

## NATIONALITY

Acquiring Belgian nationality is one potential long-term response to the post-Brexit situation for UK citizens living in Belgium. Indeed, hundreds of UK citizens in Brussels have become Belgian in the years since the UK referendum on leaving the European Union. Both Belgium and the UK permit dual citizenship, so you can retain your British citizenship when becoming Belgian.

By becoming Belgian, you gain full and permanent access to all residency, labour and electoral rights in Belgium. You also regain EU citizenship and the associated rights, such as freedom of movement. However, there are some areas where taking up Belgian citizenship could affect or change your rights compared to the situation for M-Card holders. For example, there could be changes in your rights regarding family reunification. You would also be subject to Belgium's obligatory voting rules. We will address these subtleties in a future newsletter and webinar.

### Belgian nationality for adult UK citizens (18+ years old)

If you are an adult UK citizen legally residing in Belgium for at least five years, you may be able to acquire Belgian nationality by submitting a nationality application. The length of time you have been living in Belgium will determine the category of nationality application you will submit and the requirements for doing so. The three categories are:

- **Applicants born in Belgium and continually resident in Belgium until their 18th birthday**
- **Applicants resident in Belgium for at least five years**
- **Applicants resident in Belgium for at least ten years**

You submit a nationality application with the local authorities (commune/gemeente). Many municipalities have offices that will first check your dossier and documents before arranging the formal submission, so confirm arrangements in advance. For all categories of nationality application, you will need to submit a recent copy of your birth certificate, with the required legalisation or apostille, translated into Dutch or French. For people born in the UK, this means requesting a new copy of your birth certificate from the UK authorities, as the original will not be accepted.

**To be able to submit any category of nationality application, you must demonstrate that you have the right of unlimited residence at the time of submitting.**

The following residence cards can prove unlimited residence for UK citizens in Belgium:

- M-card
- M-card with permanent right of residence
- F-card
- F+-card
- B-card
- K-card (previously C-card)
- L-card (previously D-card)

If you hold another type of residence card, such as an A-card, you do not yet have a right of unlimited residence. Before attempting to apply for nationality, you should first verify whether you are eligible to switch to a residence status of unlimited duration.

**You then need to demonstrate that you have lived legally in Belgium for the period necessary for the category of application you are making. This period must be continuous and immediately prior to the date of submission of your nationality application.**

Unlike the UK, Belgium has a centralised population register (registre national / rijksregister) to track who lives in the country, and where they have their address. You therefore prove how long you have lived in Belgium with a confirmed copy of the official address records linked to your residence card (certificat de résidence principale avec historique / attest van hoofdverblijfplaats met historiek). In practice, some town halls may actually provide this document when you submit the application, so make sure to check the exact process with your town hall before submitting your application. No other evidence is required, or indeed accepted, so you do not need to submit records of rental contracts or other such evidence. Of course, only the period since you have been officially registered in Belgium can be taken into account (with some allowed absences as discussed below).

When it comes to calculating your period of residence, the usual process is to cumulate the periods where you held a valid residence card. However, in some instances periods where you held a proof of application for a residence card are also taken into account (for example, periods where you held an Annex 56 pending application for an M-card, or an Annex 19ter pending an application for family reunification with an EU

citizen).

Likewise, you cannot apply for Belgian nationality as a current holder of a Special Identity Card (SIC), but previous periods where you held a SIC may be taken into account when calculating the length of your residence. Case law has so far confirmed that UK citizens can use periods with an SIS until at least 1 February 2020 to demonstrate their length of legal residence (more details here). For UK citizens residing in Belgium with an SIC after this date there is no definitive guidance, and it is advisable to seek specialised legal advice.

If you have been temporarily absent for less than six months, this does not affect continuous residence. A registered absence of more than six months interrupts legal residence, and you will have to re-start the calculation of the required period of legal residence after the interruption.

Additionally, the total duration of your registered absences (each of which may not exceed six months) may not exceed one-fifth of the duration required to acquire Belgian nationality. For example, if you need to demonstrate legal residence of five years, the total duration of your cumulative absences should not exceed more than one year in total.

The rules on continuous residence refer only to absences reported to the local authorities (town hall). Short stays abroad (up to three months) do not need to be reported to the town hall.

**Finally, you need to demonstrate that you meet the additional eligibility conditions for the category of nationality application which you are submitting.**

**Category 1: If you were born in Belgium and have legally resided in Belgium until your 18th birthday, no further conditions apply.**

**Category 2: If you have legally resided in Belgium for at least five years, you should demonstrate:**

- **economic participation**
- **social integration**
- **knowledge of one of the national languages**

If you have worked in Belgium continuously for the five years immediately preceding the submission of your nationality application (as an employee, self-employed worker, or civil servant) you are presumed to meet all three conditions with no further evidence. This means that five years of continuous work frees you from the need to demonstrate social integration or knowledge of one of the national languages.

If you have not worked in Belgium continuously for five years immediately preceding submission of your nationality application, there is a set list of ways to prove economic participation, social integration and knowledge of one of the national languages. You can find more information here.

If you are over 65 years of age or prove that you cannot carry out an economic activity because of your disability, the conditions of knowledge of one of the national languages, economic participation, and social integration do not apply to you.

If you are married to a Belgian citizen or if you are the parent of a minor Belgian child, you do not have to prove economic participation.

**Category 3: If you have legally resided in Belgium for at least 10 years, the eligibility conditions for a nationality application are more flexible.**

**You must only prove the following:**

- **knowledge of one of the national languages**
- **"participation in the life of the host community"**

You can prove that you meet this last eligibility condition with many kinds of documents: proof of work, education, volunteering, membership of associations, witness statements, etc.

## **Belgian nationality for minor UK citizens (under 18 years old)**

Minor UK citizens (British children under the age of 18) can acquire Belgian nationality in several circumstances.

**Children living in Belgium automatically acquire Belgian nationality when one of their parents acquires Belgian nationality.**

- This means that your children also become Belgian when you do.
- The parents must acquire Belgian nationality before the child's 18th birthday.
- The child must be living in Belgium with their parent at that time.

**Children can acquire Belgian nationality at birth if one of their parents has Belgian nationality when the child is born.**

- This applies, for example, if you have a baby after acquiring Belgian nationality yourself.
- If the child is born in Belgium, then they will automatically acquire Belgian nationality.
- If the child is born outside of Belgium (for example in the UK) and both parents were themselves also born outside of Belgium, the parents must submit a declaration to a Belgian consular post or local authorities before the child turns five years old.

**Children born in Belgium, and living in Belgium since birth, can acquire Belgian nationality based on their parents' long-standing residence in Belgium. The family must fulfill the following conditions:**

- **Both parents** have had their main residence in Belgium for 10 years prior to the declaration.
- **The child** has had their main residence in Belgium continuously since birth.
- **At least one of the parents** has an unlimited right of residence in Belgium (see criteria above) at the time of the declaration.
- This applies, for example, if you have a child in Belgium fairly soon after arriving and then settle down here for the long-term while deciding not to become a Belgian citizen yourself.
- The parents must submit a declaration before the child's 12th birthday. This route is not available once your child passes the age of 12. After that point, they can only become Belgian if you acquire Belgian citizenship yourself, or by waiting until they turn 18.

**Minor UK citizens born in Belgium automatically acquire Belgian nationality at birth if one of their non-Belgian parents was born in Belgium, and this parent has had their main residence in Belgium for 5 years during the 10 years preceding the child's birth.**

- This applies, for example, when a UK citizen born in Belgium and living in Belgium at least part of the time has a child in Belgium.

