



Funded by the
European Union



Ad-Hoc Query on 2023.12 Derived right of residence under Article 20 of the Treaty on the Functioning of the European Union (TFEU)

Requested by EMN Sweden on 6 March 2023

Responses from Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Greece, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Portugal, Slovakia, Slovenia, Spain, Sweden (18 in Total)

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

1. BACKGROUND INFORMATION

The Swedish Migration Agency is currently in the process of analysing the judgement of the CJEU in the joined cases C-451/19 and C-532/19 (XU and QP). The judgement concerns right of residence under Article 20 TFEU and similar questions and situations as in the Zambrano (C-34/09), K.A. (C-82/16) and Chavez-Vilchez (C-133/15) rulings.). Sweden would like to know how these rulings apply to other member states' national framework in order to use the member states approaches when looking into how it affects our own national framework. This ad-hoc query contains 9 questions and after discussion with the co-chair of the ad-hoc query working group it was approved that it will count for 2 ad-hoc queries.

We would like to ask the following questions:

- 1. In order for a third country national to be granted a derived right of residence from a family member who is an EU citizen, does she/he have to prove her/his identity? YES/NO. If yes, what type of documents or information does your Member State require as proof of identity (e.g. a valid passport, or by other means)?**
- 2. If your answer is YES to Q.1, does your legal framework allow exceptions concerning proof of identity in order for a third country national to be granted a derived right of residence (i.e. that it may be sufficient that the third country national makes her/his identity likely/probable) YES/NO. If yes, please explain under what circumstances these exceptions are applied?**
- 3. In your Member State, what is the evidentiary requirement (e.g. likely/probable or proven) concerning the special relationship of dependency?**
- 4. In the XU and QP-judgement, the CJEU introduces a rebuttable presumption that there is a relationship of dependency between that EU citizen minor and his or her parent who is a third-country national, where the EU citizen minor lives with both parents on a stable basis (C-451/19 and C-532/19 p. 69-70). What does your Member State consider not to be cohabitation on a "stable basis"?**
- 5. Does your Member State have any experiences of rebutting the presumption that there is a relationship of dependency?**
- 6. If there is a right of residence under article 20 TFEU, does the applicant have to submit his/her application for residence permit before entry into the territory of the Member State, or can he or she submit the application and be granted a right of residence after entry?**

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

7. What kind of residence permit or residence card is issued to individuals with a derived right of residence under Article 20 TFEU in your Member State?

8. Article 20 TFEU does not affect the possibility of Member States relying on an exception linked, in particular, to upholding the requirements of public policy and safeguarding public security. Does the applicant have to constitute a threat to public policy and public security within the meaning of Article 6 of Directive 2003/86 (C-381/18) or within the meaning of Article 27 of Directive 2004/38 in order for the member state to limit a derived right of residence?

9. In what type of other situations can an exception be applied? Please explain.


We would very much appreciate your responses by **10 April 2023**.

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

2. RESPONSES

1

		Wider Dissemination	
	EMN NCP Bulgaria	Yes	<p>1. In accordance with Article 12 of the Act on Entering, Residing and Leaving the Republic of Bulgaria by European Union Citizens and Their Family Members (AERLRBEUCTFM) for issuing a durable residence card respectively of a residence permit under Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals of a family member of a Union citizen, the person under Art. 9a and Art. 10 shall submit an application to the Directorate "Migration" - MoI, CDI or the regional directorates of MoI and therefore a temporary certificate shall be issued immediately. The application shall be submitted within a term of three months from the date the person entered the Republic of Bulgaria. To the application shall be enclosed:</p> <ol style="list-style-type: none"> 1. a valid passport; 2. a document, certifying that the person is a member of the family of a European Union citizen; <p>Article 4, para 5 of the AERLRBEUCTFM provides for that in event that a European Union citizen or a member of his/her family, who is not European Union citizen, has none of the documents under para 1 and 2, prior to undertaking actions for non-admission, he/she shall be given the opportunity to obtain the documents required or to certify by other means that he/she is entitled to free movement.</p> <p>2. See the last part of the answer provided under Q.1.</p> <p>3. Art. 5, para 1 of the AERLRBEUCTFM stipulates that a right of entering, residing and leaving the Republic of Bulgaria under this Act shall also have:</p>

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.

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>1. another family member, regardless of his/her citizenship, who does not fit into the definition under § 1, item 1, letter "A" and who is a person for whom someone provides maintenance, or a member of the household of the European Union citizen, who is entitled to free movement in the country, where he/she comes from, or in the cases when serious health reasons require obligatorily personal care for the family member by the European Union citizen;</p> <p>2. the person, with whom the European Union citizen is in registered actual cohabitation.</p> <p>Art.5, para 2 states that at entering or residing of a person under para 1, item 1 or 2, a detailed check of the personal circumstances shall be carried out. The refusal of entry or residence shall be reasoned and its conformity with the law shall be contested before the competent court by the order of the Administrative procedure code.</p> <p>The legal definition on "Member of the family of a European Union citizen" is placed in the additional provisions of the AERLRBEUCTFM, as follows:</p> <p>§. 1. For the purposes of this Act:</p> <p>1. "Member of the family of a European Union citizen" is:</p> <p>a) a person, who is married to or is in factual cohabitation with European Union citizen, certified by an official document issued by another Member State of the European Union or other documents certifying the circumstances of their actual cohabitation, except for a written statement by the person;</p> <p>b) a relative of descending line of an European Union citizen and has not accomplished twenty-one years of age, or is a person for whom he/she provides maintenance, or is a descendant of a person under Letter "a";</p> <p>c) a relative of ascending line, for whom the European Union citizen or a person under Letter "a" provides maintenance.</p> <p>4. In general, we apply the notion of proved cohabitation as stated under Q.3. Thus, we consider that a third country national is "In factual cohabitation with European Union citizen" where such cohabitation is certified in an official document issued by another Member State of the European Union or other documents certifying the circumstances of their actual cohabitation.</p>
--	--	--	---

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>5. No.</p> <p>6. The person applies personally after entering the territory of the country and presents a valid passport and visa, in case such is required.</p> <p>7. A member of the family of European Union citizen, who is European Union citizen and has not exercised their right of free movement, shall be granted a residence certificate according to the requirements of Council Regulation (EC) No 1030/2002 of 13 June 2002 Laying Down a Uniform Format for Residence Permits for Third-Country Nationals. A member of the family of a European Union citizen, who is not European Union citizen, who has exercised his/her right to free movement and accompanies or joins a European Union citizen, may reside continuously or permanently in the Republic of Bulgaria, for which a residence card of a family member or a Union citizen shall be issued to him/her.</p> <p>8. The possibilities on limiting the right of residence are precisely elaborated in Chapter 4 of the AERLRBEUCTFM, as follows:</p> <p>Art. 22. The right of entry and the right of residence of European Union citizen or member of his/her family in the Republic of Bulgaria may be restricted by exception and on grounds, connected with the national security, public order or public health.</p> <p>Art. 23. (1) The compulsory administrative measures, imposed on European Union citizen or member of his/her family, shall be:</p> <ol style="list-style-type: none">1. withdrawal of the right of residence in the Republic of Bulgaria;2. expulsion;3. ban on entry in the Republic of Bulgaria. <p>(2) The imposing of the measure shall be based exclusively on the personal conduct of the individual concerned and shall be determined according to the degree in which the latter threatens the national security, public order or public health.</p> <p>(3) At imposing the measure shall be taken into account the duration of residence in the Republic of Bulgaria of the individual on which it is imposed, his/her age, state of health, family and economic situation, social and</p>
--	--	--	--


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>cultural integration and the extent of his/her links with the country of origin.</p> <p>(4) The compulsory administrative measures under Para 1 may not be based on economical considerations, on use of the social aid system, search of employment or expiration of the term of validity of the identity card or the passport with which the person has entered the Republic of Bulgaria.</p> <p>Art. 24. (1) Deprivation of the right of residence in the Republic of Bulgaria shall be imposed on European Union citizen or member of his/her family, in case:</p> <ol style="list-style-type: none">1. the grounds for residence under Art. 8 have dropped out;2. it is found that the person has presented untrue data in order to acquire right of residence;3. the person is absent from the Republic of Bulgaria for a period, exceeding two consecutive years;4. the person suffers from diseases with epidemic potential, specified by the World Health Organisation. <p>(2) Right of residence may be deprived from a European Union citizens family member, from a member of the family of a citizen of Confederation of Switzerland, from a member of the family of citizen of a state party to the European Economic Area Agreement, in the cases where a signal for refusal of entry was entered into the Schengen Information System about the person and after consultation with that Member State which has filed the signal and where is confirmed that the person establishes a serious danger for the national security and about him/her data exists that performs actions against the national security and the public order.</p> <p>Art. 25. (1) Expulsion shall be imposed to an European Union citizen or to a member of his/her family, in case his/her presence in the Republic of Bulgaria creates a real, current and serious threat to national security or public order.</p> <p>(2) Expulsion shall be imposed on European Union citizen who has resided in the Republic of Bulgaria during the last ten years, in exclusive cases only, connected with the national security, and on underage person - if this is in his/her interest.</p> <p>(3) In the event of expulsion the person shall be deprived of the right of residence in the Republic of Bulgaria and a ban to entry in the Republic of Bulgaria shall be imposed on him/her.</p> <p>(4) If an expulsion order has not been executed for more than two years after its entry into force, the body which issued it shall check whether the factual grounds for its issuing are still present. In case the factual grounds have dropped out, the order shall be revoked.</p> <p>(5) European Union citizen or member of his/her family, to whom expulsion is imposed, shall not be expelled</p>
--	--	--	--

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>in a country, in which his/her life and freedom are threatened and he/she is exposed to danger of chase, torture or attitude, which is inhuman or humiliating.</p> <p>(6) The diseases with epidemic potential as specified in the relevant documents of the World Health Organisation, and other infectious or contagious parasitic diseases, if subject to protective provisions applicable to citizens of the Republic of Bulgaria, that have occurred after the expiration of three months from the date of arrival of the person shall not be grounds for expulsion from the territory of the country.</p> <p>Art. 26. (1) Ban on entry in the Republic of Bulgaria shall be imposed on European Union citizen or member of his/her family, who creates a real, current and serious threat to national security with regards to his/her actions, or for whom there is information that carries out actions against national security or public order.</p> <p>(2) Entry into the Republic of Bulgaria may be refused to a European Union citizens family member, to a member of the family of a citizen of Confederation of Switzerland, to a member of the family of citizen of a state party to the European Economic Area Agreement, in the cases where a signal for refusal of entry was entered into the Schengen Information System about the person and after consultation with that Member State which has filed the signal and where is confirmed that the person establishes a serious danger for the national security and about him/her data exists that performs actions against the national security and the public order.</p> <p>(3) The ban on entry in the Republic of Bulgaria shall be valid for a term of up to ten years.</p> <p>(4) Simultaneously with the ban on entry, the right of residence may be deprived.</p> <p>9. Please, see the answer under Q.8.</p>
	<p>EMN NCP Croatia</p>	<p>Yes</p>	<p>1. Yes. In the process of granting temporary residence, third-country national who is a member of the immediate family of a Croatian citizen must have a valid foreign travel document.</p> <p>A third-country national who is a member of the immediate family of a Croatian citizen does not exceptionally have to submit a valid foreign travel document if he cannot obtain it from the diplomatic-consular representation of a foreign country in the Republic of Croatia, and his identity can be unequivocally established in another way. Thus, a family member of a Croatian citizen who is unable to submit a valid foreign travel document in the process of granting temporary residence must submit a confirmation from the</p>


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>diplomatic-consular representation of his country about the current impossibility of issuing a foreign travel document. To establish identity, a family member of a Croatian citizen can attach previously issued photo documents, school records and other documents from which the applicant's identity can be determined. Upon obtaining a valid foreign travel document, a citizen of a third country must, immediately, submit a certified copy to the competent police department or police station.</p> <p>2. See Q1.</p> <p>3. In the process of granting temporary residence for the purpose of family reunification, third-country national is obliged to prove that he is a member of the family of a Croatian citizen. Namely, an official in a public law body independently determines the facts and circumstances in the procedure and resolves the administrative matter based on the established facts and circumstances. Which facts and circumstances will be considered proven is determined by the official person, based on a conscientious and careful assessment of each piece of evidence separately and all the pieces of evidence together, and based on the results of the entire procedure.</p> <p>4. We have no such examples in practice.</p> <p>5. We have no such examples in practice. However, in similar cases, when approving temporary residence for a third-country national parent of a minor child of a Croatian citizen, in cooperation with the Center for Social Welfare, the police department or police station makes a decision looking at the protection of the child's personal rights and best interests.</p> <p>6. The application for the issuance of a temporary residence permit is submitted to the diplomatic mission or consular office of the Republic of Croatia. However, the provisions of the Aliens Act stipulate that a member of the immediate family of a Croatian citizen can apply for a temporary residence permit from the territory of the Republic of Croatia.</p> <p>7. Since Directive 2004/38 does not apply, third-country nationals for the purpose of family reunification with</p>
--	--	--	--


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>a Croatian citizen are issued a residence permit in accordance with the provisions of the Aliens Act.</p> <p>8. According to the Aliens Act, temporary residence will be refused if the third-country national poses a threat to public order (in the sense of Directive 2003/86). However, the request is not automatically rejected, but when deciding on the request, all the circumstances of the case are taken into account (for example, how long you have been staying in the Republic of Croatia, whether you are married or out of wedlock with a Croatian citizen, whether they have a child or children, in case of divorce to whom the child is assigned to care, whether a citizen of a third country supports the child, etc.). If the request is submitted according to Directive 2004/38, then the threat to public order or national security is treated according to the said Directive.</p> <p>9. /</p>
	<p>EMN NCP Cyprus</p>	<p>Yes</p>	<p>1. YES. He/She is required to provide a valid passport, with the exception of asylum seekers where an id can be accepted.</p> <p>2. YES. Asylum seekers who are not in possession of a passport can apply with other forms of identification</p> <p>3. a) A document attesting to the existence of a family relationship, e.g. marriage certificate, civil partnership certificate, birth certificate etc. b) Sole custody of minor by a court order (if applicable) c) Court decree for communication with a minor</p> <p>4. In the case of a European minor, cohabitation in a non “stable basis” would be if the parent who is a third-country national and is either divorced the Union citizen or has never been married to the Union citizen, does not have any communication with the minor indicated, or whether there is a court ordered shared custody or an Order dictating specific visitation rights which is not respected.</p> <p>5. YES. This happens when there is a report from the welfare services signifying that the best interest of the</p>

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>minor is not affected by any way by his/her relationship with the parent who is a third-country national as the latter does not have any kind of contact with the minor or when the report suggests that the best interest of the child is not to have any kind of contact with the parent who is a third country national. In general, when there is a reliable report either from the police or the welfare services that the third country national parent is not in contact with the minor, or he/she does not fulfill his/her obligations regarding the minor.</p> <p>6. If there is a right of residence under article 20 TFEU the applicant can only be granted the right of residence after entry.</p> <p>7. There are two kinds of residence permits issued to individuals with a derived right of residence under Article 20 TFEU: a) One year permit (renewed every year) with the right to reside and work to a third country national whose minor child is a European citizen b) One year permit (renewed every year) with the right to reside to a third country national who is in a cohabitation relationship with a Union citizen</p> <p>8. NO. Cyprus does limit the right of residency when the third-country national constitutes a threat to public policy and public security, but it also limits the right of residence when there is substantial evidence that the relationship between the third-country national and the Union citizen does not exist, eg marriage of convenience, false documents attesting the relationship etc.</p> <p>9. Under no circumstances the right of residence of a minor is limited, provided that one of the parents is a European Union citizen, even when the European Union citizen is not present in the territory of Cyprus and if the third country national parent is in our territory and is in contact with the minor, the right of residence is provided to the parent as well.</p>
	<p>EMN NCP Czech Republic</p>	<p>Yes</p>	<p>1. YES. A family member of an EU citizen must present a travel document. For the purposes of the law, a travel document is:</p>


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>1) a public document which is recognised as a travel document by the Czech Republic, 2) a public document issued by a foreign state for the purpose of travel abroad, if, in terms of its design and the language in which the information is given, it conforms to international practice, its territorial validity covers the territory and it is possible to ascertain from it (a) details of the nationality of the alien, (b) details of his identity, (c) a photograph of the holder, (d) an indication of the period of validity. 3) an alien passport with territorial validity to all countries of the world, 4) a travel identity card, 5) a travel document issued by the Czech Republic on the basis of an international treaty, 6) a replacement travel document of the European Union,</p> <p>2. No.</p> <p>3. All evidence that is appropriate to establish the state of the case and that was not obtained or taken. The violation of the law may be used to provide evidence. These include, in particular, all types of documents, an inspection of particular places, testimonies or expert opinions.</p> <p>4. The Czech Republic applies a broader definition of a family member than that set out in Directive 2004/38/EC. A family member of a citizen of the European Union is defined as his or her (a) a spouse, (b) a parent, if the European Union citizen is under 21 years of age, for whom he/she is effectively caring, (c) a descendant under 21 years of age or such descendant of the spouse of a European Union citizen, and (d) a descendant or ancestor or a descendant or ancestor of the spouse of a European Union citizen, if he or she is dependent for the satisfaction of his or her basic needs on maintenance or other necessary care provided by the citizen of the European Union or his or her spouse, or was dependent on such maintenance or other necessary care immediately before entering the territory of the State of which he or she is a citizen or of the State in which he or she was allowed to reside. Furthermore, a family member of a citizen of the European Union shall be understood as a foreigner who is in the above-mentioned relationship to a citizen of the Czech Republic.^{fa}</p>
--	--	--	--

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>Cohabitation on a stable basis is usually considered to be cohabitation in a common household.</p> <p>5. In our experience applications are usually inadequate for reasons other than failure to establish a dependency relationship.</p> <p>6. It depends on the circumstances, but generally before entering the territory, unless the applicant is already residing in the territory under another title.</p> <p>7. Residence permit pursuant to Section 117a of the Act No. 326/1999 Coll. on the Residence of Aliens in the Territory of the Czech Republic.</p> <p>8. It depends on what type of residence the applicant is applying for, however, we acknowledge only one concept of public security and public order.</p> <p>9. For example, a final conviction for an intentional crime according to the Czech Criminal Code.</p>
	<p>EMN NCP Estonia</p>	<p>Yes</p>	<p>1. Yes. Valid identity document, issued by the country of the nationality.</p> <p>2. Yes. In legal migration, Estonian legislation expects that in the first contact with the authorities, the third-country national is identified using legal documents before issuing right of residence or residence permit. Estonian legislation allows to prove persons' identity by other means, if a person does not have a travel document or does not have a valid identity document. In that case, if applicant's identity is proved mainly by testimony, relevant remarks will be made to the document in Estonian and English. Legislation obliges to identify the person and does not delimit in which cases it is allowed to prove persons' identity by other means and each case will be resolved according to the particularity of the case. In legal migration issues, we do not have any relevant cases with the third-country nationals, as our cases have been connected to the situation where a person has been identified already in Estonia and his/her documents have been lost or destroyed or not valid anymore, etc.</p>

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>3. We expect that child and parents need to live together, or their main place of residence should be same, as well as family life characterized by real and sufficiently close relations among its members, being financially bound, etc.</p> <p>According to the Citizen of the European Union Act, 'dependant' means a person who resides together with the citizen of the EU in a shared household and has no personal income. 'Member of the household' means (1) a person specified in subsection 4 of § 24 of the Official Statistics Act who resides with the citizen of the EU in a shared household and has an independent income or (2) a person who has a proven permanent and factual registered partnership with a citizen of the EU. Relation of dependency must be proven with documentary evidence, which may be done in any manner suitable (e.g. account balance and account extract, registration of residence etc.).</p> <p>4. Persons do not live together permanently or have not lived together for a long time, lack of financial support and emotional connection.</p> <p>5. Estonia does not have relevant experiences.</p> <p>6. Application for right of residence is submitted in an Estonian Embassy or directly to the Police and Border Guard if an applicant is legally in Estonia. Renewal of the residence permit card, which proves right of residence in Estonia, can be applied only in Estonia; in exceptional cases in an Estonian foreign representation, if a person has already right of residence in Estonia and his/her place of residence abroad (should be temporary) is registered in the Estonian Population Register.</p> <p>7. Estonia would probably apply national law and issue residence permit for settling with a spouse. In case of EU citizen, his/her family member would receive a residence permit card according to the directive 2004/38/EC.</p>
--	--	--	--

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>8. If the application is processed according to the directive 2004/38/EC, threat to public policy or public security is treated according to the directive 2004/38/EC. Regarding the mentioned court case, Estonia would probably apply domestic law, as the inviter has not used the right of free movement and therefore threat to public order and public security would be treated according to the directive 2003/86.</p> <p>9. The best interests of the child are taken into account above all, as well as other factors such as the individual's factual family relations (close/emotional ties) and financial situation, his or her social and cultural ties with the Estonian society and the ties with his or her country of origin etc. Estonian domestic law allows several exceptions depending on the circumstances of the case.</p>
+	EMN NCP Finland	Yes	<p>1. YES. A valid passport is required as proof of identity.</p> <p>2. YES. An exception is possible mainly if a third country national comes from a country where it is impossible to obtain a passport that would be acceptable in Finland. Such countries include Somalia. In this case, the applicant must apply for an alien's passport at the same time as she/he applies for a residence card/residence permit.</p> <p>3. The assessment is case-specific. If the applicant is a minor child and the sponsor is her/his guardian or the guardian's spouse, living together is a strong indication of dependency.</p> <p>4. The concept of "a stable basis" has not been defined. When processing a residence permit application made on the basis of family reunification, the Finnish Immigration Service examines whether the applicant and the sponsor have led an actual family life together and whether they intend to do so in Finland. When considering the application, the Finnish Immigration Service will pay attention to, among other things, the earlier family life between the applicant and the sponsor, to the contact and meetings between the applicant and the sponsor, to the point of time when the residence permit application has been submitted, to the provision of financial support, and, when it comes to children, to the existence of dependency status. Further, the Finnish Immigration Service will assess whether the actual family</p>


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>life has ended for compelling reasons or voluntarily, as a result of personal choices made by the parties concerned.</p> <p>In applications for a residence card for an EU citizen's family member, the child is not required to be under actual care of the sponsor but evidence of having official custody of the child is required.</p> <p>5. Yes.</p> <p>6. He or she can apply and be granted a continuous residence permit after or before entering Finland. A residence card for a family member of an EU citizen can only be applied for in Finland.</p> <p>7. If the Directive 2004/38/EY applies, an individual is granted a residence card for a family member of an EU citizen. According to the Finland's Aliens Act Section 153, Chapter 10 applies to Union citizens and similar persons and their family members and other relatives. According to the Finland's Aliens Act Section 153, the chapter applies to family members of a Finnish citizen if the Finnish citizen has exercised his or her right of free movement under the Free Movement Directive by settling in another Member State, and the family member accompanies him or her to Finland or joins him or her later. If the Directive 2004/38/EY does not apply, an individual is granted a continuous residence permit. According to the Finland's Aliens Act Section 50 family members of a Finnish citizen living in Finland and minor unmarried children of the family members are issued with a continuous residence permit on the basis of family ties upon application filed in Finland or abroad. According to Section 37, in the application of this Act, 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.</p> <p>8. If the Directive 2004/38 does not apply, the applicant has to constitute a threat to public policy and public security within the meaning of Article 6 of Directive 2003/86. If the Directive 2004/38 applies, then the applicant has to constitute a threat to public policy and public security within the meaning of Article 27 of Directive 2004/38.</p>
--	--	--	--


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>9. A residence permit application may not be rejected only based on considerations of general prevention of criminality. Instead, a decision to refuse a residence permit must be justified with factors related to the particular case in question. The personal conduct of the individual must represent a genuine, immediate and sufficiently serious threat affecting a fundamental interest of society. When making a decision, the protection of family life and the best interest of the child must be weighed against the security interests of the State.</p>
	<p>EMN NCP France</p>	<p>Yes</p>	<p>1. Under French law, to apply for a residence permit, a family member of an EU citizen must prove their identity and nationality providing a valid identity card or passport.</p> <p>2. NO. Our legal framework does not make any exception.</p> <p>3. In France, to prove the special relationship of dependency the following documents are required: - any document proving the material and financial support provided by the foreign national living in France to the descendant or ascendant if the latter was living in the country of origin or provenance: proof of money transfers made in their favour (bank or postal transfers) or of the provision of an accommodation or any material assistance for their benefit (documents issued by public administrations or private bodies); - and any proof that the foreign national living in France has sufficient resources to meet the needs of the descendant or ascendant in France (bank statements, pension slips, tax assessment notices, etc.). (NB: amount required: equivalent to the Active Solidarity Income (Revenu de solidarité active), calculated according to the composition of the family).</p> <p>4. Such a presumption could be challenged if the parents' resources are absent or insufficient.</p> <p>5. No such situations have been experienced at the moment.</p> <p>6. In France, applications for residence permits can now be made online (i.e. from anywhere). However, the processing of such applications requires the presence of the applicants in France.</p>

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>7. The residence permit issued is the one provided for in Article 10(1) of the Directive 2004/38/EC, i.e. the residence card untitled "family member of a Union citizen".</p> <p>8. Restrictions on the right to move and reside freely in France imposed on the family member of an EU citizen may only be justified by a behaviour constituting, from the point of view of public policy and public security, a genuine, current and sufficiently serious threat to a fundamental interest of society, in accordance with Article 27 of Directive 2004/38/EC.</p> <p>9. Other situations that may justify a restriction of the right of residence of a family member of an EU citizen are related to the existence of an abuse of rights or fraud.</p>
	EMN NCP Greece	Yes	<p>1. YES. Third country nationals who are family members of an EU citizen (who has exercised the freedom of movement) and apply for a residence card are required to submit as proof of their identity, a copy of a valid passport.</p> <p>2. YES. According to national legislation, in cases where a third-country national fails to present a valid passport or other travel document, the right of residence may be recognized to him as a person deprived of passport, where this third country national claims and reasons his objective inability due to particular conditions or circumstances, on opinion of a special Committee provided in migration legislation (L.4251/2014).</p> <p>3. In case of direct relatives in the descending line of an EU citizen or of the other spouse/partner (including their adopted children), is submitted:</p> <ul style="list-style-type: none"> • a solemn declaration of the EU citizen attesting to the cohabitation and to the fact that he/she shall bear the cost of maintenance and subsistence expenses in Greece of the direct relatives in the descending line. • Moreover, in case of an adult over the age of 21, for the issuance of a Residence Card, must be also submitted documented evidence of material dependence on the Union citizen or the other spouse/partner in Greece or in the foreign country and a solemn declaration of the sponsor that they


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>are still supported. The evidence may be in the form of a document granted by the competent authority of the country of origin or the country of habitual residence, which attests to the fact that this family member is supported by the Union citizen or the other spouse/partner or lived under the same roof in that country or where serious health grounds strictly require the personal care of the family member by the Union citizen or the other spouse or partner.</p> <p>In case of granting a residence card to direct relatives in the ascending line of an EU citizen or of the other spouse/partner, it must be submitted:</p> <ul style="list-style-type: none"> • documented evidence of material dependence on the Union citizen or the other spouse/partner in Greece or in the foreign country and a solemn declaration of the sponsor that they are still supported. The evidence may be in the form of a document granted by the competent authority of the country of origin or the country of habitual residence, which attests to the fact that this family member is supported by the Union citizen or the other spouse or partner, or lived under the same roof in that country or where serious health grounds strictly require the personal care of the family member by the Union citizen or the other spouse or partner. <p>In case of any other family member of the EU citizen on condition that this family member is supported by the Union citizen or lived under the same roof in the country of origin or where serious health grounds strictly require the personal care of the family member by the Union citizen or the family member supports the EU citizen who has the right of residence it is submitted:</p> <ul style="list-style-type: none"> • Documented evidence of material dependence of the applicant on the Union citizen in Greece or in the foreign country and a solemn declaration of the dependent members that they are still supported by the sponsor. The evidence may be in the form of a document granted by the competent authority of the country of origin or the country of habitual residence, which attests to the fact that this family member is supported by the Union citizen or lived under the same roof in the country of origin or where serious health grounds strictly require the personal care of the family member by the Union citizen or • Documented evidence of material dependence of the Union citizen who has the right of residence in
--	--	--	--

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>Greece and a solemn declaration of the Union citizen attesting to the fact that he or she is still supported by the applicant. The evidence may be in the form of a document granted by the competent authority of the country of origin or the country of habitual residence, which attests to the fact that this family member supports the Union citizen or that the Union citizen lived under the same roof in the country of origin or</p> <p>4. N/A</p> <p>5. N/A</p> <p>6. The application for granting a residence card to a third country national who is family member of an EU citizen who has exercised the freedom of movement, is submitted after the entry into the territory of Greece.</p> <p>7. Third country nationals who are family member of an EU citizen who has exercised the freedom of movement, are granted, if the necessary conditions are met, a Residence Card of a five (5) years duration, renewable.</p> <p>8. The restrictions on the right of entry and residence of a third country national, family member of an EU citizen, on grounds of public policy, public security or public health, are examined according to articles 27, 29, 32 and 15(1) and (3) of Directive 2004/38/EC, which was transposed to national legislation by the provisions of presidential decree nr.106/2007 (G.G. A'135).</p> <p>9. Please see answer to Q8.</p>
	<p>EMN NCP Hungary</p>	<p>Yes</p>	<p>1. No special rule on derived right of residence has been introduced in Hungarian national law. As a general rule, in case of a third-country national (hereinafter referred to as TCN) family member of a Hungarian national, one of the conditions for issuing a residence permit for a period of time exceeding 90 days is that the person concerned has a valid passport.</p>


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>2. -</p> <p>3. No special rule on derived right of residence has been introduced in Hungarian national law; the special relationship of dependency can be established based on only the relevant judgements by the Court of Justice of the European Union. The general rule in national law is that the burden of proof shall be borne by the applicant, who must prove that (s)he meets the residence conditions set in legislation.</p> <p>4. No special rule on derived right of residence has been introduced in Hungarian national law. As a general rule, a TCN family member of a Hungarian national may stay within the territory of Hungary exceeding 90 days if (s)he has a residence permit, which by reference to a family member may be issued for the purpose of family reunification. In order to meet the requirement to have sufficient means of subsistence as a residence condition, it is to be proved that the TCN and/or his/her family member has/have sufficient resources to make the foreign national able to stay within the territory of Hungary for the period of time in his/her application. If there is a cohabitation in marriage or by a parent-child relationship between the Hungarian national and the TCN is always examined on a case-by-case basis, as per the individual circumstances of the case concerned. For such cases, the principle of unfettered evaluation of evidence is applied, it may be examined if the persons concerned are staying together at the declared residential address, if their (f)actual place of residence is the same, other circumstances related to the existence of a family relationship, etc. (child support, participation in childcare, etc).</p> <p>5. Cases referred to in this question have been experienced in court practice.</p> <p>6. No special rule on derived right of residence has been introduced in Hungarian national law. As a general rule, a TCN as a family member of a Hungarian national may submit an application for a residence permit at the Hungarian foreign mission in the country as per his/her nationality or habitual place of</p>
--	--	--	---


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>residence.</p> <p>7. No special rule on derived right of residence has been introduced in Hungarian national law. As a general rule, a residence permit may be issued to a family member of a Hungarian national.</p> <p>8. No special rule on derived right of residence has been introduced in Hungarian national law. If the TCN concerned constitutes a threat to the public policy, public security or national security of Hungary (s)he may not be issued a residence permit.</p> <p>9. No special rule on derived right of residence has been introduced in Hungarian national law. As a general rule, a TCN applying for a residence permit as a family member of a Hungarian national is required to credibly substantiate that a family relationship exists between the applicant and the Hungarian national, as well as that the applicant has sufficient financial means of subsistence, a place of accommodation in Hungary, health insurance, furthermore the applicant is not to be subject to expulsion, a SIS alert, an entry and residence ban, the applicant is not to constitute a threat to the public policy, public security, national security or public health of Hungary, and the applicant is to have a valid travel document.</p>
	EMN NCP Latvia	Yes	<p>1. Yes. A third country national shall prove his/her identity in order to be granted a residence permit by submitting a valid passport.</p> <p>2. No.</p> <p>3. If one of the spouses is unable to support himself/herself due to some circumstances (e.g. illness) and the other spouse takes care about a family.</p> <p>4. If a parent, third-country citizen, declares that he/she has to continue to take care about his/her minor child but in fact he/she cannot prove that he/she has been involved in raising of the child. Usually there is a statement from other parent on this situation as it is very difficult to establish it. If persons have the same address but in fact live separately (sometimes, with other partners).</p>

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>5. There have been some cases where a fact of cohabitation was not proven by applicants.</p> <p>6. The applicant can submit his/her application before entry into Latvia at the embassy of Latvia abroad or after entry at the Office of Citizenship and Migration Affairs if he/she has legal rights to stay in Latvia.</p> <p>7. Latvia grants a temporary residence permit in accordance with national legislation (Immigration Law).</p> <p>8. Public policy and public security issues are taken into consideration in all cases where a residence rights of a third-country citizen are granted. If a sufficient threat would be established, the residence rights will not be granted.</p> <p>9. N/a</p>
	EMN NCP Lithuania	Yes	<p>1. YES A valid passport is required.</p> <p>2. NO</p> <p>3. In order to obtain a residence permit on the grounds of a family relationship, a third-country national must typically present a document certifying the family relationship. Thus, for example, if the stated relationship is marriage or registered partnership, then a document attesting to marriage, or a registered partnership contract must be submitted with the application. In order to obtain a residence permit on the grounds of a family relationship, a third-country national must present a document certifying the family relationship. Thus, for example, if the stated relationship is marriage or registered partnership, then a document attesting to marriage, or a registered partnership contract must be submitted with the application. In the case of underage children, the relationship of dependency is assumed. In all other cases, the relationship of dependency must be documented (e.g., a written explanation and statements of bank orders in</p>


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

		<p>the case of financial dependency, or a certificate from a healthcare institution in the case of dependency due to health issues, etc.).</p> <p>4. The concept of “living on a stable basis” is not defined in law. A basic idea of how such a rebuttal could be constructed may perhaps be derived by looking at the related legal concepts that are better established. For example, reasonable grounds for suspecting fictitious marriage include not living together and not maintaining a shared household. According to the Civil Code, the fact of a broken marriage can be presumed if the spouses do not maintain a shared household for longer than a year and do not lead marital life. In addition to not living together and not maintaining a shared household, divorce cases often mention various indicators of not having an intent to continue the marriage, such as not having a marital life, not caring about the family, ignoring the needs of family members, as well as failing to contribute to the upbringing and education of children or to ensuring their material, social and other rights.</p> <p>5. NO</p> <p>6. Both options are possible. A national visa valid for up to 5 months can be issued to the applicant on the grounds of applying for a residence permit.</p> <p>7. Temporary residence permit</p> <p>8. According to Article 4 of the Law on the Legal Status of Foreigners, when the Migration Department reviews a foreigner’s application to issue a residence permit, it must obtain an assessment from the State Security Department regarding threats to the state and from the Police or the State Border Guard Service regarding threats to public order and the society. Only foreigners who do not pose threats to state security, public order or society can be issued a residence permit.</p> <p>9. In addition to threats to state security and public order, the law allows refusing to issue a residence permit if</p>
--	--	--


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<ul style="list-style-type: none"> • a foreigner's residence in the country could pose a threat to the people's health; • there is a serious reason to believe that the residence permit is applied for in order to avoid criminal responsibility or that the foreigner would commit crimes in Lithuania; • there is a serious reason to believe that the foreigner has committed a crime against peace, a crime against humanity, or a war crime or took some part in committing such crimes. <p>There may be other grounds for refusal. All the grounds for refusing to issue a temporary residence permit are defined in Article 35 of the Law on the Legal Status of Foreigners. Each case is assessed individually.</p>
	EMN NCP Luxembourg	Yes	<p>1. Yes. The amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law) requires that the applicant proves his/her identity with his/her valid passport (art. 13(1)).</p> <p>2. In principle, according to the legislative framework, in Luxembourg the third-country national has to prove his/her identity by a valid passport. However, there are cases like for Somalian nationals, where authorities since 2011 do not accept the Somalian passport as there is no way to prove their authenticity, so the identity has to be proven by any other means. In these cases, the identity will be probable and not with full certainty.</p> <p>3. In Luxembourg, a relationship of dependency is more likely to be found between EU citizen children and non-EU national parents. Regarding the relation of dependency, the EU citizen child must be legally, financially and emotionally dependent on the non-EU national. The family link is not sufficient to establish a relationship of dependency. In Luxembourg, the evidentiary requirement is that such a relationship shall be made likely/probable.</p> <p>4. In Luxembourg, parents don't need to live together all the time, but the relation of the cohabitation is relevant as well as the effective family life characterized by real and sufficiently close relations among its members.</p> <p>5. No.</p>

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>6. In Luxembourg, an application for a residence permit may only be granted after entry in exceptional cases.</p> <p>7. As Directive 2004/38 is not applicable, we don't issue residence cards to third country nationals with a derived right of residence based on Article 20 TFEU. However, third country national parents are allowed to stay and work in Luxembourg in order to take care of their child.</p> <p>8. In Luxembourg, the refusal of a right of residence always takes into account the best interests of the child concerned, all the specific circumstances, including the age of the child, the child's physical and emotional development, the extent of his ties both to the Union citizen parent and to the third-country national parent, and the risks which separation from the latter might entail for the child's equilibrium. After having undertaken the necessary enquiries, it is very rare that in Luxembourg the right of residence is refused to a third-country national parent. Only in cases of violence or lose of custody, the right of residence will not be granted.</p> <p>9. In the case of threat to public policy and public security it is considered in accordance with article 27 of the Directive 2004/86/EC If the individual is a threat to public policy and public security, normally no exception is made. However in order to grant the best interest of the child, exceptions may be made depending on the seriousness of the criminal acts, the risk of recidivism, family life, employment contract.....</p>
	<p>EMN NCP Netherlands</p>	<p>Yes</p>	<p>1. The third-country national who applies for residence with his/her minor Dutch child must make her/his identity likely/probable with a passport or other means if he/she does not have a passport.[1] [1] Administrative Jurisdiction of the Council of State for the Netherlands (Afdeling bestuursrechtspraak van de Raad van State , AbvRS), (ECLI:NL:RVS:2022:433) of 10 February 2022.</p> <p>2. Yes, see the answer to question 1.</p> <p>3. In order to qualify for a right of residence under art. 20 TFEU, a third country national needs to:</p> <ol style="list-style-type: none"> 1. make likely/probable what his/her identity and nationality is; and 2. prove that he/she is the parent of a minor Dutch Child; and

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>3. attach supporting documents showing actual/proven caretaking between the third country national and the Dutch national; and</p> <p>4. attach supporting documents showing proof that the minor EU citizen is in a relationship of dependency with the third country national, within the meaning of CJEU case law on art. 20 TFEU. That is to say: the third country national needs to prove that the minor child would be forced to leave the territory of the EU if the third country national parent would not be allowed a right to stay. [1]</p> <p>The applicant can prove elements 3 and 4, for example, by attaching a letter/statement with an explanation of child-rearing tasks and the family situation, photo's, documents that prove evidence from a GP or specialist that show the dependency of the child in question during medical check-ups/treatments, financial statements and statements by a school, sports club etc.[2]</p> <p>[1] This information is provided by the Ministry of Justice and Security on 28 March 2023. [2] Immigration and Naturalisation Service (IND), 'Application for an EU residence document for staying with a minor Dutch child' https://ind.nl/en/forms/6550.pdf, last accessed on 15 March 2023.</p> <p>4. This depends on the circumstances of the case. If the third-country parent has lived together with the child from birth, this requirement will soon be met, irrespective of the age of the child. If the third-country parent has only recently started living with the child, this condition is less likely to be met. The age of the child plays an important role in this as well. The older the child, the sooner a short-term cohabitation is not regarded as sustainable.[1]</p> <p>Please note that in our view long-term cohabitation alone is not sufficient to assume such a dependency relationship. According to our reading of the judgment, the rebuttable presumption only comes into play once the following criteria have been met:</p> <ul style="list-style-type: none">- The third country national has authority- The third country national is legally, affectively and financially responsible for the minor child (C-451/19 and C-532/19 p. 69).
--	--	--	--


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>[1] This information is provided by the Ministry of Justice and Security on 28 March 2023.</p> <p>5. As stated under question 4, sustainable cohabitation alone is not sufficient. Having authority is also an important element, as is the presence of a legal, affective and financial burden. A strong dependency will not easily be assumed between a third-country parent who lives permanently with a minor Dutch child but who does not play an effective role in the child's life. This concerns third-country parents who are not legal parents and therefore have no legal control (authority) over the child, and who do not invest financially and emotionally in the minor Dutch child. It may also concern third-country parents who abuse their child.[1]</p> <p>[1] This information is provided by the Ministry of Justice and Security on 28 March 2023.</p> <p>6. If the third-country parent already resides in the Netherlands, he/she can submit an application for residence in the Netherlands. If he/she is still staying outside the Netherlands, he/she can apply for a facilitating visa at the diplomatic representation of the Netherlands (the embassy) in the country concerned. He/she can enter the Netherlands with the facilitating visa. When he/she has arrived in the Netherlands, he/she can submit an application for residence.[1]</p> <p>[1] This information is provided by the Ministry of Justice and Security on 28 March 2023.</p> <p>7. To date, the Netherlands lacks a legal framework for rights of residence based on Article 20 TFEU. However, as the highest administrative court has considered in its judgment of 9 August 2013 (ECLI:NL:RVS:2013:725), the Aliens Act (Vw) 2000 does include the power to issue a document as referred to in Article 9(1) of the Aliens Act (Vw) 2000. According to the administrative court, that document is intended for and, by its very nature, best corresponds to a right of residence resulting directly from Article 20 of the TFEU.</p> <p>Furthermore, although the persons entitled to reside on a derived right of residence under Article 20 TFEU are not formally EU nationals within the meaning of Article 1 of the Aliens Act (Vw) 2000, the policy rules have</p>
--	--	--	---


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>been aligned with the rights of family members of EU citizens under Directive 2004/38/EC who reside in the Netherlands pursuant to Article 8(e) of the Aliens Act (Vw) 2000. For these reasons, third country nationals with a derived right of residence pursuant to Article 20 TFEU are issued an EU document as referred to in Article 9(1) of the Aliens Act (Vw) 2000.[1]</p> <p>[1] This information is provided by the Ministry of Justice and Security on 28 March 2023.</p> <p>8. After establishing that the conditions for lawful residence on the basis of art. 20 TFEU have been met, lawful residence shall be denied or terminated on grounds of public policy or public security if the personal conduct of the third-country national constitutes a real, current and sufficiently serious threat to a fundamental interest of society (the concept of public order under EU law from the judgment Rendon Marin, C-165/14).[1]</p> <p>[1] This information is provided by the Ministry of Justice and Security on 28 March 2023.</p> <p>9. If the third-country parent has a right of residence in the Netherlands or in another Member State, he or she does not also qualify for a right of residence on the basis of the Chavez judgment. After all, the refusal to grant this right of residence does not lead to the child being forced to leave the EU. If the Dutch nationality of the minor child has been acquired fraudulently, this may be a reason to withhold the derived right of residence on the basis of the Chavez judgment.</p> <p>If the parent remaining abroad does not grant permission for the departure of the minor child, for example a third-country sibling of the Dutch child in the Netherlands, to the Netherlands, the derived right of residence on the basis of the Chavez judgment will be withheld.[1]</p> <p>[1] This information is provided by the Ministry of Justice and Security on 28 March 2023.</p>
	EMN NCP	Yes	1. PT requires a passport.

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

	Portugal		<p>2. There are only one exception to the rule, concerning the minors. They can make proof of identity with registration in the consulate of country of nationality.</p> <p>3. The relationship of dependency can be prove by any kind of document (bank transferences, declaration of public entity, etc)</p> <p>4. PT applies the judgment of the CJEU.</p> <p>5. Yes, but rarely.</p> <p>6. He or she can submit the application and be granted a right of residence after entry.</p> <p>7. PT issues a resident permit as familiar of a citizen of the Union (including Portuguese nationals) under article 15º of Law nº 37/2006, of 9th. August.</p> <p>8. Yes (vd. Article 22º of the Law nº 37/2006, of 9th august).</p> <p>9. There are no exceptions other than the ones above mentioned.</p>
	EMN NCP Slovakia	Yes	<p>1. Yes. Based on Article 69 par. 1 of the Act on the Residence of Foreigners, a family member of the Union citizen may submit any document instead of a valid travel document by means of which he/she demonstrates his/her identity and a family relationship with the Union citizen to the police department in a <u>trustworthy way</u></p> <p>.2. No. See response to question 1.</p> <p>3. Based on the Article 2 paragraph 5 of the Act on residence of Foreigners a family member of the Union citizen is understood as the third country national who is</p> <p>a) his/her spouse;</p>


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>b) his/her child younger than 21 years of age, his/her dependent child and dependent children of his/her spouse;</p> <p>c) his/her dependent direct relative in descending or ascending line and such a person of his/her spouse;</p> <p>d) any other family member to whom letters (a) to (c) do not apply and he/she is a dependent person in the country of his/her origin;</p> <p>e) any other family member to whom letters (a) to (c) do not apply and he/she is the member of his/her household;</p> <p>f) any other family member to whom letters (a) to (c) do not apply and he/she depends on his/her care due to serious health reasons;</p> <p>g) his/her partner with whom the Union citizen is in a permanent, duly certified relationship;</p> <p>h) a third country national with the right of residence in the same member state in which the Union citizen has the right of residence, and the Union citizen is a Slovak Republic national with whom the third country national returns or whom he/she joins to reside with back in the Slovak Republic territory and fulfils some of the conditions specified in (a) to (g) in connection with the Slovak Republic national;</p> <p>A family member of a citizen of the Union must prove that the above conditions are met in a <u>trustworthy way</u></p> <p>.</p> <p>4. Each situation is assessed individually, it is not possible to specify it precisely.</p> <p>5. No.</p> <p>6. In the Slovak Republic, the application can only be submitted after entering the territory of the Slovak Republic at the local department of the foreign police.</p> <p>7. Family members of a citizen of the Union are granted the right to residence of a family member of a citizen of the Union, which has the character of permanent residence.</p>
--	--	--	---


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>8. In line with the Article 27 of Directive 2004/38.</p> <p>9. The personal behavior of a citizen of the Union or a family member of a citizen of the Union, if it is a citizen who has the right to permanent residence, must represent a real, existing and sufficiently serious threat to the security of the state, public order or public health. Each case is assessed individually.</p>
	EMN NCP Slovenia	Yes	<p>1. Yes. A valid ID card or valid passport is required.</p> <p>2. Yes, an exception would apply in the case of stateless person or if the person does not have and cannot obtain a valid travel document of the country of which they are a citizen.</p> <p>3. The Foreigners Act does not establish a specific evidentiary requirement (e.g. on the basis of likely proven facts, the authority can only make a decision if the law so stipulates), therefore, in accordance with the fundamental principle of material truth in administrative proceedings (which is established by the Act on General Administrative Procedure), it is necessary to establish the true factual situation and, for this purpose, to establish all the facts that are important for the correct decision. The principle of material truth corresponds to the level of "belief/persuasion" as awareness of the reality of a fact - that is, that the official does not (anymore) doubt the established fact.</p> <p>4. We have no such experience yet.</p> <p>5. We have no such experience yet.</p> <p>6. The application cannot be submitted from abroad, but only after entering the country at the administrative unit in whose area the applicant resides.</p> <p>7. The residence permit and permanent residence permit issued to a family member contain information specified by Regulation 1030/2002/EC, information on the address of residence in the Republic of Slovenia</p>


Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>and information on the right to free or permitted access to the labor market for foreigners who have in accordance with the Act regulating the employment and work of foreigners, the right to free or permitted access to the labor market. On the residence permit for a family member of a Slovenian citizen, the word "family member" is entered.</p> <p>8. The applicant has to constitute a threat to public policy and public security within the meaning of Article 27 of Directive 2004/38.</p> <p>9. We have no such experience yet.</p>
	EMN NCP Spain	Yes	<p>1. YES PASSPORT</p> <p>2. There is the possibility of processing a cédula. The cédula is a document in national code provided for cases of undocumented persons. The procedure is as follows: the State of origin expresses clearly that it does not want to document its national for whatever reason. If the person does not have a criminal record, Spain documents him with a cédula. The main problem take place when the State of origin does not document them but does not expressly say that it will not document. In these cases, there is the possibility of carrying out a procedure before a notary in which he verifies that his country does not respond to him and from there Spain can assess the documentation of that person.</p> <p>3. Any legally valid means of proof in law that allows providing that there is a relationship of special dependency that implies that in case of refusal of a derived right of residence, the EU citizen himself would be forced to leave. The mere existence of a family link (civil or biological) would not be sufficient. Moreover, in principle, an adult can lead an independent existence from his family members, so granting a right under article 20 will only be possible in exceptional cases.</p> <p>4. Indeed, consequently with the previous question it is presumed that in the case of minors there will be a greater probability of dependence. About coexistence, we understand that stability means that this</p>

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>coexistence will be real and there will be continuity. That is to say, that it is not a circumstantial fact. Documents are requested to prove it and if there are doubts, tests are carried out, such as checks by the police at home.</p> <p>5. Sometimes, depending on the documentation provided in the procedure and the proceedings that are practiced, it can be verified that the coexistence is not real.</p> <p>6. The application must be submitted in Spain</p> <p>7. Is granted either a residence card as a family member of a citizen of the Union or a national authorisation in the case of relatives of Spaniards.</p> <p>8. The concept of Article 27 of Directive 2004/38/EC applies by analogy.</p> <p>9. In principle, no exceptions are foreseen.</p>
	EMN NCP Sweden	Yes	<p>1. Under Swedish law, the general rule is that the applicant shall prove her/his identity in order to be granted a residence permit, normally by submitting a valid passport.</p> <p>2. In order to be granted a derived right of residence it is typically required that the applicant's identity is proven. We are considering whether it may be possible to make exceptions for applicants from countries where conditions are such that it is difficult or impossible to obtain reliable id-documents needed to prove one's identity. We are not aware of any such judgments specifically related to a derived right of residence under Article 20 TFEU in our national courts.</p> <p>3. As per the CJEU judgements, the third country national should provide evidence to <u>prove</u> a right of residence under Article 20 TFEU. The Member States must ensure that the burden of proof does not undermine the effectiveness of Article 20 TFEU. In Sweden, generally, the evidentiary requirement is that such a relationship</p>

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>shall be made likely/probable.</p> <p>4. If the third country national and his/her partner have periodically lived separately, that may affect the assessment. Moreover, we consider the duration of the cohabitation to be a relevant factor for determining whether the cohabitation is stable or not. The intention of the family to remain and live together in the Member State is also relevant.</p> <p>5. We do not have any such experiences and/or examples. However, we note that when assessing the relationship of dependency Member States must take into account the best interest of the child concerned, the age of the child, the child's physical and emotional development, the extent of his/her emotional ties both to the Union citizen parent and to the third-country national parent, and the risks which separation from the latter might entail for the child's equilibrium (C-133/15 [Chávez-Vilchez] p. 71-72). When assessing whether the presumption may be rebutted or not, we would consider the abovementioned circumstances.</p> <p>6. Under Swedish law, an application for a residence permit may only be granted after entry in exceptional cases. If there is a right of residence, an exception may be applied.</p> <p>7. The Member States determine the rules on how to give effect to the derived right of residence (C-82/16 [KA] p. 54, C-133/15 [Chávez-Vilchez] p. 76, C-165/14 [Rendón Marín] p. 75). In Sweden, we determine whether a residence permit may be given according to the rules in the Swedish Alien's Act. Directive 2004/38 is not applicable, and we do currently not issue residence cards to third country nationals with a derived right of residence based on Article 20 TFEU.</p> <p>8. In Sweden, our preliminary assessment is that the CJEU refers to threats to public policy and public security within the meaning of Directive 2004/38 (see for instance Rendón Marín [C-165/14] p. 81-83).</p> <p>9. In Sweden we consider whether the exception is applicable when the identity of the third country national is unclear (which consequently affects the possibility to determine whether the applicant is a threat to public</p>
--	--	--	--

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			policy and public security).
--	--	--	------------------------------
