



Funded by the
European Union



Ad-Hoc Query on 2024.7 "Personal and family links" residence permit

Requested by EMN NCP France on 26 February 2024

Compilation produced on 25 April 2024

Responses from EMN NCP Belgium, EMN NCP Bulgaria, EMN NCP Croatia, EMN NCP Cyprus, EMN NCP Czech Republic, EMN NCP Estonia, EMN NCP Finland, EMN NCP France, EMN NCP Germany, EMN NCP Greece, EMN NCP Hungary, EMN NCP Latvia, EMN NCP Lithuania, EMN NCP Luxembourg, EMN NCP Netherlands, EMN NCP Poland, EMN NCP Serbia, EMN NCP Slovakia, EMN NCP Slovenia, EMN NCP Spain, EMN NCP Sweden (21 in Total)

Exported for: Wider Dissemination

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 office for family Immigration of the Directorate for immigration within the French ministry of the Interior and Overseas Territories is looking for information on the legislation of EU Member States concerning the "personal and family links" status and related residence permit.

We would like to ask the following questions:

- 1. How has Article 8 of the ECHR been transcribed/is being implemented in your national legislation on foreign nationals? (legislation, case law, etc)**
- 2. Do you apply strictly the criteria related to the concept of "right to respect for private and family life" in your national application (for example: strict and cumulative conditions)? please detail**

We would very much appreciate your responses by **25 March 2024**.

2. RESPONSES

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

		Wider Dissemination ²	
EMN NCP Belgium		Yes	1. The Belgian law of 15 December 1980 (Immigration Act) includes the conditions for family reunification for different categories of family members/sponsors:- Family members of a third-country national who are admitted to reside in Belgium for more than 90 days may obtain a residence permit on the basis of family reunification if the conditions for family reunification are met (cf. Article 10, §1, 4° Immigration Act, see https://dofi.ibz.be/en/themes/ressortissants-dun-pays-tiers/regroupement-familial/sponsor-third-country-national) ;- Family members of an EU citizen who have the right to accompany or join the Union citizen provided that they meet the conditions (cf. article 40bis Immigration Act, see https://dofi.ibz.be/en/themes/ressortissants-dun-pays-tiers/regroupement-familial/sponsor-national-eu-or-associated);- Family members of a Belgian national who has not exercised his/her right of free movement may accompany or join the Belgian national provided they meet the conditions laid down in article 40b Immigration Act (see https://dofi.ibz.be/en/themas/onderdanen-van-der-de-landen/gezinshereniging/sponsor-belgian-national);- Other family members of an EU citizen who benefit from the provisions applicable to family members provided they meet the conditions laid down in Article

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."


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>47/1 Immigration Act, see https://dofi.ibz.be/en/themes/ressortissants-dun-pays-tiers/regroupement-familial/sponsor-national-eu-or-associated). Nonetheless, these are no express implementations of Article 8 ECHR, but rather the implementation of provisions of EU legislation or other considerations. Family members who do not demonstrate that they meet the conditions for family reunification, can only apply for a residence permit under Article 9 Immigration Act. This Article gives a discretionary power to the Minister or his delegate, the Immigration Office. This Article is of a broader scope than Family Reunification and can, therefore, not be considered as such as an implementation of Article 8 ECHR.</p> <p>2. The national legislation provides for the conditions under which a family member may join an individual-sponsor and reside in Belgium as a family member of the sponsor. If the family member does not meet the conditions for family reunification, he/she may apply for a residence permit based on a discretionary power and is not, as such, linked to 'right to respect for private and family life' (Article 9 Immigration Act).</p>
	EMN NCP Bulgaria	Yes	<p>1. The notion of "personal and family links" is being taken into consideration for several reasons while applying the EU and national migration legislation. For instance: there is a legal definition on "Family reunion": the entry and residence in a Member States of the family members of a foreigner, who resides legally in that Member State, with the purpose to keep the unity of the family, regardless of whether the family relations have originated prior to or after the entry of such persons. We would like to point out also that in accordance with Art. 44, para 2 of the Law on Foreigners in the Republic of Bulgaria (LFRB) when imposing compulsory administrative measures, the competent authority shall take into account the duration of the stay of the foreigner on the territory of the Republic of Bulgaria, the categories of vulnerable persons, presence of proceedings under the Law on Asylum and Refugees or of proceedings for renewal of residence permit or of another permit granting right to</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>reside, <u>his family status and the availability of family, cultural and social relations with the country of origin of the person.</u></p> <p>2. Please, see our answer to the previous question. Additionally, we would like to draw your attention to the fact that the legal provision stipulated under Art.44 , para 2 of the LFRB is mandatory.</p>
	EMN NCP Croatia	Yes	<p>1. Article 63, paragraph 1 of the Aliens Act ("Official Gazette, No. 133/20, 114/22 and 151/22) stipulates that temporary residence for the purpose of family reunification can be granted to a citizen of a third country who meets the requirements of Article 59 of this Act and who is a member of the immediate family of: a Croatian citizen, a citizen of a third country who has an approved long-term residence, a citizen of a third country who has an approved permanent residence, a citizen of a third country who has an approved temporary residence, or a citizen of a third country who has been granted asylum or subsidiary protection in accordance with the regulation governing international protection. Article 64, paragraph 1 of the same Act establishes that a member of the immediate family within the meaning of this Act is: spouse, common-law partner, minor common child of married and common-law partners, life partners or informal life partners, and the minor child of each of them, their minor jointly adopted child or a minor adopted child of each of them who is not married, as well as a minor child of a life or informal life partner or his minor adopted child who is not married and a parent or adoptive parent of a minor child of a Croatian citizen, a citizen of a third country who has been granted long-term residence or permanent residence, asylum or subsidiary protection. Paragraph 2 of the same article stipulates that another relative can also be considered a family member of a Croatian citizen, a third-country citizen who has been granted temporary residence, long-term residence, permanent residence, asylum or subsidiary protection if there are special personal or serious humanitarian reasons for family reunification in the Republic Croatia.</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>Article 9, paragraph 2 of the Ordinance on the residence of citizens of third countries in the Republic of Croatia ("Official Gazette, No. 20/22 and 155/22) establishes that in order to prove the existence of serious personal or humanitarian reasons for family reunification, relevant documentation must be attached from which the existence of kinship between the citizen of a third country and the person in the Republic of Croatia on the basis of which he submits the request and the existence of serious personal or humanitarian reasons (birth certificate, medical and other documentation).</p> <p>2. Yes, strict and cumulative conditions laid down by law.</p>
	<p>EMN NCP Cyprus</p>	<p>Yes</p>	<p>1. In Cyprus, the implementation and transcription of Article 8 of the ECHR into national legislation and case law concerning third country nationals involve various statutes, regulations, and judicial decisions related to migration, residency, and the rights of foreign nationals residing in the country. Specifically, Cyprus, like other member states of the Council of Europe, is required to ensure that its laws and practices regarding migration and refugee protection comply with the principles set forth in the ECHR, including the right to respect for private and family life as articulated in Article 8. In terms of implementation, Cyprus has legislation and administrative procedures governing the entry, stay, and return of foreign nationals that take into account the requirements of Article 8. This involves provisions allowing for the consideration of family ties, personal relationships, and other factors impacting the private and family life of foreign nationals when making decisions regarding their migration status.</p> <p><u>Implementation of Article 8 and Asylum Procedures/ Refugee Protection</u> In the context of refugee law, the implementation of Article 8 of the ECHR would involve ensuring that the rights of refugees and asylum seekers to respect for their private and family life are upheld</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>throughout the asylum process. This includes considerations such as family unity, the right to maintain relationships with family members, and protection from arbitrary interference by public authorities.</p> <p>Asylum Procedures: Cyprus is conducting asylum procedures in a manner consistent with its obligations under the ECHR, including Article 8. This involves providing fair and efficient asylum processes that take into account the individual circumstances of asylum seekers, including any family ties or personal relationships that may be relevant to their claims.</p> <p>Family Reunification: Article 8 of the ECHR is also relevant in the context of family reunification for refugees. Cyprus is expected to facilitate family reunification for refugees in accordance with its obligations under international law and human rights standards, including the right to respect for family life as enshrined in Article 8.</p> <p>Judicial Review: Asylum decisions made by the Cypriot authorities are subject to judicial review, and individuals have the right to challenge decisions that they believe violate their rights under the ECHR, including Article 8. Courts in Cyprus are responsible for ensuring that asylum decisions comply with the country's obligations under international human rights law.</p> <p>The implementation of Article 8 of the European Convention on Human Rights (ECHR), concerning the right to respect for private and family life, in the context of the Cypriot Aliens and Immigration Law involves ensuring that the migration and residency procedures outlined in the law respect and uphold the rights guaranteed by Article 8.</p> <p>Residency and Migration Procedures: The Cypriot Aliens and Immigration Law sets out the procedures for entry, stay, and residence of foreign nationals in Cyprus. When making decisions regarding residency permits, visas, or deportation orders, Cypriot authorities consider the impact of these decisions on the private and family life of the individuals concerned, in accordance with the principles of Article 8 of the ECHR.</p> <p>Family Reunification: One aspect of Article 8 relevant to immigration law is the right to family reunification. The Cypriot Aliens and Immigration Law may include provisions allowing for family members of foreign nationals residing in Cyprus to join them, provided certain conditions are met.</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>These conditions would need to be consistent with the requirements of Article 8 and should not unduly restrict the right to family life.</p> <p>Protection from Arbitrary Interference: Article 8 prohibits arbitrary interference by public authorities with the exercise of the right to respect for private and family life. In the context of immigration law, this means that decisions made by Cypriot authorities regarding the residency or deportation of foreign nationals must be based on legitimate grounds and must not be arbitrary or disproportionate.</p> <p>Judicial Review: Individuals who believe that their rights under Article 8 have been violated by decisions of Cypriot immigration authorities may have recourse to judicial review. The Cypriot judiciary has the authority to review administrative decisions and ensure that they comply with both domestic law and Cyprus's obligations under international human rights instruments, including the ECHR.</p> <p>Overall, the implementation of Article 8 of the ECHR in the context of the Cypriot Aliens and Immigration Law requires ensuring that immigration procedures and decisions respect the right to respect for private and family life as set out in the Convention. This involves balancing the interests of the state with the rights of individuals and providing effective remedies in cases where those rights are infringed.</p> <p>2.</p> <p>In Cyprus, as in other countries bound by the European Convention on Human Rights (ECHR), the right to respect for private and family life, as outlined in Article 8, is considered a fundamental human right. In the context of asylum and migration, this right may be invoked by individuals facing forced return, separation from family members, or other actions by public authorities that affect their family and personal relationships.</p> <p>Case-by-case Consideration: When assessing asylum claims or migration decisions, Cypriot authorities are consider the individual circumstances of each case, including any factors relevant to the right to respect for private and family life. This may include the presence of family members in Cyprus or abroad, the length and nature of relationships, and any other relevant personal circumstances.</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>Proportionality: Any interference with an individual's right to respect for private and family life must be proportionate to the legitimate aim pursued. This means that Cypriot authorities balance the individual's rights with the interests of public order, national security, or other legitimate concerns.</p> <p>Family Reunification: In cases involving family reunification, Cypriot authorities are expected to facilitate the reunification of family members in accordance with international law and human rights standards. This includes considering the best interests of any children involved and allowing for family unity wherever possible.</p> <p>Legal Remedies: Individuals who believe that their rights under Article 8 have been violated by Cypriot authorities have the right to seek legal remedies, including appealing asylum decisions or challenging deportation orders in court. The Cypriot judiciary is responsible for ensuring that administrative decisions comply with the country's obligations under the ECHR.</p>
	<p>EMN NCP Czech Republic</p>	<p>Yes</p>	<p>1. The right to private and family life is a fundamental human right and as such is enshrined and protected in national law. The source of the foreigner's right to respect for family and private life in the legal order of the Czech Republic is primarily international treaties. These treaties are part of the Czech legal order. It is also necessary to mention the legally binding Charter of Fundamental Rights and Freedoms, which, in Article 10(2), guarantees the right of everyone to protection against unjustified interference with private and personal life.</p> <p>2. The lawfulness of interference with the right to respect for private and family life right must, of course, be assessed not only in accordance with the provisions of national law but preferably in accordance with the provisions of international law. A decision on administrative expulsion of a foreigner within the meaning of Section 119(5) of Act No.326/1999 Coll., on the Residence of Foreigners in the Territory of the Czech Republic, is a reasonable interference with the foreigner's private and family life only if such a decision achieves a fair balance between the state's interest in protecting public safety, public order or public health on the one hand and the foreigner's interest in protecting his or her private and family life</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>on the other. It is therefore always necessary to consider the seriousness of the offence committed or other risk posed by the foreigner to the public interest protected by law in relation to his or her personal and family ties in the Czech Republic. The Act on the Residence of Foreigners in the Territory of the Czech Republic even provides, in the provisions of Section 120a(2), for the possibility of subsequent revocation of the effect of administrative expulsion if new facts preventing the foreigners departure have occurred after the decision on administrative expulsion has become final. These reasons preventing deportation may be based on the existence of a developed private and family life of the foreigner in the Czech Republic. The concept of the right to respect for private and family life must be interpreted in its international law meaning, nor can the administrative authority proceed differently in view of the provisions of Article 1(2) and Article 10 of the Constitution of the Czech Republic and must apply the international law norm as a matter of priority. In addition to the above, the Act on the Residence of Foreigners in the Territory of the Czech Republic also contains the following provisions of Section 174a:(1) In assessing the proportionality of the effects of a decision under this Act, the administrative authority shall take into account, in particular, the seriousness or type of the foreigners unlawful act, the length of the foreigners stay in the territory, his or her age, state of health, the nature and strength of family relationships, economic circumstances, social and cultural ties established in the territory and the intensity of ties to the State of which the foreigner is a citizen or, if he or she is a stateless person, to the State of his or her last permanent residence. The party to the proceedings is obliged to provide the Ministry with all relevant information necessary to assess the adequacy of the decision issued.(2) In proceedings for the issuance of a new decision pursuant to Section 101(c) of the Administrative Procedure Code on administrative expulsion or on the obligation to leave the territory or the territory of the Member States of the European Union, the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation, conducted at the request of an alien, the police shall take into account, in particular, the period of the alien's stay in the territory, the stay of his/her minor children attending compulsory school in the territory and the existence of other family or social ties in the territory; this does not apply if the alien is detained.</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>EMN NCP Estonia</p>	<p>Yes</p>	<p>1. There are two laws regulating the stay of foreign nationals in Estonia – the Alien's Act and the Act on Granting International Protection to Aliens. Article 8 of the ECHR is not specifically implemented in either of them. However, Article 26 of the Estonian Constitution stipulates that everyone has the right to the inviolability of private and family life. State agencies, municipalities, and their officials shall not interfere with the family or private life of any person, except in the cases and pursuant to a procedure provided by law to protect health, morals, public order, or the rights and freedoms of others, to prevent a criminal offense, or to apprehend a criminal offender.</p> <p>Indirectly, the conditions for granting a residence permit and the burden of proof under the Alien's Act, as well as the obligation to inform, provide evidence, and perform state supervision under the Act on Granting International Protection to Aliens, are related to Article 8 of the ECHR.</p> <p>The Alien's Act stipulates requirements for family life in issuing residence permits. In fact, Article 138 of the Alien's Act states the following: a residence permit may be issued to settle with the spouse or registered partner if the spouses or registered partners share close economic ties and psychological dependence, the family is stable, and the marriage is not fictitious. The marriage or registered partnership is fictitious if the marriage has been contracted with the purpose of obtaining a residence permit and there is no real family life between the persons. Pursuant to Article 293 of the Act, foreigners bear the burden of proof, meaning that when applying for temporary stay, residence, and work permits in Estonia, foreigners must provide evidence of their eligibility. State institutions have the right to interview a foreigner, their family members, and other relevant persons and agencies, and to enter the person's dwelling or other premises with their permission to verify the facts.</p> <p>Some articles of the Act on Granting International Protection to Aliens have indirect connection to the right to respect for private and family life. According to Article 11 of the Act, the applicant for international protection is required to notify the Police and Border Guard Board of changes in marital status, data on the place of residence, and the birth of a child. Article 31(1) of the Act ensures that family members shall be accommodated together during the proceedings of applying for international or subsidiary protection. In the case of a minor child, the interests of the minor are taken into account.</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>Article 36(6) of the Act regulates the accommodation and detention of applicants for international protection in emergency situations, stipulating that family members detained in an emergency shall be placed together at the earliest opportunity, unless separate detention of a family member is necessary for the protection of other persons, public health, public order, or national security. Family privacy shall be guaranteed as much as possible. Article 75(1) of the Act regulates state supervision, granting state institutions the right to verify whether an applicant for international protection, a refugee, a person eligible for subsidiary protection, a person eligible for temporary protection, and a family member are staying, residing, and being employed in Estonia according to the requirements provided in this Act and comply with the obligations and conditions therein. For exercising this right, the police may apply special measures of state supervision arising from the Law Enforcement Act, including questioning and requiring documents, summoning and compelled attendance, establishing identity (including by special measures such as DNA sampling), stopping a vehicle, detaining a person, security checks, examining a person, taking into storage, selling, and destroying movable items, entering and examining premises. Entry into and examination of premises may only be applied if there is reason to believe that without applying such measures, the prevention of alleged illegal stay and employment in Estonia of an applicant for international protection, a refugee, a person eligible for subsidiary protection, a person eligible for temporary protection, and a family member is not efficient and other measures have been exhausted.</p> <p>2. There are no criteria related to the concept.</p>
+	EMN NCP Finland	Yes	<p>1. Article 8 of the ECHR is covered by the Constitution of Finland (731/1999). There is no actual mention of right to respect for family life, but it is considered to be covered by the section 10, which states that everyone's private life, honour and the sanctity of the home are guaranteed. This constitutional right applies to everyone in Finland, such as Finnish citizens and foreign nationals in Finland. Right to</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>respect for family life is also included in the Aliens Act of Finland (301/2004). Section 66a states that "If a residence permit has been applied for on the basis of family ties, account shall be taken of the nature and closeness of the alien's family ties, the duration of his or her residence in the country and his or her family, cultural and social ties to the home country when considering the refusal of the permit. The same applies to consideration when deciding on the withdrawal of a residence permit issued on the basis of family ties or on the removal from the country of the sponsor or his or her family member." Section 6 of the Aliens Act is also linked to the right to respect for family life. It requires that any decision taken under the Aliens Act, which concerns a child under 18 years of age, special attention shall be paid to the best interest of the child and to circumstances related to the child's development and health. In addition to granting residence permits to family members (children and spouse) the Aliens Act also enables other relatives of Finnish citizens and other relatives of a person who has been granted international protection or temporary protection in Finland to receive a residence permit in case it is considered unreasonable to refuse the residence permit because the persons concerned intend to resume their close family life in Finland or because the relative is fully dependent on the sponsor living in Finland (Aliens Act of Finland section 50(2) and section 115). There is no definition of other relatives in the Aliens Act, but according to case law other relatives only include the relatives of the sponsor and not for example the relatives of the sponsor's spouse. The Aliens Act of Finland also enables granting a residence permit to an alien who has been issued with a temporary or continuous residence permit on the basis of family ties which have been broken, but the person has close ties to Finland (Aliens Act of Finland section 54(7)). Residence permit based on close ties always requires comprehensive evaluation. Things considered in this evaluation are for example integration to Finland, settled work, study or social ties. Possible family ties are also taken into account. Section 5 of the Aliens Act of Finland states also a general obligation that in the application of this Act, alien's rights may not be restricted any more than necessary. Article 8 of the ECHR is also directly included and taken into account in the residence permit decisions when seemed necessary.</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. Personal and family ties are taken into account based on the legislation mentioned in the previous question. The legislation and its preparatory documents provide the basis how family and other personal ties are taken into account ja which factors should be considered. International and national case law provide guidelines for the assessment. There are no strict criteria, but the evaluation is always based on case-by-case overall consideration. Residence permits may also have distinctive criteria, so there is no list of common factors that should be taken into account when considering granting any of the above-mentioned residence permits. The factors may include:- family ties, duration and closeness of the family ties- duration of residence- rights of the child, the age of the child- possible health problems- integration into Finnish society. - possible work and study ties and their duration- family and personal ties in the country of origin</p>
■	EMN NCP France	Yes	<p>1. Under French law, a "personal and family links" residence permit is granted to foreign nationals who cannot be issued with the following automatic residence permits : •Spouse of a French national• Parent of a French child • Family reunification (spouse and child)• Foreign national resident in France since the age of 13• Foreign national in the care of the social child and youth care services (Aide sociale à l'enfance, ASE)If the foreign national "has personal and family ties in France, [...] such that refusal to authorise their residence would infringe their right to respect for their private and family life to a disproportionate extent in relation to the grounds for refusal", a residence permit is issued in accordance with article L. 423-23 of the Code for entry and stay of foreign nationals and right to asylum (Code de l'entrée et du séjour des étrangers et du droit d'asile, CESEDA). This article amounts to the 'implementation' into French law of the requirements for protection of the right to respect for private and family life that derive from Article 8 of the European Convention for the Protection of Human Rights.</p> <p>2. Personal and family ties are assessed on the basis of a number of criteria laid down by law, but it is the case law that clarifies them :a) their intensity, duration and stabilityb) the foreign national's living conditionsc) the foreign national's integration into French society, which is assessed by taking</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.

			into account, in particular, knowledge of the values of the Republicd) family ties in the country of origin
	EMN NCP Germany	Yes	<p>1. The special state protection of marriage and family has constitutional status in Germany (Article 6 Basic Law). This principle must also be observed in all residence law decisions on residence for family reasons (Section 27 (1) Residence Act, law in English at https://www.gesetze-im-internet.de/aufenthg_2004/). There is therefore no provision for issuing a residence permit for this area of protection to explicitly implement Article 8 ECHR. However, Article 8 of the ECHR must be applied when interpreting and applying the law with regard to the area of protection of marriage and family. This also applies in the case of decisions and measures terminating residence if families are affected and their interests worthy of protection must therefore be taken into account (cf. e.g. § 53 para. 2, § 55 para. 1 nos. 3 and 4, para. 2 nos. 3 to 5 Residence Act).</p> <p>2. Even though there is in principle a constitutional protection of marriage and family, third-country nationals can usually not, according to Federal Constitutional Court rulings, derive a subjective right to maintain their marital or family relationship in the territory of Germany. The legal requirements to be fulfilled in order to claim such a right are laid down in administrative regulations and application instructions as well as in case law. The requirements to be determined in each individual case relate to the family circumstances, e.g. with regard to the age of the spouses, the date of their marriage prior to entry, sufficient living space and independent means of subsistence in the territory of Germany as well as their integration requirements (cf. e.g. Section 29 (1) no. 2, Section 30 Residence Act). Family reunification may be restricted to humanitarian reasons or to avoid exceptional hardship (§ 36 (2), 36a Residence Act). If the termination of residence is to be examined, public security interests may have to be weighed against personal interests in remaining in Germany (§ 53 Residence Act).</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.

	EMN NCP Greece	Yes	<p>1. The right of respect for private and family life, as established in Article 8 of the European Convention on Human Rights (ECHR), concerning beneficiaries of international protection is guaranteed in Greek national legislation by a set of legislative provisions that determine the terms and conditions for granting residence permits for "personal and family links" to family members.</p> <p>The first category of residence permits concerns family members of beneficiaries of international protection, as defined in point lb' of Article 1 of L.4939/2022 (GG A' 111) who are within the Greek Territory.</p> <p>In accordance with Directive 2011/95/EU and with a view to maintaining family unity, family members of a beneficiary of international protection, as long as they do not individually meet the conditions for recognition of international protection status, upon their application, are granted the rights that refer to the beneficiaries of international protection, with the same procedures, as long as this is compatible with another status they already enjoy (Article 22 par. 2 Law 4939/2022). The residence permit granted to the family members of a beneficiary of international protection is issued for as long as the beneficiary's residence permit is valid and is called "residence permit of the same duration."</p> <p>The second category of residence permits concerns the family reunification of beneficiaries of refugee status with family members who are outside the Greek Territory.</p> <p>The terms and conditions for granting residence permits in the above category are exhaustively regulated by PD 131/2006 (GG A' 143), which transferred in national legislation the Directive 2003/86/EC.</p> <p>Additionally, in Chapter C of L.3907/2011 (GG A' 7), which regulates the common rules and procedures in the MSs for the return of illegally staying third-country nationals in alignment with Directive 2008/115/EC, special guarantees are provided regarding fundamental rights, including the right to personal and family life (articles 20 and next of the above law)</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. Greece applies strictly the criteria related to the notion of the "right of respect for private and family life", as, in order to grant the rights deriving from the relevant provisions, it requires that all the conditions set by law are met cumulatively.</p>
	EMN NCP Hungary	Yes	<p>1. A residence permit issued for the purpose of family reunification shall be granted to a third-country national family member of</p> <ul style="list-style-type: none"> a) a holder of a residence permit, b) a holder of an immigration permit, permanent residence, interim residence, national permanent residence or EC permanent residence permit, c) a holder of an interim residence card, national residence card, or EU residence card, d) a holder of a residence card, permanent residence card or permanent residence card for third-country national family members under Act I of 2007, or e) a Hungarian National <p>(collectively, the above are hereinafter referred to as sponsor).</p> <p>Definition of family members:</p> <ul style="list-style-type: none"> a) the spouse of a third-country national or a Hungarian national, b) a minor child (including adopted and foster children) of a third-country national and his/her spouse, c) a dependent minor child (including adopted and foster children) of a third-country national where the third-country national has parental responsibility, d) a dependent minor child (including adopted and foster children) of the spouse of the third-country national or a Hungarian national where the spouse has parental custody,


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>e) a person having and exercising parental responsibility of a Hungarian minor child and living in the same household with the minor qualify as a family member.</p> <p>In addition to the above, a residence permit for the purpose of family reunification may be granted to</p> <ul style="list-style-type: none"> a) a family member of a person recognized as a refugee, and b) in relation to an unaccompanied minor recognized as a refugee <ul style="list-style-type: none"> ba) the parent, or bb) the guardian of the unaccompanied minor recognized as a refugee – in the absence of a person defined in Subpoint ba) <p>Unless otherwise provided for by law, a residence permit for the purpose of family reunification shall be issued to the third-country national child, born in Hungary, of a third-country national who is a holder of a residence permit.</p> <p>A residence permit for the purpose of family reunification in relation to a person recognized as a refugee shall not be refused only on the ground that no document is available in proof of the family relation. A residence permit for the purpose of family reunification shall be granted to the sponsor or his/her spouse, or in relation to a person recognized as a refugee</p> <ul style="list-style-type: none"> a) a dependent parent of a person recognized as a refugee, and b) a sibling and a direct relative of the person recognized as a refugee, if the person concerned is not able to take care of himself/herself. <p>A third-country national shall not be granted a residence permit for the purpose of family reunification, if the sponsor</p> <ul style="list-style-type: none"> a) has not been a holder of a residence permit for the purpose of guest self-employment at least for a year, b) is a holder of a residence permit for the purpose of seasonal employment,
--	--	--

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>c) is a holder of a residence permit for the purpose of employment for the purpose of investment, d) is a holder of a residence permit for the purpose of employment, e) is a holder of a residence permit for guest workers, f) is a holder of a white card, g) is a holder of a residence permit for the purpose of study, training, h) is a holder of a residence permit for the purpose of traineeship, and i) is a holder of a residence permit for the purpose of voluntary service.</p> <p>2. In case of applications in which the issuance of a residence permit shall be approved for the purpose of family reunification, the authority considers the right to respect for private and family life.</p>
	<p>EMN NCP Latvia</p>	<p>Yes</p>	<p>1. According to the Article 96 of the Constitution of the Republic of Latvia everyone has the right to inviolability of his or her private life, home and correspondence. The Constitutional Court has recognised, that the right to respect for private life specified in Article 96 of the Constitution of the Republic of Latvia means that an individual has the right to private space, protection of his family from unjustified interference, as well as the right to live in his or her own way, in accordance with his or her nature and wishes to develop and develop his or her personality, the right to develop and develop relationships with other people and the outside world, the right to identify with a particular social group and to establish contacts with other people, suffering as minimally as possible from interference by the State or other persons. Based on upon persistent case law of the Constitutional court of the Republic of Latvia and High Court of the Republic of Latvia in order to ascertain the content of fundamental human rights included in the Constitution, Latvia's international obligations in the field of human rights must also be taken into</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>account. Therefore, Article 8 of the European Convention on Human Rights and the case law of the European Court of the Human Rights has to be taken into account when interpreting and implementing Article 96 of the Constitution of the Republic of Latvia.</p> <p>It is stated in the Administrative Procedure Law that the provisions of international law regardless of their source shall be applied in accordance with their place in the hierarchy of legal force of external legal acts. If a conflict between a provision of international law and a legal provision of Latvian law of the same legal force is determined, the provision of international law shall be applied.</p> <p>According to the Immigration law a foreigner has the right to request a temporary residence permit:</p> <ul style="list-style-type: none"> - once in a calendar year for a period which does not exceed six months, if he or she is a relative of a Latvian citizen or of a non-citizen of Latvia or of a foreigner who has received a permanent residence permit, up to the third degree in direct line or third degree in a collateral line, or also affinity to the third degree; - if he or she is the spouse of a Latvian citizen or non-citizen of Latvia, or of a foreigner who has received a permanent residence permit; - for the period for which guardianship or trusteeship is established over him or her or he or she acts as a guardian or trustee for a citizen of Latvia or a non-citizen of Latvia; - the spouse of a foreigner, minor children (also those under guardianship) and persons under trusteeship of the foreigner or his or her spouse have the right to request a temporary residence permit for the duration of the temporary residence permit issued to the foreigner. <p>According to the Immigration law the right to request a permanent residence permit shall be granted to the minor child of a Latvian citizen or non-citizen of Latvia, or of a foreigner who has received a permanent residence permit.</p> <p>2.</p> <p>When implementing to an individual case the right to respect for private and family life it shall be taken into an account also in the light of principle of proportionality (the benefits which society derives from the restrictions imposed on an addressee must be greater than the restrictions on the rights or legal</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>interests of the addressee. Significant restrictions on the rights or legal interests of a private person are only justified by a significant benefit to society). The connection with Latvia and as well as with country of origin and intensity, duration of it, family ties in Latvia and also in the country of origin etc. has to be taken into account.</p>
	<p>EMN NCP Lithuania</p>	<p>Yes</p>	<p>1. The main law on foreign nationals is the Law on the Legal Status of Foreigners. The Law contains no references to Article 8 or any other articles of the European Convention on Human Rights. In general, foreigners are entitled to the same rights as citizens. The rights guaranteed by Article 8 of the ECHR have been enshrined in the Constitution. According to Article 21 of the Constitution, "The person shall be inviolable. Human dignity shall be protected by law. It shall be prohibited to torture, injure, degrade, or maltreat a person, as well as to establish such punishments. No person may be subjected to scientific or medical testing without his or her knowledge thereof and consent thereto." Article 22 of the Constitution states that: "The private life of an individual shall be inviolable. Personal correspondence, telephone conversations, telegraph messages, and other intercommunications shall be inviolable. Information concerning the private life of an individual may be collected only upon a justified court order and in accordance with the law. The law and the court shall protect individuals from arbitrary or unlawful interference in their private or family life, and from encroachment upon their honor and dignity." Article 24 states that "A person's dwelling place shall be inviolable. Without the consent of the resident(s), entrance into a dwelling place shall only be permitted upon a corresponding court order, or according to the procedure established by law when the objective of such an action is to protect public order, apprehend a criminal, or save a person's life, health, or property." Article 38 states that the family is the basis of society and that the state protects family, motherhood, fatherhood, and childhood."</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>There may be situations, where the rights guaranteed under Article 8 may require special provisions for foreigners. For example, the Law on the Legal Status of Foreigners contains provisions on family reunification for the purpose of preserving family. Article 43, titled "Issuance of a Temporary Residence Permit to a Foreigner in the Case of Family Reunification," outlines the circumstances under which a temporary residence permit can be granted to foreigners seeking family reunification in Lithuania. <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.232378/asr></p> <p>There may sometimes also be certain temporary divergence between the evolving interpretation of the content of Article 8 of the ECHR and the interpretation of the content of national norms. However, given that European law is part of national law, any such divergence would eventually be resolved by courts. In this regard, the best illustration would be Resolution of the Constitutional Court on 11 January 2019 in case No. 16/2016 "On the compliance of Item 5 of Paragraph 1 of Article 43 of the Republic of Lithuania's Law on the Legal Status of Foreigners with the Constitution of the Republic of Lithuania". In 2015, the Migration Department refused to issue a temporary residence permit on the basis of family reunification to a Belarusian man who had married a Lithuanian citizen in Denmark, arguing that such marriages are not recognized under the Lithuanian law. The case moved through various instances and, in 2019, the Constitutional Court resolved that the legislator must establish a legal framework relating to the free movement of persons within the European Union and to migration in such a way as to enshrine the right of reunification of a family formed by two persons of the same sex in another state by virtue of a lawfully contracted marriage or registered partnership. The case is available in the Lithuanian language at <https://lrkt.lt/lt/teismo-aktai/paieska/135/ta1898/content>. A brief summary is available at this link on page 58: <https://lrkt.lt/data/public/uploads/2020/01/ktb_2019-153.pdf> . The Constitutional Court's resolution changed the way migration authorities interpret the requirements of the national law.</p> <p>2.</p> <p>Typically, there are certain specified requirements for family reunification, which depend on the status of the family member residing in Lithuania. The standard requirement in most cases is to provide</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.

			documents confirming family relation (marriage or registered partnership certificate, birth or adoption certificate etc.), documents attesting sufficient means of subsistence and health insurance. However, each case is assessed individually.
	EMN NCP Luxemb ourg	Yes	<p>1. In Luxembourg the possibility to grant a residence permit for private reasons based on family links has been guaranteed since the approval of the law of 29 August 2008 on free movement of persons and immigration in its article 78 (1) c), (now article 78 (1) 3 of the Immigration Law). In the comment of the article of the law the legislator states that this article vests the Minister with discretionary powers with regard to residence permits for persons who, as a result of a change in their family, can no longer be considered as family members or who do not fall under the definition of family member, but possess strong ties with a person living in the country, or persons who, while not falling under the Asylum Law, are arguing on humanitarian grounds. Also, the jurisprudence of the administrative courts regarding article 8 has clarified that "[...] The Court observes that, ... it is clear from the case-law of the ECtHR that, while the concept of "family life" is normally limited to the family nucleus, the Court has also recognized the existence of family life within the meaning of Article 8 of the ECHR, inter alia, between adult brothers and sisters, and between parents and adult children." It should also be recalled at this stage that the concept of family life is not limited solely to the existence of a family relationship, but requires a real and sufficiently close link between the various members in the sense of an effective family life, that is to say, one characterized by real and sufficiently close relations between its members, and existing, or even pre-existing, between them. Thus, the aim of family reunification is to reconstitute the family unit, with the correlative impossibility for the persons concerned to settle and lead a normal family life in another country [...]" (See First instance Administrative Court, 3rd Chamber n° 47034 of 9 February 2024).</p> <p>2. See answer to Q.1. Article 78 (1) 3) of the Immigration Law laid down the conditions to grant a residence permit for private reasons based on family ties of a person who does not fall directly in 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.

			family reunification residence permit but who has personal or family ties with the person s/he wishes to join, assessed in terms of their intensity, length of time and stability, are such that refusal to authorize residence would infringe his right to respect for his private and family life in a way that is disproportionate to the grounds for refusal. So the Directorate General of Immigration will evaluate case-by-case the intensity of the family ties, the length of time and the stability of them altogether.
	EMN NCP Netherlands	Yes	<p>1. Article 8 of the ECHR has been transcribed in the Aliens Act Implementation Guidelines (Vreemdelingen­circulaire 2000 B). In the Aliens Act Implementation Guidelines, Article 3.8.1. (B7) lays down in which cases the Immigration and Naturalisation Service (Immigratie- en Naturalisatiedienst, IND) assumes family life, as defined in Article 8 of the ECHR. Article 14.1. (B9) lays down the elements that form private life, based on Article 8 of the ECHR and jurisprudence. In the Netherlands, there is the possibility to apply for a residence permit on the grounds of Article 8 of the ECHR. Within the meaning of Article 8 ECHR, the IND can grant a residence permit for the exercise of family- or private life. This permit is usually applied when the applicant does not meet the criteria for other (national) residence permits. In that case, the IND determines whether the refusal of (extending of) residence violates Article 8 of the ECHR. The applicants are usually young adult children, grandparents and maybe even aunts, uncles and cousins. The category pertains any family member who does not belong to the nuclear family.</p> <p>2. Yes, the criteria related to the concept of 'right to respect for private and family life' are strictly applied in our national application. Nonetheless, the IND has a certain freedom of judgement. In order to determine whether refusal of (continuation of) the foreign national's residence is contrary to Article 8 ECHR, the IND considers all relevant facts and circumstances and expresses them in a weighing of interests. Which interests the IND includes in the balancing of interests depends on the specific individual case. What is important is that it always concerns the factual situation in the individual case,</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.

			which differs from case to case. (Source: Article 3.8.3 B7, in the Aliens Act Implementation Guidelines (Vreemdelingencirculaire 2000 B))
	EMN NCP Poland	Yes	<p>1. In accordance with the art. 160 p. 3 of the Act on Foreigners a temporary residence permit might be granted to “a foreigner leading family life within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms, drawn up in Rome on 4 November 1950 (Journal of Laws of 1993, item 284, as amended), residing in the territory of the Republic of Poland, a Polish citizen or a citizen of another Member State of the European Union, a member state of the European Free Trade Association (EFTA) - a party to the Agreement on the European Economic Area or the Swiss Confederation, with whom he or she resides together in this territory, if the foreigner meets the requirements referred to in Art. 159 section 1 point 2”.</p> <p>In accordance to the art. 348 p. 2 of the abovementioned Act, the foreigner is granted the permit for humanitarian stay in the territory of the Republic of Poland if the commitment to return “would violate his/her right to family or private life, within the meaning of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950”</p> <p>2. The fact if a foreigner fulfils the premise for being granted a temporary permit based of the abovementioned art. 160 p. 3 of the Act on Foreigners or permit for humanitarian say based on art. 348 p. 2 of the Act on Foreigners meaning that he/she leads a personal life in Poland as understood by Convention for the Protection of Human Rights and Fundamental Freedoms, is determined by conducting explanatory and evidentiary activities in the course of proceedings conducted by the first instance authorities and, possibly, additionally, by the Head of the Office for Foreigners (acting as a second instance authority).</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.

 EMN NCP Serbia	Yes	<p>1. According to the Serbian legislation Law on Asylum and Temporary Protection and Law on Foreigners are relevant for family unity.</p> <p>In accordance with the Law on Asylum and Temporary Protection, the competent authorities undertake all available measures to maintain family unity during the procedure, as well as upon approval of the right to asylum or temporary protection. Persons granted the right to asylum or temporary protection have the right to family reunification. A family member is considered a spouse with whom the marriage was concluded before coming to the Republic of Serbia, an extramarital partner in accordance with the regulations of the Republic of Serbia, their minor children born in or out of wedlock, minor adopted children or minor stepchildren. Also, in exceptional cases, the status of a family member can be recognized for other persons, taking into account the fact whether they were supported by a person who was granted the right to asylum or temporary protection, their age and psychological dependence, including health, social, cultural or other similar occasions. As stated above, a person who has been granted the right to asylum has the right to be reunited with family members. When it comes to a minor child born in or out of wedlock, a minor adopted child or a minor stepchild of a person who has been granted the right to asylum, and who has not started his own family, the legal position of the parent who has been granted the right to asylum follows, which is decided by the Asylum Office. Other family members of the person granted the right to asylum regulate their residence in accordance with the regulations governing the legal status of foreigners, i.e., in accordance with the Law on Foreigners. Also, in justified cases, family reunification is allowed in the Republic of Serbia, and temporary protection is also granted to family members of the person to whom temporary protection is granted. In accordance with the Law on Foreigners, family reunification implies the entry and residence of members of the immediate family of a citizen of the Republic of Serbia or a foreigner legally residing in the territory of the Republic of Serbia in order to preserve family unity. A member of the immediate family of a citizen of the Republic of Serbia, a member of the immediate family of a foreigner with approved temporary residence or permanent residence in the Republic of Serbia, as well as a member of the immediate family of a foreigner who has been granted asylum in the Republic of Serbia may be</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.



granted temporary residence on the basis of family reunification. In order to grant temporary residence to a foreigner who is a member of the immediate family of a foreigner who has been granted asylum in the Republic of Serbia, it is not necessary to fulfill all the general conditions provided for in Article 43 as well as the conditions from Article 41, paragraph 2 of the Law on Foreigners, taking into account specific and personal circumstances of a foreigner with granted asylum and members of his immediate family. When it is determined that a minor foreigner who is presumed to be a victim of human trafficking is not accompanied by a parent, guardian or legal representative, the competent authority, the guardianship authority and the police, in cooperation with the competent authority for the identification and coordination of the protection of victims of human trafficking, determine whether his family is located on the territory of the Republic of Serbia, with the aim of family reunification.

2.

Personal and family ties are assessed on the basis of a series of criteria prescribed by the national legislation of the Republic of Serbia, so temporary residence or extension of temporary residence for the purpose of family reunification will not be granted to a foreigner if, after checks related to the circumstances of the marriage, it can be reasonably assumed that the marriage has been concluded for benefit, i.e. that there is a justified suspicion that the marriage was concluded with the aim of granting temporary residence. The same criteria apply to cohabitation. Circumstances that may indicate that the marriage was concluded for benefit within the meaning of the Law on Foreigners are based on the existence of a justified suspicion that the spouses: did not meet before entering into marriage, do not provide true personal information, do not speak a language that both understand, that they gave for the conclusion of the marriage material means, with the exception of dowry if the spouses come from countries where giving a dowry is customary law, that there is evidence of previous marriages of benefit on the part of any spouse in the Republic of Serbia or abroad.

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.

	EMN NCP Slovakia	Yes	<p>1. If a third-country national does not meet the conditions for granting temporary residence for the purpose of family reunification or permanent residence (e.g. he/she has a dependent child in the Slovak Republic and is not married to his/her parent – a citizen of the Slovak Republic), the Act on the Residence of Foreigners allows the granting of so-called tolerated residence to a third-country national if there are no grounds for refusal and it requires the respect for his/her private and family life and does not endanger state security or public order. A third-country national who would otherwise meet the conditions for granting temporary residence for the purpose of family reunification or permanent residence for 5 years (e.g. spouse of a Slovak citizen) may also be granted this (tolerated) residence, but only if he/she does not have a valid travel document and reliably proves his/her identity in another way.</p> <p>2. Each case is assessed individually.</p>
	EMN NCP Slovenia	Yes	<p>1. Article 8 of the ECHR is explicitly implemented through the implementation of Article 17 of the Directive on the right to family reunification 2003/86/EC in the fifth paragraph of Article 55 of the Foreigners Act, which stipulates: "In the procedure for issuing and extending a temporary residence permit to a family member, the competent authority must, if there are reasons for refusing the issuance or extension of a permit, take into account the nature and solidity of the family relationship, the duration of his or her residence in the Republic of Slovenia and the existence of family, cultural and social ties with the country of origin." Article 8 of the ECHR is also explicitly implemented in the procedure for a termination of a foreigner's residence, namely in the third paragraph of Article 62 of the Foreigners Act, which stipulates: "In deciding on the termination of residence, the authority referred to in paragraph one of this Article shall take into account the length of the foreigner's stay in the country, his or her personal, family, economic and other ties linking him or her to Slovenia, and the effect that the termination of residence would have on him or her and his or her family." In addition to the aforementioned provisions in the Foreigners Act, it should be emphasized that, in accordance with Article 8 of the Constitution 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>the Republic of Slovenia, ratified and published international treaties are directly applicable, which means that the competent authorities must also comply with Article 8 of the ECHR in cases where the Foreigners Act does not explicitly specify this. Furthermore, the right to respect for family life is also explicitly defined in the third paragraph of Article 53 of the Constitution of the Republic of Slovenia, which stipulates: "The state shall protect the family, motherhood, fatherhood, children, and young people and shall create the necessary conditions for such protection." Regarding case law, we cite for instance the decision of the Constitutional Court No. Up-1243/18, dated 3 June 2021 (available at: https://www.us-rs.si/odlocitev/?q=Up-1243%2F18-15&order=desc&id=116480): "7. The right to respect for private and family life is also protected by Article 8 of the ECHR. [6] Although the essential goal of this provision is to protect the individual from the arbitrary action of the public authority, convention protection also means positive obligations. It imposes an obligation on the state to take measures that are inextricably linked to the actual realization of respect for family life. The right to family reunification thus means a negative obligation for the state when it is asked not to deport a foreigner, and a positive obligation when it has to allow a foreigner to enter and reside on its territory. The principles used in assessing the negative and positive obligations of the state are similar in both cases. In both cases, there is an appropriate balance to be struck between the competing interests of the individual and society as a whole, and in both cases the state has a certain margin of discretion. [7] 8. When defining the scope of the protection of the right to respect for family life from the third paragraph of Article 53 of the Constitution, the Constitutional Court must take into account the ECHR. It follows from the case law of the ECtHR that Article 8 of the ECHR cannot be interpreted in the area of immigration in such a way that it imposes a general obligation on the state to respect the immigrant's choice regarding the country in which he wishes to reside and to enable him to reunite his family on its territory. [8] Although the ECHR does not guarantee a foreigner the right to enter the territory of a certain country and stay there as a fundamental right, the exclusion of a person from the country in which his close relatives live can mean an interference with the right to respect for family life, as guaranteed by the first paragraph 8 of Article ECHR. Such an intervention violates the ECHR if the conditions from the second paragraph of Article 8 are not met, namely, if the intervention is not "determined by law", if it does not pursue one or</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>more legitimate goals from the mentioned paragraph and if it is not "necessary in a democratic society", i.e. if it is not justified by an urgent social need and especially if it is not proportionate to the set legitimate goal. [9] Therefore, in order to determine the scope of the state's obligations, according to the ECtHR, the actual circumstances of the case must be taken into account. The level (extent) of the state's obligations varies depending on the specific circumstances of the individual involved and the public interest of the entire society that is supposed to accept this individual, while the state has a certain field of discretion. [10]"</p> <p>2. No, because in each individual case it is necessary to take into account the circumstances of the individual case and the jurisprudence of national courts, the ECJ and the ECHR.</p>
	<p>EMN NCP Spain</p>	<p>Yes</p>	<p>1. Through Article 16 of Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration. Article 16. Right to family privacy. 1. Resident aliens have the right to family life and to family privacy in the manner provided for in this Organic Law and in accordance with the provisions of the international treaties signed by Spain. 2. Foreign nationals residing in Spain have the right to reunite with their family members determined in Article 17. 3. The spouse who has acquired residence in Spain on family grounds and his or her family members grouped with him/her shall retain their residence even if the marital relationship that gave rise to the acquisition of residence in Spain is broken. Regulations may determine the previous period of cohabitation in Spain that must be accredited in these cases.</p> <p>2. As a general rule, the applicant must have obtained the renewal of his or her authorisation, as well as proof of family ties, adequate housing and sufficient financial means to cover his or her needs and those of his or her 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.

 EMN NCP Sweden	Yes	<p>1.</p> <p>In Sweden there are national provisions in the Aliens Act (2005:716) which allow for other close relatives than nuclear family members to be granted a residence permit. Inter alia, a close relative of a sponsor* can be granted a residence permit, if he or she has been a member of the same household as that person and there is a special relationship of dependence between the relatives that existed already in the country of origin (Chapter 5, section 3 a, first paragraph, the Aliens Act). This provision is called the provision on joint household. This provision was enacted in the light of the European Convention on Human Rights (ECHR) and jurisprudence from the European Court of Human Rights with regard to article 8 of the ECHR.</p> <p>*) Someone who is a resident or has been granted a resident permit for settlement in Sweden or has been granted a temporary residence permit according to Chapter 5, sections 1 or 6 or Chapter 12, section 18, of the Aliens Act.</p> <p>In addition to this provision on joint household the Aliens Act has certain special provisions, inter alia in Chapter 5, section 3 a, third paragraph, and Chapter 5, section 6 of the Aliens Act. These provisions allow for the possibility to grant a residence permit in case of exceptional reasons (Chapter 5, section 3 a, third paragraph) or exceptionally distressing circumstances (Chapter 5, section 6). In the framework of examining an application under these provisions, article 8 of the ECHR can be considered. E.g. if a person cannot be granted a residence permit on other grounds and this decision would imply a disproportionate interference in the applicant's or that of a possible next of kin's right to family and/or private life according to article 8 of the ECHR, it should be possible to grant a residence permit according to one of these provisions.</p> <p>2.</p> <p>Chapter 5 section 3 a first paragraph 2 (joint household) states that <i>A residence permit may be given to a close relative of someone who is resident in Sweden, if he or she has been a member of the same household as that person and there exists a special relationship of dependence between the relatives that already existed in the country of origin.</i> As mentioned before this provision intends to ensure that</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.

the rules concerning family reunification are in line with article 8 of the ECHR. The relatives must have shared a household immediately before the reference person came to Sweden, and there must be a special relationship of dependence between the relatives. The applicant must apply soon after the reference person has been granted a residence permit in Sweden. Apart from the biological kinship, there have to be "additional elements of dependence" that make it difficult for the relatives to live apart. The assessment includes a case-by-case assessment, taking into account all relevant circumstances such as the degree to which the parties are related, the age of the applicant and his/her civil status, their situation in the country of origin, health issues etc. It could be described as a combination of financial, social and emotional bonds between the relatives, but the bar is relatively high. Article 8 of the ECHR does not affect the household-issue, but case law from the European Court on human Rights may affect the special relationship of dependence-issue (Onur v. the United Kingdom , A.H Khan v the UK, A.A. v the UK, Nacic v Sweden, Slivenko v Latvia, A.H Khan v UK Storbritannien, Jafari v Sweden).

Chapter 5 section 3 a third paragraph 3 (exceptional reasons) states that *When there are exceptional grounds a residence permit may also be granted to an alien [...] if the alien has some other special tie with Sweden.* Historically, according to case law, this provision has been used for cases with both odd and distressing circumstances, and is typically applied as a "last resort", when there are no other grounds for a resident permit. It's a very restrictive provision that can be applied both to applicants in Sweden and for those who are abroad. The assessment includes a balance of interest, considering case law from the European Court on human Rights. How the assessment is made depends on the circumstances in each case and both family life and private life aspects are relevant in the assessment. There is some old and dated case law, but unfortunately it is not connected to article 8 of the ECHR. Chapter 5 section 6 (exceptionally distressing circumstances) states that *If a residence permit cannot be awarded on other grounds, a permit may be granted to an alien if on an overall assessment of the alien's situation there are found to be such exceptionally distressing circumstances that he or she should be allowed to stay in Sweden. In making this assessment, particular attention shall be paid to the alien's state of health, his or her adaptation to Sweden and his or her situation in the country of*

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><i>origin. Children may be granted residence permits under this Section even if the circumstances that come to light do not have the same seriousness and weight that is required for a permit to be granted to adults. This provision can only be applied when there are no other grounds for a resident permit and can only be applied for those applicants who are in Sweden. The assessment includes a balance of interest, considering case law from the European Court of Human Rights, both family life and private life are relevant. All the applicant's social and cultural ties are considered in the assessment.</i></p>
--	--	--	---
