



AD HOC QUERY ON 2020.68 Residence conditions applicable to TCNs based on their family links

Requested by EMN NCP France on 9 November 2020

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden (22 in Total)

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1. Background information

In the framework of a reflection on the residence conditions applicable to TCNs based on their family links with its TCN residents, France would like to ask the following questions :

2. Questions

1. Do your MS implement specific conditions related to the level of language of your country when TCN family (husband or wife over the age of 18, minor children) apply for family reunification (joining procedure) in your MS to join third-country nationals legally residing in your country?

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2. What level, if any, is required? When and how can it be justified? Are language courses made available in the country of origin?

3. Where appropriate, do you apply the same condition or a different condition to an application for family reunification from TCN husband or wife over 18 and minor children joining a national of your MS? If you apply a different condition, please detail.

We would very much appreciate your responses by **4 December 2020**.

Ad-hoc query requested by France regarding residence conditions applicable to TCNs based on their family links – November 2020

BACKGROUNDS

In the framework of a reflection on the residence conditions applicable to TCNs based on their family links with its TCN residents, the French Directorate for integration and access to nationality would like to ask the other EU Member States whether they have implemented a level of language requirement for TCNs applying for family reunification with another TCN or a national and if so, what are the conditions and the procedures.

KEY FINDINGS

Among responding countries, only Austria and Germany have implemented a level of German knowledge for TCNs applying to family reunification with a language level at least equivalent to A1 for a first residence permit application (as from the age of 14 in Austria and 16 in Germany).

Some categories are exempted from this requirement in Germany¹. Moreover the unmarried minor children over the age of 16 has to prove its knowledge in the German Language at least equivalent to C1 level.

Proofs of sufficient German language skills include generally recognized language diplomas from certain institutions. Such institutions propose German courses in third countries.

In Italy, the language requirement is a condition for future applications by third country nationals to obtain/renew residence permit as family members. From the perspective of the applicant – legally residing in Italy, language requirement is a prerequisite to obtain a valid residence permit which allows the submission of family reunification's application. From the perspective of the applicant – legally residing in Italy, language requirement is a prerequisite to obtain a valid residence permit which

¹ Especially in case of physical or mental illness, if the person is unable or can't reasonably be expected to undertake efforts to acquire a basic command of the German language before entering the country, if the spouse holds a university degree or an equivalent professional qualification, if the foreigner holds a specific permanent residence permit issued to researchers or to self employed workers or a blue card, or to refugees.

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allows the submission of family reunification's application.

In all the other responding countries, the language requirement is not a condition for filing a family reunification application. However this condition will be examined in the future applications for renewing residence permits or for permanent residence permit applications as an integration criteria in many countries (such as LT, NL).


In Slovenia, this topic to implement a language requirement in the family reunification procedure (and also in permanent residence permit applications) will be addressed in future amendments of the Foreigners Act.

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3. Responses

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		Wider Dissemination ³	
	EMN NCP Austria	Yes	<p>1. Yes, basically, German language skills must already be available before moving to Austria (for exceptions see Art. 21a para 4 Settlement and Residence Act).</p> <p>2. According to Art. 21a para 1 and para 4 subpara 1 Settlement and Residence Act in conjunction with Art. 9b para 1 Regulation on the Implementation of the Settlement and Residence Act, third-country nationals (over 14 years) must prove knowledge of German at language level A1 when submitting their first application for a residence permit as a family member. Proof of sufficient German language skills includes generally recognized language diplomas from certain institutions, such as the Austrian Integration Fund or the Goethe Institute e.V. (Art. 9b para 2 Regulation on the Implementation of the Settlement and Residence Act). If the requirements for Module 1 or 2 of the Integration Agreement are fulfilled, the proof is also valid (Art. 21 para 3 subpara 1 Settlement and Residence Act). The Österreich Institut offers language courses partly in third countries.</p> <p>3. The described regulations also apply in the case of the immigration of third-country nationals as family members of Austrian citizens (Art. 47 in conjunction with Art. 21a Settlement and Residence Act)</p>

² 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.

³ 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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	EMN NCP Belgium	Yes	<p>1. No.</p> <p>2. N/A</p> <p>3. N/A</p>
	EMN NCP Bulgaria	Yes	<p>1. No</p> <p>2. N/A</p> <p>3. N/A</p>
	EMN NCP Croatia	Yes	<p>1. No, HR does not implement any condition related to the level of Croatian language for the issuance of temporary residence permit for family reunification of TCNs legally residing in Croatia. General conditions are:</p> <ul style="list-style-type: none"> • Possession of valid travel document • Proof of a certain level of resources • Proof of health insurance • That TCN does not pose a danger to public order, national security or public health. Also, TCN must not have his/her entry or stay in Croatia prohibited. <p>Same categories of TCN are not allowed to apply for family reunification, usually if the residence of sponsor is on a temporary basis (cases are also defined in national legislation).</p> <p>2. N/A.</p> <p>3. Cases of family reunification of spouses and children of a Croatian national (when comparing to above mentioned conditions) are not subject to the condition of providing proof of resources; nor, in</p>



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			certain specific cases as defined under national legislation, has to provide that he/she possesses valid travel document.				
	EMN NCP Cyprus	Yes	<p>1. No special conditions related to the level of language are requested/ implemented when a TCN applies for family reunification.</p> <p>2. N/A</p> <p>3. N/A</p>				
	EMN NCP Czech Republic	Yes	<p>1. No.</p> <p>2. N/A</p> <p>3. There are slightly different conditions in case a third country national applies for family reunification with another third country national residing in the Czech Republic and in case the third country national applies for family reunification with a Czech (EU) citizen residing in the Czech Republic. However, in any case there is not required any proof of language proficiency. The different conditions can be seen e. g. in type of residence permit the third country national is going to apply for or in different document which are required to support the application.</p> <p>For example: <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Family reunification with another third country national residing in the CZ</td> <td style="width: 50%;">Family reunification with EU/CZ citizen residing in the CZ</td> </tr> <tr> <td>According the Section 42b of the Act No. 326/1999 Coll. On the Residence of Foreign Nationals</td> <td>According the Section 87b of the Act No. 326/1999 Coll. On the Residence of Foreign Nationals</td> </tr> </table> </p>	Family reunification with another third country national residing in the CZ	Family reunification with EU/CZ citizen residing in the CZ	According the Section 42b of the Act No. 326/1999 Coll. On the Residence of Foreign Nationals	According the Section 87b of the Act No. 326/1999 Coll. On the Residence of Foreign Nationals
Family reunification with another third country national residing in the CZ	Family reunification with EU/CZ citizen residing in the CZ						
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			<p>An application for long-term residence for the purpose of family reunification</p> <p>Proof of finance as a required document for your application</p> <p>Etc.</p> <p>An application for temporary residence permit for the purpose of family reunification with an EC citizen residing in the CZ or with a Czech citizen</p> <p>You do not have to submit proof of finance with your application</p>
	EMN NCP Estonia	Yes	<p>1. No.</p> <p>2. N/A</p> <p>3. N/A</p>
	EMN NCP France	Yes	<p>1. France does not implement any condition related to the level of French language for the residence on the French territory of family members of TCNs legally residing in France. The only applicable conditions are :</p> <ul style="list-style-type: none"> • minimum duration of residence • the issuance of a residence permit valid for at least one year • proof of a certain level of resources • proof of accommodation which corresponds to several criteria of area, hygiene/health and equipments <p>2. In France there is no condition for the level of French language.</p> <p>3. Family reunification of spouses and children of a French national is not subject to the condition of the level of French language, nor any other conditions applicable to TCNs.</p>

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	<p>EMN NCP Germany</p>	<p>Yes</p>	<p>1. Yes, Germany has implemented specific conditions related to the level of language when TCN spouses and minor unmarried children aged 16 or above apply for family reunification with a TCN.</p> <p>2. A spouse needs to prove that he or she is able to communicate in the German language at least on a basic level (A1 level according to the Common European Framework of Reference for Languages). Some spouses however do not need to prove any command of the German language. This includes the following groups:</p> <ul style="list-style-type: none"> -if the spouse is unable to provide that evidence due to a physical or mental illness. -if the spouse 's need for integration is discernibly minimal. This is usually the case if the spouse holds a university degree or an equivalent professional qualification. - if the foreigner may enter and stay in the federal territory without requiring a visa for a period of residence which does not constitute a short stay. This can apply to citizens of Andorra, Australia, Brazil, Canada, El Salvador, Honduras, Israel, Japan, Monaco, New Zealand, the Republic of Korea, San Marino and the United States. - if the spouse due to particular circumstances is unable or can 't reasonably be expected to undertake efforts to acquire a basic command of the German language before entering the country. -if the foreigner holds a specific permanent residence permit issued to researchers with special technical knowledge or teaching personnel in prominent positions or scientific personnel in prominent positions -if the foreigner holds a residence permit for self-employed work or a blue card -foreigners with a permanent residence permit who previously have been in possession of a residence permit for researchers -if the foreigner holds a residence permit as a resettlement refugee or if the foreigner is granted a residence permit -if the foreigner is granted a temporary residence permit if he or she is recognized as being entitled to asylum -if the foreigner is granted a temporary residence permit if the Federal Office for Migration and Refugees has granted him or her refugee status -if the foreigner is granted a permanent residence permit after having been in possession of a residence permit for being entitled to asylum or having had a residence permit as a person with refugee status
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			<p>The minor unmarried children under the age of 16 do not need to prove any proficiency of the German Language.</p> <p>Minor, unmarried children aged 16 or above have to prove advanced command of the German language (C1 level according to the Common European Framework of Reference for Languages) if they do not relocate their main ordinary residence to Germany together with their parents and if on the basis of their education and way of life to date it appears, that they will not be able to integrate into the way of life in Germany.</p> <p>When and how can it be justified?</p> <p>Basic and advanced command of the German language is usually proven by a certificate based on a standardized German Language test. Recognized exams are offered by the Goethe Institute, the telc GmbH and the TestDaF institute. The Austrian Language Diploma is also a valid certificate. If, as is the case only in very few states, there is no provider of recognized language exams the embassy has to convince itself of the TCN 's command of the German language.</p> <p>Are language courses made available in the country of origin?</p> <p>German language courses for family reunification are offered for example by the Goethe- Institute https://www.goethe.de/en/spr/kup/prf/ehe.html Language courses abroad can be found under the following link: https://www.make-it-in-germany.com/de/leben-in-deutschland/deutsch/deuts...</p> <p>However, if the spouse takes a course he/she has to bear the costs him-/herself.</p> <p>3. Germany applies the same conditions for an application for family reunification from TCN spouses for reunification with German nationals. Minor, unmarried children of any age joining a German spouse do not need to prove any level of command of the German language.</p>
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			Language courses abroad can be found under the following link: https://www.make-it-in-germany.com/de/leben-in-deutschland/deutsch/deuts...
	EMN NCP Hungary	Yes	1. No. 2. N/A 3. N/A
	EMN NCP Ireland	Yes	1. No. 2. N/A 3. N/A
	EMN NCP Italy	Yes	1. There are no specific conditions in this regard. However, it is necessary to point out that the right to maintain or establish the family unit is recognized to foreigners holding a long-term residence permit or a residence permit granted for at least 1 year and issued for the following grounds: employment, asylum, religious or family matters. It follows that the knowledge of Italian language is a prerequisite to obtain a valid residence permit which allows the submission of family reunification's application. Then, according to article 29 of law 286/1998, a migrant legally residing in Italy may ask for family reunification only if he/she demonstrates: -an accommodation in accordance with hygiene, health and housing suitability requirements (verified by the competent municipal office);




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			<p>- a minimum annual income resulting from lawful sources; - a health insurance or the enrolment in the National Health System aimed at covering all risks in the national territory for over 65 years old ascendant.</p> <p>After verifying the possession of these requirements, the One-Stop Immigration Desk grants the authorization for the issuing of the visa for family members. Once obtaining this authorization, the third country familiar (for whom the family reunification has been requested) has to ask the issue of the visa to the Italian Consulate in the country of origin which has to verify the authenticity of the family relationship.</p> <p>So, the third country familiar has not to demonstrate any language requirements.</p> <p>Then, withing 8 days from the entry in Italy, the family member has to ask for a residence permit for family reason and sign an integration agreement with the Italian State when applying for a residence permit (art. 4-bis of Law 286/1998 and Decree of President of Republic 179/2011), in order to achieve, in a mutual interest, an effective integration path. The foreign shall undertake to learn an adequate level of knowledge of Italian spoken language (level A2 spoken), a sufficient knowledge of fundamental principles of Italian Constitution, of civic culture and life in Italy (with particular reference to the areas of health, education, social services, work and tax liabilities) and, in case they occur, ensure the fulfilment of the educational obligations for the minors. However, the law expressly provides that the holder of residence permit issued for family reasons may not be expelled also If, after 2 years, the abovementioned goals have not been achieved (so, included the language requirement).</p> <p>2. As said before, the knowledge of Italian language is linked to the residence permit issued (so for example, the level required to obtain a long-term residence permit is at least A2, according to EU common framework for knowledge of languages), not to the authorization to apply for family reunification.</p> <p>3. In general, Italy applies the same conditions. However, in case of reunification with a minor of 14 years old (alone or with parents), the requirement of an adequate accommodation may be replaced by the consent of the housing's holder in which the minor hall dwell.</p>
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			Moreover, after the law n. 122/2016, minors of 14 years old are noy longer enrolled in the residence permit issued to their parents: in these cases, authorities issue an autonomous residence permit for family reason.
	EMN NCP Latvia	Yes	<ol style="list-style-type: none"> 1. Applying temporary residence permit, a person is not subject to the requirement of knowledge of the state language. 2. N/A 3. The same conditions are applied.
	EMN NCP Lithuania	Yes	<ol style="list-style-type: none"> 1. For a temporary residence permit on the basis of family reunification, no conditions relating to knowledge of the State language (Lithuanian) are applied. <p>It could be mentioned that in order to obtain a long-term residence permit (after an uninterrupted residence of 5 years with a temporary residence permit in Lithuania), it is required to pass the State language exam. The first proficiency category of the State language shall apply.</p> <ol style="list-style-type: none"> 2. N/a 3. N/a
	EMN NCP Luxembourg	Yes	<ol style="list-style-type: none"> 1. No. In Luxembourg there are not language conditions applicable for family reunification in accordance with article 69 (1) of the amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law).




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			<p>2. a) N/A. b) N/A.</p> <p>3. N/A.</p>
	EMN NCP Netherlands	Yes	<p>1. A TCN does not need a specific language level when applying for family reunification. However, the TCN may need to take the civic integration examination including language exams for a residence permit. Whether a TCN is obliged to take the civic integration examination depends on aspects such as age and nationality. Without the permit one cannot apply for family reunification. https://ind.nl/Paginas/Basisexamen-inburgering-in-het-buitenland.aspx</p> <p>2. In order to obtain a residence permit, the TCN must first pass the Basic Civic Integration Examination Abroad. This first exam consists of 3 parts:</p> <ol style="list-style-type: none"> 1. Speaking proficiency - you must be able to speak Dutch. (A1 level) 2. Reading proficiency - you must be able to read Dutch. (A1 level) 3. Knowledge of Dutch society - you need to know how the Dutch associate with each other in the Netherlands, and what the rules there are in the Netherlands. <p>A migrant can prepare for the civic integration examination with the official self-study package. In this package the migrant will find everything they need to prepare for the exams: speaking proficiency, reading proficiency and knowledge of Dutch society. The TCN can download this package free of charge or order it for € 25.00 via the website www.naarnederland.nl. The package is available in 34 languages. A TCN is able to take the exam at a Dutch embassy or Dutch consulate. When signing up for the civic integration examination, the TCN will be able to see whether there is an embassy or consulate in their country. If there is no embassy or consulate in the country, the TCN will have to go to another country. The TCN can choose where to take the exam.</p> <p>Once a TCN lives in the Netherlands, they must continue to integrate. The TCN will then need a Dutch language proficiency of at least A2 level. The integration makes it easier to participate in Dutch society and gives a better chance of getting a job. That is why the TCN still has to pass the Civic Integration Examination in the Netherlands.</p>




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			<p>https://www.naarnederland.nl/brochures https://ind.nl/Familie/partner/voorbereiden/Voorwaarden/Paginas/Voorwaarden-eind.aspx#</p> <p>3. The same conditions are applied.</p>
	EMN NCP Poland	Yes	<p>1. No, there are no specific conditions related to the level of language of our country when TCN family apply for family reunification.</p> <p>2. n/a</p> <p>3. Yes, the same conditions are applied.</p>
	EMN NCP Portugal	Yes	<p>1. No.</p> <p>2. NA</p> <p>3. NA</p>
	EMN NCP Slovakia	Yes	<p>1. No.</p> <p>2. N/A</p> <p>3. The same conditions apply. However, a single child younger than 18 years of age, under the custody of one of his/her parents and who is an applicant for the permanent residence for the purpose of family reunion, can be granted permanent residence only if a written consent has been given also by the other parent who has not been granted the custody of this child but is entitled to meet the child.</p>

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	EMN NCP Slovenia	Yes	1. Not yet. This topic will be addressed in future amendments of Foreigners Act. 2. / 3. /
	EMN NCP Spain	Yes	1. No language requirements for family reunification are required. 2. 3.
	EMN NCP Sweden	Yes	1. No 2. Not applicable 3. Not applicable
