



EMN Ad-Hoc Query on Conditions to be granted a residence permit

Requested by PL EMN NCP on 14th December 2016

Residence

Responses from [Austria](#), [Belgium](#), [Croatia](#), [Czech Republic](#), [Estonia](#), [Finland](#), [France](#), [Germany](#), [Hungary](#), [Ireland](#), [Italy](#), [Latvia](#), [Lithuania](#), [Luxembourg](#), [Netherlands](#), [Poland](#), [Portugal](#), [Slovak Republic](#), [Sweden](#), [United Kingdom](#) (20 in total)

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

Background information:

Art. 3 of the Directive 2004/38/EC of the European Parliament and the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC provides as follows:

1. This Directive shall apply to all Union citizens who move to or reside in a Member State other than that of which they are a national, and to their family members as defined in point 2 of Article 2 who accompany or join them.
2. Without prejudice to any right to free movement and residence the persons concerned may have in their own right, the host Member State shall, in accordance with its national legislation, facilitate entry and residence for the following persons:
 - (a) any other family members, irrespective of their nationality, not falling under the definition in point 2 of Article 2 who, in the country from which they have come, are dependants or members of the household of the Union citizen having the primary right of residence, or where serious health grounds strictly require the personal care of the family member by the Union citizen;
 - (b) the partner with whom the Union citizen has a durable relationship, duly attested. The host Member State shall undertake an extensive examination of the personal circumstances and shall justify any denial of entry or residence to these people.

Poland is considering amendments to its legislation (Act on Aliens of 12th December 2013) aiming to further enhance implementation of the aforementioned provision. Relevant analysis process is on-going, and appropriate participants from governmental administration are taking various proposals into account. Therefore, feedback from other EU Member States in this regard may be of a major importance.

In order to support analysis, which may have an impact on further legislative process, we are interested in receiving information concerning the following issues:

Questions

1. 1. How was the directive 2004/38/EC (art. 3) implemented to your domestic legislation (separate act, amendments to an act in force, other)?
2. 2. Could you please cite the appropriate provision from your relevant legal act implementing art. 3 of the directive 2004/38/EC (both in your native language and English)?
3. 3. Do you consider amending your legislation implementing the directive 2004/38/EC (art. 3 in particular)? If so, is there a legislative process on-going?

Responses

	Country	Wider Dissemination	Response
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Belgium	Yes	<p>1. Article 3 of the directive 2004/38/EC was transposed into national legislation in the amended Belgian Immigration Act of 1980, more precisely in articles 40 § 2, 40bis § 2 and 47/1.</p> <p>2. Attached you can find the relevant articles in both Dutch and French. The actual text of legislation is unfortunately not officially available in English but we can propose the following translations: Art. 40 § 2. For the purposes of this Act, a citizen of the Union is a foreigner who is a national of a Member State of the European Union and who is staying or visiting the Kingdom. Art. 40bis §2 The following shall be considered as family members of the Union citizen: 1 ° the spouse or the foreigner with whom he is bound by a registered partnership considered as equivalent to a marriage in Belgium, accompanying or joining him; 2 ° the partner to whom the citizen of the Union is bound by a partnership registered in accordance with a law, and who accompanies or joins him. Partners must meet the following conditions: A) prove that they have a long-term and stable partnership relationship duly established. The lasting and stable character of this relationship is demonstrated: - if the partners prove that they have cohabited in Belgium or in another country without interruption for at least one year before the application; - or if the partners prove that they have known each other for at least two years prior to the application and provide proof that they have maintained regular contacts by telephone, regular mail or electronic mail, and that they have met three times during the two years preceding the application and that these meetings have a total of 45 days or more; - or if the partners have a common child; B) come to live together; C) both be more than twenty-one years of age. The minimum age of the partners shall be reduced to eighteen years when they bring evidence of cohabitation of at least one year before the arrival of the alien joined in the Kingdom; D) be single and not have a lasting and stable partnership with another person; E) not be a person referred to in sections 161 to 163 of the Civil Code; F) [neither was the subject of a final decision refusing to celebrate the marriage on the basis of Article 167 of the Civil Code. 3° the descendants and descendants of his spouse or partner referred to in 1 or 2, who are under twenty-one years of age or who are dependent on them, who accompany them or join them, provided that the joined foreigner, his spouse or the registered partner concerned has the right of custody and, in the case of shared custody, provided that the other custodian has given his consent; 4° the ascendants and ascendants of his spouse or partner referred to in 1 or 2, who are dependent on them,</p>

			<p>who accompany or join them; 5° the father or mother of a citizen of the European Union who is a minor of age referred to in Article 40, § 4, first paragraph, in so far as he is dependent on him and under his custody of it.] 2 Art. 47/1. The following shall be considered as other members of the family of a citizen of the Union: 1 ° the partner with whom the citizen of the Union has a durable and duly attested relationship, and who is not covered by Article 40bis, § 2, 2 °; 2° members of the family, not referred to in Article 40bis, § 2, who are dependent or belong to the household of the citizen of the Union in the country of origin; 3° members of the family, not referred to in Article 40bis, § 2, of whom the citizen of the Union must imperatively and personally take care due to serious health problems.</p> <p>3. Discussions are ongoing about possible amendments to family reunification provisions. Hence it is possible that in the future a bill regarding (mostly) family reunification is tabled. If this occurs, the bill will take into account the ruling of the Belgian Constitutional Court of 26.09.2013 and the Rahman ruling that the European Court of Justice (Grand Chamber) reached on 05.09.2012. The ruling of 26.09.2013 of the Belgian Constitutional Court (n° 121/2013) annulled some family reunification related provisions of the Belgian Immigration Act. The ruling has also given an interpretation to other provisions concerning family reunification. Some of these annulments and interpretations were based on the directive 2004/38/EC. For further details on the provisions annulled and interpreted, please read the Belgian policy report 2013 pp.20-21. The Rahman ruling of 05.09.2012 contains information on how article 3.2 of the directive should be interpreted. Sources: • Immigration Office – Study Unit • Ruling 121/2013 of the Belgian Constitutional Court from 26 September 2013 • Rahman ruling the European Court of Justice from 5 September 2012: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62011CJ0083 • Belgian EMN annual policy report 2013: https://emnbelgium.be/publication/policy-report-2013-asylum-and-migration-belgium-emn</p>
	Croatia	Yes	<p>1. Article 3 of the Directive 2004/38/EC was transposed into the Foreigners Act (OG, 130/11, 74/13). Provisions of Foreigners Act regulating entry, residence and work of nationals of the EEM member states and their family members was amended since 27 June 2013, and these provisions came into force on 01 July 2013.</p> <p>2. X ENTRY, RESIDENCE AND WORK OF NATIONALS OF THE EEA MEMBER STATES AND THEIR FAMILY MEMBERS- Article 153 1) A national of the EEA Member State and members of his family, regardless whether they are nationals of the EEA Member State or not, and who are entitled to residence in the Republic of Croatia, shall have equal rights as nationals of the Republic of Croatia in accordance with the Treaty on the Functioning of the European Union. (2) A national of the EEA</p>

			<p>Member State and members of his family may work and provide services in the Republic of Croatia without a residence and work permit or a work registration certificate. Family members of a national of the EEA Member State Article 162 The following categories shall be regarded as family members of a national of the EEA Member State: 1. the spouse, 2. the common law partner, in line with Croatian legislation, and persons in a durable relationship which can be demonstrated by shared residence at the same address in the duration of at least three years, and if the intention of continuing to live together is evident, 3. relatives of a national of the EEA Member State and of his spouse or common law partner by blood in the vertical line downwards, until they have reached 21 years of age, 4. adopted children and step-children of a national of the EEA Member State or of his spouse or common law partner, until they have reached 21 years of age, 5. persons referred to in Points 3 and 4 of this Paragraph who are above 21 years of age and who must be and actually have been supported by a national of the EEA Member State, or by his spouse or common law partner, 6. relatives by blood in the vertical line upwards, who must be and actually have been supported by a national of the EEA Member State or by his spouse or common law partner, 7. other members of the family of a national of the EEA Member State for whom an individual assessment determines that in view of their material and social positions in the country they arrived from, they are dependent on the national of the EEA Member State in terms of providing for their basic needs, or they are members of his household, or for whom, due to serious health-related reasons, a special personal care of the national of the EEA Member State is required. X. ULAZAK, BORAVAK I RAD DRŽAVLJANA DRŽAVA ČLANICA EGP-a I ČLANOVA NJIHOVIH OBITELJI - Članak 153. (1) Državljanin države članice EGP-a i članovi njegove obitelji, bez obzira jesu li državljani država članica EGP-a ili ne, a imaju pravo boravka u Republici Hrvatskoj, izjednačeni su u pravima s državljanima Republike Hrvatske u okviru odredbi Ugovora o funkcioniranju Europske unije. (2) Državljanin države članice EGP-a i članovi njegove obitelji mogu u Republici Hrvatskoj raditi i pružati usluge bez dozvole za boravak i rad, odnosno bez potvrde o prijavi rada. ČLANOVI OBITELJI DRŽAVLJANINA DRŽAVE ČLANICE EGP-A Članak 162. Članovima obitelji državljana države članice EGP-a smatraju se: 1. bračni drug, 2. izvanbračni drug prema propisima Republike Hrvatske, kao i osobe koje su u trajnoj vezi koja se može dokazivati zajedničkim boravkom na istoj adresi u trajanju od najmanje 3 godine te ako je razvidna namjera daljnjeg zajedničkog života, 3. srodnici državljanina države članice EGP-a te njegovog bračnog ili izvanbračnog druga po krvi u uspravnoj liniji nishodno, do navršene 21 godine života, 4. posvojenici i pastorčad državljanina države članice EGP-a ili njegovog bračnog ili izvanbračnog druga, do navršene 21 godine života, 5. osobe iz točke 3. i 4. ovoga stavka starije od 21 godine života, koje je državljani države članice EGP-a ili njegov bračni ili izvanbračni drug dužan uzdržavati i stvarno ih uzdržava, 6. srodnici po krvi u uspravnoj liniji ušhodno, koje je državljani države članice EGP-a ili njegov bračni ili izvanbračni drug dužan</p>
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			<p>uzdržavati i stvarno ih uzdržava, 7. drugi članovi obitelji državljanina države članice EGP-a za koje je individualnom procjenom utvrđeno da su zbog svoje materijalne i socijalne situacije u državi iz koje dolaze, u osiguranju osnovnih potreba ovisni o državljaninu države članice EGP-a ili su članovi njegovog kućanstva ili za kojeg je zbog ozbiljnih zdravstvenih razloga potrebna osobna skrb državljanina države članice EGP-a.</p> <p>3. 3. Yes, the process of amending Foreigners Act is ongoing, and article 162 is planned to be amended.</p>
	Czech Republic	Yes	<p>1. By amendment to the Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic.</p> <p>2. Section 1 and Section 15a paragraph 2 of the above-mentioned Act are implementing Art. 3 of the directive 2004/38/EC. Section 1 of the Act Subject Matter (1) This Act relating to the directly applicable legal provisions of the European Communities establishes the conditions for entry of foreign nationals to and their departure from the Territory, lays down conditions for the residence of foreign nationals in the Territory and defines the scope of competences of the Police of the Czech Republic (hereinafter referred to as the 'Police'), the Ministry of the Interior (hereinafter referred to as the 'Ministry') and the Ministry of Foreign Affairs in this area of public administration. (2) A foreign national means a natural person, who is not a citizen of the Czech Republic, including a citizen of the European Union. (3) The provisions for entry, residence and departure of a citizen of the European Union shall also apply to a citizen of a state that is bound by an international agreement entered into with the European Community and to a citizen of a state that is bound by the Agreement on the European Economic Area, unless such agreement provides otherwise. Předmět úpravy (1) Tento zákon upravuje v návaznosti na přímo použitelný právní předpis Evropských společenství podmínky vstupu cizince na území České republiky (dále jen "území") a vycestování cizince z území, stanoví podmínky pobytu cizince na území a vymezuje působnost Policie České republiky (dále jen "policie"), Ministerstva vnitra (dále jen "ministerstvo") a Ministerstva zahraničních věcí v této oblasti státní správy. (2) Cizincem se rozumí fyzická osoba, která není státním občanem České republiky, včetně občana Evropské unie. (3) Úprava vstupu, pobytu a vycestování občana Evropské unie se vztahuje i na občana státu, který je vázán mezinárodní smlouvou sjednanou s Evropským společenstvím a na občana státu, který je vázán Smlouvou o Evropském hospodářském prostoru, pokud tato smlouva nestanoví jinak. Section 15a (2) A family member of a EU citizen is also considered a foreigner who proves that a) he/she is a relative of a citizen of the European Union not mentioned in paragraph 1, if 1. in the State of which he/she is a citizen, or in the state in which he/she was allowed to stay, he/she had lived before</p>

			<p>entering the Territory with a EU citizen in a common household. 2. is due to meeting his/her basic needs dependent on nutrition or other necessary care provided by a EU citizen, or he/she had been dependent on this nutrition or other necessary care immediately before entering the Territory of the State of which he/she is a citizen, or of the state where he/she was allowed to stay, or 3. he/she cannot take care of himself/herself due to serious health reasons without personal care of a citizen of the European Union, or b) he/she is in a durable relationship with a citizen of the European Union – this relationship is not a marriage, and lives with him/her in a common household; when assessing the durability of the partnership the nature of relationship, its strength and intensity are particularly taken into account. (2) Za rodinného příslušníka občana Evropské unie se považuje též cizinec, který prokáže, že a) je příbuzným občana Evropské unie neuvedeným v odstavci 1, pokud 1. ve státě, jehož je občanem, nebo ve státě, ve kterém měl povolen pobyt, žil před vstupem na území s občanem Evropské unie ve společné domácnosti, 2. je z důvodu uspokojování svých základních potřeb závislý na výživě nebo jiné nutné péči poskytované občanem Evropské unie, nebo byl na této výživě nebo jiné nutné péči závislý bezprostředně před vstupem na území ve státě, jehož je občanem, nebo ve státě, ve kterém měl povolen pobyt, nebo 3. se o sebe z vážných zdravotních důvodů nedokáže sám postarat bez osobní péče občana Evropské unie, nebo b) má s občanem Evropské unie trvalý partnerský vztah, který není manželstvím, a žije s ním ve společné domácnosti; při posuzování trvalosti partnerského vztahu se zohlední zejména povaha, pevnost a intenzita vztahu.</p> <p>3. NO.</p>
	<p>Estonia</p>	<p>Yes</p>	<p>1. Directive 2004/38/EC has been implemented in the Citizen of the European Union Act.</p> <p>2. § 3. Family member of a citizen of the European Union (1) For the purposes of this Act, a family member of a citizen of the European Union (hereinafter, family member’) is a person who is not a citizen of the European Union or a citizen of Estonia and who is: 1) the spouse of a citizen of the European Union (hereinafter, ‘the spouse’), 2) a child under 21 years of age or a dependent adult child of a citizen of the European Union or of his or her spouse (hereinafter, ‘dependent child’), 3) a dependent parent of a citizen of the European Union or of his or her spouse, or 4) a person not covered by clauses 1–3 of this subsection who, in the country of origin of the citizen of the European Union, is a dependent of the citizen of the European Union or is a member of his or her household, or who is permanently unable to cope independently due to health reasons, and with respect to whom it is necessary that the citizen of the European Union personally care for him or her. (2) For the purposes of this Act, a dependent is a person who resides together with a citizen of the European Union in a shared</p>

			<p>household and has no personal income. (3) For the purposes of this Act, a member of the household means: 1) a person specified in subsection 4 of section 24 of the Official Statistics Act who resides with a citizen of the European Union in a shared household and has an independent income; 2) a person who has a proven permanent and factual registered partnership with a citizen of the European Union.</p> <p>3. The amendments in the Citizen of the European Union Act came into force on 01.07.2016.</p>				
	Finland	Yes	<p>1. The directive was implemented to an act in force, ie. Alien's Act (301/2004), it's chapter number 10 "Residence of citizens of the European Union or similar persons". The government's proposal was given in 2006 (proposal number HE 205/2006) and the amendments came into force April 30th 2007.</p> <p>2. Here are the relevant sections in the Alien's Act concerning directive's art. 3 (both in Finnish and in English, of which the latter is an <u>unofficial translation</u>):</p> <table border="1" data-bbox="801 703 2022 1391"> <tr> <td>10 luku Euroopan unionin kansalaisen ja häneen rinnastettavan oleskelu</td> <td>Chapter 10 Residence of citizens of the European Union or similar persons</td> </tr> <tr> <td>153 § (23.3.2007/360) Luvun soveltamisala Tätä lukua sovelletaan unionin kansalaiseen ja häneen rinnastettavaan sekä näiden perheenjäseniin ja muihin omaisiin. Tässä luvussa säädetään: 1) edellytyksistä, jotka koskevat sitä, miten unionin kansalainen ja hänen perheenjäsenensä</td> <td>Section 153 <i>Scope of application of the Chapter (360/2007)</i> (1) This Chapter applies to EU citizens and similar persons and their family members and other relatives. (2) This Chapter lays down provisions on:</td> </tr> </table>	10 luku Euroopan unionin kansalaisen ja häneen rinnastettavan oleskelu	Chapter 10 Residence of citizens of the European Union or similar persons	153 § (23.3.2007/360) Luvun soveltamisala Tätä lukua sovelletaan unionin kansalaiseen ja häneen rinnastettavaan sekä näiden perheenjäseniin ja muihin omaisiin. Tässä luvussa säädetään: 1) edellytyksistä, jotka koskevat sitä, miten unionin kansalainen ja hänen perheenjäsenensä	Section 153 <i>Scope of application of the Chapter (360/2007)</i> (1) This Chapter applies to EU citizens and similar persons and their family members and other relatives. (2) This Chapter lays down provisions on:
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			<p>voivat käyttää oikeuttaan liikkua ja oleskella vapaasti jäsenvaltioiden alueella;</p> <p>2) unionin kansalaisen ja hänen perheenjäsenensä oikeudesta oleskella pysyvästi jäsenvaltioiden alueella;</p> <p>3) 1 ja 2 kohdassa tarkoitettuja oikeuksia koskevista rajoituksista, jotka perustuvat yleiseen järjestykseen tai yleiseen turvallisuuteen taikka kansanterveyteen.</p> <p>Lukua sovelletaan unionin kansalaiseen, joka siirtyy Suomeen tai oleskelee Suomessa, sekä hänen perheenjäsenensä, joka tulee hänen mukanaan tai seuraa häntä myöhemmin. <u>(21.5.2010/432)</u></p> <p>Lukua sovelletaan Suomen kansalaisen perheenjäseneseen, jos Suomen kansalainen on käyttänyt vapaan liikkuvuuden direktiivin mukaista liikkumisoikeuttaan asettumalla toiseen jäsenvaltioon ja perheenjäsen tulee Suomeen hänen mukanaan tai seuraa häntä myöhemmin. <u>(21.5.2010/432)</u></p>	<p>1) the conditions on how EU citizens and their family members can use their right to move and reside freely within the territory of the Member States;</p> <p>2) the right of EU citizens and their family members to reside within the territory of the Member States on a permanent basis;</p> <p>3) restrictions concerning the rights referred to in paragraphs 1 and 2 on grounds of public order, public security or public health.</p> <p>(3) The Chapter applies to EU citizens who move to Finland or reside in Finland, and to their family members who accompany them or join them later. (432/2010)</p> <p>(4) The Chapter applies to family members of a Finnish citizen if the Finnish citizen has exercised his or her right of free movement under the Free Movement Directive by settling in another Member State, and the family member accompanies him or her to Finland or joins him or her later. (432/2010)</p>
			<p>153 a § (23.3.2007/360)</p> <p>Poikkeus luvun soveltamisalaan</p>	<p>Section 153a</p> <p><i>Exception to the scope of application of the Chapter (360/2007)</i></p>

			<p>Unionin kansalaiselle, jonka oleskeluoikeutta ei voida rekisteröidä tai vahvistaa tämän luvun säännösten perusteella, voidaan poikkeuksellisesti myöntää oleskelulupa 4 luvun perusteella.</p> <p>Unionin kansalaisen perheenjäsenelle, joka itse ei ole unionin kansalainen, myönnetään oleskelulupa 4 luvun perusteella, jos häneen ei sovelleta tämän luvun säännöksiä.</p>	<p>(1) EU citizens whose right of residence cannot be registered or approved under the provisions of this Chapter may, as an exception, be issued with a residence permit under Chapter 4.</p> <p>(2) A family member of an EU citizen, who is not an EU citizen and to whom the provisions of this Chapter do not apply, is issued with a residence permit under Chapter 4.</p>
			<p>154 § (23.3.2007/360)</p> <p>Unionin kansalaisen perheenjäsen</p> <p>Unionin kansalaisen perheenjäseniä ovat hänen:</p> <ol style="list-style-type: none"> 1) aviopuolionsa; 2) alle 21-vuotiaat tai hänen huollettavinaan olevat jälkeläisensä suoraan alenevassa polvessa samoin kuin hänen aviopuolionsa vastaavat jälkeläiset; 3) huollettavinaan olevat sukulaisensa suoraan ylenevässä polvessa samoin kuin hänen aviopuolionsa vastaavat sukulaiset. <p>Jos Suomessa asuva unionin kansalainen on alaikäinen, hänen huoltajansa on perheenjäsen.</p>	<p>Section 154</p> <p><i>EU citizens' family members (360/2007)</i></p> <p>(1) The following persons are considered family members of an EU citizen:</p> <ol style="list-style-type: none"> 1) his or her spouse; 2) his or her descendants who are under the age of 21 or dependent on him or her, and the descendants of similar status of his or her spouse; 3) his or her direct relatives in the ascending line who are dependent on him or her, and relatives of similar status of his or her spouse. <p>(2) If the EU citizen living in Finland is a minor, his or her guardian is considered a family member.</p>

			<p>Tätä lukua sovellettaessa aviopuolisoihin rinnastetaan jatkuvasti yhteisessä taloudessa avioliitonomaisissa olosuhteissa elävät henkilöt sukupuolestaan riippumatta, jos he ovat asuneet vähintään kaksi vuotta yhdessä. Tätä lukua sovellettaessa heidän välisensä suhde rinnastetaan avioliittoon. Kahden vuoden yhdessä asumista ei kuitenkaan edellytetä, jos yhteisessä taloudessa asuvilla on lapsi yhteisessä huollossa tai jos on muu painava syy.</p> <p>Unionin kansalaisen perheenjäsenen rinnastetaan muu omainen hänen kansalaisuuteensa katsomatta, jos:</p> <ol style="list-style-type: none"> 1) hän on lähtömaassaan sellaisen unionin kansalaisen huollettavana, joka on ensisijainen oleskeluoikeuden haltija, tai hän asui samassa taloudessa tämän kanssa; taikka 2) vakavat terveydelliset syyt ehdottomasti edellyttävät, että kyseinen unionin kansalainen hoitaa häntä henkilökohtaisesti. 	<p>(3) In the application of this Chapter, persons living in a marriage-like relationship in the same household on a permanent basis are considered to have the same status as a married couple regardless of their sex if they have lived in the same household for at least two years. In the application of this Chapter, the relationship between them is equivalent to a marriage. However, the requirement for living together for at least two years does not apply if the persons living in the same household have a child in their joint custody or if there are other weighty reasons.</p> <p>(4) Other relatives are considered to have the same status as family members of EU citizens, regardless of their citizenship, if:</p> <ol style="list-style-type: none"> 1) the relative is, in the country of departure, dependent on an EU citizen who has the primary right of residence, or the relative lived in the same household with the EU citizen in question; or 2) serious health grounds absolutely require the EU citizen in question to give the relative personal care.
			<p>155 § (23.3.2007/360)</p> <p>Unionin kansalaisen maahantulo ja oleskelu</p> <p>Unionin kansalaisen maahantulon ja oleskelun edellytyksenä on, että hänellä on voimassa oleva henkilötodistus tai passi.</p>	<p>Section 155</p> <p><i>EU citizens' entry into and residence in the country (360/2007)</i></p> <p>(1) EU citizens entering into and residing in the country are required to have a valid identity card or passport.</p>

			<p>Jos unionin kansalaisella tai hänen perheenjäsenellään, joka ei ole unionin kansalainen, ei ole vaadittavaa matkustusasiakirjaa tai mahdollisesti tarvittavaa viisumia, hänelle on ennen maahanpääsyn epäämistä varattava tilaisuus hankkia tarpeelliset asiakirjat tai saada ne toimitetuiksi, taikka osoittaa muilla keinoin, että hänellä on oikeus liikkua ja oleskella vapaasti.</p>	<p>(2) If an EU citizen or his or her family member who is not an EU citizen does not have the necessary travel document or, where required, the necessary visa, he or she shall, before being refused entry, be given an opportunity to obtain the necessary documents or to have them delivered to him or her, or prove by other means that he or she has a right to move and reside freely in the country.</p>
			<p>155 a § (25.3.2011/266)</p> <p>Unionin kansalaisen perheenjäsenen maahantulo</p> <p>Jos unionin kansalaisen perheenjäsen ei ole unionin kansalainen, hänen maahantulonsa ja oleskelunsa edellytyksenä on voimassa oleva passi. Tällaiselta perheenjäseneltä voidaan vaatia viisumi, jos perheenjäsen on sellaisen valtion kansalainen, jolta neuvoston asetuksen mukaan vaaditaan viisumi.</p> <p>Perheenjäseneltä, jolla on voimassa oleva vapaan liikkuvuuden direktiivissä tarkoitettu oleskelukortti, ei edellytetä viisumia, eikä hänen passiinsa merkitä maahantulo- tai maastapoistumisleimoja. Oleskelukortti on esitettävä saavuttaessa maahan Schengen-alueen ulkopuolelta.</p>	<p>Section 155a</p> <p><i>Entry of EU citizens' family members (266/2011)</i></p> <p>(1) A family member of an EU citizen who is not an EU citizen entering into and residing in the country are required to have a valid passport. Such a family member may be required to have a visa if the family member is a citizen of a country for which, under a Council Regulation, a visa is required.</p> <p>(2) A family member who holds a valid residence card referred to in the Free Movement Directive, is not required to have a visa, and no entry or exit stamp is placed on his or her passport. The residence card shall be presented when entering the country from outside the Schengen area.</p> <p>(3) Visa applications filed by EU citizens' family members are processed as soon as</p>

			<p>Unionin kansalaisen perheenjäsenen viisumihakemus käsitellään maksutta, mahdollisimman pian ja nopeutettua menettelyä noudattaen. Viisuminhakijaa tai hänen perheenjäsentään voidaan kuulla suullisesti viisumin myöntämistä harkittaessa. Kuulemisen suorittaa Suomen edustusto, jos kuultava oleskelee ulkomailla, ja poliisilaitos, jos tämä oleskelee Suomessa. Suomessa oleskelevan kuulemisen voi suorittaa kuulemiseen liittyvää viisumihakemusta käsittelevän Suomen edustuston virkamies, jos viisumiasian selvittäminen sitä edellyttää.</p> <p>Viisumin epäämis-, mitätöinti- ja kumoamispäätös on annettava viisuminhakijalle kirjallisesti, ja se on perusteltava, jollei tämä ole vastoin Suomen tai unionin muun jäsenvaltion turvallisuusetuja.</p>	<p>possible and free of charge under an accelerated procedure. Visa applicants or their family members may be heard orally when the issuing of a visa for them is considered. The Finnish mission hears applicants who reside abroad, and a local police department those who reside in Finland. Persons residing in Finland may be heard by an official of the Finnish mission processing the application related to the hearing, if this is required to resolve the visa issue.</p> <p>(4) A decision to refuse, annul or revoke a visa shall be given to the applicant in writing, and it shall be justified unless this is contrary to the security interests of Finland or another EU Member State.</p>
	France	Yes	<p>3. -</p>	<p>1. France transposed the Directive 2004/38/EC through the Law of 24 July 2006 and the Decree n°2007-371 of 21 March 2007. These legislations are codified in the Code on Entry and Residence of Foreigners and Right of Asylum (CESEDA) in articles L.121-1 to L.122-3 and R.121-1 to R.122-5. Moreover, in 2010, the COM asked France to transpose the article 3.2 of the Directive which was done through the decree n°2011-1049 of 6 September 2011.</p> <p>2.</p>

			<p><i>Article L.121-1 du CESEDA</i></p> <p><i>Sauf si sa présence constitue une menace pour l'ordre public, tout citoyen de l'Union européenne, tout ressortissant d'un autre Etat partie à l'accord sur l'Espace économique européen ou de la Confédération suisse a le droit de séjourner en France pour une durée supérieure à trois mois s'il satisfait à l'une des conditions suivantes :</i></p> <p><i>1° S'il exerce une activité professionnelle en France;</i></p> <p><i>2° S'il dispose pour lui et pour les membres de sa famille tels que visés au 4° de ressources suffisantes afin de ne pas devenir une charge pour le système d'assistance sociale, ainsi que d'une assurance maladie ;</i></p> <p><i>3° S'il est inscrit dans un établissement fonctionnant conformément aux dispositions législatives et réglementaires en vigueur pour y suivre à titre principal des études ou, dans ce cadre, une formation professionnelle, et garantit disposer d'une assurance maladie ainsi que de ressources suffisantes pour lui et pour les membres de sa famille tels que visés au 5° afin de ne pas devenir une charge pour le système d'assistance sociale ;</i></p> <p><i>4° S'il est un descendant direct âgé de moins de vingt et un ans ou à charge, ascendant direct à charge, conjoint, ascendant ou descendant direct à charge du conjoint, accompagnant ou rejoignant un ressortissant qui satisfait aux conditions énoncées aux 1° ou 2° ;</i></p>	<p>Art L.121-1 of CESEDA (legislative part)</p> <p>Unless his presence constitutes a threat to public order, all Union citizens have the right to reside for a period of more than three months if one of the following conditions is fulfilled:</p> <p>1° to carry out a professional activity in France ;</p> <p>2° to prove sufficient resources for themselves and their family members not to become a burden on the social assistance system during their period of residence and to have a sickness insurance ;</p> <p>3° to be enrolled in a higher education institution to pursue as a main activity a full-time course of study or vocational training, and to have sickness insurance and sufficient resources for themselves and their family members ;</p> <p>4° to be the direct descendants under 21 years of age or dependent, direct ascendant, partner, direct ascendant or descendant of the spouse or of the partner accompanying or joining a Union citizen who satisfies the conditions referred to in points 1° or 2°;</p> <p>5° the partner or dependent child accompanying or joining a Union citizen who satisfies the conditions referred to in point 3.</p>
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			<p><i>5° S'il est le conjoint ou un enfant à charge accompagnant ou rejoignant un ressortissant qui satisfait aux conditions énoncées au 3°.</i></p> <p><i>Article L.121-2</i></p> <p><i>Les ressortissants visés à l'article L. 121-1 qui souhaitent établir en France leur résidence habituelle se font enregistrer auprès du maire de leur commune de résidence dans les trois mois suivant leur arrivée. Les ressortissants qui n'ont pas respecté cette obligation d'enregistrement sont réputés résider en France depuis moins de trois mois.</i></p> <p><i>Ils ne sont pas tenus de détenir un titre de séjour. S'ils en font la demande, il leur est délivré un titre de séjour.</i></p> <p><i>Toutefois, demeurent soumis à la détention d'un titre de séjour durant le temps de validité des mesures transitoires éventuellement prévues en la matière par le traité d'adhésion du pays dont ils sont ressortissants, et sauf si ce traité en stipule autrement, les citoyens de l'Union européenne qui souhaitent exercer en France une activité professionnelle.</i></p> <p><i>Si les citoyens mentionnés à l'alinéa précédent souhaitent exercer une activité salariée dans un métier caractérisé par des difficultés de recrutement et figurant sur une liste établie, au plan national, par l'autorité administrative, ils ne peuvent se voir opposer la situation de l'emploi</i></p>	<p><i>Article L.121-2</i></p> <p>Union citizens referred to in Article L.121-1 who wish to establish their usual residence in France have to register with the mayor of their municipality within three months of their arrival. Union citizens that did not respect this obligation are considered as residing in France for less than three months.</p> <p>They are not required to have a residence permit. A resident permit is issued, upon request.</p> <p>However, Union citizens who want to carry out a professional activity remain subject to hold a resident permit during the validity of transitional measures set out in the Accession Treaty of their Member State, if any, unless the Treaty provides otherwise.</p> <p>If Union citizens mentioned in the previous paragraph want to carry out a salaried activity in a job characterized by difficulties in recruiting appearing on a list established, at national level, by the administrative authority, they cannot be refused the residence on the basis of the labour market test as mentioned in Article L.341-2 of the Labor Code.</p> <p>Union citizens having successfully completed a course of training leading to a diploma at least</p>
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			<p><i>sur le fondement de l'article L. 341-2 du code du travail.</i></p> <p><i>Lorsque ces citoyens ont achevé avec succès, dans un établissement d'enseignement supérieur habilité au plan national, un cycle de formation conduisant à un diplôme au moins équivalent au master, ils ne sont pas soumis à la détention d'un titre de séjour pour exercer une activité professionnelle en France.</i></p>	<p>equivalent to a master's degree, are not required to have a residence permit to carry out a professional activity.</p>
			<p><i>Article L121-3</i></p> <p><i>Sauf si sa présence constitue une menace pour l'ordre public, le membre de famille visé aux 4° ou 5° de l'article L. 121-1 selon la situation de la personne qu'il accompagne ou rejoint, ressortissant d'un Etat tiers, a le droit de séjourner sur l'ensemble du territoire français pour une durée supérieure à trois mois.</i></p> <p><i>S'il est âgé de plus de dix-huit ans ou d'au moins seize ans lorsqu'il veut exercer une activité professionnelle, il doit être muni d'une carte de séjour. Cette carte, dont la durée de validité correspond à la durée de séjour envisagée du citoyen de l'Union dans la limite de cinq années, porte la mention: «carte de séjour de membre de la famille d'un citoyen de l'Union». Sauf application des mesures transitoires prévues par le traité d'adhésion à l'Union européenne de l'Etat dont il est ressortissant, cette carte donne à</i></p>	<p>Article L.121-3</p> <p>Unless their presences constitute a threat to public order, family members of Union citizen who are third-country nationals, referred to in points 4° or 5° in Article L.212-1, depending on the situation of the Union citizen whom they accompany or join, have the right to reside in France for a period of more than three months.</p> <p>If they are over eighteen years old or at least sixteen years old and want to carry out a professional activity, they are required to have a residence permit.</p> <p>The validity period of the residence permit corresponds to the <i>planned period of residence</i> of the Union citizen for a maximum of 5 years and shall be called : « Residence card of a family member of a Union citizen ». Unless <i>transitional measures</i> are applied as indicated in the Accession Treaty of their Member State, the</p>

			<p><i>son titulaire le droit d'exercer une activité professionnelle.</i></p>	<p>residence permit allows to carry out a professional activity.</p>
			<p><i>Article L121-4</i></p> <p><i>Tout citoyen de l'Union européenne, tout ressortissant d'un autre Etat partie à l'accord sur l'Espace économique européen ou de la Confédération suisse ou les membres de sa famille qui ne peuvent justifier d'un droit au séjour en application de l'article L. 121-1 ou de l'article L. 121-3 ou dont la présence constitue une menace à l'ordre public peut faire l'objet, selon le cas, d'une décision de refus de séjour, d'un refus de délivrance ou de renouvellement d'une carte de séjour ou d'un retrait de celle-ci ainsi que d'une mesure d'éloignement prévue au livre V.</i></p>	<p>Article L121-4</p> <p>Union citizens, nationals from a Member State of the European Economic Area or from Switzerland or their family members who cannot benefit from a right of residence according to article L.121-1 or Article L.121-3 or who constitute a threat to public order may be subject to a refusal for residing or for issuance or renewal of their residence permit or can be subject to a withdrawal of their residence permit and to a removal order mentioned in the part V of the CESEDA.</p>
			<p><i>Article L121-4-1</i></p> <p><i>Tant qu'ils ne deviennent pas une charge déraisonnable pour le système d'assistance sociale, les citoyens de l'Union européenne, les ressortissants d'un autre Etat partie à l'accord sur l'Espace économique européen ou de la Confédération suisse, ainsi que les membres de leur famille tels que définis aux 4° et 5° de l'article L. 121-1, ont le droit de séjourner en France pour une durée maximale de trois mois, sans autre condition ou formalité que celles prévues pour l'entrée sur le territoire français.</i></p>	<p>Article L121-4-1</p> <p>As long as they do not become an unreasonable burden on the social assistance system, Union citizens and their family members referred to in points 4° or 5° in Article L.212-1, have the right to reside in France for a maximum period of three months, without any conditions or formalities other than those prescribed for entry into the French territory.</p>

			<p><i>Article R.121-2-1 du CESEDA</i></p> <p><i>Après un examen de sa situation personnelle, l'autorité administrative peut appliquer les dispositions des <u>articles R. 121-1 et R. 121-2</u> à tout ressortissant étranger, quelle que soit sa nationalité, ne relevant pas des 4° et 5° de l'article L. 121-1 :</i></p> <p><i>1° Si, dans le pays de provenance, il est membre de famille à charge ou faisant partie du ménage d'un ressortissant mentionné aux 1°, 2° ou 3° de l'article L. 121-1 ;</i></p> <p><i>2° Lorsque, pour des raisons de santé graves, le ressortissant mentionné aux 1°, 2° ou 3° de l'article L. 121-1 doit nécessairement et personnellement s'occuper de cette personne avec laquelle il a un lien de parenté ;</i></p> <p><i>3° S'il atteste de liens privés et familiaux durables, autres que matrimoniaux, avec un ressortissant mentionné aux 1°, 2° ou 3° de l'article L. 121-1.</i></p>	<p>Article R.121-2-1 du CESEDA (regulatory section)</p> <p>After examination of their personal situation, the administrative authority may apply the provisions of Articles R.121-1 et R121-2 to third-country nationals, whatever his nationality, which are not referred to in 4° and 5° of Article L.121-1:</p> <p>1° If, in their country of origin, they are dependent family members or belonging to the household of a third-country national referred to in 1°, 2° or 3° of Article L.121-1;</p> <p>2° Where for serious health grounds, the third-country national referred to in 1°,2° or 3° of Article L.121-1 strictly requires the personal care of the family member ;</p> <p>3° If they justify sustainable private and family ties, other than matrimonial ties, with a third-country national referred to in 1°, 2° or 3° of Article L.121-1.</p>
			<p><i>Article R.121-4-1</i></p> <p><i>Les ressortissants qui remplissent l'une des conditions prévues à <u>l'article R. 121-2-1</u> peuvent se voir reconnaître le droit de séjourner en France après un examen de leur situation personnelle.</i></p>	<p>Article R.121-4-1</p> <p>Third-country nationals who fulfil the conditions laid down in Article R.121-2-1 may be granted the right to stay in France after examination of their personal situation.</p>
			<p>3. NO</p>	

	Germany	Yes	<p>1. In those cases in which any implementation of Directive 2004/38/EC still was required, this was effected by amending the existing German Act on the General Freedom of Movement for EU Citizens – Freedom of Movement Act/EU (Gesetz über die allgemeine Freizügigkeit von Unionsbürgern - Freizügigkeitsgesetz/EU – FreizügG/EU). The amendment was carried out in the shape of Article 2 of the Act to implement Residence and Asylum related Directives of the European Union (Gesetz zur Umsetzung aufenthalts- und asylrechtlicher Richtlinien der Europäischen Union) of 19 August 2007, and came into force on 28 August 2007 (Federal Law Gazette [Bundesgesetzblatt] Part I No. 42 of 27 August 2007).</p> <p>2. Art. 3 of Directive 2004/38/EC is implemented in sections 1 to 9 of the Freedom of Movement Act/EU (FreizügG/EU). The German and English versions of the Freedom of Movement Act/EU are available on the following links: http://www.gesetze-im-internet.de/bundesrecht/freiz_gg_eu_2004/gesamt.pdf http://www.gesetze-im-internet.de/englisch_freiz_gg_eu/englisch_freiz_gg_eu.pdf</p> <p>3. No, no further requirements for implementation.</p>
	Hungary	Yes	<p>1. Directive 2004/38/EC was implemented with a separate act, Act I of 2007 on the Entry and Residence of Persons with the Right of Free Movement and Residence together with Government Decree No. 113/2007 implementing Act I of 2007 on the Entry and Residence of Persons with the Right of Free Movement and Residence.</p> <p>2. Hungarian: 1. § (1) Magyarország az e törvényben foglaltak szerint biztosítja a szabad mozgás és tartózkodás jogának gyakorlását a) a magyar állampolgár kivételével az Európai Unió tagállama és az Európai Gazdasági Térségről szóló megállapodásban részes más állam állampolgárának, továbbá az Európai Közösség és tagállamai, valamint az Európai Gazdasági Térségről szóló megállapodásban nem részes állam között létrejött nemzetközi szerződés alapján a szabad mozgás és tartózkodás joga tekintetében az Európai Gazdasági Térségről szóló megállapodásban részes állam állampolgárával azonos jogállású személynek (a továbbiakban: EGT-állampolgár), b) az EGT-állampolgár magyar állampolgársággal nem rendelkező, az EGT-állampolgárt kísérő vagy hozzá csatlakozó családtagjának (a továbbiakban: az EGT-állampolgár családtagja), c) a magyar állampolgár magyar állampolgársággal nem rendelkező, a magyar állampolgárt kísérő vagy hozzá csatlakozó családtagjának (a továbbiakban: a magyar állampolgár családtagja), valamint d) annak az EGT-állampolgárt vagy a magyar állampolgárt kísérő vagy hozzá csatlakozó személynek, aki da) a magyar állampolgár eltartottja, vagy vele legalább</p>

			<p>egy éve egy háztartásban él, illetve akiről súlyos egészségügyi okból a magyar állampolgár személyesen gondoskodik, db) - abban az országban, ahonnan érkeznek - az EGT-állampolgár eltartottja volt, vagy vele egy háztartásban élt, illetve akiről súlyos egészségügyi okból az EGT-állampolgár személyesen gondoskodik, és a hatóság családtagként való beutazását és tartózkodását engedélyezi. English: Section 1 (1) The Republic of Hungary shall ensure the right of free movement and residence in accordance with the provisions of this Act: a) with the exception of Hungarian citizens, to nationals of any Member State of the European Union and States who are parties to the Agreement on the European Economic Area, and to persons enjoying the same treatment as nationals of States who are parties to the Agreement on the European Economic Area by virtue of an agreement between the European Community and its Member States and a State that is not a party to the Agreement on the European Economic Area with respect to the right of free movement and residence (hereinafter referred to as "EEA nationals"); b) to the family member of an EEA national who does not have Hungarian citizenship, accompanying or joining the EEA national (hereinafter referred to as "family members of EEA nationals"); c) to the family member of a Hungarian citizen who does not have Hungarian citizenship, accompanying or joining the Hungarian citizen (hereinafter referred to as "family members of Hungarian citizens"); and d) to any person accompanying or joining an EEA national or a Hungarian citizen, who: da) is dependant or for a period of at least one year has been member of the household of a Hungarian citizen, or where serious health grounds require the personal care of the family member by the Hungarian citizen; db) had been dependant or had been for a period of at least one year member of the household of an EEA national in the country from which they are arriving, or where serious health grounds require the personal care of the family member by the EEA national, and whose entry and residence has been authorized as family member by the authority.</p> <p>3. We are not considering the amendment of the legislation at the moment.</p>
	<p>Ireland</p>	<p>Yes</p>	<p>1. Directive 2004/38/EC is implemented in Ireland via the European Communities (Free Movement of Persons) Regulations 2015 (S.I. No. 548 of 2015). Please see PDF of Regulations attached. These Regulations update earlier regulations from 2006.</p> <p>2. Please refer in particular to: Regulation 4: Permission for Union citizens and qualifying family members to enter State; Regulation 5: Permission for permitted family member to enter State; Regulation 6: Residence in the State; Regulation 7: Residence card for family member when not a national of a member state. "Qualifying family member" refers to - (I) the Union citizen's spouse or civil partner, (ii) a direct descendant of the Union citizen, or of the Union citizen's spouse or civil</p>

			<p>partner, and is - (I) under the age of 21, or (II) a dependent of the Union citizen, or of his or spouse or civil partner, or (iii) a dependent direct relative in the ascending line of the Union citizen, or of his or her spouse or civil partner (See Regulation 3(5)). "Permitted family member" refers to family members of a Union citizen (other than qualifying family members) who in the country from which the person has come - (I) is a dependent of the Union citizen, (ii) is a member of the house of the Union citizen, or (iii) on the basis of serious health grounds strictly requires the personal care of the Union citizen, or (b) is the partner with whom a Union citizen has a durable relationship, duly attested. (See Regulation 5(1)(a)). A person may apply to the Minister to be considered a permitted family member.</p> <p>3. The European Communities (Free Movement of Persons) Regulations 2015 (S.I. No. 548 of 2015) entered into force on 1 February 2016. No further legislative amendments are envisaged as regards Article 3 at this time, however, a small amendment as regards the power to remove persons under the Regulation is expected shortly.</p>
	<p>Italy</p>	<p>Yes</p>	<p>1. In Italy, Directive 2004/38/EC was implemented by Legislative Decree No 30/2007 "Implementation of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States".</p> <p>2. The provision implementing Article 3 of Directive 2004/38/EC is contained in Legislative Decree No 30/2007, which reads as follows: «1. This legislative decree is applicable to all Union citizens who move or reside in a Member State other than that in which they are a national, and to their family members [...] who accompany or join them. 2. Without prejudice to any right to free movement and residence the persons concerned may have in their own right, the host Member State shall, in accordance with its national legislation, facilitate entry and residence for the following persons: a. any other family members, irrespective of their nationality, [...] who, in the country from which they have come, are dependants or members of the household of the Union citizen having the primary right of residence, or where serious health grounds strictly require the personal care of the family member by the Union; b. the partner with whom the Union citizen has a durable relationship, duly attested by the State of the Union citizen. 3. The host Member State shall undertake an extensive examination of the personal circumstances and shall justify any denial of entry or residence to these people». Italian version: « 1. Il presente decreto legislativo si applica a qualsiasi cittadino dell'Unione che si rechi o soggiorni in uno Stato membro diverso da quello di cui ha la cittadinanza, nonché ai suoi familiari ai sensi dell'articolo 2, comma 1, lettera b), che accompagnino o raggiungano il cittadino medesimo. 2. Senza pregiudizio del diritto personale di libera circolazione e di soggiorno dell'interessato, lo Stato</p>

			<p>membro ospitante, conformemente alla sua legislazione nazionale, agevola l'ingresso e il soggiorno delle seguenti persone: a) ogni altro familiare, qualunque sia la sua cittadinanza, non definito all'articolo 2, comma 1, lettera b), se è a carico o convive, nel paese di provenienza, con il cittadino dell'Unione titolare del diritto di soggiorno a titolo principale o se gravi motivi di salute impongono che il cittadino dell'Unione lo assista personalmente; b) il partner con cui il cittadino dell'Unione abbia una relazione stabile debitamente attestata dallo Stato del cittadino dell'Unione. 3. Lo Stato membro ospitante effettua un esame approfondito della situazione personale e giustifica l'eventuale rifiuto del loro ingresso o soggiorno»-</p> <p>3. No.</p>
	<p>Latvia</p>	<p>Yes</p>	<p>1. The Article 3 of the Directive 2004/39/EC has been implemented in the Cabinet of Ministers Regulations “Procedures for the Entry and Residence in the Republic of Latvia of Citizens of the Union and their Family Members” (separate legislative act No. 675, 30th August 2011).</p> <p>2. Article 4 of the Regulation: 4. Within the meaning of this Regulation, an extended family member of a Union citizen shall be: 4.1. a person who is a relative of the Union citizen or his or her spouse and who is a dependant or member of the household of such Union citizen in his or her previous country of residence or who, on serious health grounds, requires personal care, and the Union citizen certifies that he or she will provide such care to the person; 4.2. a partner with whom the Union citizen has a relationship lasting for at least two years or a partner with whom the Union citizen has a registered partnership. Within the meaning of this Regulation, the term “partner” shall be used to safeguard the rights provided for in this Regulation and shall not cover the recognition of any such partnership, which has been the basis for granting the right of entry or residence. In Latvian: 4. Šo noteikumu izpratnē Savienības pilsoņa paplašinātās ģimenes loceklis ir: 4.1. Savienības pilsoņa vai viņa laulātā radnieks, kas atrodas Savienības pilsoņa apgādībā vai kam ir kopīga saimniecība ar Savienības pilsoni viņa iepriekšējā mītnes valstī, vai kam nopietnu veselības traucējumu dēļ ir nepieciešama personiska kopšana, un Savienības pilsonis apliecina, ka nodrošinās šīs personas kopšanu; 4.2. partneris, ar kuru Savienības pilsonim ir vismaz divus gadus ilgušas vai reģistrētas attiecības. Termins "partneris" šo noteikumu izpratnē lietots, lai nodrošinātu šajos noteikumos paredzētās tiesības, un neietver tādu partnerattiecību atzīšanu, kas bijušas par pamatu ieceļošanas vai uzturēšanās tiesību piešķiršanai.)</p> <p>3. There is no plan to amend the existing regulation.</p>

	Lithuania	Yes	<p>1. Article 3 of the Directive 2004/38/EC was transposed into national law by the amendment of law on the legal status of aliens on June 30, 2012. After the ECJ C-83/11 - Rahman and Others case the law on the legal status of aliens was amended again on June 27, 2013.</p> <p>2. Law on the legal status of aliens Article 2. Definitions. 111. Any other person who enjoys the right of free movement under legal acts of the European Union means a person who is not a family member of a citizen of an EU Member State but is a cohabiting partner with whom the citizen of the EU Member State has durable, duly attested relationship during the past three years, as well as a person who is a dependant or a member of the household of the citizen of the EU Member State, or where serious health grounds strictly require his personal care by the citizen of the EU Member State, if duly attested.</p> <p>3. No.</p>
	Luxembourg	Yes	<p>1. Article 3 of the Directive 2004/38/EC was transposed into national law by the Law of 29 August 2008 on free movement of persons</p> <p>2. Chapter 2 – The right of Union citizens, of nationals of other States party to the Agreement on the European Economic Area and of the Swiss Confederation, and of their family members, to move and reside freely on the territory of the Grand Duchy of Luxembourg Section 1 – The right of entry, residence and exit of Union citizens Art. 5. Union citizens holding a valid identity card or passport shall have the right to enter the territory of the Grand Duchy of Luxembourg and to reside there for a period of up to three months, as well as the right to leave the territory in order to travel to another Member State. Art. 6. 1. A Union citizen shall have the right to reside on the territory for a period of more than three months if he/she fulfils one of the following criteria: (1) he/she carries on, as a worker, a salaried or self-employed activity; (2) he/she has, for him/herself and for his/her family members as referred to in Article 12, sufficient resources to avoid becoming a burden on the social assistance system, and sickness insurance cover; (3) he/she is enrolled at a public or private educational establishment, accredited in the Grand Duchy of Luxembourg in accordance with the legislation and regulations in force, for the principal purpose of following there a course of study or, in that context, vocational training, whilst guaranteeing that he/she has sufficient resources for him/herself and for his/her family members to avoid becoming a burden on the social assistance system, and sickness insurance. 2. The resources required under points (2) and (3) of paragraph 1 of this Article, and the modalities for proving possession of those resources, shall be laid down by Grand-Ducal regulation. 3. During the period of validity of the measures adopted in application of the transitional provisions of the Treaties of accession</p>

			<p>to the European Union and the Agreement on the European Economic Area, salaried workers who are nationals of the acceding States shall continue to be subject to the obligation to hold a work permit. Art. 7. 1. A Union citizen shall retain the status of worker after having worked on a salaried or self-employed basis on the territory if he/she fulfils one of the following criteria: (1) he/she is temporarily unable to work as the result of an illness or accident; (2) he/she is in involuntary unemployment after having worked for more than one year and has registered as a jobseeker with the “Agence pour le développement de l'emploi” [National Employment Agency]; (3) he/she embarks on vocational training connected with his/her former salaried activity, unless he/she has become involuntarily unemployed. 2. He/she shall retain the status of worker for six months if: (1) he/she is in involuntarily unemployment and has registered as a jobseeker with the “Agence pour le développement de l'emploi”¹ after completing a fixed-term employment contract of less than one year, or (2) he/she has become involuntarily unemployed during the first twelve months after concluding his/her employment contract and has registered as a jobseeker with the “Agence pour le développement de l'emploi”¹. Art. 8. 1. Without prejudice to the existing rules on population registers, a Union citizen as referred to in Article 6(1) who intends to reside on the territory for a period greater than three months shall apply to the municipal authority for the place where he/she resides, within three months from his/her arrival there, for the issue of a registration certificate. (2) In order to be issued with the registration certificate, the Union citizen must show that he/she falls within one of the categories set out in Article 6(1) and that he/she fulfils the conditions in that regard. To that end, he/she shall be required to produce the documents enumerated by Grand-Dual regulation. 3. Upon receipt of the documents referred to in paragraph 2 of this Article, the registration certificate shall be handed over forthwith. It shall state the name and address of the registered person and the date of registration. 4. That certificate shall not establish a right of residence. Possession of such a certificate cannot in any circumstances constitute a precondition for the exercise of a right or the accomplishment of any other administrative formality. Art. 9. 1. A Union citizen who produces evidence that he/she has resided legally in the country for a continuous period of five years shall have the right of permanent residence. That right shall not be subject to the conditions laid down in Article 6(1). 2. Continuity of residence shall not be affected by temporary absences not exceeding a total of six months a year, by absences of a longer duration for compulsory military service, or by one absence of a maximum of 12 consecutive months for important reasons such as pregnancy or childbirth, serious illness, study or vocational training, or a posting for professional reasons in another Member State or a third country. 3. Once acquired, the right of permanent residence shall be lost only through absence from the territory for a period exceeding two consecutive years. 4. Continuity of residence may be attested by any form of proof. It shall be interrupted by the enforcement of a decision for the removal of the person concerned from the territory.</p>
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			<p>Art. 10. 1. By way of derogation from Article 9(1), the following persons shall have a right of permanent residence in Luxembourg before completion of a continuous period of residence of five years' duration: (1) a salaried or self-employed worker who, at the time of ceasing to work, has reached the age at which he/she can claim an old-age pension, or a worker who stops working on account of being placed in early retirement, provided that he/she has been working in Luxembourg for at least the preceding 12 months and has been residing there continuously for more than three years; (2) a salaried or self-employed worker who stops working as a result of permanent incapacity to work, where he/she has been residing continuously in the country for more than two years; where the incapacity results from an accident at the workplace or an occupational disease entitling the person concerned to a benefit payable wholly or in part by the State, no condition shall be imposed as to length of residence; (3) a worker who, after three years of continuous work and residence in the country, works in a salaried or self-employed capacity in another Member State whilst retaining his/her place of residence in the Grand Duchy of Luxembourg, to which he/she returns, as a rule, each day or at least once a week. 2. For the purposes of entitlement to the rights provided for in points (1) and (2) of paragraph 1 of this Article, the periods of work spent in another Member State shall be regarded as having been spent in the Grand Duchy of Luxembourg. 3. Duly recorded periods of involuntary unemployment, periods not worked for reasons not of the worker's own making and absence from work or cessation of work due to illness or accident shall be regarded as periods of work. 4. The conditions as to work and residence respectively laid down in point (1) of paragraph 1 and in points (1) and (2) of paragraph 1 of this Article shall not apply if the worker's spouse is a Luxembourg national or if that spouse has lost his/her Luxembourg nationality by reason of marriage to the worker. Art. 11. A Union citizen who acquires the right of permanent residence shall receive a document attesting to the permanence of his/her residence, in accordance with detailed rules to be laid down by Grand-Ducal regulation. Section 2 – Right of entry, residence and exit of family members of Union citizens and of nationals of other States party to the Agreement on the European Economic Area and of the Swiss Confederation Art. 12. 1. The following shall be considered to be family members: (a) the spouse; (Law of 8 December 2011) (b) “the partner with whom the Union citizen has contracted a registered partnership in accordance with the substantive and formal conditions laid down by the Law of 9 July 2004 on the legal effects of certain partnerships, as amended;” (c) the direct descendants who are aged under 21 or who are dependants of the Union citizen and those of the spouse or partner referred to in point (b); (d) the dependent direct relatives of the Union citizen in the ascending line for whom the Union citizen is financially responsible and those of the spouse or partner referred to in point (b). 2. The Minister may authorise any other family member, whatever his/her nationality, who is not covered by the definition in paragraph 1 to reside on the territory if he/she fulfils one of the following conditions: (1) in the country from which he/she came,</p>
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			<p>he/she was a dependant of, or formed part of the household of, the Union citizen who is the principal beneficiary of the right of residence; (2) the Union citizen must personally look after the welfare, on serious health grounds, of the family member concerned; (Law of 8 December 2011) “(3) the partner with whom the Union citizen has a lasting, duly certified relationship. The lasting nature of the relationship shall be examined as to its intensity, the length of time for which it has existed and the stability of the bonds between the partners. Evidence of its lasting nature may be adduced by any means. It shall be demonstrated if the partners prove: (a) that they have cohabited legally for a continuous period of at least one year prior to the application; (b) that they have a common child for whom they together assume parental responsibility. The partners must not be bound by bonds of marriage, declared partnership or lasting relationship with another person.” The application for leave to enter and reside of the family members referred to in the preceding subparagraph shall be the subject of an in-depth examination taking their personal circumstances into account. (Law of 8 December 2011) “Any decision refusing leave to enter or reside shall be duly reasoned in accordance with Article 109.”</p> <p>3. The family members, whether Union citizens or third-country nationals, of a Luxembourg citizen shall be treated in the same way as the family members of a Union citizen. Art. 13. 1. Without prejudice to the provisions on travel documents applicable to border controls, deriving from international agreements or from Community rules, family members as defined in Article 12 who are third-country nationals and who are accompanying or joining a Union citizen shall have the right to enter the territory of the Grand Duchy of Luxembourg and to reside there for a period of up to three months provided that they are in possession of a valid passport and, where necessary, of the visa required for entry onto the territory. 2. Where they are in possession of a valid residence card (carte de séjour) as referred to in Article 15, family members shall be exempt from the obligation to hold an entry visa if such visa is required, and no entry or exit stamp shall be placed in their passport. 3. They shall have the right to leave the territory in order to travel to another Member State, without being required to have an exit visa or being subject to any equivalent obligation. Art. 14. 1. Family members as defined in Article 12 who are themselves Union citizens shall have a right of residence as provided for in Article 6 if they are accompanying or joining a Union citizen. That right of residence shall also extend to family members who are third-country nationals if they are accompanying or joining a Union citizen who him/herself fulfils the conditions laid down in points (1) or (2) of Article 6(1). 2. By way of derogation from paragraph 1 of this Article, only the spouse, registered partner or dependent child, irrespective of their nationality, accompanying or joining a Union citizen who fulfils the condition laid down in point (3) of Article 6(1) shall have the right of residence as family members. However, as regards the right of</p>
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			<p>residence of direct relatives in the ascending line who are dependants of a student or his/her spouse or registered partner, Article 12(2) shall apply. (french version - see attached document)</p> <p>3. No.</p>
	Netherlands	Yes	<p>1. Decree of April 24, 2006, amending the Foreigners Decree 2000 in connection with the implementation of Directive 2004/38/EC of the European Parliament and the Council of April 29 2004 on the right to move and reside freely within the territory of the citizens of the Member States and their families (PbEU L 158 and L 229).</p> <p>2. In Dutch: Artikel 3 van de Richtlijn is geïmplementeerd in artikel 8.7 Vreemdelingenbesluit: Lid 1. Deze paragraaf is van toepassing op vreemdelingen die de nationaliteit bezitten van een staat die partij is bij het Verdrag betreffende de werking van de Europese Unie of bij de Overeenkomst betreffende de Europese Economische Ruimte, dan wel van Zwitserland, en die zich naar Nederland begeven of in Nederland verblijven. Lid 2. Deze paragraaf is eveneens van toepassing op de familieleden die een vreemdeling als bedoeld in het eerste lid naar Nederland begeleiden of zich bij hem in Nederland voegen, voor zover het betreft: a. de echtgenoot; b. de partner, waarmee de vreemdeling een naar Nederlands internationaal privaatrecht geldig geregistreerd partnerschap is aangegaan; c. de rechtstreekse bloedverwant in neergaande lijn, van een vreemdeling als bedoeld in het eerste lid, of van diens echtgenoot of geregistreerd partner, voor zover die bloedverwant jonger is dan 21 jaar of ten laste is van die echtgenoot of geregistreerd partner; of d. de rechtstreekse bloedverwant in opgaande lijn die ten laste is van de vreemdeling of van het gezinslid, bedoeld onder a of b. In English: Article 3 of the Directive is implemented in article 8.7 Foreigners Degree: Section 1: This article applies to foreigners who possesses the nationality of a state who is a formal party of the Treaty on the functioning of the European Union, or who is a formal party to the Agreement on the European Economic Area, or who possesses the nationality of Switzerland, and who wishes to move to the Netherlands or resides in the Netherlands. Section 2: This article also applies to family members who foreigners as meant in the first section, wishes to bring to the Netherlands or join him/her in the Netherlands, insofar as this family member is: a) The spouse b) The partner to whom the foreigner has a valid registered partnership, according to Dutch international private law. c) A direct relative in the descending line from either the foreigner meant in the first section, or his/her spouse or registered partner, provided that this relative is under the age of 21 or dependent on the foreigner or his/her spouse or registered partner d) A direct</p>

			<p>relative in the ascending line who is dependent on the foreigner or the family member referred to in a) or b).</p> <p>3. No, we do not consider amending the legislation at the moment.</p>
	<p>Poland</p>	<p>Yes</p>	<p>1. A. Provisions contained in art. 3 of the Directive 2004/38/EC were transposed by two separate statutes, i.e.: 1. Act of 14 July 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union and their family members, 2. Act of 2 December 2013 on Aliens – in the relevant scope, the act was amended in 2007.</p> <p>2. B. According to art. 160 (3) of the Act of 2 December 2013 on Aliens, residence permit for a fixed period may be granted to a foreigner conducting family life in the meaning of the Convention on human rights and fundamental freedoms, as done in Rome on 4 November 1950 (Journal of Laws 1993, No. 61, pos. 284, with further amendments), Polish citizen, citizen of other UE Member State, member state of the European Free Trade Agreement (EFTA) – party to the European Economic Area (EEA) or Swiss Confederation, residing in the territory of the Republic of Poland, with who he/she resides jointly in this territory, provided that he/she fulfills conditions enlisted in art. 159 (1) (2). According to art. 31 (1 and 4) of the Act of 14 July 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union and their family members: Registration of permit shall be denied to a citizen of the EU Member State, and issuance of a residence card of the EU citizen’s family member to a family member – foreigner shall be refused, in the following circumstances: 1) conditions for residence were not met (...); 1a. The provision shall not apply to: 1) EU citizen – family member of the EU citizen or Polish citizen other that referred to as in art. 2 (4) who joins him/her or resides with him/her in the territory of the Republic of Poland due to: a) financial dependency or living in the same household, in country, the EU citizen applying for residence registration came from, or, b) serious health grounds requiring personal assistance, provided by the EU or Polish citizen whom citizen in question joins or resides with in the territory of the Republic of Poland; 2) the EU citizen conducting family life in the meaning of the Convention on human rights and fundamental freedoms, as done in Rome on 4 November 1950 (Journal of Laws 1993, No. 61, pos. 284, with further amendments), with the EU or Polish citizen whom citizen in question joins or resides with in the territory of the Republic of Poland. 4. In case provided in art. 31 (1a) (2), authority conducting proceedings on the EU citizen residence registration shall determine, in particular, if bonds of the citizen in question with the EU or</p>

			<p>Polish citizen whom the citizen in question joins or resides with in the territory of the Republic of Poland, are of real and stable character.</p> <p>3. C. Yes/No</p>
	<p>Portugal</p>	<p>Yes</p>	<p>1. The directive was implemented through a separate act.</p> <p>2. Portuguese version-Artigo 3º - Âmbito pessoal de aplicação 1.A presente lei aplica-se a todos os cidadãos da União que se desloquem ou residam em Portugal, bem como aos seus familiares, na aceção da alínea e) do artigo anterior, que os acompanhem ou que a eles se reúnam. 2.Sem prejuízo do direito pessoal de livre circulação e residência da pessoa em causa, é facilitada, nos termos da lei geral, a entrada e residência de qualquer outro familiar, independentemente da sua nacionalidade, não abrangido pela alínea e) do artigo anterior que, no país do qual provenha, esteja a cargo do cidadão da União que tem direito a residência a título principal ou que com este viva em comunhão de habitação, ou quando o cidadão da União tiver imperativamente de cuidar pessoalmente do membro da sua família por motivos de saúde graves. 3.A decisão relativa à entrada e residência das pessoas abrangidas pelo número anterior só pode ser tomada após análise de todas as circunstâncias pessoais relevantes, devendo ser fundamentada qualquer recusa de entrada ou de concessão de autorização de residência. 4.As disposições legais que se refiram aos cidadãos da União entendem-se como abrangendo os nacionais dos Estados partes no Acordo sobre o Espaço Económico Europeu e os nacionais da Suíça. 5.As normas da presente lei aplicáveis a familiares são extensíveis aos familiares de cidadãos de nacionalidade portuguesa, independentemente da sua nacionalidade English version: Article 3 – Beneficiaries 1 – This Act shall apply to all Union citizens who travel to or reside in Portugal, as well as to their family members, as defined in subparagraph e) of the preceding Article, who accompany or join them. 2 - Without prejudice of the citizen’s personal right of free movement and residence, entry and residence shall be facilitated, under the general terms of law, for any other family members, irrespective of their nationality, not falling within the definition in subparagraph e) of the preceding Article who, in the country from which they have come, are dependants or members of the household of the Union citizen having the primary right of residence, or where serious health grounds strictly require the personal care of the family member by the Union citizen. 3 – The decision on entry and residence of the persons mentioned in the preceding paragraph can only be taken after an extensive examination of all relevant personal circumstances, and grounds shall be given for any denial of entry or residence to such persons. 4 – Legal provisions making reference to Union citizens shall be deemed to cover nationals of States parties on the Agreement on the European Economic Area and to Swiss nationals. 5 – Any rules of this</p>

			<p>law applicable to family members shall be extended to family members of Portuguese citizens, irrespective of their nationality.</p> <p>3. No for now.</p>
	Slovak Republic	Yes	<p>1. The Directive has been transposed through an Amendment to an act in force (Act No. 404/2011 on Residence of Aliens and Amendment and Supplementation of Certain Acts). Article 3 (2) was already partially in compliance with the Act No. 71/1967 on Administrative Procedures and partially it has also been transposed through an Amendment to Act No. 404/2011 on Residence of Aliens and Amendment and Supplementation of Certain Acts.</p> <p>2. Article 3 (1) has been transposed into the Article 63 (1) of the Act No. 404/2011 on Residence of Aliens and Amendment and Supplementation of Certain Acts: This provision regulates the right to reside in the territory of the Slovak Republic for EU citizens and their family members who accompany them or join them. Article 3 (2 a) has been transposed into the Article 2 (5 d, e, f) of the Act No. 404/2011 on Residence of Aliens and Amendment and Supplementation of Certain Acts: A family member of an EU citizen is a third-country national who is: d) any other family member to whom paragraphs (a) to (c) do not apply and s/he is a dependent person in the country of his/her origin; e) any other family member to whom paragraphs (a) to (c) do not apply and s/he is the member of his/her household; f) any other family member to whom paragraphs (a) to (c) do not apply and s/he depends on his/her care due to serious health reasons. Article 3 (2 b) has been transposed into the Article 2 (5 g) of the Act No. 404/2011 on Residence of Aliens and Amendment and Supplementation of Certain Acts: A family member of an EU citizen is a third-country national who is: g) his/her partner with whom the Union citizen is in a permanent, duly certified relationship. Article 3 (2) has been partially in compliance with the Act No. 71/1967 on Administrative Procedures (see 1 below) and partially it has been transposed into the Article 66 (9) of the Act No. 404/2011 on Residence of Aliens and Amendment and Supplementation of Certain Acts (see 2 below): (1) According to the Article 32 (1) of the Act No. 71/1967 on Administrative Procedures, the Authority is obliged to exactly and fully ascertain the actual state of affairs and for this purpose to obtain the documents necessary for the ruling. Whereas the Authority is not bound solely by the parties' proposals. According to the Article 47 (1) of the Act No. 71/1967 on Administrative Procedures, the ruling shall include a statement, justification and instruction about the appeal. An appeal is not needed if all parties are fully satisfied. (2) According to the Article 66 (9) of the Act No. 404/2011 on Residence of Aliens and Amendment and Supplementation of Certain Acts, a police department shall individually evaluate submitted documents</p>

			<p>as per paragraphs 2 to 7 , whereas they investigate the facts which are demonstrated by the Union citizen by means of them. The police department shall, following to inspecting the documents, decide, whether the submitted documents as per paragraphs 2 to 7 are sufficient or not. If the submitted documents are not sufficient in order to demonstrate in a trustworthy way the facts as per paragraphs 2 to 7, the particular person shall not be registered by the police department. Such a person shall be at the same time informed in writing which documents are to be submitted in order to demonstrate the facts as per paragraphs 2 to 7 in a trustworthy way so that the person would be registered. Slovak version of this Act is available here: http://www.zakonypreludi.sk/zz/2011-404</p> <p>3. No.</p>
	Sweden	Yes	1. Amendment to the Aliens Act.
	United Kingdom	Yes	<p>1. Directive 2004/38/EC was transposed into UK domestic legislation through the Immigration (European Economic Area) Regulations 2006 (“the 2006 Regulations”) (See: http://www.legislation.gov.uk/uksi/2006/1003). This regulation was recently replaced by the Immigration (European Economic Area) Regulations 2016 (“the 2016 Regulations”) (See: http://www.legislation.gov.uk/uksi/2016/1052/contents/made) The UK publishes accompanying guidance at https://www.gov.uk/government/collections/eea-swiss-nationals-and-ec-association-agreements-modernised-guidance</p> <p>2. Part 2 (sections 11-15) of the 2006 Regulations above specifically covers rights of entry and residence under article 3 of the directive 2004/38/EC. From 1 February 2017 the relevant provision will be Part 2 (sections 11-16) of the 2016 Regulations above.</p> <p>3. As stated above, the 2006 Regulations were recently replaced by the 2016 Regulations. Regulation 44 and Schedule 5 of the 2016 Regulations (see: http://www.legislation.gov.uk/uksi/2016/1052/contents/made) came into force on 25th November 2016. The remainder of the 2016 Regulations will come into force on 1st February 2017.</p>