



OPEN Summary of EMN Ad-Hoc Query No. [2019.60]

AHQ regarding Use of D-visa in other Member States,

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KEY POINTS TO NOTE

- ★ Most Member States issue a D-visa if a third-country national wants to stay longer than 90 days (**AT, BE, BG, CZ, DE, EE, EL, FR, IE, IT, LV, LT, LU, MT, NL, PL, PT, SK, SE** and **NO**). Only four countries (**CY, FI, HU¹** and **HR²**,) have no such regulation.
- ★ Conditions to obtain a D-visa often depend on the residence permit that the third-country national applies for.
- ★ In some Member States (**AT, BE, CZ³, EE, EL, IE, FR, , LU, MT SK** and **NO**) it is not possible to apply for a D-visa by others on behalf of the third-country national. Other Member States (**DE, PL, PT, IT, LT, NL, LV** and **SE**) mention that it is possible to apply for a D-visa on someone else's behalf.
- ★ Most Member States state that the D-visa is valid for a period of up to 365 days (**AT, BE, CZ, DE, EE, EL, FR, IT, LV, LT, MT, PL, PT, SE** and **SK**). The shortest period of validity mentioned by Member states is 30 days (**HU** and **NO**). Nine Member States (**AT⁴, BE, CZ, EE, LV, LU, MT, PL, PT**) stated that extension of the D-visa is in general possible, while 8 Member States (**BG, DE, FR, EL, HU, NL, NO** and **LT**) stated that extension of the validity period is not possible.

- ★ Most Member States (**AT, BE, CZ, DE, EE, EL, FR, IT, LT, LV, LU, MT, NL, NO, PL, SE** and **SK**) state that the D-visa enables the holder to stay in other countries in the Schengen area (for no more than 90 days within a period of 180 days). Certain Member States (**BG, IE, HU**, and **PT**) state that stay in other countries in the Schengen area is not allowed.
- ★ Some Member States (**AT, DE, FR, IT, LT⁵, LV** and **PT**) state that the D-visa gives the right to work on the condition the D-visa was specially issued for employment reasons, while most Member States (**BE, BG, CZ, EE, EL, IE, , LU, MT, NL, NO, PL, SE** and **SK**) state that the D-visa itself does not give the right to work. Certain Member states (**CZ, EE⁶, IE, MT, PL** and **SE**) state that the employer has to apply for a work permit in addition to the D-visa.

BACKGROUND

Third-country nationals with a certain nationality who want to stay in the Netherlands for more than 90 days need a provisional residence permit (a so called 'MVV') to travel to the Netherlands. The MVV is the Dutch equivalent to the D-visa. The MVV is granted to certain individuals who are to be studying, working or permanently residing in one of the Schengen countries. Third-country nationals have to apply for an MVV when still residing in their country of origin⁷. When all the conditions required for the residence permit are met and the application is granted, the

¹ **Hungary** does issue a D-visa, but state that this is an entry visa that allows to stay not more than 30 days.

² **Croatia** does not issue a D-visa but offers a temporary visa that allows a residence permit issued for up to one year. Currently **Croatia** is drafting a proposal to issue a D-visa.

³ Only in well-substantiated cases.

⁴ In **Austria** this relates to visas for seasonal workers.

⁵ For foreigners who do not need an authorization from the Employment Service (e.g. workers who have a profession in demand approved by Lithuanian Government or Employment service).

⁶ In case of **EE** there is no need to apply for a work permit, but prior to application for a D-visa for short-term employment in Estonia the employer is required to register the short-term employment of the TCN in Estonia at the Police and Border Guard Board.

⁷ Or country of continuous residence (a country where they may lawfully live for more than 3 months and have a valid residence permit)

third-country national will get an MVV-sticker in his/her passport to travel to the Netherlands. Once arrived in the Netherlands the residence permit can be acquired at the Dutch Immigration- and Naturalization Service (IND). Some nationalities are excluded from the requirement of an MVV (Australia, New Zealand, Canada, Japan, Monaco, Vatican City, United States of America, or South Korea, and a EU/EEA Member State or Switzerland), meaning that they can travel to the Netherlands without a MVV and apply directly in the Netherlands for a residence permit.

It turns out that not all EU Member States handle a D-visa in the same manner. To our knowledge, in some Member States a D-visa is issued for a longer period of time (nearly a year) and has the status of a residence permit. The Netherlands would like to have an overview on what kind of D-visa other Member States have and see what rights are attached to their D-visa. Therefore, EMN Netherlands drafted an ad hoc query regarding D-visa in other Member States, on which this summary is based.

MAIN FINDINGS

1. *Does your Member State issue D-visas to third-country nationals who want to stay in your Member State for more than 90 days? Yes/No, please explain.*

Most Member States issue D-visas for a period of more than 90 days (**AT, BE, BG, CZ, DE, EE, EL, FR, IE, IT, LV, LT, LU⁸, MT, NL, PL, PT, SK, SE** and **NO**), while only four countries (**CY, FI, HU** and **HR**) have no such regulation.

Additional information

Some Member States provided some additional information on issuing a D-visa, which is the following:

- **Lithuania and Czech Republic** make a distinction between two types of D-visa, namely a *single-entry D-visa* (issued to a third-country national who has been granted temporary or permanent residence in their territory) and a *multi-entry D-visa* (usually granted to foreigners who intend to enter their territory periodically).
- In **IR** and **Portugal** a D-visa allows for multiple entries in the national territory.
- **Luxembourg** is currently working on updating the D-visa regulations. A new paragraph might be introduced to the relevant law, establishing the possibility to issue a D-visa for up to one year. **Croatia** is working on drafting the D-visa regulations.

⁸ **LU** uses a twostep procedure, where the third-country national first has to request a temporary authorization to stay (AST) before applying for a D-visa in his/her country of origin. The next step is for the third-country national to register at the municipality where he/she plans to reside.

2. *What are the conditions for a third-country national to obtain a D-visa (for example in regards to employment activities)?*

Several examples of conditions/prerequisites for obtaining a D-visa were mentioned by the Member States. However, most often these conditions depend on the residence permit that the third-country national applies for. Therefore, no exclusive list of conditions can be made. For examples of conditions/prerequisites, a reference is made towards the compilation of this AHQ.

3. *Besides the third-country national, are others able to apply for a D-visa on behalf of the third-country national (for example an employer, spouse, sponsor)?*

In most Member States it is not possible to apply for a D-visa by others on behalf of the third-country national. **AT, BE, CZ⁹, EE, EL, IE, FR, LU, MT SK** and **NO** require the third-country national to apply for the D-visa in person. **DE, PL, PT, IT, LT, LV, NL** and **SE** mention it is possible to apply for a D-visa on someone else's behalf in among others the following cases:

- **Germany:** in case beneficiaries of protection or persons admitted by way of resettlement ask for family reunification, they can apply themselves for the reunification of their family members. The person for whom the application is made must pick up the visa in person at the consulate.
- **Portugal:** in accordance to the law there are appropriate entities and an external service provider that can apply for D-visa on behalf of the applicant.
- **Italy, Netherlands, Sweden:** in case of work: the employer. In case of family reunification: the family member.
- **Poland and Lithuania:** in case of available fingerprints, authorized persons can apply for a D-visa.

4. *What is the validity period of the D-visa and is it possible to extend the validity period?*

Most Member States (**AT, BE, CZ, DE, EE, EL, FR, IT, LV, LT, MT, PL, PT, SE¹⁰** and **SK**) state that the D-visa is valid for a period up to 365 days. Other Member States state that the D-visa is valid for a period up to 180 days (**BG**) or up to 90 days (**IE, LU** and **NL**). The shortest validity period stated by Member States is 30 days (**HU** and **NO¹¹**).

Certain Member States mention that extension of the validity period of the D-visa is possible (**AT¹², BE¹³**,

¹ Only in well-substantiated cases.

¹⁰ The validity period is 91 days up to 364 days.

¹¹ 30 days within a period of 180 days.

¹² In **Austria** this relates to visas for seasonal workers.

¹³ Extension of the D-visa as such is not excluded, but rather unusual as the person will normally have a residence permit in the meantime.

CZ, EE¹⁴, LV, LU, MT¹⁵, PL, PT). It must be noted that in one Member State (**Austria**) extension of the D-visa relates solely to visas for seasonal workers. In **Luxembourg** the D-visa can be extended only in exceptional circumstances, for example if for any reasons the residence permit cannot be issued before the end of validity of the D-visa. Similarly, in **Latvia** the D-visa can be extended until one year if the visa was issued for a shorter period than one year and some significant reasons were arisen within the term of staying.

Some Member States (**BG, DE, FR, EL, HU, NL, NO** and **LT**) state that extension of the validity period is not possible. 4 Member States (**IE, IT, SE** and **SK**) did not offer information on the extension of the D-visa.

5. Does the D-visa give the right to stay in other countries in the Schengen area? Yes/No. If yes, please explain. If no, please explain any existing restrictions.

In most Member States (**AT, BE, CZ, DE, EE, EL, FR, IT, LT, LV, LU, MT, NL, NO, PL, SE** and **SK**) the D-visa enables the holder to stay in other countries in the Schengen area (for no more than 90 days within a period of 180 days).

Certain Member States (**BG, CY, FI, IE, HU**, and **PT**) state that stay in other countries in the Schengen area is not allowed. Several reasons for this are mentioned: Their Member State is not part of the Schengen area (**BG, CY, IE** and **HR**), the D-visa allows stay only in the Member State's own territory (**PT**) or the Member State (**FI** and **HU**) offers no D-visa (for more than 90 days).

6. Does the D-visa give the right to work in your Member State? Yes/No (a) If yes, under what conditions? (b) If no, does the employer have to apply for a work permit in addition to the D-visa?

Some Member States (**AT, DE, FR, IT, LT¹⁶, LV** and **PT**) state that the D-visa gives the right to work on the condition the D-visa was specially issued for employment reasons. Most Member States (**BE, BG, CZ¹⁷, EE, EL, IE, LU, MT, NL, NO, PL, SE** and **SK**) state that the D-visa itself does not give the right to work. Certain Member States that the employer has to apply for a work permit in addition to the D-visa. The remaining Member States (**CY, FI, HR** and **HU**) do not offer a D-visa.

It must be noted that in some Member States, although the D-visa does not automatically give the right to work, there are some exceptions. In one

Member State (**Czech Republic**) it is only allowed to work with a D-visa for the purpose of study. In another Member State (**Estonia**) it is possible to take up employment temporarily up to five days within the period of 30 days if the applicant is a journalist accredited by the Ministry of Foreign Affairs or if the D-visa holder is a student residing legally on the condition that the employment does not interfere with his or her studies.

In one Member State (**Lithuania**) the D-visa gives the right to work if a third-country national comes to work in a profession that is included in the list of professions requiring a high professional qualification and is in-demand. The same applies for third-country nationals whose profession is included in the list of shortage occupations by type of economic activity. And one Member State (**Greece**) state exceptions where the national visa is also a residence permit.¹⁸

EMN NCPs participating:

Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia and Sweden (24 in total).

Disclaimer

The responses of the Member States regarding this ad-hoc query have been provided primarily for the purpose of information exchange among the EMN National Contact Points (NCPs) in the framework of the EMN. The contributing EMN NCPs have provided information that is (to the best of their knowledge) 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. The responses are interpreted by the EMN to write this summary.

APPENDIX 1

Table with Overview of conditions required for obtaining a D-visa.

¹⁴ As an exception the D-visa can be extended up to 90 days. In case of two consecutive long-stay visas, the whole period of stay shall not be longer than 548 days within 730 consecutive days.

¹⁵ The D-visa can be extended in justified reasons if the original validity period of stay is less than 365 days.

¹⁶ For foreigners who do not need an authorization from the Employment Service (e.g. workers who have a profession in demand approved by Lithuanian Government or Employment service).

¹⁷ In **Czech Republic** the D-visa has to be issued for a specified purpose to give the right to work.

¹⁸ Exceptions where the national visa is also a residence permit: seasonal employment, fishermen, members of artistic groups, 3rd country nationals moving from an undertaking established in an EU Member State with the purpose of providing services, 3rd country nationals moving from an undertaking established in a third country with the purpose of providing services, tour leaders, trainees and Work and Holiday Visa Australia.