



## **Ad-Hoc Query on the issuing of visa to family members of EU Citizens**

**Requested by BE EMN NCP on 17 October 2011**

**Compilation produced on 22 November 2011**

**Responses from [Austria](#), [Belgium](#), [Estonia](#), [Finland](#), [France](#), [Germany](#), [Greece](#), [Hungary](#), [Italy](#), [Latvia](#), [Lithuania](#), [Luxembourg](#), [Netherlands](#), [Portugal](#), [Sweden](#), [United Kingdom](#) (16 in Total)**





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### **1. Background Information**




As the Belgian family reunification rules have recently changed, we are taking the opportunity to re-examine the issue of the type of visa which has to be issued to the different categories of family members for residence over three months. As regards family members of EU citizens (directive 2004/38), case C-157/03 Court of Justice leads to a C visa, but Chapter III of the visa handbook is more vague. As regards family members of national citizens, the questions arises to which extent directive 2004/38 applies, keeping in mind inter alia recent jurisprudence (Ruiz Zambrano C-34/09, McCarthy C-434/09) as well as older jurisprudence when the own national has exercised the free movement (Singh C-370/90, Carpenter C-60/00).

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**2. Responses**

		Wider Dissemination?	<ol style="list-style-type: none"> <li>1. What kind of visa (C or D) are you delivering to the family members accompanying or joining an EU citizen who exercises/has exercised his/her right to freedom of movement?</li> <li>2. What kind of visa (C or D) are you delivering to the family members accompanying or joining one of your own nationals who a) is not a beneficiary of the 2004/38/EC Directive and b) who after having exercised his/her right to freedom of movement is returning to his/her country of origin?</li> </ol>
	<b>Belgium</b>	<b>Yes</b>	<p>In Belgium we (will) issue a C-visa to family members of EU-citizens, a D-visa to family members of Belgians and a C-visa to family members of Belgians who exercised their right of free movement.</p> <p><b>Overview</b></p> <ol style="list-style-type: none"> <li>1. C-visa</li> <li>2.               <ol style="list-style-type: none"> <li>a) D-visa</li> <li>b) C-Visa</li> </ol> </li> </ol>
	<b>Estonia</b>	<b>Yes</b>	<ul style="list-style-type: none"> <li>- A short-stay (C) will be issued.</li> <li>- A short-stay (C) or a long-stay (D) visa may be issued.</li> </ul>
	<b>Finland</b>	<b>Yes</b>	<p>Finland issues only C visas and no national visas are in use. As regards family members not under the Directive 2004/38/EC C visas may be issued or there is also a possibility to apply for a residence permit from Finnish Embassies if the purpose is to move permanently to Finland. In this case too the residence permit may be also applied in Finland.</p>
	<b>France</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1) Family members of nationals of Member States of the EU, EEA, Switzerland are subject to the same traffic as other foreigners of nationality : C visa for stays of less than 6 months visa D a long stay</li> <li>2) Family members of a French citizen:           <ul style="list-style-type: none"> <li>- D visa marked "French family" for children under 21;</li> </ul> </li> </ol>


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			<ul style="list-style-type: none"> <li>- Long-stay visa valid as residence (exempt, subject to the completion of certain formalities within 3 months of the entry, the application for a residence permit in the first year);</li> <li>- D visa "family of French - a residence permit to solicit within two months of the entry for the ascendants</li> <li>- Long-stay visa valid as residence - marked "visitor" to the ancestors of French non-dependent</li> <li>- D visa "French family" for parents of minor French child</li> </ul>
	<b>Germany</b>	<b>Yes</b>	<p>- If a EU citizen`s family member expressly applies for a short-stay visa, he/she is principally granted a C-type visa. It is disregarded in this respect as to whether a permanent stay might be considered already at the time of application. If the family member expressly states the purpose of a long-term stay at the time of the application, he/she is granted a D-type visa.</p> <ul style="list-style-type: none"> <li>- a) D-type visa</li> <li>- b) In case of family reunification with a German citizen having returned after making use of his/her right to free movement the purpose is regularly a long-term stay; consistently, the family member is granted a D-type visa. If the purpose is expressly stated to be a short-term stay (e. g. visit of relatives), he/she is granted a C-type visa, even if a permanent stay might be considered after his/her entry.</li> </ul>
	<b>Greece</b>	<b>Yes</b>	In Greece we (will) issue a visa C to family members of EU citizens, a visa D to those who are beneficiary of the 2004/38/EC and a visa C to those who exercise their right to freedom of movement to his/her country of origin.
	<b>Hungary</b>	<b>Yes</b>	<p><b>1. What kind of visa (C or D) are you delivering to the family members accompanying or joining an EU citizen who exercises/has exercised his/her right to freedom of movement?</b></p> <p>According to the Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence: Third-country nationals accompanying an EEA national or a Hungarian citizen or joining an EEA national or a Hungarian citizen who reside in the territory of the Republic of Hungary, who are family members, may enter the territory of the Republic of Hungary with a valid travel document and – unless otherwise prescribed by any directly applicable Community legislation or an international agreement – with a valid visa.</p> <p>All EEA nationals shall have the right of residence for a period of longer than three months if they:</p>

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		<p>a) intend to engage in some form of gainful employment;</p> <p>b) have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the Republic of Hungary during their period of residence, and have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family for such services as required by statutory provisions; or</p> <p>c) are enrolled at an educational institution governed by the act on public education or the act on higher education, for the principal purpose of following a course of study, including vocational training and adult education if offering an accredited curriculum, and they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the Republic of Hungary during their period of residence, and have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family members for such services as required by statutory provisions.</p> <p>The family members of EEA nationals who satisfy the requirements set out in Paragraph a) or b) shall have the right of residence.</p> <p>The spouse and dependent children of any EEA national who satisfies the requirements set out in Paragraph c) shall have the right of residence.</p> <p>The family members of any Hungarian citizen who is engaged in gainful employment shall have the right of residence for a period of longer than three months.</p> <p>The right of residence for a period of longer than three months shall extend to the family members of a Hungarian citizen if:</p> <p>a) they have sufficient resources for themselves or the Hungarian citizen has sufficient resources for such family members not to become a burden on the social assistance system of the Republic of Hungary during their period of residence; and</p> <p>b) they have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family members for such services as required by statutory provisions.</p> <p>The right of residence for a period of longer than three months may be granted to a person who exercises parental custody of a minor child who is a Hungarian citizen in the absence of the abovementioned requirements set out.</p> <p><b>2. What kind of visa (C or D) are you delivering to the family members accompanying or joining one of your own nationals who</b></p> <p><b>a) is not a beneficiary of the 2004/38/EC Directive and</b></p> <p>Third-country nationals may also enter the territory of the Republic of Hungary with a valid travel document and – unless</p>
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			<p>otherwise prescribed by any directly applicable Community legislation or an international agreement – a valid visa on the grounds of family reunification, who:</p> <p>a) are dependants or members of the household of a Hungarian citizen for a period of at least one year, or who require the personal care of a Hungarian citizen due to serious health grounds; or</p> <p>b) had been dependants or members of the household of an EEA national in the country from which they are arriving, for a period of at least one year, or who require the personal care of an EEA national due to serious health grounds.</p> <p>The competent authority may grant the right of residence to persons on the grounds of family reunification, who:</p> <p>a) are dependants or members of the household of a Hungarian citizen for a period of at least one year, or who require the personal care of a Hungarian citizen due to serious health grounds; or</p> <p>b) had been dependants or members of the household of an EEA in the country from which they are arriving, for a period of at least one year, or who require the personal care of an EEA national due to serious health grounds.</p> <p><b>b) who after having exercised his/her right to freedom of movement is returning to his/her country of origin?</b></p> <p>See the first mentioned point.</p> <p>In Hungary there is no kind of discrimination between family members of Hungarian citizens and family members of EEA nationals than in Belgium.</p> <p>D type visa, namely the long term visa (visa for entitlement to receive a residence permit, for single entry in Hungary for the purpose of collecting the residence permit and for stay for a period not to exceed thirty days) is requested by those third-country nationals who wish to stay in our country for specified purposes (such as gainful employment) for more than free months. Those third country national family members, who come our country with short-stay uniform visa (C), mainly submit their applications for issuing residence card in Hungary.</p>
	<p><b>Italy</b></p>	<p><b>Yes</b></p>	<ol style="list-style-type: none"> <li>1) Both EU and non-EU family members accompanying or joining an EU citizen who exercise his/her right to freedom of movement are no longer required a visa for stays shorter than 90 days, in accordance with Law Decree n. 89/2011 converted into Law n. 129 of 2<sup>nd</sup> August 2011. For stays longer than 90 days, non-EU family members shall apply for a <b>D-visa</b>.</li> <li>2) The same rules (issuance of a <b>D-visa</b>, if required) apply to family members accompanying or joining an Italian citizen who does not exercise his/her right to freedom of movement or who is returning to Italy after having exercised such right. Nevertheless, according to Art. 5 paragraph 3 of the above-mentioned law, visas for this specific category of</li> </ol>

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			applicants are issued without charge and with the highest priority.
	<b>Latvia</b>	<b>Yes</b>	In all cases where intended stay is going to exceed 3 months, we issue D-visa irrespectively from the category of a person.
	<b>Lithuania</b>	<b>Yes</b>	1. C visa 2. a) if the family member enters for less than 3 months – C visa. If for a longer period of time, the family member should obtain a residence permit. There is no separate ground for issuing a D visa particularly to family members. b) C visa
	<b>Luxembourg</b>	<b>Yes</b>	In Luxembourg any third country national that resides in another Member State of the Schengen area is entitled to come to Luxembourg with his/her residence permit for a duration of three months. However, if the third country national resides outside the Schengen area or in his/her country of origin it will be required to enter with a D visa for a family reunification.  1. Visa D 2. a) Visa D; b) Visa D, with the exception if the third country national comes for a family visit.
	<b>Netherlands</b>	<b>Yes</b>	Ad 1. If a family member who does not have the nationality of one of the EU member states wants to travel from outside the EU to the Netherlands to rejoin a citizen of the EU, he obtains a C-visum - free of charge.  Ad 2. In this case the family member must be in the possession of a residence permit (EU certificate) of another EU member state. Because of this permit there is no need for the family member to obtain a visum for the Netherlands. The permit allows the family member to travel to the Netherlands.
	<b>Portugal</b>	<b>Yes</b>	In Portugal C visa is issued to family members of EU citizens and to PT citizens' family members as well. Once in national territory they apply for a residence card (under Act 37/2006), who does not require a previous D visa (residence visa). Act 37/2006 (transposing 2004/38/EC Directive) is applicable to family members of EU citizens and of Portuguese citizens as well.
	<b>Sweden</b>	<b>Yes</b>	A family member who is a third-country national has no independent right to enter and reside in another EEA country. The

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			<p>third-country national must travel with the EEA citizen or the EEA citizen must already be in the other country and the family member must be joining the EEA citizen if the EEA citizen is exercising the right to free movement in the relevant Member State, for instance, the EEA citizen is in the country to work.</p> <p>Non visa-exempt spouses or children under the age of 21 of EEA citizens should essentially always be able to get a visa, C- or D-visa, without further investigations.</p> <p>A Swedish citizen residing in Sweden is not considered as a EEA citizen Non visa-exempt family members can obtain a visa, C-visa, after normal examination procedure according to the visa codex.</p>
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