



EMN Ad-Hoc Query on Family members of long-term residents

Requested by Marie BENGTTSSON on 28th November 2017

Miscellaneous

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovak Republic, Slovenia, Sweden, United Kingdom, Norway (24 in total)

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

Background information:

Sweden has a question regarding COUNCIL DIRECTIVE 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.


The number of family members of long-term residents in Sweden who themselves apply for long-term residency has increased.

This increase in applications has led to a growth in the number of unresolved questions. Sweden is currently investigating the issue of whether family members (of long-term residents) that are unable to support themselves but have another form of support can be granted long-term residency. The most common examples are children and parents as well as partners of long-term residents that are supported by their family member and are therefore not dependent on the social assistance system.


Questions



1. 1. Does your Member State grant long-term resident status to family members as long as the family has not been dependent on the social assistance system? (Even if the family members themselves lack stable and regular resources which are sufficient to maintain himself/herself? E.g. a child).
2. 2. If yes, under which circumstances?




Responses

	Country	Wider Dissemination	Response
	Austria	Yes	1. Yes 2. As a general rule, the following general conditions have to be fulfilled for being granted a residence title: - No grounds for refusal are applicable, i.e. prohibition of entry or stay (Art. 11 para 1 and para 2 subpara 1 Settlement and Residence Act). - The family can prove legal entitlement to accommodation in Austria according to local standards (e.g. rental contract) – (Art. 11 para 2 subpara 2 Settlement and Residence Act). - The family can prove health insurance (Art. 11 para 2



		<p>subpara 3 Settlement and Residence Act). - The residence of the family members will not result in financial burden for the state. This means stable and regular resources which are sufficient to maintain all the family members (Art. 11 para 2 subpara 4 and Art. 11 para 5 Settlement and Residence Act). Monthly minimum resources in 2017 (Art. 293 General Social Insurance Act): o Couple: €1334,17 o Plus per child: €137,30 o If regular expenses (such as rental costs) exceed € 284,32 the exceeding amount has to be proven additionally. However, it does not matter which part of the family (the person already residing in Austria or the person(s) applying for long-term residency or both) is earning this money. - The initial application has to be made from abroad (with some exceptions) – (Art. 21 para 1 Settlement and Residence Act). - The family members have to prove German language skills at the level of A1 CEF at the moment of lodging their application (with some exceptions) – (Art. 21a para 1 Settlement and Residence Act). Within two years after the issue of the residence title, the family members have to prove German language skills at the level of A2 CEF and knowledge of the basic values of the Austrian society and legal system (Art. 9 Integration Act). Depending on the residence title of the person whose family members apply for long-term residency (sponsor), the circle of family members eligible for family reunification differs and certain additional requirements have to be fulfilled: The sponsor is Austrian citizen who did not exercise the right to free movement defined by Union law: - Spouses aged 21 and above and minor, unmarried children: no additional requirements (Art 47 para 1 and para 2 Settlement and Residence Act). - Relatives in ascending order and unmarried partners (the relationship already existed in the country of origin): the sponsor proves that he/she has been providing maintenance during the last months. The sponsor has to sign a declaration of liability (Art. 47 para 3 subpara 1 and subpara 2 Settlement and Residence Act). - Other relatives: the sponsor has been providing maintenance OR has been living in the same household in the country of origin OR needs care due to medical reasons provided by the applying relative. The sponsor has to sign a declaration of liability. (Art. 47 para 3 subpara 3 Settlement and Residence Act). The sponsor is EEA citizen and entitled to residence for more than 3 months or Austrian citizen who exercised the right to free movement defined by Union law: - Spouses, relatives of the sponsor or his/her spouse in descending order until the age of 21 and above if maintenance is provided, relatives of the sponsor and his/her spouse in ascending order if maintenance is provided: no additional requirements (Art. 52 para 1 subpara 1-3 and Art. 54 para 1 Settlement and Residence Act). - Unmarried partners if the relationship is proved, other relatives if the sponsor has been providing maintenance OR has been living in the same household in the</p>
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			<p>country of origin OR needs care due to medical reasons provided by the applying relative: The sponsor has to sign a declaration of liability (Art. 52 para 1 subpara 4-5 and Art. 56 para 1 Settlement and Residence Act). The sponsor is a third country national, holding a “Red-White-Red Card”, a “Red-White-Red Card Plus” if he/she had been holding another residence title for at least two years before, a “Settlement Permit” if he/she has been exercising economic activities of great significance for at least two years, a „Settlement Permit – Special Cases of Paid Employment“ if he/she is exercising scientific activities in public or private institutions, a “Settlement Permit – Researcher”, a “Settlement Permit” issued for self-employed activities if his/her freedom of establishment derives from Union law or is retired but had been enjoying privileges and immunities before; OR: The sponsor is holding a “Permanent Residence – EU” but had held one of the above mentioned titles before: - Spouses aged 21 and above and minor, unmarried children: no additional requirements (Art. 46 para 1 subpara 1-1a and Art. 46 para 5 Settlement and Residence Act). The sponsor is holding an “EU Blue Card” or any other residence title but had held an “EU Blue Card” before: - Spouses aged 21 and above and minor, unmarried children: no additional requirements (Art. 46 para 3 Settlement and Residence Act). The sponsor is a third country national, holding another residence title: - Spouses aged 21 and above and minor, unmarried children: an available quota place is needed (Art. 46 para 1 subpara 2 and Art. 46 para 4 and para 5 subpara 2 Settlement and Residence Act). General remark: the term spouse always includes registered partners. -- Source: AT EMN NCP</p>
	Belgium	Yes	<p>1. Family members who wish to join a third-country national with long-term residence status in Belgium have to apply for family reunification. As part of this process, the sponsor has inter alia to prove that he/has stable, regular and sufficient means of subsistence to support him/herself as well as the family member (except if the family member is a single child below 18 years old). At the end of the family reunification procedure, the family member may be issued a residence permit for limited duration (card A), not a long-term residence status. The residence permit is valid for one year and renewable. In order to acquire the status of long-term residence in Belgium, the family member would have to satisfy the conditions as any other applicant for long term residence status: • To have a unlimited residence right • To have legally and uninterruptedly resided in Belgium during the past five years • To have stable, regular and sufficient means of subsistence • To have a health insurance • To have a national passport • Not to be considered as a threat to public order or national security</p>


			2. See above
	Bulgaria	Yes	<p>1. Statute of long-term stay shall be granted to a foreigner, who has stayed legally and without interruption on the territory on the Republic of Bulgaria within 5 years before submission of application for permission of a long-term stay.</p> <p>2. For receiving the right to a long-term residence, the foreigner or his/her family member shall submit in person a standard application to Migration Directorate. The foreigner shall attach to the application as follows: 1 A copy of a valid passport or replacing document with the pages of the photo and personal data; For comparison of the copy authenticity, the original of the passport or the replacing document shall also be produced; 2. Evidence for stable, regular, providable and sufficient funds for support for a period, not smaller than 1 year, without referring the social assistance system, taking in consideration the minimal monthly work salary and pension for the Republic of Bulgaria; 3. Obligatory medical insurance, valid for the territory of the Republic of Bulgaria, where the person has not been insured under the Act on Health Insurance; 4. Evidence for provided housing.</p>
	Croatia	Yes	<p>1. 1. Yes, if the family members are able to fulfil all conditions according to the Foreigners Act (OFFICIAL GAZETTE No. 130/11 dated 13 November 2011, OFFICIAL GAZETTE No. 74/13 dated 19 June 2013 and OFFICIAL GAZETTE No. 69/17 dated 14 July 2017). Family members who wish to join a third-country national with long-term residence status have to apply for family reunification. As part of this process, the sponsor has inter alia to prove that he/has stable, regular and sufficient means of subsistence to support him/herself as well as the family member. At the end of the family reunification procedure, the family member may be issued a residence permit for limited duration, not a long-term residence status. The residence permit is valid for one year and renewable.</p> <p>2. 2. In order to acquire the status of long-term residence, the family member would have to satisfy the conditions as any other applicant for long term residence status: To have legally and uninterruptedly resided in Croatia during the past five years; to have stable regular and sufficient means of subsistence; to have a health insurance; to have a valid national passport; to knows the Croatian language and Latin script and not to be considered as a threat to public order or national</p>




			security or public health.
	Cyprus	Yes	<p>1. The Republic of Cyprus does not issue long-term residence permit to family members of long-term residents, unless they meet by themselves the criteria. Family member are been issued family reunification permits.</p> <p>2. n/a</p>
	Czech Republic	Yes	<p>1. Yes, if the family members are able to fulfil all conditions according to the Czech law.</p> <p>2. The long-term resident status can be granted only after fulfilling these conditions: - to stay at least 5 years in the Czech Republic (in order to stay in the Czech Republic for that specific period the family member has to ask for family reunification with his/her family member who already has a long-term residence permit. After the successful application for family reunification the family member is granted by the long-term residence permit). - to have an appropriate amount of money for life expenses (the Czech law takes in consideration monthly income of the applicant and persons related to him/her (family) all together Which means that the condition of appropriate monthly income has to be fulfilled by the whole family together and in that case also a child can be granted by long-term resident status). - etc.</p>
	Estonia	Yes	<p>1. As a general rule the family member of the long-term resident can only apply for a temporary residence permit for family reasons (there are exceptions foreseen for children). If the family member wishes to apply for a long-term residence permit, he or she can do it independently and has to fulfill the usual conditions stipulated in the Aliens Act. According to the Aliens Act a residence permit for a long-term resident may be issued to a TCN who corresponds to the following conditions: 1) he or she has resided in Estonia on the basis of a residence permit for at least last five years before the submission of the application for a residence permit for a long-term resident; 2) he or she has a valid temporary residence permit; 3) he or she has a permanent legal income which ensures his or her own subsistence in Estonia; 4) he or she is deemed to be an insured person for the purposes of the Health Insurance Act or a treaty of the Republic of Estonia; 5) he or she has met the integration requirement (Estonian language proficiency level B1 or a corresponding level; the integration</p>



			<p>requirement need not be complied with by a TCN under 15 years of age, over 65 years of age and an adult TCN who has restricted active legal capacity); 6) the information of his or her place of residence has been registered in the Population Register; 7) no facts which are the basis for the refusal to issue a residence permit for a long-term resident exist in respect of him or her. Starting from 01.10.2017 there are some exceptions foreseen to children. According to the Aliens Act the above-mentioned clauses 1-3 are not applied with regard to a child under fifteen years of age, who is a child of a citizen of Estonia residing in Estonia or of a TCN residing in Estonia and holding a long-term resident's residence permit of Estonia. Additionally the law foresees that a minor child who was born in Estonia or who is settling in Estonia immediately after birth together with a parent or parents shall be issued a long-term resident's residence permit if the parent is holding a valid long-term resident's residence permit of Estonia during the birth of the child. Also a child under fifteen years of age shall be issued a long-term resident's residence permit if the parent, for the purposes of settling with whom he or she is issued the residence permit, is issued a long-term resident's residence permit.</p> <p>2. Please see the previous answer.</p>
+	Finland	Yes	<p>1. According to Section 49a of the Finnish Aliens Act, a third-country national who has been issued with a long-term resident's EC residence permit by another Member State is issued with a fixed-term residence permit in Finland for exercising an economic activity in an employed or self-employed capacity, for pursuing studies or vocational training or for other purposes. A residence permit is issued as a temporary or continuous permit, taking the nature of the intended stay into account. When a third-country national with a long-term resident's EC residence permit issued by another MS is issued with a temporary or continuous residence permit, the family members are also issued with a temporary or continuous residence permit in Finland for the same period of time. According to Section 53, first fixed-term residence permits are usually issued for one year. According to Section 39 issuing a residence permit requires that the third-country national has secure means of support unless otherwise provided in the Aliens Act. According to subsection 2, a person's means of support are considered secure at the time the person's first residence permit is issued if the person's residence is financed through gainful employment, pursuit of a trade, pensions, property or income from other sources considered normal and the person cannot be expected to resort to social assistance. Social assistance does not refer to social protection benefits that are granted as compensation for costs, such</p>





			<p>as housing allowance and child allowance. Finland has not had many applicants applying for or issued with a residence permit based on Section 49 a. Therefore Finland does not yet have guidelines regarding this question. Possible applications made based on these grounds will be examined on a case-by-case basis. A child of a residence permit holder would not be required to maintain him/herself. In 2017 Finland has issued 68 long-term resident's EU residence permits. According to Section 56 of the Aliens Act, a long-term resident's EU residence permit is issued to a third-country national who has resided legally in the country for a continuous period of five years and has secure means of support. In Finland, migrants more often apply for a permanent residence permit, as it may be issued after four years of residence in Finland, and has approximately the same benefits as a long-term resident's EU permit.</p> <p>2. See above.</p>
	France	Yes	<p>1. The foreign national applying for a residence permit "long-term resident – UE" has to fulfil following conditions: • lawfully stay in France for at least five years; • resource condition; • healthcare insurance. The resources have to be stable, regular and sufficient to maintain himself/herself. Only the applicant's own personal resources are taken into account. Therefore, any cover of a third person is excluded, unless the third person is the spouse, given the principle of presumption of mutual assistance. So yes, France grants long-term resident status to spouses even if he/she lack stable and regular resources. However, children have to fulfill the conditions on their own in order to obtain long-term resident status from the moment they turn 18. The resource condition applies to any applicant except applicants that receive a disability pension or supplementary invalidity allowance.</p> <p>2. See Q1.</p>
	Germany	Yes	<p>1. Yes.</p> <p>2. Foreigners and their dependents who have been granted permanent resident status must have a fixed and regular income to secure their livelihood. They are deemed to have a secure livelihood if their income covers adequate health insurance and if they are not eligible for public benefits</p>


			(regardless of whether they are actually drawing public benefits). However, this does not exclude them from drawing benefits based on contributions (to the unemployment insurance fund) or child-raising benefits (e.g. child benefit, parental allowance).
	Hungary	Yes	<p>1. Yes.</p> <p>2. According to the Government Decree 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals, section 94 "The following shall, in particular, be accepted as proof of subsistence in Hungary: f) a notarized statement made by a family member with the right of residence in Hungary promising support to the applicant along with a document in proof of the family member's ability to provide such support.... (2) The examination of subsistence in Hungary shall cover, in particular, the following criteria: a) number of family members of the household with any income or assets; b) number of dependant persons living in the household; c) as to whether the applicant is the owner of the real estate property in which they reside." Moreover, "Government Decree Section 94. (1) When lodging an application for an interim permanent residence permit, national permanent residence permit, or EC permanent residence permit the applicant shall present his/her valid travel document and shall enclose with the application: a) his/her birth certificate, and also the marriage certificate if the applicant is married, the certificate of divorce if the marriage was terminated, furthermore, in the case of minors, documentary evidence from the competent authority of the country of origin stating that there is no legal impediment for the minor person in question who is a third-country national to seek permanent residency abroad; b) a certificate of clean criminal record issued within six months to date by the competent authority of the country where the applicant's permanent or temporary residence was located before his/her entry to Hungary; c) documentary proof of the applicant's abode and subsistence in Hungary; d) documentary evidence of insurance coverage.</p>
	Ireland	Yes	<p>1. Ireland does not participate in the Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents. Ireland believes its existing schemes are not comparable to the EU Long Term Residents' Directive.</p> <p>2. Ireland does not participate in the Council Directive 2003/109/EC concerning the status of third-</p>

			<p>country nationals who are long-term residents. Ireland believes its existing schemes are not comparable to the EU Long Term Residents' Directive.</p> <p>3. .</p> <p>4. .</p>
	Italy	Yes	<p>1. Yes, article 9 (1) of the D. Lgs. No. 286/1998 (as amended by D. Lgs. No. 3/2007 implementing Directive 2003/109/EC) envisages the possibility of granting a long-term resident status to family members of a long-term resident, as long as some conditions are met. The family members to whom such status can be recognized are listed in article 29 (1) of the D. Lgs. No. 286/1998 (they are the same family members for whom family reunification is possible), namely: a) the spouse who is not legally separated and has attained the majority; b) the minor children, including the partner's ones or those born out of the wedlock, that are not married and provided that the other parent has given his/her consent; c) the dependent children who have attained the majority, when for objective reasons relating to their health status leading to their total disability, they cannot provide for themselves; d) the dependent parents, if they do not have other children in their country of origin or, the parents who are over sixty-five, even if they have other children in their country of origin, who are nonetheless unable to take care of them for documented severe health problems.</p> <p>2. Article 9 (1) of the D. Lgs. No. 286/1998 refers to article 29 (3)(b) for the conditions that need to be fulfilled by the applicant for the issuance of a long-term residence permit to his/her family members: 1) a minimum annual income, deriving from legal sources, amounting to no less than the annual social check, increased by half of that figure for each family member applying for long-term resident status. For the application of two or more children under the age of fourteen is required, in any case, an income amounting to no less than twice the amount of the annual social check. To determine the minimum annual income the total income of the cohabiting family members is taken into consideration as well; 2) a suitable accommodation that satisfies the hygiene-health requirements set forth by the regional legislation, as well as the lodging eligibility standards, verified by the competent municipal officers. (Article 9 (1-ter) clarifies that beneficiaries of international protection and their family members are not required to provide documents on the suitability of the accommodation). Article 9 (2-bis) of the D. Lgs. No. 286/1998 establishes that the recognition of the</p>

			long-term resident status is subject to the successful completion on the part of the applicant of a language test. The following paragraph clarifies that the previous provision does not apply to beneficiaries of international protection.
	Latvia	Yes	<p>1. Latvia grants the long-term resident status to persons who have resided for 5 years, have fulfilled the integration criteria and who can prove stable and regular financial resources. This means that children under 5 years age do not qualify, they are granted national permanent residence status.</p> <p>2. If stable and regular resources can be proved only by one member of the family and the amount of these resources is sufficient (amount of minimum salary multiplied by the number of family members), Latvia grants long—term resident status also to all family members who have resided for 5 years without interruptions and who meet the integration criteria.</p>
	Lithuania	Yes	<p>1. Long-term resident status is not granted to an alien solely because he is a member of the long-term resident's family. A long-term resident permit may be issued, if the alien, among other requirements, has sufficient amount of subsistence funds and / or receives regular income sufficient to live in Lithuania. When an alien is a dependent family member, he/she together with the application to issue the residence permit, must provide a) obligation of the family member to support the alien and b) documentation confirming that the family member has sufficient funds and / or receive regular income sufficient for himself and for the applicant to live in Lithuania. The amount of the alien's subsistence funds, as well as, the amount of subsistence funds for each dependent person of the family member, including the family member himself, shall be assessed taking into account the amount of subsistence funds for living in the Republic of Lithuania set by the Minister of Social Security and Labour of the Republic of Lithuania, which may be considered sufficient for the alien asking for a residence permit to live in the Republic of Lithuania.</p> <p>2. See answer to the question no. 1.</p>
	Luxembourg	Yes	<p>1. Yes, this is possible for a spouse and children. It is not possible for parents (as long they are dependent on their children) or partners (if they have a residence permit linked to the third country</p>

			<p>national and where they are dependent on him).</p> <p>2. If a household has not been dependent on the social assistance system, a spouse or children are eligible for a long term residence permit as long as the other conditions are also fulfilled (5 years stay, in this case in the same household as the sponsor). Indeed the financial resources of the spouse are taken into account so that a non-working spouse can rely on the resources of the spouse who works.</p>
	Malta	Yes	<p>1. Third country nationals are granted long term resident status on an individual basis and all applicants have to satisfy the relative criteria in their own respect, whereby the condition concerning stable resources is defined as shown hereunder in the relative national regulations: "stable and regular resources which have subsisted for a continuous period of two years immediately prior to the date of application, declared with the pertinent tax authorities in Malta, which are sufficient to maintain himself and the members of his family without recourse to the social assistance system in Malta or to any benefits or assistance of any type payable under the Social Security Act, the Housing Authority Act and any other law providing any assistance of a social nature and which would be equivalent to, at least, the national minimum wage in Malta with an addition of another twenty percent of the national minimum wage for each member of the family: Provided that benefits or assistance payable under the Social Security Act or any other national legislation, which the third country national is entitled to claim as special assistance in order to meet exceptional, individually determined essential living costs, tax refunds granted on the basis of his income, or other income-support measures, shall be considered as part of his stable resources."</p> <p>2. Please refer to question No 1.</p>
	Netherlands	Yes	<p>1. If an applicant appeals for long-term residence status, The Netherlands always performs a financial resources test, in which the partners income can be taken into account. This income should at a minimum be based on the Dutch minimum wage. If this is not the case, and the persons involved do not appeal to social benefits, an individual income test does take place. This test is meant to investigate whether there are individual circumstances which indicate that the financial resources are stable and that there will be no appeal to social benefits. In this test, a deviation from the financial</p>

			resources requirement could take place. 2. N/A
	Portugal	No	
	Slovak Republic	Yes	<p>1. Yes.</p> <p>2. It is required that prior to submitting an application for long-term residence, the third-country national has a temporary residence for the purpose of family reunification or the third-country national is a family member of a person granted asylum or a person granted subsidiary protection. Subsequently, in such case the third-country national can prove stable and regular resources through a declaration of honour of a spouse, parent or person having custody of the third-country national declaring that third-country national will be provided financial and material resources by this person during the entire stay in the territory of the Slovak Republic.</p>
	Slovenia	Yes	<p>1. Family members of LTR holder are not granted LTR status. LTR holder may apply for family unification and family members are issued temporary residence permit for a family member of LTR holder. Sufficient means of subsistence for all family members has to be submitted by applicant.</p> <p>2. /</p>
	Sweden	Yes	<p>1. Sweden has not made a decision regarding this issue and would therefore like to have guidance from other Member States.</p> <p>2. No information available</p>
	United Kingdom	Yes	<p>1. The UK does not grant any residence status in the context of Directive 2003/109/EC. Under the UK's domestic Immigration Rules, a person can obtain indefinite leave to remain after 10 years' continuous lawful residence, subject to: • meeting the knowledge of language and life in the UK</p>

			<p>requirement; and • meeting certain suitability requirements (relating to a person’s criminal history and previous immigration offending) Any family members must meet the requirements in their own right.</p> <p>2. N/A</p>
	<p>Norway</p>	<p>Yes</p>	<p>1. Yes, it is possible in Norway. Norway is not bound by COUNCIL DIRECTIVE 2003/109/EC of 25 November 2003. We do however grant permanent residence permits to persons who have had a temporary residence permit in Norway for 3 years, as long as certain conditions are satisfied. One of these conditions is the requirement that an adult immigrant would have to demonstrate that they could support themselves in order to get a permanent residence permit. This requirement was introduced on September 1, 2017.</p> <p>2. This requirement only applies to adults under 67 y.o.. It is not actually necessary for the sponsor family member to be able to support the entire family, but the sponsor / applicant cannot be a recipient of social welfare payments (above and beyond ordinary benefits that everyone with legal residence has access to). Children, and generally, full time pupils and students are not required to support themselves, though they might be required to demonstrate ability to get student loans. Persons with documented disabilities preventing them from any kind of work can also be exempted from this requirement. Do note that in the case of an application for family reunion, the sponsoring family member must demonstrate the ability to support their family... but this is not related to an application for a long-term residence permit.</p>