EN/Application-guides/Pages/Administrative%20fee.aspx> .

2 Belgian Council of State, *Arrêt du Conseil d'Etat* of 11 September 2019, nr. 245.403 at: <http://www.raadvanstate.be/Arrets/245000/400/245403.pdf> .

3 Belgian Council of State, *Arrêt du Conseil d'Etat* of 11 September 2019, nr. 245.404 at: <http://www.raadvanstate.be/Arrets/245000/400/245404.pdf> .

4 Belgian Council for Alien Law Litigation, *Arrest van de Raad voor Vreemdelingenbetwistingen* of 18 November 2019, nr. 228.858 at: [https://www.rvv-cce.be/sites/default/files/arr/a228858.an\\_.pdf](https://www.rvv-cce.be/sites/default/files/arr/a228858.an_.pdf) .

5 Belgian Immigration Office, "Administrative fee" at: <https://dofi.ibz.be/sites/dvzoe/EN/Application-guides/Pages/Administrative%20fee.aspx> .

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## Contact us

For additional information or assistance, please contact your local GMS or People Services professional\* or one of the following professionals with the KPMG International member firm in Belgium:



**Nele Godefroid**  
**Director,**  
**KPMG-Belgium**  
Tel. +32 2 708 38 46  
[ngodefroid@kpmg.com](mailto:ngodefroid@kpmg.com)



**Emma Lemmens**  
**Senior Adviser,**  
**KPMG-Belgium**  
Tel. +32 2 708 43 90  
[Emma.Lemmens@kpmg.be](mailto:Emma.Lemmens@kpmg.be)

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**The information contained in this newsletter was submitted by the KPMG International member firm in Belgium.**

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