



## **Ad-Hoc Query on extended family reunification**

**Requested by FI EMN NCP on 25<sup>th</sup> November 2010**

**Compilation produced on 1st of March 2011**

**Responses from Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Norway (14 in Total)**

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### **1. Background Information**

Finnish government is currently exploring, whether the national rules for family reunification should be amended and would like to gather information on the conditions for extended family reunification in other EU MS.

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## 2. Responses<sup>1</sup>

		Wider Dissemination? <sup>2</sup>	1. Is family reunification in your MS limited to alien's core family members, or does your national legislation allow family reunification for alien's extended family members? 2. Under what condition(s) is family reunification possible for alien's extended family members (eg. secure means of support, health insurance, arranged housing, other)?
	Austria	NO	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Belgium	Yes	<ol style="list-style-type: none"> <li>1. Yes, when it is concerning family reunification with a Belgian citizen or an EU-member also family reunification is possible for ascendants (parents, grandparents..) and descendents (children, grandchildren,..). On the contrary, regarding family reunification with a third country national residing in Belgium; in principle the extended family members can not benefit; however there are exceptions for Turkish nationals.</li> <li>2. There are some conditions for the extended family members. Of course they need to prove their identity and their (blood) relationship. Secondly, they need to be dependent of the EU-citizen in their country of origin. This means that in their country of origin, they are dependent on the (financial) aid of the family reunificator residing in Belgium. Thirdly, when the EU-citizen is not active on the labour market, there has to be a proof that the EU-citizen has secure means of support and that he has a health insurance that covers the medical costs for the family member.</li> <li>3.</li> </ol>
	Bulgaria	Yes	
	Cyprus	Yes	<ol style="list-style-type: none"> <li>1. Family reunification in Cyprus is limited only to alien's core family members.</li> <li>2. Not applicable</li> </ol>
	Czech Republic	Yes	<ol style="list-style-type: none"> <li>1) The family reunification is limited to alien's <b>core family members (including adopted dependent children under foster care)</b>.</li> <li>2) Not applicable.</li> </ol>
	Denmark	Yes	
	Estonia	Yes	
	Finland	Yes	1) Family reunification is not just restricted to the members of the nuclear family.

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

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

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		<p>According to the Alien’s Act, members of the nuclear family of Finnish citizens, EU-citizens and persons comparable to them, are considered to be: the spouse, unmarried children under 18 years of age whose guardian is either the person residing in Finland or his/her spouse. If the person residing in Finland is a minor child, his or her guardian is regarded as a family member. The Alien’s Act further stipulates that an unmarried minor child, who is in an actual custodial relation with his/her custodian, and needs custodianship on the date at which the decision for a residence permit application is given is also considered a family member, even though no official records of the custodial relation are available (foster child). A reliable investigation that ascertains either the death or disappearance of the previous custodians of the child is needed in order to receive a residence permit. In addition, it is a prerequisite that the child has had an actual custodial relationship to the sponsor or to his/her spouse before the sponsor came to Finland. A foster child residing in Finland can also apply for a residence permit for his/her foster parents. In these cases the prerequisite is also a reliable investigation regarding the existence of an actual custodial relationship before the sponsor has come to Finland.</p> <p>A same sex spouse is regarded as a family member if the relationship has been registered. Also, people who continuously share the same household and cohabit in a relationship resembling marriage, i.e. common law marriage, are regarded as spouses. The minimum requirement for granting a residence permit based on family ties in these cases is two years of cohabitation, except if the couple has a common child, in which case the time of cohabitation can be shorter.</p> <p>There are also some exceptions, where a person who is not considered to be part of the nuclear family has a possibility to get a residence permit on the grounds of a family tie. These exceptions only apply to Finnish citizens and to aliens who have received a residence permit on the grounds of refugee status, subsidiary protection, humanitarian protection and temporary protection according to the Alien’s Act. They can apply for family reunification also for an “other relative/next of kin”. The Alien’s Act or its preparatory documents do not stipulate the term “other relative/next of kin”. Other relatives can include e.g. the parents of an adult person, the minor sibling residing abroad of a minor child, who does not have a custodian or has a different custodian than the minor child residing in Finland or the unmarried sibling of an adult person. The parents of the spouse or other relatives of the spouse are not considered to be other relatives of a person residing in Finland.</p> <p>2) The Alien’s Act states that a residence permit based on family ties may be granted to other relatives who are not family members, if it is considered unreasonable to refuse it. For these categories of relatives, possible grounds for granting a residence permit based on family ties may be the following: the person residing in Finland and the relative in question have previously formed a close-knit family unit, which they are in the intent of continuing, or the relative is considered totally dependent on the person residing in Finland. When assessing the reason for continuing a close-knit family unit or the assessment of total dependence, factors that are taken into account are: the time spent apart and why the separation has occurred, contact during the time spent apart, type of family relation, the age, health and marital status of the other relative; circumstances in the country of origin, other close relatives in the country of origin, possible economic assistance from Finland etc. Economic dependence as such is not sufficient as a reason for a residence permit to be issued.</p> <p>If the separation has been caused by a compelling reason, the time spent apart is not considered as significant as if the family life can be considered to have ended because of a voluntary separation. Total dependence has to be proven in a reliable way (e.g. with a medical</p>
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			statement). When assessing total dependence, factors that are taken into account include the ability to function in daily life and the applicant's possibility to rely on children, spouse or other relatives in the country of origin.  The number of negative decisions regarding family reunification for other relatives is high, which has to do with the legislation in force and its implementation, which has been proven in the courts of appeal.
	<b>France</b>	<b>Yes</b>	
	<b>Germany</b>	<b>Yes</b>	
	<b>Greece</b>	<b>Yes</b>	
	<b>Hungary</b>	<b>Yes</b>	<p>1. Yes, in some special cases family reunification is possible for alien's extended family member</p> <p>2.: According to Act II. of 2007 Section 19 :</p> <p>(1) A long-term visa or a residence permit may be issued on the grounds of family reunification to a third-country national who is relative of a third-country national who is in possession of a long-term visa, a residence permit, immigration permit, permanent residence permit, interim permanent residence permit, a national or EC permanent residence permit, or - under specific other legislation - in possession of a residence card or permanent residence card (for the purposes of this Section hereinafter referred to as "sponsor").</p> <p>(2) The following persons may be granted a long-term visa or a residence permit on the grounds of family reunification:</p> <p>a) family members of persons with refugee status, and</p> <p>b) the parents of unaccompanied minors with refugee status, or their legally appointed guardian.</p> <p>(3) A decision rejecting an application for family reunification with a person with refugee status may not be based solely on the fact that documentary evidence of the family relationship is lacking</p> <p>(4) The following relatives of sponsors, the spouses of sponsors or persons with refugee status may be granted a long-term visa or a residence permit on the grounds of family reunification:</p> <p>a) their parents who are dependants;</p> <p>b) <i>their brothers and sisters, if they are unable to provide for themselves due to health reasons.</i></p> <p>(5) The spouse of a person with refugee status may be issued a long-term visa or a residence permit for the purpose of family reunification if their marriage was contracted before the entry of the person with refugee status into the territory of the Republic of Hungary.</p> <p>(6) The spouse of a sponsor may not be issued a long-term visa or a residence permit if the other spouse of the sponsor has a long-term visa or residence permit that was issued on the grounds of family reunification.</p> <p>(7) Family members - unless they have obtained the right of residence on any other grounds - shall be authorized to extend his/her right of residence after five years from the date of issue of his/her first residence permit, or upon the death of the spouse or the persons with refugee status, and if other requirements for further residence are ensured.</p> <p>(8) The children of third-country nationals with a long-term visa, national visa or a residence permit born in the territory of the Republic of Hungary shall be issued a residence permit on the grounds of family reunification.</p> <p>(9) Subject to the exception set out in Subsection (10), the validity period for a residence permit granted for the purpose of family</p>

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			<p>reunification shall be three years, and it may be extended by three additional years at a time.</p> <p>(10) The validity period of a long-term visa or residence permit issued for the purpose of family reunification may not exceed the validity period of the sponsor's long-term visa or residence permit.</p> <p>and According to Act I. of 2007 Section 8.:</p> <p>(1) The competent authority may grant the right of residence to persons on the grounds of family reunification, who:</p> <p>a) are dependants or members of the household of a Hungarian citizen for a period of at least one year, or who require the personal care of a Hungarian citizen due to serious health grounds; or</p> <p>b) had been dependants or members of the household of an EEA national - who satisfies the requirements set out in Subsection (1) of Section 6 - in the country from which they are arriving, for a period of at least one year, or who require the personal care of an EEA national due to serious health grounds.</p> <p>(2) The right of residence of the person referred to in Subsection (1) shall terminate when their relationship is terminated.</p> <p>(3) The person referred to in Subsection (1) shall have the same legal status as the family member during their period of lawful residence, with the exception that such right of residence may not be retained on these grounds:</p> <p>a) in the event of the Hungarian citizen's death or if his citizenship is terminated;</p> <p>b) in the event of the EEA national's death or if his right of residence is withdrawn, or if the EEA national no longer exercises the right of residence.</p>
	<b>Ireland</b>	<b>Yes</b>	
	<b>Italy</b>	<b>Yes</b>	<p>In order to facilitate the cohesion and familiar unity of third country foreigners, the regulation system in force states that foreign citizens holders of the stay permit with the duration for minimum one year, issued for work reasons (subordinated or independent), for asylum, study, religious reasons or subsidiary protection, as well as holders of the EC stay permit for long term, can be reached by close familiars. It regards in particular: a spouse if adult and non separated legally; minor children not married and adult children still dependent on parents/maintained by parents who cannot provide autonomously to their existential exigencies because of health problems; dependent parents unless there are other children in the country of origin able to provide them an assistance. To deal with all the procedures related to the family reunification process there is so called "Single Desk for Immigration", instituted by the paragraph 18 of the 30th of July 2002 Law no. 189 and operating in every "Prefettura" – Territorial Office of the Government (UTG).</p> <p>Besides the general characteristic we have presented above, admission conditions for family reunification reason depend on two factors: the lodging conditions of the applicant and the possession of basic income. Regarding the lodging, it is necessary to provide a certificate to prove that the flat/residence/house where familiars will be received, is in a good hygienic-sanitary conditions. It should fit standards provided by the regional law concerning lodging and residential parameters. Regarding the second factor, the applicant is required to demonstrate that he has at his disposal an annual income, coming from legal sources, not lower than the annual value of the social allowance, augmented with a half of the amount for each familiar to be reunified. Anyway, if the applicant has not at his disposal such an income, other incomes of familiars living together are valid.</p> <p>Once all the conditions are verified, the Single Desk for Immigration has the duty to issue, within 180 days from the receiving of the application, either the "nihil obstat" for the reunification or the deny.</p>

**EMN Ad-Hoc Query: Extended family reunification**

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	<b>Latvia</b>	<b>Yes</b>	<p>1. Immigration Law of Latvia allows family unification for: spouses and minor children (and persons under custody) of Latvian citizens, Latvian non-citizens and foreigners with a residence permit in Latvia. Latvian citizens and Latvian non-citizens can invite their retired parents (they get a temporary residence permit for one year, then – for four years, then – a permanent residence permit). Latvian citizens are entitled to family reunification with their adult children who can bring along their family as well (spouse, minor children). Adult children of Latvian citizens receive 1+4 years temporary residence permit and then – permanent residence permit. Every Latvian citizen, Latvian non-citizen and third-country citizen with a permanent residence permit are entitled to invite their more distant relatives (up to third-degree relatives in straight or side line, for example) for a period up to 6 months once in a calendar year.</p> <p>2. Persons (inviter, third-country citizen or both persons together) should prove that they have sufficient financial means, the third-country citizen has a health insurance policy and they have an accommodation. In case where retired parents are invited, persons should declare that they will not apply for any kind of social assistance allowances.</p>
	<b>Lithuania</b>	<b>Yes</b>	
	<b>Luxembourg</b>	<b>Yes</b>	
	<b>Malta</b>	<b>Yes</b>	
	<b>Netherlands</b>	<b>Yes</b>	<p>1. Family reunification policy in the Netherlands is not limited to the nuclear family of (married) partners and their minor biological or legal children. The so-called extended family reunification policy permits (under certain conditions) other family members to qualify for family reunification, such as children 18 years and older, brothers and sisters, grand parents and parents aged 65 and older and so on.</p> <p>2. The IND can grant a residence permit for extended family reunification if:</p> <ul style="list-style-type: none"> <li>• The foreign national must be an actual member of the household of the person with whom the foreign national in question wants to stay and was an actual member of that person’s household in the country of origin as well.</li> <li>• Leaving this foreign national behind must constitute undue harshness in the view of the Minister of Migration and Asylum</li> </ul> <p>The family relationship must be proven through legalised documents. The requirement to have a provisional residence permit (a Schengen D-visa), to have a passport, for the person with whom the foreign national wants to stay to have independent, sustainable and adequate means of income, and the policy regarding public order, all apply.</p> <p>There is a separate policy framework for foreign nationals aged 65 of older who want to reside with their child:</p> <ul style="list-style-type: none"> <li>• The foreign national must be single;</li> <li>• There are no other children living in the country of origin who can provide for the foreign national; and</li> <li>• Almost all the foreign nationals’ children reside in the Netherlands.</li> </ul> <p>The family relationship and the fact the elderly person is single must be proven through legalised documents. The requirement to have a</p>

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			provisional residence permit (a Schengen D-visa), to have a passport, for the person with whom the foreign national wants to stay to have independent, sustainable and adequate means of income, and the policy regarding public order, all apply.
	<b>Poland</b>	<b>Yes</b>	
	<b>Portugal</b>	<b>Yes</b>	<p>1. According to the legal framework (Act n.º 23/2007, of 4<sup>th</sup> of July) in the article 98º “Right to family reunion”:</p> <p>1- A citizen with valid residence permit has the right to family reunion with the family members that are out of national territory, and who lived with him / her in a another country, or that dependent from him / her, or that live in cohabitation, independently from the family ties having been created before or after the resident entered in Portugal.</p> <p>2- In the circumstances referred to in the preceding paragraph is equally acknowledged a right to family reunion with the relatives who have legally entered national territory and depend from or live in cohabitation with the holder of a valid residence permit”.</p> <p>And in the article n.º 99º “Family members”:</p> <p>1- To the purposes of the stipulations of the preceding article, are considered members of the resident’s family:</p> <p>a) The spouse;</p> <p>b) Underage or incapable children under guardianship of the couple or of one spouse;</p> <p>c) Minors adopted by an unmarried applicant, by a married applicant or by the spouse, following decision taken by the relevant authority of the country of origin, provided that legal framework incorporates the same rights and duties of natural affiliation and provided that decision is acknowledged by Portugal.</p> <p>d) Children who are of age, and of whom the couple or one of the spouses is in charge, and study in a Portuguese teaching institution</p> <p>e) Progenitors in first direct line of kindred to the resident or the respective spouse provided they depend from either of those.</p> <p>f) Underage brothers or sisters provided they are under the tutelage of the resident, in accordance to decision made by a relevant authority of the Country of origin and provided that decision is acknowledged by Portugal.”</p> <p>2. According to the article n.º 101 “Conditions to benefit from the right to family reunion”:</p> <p>1- In order to benefit from the right to family reunion the applicant must have secured:</p> <p>a) Lodgings;</p> <p>b) Subsistence means.”</p>
	<b>Romania</b>	<b>Yes</b>	
	<b>Slovak Republic</b>	<b>Yes</b>	
	<b>Slovenia</b>	<b>Yes</b>	
	<b>Spain</b>	<b>Yes</b>	<p>1. The question stated is confusing, given that it fails to specify which family members are understood as included within the expressions “nuclear family” or “extended family”.</p> <p>In any case, in accordance with Spanish legislation concerning alien affairs and immigration, foreigners are entitled to reunite the following <b>family members</b>:</p>

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		<p>One's spouse, as long as he/she has not been separated de facto or de jure and that the marriage has not been held in abuse of the law. In no case may more than one spouse be reunited, even when the law in the foreign country permits this type of marriage. A resident alien separated from his/her spouse and subsequently remarried once or several times, may only be reunited with the most recent spouse if said alien certifies that the separation(s) from previous marriage(s) has been effectuated per a judicial process setting forth the situation for the ex-spouse(s) and the children born of the union(s) as to shared housing, financial provisions for the ex-spouse(s) and palimony for both minors or legal adults dependent on him/her. When the marriage has been annulled, the economic rights of the spouse and children born of the union, as well as any compensation, must have been settled in good faith.</p> <p>Likewise, one of the changes introduced after the legislative reform in December 2009 is the inclusion of the partner of the reuniting family member with whom a sentimental relationship analogous to that of a spouse is held. To this end, the relationship must be <b>duly certified and all the necessary requirements fulfilled to be effective in Spain. In any case, circumstances of marriage and analogous sentimental relationship are considered incompatible. No more than one person may be subject to reunification on the grounds of an analogous sentimental relationship, even when the law in the foreign country allows this type of family tie.</b></p> <p>b) <b>Children of the resident and his/her spouse, including adopted children, as long as these are minors under eighteen years of age or persons with a disability who are objectively unable to independently provide for their own needs, due to their health conditions.</b> When these minors are children of only one of the spouses, furthermore, an additional requirement is that said spouse exercises, solely, parental authority or has been awarded custody and is, in fact, responsible for these children. In the case of adopted children, one must prove that the resolution of agreement as to the adoption fulfils the necessary elements to be effective in Spain.</p> <p>c) <b>Minors under eighteen years of age or adults with a disability who due to their health conditions are objectively unable to independently provide for their own needs,</b> when the resident alien is their legal representative and the legal arrangement from which representative powers arise does not contravene the principles of Spanish law.</p> <p>d) <b>Family ascendants to the first degree of the reuniting family member, and of his/her spouse, when one is responsible for their support, they are over the age of sixty-five and reasons exist to justify the need for authorising their residency in Spain</b> (exceptionally, when due to circumstances of a humanitarian nature, ascendants under the age of sixty-five may be entitled to reunification if the remaining conditions established by Law are fulfilled).</p> <p>2. Spanish law<sup>3</sup> sets forth that <b>a foreigner may exert the right to family reunification upon the renewal of his/her initial residence permit, with the exception as to the reunification of ascendants, whom may only be reunited as of the moment when the foreign resident obtains long-term residence. (The reunification of family members of long-term residents, workers who hold the EU blue card, and beneficiaries of the special scheme for researchers may apply for and be granted, simultaneously, with the reuniting family member's application for residence.)</b></p>
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<sup>3</sup> Article 18 of Organic Law 4/2000 of 11 January.

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			<p><b>Likewise</b>, the foreign resident in Spain who is to reunite certain family members must certify, under the terms laid down in regulations, that he/she has <b>adequate housing and sufficient economic resources to meet one’s own needs as well as those of the family</b> after reunification.</p> <p>When evaluating income for the purposes of reunification, those obtained of social assistance schemes are not considered, but other income obtained by the spouse resident in Spain and who lives with the reuniting family member is taken into account.</p> <p>Finally, Regional Authorities or, should it be the case, Local Authorities, will provide the report as to the availability of adequate housing for the purposes of family reunification. Public Administrations will promote the participation of the reunited family members in socio-cultural insertion and language-related programmes.</p>
	<b>Sweden</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Normally family reunification is limited to core family members (wife, husband, registered partner, common-law spouse, children under the age of 18 or someone planning to marry or cohabit with someone living in Sweden). In exceptional cases other close relatives can be granted residence permit on grounds of family reunification.</li> <li>2. In exceptional cases, a person may obtain a residence permit if he/she has lived in the country of origin with the relative now resident in Sweden. This category covers, for example, children over the age of 18 and the parents of the person resident in Sweden. In these cases it must be proven that the person lived with the relative immediately before they moved to Sweden and that they were dependent on them in the country of origin to the extent that it is difficult for them to live apart. In this context, ‘dependent’ means that they are financially, socially or emotionally dependent on the relative who lives in Sweden. In some cases there is a maintenance requirement which means that the person living in Sweden must be able to maintain themselves and have a home of sufficient size and standard. For the persons where there is a maintenance requirement (for example not refugees and persons granted subsidiary protection) this requirement is the same for all kinds of family reunification.</li> </ol>
	<b>United Kingdom</b>	<b>Yes</b>	<p><i>1. Is family reunification in your MS limited to alien’s core family members, or does your national legislation allow family reunification for alien’s extended family members?</i></p> <p>Our national legislation allows for the family reunification of aliens (who have no time limit on their stay in the UK) and their extended family members in limited circumstances only. The extended family members permitted to enter the UK (subject to other conditions) are as follows:</p> <ul style="list-style-type: none"> <li>• mother or grandmother who is a widow aged 65 years or over; or</li> <li>• father or grandfather who is a widower aged 65 years or over; or</li> <li>• parents or grandparents travelling together of whom at least one is aged 65 or over; or</li> <li>• a parent or grandparent aged 65 or over who has entered into a second relationship of marriage or civil partnership but cannot look to the spouse, civil partner or children of that second relationship for financial support; and where the person settled in the United Kingdom is able and willing to maintain the parent or grandparent and any spouse or civil partner or child of the second</li> </ul>

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			<p>relationship who would be admissible as a dependant; or</p> <ul style="list-style-type: none"> <li>• parent or grandparent under the age of 65 if living alone outside the United Kingdom in the most exceptional compassionate circumstances and mainly dependent financially on relatives settled in the United Kingdom; or</li> <li>• the son, daughter, sister, brother, uncle or aunt over the age of 18 if living alone outside the United Kingdom in the most exceptional compassionate circumstances and mainly dependent financially on relatives settled in the United Kingdom.<sup>1</sup></li> </ul> <p>2. Under what condition(s) is family reunification possible for alien's extended family members (eg. secure means of support, health insurance, arranged housing, other)?</p> <p>Extended family members may only be permitted to join relatives in the UK in the 'most exceptional compassionate circumstances'. There is also a requirement that they should have been mainly financially dependant on relatives in the UK. They must have no recourse to public funds, and should be maintained and accommodated by the sponsoring family member whilst in the UK. The relevant provisions state the following with respect to conditions of reunification for extended family members:</p> <ul style="list-style-type: none"> <li>• is joining or accompanying a person who is present and settled in the United Kingdom or who is on the same occasion being admitted for settlement; and</li> <li>• is financially wholly or mainly dependent on the relative present and settled in the United Kingdom; and</li> <li>• can, and will, be accommodated adequately, together with any dependants, without recourse to public funds, in accommodation which the sponsor owns or occupies exclusively; and</li> <li>• can, and will, be maintained adequately, together with any dependants, without recourse to public funds; and</li> <li>• has no other close relatives in his own country to whom he could turn for financial support.</li> </ul> <p><sup>1</sup> Paragraph 317 of the UK Immigration Rules</p>
	<p>Norway</p>	<p>Yes</p>	<p>The Norwegian rules and regulations do not lend themselves easily to the format used for the questions, but you may find relevant information in the attached. (Two annexes)</p>

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