

Ad-Hoc Query from Belgium

Requested on 27th May 2016

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**Required resources
in the framework of
family reunification**



Responses from:

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom, Norway (26 in total)

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1. Background Information

In the framework of the drafting of the Belgian Migration Code, the Belgian Contact Point of the European Migration Network is requested to provide an overview of the application of article 7 Â§1 (c) of Directive 2003/86/EC on the right to family reunification in the Member States and Norway.

Article 7 Â§1 (c) states:

â When the application for family reunification is submitted, the Member State concerned may require the person who has submitted the application to provide evidence that the sponsor has stable and regular resources which are sufficient to maintain himself/herself and the members of his/her family, without recourse to the social assistance system of the Member State concerned. Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum national wages and pensions as well as the number of family members.

â Relevant information can also be found in the COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on guidance for application of Directive 2003/86/EC on the right to family reunification from 3 April 2014 and in cases C-356/11 and C-357/11, O. & S., 6 December 2012 of the Court of Justice of the EU.

Summary

All the 26 (Member) States who responded to the ad-hoc query reported that they **impose a resource requirement in the framework of family reunification applications** by third country nationals (TCNs). Several (Member) States reported that **exemptions** from fulfilling this resources requirement existed in certain cases or for certain categories of third country nationals. Some of the exemptions mentioned include – among others: when the sponsor is a refugee or has subsidiary protection status,

provided the family was formed before arrival in the (Member) State (and if the application for family reunification was made within a specific time frame from the granting of the international protection status); when the sponsor is joined only by his/her minor children or the minor children of his/her partner; when persons receive either a disabled adult's allowance or a supplementary invalidity allowance, etc. The majority of (Member) States reported that they can take into account **both the resources of the sponsor and the (possible) resources of the third-country national** for whom a right of residence is sought. Among them, several (Member) States indicated that they **ONLY** take into account the resources of the TCN for whom a right of residence is sought in very specific cases. For example, Belgium only takes into account the resources of the other family members in case of an application for family reunification with a TCN who has long-term residence status in another Member State, provided that the family was already constituted in the other Member State. In Italy, this is only the case for a natural parent applying for family reunification with his/her minor child who is already lawfully residing in Italy with the other parent.

Questions:

1. ***Does your country have resource requirements in the framework of family reunification applications by third country nationals (stable and regular resources available at the moment of the application)? Yes/No***
2. ***If yes, does your country only take into account the resources of the sponsor, or does it also take into account the (possible) resources of the third-country national for whom a right of residence is sought on the basis of family reunification? Yes/no***

2. Responses

Austria	Yes	<p>1. Yes. Source: Federal Ministry of the Interior.</p> <p>2. Austria also takes into account the (potential) resources of the third-country national for whom a residence title in the framework of family reunification is sought. Source: Federal Ministry of the Interior.</p>
Belgium	Yes	<p>1. YES In the framework of family reunification with a third country national, the sponsor must - in principle - have stable, regular and sufficient resources. These resources need to be equivalent to at least 120% of the social integration income (minimum means of livelihood). When evaluating the sponsor's resources, the following elements are not taken into account : amounts from the supplementary social assistance regimes (such as the integration income, family allowance supplement), financial social aid or family allowances, professional insertion allowances and transition allowances. Unemployment benefits can be taken into account provided that the sponsor proves that he/she is actively looking for a job. The resources requirement does not need to be met in the following cases : - When the sponsor is joined only by his/her minor children or the minor children of his/her spouse or partner ; - When the family reunification concerns the father /mother of an unaccompanied minor who has been granted refugee status or subsidiary protection status ; - When the sponsor is a refugee or has subsidiary protection status, as long as the family relationship existed prior to the entry into Belgium and the application for family reunification is made within a year following the granting of the international protection status.</p> <p>2. If the sponsor's resources are less than 120% of the social integration income, the Immigration Office cannot automatically reject the application. The Immigration Office must examine applications on a case-by-case basis, and determine the needs of the family, on the basis of which it will determine the means of subsistence the family requires to meet its needs and not become a burden for the authorities. Belgium only takes into account the resources of the other family members in the framework of an application for family reunification with a third country national who has long-term resident status in another Member State, provided that the family was already constituted in the other Member State.</p>
Bulgaria	Yes	<p>1. Yes.</p> <p>2. Yes.</p>
Croatia	Yes	<p>1. Yes.</p> <p>2. Resources of both sponsor and third country national for whom a residence is applied in the framework of the family reunification are taken into account (pursuant to the provisions of Book of regulation on status and work of foreigners in the Republic of Croatia (Official Gazette, No 52/12, 81/13, 38/15), resources of the foreigner, his/her family member or the member of the same household can be taken into account (pay checks, bank account, pension check, in some cases work contract}). Also, the minimum level of resources is set (2.750,00 kuna per month if it is the case of two-member family, and for each additional member the amount is 500,00 kuna higher).</p>

Cyprus	Yes	<p>1. Yes</p> <p>2. According to law, the sponsor needs to prove that he/she maintains stable and regular resources for him/her and the family members, so that they will not bare any burden on the social welfare system. However, in practice, in some very rare cases, when the family member can prove that he/she may provide stable and regular resources, this can be examined on a case-by-case basis.</p>
Czech Republic	Yes	<p>1. Yes.</p> <p>2. The Czech Republic primarily takes into account the resources of the applicant (i. e. the third-country national for whom a right of residence is sought on the basis of family reunification). The resources of the sponsor are relevant if the applicant will after the reunification of the family live together with the sponsor (their resources will therefore be jointly assessed). The reference amount used to assess whether the resources referred to in article 7(1)(c) of Directive 2003/86/EC are sufficient is, according to our legislation, the amount of the aggregate monthly household income of the family after its reunification which may not be lower than the sum amount of the living minimum of all family members and the highest amount of standard accommodation costs specified by the special legal regulation (or the amount which a foreign national can credibly prove as an amount of actual justified accommodation costs of the family). In other words, the required aggregate monthly income for the purposes of the article 7(1)(c) of Directive 2003/86/EC is equal to the sum of all incomes of the applicant and his/her family, who will reside with him in the territory of the Czech Republic. The resources available to the sponsor may therefore be considered together with resources of the applicant provided that the sponsor is jointly assessed with the applicant and will reside with him in the Czech Republic.</p>
Estonia	Yes	<p>1. Yes.</p> <p>2. Income of sponsor and the applicant are taken into account. Sufficient legal income which would enable an alien and the family members of an alien the subsistence in Estonia is one of the general conditions of the issue of a temporary residence. Thus, if an alien applies to settle with his/her spouse who resides in Estonia, his/her spouse is required to have permanent legal income that shall ensure the subsistence of the family in Estonia, or the joint permanent legal income of the spouses shall ensure the subsistence of the family in Estonia. The law also stipulates what is considered legal income. According to the Aliens Act § 9 legal income is lawfully earned remuneration for work, parental benefits, unemployment benefits, income received from lawful business activities or property, pensions, scholarships, means of subsistence, benefits paid by a foreign state and the subsistence ensured by family members earning legal income are deemed to be legal income for the purposes of this Act. The maintenance ensured by a family member includes:</p> <ol style="list-style-type: none"> 1) maintenance of a minor child by a parent; 2) maintenance of an adult child by a parent if the child due to health condition or disability is not able to cope independently; 3) maintenance of an adult child or grandchild studying full time by a parent or grandparent; 4) maintenance by a spouse; 5) maintenance of a parent or grandparent by an adult child or grandchild if the parent or grandparent is not able to cope independently due to health condition or disability; 6) maintenance of a ward by a guardian.

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Finland	Yes	<p>1. Yes and No Pursuant to the Finnish Aliens Act, granting a residence permit requires that the applicant has secure means of support sufficient to fund his or her stay in Finland, unless otherwise provided in the Act. A person's means of support are considered secure if their stay in Finland is financed through gainful employment, pursuit of a trade, pensions, property or income from other sources, so that the person cannot be expected to become dependent on social assistance. Certain social benefits reduce the level of income demanded. An exception may also be made to the income requirement if there is a very pressing reason for it or if the interests of the child demand it. A secure income is not required from: â € family members of a Finnish citizen and family membersâ minor unmarried children â € other close relatives of a Finnish citizen â € family members of a recipient of international protection, if the family has been formed be-fore the sponsor arrived in Finland â € other close relatives of a recipient of international protection. According to a current government proposal, in the future secure means of support would also be required of family members of a person who has been granted subsidiary (or humanitarian) protection even when the family has been formed prior to the sponsor's arrival to Finland, with the exception of cases where the sponsor has been granted asylum and the application has been submitted within three months from the service of the sponsor's positive decision. N.B./4.7.2016: The above-mentioned amendments to family reunification criteria came into force 1st July 2016. (see supporting document)</p> <p>2. Yes. In family reunification cases where sufficient resources are required, the possible income of the applicant is taken into account (e.g. income, capital/property or pensions).</p>
France	Yes	<p>1. Legally residing third-country nationals (regroupement familial): According to Article L.411-5 1^o of the Code on Entry and Residence of Foreigners and Right of Asylum (Code de lâ entrÃ©e et du sÃ©jour des Ã©trangers et du droit dâ asile, CESEDA), the right to family reunification may be refused if, inter alia, the sponsor cannot prove that he/she has â stable and sufficient resourcesâ to support his/her family. As stipulated by Article L. 411-5 1^o of CESEDA both the resources of the sponsor and of the spouse are taken into account. The resources have to finance the family's budget in a stable way. French legislation requires â stable and sufficient resourcesâ at the time when the application is submitted and also for a time period of 12 months prior to the application. The prospect of the family budget's stability is subject of the evaluation. According to Article L.411-4 of CESEDA the required resources of the couple have to be at least equal to the minimum wage (SMIC) and at the most increased of a fifth of the minimum wage depending on the family size. However, family allowances and certain welfare aids are explicitly excluded. Article L.411-5 1^o of CESEDA governs that persons that receive either a disabled adultsâ allowance or a supplementary invalidity allowance are exempted from the resource requirement. The same applies to sponsors older than 65 years who have resided regularly in France since at least 25 years, who apply for family reunification with his/her spouse and can prove that they have been married for at least 10 years. Refugees, beneficiaries of subsidiary protection, stateless persons (rÃ©unification familiale): Pursuant to Article L. 752-1 of CESEDA family reunification of refugees, beneficiaries of subsidiary protection or stateless persons is not subject to resource requirements.</p> <p>2. N/a</p>
Germany	Yes	<p>1. Yes</p> <p>2. Yes</p>
Greece	Yes	<p>1. YES</p> <p>2. According to law, only the resources of the sponsor can be taken into account. He/she must proof that his/her personal income is stabel, regular and sufficient to cover their needs and their family and is earned without recourse to the country's social assistance system. This income cannot be lower than the annual income of an employee on minimum wage, pursuant to national laws, increased by 20% for the spouse and 15% for each child. The 15% increase for each child is not required if both spouses reside lawfully in Greece.</p>

Hungary	Yes	<p>1. Yes, but without setting out a minimum level of resources.</p> <p>2. No, we also take into account all the available resources of the whole family.</p>
Ireland	No	
Italy	Yes	<p>1. Yes. Under Article 29(3)(d) of the Consolidated Act on Immigration, a foreign national lawfully residing in Italy who applies for family reunification should, inter alia, prove that he or she has a minimum income that is not lower than the amount of the Italian yearly social allowance, increased by 50% for each family member to be reunified with. In 2016, the "social allowance" amounts to " 5, 824.91 a year. Therefore, under Article 29, for 1 family member to be reunified with, a foreign national has to prove he or she has an yearly income of " 8,737.50; for 2 family members, of " 11,650.00; for 3 family members, of " 14,562.50; and so on and so forth.</p> <p>2. As a rule of thumb, these rules on family reunification provide for these income requirements to be met only by the foreign national living in Italy and not for the family member to be reunited with. The only exception is provided under Article 29(5) of the Consolidated Act on Immigration, establishing that " a natural parent who meets [" income requirements is allowed entry for family reunification with one"s minor child who is already lawfully in Italy with the other parent". In this case, the application may be submitted when the income requirements are met by the parent who is already in Italy.</p>
Latvia	Yes	<p>1. Yes</p> <p>2. Resources of both family members are taken into account. In case of the family-member who applies for the residence permit, it is usually the bank account, in case of sponsor " work contract or bank account. Very often all these sources of income shall be combined in order to prove the necessary amount.</p>
Lithuania	Yes	<p>1. Yes. A residence permit in Lithuania may be issued or renewed to an alien (third country national) if the alien has sufficient means of subsistence and/or receives regular income which is sufficient for his stay in Lithuania or the person whom s/he joins by virtue of family reunification ensures that his/her family member fulfils this condition in accordance with the procedure laid down by legal acts. The said condition shall not apply to the family members of an alien who has been granted asylum in Lithuania, who have, within three months after the granting of asylum in Lithuania, applied for the issue of a residence permit by virtue of family reunification, as well as to an alien who, according to the Law of the Republic of Lithuania on Citizenship, has the right to restore the citizenship of the Republic of Lithuania or is of Lithuanian descent.</p> <p>2. Yes. An alien must submit a document confirming that s/he has enough funds and (or) receives regular income in order to live in Lithuania. When the alien is supported by a family member, the obligation of the family member to support the alien must be submitted, as well as a document confirming that the family member has enough funds and (or) receives regular income for himself or herself and the alien to live in Lithuania.</p>
Luxembourg	Yes	<p>1. Yes.</p> <p>2. Only the resources of the sponsor can be taken into account. He/she must bring proof that he/she disposes of regular, stable and sufficient resources to cover his/hers own needs as well as those of his dependent family members without having recourse to the social aid system. The level of the resources is appreciated by reference to the monthly average rate of the social minimum salary of a non qualified worker during a period over 12 months. (The social minimum salary in Luxembourg is currently 1922,96 Euro per month and revised regularly).</p>
Netherlands	Yes	<p>1. Yes</p> <p>2. In the Netherlands only the resources of the sponsor are taken into account.</p>

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Poland	Yes	<p>1. Yes</p> <p>2. Yes</p>
Portugal	Yes	<p>1. Yes.</p> <p>2. Portugal takes into account both cases mentioned.</p>
Slovak Republic	Yes	<p>1. Yes</p> <p>2. In case of temporary residence permit for the purpose of family reunification, only the resources of the sponsor are taken into account. Only in case of application for permanent residence for five years when the reason is family reunification with a Slovak citizen, the resources of a third country national applying for the residence can be taken into account.</p>
Slovenia	Yes	<p>1. Yes.</p> <p>2. Yes. In order to meet the requirement of sufficient means of subsistence, the alien may provide evidence of the assets earned by himself, his employment or insurance rights, income related to property, income from capital and from other sources, or of the support of people who are obliged to maintain him, a scholarship, income to which they are entitled based on the law on family income and income to which they are entitled on the basis of the act regulating the enforcement of rights to public funds, and with means on an account open at a bank or savings bank in the Republic of Slovenia or abroad. An alien can prove the fulfilment of the condition of sufficient means of subsistence with means provided by himself with work, the rights deriving from work or insurance, income from property or capital and other sources, or with the aid of those who are obliged to maintain the alien, a scholarship or means on an account open at a bank or savings bank in the Republic of Slovenia or abroad.</p>
Spain		<p>1. Yes</p> <p>2. Current legislation in Spain states that a foreigner applying for a residence permit for the purpose of family reunification, must provide along with the application, the documents proving the availability of sufficient economic means to meet the family needs, including health care if it is not covered by Social Security. For this purpose, earnings from social assistance are not computable, but revenues from the sponsor's spouse or couple are admissible, as well as from other first-degree relative, with resident status in Spain and living with him/her.</p>
Sweden	Yes	<p>1. Yes, the sponsor must be able to support him- or herself and the family that is applying for family reunification. The sponsor must also have an accommodation of sufficient size and standard for the family. There are certain exceptions concerning the group who resource requirements are applicable to but this is subject to change in a new law expected to come into force on the 20 July 2016. The main change is that the resource requirements will apply to more groups of migrants than before.</p> <p>2. It is only the resources of the sponsor that is considered.</p>

United Kingdom	Yes	<p>1. Yes</p> <p>2. The specific resources required for a successful family reunification/visa application will depend on the visa route that the applicant takes and how many family members are seeking to join their sponsor. The visa route will also determine whether these requirements must solely be met by the sponsor or whether the family member seeking to join the sponsor can also contribute. To join a family member with refugee status or humanitarian protection (family reunion/reunification): Individuals granted asylum or five years humanitarian protection (but not yet a British citizen) may apply to be joined by their pre-flight partner or children under Part 11 of the Immigration Rules. No financial resources are required of either party via this route. To join a family member currently working in the UK: Family members (dependants) of individuals working in the UK may apply to join their partner or parent (if the dependent is under 18) if their sponsor has a temporary working visa under the points-based system and is from a country outside the European Economic Area (EEA). Individuals applying to join their family via this route must ensure that they, or their sponsor, have sufficient financial resources. The amount of resources necessary for a successful application depends on the specific working visa held by the sponsor and the number of dependents seeking to join their sponsor. Further details of the exact resources necessary under each Tier of the points-based system can be found at: https://www.gov.uk/remain-in-uk-family/exceptions To join a family member permanently settled in the UK: An individual may apply for a family of a settled person visa if their partner or family member is a British citizen or is settled in the UK, is in the UK with limited leave as a refugee or with humanitarian protection (where the family member cannot seek to enter under Part 11 of the Immigration Rules). If the individual is planning to join their partner in the UK via this route then they must meet a minimum income requirement and evidence they have a gross annual income of at least: £18,600 £22,400 for a partner and first child £2,400 per year (before tax) for each additional child. The minimum income requirement can be met through gross annual income alone or in combination with savings of £16,000 with additional savings of an amount equivalent to 2.5 times the amount which is the difference between the gross annual income and the total amount needed to meet the relevant minimum income requirement. Income from specified employment or self-employment must be from the partner and not the applicant in entry clearance applications. Where the applicant's partner is in receipt of a specified disability benefit or allowance, they are exempt from the minimum income requirement and must instead meet a maintenance requirement proving they are able to maintain and accommodate themselves and any dependants adequately in the UK without recourse to public funds. Further details on the financial requirements can be found on GOV.UK by searching for Appendix FM 1.7 and Appendix FM 1.7.a Financial Requirement here: www.homeoffice.gov.uk. An applicant does not have to meet the minimum income requirement if they are coming to the UK to look after a child under 18 years of age or they are coming to the UK themselves to be cared for. Other specific criteria for the family of a settled person visa can be found at: https://www.gov.uk/join-family-in-uk/eligibility Additional information on the requirements of the family Immigration Rules can be found in Appendix FM and Appendix FM-SE to the Immigration Rules here: https://www.gov.uk/guidance/immigration-rules.</p>
Norway	Yes	<p>1. YES.</p> <p>2. We can give you a couple of examples here regarding TCN: *If the reference person is a student and has successfully completed a full-time study program at an approved college, in the last tax year or study year, he/she must have a total income of at least NOK 252 472 (27,200 Euro) per year, pre-tax. The reference person's income can for example be student loans, grants, income from employment or a combination of these. If the reference person is going to continue his/her studies, and both are at least 23 years old, and the applicant has a job offer in Norway, the applicant's income can be included in order to meet the requirement. **If the reference person is working, the required income is 305 200 NOK (33,000 Euro). If the applicant is already in lawful employment in Norway, the applicant's income can be included in order to meet the requirement. The Norwegian Directorate of Immigration has recently revised our website and it provides vast details regarding this matter (and all other immigration applications). You can go to this link: https://www.udi.no/en/want-to-apply/family-immigration/family-immigration-with-norwegian-or-nordic-citizen/?f=nor If you test out an application, you will be given all kinds of options, each option providing further information and details about requirements. This link provides English language information.</p>

