

CLIENT ALERT

Single Permit in Belgium – Almost There!

May.29.2018

More than 4 years after the deadline for implementation, Belgium is finally close to the introduction of a single residency and work permit as required by EU law. The relevant directive is Directive 2011/98 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.

Although this change in the law in some ways simplifies the application procedure, it is also likely to lengthen the time delay between application and an employee actually being able to start work in Belgium.

As from a certain date (as yet unknown, but probably sometime in the autumn of 2018), non-EU nationals wishing to work and reside in Belgium for more than 90 days will need to obtain a single permit. This single permit will combine the current work permit and residency permit.

Under the current system, an employer must obtain a work permit for the employee concerned. Based on this work permit, the employee can obtain a visa D at the Belgian Embassy in their country of residence. Once this visa D has been issued, the employee can enter the Belgian territory and can start working in Belgium (from the date of the work permit). This process takes around 6 to 10 weeks (depending on the Embassy concerned). Once the employee has arrived in Belgium, they then need to apply for a Belgian residency permit in their commune of residence. In principle, the residency permit is issued automatically on the basis of the work permit.

In the future, there will be one unified application procedure. The employer will need to file a single permit application with the competent Belgian authorities (at regional level). The Regional Migration Service and the Federal Foreign Affairs Service will then investigate the application. The Foreign Affairs Service will then decide whether or not to issue the single permit and inform the employer, the employee, and any relevant authorities. The entire process should be completed within a maximum of 4 months following confirmation that the application file is complete.

The new procedure will also affect work and residency permit renewals. Going forward, renewal applications will need to be filed 2 months before the expiry date of the existing work permit (at present, renewals need be filed only 1 month before expiry).

Given the longer processing time (in some cases, it may be more than 4 months before the employee can actually start working in Belgium) and as delays and some additional administrative burden are very probable, good advance planning is recommended for all non-EU hiring in Belgium or postings to Belgium.

Our Brussels Labor & Employment practice is available to advise and assist companies regarding all aspects of international employment and residence in Belgium, including the filing of work permit/single permit applications with the competent authorities on behalf of companies.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Emmanuel Plasschaert

Partner – Brussels

Phone: +32.2.282.4084

Email: eplasschaert@crowell.com

Evelien Jamaels

Associate – Brussels

Phone: +32.2.214.2814

Email: ejamaels@crowell.com