



Checklist for  
**DIRECTIVE 2004/38/EC**

**It is essential that your file contains the original documents, plus one (1) set of photocopies of these documents. The originals will be returned to you at the end of the procedure.**

**Application form**

Two application forms

- duly filled in;
- signed (two times: at the point nr 37 **AND** on the last page!) **AND**
- dated

by the applicant.

Please follow link to the application form [online \(ENG-FR-NL-DE\)](#).

**Photo**

**Two** passport photos not older than 6 months with the [following specifications](#).

**Passport**

A valid passport:

- should have been issued within the previous 10 years;
- should be valid at least 3 months after the intended date of departure from the Schengen territory or, in case of several visits, after the last intended date of departure;
- should contain at least 2 empty pages when applying for the visa.

Please provide one copy of the passport (the empty pages don't need to be copied).

**Copy of ID**

One copy of the Chinese identity card, the Chinese temporary residence card (if any) or the Chinese residence permit (for foreigners).

## Information on the Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

### The right to move and reside freely within the territory of the Member States

A citizen of the **European Union (EU)** has the right to move and reside freely within the territory of the Member States. His family members enjoy the same right, irrespective of their nationality. The only obligation that may be imposed by the Member State on family members who are nationals of third countries is to hold an entry visa.

The conditions for the exercise of, and the limitations upon, the right to move and reside freely within the European Union are laid down by the directive 2004/38/EC. This directive provides inter alia that the Member States grant family members subject to the visa obligation every facility to obtain the necessary visas. Such visas shall be issued free of charge as soon as possible and on the basis of an accelerated procedure.

Nationals of the **European Economic Area (EEA)** (European Union + Norway, Iceland and Lichtenstein) and of Switzerland and members of their families are likewise beneficiaries of these provisions.

**Family members** (Belgian Law of 15.12.1980, Articles 40bis, 40ter and 47/1)

#### **A. The following are considered to be members of the family of a citizen of the European Union:**

- a)** His/her spouse or the foreigner with whom he/she is linked by a registered partnership considered to be equivalent to a marriage in Belgium, who is accompanying or joining him/her.
- b)** The partner with whom he/she is linked by a registered partnership in accordance with the Belgian law and who is accompanying or joining him/her, if the partners meet the following conditions:
  - they prove that they are in a durable and stable relationship duly attested;
  - they are coming to Belgium in order to live together;
  - they are aged over 21 year old;
  - they are single and are not in a permanent and durable relationship with another person;
  - they are not any of the persons referred to in Articles 161 to 163 of the Belgian civil code neither one of them has been the subject of a decision on the basis of Article 167 of the Belgian civil code, provided that the decision has been converted into res judicata.
- c)** His descendants and the descendants of his/her spouse or partner referred to in points a) and b), aged under 21 or who are dependent on them, who are accompanying them or joining them, provided that the citizen of the European Union, his/her spouse or partner has custody of them and, in the case of shared custody, on condition that the other person with custody has given their agreement.

**NOTE:** Where the citizen of the European Union/EEA supplying the right to a family reunion is a

student (Article 40, § 4, 3°), only his children or those of his partner ((a) and b)) who are dependent may accompany or join him.

**B. Are also considered as a family member of a citizen of the European Union - Belgian Law of 15.12.1980 article 47/1 (supporting evidence to be provided) :**

- a) Other family members who are financially dependent of the citizen of the European Union **OR** who are in their country of residence - members of the household of the citizen of the European Union ;
- b) Family members who are seriously ill and strictly require personal care by the citizen of the European Union;
- c) The partner with whom the citizen of the European Union has a durable relationship, duly attested.

**The burden of proof**

The applicant must prove that he/she is a beneficiary of directive 2004/38/EC. When the applicant lodges a visa application, he/she must therefore produce documents establishing:

- a) His/her identity (a valid national passport or a travel document serving as a passport);
  - b) that he/she is accompanying or joining a citizen of the European Union/Norway/Iceland/Lichtenstein/Switzerland who is himself/herself a beneficiary of the directive 2004/38/EC (proof of the tie of kinship, marriage or partnership considered to be equivalent to a marriage in Belgium or registered in accordance with the Belgian law);
  - c) that he/she is a family member within the meaning of Article 40bis or 40ter or 47/1 of the Belgian law of 15 December 1980 on entry, stay, settlement and removal of foreign nationals (as appropriate, proof that he/she is a descendant or an ascendant dependent upon a citizen of the European Union, his/her spouse or his/her partner);
  - d) that the citizen of the European Union/Norway/Iceland/Lichtenstein/Switzerland that the applicant is accompanying or joining is already residing in Belgium (residence permit for nationals of the EEA, application for an attestation of registration/annex 19, attestation of registration/annex 8, E-card, document attesting to the permanence of his/her stay/annex 8bis or E+ card)
- OR**
- e) that the citizen of the European Union/Norway/Iceland/Lichtenstein/Switzerland that the applicant is accompanying or joining intends to travel to Belgium or stay in Belgium for more than 3 months (where appropriate declaration of presence/annex 3ter, work contract, lease contract, registration in an organized, recognised or subsidised educational establishment, concrete plan shown during an interview, etc.). In this case a copy of the identity card or valid national passport of the citizen of the European Union is requested.
- a) that the applicant is accompanying or joining a Belgian citizen who is returning to Belgium after having stayed regularly for more than 3 months in another Member State.

**The particular provisions in directive 2004/38/EC**

The applicant may apply for direct access at the Embassy/Consulate. One must be sure, however, to comply with the system set up to receive applicants (appointments, opening times, etc.).

There is no visa fee to pay (the application is free of charge). However, if the Embassy/Consulate is collaborating with an external service partner and the applicant chooses to lodge his/her application with that partner, he/she will have to pay service fees.

The applicant **does not fill in boxes 19, 20, 31, 32 and 33** on the [visa application form](#).

The applicant will receive a decision within 15 days from the lodging of his/her visa application. Unless there are public order considerations or cases of abuse or fraud, the applicant will receive a Schengen visa (C visa).

### Reference texts

- BELGIUM: Law of 15 December 1980 on entry, stay, settlement and removal of foreign nationals
- EUROPEAN UNION: DIRECTIVE 2004/38/EC OF THE EUROPEAN PARLIAMENT AND OF 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.

### **NOTE**

**Applicants, who cannot enclose all documents from the list, should consider adding alternatives or making an explanation about the reason for not handing them in.**

**Our Consulate may in justified individual cases, request additional documents during the examination of an application which are not mentioned in the above harmonized list. The applicant is hereby informed that submitting the above-mentioned documents does not guarantee automatic issuance of a visa.**

**The documents drawn up abroad in a language other than Dutch, French or German are to be translated in accordance with the original by a sworn translator. The translation must be provided with an apostille as a separate document in line with the procedure laid down in the country of origin, and then by the competent Belgian consulate or Embassy.**

**Chinese notarized certificates have to be authenticated by the relevant Foreign Affairs Bureau of your province/Ministry of Foreign Affairs in Beijing. They should not be older than six months.**