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Ad-Hoc Query on 2022.32 AHQ on access to the labour market for family members of international students

Requested by EMN NCP Belgium on 14 June 2022

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Slovakia, Slovenia, Spain, Sweden plus Georgia (22 in Total)

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1. BACKGROUND INFORMATION

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In 2016, the Council and the European Parliament adopted “the Students and Researchers Directive”, which is the result of the recast of the 2004 Directive on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service^[1] and the 2005 Directive on researchers^[2]. The Directive seeks to improve and harmonise minimum legal standards for welcoming and retaining international students and researchers. It also seeks to make the EU a more attractive destination for them, including via a limited right to stay of at least nine months after finishing their studies or research in order to look for a job or to set up a business (Article 25) as well as the right for international researchers to bring their family members^[3] to the EU, who also enjoy a right to work during their stay (Article 26).

The OECD recognises that the creation of a good family environment for third country families, which includes the right for family members to access the labour market, is essential to make countries more attractive to international talents. Additionally, the revised Blue Card Directive also underlines the importance for spouses to have access to the labour market^[4]. Nonetheless, access to the labour market for family members of international students was not included in the directive. Therefore, Member States have the discretion to facilitate access in their own way.

The EMN Inform on attracting and retaining international students in the EU^[5], showed that 17 Member States grant access to family reunification for students but only 11 out of the 17 Member States family members had access to the labour market. While the Inform identifies the countries that grant access, it does not specify under which conditions family members may have access to the labour market.

In Belgium, access to the labour market is not open to the family members of international students. Only when students graduate and start their search year for work, their family members get access to the labour market. By consequence, we would like to know if the other Member States grant access to the labour market for family members of international students and, if so, at what point (student/jobseeker) and under which conditions.

^[1] Directive 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0114>

^[2] Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32005L0071>

^[3] Article 3 (24) Directive 2016/801 (EU) on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing: ‘family members’ means third country nationals as defined in Article 4 (1) of Directive 2003/86/EC. <https://eur-lex.europa.eu/eli/dir/2016/801/oj> and <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32003L0086>

^[4] Considerans 50 Directive (EU) 2021/1883 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive: : Favourable conditions for family reunification and access to work for spouses should be a fundamental element of this Directive in order to better attract highly qualified workers from third-countries. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32021L1883>

^[5] [EMN International Students Synthesis Report Final.pdf \(emnbelgium.be\)](#)

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We would like to ask the following questions:

1. Does your Member State grant access to the labour market for family members ('family members' means third-country nationals as defined in Article 4(1) of Directive 2003/86/EC) of international students? YES/NO.
2. If you answer YES to Q.1, and your Member State grants access to the labour market, is this access unlimited (in terms of working hours, number of contracts, ... compared to EU nationals)? Please explain your answer.
3. If you answer YES to Q.1, can you please indicate to which family members you grant access to the labour market?
4. If you answer YES to Q.1 and answer Q.3, which conditions must the family member fulfill to be granted access to the labour market (minimum period of residence, necessity of labour market test, limited to certain sectors, ...) ?
5. If you answer YES to Q.1, what conditions must the family member fulfil to renew his/her work permit?
6. If you answer NO to Q.1, does the family member get access to the labour market once the student is granted the period for searching for employment ('search year')?

We would very much appreciate your responses by 14 July 2022.


2. RESPONSES

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

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		Wider Dissemination ²	
	EMN NCP Austria	Yes	<p>1. According to Art. 69 para. 1 Settlement and Residence Act family members (spouses and registered partners with a minimum age of 21 years as well as unmarried children under the age of 18 years, including stepchildren and adopted children, Art. 2 para. 1 subpara. 9) of a lawfully staying student with a Temporary Residence Permit can obtain a Temporary Residence Permit – Family Community to lawfully reside in Austria. According to Art. 33 of the Settlement and Residence Act the entitlement to pursue gainful employment is regulated in the Act Governing the Employment of Foreign Nationals. Pursuant to Art. 3 para. 2 and Art. 17 of the Act Governing the Employment of Foreign Nationals, the Temporary Residence Permit – Family Community does not directly entitle the holder to pursue gainful employment (VwGH 27.4.2017, Ra 2017/22/0036).</p> <p>The pursuit of gainful employment is only permitted after the Public Employment Service issued a work permit. The work permit is issued to the employer upon their application. Among other general requirements pursuant to Art. 4 para. 1 Act Governing the Employment of Foreign Nationals, the work permit can only be issued if the situation and development of the labor market allow the employment (so-called "labor market examination").</p> <p>2. Besides the requirement of a work permit (as described in Q.1) there is no limitations in terms of working hours, etc. However, the Act Governing the Employment of Foreign Nationals requires employers to comply (among others) with the wage and working conditions, including social security regulations, in order to be issued a work permit. Regarding the duration of employment please see Q.5.</p> <p>The Act Governing the Employment of Foreign Nationals does not apply to EU nationals (Art. 1 para. 2 subpara. I of the Act Governing the Employment of Foreign Nationals). EU nationals have unlimited access to the labor market in Austria.</p> <p>3. See Q.1.</p> <p>4. See Q.1.</p>

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



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			<p>5. The work permit (see Q.1) must be limited in time and can be issued for a maximum period of one year. It can be renewed for a maximum period of one year at a time (Art. 7 para. 1 Act Governing the Employment of Foreign Nationals). In order to renew the work permit, the employer must request the renewal before the work permit is expired (Art. 19 para. 5 of the Act Governing the Employment of Foreign Nationals). For the renewal, the same conditions apply as described in Q.1.</p> <p>6. The same rules as described in Q.1 apply to family members as long as they derive a residence status Temporary Residence Permit – Family Community from the student.</p>
	EMN NCP Belgium	Yes	<p>1. No.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p> <p>5. N/A</p> <p>6. In Belgium, family members of international students who are granted the period for searching for employment (search year) do have full access to the labour market, without any additional conditions to fulfill.</p>
	EMN NCP Bulgaria	Yes	<p>1. No</p> <p>2. N/A</p> <p>3. N/A</p> <p>4.</p>



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			5. N/A 6.
	EMN NCP Croatia	Yes	1. No. 2. 3. 4. 5. 6.
	EMN NCP Cyprus	Yes	1. No. 2. N/A 3. N/A 4. N/A 5. N/A 6. No.

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	EMN NCP Czech Republic	Yes	<p>1. Yes.</p> <p>2. Access is unlimited for the holders of residence permit under the Directive 2003/86/EC.</p> <p>3. To all family members who are eligible for residence permit under the Directive 2003/86/EC.</p> <p>4. To be holder of residence permit under the Directive 2003/86/EC.</p> <p>5. No work permits – free access.</p> <p>6. N/A</p>
	EMN NCP Estonia	Yes	<p>1. Yes.</p> <p>2. Yes. An alien who resides in Estonia on the basis of a residence permit has the right for employment in Estonia unless otherwise provided for in law. In the case of family members of international students, the access to the labour market is unlimited.</p> <p>3. Family members, who could apply for a residence permit to settle with a TCN who resides in Estonia, are spouse, a minor child or an adult child, if the child is unable to cope independently due to health reasons or a disability. In the context of labour market the only relevant category is a spouse.</p> <p>4. There are no specific conditions.</p> <p>5. Estonia does not issue separate work permits. For the renewal of a temporary residence permit, the conditions of the issue of a temporary residence permit must be continuously met.</p> <p>6. N/A</p>


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+	EMN NCP Finland	Yes	<p>1. YES</p> <p>2. According to the Aliens Act (Section 78, Subsection 3 (2)) the right to work is granted with a positive residence permit decision to the student's spouse and children (15 years of age or 15 years of age during the validity of the permit). The right to work is unrestricted.</p> <p>3. The family members of the student have the right to work. A family member is defined in Section 37 of the Aliens Act, according to which "...the spouse of a person residing in Finland, and unmarried children under 18 years of age of whom the person residing in Finland or his or her spouse has custody are considered family members. If the person residing in Finland is a minor, the person who has custody of him or her is considered a family member. A person of the same sex is also considered a family member if the partnership has been registered nationally. Persons living in a marriage-like relationship in the same household on a permanent basis are considered to be a married couple regardless of their sex. It is required that they have lived together for at least two years. This is not required if the persons have a child in their joint custody or if there are other serious reasons. An unmarried child under 18 years who is under actual care of the person who has a custody of him or her and is in need of such care on the date a decision is made on the residence permit application, but no official statement is available on the dependency status (a foster child), is considered a child under subsection 1. Treatment as a child under subsection 1 also requires reliable evidence that the persons who previously had custody of the child have died or are missing and that the sponsor or his or her spouse was the person who had actual custody of the child before the sponsor entered Finland. If the sponsor is a foster child residing in Finland, treatment as a child under subsection 1 requires reliable information which shows that the person concerned was the person who had actual custody of the sponsor before the sponsor entered Finland."</p> <p>4. The right to work is unrestricted. A person can start working once a residence permit has been granted on the basis of family ties.</p> <p>5. According to Section 54, Subsection 1 of the Aliens Act a new fixed-term residence permit is issued if the requirements under which the alien was issued with his or her previous fixed-term residence permit are still met. According to Section 54, Subsection 7 of the Aliens Act a new fixed-term residence permit is issued on new grounds if such grounds would qualify the alien for the first residence permit.</p>
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			<p>In other words, the applicant must have grounds for an extended residence permit. If the grounds for the permit are the same and the student acting as a sponsor meets the requirements for an extended residence permit, the family member may also be granted an extended residence permit. The right to work is based on the residence permit, i.e. in the case of a residence permit based on family ties, the person has an unrestricted right to work.</p> <p>6.</p>
	EMN NCP France	Yes	<p>1. Students cannot be accompanied by family members when they arrive in France for study. When they fulfil the conditions especially after 18 months of stay, they can apply for family reunification, but in practice it is very difficult for them to get a favorable decision - see Q2.</p> <p>2. In theory, the French law authorizes a foreign national with a residence permit as "student" to apply for family reunification. However, students find it difficult to meet the conditions, particularly the resource criteria, because the reason for their stay in France is to pursue studies and not to carry out a professional activity.</p> <p>3. Access to the labour market is possible for beneficiaries of family reunification (i.e. the spouse who has reached the age of majority (at least 18 years old) and the couple's children who are minors (under 18 years old)), who are issued with a residence permit mentioning "private and family life".</p> <p>4. Persons who benefit from family reunification apply for a long-stay visa at the French Consulate in their country of residence. If the visa request is accepted, they receive a long-stay visa equivalent to a residence permit on arrival in France once the procedures have been completed. The long-stay visa for family reunification allows the holder to work.</p> <p>5. In order to renew their residence and work permit, family members must renew their residence permit within 2 months before the end of their visa, at the prefecture or sub-prefecture of their residence.</p> <p>The conditions for renewal include:</p> <ul style="list-style-type: none"> • Continue to meet the conditions for admission to residence for family reunification and provide documents such as a declaration on honour of non-polygamy, and evidence of financial resources. In addition, housing conditions and compliance with the essential principles governing family life in France must be met. • They must not constitute a threat to public order.


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			<p>If the renewal of the residence permit is approved, a multi-annual residence permit mentioning "private and family life" will be issued for a maximum of four years.</p> <p>6. No, the granting of a residence permit for job search to a foreign student who has ended his or her studies in France does not give access to work or residence to his or her family members.</p>
	EMN NCP Germany	Yes	<p>1. YES. As a general rule, all third country nationals holding a German residence permit may pursue economic activity unless there is a law prohibiting such activity. The access to economic activity is regulated in Section 4a of the German Residence Act, the right to family reunification in Section 27-36a of the German Residence Act (available online at https://www.gesetze-im-internet.de/englisch_aufenthg/englisch_aufenthg.pdf).</p> <p>2. YES, while the access to the labour market is limited in terms of working hours for the students themselves, it is not limited for their family members.</p> <p>3. All joining family members are granted access to the labour market. As a general rule, spouses and minor children are allowed family reunification with international students (certain conditions apply). Other family members can join only in exceptional cases.</p> <p>4. Once they are granted a residence permit for reunification with the international student, family members do not have to fulfil any further conditions in order to be granted access to the labour market.</p> <p>5. The family member has access to the labour market as long as they hold a valid residence permit. The work permit is automatically renewed with the renewal of the residence permit.</p> <p>6. N/A</p>
	EMN NCP Greece	Yes	<p>1. NO</p> <p>2.</p>


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			<p>3.</p> <p>4.</p> <p>5.</p> <p>6. According to Law no 4251/2014, access to the labour market is not granted to the family members of students. The right to family reunification and the family members' access to the labour market are granted only after students' graduation and as long as they are entitled to the residence permit for the purpose of seeking employment ("search year"). Students shall prove that they have been lawfully residing in Greece for two years.</p>
	EMN NCP Hungary	Yes	<p>1. No automatic access is granted and no special rules apply for family members of international students. Family members of international students can receive a residence permit for the purpose of family reunification, if they meet the general requirements (verification of family ties, proof of means of subsistence, proof of existence of accommodation, etc.) Family members issued with a residence permit for the purpose of family reunification can be entitled to undertake employment only if they receive a residence permit on the basis of a single application procedure.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p> <p>5. N/A</p> <p>6. No</p>



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	EMN NCP Italy	Yes	<p>1. Yes.</p> <p>2. A foreigner who holds a residency permit for a period of no less than one year, issued, among others, for study reasons, is recognised the right to family unity (Art. 28 § 1 of Law n° 286/98) and the possibility of requesting family reunification for the categories listed in Art. 29, § 1, letters a), b), c) and d) of Law n° 286/98). A foreigner who has entered Italy with an entry visa for family reunification is granted a residency permit for family reasons (Art. 30, § 1, lett. A); this type of permit allows - in addition to access to welfare services, enrolment in study or vocational training courses, enrolment in employment lists - also the carrying out of subordinate or autonomous work, without prejudice to the minimum age requirements for carrying out work activities (TU Art. 30, § 2).</p> <p>3. Article 29(1) of the Consolidated Act on Immigration lists the categories of family members for whom the foreigner may apply for reunification, namely: "a) the spouse who is not legally separated and is not less than eighteen years old; b) minor children, including those of the spouse or those born outside of marriage, who are unmarried, on condition that the other parent, if any, has given his/her consent; c) dependent children of age, if for objective reasons they cannot provide for their indispensable living needs due to their state of health that results in total disability; d) dependent parents, if they have no other children in their country of origin or provenance, or parents aged over 65, if the other children are unable to support them for documented serious health reasons.</p> <p>4. As established by the combined provisions of letters a), b) and c) of Article 14, par. 1 of Presidential Decree 394/1999, the residency permit for family reunification "allows the exercise of self-employment, subject to the acquisition of the authorisation or qualification that may be required and provided that the other requirements or conditions set out by the regulations in force for the exercise of self-employment subsist, as well as the exercise of work activity as a member-worker in cooperatives"; it also allows 'the exercise of subordinate work, for the period of validity of the same, subject to inclusion in the registry list or, if the work relationship is ongoing, subject to notification by the employer to the Provincial Labour Directorate'.</p> <p>With regard to timing, it is specified that - as specified in a joint note of the Ministry of Labour and Social Policies and the National Labour Inspectorate - 'persons applying for a residence permit for family reasons may start working, in compliance with the obligations and conditions provided for by the regulations in force, using, for the purposes of proving their regular stay in the territory of the State and the possibility of establishing a regular employment relationship, the simple postal receipt certifying the application for the issuance of a residence permit for family reasons'. This possibility is also extended to family members of non-EU citizens present on the national territory (including family members of Italian or EU citizens),</p>
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			<p>who will be able to start working as soon as they submit their application for a residence permit for family reasons with a postal kit (and without having to wait for the actual issuance).</p> <p>5. "The residency permit for family reasons has the same duration as the residency permit of the foreign family member who meets the requirements for reunification in accordance with Article 29 and is renewable together with the latter" (Art. 30, § 3 of Legislative Decree 286/98).</p> <p>6. N.A.</p>
	EMN NCP Latvia	Yes	<p>1. No.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p> <p>5. N/A</p> <p>6. No.</p>
	EMN NCP Lithuania	Yes	<p>1. Yes. Currently, only the family members of doctoral students are entitled to family reunification. As of August 1, 2022, MA students will also be allowed to bring their families.</p> <p>2. The family members of international students (currently, limited to doctoral students and, as of August 1, MA students) are exempt from the duty to obtain a work permit, and their access to the labor market is not limited.</p> <p>3. Spouse and children.</p>



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			<p>4. There are no conditions; moreover, they are exempt from the duty to obtain a work permit.</p> <p>5. N/A</p> <p>6. N/A</p>
	EMN NCP Luxembourg	Yes	<p>1. No. The amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law) does not foresee the right of family reunification for international students so these individuals cannot obtain a residence permit based on family reunification and in consequence they cannot have access to the labour market.</p> <p>2. N/A.</p> <p>3. N/A.</p> <p>4. N/A.</p> <p>5. N/A.</p> <p>6. No.</p>
	EMN NCP Netherlands	Yes	<p>1. No, the Netherlands does not grant access to the labour market for family members of international students.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p>

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			<p>5. N/A</p> <p>6. Yes, the family member will have access to the labour market if the student is granted a residence permit for searching employment after finishing his education. The family member will receive a residence permit with the same duration and access to the labour market as the primary applicant.</p>
	EMN NCP Slovakia	Yes	<p>1. Yes.</p> <p>2. A person with granted temporary residence permit for the purpose of family reunion is entitled to:</p> <ul style="list-style-type: none"> • work with a valid work permit in the period of up to 12 months from being granted temporary residence (the labour market test is performed) • work without further permits after the period of 12 months from being granted temporary residence <p>3.</p> <ul style="list-style-type: none"> • spouse, if the spouses have reached 18 years of age • single child younger than 18 years of age of a third country national with granted residence and /or of his/her spouse <p>4. See response to question 2.</p> <p>5. In case of the Slovak Republic this question is relevant only when renewing the work permit within 12 months from granting the temporary residence for the purpose of family reunion. In that case it depends if the person plans to work at the same or different employer. In case of a new (different) employer it is necessary to apply for a new work permit. In case of the same employer it is necessary to apply for the renewal of the work permit.</p> <p>6. NA</p>
	EMN NCP	Yes	<p>1. Yes.</p>



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	Slovenia		<p>2. Access to the labour market is unlimited in terms of the number of hours, the number of contracts... the same as for EU citizens.</p> <p>3. According to the Foreigner's Act, the following are considered family members:</p> <ul style="list-style-type: none"> - his or her spouse, partner in a civil partnership or civil union or partner with whom the foreigner is in a long-term relationship; - the foreigner's unmarried minor children; - the minor unmarried children of his or her spouse, partner in a civil partnership or civil union or partner with whom the foreigner is in a long-term relationship; - the parents of a minor foreigner with whom the latter lived in a family union prior to his or her arrival in the Republic of Slovenia; - the adult unmarried children and parents of the foreigner, spouse, partner in a civil partnership or civil union or partner with whom the foreigner is in a long-term relationship, whom the foreigner, spouse, partner in a civil partnership or civil union or partner with whom the foreigner is in a long-term relationship is obliged to maintain under the Acts of his or her country of citizenship. <p>In exceptional cases, the competent authority may deem another relative of a foreigner to be a family member if special circumstances justify family reunification in the Republic of Slovenia. In the event of a polygamous marriage, a residence permit for the purpose of family reunification may only be issued and extended to one spouse.</p> <p>4. In accordance with the Employment, Self-employment and Work of Foreigners Act, only a labour market test is performed for a family member.</p> <p>5. Slovenia does not issue work permits for family members of international students. The Employment Agency of the Republic of Slovenia, after carrying out a labour market control, forwards a written notice and an information sheet (specifying all conditions and elements of employment defined by the employer in its vacancy notice) to the administrative unit. On the basis of a decision on the right to access the labour market, the administrative unit in the area of a foreigner's residence shall replace, ex officio, the residence permit card with a new card, on which the right to access the labour market is indicated. The administrative unit may indicate the right to access the labour market on the residence permit card also in the procedure for issuing and extending a temporary residence permit issued for another purpose, such as employment, self-employment or work, if a foreigner complies with the conditions and has the right to free access to the labour market in</p>
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			<p>accordance with the Employment, Self-employment and Work of Foreigners Act.</p> <p>6. N/A</p>
	EMN NCP Spain	Yes	<p>1. According to Art. 41.4 of the ordinance of our general aliens regulation and section 9.2 of Instrutions 2/2018 of the Director General of Migration family members of international students are not allowed to work in Spain.</p> <p>2.</p> <p>3.</p> <p>4.</p> <p>5.</p> <p>6. In Spain, during the international student 's job search period the international student 's family members may have the authorisation of stay; however, they are not allowed to work according with section fifth 2.d of Instrutions 1/2018 of the Director General of Migration which states:"family members will not be allowed to work ; yet, they may apply for a modification of their authorisation of stay into other kind of permit"</p>
	EMN NCP Sweden	Yes	<p>1. Yes, if the residence permit is for longer time than 6 months.</p> <p>2. A family member of someone who has already applied for a residence permit for studies in Sweden in higher education, can make his/her own application for a residence permit for the same period. If the permit is valid for more than six months, the family member can get a work permit.</p> <p>3. All that counts as family memebbers.</p> <p>The following are counted as family members: wife, husband, cohabiting partner, registered partner and unmarried children under the age of 18. Cohabiting partner refers to couples who are not married but live together as if married.</p>

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			<p>4. The residence permit must be longer than 6 months</p> <p>5. The same as for the first time permit.</p> <p>6. Not applicable</p>
	EMN NCP Georgia	Yes	<p>1. YES.</p> <p>2. YES. The conditions of employment of an alien in Georgia are regulated by the Ordinance of the Government of Georgia N417 of 7 August 2015 "On Approving the Rule of Job Placement with a Local Employer and Performance of Paid Labour Activities by the Labour Immigrant (Alien not Holding Georgian Permanent Residence Permit)". This regulation does not restrict the employment of a foreign national in Georgia and does not require any specific work permits for employment (including for the family members of international students).</p> <p>3. According to the "Law of Georgia on the legal status of aliens and stateless persons" family members include: a spouse, minor child and minor under guardianship or custody of an alien and/or person fully dependent to an alien or of a person having a stateless status in Georgia, a beneficiary of support or disabled person, a parent of a minor alien or (minor) person having a stateless status in Georgia. All mentioned family members have unlimited access to the labour market of Georgia.</p> <p>4. Any alien if s/he legally stay in Georgia, has the right to employment without a labor market test and work permit.</p> <p>5. See answer on the Q.4.</p> <p>6. N/A</p>
