



Settlement and Employment of Family Members

Below mentioned family members and other relatives from third countries usually need a **residence title** to legalize their stay. Only in rare cases, family members of Austrians can invoke EU law and only need some **documentation**.

As a rule, **first applications** have to be filed at the Austrian embassies in the **country of residence** and applicants have to remain in their countries until the residence title is granted.

These **applications** may also be filed in **Austria** with the competent Immigration, Citizenship and Registry Offices (in Vienna at the Municipal Department 35) if persons are legally staying in Austria after a visa-free entry (family members of Austrians also with a visa) or if they have very important admissible reasons. If the legal stay expires before the residence title is granted, the decision **generally** has to be awaited **abroad**. The decision of certain applications can also be awaited in Austria.

It is **indispensable** to file **applications for prolongation before the expiry** of the last residence title. Applications filed afterwards are being treated as first applications. In such a case it may happen that applicants have to leave Austria and wait abroad for the result of the proceedings. Moreover the periods for acquiring long-term residence titles or the citizenship start from the beginning.

General granting requirements for residence permits:

- **Adequate accommodation according to local standards**
Proof of ownership, tenancy or subtenancy contract, (if accommodating at close relatives a binding confirmation of accommodation is usually sufficient), etc.
- **Health insurance coverage**
Providing benefits in Austria and covering all risks (obligatory insurance, joint insurance, self-insurance, etc.)
- **Adequate means of subsistence**
On average the total income has to exceed the guiding rates in the General Social Security Act (ASVG) (guiding rates for minimum pensions). The total sum of regular expenses such as rent, loans, attachments and maintenance payments exceeding a certain fixed amount ("freie Station") reduces the income.
- **Non-existence of obstacles for granting**
enforceable return decision, valid residence prohibition or return prohibition, pending proceedings to terminate residence, marriage or adoption of convenience, endangering the public order or safety, etc.
- **Providing evidence of German language skills**
Proof of appropriate knowledge of German prior to settlement (level A1) as well as the fulfilment of Module 1 of the Integration-Agreement (language skills at A2 level and knowledge of the fundamental values of the legal and social systems) within 2 years of further residence is obligatory. Module 2 of the Integration-Agreement (German language skills at B1 level and advanced knowledge of the fundamental values of the legal and social systems) does not compulsorily have to be completed. It is, however, a prerequisite for the granting of a long-term residence permit ("long-term resident – EU"). Some persons are exempt from this obligation (e.g. minor children, etc.) or this obligation is considered fulfilled (completion of a certain level of school education). For the fulfilment of Module 1 there is some reimbursement by the federal and regional governments.
- **Additional regulations for married couples and registered partners**
Married couples/registered partners need to have completed their 21st year at the moment of filing the application.

Family community with third-country nationals

Spouses and **minor children** of nationals of third countries holding a residence permit in Austria or having been recognized as refugees in Austria are **in general** entitled to the residence title **“Red-White-Red Card plus”**, if the general prerequisites are fulfilled and a quota place is available (for certain persons also without quota). Only in certain cases a different permit is issued for those family members.

During the first 2 years the residence title **“Red-White-Red Card plus”** is generally issued for 1 year at a time. After that it is issued for 3 years if, apart from the granting prerequisites, also Module 1 of the Integration-Agreement is fulfilled. After 5 years of uninterrupted settlement, the residence title **“long-term resident - EU”** can be granted, if the granting prerequisites are still met and Module 2 of the Integration-Agreement is fulfilled.

The residence titles **“Red-White-Red Card plus”** and **“long - term resident - EU”** include the free access to the labour market. No additional permit is necessary for taking up employment.

The other residence titles generally do not provide immediate free access to the labour market. Persons holding a “settlement permit” (Niederlassungsbewilligung) can obtain a residence title “Red-White-Red Card plus” by means of proceedings to change the purpose of stay (Zweckänderungsverfahren) if certain preconditions¹ are met.

Cessation of the family status

The family status can be lost due to various reasons. Then the persons can also remain in Austria if they themselves meet certain granting prerequisites:

If the family status ceases to exist within the first five years (e.g. divorce by mutual consent, reunifying person no longer in Austria, etc.) the persons can only remain in Austria if they themselves meet the above mentioned granting prerequisites. In case of violence in the family, divorce attributable to the reunifying person’s fault, death of the reunifying person, etc. certain granting prerequisites (e.g. income, etc.) do not need to be met.

Cessation of the family status after five years: Persons with the residence title “long-term resident - EU” have gained permanent residency and can only be expelled due to certain criminal offences. In case of still restricted residence titles, the person should generally continue to meet the granting prerequisites.

Until the permit “long-term resident- EU” is obtained, a cessation of the family status has to be reported to the Immigration, Citizenship and Registry Offices within one month, even if the granted residence title is still valid for a longer period. Otherwise you run the risk of being fined for late notification. Make sure you meet the mentioned prerequisites before the notification!!!

Note 1: Persons holding a “settlement permit” or a “settlement permit - relative” (Niederlassungsbewilligung - Angehöriger) may obtain a residence title “Red-White-Red Card plus” by means of proceedings to change the purpose of stay (Zweckänderungsverfahren) if they

1. have legally settled in the federal territory for 2 years and are integrated in an advanced way or
2. hold a valid work permit or a valid exemption certificate (Befreiungsschein)
3. are the spouse, registered partner or minor, unmarried child (including step- or adopted child) of a foreigner according to point 1 or 2 and have already settled legally in the federal territory for twelve months.

Particularly reunified family members are considered “persons who are integrated in an advanced way” who have completed Module I of the Integration Agreement. Victims of violence in the family do not require a 2-years’ period of legal settlement if they have to take up employment in order to secure an independent life.

Family community with Austrians

Spouses and minor, unmarried children are entitled to a residence title **“family member“** if the general prerequisites are met. This residence title is exempt from the general quota.

During the first 2 years the residence title **“family member“** is generally issued for 1 year at a time. After that it is issued for 3 years if, apart from the granting prerequisites, also Module 1 of the Integration-Agreement is fulfilled. After 5 years of uninterrupted settlement, the residence title **“long-term resident - EU“** can be granted, if the granting prerequisites are still met and Module 2 of the Integration-Agreement is fulfilled.

The residence titles **“family member“** and **“long - term resident - EU“** include the free access to the labour market. No additional permit is necessary for taking up employment.

Cessation of the family status

The family status can be lost due to various reasons. Then the persons can also remain in Austria if they themselves meet certain granting prerequisites:

If the family status ceases to exist within the first five years (e.g. divorce by mutual consent, reunifying person no longer in Austria, etc.) the persons can only remain in Austria if they themselves meet the granting prerequisites. In case of violence in the family, divorce attributable to the reunifying person's fault, death of the reunifying person, etc. certain granting prerequisites (e.g. income, etc.) do not need to be met.

Cessation of the family status after five years: Persons with the residence title **“long-term resident - EU“** have gained permanent residency and can only be expelled due to certain criminal offences. In case of still restricted residence titles, the person should generally continue to meet the granting prerequisites.

Until the permit **“long-term resident- EU“** is obtained, a cessation of the family status has to be reported to the Immigration, Citizenship and Registry Offices within one month, even if the granted residence title is still valid for a longer period. Otherwise you run the risk of being fined for late notification. Make sure you meet the mentioned prerequisites before the notification!!! In order to remain in Austria, a new residence title **“Red-White-Red Card plus“** is now required and should be solicited together with the notification.

Other relatives of Austrians

Other relatives (parents, grandparents, adult children, certain relatives, etc.) from third countries can, on application, be granted a quota-free **“settlement permit – relative”** (**“Niederlassungsbewilligung – Angehöriger“**) if the mentioned granting prerequisites are present. In any case the reunifying Austrian has to give a declaration of liability and the same has to be plausible (sufficient means of subsistence for the person applied for, after deduction of the income required for the core family).

During the first 2 years the **“settlement permit – relative”** is issued for 1 year at a time. After that it is issued for 3 years if, apart from the granting prerequisites, also Module 1 of the Integration-Agreement is fulfilled. After 5 years of uninterrupted settlement, the residence title **“long-term resident - EU”** can be granted, if the granting prerequisites are still met and Module 2 of the Integration-Agreement is fulfilled.

The residence title **“long-term resident - EU”** also includes the free access to the labour market. If persons holding a **“settlement permit – relative”** wish to work before obtaining the residence title **“long-term resident - EU”** they can obtain a residence title **“Red-White-Red Card plus”** by means of proceedings to change the purpose of stay (Zweckänderungsverfahren) if **certain preconditions**¹ (see notes on page 2) are met and a free **quota place** is available!

The status of relative can be lost if the Austrian ceases to be **liable** for various reasons (e.g. divorce, death of the sponsor, etc.). In such cases these persons may only remain in Austria if **another** qualified EEA citizen or Austrian citizen can assume the liability or they themselves continue to meet the granting prerequisites (e.g. by employment). In such cases the Immigration, Citizenship and Registry Offices should be contacted and maybe an application for a further residence title has to be filed. Make sure you check in advance whether you meet the mentioned prerequisites!!!

After receiving the residence title **“long-term resident - EU”** these persons have gained permanent residency and can only be expelled due to certain criminal offences. In case of still restricted residence titles, the person should generally continue to meet the granting prerequisites.

Note: Since the provisions at hand have been presented in a very abridged version, we kindly ask you to contact the Immigration, Citizenship and Registry Offices, Municipal Department 35 (MA 35), the Public Employment Service AMS or the Beratungszentrum für Migranten und Migrantinnen in order to obtain more detailed information. We refer to the fact that in spite of careful examination mistakes can happen, therefore no guarantee for details contained in this information can be assumed.

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