1. NORMS OF TRANSPOSITION AND JURISPRUDENCE

Q.1.A. Identify the main (because of its content) norm(s) of transposition and indicate its legal nature

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is called a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)
- About legal nature in the table below: legislative refers to a norm adopted in principle by the Parliament; regulation refers to a norm complementing the law and adopted in principle by the executive power; circular or instructions refer to practical rules about implementation of laws and regulations and adopted in principle by the administrative authorities
Please duplicate the table below if there is more than one MAIN norm of transposition

<table>
<thead>
<tr>
<th>This table is about:</th>
<th>X a text already adopted</th>
<th>☐ a text which is still a project to be adopted</th>
</tr>
</thead>
<tbody>
<tr>
<td>DATE:</td>
<td>23 November 2006</td>
<td></td>
</tr>
<tr>
<td>NUMBER:</td>
<td>2006/584</td>
<td></td>
</tr>
<tr>
<td>DATE OF ENTRY INTO FORCE:</td>
<td>1 December 2006</td>
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<tr>
<td>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:</td>
<td>Published in the Law Gazette</td>
<td></td>
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<tr>
<td>LEGAL NATURE (indicate a cross in the correct box):</td>
<td>☑ LEGISLATIVE</td>
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<td>☐ REGULATION</td>
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<tr>
<td>☐ CIRCULAR or INSTRUCTIONS</td>
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</table>

Q.1.B. List the others norms of transposition by order of importance of their legal nature (first laws, secondly regulations; thirdly circulars or instructions):

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is called a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)

Please use one table per norm and duplicate as much as necessary

| TITLE: | Royal Decree to alter the Aliens Decree 2000 on the implementation of Directive 2003/109/EG of 25 November 2003 concerning the status of third-country nationals who are long-term residents |
| DATE: | 23 November 2006 |
| NUMBER: | 2006/585 |
| DATE OF ENTRY INTO FORCE: | 1 December 2006 |
| REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: | Published in the Law Gazette |
| LEGAL NATURE (indicate a cross in the right box): | ☑ LEGISLATIVE |
| ☐ REGULATION |
| ☐ CIRCULAR OR INSTRUCTIONS |
### Title: Regulation of Minister of Justice altering the Aliens Regulation 2000

**Date:** 7 January 2007  
**Number:** IND/TT066940AUB  
**Date of Entry into Force:** 18 January 2007  
**Provisions Concerned:** Article 3.1 paragraph 3, Article 3.9 (new paragraph), Article 3.32, Article 3.33c and Article 3.34g paragraph 1 (Aliens Regulation)  
*(for example if the norm is not devoted only to the transposition of the concerned directive)*  
**References of Publication:** Published in the Government Gazette nr. 11/pag. 6  
**Legal Nature:** Legislative

### Title: Regulation of State Secretary of Social Affairs and Employment to alter the implementing regulation Aliens Labour Act

**Date:** 21 December 2006  
**Number:** AM/AMI/06/102218  
**Date of Entry into Force:** 4 January 2007  
**Provisions Concerned:** Schedule by implementing regulation Aliens Labour Act (Regarding Article 3 paragraph 2 and 22 Aliens Labour Act)  
*(for example if the norm is not devoted only to the transposition of the concerned directive)*  
**References of Publication:** Published in the Government Gazette nr. 1/pag. 10  
**Legal Nature:** Legislative

### Q.2.

**This question is in principle only for federal or assimilated member states like Austria, Belgium, Germany, Italy, Spain**  
Not applicable

### Q.2.A.

Explain which level of government is competent to adopt the norms of transposition.  
Not applicable
Please include your answer in the tables below

<table>
<thead>
<tr>
<th>LEGISLATIVE RULES</th>
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<tr>
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<td>COMPETENCES OF THE COMPONENTS:</td>
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<td>EXPLANATIONS IF NECESSARY:</td>
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</tbody>
</table>

**Q.2.B.** In case, explain if the federal structure and the distribution of competences between the different levels pose any problem or difficulty regarding the transposition and/or the implementation of the directive.
Q.3. Explain which authorities are competent for the practical implementation of the norm of transposition by taking the decisions in individual cases.

Please use one table per competence concerned and duplicate it if necessary

<table>
<thead>
<tr>
<th>COMPETENCE CONCERNED:</th>
<th>Decisions on applications for or withdrawal of an long-term resident’s EC residence permit or a residence permit for a third-country national who has acquired the long-term resident’s status in another Member State</th>
</tr>
</thead>
<tbody>
<tr>
<td>CENTRAL MINISTRY OF:</td>
<td>Justice</td>
</tr>
<tr>
<td>DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:</td>
<td>Immigration and Naturalisation Service</td>
</tr>
<tr>
<td>OTHER LEVEL OF ADMINISTRATION:</td>
<td>-</td>
</tr>
<tr>
<td>IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)</td>
<td>-</td>
</tr>
</tbody>
</table>

Q.4. A. Has the main regulation foreseen explicitly by the main norm of transposition already been adopted or not:

- [ ] YES
- [x] NO

Q.4. B. If the main norm(s) of transposition foresees the adoption of one or several regulations, indicate if they have all been adopted:

- [x] YES
- [ ] NO

If no, please indicate the missing text(s) in the table below

Please use one line per missing text and duplicate it if necessary

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>INDICATE HERE THE MISSING TEXTS</td>
</tr>
</tbody>
</table>

Add if necessary some explanations (specify in particular if the missing texts are at least under preparation or foreseen in the very near future):
SECOND PART

2. TRANSPOSITION OF THE DIRECTIVE IN NATIONAL LAW

In each answer, please specify the relevant provisions of the national law

Article 3(1) and Article 4(1)
- Has the term “lawful residence” been specified in the national law and if yes, how is that term specified?
  Yes, in Article 21 (1) (a) of the Aliens Act that refers to article 8 of the Aliens Act. Article 8 refers to twelve different categories of aliens whose residence is considered legal. Residence is considered legal in case of a residence permit, as a union citizen, pending a decision on an application for a residence permit, pending a decision on an application, awaiting an administrative decision or a decision in appeal regarding the refusal of a residence permit, residence on the basis of a Schengen visa. Furthermore, residence is legal in case medical reasons stand in the way of expulsion, in case the alien wants to use the possibility of article 273a of the Criminal Code to report trafficking in human beings and residence of Turkish nationals that derive a residence right from the EC-Turkey Association Agreement is lawful even without a residence permit.

- Is it possible to have lawful residence without a residence permit?
  Yes, see Q.5.A., first indent.

Q. 5.B.
Article 3(2)
- Does the Directive in your country apply to categories of third country nationals who have been excluded by Article 3(2)?
  □ YES
  X NO

If yes, please specify to which categories.

- Does your national law exclude other categories of temporary admitted third country nationals than the categories mentioned in Article 3(2)(e) (au pairs, seasonal workers and posted workers)?
  X YES in article 3 (5) Aliens Decree, a list with 19 categories are excluded because they have a residence permit for a temporary purpose only. Among the categories listed, ministers (‘geestelijk voorgangers’) appear. This category of immigrants is thus excluded from the scope of application of the Directive, even if they reside in the Netherlands for a period well over five years.

□ NO

If yes, how is the term “formally limited residence permit” defined?
Q. 5.C.
Article 3(3) (bilateral and multilateral agreements)
- During the transposition has reference been made to the bilateral and multilateral agreements mentioned in Article 3(3)?
   ✔YES
   ✗NO

If yes, with which effect?
EC Turkey: Residents without residence permit can be lawful.

Q. 6.A.
Article 4(1)
- Has a right to the long term resident status been codified in the legislation or does granting the status depend on the discretion of national authorities?
  Yes, has been codified in article 21 (1) of the Aliens Act. According to this Article, an application for an EC long-term residence permit should be granted in case none of the situations of Article 21(1) occurs.

Q. 6.B.
Article 4(2)
- Has the special rule on students in Article 4(2) been transposed in the national law? If yes, how?
  Yes, has been transposed in article 3.92 (2) of the Aliens Decree. In case a third-country national has obtained a non-temporary residence right half of the period of stay as a student may be taken into account when calculating the five year period.

- Are periods of lawful residence in situations covered by letters b, c and d taken into account if the third country national has a non-protection status at the time of application for the long-term resident status?
  Yes, article 21 (1) (a) of the Aliens Act includes all kinds of lawful residence of article 8. (See Q.5.A. first indent for all the categories listed in Article 21(1)(a))

- How long can the absences from the territory be and how are they calculated?
  Article 3.92 (7) Aliens Decree: 6 months and 10 months as mentioned in article 4 (3) of the Directive.

Q. 6.C.
Article 4(3)
- How are the “specific and exceptional reasons” specified in the national law?
  For three categories:
  - a right of return exists generally speaking for the adult alien who as a minor resided in the Netherlands for at least five (art. 3.92 (1)(a)(2) Decree) or ten (art. 3.92 (1)(a)(2) Decree) years and held a temporary or permanent residence permit;
- former nationals who have a right to return to the Netherlands or third country nationals who have a right to return under the Remigration Act (article 3.94 Aliens Decree)
- third country nationals whose residence have been interrupted without them having removed their domicile outside the Netherlands.

Q. 7.A. (income requirement)
Article 5(1)(a)
- How is the income requirement of this provision specified in the national law?
According to Article 21 (1) (d) Aliens Act the applicant together with his family member or independently should have a stable and durable income.

- Have certain types of income been excluded?
  - YES
  - NO

If yes, please specify.
Income out of illegal employment.
Income should be available for at least one year, or for 6 months but only if the person had already income out of employment for the last three years.

- Is the level of resources higher or lower than the level of social assistance for nationals?
  No, equal

- Are contributions to the pension system and the tax record of the applicant taken into account?
  - YES
  - NO

If yes, please specify how they are taken into account and what the consequences of insufficient contributions to the pension system or the tax record are.

Q. 7.B. (integration conditions)
Article 5(2)
- Does the national law require third country nationals to comply with integration conditions to obtain the status?
  - YES
  - NO

If yes, how is this condition specified in the national law?
Art. 21(1)(g) Aliens Act refers to the Integration Act. Verbal and written knowledge of the Dutch language (level A2 Common European Framework of Reference for Languages, CEF) and knowledge of Dutch society is examined (art.13 jo. art.7 Integration Act, art. 2.9 and 2.10 Integration Decree). In case the third-country...
national does not pass the exam, he will not be granted a permanent residence permit and, hence, not an EC-long-term resident permit.

- Are integration facilities made available for third country nationals in order to comply with the integration conditions?
  
  X YES
  
  NO

If yes, who pays the costs of these facilities?
The applicant has to pay the full costs unless he passes the exam within the required term. In that case he gets refund of 70% of the costs with a maximum of 3000 euros. The government provides the possibility of special loans for this purpose.

Q. 7.C. (family members)
Article 5
- Are dependent family members required to fulfil all three conditions of Article 5 themselves?
  
  NO The income requirement takes into account the income of other family members.
  
  YES

- Is there a minimum age for the issue of the long-term resident status in the national law?
  
  NO
  
  YES

If yes, what is the minimum age?

Q. 8.A. (public policy exception)
Article 6(1)
- How is the possibility to refuse to grant the status on grounds of public policy or public security specified in the national legislation?
Article 21(1) (e) Aliens Act together with 3.93, 3.95 and 3.96 Aliens Decree referring to article 3.86 Aliens Decree. The Decree contains a so called ‘sliding scale’ - approach; a fixed scale regarding on the one hand the duration of residence and on the other the duration of the sentence imposed (art. 21 (1)(e) Act in conjunction with 3.93, 3.95 and 3.96 Decree, referring to 3.86 Decree). Although the second sentence of art. 6(1) Directive is found in art. 3.92(6) Decree, the effect of these (possibly mitigating) considerations is already severely limited because of the initial sliding fixed scale-approach (the aforementioned elements are said in part to be reflected in the sliding scale).
- Does this specification take into account the case law of the ECJ with regard to similar terms in the EC law on free movement of Union citizens?
  
  □ YES
  
  X NO

  If yes, please specify. If no, what are the main differences with the case law of the ECJ?

- Has the obligation to take into account the elements mentioned in the second sentence been codified in the national law?
  
  X YES
  
  □ NO

  If yes, how?
  In article 3.92(6) of the Aliens Decree the text of the second sentence of article 6(1) Directive has been partially repeated. The duration of residence is not mentioned as an element to be taken into account when taking a decision on granting the EC long-term resident permit. Furthermore, only the severity or type of offence against public policy is taken into account. No mention is made of public security.

Q. 8.B. (economic considerations)
Article 6(2)
- Has the provision that the refusal to grant long-term resident status and similar provisions in Articles 12(2) and 17(2) can not be founded on economic considerations been codified in the national law?
  
  X YES
  
  □ NO

  If yes, mention the relevant provisions.
  Not explicitly but implicitly because withdrawal of the residence permit is only possible after conviction of criminal offence.

Q. 9.A. (documents and conditions; N.B. Q 17.D asks similar questions regarding the documentary evidence that has to accompany the application for a residence permit by a long-term resident in a second Member State)
Article 7(1)
- Which documents does an applicant for the status have to produce with his application? Please specify according to the conditions required by Articles 4 and 5. The general rules of article 3.102 Aliens Decree apply and those rules do not specify the documents. It only states that a third-country national should produce a valid travel document and the documents necessary to prove he or she meets the conditions for granting a residence permit.
- Is the applicant required to provide documentation regarding appropriate accommodation?
  
  YES

  NO

If yes, please specify the level of accommodation required.

- Is the absence of appropriate accommodation a ground for refusal of the status?
  
  YES

  NO

- Is the absence of a valid travel document a ground for refusal of the status?
  
  YES

  NO

If yes, please specify

Art. 3.102 Aliens Decree. However, in case a third-country national not or no longer possess a valid travel document due to the government of the country of origin, a third-country national may also provide other documents proving his identity and nationality.

Q. 9.B. (length of procedure)

Article 7(2)

- What is the time limit for making a decision on the application for the status according to the national law?
  
  6 months with the possibility to extend the period for another 6 months (article 25 Aliens Act)

- How is the decision on the application notified to the applicant?
  
  A reasoned written decision or by issuing of the document.

- What are the consequences of the decision not being made within the time limit provided in Article 7(2)?
  
  The applicant may file a request for a review of the virtual negative decision.

- How is the obligation to inform the person concerned about his/her rights and obligations under this Directive implemented in the national law?
  
  Article 3.104(5) Aliens Decree provides that when the decision concerning the application for a non-temporary residence permit is notified, the third-country national will be informed of the right he or she has under Directive 2003/109.
Q. 9.C. Article 7(3)
- How has this clause on the obligation to grant the status been implemented in the national law?
  According to article 21 Aliens Act an application for the status can only be refused on the grounds explicitly mentioned in that article. This implies a conditional right to the status. (see also Q.6.A.)

- Does the national law provide for the possibility that the long-term resident also holds another residence status under Community Law or under national law?
  ☑ YES  3.104 (2) Aliens Decree
  ☐ NO

Q. 10.A. (period of validity) Article 8(2)
- What is the period of validity of the EC long term residents permit?
  5 Years (Art. 4.22(2) Aliens Decree)

- Does the national law provide for automatic renewal upon expiry of the permit?
  No, however three months before the expiration date the forms for renewal will be send to the applicant (B1/9.4.1. Aliens Circular)

Q. 10.B. (form of residence permit) Article 8(3)
- Is the long term resident permit issued as a sticker or as a special document?
  Special document

- Please send us a photocopy of all sides of the relevant document.

Q. 11.A. (loss of the status) Article 9(1)
- What are the grounds for loss of the status according to the national law of your country?
  Article 22 Aliens Act provides for four grounds:
  a. absence of more than 12 months out the EU or more than 6 months out the Netherlands
  b. the permit has been acquired in a fraudulent way.
  c. the person presents an actual and serious threat for public order or national security
  d. the person has acquired the long-term residence status in another member state

- Are these grounds compatible with Article 9(1)?
  The word “sufficient” is not transposed and reference is made to the sliding scale in article 3.86 Aliens Decree which might be not always be compatible.
- Does an absence of more than twelve months from the EU result in automatic loss of the status or is a decision of the administration required before the status is lost? A decision by the administration is required.

Q. 11.B. (period of absence)
Article 9(2)
- Does your national law allow for a longer period of absence from the territory of the EU?
  ☑ YES
  ☐ NO

If yes, please specify under which conditions.
In article 3.95 Aliens Decree. An absence longer than twelve months is allowed in case the status holder resides on the territory of the EER or in Switzerland. The absence may not, however, exceed a period of six years.

Q. 11.C. (threat to public policy)
Article 9(3)
- Does the national law provide for the possibility that the long term resident is no longer entitled to maintain the status because he/she presents a threat to public policy or public security but is not expelled from the country?
  ☑ YES 3.95(6) Aliens Decree
  ☐ NO

If yes, what are the criteria for non-expulsion in those cases? Criteria are not specified.

If yes, which resident status will be granted to the person in these cases and under what conditions, see also Article 9(7)?
The third country national will get a normal Dutch residence permit.

Q. 11.D. (acquisition of status in another member state)
Article 9(4)
- Does the national law provide that the long term resident status will be withdrawn if the person acquires such a status in another member state or after six years of absence from the territory of your country?
  ☑ YES Yes, article 22(1) (a) and (2) Aliens Act
  ☐ NO

Q. 11.E. (facilitated re-acquisition)
Article 9(5)
- How has this Article on the facilitated re-acquisition of the long term resident status been implemented in the national law for those who lost the status on the ground of 12 months absence from the territory?

Art. 3.92(3): The application of a former status holder will not be denied in case the residence requirement of five years is not fulfilled or in case the applicant spent six months or a total of ten months outside the Netherlands in case the former status holder lost the status due to:

* stay outside the European Community for more than 12 months and if the application for regaining the status is received within 12 months after loss of the original status has become legally irreversible.

Q.11.F. (expiry of the permit)
Article 9(6)
- Does the national law provide that expiry of the long term resident permit does not entail withdrawal or loss of the status?

☐ YES

☐ NO

Not explicitly but implicitly since a permanent residence permit can only lose its validity by a decision to withdraw the permit on one of the grounds in Article 22 Aliens Act

- What are the legal or practical consequences of expiry of the permit?

No consequences in law but in practice one may experience problems in proving his status.

Q.12.A. (procedural guarantees)
Article 10(1) and Article 20
- Does the national law provide that a decision to withdraw or refuse the status has to contain the reasons for that decision?

General administrative rules apply. The Dutch Administrative Act provides that a decision shall always contain the reasons.

- How is the decision notified to the person concerned?

General administrative rules apply. A reasoned written decision or by issuing of the document.

- Does the notification include a specification of the available redress procedures and the time limit for using these remedies?

☒ YES

☐ NO

- Do the same procedural guarantees apply with respect to decisions meant in Article 20?

☒ YES
Q.12.B. (judicial review)
Article 10(2) and Article 20
- Which remedies are available to challenge the refusal, withdrawal or loss of the status or the renewal of the permit?
  The third country national may file a request for review of the administrative decision. If the review is refused he might lodge an appeal with the district court of The Hague.

- Is access to a court guaranteed in such cases?
  X YES
  □ NO

- Are these remedies effective in your judgment?
  X YES
  □ NO

Please specify your answer.
The request for review has suspensive effect, unless the withdrawal was based on public order grounds. But in that case the third country national may apply for an injunction against his expulsion with the district court.

- Is there a difference between legal remedies concerning decisions meant in Article 10 and the ones in Article 20?
  □ YES
  X NO

If yes, please specify the differences.

Q.13.A. (equal treatment)
Article 11(1)
- Does your national law explicitly provide that long-term residents shall enjoy equal treatment with nationals as regards:
  - For each bullet point please specify:
    If no, on which issues are the long-term residents excluded:

  - Access to employment
    X YES The employers of a third country national having the long-term residence status are exempted from the obligation to have a labour permit (article 4 (2) Aliens Employment Act)
Education and vocational training

- Yes

- No * Access to equal treatment is granted to persons with long term residence-status because they have more than 5 years legal residence

Recognition of diploma's

- Yes

- No

Social security, social assistance and social protection

- Yes

- No

Tax benefits

- Yes

- No

* There is no explicit provision granting equal treatment to persons with the long term residence status, but most of Dutch tax law applies irrespective of the nationality of the persons concerned.

Access to goods and services

- Yes

- No

Free access to the entire territory of your country

- Yes

- No

* Article 5.6 (1) (b) Aliens Act and 5.1 Aliens Decree do not allow for restricting the freedom of movement of a person with a long-term residence status.

Q.13.B. (exceptions to equal treatment)

Article 11(2)

- Has the possibility to restrict equal treatment provided for in this clause been used in your country?

- Yes
Q.13.C. (exercise of public authority)
Article 11(1)
- Has the possibility to restrict equal treatment under this clause or to exclude long term residents from activities that entail occasional involvement in the exercise of public authorities (Article 11(1)(a)) been used in your country?
  □ YES
  X NO

If yes, how is the involvement in the exercise of public authorities defined? How does it differ from the ECJ case law on the topic for EU citizens?

Q.13.D. (social security)
Article 11(4)
- Has the equal treatment in respect of social assistance or social protection been restricted to core benefits?
  □ YES
  X NO

If yes, which benefits are excluded from the equal treatment?

Q.13.E. (equal treatment for long-term residents of another member state)
Article 21(1)
- Does the national law explicitly provide for equal treatment with regards to areas and benefits mentioned in Article 11 for third country nationals who have acquired the EC long term resident status in another member state?
  □ YES
  X NO

If no, please specify the differences.
He is not exempted from the labour permit requirement. His temporary permit may be withdrawn when he applies for social assistance. He is not entitled to study grants.

Q.14.A. (protection against expulsion)
Article 12(1)
- How is this provision implemented in your national law?
3.95(3) Aliens Decree (sliding scale). The Decree does not mention the criterion ‘actual and sufficiently serious threat’.

- Does the definition of serious threat to public policy or security differ from the definition used for the implementation of Article 6(1) or this Directive?
  
  [X] YES
  
  [ ] NO

  If yes, please specify the differences.
  The Decree does not mention the criterion ‘actual and sufficiently serious threat’ but points to the mentioned ‘sliding scale’.

**Q.14.B.** (relevant considerations)

Article 12(3)

- Does the national explicitly provide that before taking a decision on expulsion the authorities have regard to the four factors mentioned in this clause?
  
  [X] YES
  
  [ ] NO

  If yes, please mention the relevant provision of your national law.
  Article 3.95 (3) and (4) Aliens Decree.

**Q.14.C.** (legal remedies)

Article 12(4)

- Which judicial redress procedure is available to the long term residents against an expulsion decision under the national law?
  
  See our answer to question Q 12 B

**Q.14.D.** (legal aid)

Article 12(5)

- Are long term residents lacking adequate resources entitled to legal aid on the same terms as applied to nationals?
  
  [X] YES
  
  [ ] NO

  If yes, please mention the relevant provision of your national law.
  Art 12 of the Legal aid act only requires that the legal interests in case concerns the Dutch legal sphere.

  If no, please specify the differences.
Q.15. (more favourable national provisions)

Article 13
- Does the national law provide for the issue of residence permits of permanent or unlimited validity on terms that are more favourable than those laid down by the Directive?

☐ YES
☐ NO

If yes, please specify the categories of third country nationals benefiting from those more favourable national rules.
- the income requirement does not apply in case the applicant has remained legally in the country more than ten years or was granted family reunification as a minor, ever since remained in the country and is now over 18 years (art. 21a (1));
- applications of those who are born in the country can only be denied on public order or national security grounds (21a (2));
- holders of a privileged status and their family members (international organisations, embassy and consulate personal) (art. 3.93 (1) Aliens Decree);
- in case the duration of residence requirement is (in part) fulfilled on temporary grounds (art. 3.93 (2) Aliens Decree);
- an applicant who remained between the age of 4 and 19 years in the country and does not fulfil the income requirement (art. 3.95(3) Aliens Decree);
- an application for a non-temporary residence permit not be denied in case of fraudulent behaviour after twelve years (art. 3.93(4) Aliens Decree).

- In what aspects does the residence document issued to those persons differ from the document mentioned in Article 8(3)?
Document says only “II” and does not mention EC long term residence status.

- Does your national law provide for the application of Chapters I and II of the Directive to these third country nationals?

☐ YES
☐ NO

If yes, please mention the relevant national provisions.

Q.16.A. (long-term residents of another member state)

Article 14(1)(2)
- Does your national law provide for a residence right for long-term residents who acquired the status in another member state who wish to exercise an economic activity, pursue studies or for any other purpose?

☐ YES
☐ NO
**Q.16.B.** (conditions for employment)
Article 14(3)
- Does your country require an employment permit for long-term residents who acquired the status in another member state?
  - YES
  - NO

**Q.16.C.** (change of employer)
Article 14(3) and Article 21(2)
- Does a third country national with the long-term resident status need a work permit to change to another employer during the first year?
  - YES
  - NO
- After that year:
  - YES
  - NO

If yes, please specify what the conditions for granting a work permit are.
- registered vacancy listed at the Centre for Work and Income;
- no available (priority) candidates;
- serious recruitment activities in the NL and the EU Member States.

- When do long-term residents of another member state acquire free access to employment in your country?
  After one year.

**Q.16.D.** (limitation of number long-term residents)
Article 14(4)
- Did the national law of your country provide for a limitation of the total number of persons entitled to be granted a right of residence at the time of the adoption of this Directive?
  - YES
  - NO

If yes, please specify.

**Q.17.A.** (place of application)
Article 15(1)
- Does the national law of your country provide for the possibility that a long-term resident submits an application for a residence permit in your state while still residing in the first member state?
If yes, please specify.
By way of a special visa requirement (mvv)

- Is the long-term resident required to have a visa and, if so, will he be obliged to leave the second Member State in order to apply for the visa?
  No.

Q.17.B. (conditions for residence in a second member state)
Article 15(2)
- Does the national legislation provide that the long-term residents of another member state prove to have stable and regular resources and sickness insurance?
  Stable resources:  
  □ NO
  □ YES
  Sickness insurance:  
  □ NO
  □ YES

- Is there in your national law any difference between the level of the income requirement under this Article and article 5? Please specify any difference.
  No difference.

- If sickness insurance is required, is it possible for the long-term resident to obtain coverage in your country before having received a residence permit?
  Yes, a regular coverage.

Q.17.C. (integration measures)
Article 15(3)
- Does the national law require long-term residents of another member state to comply with integration measures or a language course when the person has already been required to pass integration conditions in the first Member State?
  □ YES
  □ NO [Art. 5 Integration Act]

  If yes, is the person required to follow a language course or to pass an exam?

- What are the consequences of not meeting the integration requirement?
- Is the long-term resident entitled to the same integration facilities as nationals of your country?
  - YES
  - ☒ NO

If yes, please mention the relevant national provisions.

- Are the family members of the long-term resident (Article 16) required to comply with integration measures?
  - ☒ YES
  - ☐ NO

If yes, please mention the relevant national provisions.
Article 3 Integration Act.

**Q.17.D.**

Article 15(4) (documentary evidence for residence in second Member State)
- Which documents does a long-term resident from another Member State have to produce with his application for a residence permit in your Member State? Please specify according to the purpose of the stay in your Member State.
  - documents relating to the purpose of residence;
  - prove of sufficient income (level, duration and nature of income);
  - identity documents.

- Is the long-term resident from another Member State required to provide documentation regarding appropriate accommodation?
  - ☒ YES
  - ☐ NO

If yes, please specify the level of accommodation required.

- Can the right of residence of a long-term resident from another Member State be withheld if the long-term resident does not have appropriate accommodation?
  - ☐ YES
  - ☒ NO

- Can the right of residence of a long-term resident from another Member State be withheld if the long-term resident does not have a valid travel document?
  - ☒ YES
  - ☐ NO
Q.18. (family members)
Article 16(1)
- Does the national law of your country provide for a right of residence of the family members of a long-term resident who acquired that status in another member state? Yes, art. 3.23a Aliens Decree.

Q.19. (public policy exception)
Article 17
- How is the possibility to refuse the application for residence from long-term residents of another member state on grounds of public policy or public security specified in the national legislation?
  Conviction of criminal offence and sentenced to an unconditional imprisonment or deprivation of liberty, to unpaid labour or to an unconditional fine, or accepted a transaction (3.77(1) Aliens Decree)

- Has the obligation to take into account the elements mentioned in the second sentence been codified in the national law?
  [X] YES
  [ ] NO

If yes, please mention the relevant provision of the national law.
Art. 3.77(5) Aliens Decree.

Q.20.A. (public health exception)
Article 18(1)
- Does the national law provide for the refusal of an application for a residence permit by a long-term resident of another member state on public health grounds?
  [X] YES
  [ ] NO

If yes, under what conditions?
If the applicant refuses to cooperate with medical examinations or is unwilling to undergo treatment (art. 16(1)(e)). This however does only apply to TBC-disease (art. 3.79 Aliens Decree).

Q.20.B. (medical examination)
Article 18(4)
- Are medical examinations required for long-term residents of another member state who apply for a residence permit in your country?
  [X] YES
If yes, on what grounds and are these examinations free of charge?
Answer is found under Q.20.B. The examinations are free of charge.

Q.21.A. (length of procedure)
Article 19(1)
- What is the time limit for processing an application for a residence permit according to the national law?
  Four months (art. 25 Aliens Act).
- Is the long-term resident allowed to stay in your country pending the processing of his application?
  □ YES

Q.21.B.
Article 19(2)
- How has this clause on the obligation to grant a residence permit been implemented in the national law?
  This clause is positively and imperatively formulated (“shall be issued”) as well as negatively and imperatively (“shall not be denied”).
- Is the residence permit issued to long-term residents of another member state renewable on expiry?
  □ YES

Q.21.C. (residence permit of family members)
Article 19(3)
- Does your national law provide that family members are issued with a renewable residence permit valid for the same period as the permit issued to the long-term resident?
  □ YES

If yes, please specify the national provisions.
Art. 3.67(3) Aliens Decree.

Q.22.A. (refusal and withdrawal)
Article 22(1)
Which grounds for the refusal or withdrawal of a residence permit and the removal of the territory of a long-term resident of another member state are provided for in your national law?
- the holder has established his principal place of residence outside the Netherlands;
- the alien has supplied incorrect information or has withheld information in circumstances where such information would have led to the rejection of the original application to issue or renew the permit;
- the alien no longer has independent, lasting and sufficient means of subsistence or the person with whom the alien resides no longer has independent, lasting and sufficient means of subsistence;
- the alien constitutes a threat to public policy or national security;
- a restriction subject to which the permit has been issued or a regulation governing the permit is no longer complied with;
- the alien is performing work for an employer in breach of the provisions of the Foreign National (Employment) Act.

These clauses are found in art. 18 Aliens Act.

Q.22.B. (obligation to readmit)
Article 22(2)
- How is the obligation to readmit long-term residents and their family members on the territory of your country been codified?
Long-term residents have by way of their remaining status legal residence and right of entry. For family members readmission is created in art.2.1a Aliens Decree.

- Has the clause of Article 22(5) concerning the obligation to readmit without prejudice to the possibility of the long-term resident and his/her family to move to a third member state been implemented?
No

Q.22.C. (removal from the territory of the Union)
Article 22(3)
- Has the possibility to remove long-term residents of another member state from the territory of the EU been implemented in the national law?

[ ] YES
[ ] NO

If yes, how?
This is done in art. 3.103a(3): removal to a third country is possible, the first member state shall be informed and given all necessary information.

- How have the serious ground of public policy or public security been specified in the national law?
Conviction of criminal offence and sentenced to an unconditional imprisonment or deprivation of liberty, to unpaid labour or to an unconditional fine, or accepted a transaction (3.77(1) Aliens Decree)

- Has the obligation to consult the first member state in such cases been codified?

[ ] YES
If yes, please specify the relevant provisions in your national law.
Art. 3:103a(2) Aliens Decree.

Q.23.
Article 23(1)
- How has this clause on the obligation to grant the status to long-term residents of another member state been implemented in the national law?
  There is no special clause; the regular clause granting the status is used.

- Does the national law provide for an integration requirement in those cases?
  ☑ YES
  ☐ NO

If yes, please specify the requirement.
This requirement is found in art. 21(1)(g). Verbal and written knowledge of the Dutch language (level A2 Common European Framework of Reference for Languages, CEF) and knowledge of Dutch society is examined (art. 13 jo. art. 7 Integration Act, art. 2.9 and 2.10 Integration Decree).

Q.24. (reference in national law)
Article 20
- Has explicit reference in national law been made to Directive 2003/109?
  ☑ YES
  ☐ NO
3. IMPACT OF THE DIRECTIVE ON NATIONAL LAW

Q.25. What are in your view the main strengths and weaknesses of the Directive?
Strengths: - the combination of a strong residence right, equal treatment and conditional free movement;
- limited derogations to national law

Weaknesses: - the public order and national security-clauses aren’t similar or close to those found in directive 2004/38/EC;
- the directive is in several respects unbalanced, for example art. 9;
- the free movement clause is problematic because if one stays in more than one country the status in the first member state will eventually be lost without the possibility of obtaining a new status in the second member state because the five year period may well be not yet reached;
- the integration conditions;
- no free access to employment during first year in second member state may in practice turn out to be a major barrier to acquisition of the status and mobility within the EU;
- equal treatment clause is not explicitly transposed.

Q.26. Has there been a political or public debate on the implementation of the Directive? If so, please summarize the main issues of the debate.
Only a limited debate took place. Issues were the failed implementation and the question whether or not the directive allowed for a fee. Interventions by the House of Representatives resulted in provisional implementation by circular.

Q.27. Have statements been made during the implementation on the question whether certain provisions of the Directive have direct effect or not? If so, please specify for which provisions.
No.

Q.28. In the transposition of the rules on the Long-Term Residents Directive in your country, which issues have become subject of controversy or court cases?
None so far.

Q.29. How many applications for the Status have been made in your country? How many long-term resident statuses have been granted under Chapter II in your country?
On 12 September 2006 4500 applications had been made (TK 2005-2006, 30567, nr. 8, p.7).
No information is available regarding the amount of granted statuses.

Q.30.
- What have been the main changes in the national law or practice due to the Directive? Please indicate for each change whether it made the national rules more strict or more liberal from the perspective of long-term resident third country nationals?

The conditions for obtaining and loss (i.e. the clauses on fraud and residence outside the territory of the state) of the status are due to the directive more liberal. The integration condition was already planned for.

Q.31.
Mention if there is a general tendency to just copy the provisions of the directive into national legislation without redrafting or adapting them to national circumstances.

X NO

☑ YES

If yes, please indicate if this general tendency may or not create problems (for example difficulties of implementation, risk that a provision remains unapplied). Please give some examples.

Q.32.
Please quote interesting decisions of national courts related to the directive, its transposition or implementation (so this question concerns in principle decisions later that the directive, but earlier ones might be quoted if relevant). Quote in particular decisions of supreme Courts; limit yourself to the appeal Courts and ignore the first resort if there are too many decisions at this level, unless there is a certain jurisprudence made of a group of decisions.

Please use one box per decision and duplicate it if necessary

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Please comment on any interesting trend in the case law of the national courts.
N.A.

Q.33.
Specify if there are or not problems with the translation of the text of the directive in the official language of your Member State and give in case a list of the worst examples of provisions which have been badly translated.
There are no problems with the translation of the directive

There are some problems with the translation of (indicate the number of the articles concerned) of the directive.
Integration measures in art. 15 is translated as ‘integratievoorwaarde’ (‘integration condition’).
Explain the difficulties that this could create:

4. ANY OTHER INTERESTING ELEMENT

Q. 34.
Please add here any other interesting element concerning the implementation of the Directive (either from the point of view of long-term residents or from the Member States’ perspective) which you did not mention before.

In the Netherlands, payment of a fee of 201 euros is demanded for the issue of the EC Long-term resident permit. Moreover a person who has acquired the status in another Member State has to pay fees, ranging from 188 to 830, depending on the aim of his residence in the Netherlands for the Dutch residence permit. Demanding such fees in our view is incompatible with the text and goals of the Directive. The Directive does not provide a basis for the levy of such fees, on the contrary Article 7(3) and Article 19(2) both provide that the permit has to be issued once the conditions mentioned in the Directive are fulfilled. The Directive does not allow Member States to add other conditions.

Q. 35.
Please send us copies of any legal or other publications on the Directive or of judgments of national courts applying or interpreting the Directive, if possible in electronic form.