RIGHT OF RESIDENCE UNDER EU LAW FOR EEA AND SWISS NATIONALS AND FOR THIRDCOUNTRY NATIONALS WHO ARE FAMILY MEMBERS OF EEA AND SWISS NATIONALS HAVING A RIGHT OF RESIDENCE UNDER EU LAW

Pursuant to the Directive on Free Movement EEA and Swiss nationals are entitled under EU law to stay for more than three months, if they

1. are employed or self-employed in Austria, or
2. have adequate means of subsistence to support themselves and their dependants and have comprehensive health insurance coverage for themselves and their family members, or
3. are being educated in a school or educational institution and have comprehensive health insurance coverage for themselves and their family members and have adequate means of subsistence.

EEA and Swiss nationals staying on the Federal Territory for more than three months have to register with the competent authorities (Provincial Governor' Office or District Administrative Authority) within four months after entry.

Right of residence of EEA and Swiss nationals who are family members of EEA and Swiss nationals having the right of residence under EU law

EEA and Swiss nationals who are family members of EEA and Swiss nationals having the right of residence under EU law are entitled to stay for more than three months, if they are

- Spouses or registered partners, or
- Direct descendants of an EEA national or his/her spouse or his/her registered partner aged 21 years or younger, or else older, if they receive actual maintenance, or
- Related to the EEA national or his/her spouse or his/her registered partner in direct ascending line, if they receive actual maintenance, or
- Life partners in a proven long-term relationship, or
- Other relatives of sponsor having already received maintenance from sponsor in their country of origin, or having already lived in the same household with sponsor in their country of origin, or are in need of personal care by sponsor due to serious health conditions.

EEA nationals with a right of residence under EU law staying longer than three months on the Federal Territory have to register with the authorities within four months after entry.

Provided the necessary requirements are met, the authority shall issue a registration certificate.

EEA nationals with a right of residence under EU law shall obtain the right of long-term residence after five years of lawful residence on the Federal Territory without interruption. Upon application, they shall be issued a "Long-term Residence Certificate".

Right of residence of third-country nationals related to EEA nationals having the right of residence under EU law

Relatives of EEA and Swiss nationals staying on the Federal Territory for more than three months have to register with the competent authorities (Provincial Governor's Office or District Administrative Authority) within four months after entry.

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Upon application, third-country nationals related to EEA nationals having the right of residence under EU law shall be issued a residence card, provided the necessary requirements are fulfilled, if they are

- Spouses or registered partners, or
- Direct descendants of the EEA national or his/her spouse or his/her registered partner aged 21 years or younger, or else older, if they receive actual maintenance, or
- Related to the EEA national or his/her spouse or his/her registered partner in direct ascending line, if they receive actual maintenance.

The application must be filed within four months after entry.

Such persons shall obtain the right of long-term residence, if they have resided on the Federal Territory for five years without interruption.

Documents

The following documents of a residence right under EU law may be applied for:

a) "Registration Certificate"

This document shall be issued to EEA nationals and their dependants who are themselves EEA nationals, if they reside on the Federal Territory for more than three months. Residence must be registered (a registration certificate must be applied for) with the competent authority (depending on their domicile; Provincial Governor's Office or District Administrative Authority) within four months after entry.

Note: Late application may cause imposition of a fine.

Note: If you already were a resident on the Federal Territory before 1st January 2006, your valid registration under the Registration Act shall serve as certificate of registration.

b) "Long-term Residence Certificate"

EEA nationals having the right of residence under EU law (Sections 51 and 52 of the Settlement and Residence Act) shall be entitled to obtain the right of long-term residence after having resided on the Federal Territory for five years without interruption. Upon application, they shall be issued a Certificate of Long-term Residence.

Note: The Settlement and Residence Act in Section 53a(2) and (3) provides incidences which do not interrupt the five year period or which allow for earlier obtaining of the right of long term residence.

c) "Residence Card" (= ID document in card form)

Upon application, this document shall be issued to third-country nationals related to EEA nationals having the right of residence under EU law, if they are

- Spouses or registered partners, or
- Direct descendants of an EEA national or his/her spouse or his/her registered partner aged 21 years or younger, or else older, if they receive actual maintenance, or

- Related to the EEA national or his/her spouse or his/her registered partner in direct ascending line, if they receive actual maintenance.

The application must be filed within four months after entry.

Note: Late application may cause imposition of a fine.

Note: A “Residence Permit – Dependant” may be issued to life partner or other relatives (see below family members of EEA, Swiss and Austrian nationals, who have not claimed their right under EU law or under the EC-Switzerland Agreement on free movement of persons to stay for more than three months).

d) “Long-term Residence Card”

The following third-country nationals related to EEA nationals having the right of residence under EU law shall obtain a long-term residence right, if they have lawfully resided on the Federal Territory for five years without interruption:

- Spouses or registered partners, or
- Direct descendants of the EEA national or his/her spouse or his/her registered partner aged 21 years or younger, or else older, if they receive actual maintenance, or
- Relatives of the EEA national or his/her spouse or his/her registered partner in direct ascending line, if they receive actual maintenance.

Note: In the cases mentioned in Section 53a (4) and (5) of the Settlement and Residence Act such relatives shall obtain a long-term residence right before expiry of the five year period. Cases in which the five year period shall not be deemed interrupted are mentioned in Section 53a(2) of the Settlement and Residence Act.

Upon application, relatives entitled to long-term residence shall be issued a “Long-term Residence Card” for the duration of ten years. Such application must be filed before expiry of the Residence Card.

Note: Late application may cause imposition of a fine.

Note: If you were a resident on the Federal Territory already before 1st January 2006 and still reside here, the old residence title shall be valid as residence card.

Note: If you were issued a long-term residence card before 1st January 2010 under the then applicable law, such card shall continue to be valid as residence card.

e) Upon application, holders of Registration Certificates or Certificates of Long-term Residence may be issued a “Photo Identity Card for EEA Nationals” (= ID document in card format) with a five year validity.

Further information – e.g. which documents have to be submitted – can be obtained from the competent authorities or from the homepage of the Federal Ministry of the Interior at http://www.bmi.gv.at