



AD HOC QUERY ON 2019.80 Family members of long-term residents and the right to family reunification

Requested by EMN NCP Sweden on 13 August 2019

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Slovakia, Sweden, United Kingdom (22 in Total)

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1. Background information

This question regard Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents and Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification states.

These directives state that:

In accordance with article 4 of the Directive 2003/109/EC, Member States grant long-term resident status to third-country nationals who have resided legally continuously within its territory for five years immediately prior to the submission of the relevant application.

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Furthermore, according to Article 8 (2) of the same directive, the Member States shall issue a “long-term resident's residence permit” to long-term residents who fulfil the objective criteria. The permit shall be valid at least for five years. It shall be automatically renewable on expiry, upon application if required.

However, this directive does not contain any direct provisions as to whether the family members of a person who has been granted long-term status and long-term residence permit have a right to family reunification.

Nevertheless, Council Directive 2003/86/EC states that under certain conditions laid down in the Directive, Member States shall authorise the entry and residence of family members of a person who are holding a residence permit issued by a Member State for a period of validity of one year or more who has reasonable prospects of obtaining the right of permanent residence, if the members of his or her family are third country nationals of whatever status (Articles 3 and 4)

2. Questions

1. Does your MS grant family reunification rights to a family member of a long-term resident? (i.e. regardless if the person has been granted a national residence permit, regardless of the duration/status of the national residence permit and regardless of the reason for the person's prior residency in your Member State (i.e. different forms international protection))

We would very much appreciate your responses by **10 September 2019**.




3. Responses

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¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

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		Wider Dissemination ²	
	EMN NCP Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	EMN NCP Belgium	Yes	1. Family members of long-term residents can be granted family reunification. This is in accordance with article 10 of the Immigration Act of 15.12.1980. Of course, certain conditions have to be fulfilled in order to be granted family reunification. Conditions for family members who are accompanying a long-term resident previously residing in another Member State are different from the conditions for family members who are coming directly from a third country.
	EMN NCP Bulgaria	Yes	1. For receiving the right to long residence under art. 24, para. 1, item 5 and 13, art. 24f, para. 1, art. 33d, para 4, art. 33k, para 3 and art. 33q, para1 of the Foreigners of the Republic of Bulgaria Act in view to reunification of the family, the foreigner with a permitted residence not shorter than a year on the territory of the Republic of Bulgaria shall submit to Migration Directorate a standard application, which shall have attached as follows: 1. a copy of a valid passport or replacing document of the family member with validity term of not shorter than 6 months starting from the date of submission of the application with the pages of the photo and the

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."




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			<p>personal data;</p> <p>2. evidence for a provided accommodation;</p> <p>3. evidence for stable, valid, providable and sufficient funds available for maintenance of the family members without referring to the social assistance system in the amount not smaller than the minimal monthly salary or the minimal pension for the country for the term of residence on the territory of the Republic of Bulgaria;</p> <p>4. certificate showing no conviction, issued on the state of submission of the documents by the state of the foreigners' citizenship or by the state of his usual residence – with the initial submission of the application;</p> <p>5. a marriage certificate or a birth certificate.</p>
	EMN NCP Croatia	Yes	<p>1. Yes. According to Article 55 of the Croatian Aliens Act, temporary stay for the purpose of family reunification may be granted to an alien who is a member of the immediate family of an alien having approved permanent stay (EU long term and national permanent stay) and who fulfils the conditions set in Article 54 of the same Act (he proves the purpose of temporary stay, he holds a valid travel document; he has funds to support himself, he holds health insurance, he is not prohibited entry and stay in the Republic of Croatia, he is not considered to be a threat to public policy, national security or public health).</p>
	EMN NCP Cyprus	Yes	<p>1. Yes, the Republic of Cyprus grants family reunification rights to a long-term resident, regardless of the family member's prior national residence permits or reasons for residency in Cyprus.</p>
	EMN NCP Czech Republic	Yes	<p>1. The Czech Republic allows the reunification of the family of residents and proceeds in accordance with Directive 2003/86/EC.</p> <p>The permit issued to long-term residents, necessarily meet the conditions set out in Art. 3 of the Directive on family reunification.</p>




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			<p>Therefore, family members of a long-term resident can apply for a long-term residence permit for the purpose of family reunification in the territory according to the Section 42a of the Act on the Residence of Foreign Nationals. In the case of family member of resident from another EU Member State it 's regulated in the Section 42c (5) (6) of the Act on the Residence of Foreign Nationals.</p> <p>If you are interested in the exact wording of the above provisions, we can additionally send it to you.</p>
	EMN NCP Estonia	Yes	<p>1. Yes. In Estonia, a third country national, who has a valid residence permit, may invite his/her family members (spouse, minor child, adult child and parent or grandparent if they need care or unable to cope independently due to health or a disability reasons) to Estonia. A family member will obtain a residence permit with a same duration as the sponsor. There is no requirement for length of prior residence before family reunification.</p>
	EMN NCP Finland	Yes	<p>1. Yes.</p>
	EMN NCP France	Yes	<p>1. Yes, France grants family reunification rights to a family member of a long-term resident.</p> <p>Within the framework of family reunification, in application of article L.411-1 of the Code on Entry and Residence of Foreign Nationals and Right of Asylum (CESEDA), the sponsor must have resided in France for at least 18 months, under one of the permits with validity of at least one year.</p> <p>According to article R.411-1 of the CESEDA, at the time of the request, the sponsor must hold:</p> <ul style="list-style-type: none"> - a temporary residence permit with a validity of at least one year; - a multi-year residence permit; - a ten-year residence permit;



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			<ul style="list-style-type: none"> - a EU long-term residence permit, issued in France; - or the receipt for the renewal application for one of these permits. <p>The legal stay of at least 18 months must have been carried out under one of the above-mentioned permits or the documents listed in article R.411-2 of the CESEDA, i.e.:</p> <ul style="list-style-type: none"> - long-stay visa, granting the rights attached to a temporary residence permit; - temporary residence permit with validity for up to one year; - temporary residence authorisation; - receipt for the request for a first issue or renewal of a residence permit; - asylum application certificate.
	EMN NCP Germany	Yes	<p>1. The family reunification to holders of an unlimited settlement permit or a permit for permanent residence EU is allowed on the basis of §§ 27, 29, 30, 32 and 36 of the Residence Act. In English, the Residence Act is available at http://www.gesetze-im-internet.de/englisch_aufenthg/englisch_aufenthg.html#p0711 (remark: the translation does not always comprise quite recent changes of the law).</p>
	EMN NCP Greece	Yes	<p>1. Family members of third country nationals have a right of residence that derives from the sponsor. In this sense they are not granted family reunification rights. In case they are granted an autonomous right of residence as foreseen in art. 15 of Directive 2003/86/EC, then the general conditions for family reunification according to the Directive concerned, are applied.</p>
	EMN NCP Hungary	Yes	<p>1. Yes, regardless of the person's previous residency.</p> <p>According to Section 19 of the Act II of 2007, a residence permit may be issued on the grounds of family</p>


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			<p>reunification to a third-country national who is a family member of a third-country national holding a long-term visa, a residence permit, immigration permit, permanent residence permit, interim permanent residence permit, or a national or EC permanent residence permit, or of a Hungarian citizen, or if holding a residence card or permanent residence card provided for in specific other act (for the purposes of this Section hereinafter referred to as sponsor).</p>
	EMN NCP Ireland	Yes	<p>1. Ireland does not participate in the EU Long Term Residents' Directive 2003/109/EC or the EU Directive on Family Reunification 2003/86/EC.</p> <p>Under national provisions, all applications for family reunification, other than those related to international protection, are dealt with under the guidelines of the Policy Document on non-EEA Family Reunification - see here: http://www.inis.gov.ie/en/INIS/Family%20Reunification%20Policy%20Document.pdf/Files/Family%20Reunification%20Policy%20Document.pdf</p> <p>A person with long term resident status under national provisions may apply as a sponsor for family reunification.</p>
	EMN NCP Italy	Yes	<p>1. Yes.</p> <p>According to article 28 of law 286/1998, the right to maintain or establish the family unit is recognized to foreigners holding a residence card or a residence permit granted for at least 1 year and issued for the following grounds: employment, research, asylum, religious or family matters. So, a foreigner holding a residence permit granted for at least one year, who fulfil the objective criteria provided by law - is allowed to ask for family reunification. Researchers may ask for family reunification irrespective of their residence permit duration</p> <p>The foreigner (in our case, the long-term resident) may ask for family reunification for the following families (art. 29 comma 1 law 286/1998):</p>


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			<ul style="list-style-type: none"> • His/him spouse, provided they he or she is at least 18 years old and not legally separated; • Minor children (eventually with the consent of other parent) • Children of full age who are also dependants, because of total disabilities • Dependent parents, whenever they don't have other sons in their country of origin or they are over 65 years old, but only if other sons are unable to provide for them because of serious health reasons. <p>Moreover, art. 29 comma 5 allows the family reunification of the natural parent to his child who is living in Italy with the other parent. The latter has to demonstrate to fulfill the requirements established by comma 3. Art. 29 comma 3 (law 286/1998) establishes that, when a migrant asks for family reunification, he or she has to demonstrate an accommodation in accordance with hygiene, health and housing suitability requirements (verified by the competent municipal office); a minimum annual income resulting from lawful sources; a health insurance or the enrolment in the National Health System aimed at covering all risks in the national territory for over 65 years old ascendant. Only refugees and beneficiaries of international protection have not to demonstrate these requirements when they request to Prefecture the authorization for the issuing of the visa for family members (art. 29 bis law 286/1998).</p> <p>Finally, article 30 of law 286/1998 establishes that a residence permit for family reasons shall be issued to the foreigner who entered in Italy with a visa for family reunion (comma 1 lett a)). This type of residence permit ensures the access to care services, enrolment to study or vocational training courses, registration into the unemployment lines, the access to paid or self-employment (comma 2) and it has the same validity of the permit recognized to the relative with whom he has been reunited and it may be renewed together with this last one. So, in practice - in case of family reunification with a long-term resident - the Headquarter proceeds to the civil registration of the family member reunited and to the issue of the certificate of ongoing criminal procedures and criminal record. Thanks to this documentation, it is possible to ask directly for a long-term residence permit.</p>
	EMN NCP Latvia	Yes	<p>1. Yes. According to Immigration law a minor child of a foreigner who has permanent residence permit has the right to request a permanent residence permit.</p> <p>The spouse of a foreigner who has permanent residence permit has the right to request a temporary</p>




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			residence permit as well as minor children of the spouse.
	EMN NCP Lithuania	Yes	<p>1. The cases when residence permit may be issued to family members of an alien holding a temporary residence permit are laid down in Article 43 of the Law of the Republic of Lithuania on the Legal Status of Aliens. According to this Article, a temporary residence permit may be issued to an alien by virtue of family reunification if:</p> <ul style="list-style-type: none"> -both or one of the parents of a minor alien, or a spouse of one of them, taking care of the minor alien, where such a spouse is a citizen of the Republic of Lithuania or holds a residence permit, reside/resides in the Republic of Lithuania; -the alien's child, who has been granted refugee status and has been issued a permanent residence permit, resides in the Republic of Lithuania; -the alien's spouse or the person with whom a registered partnership has been contracted and who is a citizen of the Republic of Lithuania or an alien in possession of a residence permit resides in the Republic of Lithuania (these provisions shall apply in the case when foreign spouses or aliens who have concluded a registered partnership agreement are at least 21 years old) -the alien is a first-degree relative in the direct ascending line of an alien in possession of a residence permit; -the alien's parents, who are have incapacity for work due to the old-age, retirement age or disability and are in possession of a permanent residence permit, reside in the Republic of Lithuania; -particularly difficult circumstances related to divorce or dissolution of a registered partnership or death of a family member, regulated in accordance with the procedure laid down in Article 51(5) of this Law, emerge. In this case, the application for the issue of a temporary residence permit must be lodged before the divorce or dissolution of the registered partnership or the day of death of the family member, where the alien has not yet been granted a temporary residence permit for family reunification or not later than within six months after the divorce or dissolution of the registered partnership or the day of death of the family member, where the alien held a temporary residence permit issued for family reunification before the divorce or dissolution of the registered partnership or the day of death of the family member. In compliance with this point, a temporary residence permit may be granted for one year.

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			<p>If an alien arrives to a foreigner who is holding a permanent residence permit for the purpose of family reunification, the temporary residence permit shall be issued for one year and (after 1 year) shall be replaced for 2 years.</p>
	EMN NCP Luxembourg	Yes	<p>1. Luxembourg grants a long-term residence permit to a third-country national who has resided legally and continuously for at least 5 years in accordance with article 80 (1) of the amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law). The third-country national who is granted a long-term residence permit may apply for family reunification of his/her family members, but the family reunification is not automatic. The long-term resident has to fulfil all the objective conditions established in article 69 of the Immigration Law. He/she must : provide proof of stable, regular and sufficient income to cover his/her needs and those of his/her family members without having to resort to the social aid system, have adequate accommodation, have a health insurance to cover himself/herself and his/her family members. The family member of a long-term residence will have the right for family reunification if s/he also fulfils the conditions stated above.</p>
	EMN NCP Netherlands	Yes	<p>1. Yes, people who have been granted an EU residence permit for long-term residents here in the Netherlands can reunite with family members. However, the conditions under which family reunification is permitted do not differ from the conditions that apply to other foreigners and Dutch nationals.</p>
	EMN NCP Poland	Yes	<p>Poland grants family reunification rights to a family member of a long-term resident on the base of Article 159(1) of the Act on Foreigners. Temporary residence permit is granted particularly to spouses (marriage must be recognised by the Polish law) and to minor children, including foster children of a foreigner who resides in Poland:</p>




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			<ul style="list-style-type: none">- based on permanent residence permit;- based on long-term resident's EU residence permit;- in connection with granting him refugee status;- in connection with granting him subsidiary protection;- at least 2 years based on temporary residence permits if the last permit was granted for a period of at least 1 year;- based on temporary residence permit granted for the purpose of conducting research;- based on temporary residence permit for the purpose of highly qualified employment;- in connection with granting an authorisation to stay for humanitarian reasons. <p>In the case of a foreigner's child, who is not a child of their spouse, it is required to demonstrate, that the child is dependent on the foreigner and that the foreigner exercises actual parental authority over this child. The same applies to the foreigner's stepson/stepdaughter; in this case the minor foreigner shall be dependent on the spouse who shall exercise actual parental authority over him/her.</p> <p>Temporary residence permit is granted also to parents or to an adult person responsible for a minor foreigner, who enjoys the refugee status or subsidiary protection and to date stayed in Poland unaccompanied.</p> <p>Polish law does not permit beneficiaries of subsidiary protection to submit the application for family reunification, as in accordance with Article 99(1)(4) of the Act on Foreigners dated 12 December 2013, initiating the procedure for granting temporary residence permit is refused to the foreigner, if he was granted a tolerated stay, an authorisation to stay for humanitarian reasons, asylum, subsidiary protection or temporary protection or he was granted refugee status in the Republic of Poland.</p> <p>However, a person, who stays in Poland in connection with granting them the refugee status or subsidiary protection, is entitled, as a so-called "sponsor", to apply for temporary residence permit for a family member in accordance with Article 159(1)(1)(c) and (d) of the Act on Foreigners However, as for parents, such a possibility is limited only to the situation of an illegal stay of a parent on the territory of Poland.</p> <p>In accordance with Article 187(7) of the Act on Foreigners, temporary residence permit due to other circumstances may be granted to a foreigner if their exit from the territory of the Republic of Poland would infringe the rights of the child set out in the Convention on the Rights of the Child adopted by the United</p>
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			<p>Nations General Assembly on 20 November 1989 to the extent threatening the child's psychophysical development, and the foreign national resides in the territory of the Republic of Poland illegally.</p> <p>If the case regards parents of a person full of age, legal situation of the parents shall be examined based on Article 187(6) of the above mentioned Act, according to which a temporary residence permit due to other circumstances may be granted to a foreigner if their stay on the territory of the Republic of Poland is necessary due to the need to respect the right to family life within the meaning of the Convention on the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, and the foreign national resides in the territory of the Republic of Poland illegally.</p>
	EMN NCP Slovakia	Yes	1. Yes as s/he is a family member of TCN with permanent resident permit.
	EMN NCP Sweden	Yes	1. As a person who is granted long-term status is also granted a permanent residence permit, his or her family member has a right to family reunification according to the Swedish Alian Act (Chapter 3, paragraph 3 and 3 of the Swedish Aliens Act, 5 kap. 3 § utlänningslagen).
	EMN NCP United Kingdom	Yes	<p>1. The United Kingdom is not bound by the EU's legal migration directives so the provisions being referred to in the question below are not applicable to those entering the UK to live and work. Any family members accompanying main applicants would need to meet the eligibility requirements as set out in the UK immigration rules in their own right. There are different routes for entry for family members/dependents, depending on the status of the main applicant, for example:</p> <p>Arrangements for family members of migrants who are admitted in categories that lead to settlement (where the family member will normally be expected to have completed a qualifying period i.e. 5 years in most cases, as the dependent of such a person before they qualify for settlement)</p>

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			Arrangements for those seeking entry and stay on the basis of their family relationship to a person already settled here (i.e. a British citizen, someone who has indefinite leave to remain in the UK or is in the UK under asylum or humanitarian protection laws). Again, there a qualifying period for permanent residence - this is normally five years but there are exceptions.
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