

**TRANSLATION OF THE CRUCIAL PROVISIONS**  
**OF THE DIRECTIVE FAMILY REUNIFICATION EC/2003/86**

By Julie Exnerová  
[julie.exnerova@gmail.com](mailto:julie.exnerova@gmail.com)

**General provisions**

**Article 3, §1:**

1. This Directive shall apply where the sponsor is holding a residence permit issued by a Member State for a period of validity of one year or more who has reasonable prospects of obtaining the right of permanent residence, if the members of his or her family are third country nationals of whatever status.

**Translation:**

**Art. 42 par. 1 ALA**

**Long-Term Residence Permit**

(1) A foreigner staying on the territory on the basis of a visa granted for a stay longer than 90 days and who intends to stay on the territory for a period of more than 1 year on a temporary basis has the right to submit an application for a long-term residence permit, under the condition that the purpose of the foreigner's stay has remained the same.

**Art. 42a par. 1, 5 ALA**

**Long-Term Residence Permit for the Purpose of Family Reunification in the Territory**

(1) An application for a long-term residence permit for the purpose of family reunification on the territory can be submitted by a foreigner who is:

- a) the spouse of an foreigner who has been granted residence permit;
- b) a minor child or dependent adult child of an foreigner who has been granted residence permit;
- c) a minor child or dependent adult child of the spouse of an foreigner who has been granted residence permit;
- d) an foreigner of minor age who has been placed in the care of an foreigner who has been granted leave to stay (or the spouse thereof) on the basis of a decision issued by the competent authorities, or who was adopted by an foreigner who has been granted leave to stay (or the spouse thereof), or whose guardian (or spouse thereof) is an foreigner who has been granted leave to stay, under the condition that the care for the minor foreigner is provided in the territory;
- e) the parent of a minor foreigner who was granted asylum according to special legal regulation (provisions); if this minor foreigner does not have parents, another relative in the direct ascending line has the right to submit the application for a residence permit; if such relative does not exist, the minor's guardian has the right to submit the application;
- f) a solitary foreigner older than 65 years, or without regard to age if said foreigner cannot care for him/herself due to health reasons, under the condition

that the application is filed for the purpose of family reunification with a parent or child who has been granted leave to stay in the territory.

(5) A long-term residence permit for the purpose of family reunification will be granted to the foreigner if:

- a) the foreigner with whom family reunification is to take place holds a long-term residence permit or permanent residence permit and has been staying in the territory for a period of at least fifteen months; in the case of the reunification of a married couple, each of them must be at least 20 years of age;
- b) the spouse with whom family reunification is to be allowed was granted asylum pursuant to special legal regulation (provisions), under the condition that the marriage took place prior to the time the foreigner entered the territory;
- c) the minor foreigner with whom family reunification is to take place was granted asylum pursuant to special legal (provisions) regulation; or
- d) the foreigner in question meets the criteria provided for in par. (1)(d) or (1)(f).

### **Family members**

#### **Article 4, §1:**

1. The Member States shall authorise the entry and residence, pursuant to this Directive and subject to compliance with the conditions laid down in Chapter IV, as well as in Article 16, of the following family members:

- (a) the sponsor's spouse;
- (b) the minor children of the sponsor and of his/her spouse, including children adopted in accordance with a decision taken by the competent authority in the Member State concerned or a decision which is automatically enforceable due to international obligations of that Member State or must be recognised in accordance with international obligations;
- (c) the minor children including adopted children of the sponsor where the sponsor has custody and the children are dependent on him or her. Member States may authorise the reunification of children of whom custody is shared, provided the other party sharing custody has given his or her agreement;
- (d) the minor children including adopted children of the spouse where the spouse has custody and the children are dependent on him or her. Member States may authorise the reunification of children of whom custody is shared, provided the other party sharing custody has given his or her agreement.

The minor children referred to in this Article must be below the age of majority set by the law of the Member State concerned and must not be married.

## **Translation:**

### **Art. 42a par. 1, 5 ALA**

#### **Long-Term Residence Permit for the Purpose of Family Reunification in the Territory**

(1) An application for a long-term residence permit for the purpose of family reunification on the territory can be submitted by a foreigner who is:

- a) the spouse of an foreigner who has been granted residence permit;
- b) a minor child or dependent adult child of an foreigner who has been granted residence permit;
- c) a minor child or dependent adult child of the spouse of an foreigner who has been granted residence permit;
- d) an foreigner of minor age who has been placed in the care of an foreigner who has been granted leave to stay (or the spouse thereof) on the basis of a decision issued by the competent authorities, or who was adopted by an foreigner who has been granted leave to stay (or the spouse thereof), or whose guardian (or spouse thereof) is an foreigner who has been granted leave to stay, under the condition that the care for the minor foreigner is provided in the territory;
- e) the parent of a minor foreigner who was granted asylum according to special legal regulation (provisions); if this minor foreigner does not have parents, another relative in the direct ascending line has the right to submit the application for a residence permit; if such relative does not exist, the minor's guardian has the right to submit the application;
- f) a solitary foreigner older than 65 years, or without regard to age if said foreigner cannot care for him/herself due to health reasons, under the condition that the application is filed for the purpose of family reunification with a parent or child who has been granted leave to stay in the territory.

(5) A long-term residence permit for the purpose of family reunification will be granted to the foreigner if:

- a) the foreigner with whom family reunification is to take place holds a long-term residence permit or permanent residence permit and has been staying in the territory for a period of at least fifteen months; in the case of the reunification of a married couple, each of them must be at least 20 years of age;
- b) the spouse with whom family reunification is to be allowed was granted asylum pursuant to special legal regulation (provisions), under the condition that the marriage took place prior to the time the foreigner entered the territory;
- c) the minor foreigner with whom family reunification is to take place was granted asylum pursuant to special legal (provisions) regulation; or
- d) the foreigner in question meets the criteria provided for in par. (1)(d) or (1)(f).

## **Article 4, §2:**

2. The Member States may, by law or regulation, authorise the entry and residence, pursuant to this Directive and subject to compliance with the conditions laid down in Chapter IV, of the following family members:

- (e) first-degree relatives in the direct ascending line of the sponsor or his or her spouse, where they are dependent on them and do not enjoy proper family support in the country of origin;
- (f) the adult unmarried children of the sponsor or his or her spouse, where they are objectively unable to provide for their own needs on account of their state of health.

**Translation:**

**Art. 42a par. 1 lett. f), par. 5 ALA**

**Long-Term Residence Permit for the Purpose of Family Reunification in the Territory**

(1) An application for a long-term residence permit for the purpose of family reunification in the Territory can be submitted by a foreigner who is:

f) a solitary foreigner older than 65 years, or without regard to age if said foreigner cannot care for him/herself due to health reasons, under the condition that the application is filed for the purpose of family reunification with a parent or child who has been granted leave to stay in the territory.

(5) A long-term residence permit for the purpose of family reunification will be granted to the foreigner if:

d) the foreigner in question meets the criteria provided for in par. (1))(d) or (1)(f).

**Art. 178a**

For the purpose of this Act, a solitary foreigner is understood to be a foreigner who is unmarried, widowed, or divorced.

**Article 4, §3:**

3. The Member States may, by law or regulation, authorise the entry and residence, pursuant to this Directive and subject to compliance with the conditions laid down in Chapter IV, of the unmarried partner, being a third country national, with whom the sponsor is in a duly attested stable long-term relationship, or of a third country national who is bound to the sponsor by a registered partnership in accordance with Article 5(2), and of the unmarried minor children, including adopted children, as well as the adult unmarried children who are objectively unable to provide for their own needs on account of their state of health, of such persons.

Member States may decide that registered partners are to be treated equally as spouses with respect to family reunification.

## **Translation:**

### **Art. 42a par. 1, 5 ALA**

#### **Long-Term Residence Permit for the Purpose of Family Reunification in the Territory**

(1) An application for a long-term residence permit for the purpose of family reunification on the territory can be submitted by a foreigner who is:

- a) the spouse of an foreigner who has been granted residence permit;
- b) a minor child or dependent adult child of an foreigner who has been granted residence permit;
- c) a minor child or dependent adult child of the spouse of an foreigner who has been granted residence permit;
- d) an foreigner of minor age who has been placed in the care of an foreigner who has been granted leave to stay (or the spouse thereof) on the basis of a decision issued by the competent authorities, or who was adopted by an foreigner who has been granted leave to stay (or the spouse thereof), or whose guardian (or spouse thereof) is an foreigner who has been granted leave to stay, under the condition that the care for the minor foreigner is provided in the territory;
- e) the parent of a minor foreigner who was granted asylum according to special legal regulation (provisions); if this minor foreigner does not have parents, another relative in the direct ascending line has the right to submit the application for a residence permit; if such relative does not exist, the minor's guardian has the right to submit the application;
- f) a solitary foreigner older than 65 years, or without regard to age if said foreigner cannot care for him/herself due to health reasons, under the condition that the application is filed for the purpose of family reunification with a parent or child who has been granted leave to stay in the territory.

(5) A long-term residence permit for the purpose of family reunification will be granted to the foreigner if:

- a) the foreigner with whom family reunification is to take place holds a long-term residence permit or permanent residence permit and has been staying in the territory for a period of at least fifteen months; in the case of the reunification of a married couple, each of them must be at least 20 years of age;
- b) the spouse with whom family reunification is to be allowed was granted asylum pursuant to special legal regulation (provisions), under the condition that the marriage took place prior to the time the foreigner entered the territory;
- c) the minor foreigner with whom family reunification is to take place was granted asylum pursuant to special legal (provisions) regulation; or
- d) the foreigner in question meets the criteria provided for in par. (1))(d) or (1)(f).

### **Art. 180f ALA**

#### **Registered Partnership**

(1) The law considers the terms “marriage”, “spouse”, “a child of the spouse” to be equal to the terms partner, partnership, child of the partner, child in the custody of the partner.

(2) For the purpose of this act a person is considered a registered partner if he/she proves, that he/she entered into a officially confirmed stable same sex partnership.

(3) For the purpose of this act a partnership means an officially confirmed stable same sex partnership pursuant to the par. (2).

#### **Article 4, §4:**

4. In the event of a polygamous marriage, where the sponsor already has a spouse living with him in the territory of a Member State, the Member State concerned shall not authorize the family reunification of a further spouse.

By way of derogation from paragraph 1(c), Member States may limit the family reunification of minor children of a further spouse and the sponsor.

#### **Translation:**

##### **Art. 42a par. 6 ALA**

(6) In the case of polygamous marriages, a long-term residence permit will not be issued for the purpose of family reunification to a foreigner whose spouse is authorized for family reunification and already lives on the territory with another spouse.

#### **Requirements for the exercise of the right to family Reunification**

**Article 7, §1:** When the application for family reunification is submitted, the Member State concerned may require the person who has submitted the application to provide evidence that the sponsor has:

- (a) accommodation regarded as normal for a comparable family in the same region and which meets the general health and safety standards in force in the Member State concerned;
- (b) sickness insurance in respect of all risks normally covered for its own nationals in the Member State concerned for himself/herself and the members of his/her family;
- (c) stable and regular resources which are sufficient to maintain himself/herself and the members of his/her family, without recourse to the social assistance system of the Member State concerned. Member States shall evaluate these resources by reference to their nature and regularity and may take into account the level of minimum national wages and pensions as well as the number of family members.

## **Translation:**

### **Section 42b par. 1 lett. a), d), par. 2, 3**

#### **(Requirements) Supporting Documents for Issue of a Long-Term Residence Permit for the Purpose of Family Reunification**

(1) When submitting an application for long-term residence permit for the purpose of family reunification, the foreigner is (required) obliged to include the following supporting documents:

a) the supporting documents specified in Art. 31 (1)(a), (1)(d), (1)(e), and (1)(f);

d) a document proving that the aggregate family income after reunification will not be lower than the sum of:

i. the subsistence minimum amount of the family members; and

ii. the highest amount of normative expenses for accommodation as established for the purpose of housing subsidies by special legal regulation (provisions) or the amounts that the foreigner proves in a credible manner as actual expenses outlaid for the family's housing.

(2) If the application for a long-term residence permit is submitted for the purpose of family reunification with a holder of right for family reunification (authorized sponsor), who was granted asylum pursuant to special legal regulation (provisions), within a timeframe of 3 months of the date on which the decision to grant asylum becomes legally enforceable, the foreigner is obliged (required) to submit only a travel document and photographs together with the application and prove the family relationship in the manner specified by par. (1)(b).

(3) If so requested, an foreigner submitting an application for long-term residence for the purpose of family reunification is obliged (required) to also submit the documents specified in Art. 31 (4).

### **Art. 31 par. 1 lett. a), d), e), f)**

#### **(Requirements) Supporting Documents for an Application for a Visa for a Stay Longer than 90 Days**

(1) When submitting an application for a visa for a stay longer than 90 days, a foreigner is obliged (required) to submit following supporting documents:

a) travel document;

d) a document confirming accommodation has been secured for the foreigner for the period of his/her stay on the territory;

e) an extract from judicial records as supporting document for determining a clean criminal record (Art. 174); this provision does not apply to foreigners younger than 15 years of age; and

f) photographs.

(4) Together with the application for a visa for a stay longer than 90 days, a foreigner is also (required) obliged to include the following attachments upon request:

a) a document similar to an extract from judicial records as background (material) document for determining a clean criminal record (Art. 174), which is issued by the foreigner's (country) state of citizenship, as well as by any other states (countries) in which the foreigner has stayed during the last 3 years

for a continuous period of more than 6 months; if a (country) state does not issue a document of this kind, the foreigner can submit an honourable declaration in its stead; this document cannot be requested of a foreigner younger than 15 years of age; and

b) a medical report certifying that the foreigner does not suffer from a serious disease; the medical report can only be requested if a well-founded suspicion exists that the foreigner is suffering from a serious disease.

**Article 7, §2:** Member States may require third country nationals to comply with integration measures, in accordance with national law.

With regard to the refugees and/or family members of refugees referred to in Article 12 the integration measures referred to in the first subparagraph may only be applied once the persons concerned have been granted family reunification.

**Translation:**

Not transposed.

**Article 8:** Member States may require the sponsor to have stayed lawfully in their territory for a period not exceeding two years, before having his/her family members join him/her.

By way of derogation, where the legislation of a Member State relating to family reunification in force on the date of adoption of this Directive takes into account its reception capacity, the Member State may provide for a waiting period of no more than three years between submission of the application for family reunification and the issue of a residence permit to the family members.

**Translation:**

**Art. 42a par. 5 ALA**

**Long-Term Residence Permit for the Purpose of Family Reunification in the Territory**

(5) A long-term residence permit for the purpose of family reunification will be granted to the foreigner if:

- a) the foreigner with whom family reunification is to take place holds a long-term residence permit or permanent residence permit and has been staying in the territory for a period of at least fifteen months; in the case of the reunification of a married couple, each of them must be at least 20 years of age;
- b) the spouse with whom family reunification is to be allowed was granted asylum pursuant to special legal regulation (provisions), under the condition that the marriage took place prior to the time the foreigner entered the territory;
- c) the minor foreigner with whom family reunification is to take place was granted asylum pursuant to special legal (provisions) regulation; or
- d) the foreigner in question meets the criteria provided for in par. (1)(d) or (1)(f).

## **Entry and residence of family members**

### **Article 13,§1:**

1. As soon as the application for family reunification has been accepted, the Member State concerned shall authorise the entry of the family member or members. In that regard, the Member State concerned shall grant such persons every facility for obtaining the requisite visas.

### **Translation:**

#### **Art. 30 par. 2, 4 ALA**

(2) A Visa for a stay longer than 90 days can also be granted to an foreigner for the purpose of collecting a permanent residence permit or long-term residence permit for the purpose of family reunification or studies on the territory, or for the purpose of submitting an application for a long-term residence permit to be issued by the Ministry of Foreign Affairs (Section 49).

(4) A Visa for a stay longer than 90 days granted for the purpose of collecting a long term residence permit for the purpose of family reunification or studies in the Territory, or a permanent residence permit, allows the foreigner to stay in the territory for a period of three working days. A Visa for a stay longer than 90 days granted for the purpose of submitting an application for a long-term residence permit to be issued by the Ministry of Foreign Affairs allows the foreigner to remain for a period of 30 working days. If collecting a residence permit as specified by the first sentence of this par. or the act of filing an application for a long term residence permit to be issued by the Ministry of Foreign Affairs as provided for in the second sentence of this par., is not possible for reasons beyond the foreigner's control, then the period that the foreigner is allowed to stay after his/her entry to the territory will be considered as extended until such time that the reasons cease to exist. After the reasons as specified in the third sentence of this subsection cease to exist, in the case of a Visa for a stay longer than 90 days granted for the purpose of collecting a long-term residence permit for the purpose of family reunification or studies on the territory, or for the purpose of collecting a permanent residence permit, the foreigner is obliged (required) to notify the Police of the reasons without undue delay, or, in the case of a Visa granted for the purpose of submitting an application for a long-term residence permit to be issued by the Ministry of Foreign Affairs, this ministry is to be informed without undue delay.

### **Article 13, §2:**

2. The Member State concerned shall grant the family members a first residence permit of at least one year's duration. This residence permit shall be renewable.

**Translation:**

**Art. 44 par. 4 lett. c) ALA**

(4) The Police will issue the card of residence permit with a validity period as follows:

c) in the case of family reunification, a period of time that corresponds to the validity of the card of residence permit (Subsection 1) that was issued to the holder of right (authorized sponsor) for family reunification, but for at least 1 year;

d) 2 years in the case of family reunification, if the holder of right (sponsor authorized) for family reunification was issued a permanent residence permit;

**Art. 44a par. 4 ALA**

(4) Together with the application for extending the validity of a long-term residence permit granted for the purpose of family reunification, the foreigner is obliged (required) to submit the supporting documents specified in Art. 42b (1)(a), (1)(c), and (1)(d), and, in addition a Travel Medical Insurance Certificate for the period of the stay on the territory; this provision does not apply if the foreigner has medical insurance pursuant to special legal regulation (provisions) or if the foreigner proves that medical expenses will be paid in some other manner. If the holder of right (sponsor authorized) for family reunification has been granted asylum, the foreigner is obliged (required) to submit only a travel document. The validity of a long-term residence permit granted for the purpose of family reunification cannot be extended if the Police find any reasons to initiate proceedings on the cancellation of the validity of this permit (Art. 46a).

**Article 13, §3:**

3. The duration of the residence permits granted to the family member(s) shall in principle not go beyond the date of expiry of the residence permit held by the sponsor.

**Translation:**

**Art. 44 par. 4 lett. c) ALA**

(4) The Police will issue the card of residence permit with a validity period as follows:

c) in the case of family reunification, a period of time that corresponds to the validity of the card of residence permit (par. 1) that was issued to the holder of right (authorized sponsor) for family reunification, but for at least 1 year;

d) 2 years in the case of family reunification, if the holder of right (sponsor authorized) for family reunification was issued a permanent residence permit;