



**AD HOC QUERY ON 2019.92 Ad hoc query on long-term resident scheme for children**

**Requested by Anna Matus on 9 October 2019**

**Compilation produced on 18 November 2019**

**Responses from Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Portugal, Slovakia, Sweden plus Norway (18 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**

**Background**

Over the last few years a lot of media attention in the Netherlands was given to several cases of migrants who became subject to return procedures after having stayed in the Netherlands for many years. Their prolonged stay in the Netherlands was in part due to the length of procedures but also often due to the start of multiple application procedures. Several of those cases concerned families with children who had already been staying in the Netherlands for a considerable time. A number of those cases reached the media, which led to public commotion.

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.

On Saturday 8 September 2018 it was announced that the Minister for Migration had used his discretionary power to allow two Armenian children to remain in the Netherlands. The discretionary power of the Minister entails that he or she can independently take a decision on individual cases and thus deviate from the rules.\*

The case of the two Armenian children led to public debate and much media attention. Much of the debate was focused on the eligibility criteria for the so-called "Definitive regulation for long-term resident children". Children - and their families - who had been residing in the Netherlands for more than five years, without receiving a permanent right of residence and who had exhausted all legal means could apply for a permit on the basis of this regulation. Since the entering into force of this regulation, only a small number of children and their families were granted a residence permit under this scheme.

As a result of the public debate at the end of 2018 the Minister for Migration announced several new measures on 29th of January 2019. One of these measures was that the "Definitive regulation" stopped to exist. A transitional measure, named the "Final Regulation for long-term resident children" (referred to in the media as the "children's pardon of 2019") was put in place. The Final Regulation contains less stringent criteria than the previous regulation for long-term resident children. Applications based on the Final regulation could be submitted until 25 February 2019. For more information on the Final regulation, please see: <https://ind.nl/en/about-ind/Pages/All-about-the-Regulation-for-long-term-resident-children.aspx>

Considering this, the Netherlands would like to gather some information about similar situations in other European (Member) States in order to learn from their experiences and situations.

\*The discretionary power of the Minister of Migration was abolished on 1 May 2019. Please see <https://ind.nl/en/news/pages/discretionary-power-abolished-with-effect-from-1-may.aspx> for more information.

## **2. Questions**

**1. Does or did your (Member) State have experience with similar cases (especially regarding children and families with children), where third-country nationals without a permanent right of residence, stay for a long time in your country as a result of prolonged or multiple residence permit procedures? Yes/No, please elaborate.**

**2. Were there any public/policy debates (e.g. in Parliament or in the media) in your (Member) State during the last 3 years related to third-country nationals (in particular children and families with children), who stay in your State for a long time without a permanent right of residence as a result of prolonged or multiple residence permit procedures? Yes/No. Please elaborate.**

**3. Do you have a policy in your (Member) State whereby children without a residence permit are eligible for a residence permit as a consequence of long stay in your (Member) State? Yes/No. If yes, what criteria need to be fulfilled in order to be eligible for this residence permit?**

**4. If you answered no to question 3, how does your MS deal with these cases (e.g. forced return, reception in special reception facilities, a special pardon or scheme, et cetera)?**

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.

**5. Have there been any evaluations of these policies (i.e. measuring the effects or outcomes, for example whether more or less children received a residence permit)? Yes/No. Please elaborate.**

We would very much appreciate your responses by **7 November 2019**.

**3. Responses**

1

|  |                 | Wider Dissemination <sup>2</sup> |   |
|--|-----------------|----------------------------------|---|
|   | EMN NCP Austria | No                               |   |
|  | EMN NCP Belgium | Yes                              | 1. Yes. Over the last years, national media covered various personal stories of migrants who were well integrated in society, but were facing return to their country of origin. In most of these cases, it concerned young adults and families with children who had been staying in Belgium for many years, sometimes due to prolonged and/or multiple asylum and migration procedures. In recent years, media reported in particular on attempts to return families with minor children who were born in |

<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."

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|  |  |  |   |
|--|--|--|---|
|  |  |  | <p>Belgium or had arrived at a very young age.</p> <p>2. Yes. On several occasions, most recently in early 2019, the Flemish Commissioner for the Rights of the Child has pleaded in favour of a special regime of regularisation for minors who had been staying in Belgium for many years and were well-integrated in society. His proposals, however, have not been taken up by the federal government (see for instance an article on this topic published in January 2019 <a href="https://www.standaard.be/cnt/dmf20190130_04141148">https://www.standaard.be/cnt/dmf20190130_04141148</a>).</p> <p>3. In Belgium, there is no special policy for accompanied minors in irregular stay. These minors and their families do have access to the general procedure for authorisation to stay on the basis of Art. 9bis (see Q4).<br/>By contrast, Belgium does have a special procedure for unaccompanied minors already staying in Belgian territory. In order to be eligible, the applicant needs to be a national of a country that does not belong to the European Economic Area; under the age of 18 years; unaccompanied by a person exercising parental authority or guardianship over him or her; and identified as unaccompanied minor by the Guardianship Service of the Federal Public Service Justice. During the procedure, the Immigration Office seeks to determine the most durable solution for the minor concerned, being either family reunification in the country where his or her parents reside legally, return to his or her country of origin or legal stay, or authorisation to stay in Belgium. The personal situation of the minor in Belgium will be taken into account, but long stay in the territory is not a formal requirement as such (Art. 61/14 and following Immigration Act, see <a href="http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&amp;la=N&amp;t...">http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&amp;la=N&amp;t...</a>).</p> <p>4. The minister or his administration can grant authorisation to stay to families with minor children on a discretionary basis on the basis of Art. 9bis Immigration Act. In order to be eligible, the foreign national needs to prove that (1) exceptional circumstances justify that s/he cannot file an application from abroad and that (2) s/he has well-founded reasons to apply for authorisation to stay in Belgium (Art. 9bis Immigration Act, see <a href="http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&amp;la=N&amp;t...">http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&amp;la=N&amp;t...</a>).<br/>The Immigration Act does not contain specific criteria nor an exact definition of persons eligible for regularisation. In practice, it may be granted to foreign nationals facing particularly long asylum procedures. In 2018, for instance, the State Secretary for Asylum and Migration announced that</p> |
|--|--|--|---|

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|   |                             |            |   |
|---|-----------------------------|------------|---|
|   |                             |            | <p>authorisation to stay on the basis of Art. 9bis may be granted to certain persons who had been staying in a reception centre for more than five years, depending on their individual situation (see the article on this topic <a href="https://www.hln.be/de-krant/584-asielzoekers-al-5-jaar-of-langer-in-tijd...">https://www.hln.be/de-krant/584-asielzoekers-al-5-jaar-of-langer-in-tijd...</a>). It is also worth noting that in recent years, more families with minor children seem to have obtained authorisation to stay through the Art. 9bis procedure (see the annual report by the Federal Migration Centre Myria <a href="https://www.myria.be/files/Myria_RAMIG-NL_2019-AS-gecomprimeerd.pdf">https://www.myria.be/files/Myria_RAMIG-NL_2019-AS-gecomprimeerd.pdf</a>, at page 103-104).</p> <p>For a short period of time, between August 2018 and April 2019, the Immigration Office could also decide to return foreign families with minor children to their country of origin. During this period, families could be detained in special “family units” in detention centres pending their return. In 2019, the Council of State suspended the Royal Decree implementing this provision, as it did not exclude that young children could be detained in places where they could be exposed to severe noise pollution of the nearby airport (<a href="http://www.raadvst-consetat.be/?page=news&amp;lang=nl&amp;newsitem=531">http://www.raadvst-consetat.be/?page=news&amp;lang=nl&amp;newsitem=531</a>).</p> <p>Finally, it should be noted that under certain circumstances, accompanied minors in irregular stay are entitled to material aid in reception centres. These minors have access to material aid if it has been established that they are in need and that their parents cannot fulfil their maintenance obligation (Art. 60 and Art. 2, 6° Reception Act, see <a href="http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&amp;la=N&amp;c...">http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&amp;la=N&amp;c...</a>).</p> <p>5. There hasn't been any formal evaluation of these policies.</p> |
|  | <p>EMN NCP<br/>Bulgaria</p> | <p>Yes</p> | <p>1. Yes</p> <p>2. Yes</p> <p>4.</p>   |

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|   |                              |     |  |
|---|------------------------------|-----|--|
|   |                              |     | 5.   |
|  | EMN NCP<br>Czech<br>Republic | Yes | <p>1. Yes, multiple applications for residence permits or obstruction of proceedings are not unusual.</p> <p>2. There was no important political or public debate on this topic in last three years.</p> <p>3. The long stay of an individual in the territory of the Czech Republic without a residence permit is not a reason to be granted by a residence permit by itself. There are no special procedures in place (for mentioned cases).</p> <p>5. N/A</p>   |
|  | EMN NCP<br>Estonia           | Yes | <p>1. Yes. Estonia has had a similar case related to the asylum and appeal process.</p> <p>2. Yes. There has been some media debate.</p> <p>3. There is no policy as such. However, pursuant to the Aliens Act it is possible to issue as an exception a temporary residence permit on humanitarian grounds to a TCN. This provision states that in exceptional circumstances a TCN may be granted a temporary residence permit if in the course of the proceedings relating to the entry of a TCN into Estonia, his or her temporary stay, residence and employment in Estonia or the obligation to leave Estonia of a TCN it has become evident that the refusal of entry or requiring a TCN to leave Estonia would be unduly burdensome to him or her, the TCN lacks the possibility of getting the residence permit in Estonia on another basis, TCN's permanent residence in Estonia is in accordance with public interests and the TCN does not constitute a threat to public order and national security. Granting of a residence permit on these</p> |

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|   |                    |     |   |
|---|--------------------|-----|---|
|   |                    |     | <p>grounds is exceptional, and a person cannot apply himself or herself for such a residence permit, but a TCN can emphasize the circumstances why s/he needs the Estonian residence permit during another procedure performed by the Police and Border Guard Board. The decision to issue a residence permit is decided by the Director General of the Police and Border Guard Board. The decision on granting a residence permit should be substantiated and noted the considerations on which the making of the decision was based.</p> <p>4.</p> <p>5. No.</p>  |
|  | EMN NCP<br>Finland | Yes | <p>1. Yes, we do. We have had and have isolated families with children from various different background countries, which have had/have prolonged residence permit procedures most often due to multiple applications based on different grounds for a residence permit (and usually also an application for international protection).</p> <p>2. Yes, there has been debate in the media concerning such families (always with children) and that they should be granted residence permits, because they have stayed in Finland for several years, some of the children have been born in Finland, the children are attending school here, the children have friends and hobbies here, the families have integrated to Finland, etc.</p> <p>3. Yes and no. We do have a policy whereby the children without a residence permit are eligible for a residence permit as a consequence of a long stay in Finland, but according to our Alien's Act Section 49 an alien who has entered the country without a residence permit is issued with a temporary or continuous residence permit in Finland if the requirements for issuing such a residence permit at a Finnish diplomatic or consular mission abroad are met, and if refusing a residence permit would be manifestly unreasonable or according to Section 52. Aliens residing in Finland are issued with a continuous residence permit if refusing a residence permit would be manifestly unreasonable with regard to their health, ties to Finland or on other compassionate grounds, particularly in consideration</p> |

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|   |                            |            |  |
|---|----------------------------|------------|--|
|   |                            |            | <p>of the circumstances they would face in their home country or of their vulnerable position. Issuing a residence permit does not require that the alien have secure means of support. Finland has, in some of the cases, issued residence permits to the whole family, due to their prolonged stay in Finland, either based on Section 49 or Section 52.</p> <p>4. N/a</p> <p>5. No, there has not been any evaluations of these policies.</p>   |
|  | <p>EMN NCP<br/>Germany</p> | <p>Yes</p> | <p>1. As at 30.09.2019, in all 196,967 persons whose removal has been suspended were resident in Germany. Under German law, such persons are foreigners who are obliged to leave the country, who do not possess a necessary residence title and whose removal has been suspended temporarily (Residence Act, Sections 60a, 50). Many such persons have been living in Germany for some years with this relatively insecure status.</p> <p>2. Yes. The debates have led to further a differentiation of the legal situation and new legal entitlements for persons who have been resident in Germany for a long period and do not possess a residence permit. See under 3.</p> <p>3. The following legal situation has applied for many years now in accordance with Section 25 (5) of the Residence Act:<br/>         “ 1. By way of derogation from Section 11 (1), a foreigner who is unappealably obliged to leave the federal territory may be granted a residence permit if his or her departure is impossible in fact or in law and the obstacle to deportation is not likely to be removed in the foreseeable future.<br/>         2. The residence permit is to be issued if deportation has been suspended for 18 months.<br/>         3. A residence permit may only be issued if the foreigner is prevented from leaving the federal territory through no fault of his or her own.<br/>         4. Fault applies on the part of the foreigner in particular if he or she provides false information or</p> |

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|  |  |  |   |
|--|--|--|---|
|  |  |  | <p>misrepresents his or her identity or nationality or fails to meet reasonable requirements to eliminate the obstacles to departure.”</p> <p>However, as issuance of a residence permit in accordance with this sub-section is also subject to the general conditions pertaining to issuance as stipulated in Section 5 of the Residence Act, allocation of a legal status fails, among other things, on account of the requirement for the foreigner to be able to support themselves, the inability to clarify the foreigner’s identity or non-compliance with the passport requirement (Residence Act, Section 1, no. 1, 1a, 4).</p> <p>The provisions on old cases pursuant to Sections 104a and 104b of the Residence Act also included the possibility of transmuting “suspension of removal” status into a residence permit for foreigners who are well integrated in economic and social terms or for minor, unmarried children. These provisions are very rarely applied now, however, as the applicable periods have expired. The legal provisions on old cases pursuant to Sections 104a and 104b of the Residence Act were tied to cut-off dates. They benefitted only such persons who had entered the federal territory prior to 1 July 1999 or 1 July 2001. These residence rights were not available to anyone who entered Germany after these dates. A revision of the provisions with new cut-off dates was not implemented in law.</p> <p>Since 01.07.2011, well integrated juveniles and young adults are to be issued with a residence permit pursuant to Section 25a of the Residence Act provided that they meet certain minimum standards of integration, and the same has applied in accordance with Section 25b of the Residence Act since 01.08.2015 to foreigners whose deportation has been suspended and who have become lastingly integrated. Applicable criteria here are certain minimum periods of residence, successful schooling, integration into the way of life in Germany, a commitment to the free democratic constitutional system, in certain instances the ability for the foreigner to support themselves, and a command of German.</p> <p>Section 18a of the Residence Act, which entered into force on 1 January 2009, additionally enables qualified foreigners whose deportation has been suspended to receive a residence permit for employment purposes, provided that certain conditions are met. This essentially concerns foreigners who possess vocational qualifications or a degree or who have been in employment as a skilled worker continuously for three years. Further requirements include in particular adequate accommodation, an adequate command of German and the absence of certain disqualifying factors,</p> |
|--|--|--|---|

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|  |  |  |   |
|--|--|--|---|
|  |  |  | <p>such as links to extremist or terrorist organisations, etc.</p> <p>So-called “Suspension of removal for vocational training” was implemented in law on 01.08.2015. Section 60a (2), sentence 4 to 6 of the Residence Act provides for the temporary suspension of deportation for a foreigner who is obliged to leave the federal territory, if they have taken up or are taking up vocational training for a qualified occupation. This provision has since undergone further development such that a further suspension of removal may be granted for a period of 6 months following successful completion of three years of vocational training. A residence permit is issued for two years for the purpose of further employment in the relevant occupation requiring formal training (Section 18a (1a) of the Residence Act). This provision was intended to establish a secure legal basis for foreigners whose deportation has been suspended and for companies taking on trainees, in order to facilitate stays in Germany for training purposes (3+2 formula).</p> <p>In the most recent legislative procedure on the suspension of removal for training and employment purposes, the Federal Ministry of the Interior stated the following on 19.12.2018: “In recent years a large number of asylum applications have been filed in Germany which, as a result of organisational and staffing improvements at the Federal Office for Migration and Refugees, are now generally decided upon after a short process. In connection with this development, there has also been a rise in the number of foreigners whose asylum applications have been rejected with legal effect and who are obliged to leave Germany, but whose removal is suspended on de facto, legal, urgent humanitarian or personal grounds (as per November 2018 the Central Register of Foreigners shows 178,966 persons with “suspension of removal” status). The longer the suspension of removal continues, the greater the likelihood is of increasing integration.</p> <p>The draft legislation is intended to establish separate provisions for special cases of suspension of removal which differ from the general provisions relating to the suspension of removal as stipulated in Section 60a of the Residence Act, and to restructure such provisions in order to render their application more simple. This concerns long-term suspensions of removal on personal grounds pursuant to Section 60a (2), sentence 3 of the Residence Act which enable legal residence and the prospect of being able to remain in Germany for foreigners who take up vocational training for the purpose of acquiring occupational qualifications (suspension of removal for vocational training) or - new - who are able to support themselves through sustained employment and are well integrated (suspension of removal for employment purposes).”</p> |
|--|--|--|---|

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|   |                    |     |   |
|---|--------------------|-----|---|
|   |                    |     | <p>Sections 60c and 60d will thus enter into force as new provisions of the Residence Act on 01.01.2020, thereby establishing new structures and new legal provisions for the suspension of removal for vocational training and the suspension of removal for employment purposes.”</p> <p>4. See answer question 3</p> <p>5. No, it will be reviewed how the new provisions will work.</p>   |
|  | EMN NCP<br>Hungary | Yes | <p>1. Certificate of temporary residence is issued to third country nationals, who has submitted an application for a residence permit; who remained in the territory of Hungary beyond the duration of lawful residence due to humanitarian reasons or reasons in connection with his/her gainful employment, or for personal or some other unavoidable reasons beyond his/her control; who was born in the territory of Hungary and whose parent is a third-country national lawfully residing in the territory of Hungary, and whose lawful residence cannot be ensured by any other permit that may be granted under Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals.</p> <p>2. No</p> <p>3. In the absence of the requirements for a residence permit specified in this Act any third-country national who was born in the territory of Hungary who has been removed from the custody of his guardian having custody according to Hungarian law, and also unaccompanied minors shall be granted a residence permit on humanitarian grounds.</p> <p>4. -</p> <p>5. The above mentioned law has been followed since 1st July 2007, when it entered into force.</p> |

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|   |                    |     |   |
|---|--------------------|-----|---|
|  | EMN NCP<br>Ireland | No  |   |
|  | EMN NCP<br>Italy   | Yes | <p>1. First of all, the only type of permanent residence permit concerns the long-term residents (art. 9 of law 286/1998)</p> <p>So, to obtain a long-term residence permit, the applicant has to fulfill some requirements:</p> <ul style="list-style-type: none"> <li>- regular stay in Italy for at least 5 years;</li> <li>- holder of a valid residence permit;</li> <li>- availability of an income not less than the annual amount of the social allowance;</li> <li>- achievement of a sufficient knowledge of Italian language (the level that has to be obtained is at least A2, according to EU common framework for knowledge of languages).</li> </ul> <p>First of all, the only type of permanent residence permit concerns the long-term residents (art. 9 of law 286/1998)</p> <p>So, to obtain a long-term residence permit, the applicant has to fulfill some requirements:</p> <ul style="list-style-type: none"> <li>- regular stay in Italy for at least 5 years;</li> <li>- holder of a valid residence permit;</li> <li>- availability of an income not less than the annual amount of the social allowance;</li> <li>- achievement of a sufficient knowledge of Italian language (the level that has to be obtained is at least A2, according to EU common framework for knowledge of languages).</li> </ul> <p>The other types of residence permit (such as for work, study or family reasons) are temporary. Temporary permits can be renewed or converted and their period of possession shall count towards the length of stay of 5 years (necessary to obtain the long-term residence permit).</p> <p>In case of prolonged permit procedures, if the timings for issue and renewal are longer than those established by law, applicants may benefit from rights linked to the permit requested since the time of application (for example the foreign worker can legitimately reside in the territory of the State and carry out temporarily the work activity).</p> <p>The effects of the rights exercised, pending the renewal of the residence permit, shall cease in the event of non-renewal, revocation or cancellation of the permit.</p> |

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|  |  |  |   |
|--|--|--|---|
|  |  |  | <p>(Directives of Minister of Interior of 5 August 2006 and 20 February 2007 and Law Decree 201/2011).</p> <p>2. No.<br/>But, it may be useful to recall that the issue of a prolonged residence permit procedure has led to the stipulation of a convention established between the Minister of Interior and Poste Italiane Spa (the national postal service), based on law n.3/2003 (art. 39 comma 4 bis), to reduce overcrowding in Police Headquarters and to accelerate the procedure.<br/>From 11 December 2006, applications for issuance and renewal of specific types of residence permit should be submitted at Italian post offices, through the compilation of a kit made available by the same office. The kit must be used for requesting residence permit for: employment, elective residence, renewal of asylum and statelessness residence permit, conversion from another type of residence permit, family and religious grounds, scientific research, studies, training, tourism, adoption and foster care. The other types of residence permit shall be asked directly to the Headquarters Police.</p> <p>3. Yes.<br/>Minors, also if irregularly entered in Italy, are holders of all rights guaranteed by the New York Convention on the Rights of the Child (signed on 20 November 1989) which is ratified by Italy through the Law n. 176/1991.<br/>So, according to the Italian law (art. 19 of law 286/1998), in general, minors shall not be expelled, except in cases of danger to public order and security. While for unaccompanied minors, article 19 comma 1-bis of Law 286/1998 states that the ban of expulsion is absolute, for accompanied minors the same law provides that they have the right to follow their parents or foster, subjected to an expulsion decision (art. 19 comma 2 of Law 286/1998). However, it is always necessary to consider the safeguard clause constituted by the principle of non- refoulement.<br/>The types of temporary residence permit - which can be renewed or converted in residence permit for work or study - entitled to foreign minors are:<br/>- Residence permit for minor age: provided for unaccompanied minors, considering that they shall not be expelled;<br/>- residence permit for family reason/foster care;<br/>- for social protection;</p> |
|--|--|--|---|

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|   |                   |     |   |
|---|-------------------|-----|---|
|   |                   |     | <ul style="list-style-type: none"> <li>- for asylum claim;</li> <li>- for recognised asylum.</li> </ul> <p>As said in Q.1, the only type of residence permit which depends on the length of stay in the Italian territory is the long-term residence permit (see Q. 1). In this regard, on 6 September 2019 the Minister of Interior has emanated a Circular letter (n. 122106) in which it is stated that, also for children of holders of long-term residence permit, it is necessary a length of stay of at least 5 years, in order to obtain that permanent type of stay permit; so the requirement of five years' residence on the national territory must be met personally also by the minor children.</p> <p>Moreover, the Circular letter underlines children under the age of fourteen are excluded from the obligation to take the Italian language test, but he is subjected - in the same way to all applicant - to a verification of economic conditions, evaluated through an analysis of the family fortune.</p> <p>4.</p> <p>5. According to data published by the Minister of Interior in the National Official Statistics (edition 2018: <a href="http://ucs.interno.gov.it/ucs/news/Annuario_delle_statistiche_ufficiali_...">http://ucs.interno.gov.it/ucs/news/Annuario_delle_statistiche_ufficiali_...</a>), family reasons represents the main ground for the issue of residence permit (1.523.120 of 3.390.835 in 2017). With regard to unaccompanied minors, data published by The Minister of Labour and Social Politics reports the submission of 3.900 asylum claims (until 31 December 2017).</p> |
| = | EMN NCP<br>Latvia | Yes | <p>1. No, Latvia has not experienced such cases.</p> <p>2. No, as Latvia has not experienced similar cases, this is not a subject of public/policy debate.</p> <p>3. No, it is not a topical problem. At present there is no need to elaborate a special policy or criteria. In cases not provided by Immigration Law of Latvia, a temporary residence permit shall be issued for a time period for up to five years, if it complies with the norms of international law, or is related to</p>  |

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|   |                              |            |   |
|---|------------------------------|------------|---|
|   |                              |            | <p>reasons of a humanitarian nature.</p> <p>4. Latvia has not experienced such cases.</p> <p>5. No, as it is not a topical problem, there haven't been any significant evaluation of these policies.</p>  |
|  | <p>EMN NCP<br/>Lithuania</p> | <p>Yes</p> | <p>1. No. However, the Law of the Republic of Lithuania on the Legal Status of Aliens provides that when issuing a permanent residence permit on the grounds that the alien has resided in Lithuania legally and uninterruptedly for the last five years, for an alien who has been granted subsidiary protection in the Republic of Lithuania, the period of residence in the Republic of Lithuania shall include half of the time from the lodging of the application for asylum in the Republic of Lithuania to the issue of a temporary residence permit or the whole period if it lasted for more than 18 months. The Implementing Act provides that aliens who settled in the Republic of Lithuania before 1 July 1993 and are residing in Lithuania at the moment, but their place of residence in Lithuania is not recorded in the residential registry, must establish the legal fact of residence in Lithuania before the specified period and that he currently resides in the territory of Lithuania with accordance to law. In this case during court hearing, such alien must prove that he has legal means of subsistence in Lithuania, pays income and other taxes or contributions prescribed by the laws of the Republic of Lithuania and other legal acts, and has accommodation in Lithuania.</p> <p>2. No.</p> <p>3. In such circumstances– no.</p> <p>4. The Law of the Republic of Lithuania on the Legal Status of Aliens provides that an alien holding a residence permit to whom a child is born during the period of his residence in the Republic of Lithuania must, within three months from the date of the birth of the child, apply to the Migration Department for the issue of a residence permit to the child. A child born during the period of an alien's residence in the Republic of Lithuania shall be issued the same type of a residence permit as</p> |

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|   |                               |            |   |
|---|-------------------------------|------------|---|
|   |                               |            | <p>the one held by both or one of the child's parents. A permanent residence permit is issued to minor aliens whose parent(s) is citizen(s) of the Republic of Lithuania and whose place of residence is declared in the Republic of Lithuania or who have a permanent residence permit.</p> <p>An unaccompanied minor alien irregularly staying or residing in the territory of the Republic of Lithuania shall be returned only provided that s/he is duly taken care of in the foreign state to which the unaccompanied minor alien is returned taking into consideration his needs, age and level of independence. Where an unaccompanied minor alien is not returned to a foreign state, he shall be issued a temporary residence permit valid for a period not exceeding one year.</p> <p>5. No.</p>  |
|  | <p>EMN NCP<br/>Luxembourg</p> | <p>Yes</p> | <p>1. Yes. Luxembourg has experienced such cases.</p> <p>2. Yes. There have not being public/policy debates in this regard during the last 3 years.</p> <p>3. Yes. Article 89 of the amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law) expressly states the following:<br/>Provided that her/his presence is not likely to constitute a danger to public order, public security or public health, and provided that s/he has not used false or misleading information relating to his identity, that s/he has resided in the territory for at least four years prior to the submission of the application, demonstrating a genuine desire for integration and not having evaded removal, a residence permit is granted by the Minister to a third-country national:</p> <ol style="list-style-type: none"> <li>1. when s/he exercises parental authority over a minor child who lives with her/him in her/his household and who has been attending school continuously in a school in the Grand Duchy of Luxembourg for at least four years and where s/he can provide for her/his own needs and those of her/his family members; or</li> <li>2. when s/he has been continuously and successfully pursuing schooling for at least four years in a school in the Grand Duchy of Luxembourg and submits her/his application before the age of twenty-one by justifying having sufficient resources to meet her/his needs</li> </ol> |

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|   |                                |            |   |
|---|--------------------------------|------------|---|
|   |                                |            | <p>(2) Persons authorized to reside under subsection (1) shall be issued a residence permit for salaried worker if they meet the conditions of Article 42, paragraph (1), points 3 and 4, and the residence permit foreseen in article 79 if they are pursuing studies or vocational training.</p> <p>The examination of the application is made on a case-by-case basis.<br/>There has not been a general regularization in Luxembourg since 2011.</p> <p>4. N/A. One should also note that article 111 (2) of the Immigration Law states that If needed, the Minister can grant an deadline for voluntary return of more that 30 days taking into consideration the individual circumstances of each case, such as the duration of stay, the existence of school children and any other family or social links.</p> <p>5. No.</p>   |
|  | <p>EMN NCP<br/>Netherlands</p> | <p>Yes</p> | <p>1. Yes, as stated in the background, the Netherlands has experienced such cases.</p> <p>2. Yes, this is a subject of public debate with some regularity in the Netherlands. Most recently, in 2018 the case of two Armenian children, who had been living in the Netherlands without a permanent residence permit for approximately 10 years and who had to return to Armenia (where their mother had already been returned to in 2017), received significant media attention and became the centre of public debate. This debate continued after the Minister for Migration announced he would be using his discretionary power to allow the two Armenian children to remain in the Netherlands Minister for Migration (the discretionary power of the Minister of Migration was abolished on 1 May 2019. Please see <a href="https://ind.nl/en/news/pages/discretionary-power-abolished-with-effect-f...">https://ind.nl/en/news/pages/discretionary-power-abolished-with-effect-f...</a> for more information). Much of the debate was focused on the Definitive Regulation for long-term resident children. This regulation received criticism because only a small amount of requests for a residence permit on the basis of the regulation were granted. According to some, the criteria to become eligible for a residence permit on the basis of this Regulation were too stringent.</p> |

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|   |                             |            |   |
|---|-----------------------------|------------|---|
|   |                             |            | <p>4. On 29 January 2019, former Minister for Migration Harbers informed the Dutch House of Representatives that the Definitive Regulation for long-term resident children had ceased to exist. A transitional measure, named the Final Regulation for long-term resident children was in place until the 25th of February 2019. One of the measures announced by the Minister of Migration on 29 January 2019 was that all applications for a residence permit that had been submitted on the basis of the Definitive regulation and that had been rejected on the grounds that the foreign national had not cooperated in the return proceedings would be reassessed. In the cases subject to reassessment the IND is currently checking whether the person was available (rather than cooperative) during the return proceedings (e.g. available for departure interviews and in compliance with the duty to report). The expectation is that the reassessment will lead to residence permits being granted to some of the families whose application was previously rejected.</p> |
|  | <p>EMN NCP<br/>Portugal</p> | <p>Yes</p> | <p>1. There were such cases but in 2004 there was a change in law by article 70 of Regulatory decree no. 6/2004 of 26th April. This article considers that Foreign minors born in Portuguese territory and who have not been absent from national territory shall be exempt from a visa to obtain a residence permit and the same regime applies to parents who, in relation to the minor, actually exercise parental responsibility. Then in article 122 1) of Law 23/2007 of July 4th it is considered the Residence permit with residence visa exemption in special situations such as:</p> <ul style="list-style-type: none"> <li>a) Minors, children of foreign citizens holding residence permit, born in Portuguese territory;</li> <li>b) Minors, born in Portuguese territory, who have remained here and are attending preschool or primary, secondary or vocational education;</li> <li>c) Children of holders of residence permit who have reached legal adult age and have habitually remained in Portuguese territory since 10 years of age;</li> </ul> <p>2. No.</p>   |

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|   |                     |     |  |
|---|---------------------|-----|--|
|   |                     |     | <p>3. Yes. Article 122 1) of Law 23/2007 of July 4th as mentioned in question 1.</p> <p>4. NA</p> <p>5. No</p>   |
|  | EMN NCP<br>Slovakia | Yes | <p>1. In case the TCN is staying legally in the territory of the Slovak Republic (waiting on the decision to be made by administrative bodies), there is no reason for the respective state authorities to apply any procedure regarding residence status of this person/s. If a TCN is staying in the territory of the Slovak Republic unauthorised (illegally) and does not meet the conditions for any type of residence in line with the Act on Residence of Foreigners, state authorities apply the return procedure.</p> <p>2. n/a</p> <p>3. In case of the UAM in the territory of the Slovak Republic, relevant authorities grants tolerated stay (a type of a national residence) on the request of his/her appointed guardian who always takes decisions in best interest of the child. Regarding the families with children not fulfilling conditions for being granted any kind of stay/residence in line with the Act on Residence of Foreigners, the return procedures apply. In case if these persons cannot be expelled, it is possible to apply so called status of „person remaining in the Slovak Republic“.</p> <p>4. See Q3</p> <p>5. n/a</p> |

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|   |                           |            |   |
|---|---------------------------|------------|---|
|    | <p>EMN NCP<br/>Sweden</p> | <p>Yes</p> | <p>1. Of course some specific cases in this regards has attracted attention locally and in the media. But Sweden has no specific rules concerning this group.<br/>After much attention in media and the public sphere there was a temporary possibility for persons who arrived as unaccompanied minors and had lived and studied in Sweden to stay and finish the upper secondary education. From July to the end of September 2018, these persons were able to apply for a residence permit for upper-secondary school studies even if the asylum application had previously been rejected. A number of conditions were to be fulfilled in order for the person to get a residence permit to finish his/her upper secondary school education. For more information please see:<br/><a href="https://www.migrationsverket.se/English/Private-individuals/Protection-a...">https://www.migrationsverket.se/English/Private-individuals/Protection-a...</a><br/><a href="https://www.migrationsverket.se/English/Private-individuals/Protection-a...">https://www.migrationsverket.se/English/Private-individuals/Protection-a...</a></p> <p>2. Please see the answer to question 1. This has mostly concerned persons who arrived as unaccompanied minors during the big refugee crisis in 2015-2016 and had to wait a long time for decision in the asylum case.</p> <p>3. No. But the best interest of the child should always be considered.</p> <p>4. It depends on the individual case. But the best interest of the child should always be considered.</p> <p>5. Not to the best of our knowledge</p> |
|  | <p>EMN NCP<br/>Norway</p> | <p>Yes</p> | <p>1. Yes. The Norwegian immigration authorities have experience with similar cases, mainly from three groups.<br/>The first group concerns children or families with children who have remained in Norway after their applications for residence permits were rejected. Most of these families applied for residence as asylum seekers. Some of them have also filed for family immigration from Norway while their asylum cases are pending.<br/>The second group concerns children and families with children in Norway who came to Norway as</p>  |

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

|  |  |  |  |
|--|--|--|--|
|  |  |  | <p>asylum seekers, but who were granted residence in Norway due to strong humanitarian considerations. Their permits do not form the basis for permanent residence in Norway due to doubts about their identities. Some of the children were born abroad, for instance, in cases where one of the parents come to Norway together with the child/children and file for asylum. In other cases, the children are born in Norway, but there is doubt about the identities of both parents.</p> <p>The third group concerns foreign students who are granted study permits, which do not form the basis for permanent residence in Norway. The students' foreign partners come to Norway through family immigration, and their children were born in Norway. Following the same limitation as the principal persons' permits, the family members' permits do not grant the family members the right for permanent residence permits.</p> <p>2. There has been some media coverage of individual families from the first two groups mentioned above. Particularly in the fall of 2019, a lot of media attention was given to the trial of Mr. Viste, who has for many years willfully employed foreign nationals who did not have valid residence permits. In the last three years there have not been any Parliamentary debates in relation to the immigration rules for third-country nationals living in Norway without a permanent right of residence.</p> <p>4. N/A</p> <p>5. Yes. In 2015, both the Directorate of Immigration (UDI) and the Immigration Appeals Board (UNE) reported to the Ministry of Justice and Public Security regarding the effect the measures implemented through The Norwegian Immigration Regulations § 8-5 and § 8-5 a. The reports indicate that a greater number of children are now granted residence permits (UDIsak 15/06927) after the regulations were changed in 2014.</p> |
|--|--|--|--|

\*\*\*\*\*