



**Ad-Hoc Query on Directive 2003/109/EO**

**Requested by BG EMN NCP on 18 February 2011**

**Compilation produced on 03 May 2011**

**Responses from Austria, Belgium, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Netherlands, Portugal, Slovak Republic, United Kingdom (15 in Total)**

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**1. Background Information**

The following Ad-Hoc Query was requested because of the deadline for changes in Bulgarian Law for foreigners.

It would be very much appreciated if we could receive our answers by **04 March 2011**.



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

		<b>Wider Dissemination?<sup>2</sup></b>	1. How do you execute on practice Article 9, p. 5: “With regard to the cases referred to in paragraph 1(c) and
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<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

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			<p>in paragraph 4, Member States who have granted the status shall provide for a facilitated procedure for the re-acquisition of long-term resident status.</p> <p>The said procedure shall apply in particular to the cases of persons that have resided in a second Member State on grounds of pursuit of studies.</p> <p>The conditions and the procedure for the re-acquisition of long-term resident status shall be determined by national law.”</p>
	<b>Austria</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.
	<b>Belgium</b>	<b>Yes</b>	<p>Regarding the re-acquisition of long-term resident status, one should distinguish 3 different hypotheses:</p> <ol style="list-style-type: none"> <li>1. The foreigner who was not able to return to Belgium in time: <ul style="list-style-type: none"> <li>- The person concerned should have notified the local administration of his departure and willingness to come back (prior to departure) and;</li> <li>- As a result of force majeure or other circumstances beyond the control of the person concerned, he/she could not come back.</li> </ul> </li> <li>2. The foreigner who has been absent during more than 12 consecutive months from the Union territory but less than 5 years from the Belgian territory : <p>In order to regain his/her long term resident status:</p> <ul style="list-style-type: none"> <li>- The foreigner must be in possession of a valid passport or travel document; and</li> <li>- must prove that he or she has lived in Belgium in a regular and uninterrupted way during 15 years prior to his departure.</li> </ul> <p>However, this 15-year period is brought back to 10 years if the person concerned is born in Belgium.</p> </li> <li>3. The foreigner who has been absent during more than 5 years from the Belgian territory : <p>In order to regain his/her long term resident status,:</p> <ul style="list-style-type: none"> <li>- The foreigner must be in possession of a valid passport or travel document;</li> <li>- He/she must prove that he/she has lived in Belgium in a regular and uninterrupted way during 15 years prior to his departure and that his absence was justified due to university studies pursued in another EU</li> </ul> </li> </ol>

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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			MS or that he has been removed from Belgium for reasons beyond his/her control. However, if the foreigner is under 21 years of age or if he/she is born in Belgium, the 15-year period is brought back to 10 years. All the other conditions apply.
	<b>Bulgaria</b>	<b>Yes</b>	
	<b>Cyprus</b>	<b>Yes</b>	
	<b>Czech Republic</b>	<b>Yes</b>	
	<b>Denmark</b>	<b>Yes</b>	
	<b>Estonia</b>	<b>Yes</b>	<p>According to Aliens Act § 238 the long-term resident's residence permit may be restored in case the long-term resident's residence permit was declared invalid due to alien's temporary absence from Estonia or other EU member states (reason is not important) or because of acquisition of long-term resident's residence permit in another EU member state and if the alien complies with following conditions:</p> <ol style="list-style-type: none"> <li>1) he or she has lived in Estonia on the basis of a temporary residence permit and on a permanent basis (this time also includes temporary absence from Estonia that does not exceed 4 months in the last two years prior to submitting a restoration application for long-term resident's residence permit) for at least two years prior to submitting an application for restoration of the long-term resident's residence permit;</li> <li>2) he or she has a valid temporary residence permit;</li> <li>3) he or she has a permanent legal income in Estonia;</li> <li>4) he or she is an insured person in the meaning of Health Insurance Act or international agreement and</li> <li>5) no circumstances that are considered grounds for refusals from granting long-term resident's residence permit occur in case of him or her.</li> </ol>
	<b>Finland</b>	<b>Yes</b>	<p>In Finland, Section 60 c of the Alien's Act stipulates the reacquisition of the long-term resident status; the status can be reacquired if the requirements in Section 39 concerning the means of support are fulfilled, and none of the general requirements in Section 36 for refusing a residence permit are met. The reissuing/reacquisition of the long-term resident status do not require a period of residence of five years in Finland, compared to the first time when the long-term resident status is issued.</p> <p>Finland does not as of yet have had any cases where a person with the long-term resident status has studied or for another reason resided in another Member State or outside the EU for the required maximum period of time for the status to be cancelled. The provisions regarding the directive are from 2007, thus Finland has not yet encountered these cases. In general, Finland has issued few long-term resident statuses thus far.</p>
	<b>France</b>	<b>Yes</b>	<p>There is, in France, no particular simplified procedure for the re-acquisition of long term resident status in case of absence of the territory. Rules that are applied are :</p> <p>- expiry of the residence permit mention " long-term resident - CE " granted by France where the owner has resided outside the territory of</p>

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			<p>EU member states for 3 consecutive years during the last 10 years (unless an extension is granted)</p> <ul style="list-style-type: none"> <li>- expiry of the residence permit mention " long-term resident - CE " granted by France where the holder has resided outside the country for 6 consecutive years</li> <li>- expiry of the residence permit mention " long-term resident - CE " granted by France where the holder has acquired the status in another EU Member State</li> </ul> <p>The proof of the continuous residence is made by providing a sworn statement</p>
	Germany	Yes	<p>Former holders of a permit for permanent residence in the European Union whose permit has expired due to a stay abroad will receive credits for any earlier legal stays in the Federal Territory of up to a period of four years towards the duration of stay required for a long-term permit and thus the reacquisition of the legal status of the long-term resident will be facilitated under easier conditions. (§9b, clause 1, no. 2 German Residence Act).</p>
	Greece	Yes	<p>According to P.D. 150/2006 by which the 2003/109/EC Directive is transposed in national law, TCNs who are no longer entitled to maintain long-term resident status due to a) absence from the territory of the Community for a period of 12 consecutive months or b) loss of the status in Greece because they have granted the status to another M-S may request for the recovery of the status by submitting a relevant application to the competent authority (to the authority that they had applied initially for the acquisition of the long-term residence status and had granted the long term residence permit) and presenting the following supporting documents: a) a certified copy of their passport b) supporting evidence that s/he has sufficient own resources, in the amount of eight thousand five hundred euro (€8,500) minimum annually c) application for health insurance to the competent authority of Ministry of Employment d) a certified Deed of Purchase of house or a rent of house agreement.</p>
	Hungary	Yes	<p>According to the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals:</p> <p>39. (1) The immigration authority (Office of Immigration and Nationality) shall withdraw the EC permanent residence permit in the following cases:</p> <ul style="list-style-type: none"> <li>Ø the third-country national was absent from the territory of the Community for a period of over twelve months;</li> <li>Ø the third-country national was granted long-term resident status in another Member State of the European Union;</li> <li>Ø the third-country national was absent from the territory of the Republic of Hungary for a period of over six years.</li> <li>Ø the third-country national disclosed false information or untrue facts to the immigration authority in the interest of obtaining the permit;</li> </ul>





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			<p>∅ the third-country national is expelled or excluded.</p> <p>(2) Any third-country national whose EC permanent residence permit the immigration authority has withdrawn under Paragraphs</p>
	<b>Ireland</b>	<b>Yes</b>	
	<b>Italy</b>	<b>Yes</b>	According to Legislative Decree no. 3/2007 implementing directive 109/2003/EC, the re-acquisition of long-term resident status is granted in the same formality than the acquisition. In this case, the period of continuous residence is reduced to 3 years (art. 9 par. 8).
	<b>Latvia</b>	<b>Yes</b>	Article 23 (1) (22) of the Immigration Law provides that person who had have EC LTR status in Latvia is allowed to return to Latvia within a period of three years after his/her status has been annulled. It means that this person can return to Latvia without any other reason that is usually ground for issuance of a residence permit (family reunification, work etc). S/he should fulfill only basic criteria (sufficient financial means, no threat to public order and health) and then s/he will be issued a temporary residence permit with a right to work. After 2 years of residing in Latvia with this temporary residence permit a person can apply for the EC LTR status in Latvia again (article 13 of “Law on the EC long-term resident status in the Republic of Latvia”).
	<b>Lithuania</b>	<b>Yes</b>	<b>Informed that will not provide an answer.</b>
	<b>Luxembourg</b>	<b>Yes</b>	
	<b>Malta</b>	<b>Yes</b>	
	<b>Netherlands</b>	<b>Yes</b>	<p>Article 9(5) of Council Directive 2003/109/EC has been implemented as follows by the Netherlands:</p> <ul style="list-style-type: none"> <li>• The application for the status of long-term resident will not be denied on the ground that the lawful residence on the basis of a residence permit has not lasted for five consecutive years, if: <ul style="list-style-type: none"> <li>a. the application was filed by a foreign national of age who: <ul style="list-style-type: none"> <li>1° had lawfully resided ten years in the Netherlands between the age of four and ten on the basis of a residence permit, and whose application was received before the applicant turned twenty-three, or</li> <li>2° had lawfully resided five years in the Netherlands on the basis of a residence permit before turning nineteen, and for whom the Netherlands is the most appropriate country of residence, according to the Minister of Immigration and Asylum;</li> </ul> </li> <li>b. the foreign national has not changed the habitual residence to a residence abroad.</li> </ul> </li> </ul> <p>In determining the five-year period, the part of any period of residence abroad exceeding ten months in total or six consecutive months of residence outside the Netherlands will be disregarded.</p>






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			<ul style="list-style-type: none"> <li>• The application for the status of long-term resident will not be denied because the foreign national did not lawfully reside five years without interruption, and immediately preceding the application, in the Netherlands, or because he/she stayed, during the term of lawful residence, six or more consecutive months (or ten or more in total) outside the Netherlands, if he/she: <ul style="list-style-type: none"> <li>a. stayed outside the Netherlands in connection with a professional secondment in a state that is a contracting party to the Treaty on the Functioning of the European Union;</li> <li>b. used to be a long-term resident and lost this status on account of: <ul style="list-style-type: none"> <li>1° a stay for the purpose of studies or vocational training in another state that is a contracting party to the Treaty on the Functioning of the European Union, without having obtained the status of long-term resident in that state, if the application is filed within six months of the termination of that study or vocational training, or the termination of the residence permit in that state,</li> <li>2° a stay outside the territory of the Community for a consecutive period of at least twelve months, if the application is filed within twelve months of the loss becoming final and conclusive, or</li> <li>3° acquisition of the status of long-term resident in another state as referred to in 1° above, if the application is filed within twelve months of the loss becoming final and conclusive.</li> </ul> </li> </ul> </li> <li>• If the application for the status of long-term resident has been filed by a foreign national who is eligible for remigration on the basis of the so-called Dutch Remigration Act (<i>Remigratiewet</i>) and who directly preceding remigration: <ul style="list-style-type: none"> <li>a. resided in the Netherlands as a Dutch national;</li> <li>b. had a permanent residence permit in the Netherlands; or</li> <li>c. had a temporary residence permit for five years in the Netherlands,</li> </ul> <p>the application will not be denied on the ground that the lawful residence on the basis of a residence permit has not been a consecutive period of five years, if:</p> <ul style="list-style-type: none"> <li>a. the application was filed by a foreign national of age who: <ul style="list-style-type: none"> <li>1° had lawfully resided ten years in the Netherlands between the age of four and ten on the basis of a residence permit, and whose application was received before he/she turned twenty-three, or</li> <li>2° had lawfully resided five years in the Netherlands on the basis of a residence permit before turning nineteen, and for whom the Netherlands is the most appropriate country of residence for him/her, according to the Minister of Immigration and Asylum;</li> </ul> </li> <li>b. the foreign national has not changed the habitual residence to a residence abroad.</li> </ul> <p>In determining the five-year period, the part of any period of residence abroad exceeding ten months in total or six consecutive months of residence outside the Netherlands will be disregarded.</p> </li> <li>• If the application for the status of long-term resident has been filed by a foreign national who is eligible for remigration under the Dutch Remigration Act and who directly preceding remigration: <ul style="list-style-type: none"> <li>a. resided in the Netherlands as a Dutch national;</li> </ul> </li> </ul>
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			<p>b. had a permanent residence permit in the Netherlands; or</p> <p>c. had a temporary residence permit for five years in the Netherlands, the application will not be denied on the ground that he/she does not have sufficient means of existence, whether or not together with the family member with whom he/she is staying, if the foreign national:</p> <p>a. is of age and;</p> <ul style="list-style-type: none"> <li>• 1°. had lawfully resided ten years in the Netherlands between the age of four and ten on the basis of a residence permit, and whose application was received before he/she turned twenty-three, or</li> <li>2°. had lawfully resided five years in the Netherlands on the basis of a residence permit before turning nineteen, and for whom the Netherlands is the most appropriate country of residence for him/her according to the Minister of Immigration and Asylum as referred to in Section 3.92(1)(a) or;</li> </ul> <p>b. is permanently entitled to benefits under the Dutch Invalidity Insurance Act (<i>Wet op de arbeidsongeschiktheidsverzekering</i>) due to a degree of invalidity of at least 55% invalidity on the basis of a full working week, or similar invalidity benefits.</p>
	<b>Poland</b>	<b>Yes</b>	
	<b>Portugal</b>	<b>Yes</b>	<p>Accordingly to the Portuguese legal framework (Act n.º 23/2007 of 4<sup>th</sup> of July), in its 1, 2 and 3 of the Article n.º 131.º “Loss of the status”:</p> <p>“1 - Long-term residents lose their resident status in the following cases:</p> <p>a) Fraudulent acquiring of the long-term resident status;</p> <p>b) Adoption of an expulsion measure according to the stipulations of article 136.º;</p> <p>c) Absence from the territory of the European Union for a period of 12 successive months;</p> <p>d) Acquiring in another Member State the long-term resident status;</p> <p>e) Absence from national territory for a period of six successive years.</p> <p>2 - Absences from the territory of the European Union for a period higher than 12 successive months justified by specific or exceptional reasons do not imply the loss of status namely when the long-term resident stayed in the country of origin in order to have there a professional or entrepreneurial, or of a cultural or social nature.</p> <p>3 - The absences from national territory for a period higher than 6 successive years justified by specific or exceptional reasons do not imply the loss of status namely when the long-term resident stayed in the country of origin in order to have there a professional or entrepreneurial, or of a cultural or social nature.”</p>
	<b>Romania</b>	<b>Yes</b>	
	<b>Slovak Republic</b>	<b>Yes</b>	<p>Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (hereinafter „Directive“) was transposed into the Act Nb. 48/2002 Coll. on Stay of Aliens and on Amendments and Modifications to Some Other Acts.</p>

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			Article 9, paragraph 5 was transposed into the Act on Stay of Aliens in the sense that an alien or a person with a long-term residence who lost his/her status because he/she has continuously stayed outside the territory of the European Economic Area for 12 consecutive months or has stayed outside the territory of the Slovak Republic for six years is granted further (permanent residence) permit on the basis of submitted application.
	<b>Slovenia</b>	<b>Yes</b>	
	<b>Spain</b>	<b>Yes</b>	
	<b>Sweden</b>	<b>Yes</b>	
	<b>United Kingdom</b>	<b>Yes</b>	<b>The UK does not participate in this directive.</b>
	<b>Norway</b>	<b>Yes</b>	