



AD HOC QUERY ON 2020.8 Time limits for decisions on family reunification

Requested by Jessy Carton on 10 February 2020

Compilation produced on 30 April 2020

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Sweden (20 in Total)

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1. Background information

In Belgium, the national authorities should take decisions on family reunification with Union citizens and third-country nationals within specific time limits, in accordance with EU Directives 2004/38/EC and 2003/86/EC. If the authorities exceed these time limits, a residence permit should be issued automatically to the applicant (Art. 52, §4, second paragraph of the Royal Decree of 8 October 1981 implementing the Immigration Act). In recent years, national courts referred several questions on this topic to the Court of Justice of the European Union (CJEU) for a preliminary ruling.

In the Diallo case of 27 June 2018 (C-246/17), the CJEU ruled that decisions on the application for a residence permit of a family member of a Union citizen must be both adopted and notified within six months (Directive 2004/38/EC).

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In addition, the CJEU judged that national legislation cannot provide for the automatic issuance of a residence permit for the family member of a Union citizen if the time limit is exceeded. In the X case of 20 November 2019 (C-706/18), the CJEU ruled that such automaticity is equally excluded for the issuance of a residence permit to the family member of a third-country national (Directive 2003/86/EC).

Lastly, the Diallo case also clarified that decisions following the annulment of a previous negative decision on family reunification with a Union citizen should be taken within a reasonable period of time. In such cases, the competent national authority does not automatically regain the full period of six months. The Belgian government is currently considering a change in national legislation in order to comply with EU law. In this context, Belgium would like to receive more information on the law and practice on time limits for decisions on family reunification in other Member States (some MS already provided some information at the end of 2019 after a short information via the Permanent Representation).

2. Questions

1. Which time limits does your national legislation impose for decisions on family reunification with a) Union citizens and b) third-country nationals?

2. How does your Member State ensure that decisions are a) taken and b) notified within these time limits in practice?

3. What are the legal consequences of exceeding these time limits (for instance fines, periodic penalties, enforcement before national courts, temporary residence rights...)?

4. How does your Member State determine in law and/or practice the “reasonable period of time” within which a new decision should be taken following the annulment of a previous negative decision on the same application?

We would very much appreciate your responses by **9 March 2020**.


3. Responses

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¹ 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.

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		Wider Dissemination ²	
	EMN NCP Austria	Yes	<p>1. On principle, a distinction has to be made between applications for family reunification under the Settlement and Residence Act and applications under the Asylum Act in the Austrian context. In Austria, a decision period of six months applies according to Art. 73 General Administrative Procedures Act. Accordingly, authorities must issue a decision on applications by parties without undue delay and at the latest after six months after receipt. In the absence of any other deadline, decisions on family reunification must also be made within six months, both according to the Settlement and Residence Act and the Asylum Act. The deadline for delivering a decision by the representation authority is suspended while the Federal Office for Immigration and Asylum makes its probability prognosis. The Federal Office for Immigration and Asylum cannot be delayed in its probability prognosis as it does not hold administrative proceedings in the sense of the General Administrative Procedures Act. Nevertheless, the Federal Office for Immigration and Asylum's probability prognosis must be made within a reasonable time period so that the representation authority can complete the proceeding without undue delay. The administrative courts are also obliged under Art. 34 para 1 General Administrative Procedures Act to decide on complaints without undue delay and within six months.</p> <p>---</p> <p>Source: Ministry of the Interior</p>

² 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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			<p>2. Should the competent authority not make a decision within the designated time period, a complaint regarding the delay can be made. (Art. 130 para 1 subpara 3 Federal Constitutional Law, Art. 8 para 1 Proceedings of Administrative Courts Law). The authority then has three months to make a decision. After three months at the latest, the file is to be forwarded to the administrative court, which is ultimately the competent entity. In practice, the duration of the proceeding is largely dependent on workload, but also on the involvement of the party. Proceedings can be held more quickly if applications are complete and submitted correctly. When documents are not available or if amendments are ordered to be made, proceedings can be affected accordingly.</p> <p>---</p> <p>Source: Ministry of the Interior</p> <p>3. In Austria, a complaint regarding delay can be made in cases where the designated time period has been exceeded (see answer to question 2).</p> <p>---</p> <p>Source: Ministry of the Interior</p> <p>4. There is no definition on the determination of a 'reasonable period' in Austrian law.</p> <p>---</p> <p>Source: Ministry of the Interior</p>
	<p>EMN NCP Belgium</p>	<p>Yes</p>	<p>1. In Belgium, decisions on family reunification with a Union citizen should be taken within six months (Art. 42, §1 Immigration Act).</p>

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			<p>Decisions on family reunification with a third-country national should be taken within nine months. In exceptional cases, this period can be extended twice by a period of three months (Art. 12bis, §2 Immigration Act).</p> <p>2. At this moment, all applications are processed chronologically on the basis of the date of the introduction of the application in order to keep track of the remaining time limits. As soon as a decision has been taken, the decision is notified to the applicant by registered letter or through invitation at the municipality or diplomatic or consular post.</p> <p>3. Until recently, a residence permit was issued automatically to the applicant if these time limits were exceeded (Art. 52, §4 Royal Decree implementing the Immigration Act; Art. 12, §2 Immigration Act). Today, Belgium is considering a change in legislation following the CJEU preliminary rulings in the Diallo and X cases.</p> <p>4. In this case, the Immigration Office tries to take a decision as soon as possible. The processing speed depends on the workload of the competent department and the question whether or not additional documents or information should be requested from the applicant.</p>
	<p>EMN NCP Bulgaria</p>	<p>Yes</p>	<p>1.</p> <p>For issuing a prolonged residence card, respectively of a residence permit under Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals, to a family member of a Union citizen, the persons under Art. 9a and Art. 10 of the Law on entering, residing and leaving the Republic of Bulgaria by European Union citizens and their family members, shall submit an application to the Migration Directorate - MoI, the Capital Directorate of Interior or the Regional Directorates of MoI. In such case, a temporary certificate shall be issued immediately.</p>

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			<p>The application shall be submitted within a time period of three months from the date the person entered the Republic of Bulgaria.</p> <p>Shall be enclosed to the application:</p> <ol style="list-style-type: none">1. a valid passport;2. a document certifying that the person concerned is a member of the family of a European Union citizen;3. a receipt for paid state fee. <p>(4) The prolonged residence card of a family member of a Union citizen shall be issued within a term of up to three months from the submission of the application.</p> <p>(5) In case of incompleteness in the documentation under Para 3, the person concerned shall be given fourteen-days term to remove the omissions. Until the expiry of this time period, the term under Para 4 stops running.</p> <p>(6) If the person does not remove the occurred omissions within the term provided for in Para 5, the bodies of the Migration Directorate – MoI, the Capital Directorate of Interior or the Regional Directorates of MoI shall reasonably refuse to issue a prolonged residence document.</p> <p>(7) The refusal under Para 6 may be challenged under the terms of the Administrative Procedure Code.</p> <p>In order to obtain the right to prolonged residence under Art. 24, Para. 1, items 5 and 13, Art. 24f, Para. 1, Art. 33d, Para. 4, Art. 33k, Para. 3 and Art. 33q, par. 1 of the Law on Foreigners in the Republic of Bulgaria, with a view to family reunification, the foreigner having a permitted residence not shorter than one year on the territory of the Republic of Bulgaria, shall submit to the Migration Directorate or to the Regional Directorates of Interior a standard application pursuant to Annex No 3. Shall be enclosed to this application the following elements:</p>
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			<p>1. a copy of a valid passport or replacing document of the family member with a validity term not shorter than 6 months starting from the date of submission of the application. This copy shall contain the pages with photo and personal data of the holder;</p> <p>3. an evidence for a provided accommodation;</p> <p>4. an evidence for stable, valid, providable and sufficient funds available for maintenance of the family members preventing the need to refer to the social assistance system. The amount of these funds shall not be smaller than the minimal national monthly salary or the minimal pension for the referenced time-period of residence on the territory of the Republic of Bulgaria;</p> <p>5. a certificate proving that the person has not been convicted, issued on the state of submission of the documents by the state of the foreigners' citizenship or by the state of his usual residence – with the initial submission of the application;</p> <p>6. a marriage certificate, or a birth certificate;</p> <p>7. documents about the circumstances on the maintenance of family members and the need of ensuring personal care for health reasons in the cases under Art. 2, Para. 4 of the LFRB.</p> <p>In order to establish the facts and circumstances under Art. 26, Para. 4 of the LFRB, the bodies for administrative control of foreigners shall draw up a reasoned opinion which shall be enclosed to the application for the provision of a right to long-term stay.</p> <p>This application shall be dealt with within 1 month, after consultation with the National Security State Agency (NSSA) and the Consular Relations Directorate (CRD) of the Ministry of Foreign Affairs. These bodies shall provide their opinions within 15 days.</p>
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			<p>The adopted decision on family reunification shall be notified to the applicant in writing by the Director of the Migration Directorate / the Directors of the RDMIs or by officials authorised by them, under the conditions of the Administrative Procedure Code (APC).</p> <p>For the adopted decision on family reunification, the Director of the Migration Directorate, the Directors of the RDMIs or officials authorised by them shall notify the Migration Directorate – MoI and CRD within the Ministry of Foreign Affairs, by providing a reasoned written opinion containing compulsory administrative measures, information about the Bulgarian Representation abroad, where the application for issuing a long term residence visa will be submitted or the reason or lack of such for the family reunification.</p> <p>For the decision taken for the family reunification, the Director of the Migration Directorate shall notify CRD of the Ministry of Foreign Affairs by producing a reasoned written opinion, containing a list of the documents, information about the existence or lack of compulsory administrative measures, information about the Bulgarian Representation abroad, where the application for issuing a long term residence visa will be submitted or the reason or lack of such for the family reunification, attached by the foreigner.</p> <p>Consular Relations Directorate of the Ministry of Foreign Affairs shall notify either the Bulgarian Representation abroad located in the state of permanent residence of the family member, or the Bulgarian Representation abroad which is accredited for the state of permanent residence of the family member, within the term of up to 5 days after receiving the notification under Para. 5 and 6.</p> <p>A positive decision on the application for reunification of the family shall be a reason for the foreigner who is a family member, to obtain a visa under Art. 15, Para. 1 of the LFRB under the simplified procedure. The foreigner shall submit an</p>
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			<p>application for a visa before the Bulgarian Representation abroad located in the state of their permanent residence or in the Representation abroad which has been accredited for the state of their permanent residence within the term of up to 6 months from the notification.</p> <p>Family reunification of foreigners under art. 33q, par. 1 does not require the holder to have resided for a certain minimum time period.</p> <p>2. See the answer of question 1</p> <p>3.</p> <p>In cases where the competent body for administrative control of foreigners refuses to recognise a document on civil status which has been produced before it, the interested person may bring a claim before the Sofia City Court.</p> <p>4.</p> <p>It should be noted that the issue related to the implied refusals by the administrative authority is regulated by the provisions of Art. 59, Para 1 of the Administrative Procedure Code, the administrative authority having to issue or refuse to issue the act by a reasoned decision.</p> <p>Where the administrative act is issued in writing, it shall contain the following mandatory elements: 1. designation of the issuing authority; 2. designation of the act; 3. addressee of the act; 4. factual and legal grounds on which the act is issued; 5. operative part containing specification of the rights or obligations and the manner and time limit for enforcement; 6. instructions regarding the costs; 7. identification of the authority and time limit for appeal against the act; 8. date of issuance and signature of the person who issued the act, indicating the position thereof; where the authority</p>
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			<p>is a collective body, the act shall be signed by the chairperson or by a deputy chairperson.</p> <p>It is worth mentioning here that verbal administrative acts, as well as administrative acts expressed through acts or omissions, shall be issued solely where so provided for in a law. In this sense, since neither the Law on Foreigners in the Republic of Bulgaria, nor the Law on the Entry, Residence and Leaving of the Republic of Bulgaria of Citizens of the European Union and Members of their Families envisage such a possibility, all administrative acts shall be issued in writing and within the prescribed time period.</p>
	<p>EMN NCP Croatia</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. Rules regarding procedure in administrative matters are regulated by General Administrative Procedural Act (OG, 47/09), specifically deadlines and the consequences when the competent authority does not decide within those deadlines. According to the above said Act, when deciding directly upon the request of a party an official person shall render the decision and deliver it to the party without delay and no later than within 30 days following the receipt of an orderly request. When conducting an inquiry procedure, official person shall render the decision and deliver it to the party within 60 days following the receipt of an orderly request. 2. Competent public officers keep track of the time limits. As soon as a decision has been taken, the decision is notified to the applicant. 3. According to the General Administrative Procedural Act, as well as Act on administrative disputes, if a competent authority fails to reach a decision at the request of a party within the given time limit, an appeal can be made to the competent appeal body (either Appeal Commission or Administrative court in some cases). The provisions are aimed at delivering


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			<p>decision and to protect the right to render a decision in reasonable time; still they do not presume whether the decision would be positive or negative.</p> <p>4. If an appeal is lodged before Administrative Commission because competent authority failed to reach a decision at the request of a party within the given time limit, and the second instance finds that the body of first instance failed to reach a decision for justified reasons, it shall set a new time limit, which may not exceed 30 days, within which the body of first instance is obliged to reach the decision.</p> <p>When the body of second instance finds that the reasons for failing to reach a decision within the set time limit are not justified, it shall decide on the administrative matter alone or order the body of first instance to reach the requested decision within 15 days.</p> <p>If an appeal is lodged before an Administrative Court because competent authority failed to reach a decision at the request of a party within the given time limit, and if the court establishes that the public body did not reach an individual decision within the prescribed deadline, it shall adjudicate the claim and resolve the matter itself, except when it cannot do so in view of the nature of the matter. The defendant will then be ordered to make a decision and court sets an appropriate time limit.</p>
	<p>EMN NCP Cyprus</p>	<p>Yes</p>	<p>1. A) Concerning reunification with Union citizens, the legislation states that applications should be examined within 6 months.</p> <p>B) For TCNs, Family reunification applications must be examined, at the latest, within 9 months from the date of submission. For some residence categories with more favourable provisions, family reunification applications must be examined, at the latest, within 5 months from the date of submission. In extraordinary complex cases, the above deadlines can be extended for a period not exceeding 3 months.</p> <p>2.</p>


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			<p>There is an electronic monitoring system in place which allows the Civil Registry and Migration Department to check which applications were submitted in a specific timeframe (for example 3 months before). In practice, we use the system to make sure that applications are examined before the timeframe imposed by the legislation.</p> <p>3. An appeal can be submitted before national courts, on grounds of omission of due actions.</p> <p>4. Cyprus has no experience with such cases.</p>
	<p>EMN NCP Estonia</p>	<p>Yes</p>	<p>1. a) Union citizens - <i>three months</i> b) third-country nationals – <i>two months</i></p> <p>2. <i>Database where applications are processed, shows deadline of the application. Information is public about the deadlines and times for processing applications and applicants have the right to appeal, if these rules are breached. Guidelines for processing applications also cover the obligation to make the decision within the deadline or extend the deadline by notifying the applicant.</i></p> <p>3. <i>Applicant can appeal to the administrative court and the court can oblige the authority to make the decision. Estonia also has state liability act and if breaching the application</i></p>


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			<p>deadline somehow has caused damage to the applicant, then the state is obliged to compensate it. Authorities also have internal regulations about consequences for breaching rules.</p> <p>4. Usually decision needs to be made within the regular processing time for the applications.</p>
	<p>EMN NCP Czech Republic</p>	<p>Yes</p>	<p>1. Following time limits are imposed by Czech national legislation for decision on a) issuing a residence card to family members of a Union citizen: 60 days from the day of application/postal delivery to the Ministry of the Interior, b) family reunification with third-country national: 270 days from the day of application.</p> <p>2. If the decision is not issued within these time limits, the applicant have a possibility to bring legal actions against a breach of these provisions (failure to act) before administrative authorities or national courts and claim issuing of the decision and/or adequate remedy. The applicant is notified in writing of any decision taken in his/her cause and delivery is proved by a proof of delivery.</p> <p>3. From the day of application, the legal fiction of legal stay of the applicant in the territory applies. The applicant has an access to judicial and administrative redress procedures in the Czech Republic. The issuance of the decision may be enforced before superior authority or national court.</p> <p>4. A new decision should be taken in a period given by the court or by the superior authority (§ 80 p. 4 letter a) of Administrative Procedure Code – the act no. 500/2004 Coll.). In practice, the period usually lasts 30 days following the annulment of a previous negative decision on the same application.</p>



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	<p>EMN NCP France</p>	<p>Yes</p>	<p>1.</p> <ol style="list-style-type: none"> 1. The visa for entry for family members of a citizen of the European Union who are third-country nationals has to be issued without any fees and as soon as possible in the frame of an accelerated procedure (article R. 121-1 of the Code on Entry and Residence of Foreign Nationals and Right of Asylum (CESEDA)). Family members of third countries have from the age of 18 (16 if they want to work) to be in possession of a valid residence permit. The assessment of the application and the issuance of the residence permit have to be accomplished within a maximum of six months of the filing date (Circ. 10 sept. 2010, NOR : IMIM1000116C). 1. Article L.421-4 of the CESEDA stipulates a six-month time period for the assessment procedure for an application for family reunification (regroupement familial) that concerns the entry and stay of family members of third-country nationals who are legally resident in France from the date the full application is filed until the prefecture makes a decision. If there is no decision within this time period, the request for family reunification is considered to be rejected (article R.421-20 of the CESEDA). According to article L. 752-1 of the CESEDA, the family member of a refugee or a beneficiary of subsidiary protection has to apply for a visa for a stay over three months to the diplomatic or consular authorities which decide on the application as soon as possible. Pursuant to article R.211-4 of the CESEDA, the time period for processing visa applications for family reunification or family reunification of refugees is, due to the need to carry out checks on foreign civil status documents, maximum four months. However, this time period may be renewed once to four months, if despite all reasonable measures taken, the verifications did not lead to a result. <p>2. Most diplomatic and consular posts have implemented specific measures to reduce the processing times of visa requests; some posts are, however, constrained by the human resources at their disposal (for examples see Family Reunification Study of EMN France).</p> <p>3.</p>
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			<p>No information available.</p> <p>4. French legislation uses the term « dans les meilleurs délais » meaning that the administrative authorities are trying to take a decision «as soon as possible”.</p>
	EMN NCP Germany	Yes	<p>1. There are no general deadlines in this regard by law. In general, as in all administrative matters, an action for failure to act can be brought before the administrative court after 3 months if no decision has been taken in a reasonable period of time without a sufficient reason. Otherwise, family members with unrestricted mobility who are not citizens of the Union are ex officio issued a residence card for family members of Union citizens within six months after they have provided the required information, in accordance with Section 5 (1) sentence 1 FreizügG / EU(Free Movement of Persond Act).</p> <p>2. No standardized statement possible.</p> <p>3. If an action for failure to act has been brought successfully, the competent authority shall bear the costs of the legal proceedings.</p> <p>4. No findings.</p>
	EMN NCP Greece	Yes	<p>1. According to our national legislation (art.6 para.2 and art.7 para.4 P.D.141 Governmental Gazette A 143/13.07.06), family reunification procedure must be</p>


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			<p>concluded within the period of 9 months. In exceptional cases, time limits can be extended from the above mentioned time limit of 9 months, up to 3 more months. Source: Greek Asylum Service</p> <p>Concerning the family reunification of a third country national with a Union citizen, according to the provisions of the Directive 2004/38, the national legislation provides that the competent Service for the issuance of a residence card examines the application and, if the preconditions are met, delivers a decision issuing a residence card within six (6) months from the date of application, provided that the documentation submitted is complete. Concerning the family reunification with a third country national, the law provided that the reunification process has to be completed no later than nine months after the filing, along with the required documents, of the application. In exceptional cases, this nine (9)-month period may be extended by up to three (3) months. Source: Legal coordination unit, GS for Migration Policy</p> <p>2. These time limits are placed in the asylum procedures by the transposition of EU Directive 2003/86 into national legislation. Furthermore, by the procedures and information provided to applicants by GAS. Applications are prioritized by chronological order of the submission. Source: Greek Asylum Service</p> <p>The above mentioned residence permits and residence cards are granted by the Aliens and Immigration Services of the Decentralized Administration that are competent for implementing the migration legislation, which incorporated relevant EU Directives. Moreover, these services implement all the necessary provisions</p>
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			<p>concerning issues of notification of the decisions granting a residence permit or rejecting an application. Source: Legal coordination unit, GS for Migration Policy</p> <p>3. There are no legal consequences. Source: Greek Asylum Service General provisions concerning the issues of time limits in the administrative procedure are applied. Source: Legal coordination unit, GS for Migration Policy</p> <p>4. GAS follows the time limit of national administrative code, period of 60 days for issuing a new decision after an appeal and annulment of a previous negative decision on the same application. Source: Greek Asylum Service Applicants, in case of rejection, of an application for granting a residence permit or in case of a recall of a residence permit, have the right of remedy against the competent administrative authority in a period of six (6) months from the delivery of the decision. Source: Legal coordination unit, GS for Migration Policy</p>
	<p>EMN NCP Hungary</p>	<p>Yes</p>	<p>1. A residence card may be issued to a third-country national family member who is accompanying or joining an EEA or Hungarian national. The basic time limit for the</p>

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			<p>examination is 21 days, but the immigration authority shall rule the application for a residence card within 70 days.</p> <p>2. The seventy-day-long deadline is binding on the immigration authority.</p> <p>3. There is no legal sanction for exceeding the time limits, but the decision can be challenged with a judicial review. In case of legal remedy, if the delay substantially affected the decision-making, the decision may be annulled and a repeated examination may be required.</p> <p>4. The same provisions apply as in the case of the original examination</p>
	<p>EMN NCP Italy</p>	<p>Yes</p>	<p>1. 1) Family reunification with a third country national. The regulation about family reunification is laid down in the art. 29 of law 286/1998. The procedure foreseen for a TCN residing in Italy who wants to ask for the reunion with a familiar residing abroad is divided into two phases: Firstly, the applicant has to submit the application to the One-Stop Immigration Desk (competent office before Headquarters) – after registering on the website of the Minister of Interior. The informatic system issues a receipt stating date of the application's submission. The Immigration Desk, after obtaining the security assessment[1] from the police headquarters, and after verifying the possession of requirements provided by para. 3 of art. 29 (an accommodation in accordance with hygiene, health and housing suitability requirements; a minimum annual income resulting from lawful sources; an 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) grants the authorization for the issuing of the</p>

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			<p>visa for family members within 90 days from the submission of the application (art. 29 para. 8 of law 286/1998).</p> <p>Then, 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>The authorization is valid for 180 days and can not be renewed.</p> <p>The consulate has to issue or refuse the visa within 30 days.</p> <p>Once entered in Italy, the TCN has to request – within 8 days - the residence permit for family reasons.</p> <p>2) Family reunification with an EU-citizen.</p> <p>The regulation is laid down in law 30/2007, as modified by law 129/2011.</p> <p>The third country national – who wants to be reunited with an EU familiar – has only to ask for the issuing of a visa directly to the Italian Consulate.</p> <p>Within 3 months from the entry in Italy, the TCN familiar shall ask to the Headquarter for the issuing of a residence card for EU citizen's familiar, proving:</p> <ul style="list-style-type: none">- ties of relationship with the EU citizen and showing;- passport or equivalent travel document;- registration certificate of the EU citizen;- photograph. <p>The EU citizen has only to demonstrate a minimum annual income resulting from lawful sources (art. 9 para. 4 of law 129/2011).</p> <p>[1] A foreigner for whom family reunification is required, pursuant to Article 29 LAW 286/1998, is not admitted to Italy when he represents a concrete and current threat to public order or the security of the State or of one of the countries with which Italy has signed agreements for the abolition of internal border controls and the free movement of persons.</p> <p>2. In order to speed up the procedure to obtain a visa for family reunification within the time limit established by law, the procedure of application's submission has become entirely digital through the website https://nullaostalavoro.dlci.interno.it.</p>
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			<p>Information about compilation of the application and documents to accompany the request are available website: http://www.interno.gov.it/it/notizie/stranieri-totalmente-digitale-proce...</p> <p>3. If no decision has been taken within the time limit provided by law for the issue of visa's authorization (90 days), the applicant can only:</p> <ul style="list-style-type: none"> - urge the One-Stop Immigration Desk to issue or refuse the authorization for the visa; - submit to this office an injunction to perform. - take legal action. <p>So, if the authorities exceed these time limits, the issuing of the visa's authorization is not automatic.</p> <p>4. As a rule, the administrative procedure, if the law not provide a specific period, must be concluded within 30 days. This is the case when an application is rejected and the applicant ask to review the negative decision, for example integrating the request with new documentation or reasons.</p>
<p>==</p>	<p>EMN NCP Latvia</p>	<p>Yes</p>	<p>1. The decision on family reunification with a Union citizen in the Republic of Latvia must be taken within 30 days after receipt of the documents (Cabinet Regulation No. 675 of 30 August 2011, Procedures by which Citizens of the Union and Their Family Members Enter and Stay in Latvia" 50.1.). Decisions on family reunification with a third-country national must be taken within 30 days of receipt of the documents (Article 33 (1) (1) of the Immigration Law). The decision may be extended for up to four months or one year (Section 64 (2) of the Administrative Procedure Law).</p> <p>2. Applications are registered with the date of submission of the documents, the date of the decision being determined according to the paid state fee for the examination of documents - five working days, ten working days or 30 days). The decision shall be notified to the</p>



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			<p>applicant by registered letter, regular letter, e-mail or personally – when a TCN visits the diplomatic mission or consular post.</p> <p>3. The time limits for making a decision are always respected and are not breached. In the unlikely event of a delay, Section 49 of the Administrative Procedure act determines that: “If an institution fails to comply with a time period prescribed by this Law or other regulatory enactments, within which, in the course of administrative proceedings, it is required to carry out a procedural action on behalf of a participant in an administrative proceeding, such participant in the administrative proceeding may submit a complaint to a higher institution, but if there is not a higher institution or it is the Cabinet, to a court. The higher institution or the court shall within seven days take a decision, pursuant to which it shall assign to the institution the performance of the relevant procedural action, setting a specific time. If an institution fails to comply, within the set time period, with the decision of a higher institution or the court, the relevant procedural action shall be deemed to have been performed, if that is practically and legally feasible. If that is not practically and legally possible, participants in the administrative proceedings for whose benefit the relevant time period has been stipulated have the right to claim compensation, moreover, failure to comply with the time period shall of itself be considered as moral harm. If this Law or other regulatory enactment specifies a time period within which, in the course of an administrative proceeding an institution is required to carry out a procedural action unfavorable to the submitter or the potential addressee of an administrative act, then such procedural action may no longer be carried out after expiration of the time period unless the institution does not provide sufficient explanation for this delay.”</p> <p>4. The decision shall be taken within 30 days, unless the competent authority needs to obtain further information and documentation from the applicant or other authorities. 30 days deadline has been clearly stipulated in legislative acts (see the answer for Q.1)</p>
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	<p>EMN NCP Lithuania</p>	<p>Yes</p>	<p>1. a) The Law on the Legal Status of Aliens of the Republic of Lithuania provides, that the alien's application for a temporary residence permit, including family reunification cases, must be examined and the residence permit issued or refused within 4 months of the date on which the application was lodged with the institution concerned. There are exceptions when such requests are processed within a shorter time limit. During examination of the application in a urgent procedure, the time limits set are reduced by half. b) The application for a residence permit of a family member of Union citizen must be examined and this document must be issued or refused to issue not later than one month after the date of submission of the application to the Migration Department.</p> <p>2. In order to achieve these time limits in practice, procedures are being optimized, using information technologies, improvement of work organization, motivating Migration Department's staff.</p> <p>3. The consequences of a failure to process an application within the time limits are not defined in the legislation, if it is due to the fault of the staff of the authority examining the application, official liability may be applied.</p> <p>4. If the court annuls the decision refusing the issue of the residence permit, this application is re-examined. The time limits for examining such application shall be the same, but calculated not from the date of the launch of application, but from the date that court judgment entered into force.</p>
	<p>EMN NCP Luxembourg</p>	<p>Yes</p>	<p>1. In accordance with article 73 (6) paragraph 1 of the amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law) the decisions of family reunification are taken in a maximum of 9 months from the date the file is lodged. Only complete applications will be processed. Incomplete applications will be returned to the applicant. However, according to paragraph 2 of article 73 (6) the deadline of 9 months can be extended taken into consideration the complexity of the case in exceptional cases.</p>



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			<p>In the case of EU Blue Card holders, family reunification applications have to be decided in 6 months from the moment that the file is lodged (article 73 (7)).</p> <p>In the case of the ICT holders the family reunification has to be granted in a maximum deadline of 90 days (article 73 (8)).</p> <p>2. The Immigration law foresees that the Minister in charge of Immigration and Asylum will take the decision in the maximum deadlines mentioned above since the moment that the file is considered completed except in exceptional cases. The decision will be notified in written to the physical address that the applicant indicated in his/her filing.</p> <p>3. The Immigration law does not foresee any sanctions if the Minister exceeds these time limits. As we mentioned before the Immigration law foresees that the deadline can be extended depending on the complexity of the case. Nevertheless, if the Minister in charge of Immigration and Asylum does not take the decision in the deadline, the applicant can consider the application rejected and he/she can file an appeal before the First instance Administrative Court.</p> <p>4. The Immigration law does not foresee a definition of the what is considered a "reasonable period of time" within which a new decision should be taken following the annulment of a previous negative decision but it cannot exceed the original deadline mentioned in the answer to Q.1</p>
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	<p>EMN NCP Netherlands</p>	<p>Yes</p>	<p>1. A. In general, the procedure of family reunification has a time limit of 90 days (Art. 25, par 1, Vb). However, if an application would need a more thorough background check, this period can be prolonged with an additional six months (Art. 25, par 2, Vb). B. see A.</p> <p>2. Every application or appeal will be registered in our digital system Indigo and every application/appeal in the system will be handled. The IND manages the time limits for all applications/appeals automatically in Indigo because the legal starting date and the legal ending date are registered, so you always know what the time limits are for your decision.</p> <p>3. When the Immigration and Naturalisation Service (IND) exceeds the time limit, a penalty will be fined. The penalty consists of €23,- per day during the first 14 days, €35,- per day during the second 14 days and €43,- during the third 14 days, with a maximum of €1442,- (https://ind.nl/contact/Paginas/IND-is-te-laet-met-beslissen.aspx).</p> <p>4. The IND does not have an annulment procedure. The application for review in cases concerning regular residence permits will be filed to the IND, the same authority that decided on the application. The application for review will however be assessed by another employee than the person who took the initial decision. In case the applicant disagrees with the outcome of the review procedure, the applicant can appeal against this decision at the Dutch administrative Court. When an applicant successfully appeals against a negative decision, his appeal will be declared well-founded which will automatically lead to a positive decision and the applicant will be granted a residence permit.</p>
	<p>EMN NCP Poland</p>	<p>Yes</p>	<p>1. When implementing the Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification no specific provisions transposing the provisions concerning the time limits for taking a decision on granting a permit (namely art. 5 § 4) were introduced to the Polish national law (the Act on Foreigners) due to more restrictive provisions already in force in the law concerning the general time limits for settling cases, regulated in the Act of 14 June 1960. - The Code of Administrative Procedure (Journal of Laws of 2018, item</p>

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			<p>2096, as amended), hereinafter referred to as the "Code ". The Code governs in general the administrative proceedings, unless the specific provisions of law states otherwise. Pursuant to the art. 35 § 1 of the Code public administration authorities shall dispose of matters without unnecessary delay. § 3 of the art. 35 stipulates that if it is necessary to conduct explanatory proceedings in the matter, the matter shall be decided no later than within one month, and if the matter is especially complex - no later than within two months of the day the proceedings have been initiated, and in the appellate proceedings - within one month of the day the appeal has been received. The authority of first or second instance is obliged to notify the party of any case not settled within the above deadlines, giving reasons for the delay, indicating a new deadline for settling the case and informing the party of their right to file reminders.</p> <p>It is to notice that the time limits referred to in Article 35 § 3 of the Code begin to run as a result of the initiation of administrative proceedings concerning the granting of a permit, i.e. on the day the application is received by the authority, even if the application in this matter is incomplete and it is necessary to conduct activities aimed at supplementing the application by a party with documents necessary to issue a decision on the case. However, the periods provided for the performance of specific actions, periods of freezing the proceedings, the period of mediation, as well as delays for which the party is responsible or for reasons not attributable to the authority do not fall within the scope of time limits and extend the time limits accordingly.</p> <p>When it comes to the UE citizens and their family members not being EU nationals using the right to free movement under directive 2004/38/EC, the EU nationals are the subject of registration procedure after 3 months of their consecutive stay. Accordingly to the provisions of the Act on Entry, Stay and Departure of the EU citizens and their family members as a result of that procedure, a registration certificate or decision on refusal is being issued to a citizen of the other EU MS immediately and a residence card is being issued or a decision on refusal to issue a residence card is being taken to the family member concerned no later than six months from the date on which he/she submit the application.</p>
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			<p>2. The basic legal measure to assure meeting the deadlines by the authorities and to prevent lengthiness of administrative proceedings under the Code of Administrative Procedure is a reminder notice procedure.</p> <p>The reminder notice is submitted through the authority to which reservations are made (so the voivodeship office conducting the family reunification proceedings as the 1st instance body) to the controlling/ higher-level body (so to the Head of the Office for Foreigners). Legal basis for that action provides art. 37 paragraph 1 point 1 of the Code</p> <p>The authority considering the reminder notice shall issue an order which:</p> <ol style="list-style-type: none">1) states whether the authority hearing the matter is responsible for inaction or excessive length of the proceedings and, if so, whether it constituted a gross violation of law; or2) in case inaction or excessive lengthiness has been ascertained:<ol style="list-style-type: none">a) it shall obligate the authority hearing the matter to dispose thereof by appointing a time limit for the disposal of the matter, if the proceedings have not been concluded; andb) it shall demand that the reasons be clarified and persons responsible for inaction or excessive length of the proceedings be established, and where necessary, the authority shall take measures preventing inaction or excessive length of the proceedings in the future. <p>3. The stamp duty is paid at the stage of filing the application and further possible delay in examining the application does not affect its amount.</p> <p>A party has a right to challenge the authority's resolution on the protracted nature of the proceedings before an Administrative Court and the Court may order the compensation of damages.</p> <p>If the deadline for filing the application has been observed and the application is free from formal defects or the formal defects (eg. no photographs attached, no personal appearance, no document conforming identity presented etc.) have been remedied in due time, the officer puts in TCN's travel document a stamp certifying that an application for permit has been filed. This stamp legalizes the stay of TCN in Poland (even in the event of further expiry of the visa or residence card) until the date when the decision on TRP becomes binding. So if the proceeding time exceeds, the time of legal stay of TCN in Poland exceeds as well. The time of waiting for biding decision is counted as a legal stay of TCN in Poland in case where he applies for a temporary residence permit.</p>
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			<p>4. No formal term or definition applies.</p>
	<p>EMN NCP Portugal</p>	<p>Yes</p>	<p>1. 90 days</p> <p>2. According to Article 13 1) of the Administrative procedure code (Principle of decision) Public Administration bodies have a duty to comment on all matters within their competence that are presented to them and, in particular, on matters that are directly concerned by interested parties, as well as on any petitions, representations, complaints or complaints made. in defense of the Constitution, laws or public interest And according to art 128 1) of Administrative procedure code (Time limits for deciding on procedures) procedures ...should be decided within 90 days, unless another period elapses of the law. In exceptional circumstances, the time may be be extended by the person responsible for the direction of the procedure, for one or more periods, up to the limit maximum of 90 days.</p> <p>3. According to Article 129 of the Administrative procedure code (Non-compliance with the duty to decide) the lack, within the legal deadline, of a final decision on a claim addressed to a competent administrative body constitutes non-compliance with the duty of decision, giving the interested party the possibility of using adequate means of administrative and judicial protection. Thus, under procedural law courts can determine the practice of the respective action.</p> <p>4. According art. 13 2) of the Administrative Procedure Code to there is no duty to take a decision when, less than two years before , from the date of submission of the application, the competent body has performed an administrative act on the same request, formulated by the same individual on the same grounds.</p>


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	<p>EMN NCP Slovakia</p>	<p>Yes</p>	<p>1. a) for family reunification with a Union citizen as a category of family members of Union citizens, in practice we distinguish:</p> <ol style="list-style-type: none"> 1. Authorization of family members of Union citizens to stay in the territory of the Slovak Republic for three months from the date of entry into the territory of the Slovak Republic, if accompanying or joining a citizen of the Union. A family member of a Union citizen is only obliged to report the start of his / her stay at the police department within 10 working days from the date of entry into the territory of the Slovak Republic; no decision is taken, 2. the right of family members of Union citizens to reside in the territory of the Slovak Republic for a period longer than three months, provided that the sponsor (Union citizen with the right of residence or the right of permanent residence) meets the conditions of residence under national legislation; a family member of a Union citizen is obliged to apply for a residence document to be issued at the police department within 30 days since the expiry of 3 months from the date of entry into the territory of the Slovak Republic; no residence decision is issued, a residence document is issued (within 30 days of the application), 3. the right of permanent residence of family members of Union citizens, if the family member of the Union citizen resides in the territory of the Slovak Republic with his/her sponsor for a continuous period of 5 years; the family member is obliged to apply for the issuance of a residence document; the document is issued within 30 days of the application; no residence decision is issued. <p>b) for family reunification with a third-country national, the police department shall decide on applications for residence within a maximum of 90 days.</p> <p>2. In the case of family reunification with a third-country national, the procedure is as follows: If the temporary or permanent residence is granted, the police department shall not issue a written decision and shall only send the third-country national a written notification that he / she has been granted temporary or permanent residence, indicating the date of the temporary or permanent residence and the expiry date of temporary residence or permanent residence (except for a permanent residence for an unlimited period).</p> <p>In the case of family reunification with a Union citizen, see the answer as in question no. 1.</p>
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			<p>3. The police department deciding on the granting of residence is obliged to adhere to given deadlines and proceed in accordance with the legislation. If the time limit for decision-making is exceeded, the foreigner has the possibility to file a complaint e.g. to the relevant higher authority of the administrative body (of the deciding police department) - in this case the Border and Foreign Police Directorate.</p> <p>4. The police departments do not decide within the “reasonable time” in relation to the granting of residence to third-country nationals, but within the time limits set by the Act on Residence of Foreigners (see answers above).</p>
	<p>EMN NCP Slovenia</p>	<p>Yes</p>	<p>1. In accordance with Article 91 of the Foreigners Act the competent authority must decide on applications for a residence permit or a residence registration certificate as soon as possible and not later than within 30 days of receiving a complete application. Where in order to establish the existence of reasons for refusing a permit or certificate a special fact-finding procedure is necessary, the competent authority must decide on an application not later than within 60 days.</p> <p>2. By ensuring adequate number of case workers and effective case management.</p> <p>3. If the competent authority (Administrative unit) against whose decision an appeal (in the Ministry of Interior) is allowed fails to issue a decision and serve it on the party in due time, the party shall have the right of appeal as if their claim had been refused. If the second instance authority does not issue its decision on an appeal filed by a party against the decision of the first instance, within two months, and if, following a repeated request by the party, it does not issue its decision within seven days of the request, the party may initiate an administrative dispute as if their appeal had been rejected. The plaintiff may also take action referred to in the preceding paragraph, even if the first-instance authority does not issue a decision against which there may be no appeal, and in</p>

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			<p>cases where the authority has not issued a final administrative act within three years of the beginning of the procedure, irrespective of the fact whether or not ordinary and extraordinary remedies were already used in the procedure, except if the proceedings were stayed.</p> <p>4. If the second instance authority sets aside the first instance decision and remands the case to the first instance authority for a new procedure the first instance authority must issue a new decision without delay, in 30 days at the latest from receiving the case. If the court annuls the administrative act, it shall return the case to the authority that issued the administrative act for new adjudication. The competent authority must issue a new administrative act within thirty days of the day it received the decision, or within the time period set by the court; in so doing it shall be bound by the legal opinion of the court regarding the application of substantive law and its positions on the procedure.</p>
	<p>EMN NCP Sweden</p>	<p>Yes</p>	<p>1. In the migration law there are no time limits stipulated for family reunification. Since July 2018 there is a time limit in the administrative law stating that the applicant has the right to have a decision within 6 months after application, this statement is valid for all kinds of government activity.</p> <p>2. No information available</p> <p>3. No information available</p> <p>4. Not applicable</p>
