

# LONG-TERM RESIDENT STATUS IN THE EU

EMN INFORM

2020

## 1 Key findings

The integration of third-country nationals who are long-term residents in the Member States is considered as a key element in promoting economic and social cohesion in the European Union. One of the first pieces of EU legislation that was adopted dealing with immigration to the European Union was the Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents. While the Directive entered into force on 23 January 2006, the implementation of the Directive by Member States has not been uniform.

The following key findings were identified in this EMN Inform:

- Three categories of Member States emerged with regard to the categories of third-country national migrants not eligible to apply for the long-term resident status (LTR status) due to their residence in the Member States on solely temporary grounds:
  - 1) Member States that have transposed the categories of exclusion referenced in Article 3(2) of the Directive into their national legislation;<sup>1</sup>
  - 2) Member States that exclude additional categories of migrants not listed in Article 3(2) of the Directive (FR, HR, HU, NL, PL and SK);
  - 3) Member States that have shorter lists of third-country nationals who are not within the scope for applying for the LTR status (DE, EE, ES, FI and LT).
- For the calculation of the required five-year residence period immediately prior to the

submission of the application, the majority of Member States accept, by way of derogation, periods of absence from their territory that are longer than six consecutive months and exceed in total 10 months in cases of specific or exceptional reasons of temporary nature (i.e. exceeding the maximum<sup>2</sup> set by the Directive).

- Proof of stable, regular and sufficient resources, as one of the mandatory conditions applicable in every Member State, varies greatly across Member States with regard to the minimum amounts required (ranging from € 165 in Poland to € 2 142 in Luxembourg) and the period that is taken into account (ranging from the full five-year residence period prior to the application to a projection of the future economic situation of the applicant). Only three Member States (FR, LU and SE) require proof of sufficient resources over the entire five-year residence period. In addition, while Ireland does not participate in the Directive, the national schemes in place regarding long-term residence have similar requirements regarding proof of sufficient resources.
- In addition to the mandatory requirements, the majority of Member States require third-country nationals to comply with additional non-mandatory conditions in the form of documentary evidence of appropriate accommodation<sup>3</sup> and integration conditions<sup>4</sup>. Proof of sufficient knowledge of the Member State's language is the main integration condition requested, with varying degrees of required proficiency, in all Member State (except FI and LU).

<sup>2</sup> Article 4(3) of Directive 2003/109/EC.

<sup>3</sup> BG, CY, CZ, DE, EL, HU, IT, LV, LU, MT, PL and SK

<sup>4</sup> CY, CZ, DE, EE, EL, FR, HR, IT, LV, LT, LU, MT, NL, PL and PT

<sup>1</sup> BE, BG, CY, CZ, EL, IT, LU, LV, MT, PT, SI and SE

- A majority of the Member States makes use of the derogations foreseen by the Directive that allow third-country nationals to maintain their LTR status in case of an absence from EU territory for a period of 12 consecutive months for specific reasons (14 out of 23 responding Member States)<sup>5</sup> and in case of an absence longer than six years for specific reasons (ten out of 23 responding Member States).<sup>6</sup> At the same time, in the majority of Member States, beneficiaries of international protection or subsidiary protection get their LTR status withdrawn in the event of revocation of, ending of or refusal to renew their protection status.
- Regarding equal treatment and rights attached to the LTR status, ten Member States impose such restrictions in cases where employment or self-employed activities are reserved for nationals, EU or EEA citizens.<sup>7</sup> Only two Member States (CY and EL) limit equal treatment in respect of social assistance and social protection to core benefits and eight Member States grant equal treatment in other areas not covered by the Directive.<sup>8</sup>
- The Member States generally apply the same procedures regarding the requirements for filling a vacancy or for the exercise of an activity in an employed or self-employed capacity by LTR holders from another Member State (intra-EU mobility) and generally require the same documentary evidence as from any other third-country national. A matter of national competence, the required documentary evidence varies substantially from one Member State to the other. Eight Member States apply a labour market test for permits on grounds of employment in the context of intra-EU mobility.<sup>9</sup> 10 Member States impose restrictions in access to the labour market with regard to residence permits for employment purposes.<sup>10</sup>
- About half of the responding Member States accept that long-term residents submit the application for a residence permit to the competent authorities (i.e. embassies or consulates) of the second Member State while still residing in the territory of the Member State where they hold the LTR status.<sup>11</sup>
- The majority of Member States operate specific information tools to promote the LTR status, most commonly a dedicated page in a website of the national authorities in charge of immigration. Third-country nationals are most commonly informed

about the possibility to apply for the LTR status when they are informed to renew the residence permit that they are currently holding. In about half of the Member States, however, there is no particular moment when a third-country national is actively or individually informed, as the information is available online at all times.

## 2 Introduction

### 2.1 BACKGROUND AND RATIONALE

Third-country nationals migrate to the European Union for different reasons: economic migration, family reasons, studies, or in search of international protection. Some of these individuals stay in the territory of the Member States for a considerable number of years and develop attachments to the Member State. For this reason, integration of third-country nationals who are long-term residents in the Member States is considered as a key element in promoting economic and social cohesion in the European Union. One of the first pieces of EU legislation that was adopted dealing with immigration to the European Union was the Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (hereinafter the 'Directive').<sup>12</sup> While the Directive entered into force on 23 January 2006, the implementation of the Directive by Member States had not been uniform.

After residing in certain Member States for at least five consecutive years, third-country nationals are confronted with a decision whether to apply for a long-term resident status or citizenship. This decision will depend on various factors, such as on how they are integrated into the community, if they are able to speak the language of the host country and the financial implications of becoming a citizen of the host country versus obtaining a long-term resident status. However, only Estonia requires that in order to apply for citizenship, the third-country national will first need to have a long-term residence permit.

This is the reason why EMN Luxembourg decided, at the request of the Luxembourgish authorities, to launch a study on this topic through the European Migration Network. As it was necessary to make a proper assessment of the implementation of the Directive, it was decided by the EMN Steering Board on 21 October 2019 that EMN Luxembourg would collect information through the EMN Ad-Hoc Query mechanism to establish the set out a state of play of the implementation of the Directive.

The information for elaborating this Inform was collected through four EMN Ad-hoc queries<sup>13</sup> highlighting specific

<sup>5</sup> BE, BG, CZ, EE, ES, FI, FR, LV, LT, LU, MT, NL, PT, SI.

<sup>6</sup> DE, EE, FI, ES, FR, LV, MT, NL, PT.

<sup>7</sup> CY, EE, ES, HR, LV, LT, LU, NL (in NL a labour market test applies for employment purposes, only during the first year of paid employment) PL and PT.

<sup>8</sup> CZ, EE, ES, HU, LU, PT, SE and SI

<sup>9</sup> BE, FI, FR, LV, LU, NL, SI and SK

<sup>10</sup> BE, DE, EE, FI, FR, LV, LU, NL, PT and SK

<sup>11</sup> BE, CZ, DE, EE, ES, FI, LV, LU, NL, SE, SI and SK

<sup>12</sup> Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, as amended by Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection.

<sup>13</sup> Ad-hoc queries 2019.098, 2019.99, 2019.100 and 2019.101 entitled European Union Long-term residence - Part I, Part II, Part III and Part IV, launched on 13 November 2019.

elements of the long-term resident status (hereinafter 'LTR status') in the EU.<sup>14</sup> The first ad-hoc query focussed on the exclusion clauses, the duration of residence and periods of absence from the territory of the Member State, the conditions for acquiring the LTR status and the loss of the status. The second ad-hoc query dealt with the rights attached to the LTR status, the third ad-hoc query focussed on the conditions for residence and work in another Member State (intra-EU mobility) and the last one focussed on the information and communication activities by Member States on the LTR status.

Whilst the Directive does not apply in Ireland, the EMN NCP for Ireland contributed to this Inform by explaining how they deal with long-term third-country nationals in order to have an overall picture of the situation in the European Union with regard to the abovementioned aspects.

## 2.2 CATEGORIES OF THIRD-COUNTRY NATIONAL MIGRANTS NOT ELIGIBLE TO APPLY FOR THE LTR STATUS

The Directive applies in principle to third-country nationals residing legally and continuously in the territory of a Member State<sup>15</sup> for at least five years before the submission of the application.<sup>16</sup>

However, the Directive excludes third-country nationals whose residence in the Member States is solely on temporary grounds. The Directive does not apply to the third-country nationals who:<sup>17</sup>

- 1) reside in a Member State in order to pursue studies or vocational training;
- 2) are authorised to reside in a Member State on the basis of temporary protection or have applied for authorisation to reside on that basis and are awaiting a decision on their status;
- 3) are authorised to reside in a Member State on the basis of a form of protection other than international protection or have applied for authorisation to reside on that basis and are awaiting a decision on their status;
- 4) have applied for international protection and whose application has not yet given rise to a final decision;

<sup>14</sup> The first ad-hoc query was answered by 24 Member States: BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LV, LU, MT, NL, PL, PT, SE, SI, SK. The second ad-hoc query was answered by 22 Member States: BE, BG, CY, CZ, DE, EE, EL, ES, FR, HR, HU, IE, IT, LT, LV, LU, NL, PL, PT, SE, SI, SK. The third ad-hoc query was answered by 22 Member States: BE, BG, CY, CZ, DE, EE, ES, FI, FR, HR, HU, IE, IT, LT, LV, LU, NL, PL, PT, SE, SI, SK. The fourth ad-hoc query was answered by 23 Member States: BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, MT, NL, PL, PT, SE, SI, SK. Even though AT responded to the queries its information is not for wider dissemination.

<sup>15</sup> Article 3(1) of the Council Directive 2003/109/EC.

<sup>16</sup> Article 4(1) of the Council Directive 2003/109/EC.

<sup>17</sup> Article 3(2) a) to f) of Council Directive 2003/109/EC.

- 5) reside solely on temporary grounds, i.e. as au pair, seasonal worker or posted worker, or in cases where their residence permit has been formally limited;
- 6) enjoy a diplomatic status.<sup>18</sup>

Member States in this regard can be distributed across three different categories:

**A first category** groups those **Member States that have transposed the categories of exclusion referenced in Article 3(2) of the Directive into their national legislation.**<sup>19</sup> From the responding Member States, the majority falls within this category, thus excluding those categories of migrants listed by the Directive.

Some Member States in this category apply a broader approach to the exclusion based on residence on solely temporary grounds (Article 3(2)(e)).<sup>20</sup> **France** excludes ICT trainees; **Italy** excludes third-country nationals who have resided in the territory for the purposes of medical treatment as well as holders of residence permits issued for particular civil value (which maximum duration is of two years); and **Luxembourg, Poland** and **Slovenia** exclude intra-corporate transferees (ICTs).

The first Commission report in 2011 on the implementation of the Directive revealed that Article 3(2)(e) posed implementation problems across several Member States, thus seriously affecting the 'useful effect' of the Directive.<sup>21</sup> The Court of Justice of the European Union (CJEU) stated in 2012 that the Directive excluded from its scope the "residence of third-country nationals which, whilst lawful and of a possibly continuous nature, does not prima facie reflect any intention on the part of such nationals to settle on a long-term basis in the territory of the Member States".<sup>22</sup> This being said, the second Commission report on the implementation of the Directive concluded in 2019 that the Commission has not received complaints on alleged abuse of this exception by Member States.<sup>23</sup>

**A second broad category** groups those **Member States that exclude additional categories of migrants not listed**

<sup>18</sup> These are individuals who have legal status governed by the Vienna Convention on Diplomatic Relations of 1961, the Vienna Convention on Consular Relations of 1963, the Convention of 1969 on Special Missions or the Vienna Convention on the Representation of States in their Relations with International Organisations of a Universal Character of 1975.

<sup>19</sup> BE, BG, CY, CZ, EL, HR, IT, LU, LV, MT, NL, PT, SI and SE. In Swedish legislation the categories are not explicitly mentioned, but it is said that the list in the Directive can be a good point of reference.

<sup>20</sup> Article 3(2)(e) of the Council Directive 2003/109/EC.

<sup>21</sup> Report from the Commission to the European Parliament and the Council on the application of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents, COM(2011) 585 final, p.2.

<sup>22</sup> Judgement of 18 October 2012, case C-502/10 (Singh).

<sup>23</sup> Report from the Commission to the European Parliament and the Council on the implementation of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents, COM(2019) 161 final, p.2.

in Article 3(2) of the Directive.<sup>24</sup> In **Croatia**, third-country nationals who are considered “other necessary persons”<sup>25</sup> and apply for work and residence permit under a trade-agreement, ICTs and third-country nationals who have served prison terms are excluded. In **France**, it is holders of the specific ‘retired’ residence permit foreseen for people living in another country and who wish to make limited stays in France. In **Hungary**, it is persons who have tolerated status.<sup>26</sup> **Italy** excludes persons who constitute a danger to public order and state’s security because they have committed specific crimes. **The Netherlands**, for example, uses an extended list of residence permits for temporary purposes.<sup>27</sup> As a consequence, third-country nationals who reside in the Netherlands for the purposes of intra-corporate transfers, medical treatment, or an orientation year for highly educated persons, among others, are also excluded from applying for the LTR status. In **Poland**, an additional category that is excluded covers those third-country nationals who stay in Poland on the basis of a Schengen visa and a residence permit that were issued in order to arrive on the territory due to humanitarian reasons, state’s interest or international liabilities. Moreover, holders of a residence permit for humanitarian reasons and a permit for tolerated stay do not fall under the scope of the LTR status, nor do third-country nationals who are detained and persons who are obliged to leave the territory of the Republic of Poland and whose period to voluntarily do so has not yet elapsed. In the **Czech Republic**, third-country nationals who are serving a prison term are not automatically excluded from the LTR status. In the **Slovak Republic**, persons who are granted tolerated stay (e.g. as victims of trafficking in human beings or as de-facto refugees), holders of a temporary residence permit for the purpose of special activity<sup>28</sup> and persons employed for a specified period for the purpose of their training in the case of employment in jobs where there are labour shortages and they have submitted an application for temporary residence for the purpose of this employment, also figure amongst the categories that are not eligible for the status.

**A third category** includes those **Member States that have shorter lists of the third-country nationals who are not**

**within the scope** for applying for LTR status.<sup>29</sup> In **Estonia**, this concerns holders of temporary residence permits in case of substantial public interest as well as those third-country nationals who are in the country for the purposes of study. **Spain** basically excludes study-related stays and voluntary work, although in this case 50 % of their study stay will be taken into account for the LTR if they become residents. In **Finland**, it concerns all holders of a temporary (Type B) residence permit, as only holders of a continuous (Type A) residence permit are eligible to apply for the LTR status<sup>30</sup> if they are still fulfilling the conditions of their permit and thereby are still eligible to get their permits renewed. Temporary workers and entrepreneurs can, however, apply for an A-permit after two years of residence on the basis of a temporary residence permit, but have to reside five years in Finland on the basis of the continuous A-permit. In **Lithuania**, all third-country nationals who hold a temporary residence permit, i.e. who are residing in the country on the basis of a visa, are excluded. Finally, in **Germany**, in addition to third-country nationals holding temporary residence permits based on educational and other temporary grounds, third-country nationals whose residence is permitted under international public law or because of humanitarian or political reasons are excluded from eligibility to apply for the LTR status.

As the Directive does not apply to **Ireland**, long-term residence is regulated by two administrative immigration schemes: 1) Long Term Residence Scheme and 2) Without Condition as to Time Scheme. However, the *Migrant Integration Strategy - A Blueprint for the Future (2017-2020)* included a commitment for the introduction of a statutory scheme for LTR status.<sup>31</sup> The ‘Long-Term Residence Scheme’ is only open to third-country nationals who have been residing for 60 months in the State on the basis of employment permit conditions. The ‘Without Condition as to Time Scheme’ is open to third-country nationals who have been residing in the State for 96 months. There are several categories of exclusion under both schemes. In some cases, applicants may have entitlements under other administrative immigration schemes. Exclusions under both Schemes include students and ICT permit holders. Other exclusions under the Long-Term Residence scheme include refugee status; humanitarian permission to remain; entering the State under the Family Reunification Scheme; the applicant is working at a foreign embassy; and working holiday authorisations. Exclusions under the ‘Without Condition as to Time Scheme’ also include temporary registered doctors, trainee accountants and temporary visitors’ permission granted at a port of entry.

<sup>24</sup> FR, HR, HU, PL, SK.

<sup>25</sup> As defined by the Protocol on the Accession of the Republic of Croatia to the Marrakesh Agreement Establishing the World Trade Organisation.

<sup>26</sup> This temporary status is given to aliens who are not entitled to subsidiary protection, but cannot be returned either because of non-refoulement.

<sup>27</sup> See <https://ind.nl/en/Pages/temporary-and-non-temporary-purposes-of-stay.aspx> and <https://ind.nl/en/permanent-residence/Pages/application-for-status-of-long-term-resident-ec.aspx>

<sup>28</sup> E.g. an internship as a part of the higher education or within two years after the completion of university studies outside the territory of the Slovak Republic, or activity resulting from programs of the Government of the Slovak Republic, from EU programs or of the Slovak Republic arising from an international treaty.

<sup>29</sup> DE, EE, ES, FI, LT.

<sup>30</sup> In Finland, the grounds for the residence permit can be new as long as it entitles the holder to a continuous Type A residence permit

<sup>31</sup> Department of Justice and Equality (February 2017) *Migrant Integration Strategy: A Blueprint for the Future*, p. 23. Available at: [www.justice.ie](http://www.justice.ie)

### 3 Duration of residence and periods of absences

In order to be eligible to apply for LTR status, third-country nationals are required to have resided legally and continuously in a Member State for five years immediately prior to the submission of their application. The Directive provides for periods of absences from the territory of Member States that shall not interrupt the aforementioned period of legal and continuous residence. More specifically, periods of absences that are shorter than six consecutive months and do not exceed in total 10 months within the five-year period of residence are allowed. Furthermore, the Directive foresees that Member States may, in cases of specific or exceptional reasons of temporary nature, accept that a longer period of absence shall not interrupt the five-year residence period and shall be taken into account in the calculation of this period.

18 Member States<sup>32</sup> accept such longer absences from their territory for specific or exceptional reasons, whereas six Member States<sup>33</sup> do not accept such absences. The most common reasons considered as specific or exceptional reasons are: a) temporary work-related obligations outside the territory of the Member State<sup>34</sup> including EU Blue Card holders;<sup>35</sup> b) serious health reasons;<sup>36</sup> c) studies or vocational training;<sup>37</sup> and d) pregnancy or birth of a child.<sup>38</sup> Other Member States reported additional reasons such as internships,<sup>39</sup> military obligations,<sup>40</sup> *force majeure*,<sup>41</sup> freedom of movement within the EU<sup>42</sup> and other serious reasons supported by evidence.<sup>43</sup>

In **Belgium, Hungary, Lithuania and the Netherlands**, such absences are accepted if they are shorter than 12 consecutive months and do not exceed 18 months in total during the five-year period. In the **Czech Republic and Luxembourg**, the maximum for such absences is also set at 12 consecutive months, but no specific period is set which shall not be exceeded. In contrast, **Estonia, Germany, Italy, Latvia, Malta and Poland** have neither set a maximum of consecutive months nor a specific period that shall not be exceeded for such specific or exceptional reasons. **Estonia, France and Spain** reported

that EU Blue Card holders can reside in another Member State during the five-year period of residence, but in order to apply for the LTR status they have to reside in the territory during the two years preceding their application. Similarly, **Lithuania** accepts that EU Blue Card holders can reside in another Member State but have to provide proof of at least two years of uninterrupted residence on their territory throughout the five-year reference period in order to be eligible to apply for LTR status. **Finland** applies the general rule with exceptions applied on a case by case basis.<sup>44</sup> **Cyprus** constitute an exception in this context, as the general time limit that an applicant can be absent from the respective territories for specific or exceptional reasons is not 12 consecutive months, but 24 consecutive months.

In **Ireland**, entitlement to long-term residency is calculated based on the dates of the immigration stamps in the applicant's passport. Periods of time for which a person has not been legally resident in the State (no stamp in the passport) cannot be counted for the calculation of the residence period giving right to long-term residence. Absences from the State on holidays or for business purposes are permitted; however, if there are large absences<sup>45</sup> from the State, the applicant will not qualify.

In the majority of the Member States, these provisions regarding absences from the territory of the Member State concerned are also applicable to workers who are posted<sup>46</sup> to another Member State and/or for persons providing cross-border services.<sup>47</sup> **Belgium, the Czech Republic, Lithuania, Malta, the Netherlands and Portugal** also take into consideration these absence periods for the five-year requirement, applying the general rule.

**Germany** indicated that the absences cannot be longer than six months in the five-year period, whereas **Spain** allows up to twelve months if they are labour-related. In **Estonia**, the acceptance of absences from the national territory are at the discretion of the Police and Border Guard Board. No absences from the territory for the purposes of posted work or the provision of cross-border services are accepted in **Bulgaria, France**<sup>48</sup>, **Italy**<sup>49</sup>, **Latvia** and **Slovenia** for the calculation of the five-year period. **Greece** indicated that these cases are not foreseen in

<sup>32</sup> BE, CY, CZ, DE, EE, ES, FI, FR, HR, HU, IT, LV, LT, LU, MT, NL, PL and PT.

<sup>33</sup> BG, EL, HR, SE, SI, SK.

<sup>34</sup> CY, ES, FI, LU (including provisions for cross-border services and ICTs), MT, NL, PL.

<sup>35</sup> BE, EE, ES, FR, HR, HU, LT, NL, SE (however, Sweden only has the exception for Blue Card holders). In Belgian legislation, longer absences are accepted for all highly-qualified workers, regardless of the reasons for their absence.

<sup>36</sup> CY, CZ, FI (including serious illness of family members abroad), IT, LV, LU, MT.

<sup>37</sup> CZ, EE, FI, LT, LU, MT, PL.

<sup>38</sup> CZ, LU.

<sup>39</sup> PL.

<sup>40</sup> IT.

<sup>41</sup> LV.

<sup>42</sup> DE.

<sup>43</sup> IT.

<sup>44</sup> Once being granted the EU LTR status the person can be absent for up to 24 consecutive months but he/she has to present the valid reasons for this.

<sup>45</sup> A defined period for a large absence is not prescribed. This is done based on administrative practices.

<sup>46</sup> BE, CY, CZ, DE, FI, HR, HU, LU, MT, NL, PL, PT, SE, SK.

<sup>47</sup> BE, CY, DE, FI, HU, LU, PT, SE, SK.

<sup>48</sup> In France seconded workers are excluded from the EU long term resident process since they are not supposed to reside in France on a permanent basis and consequently cannot fulfil the 5-year residence requirement.

<sup>49</sup> In Italy, periods of absences that are shorter than six consecutive months and do not exceed in total 10 months within the five years period of residence are allowed. An absence of more than 12 consecutive months implies the revocation of the LTR status.



national law, so these periods are not taken into account in the calculation of the five-year period.

Since the extension of the scope to beneficiaries of international protection by Directive 2011/51/EU,<sup>50</sup> the latter are also eligible to apply for LTR status. When calculating the five year residence period, the Directive stipulates<sup>51</sup> that Member States shall take at least half of the period between the date of the lodging of the application for international protection and the date of the grant of the residence permit as a beneficiary of international protection into account. If the examination of the application for international protection were to exceed 18 months, Member States shall take the whole of that period into account. 14 Member States<sup>52</sup> apply this provision and take half of the abovementioned period into account if the examination of the application does not exceed 18 months, while nine Member States<sup>53</sup> take the entire period into account, i.e. from date of the lodging of the application for international protection.

Neither of these Directives apply to **Ireland**. Persons with refugee status are not eligible to apply under the national 'Long-Term Residence Scheme', but they are not precluded from doing so under the 'Without Condition as to Time Scheme'. The eligibility for these schemes is calculated based on immigration stamps in the applicant's passport. Time spent as a protection applicant in Ireland is not taken into account.

## 4 Conditions for acquiring long-term resident status

The Directive prescribes that Member States shall ensure that third-country nationals comply with certain conditions in order to be eligible to apply for the LTR status.<sup>54</sup> These conditions can be grouped into two categories:

- a) mandatory requirements applicable in every Member State (i.e. health insurance and stable, regular and sufficient resources without having recourse to the social assistance system);
- b) non-mandatory condition in the form of integration conditions.

In addition, Member States may require that applicants must provide documentary evidence that they fulfil the criteria of appropriate accommodation, in accordance with national law.<sup>55</sup>

The following section will provide an overview of some of these conditions, namely those with regard to stable,

regular and sufficient resources, appropriate accommodation and integration requirements.

### 4.1 STABLE, REGULAR AND SUFFICIENT RESOURCES

All applicants for the LTR status need to provide evidence that they have, for themselves and for dependent family members, stable, regular and sufficient resources without having recourse to the social assistance system of the respective Member States. While third-country nationals have to meet this condition in all Member States, the criteria of what these resources consist of and what period is taken into account vary significantly across Member States.

#### 4.1.1 HOW ARE STABLE, REGULAR AND SUFFICIENT RESOURCES DEFINED?

In most Member States, a third-country national has to provide proof of having a regular income that is at least equivalent a) to the minimum monthly salary,<sup>56</sup> ranging from € 312 in **Bulgaria** to € 2 142 in **Luxembourg**,<sup>57</sup> or b) to the minimum monthly basic income or benefit,<sup>58</sup> which ranges from € 165 in **Poland** to € 635 in **Portugal**.<sup>59, 60</sup>

In **Croatia**, the basis for the calculation is the minimum guaranteed benefit, which amounts to € 105 (800 HRK) in 2020. In order to prove stable, regular and sufficient resources, a single person needs to have at least 3 times the minimum guaranteed benefit (€ 315 or 2 400 HRK), a two-person family € 446 (3 400 HRK) and for each additional family member the amount will be increased by the basis amount of € 105. In **Italy**, the applicant needs to prove a minimum income that is equivalent to the annual welfare allowance, which amounts to € 5 953.87 in 2019. In case of additional dependent family members, the amount is increased by 50% for one or more dependent family members or doubled for two or more dependent children under the age of 14. Moreover, the annual income of all family members are taken into account in order to calculate the minimum threshold. In **Spain**, 150 % of the reference index for benefits (€ 537 in 2020) was needed for a two-person household, and an extra 50 % for each additional relative. In **Greece**, the minimum requested amount of € 650 per month is increased by 10 % per dependent family member and the regularity of the income is mainly proven by the applicants' compliance with social insurance and tax obligations. **Poland** requests a minimum monthly amount of € 165, which is increased by € 125 per additional person in the family, and in **Portugal**, applicants are required to provide proof of at least the equivalent of the guaranteed minimum monthly salary (RMMG), fixed at €

<sup>50</sup> Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection.

<sup>51</sup> Article 4(2) subparagraph 3 of Directive 2003/109/EC.

<sup>52</sup> BE, BG, CY, CZ, EL, ES, HR, HU, LT, LV, LU, MT, PL, SI.

<sup>53</sup> DE, EE, FI, FR, IT, NL, PT, SE, SK.

<sup>54</sup> Article 5 of Directive 2003/109/EC.

<sup>55</sup> Article 7(1) subparagraph 2 of Directive 2003/109/EC.

<sup>56</sup> BG, EL, FR, LT, LV, LU (social minimum salary for a non-qualified worker), MT, NL.

<sup>57</sup> Source: Eurostat, ([earn\\_mw\\_cur](https://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&plugin=1)), as of 1 January 2020.

<sup>58</sup> EE (2019), ES, HR, PL, PT, SI.

<sup>59</sup> This amount is required since 1<sup>st</sup> January 2020. This amount is requested for the first member of the family; for the other members, a percentage is applied.

<sup>60</sup> All amounts refer to the requirement for a single person household per month, unless indicated otherwise.

635 per month and increased by € 300 per additional adult family member and by € 200 per minor or dependent adult child.

**The Netherlands** applies a slightly different approach with regard to the criteria for stability and durability. More specifically, at the moment of application, third-country nationals need to have an employment contract that is valid at least up until 12 months after the submission of the application. If this is not the case, the applicants need to provide proof that they had sufficient income during the three years prior to submitting the application. Within this period, they must not have been a burden to the welfare system for longer than 26 weeks.

In **Belgium**, the required minimum amount was determined by the government and subject to yearly indexation. In Belgium, the resources shall be higher than € 855 for a single person household, and additionally € 285 for each dependent person.<sup>61</sup> The nature and regularity of these resources are also taken into account.

Lastly, in a number of Member States, the required amounts are not set by law.<sup>62</sup> In **Cyprus**, for example, the net monthly salary shall not be lower than the Average Monthly Earnings of Employees according to Cyprus Statistical Service and the annual income shall not put people at risk of poverty.<sup>63</sup> In **Finland**, there are quantitative starting points and guidelines applying in each individual case which are based on the established administrative and judicial practice in the matter. In order to be able to sustain oneself, an adult living alone would require around € 1 000 per month and two adults living together around € 1 700. **Germany** considers resources to be stable, regular and sufficient if the applicant complies with her/his fiscal duties, has paid contributions for a pension, assures that her/his dependent family members are covered by insurance for cases of disease and care and obtains regular income from employment. In the **Slovak Republic**, it is also required to provide a proof of sufficient financial resources. However, the amount is not specifically defined by the law.

Under **Ireland's** national schemes, specific amounts are not set to define self-sufficiency. Eligibility for the long term residence scheme is based on having held an employment permit, and a condition for the Without Condition as to Time scheme is not to be an undue burden on the State.

#### 4.1.2 WHAT DOCUMENTARY EVIDENCE IS REQUIRED?

The most commonly requested documentary evidence to prove stable, regular and sufficient resources are employment contracts, salary slips, information on tax obligations, bank certificates or statements and receipts of pensions. Some Member States accept additional

evidence, such as alimony, scholarships, income from property or regular unemployment benefits. **Belgium** and **Greece** make also reference to a recent judgment of the Court of Justice of the European Union (*X v. Belgische Staat*)<sup>64</sup> which states that "Article 5(1)(a) of Council Directive 2003/109/EC ... must be interpreted as meaning that the concept of 'resources' referred to in that provision does not concern solely the 'own resources' of the applicant for long-term resident status, but may also cover the resources made available to that applicant by a third party provided that, in the light of the individual circumstances of the applicant concerned, they are considered to be stable, regular and sufficient."

#### 4.1.3 WHAT PERIOD IS TAKEN INTO ACCOUNT?

Most Member States do not require applicants to provide proof of stable, regular and sufficient resources over the course of the entire previous five-year residence period in the Member State.<sup>65</sup> The period that is taken into account prior to the submission of the application varies from three months in the **Czech Republic**, six months in **Croatia**<sup>66</sup>, (at least) one year in **Bulgaria**, **Hungary**, **Italy**, **Latvia** and **Slovenia**, two years in **Malta** and three years in **Poland**. In addition, **Slovenia** reported that if applicants prove sufficient resources only via means on an account opened with a bank or savings bank in Slovenia or abroad, their amount must be sufficient for at least five years.

**Finland** reported that the assessment of the sufficient resources is, in principle, a prediction based on the past and present economic situation of the applicants. If they were for example unemployed for some time during the five year period of residence, but can provide documentary evidence of stable and regular income prior to the application, they are not necessarily required to provide proof of sufficient resources over the whole five year period. In such cases, a LTR residence permit can be issued.

Moreover, as mentioned above, **the Netherlands** stands out in this context by requiring the third-country national to have an employment contract that is valid at least up until 12 months after the submission of the application. If this is not the case, the Dutch authorities will assess the criteria of sufficient resources during the three years prior to submitting the application. In the **Slovak Republic**, the law does not specifically define the period; it is decided individually by the respective Police Department.

In **Belgium**, **Cyprus**, **Estonia** and **Spain**, the issue of sufficient resources is assessed at the moment of submitting the application.

<sup>64</sup> Judgment of 3 October 2019, case C-302/18 (*X v. Belgische Staat*).

<sup>65</sup> BE, BG, CY, CZ, DE, EE, EL, ES, FI, HR, HU, IT, LT, LV, MT, NL, PL, PT, SI, SK.

<sup>66</sup> In Croatia the individual must provide at least the last 6 months salary slips. Other documents that can be provided are tax rulings, pension decisions, proof of scholarship, decision on entry into the Register of Family Farms by the competent ministry, and proof of realization of funds from that basis. A work contract is eligible if TCN is working less than 3 months.

<sup>61</sup> As of January 2020.

<sup>62</sup> CY, CZ, DE, FI, HU, SE, SK.

<sup>63</sup> The annual income should be above the at-risk-of-poverty threshold according to the Cyprus Ministry of Finance survey on Income and Living Conditions of Households.

In contrast to this, **France, Luxembourg and Sweden** require applicants to prove stable, regular and sufficient resources over the entire five-year residence period. In **France**, the authorities can take the situation of the individual into account in case the condition is not met, namely by assessing if the applicant can provide proof of lower costs of housing (e.g. being housed for free or owning property) and/or if the economic situation of the applicant recently changed in her/his favour, such as a recent conclusion of an indefinite employment contract. In this sense, the evaluation of the applicants' resources is both retrospective and prospective in order to assess if the resources of the previous years will remain stable in the future. Similarly, **Sweden** usually evaluates the sufficient resources for the previous five years, including information by the Swedish Tax Agency, in order to make a forward-looking assessment. In **Luxembourg**, stable, regular and sufficient resources are taken into account from the moment that the third-country national declares financial income to the Joint Centre of Social Security (CCSS). **Ireland's** national schemes are similar in this regard – as long-term residence applications are assessed on 60 months' reckonable residence based on employment permits implying stable and sufficient resources for the whole period. Reckonable residence under the 'Without Condition as to Time Scheme' (which is 96 months) is assessed based on financial documentation proving continuous residence.

#### 4.2 APPROPRIATE ACCOMMODATION

About half of the Member States have opted to require documentary evidence of appropriate accommodation, in accordance with national law.<sup>67</sup> In some Member States, appropriate accommodation is laid down in regional or national legislation, such as in the **Czech Republic, Germany, Italy**<sup>68</sup> and **Luxembourg**<sup>69</sup>, or defined by the responsible authority, such as in **Malta**. In **Germany**,<sup>70</sup> **Luxembourg**<sup>71</sup> and the **Slovak Republic**<sup>72</sup>, the exact criteria are clearly defined by law, whereas in **Italy**, local

authorities certify that the accommodation is 'appropriate'.<sup>73</sup> Applicants are required to provide documentary evidence of appropriate housing in their application, which can consist, among others, of rental and/or purchase contracts proving the right to occupy or buy the real estate property in question, or any other notarised statements, declarations or other documents certifying the occupation or acquisition of the accommodation.<sup>74</sup>

No definition of appropriate accommodation exists in **Cyprus**, but the housing needs to correspond to the average living standards of Cypriot citizens, in accordance with the survey on Income and Living Conditions of Households of the Cyprus Ministry of Finance. In order to provide the required proof, the applicant needs to submit the title of ownership or rental agreement, certified by the President of the Community Council (Mukhtar), as well as receipts of rent payments, phone, electricity or water bills of the six months prior to the application. In **Estonia**, the place of residence of the third-country national needs to be registered in the Population Register, to which the Police and Border Guard Board launches an inquiry to determine if the criteria are met.

The Second Report from the Commission to the European Parliament on the implementation of the Directive 2003/109/EC states that "(...) from the available information on the implementation of this provision in those Member States that have opted for such documentation requirement, it seems that in most cases the proof of appropriate accommodation is considered as a condition for acquiring the status. In absence of the CJEU's clarification on this point, the academic literature is divided on whether this implementation is compliant with the Directive."<sup>75</sup>

#### 4.3 INTEGRATION REQUIREMENTS

15 Member States<sup>76</sup> require third-country nationals applying for the LTR status to comply with integration conditions. The main integration condition consists of applicants having to prove sufficient knowledge of the Member State's language, a condition required by all Member States with the exception of **Luxembourg**. The requested language proficiency varies from basic proficiency in the **Czech Republic and Portugal**, to level A2 of the CEFR<sup>77</sup> in **Cyprus**<sup>78</sup>, **France, Italy, Latvia**,

<sup>67</sup> BG, CY, CZ, DE, EL, HU, IT, LV, LU, MT, PL, SK.

<sup>68</sup> Beneficiaries of international protection are exempted from fulfilling this criteria.

<sup>69</sup> Article 81 (1) 2 of the amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law).

<sup>70</sup> The requirements are: 12 square metres for each family member above the age of six years, 10 square metres for each family member between the age of two and six years and additional secondary rooms (kitchen, bathroom).

<sup>71</sup> The requirements are: 12 square metres for the first occupant, 9 square metres per additional family member, natural light entering through windows that can be opened and closed properly and which measure at least 1/10 of the floor area, heating, running water, electricity, etc. See articles 4 and 5 of the amended Grand-ducal regulation of 25 February 1979 establishing the criteria of renting, health and hygiene which have to fulfil all rental accommodation.

<sup>72</sup> In the Slovak Republic, accommodation must meet the minimum requirements according to a special regulation, i.e. the living space of a lower standard apartment shall be at least 12 square metres per user and 6 square metres for each additional person living in the household. Usable area of a lower standard apartment must be at least 15 square metres.

<sup>73</sup> In Italy, the regional laws on public housing defines the minimum parameters necessary to consider an accommodation as 'appropriate': the accommodation has to fulfil the hygiene and health standards verified by the Local Health Unit.

<sup>74</sup> BG, EL, HU, PL, SK.

<sup>75</sup> Report from the Commission to the European Parliament and the Council on the implementation of Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents, COM(2019) 161 final, p.3.

<sup>76</sup> CY, CZ, DE, EE, EL, FR, HR, IT, LV, LT, LU, MT, NL, PL, PT.

<sup>77</sup> As defined by the Common European Framework of Reference for Languages (CEFR).

<sup>78</sup> Cyprus does not exempt any category of third-country nationals from this requirement.



**Lithuania**<sup>79</sup> and **the Netherlands**, and B1 in **Croatia**, **Estonia**, **Germany** and **Poland**. The **Czech Republic** and **Greece** do not clearly define the level of language proficiency, whereas applicants<sup>80</sup> in **Malta** are required to have passed the equivalent of Malta Qualifications Framework Level 2 in Maltese. A number of Member States exempt certain groups of migrants from the language requirement.<sup>81</sup> In most cases, these concern: a) young people,<sup>82</sup> b) elderly individuals,<sup>83</sup> c) persons who completed schooling in the Member State concerned,<sup>84</sup> d) persons that are prevented from taking the test due to their health,<sup>85</sup> e) individuals with restricted active legal capacity<sup>86</sup> and f) beneficiaries of international protection.<sup>87</sup>

A number of Member States require applicants to fulfil additional conditions in order to meet the integration conditions criteria in the context of the acquisition of the LTR status.<sup>88</sup> In most cases, these additional conditions relate to the provision of proof of knowledge of the Member State concerned.<sup>89</sup> In **Germany**, applicants have to pass the test in the framework of the national integration course, which attests basic knowledge of the legal system, social order and living conditions in Germany. Similarly, **Lithuania** also requires candidates to pass a test on the principles of the Constitution of the Republic of Lithuania. In **France**, applicants have to commit via a sworn statement to respect the principles of the French Republic. In **Malta**, applicants must prove the attendance at a course organised by the public employment service or any other competent authority of at least one hundred hours having as its subject matter the social, economic, cultural and democratic history and environment of Malta. In **Italy**, when a migrant asks for a residence permit for at least a year, he/she has to sign an integration agreement<sup>90</sup>, which aims to achieve an effective integration path. The foreigner shall undertake to learn an adequate level of knowledge of Italian spoken language (equivalent at least to level A2), a sufficient knowledge of fundamental principles of Italian Constitution, of civic culture and life in Italy.

In **Greece**, in addition to providing proof of language proficiency in Greek, applicants have to provide evidence of knowledge of Greek history and culture. Alternatively,

the integration condition is considered to be fulfilled if third-country nationals are holders of a permanent residence card as a family members of a Greek national, if they can provide evidence of a recommendation from a naturalisation committee or if they have lawfully resided in Greece for 12 years.

In **the Netherlands**, the language test (reading, listening and speaking at level A2) and knowledge of Dutch society which is part of the civic integration exam that most third-country nationals are required to take within three years after they have been issued a residence permit for a non-temporary purpose. In addition to these components, the applicant needs to fulfil a third condition, namely the participation statement that needs to be signed during the first year after the start of the three year period. After an introduction to Dutch core values provided by the municipality, the applicants declare, by signing the participation statement, that they will actively participate in Dutch society and that they were informed of and will respect the values and basic rules of Dutch society.

**Luxembourg** constitutes a particular case in this context, as the Luxembourgish Law merely stipulates that the Minister shall take account of the degree of integration of the applicant without, however, defining the integration conditions with which the third-country national is required to comply to. In practice, the Directorate of Immigration applies a wide discretion in this matter. Candidates can, for example, join certificates of attended language courses, membership cards of clubs or associations or testimonial evidence to their application.

In **Belgium**, **Bulgaria**, **Finland**, **Hungary**, **Ireland**, the **Slovak Republic**, **Slovenia**, **Spain** and **Sweden** there are no integration requirements for the LTR status.

## 5 Is there a facilitated procedure for holders of national permanent or long-term residence permits?

The Directive allows Member States to operate national long-term or permanent residence permits in parallel to the LTR status.<sup>91</sup> All responding Member States, with the exception of **Estonia**, **Ireland**,<sup>92</sup> **Italy** and **Luxembourg**, operate such national residence permits.<sup>93</sup>

The majority of the Member States do not have a facilitated procedure in place for holders of national residence permits of permanent or unlimited validity.<sup>94</sup> At the same time, despite the absence of a specific facilitated procedure, two Member States highlighted provisions that could facilitate the change of status to the LTR status. In **France**, holders of national long-term or permanent residence permits are not required to prove

<sup>79</sup> Applicants are required to pass the first State language proficiency category, which is equivalent to level A2 of the CEFR.

<sup>80</sup> No category of migrants are exempted.

<sup>81</sup> EE, FR, HR, IT, LT, NL, PL.

<sup>82</sup> EE (if younger than 15 years), HR (pre-schoolers), IT (if younger than 14 years), NL (if younger than 18 years), PL (if younger than 16 years).

<sup>83</sup> EE (if older than 65 years), FR (if older than 65 years), HR (older than 65 years if not employed), LT (if older than 75 years), NL (AOW pension age, currently 66 years and 4 months).

<sup>84</sup> EE, HR, NL, PL, PT.

<sup>85</sup> EE, IT, NL, LT.

<sup>86</sup> EE.

<sup>87</sup> IT.

<sup>88</sup> DE, EL, FR, IT, MT, NL, LT.

<sup>89</sup> DE, FR, IT, LT, MT, NL.

<sup>90</sup> Art. 4-bis of Law 286/1998.

<sup>91</sup> Article 13 of Directive 2003/109/EC.

<sup>92</sup> Ireland does not participate in the Directive and therefore only issues national residence permits.

<sup>93</sup> BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, LT, MT, NL, PL, PT, SE, SI, SK.

<sup>94</sup> BE, CY, DE, EE, FI, FR, HR, HU, MT, PL, PT, SE, SI, SK.

the fulfilment of the integration condition a second time when applying for the LTR residence permit. **Greece** encourages holders of national residence permits with permanent or unlimited validity to change their permits to the LTR permit if the conditions are met. In this case, applicants do not have to pay any fees. In **Portugal**, if some non-changeable requirements have already been proved in previous applications (such as language proficiency, for instance) and they are part of the applicant's digital file, they will not be asked a second time.

Moreover, in **Belgium**, an application for LTR status is automatically regarded as an application for an 'authorisation to settle', which constitutes a national authorisation to settle permanently in the country. As a consequence, if the applicant does not fulfil the criteria for the LTR status, the Immigration Office has to assess if the conditions for the 'authorisation to settle' are met.

Only the **Czech Republic, Lithuania, the Netherlands** and **Spain** reported to have a facilitated procedure in place. In **Lithuania**, this facilitated procedure works as a renewal of the permanent residence permit after five years, without filing a new application procedure. In the **Czech Republic**, if a person applies for permanent residence after five years of continuous stay, the individual is also granted automatically long-term residence status (without having to apply separately). In the **Netherlands**, an application for LTR status is automatically regarded as an application for a permanent residence permit. If the applicant did not fulfil the criteria for the LTR status, the Immigration Office had to assess if the applicant met the conditions for the permanent residence permit. If the applicant is not eligible for the LTR or the permanent residence, the Immigration Office will assess the extension of the current residence permit.

## 6 Loss of status

### 6.1 ABSENCE EXCEEDING 12 CONSECUTIVE MONTHS FROM EU TERRITORY

The Directive stipulates that, as a rule, third-country nationals lose their LTR status in case of an absence from EU territory for a period of 12 consecutive months. However, Member States may allow that absences exceeding 12 consecutive months or for specific or exceptional reasons shall not entail the withdrawal or the loss of status. 14 Member States<sup>95</sup> apply this derogation and in all of these Member States except in Finland, such absences are only allowed for specific or exceptional reasons (see also section 3 above). As a general rule, **Finland** allows an absence not exceeding 24 months, which could be further prolonged in exceptional cases and upon request.

<sup>95</sup> BE, BG, CZ, EE, ES, FI, FR, LV, LT, LU, MT, NL, PT, SI. In Bulgaria, after having been obtained, the long-term stay shall be permanent, unless grounds for its revocation appears. In France, even though this is not mentioned in the legislation, the competent French authorities assess the foreign national's situation on a case by case basis.

In **Latvia**, absences due to circumstances beyond the control of the individual or in relation to education do not result in the loss of the LTR status, and **Malta** considers exceptional circumstances on a case-by-case basis. In **Belgium, Estonia, Lithuania** and **Luxembourg**, former holders of the EU Blue Card and their family members who have obtained LTR status do not lose their status if absences from the territory do not exceed 24 consecutive months.

**Slovenia** accepts absences exceeding 12 consecutive months in relation to work, study or health circumstances. All situations are decided individually, case-by-case.

**Belgium** reported two additional specific or exceptional reasons that do not entail the loss of the LTR status. First, a return after more than 12 consecutive months is allowed if the individuals fulfil three cumulative conditions: a) informing of the municipality prior to departure about their intention to leave and return to Belgium, while providing evidence that their centre of interest is located in Belgium; b) holding a LTR residence permit that had not expired upon return; c) presenting themselves at the municipality within 15 days after the return to Belgium. The second exceptional reason applies to third-country nationals who travel back to their country of origin for more than 12 consecutive months for compulsory military service, study reasons or medical treatment. In such cases, the individuals are also required to inform their municipality about the absence and have to return to Belgium within 60 days after the end of the military service, studies or medical treatment.

**Spain** accepts absences exceeding 12 months for NGOs/foundations/other associations' staff implementing cooperation, humanitarian or research projects in third countries.

### 6.2 ABSENCE OF MORE THAN SIX YEARS FROM THE TERRITORY OF THE MEMBER STATE

According to the Directive, after six years of absence from the territory of the Member State that granted the LTR status, the person concerned shall no longer be entitled to maintain her/his LTR status in that Member State.<sup>96</sup> However, the Directive provides a derogation that allows long-term residents to maintain their status in case of absences longer than six years for specific reasons.<sup>97</sup> Nine Member States<sup>98</sup> apply this derogation. In **Germany**, such absences are allowed: a) if the LTR holder has stayed for 15 years lawfully in the national territory, their living costs are assured and there is no interest of expulsion; b) if the LTR fulfils their compulsory military service and returns three months after discharge; c) the absence from the national territory is of a preliminary nature and in the interest of Germany; and d) if a minor is forced to marry

<sup>96</sup> Article 9(4) subparagraph 2 of Directive 2003/109/EC.

<sup>97</sup> Article 9(4) subparagraph 3 of Directive 2003/109/EC.

<sup>98</sup> DE, EE, ES, FI, FR, LV, MT, NL, PT.

and prevented from returning.<sup>99</sup> In **Estonia**, the Police and Border Guard Board will not revoke the residence permit if they consider the absence of the third-country national to be justified (i.e. they can leave the residence permit to a person with undetermined citizenship if the person does not have a residence permit in another country). In **the Netherlands**, the derogation is applied in case of studies in another Member State for more than six years, while **France** may accept longer absences upon request. In **Finland** and **Spain**, the derogation is applied in specific or exceptional circumstances which have to be evaluated by the authorities. In **Malta**, the authorities will decide to apply the derogation on a case-by-case basis. In practice, Malta facilitates the reacquisition of the status. **Portugal** allows the absence for more than six years if it is justified by specific or exceptional reasons (i.e. when the long-term resident has remained in the country of origin to carry out a professional or business activity, or an activity of a cultural or social nature).

Under **Ireland's** national long-term residence scheme, there is no specified timeframe for loss of status, and it is assessed on a case-by-case basis. Continuous residence<sup>100</sup> is a condition of the 'Without Condition as to Time Scheme' permission. Absences from the State in the ordinary course of holidays, family or work commitments cannot exceed four months in a year.

### 6.3 WITHDRAWAL IN CASE OF REVOCATION, ENDING OF OR REFUSAL TO RENEW INTERNATIONAL PROTECTION

The Directive lists certain conditions under which the LTR can be revoked. They are: a) detection of fraudulent acquisition of LTR status;<sup>101</sup> b) adoption of an expulsion measure;<sup>102</sup> c) absence from the EU for a period of 12 consecutive months;<sup>103</sup> d) the individual constitutes a threat to public policy, in consideration of the seriousness of the offences he/she committed.<sup>104</sup> However, there are other reasons such as the one foreseen by Article 9(3a) of the Directive, which allows the withdrawal of the LTR status in the event of revocation of, ending of or refusal to renew international protection or subsidiary protection, as laid down in the Asylum Qualification Directive.<sup>105</sup> 15 Member States<sup>106</sup> apply this cause of

revocation while eight Member States<sup>107</sup> do not withdraw the LTR status if there is revocation or refusal, ending or refusal to renew the international protection status.

## 7 Rights attached to the LTR status

### 7.1 GEOGRAPHICAL LIMITATION WITH REGARD TO EQUAL TREATMENT IN SOCIAL RIGHTS

In principle, the long-term resident enjoys equal treatment with nationals in social rights matters inside the territory of the Member State. However, Article 11(2) of the Directive allows Member States to limit the equality of treatment with nationals and apply geographical limitations to the place of registered or habitual residence of the LTR. All respondent Member States reported that they do not impose geographical limitations to social rights to LTRs.

### 7.2 RESTRICTIONS TO THE LABOUR MARKET

13 Member States impose restrictions in access to the labour market in cases where employment or self-employed activities are reserved for nationals, EU or EEA citizens.<sup>108</sup> In most cases, such activities either entail direct or indirect use of public authority (i.e. the executive or judicial branches) or relate more generally to public office. In **Portugal**, a specific provision in the Constitution<sup>109</sup> exempts from these restrictions, certain nationals from Portuguese speaking countries. The legislation in **Croatia** stipulates that a foreign citizen may only be admitted to the civil service upon approval by the responsible central government body.

### 7.3 APPROPRIATE LANGUAGE PROFICIENCY FOR ACCESS TO EDUCATION AND TRAINING

The majority of Member States do not require proof of appropriate language proficiency from long-term residents for access to education and training. However, higher education institutions may require such proof. Only five Member States reported to apply this provision laid down in Article 11(3a) of the Directive.<sup>110</sup> In **Italy**, as the law requires a certificated knowledge of Italian

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persons eligible for subsidiary protection, and for the content of the protection granted (recast).

<sup>106</sup> BE, CY, CZ, DE, EE, ES, FI, FR, HR, HU, IT, LV, MT, PL, SK.

<sup>107</sup> BG, DE, LT, LU, NL, PT, SI, SE.

<sup>108</sup> BE, CY, EE, ES, FR, HR, IE, LV, LT, LU, NL, PL, PT.

<sup>109</sup> Article 15 (3) of the Constitution of the Portuguese Republic which states "Citizens of Portuguese-speaking States with permanent residence in Portugal are recognized, under the terms of the law and under conditions of reciprocity, rights not conferred on foreigners, except the access to the positions of President of the Republic, President of the Assembly of the Republic, Prime Minister, Presidents of the supreme courts, and service in the Military forces and in the diplomatic career." The only condition of reciprocity with Portuguese Speaking Countries so far established is the Portugal/Brazil Friendship, Cooperation and Consultation Treaty, signed in Porto Seguro (Brazil) in 2000. However, to be recognized equal access, specific conditions defined in the Treaty must be met, including the fact that the Brazilian national must officially request that recognition.

<sup>110</sup> CY, EL, HR, IT. In Cyprus, this is a requirement by the higher education institutions in order to enter their study programmes.

<sup>99</sup> This applies up to three months after omission of the enforcement, maximum 10 years after leaving the national territory.

<sup>100</sup> Continuous residence is defined as: "Reside continuously in the State means that the individual has lived in the State full time for the period he/she were granted permission (shown by the stamps in your passport). The individual may only be out of the State for short periods including holidays, family emergencies or work commitments outside the State arising from business or employment carried out within the State."

<sup>101</sup> Article 9(1)(a) of Directive 2003/109/EC.

<sup>102</sup> Article 9(1)(b) of Directive 2003/109/EC.

<sup>103</sup> Article 9(1)(c) of Directive 2003/109/EC.

<sup>104</sup> Article 9(3) of Directive 2003/109/EC.

<sup>105</sup> Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for

language in order to obtain the EU long-term residence permit, if the third-country national wants to access a higher education institution, the applicant will not have to prove this again.

#### 7.4 EQUAL TREATMENT WITH REGARDING TO SOCIAL ASSISTANCE AND SOCIAL PROTECTION LIMITED TO CORE BENEFITS

Article 11(4) of the Directive allows Member States to limit equal treatment in respect of social assistance and social protection to core benefits, a provision only applied by **Cyprus** and **Greece**. The legislation in **Cyprus** requires that the individuals reside and work in the areas that are under the control of the Government of the Republic. In **Greece**, the relevant provisions relate to assistance to unprotected children, social protection of disadvantaged persons and family protection, among others.

#### 7.5 EQUAL TREATMENT IN OTHER AREAS NOT COVERED BY THE DIRECTIVE

Eight Member States grant equal treatment in other areas not covered by the Directive. In the **Czech Republic** and **Slovenia**, LTR holders can be granted basic child allowances and additional support for families and for housing. Furthermore, additional support can be provided for people with disabilities and in material need, in which case, long-term care allowances could be granted. In **Estonia**, **Hungary** **Luxembourg**<sup>111</sup> and **Slovenia**, long-term residents are eligible to vote in local elections including local referenda. In **Spain**, they are also entitled to vote in municipal elections, provided there is a reciprocal agreement with their countries of origin. **Portugal** grants public health care and does not impose security limitations with regard to the access to the entire Portuguese territory. Moreover, public office is open to citizens from Portuguese speaking countries under specific conditions (see also section 7.2.). **Sweden** reported that LTR holders have the same rights as every person living in the country registered in the population registry.

## 8 Conditions for residence and work in another Member State

### 8.1 APPLICATION LODGED FROM THE MEMBER STATE WHERE THE THIRD-COUNTRY NATIONAL IS A LTR

About half of the Member States accept that long-term residents submit the application for a residence permit to the competent authorities (i.e. embassies or consulates) of the second Member State while still residing in the territory of the Member State where they hold the LTR status.<sup>112</sup> In **Cyprus**, the application can be lodged on behalf of the applicant at the offices of Civil Registry and Migration Department, located in Nicosia, Cyprus, by an authorized representative or a lawyer. In the case of **Luxembourg**, the application can also be lodged in the

diplomatic or consular of the Member State which represents Luxembourg's interest in the second Member State. In the **Slovak Republic**, if an application is submitted at an embassy, the embassy will conduct a personal interview with the candidate for a preliminary examination of the application. In **Slovenia**, candidates can already enter the country before a final decision is taken on their application, in which case they will be issued a certificate of application that shall serve as a temporary residence permit until the final decision is taken.

### 8.2 EXERCISE OF AN ECONOMIC ACTIVITY IN THE SECOND MEMBER STATE

#### 8.2.1 CONDITIONS TO OBTAIN A RESIDENCE PERMIT FOR THE EXERCISE OF AN ECONOMIC ACTIVITY

The Member States generally apply the same procedures regarding the requirements for filling a vacancy or for exercising an activity in an employed or self-employed capacity. A LTR of another Member State has therefore to comply with the same provisions and regulations as a third-country national who applies from outside the EU to exercise such activities, except for the visa requirement. LTR holders generally need to prove to be in possession of the required qualifications or training and the necessary professional skills, expertise and work experience to assume the position in question (see following sub-section 8.2.4.).

Eight Member States apply a labour market test for permits on the grounds of employment, i.e. the future employer has to provide proof that no qualified worker (either a national or an EU/EEA citizen) can be found on the labour market within a reasonable or determined period of time.<sup>113</sup> Certain categories of third-country nationals, such as highly skilled workers and researchers, may be exempted from the labour market test. In **Belgium**, in addition to the standard system of labour market tests and exemptions, the regions of Flanders and Wallonia recently established a first shortage occupation list for medium-skilled third-country nationals. Employers in the two regions can recruit third-country nationals, including LTR of another Member State, for the listed occupations irrespective of the situation of the labour market. Additionally, the Brussels Capital Region and the German-speaking Community apply an exemption from the labour market test for LTR of another Member State in certain shortage occupations.

#### 8.2.2 SPECIFIC REQUIREMENTS FOR PERMITS ON GROUNDS OF SELF-EMPLOYMENT

13 Member States<sup>114</sup> require that the LTR from another Member State fulfils the same requirements as for any other third-country national who wants to begin an economic activity as a self-employed worker. On the other hand, some Member States facilitate the establishment of this LTR from another Member State.

<sup>111</sup> They have to request their registration on the electoral lists in Luxembourg.

<sup>112</sup> BE, CZ, DE, EE, ES, FI, LV, LU, NL, SE, SI, SK.

<sup>113</sup> BE, FI, FR, LV, LU, NL, SI, SK.

<sup>114</sup> BE, DE, EE, ES, FI, FR, IT, LV, LU, PT, SK, SI, SE.

**Bulgaria** does not impose any restrictions. **Croatia** reported that a LTR from another Member State can apply for a residence and work permit outside of the annual quota, in line with provisions of the Aliens' Act in order to exercise an economic activity.

### 8.2.3 ADMISSION QUOTA FOR LTR IN THE SECOND MEMBER STATE

Only two Member States, **Estonia** and **Italy**, apply a quota for the admission of LTR holders from another Member State, as provided for by Article 14(4) of the Directive. In **Estonia**, the general immigration quota also applies to LTRs from another Member State. This quota is established annually by a governmental regulation and is set at 1 378 for residence permits for employment and enterprise for 2020. Similarly, in **Italy**, LTR holders from another Member State figure among the categories of third-country nationals regulated by the 'Flows Decree', which annually fixes the quota of third-country nationals who are allowed to access the national territory for working purposes. In 2019, the Flows Decree set the quota for employment and self-employment at 12 850, among which 100 residence permits were reserved for LTRs from another Member State.<sup>115</sup>

### 8.2.4 DOCUMENTARY EVIDENCE FOR EMPLOYMENT

When a LTR holder of one Member State is applying for a residence permit for employment purposes in a second Member State, the application needs to be accompanied by documentary evidence attesting that the requirements for said residence permit are met by the applicant. In all Member States, except in **Lithuania**,<sup>116</sup> the application needs to contain at least an employment contract,<sup>117</sup> a statement by the employer confirming the hiring of the applicant<sup>118</sup> or a proposal for an employment contract.<sup>119</sup> In **Italy**, the standard procedure requires the employer to submit to the competent authorities: a request of the authorisation to work ('*nulla osta*') accompanied by a proposal of the residence agreement, which contains the employer's guarantee about the availability of accommodation and the employer's commitment to pay the travelling expenses for the worker to return to the country of origin. The competent authorities, after verifying the employment relationship and the availability of suitable accommodation, issues the authorisation to work. The foreigner, within eight days from entry to the Italian territory, has to subscribe the residence agreement at the Prefecture (otherwise, the authorisation to work is revoked).

<sup>115</sup> The Flows Decree set the overall quota for 2019 at 30 000, which also included 18 000 residence permits for seasonal work in the agricultural sector and the hotel industry.

<sup>116</sup> However, the third-country national must fulfil the conditions of entry set out in the Schengen Borders Code.

<sup>117</sup> BE, BG, CY, CZ, DE, ES, FI, FR, HR, HU, IT, LV, LU, NL, PL, PT, SI, SK.

<sup>118</sup> CY, CZ, DE, EE, FI, HU, NL, PL, PT, SE.

<sup>119</sup> CY, CZ, FR, HU, IT, LV, PL, PT, SI, SK.

In addition to the proof of the employment relationship between the applicant and the future employer, some Member States require additional documentary evidence.

**Croatia** requires from the applicants a valid travel document, proof of means of supporting themselves and their family members and proof of health insurance.

In **France**, **Luxembourg** and **Latvia**, the applicant needs to provide evidence of the required education or qualifications and experience in the corresponding field of work. In the **Slovak Republic**, the application for the work permit also needs to contain proof of the recognition of the required education for work (only in case of regulated professions) and proof of accommodation. **Luxembourg** further requires that the applicant adds a curriculum vitae to the application, as well as the original certificate from the National Employment Agency granting the employer the right to hire a third-country national. Similarly, the latter could also be required by the employer in **Belgium** in form of proof that the labour market test, if required, has been conducted. In **Latvia**, the applicant also needs to submit an invitation from the employer, and in **Sweden**, the application must contain the latest salary specification. In **France** and in **Slovenia**, the employer has to prove that he/she had always been in compliance with the labour code. In **the Netherlands**, in case a work permit (TWV) is necessary, a copy of the application should be included. In **Spain**, employers have to prove their solvency. Lastly, in **Portugal**, proof of registration to the social security system has to be submitted in addition to the employment contract. In the absence of an employment contract, the application can instead consist of an employment agreement or promissory employment agreement issued by a trade union, by a representative of migrant communities with a seat on the Migration Board, or by the Labour Conditions Authority.

### 8.2.5 DOCUMENTARY EVIDENCE FOR SELF-EMPLOYMENT

In principle, most Member States require the same documentary evidence for a self-employment residence permit that will be requested from other third-country nationals. However, as the following will show, there are no uniform requirements on admission and they vary substantially from one Member State to the other:

- In **Belgium**, like any other third-country national, the LTR from another Member State needs to submit evidence related to her/his self-employed activity. Depending on the competent region and the type of activity, this evidence may include a motivation letter, a resume, copy of degrees, proof of professional experience, proof of income, accounting data, product information, business plans and other relevant documents.
- In the **Czech Republic**, applicants must provide not only a business plan, but also proof of accommodation. Moreover, they are obliged to submit the declaration releasing the obligation of secrecy addressed to the Tax Office, in order to



verify the aggregate monthly income of the family, a document confirming the entry into the pertinent business register, a list or record, confirmation of non-existence of arrears (personal or corporate); upon request an income tax assessment, criminal record extract, upon request a medical report on prevention of the spread of infectious illnesses and proof of health insurance.

- In **Bulgaria**, the Executive Director of the Employment Agency shall issue a permit for conducting self-employed activity by a third-country national upon presenting a detailed plan of the activity for the term of the permit,<sup>120</sup> based on which the Ministry of Interior shall issue an extended residence permit or a long-stay visa.<sup>121</sup> **Cyprus** also requires the presentation of a business plan and applicants should prove that they are qualified in regards to the proposed vocation. **Latvia** also requires the business plan and the financial means to implement the business plan.
- **Croatia** requires from the applicants a valid travel document, proof of means of supporting themselves and their family members, proof of health insurance, proof of the registration of a company, branch office, representative office.
- **Estonia** requires the data of close relative and family members, documents or data that prove the investment, a business plan (except for start-ups and major investors) and a document certifying the payment of the state fee.
- **Finland, France and Sweden**<sup>122</sup> require the register extract of the company, a business plan, if the company is a limited liability company the articles of incorporation and list of the shareholders, documents concerning the business premises, the report on the number of employees, certificates on professional qualifications (diploma and/or letters of reference) and the report on assets and other income. **France** also requires for a liberal activity: any proof of the effectiveness of the activity and justification of the resources drawn from the activity at least equivalent to the full-time minimum wage and, if the activity is related to a regulated profession, the authorisation to exercise or registration to the competent association or professional corporation.
- **Germany** requires proof that there is an economic interest or a regional need for the activity proposed

and that it is expected to have positive effects on the economy and the applicant must have personal capital or an approved loan to realize the business idea.

- **Hungary** requires a business plan, a private entrepreneurial license, or a private entrepreneur register number; or a small-scale agricultural producer's license; a personal service contract, a contract for professional services or a use contract entered into as a private individual; or other reliable means.
- **Italy** requires that the applicant presents the documentation about the license of the activity or the enrolment at the Chamber of Commerce.
- **Luxembourg** requires the application for a temporary authorisation to stay, a copy of valid passport, an extract from the criminal records or an affidavit (sworn oath) established in the country of residence, a curriculum vitae, a business and a financing plan and a proof that the applicant has the necessary economic resources to carry out her/his business project.<sup>123</sup> In the case of an activity subject to other authorisations, accreditations or registrations, the applicant has to provide the agreement in principle from the competent authority.
- **The Netherlands** requires the presentation of the LTR residence permit, if applicable, a copy of the document that was issued by the competent Dutch authority showing that the applicant has the necessary permits to be allowed to practice a particular profession or run a particular enterprise, a business plan, and copies of all diplomas awarded.
- **Portugal** requires proof of incorporation of a company pursuant to the law, declaring the start of business with the tax authorities and social security as a natural person, or the signing of a service provision agreement to practice a liberal profession; proof of qualifications to carry out independent professional activity, when applicable; proof of means of subsistence and the submission of a statement from the respective professional association that the applicant meets the requirements of enrolment, when required.
- The **Slovak Republic** requires a valid passport, a business plan for the implementation of an innovative project, or a document confirming the business license, proof of accommodation for at least six months, evidence of financial support in the amount of the subsistence minimum for each month of stay, and if the stay exceeds one year, in

<sup>120</sup> Art. 44, para 1 of the Law on Labour Migration and Labour Mobility.

<sup>121</sup> Art. 24a of the Foreigners in the Republic of Bulgaria Act.

<sup>122</sup> Sweden requests F-tax card and certificate of registration from the Swedish Companies Registration Office, the most recent VAT report (if the business is obliged to report VAT), evidence that the applicant run the business, contracts for the business' premises.

<sup>123</sup> In the case of a takeover of a business, the balance sheets and profit and loss accounts for the past three financial years. Also in the event of an activity subject to a business permit, the agreement in principle.

the amount of 12 times the subsistence minimum, and proof of payment of the administrative fee.

- **Spain** requires proof of professional qualification, where needed, a business plan, all the licences and authorisations the activity may require, an appropriate venue, if applicable, and proof of sufficient funds for the investment.

#### 8.2.6 STUDY AND VOCATIONAL TRAINING

With regard to study and vocational training, all respondent Member States<sup>124</sup> apply the general rules of third-country nationals applying to conduct studies and vocational training.

In the case of studies, the normal requirements reported by Member States are: enrolment in the educational institution, proof of health insurance and proof of sufficient means of subsistence.

**Germany** adds knowledge of the language for conducting the studies.

#### 8.2.7 DOES THE RESIDENCE PERMIT ON GROUNDS OF EMPLOYMENT HAVE RESTRICTIONS?

In 10 Member States, restrictions regarding access to the labour market are in place with regard to residence permits for employment purposes.<sup>125</sup> In the majority of these Member States, LTR holders are either limited to one single employer<sup>126</sup> and/or one single professional field,<sup>127</sup> particularly during the first year in **Belgium**, **France** and in **Luxembourg**. In **Germany**, temporary residence permits for employment purposes generally require the approval of the Federal Employment Agency. In **the Netherlands**, if a LTR of another Member State wants a residence permit on the grounds of employment, the third-country national will need during the first year a working permit. After that year, there are no longer restrictions on the labour market.

#### 8.2.8 LANGUAGE COURSES

Only three Member States, namely **France**, **Germany** and **Italy**, require LTR holders from another Member State to attend language courses. In **France**, this is the case as long as the third-country national is subject to the Republican Integration Pathway and the related language and civic training. **Germany** exempts LTR holders from another Member State from the obligation to take an orientation course if they provide proof that they have already participated in integration measures in the Member State which granted them the LTR status. In

**Italy**, if LTR holders from another Member State intend to obtain a residence permit as LTR in Italy, they have to comply with the same requirements as any other foreigner regularly residing in Italy, which include, among others, demonstrating proficiency in Italian equivalent to at least level A2. Moreover, migrants applying for a residence permit of at least one year in Italy are required to sign an integration agreement, which also includes, among others, the commitment to learn an adequate level (at least A2) of spoken Italian.

While **Sweden** does not require LTRs to attend language courses, 'Swedish for immigrants' courses are offered to all non-native Swedish speaker. LTRs are also not required to attend language courses in **Slovenia**, but they can attend them free of charge (as all third-country nationals legally staying in Slovenia).

#### 8.2.9 CONDITIONS FOR CHANGE OF A RESIDENCE PERMIT BASED ON 'OTHER PURPOSES' TO A RESIDENCE PERMIT BASED ON GROUNDS OF EMPLOYMENT OR SELF-EMPLOYMENT?

LTR holders from another Member State who have obtained a residence permit on the grounds of 'other purposes' in the second Member State are generally allowed to change their status to a residence permit on grounds of employment or self-employment. In this event, they have to fulfil all the criteria regarding employment or self-employment presented in this section (including labour market test, if applicable) and have to apply for a new residence permit for employment or self-employment. In **Luxembourg**, the change of status is possible if the residence permit allows the change. In **Portugal**, the legislation does not foresee a residence permit for 'other purposes', e.g. third-country nationals have to comply with the legal requirements for each type of residence permit. In **Sweden**, the grounds for the residence permit for 'other purposes' are normally not changed if the LTR still meets the requirements for the issuance of this residence permit. If this is not the case, the grounds for the permit can be changed.

#### 8.2.10 FACILITATED PROCEDURE FOR RE-ACQUISITION OF LTR STATUS

In accordance with Article 9(5) of the Directive, 15 Member States have a facilitated procedure in place for the re-acquisition of the LTR status in the event of absences from EU territory of more than 12 consecutive months or in case the LTR has moved to another Member State for more than six years (see also section 6).<sup>128</sup>

<sup>124</sup> BE, CY, CZ, EE, ES, FI, FR, DE, HR, HU, IT, LV, LU, NL, PL, PT, SK, SI, SE.

<sup>125</sup> BE, DE, EE, FI, FR, HR, LV, LU, NL, PT, SK. In the Slovak Republic, the labour market test is carried during the first twelve months out and after that there are no restrictions. In Portugal, these restrictions does not apply to nationals from Portuguese speaking countries.

<sup>126</sup> BE, EE, FI (for specific reasons, such as posted work), FR, HR, LV.

<sup>127</sup> FI, FR, LU. In Belgium, the access is limited to a single employer during the first year.

<sup>128</sup> BE, BG, CY, CZ, EE, ES, FR, HU, IT, LV, LT, LU, LV, PL, PT.

## 9 Information and communication on the LTR status

The first Commission Report from 2011 on the implementation of the Directive revealed a general lack of information among third-country nationals about the LTR status and the rights attached to it.<sup>129</sup> This finding is reconfirmed by the second Commission Report in 2019, which found that despite the general higher uptake of the status between 2008 and 2017, it was the same four countries<sup>130</sup> accounting for around 90% of the permits issued.<sup>131</sup> What is more, the second implementation report pointed out that this still low uptake could additionally be attributed to the lack of information available among the national migration administrations in the Member States and to the 'competition' with long-established national long-term or permanent residence schemes.

### 9.1 WHAT INFORMATION TOOLS DO MEMBER STATES OPERATE?

While only eight Member States reported to have a dedicated policy or strategy in place with regard to information and communication on the LTR status,<sup>132</sup> 14 Member States operate specific information tools to promote the status<sup>133</sup> or, in Ireland's case, its national long-term residence schemes.

The most commonly used information tool is a dedicated page in a website,<sup>134</sup> followed by oral or written answers by a public service at the request of the applicant.<sup>135</sup> In **Italy**, the Ministry of Interior has created an Immigration Web Portal, in collaboration with the Italian Post Office and the National Association of Italian Municipalities, in which are contained all information and instructions about residence permit applications in 11 different languages. In collaboration with the National Commission for the Right to Asylum, the Ministry of Interior has also published a "practical guide for asylum seekers in Italy" (in 12 languages) in which there is information about the possibility for a recognised refugee to apply for LTR status. Others multilingual guides are available on the website [www.integrazionemigranti.gov.it](http://www.integrazionemigranti.gov.it) (jointly managed by the Ministry of Interior, the Ministry of Labour and Social Politics, the Ministry of Education and research) in order to provide information in the field of labour, integration and acquisition of citizenship. Other information tools are specific brochures of information on the status in **Luxembourg**<sup>136</sup> and in **Malta**, as well as specific letters addressed to individuals who could be

eligible to apply for the status and information sessions by the Ministry of Integration or civic society actors in **Luxembourg**.

### 9.2 WHAT IS THE CONTENT OF THE INFORMATION?

The majority of the websites provide information about the access conditions (calculation of the five year residence period, requirement for stable, regular and sufficient resources, etc.), the application procedure (required documents, fees, etc.), the rights that are attached to the status, the renewal procedure and cancellation, loss or withdrawal of the status. Furthermore, the websites in **Croatia** inform third-country nationals about the institutions that provide Croatian language tests, a prerequisite for the issuance of the LTR status. In **Estonia** and in the **Slovak Republic**, interested persons can also find information regarding the processing time, and in **Hungary** and **Luxembourg**, the websites also provide information about the validity of the LTR residence permit.

### 9.3 AT WHAT MOMENT ARE THIRD-COUNTRY NATIONALS INFORMED ABOUT THE LTR STATUS?

The most common moment in time when third-country nationals are actively informed about the possibility to apply for the LTR status is when they are informed to renew the residence permit that they are currently holding.<sup>137</sup> In **Belgium**, municipalities may advise TCNs to apply for LTR status at the time of renewal of their residence permit, but they are not obliged to do so. In **Germany**, when the third-country national approaches the local immigration authority e.g. to prolong the current residence permit or to change the status, if this person qualifies for the LTR, this person shall receive information on the LTR and the local immigration offices shall inform the applicants on the best-suited residence title. In **Bulgaria**, **France** and in **the Netherlands**, third-country nationals are informed when they are approaching five years of residence in the country. In **the Netherlands**, this is done three months prior to the expiration of the temporary residence permit. Moreover, third-country nationals in **Italy** can receive information at the Immigration Desk within the Prefectures, at Police Headquarters and on the Immigration portal, and when applying for the LTR residence permit or via a dedicated contact centre<sup>138</sup> in **Portugal**.

In about half of the Member States, however, there is no particular moment when a third-country national is actively or individually informed about the possibility to apply for the LTR status, in large part because the information regarding the LTR status is available online at all times.<sup>139</sup>

<sup>129</sup> Report on the implementation of Directive 2003/109/EU, COM(2011) 585 final, p.10.

<sup>130</sup> AT, CZ, EE, IT.

<sup>131</sup> Report on the implementation of Directive 2003/109/EU, COM(2019) 161 final, p.1.

<sup>132</sup> BG, DE, HR, IE, IT, LU, PL, SE.

<sup>133</sup> BE, CY, CZ, DE, EL, ES, FI, HR, HU, IT, LU, MT, PT, SE, SI, SK.

<sup>134</sup> BE, CY, CZ, DE, EE, EL, ES, FI, HR, HU, IE, LV, LU, NL, PT, SE, SI, SK.

<sup>135</sup> CY, EE, EL, ES, FI, HR, IT, LV, LU, PT.

<sup>136</sup> Bi-lingual in French and English.

<sup>137</sup> DE, EE, EL, LU, SE.

<sup>138</sup> The SEF's Contact Centre provides information, helps with documentation and schedules on-site attendance.

<sup>139</sup> CY, CZ, EL, ES, FI, HR, HU, IE, LV, LT, MT, PL, PT, SI, SK.

## 9.4 WHO IS IN CHARGE OF THE INFORMATION AND COMMUNICATION?

In the large majority of the Member States, public institutions in charge of migration at the national<sup>140</sup>, regional<sup>141</sup> and/or local<sup>142</sup> level are in charge of information and communication on the LTR status.

Additionally, public institutions in charge of integration at the national level are also in charge in some Member States.<sup>143</sup> In **Italy**, the Ministry of Labour and Social Policies, which plays an important role as the competent authority for social integration, vocational training and employment, cooperates closely with the Ministry of Interior and the Ministry of Education and research. In **Malta**, the Integration Unit within the Directorate of Human Rights and Integration of the Ministry for European Affairs and Equality is responsible for providing the facilities for integration measures required in connection with the granting of the LTR status. In **Portugal**, the information is provided by High Commission for Migration (ACM), which has three national migrant support offices, where SEF (*Serviço de Estrangeiros e Fronteiras*, the Immigration and Borders Service) and other migration related institutions (e.g. social security, health, employment, education) have attendance posts. In **Spain**, the information is provided by the Secretary of State for Migration, which includes not only the Immigration, but also the Inclusion Directorates. While the competencies in this matter are still in the hands of the Ministry of Interior in **Slovenia**, it is planned to transfer those competences to the Government Office for Support and Integration of Migrants. Only **Greece**

reported that public institutions in charge of integration at the local level, e.g. the Migrant Integration Centres, are also in charge of information and communication on the LTR status.

**Italy** and **Luxembourg** reported that non-governmental organisations also contribute to the provision of information on the status, such as the Association for Legal Studies and Immigration (ASGI) in **Italy** or the Association for the Support of Immigrant Workers (ASTI) in **Luxembourg**.

## 9.5 IS THERE RESEARCH AVAILABLE ON THE LTR STATUS IN THE MEMBER STATES?

There appears to be an overall lack of studies, research or evaluations on the LTR status in the EU, as no Member State reported being aware of such publications.<sup>144</sup> However, **France** reported that the LTR status figures among the existing ten-year residence permits in the annual report to the French Parliament entitled 'Foreign nationals in France'. These reports provide an overview of the situation in France regarding migration flows, migration and asylum policy, etc., and presents general information regarding third-country nationals in France compared to the total population. In this context, the last available report for 2017 noted that after a decline in 2015, the number of LTR permits issued increased to reach 8 335 and 8 721 permits respectively in 2016 and 2017 and then registered a 58% decline in 2018 with a total of 3 664 permits issued (temporary figures for 2018).

<sup>140</sup> BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LV, LT, LU, MT, NL, PL, PT, SE, SI, SK.

<sup>141</sup> EL, HR, PL, SI.

<sup>142</sup> DE, EL, HR, SI.

<sup>143</sup> IT, MT, PT.

<sup>144</sup> BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, MT, NL, PL, PT, SE, SI, SK.

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