

[OPEN Summary of EMN Ad-Hoc Query No. \[2022.32\]](#) Access to the labour market for family members of international students

Answered by AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, GE, GR, HR, HU, IT, LT, LU, LV, NL, SE, SI, SK.

BACKGROUND

In 2016, the Council and the European Parliament adopted “the Students and Researchers Directive”, which is the result of the recast of the 2004 Directive on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service¹ and the 2005 Directive on researchers². The Directive seeks to improve and harmonise minimum legal standards for welcoming and retaining international students and researchers. It also seeks to make the EU a more attractive destination for them, including via a limited right to stay of at least nine months after finishing their studies or research in order to look for a job or to set up a business (Article 25) as well as the right for international researchers to bring their family members³ to the EU, who also enjoy a right to work during their stay (Article 26).

The OECD recognises that the creation of a good family environment for third country families, which includes the right for family members to access the labour market, is essential to make countries more attractive to international talents. Additionally, the revised Blue Card Directive also underlines the

importance for spouses to have access to the labour market⁴.

Nonetheless, access to the labour market for family members of international students was not included in the directive. Therefore, Member States have the discretion to facilitate access in their own way.

The EMN Inform on attracting and retaining international students in the EU⁵, showed that 17 Member States grant access to family reunification for students but in only 11 out of the 17 Member States family members had access to the labour market. While the Inform identifies the countries that grant access, it does not specify under which conditions family members may have access to the labour market.

In Belgium, access to the labour market is not open to the family members of international students. Only when students graduate and start their search year for work, their family members get access to the labour market. By consequence, the below-mentioned ad-hoc query was launched to understand whether other Member States grant access to the labour market for family members of international students and, if so, at what point (student/jobseeker) and under which conditions.

¹ Directive 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0114>

² Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32005L0071>

³ Article 3 (24) Directive 2016/801 (EU) on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing: ‘family members’ means third country nationals as defined in

Article 4 (1) of Directive 2003/86/EC. <https://eur-lex.europa.eu/eli/dir/2016/801/oj> and <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32003L0086>

⁴ Considerans 50 Directive (EU) 2021/1883 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive: : Favourable conditions for family reunification and access to work for spouses should be a fundamental element of this Directive in order to better attract highly qualified workers from third-countries. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32021L1883>

⁵ [EMN International Students Synthesis Report Final.pdf \(emnbelgium.be\)](#).

Questions

The following questions were asked in this ad-hoc query:

1. Does your Member State grant access to the labour market for family members ('family members' means third-country nationals as defined in Article 4(1) of Directive 2003/86/EC) of international students? YES/NO.
2. If you answer YES to Q.1, and your Member State grants access to the labour market, is this access unlimited (in terms of working hours, number of contracts, ... compared to EU nationals)? Please explain your answer.
3. If you answer YES to Q.1, can you please indicate to which family members you grant access to the labour market?
4. If you answer YES to Q.1 and answer Q.3, which conditions must the family member fulfill to be granted access to the labour market (minimum period of residence, necessity of labour market test, limited to certain sectors, ...)?
5. If you answer YES to Q.1, what conditions must the family member fulfil to renew his/her work permit?
6. If you answer NO to Q.1, does the family member get access to the labour market once the student is granted the period for searching for employment ('search year')?

INTRODUCTION

Unlike Belgium, twelve Member States (including EMN Observer Country Georgia) indicated that they grant access to the labour market for family members of international students.⁶ As will be indicated in the body of this summary, they do so under different conditions and on the basis of different instruments. Finally, ten Member States, including Belgium, indicated that they do not grant access to family members of international students.

MAIN FINDINGS

Granting access to the labour market for family members of international students

- ★ **AT, CZ, DE, EE, FI, FR⁷, GE, IT, LT, SE, SI and SK** indicated that they **grant access**. On the other hand, **BE, BG, CY, ES, GR, HR, HU, LU, LV and NL** do not grant such access.

Conditions for access

- ★ **CZ, DE, EE, FI, GE, IT and LT** indicated that there were no additional conditions apart from the residence permit. Nonetheless, **FR** indicated that family reunification with international students in itself was difficult because students found it hard to meet the resource criterion. Furthermore, students are only allowed to apply for family reunification **after an 18-month stay**. In **IT** family members must be included in the **registry list** or their employers must, if there is an existing employment relationship, notify the **Provincial Labour Directorate**.
- ★ **AT** indicated that family members needed to obtain a **work permit**, which requires, among others, a **labour market examination**. Similarly, in **SI** family members of international students are subject to a **labour market test**, but **do not need a work permit**. Access to the labour

⁶ In the Inform 'Attracting and retaining international students' of 2019, Poland, Portugal and the United Kingdom had indicated that they grant such access. These countries did not participate in the current AHQ. (See: Europees Migratienetwerk, 2019,

p. 19, <https://emnbelgium.be/sites/default/files/publications/EMN%20International%20Students%20Synthesis%20Report%20Final.pdf>.

⁷ In France, access to work for family members is only possible in the framework of family reunification.

market is indicated on their residence permit.

- ★ In **SE** family members have the right to work if the residence permit is for **longer than 6 months** and they obtain a **work permit**.
- ★ In **SK**, the conditions for labour market access depend on the duration of stay on the basis of a temporary residence permit. **In the period of up to 12 months** from being granted temporary residence on the basis of family reunification, family members are entitled to work with a **valid work permit**, subject to a **labour market test**. Subsequently, **after the initial 12-month period**, the family member may work **without further permits**.

Renewal of a work permit/permission to work

- ★ **CZ, DE, EE, FI, GE, IT and LT** indicated that they do not issue a separate work permit. Therefore, only the initial conditions for issuing the initial residence permit must also be met upon renewal. No additional requirements apply. In **FR** the renewal of the residence permit, issued under the family reunification procedure, which also gives access to work, is subject to the **continued meeting of conditions for admission** and the absence of **constituting a threat to public order**. Upon renewal, a multi-annual residence permit mentioning 'private and family life' is issued.
- ★ In **SE**, to renew the work permit, the same conditions must be met as for the initial permit.
- ★ In **SI** no separate work permit is issued, but if a family members wishes to work, a labour market test has to be performed at the renewal of his/her residence permit. Similarly, **AT** indicated that work permits for family members have to be renewed **every year** and that, at their renewal, generally the same conditions must be met as at the time the initial permit is granted.
- ★ In **SK**, family members are allowed to work without a work permit after an

initial 12-month period of residence. However, if, within this 12 month period, the family member wishes to change employer, it is necessary to **apply for a new work permit**. In case the family member stays at the same employer, but needs to extend the validity of the work permit because the initial work permit was issued for less than 12 months, it is necessary to apply for a **renewal of the work permit**.

Which family members

- ★ Generally speaking, the countries that allow access to the labour market for family members, grant this access to the same individuals who are eligible for a residence permit on the basis of family reunification and who fulfill a certain working age requirement. For more specific answers, please see the answers to Q2 and Q3.

Access to the labour market during the search year

- ★ Only **BE, GR and NL** indicated that family member get access to the labour market once the student is granted the period for searching for employment ('search year'). In **BE and NL** family members do **not have any additional conditions to fulfill** and family member receive a residence permit with the same duration and access to the labour market as the primary applicant.
- ★ In **GR** the **right to family reunification and the family members' access to the labour market are granted only after the student's graduation** and as long as they are entitled to the residence permit for the purpose of seeking employment ("search year"). **Students** shall prove that they have been **lawfully residing in Greece for two years**.
- ★ In **ES** the law specifically mentions that while family members are not allowed to work *they may apply for a*

modification of their authorisation of stay into other kind of permit.

EMN NCPs PARTICIPATING Responses from Austria (AT), Belgium (BE), Bulgaria (BG), Croatia (HR), Cyprus (CY), Czech Republic (CZ), Estonia (EE), Finland (FI), France (FR), Georgia (GE), Germany (DE), Greece (GR), Hungary (HU), Italy (IT), Latvia (LV), Lithuania (LT), Luxembourg (LU), Netherlands (NL), Slovakia (SK), Slovenia (SI), Spain (ES), Sweden (SE), 22 in total.

DISCLAIMER The responses of the Member States regarding this ad-hoc query have been provided primarily for the purpose of information exchange among the EMN National Contact Points (NCPs) in the framework of the EMN. The contributing EMN NCPs have provided information that is to the best of their knowledge up-to-date, objective and reliable. However, the information provided in the present summary is produced under the exclusive responsibility of EMN Belgium and does not necessarily represent the official policy of an EMN NCPs' Member State. The responses are interpreted by EMN Belgium to write this summary.