

**ENG summary of the answers received to the FR AHQ sent on March 23, 2015 with April 20, 2015 as deadline for providing an answer: on the interpretation of article 11(1) of the Directive 2004/38/EC, compilation produced on June 23, 2015**

To date, the FR NCP received 18 answers (excluding FR) for this AHQ and all answers are open for dissemination.

**Background information:**

In the EU-Pilot case, France and the European Commission have diverging interpretations of article 11(1) of the Directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (2004/38/EC).

The full article 11(1) states: “The residence card provided for by Article 10(1) shall be valid for five years from the date of issue or for the envisaged period of residence of the Union citizen, if this period is less than five years.”

On this matter, the Directorate of Immigration asked via the French Contact Point how other EU Member States interpret the specific following expression: “envisaged period of residence” (mentioned in article 11(1) of the Directive 2004/38/EC) and how they concretely implement it.

**Questions/answers:**

Q1. How do you interpret the expression “envisaged period of residence” in article 11(1) of the Directive 2004/38/EC?

14 countries have answered that the “envisaged period of residence” can be interpreted as the intention of stay declared by the EU citizen in an EU Member State when he/she applies for a residence card for a family member. 4 countries have however underlined the rarity of this declared intention and 3 have indicated that it would suppose investigating on its validity or would apply to only very specific cases such as for students for example.

European countries mostly issue residence cards for a maximum period of 5 years.

Q2. In particular: how does your national legislation consider the duration of the residence permit issued to family members who are third-country nationals (within the upper limit of 5 years)?

In most European countries, the duration of the residence permit issued to TCNs family members equals to the period during which the EU citizen declares intending to stay without providing any proof that during his whole stay, he meets the conditions of the right of residence as referred to in article 7 of the Directive 2004/38/EC.

In only 6 countries, the duration of the residence permit issued to TCNs family members equals to the period during which the EU citizen can indeed justify that he will have a real right of residence (e.g.: duration of the employment contract; justified duration for sufficient resources so that he does not become a burden for the social assistance system).