



# **EMN FOCUSSED STUDY 2016**

## **Family Reunification of TCNs in the EU: National Practices**

### **Estonian national report**

**Tallinn 2016**

*Disclaimer: The following responses have been provided primarily for the purpose of completing a Synthesis Report for the EMN Focussed Study on Family Reunification of TCNs in the EU: National Practices. The contributing EMN NCP have provided information that is, to the best of their knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of an EMN NCPs' Member State.*

*This document was produced by Barbara Orloff the expert of EE EMN NCP. This report was compiled based on public and available information. Furthermore, experts of this topic were consulted.*

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# Family Reunification of TCNs in the EU:

## National Practices

### 1 STUDY AIMS AND RATIONALE

#### 1.1 STUDY AIMS

The aim of the 2016 EMN Focussed Study is to compare national practices on family reunification between the different Member States plus Norway, with the purpose of informing the target audience<sup>1</sup> on current developments and national policies in this field.

The Study will describe the **policy and practice** of (Member) States in the area of family reunification, including (Member) States' **implementation of the minimum standards** set in Directive **2003/86/EC**.<sup>2</sup> The Study will also report on the changes in (Member) State policy and practice since the implementation of the Directive, inter alia any changes with regard to the family reunification of third-country nationals (TCNs) who are beneficiaries of international protection, whose number in the EU as a whole has increased over the past couple of years,<sup>3</sup> as well as any changes resulting from the **2014 Communication on guidelines for implementing the Directive**.<sup>4</sup> The study will also review how (Member) States have implemented the requirements laid down in Article 7(1) of Directive 2003/86/ EC, as well as which integration measures are foreseen under national law (as per Article 7(2)). The Study will also report on any existing evidence (if available) of effects of certain provisions of Directive 2003/86/EC as applied in different (Member) States on the exercise of the right to family reunification, the integration of TCNs, and/ or the prevention of forced marriages or any misuse of family reunification.

#### 1.2 RATIONALE FOR THE STUDY

During the 1970s, while labour migration policy in Europe was registering a more restrictive turn, family reunification started to become a more important migration channel.<sup>5</sup> Since then, the share of family-based migration flows has continued to increase. Today, overall in the EU, family reasons drive the relative majority of incoming TCNs: in 2014, 29% (680,204) of all first-time residence permits were issued to family members, while 25% (572,827) were issued for remunerated activities, 20% (476,615) for study and 26% (595,432) for other reasons.<sup>6</sup> In 21 Member States,<sup>7</sup> family reunification amounted to more than 30% of the new arrivals, exceeding 50% in some Member States (BE, EL, ES, HR, LU and SI). In the last 7 years,<sup>8</sup> family-based migration peaked in 2010, when it increased by 15% compared to the previous year.

One of the main migration-related challenges the EU is currently tackling is the rise in the number of asylum seekers: in 2014, 626,960 requests for asylum were received in the EU as a whole, rising substantially to 1,321,600 in 2015. The increase of permits issued for protection reasons in some Member States may lead to an

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<sup>1</sup> The target audience is composed of: policy makers at national and EU level; practitioners at national level working with family reunification; policy makers and practitioners concerned with the implications that the current policies on family reunification have on the processes of integration of third country nationals in host societies, including prevention of forced marriage; researchers and support groups (NGO's) active in the field; politicians.

<sup>2</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification Official Journal L 251, 03/10/2003 P. 0012 – 0018.

<sup>3</sup> See Section 1.2.

<sup>4</sup> Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification.

<sup>5</sup> Messina, A. (2007) *The Logics and Politics of post-WWII Migration to Western Europe*. Cambridge University Press.

<sup>6</sup> Eurostat, First permits by reason, length of validity and citizenship [migr\_resfirst], accessed on 04.07.2016. These data include persons joining EU citizens.

<sup>7</sup> AT, CZ, DE, EE, FI, FR, HU, IT, LV, NL, NO, PT, RO, SE, SK.

<sup>8</sup> Eurostat statistics are available only as of 2008.

increase in the number of family reunification requests as beneficiaries of international protection are generally entitled to ask for family reunification and, among them, refugees enjoy particularly favourable conditions for obtaining it.<sup>9</sup> In this context, the Commission's goal is to promote safe and legal avenues for migration and thereby discourage people from embarking on risky journeys to reach Europe. To achieve this objective, in the EU Agenda on Migration, the Commission has called for the full use of the legal avenues for migration, including family reunification.<sup>10</sup> In light of these developments, some Member States have introduced private sponsorship programmes which are similar to family reunification arrangements (EMN, 2016 Synthesis Resettlement and Humanitarian Admission Programmes in Europe – what works?).

The data cited above show the importance of family reunification as an entry channel to the EU. The main EU legislative instrument in this policy area dates back to 2003 when the Council adopted the [Directive on the Right to Family Reunification](#) (2003/86/EC) mentioned above. The Directive, which was the first EU instrument in the legal migration area, determined the conditions under which family reunification is to be granted to family members of legally staying TCNs, as well as the rights of the family members concerned.<sup>11</sup> In its [First Implementation Report](#)<sup>12</sup> in 2008, the Commission found that the Directive had a relatively low impact and led to a low level of harmonisation, due to the degree of discretion given to (Member) States when setting certain requirements ('may-clauses') and to instances of incorrect transposition or misapplication across (Member) States. Transposition issues were identified with regard to the implementation of the income requirement in relation to the number of family members, as well as when to ask the sponsor to comply with the integration measures foreseen at the national level. Moreover, the *Implementation Report* highlighted issues in the transposition of more favourable provisions for refugees and of the principle of the best interests of the child, as well as the provisions in Art. 17 of Directive 2003/86/EC whereby Member States shall take account of the individual circumstances when making a negative decision on an application. As a consequence, in 2012 the Commission launched a public consultation on the [Green Paper](#) on family reunification and, two years later, issued a [Communication](#) providing guidance for the application of the Directive. The impact of the Communication has not been assessed yet and one of the present study's aims is to do so.

Recently, as a response to the increased number of asylum applications, there have been indications that several (Member) States have started or planned to change their policies towards refugees and beneficiaries of subsidiary protection. A compilation of these recent or planned changes has not been carried out at EU level yet. In particular, there has been no investigation whether the divergence in rights and procedures available to refugees and beneficiaries of subsidiary protection in different (Member) States has widened in the last few years. This is relevant for the EU, as these divergences may encourage migration status 'shopping' and this present Study aims to fill this particular information gap.

Moreover, the jurisprudence of the Court of Justice of the EU (CJEU) regarding the right to family reunification is growing and has had an impact on national policies. Therefore, this Study further aims at providing a comprehensive and timely evaluation of the effect that the European jurisprudence has had at national level.

## 2 SCOPE OF THE STUDY

The Study's main scope includes the family members of TCNs residing legally on the territory of the EU and Norway (=sponsors), who come to Member States and Norway through the channel of family reunification with the sponsor or at a later stage. The **sponsor is a TCN who resides in the EU plus Norway as a beneficiary of international protection (refugee, beneficiary of subsidiary protection) or is a holder of another**

<sup>9</sup> The more favourable treatment of refugees is required in Chapter V of Directive 2003/86/EC.

<sup>10</sup> "In addition, Member States should use to the full the other legal avenues available to persons in need of protection, including private/non-governmental sponsorships and humanitarian permits, and family reunification clauses". European Commission (2015), A European Agenda on Migration, [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication\\_on\\_the\\_european\\_agenda\\_on\\_migration\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf) .

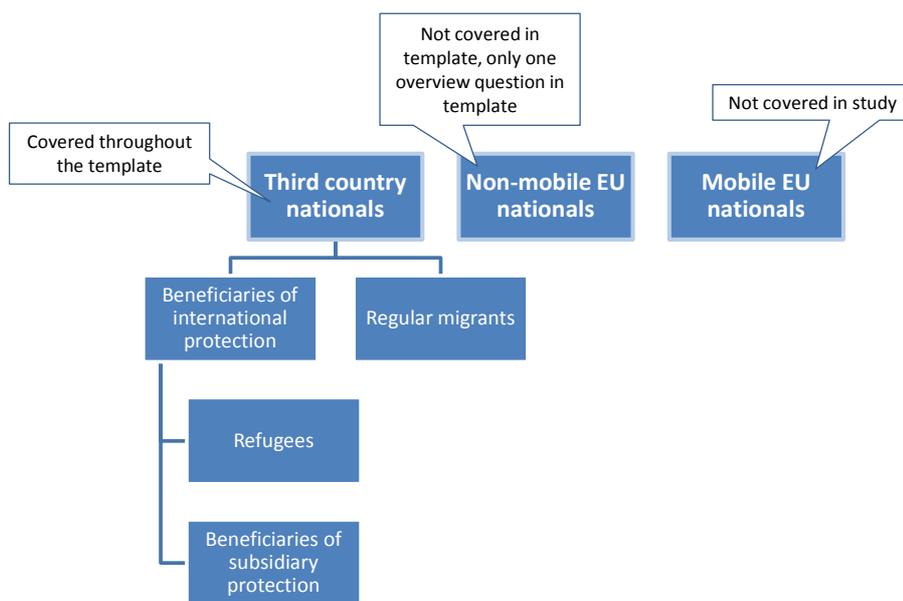
<sup>11</sup> IE, UK, DK are not bound by Directive 2003/86/EC.

<sup>12</sup> The Second Implementation Report is expected in 2017 and main implementation/application issues will be covered in the 'fitness check' of the legal migration acquis which is ongoing in the Commission.

**permit (e.g. as a worker, student, etc.).** The relevant family members are the spouse and minor children<sup>13</sup> (of the sponsor and/ or the spouse), as per the Directive, and any other family members as defined by (Member) States' national legislation, such as parents, adult children or civil partners. Conditions for family reunification for non-mobile EU nationals<sup>14</sup>, which are governed by national law, are not the primary focus of the Study, hence the Common Template includes only one general question on this type of sponsors. Family reunification for mobile EU nationals<sup>15</sup> is not covered by the study; thus no questions are asked concerning this group.

Figure 1. Scope of the Study

### Scope: Which types of sponsors are covered by the study?



The Study examines (Member) States' policies and practices in the field of family reunification, most notably:

- ★ Eligibility criteria for the sponsor: for example, which categories of migrants are eligible for family reunification (e.g. refugee, beneficiary of subsidiary protection, student, researcher, worker or long-term resident) and after which period of residence (waiting period), whether the permit the sponsor holds needs to be of a minimum duration and whether the sponsor's prospects of obtaining permanent residence (as per Art. 3 of Directive 2003/86/EC) are assessed;
- ★ Eligibility criteria for family members: for example, which family members are eligible for reunification, especially in relation to those mentioned in Art. 4 of Directive 2003/86/EC (dependent first-degree relatives, adult unmarried children, unmarried partners, second spouses, spouses under the age of 21, children above the age of 15), when the marriage needs to have taken place, what kind of evidence is required, etc.;
- ★ Requirements for family reunification, as per Art. 7(1) of Directive 2003/86/EC, i.e. family-size accommodation meeting health and safety standards, sickness insurance, stable and regular resources: whether (Member) States implement them and if there are any exemptions;

<sup>13</sup> The age up to which a child is considered minor is defined at the national level.

<sup>14</sup> Non-mobile nationals are nationals that have not exercised their right to free movement within the EU (e.g. a German national residing in Germany).

<sup>15</sup> Non-mobile nations are nationals that haven exercised their right to free movement with the EU (e.g. a German national residing in the Netherlands)

- ★ Integration measures, as per Art. 7(2) of Directive 2003/86/EC, including any integration and language tests that family members may be required to sit as a pre- or post-departure measure; and conditions for exemptions to complying with these measures, if any;
- ★ Procedural aspects of the application for family reunification: for example, how the evidence is checked, which methods of investigation are used, how long the procedure takes by law and in practice, whether applying from inside the territory is allowed, and whether the applicant is the sponsor or the family member, etc.
- ★ Rights granted: in particular, whether the access to employment/ self-employment is in any way restricted (as allowed by Art. 14 of Directive 2003/86/EC), and when a family member can acquire an autonomous residence permit (as per Art. 15 of Directive 2003/86/EC), etc.
- ★ Policies and practices regarding non-renewal and withdrawal of the residence permit of family members, as allowed by Art. 16 of Directive 2003/86/EC.

### 3 DEFINITIONS

The following key terms are used in the Common Template. The definitions are taken from the EMN Glossary v3.0.<sup>16</sup>

**'Adoption of convenience'**: is defined as "an adoption (of a child) contracted for the sole purpose of enabling the person adopted to enter or reside in a Member State".

**'Adult'**: is defined as "every human being aged 18 years or more unless, under the law applicable to the adult, majority is attained later".

**'Applicant for international protection'**: is defined as "a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken".

**'Application for international protection'**: is defined as "a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection, outside the scope of Directive 2011/95/EU, that can be applied for separately".

**'Beneficiary of International Protection'**: is defined as "a person who has been granted refugee status or subsidiary protection status".

**'Civil Partnership of Convenience'**: is defined as "a civil partnership contracted for the sole purpose of enabling the person concerned to enter or reside in a Member State".

**'False declaration of parenthood'**: is defined as "an untruthful declaration of a relationship of parenthood which does not actually exist either (a) between a minor who is an EU citizen or settled third-country national and a third-country national adult, where the adult claims to be the parent in order to obtain or legalise their residence in a Member State, or (b) between a third-country national minor and a union citizen adult or a settled third-country national adult where the adult declares themselves parent of the minor in order to obtain or legalise the residence of the child and / or possibly the residence of the other parent".

**'Family formation'**: is defined as "the entry into and residence in a Member State of a third-country national on the basis of the establishment of a family relationship either (a) after their third-country national sponsor has gained legal residence in a Member State; or (b) with an EU national".

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<sup>16</sup> Available at: [http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european\\_migration\\_network/docs/emn-glossary-en-version.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/docs/emn-glossary-en-version.pdf)

**'Family member'**: is defined as "in the general migration context, a person either married to, or having a relationship legally recognised as equivalent to marriage, to a migrant, as well as their dependent children or other dependants who are recognised as members of the family by applicable legislation. In the context of the Family Reunification Directive, a third country national, as specified in Art. 4 of Directive 2003/86/EC (normally members of the nuclear family – i.e. the spouse and the minor children), who has entered the territory of the European Union for the purpose of family reunification".

**'Family migration'**: is defined as "in the global context, a general concept encompassing family reunification, family formation, and migration of an entire family at the same time. In the EU context, a concept which refers explicitly to family reunification and family formation".

**'Family reunification'**: is defined as "the establishment of a family relationship which is either: (a) the entry into and residence in a Member State, in accordance with Council Directive 2003/86/EC, by family members of a third-country national residing lawfully in that Member State ('sponsor') in order to preserve the family unit, whether the family relationship arose before or after the entry of the sponsor; or (b) between an EU national and third-country national established outside the EU who then subsequently enters the EU".

*Synonymous*: family reunion

**'Forced marriage'**: is defined as "the union of two persons, at least one of whom has not given their full and free consent to the marriage".

**'Highly qualified migrant'**: is defined as "in the global context, a person falling within ILO ISCO-88 Classes 1, 2 and 3, e.g. a person qualified as a manager, executive, professional, technician or similar, who moves within the internal labour markets of transnational corporations and international organisations, or who seeks employment through international labour markets for scarce skills. In the EU context, a third-country national who seeks employment in a Member State and has the required adequate and specific competence, as proven by higher professional qualifications".

**'Integration'**: In the EU context, a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States.

**'Intra-corporate transferee'**: is defined as "a third-country national subject to a temporary secondment from an undertaking established outside the territory of a Member State and to which the third-country national is bound by a work contract to an entity belonging to the undertaking or to the same group of undertakings which is established inside this territory".

**'Labour market test'**: is defined as a "mechanism that aims to ensure that migrant workers are only admitted after employers have unsuccessfully searched for national workers, EU citizens (in EU Member States this also means EEA workers) or legally residing third-country nationals with access to the labour market according to national legislation".

**'Long-term resident'**: is defined as "a third-country national who has long-term resident status as provided for under Arts. 4 to 7 of Council Directive 2003/109/EC or as provided for under national legislation".

**'Marriage of convenience'**: is defined as "a marriage contracted for the sole purpose of enabling the person concerned to enter or reside in a Member State".

**'Refugee'**: is defined as "in the global context, either a person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail themselves of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned before, is unable or, owing to such fear, unwilling to return to it. In the EU context, either a third-country national who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail themselves of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Art. 12 (Exclusion) of Directive 2011/95/EU does not apply".

**'Researcher'**: is defined as "in the EU migration context, a third-country national holding an appropriate higher education qualification, which gives access to doctoral programmes, who is selected by a research organisation for carrying out a research project for which the above qualification is normally required".

**'Right to family life'**: is defined as "a principle enshrined in Arts. 7, 9 and 33 of the Charter of Fundamental Rights of the European Union and Art. 8 of the European Convention on Human Rights (ECHR)".

**'Right to family unity'**: is defined as "in the context of a refugee, a right provisioned in Art. 23 of Directive 2011/95/EU and in Art. 12 of Directive 2013/33/ EU obliging Member States to ensure that family unity can be maintained".

**'Seasonal worker'**: is defined as "a third-country national who retains their principal place of residence in a third country and stays legally and temporarily in the territory of a Member State to carry out an activity dependent on the passing of the seasons, under one or more fixed-term work contracts concluded directly between that third-country national and the employer established in that Member State".

**'Sponsor'**: is defined as "in the global context, a person or entity which undertakes a (legal, financial or personal) engagement, promise or pledge, on behalf of another. In the EU context of family reunification, a third-country national residing lawfully in a Member State and applying, or whose family members apply, for family reunification to be joined with them".

**'Student'**: is defined as "in the EU migration context, a third-country national accepted by an establishment of higher education and admitted to the territory of a Member State to pursue as their main activity a full-time course of study leading to a higher education qualification recognised by the Member State, including diplomas, certificates or doctoral degrees, which may cover a preparatory course prior to such education according to its national legislation".

**'Subsidiary protection'**: is defined as "the protection given to a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to their country of origin, or in the case of a stateless person to their country of former habitual residence, would face a real risk of suffering serious harm as defined in Art. 15 of 2011/95/EU, and to whom Art. 17(1) and (2) of Directive 2011/95/EU do not apply, and is unable or, owing to such risk, unwilling to avail themselves of the protection of that country".

**'Unaccompanied minor'**: is defined as "a minor who arrives on the territory of the Member States unaccompanied by the adult responsible for them by law or by the practice of the Member State concerned, and for as long as they are not effectively taken into the care of such a person. It includes a minor who is left unaccompanied after they have entered the territory of the Member States".

**'Third-country national'**: is defined as "any person who is not a citizen of the European Union within the meaning of Art. 20(1) of TFEU and who is not a person enjoying the Union right to free movement, as defined in Art. 2(5) of the Schengen Borders Code".

# EMN FOCUSED STUDY 2016

## Family Reunification of TCNs in the EU: National Practices - Estonia

### Top-line "Factsheet" (National Contribution) [maximum 1 page]

Overview of the National Contribution – introducing the Study and drawing out key facts and figures from across all sections of the National Contribution, with a particular emphasis on elements that will be of relevance to (national) policymakers.

Please also provide a concise summary of the main findings of Sections 1-6 below, for example:

- Evolution of the phenomenon of family reunification in your (Member) State over time and latest figures;
- Key changes to policy and/ or practice on family reunification in recent years (i.e. since 2011)<sup>17</sup> or being planned currently – including EU or national-level factors driving changes to policy and/ or practice, for example, the increased number of TCNs seeking asylum in the EU, the European Agenda on Migration,<sup>18</sup> and/ or relevant EU and/ or national case law, etc.;
- Whether policy and/ or practice on family reunification in your (Member) State has become more or less restrictive over time;
- Any challenges as well as good practices in the field;
- Any suggestions for EU level action(s) in family reunification that might be useful for your (Member) State.

Current study focuses on the family reunification of third-country nationals legally residing in Estonia.

In Estonia the family reunification is one of the main reasons for third-country national applying for residence permits. In year 2015 there were 1458 valid residence permits that were issued on family grounds making it the second most common ground for residence permits as only the number of residence permits that had been issued for employment was slightly higher (1659).<sup>19</sup> From all the family members who have received a residence permit on the grounds of family reunification only a very small number constitutes the family members of beneficiaries of international protection.

There are two legislative acts in Estonia which regulate family reunification of third-country nationals – the Aliens Act and the Act on Granting International protection to Aliens (AGIPA). The first act regulates the family reunification in case of regular migration and foresees two legal grounds for family reunification – settling with a spouse and settling with a close relative. The second act regulates the family reunification in case of beneficiaries of international protection.

The Council directive 2003/86/EC on family reunification has been transposed to national laws (the Aliens act as well as AGIPA).

The first section of this study gives an overview of the situation on family reunification in Estonia. Regarding the regular migration, in the recent years Estonia has facilitated the conditions for foreigners to arrive to

<sup>17</sup> The proposed reference period of the Study is 2011 onwards with some flexibility if (Member) States believe there to be a significant change to law, policy and/ or practice outside this period.

<sup>18</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions A European Agenda on Migration, available at [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/index_en.htm)

<sup>19</sup> Police and Border Guard Board statistics: <https://www.politsei.ee/dotAsset/61215.pdf>

Estonia together with their family members. Additionally the Estonian Parliament has recently adopted many legislative changes concerning family reunification in regular migration that will come into force in 2017. For example the requirement for a sponsor to reside in Estonia on the basis of a residence permit for at least two years before the right of family reunification will be abolished. Also the possibility to submit the application for a residence permit to settle with a family member in Estonia while in Estonian territory broadens to all third-country nationals who have a legal basis to arrive to Estonia (visa, visa-free travel etc.). Also starting from 01.10.2017 residence permits for family members may be issued with the duration of up to five years.

There has been some general public debate on family reunification regarding the beneficiaries of international protection. Additionally there has been some debate concerning the right for family life in Estonia for non-married partners or same-sex partner. Although the Registered Partnership Act has been adopted, the implementing acts are under discussion in the Estonian Parliament and therefore in practice it is currently possible for only registered married couples to apply for family reunification. Also the Justice Chancellor has pointed out that Estonian legislation restricts the right of the family life because a person cannot apply for a family reunification in case his or her minor child lives in Estonia.

The number of family reunification in case of international protection is small compared to family reunification in regular migration. There have been no recent changes in the legislation for family reunification of beneficiaries of international protection and currently no legislative changes are foreseen.

The second part of the study will provide information on who is eligible to be the sponsor and gives the definition of family members in Estonian context. Regarding the sponsor, any third-country national who has received a residence permit can be the sponsor in case the requirements are met. According to the Aliens Act the family members who can apply for a residence as a family member are a spouse, a minor child, an adult child if the child is unable to cope independently due to health reasons or a disability; a parent or grandparent (only in case of long-term residence permit of the family member) if the parent or grandparent needs care which he/she cannot receive in the country of his or her location and a ward. Family members of internationally protected persons are a spouse, a minor child, as well as his/her spouse's unmarried minor child and an adopted child, an unmarried adult child of him or her or his or her spouse if the child is unable to cope independently due to his or her state of health or disability, a parent or grandparent maintained by him or her or his or her spouse if the support resulting from other family ties in the country of origin is not available.<sup>20</sup> Family members of an unaccompanied minor refugee and an unaccompanied minor person eligible for subsidiary protection are his or her parent and his or her guardian or other family member if he or she has no parents or if the parents cannot be traced unless this is contrary to the rights and interests of the minor.<sup>21</sup> The beneficiaries of subsidiary protection have the equal right for family reunification as the refugees. Family members of beneficiaries of international protection are considered a family if the family existed in the country of origin, including if the marriage that was contracted before entry into Estonia.<sup>22</sup>

The next section sets out the requirements for exercising the right of family reunification. There are important differences in requirements for third-country nationals in regular migration and for beneficiaries of international protection. As for regular migration as general rule (subject to many exceptions) if a third-country national applies to settle with his or her family member who resides in Estonia, the family must have a registered place of residence and an actual dwelling in Estonia, the TCN is required to have a valid health insurance and the family has to have sufficient income. Additionally until the 16.01.2017 there is a two year waiting period before the family member is allowed to join the sponsor in Estonia. Although this requirement had already many exceptions, starting from 17.01.2017 this requirement will be abolished for everyone. For beneficiaries of international protection it is up to the Police and Border Guard Board (PBGB) to decide whether to apply these requirements or not, but in practice none of the requirements have been imposed.

The fourth section of this study concentrates on the process of submitting and examining the application for family reunification. Again there is a difference in the process for regular migrants and beneficiaries of international protection. In regular migration the family member is the formal party to an application for a family reunification, but in case of international protection the sponsor and his/her family members are both parties to the application for family reunification. Documents certifying the family ties have to be submitted

<sup>20</sup> Response of the Ministry of the Interior to the EMN's inquiry of 14.11.2016

<sup>21</sup> AGIPA, Article 7, RT I 2010, 3, 4, available at: riigiteataja.ee

<sup>22</sup> AGIPA Article 7 (5), RT I 2006, 2, 3.... RT I, 6.4.2016, 2, available at: www.riigiteataja.ee.

together with the application, but in case of family members of beneficiaries of international protection, the requirements for documents are less strict taking into account the possible difficulties of acquiring the necessary documents. As for the place of applying for family reunification for regular migration the standard application together with the necessary documents can be submitted either at a foreign representation of the Republic of Estonia, by post or in case of having a legal basis to arrive to Estonia at the Service Office of the PBGB in Estonia (starting from 17.01.2017), but in case of international protection, for the family member the only option is to come to Estonia and submit personally the application for international protection in order to receive the temporary residence permit.

The fifth section of the study gives an overview of the rights following the family reunification. The family members have access to education on the same grounds as sponsors, they have access to employment and self-employed activity (with some exceptions for jobs that may only be filled by Estonian citizens) and also to vocational training on the same grounds as other legally staying third-country nationals. Family members have access to basic healthcare in case they do not have healthcare insurance. There are many possibilities how the third-country national can have access to healthcare insurance. They also have the possibility to apply for an autonomous right of residence in case the specific requirements for the residence permit are fulfilled. For the family members of beneficiaries of international protection the residence permit can be derived from the sponsor or in case a family member of the TCN needs international protection, (s)he will be granted International protection together with the residence permit of a family member on the same basis and with the same period of validity as the sponsor.<sup>23</sup>

The last part provides information on the international and national court practices. Although Estonia carefully monitors the international court practices, it is not possible to point out that a certain case has significantly influenced Estonian policy or practice in family reunification. During the referenced period there has been one national court case which led to an amendment in the Aliens Act.

Family reunification has posed some challenges to the authorities as well as to the family members. For the PBGB the main challenge in regular migration has been detection of sham marriages and resolving the situation where family reunification is applied for by a person who does not exactly qualify as a family member. In that matter a good solution has been a new provision in the Aliens Act which gives a possibility to give a temporary residence permit on so-called humanitarian grounds. With regards to the beneficiaries of international protection the challenge for PBGB has been the small number of Estonian embassies and therefore being unable to conduct extra proceedings outside Estonia. For the sponsor and a family member the difficulty has been the access to Estonian foreign representations and the cost of the travel. A good practice in that matter has been effective communication resulting in speedy visa procedures, fundraising money for travelling and the assistance from the support persons.

## Executive Summary (Synthesis Report) [maximum 3 pages]

*Executive Summary of Synthesis Report: this will form the basis of an EMN Inform, which will have EU and national policymakers as its main target audience.*

## Section 1: Overview of the situation on family reunification [maximum 2 pages]

*This section of the Synthesis Report will provide an up-to-date overview of the national situation with regard to family reunification of TCNs, including figures on the scale of family reunification, e.g. number of residence permits issued on grounds of family reunification, number of unaccompanied minors (UAMs) reunited with family in (Member) States, etc. The section sets out the context for the Study by providing information on the approaches of (Member) States to family reunification, as well as recent (since 2011) changes to law, policy and/*

<sup>23</sup> AGIPA Article 46 (2), RT I 2006, 2, 3... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

or practice. The section will be drafted on the basis of data available from Eurostat or other relevant sources and complemented by national data provided by EMN NCPs.

**Q1.** Please briefly describe the basis for developing legislation/ policy on family reunification in your (Member) State (e.g. Directive 2003/86/EC, Art. 8, ECHR on the right to respect private and family life, etc.). **(If your (Member) State distinguishes between family formation and family reunification, please provide further information here and if applicable, make such a distinction in the subsequent questions).**

In Estonia there are two legislative acts which regulate family reunification – the Aliens Act and the Act on Granting International protection to Aliens (AGIPA). The first act regulates the family reunification in case of regular migration and the second one in case of beneficiaries of international protection.

The influence of EU law on Estonian family migration became evident years before the *de jure* joining the EU. In 2002 the Aliens act was harmonized with two resolutions of the Council of the European Union on family reunification<sup>24</sup> and fictive marriages<sup>25</sup> and the Citizen of the European Union Act was adopted which regulates the residence of EU citizens and their family members in Estonia. The directives 2003/86/EC and 2003/109/EC were transposed to the Aliens act in 2006.<sup>26</sup> In year 2009 a new Aliens Act was adopted by the Parliament and with the new Act the shortcomings from transposing the directive 2003/86/EC were resolved.

Regarding the family reunification of the beneficiaries of international protection, the directive 2003/86/EC was transposed to the AGIPA in year 2005 when AGIPA was adopted and the shortcomings of the transposition were resolved in year 2010 when the amendments to AGIPA were introduced.<sup>27</sup>

According to the Aliens Act the family members who can apply for a residence permit to settle with spouse or close relative are a spouse, a minor child, an adult child if the child is unable to cope independently due to health reasons or a disability; a parent or grandparent (only in case of long-term residence permit of the family member) if the parent or grandparent needs care which he/she cannot receive in the country of his or her location and a ward.<sup>28</sup>

Family members of internationally protected persons are a spouse, a minor child, as well as his/her spouse's unmarried minor child and an adopted child, an unmarried adult child of him or her or his or her spouse if the child is unable to cope independently due to his or her state of health or disability, a parent or grandparent maintained by him or her or his or her spouse if the support resulting from other family ties in the country of origin is not available.<sup>29</sup> Family members of an unaccompanied minor refugee and an unaccompanied minor person eligible for subsidiary protection are his or her parent and his or her guardian or other family member if he or she has no parents or if the parents cannot be traced unless this is contrary to the rights and interests of the minor.<sup>30</sup>

**Q2.** Please provide an overview of **recent (since 2011) changes to law, policy and/ or practice** in the field of family reunification in your (Member) State, covering the following:

- Current public debate on family reunification in your (Member) State (e.g. on requirements for exercising the right to family reunification or other issues);
- Whether family reunification is a national policy *priority* currently;
- Any *planned* changes to law, policy and/ or practice on family reunification;

<sup>24</sup> The Resolution on the harmonisation of national policies on family reunification, WGI 1497 REV 1 1/6/1993

<sup>25</sup> Council Resolution of 4 December 1997 on measures to be adopted on the combating of marriages of convenience, 97/C 382/01

<sup>26</sup> Amendment Act to the Aliens Act and other related acts, RTI, 15.05.2006, 21,159.

<sup>27</sup> AGIPA, RT I 2010, 3, 4, available at: riigiteataja.ee

<sup>28</sup> 06.12.2016 reply to an inquiry from the Ministry of the Interior

<sup>29</sup> Response of the Ministry of the Interior to the EMN's inquiry of 14.11.2016

<sup>30</sup> AGIPA, Article 7, RT I 2010, 3, 4, available at: riigiteataja.ee

- Any changes to policy and/ or practice as a result of the Commission Communication COM(2014)2010's guidance for application of Directive 2003/86/EC? If no, please specify why not;
- If your (Member) State has introduced a private sponsorship programme, which requires the beneficiary to be a family member of the sponsor. If yes, briefly elaborate in what ways the requirements, eligibility and access to rights differ.

Please support your answers by providing qualitative evidence, e.g. from (media) reports, political debate, etc. (*Quantitative evidence is requested in the subsequent question so should not be covered here*).

**Recent (since 2011) changes to law, policy and/ or practice have been:**

Possibility to apply for a visa as a family member (spouse or a minor child thereof, etc) of a foreigner who arrives to Estonia to work, study, etc. Visa may be issued to the family member under the same conditions as to the specified sponsor;

Reduction of the required minimum residence period from 4 year to 3 years in order to apply for an independent residence permit for family members – if the marriage terminates after 3 years residence, the family members can apply for an autonomous residence permit in Estonia. If the marriage ends before 3 years and obligation to leave Estonia would be clearly too burdensome, the family member allowed to apply an autonomous residence permit in order to settle in Estonia.

Due to the Estonian Supreme Court's decision changes were introduced to the Aliens act in 01.09.2013 according to which the PBGB has the possibility to make a discretion decision in case a foreigner, who has taken an obligation to leave Estonia, has received a place to live in a foreign country through international aid program or has received support to leave Estonia, applies for a residence permit to settle with a close relative in Estonia due to the reason that the caregiving is only possible by the relative living in Estonia.<sup>31</sup> Before the Supreme Court's decision it was not possible to grant a residence permit in these circumstances.

**Most recent changes that have been adopted by the Parliament and will come into force in 2017:**

The most recent changes are related to regular migration. The Estonian Parliament has adopted amendments to the Aliens Act according to which the requirement for a sponsor to reside in Estonia on the basis of a residence permit for at least two years will be abolished.

Another amendment is that the requirement to previously reside in Estonia does not apply to a spouse who is an Estonian citizen or Estonian for the purposes of settling with whom the residence permit is applied for if the family settles in Estonia together. Previously this provision covered only Estonian citizens.<sup>32</sup>

Additionally if a minor child who is born in Estonia or who is going to live in Estonia immediately after birth together with a parent or parents, will receive a temporary residence permit to settle with a parent living in Estonia in case the parent has a temporary residence permit in Estonia at the time of birth of the child. To renounce the residence permit, the parents can make a common application before the child becomes one year old. Before the changes, to receive a residence permit for the child, an application has to be submitted, but this requirement will be abolished.<sup>33</sup>

Another amendment is that in case a foreigner applies for a temporary residence permit to settle with a spouse or with a close relative, who has a residence permit for enterprise as a big investor or start-up, the requirement of having a an actual dwelling and a registered place of residence is not imposed.

Up to 17.01.2017 the standard application together with the necessary documents has to be submitted either at a foreign representation of the republic of Estonia, by post or in exceptional cases at the Service Office of the

<sup>31</sup> Estonian Supreme Court's decision number 3-3-1-44-11

<sup>32</sup> Draft Amendment Act (251 SE) to the Aliens Act, RT I, 03.01.2017, 3, available at: riigiteataja.ee

<sup>33</sup> Eelnõu 251 SE

PBGB in Estonia. Starting from 17.01.2017 the application together with the necessary document can be submitted either at a foreign representation of Estonia, by post or at the Service Office of the PBGB in Estonia in cases where the third-country national has a legal basis to arrive to Estonia (visa, visa-free travel etc.).

Starting from 01.10.2017 the temporary residence permit for settling with the spouse or with a close relative can be issued with the duration of up to five years and can be extended for up to ten years. At the same time the requirement remains that the residence permit for settling with a spouse or with a close relative cannot exceed the residence permit of the person settling with whom the residence permit was issued.

**Current public debate on family reunification in your (Member) State (e.g. on requirements for exercising the right to family reunification or other issues):**

Currently only registered married couples can apply for family reunification and this right does not extend to non-married partners or same-sex partners. On 09.10.2014 Registered Partnership Act was passed in the Parliament which gives a gender neutral possibility to enter into registered partnership contract and offers a legal protection to unmarried couples. Although the law has been adopted, the implementing acts are currently under discussion in the Estonian Parliament<sup>34</sup> and therefore in practice it is not possible to implement the law for family reunification of unmarried partners or same-sex partners.

The Justice Chancellor of Estonia has pointed out that the Aliens act is in contradiction with the Constitution because there is no ground for applying for a residence permit in case the minor child lives in Estonia with a residence permit or as a citizen. According to the Justice Chancellor the lack of this legal ground is contradictory to the right of family life and she has made a motion to change the law.<sup>35</sup>

There have been some general public debate on family reunification regarding the beneficiaries of international protection.<sup>36</sup>

**Whether family reunification is a national policy priority currently:**

Regarding the regular migration, in the recent years Estonia has facilitated the conditions for foreigners to arrive to Estonia together with their family members. Concerning the residence and right to work, the family members have already unlimited access to the labour market or entrepreneurship.

**Any changes to policy and/ or practice as a result of the Commission Communication COM(2014)2010's guidance for application of Directive 2003/86/EC? If no, please specify why not:**

Estonia did not make any changes to policy or practice as a result of the Commission Communication COM(2014)2010's guidance as Estonian legislation is more favorable than the requirements in the Commission guidance.<sup>37</sup>

Estonia has not introduced a private sponsorship programme.

**3. a.** Please complete the Excel document in Annex 1 below (including data, as well as metadata) if you have national statistics on:

- The total number of applications for family reunification in 2011-2015 and, where available, the first half of 2016, disaggregated by the ground of residence of the sponsor (beneficiaries of

<sup>34</sup> Postimees, Riigikogu on kooseluseaduse rakendusaktidega ummikus (08.03.2016)

<http://www.postimees.ee/3610757/riigikogu-on-kooseluseaduse-rakendusaktidega-ummikus>

<sup>35</sup> Memorandum from the Justice Chancellor of Estonia on Applying for a residence permit in case a minor child is living in Estonia, 28.04.2014

[http://oiguskantsler.ee/sites/default/files/field\\_document2/6iguskantsleri\\_margukiri\\_elamisloa\\_taotlemine\\_kui\\_eestis\\_elab\\_tao\\_tleja\\_alaealine\\_laps.pdf](http://oiguskantsler.ee/sites/default/files/field_document2/6iguskantsleri_margukiri_elamisloa_taotlemine_kui_eestis_elab_tao_tleja_alaealine_laps.pdf)

<sup>36</sup> Postimees, Juhan Saharov: pagulasel on õigus oma perega koos olla (20.06.2013)

<http://arvamus.postimees.ee/1275878/juhan-saharov-pagulasel-on-oigus-oma-perega-koos-olla>

<sup>37</sup> Response of the Ministry of the Interior to the EMN's inquiry of 14.11.2016

international protection (i.e. refugees, BSPs, UAMs), persons admitted for remunerated activities, persons admitted for study purposes, etc.) and sex;

- The total number of accepted/ rejected applications for family reunification in 2011-2015, and where available, the first half of 2016, if available disaggregated by the grounds for rejection of applications.

Please do not here include the Eurostat data mentioned above in Section 7 above, as this information is available publically and can therefore be analysed centrally for the Synthesis Report.

**b.** Please supplement the data provided above with a narrative on the profiles of TCNs residing in your (Member) State and asking for family reunification, i.e. are the sponsors mostly beneficiaries of international protection and/ or other TCNs, e.g. workers, students, etc.?

In Estonia, the family reunification is one of the main reasons for third-country national applying for residence permits. In year 2015 there were 1458 valid residence permits that were issued on family grounds making it the second most common ground for residence permits as only the number of residence permits that had been issued for employment was slightly higher (1659).<sup>38</sup>

The number of applications for family reunification was highest in 2011 (1132 applications), then saw a small downtrend in years 2012 and 2013 and was on the rise again with 988 applications in 2015 and already 838 applications with the first ten months in 2016.

In Estonia the statistics for family reunification is not gathered pursuant to the sponsor, the only distinction is made between the family reunification of the beneficiaries of international protection and family reunification in regular migration. From all the family members who have received a residence permit on the grounds of family reunification only a very small number constitutes the family members of beneficiaries of international protection. For example in year 2015 the total number of person applying for family reunification with successful applications was 942 of which only 19 were the family members of beneficiaries of international protection.

In the reference period females were applying for residence permit on family reunification grounds more often than males. For example in year 2015 about 2/3 of the persons applying for family reunifications were female.

During the reported period, most of the decisions on applications for family reunification have been positive and the recognition rate has been more than 90%.

## Section 2: Definition of sponsor and family members [maximum 5 pages]

*This section of the Synthesis Report will aim to provide information on the understanding of family members entitled to family reunification across the (Member) States. The definition of family members is prescribed in Art. 4 in Chapter II of Directive 2003/86/EC. The section will also aim to clarify who is eligible to be a sponsor to an application for family reunification (Art. 3 in Chapter I of Directive 2003/86/ EC). **If applicable, please distinguish to what extent any of the provisions apply to certain/ all groups of migrants (see Figure 1 above) applying for family reunification in your (Member) State depending on the grounds of residence of the sponsor (e.g. refugee, BSP, worker, student, etc.). If the provisions vary across different groups of migrants, please describe the variations.***

**Q4. a.** Who can be a **sponsor**<sup>39</sup> to an application for family reunification in your (Member) State (e.g. UAMs, students, workers, etc.)?

A sponsor in current study's context refers to a third-country national who is legally residing in Estonia and whose family member applies for a residence permit on the basis of family ties.

<sup>38</sup> Police and Border Guard Board statistics: <https://www.politsei.ee/dotAsset/61215.pdf>

<sup>39</sup> Art. 2 and 3 in Chapter I of 2003/86/EC define who can be a **sponsor** to an application for family reunification in the EU.

A sponsor can be beneficiary of international protection, UAM, student, worker etc. According to Estonian legislation there are no restrictions on sponsors as long as they are legally staying in Estonia and comply with the requirements stipulated by law. With regard to regular migration, the Aliens Act foresees two legal grounds for family reunification – settling with a spouse and settling with a close relative. Additionally the AGIPA enacts the requirements on family reunification for beneficiaries of international protection.

**b.** Does the national law of your (Member) State allow **beneficiaries of subsidiary protection (BSPs)**<sup>40</sup> to apply for family reunification? Y/ N

If yes, please elaborate below. If no application procedure is made available to BSPs, how does your (Member) State ensure that the right to family life (Art. 8, ECHR) of BSPs is respected?

Yes, in Estonia the beneficiaries of subsidiary protection can apply for family reunification on the same grounds as persons with refugee status. It is possible to issue a residence permit to the family member of the beneficiary of subsidiary protection in case (s)he complies with the requirements. According to AGIPA the list of people who qualify as the family members are the same for refugees and beneficiaries of subsidiary protection.

**Q5.** Does your (Member) State extend the **scope of family reunification** beyond nuclear/ core members of the family,<sup>41</sup> i.e. parents, adult children, non-married partners, etc.? Y/ N

**Yes.**

If yes, does your (Member) State extend the scope of family reunification to the following family members:

- Parents? Y/ N

#### Regular migration

Yes, according to the Aliens Act a temporary residence permit may be issued to an alien to settle with a close relative who is an Estonian citizen or who is an alien who permanently resides in Estonia and holds a residence permit in case the alien is a parent or grandparent in order to settle with his or her adult child or grandchild who permanently resides in Estonia if the parent or grandparent needs care which he or she cannot receive in the country of his or her location or in another country and if the permanent legal income of his or her child or grandchild who legally stays in Estonia ensures the subsistence of him or her in Estonia.<sup>42</sup> A close relative for the purposes of settling with whom the residence permit is applied by the parent or grandparent for is required to have a long-stay resident's residence permit.

#### Beneficiaries of international protection

Yes, a family member of a refugee and of a person eligible for subsidiary protection is also a parent or grandparent maintained by him or her or his or her spouse if support resulting from other family ties in the country of origin is not available.<sup>43</sup>

A family member of an unaccompanied minor refugee and an unaccompanied minor person eligible for subsidiary protection is also his or her parent.<sup>44</sup>

- Adult children? Y/ N

<sup>40</sup> Currently, BSPs are not covered by Directive 2003/86/EC.

<sup>41</sup> Art. 4 in Chapter II of Directive 2003/86/EC stipulates that (Member) States shall authorise the entry and residence of certain **family members**, including the sponsor's spouse and minor (including adopted) children of the sponsor and/ or his/ her spouse.

<sup>42</sup> Aliens Act Article 150 (1) p 3, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>43</sup> AGIPA Article 7 (2) p 5, RT I 2006, 2, 3... RT I, 06.04.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>44</sup> AGIPA Article 7 (3) p 1, RT I 2006, 2, 3... RT I, 06.04.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

Regular migration

Yes, according to the Aliens Act a temporary residence permit may be issued to an adult child in order to settle with a parent who is an Estonian citizen or who is an alien who permanently resides in Estonia and holds a residence permit if the child is unable to cope independently due to health reasons or a disability.<sup>45</sup>

Beneficiaries of international protection

Yes, a family member of a refugee and of a person eligible for subsidiary protection is also their or their spouse's unmarried adult child if the child is unable to cope independently due to his or her state of health or disability.<sup>46</sup>

- Same-sex partners who are married? Y/ N

No.

- Same-sex partners who are registered? Y/ N

No.

- Non-married partners? Y/ N

Regular migration

No.

Beneficiaries of international protection

No, family members shall be considered a family if the family existed in the country of origin, including if the marriage that was contracted before entry into Estonia.<sup>47</sup>

- 'Dependent' persons, i.e. persons receiving legal, financial, emotional or material support by the sponsor or by his/ her spouse/ partner (other than those mentioned above<sup>48</sup>)? Y/ N

If yes, please specify how the concept of dependency<sup>49</sup> is defined in the relevant provisions/ practice.

Regular migration

Yes, according to the Aliens Act a temporary residence permit may be issued to third-country national ward in order to settle with the guardian who is an Estonian citizen or who is third-country national who permanently

<sup>45</sup> Aliens Act Article 150 (1) p 2, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>46</sup> AGIPA Article 7 (2) p 4, RT I 2006, 2, 3... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>47</sup> AGIPA Article 7 (5), RT I 2006, 2, 3... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>48</sup> I.e. other than those referred to in Art. 4 of Directive 2003/86/EC.

<sup>49</sup> According to UNHCR, dependent persons should be understood as persons who depend for their existence substantially and directly on any other person, in particular because of economic reasons, but also taking emotional dependency into consideration. Dependency should be assumed when a person is under the age of 18, and when that person relies on others for financial support. Dependency should also be recognised if a person is disabled not capable of supporting him/ herself. The dependency principle considers that, in most circumstances, the family unit is composed of more than the customary notion of a nuclear family (husband, wife and minor children). This principle recognises that familial relationships are sometimes broader than blood lineage, and that in many societies extended family members such as parents, brothers and sisters, adult children, grandparents, uncles, aunts, nieces and nephews, etc., are financially and emotionally tied to the principal breadwinner or head of the family unit. Further information is available at: <http://www.unhcr.org/3b30baa04.pdf>, as well as in the Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification mentioned in Section 1 in the first part of this document.

resides in Estonia and holds a residence permit if the permanent legal income of the guardian ensures the subsistence of the ward in Estonia.<sup>50</sup>

- Other (please specify, e.g. foster children, applicants in polygamous and/ or proxy marriages, etc.)? Y/ N

If yes, please elaborate on each of the categories mentioned above.

#### Beneficiaries of international protection

Yes, a family member of a refugee and of a person eligible for subsidiary protection is also his or her and his or her spouse's unmarried minor adopted child and an unmarried and minor child under his or her or his or her spouse's custody, including an adopted child.<sup>51</sup>

Family members of an unaccompanied minor refugee and an unaccompanied minor person eligible for subsidiary protection are also his or her guardian or other family member if he or she has no parents or if the parents cannot be traced unless this is contrary to the rights and interests of the minor.<sup>52</sup>

### Section 3: Requirements for exercising the right to family reunification [maximum 5-10 pages]

*This section of the Synthesis Report will report on the requirements for exercising the right to family reunification (referred to in Art. 6-8 in Chapter IV of Directive 2003/EC/86). **If applicable, please distinguish to what extent any of the provisions apply to certain/ all groups of migrants applying for family reunification in your (Member) State depending on the grounds of residence of the sponsor (e.g. refugee, BSP, worker, student, etc.). If the provisions vary across different groups of migrants, please describe the variations.***

**Q6.** Does your (Member) State (plan to) impose the following **requirements**<sup>53</sup> for exercising the right to family reunification (please also indicate if exemptions can be made in individual cases based on e.g. hardship clauses):

- Accommodation suitable for the size of the family, as well as meeting health and safety standards? Y/ N

#### Regular migration

Yes. As a general rule in Estonia for a person to be eligible for a temporary residence permit certain conditions have to be met. The general conditions for issuing of a temporary residence permit to an alien are the following: 1) the purpose for settlement in Estonia is justified; 2) the actual place of residence is Estonia; 3) sufficient legal income which would enable an alien and the family members of an alien the subsistence in Estonia and; 4) a medical expenses insurance contract in compliance with the requirements.<sup>54</sup>

<sup>50</sup> Aliens Act Article 150 (1) p 4, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>51</sup> AGIPA Article 7 (2) p 2 and 3, RT I 2006, 2, 3... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>52</sup> AGIPA Article 7 (3) p 2, RT I 2006, 2, 3... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>53</sup> Art. 7(1) of Directive 2003/86/EC stipulates that Member States may require the person who has submitted the application to provide evidence that the sponsor has: accommodation suitable for the size of the family, as well as meeting health and safety standards; sickness insurance; and sufficient resources to provide for himself/ herself and his/ her family.

<sup>54</sup> Aliens Act Article 117 (1), RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

Additionally, according to law<sup>55</sup>, the sponsor is required to verify if a TCN who has been invited to Estonia by sponsor has a legal basis for the stay in Estonia. A sponsor is required to host an alien in Estonia, guarantee his or her accommodation and bear the costs of the stay of an alien in Estonia and of his or her departure from Estonia. If an alien does not bear the proceeding costs or the costs of the compulsory enforcement of the obligation to leave or of the stay in the detention centre or police detention houses, the sponsor is obligated to compensate for the specified costs, but not more than 32,000 euros.

More precise requirements that emanate from a specific type of residence permit are as follows:

#### Residence permit in case settling with a spouse

According to the Aliens Act<sup>56</sup> if a third-country national applies to settle with his or her spouse who resides in Estonia, the family must have a registered place of residence and an actual dwelling in Estonia. The requirement regarding the existence of a registered place of residence and an actual dwelling does not apply as a condition of the issue of a residence permit if the TCN is issued a residence permit to settle with his or her spouse in the following cases:

- 1) if the spouse, for the purposes of settling with whom the residence permit is issued, has received a residence permit for enterprise;
- 2) a residence permit for studies based on the integrated curricula of Bachelor's and Master's studies or Master's or Doctoral studies ;
- 3) persons engaged in creative activities who work in a performing arts institution for the purposes of the Performing Arts Institutions Act;
- 4) for employment as a teacher in Estonia in an educational institution which complies with the requirements established by the legislation;
- 5) for research activities if an alien has appropriate professional training or experience therefor or employment as a lecturer in Estonia in an educational institution which complies with the requirements established by the legislation;
- 6) for employment as a sportsman, coach, referee or sports official for professional activities on the basis of a summons from a respective sports federation;
- 7) for employment as a member of the management body of a legal person registered in Estonia with the duty to perform directing or supervisory functions;
- 8) for employment as an expert, adviser or consultant provided that an alien has appropriate professional training for such activities in the respective field;
- 9) for employment as a fitter of equipment or a skilled worker provided that an alien has the required professional training in the respective field;
- 10) for employment as a top specialist provided that an alien has appropriate professional training for such activities in this field;
- 11) if the spouse for the purposes of settling with whom the residence permit is issued, has received a residence permit for study in Bachelor's studies, or 4th or 5th level vocational education in the framework of an international program of cooperation or a treaty or an international cooperation agreement of a higher educational institution or if the alien has been designated a scholarship which is financed by the Estonian state or is internationally recognized;
- 12) for employment in the start-up registered in Estonia (starting from 17.01.2017).

#### Residence permit in case settling with a close relative

Yes, a close relative for the purposes of settling with whom a residence permit is applied for is required to have a registered place of residence and an actual dwelling in Estonia. Upon application of a residence permit to settle

<sup>55</sup> Aliens Act Article 291, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>56</sup> Aliens Act Article 140 and 137 (3) p 3<sup>1</sup>, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

with close relative the requirement for a registered place of residence and an actual dwelling shall not be applied as a condition of the issue of a residence permit provided that an alien and the close relative for the purposes of settling with whom the residence permit is applied for enter into Estonia together.<sup>57</sup>

#### Beneficiaries of international protection

The Act on granting international protection to aliens<sup>58</sup> stipulates that where family reunification is possible in another country, the Police and Border Guard Board may require that upon application for a residence permit of a family member an alien with whom the family member wishes to reside is required to have, at the time of applying for a residence permit of a family member, permanent legal income which shall ensure that the family be maintained in Estonia, the family shall have an actual dwelling in Estonia and the family member of the alien shall have a valid health insurance policy which guarantees the payment, during the period of validity of the residence permit, of the medical expenses incurred by him or her as a result of illness or injury.

If a family member submits an application for a residence permit later than six months as of the date issuing a residence permit to alien, the Police and Border Guard Board may demand compliance with the requirements stated above. In the event of a failure to comply with the requirements, the Police and Border Guard Board may refuse to issue a residence permit to a family member.<sup>59</sup> The AGIPA also states that the third-country national for the purposes of settling with whom a residence permit is issued to a family member shall have the obligations of a sponsor provided for in the Aliens Act. An unaccompanied minor alien shall have no obligations of a sponsor until he or she reaches the age of majority.<sup>60</sup>

Although the provisions regarding the requirements are a bit controversial, in practice it is up to the Police and Border Guard Board to decide whether in cases stipulated in previous articles, the requirements are imposed or not. In practice generally the requirements are not imposed.<sup>61</sup> The beneficiaries of international protection may express the wish for family reunification already while his or her own application for international protection is being processed, but the family member can submit the actual application for residence permit when in Estonia. As the travelling time to Estonia takes often more than 6 months, it is not possible to refuse a residence permit on these grounds.<sup>62</sup>

- Healthcare insurance? Y/ N

#### Regular migration

Yes, As a general rule<sup>63</sup> during the temporary stay in Estonia and applying for extension of the period of stay an alien is required to have a valid health insurance policy guaranteeing that any costs related to his or her medical treatment as a result of illness or injury during the period of stay in Estonia will be met. A TCN does not have to have a health insurance policy 1) if (s)he is deemed to be a person covered by compulsory health insurance pursuant to the Health Insurance Act; 2) if (s)he has an insurance policy guaranteeing that any costs related to his or her medical treatment as a result of illness or injury will be met to the same extent as for a person covered by health insurance; 3) in a case provided by a treaty or; 4) if any costs related to his or her medical treatment as a result of illness or injury shall be paid by another state or international organisation.

An alien applying for a residence permit or residing in Estonia, who is not covered by compulsory health insurance pursuant to the Health Insurance Act, is obligated to enter into a compulsory health insurance contract corresponding to the following terms and valid in Estonia during the whole validity period of the residence permit:

<sup>57</sup> Aliens Act Article 151, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>58</sup> AGIPA Article 46 (6), RT I 2006, 2, 3... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>59</sup> AGIPA Article 46 (7), RT I 2006, 2, 3... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>60</sup> AGIPA Article 46 (13) p 4, RT I 2006, 2, 3... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>61</sup> EMN interview of 31.10.2016 with the PBGB's expert.

<sup>62</sup> EMN interview of 28.11.2016 with the Ministry of Interior's expert.

<sup>63</sup> Aliens Act Article 45, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

- 1) the contract is entered into with an insurance provider authorized to insure the medical treatment insurance risk in Estonia;
- 2) an insured event is an unexpected and unforeseeable illness or accident occurred with the alien insured according to the contract (hereinafter the insured person) during the insurance period;
- 3) an insurer is required to reimburse to an insured person, within the extent of the sum insured, the necessary medical costs due to the illness or accident and the costs of studies being done for establishing the insured event and the determination of the treatment;
- 4) the insurance coverage for the insurance period of one year is at least 6000 euros;
- 5) in case the parties have agreed on the waiting period in the meaning of subsection 558 (1) of the Law of Obligations Act, this may not be longer than two months;
- 6) the contract shall enter into force as of the granting of the residence permit and shall expire with the expiry of the period of validity of the residence permit, unless otherwise agreed by the parties.

The compulsory insurance requirement is also covered by a compulsory insurance or collective insurance contract entered into by another person, provided that the alien is named as the insured person in such contract.

In case within the insurance period the insured person becomes a person covered with insurance or equal to thereof on the basis of the Health Insurance Act:

- the insurance provider has no duty of performance to the extent in which the insured person has a right to receive health insurance benefit on the basis of the Health Insurance Act;
- The parties are entitled to cancel the contract on the basis of the Health Insurance Act as of the arising of the insurance cover.

If an alien has no opportunity to conclude a proper insurance contract before the residence permit is granted he/she must submit:

- a written assurance, that he/she will conclude the required insurance contract no later than within two months after the settlement in Estonia;
- an insurance contract, which shall cover the medical treatment expenses until the conclusion of a proper insurance contract (e.g. travel insurance contract).

Written confirmation shall not be accepted, if the applicant is staying in Estonia or has arrived into Estonia before the decision is made about the application for residence permit (e.g. on the basis of visa).<sup>64</sup>

#### Beneficiaries of international protection

As the family members of beneficiaries of international protection generally arrive to Estonia for family reunification matters with a long term visa, they need to have an insurance policy valid for Estonia or for the Schengen area with a coverage of at least 30 000 EUR for the entire duration of stay in order to receive the D-visa.<sup>65</sup> After the family member has arrived to Estonia (s)he has to submit an application for international protection to the PBGB during the time his or her visa is still valid.

In practice the requirement to have a healthcare insurance during the time the Police and Border Guard Board is processing the application, is not imposed.<sup>66</sup> While the application is being processed, the family member has the same rights as the asylum seekers and therefore healthcare is provided by the state.

- Sufficient financial resources to provide for the sponsor and his/ her family? Y/ N

#### Regular migration

Yes, as a general obligation of the sponsor he or she is required to host a TCN in Estonia, guarantee his or her accommodation and bear the costs of the stay of an alien in Estonia and of his or her departure from Estonia.<sup>67</sup>

<sup>64</sup> Police and Border Guard Board webpage: <https://www.politsei.ee/en/teenused/residence-permit/tahtajaline-elamisluba/abikaasa-juurde/oluline-info-abikaasa-juurde-elamisloa-taotlejale.dot#kindlustus> (visited 15.12.2016)

<sup>65</sup> Ministry of Foreign Affairs webpage: <http://www.vm.ee/en/applying-visa-schengen-area> (visited 15.12.2016)

<sup>66</sup> EMN interview of 31.10.2016 with the PBGB's expert.

<sup>67</sup> Aliens Act Article 291, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

The Aliens Act also stipulates that if a third-country national applies to settle with his or her spouse who resides in Estonia, his or her spouse is required to have permanent legal income that shall ensure the subsistence of the family in Estonia, or the joint permanent legal income of the spouses shall ensure the subsistence of the family in Estonia.<sup>68</sup>

If the residence permit has been issued to an adult child in order to settle with a parent who permanently resides in Estonia, to a parent or grandparent in order to settle with his or her adult child or grandchild who permanently resides in Estonia, to a ward in order to settle with the guardian who permanently resides in Estonia, the close relative for the purposes of settling with whom the residence permit is issued is required to cover the maintenance and treatment costs of an alien.<sup>69</sup> Starting from 17.01.2017 the Aliens Act does not foresee permanent residence, but it is still presumed that the foreigner is living in Estonia.

#### Beneficiaries of international protection

It is up to the Police and Border Guard Board to decide whether in cases stipulated by law, the requirements are imposed or not. In practice generally the requirements are not imposed.<sup>70</sup>

**Q7. a.** Does the national law of your (Member) State require TCNs to comply with any **integration measures** before and/ or after admission?<sup>71</sup> Y/ N

If yes, are TCNs required to comply with the following integration measures:

- Civic integration exams? Y/ N

If yes, please specify:

- When the civic integration exam(s) takes place (i.e. before admission, after admission, before and after admission):

No.

- What knowledge and skills are required from applicants in order to pass the exam(s):

N/A

- If any support is provided to them during preparation (e.g. preparatory classes):

N/A

- If/ What costs are incurred by applicants:

N/A

- Language tests? Y/ N

If yes, please specify:

- When the language test(s) takes place (i.e. before admission, after admission, before and after admission):

<sup>68</sup> Aliens Act Article 139, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>69</sup> Aliens Act Article 152, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>70</sup> EMN interview of 31.10.2016 with the PBGB's expert.

<sup>71</sup> Art. 7(2) of Directive 2003/86/EC stipulates that Member States may require TCNs to comply with integration measures, in accordance with national law.

Regular migration

No, concerning regular migration only a TCN who is applying for a residence permit for long-term residents is required to have the Estonian language proficiency at least at the elementary level – language proficiency level B1 or a corresponding level.<sup>72</sup> TCNs who are applying for a temporary residence permit to settle with a spouse or with a close relative do not have to take a language tests before receiving the residence permit. After the family members have been admitted and they have received a temporary residence permit, they are referred to Welcoming Programme by the Police and Border Guard Board. The Welcoming Programme is aimed at foreign nationals who have legally resided in Estonia for less than 5 years and it comprises of different modules and basic language training in the purpose of smooth settling in. The training provides language skills to cover specific primary communication needs in Estonian communication environment. The training's content corresponds to the A1 skill level of Estonian.<sup>73</sup>

Beneficiaries of international protection

There is no language test *per se*, but in case the family member receives a residence permit under the AGIPA, (s)he is obliged to participate in the language courses on the same grounds as the beneficiaries of international protection. According to AGIPA a beneficiary of international protection at the age of 18 up to age of retirement who is fit for work is required to participate in the Estonian language training.<sup>74</sup>

- What knowledge and skills are required from applicants in order to pass the test(s):

There is no language test *per se*, but family members who have received a residence permit under the AGIPA, are obliged to participate in the language training according to the AGIPA and the family members who have received a residence permit under the Aliens Act are invited to participate in the language training according to the Welcoming Programme. The knowledge of language is A1 for regular migration and A2 for beneficiaries of international protection.

- If any support is provided to them during preparation (e.g. preparatory classes):

There is no language test *per se*, but family members who have received a residence permit under the AGIPA, are obliged to participate in the language training according to the AGIPA and the family members who have received a residence permit under the Aliens Act are invited to participate in the language training according to the Welcoming Programme.

- If/ What costs are incurred by applicants:

The language training is free of charge for the family member.

- Other integration measures (please specify)? Y/ N

If yes, please specify what these measures entail and when they take place:

Yes, the PBGB is sending a family member who has been granted a residence permit to participate in the Welcoming Programme.<sup>75</sup><sup>76</sup> The Welcoming Programme consists of various informative and interactive training modules: a basic module that gives an overview of the functioning principles of Estonian state, society, culture and people, rights and obligations of residents, public services etc.; additional thematic modules that give an overview of working and entrepreneurship, family life, studying and research; separate training modules for

<sup>72</sup> Aliens Act Article 234 (1), RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>73</sup> Welcoming Programme webpage: <https://www.settleinestonia.ee/?redirect=0>

<sup>74</sup> AGIPA Article 74 (4<sup>1</sup>), RT I 2006, 2, 3.... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>75</sup> Aliens Act Article 121<sup>1</sup>, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>76</sup> AGIPA Article 47<sup>1</sup>, RT I 2006, 2, 3.... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

children and young people under the age of 15 and for beneficiaries of international protection; basic language training at A1 level.<sup>77</sup>

Everyone who has received a residence permit according to Aliens Act are invited to participate in the basic module and the language training. Family members who have received residence permit under the AGIPA are invited to participate in the basic module, the module of international protection and language training according to AGIPA. Children under the age of 15 are obliged to participate in the module "Children and young people". Additionally, the family members may participate in other modules.<sup>78</sup>

- If the national law of your (Member) State does not currently require TCNs to comply with any of the above measures – any planned changes? Y/ N

If yes, please provide further information below:

No planned changes.

**b.** Please specify if any negative consequences (e.g. refusal to issue a permit or withdrawal of the existing permit) are foreseen for family members not complying with the above-mentioned integration measures – both according to law, as well as how this is applied in practice.

#### Regular migration

The Aliens Act does not stipulate specific negative consequences if a person fails to participate in the Welcoming programme or language training, hence there are no negative consequences for family members applying for temporary residence permit.

If the third-country national fails to pass the official language test that is compulsory to receive a permanent residence permit, (s)he will not receive a permanent residence permit.

#### Beneficiaries of international protection

The AGIPA stipulates that the compliance with obligation to participate in the international theme module of the Welcoming programme if the PBGB has referred him or her there and with the obligation to participate in the Estonian language training will be taken into account upon deciding on the extension of the residence permit or upon deciding on the granting of a new residence permit.<sup>79</sup>

The AGIPA also stipulates that when a beneficiary of international protection has failed to perform the obligation of participating in the language training and/or International theme module of the Welcoming programme without a good reason, the payment of support on the basis of AGIPA and other acts may be connected to the performance of the obligations specified above.<sup>80</sup>

In practice these negative consequences have not been implemented as the corresponding provisions are relatively new.<sup>81</sup>

**Q8.** Does your (Member) State set a **waiting period**<sup>82</sup> before a sponsor's family members can reunite with him/her? Y/ N

<sup>77</sup> Welcoming Programme webpage: <https://www.settleinestonia.ee/mod/page/view.php?id=118>

<sup>78</sup> Regulation on Adaptation Programme, RT I, 22.08.2014, 5, available at: <https://www.riigiteataja.ee/akt/129072016002>

<sup>79</sup> AGIPA Article 75 (4<sup>b</sup>), RT I 2006, 2, 3.... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>80</sup> AGIPA Article 75 (4<sup>c</sup>), RT I 2006, 2, 3.... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>81</sup> EMN interview of 28.11.2016 with the Ministry of the Interior's expert.

<sup>82</sup> Art. 8 of Directive 2003/86/EC stipulates that Member States may require the sponsor to have stayed lawfully on the territory for a period not exceeding two years (or three years by derogation in specific circumstances) before having his/ her family members join him/ her.

If yes, how long is the waiting period? Can an application be submitted before the period has expired? Are there any exemptions granted in individual cases?

#### Regular migration

Starting from 17.01.2017 there is not a waiting period before family member can join with a sponsor in Estonia.

Until 16.01.2017 as a general rule there is a waiting period, which is subject to many exceptions. The legislation in force until 16.01.2017 stipulates the following:

#### Residence permit to settle with a spouse

According to the legislation in force until 16.01.2017 temporary residence permit may be issued to an alien to settle with his or her spouse who resides in Estonia permanently and who is an Estonian citizen or of Estonian nationality or to settle with his or her spouse who is an alien and who has resided in Estonia on the basis of a residence permit for at least two years.<sup>83</sup> The requirement to reside in Estonia permanently does not apply to a spouse who is an Estonian citizen for the purposes of settling with whom the residence permit is applied for if the family settles in Estonia together.<sup>84</sup>

The two-years waiting period is not applicable if the spouse has received a residence permit in the following cases<sup>85</sup>:

- For business;
- for integrated curricula of Bachelor's and Master's studies, Master's or Doctor's degree studies;
- employment of persons engaged in creative activities who work in a performing arts institution for the purposes of the Performing Arts Institutions Act;
- for study in Bachelor's studies in the framework of an international program of cooperation or a treaty or an international cooperation agreement of a higher educational institution or if the alien has been designated a scholarship which is financed by the Estonian state or is internationally recognized.
- for employment as a teacher in Estonia in an educational institution which complies with the requirements established by the legislation;
- for research activities if an alien has appropriate professional training or experience therefor or employment as a lecturer in Estonia in an educational institution which complies with the requirements established by the legislation;
- for employment as a sportsman, coach, referee or sports official for professional activities on the basis of a summons from a respective sports federation;
- for employment as a member of the management body of a legal person registered in Estonia with the duty to perform directing or supervisory functions;
- for employment as an expert, adviser or consultant provided that an alien has appropriate professional training for such activities in the respective field;
- for employment as a fitter of equipment or a skilled worker provided that an alien has the required professional training in the respective field;
- for employment as a top specialist;
- spouse resides in Estonia on the basis of the Blue Card of the European Union or holds a long-stay resident's residence permit that he or she has received as a former alien who is residing in Estonia on the basis of the European Union Blue Card.
- spouse been granted a temporary residence permit in exceptional circumstances (so-called humanitarian grounds<sup>86</sup>)

#### Residence permit for settling with a close relative

<sup>83</sup> Aliens Act Article 137 (1), RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>84</sup> Aliens Act Article 137 (2), RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>85</sup> Aliens Act Article 137 (3-5), RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>86</sup> Aliens Act Article 210<sup>3</sup>, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

According to the legislation in force until 16.01.2017, if a TCN wishes to settle with a close relative, than the relative has to be Estonian citizen or a TCN permanently residing in Estonia who holds a residence permit.<sup>87</sup> Permanent residence in Estonia is considered to be the stay in Estonia of a citizen of Estonia or a close relative holding a residence permit in Estonia for at least a total of 183 days a year.<sup>88</sup>

In case the TCN is a parent or grandparent who wishes to settle with his or her adult child or grandchild who permanently resides in Estonia if the parent or grandparent needs care which he or she cannot receive in the country of his or her location or in another country and if the permanent legal income of his or her child or grandchild who legally stays in Estonia ensures the subsistence of him or her in Estonia, the close relative is required to have a long-stay resident 's residence permit.<sup>89</sup>

The requirement for prior permanent residence in Estonia will not be applied if:

- 1) the close relative has a temporary residence permit and the TCN and the close relative for the purposes of settling with whom the residence permit is applied for enter into Estonia together;
- 2) the close relative has the EU Blue Card;
- 3) the close relative has been granted a temporary residence permit in exceptional circumstances (so-called humanitarian grounds<sup>90</sup>)

#### Beneficiaries of international protection

No, for the beneficiaries of international protection there is no waiting period before a sponsor 's family members can reunite with him/her.

**Q9.** Does the national law of your (Member) State provide for a **rejection of an application** for entry and residence of family members on grounds of public policy, public security or public health?<sup>91</sup> Y/ N

If yes, please provide data (if available) on the number of times your (Member) State has invoked this provision(s) since 2011.

#### Regular migration

Yes, according to general grounds<sup>92</sup> for refusal to issue a temporary residence permit for considerations of ensuring public order, national security (i.e. public security) and protection of public health, it is also possible to reject an application for residence permit of family members in case these grounds occur.

#### Beneficiaries of international protection

Yes, a residence permit may not be issued or extended or a residence permit may be revoked, if the family member poses a threat to national security, public safety or public order.<sup>93</sup>

These provisions have not been revoked in Estonia since 2011.<sup>94</sup>

**Q10. a.** In addition to any information you have already provided above, does your (Member) State apply the following provisions concerning the **more favourable family reunification rules for refugees:**<sup>95</sup>

<sup>87</sup> Aliens Act Article 170 (1), RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>88</sup> Police and Border Guard Board 's webpage: <https://www.politsei.ee/en/teenused/residence-permit/tahtajaline-elamisluba/alaealise-lapse-elama-asumiseks-vanema-juurde/oluline-info-alaealise-lapse-elama-asumiseks-vanema-juurde-elamisloa-taotlejale.dot#alaline>

<sup>89</sup> Aliens Act Article 170 (2), RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>90</sup> Aliens Act Article 210<sup>3</sup>, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>91</sup> Art. 6 of Directive 2003/86/EC stipulates that Member States may reject an application for entry and residence of family members on grounds of public policy, public security or public health.

<sup>92</sup> Aliens Act Article 124, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>93</sup> AGIPA Article 46 (8) p 1, RT I 2006, 2, 3... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>94</sup> Statistics from the PBGB and 23.12.2016 response from the Minsitry of the Interior.

<sup>95</sup> Art. 9-12 in Chapter V of Directive 2003/86/EC set out more favourable conditions for family reunification of refugees.

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- Application and possible extension of the grace period of (minimum) three months before the requirements for exercising the right to family reunification apply?<sup>96</sup> Y/ N

If yes, is this grace period of (minimum) three months extended and if so, for how long?<sup>97</sup> Y/ N  
For how long?

Yes, it is stipulated by law that a family member should submit an application for a residence permit at the earliest opportunity, but not later than six months as of the date issuing a residence permit to the TCN and if the family member does not submit the application in that timeframe the PBGB may demand the compliance with the requirements.<sup>98</sup> In practice the requirements are generally not imposed even if the application for a residence permit (meaning the application for international protection that the family member can submit after arriving to Estonia) is submitted after 6 months, but it is important that the beneficiary of international protection informs the PBGB in due time about the family members and the wish to reunite with them.<sup>99</sup>

- Restriction to relationships established before entry into the (Member) State?<sup>100</sup> Y/ N

If yes, please specify:

No, family members are considered a family if the family existed in the country of origin, including if the marriage that was contracted before entry into Estonia.<sup>101</sup>

- Application of a wider definition of family members (going beyond parents) when it comes to UAMs?<sup>102</sup> Y/ N

If yes, please specify:

Yes, in addition to the parents, the family members of an unaccompanied minor refugee and an unaccompanied minor person eligible for subsidiary protection is his or her guardian or other family member if he or she has no parents or if the parents cannot be traced unless this is contrary to the rights and interests of the minor.<sup>103</sup>

- Have any of these family reunification rules for refugees been changed recently?? Y/ N

If yes, please provide further information on these changes below:

No.

**b.** If applicable, does your (Member) State apply **similar rules for the family reunification of BSPs** as refugees, i.e. in relation to eligible family members, waiting period and requirements for family reunification? Y/ N

If yes, please cross-refer to the information you have provided previously on the more favourable rules applicable to refugees, stating that similar rules apply to BSPs.

If no, please explain how the rules differ for BSPs referring to the different topics covered previously (e.g. eligible family members, waiting period and requirements for family reunification).

Yes, in Estonia similar rules for family reunification apply to beneficiaries of subsidiary protection as to the refugees. The list of eligible family members is the same for refugees and beneficiaries of subsidiary protection.

<sup>96</sup> Art. 7(1) of Directive 2003/86/EC.

<sup>97</sup> Art. 7(1) of Directive 2003/86/EC.

<sup>98</sup> AGIPA Article 46 (5) and (7), RT I 2006, 2, 3.... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>99</sup> EMN interview of 28.11.2016 with the Ministry of the Interior's expert.

<sup>100</sup> Art. 9(2) of Directive 2003/86/EC.

<sup>101</sup> AGIPA Article 7 (5), RT I 2006, 2, 3.... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>102</sup> Art. 10(3)(b) of Directive 2003/86/EC.

<sup>103</sup> AGIPA Article 7 (3) p 2, RT I 2006, 2, 3.... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

There is also no difference as for the waiting period and requirements for family reunification. According to the law there is no waiting period and the PBGB may ask for a compliance with the requirements for family reunification, but in practice it has generally not been implemented.

**Q11.** Are there any differences in the requirements to be met for exercising the right to family reunification (under Directive 2003/86/EC or national law in some cases) in comparison to a similar request governed by national law by a **(Member) State national who has not exercised his/ her free movement rights** (non-mobile EU nationals)? Overall, to what extent are these requirements for exercising the right to family reunification under national law more or less favourable than those covered by Directive 2003/86/EC?

According to the provisions in force until 16.01.2017 the family reunification can be applied to settle with a spouse or a close relative who has a residence permit and has been residing in Estonia on the basis of a residence permit for at least two years (the requirement will be abolished in 2017 – see Q 2). Already now the 2 year prior residence requirement does not apply to the EU citizens and their family members and there are other exceptions of the two year prior residence requirement (see Q 8).

As a general rule an alien shall submit an application for a temporary residence permit at a foreign mission of Estonia which shall send it, if necessary, to the Police and Border Guard Board for proceedings after the person has been identified or the identity verified and after the taking of biometric data.<sup>104</sup> Although this regulations is subject to change in 18.01.2017 allowing to submit the application in PBGB for everyone arriving legally to Estonia, the spouse of Estonian citizen, a minor child and an adult child who due to health conditions or disability is not able to cope independently may apply for a temporary residence permit at the PBGB also according to the current legislation.<sup>105</sup>

Requirements that are more favorable than directive 2003/86:

Estonian legislation does not require that a foreigner will receive a permanent residence permit as stated in article 3 of the directive 2003/86. A sponsor, who stays in Estonia temporarily (long-stay visa) can bring his/her family members to Estonia or the family members can follow to the sponsor in the same conditions. Requirement is that family and marriage is legal.<sup>106</sup>

Also, an adult child can apply a residence permit in order to settle with a parent if the child is unable to cope independently due to health reasons or a disability.<sup>107</sup>

Integration (knowledge of language) measure is obligatory only in the circumstances if a third-country national applies for a long-term residence permit (directive 2009/109/EC).<sup>108</sup>

**Q12. a.** Please indicate any **challenges** experienced by i) sponsors and/ or family members associated with accessing the right to family reunification, and/ or ii) your (Member) State in the implementation of any of the above requirements for family reunification (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders) and how these can be overcome.

#### Regular migration

One of the challenges has been the detecting of sham marriages. As the right to live a family life is a fundamental right, the evidence to prove a sham marriage have to be thorough in order to restrict this right. Gathering sufficient evidence to prove with certainty that a marriage is a sham marriage, has been difficult.<sup>109</sup>

<sup>104</sup> Aliens Act Article 215, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>105</sup> Aliens Act Article 216 (1) p1, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>106</sup> Response of the Ministry of the Interior to the EMN's inquiry of 14.11.2016

<sup>107</sup> Response of the Ministry of the Interior to the EMN's inquiry of 14.11.2016

<sup>108</sup> Response of the Ministry of the Interior to the EMN's inquiry of 14.11.2016

<sup>109</sup> EMN interview of 31.10.2016 with the PBGB's expert.

There have been cases where persons wanting to reunite with their family member(s) are not family members according to law. For example when a grandparent is living in Estonia and a child or a grandchild wishes to reunite with the grandparent living in Estonia.<sup>110</sup>

Beneficiaries of international protection:

As the requirements for family reunification have not been implied in practice for beneficiaries of international protection, there have not been any challenges in this regard.<sup>111</sup>

**b.** Please provide any examples of proven (e.g. through studies/ evaluations) **good practices** that might help to overcome the above-mentioned challenges or otherwise. Please specify the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).

A good solution has proven to be a new regulation in the Aliens Act<sup>112</sup> according to which in exceptional circumstances an alien may be granted a temporary residence permit issued for settling permanently in Estonia if the alien is staying in Estonia and in the course of the proceedings relating to the entry of an alien into Estonia, his or her temporary stay, residence and employment in Estonia or the obligation to leave Estonia of an alien it has become evident that requiring an alien to leave Estonia would be unduly burdensome to him or her, the alien lacks the possibility of getting the residence permit in Estonia on another basis and the alien does not constitute a threat to public order and national security.

Previously in every situation, which was not covered by law, but where humanitarian grounds were needed, the PBGB had to find an ad-hoc solution.<sup>113</sup>

**Q13.** Is any research (conducted by relevant authorities, academics, NGOs etc.) on the following available in your (Member) State:

- Effects of the requirements for family reunification as applied in your (Member) State on the right to family reunification and integration of TCNs? Y/ N
- Effects of the integration measures as applied in your (Member) State on the right to family reunification and integration of TCNs? Y/ N
- Effects of the minimum age requirement<sup>114</sup> as applied in your (Member) State on the prevention of forced marriages or any misuse of family reunification (e.g. marriages of convenience)? Y/ N

If yes to any of the above, please briefly describe the main findings and conclusions of this research and provide a full reference to the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).

N/A

#### Section 4: Submission and examination of the application for family reunification [maximum 5-10 pages]

*This section of the Synthesis Report will report on the process for submitting and examining an application for family reunification in the (Member) States or abroad covered by Chapter III of Directive 2003/86/EC, including the procedures for verifying the fulfilment of the requirements/ measures listed in Section 3 above. You may wish to include flow chart(s) visually illustrating the application process for family reunification in your (Member)*

<sup>110</sup> EMN interview of 31.10.2016 with the PBGB's expert.

<sup>111</sup> Response of the Estonian Refugee Council to the EMN's inquiry of 11.11.2016

<sup>112</sup> Aliens Act Article 210<sup>3</sup>, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>113</sup> EMN interview of 31.10.2016 with the PBGB's expert.

<sup>114</sup> Art. 4(5) of Directive 2003/86/EC stipulates that Member States may require the sponsor and his/ her spouse to be of a minimum age, and at maximum 21 years, before the spouse is able to join him/ her, in order to ensure better integration and to prevent forced marriages.

State. **If applicable, please distinguish to what extent any of the provisions apply to certain/ all groups of migrants applying for family reunification in your (Member) State depending on the grounds of residence of the sponsor (e.g. refugee, BSP, worker, student, etc.). If the provisions vary across different groups of migrants, please describe the variations. Please note that emphasis should be on the application of these provisions and where applicable, relevant national case law should be provided.**

**Q14.** Please describe the **procedure(s) that apply to the sponsor or his/ her family members** when an application for entry and residence for the purpose of family reunification is submitted, as follows:

**a.** Who is the formal party to an application for family reunification in your (Member) State: the sponsor or his/ her family members?<sup>115</sup>

#### Regular migration

The formal party to an application for family reunification is the family member except in case of minors. Starting from the age of 15 a person may apply himself or herself for a residence permit.

#### Beneficiaries of international protection

In Estonia in case of beneficiaries of international protection the sponsor and his/her family members are both parties to the application for family reunification. Firstly the beneficiary of international protection (so-called sponsor) submits an application (a form established by the PBGB) for family reunification to the PBGB together with the copies of the identity documents and copies of birth or marriage certificates. The PBGB makes a decision in 30 days about whether the mentioned family members qualify as the family members by law. The PBGB investigates the information provided and if necessary makes an interview with the beneficiary of international protection. After the first positive decision on family reunification, the family member has to apply for a visa from the foreign representation of Estonia. The beneficiary of international protection and the family member receive assistance on how and where to apply for a visa from the support person. After receiving the visa, the family member can travel to Estonia. When (s)he arrives to Estonia the family member has the obligation to submit as soon as possible an application for international protection (personal data form in international protection procedures) and (s)he has to fill in the form about close relatives and family members. The reasoning of the application may be to unite with a family member. The PBGB assesses the application to make sure if the family member is in need of international protection or only a residence permit to live with a family member and makes a decision within 6 months (usually significantly quicker than 6 months) as of the submission of the application for international protection. If the family member receives only a residence permit for family members (without international protection), the validity of the temporary residence permit issued to him or her cannot exceed the validity of the temporary residence permit issued to the family member who received international protection. After receiving a positive decision, the family member has to apply for residence card.<sup>116</sup>

**b.** If the sponsor's family members must submit an application for family reunification, where can this application be submitted (e.g. consulate of the (Member) State abroad, possibility to submit the application in the (Member) State, etc.)?

#### Regular migration

Up to 16.01.2017 the standard application together with the necessary documents can be submitted either at a foreign representation of the republic of Estonia, by post or in exceptional cases at the Service Office of the PBGB in Estonia. Starting from 17.01.2017 the application together with the necessary document can be submitted

<sup>115</sup> Art. 5 of Directive 2003/86/EC specifies that Member States determine whether, in order to exercise the right to family reunification, an application for entry and residence must be submitted to the competent authorities by the sponsor or his/ her (family) members.

<sup>116</sup> EMN interview of 28.11.2016 with the Ministry of the Interior's expert.

either at a foreign representation of Estonia, by post or at the Service Office of the PBGB in Estonia in cases where the third-country national has a legal basis to arrive to Estonia (visa, visa-free travel etc.).

The third-country national who is applying for the temporary residence permit has to submit the application personally together with the necessary documents.<sup>117</sup> The sponsor has to submit the invitation and there is no obligation to do it personally.

In practice it is possible to apply for the residence permit at the foreign representation of Estonia and receive the residence card there. It is also possible to apply for the residence permit at the foreign representation and to receive the residence card in Estonia. It is possible to apply for a c-visa and apply for the residence permit while in Estonia. In case the person applies for a visa, in some cases it is possible to apply for it in visa center and therefore the third-country national does not have to go personally to a foreign representation of Estonia.<sup>118</sup>

#### Beneficiaries of international protection

Firstly the beneficiary of international protection (so-called sponsor) submits an application for family reunification to the Police and Border Guard Board in Estonia. When the PBGB has agreed to the family reunification, the family member will apply for a visa at the foreign representation of Estonia. After the family member has received the visa, (s)he can travel to Estonia.

When the family member of the beneficiary of international protection arrives to Estonia, (s)he has to submit personally the application for international protection (personal data form in international protection procedures) and (s)he has to fill in the form about close relatives and family members.

**c. What documentary evidence is required from the applicant to confirm i) his/ her identity and ii) the family relationship?**

#### Regular migration

##### Settling with a spouse

i) An identity document

ii) A document which certifies that an applicant and the person inviting him or her are married, if they were married in a foreign state, not in Estonia; a written explanation about previous marriages; a written invitation from the spouse settling with whom the residence permit is applied for.<sup>119</sup>

##### Settling of a minor child with the parent

i) An identity documents of the child, if (s)he has one and of the parent;

ii) invitation by the parent; data of close relative and family members; child's birth certificate, if the birth was registered abroad, not in Estonia; if the child's name in the birth certificate differs from the name in the identity document, a document certifying the change of the name if the parent's name in the child's birth certificate differs from the name in the parent's identity document, a document certifying the change of the name of the parent (e.g. certificate of marriage), if the name was changed in a foreign country, not in Estonia; an identity document of the legal representative. Additionally, the signed consent which is certified notarially or officially at a foreign representation of the Republic of Estonia, of a parent, who is not moving to Estonia or is permanently residing in a foreign country, for his or her minor child settling in Estonia (the consent must be valid at least two months after the granted), except if the parent who is not moving to Estonia submits the application for residence permit on behalf of his or her minor child or is present at the Service Office upon submission of the application and grants his or her written consent upon the submission of the application.<sup>120</sup>

<sup>117</sup> Aliens Act Article 213 (1), RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>118</sup> EMN interview of 31.10.2016 with the PBGB's expert.

<sup>119</sup> Article 10 of the Regulation of the Minister of the Interior number 83, RT I, 29.12.2015, <https://www.riigiteataja.ee/akt/129072016003>

<sup>120</sup> Police and Border Guard Board's webpage: <https://www.politsei.ee/en/teenused/residence-permit/tahtajaline-elamisluba/alaealise-lapse-elama-asumiseks-vanema-juurde/> (visited 15.12.2016)

Settling of an adult child with the parent

- i) An identity documents of the child, if (s)he has one and of the parent.
- ii) invitation by the parent; data of close relative and family members; child's birth certificate, if the birth was registered abroad, not in Estonia; if the child's name in the birth certificate differs from the name in the identity document, a document certifying the change of the name; if the parent's name in the child's birth certificate differs from the name in the parent's identity document, a document certifying the change of the name of the parent (e.g. certificate of marriage), if the name was changed in a foreign country, not in Estonia; an identity document of the parent; a document, which certifies that the adult child is not able to cope on his/her own due to his/her state of health or disability.<sup>121</sup>

Settling of a ward with the guardian

- i) identity documents of the ward and the guardian
- ii) invitation by the guardian; data of close relatives and family members; a document certifying the establishment of guardianship.<sup>122</sup>

Settling of a parent/grandparent with the child/grandchild

- i) identity document
- ii) invitation by child or grandchild; data of close relative and family members; documents certifying kinship; a document that certifies the state of health, if the need for care proceeds from the state of health of the applicant.<sup>123</sup>

Document annexed to an application that is issued in a foreign country has to be translated into Estonian, English or Russian and notarized certification of the translation is required.

The document needs to be certified with an apostille certificate (marginal note) or legalized, except in cases, if it has been issued by a country:

- with which Estonia has signed a contract of legal assistance: Lithuania, Latvia, Poland, Ukraine, Russia.
- who are subjects to the Convention on the issue of multilingual extracts from civil status records, signed at Vienna in 1976: Austria, Belgium, Bosnia, Bulgaria, Cape Verde, Spain, the Netherlands, Croatia, Italy, Lithuania, Luxembourg, Macedonia, Moldavia, Montenegro, Poland, Portugal, France, Germany, Romania, Serbia, Slovenia, Switzerland and Turkey;
- who are subjects to the Brussels 1987 Convention and who are temporary applying the Brussels Convention: Belgium, Ireland, Italy, Latvia, France, Denmark.<sup>124</sup>

There is no obligation to submit the supplementary documents in case the information is already in the national databases.<sup>125</sup> E.g. in case the document has already been inserted into the Population Register, there is no need to submit the marriage or birth certificate again.

Beneficiaries of international protection

- i) An identity document
- ii) Birth certificate, marriage certificate, family book etc.

In case of family members of beneficiaries of international protection, the requirements for documents are less

<sup>121</sup> Police and Border Guard Board's webpage: <https://www.politsei.ee/en/teenused/residence-permit/tahtajaline-elamisluba/taisealise-lapse-elama-asumiseks-vanema-juurde/> (visited 15.12.2016)

<sup>122</sup> Police and Border Guard Board's webpage: <https://www.politsei.ee/en/teenused/residence-permit/tahtajaline-elamisluba/eestkostetava-elama-asumiseks-eestkostja-juurde/> (visited 15.12.2016)

<sup>123</sup> Police and Border Guard Board's webpage: <https://www.politsei.ee/en/teenused/residence-permit/tahtajaline-elamisluba/vanemavanavanema-elama-asumiseks-lapselapselapse-juurde/> (visited 15.12.2016)

<sup>124</sup> Police and Border Guard Board's webpage: <https://www.politsei.ee/en/teenused/residence-permit/tahtajaline-elamisluba/abikaasa-juurde/oluline-info-abikaasa-juurde-elamisloa-taotlejale.dot#valisriik> (visited 15.12.2016)

<sup>125</sup> Article 3 of the Regulation of the Minister of the Interior number 83, RT I, 29.12.2015, <https://www.riigiteataja.ee/akt/129072016003>

strict and the authorities may accept the documents for family reunification without the official document confirming the marriage or birth if it is possible to prove the family ties in other ways.<sup>126</sup>

**d.** What methods of investigation are employed by the competent authorities in your (Member) State in the absence of (reliable) documentation?

#### Regular migration

In case of regular migration reliable documentation has to be submitted in order to receive a residence permit. In some cases exceptions can be made, e.g. if the TCN is unable to provide a birth certificate, the embassy can confirm in a written form their citizens birth.<sup>127</sup>

According to law<sup>128</sup> it is also possible to take DNA samples from foreigners for conducting the proceedings and the respective data may be processed unless it is possible to identify a person otherwise. In practice it is considered an expensive method and therefore is not used.<sup>129</sup>

#### Beneficiaries of international protection

There is no possibility to accept family members who do not have travel documents. In case other confirming documents are missing, it is possible to make interviews with the beneficiary of international protection and with the family members in order to verify the family ties. One method is to compare significant data and analyze circumstantial evidence (e.g. photos or other documents implicating the family ties). According to law it is also possible to take DNA test, but in practice it has not been done. There are no established methods in absence of documentation as in practice these cases have been very rare and have been solved in a case by case basis taking into account individual circumstances.<sup>130</sup>

**Q15.** Please describe the **procedure(s) that apply to family members** when an application for entry and residence for the purpose of family reunification is submitted, as follows:

**a.** What is the procedure in place in your (Member) State to verify that any **extended family members** have fulfilled the requirements for family reunification (e.g. dependency)? At what stage(s) of the examination procedure is this verified?

Are there any exemptions from fulfilling these conditions and if yes, on what grounds are they granted?

#### Regular migration

As a general rule the fulfillment of requirements for family reunification has to be proven with relevant documentation.

In case a parent or grandparent wishes to settle with a child a document that certifies the state of health, if the need for care proceeds from the state of health of the applicant has to be submitted.<sup>131</sup> The main aspect that is being assessed for parents and grandparents is their health condition and if they have other children or grandchildren in their country of origin in which case it is doubtful that the person should receive a residence permit because of dependency of the family member living in Estonia.<sup>132</sup>

In case an adult child wishes to reunite with a parent, a document, which certifies that the adult child is not able

<sup>126</sup> EMN interview of 28.11.2016 with the Ministry of the Interior's expert.

<sup>127</sup> EMN interview of 31.10.2016 with the PBGB's expert.

<sup>128</sup> Aliens Act Article 275, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>129</sup> EMN interview of 31.10.2016 with the PBGB's expert.

<sup>130</sup> EMN interview of 28.11.2016 with the Ministry of the Interior's expert.

<sup>131</sup> Police and Border Guard Board webpage: <https://www.politsei.ee/en/teenused/residence-permit/tahtajaline-elamisluba/vanemavanavanema-elama-asumiseks-lapselapselapse-juurde/> (visited 15.12.2016)

<sup>132</sup> EMN interview of 31.10.2016 with the PBGB's expert.

to cope on his/her own due to his/her state of health or disability has to be submitted.

In case ward wishes to settle with a guardian a document certifying the establishment of guardianship has to be submitted.

During the procedure the PBGB is required to establish the facts relevant to the matter and, if necessary, collect evidence on its own initiative for such purpose.<sup>133</sup>

The relevant documents should be submitted together with the application for residence permit. In case the documents are not submitted together with the application, the PBGB requests for the additional documents after receiving the application and before deciding on the issuing of the residence permit.

#### Beneficiaries of international protection

As a general rule the requirements are verified while the PBGB is processing the application submitted by the beneficiary of international protection. In case the beneficiary of international protection has not applied for family reunification, but the family member has arrived to Estonia with a visa and applies then for a temporary residence permit to settle with the close relative, the dependency is assessed while the person is already in Estonia. There are no general rules or regulations for verifying the fulfilment of the requirements for dependency. As a general rule documentary evidence (e.g. medical certifications, proof of bank transaction to demonstrate dependency etc), should be provided together with the submitted application, but individual circumstances are taken into account.<sup>134</sup>

**b.** Please describe the procedure in place in your (Member) State to verify that the following **requirements for family reunification** have been fulfilled:

- Please specify how the health and safety standards, as well as the size of the accommodation are determined as suitable in practice:

#### Regular migration

The size, health and safety standards are not assessed. The PBGB makes inquiries to relevant databases (Land Register, Population Register) to ensure that the accommodation may be used as a place of residence.<sup>135</sup>

- Please specify the conditions under which sponsors have access to healthcare insurance (e.g. by having employment/ self-employment or is this access automatic)?

#### Regular migration

TCNs residing in Estonia on the basis of temporary residence permit are not subject to public health insurance, but there are many possibilities how the sponsor can have access to healthcare insurance. Everyone who is staying in Estonia on the basis of a temporary residence permit or right of residence have the right for health insurance if the social tax is paid for them.<sup>136</sup>

It is possible to acquire health insurance through employment/self-employment or the third-country national may register himself or herself in the Estonian Unemployment Insurance Fund as unemployed or a job-seeker and thereby receive health insurance cover. It is also possible to gain access to health insurance by purchasing a

<sup>133</sup> Administrative Procedure Act Article 6, RT I 2001, 58, 354... RT I, 25.10.2016, 5, available: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>134</sup> EMN interview of 28.11.2016 with the Ministry of the Interior's expert.

<sup>135</sup> EMN interview of 31.10.2016 with the PBGB's expert.

<sup>136</sup> Estonian Health Insurance Fond webpage: <https://www.haigekassa.ee/en/individual/health-insurance/options-obtain-health-insurance>

private health insurance cover. If a sponsor is occupied with vocational studies or is a student in Doctoral studies, the social tax is paid by the state and they have public health insurance.<sup>137</sup>

- Please specify the following in relation to the minimum income requirement sponsors must meet in your (Member) State:
  - The amount of the minimum income requirement in the relevant currency and year:

The amount of income of 6 months prior to the submission of an application has to be proved. If the income comprises of salary paid in Estonia, no proof is needed as the PBGB can make an inquiry to the Tax and Customs Board.<sup>138</sup> The amount of income is calculated on the basis of the number of all family members.

**Starting from 1st of January 2016<sup>139</sup> upon application for a temporary residence permit for settling with close relative residing in Estonia the total legal income of the sponsor family and the applicant must meet at least the following rates:**

Size of your family	Your family's legal income per month EUR	Your family's legal income during the past 6 months EUR
1 member	130	780
2 members	234	1404
3 members	338	2028
4 members	442	2652
5 members	546	3276
6 members	650	3900
7 members	754	4524
8 members	858	5148
9 members	962	5772
10 members	1066	6396

**Upon application for a temporary residence permit for settling with a spouse or a temporary residence for study the legal income of a family must meet at least the following rates :**

<sup>137</sup> EMN Focused Study: Integration of Beneficiaries for International Protection into the Labour Market in Estonia, [http://emn.ee/wp-content/uploads/2016/03/emn\\_integration\\_of\\_beneficiaries\\_for\\_international-EE-report-eng-final-26-01-2016.pdf](http://emn.ee/wp-content/uploads/2016/03/emn_integration_of_beneficiaries_for_international-EE-report-eng-final-26-01-2016.pdf)

<sup>138</sup> EMN interview of 31.10.2016 with the PBGB's expert.

<sup>139</sup> Police and Border Guard Board webpage: <https://www.politsei.ee/en/teenused/residence-permit/tahtajaline-elamisluba/abikaasa-juurde/oluline-info-abikaasa-juurde-elamisloa-taotlejale.dot#valisriik> (visited 15.12.2016)

*Family Reunification of TCNs in the EU: National Practices*

Size of your family	Your family's legal income per month EUR	Your family's legal income during the past 6 months EUR
1 member	264	1584
2 members	475	2850
3 members	686	4116
4 members	897	5328
5 members	1108	6648
6 members	1319	7914
7 members	1530	9180
8 members	1741	10446
9 members	1952	11712
10 members	2163	12978

- If your (Member) State sets a different income requirement depending on the type of family member being reunited (e.g. minor children):

Regular migration

No, there is no difference.

- The reference period over which this requirement is considered:

Regular migration

Six months.

- How any past/ future income of the sponsor is evaluated in practice:

Regular migration

In practice mostly past income of the sponsor is evaluated. If the sponsor has had sufficient income past six months, it is assumed that the family will manage. The following types of income are deemed to be legal: lawfully earned remuneration for labour, parental benefit, unemployment insurance benefit, income received from lawful business or property, pension, scholarship, support payment, benefits paid by a foreign state, the maintenance ensured by family members earning legal income. Also the possible future income is taken into

account (e.g. work contracts) in case there is doubt if the sponsor is able to support the family member. The income is evaluated again in case of extension of the temporary residence permit.<sup>140</sup> The amount of income is calculated according to the number of all family members.

- Whether any exemption grounds apply and to what extent non-compliance has consequences for the right to family reunification:

#### Regular migration

There have been some exceptions in case of non-compliance of the requirement of sufficient income (mostly in case of Estonian citizens).<sup>141</sup>

- At what stage(s) of the examination procedure are the above requirements verified?

The officials of Police and Border Guard Board verify that the above mentioned requirements are fulfilled before the residence permit is issued.

**c.** Please describe the procedure in place in your (Member) State to ensure **integration measures** have been complied with, for example, if an application form for civic integration exam(s)/ language test(s) must be submitted to the authorities, etc. Please specify what exemption grounds apply and to what extent non-compliance has consequences for the right to family reunification.

Integration measures do not apply to family members before receiving the temporary residence permit.

**d.** If the above conditions are not (completely) fulfilled, how does your (Member) State guarantee that individual circumstances are taken into account (e.g. nature and solidity of the person's family relationship)?<sup>142</sup>

N/A

**e.** What is the procedure in place in your (Member) State to verify whether or not the family member(s) constitute a **threat to public policy, public security or public health**?

#### Regular migration

A background check is conducted to the family member. Relevant national and international databases are checked. The persons applying for a temporary residence permit are obliged to report about punishments under criminal procedure if the punishment was imposed on the third-country national by a law enforcement authority of a foreign state.<sup>143</sup> It is also possible to contact the authorities of the country of origin in order to receive information.

A threat to public security is assessed by the Estonian Internal Security Service.

#### Beneficiaries of international protection

A background check is conducted to the family member. Relevant national and international databases are checked. The persons applying for a temporary residence permit are asked whether they have been penalized and asked for an explanation.

<sup>140</sup> EMN interview of 31.10.2016 with the PBGB's expert.

<sup>141</sup> EMN interview of 31.10.2016 with the PBGB's expert.

<sup>142</sup> This is laid down in Article 17 of Directive 2003/86/EC, as well as the principles of effectiveness and proportionality (as interpreted by the CJEU in K. and A., paragraph 60 and O.S and L, paragraph 81) and the EU Charter of Fundamental Rights (O.S. and L, paragraphs 77, 78 and 80).

<sup>143</sup> Aliens Act Article 280 (2), RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: www.riigiteataja.ee

A threat to public security is assessed by the Estonian Internal Security Service.

f. How does your (Member) State define the **term 'minor child'** and how are the **best interests of the child** taken into account during the examination of the application for family reunification?<sup>144</sup>

#### Regular migration

A minor child is a person under 18 years of age. A person who is married, has a separate family or leads an independent life is not deemed to be a minor child.<sup>145</sup>

Upon the issue of a temporary residence permit to a minor child to settle with his or her parent the rights and interests of the child are taken into consideration. The residence permit of a minor child is not cancelled and extension thereof is not refused if this does not correspond to the rights and interests of the child. If the settling of the child in Estonia damages his or her rights and interests and if his or her legal, financial or social status may deteriorate as a result of settling in Estonia, the temporary residence permit is not issued. In case of shared custody the consent of the party sharing custody is necessary before issue of a residence permit. If a minor child has been issued a residence permit to settle with a close relative and reaches the age of majority during the period of validity of the residence permit, his or her residence permit shall be valid until its expiry. Upon reaching the age of majority an alien who has been issued a temporary residence permit to settle with a close relative as a minor may be issued a residence permit under the conditions and with the period of validity which are not related to the close relative for the purposes of settling with whom the residence permit is issued. In that case the conditions and requirements for the issue of a residence permit that are to be met for the issue of a temporary residence permit on any basis shall be applied upon the issue of a temporary residence permit to an alien.<sup>146</sup>

#### Beneficiaries of international protection

A minor child is a person under the age of 18. The officials are trained to notice the signs in case the child is not safe and to inform the specialist.<sup>147</sup> As there is very little practice in this field, there are no specific guidelines or methods for assessing the best interests of the child.<sup>148</sup>

g. Please describe what is involved in an assessment for family reunification where **children** are concerned, for example, DNA testing, etc. At what stage(s) of the examination procedure is this assessed?

DNA testing has not been done in practice in Estonia. When assessing the family reunification where children are concerned, the signed consent of the parent, who is not moving to Estonia is of crucial importance.

In case of beneficiaries of international protection each case concerning a child is dealt with individually. It is possible to make interviews with the beneficiary of international protection with whom the child is reuniting in order to verify the family ties. One method is to compare significant data and analyze circumstantial evidence (e.g. photos or other documents implicating the family ties).<sup>149</sup>

**Q16.** Taking the different steps above into account, what is the **duration** of the procedure deciding on an application for family reunification in your (Member) State – both according to law and in practice:

- Legal time limit for deciding upon an application (if any)?

#### Regular migration

<sup>144</sup> Art. 5 of Directive 2003/86/EC

<sup>145</sup> Aliens Act Article 4, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>146</sup> Aliens Act Article 154, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>147</sup> EMN interview of 28.11.2016 with the Ministry of the Interior's expert.

<sup>148</sup> EMN interview of 05.12.2016 with the PBGB's expert.

<sup>149</sup> EMN interview of 28.11.2016 with the Ministry of the Interior's expert.

The application for temporary residence permit is reviewed and a decision about granting a temporary residence permit or refusal to give a temporary residence permit is done within two months as of the submission of the application or after the elimination of the deficiencies in the application.<sup>150</sup>

#### Beneficiaries of international protection

The application submitted by the beneficiary of international protection will be reviewed and a decision will be provided within 30 calendar days after the date of registration thereof. Under special circumstances, the term may be extended to up to two months depending on the complexity of the case. The person shall be informed of extension of the term for response, and of the reasons for extension.<sup>151</sup>

The application for international protection that the family member has to submit when (s)he has arrived to Estonia shall be reviewed as soon as possible, but no later than six months after the PBGB has received the application.<sup>152</sup>

- Average duration of the procedure in practice?

#### Regular migration

The average duration of the procedure is 54 calendar days (statistics for first 9 months of the year 2016 for all the temporary residence permits).

#### Beneficiaries of international protection

No statistics available on the duration of the procedure for family reunification for beneficiaries of international protection. The procedure for family members is authentic to the international protection procedure, the application form for family members and applicants for international protection is the same and therefore there is no statistics available for only family members.

- Have any specific measures been taken by your (Member) State to shorten processing times?

Nothing to report.

**Q17. a.** Please indicate any **challenges** experienced by i) sponsors and/ or family members throughout the above-mentioned procedure(s), and/ or ii) your (Member) State in the implementation of the examination procedure (e.g. based on existing studies/ evaluations or information received from relevant authorities and stakeholders) and how these can be overcome.

#### Challenges regarding beneficiaries of international protection

According to the Estonian Refugee Council the main challenge from the sponsor's/family member's perspective has been access to Estonian foreign representations and the cost of the travel. Additionally, although the process of family reunification is clear in practice, one of the limitations is that the process has not been regulated by law. The AGIPA regulates the situation where the family member is already in Estonia and defines who is regarded as a family member, but the process itself starting from when the beneficiary on international protection expresses the wish for his/her family to be reunited in Estonia, is not described by AGIPA.<sup>153</sup>

<sup>150</sup> Article 28 of the Regulation of the Minister of the Interior number 83, RT I, 29.12.2015, <https://www.riigiteataja.ee/akt/129072016003>

<sup>151</sup> Response to Memoranda and Requests for Explanations and Submission of Collective Addresses Act Article 6, RT I 2004, 81, 542... RT I, 25.10.2016, 16, available at: [riigiteataja.ee](http://riigiteataja.ee)

<sup>152</sup> AGIPA Article 18<sup>1</sup> (1), RT I 2006, 2, 3... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>153</sup> Response of the Estonian Refugee Council to the EMN's inquiry of 11.11.2016

One of the challenges is that being a small country, Estonia does not have many embassies. It is difficult to manage reunification procedures via representations of other Schengen area states representing Estonia to conduct extra proceedings (e.g. interviews) with people who want to join with their family members in Estonia.<sup>154</sup>

**b.** Please provide any examples of proven (e.g. through studies/ evaluations) **good practices** that might help to overcome the above-mentioned challenges or otherwise. Please specify the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).

The Estonian Refugee Council has pointed out as good practice when the family members reach Estonian foreign representations and the representations have received the information about the family member in advance, they are often ready to process visa applications in expedited procedure.

The Estonian Refugee Council has helped to raise money for travel costs of the family members. For that purpose they have asked for donations from private person (up to 50% of the necessary funds, the rest has to be covered by the family).<sup>155</sup>

The support persons have been of great assistance to people applying for family reunification in matters of communication with the PBGB as well as with the Foreign Ministry. They have provided information about the process, which documents are needed and where to apply for a visa.<sup>156</sup>

## Section 5: Access to rights following family reunification [maximum 5 pages]

*This section of the Synthesis Report will provide a comparative overview of the rights that follow on from family reunification in the (Member) States, notably access to education, employment, vocational guidance and training, and right to apply for autonomous right of residence. The aim of this section is to report on measures available specifically to **persons admitted for the purpose of family reunification** and not duplicate information covered in other EMN studies on general integration measures. **If applicable, please distinguish to what extent any of the provisions apply to family members of persons belonging to all groups of migrants, or only certain groups (e.g. family members of refugees, BSPs, workers, students, etc.). If the provisions vary for family members of persons belonging to different groups of migrants, please describe the variations.***

**Q18.** Are family members entitled (in the same way as the sponsor) to access the following rights<sup>157</sup> in your (Member) State (please also comment on any *planned* changes in the national legislation/ policy/ practice):

**a. Access to education?** Y/ N

If yes, please indicate whether any special measures to support access to education are available specifically to family members, e.g. language assistance, guidance regarding the national education system, etc.

Yes, family members have access to education on the same grounds as the sponsors.

Family members who have received a temporary residence permit under the Aliens Act as well as family members who have received a temporary residence permit under the AGIPA have the right to participate in the studying module of the Welcoming Programme. The purpose of the studying module is to help foreigners to

<sup>154</sup> EMN interview of 28.11.2016 with the Ministry of the Interior's expert.

<sup>155</sup> Response of the Estonian Refugee Council to the EMN's inquiry of 11.11.2016

<sup>156</sup> EMN interview of 28.11.2016 with the Ministry of the Interior's expert.

<sup>157</sup> Art. 14 of Directive 2003/86/EC in your (Member) State stipulates that family members are entitled (the same way as the sponsor) to access education, employment and self-employed activity, as well as vocational guidance and training. Art. 15 of Directive 2003/86/EC additionally specifies that family members are entitled to apply for autonomous right of residence after no later than five years, independent of that of the sponsor (also in case of dissolution of family ties).

adjust in the Estonian society through acquiring knowledge and to present a thorough overview of starting studies in Estonia, the study process and post-study activities.<sup>158</sup>

In addition to the possibility to participate in the Welcoming Programme, the family members of beneficiaries of international protection may receive assistance from the support persons service or workers from Vao accommodation center in case they are living there.

For information about higher education it is possible to visit a website Study Estonia: <http://www.studyinestonia.ee/study>

**b. Access to employment and self-employed activity?<sup>159</sup> Y/ N**

If yes, please specify whether the access available to family members is limited in any way, for example, if such access is restricted for up to 1 year and/ or limited to a maximum number of days per year, if this right is automatic or conditional upon obtaining a work permit, etc.

Yes, family members who have received a temporary residence permit under the Aliens Act as well as under the AGIPA have access to employment and self-employed activity.

Foreigners, who are residing in Estonia on the basis of residence permit, are in general permitted to work in Estonia. Starting from 01.10.2010 and for students from 01.09.2013 separate work permits are not issued in Estonia any more.<sup>160</sup>

However, the Civil Service Act<sup>161</sup> provides a specific exception in this respect – according to the Civil Service Act only Estonian citizens and citizens of EU Member States may be employed in civil service in Estonia. Also, the Civil Service Act includes a list of occupations<sup>162</sup> that may only be filled by a citizen of the Republic of Estonia.

Beneficiaries of international protection

Foreign nationals who have been granted international protection in Estonia may work in Estonia on the same grounds as permanent residents of Estonian and they do not need a separate permit for work.<sup>163</sup> In addition, refugees and beneficiaries of subsidiary protection are not differentiated in relation to their access to Estonian labour market.

However, the Civil Service Act<sup>164</sup> provides a specific exception in this respect – according to the Civil Service Act only Estonian citizens and citizens of EU Member States may be employed in civil service in Estonia. Also, the Civil Service Act includes a list of occupations<sup>165</sup> that may only be filled by a citizen of the Republic of Estonia.

**c. Access to vocational guidance and training? Y/ N**

<sup>158</sup> Welcoming Programme webpage: <https://www.settleinestonia.ee/mod/page/view.php?id=111>

<sup>159</sup> In addition to Directive 2003/86/EC, there are further Legal Migration Directives containing specific provisions on access to employment of family members of certain sponsors, for example, family members of Blue Card holders or ICTs. Please elaborate on such specificities in the above answer.

<sup>160</sup> Police and Border Guard Board 's webpage: <https://www.politsei.ee/en/teenused/working-in-estonia/>

<sup>161</sup> Civil Service Act, Article 14 (1) 2, RT I, 06.07.2012, 1, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>162</sup> Certain positions, such as posts related to the directing of the authorities, the exercise of state supervision, the national defence and judicial power, the processing of state secrets or classified information of foreign states, the representing of public prosecution or diplomatic representation of the state, and the posts in which an official has the right, in order to guarantee public order and security, to restrict the fundamental rights and freedom of a person, may only be filled by Estonian citizens. The Public Service Act, Art. 14 paragraph 2

<sup>163</sup> AGIPA Article 45, RT I 2006, 2, 3.... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>164</sup> Civil Service Act, Article 14 (1) 2, RT I, 06.07.2012, 1, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>165</sup> Certain positions, such as posts related to the directing of the authorities, the exercise of state supervision, the national defence and judicial power, the processing of state secrets or classified information of foreign states, the representing of public prosecution or diplomatic representation of the state, and the posts in which an official has the right, in order to guarantee public order and security, to restrict the fundamental rights and freedom of a person, may only be filled by Estonian citizens. The Public Service Act, Art. 14 paragraph 2

If yes, please describe what the access to vocational guidance and training entails, for example, whether special guidance and training programmes are provided to family members or whether they have access to the general measures.

Yes, they have access to general measures on the same grounds as other legally staying third-country nationals. If the family members is interested in studying in one of Estonian higher or vocational education institutions, (s)he must fulfill the general entrance requirements on the same grounds as all other applicants. Studying in a public vocational education institution or a public higher education institution is free of charge for permanent residents of Estonia.

For family members who have been granted residence permit according to the AGIPA, Vao Centre, local authorities and non-profit organisations that offer the support person service have been assisting the beneficiaries of protection and their family members in finding information on interesting prospects in vocational education and training system.

In addition to vocational education prospects, the family members have a possibility to participate in continuing vocational training organised for unemployed persons and job-seekers by the Estonian Unemployment Insurance Fund. In order to benefit from the training service of the Estonian Unemployment Insurance Fund, the family member must be registered as an unemployed or a job-seeker with the Fund.<sup>166</sup>

**d. Right to apply for autonomous right of residence** independent of that of the sponsor (also in case of dissolution of family ties)? Y/ N

If yes, please specify if the access to this right differs depending on the kind of permit the family member receives.

Yes, the family members have the right to apply for an autonomous right of residence. The family members have the right to apply for a residence permit on other grounds in case the specific requirements for the residence permit are fulfilled. Additionally the following grounds apply to family members:

Temporary residence permit for settling with a spouse

If the TCN has been issued a temporary residence permit to settle with his or her spouse and (s)he has lived for at least three years in Estonia on the basis of that residence permit, (s)he may be issued a temporary residence permit for settling permanently in Estonia without applying the specific requirements that normally apply when applying for this type of residence permit.<sup>167</sup>

In case the TCN has been issued a temporary residence permit to settle with his or her spouse and their marriage ends before three years have passed as of the issue of a residence permit, but the obligation to leave Estonia would be clearly too burdensome for the him or her, (s)he may be issued a temporary residence permit for settling permanently in Estonia without applying the specific requirements that normally apply when applying for this type of residence permit.<sup>168</sup>

Temporary residence permit for settling with a close relative

In case a TCN has been issued a temporary residence permit to settle with his or her close relative and the basis or grounds for the issue of the residence permit have ceased to exist but the obligation to leave Estonia would be clearly too burdensome for him or her, (s)he may be issued a temporary residence permit for settling

<sup>166</sup> EMN Focused Study: Integration of Beneficiaries for International Protection into the Labour Market in Estonia, [http://emn.ee/wp-content/uploads/2016/03/emn\\_integration\\_of\\_beneficiaries\\_for\\_international-EE-report-eng-final-26-01-2016.pdf](http://emn.ee/wp-content/uploads/2016/03/emn_integration_of_beneficiaries_for_international-EE-report-eng-final-26-01-2016.pdf)

<sup>167</sup> Aliens Act Article 149 (1), RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>168</sup> Aliens Act Article 149 (2), RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

permanently in Estonia without applying the specific requirements that normally apply when applying for this type of residence permit.<sup>169</sup>

#### Beneficiaries of international protection

In case a family member of the TCN needs international protection, (s)he will be granted International protection together with the residence permit of a family member on the same basis and with the same period of validity as to a TCN.<sup>170</sup> In case the marriage ends and the family member is still in need of international protection, (s)he will be granted international protection and a residence permit separately from the sponsor. In case the family member does not qualify as a beneficiary of international protection, (s)he can apply for a residence permit on other grounds (e.g. employment, study etc) in case the requirements for a specific residence permit are fulfilled.

All of the abovementioned family members may be granted a residence permit under exceptional circumstances for settling permanently in Estonia if the family member is staying in Estonia and in the course of the proceedings relating to his or her entry into Estonia, his or her temporary stay, residence and employment in Estonia or the obligation to leave Estonia, it has become evident that requiring him or her to leave Estonia would be unduly burdensome, (s)he lacks the possibility of getting the residence permit in Estonia on another basis and the foreigner does not constitute a threat to public order and national security.

**e. Any other rights granted to family members in your (Member) State**, for example, healthcare, recourse to public funds, possibility for family members to apply for long-term residence status or naturalisation, etc.? Y/N

If yes, please specify what such access entails in practice in your (Member) State.

Yes, family members are granted other rights, but they have to comply with certain conditions in order to access these rights.

#### Healthcare

Family members have access to basic healthcare in case they do not have healthcare insurance. There are many possibilities how the third-country national can have access to healthcare insurance. Everyone who is staying in Estonia on the basis of a temporary residence permit or right of residence have the right for health insurance if the social tax is paid for them.<sup>171</sup> It is possible to acquire health insurance through employment/self-employment or the third-country national may register himself or herself in the Estonian Unemployment Insurance Fund as unemployed or a job-seeker and thereby receive health insurance cover. It is also possible to gain access to health insurance by purchasing a private health insurance cover. If a sponsor is occupied with vocational studies or is a student in Doctoral studies, the social tax is paid by the state and they have public health insurance.<sup>172</sup>

#### Social assistance

- Subsistence benefit is a financial state aid to people in need. Subsistence benefit is paid by local government from state budget funds. According to the situation, local governments will use social services and other forms of social assistance to alleviate needs. Subsistence benefit is paid if all the other measures to alleviate poverty and need have shown to be insufficient. The bases for the calculation of subsistence benefit is the last month's net income of a person living alone or all family members, fixed housing expenses, due the current month, and the established subsistence level. The subsistence level is established by the Parliament for a person living alone or to the first member of a family for each budgetary year by the state budget.<sup>173</sup>

<sup>169</sup> Aliens Act Article 161, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>170</sup> AGIPA Article 46 (2), RT I 2006, 2, 3... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>171</sup> Estonian Health Insurance Fond webpage: <https://www.haigekassa.ee/en/individual/health-insurance/options-obtain-health-insurance>

<sup>172</sup> EMN Focused Study: Integration of Beneficiaries for International Protection into the Labour Market in Estonia, [http://emn.ee/wp-content/uploads/2016/03/emn\\_integration\\_of\\_beneficiaries\\_for\\_international-EE-report-eng-final-26-01-2016.pdf](http://emn.ee/wp-content/uploads/2016/03/emn_integration_of_beneficiaries_for_international-EE-report-eng-final-26-01-2016.pdf)

<sup>173</sup> Ministry of Social Affairs webpage: <http://www.sm.ee/en/subsistence-benefit> (visited 15.12.2016)

- National pension - Persons who have attained **63** years of age and who have not earned a pension qualifying period required for the grant of old-age pension and who have been permanent residents of Estonia or have resided in Estonia on the basis of a temporary residence permit or temporary right of residence for at least five years immediately before making a pension claim.
- Family benefits, needs-based family benefits

#### Long-term residence permit

Long-term residence permit may be issued to a third-country national who corresponds to the following conditions<sup>174</sup>:

- 1) he or she has resided in Estonia permanently 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;
- 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.

#### Citizenship:

Naturalization can be possible in case the TCN qualifies for the following requirements<sup>175</sup>:

- 1) be at least 15 years of age;
- 2) hold a long-term residence permit or the right of permanent residence;
- 3) prior to the date on which he or she submits the application for Estonian citizenship, have lived in Estonia for at least eight years on the ground of a residence permit or by right of residence, of which at least five years on a permanent basis;
- 4) have a registered place of residence in Estonia;
- 5) be proficient in the Estonian language in accordance with the requirements provided in section 8 of this Act;
- 6) know the Constitution of the Republic of Estonia and the Citizenship Act in accordance with the requirements provided in law;
- 7) have a permanent legal income;
- 8) be loyal to the Estonian state;
- 9) take an oath.

**Q19.** Are family members of refugees and/ or BSPs granted refugee/ BSP status in their own right or a 'derived' permit (from that of the sponsor)? Please clarify how the type of permit issued differs in terms of its validity and rights attached to it. If possible, please also provide information on the cost of the permit.

It depends whether the family member is in need of international protection himself or herself. In case a family member of the TCN needs international protection, (s)he will be granted International protection together with the residence permit of a family member.<sup>176</sup> In case the family member states that (s)he is not in need of international protection or does not qualify for international protection, (s)he will be granted only residence permit for family reasons. In both cases the residence permit is issued with the same period of validity as to the sponsor and in both cases the following conditions apply:

<sup>174</sup> Aliens Act Article 232, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>175</sup> Citizenship Act Article 6, RT I 1995, 12, 122... RT I, 23.03.2015, 260, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>176</sup> AGIPA Article 46 (2), RT I 2006, 2, 3... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

- 1) the validity of the temporary residence permit issued to him or her shall not exceed the validity of the temporary residence permit of the sponsor;
- 2) the extension of his or her temporary residence permit shall be refused if the temporary residence permit of the sponsor is not extended;
- 3) the temporary residence permit issued to him or her shall be revoked at the same time with the revocation of the residence permit of the sponsor;
- 4) the temporary residence permit issued to him or her shall be revoked if the circumstance which constituted the basis for issue thereof ceases to exist.<sup>177</sup>

The difference between rights attached to the residence permit is that the family member who is issued a residence permit together with international protection, is entitled to apply for a refugee travel document.

In case the family member is issued a temporary residence permit under the AGIPA, the residence permit and the residence card are free of charge.<sup>178</sup>

**Q20. a.** Do any conditions apply to sponsors and/ or family members after admission for the purpose of family reunification in your (Member) State? Y/ N

If yes:

- At which stage(s) after admission is examined whether these conditions have been fulfilled?

#### Regular migration

Yes, the sponsor of the spouse as well the sponsor of the close relative in case of regular migration will have the obligations of the sponsor as long as the spouse or the close relative is staying in Estonia with a residence permit settling with a spouse or settling with a close relative.<sup>179</sup> Obligations of the sponsor are: (1) A sponsor is required to verify if an alien who has been invited to Estonia by sponsor has a legal basis for the stay in Estonia; (2) A sponsor is required to host an alien in Estonia, guarantee his or her accommodation and bear the costs of the stay of an alien in Estonia and of his or her departure from Estonia. (3) If an alien does not bear the proceeding costs or the costs of the compulsory enforcement of the obligation to leave or of the stay in the detention centre or police detention houses, the sponsor is obligated to compensate for the specified costs, but not more than 32,000 euros.<sup>180</sup>

Also the conditions that had to be fulfilled when applying for the first issuance of the residence permit, apply when the renewal of the family member's residence permit is examined.

Additionally a temporary residence permit to settle with a spouse shall be cancelled if:

- 1) the basis or grounds for the issue of the residence permit has ceased to exist;
  - 2) the marriage has been terminated;
  - 3) one or both spouses do not reside in Estonia permanently;
  - 4) the legal income of a spouse or the joint income of the family do not ensure subsistence of the family in Estonia;
  - 5) the family does not have a registered place of residence in Estonia or;
  - 6) the family does not have an actual dwelling in Estonia.
- (2) A temporary residence permit that was issued to settle with a spouse shall be cancelled concurrently with the revocation of the residence permit of the spouse for the purposes of settling with whom the residence permit was issued. A temporary residence permit that was issued to settle with a spouse may be cancelled on the basis specified in subsection (1) of this section within three years as of the issue of the residence permit.<sup>181</sup>

<sup>177</sup> AGIPA Article 46 (9), RT I 2006, 2, 3.... RT I, 6.4.2016, 2, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee).

<sup>178</sup> EMN interview of 05.12.2016 with the PBGB's expert.

<sup>179</sup> EMN interview of 31.10.2016 with the PBGB's expert.

<sup>180</sup> Aliens Act Article 291, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>181</sup> Aliens Act Article 146, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

The temporary residence permit which was issued to settle with a close relative who resides in Estonia shall be cancelled if:

- 1) the close relative for the purposes of settling with whom the residence permit was issued or an alien does not reside in Estonia permanently;
- 2) the close relative for the purposes of settling with whom the residence permit was issued fails to ensure, for no good reason, the subsistence of an alien in Estonia;
- 3) the close relative for the purposes of settling with whom the residence permit was issued fails to have a registered place of residence or the actual dwelling.

A temporary residence permit that was issued to settle with a close relative shall be cancelled concurrently with the revocation of the residence permit of the close relative for the purposes of settling with whom the residence permit was issued.<sup>182</sup>

- Does not fulfilling one of these conditions constitute a ground for non-renewal or withdrawal of the residence permit?<sup>183</sup> Y/ N
  - If yes, how are individual circumstances and interests<sup>184</sup> taken into account?

Yes, residence permit may not be reviewed or may be cancelled in case relevant conditions are not met, but individual grounds are taken into account and the PBGB may during the proceedings to cancel the temporary residence permit appoint a term to a third-country national for the elimination of the deficiencies. If the third-country national eliminates a deficiency within the term appointed by the PBGB, the temporary residence permit shall not be cancelled.<sup>185</sup>

- If no, what are the consequences of not fulfilling the conditions (e.g. obligation to pay a fine, exclusion from more favourable residence permits)?

N/A

**Q21. a.** Please indicate any **challenges** experienced by family members in your (Member) State with regard to accessing the above-mentioned rights (e.g. based on existing studies/ evaluations or information received from relevant authorities and stakeholders) and how these can be overcome.

#### Beneficiaries of international protection

Family members are guaranteed the same rights as the beneficiaries of international protection and until now there have been no substantial problems related to accessing these rights that would be associated with specifically family members.<sup>186</sup>

**b.** Please provide any examples of proven (e.g. through studies/ evaluations) **good practices** with regard to the provision of education/ access to the labour market and vocational guidance and training/ right to autonomous residence for family members in your (Member) State/ etc. Please specify the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).

N/A

<sup>182</sup> Aliens Act Article 158, RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>183</sup> Article 16 of Directive 2003/86/EC

<sup>184</sup> Article 17 and Article 24 of the Charter

<sup>185</sup> Aliens Act Article 135 (3) and (4), RT I 2010, 3, 4... RT I, 06.04.2016,20, available at: [www.riigiteataja.ee](http://www.riigiteataja.ee)

<sup>186</sup> Response of the Estonian Refugee Council to the EMN's inquiry of 11.11.2016

## Section 6: National and international case law [maximum 1 page]

**Q22.** Has the following CJEU/ ECtHR case law led to any changes in policy and/ or practice in family reunification in your (Member) State:

- CJEU - C-540/03 *European Parliament v Council of the European Union*;
- CJEU - C-558/14 *Khachab v Subdelegación del Gobierno en Álava*;
- CJEU - C-153/14, *Minister van Buitenlandse Zaken v K and A*;
- CJEU - C 338/13, *Marjan Noorzia v Bundesministerin für Inneres*;
- CJEU - C-578/08, *Rhimou Chakroun v Minister van Buitenlandse Zaken*;
- CJEU - C-356/11 and C-357/11, *O. S. and L*;
- ECtHR - *Mugenzi v. France*, Application No. 51701/09, 10 July 2014;
- ECtHR - *Tuquabo-Tekle And Others v The Netherlands*, Application no. 60665/00, 1 March 2006;
- ECtHR - *Hode and Abdi v. the United Kingdom*, Application No. 22341/09, 6 February 2013;
- ECtHR – *Biao v. Denmark*, Application No. 38590/10, 24 May 2016;
- Any other relevant case law (please specify)? Y/ N

If yes, please briefly describe the changes brought about by this case law.

No, Estonia carefully monitors the CJEU/ ECtHR case law and tries to change practice or law according to the results of the court cases if necessary. Changes in practice lie also in different reasons and practical aspects and it is very difficult to bring out that the reason for changes has been in particular because of a court case.<sup>187</sup>

**Q23.** Has any national case law led to changes in policy and/ or practice in family reunification in your (Member) State since 2011 onwards? Y/ N

If yes, please briefly describe the changes brought about by this case law. (For example, in 2013 the Belgian Constitutional Court held that the differentiation of requirements for family reunification between refugees and beneficiaries of subsidiary protection is unlawful, hence the latter were exempted from the condition of sufficient income even after the period of one year when the sponsor is joined by his/ her minor children. As well, in 2015, the Slovenian Constitutional Court held that in specific factual circumstances the scope of family life should include non-nuclear family members who perform a similar or same function as the nuclear family, allowing for an individual examination of specific circumstances and leading to an amendment of the national legislation on family reunification.<sup>188</sup>

Due to the Estonian Supreme Court's decision changes to Aliens Act came into force in 01.09.2013 according to which the PBGB has the possibility to make a discretion decision in case a foreigner, who has taken an obligation to leave Estonia, has received a place to live in a foreign country through international aid program or has received support to leave Estonia, applies for a residence permit to settle with a close relative in Estonia due to the reason that the caregiving is only possible by the relative living in Estonia.<sup>189</sup> Before the Supreme Court's decision it was not possible to grant a residence permit in these circumstances.

<sup>187</sup> Response of the Ministry of the Interior to the EMN's inquiry of 14.11.2016.

<sup>188</sup> European Legal Network on Asylum (ELENA) (2016), Information Note on Family Reunification for Beneficiaries of International Protection in Europe, <http://www.ecre.org/information-note-on-family-reunification-for-beneficiaries-of-international-protection-in-europe/>

<sup>189</sup> Estonian Supreme Court's decision number 3-3-1-44-11

## Section 7: Overview of the international and EU legislative framework on family reunification (Synthesis Report) [maximum 3 pages]

*This section of the Synthesis Report will briefly outline the EU legal framework guiding national legislation on family reunification. It will provide a mapping of the substantive and procedural provisions in the EU acquis that regulate family reunification. The section will also highlight how the EU acquis relates to the broader international legal framework in this area.*

***This section will be developed by the EMN Service Provider, hence no input from the EMN NCPs is required.***

## Section 8: Conclusions (Synthesis Report) [maximum 3 pages]

*The Synthesis Report will outline the main findings of the Study and present conclusions relevant for policymakers at national and EU level. **Member States should include any overall conclusions in the Top-line Factsheet at the beginning of the Common Template rather than duplicate information in this Section.***

## Annex 1 Statistical Annex

**Q24.** With reference to Question 3.a. above, please complete the following table with national statistics on the (estimated) number of applications for family reunification, if available.

Please provide here a brief explanation of the metadata, describing for example the population covered, the method used to reach the estimates, any caveats as to their likely accuracy etc. It should be noted, given the differences in methods used to make the estimates, that it will not be possible to synthesise this information to produce a 'total EU estimate' for the Study.

The statistical data includes all temporary residence permit issued for family reasons (for settling with a spouse, settling with a close relative or settling with a family member who is a beneficiary of international protection).

The number of applications submitted in one year may not correspond to the number of decisions made in the same year as not always is the application decided within the same year. For example in 2015 the number of decisions on family reunification for beneficiaries of international protection was higher than the number of applications as two of the applications submitted in 2014 were decided in 2015.

Regarding the beneficiaries of international protection the statistics cover only the applications made if the sponsor has already a residence permit in Estonia. The statistics do not cover the situation were a family member arrives to Estonia together with the family member who will be granted international protection, neither does it cover the situation were a beneficiary of international protection has a child while living in Estonia.

The data does not differentiate who is the sponsor settling with whom the residence permit was applied for. It is only possible to differentiate if the sponsor was a beneficiary of international protection or has a residence permit under the Aliens Act. It was possible to make a differentiation considering nationality and therefore the data reflects only the sponsors who or not Estonians.

The data for year 2016 covers the period up to 31.10.2016.

The table about family formation was not applicable to Estonia.

Please provide your answer by completing the Excel document inserted as an object below and sent separately with this Common Template.

Please do not here include the above-mentioned Eurostat data in Section 7 (first part of this Template), as this information is available publically and can therefore be analysed centrally for the Synthesis Report.