



# **European Migration Network**

## Ad-Hoc Query on Residence Permit on Retired Parents

Requested by LV EMN NCP on 18<sup>th</sup> March, 2009

Responses from [AT](#), [BE](#), [BG](#), [CZ](#), [EE](#), [FI](#), [FR](#), [DE](#), [GR](#), [HU](#), [IE](#), [LV](#), [LT](#), [NL](#), [PL](#), [PT](#), [RO](#), [SK](#), [SI](#), [ES](#), [SE](#)(21 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.*


### **1. Background Information**







It is stipulated in the Immigration Law of Latvia that retired parents (third-country citizens) of Latvian citizens and non-citizens are entitled to obtain a temporary residence permit and then – after 5 years – a permanent residence permit. A permanent residence permit is issued if a person can prove knowledge of state language. Latvian Parliament has received a complaint from applicant who claims that elderly people cannot acquire knowledge of state language.








Next week this question will be discussed in Human Rights Committee of Parliament and representative from Office of Citizenship and Migration Affairs has been invited to provide an explanation of this regulation.







We would appreciate your response by **26<sup>th</sup> March 2009**.


### **2. Responses**










		Wider Dissemination?	Does your national legislation provide a possibility to issue a residence permit to retired parents (third-country citizens) of citizens of your country?
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.










	<b>Belgium</b>	<b>Yes</b>	<p>Yes, Belgian national legislation provides a possibility for family reunification with ascendants (parents, grandparents,...) of Belgian citizens (art.40bis Aliens Act).</p> <p>Conditions : the ascendant must proof</p> <ul style="list-style-type: none"> <li>- identity</li> <li>- the kinship with the Belgian citizen</li> <li>- the dependence of the Belgian citizen</li> <li>- that the Belgian citizen has sufficient resources and a sickness insurance to avoid that the ascendant becomes a burden on the social assistance system of the host Member State</li> <li>- the ascendant should accompany or report to the Belgian citizen</li> </ul> <p>A residence permit is issued for a period of three years. During these three years the Immigration Department can check whether the above-mentioned conditions are still met. After these three years a permanent residence permit can be issued.</p> <p>Source : <a href="http://www.vmc.be/vreemdelingenrecht/wegwijs.aspx?id=5930">http://www.vmc.be/vreemdelingenrecht/wegwijs.aspx?id=5930</a></p>
	<b>Bulgaria</b>	<b>Yes</b>	<p>Yes, in the national legislation – Law for the foreigners in the Republic of Bulgaria, art.24, it is provided that a long-term residence permit may be granted to foreigners who possess a visa and:</p> <ul style="list-style-type: none"> <li>▪ Are well provided parents of legal permanent resident foreigners in the country or of a Bulgarian citizen;</li> <li>▪ Are secured by a pension and have adequate means of support in the country;</li> </ul> <p>Are members of a foreigner’s family where the said foreigner has been granted authorization for continued stay.</p>
	<b>Czech Republic</b>	<b>Yes</b>	<p>Yes, a residence permit may be issued to family members of an EU citizen in case that they lived with the Czech citizen in common household, or they are dependent on the Czech citizen for subsistence or care (once they are unable to take care of themselves due to a long-term unfavourable health condition).</p> <p>Thus the parents might be permitted temporary residence on the grounds of being family members of an EU citizen, or permanent residence without the requirement of five years of previous residence, if there are humanitarian reasons.</p> <p>If the parents did not fulfill the conditions stated in the first paragraph, they could still apply for long term visa and, subsequently, for long term residence permit. They could be also permitted permanent residence without the requirement of five years of previous residence if there were humanitarian reasons or reasons worthy of special consideration.</p>
	<b>Estonia</b>	<b>Yes</b>	<p>Estonia’s Aliens Act foresees a possibility to grant a temporary residence permit for parents or grandparents to settle with his or her adult child or grandchild who is an Estonian citizen or who holds a long term residence permit and who is permanently residing in Estonia. This residence permit is granted only if the parent or grandparent needs care which is not possible for him or her to receive in the country of his or her location or in another country and if his or her permanent legal income or the permanent legal income of his or her child or grandchild who legally resides in Estonia ensures that the parent or grandparent will be maintained in Estonia.</p> <p>After 5 year of residence the parent or grandparent may be granted a long term residence permit if he or she fulfils the conditions given in the Aliens Act.</p>
	<b>Finland</b>	<b>Yes</b>	<p>Yes, though retired parents are not considered as family members under the Finnish Aliens Act (Section 37).</p> <p>Section 50 (subsection 2) of the Finnish Aliens Act states:</p> <p>Relatives other than family members of a Finnish citizen living in Finland are issued with a continuous residence permit if refusing a residence permit would be unreasonable because the persons concerned intend to resume their close family life in Finland or because the relative is fully dependent on the Finnish citizen living in Finland. Such other relatives must remain abroad while the application is processed.</p>
	<b>France</b>	<b>Yes</b>	<p>No, there is no right to the award of a residence permit for retired parents of French citizens.</p> <p>The residence permit to "retired" persons is attributed to the foreign holder of a retirement pension paid under a French pension plan.</p>





			The parents (third country citizens) of French citizens are entitled to a residence permit if they are dependent on their children (French citizens).
	<b>Germany</b>	<b>Yes</b>	The subsequent immigration of retired parents who are nationals of third countries to join their children who are no longer minors and who have the German nationality can only be allowed by way of discretionary authority should this be required to avoid extraordinary hardship. The definition of such a hardship presupposes circumstances showing that either the family members living in the Federal Territory or the family members wishing to immigrate subsequently are dependent on the family assistance which can only be rendered in the Federal Territory (e.g. a special need for care as a consequence of illness, disability, need to be cared for, mental distress). Irrespective of a subsequent immigration to join the German child, any foreigner receiving a pension from an institution located within the Federal Territory and who before leaving has been residing legally in the Federal Territory for at least 8 years, will, as a rule, receive a residence permit (the right to return).
	<b>Greece</b>	<b>Yes</b>	Parents of Greek or EU citizens who are third country nationals are able to be granted a residence permit as family members of Greek or EU Member- States nationals. This residence permit provides them access to labour market but it can be also issued for those who have gone into retirement. In addition, according to our legislation, third country nationals who receive a pension by a Greek Social Insurance Agency are granted a residence permit as financially independent persons for one year and it is renewed every year.
	<b>Hungary</b>	<b>Yes</b>	Yes. The family members (in the definition parents are included) of any Hungarian citizen if the citizen is engaged in gainful employment shall have the right of residence for a period of longer than three months. The right of residence for a period of longer than three months shall extend to the family members of a Hungarian citizen if: <ul style="list-style-type: none"> <li>• they have sufficient resources for themselves or the Hungarian citizen has sufficient resources for such family members not to become a burden on the social assistance system of the Republic of Hungary during their period of residence; and</li> <li>• they have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family members for such services as required by statutory provisions.</li> </ul>
	<b>Ireland</b>	<b>Yes</b>	Ireland may give residence permits to retired parents of third country nationals in the following circumstances: <u>Third country Family members of EU nationals:</u> Directive 2004/38/EC – the “Free Movement Directive” is transposed into Irish law via the European Communities (Free Movement of Persons) (No.2) Regulations 2006, as amended by the European Communities (Free Movement of Persons) (Amendment) Regulations 2008. Under these Regulations, a Union citizen exercising free movement rights may bring a qualifying family member or a permitted family member into the State. These categories include dependant relatives in the ascending line. The Union citizen must have sufficient resources to support himself/herself and any accompanying dependants. <u>Refugees:</u> Section 18 of the Refugee Act 1996 sets out rules for family reunification for recognised refugees. A Refugee may make an application to be reunified with his/her spouse, unmarried children under the age of 18, and, in the case of a refugee under 18 years, his/her parents. The Minister for Justice, Equality and Law Reform also has discretion to grant permission for other dependent family members to be reunified with a Refugee, including grandparents and parents. Family reunification in other categories (e.g. employment permit holders, researchers) is generally confined to dependant spouses and children under 18 years. The rules for family reunification in these categories are not formally set out in legislation.
	<b>Latvia</b>	<b>Yes</b>	Yes, Latvian national legislation provides a possibility to issue a residence permit to retired parents of Latvian citizens and non-citizens. After 5 years this parent can apply for a permanent residence permit.
	<b>Lithuania</b>	<b>Yes</b>	Yes, any alien, regardless of her or his age, can obtain a temporary residence permit, if her or his child is a citizen of Lithuania. After 5 years of uninterrupted residence in Lithuania such person can obtain a permanent residence permit.
	<b>Netherlands</b>	<b>Yes</b>	According NL legislation, parents that are nationals of a third country are able to acquire a residence permit with the purpose to live in NL with their child. The parent must meet the following conditions: he must be 65 or over, he must not have a partner, he must not have a

			<p>child with whom you can reside in your country of origin, almost all children are living in the Netherlands, he must not constitute a risk to public order.</p> <p>The child in NL must meet the following conditions: he or she must have <a href="#">sufficient income</a> in the Netherlands. If there are other children in the Netherlands, their incomes may also be taken into account if necessary, therefore not just the income of the child with whom the parent will be living; the child(ren) must hold Dutch nationality, a permanent residence permit (asylum or regular) or a temporary asylum residence permit.</p> <p>In principle, the residence permit is issued for a maximum of 1 year. The residence permit may, in principle, be extended for a period of 1 year. After 5 years the parent can apply for a permanent residence permit.</p>
	<b>Poland</b>	<b>Yes</b>	<p>There are no special regulations providing a possibility to issue a residence permit to retired parents (third – country citizens) of Polish citizens. The fact of being “retired person” is only important in the context of possessing stable and regular source of income - required by law - enough to cover the cost of maintenance of an alien applying for residence permit.</p>
	<b>Portugal</b>	<b>Yes</b>	<p>Yes. According to Law 37/2006, August 9, the ascendants of a EU citizen (including the Portuguese ones) are considered as a “Family Member “in order to obtain a residence permit, if they are in ward; according to art. 2 of the referred law, (...)”The direct ascendant in ward to a citizen of the Union, as well as his/her spouse or partner as established (...) is considered as a family member.</p> <p>Even if they are from a third country nationality, they benefit from a residence card.</p> <p>In Portugal the situation of non-citizens is not applicable.</p> <p>This law transposes to the internal legal order the EU Directive 2004/38/CE.</p> <p>Website: <a href="http://www.sef.pt/portal/V10/EN/asp/legislacao/legislacao_detalhe.aspx?id_linha=4559#0">http://www.sef.pt/portal/V10/EN/asp/legislacao/legislacao_detalhe.aspx?id_linha=4559#0</a></p>
	<b>Romania</b>	<b>Yes</b>	<p>According to the Government Emergency Ordinance 194/2002 on aliens regime in Romania set that the long stay visa for family reunification may be applied for also by ascending 1<sup>st</sup> degree relatives of Romanian citizens.</p> <p>The application shall be handed over by those person shall be accompanied by documents proving the existence of family ties.</p> <p>This category of persons can be extended the stay right if the Romanian citizen has domicile or residence in Romania, and upon presentation of documents proving the existence of family ties.</p> <p>Family members of a Romanian citizen may be granted the extension of the temporary right to residence for periods of up to 5 years.</p> <p>Extension of the right to temporary residence shall be done under exemption from payment of consular fees.</p> <p>The right of permanent residence may be granted, upon request, for an undetermined duration, to aliens who hold a right to residence.</p>
	<b>Slovak Republic</b>	<b>Yes</b>	<p>Slovak national legislation (Act on the Residence of Foreigners) provides a possibility <b>to issue a temporary residence permit to a single parent dependent on the care of a foreigner with temporary residence permit</b> granted for the purpose of business or employment <b>or of a foreigner with a permanent residence permit. After 5 years</b> of temporary residency s/he can <b>apply for a permanent residence permit</b> (so-called “further permit” granted for an unlimited period of time).</p> <p><b>A dependent direct relative of a citizen of the SR with permanent residence on the territory of the SR (e.g. a parent) can obtain the permanent residence permit (so-called “first permit” granted for 5 years). After that s/he can apply for “further permit” granted for an unlimited period of time.</b></p> <p>As you can see, the Slovak national legislation do not use term “a retired parent” but “a single dependent parent” or “dependent direct relative” Dependency need to be proved by an applicant.</p>
	<b>Slovenia</b>	<b>Yes</b>	<p>In Slovenian aliens legislation there is a possibility to issue a residence card to parents of a Slovenian national in the following cases:</p> <ul style="list-style-type: none"> <li>- If they are parents of a Slovenian national bellow the age of 21, or</li> <li>- If they are dependent on a Slovenian national (when dependency is based on Slovenian legislation: in case where parents lack means of subsistence and can not acquire them, a Slovenian national is obliged to provide for them according to his capability).</li> </ul> <p>There is no special scheme for retired parents as such in our legislation.</p>
	<b>Spain</b>	<b>Yes</b>	<p><i>The parents of a Spanish citizen or those of his/her spouse may reside in Spain in accordance with the provisions of the general alien</i></p>

			<p><i>affairs scheme, regulated by Organic Law 4/2000 of 11 January, on the rights and freedoms of foreigners in Spain and their social integration, approved by Royal Decree 2393/ 2004 of 30 December.</i></p> <p><i>Under specific circumstances, Royal Decree 240/2007 of 16 February 2007, on the entry, free movement and residence in Spain of citizens of the Member States of the EU and of the other States that are a party to the Agreement on the European Economic Area, applies. Consequently, the parents of a Spanish citizen, or those of his/her spouse, who reside in other countries and are economically dependent on them (as long as no agreement or declaration as to the annulment of the marriage, divorce or legal separation have been ruled by a court) may be entitled to reside in Spain and obtain a Family Residence Card for EU citizens.</i></p>
	<b>Sweden</b>	<b>Yes</b>	<p>In exceptional cases can parents be granted a residence permit if they have lived together in the home country with the relative who is now resident in Sweden. This category includes children over the age of 18 years and parents of persons who are resident in Sweden. They must be able to show that they have lived with their relative immediately before he or she moved to Sweden and that they had a dependency relationship in the home country which makes it difficult to live apart. The term dependency relationship means that they are financially, socially and emotionally dependent on the relative who lives in Sweden.</p>

		Wider Dissemination?	<b>If yes, is an integration criteria (knowledge of state language) applied when issuing a temporary or permanent residence permit?</b>
	<b>Austria</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.
	<b>Belgium</b>	<b>Yes</b>	Until now, no integration requirements of any kind apply in Belgian migration law for being granted a residence permit; there are only material conditions (housing, insurance, resources) applying mainly to forms of family reunification and student migration. In 2008 the Minister of Migration policy and Asylum declared before Parliament that she intended to introduce an integration condition for foreigners who apply for family reunification. But none of the basic parameters of such a condition have been defined so far (content, sanction, etc.).
	<b>Bulgaria</b>	<b>Yes</b>	No. No language criterion is applied when issuing a temporary or permanent residence permit.
	<b>Czech Republic</b>	<b>Yes</b>	Knowledge of Czech language is required by the law as a condition for issuance of permanent residence permit. There are, however, some exceptions, of which the age of 60 years and higher may apply directly to the group you ask about, the other exceptions being physical or mental handicap that hinders communication or application for residence on humanitarian grounds or for some other reasons worthy of consideration.
	<b>Estonia</b>	<b>Yes</b>	Aliens, who are applying for the long-term residence permits have to fulfil the integration criteria; they have to prove their knowledge of state language (level B1). There are some exceptions of that provision. The following are exempt of the performance of the integration requirement: -persons who are younger than 15 and older than 65; -persons who have acquired basic, secondary or higher education in Estonian; -adults with restricted active legal capacity; -persons who due to their state of health are continuously not able to take the language exam (if a person is able to take the exam in a certain part then the scope of the taking of the exam shall be decided by the special expert committee similarly to the procedure for taking the citizenship exam).
	<b>Finland</b>	<b>Yes</b>	There are no integration criteria in addition to this category of applicants.
	<b>France</b>	<b>Yes</b>	-
	<b>Germany</b>	<b>Yes</b>	Ein Integrationskriterium als Voraussetzung für die Erteilung einer befristeten Aufenthaltserlaubnis zum Nachzug von im Ruhestand befindlichen, drittstaatsangehörigen Eltern zu ihrem deutschen erwachsenen Kind ist im deutschen Aufenthaltsgesetz nicht vorgesehen. Mit der Erteilung der Aufenthaltserlaubnis ist der Ausländer jedoch zur Teilnahme an einem Integrationskurs berechtigt und unter bestimmten Voraussetzungen hierzu auch verpflichtet. Eine Teilnahmeverpflichtung besteht jedoch nicht, wenn die Teilnahme, z.B. auch altersbedingt, auf Dauer unmöglich oder unzumutbar ist. Die Erteilung einer unbefristeten Niederlassungserlaubnis und einer unbefristeten Erlaubnis zum Daueraufenthalt-EG (long term resident – EC) nach fünfjährigem legalen Aufenthalt setzen dagegen voraus, dass der Ausländer über ausreichende Kenntnisse der deutschen Sprache auf der Stufe B1 des Gemeinsamen Europäischen Referenzrahmens für Sprachen (GER, Common European Framework of Reference for Languages) und über Grundkenntnisse der Rechts- und Gesellschaftsordnung und der Lebensverhältnisse in der Bundesrepublik Deutschland verfügt. Von den Integrationsvoraussetzungen wird jedoch abgesehen, wenn der Ausländer sie wegen einer körperlichen, geistigen oder seelischen Krankheit oder Behinderung nicht erfüllen kann. Im Ermessenswege kann von diesen Voraussetzungen zur Vermeidung einer Härte abgesehen werden, was auch im Alter des Ausländers begründet sein kann.
	<b>Greece</b>	<b>Yes</b>	Only third country nationals who want to be granted the status of long-term residents have to prove efficient knowledge of the Greek

			language. In any other case this is not a requirement.
	<b>Hungary</b>	<b>Yes</b>	<p style="text-align: center;"><i>Section 33.</i></p> <p>(1) The third-country nationals applying for interim permanent residence permit, a national permanent residence permit or an EC permanent residence permit must satisfy the following conditions:  a) must have a place of abode and subsistence in the territory of the Republic of Hungary secured;  b) must have full healthcare insurance or sufficient financial resources for healthcare services; and  c) must be exempt from any reason for rejection set out in this Act.  (2) No interim permanent residence permit, national permanent residence permit or EC permanent residence permit shall be issued to any third-country national:  a) who has a prior criminal record, until relieved from the detrimental legal consequences related to his criminal record;  b) whose residence in the territory of the Republic of Hungary constitutes a threat to national security;  c) who is subject to expulsion or exclusion from the territory of the Republic of Hungary.</p>
	<b>Ireland</b>	<b>Yes</b>	Knowledge of state language is not a criterion when issuing a residence permit in Ireland.
	<b>Italy</b>	<b>Yes</b>	
	<b>Latvia</b>	<b>Yes</b>	Yes, when applying for a permanent residence permit, a person should prove knowledge of state language (level 1B).
	<b>Lithuania</b>	<b>Yes</b>	When issuing a temporary residence permit, no integration criteria is applied. When issuing a permanent residence permit, the person must pass an exam of Lithuanian language and knowledge of Lithuanian Constitution. Persons who have reached the age of 75, persons acknowledged to be capable of work by 0-25 % and persons to whom the level of special needs has been established, as well as persons with severe chronic psychic disorders are exempted from the requirement to pass such exams.
	<b>Netherlands</b>	<b>Yes</b>	The integration criteria are only applied for certain categories of aliens between the age of 18-64. Parents that are a third country national who wish to apply for a residence permit to live with his/her child must be 65 or older and are thus exempted from the integration criteria.
	<b>Poland</b>	<b>Yes</b>	No. There isn't this integration criteria.
	<b>Portugal</b>	<b>Yes</b>	No, not applicable to the family members of the EU citizens.
	<b>Romania</b>	<b>Yes</b>	Permanent stay right shall be granted if the following conditions are cumulatively fulfilled: a) they can prove a continuous and legal stay on the territory of Romania during the last 5 years prior to submission of the request, as follows: (i) the stay shall be considered as continuous when the period of absence from the territory of Romania is of less than 6 consecutive months and does not exceed 10 months in total; (ii) the stay shall be considered legal if no measure of removal from the national territory has been ordered against the alien; (iii) on establishing the period of continuous and legal stay, half of the duration of stay for the purpose of study shall be taken into consideration; (iv) on determining the period of continuous and legal stay, the stay conferred by the diplomatic and official visa as well as the stay granted for the purpose of carrying out seasonal work shall not be taken into account; b) prove the availability of means of subsistence at a level of the minimum net wage, <b>while excepting the aliens who are family members of Romanian citizens</b> ; c) provide the social health insurance; d) prove the legal tenancy of the place of accommodation;

			<p>e) know Romanian language at a satisfactory level;  f) do not represent a danger to the public order and national safety.  <b>Aliens of Romanian origin or born in Romania</b> may be granted the right to permanent residence without fulfilling the following conditions:  Proof of a continuous and legal stay on the territory of Romania during the last 5 years prior to submission of the request;  Proof of the availability of means of subsistence at a level of the minimum net wage;  Provision of the social health insurance;  Proof of the legal tenancy of the place of accommodation;  Knowledge of Romanian language at a satisfactory level.</p>
	<b>Slovak Republic</b>	<b>Yes</b>	<p>For migrants <b>intending to reside</b> in Slovakia there are <b>no fixed conditions regarding their integration</b> into society. In some cases, the decisions on residence permits are taken with the view of the extent of the migrant's integration, pursuant to the relevant provision of the Act on Residence of Foreigners. According to this provision, <b>the Alien Police Department takes into the account the extent of the foreigner's integration when deciding on the permanent residence permit</b>. The relevant police department is fully competent to decide on the extent of the applicant's integration into society. The above-mentioned provision does not specify this process in any way and there are no further regulations for decision-making in this issue. The Alien Police Department <b>may ask</b> a foreigner <b>to provide a confirmation that s/he attended a Slovak language course</b> when applying for a permanent residence permit (so-called "further permit" granted for an unlimited period of time).</p>
	<b>Slovenia</b>	<b>Yes</b>	<p>There is no integration criteria applied for issuing (any kind of) residence permits in the Republic of Slovenia.</p>
	<b>Spain</b>	<b>Yes</b>	<p>None of the above referenced circumstances require the fulfilment of criteria prior to the integration.</p>
	<b>Sweden</b>	<b>Yes</b>	<p>No, in Sweden there are no integration criteria of any kind in granting residence permits on any grounds.</p>