



## **AD-HOC QUERY ON A CERTIFICATE OF GOOD CONDUCT WHEN MIGRANTS APPLY FOR A RESIDENCE PERMIT.**

**Requested by NL EMN NCP on 15<sup>th</sup> March 2012**

**Compilation produced on 27<sup>th</sup> April 2012**

**Responses from, Belgium, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Portugal, Romania, Slovak Republic, Slovenia, Sweden, United Kingdom, plus Norway (20 in Total)**

*Disclaimer:*

### **BACKGROUND INFORMATION**

The Dutch government prioritizes the struggle against criminal migrants coming to the Netherlands. Dutch government learned that the Australian government ask migrants to prove that they are of good character, by sometimes having to provide a police certificate.<sup>1</sup> In an effort to develop new policy in this regard, the Migration Policy Department of the Dutch Ministry of the Interior wishes to ask the following.

- 1) Does your country ask for a certificate of good conduct of new migrants when they apply for a residence permit?
- 2) If so, how does this work in practice?
- 3) If not, are there any plans for introducing such a certificate in near future?

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<sup>1</sup> <http://www.immi.gov.au/allforms/character-requirements/character-penal.pdf>

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## 2. Responses<sup>2</sup>

		Wider Dissemination? <sup>3</sup>	<p>1) Does your country ask for a certificate of good conduct of new migrants when they apply for a residence permit?</p> <p>2) If so, how does this work in practice?</p> <p>3) If not, are there any plans for introducing such a certificate in near future?</p>
	Belgium	Yes	<p>1) Yes, in Belgium the general rule is that any foreign national who applies for a residence permit of more than 3 months; or who is legally authorized or allowed to stay more than 3 months, has to submit an extract from the judicial record or an equivalent document or a certificate proving that the person has not been convicted for crimes of offenses of common law.</p> <p>2) The document or the certificate of good conduct has to be issued in the 6 months preceding the filing of the visa application and has to cover the last five years before the date of appliance. Therefore, people who have stayed in several countries during these five years have to present several documents. These conditions are less strict for some categories. For foreign workers, who hold a valid labour card, and for researchers the certificate only has to cover the year prior to the date of the visa application.</p>
	Cyprus	Yes	<p>1. Yes</p> <p>2. The criminal record certificate which must be officially translated and duly validated is a prerequisite document for the issuance of an entry and residence permit</p>
	Czech Republic	Yes	<p>1) Yes, a proof of no criminal record is required from third country nationals older than 15 years applying for their first residence permit or long-term visa and from some applicants for permanent residence.</p> <p>2) The foreigner shall submit a document issued by a foreign state which is similar to a copy from the Czech Register of Criminal Records proving that he/she has not been convicted for a criminal act. In case that the foreign</p>

<sup>2</sup> If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

<sup>3</sup> A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<p>state does not issue such document, a statutory self-declaration may be accepted instead.</p> <p>The “foreign state” is defined as the one of which the foreigner is the national plus the states in which the foreigner resided for a continuous period exceeding 6 months during the last 3 years.</p> <p>3) Not applicable.</p>
	<b>Estonia</b>	<b>Yes</b>	<p>1) Yes!</p> <p>2) An alien who applies for a residence permit has to answer to certain questions on application (additional data). If he/she answer to a questions positively then he/she must provide documentary evidence of these facts. For example: Applicant must answer to a question if he/she has been repeatedly punished pursuant to criminal procedure for an intentionally committed criminal offence. If he/she answers to that question positively then he/she must provide documentary evidence of that fact (a copy of judgment). Estonia also checks the aliens background data from their own databases (as much as it is possible)</p> <p>3) Estonia is also planning to ask from an alien who applies for a residence permit a certificate about their criminal record from their country of departure (for example document from Police Department).</p>
	<b>Finland</b>	<b>Yes</b>	<p>1. As a general rule, no. If the applicant has indicated in his or her application that he or se has a criminal background, Immigration service or the Police will ask for the certificate from the applicant’s country of origin or other. In processing the residence permit application, the applicant's data must be checked on official registers such as the Population Information System, the visa register, criminal register and the border control register. Where necessary, based on a case-by-case assessment, the official registers of the foreign country concerned may be checked through a Finnish diplomatic mission.</p> <p>2. N/A</p> <p>3. There are not any plans for introducing a certificate cited above in the near future.</p>
	<b>France</b>	<b>Yes</b>	<p>1) Yes</p> <p>2) In France, a police record certificate is required for third-country nationals who apply for a “skills and talents” residence permit or a residence permit for commercial, industrial or craft occupation. In addition, a visa or a residence permit may not be issued on the grounds of threat to public order. Therefore, French authorities are entitled to request, if deemed necessary, such a document. Finally, an application for family reunification may be refused if it does not comply with basic principles that govern family life, which means that a public authority may denounce non-compliant attitudes.</p>

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			<p>In brief, a police record certificate is required to be granted certain temporary residence permits, or may be requested only sporadically and not systematically to clarify problematic cases.</p> <p>(Conversely, the presentation of a police record certificate is required for access to nationality.)</p> <p>3) There is no plan for bringing the condition to present a police record certificate into general use in near future.</p>
	<b>Germany</b>	<b>Yes</b>	<p>1) No. A certificate of good conduct from the applicant's country of origin is not required.</p> <p>2) -</p> <p>3) No.</p>
	<b>Hungary</b>	<b>Yes</b>	<p>1) No</p> <p>2) –</p> <p>3) Hungarian government does not plan to introduce such certificate</p>
	<b>Italy</b>	<b>Yes</b>	<p>1) No. However, an assessment on the applicant's good conduct is carried out by the Italian diplomatic-consular authorities located in the migrant's country of origin before the entry visa is released. An additional verification of court records is carried out by the police station in charge of issuing the stay permit to the migrant after his/her entry into the national territory.</p> <p>2) –</p> <p>3) Nothing to report.</p>
	<b>Latvia</b>	<b>Yes</b>	<p>1) In accordance with the Cabinet Regulation No.564 of the Republic of Latvia "Regulation Regarding Residence Permits" (adopted 21 June 2010) a foreigner who requests a residence permit, if he/she is older than 14 years of age, has to submit a statement regarding the criminal record issued by the competent institution of the state of citizenship. If a foreigner has resided outside the state of citizenship for more than 12 months, a statement regarding the criminal record has to be issued by the competent institution of the state of residence (Sub-paragraph 28.3. of this Regulation). However, if a foreigner does not need a visa to enter the Republic of Latvia in line with the Council Regulation (EC) No.539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, the foreigner does not have to submit the statement regarding the criminal record.</p> <p>2) In practice the foreigner who requests a residence permit has to submit the statement regarding the criminal</p>

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			record along with other documents that are necessary for request of a residence permit. The statement has to be legalised and issued within a period of time which does not exceed 6 months upon the request of a first residence permit. When a foreigner requests a residence permit repeatedly, the foreigner does not have to submit the statement regarding the criminal record. At the same time the competent authorities of the Republic of Latvia acquire the information whether the foreigner has been included in the Punishment Register of the Republic of Latvia. 3) -
	<b>Lithuania</b>	<b>Yes</b>	1) No. 2). – 3) There are no plans to introduce such a requirement
	<b>Luxembourg</b>	<b>Yes</b>	1) Yes. In Luxembourg when a third country national applies for any authorisation to stay he must file with his/her application an extract of his/her criminal record or an affidavit (sworn statement). 2) The certificate is one of the documents required for the application for an authorisation to stay. The application can be lodged either at the Immigration Directorate of the Ministry of Foreign Affairs or at the diplomatic representation of Luxembourg or to the diplomatic representation of the Member State that represents Luxembourg's interests in the country of origin of the applicant. The Directorate of Immigration studies the file and decides to approve it or not in accordance with the Law of 29 August 2008 on free movement and persons and immigration. If the administration has doubts about the validity of the document, it can launch investigation and/or ask for certified and legalized documents. Only when the authorisation is granted the third country national can enter the country. 3) N/A
	<b>Netherlands</b>	<b>Yes</b>	1) No 2) - 3) Dutch government is considering to introduce such a certificate
	<b>Portugal</b>	<b>Yes</b>	1) Despite the absence of a formal “certificate of good conduct”, in Portugal the criminal conduct is a key condition for granting residence (and temporary stay visas), and residence permits. As stated in Art. 52 (3) of the Immigration Act, visa granting will be refused to a third-country national who has been convicted of a crime that, in accordance with the Portuguese legal framework, is punishable with a prison sentence superior to one year, even if the punishment has not been enforced, or that has been subject to more than one identical conviction, even if the

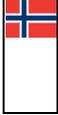
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			<p>execution of those convictions has been suspended. For this purpose, and in cases where temporary stay and residence visas are required, visa applicants must attach a Certificate of the criminal record issued by the competent authority of his/her country of nationality or of the country where the applicant resides for more than one year; and a document authorizing SEF (<i>the Portuguese Immigration and Borders Service</i>) to check the Portuguese criminal record.</p> <p>According to Art.º 77, paragraph 1 g) of the Immigration Act “not having been convicted for any crime punishable with prison sentence superior to one year” is also a general condition for granting a temporary residence permit. For purposes of granting residence permit (and extension of the temporary stay visa for more than 90 days), the applicant must attach a document authorising SEF to check the Portuguese criminal record.</p> <p>2) As mentioned above, SEF, as the competent Portuguese authority for granting residence permits, directly checks the National Criminal Record.</p>
	<b>Romania</b>	<b>Yes</b>	<p>1) Yes</p> <p>2) According to the Romanian legislation in force (Government Emergency Ordinance 194/2002) a criminal record or other document with the same legal value of the person concerned is requested in all cases of applications for long stay visa (the only type of visa which allows the owner to request a residence permit). In all these cases the criminal record must be issued by the authorities in the country of origin or residence. Also, a criminal record issued by the Romanian authorities is requested in cases of applications for long time residence.</p> <p>3) (-)</p>
	<b>Slovak Republic</b>	<b>Yes</b>	<p>1) Yes.</p> <p>2) The Slovak Republic requires from a new migrant applying for a residence permit (temporary and permanent in case s/he has not been granted temporary residence permit) Extract from the Criminal Register of the Slovak Republic and the country of his/her origin and the countries in which s/he resided in the course of three years before the submission of his/her application.</p> <p>Extract from the Criminal Register of the Slovak Republic is a public document which proves whether a person was or was not lawfully convicted. You may apply for issuance of a Criminal Register Extract of the Slovak Republic in person at:</p>

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			<ul style="list-style-type: none"> <li>• The Office of the General Prosecutor of the Slovak Republic,</li> <li>• Any District Prosecutor's Office,</li> <li>• Any Registry Office, or</li> <li>• A diplomatic mission of the Slovak Republic abroad.</li> </ul> <p>The application form for the Criminal Register Extract may be obtained at the same locations. The Criminal Register Extract may be obtained immediately at the General Prosecutor's Office of the Slovak Republic, and at selected offices of district prosecutors. Other offices issue the Criminal Register Extract within 1 to 3 days, however acquiring the Criminal Register Extract from abroad may take longer.</p> <p>The application must be supported by the following:</p> <ol style="list-style-type: none"> <li>1. The original copy of your birth certificate and its official translation or a confirmation that your country does not issue copies of birth certificates,</li> <li>2. A valid passport,</li> <li>3. A revenue stamp worth EUR 4.50 which can be purchased at the post office.</li> </ol> <p>If you empower a third person at a notary to personally submit the application form and pick up the Criminal Register Extract, this third person must have a respective power of attorney and the original of your passport.</p> <p>3) N/a.</p> <p>More information on Criminal Register Extract and migrants applying for a residence permit can be found on the IOM Migration Information Centre website or in its brochure Residence of Foreigners in Slovakia.</p>
	<b>Slovenia</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1) No</li> <li>2) –</li> <li>3) Slovenia has no plans for introducing such a certificate in near future</li> </ol>

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	<b>Sweden</b>	<b>Yes</b>	1) No 2) – 3) No, not to the best of our knowledge.
	<b>United Kingdom</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Norway</b>	<b>Yes</b>	1) No 2) N/A 3) No

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