



### Authorisation to stay for a family member of a third-country national

(articles 68 to 77 of the amended law of 29 August 2008 on the free movement of persons and immigration)

The third-country national who wishes to reside on Luxembourg territory for more than three months to join a family member, also a third country national, residing legally on the Luxembourg territory, must be holder of an authorisation to stay for a family member of a third-country national. The application must be made and favourably advised **before entering on Luxembourg territory**.

#### IMPORTANT:

In order to pretend to family reunification, the sponsor (third country national residing in Luxembourg legally) must fulfil certain conditions and the person wishing to join him/her must be eligible for family reunification (see point 2 for explanations)

#### 1. Application for an authorisation to stay

The family member wishing to come to Luxembourg must submit an application to the minister in charge of immigration.<sup>1</sup> The applicant must disclose his/her identity (names, first names) as well as his/her exact address in the country of residence. He/she must also enclose the following documents in the application:

**Documents to be enclosed in every application for family reunification** (see conditions in point 2)<sup>2</sup>:

- proof of the sponsor's sufficient resources to be able to cover his own needs as well as the needs of his family members ( e.g. salary slips, tax declaration).
- Proof of appropriate housing on the territory of Luxembourg for him/her and the family members (e.g. rental contract, proof of property ownership/title deed);
- proof for health insurance for the sponsor and the family members;
- if need be, a mandate/proxy<sup>3</sup>.

**Additional documents to be enclosed according to the case:**

- In case it's the spouse or the registered partner of the sponsor:
  - a copy of the entirety of the valid passport of the spouse/partner (all pages);
  - a recent extract from the spouse/partner's police record or an *affidavit* issued in the country of residence;
  - a document attesting of the existence of the marriage or the registered partnership (e.g., marriage certificate, partnership declaration, family booklet)
- In case it's the descendant (child) of the sponsor or of his/her spouse/partner:
  - a copy of the entirety of the valid passport of the child (all pages);
  - a document attesting the family relationship with the sponsor (e.g., birth certificate of the child, family book);
  - in case of divorce (for minors only):
    - the judgment conferring the custody of the minor child to the parent living in Luxembourg and

<sup>1</sup> The application can be submitted by sending it to the General Department of immigration (see address below) or by handing it in to a diplomatic or consular representation of Luxembourg or the diplomatic or consular mission representing Luxembourg.

<sup>2</sup> Except for the applicant of an authorisation to stay as a highly qualified worker (European blue card), as a transferred worker ("ICT" or "mobile ICT") or a researcher who submit the application for the authorisation to stay for his family members at the same time as his/hers.

<sup>3</sup> The third-country national may confer mandate to a third person so as to submit the application in his/her place. In this case, the appointed person, except for juridical consultants, must present a duly signed and dated mandate from the third-country national. The signature must be preceded by the handwritten phrase « good for power of attorney ». You can find a model of a mandate/proxy on the internet site [www.guichet.lu](http://www.guichet.lu).

- if the other party has a visitation right: the notarial authorisation of the parental party living abroad to prove this party's agreement that the minor child is allowed to reside in Luxembourg (a copy of the identity document of the parental party living abroad has to be enclosed);
  - in case of joint custody (for minors only): the notarial authorisation of the parental party living abroad to prove this party's agreement that the minor child is allowed to reside in Luxembourg (a copy of the identity document of the parental party living abroad has to be enclosed).
- In case it's an ascendant (parent) of the sponsor or the spouse/partner:
  - a copy of the entirety of the valid passport of the ascendant (all pages);
  - a recent extract from the ascendant's police record or an *affidavit* issued in the country of residence;
  - a document attesting of the family relationship (e.g., a birth certificate of the sponsor or the sponsor's spouse/partner)
  - a document attesting of the civil status and the family situation of the ascendant as well as proof that he/she is deprived of the necessary family support in the country of origin (e.g. family booklet, any other equivalent document issued by the competent authorities of the country of origin) ;
  - proof that the ascendant is dependent on the sponsor before the application for family reunification (e.g. proof of regular money transfers from the sponsor to the ascendant) ;
  - a document attesting of the financial situation of the ascendant in the country of origin (e.g. proof of personal resources like income, property, etc).

In case the documents are not in German, French or English, a conforming translation by a sworn translator must be enclosed.

**An incomplete application will be sent back to the applicant.**

If granted, the third-country national receives a "temporary authorisation to stay" ("*autorisation de séjour temporaire*"). This temporary authorisation to stay is valid for a period of 90 days. During this time, the third-country national must:

- either request a visa to enter the Schengen area, if subject to visa obligation;
- or, if not subject to visa obligation, enter on the territory of Luxembourg and make his/her declaration of arrival at the municipality ("*administration communale*") of the chosen place of residence.

After entering Luxembourg, the third-country national has to follow the procedure to apply for the residence permit ("*titre de séjour*").

## 2. Explanations

### a. Conditions to be fulfilled by the sponsor (third country national residing in Luxembourg legally):

In order to pretend to family reunification, the sponsor must fulfil certain conditions (article 69 of the modified law of 29 august 2008 on the free movement of people and immigration). He/she must:

- be holder of a residence permit with a validity of at least a year<sup>4</sup> and have well-founded prospect to be entitled to the status of long-term resident once;
- bring proof that he/she disposes of regular, stable and sufficient resources to cover his/her own needs as well as those of his dependent family members without having recourse to the social aid system. The level of the resources is appreciated by reference to the monthly average rate of the social minimum salary of a non-qualified worker during a period over 12 months. The prospective assessment of the likelihood of maintaining stable, regular and sufficient resources is based on a forecast that the resources may reasonably be available during the year following the date of filing of the application for family reunification, so that the sponsor should not have recourse to the social assistance system. The

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<sup>4</sup> The condition of a minimal period of time of legal residence in Luxembourg does not apply in the following cases:

- for the case that the sponsor would like to bring his/her minor children and he/she holds the sole custody;
- for the sponsor that is holder of a residence permit « European blue card », "ICT", "mobile ICT" and as a researcher or that holds a long-term resident status in another member State of the EU and wishes to come to Luxembourg for the case the family was already constituted in the first EU country. These persons can be accompanied by their spouse/partner as well as by their unmarried minor children.

minister may take into account the income of the sponsor during the six months preceding the application;

- have appropriate housing in Luxembourg;
- have an insurance to cover oneself and the family members.

**b. Family members eligible to family reunification:**

Family reunification is not possible for every family member. The following persons are eligible:

- the sponsor's spouse (husband/wife);
- the registered partner;
- the minor unmarried children of the sponsor or his/her spouse/partner under the condition to have custody for them and that they are dependent. In case of joint custody, the other parental party must agree.

Can be eligible (with the minister's preliminary agreement):

- immediate ascendants (parents) of the sponsor or the spouse/partner whenever dependent and deprived of the necessary family support in their country of origin;
- unmarried children over 18 years of age of the sponsor or the spouse/partner whenever they cannot cover their own needs for health reasons;
- the legal tutor or any other family member of the unaccompanied minor, who benefits of an international protection, whenever he/she does not have immediate ascendants or these cannot be found.

**For further information (in English, French and German), please visit the web site [www.guichet.lu](http://www.guichet.lu).**

**Information note on the protection of personal data:**

The General Department of immigration of the Ministry of Home Affairs collects and uses your personal data in the context of its public interest mission in implementation of the amended law of 29 August 2008 on the free movement of persons and immigration, in compliance with the legal provisions on data protection. More detailed information on the processing of your data, as well as on your rights in the matter, are available on the website: <https://gd.lu/immigration>.