

Country Fiche for the Netherlands

Final version (information stated as at 30.04.2021)

This country fiche is being used to collect information on residence formalities for EU citizens and their family members in selected Member States.

The information for the country fiche has been collected by the research team through desk research based on available public reports and official information.

Please note that this country fiche is only intended to address the situation of EU citizens seeking registration as workers, self-employed persons, jobseekers, together with their family members, whatever their nationality. It does not address residence formalities that apply to other categories of EU citizens such as students and self-sufficient persons.

Section A: Legal framework	Information collated for this Member State
1. How has Directive 2004/38 been transposed in this Member State?	The Directive has been transposed into Dutch law through amendments made to the Law of 23 November 2000 on the complete revision of the Immigration Law ¹ (hereafter referred to as the 'Immigration Law'), the Immigration Decree of 23 November ² (hereafter referred to as the 'Immigration Decree') and the Immigration Regulations of 18 December 2000 ³ (hereafter referred to as the 'Immigration Regulations') as well as Volume B of the Immigration Guidelines ⁴ (hereafter referred to as the 'Immigration Guidelines').
2. Which legal instruments regulate residence formalities in this Member State?	The rules on residence formalities are contained in articles 8-9a of the Immigration Law, articles 8.7.8.25 of the Immigration Decree, articles 3.2 and 7.2a of the Immigration Regulations and Chapter B10, Part 2 of the Immigration Guidelines.
3. Do the national measures explicitly extend to nationals from Iceland, Liechtenstein, Norway and Switzerland?	Yes. These nationals are explicitly included in the definition of community national' in the Immigration Law. ⁵
4. Do the national measures explicitly extend to the family members of this Member State's own nationals?	No.
5. Have any problems been noted as regards the transposition of residence formalities in this Member State?	Yes. Transposition by the Netherlands is scattered across several instruments, which increases complexity in determining the rules applicable to EU citizens and

¹ Wet van 23 november 2000 tot algehele herziening van de Vreemdelingenwet <<https://wetten.overheid.nl/BWBR0011823/>>.

² Besluit van 23 november 2000 tot uitvoering van de Vreemdelingenwet 2000 <<https://wetten.overheid.nl/BWBR0011825/>>.

³ Voorschrift Vreemdelingen 2000 <<https://wetten.overheid.nl/BWBR0012002/>>.

⁴ Vreemdelingencirculaire 2000 B <<https://wetten.overheid.nl/BWBR0012289/>>

⁵ Immigration law, article 1, points 3° and 5° of the definition of 'gemeenschapsonderdanen'.

	<p>their family members, thereby undermining legal certainty.⁶ In its 2008 report,⁷ the European Commission noted that the Dutch administrative guidelines previously imposed a condition of prior lawful residence which were amended following the Court of Justice's ruling in <i>Metock</i>.⁸ The report also noted that the right of workers to retain their status following unemployment were not correctly transposed, given that the Dutch rules refer to the retention of the right of residence rather than the status of a worker.⁹ This problem persists.¹⁰</p> <p>The Dutch rules also fail to transpose the requirements of the Directive¹¹ which provide that permanent residence cards issued to non-EU family members should be valid for a period of ten years and should be automatically renewable.¹² However, this problem appears to have been resolved in practice.</p>
<p>6. Have any problems been noted as regards the practical application of residence formalities in this Member State?</p>	<p>Yes. Several problems have been identified in the recent report by the NGO ECAS on obstacles faced by EU citizens,¹³ drawing upon the enquiries received by the Commission's 'Your Europe Advice' service.¹⁴ The majority of problems mostly concern the difficulties and delays faced by non-EU family members when applying for entry visas at Dutch consulates abroad in order to join or accompany their EU relative in the Netherlands.¹⁵ There are also reports of the Dutch authorities imposing excessive formalities on EU citizens who are sometimes asked to prove that they have deregistered from their previous country of residence before being allowed to register in the Netherlands,¹⁶ despite this not being a requirement under the EU rules. It has also been noted that the authorities also request documents which are not foreseen by the Directive.¹⁷</p>

⁶ Wybe Douma, 'Conformity Study for the Netherlands - Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States' (Report for the European Commission), p. 5 <https://200438ecstudy.files.wordpress.com/2013/05/netherlands_compliance_study_en.pdf>.

⁷ European Commission, Report to the European Parliament and the Council on the application of Directive 2004/38 (COM(2008) 840 final), p. 4.

⁸ Case C-127/08 *Metock* EU:C:2008:449.

⁹ European Commission (2008) (n 7), p. 6.

¹⁰ The rules contained in the Immigration Decree, article 8.12, para. 2 have yet to be amended to ensure full compliance with the Directive.

¹¹ Article 20(1) of Directive 2004/38 requires a permanent residence card to be automatically renewable every ten years.

¹² Douma (n 6), p. 34.

¹³ Anna Nicolau, 'Freedom of Movement in the EU: A look behind the curtain' (ECAS, 2018) <<https://ecas.org/wp-content/uploads/2018/03/ECAS-Long-report-final.pdf>>.

¹⁴ Your Europe Advice is an independent service of the European Commission managed by ECAS, which provides personalised information and advice on EU rights including residence formalities <https://europa.eu/youreurope/advice/index_en.htm>.

¹⁵ Nicolau (n 13) pp. 28, 31-37.

¹⁶ *ibid*, p. 54.

¹⁷ Douma (n 6), p. 8.

Section B: Nature of residence formalities	Information collated for this Member State
<p>1. Is registration compulsory for EU citizens and their family members? If registration is not obligatory, is voluntary registration possible?</p>	<p>Since 2014, there is no longer an obligation on EU citizens to register.¹⁸ However, EU citizens have the possibility to register and obtain a registration certificate.¹⁹</p> <p>Non-EU family members of EU citizens are obliged to apply for a residence card.²⁰ In such a case, they must also provide a registration certificate of the EU citizen from whom they derive a right of residence,²¹ which effectively places an obligation to register on their EU relative.</p> <p>Separately, It should be noted that the Netherlands have made use of the option contained in Article 5(5) of Directive 2004/38 to require EU citizens and their family members to report their presence by making a ‘declaration of residence and address’ within five days of entering the country²² when they take up ‘habitual residence’ in the Netherlands.²³ This requirement forms part of the rules relating to registration of all residents on the personal records database.²⁴</p> <p>Failure to make a declaration of arrival is sanctioned by an administrative fine of up to €325²⁵, which also potentially applies to Dutch nationals.</p>
<p>2. What is the deadline for EU citizens and their family members to register?</p>	<p>As registration is not compulsory for EU citizens, there is no deadline within which EU citizens are required to register.</p> <p>Non-EU family members of EU citizens are obliged to apply for a residence card within four months of their arrival.²⁶</p>

¹⁸ Immigration Decree, article 8.12, para. 4, as amended from 6 January 2014. It should be observed that the Netherlands switched to an optional registration of EU citizens due to the excessive administrative burden which was considered to be placed on municipalities in requiring both registration in the personal records database and registration under the Dutch immigration rules. This was not considered an effective use of resources. Furthermore, given the purely declaratory nature of a registration certificate, the assessment as to whether or not an EU citizen would qualify for a right of residence in the Netherlands was taken based on the circumstances at a given moment. Given that those circumstances were likely to change over time, in some cases this could even lead to a false sense of certainty about the lawfulness of an individual’s residence. Nonetheless, it was also considered necessary to retain the option of allowing EU citizens to obtain a registration certificate on a voluntary basis on the basis of the principle of legal certainty. See further Advisory Committee on Migration Affairs, ‘Advice on proposal to abolish the obligation to register EU citizens’ (*Adviescommissie voor vreemdelingenzaken, ‘Advies over voorstel afschaffing meldplicht EU-burgers’ 25 februari 2014*) <<https://www.adviescommissievoorvreemdelingenzaken.nl/publicaties/publicaties/2014/2/25/meldplicht-eu-burgers>>.

¹⁹ Immigration law, article 9a; Immigration Decree, article 8.12, para. 4.

²⁰ Immigration Decree, article 8.13, para. 2.

²¹ Immigration Decree, article 8.13, para. 3, point b.

²² Law of 3 July 2013 on the Basic Registration of Persons (hereafter referred to as the ‘Law on the Basic Registration of Persons’), article 2.38, para. 1 (*Wet van 3 juli 2013 houdende nieuwe regels voor een basisregistratie personen (Wet basisregistratie personen)*) <<https://wetten.overheid.nl/BWBR0033715/>>. It is not clear whether a deadline of five days within which to make a declaration of arrival is likely to be considered a reasonable period of time in view of the Court of Justice’s ruling in Case C-265/88 *Messner* EU:C:1989:632.

²³ Under the Law on the Basic Registration of Persons, article 2.38, para. 1, habitual residence is determined by reference to whether a person is likely to spend at least two-thirds of their time in the Netherlands over a period of six months.

²⁴ This is known as the *basisregistratie personen* (BRP) and was formerly known as *Gemeentelijke basisadministratie persoonsgegevens* (GBA).

²⁵ Law on the Basic Registration of Persons, article 4.17.

²⁶ Immigration Decree, article 8.13, para. 2.

<p>3. What penalty applies for failure to register within the deadline?</p>	<p>The penalty for non-EU family members who failing to register is a fine of up to €4,350,²⁷ which may be imposed by a court following prosecution. It is questionable whether this fine is proportionate²⁸ given that Dutch nationals who fail to register their domicile with the local municipality only face an administrative fine of up to €325.²⁹</p>
<p>4. What authority makes the decision on the registration of EU citizens and their family members?</p>	<p>The authority which decides applications for registration by EU citizens and their family members is the Dutch Immigration and Nationality Service (IND).³⁰</p>

Section C: Preparatory phase	
<p>1. What on-line information is made available to EU citizens and their family members?</p>	<p>The IND's website³¹ contains a dedicated channel for EU citizens,³² which provides a menu of information covering EU citizens, non-EU family members and permanent residence. The information is presented in a concise manner and provides step-by-step overview of the application process. The user-friendliness of the website is considered a 'best practice'.³³</p> <p>The IND's website also contains information on administrative and judicial appeal procedures.³⁴</p> <p>Given that it is no longer compulsory for EU citizens to register in the Netherlands since 2014, the IND has issued an open letter which EU citizens can download on its website and which informs employers and private service providers of the abolition of the obligation to register.³⁵</p>
<p>2. In what language is this information available?</p>	<p>The IND's website provides information in both Dutch and English.</p>
<p>3. What other means of assistance are available EU citizens and their family members wanting to obtain information on registration procedures?</p>	<p>The IND website refers to the possibility to obtain further information by telephone and email.³⁶ The IND also operates several 'IND desks' where it is possible to lodge an application and collect a residence document.³⁷</p>

²⁷ Immigration law, article 108, para. 5 which refers to the imposition of a category 2 fine.

²⁸ Douma (n 6), p. 8.

²⁹ Law on the Basic Registration of Persons, article 4.17.

³⁰ Organisationa Decree of the Ministry Justice and Security, Article 63g (*Besluit van de Minister van Justitie en Veiligheid van 28 november 2017, houdende vaststelling van de organisatie van het Ministerie van Justitie en Veiligheid*) <<https://wetten.overheid.nl/BWBR0040293/>>, which provides that the *Immigratie- en Naturalisatiedienst (IND)* is mandated to apply the immigration and nationality laws.

³¹ The IND's main website can be found at the following url <<https://ind.nl/>>

³² The dedicated home page for EU citizens can be found here IND > English > EU <<https://ind.nl/en/eu-eea>>.

³³ ECAS, 'User-friendly Gateways for Mobile EU Citizens' <<https://ecas.org/projects/epim-project/act4freemovement-map/>>.

³⁴ The dedicated page dealing with appeals can be found here IND > English > <<https://ind.nl/en/Pages/objection-and-appeal.aspx>>.

³⁵ This letter can be found here <https://ind.nl/Documents/Open_brief.pdf>.

³⁶ The IND website contains details on how it can be contacted <<https://ind.nl/en/contact/>>.

³⁷ Further details and locations can be found here <<https://ind.nl/en/contact/Pages/IND-desks-and-locations.aspx>>

	However, the IND's website also signposts those who need further assistance ³⁸ to the national legal aid helpdesk. ³⁹ This is considered a 'best practice'. ⁴⁰
Section D: Application phase	Information collated for this Member State
1. What procedure applies to the lodging of an application for registration of EU citizens and their family members?	<p>Registration remains optional for EU citizens.⁴¹ However, EU citizens are required to register when residing with non-EU family members. EU citizens needing to obtain a registration certificate should apply using the standard application form which is available online⁴².</p> <p>Non-EU family members must apply for a residence card using the standard application form which can also be found online⁴³.</p> <p>The completed application form should then be submitted in person at an IND desk, together with photocopies of all supporting documents. A prior appointment needs to be made.</p> <p>It should be noted that EU citizens and family members who intend on taking up 'habitual residence' in the Netherlands⁴⁴ must have first made a declaration of arrival within five days of arriving in the country⁴⁵. This obligation is not related to the right of free movement⁴⁶ and applies to all residents of the Netherlands⁴⁷ including Dutch nationals.</p>
2. Does an application for registration by EU citizens and their family members have to be made in person?	<p>Yes. EU citizens must submit their application in person to an IND desk.⁴⁸</p> <p>Non-EU family members may submit their application by post or in person to an IND desk.⁴⁹ Where an application is submitted by post, the IND will then request</p>

³⁸ The IND's website contains a specific page on objections and appeals <<https://ind.nl/Paginas/Bezwaar-en-beroep.aspx>> which is also available in English <<https://ind.nl/en/pages/objection-and-appeal.aspx>>. The website provides the following information 'Do you need assistance? You can then call upon the assistance of a legal counsellor or other counsellor. Further information can be found at het Juridisch Loket'.

³⁹ This is known as het Juridisch Loket <<https://www.juridischloket.nl/>>.

⁴⁰ ECAS, 'User-friendly Gateways for Mobile EU Citizens' (n 33).

⁴¹ Immigration law, article 9a; Immigration Decree, article 8.12, para. 4.

⁴² The form is entitled 'Inschrijving voor burgers van de Unie (bewijs verblijfrecht)' <<https://ind.nl/Formulieren/6020.pdf>> and is also available in English 'Registration for EU-citizens (proof of entitlement to residency status)' <<https://ind.nl/en/forms/6021.pdf>>.

⁴³ The form is entitled 'Aanvraag Toetsing aan het EU-recht (bewijs van rechtmatigverblijf)' <<https://ind.nl/Formulieren/6006.pdf>> and is also available in English 'Application for Verification against EU Law (certificate of lawful residence)' <<https://ind.nl/en/forms/5005.pdf>>.

⁴⁴ Under Law on the Basic Registration of Persons, article 2.38, para. 1, habitual residence is determined by reference to whether a person is likely to spend at least two-thirds of their time in the Netherlands over a period of six months.

⁴⁵ *ibid*. It is not clear whether a deadline of five days within which to make a declaration of arrival is likely to be considered a reasonable period of time in view of the Court of Justice's ruling in Case C-265/88 *Messner* EU:C:1989:632.

⁴⁶ ICF GHK/ Milieu 'Evaluation of EU rules on free movement of EU citizens and their family members and their practical implementation – Country Fiche for the Netherlands' (Report for the European Commission, 2013) pp. 1, 10 and 14-15.

⁴⁷ Law on the Basic Registration of Persons, articles 1.2 and 2.1.

⁴⁸ This is confirmed in the instructions contained in the application form for EU citizens (n 42).

⁴⁹ This is confirmed in the instructions contained in the application form for non-EU family members (n 43).

	the family member to arrange an appointment with an IND desk in order to have their fingerprints and photograph taken and provide their signature.
3. Does an application for registration by EU citizens and their family members require a prior appointment to be made?	Yes. A meeting must be arranged with any IND desk. ⁵⁰
4. What is the average waiting time for obtaining an appointment for registration by EU citizens and their family members?	The reported waiting time is reported to be around two weeks. ⁵¹
5. What information and documentation do EU citizens and their family members have to produce to start the registration process?	EU citizens must have the appropriate documents at the time they apply for registration. ⁵² It is also foreseen that non-EU family members have to submit all supporting documents at the time they apply for a residence card. ⁵³ It should be noted that, in order to start the registration process, EU citizens and their family members must first have been included in the personal records database by the municipality. <i>see Section G below for further details on documents required</i>
6. Are non-EU family members required to produce an entry visa when applying for registration?	No. There is no such requirement in the law.
7. Are EU citizens and their family members issued with a certificate of application upon submitting an application?	It is foreseen that a registration certificate should be issued immediately to EU citizens. ⁵⁴ However, this is not always achieved in practice. In such a case, a sticker will be issued. A certificate of application is issued to non-EU family members. ⁵⁵
8. Following the lodging of an application, do EU citizens and their family members benefit from a further deadline to submit all relevant documentation proving their right of residence?	No. It is anticipated that EU citizens and family members have to provide all supporting documents at the time they submit their application for registration.

Section E: Verification of domicile	Information collated for this Member State
1. Does the registration process involve a physical verification of the domicile of the EU citizens and their family members?	The Dutch rules giving effect to the Directive do not involve a physical verification of domicile. Under the rules on the registration of the population, only a declaration of domicile needs to be made. ⁵⁶

⁵⁰ ICF GHK/ Milieu (n 46), p. 10.

⁵¹ *ibid.*

⁵² Immigration Regulations, article 7.2a(1) as regards EU citizens and article 7.2a(2) as regards family members who are themselves EU citizens.

⁵³ Immigration Decree, article 8.13(3).

⁵⁴ Immigration Decree, article 8.12(6).

⁵⁵ Immigration Decree, article 8.13(4).

⁵⁶ Law on Basic Registration of Persons, article 2.38.

2. In practice, how long does the verification of domicile typically take to complete?	No specific information could be obtained.
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Section F. Registration phase	Information collated for this Member State
1. What is the deadline for making decisions of applications?	A registration certificate should be issued immediately to EU citizens. ⁵⁷ A residence card should be issued to non-EU family members within six months of submitting an application. ⁵⁸
2. In practice, how long does the registration procedure typically take to complete? Have any specific problems been identified in practice?	Although a registration certificate should be issued immediately, ⁵⁹ it is reported that in practice compliance with this obligation will depend on the individual's circumstances. ⁶⁰ A registration certificate may be issued on the spot or, if this is not possible, within three weeks. ⁶¹ However, it is also reported that Romanian nationals in particular face considerable delays of between two to six months in obtaining a registration certificate. ⁶² Non-EU family members are usually issued with a residence card within three months. ⁶³
3. What kind of residence documentation is issued to EU citizens and their family members?	A registration certificate (' <i>verklaring van inschrijving</i> ') will be issued to EU citizens. ⁶⁴ The registration certificate contains the name and address of the registered foreign national and the date of registration. ⁶⁵ The registration certificate is valid for an unlimited period. This is issued in the form of a sticker ⁶⁶ to be affixed in a travel document. A residence card in the uniform residence permit format laid down by Regulation 1030/2002 with the labels ' <i>verblijfskaart - familielid EU/EER</i> ' ⁶⁷ will be issued to

⁵⁷ Immigration Decree, article 8.12(6).

⁵⁸ Immigration Decree, article 8.13(5).

⁵⁹ Immigration Decree, article 8.12(6).

⁶⁰ ICF GHK/ Milieu (n 46), p. 13.

⁶¹ *ibid.*

⁶² *ibid.*

⁶³ *ibid.*

⁶⁴ Immigration Decree, article 8.12(6).

⁶⁵ *ibid.*

⁶⁶ See sample NLD-HP-05001 available on the Council's Public Register of Authentic travel and identity Documents Online (PRADO) <<https://www.consilium.europa.eu/prado/en/NLD-HP-05001/index.html>>.

CSES, 'Study to Support the Preparation of an Impact Assessment on EU Policy Initiatives on Residence and Identity Documents to Facilitate the Exercise of the Right of Free Movement' (Report for European Commission, 2017), p. 19 <https://ec.europa.eu/info/sites/info/files/dg_just_final_report_id_cards_and_residence_docs_cses_28_august_2017_2.pdf>.

⁶⁷ See sample NLD-HO-01005 available on PRADO <<https://www.consilium.europa.eu/prado/en/NLD-HO-01005/index.html>>.

	family members. ⁶⁸ The card also bears the wording in English ('residence card for a family member of an EU citizen'). ⁶⁹ This has a validity of five years. ⁷⁰
4. What additional functions (if any) do the different types of residence documents have in relation to public services (e.g. in relation to tax, health, social security, use as an electoral card)?	None. The residence documentation issued to EU citizens and their family members serves no additional functions in respect of public services. ⁷¹ However, permanent residence documents issued to EU citizens are reported to provide a digital signature capability. ⁷²
5. What additional functions (if any) do the different types of residence documents have in relation to private-sector services (e.g. in relation to the right to work, access to banking or transport services)?	None. The residence documentation issued to EU citizens and their family members serves no additional functions in respect of private-sector services. ⁷³
6. What is the cost to the individual citizen applying for residence documents?	There is no charge for the issuance of a registration certificate to an EU citizen. ⁷⁴ The fee payable by non-EU family members in respect of an application for a residence card is €58 for adults and €31 for children under the age of 21. ⁷⁵ The fees are similar to the fees which are charged for the issuance of identity cards to Dutch nationals. ⁷⁶
7. Can the registration procedure be completed on-line?	No. However, the IND makes available its application forms for both EU citizens ⁷⁷ and their non-EU family members on its website. ⁷⁸
8. Is there an expedited registration procedure or premium service available?	Yes, an expedited application service exists for highly-skilled EU nationals and their family members, ⁷⁹ which allows them simultaneously to register with the municipality and apply for a residence document. ⁸⁰ This service is provided at 'expat centres', which are the result of collaboration between municipalities and the IND. ⁸¹ This service is only available to employees of a registered corporate sponsor which participates in the highly-skilled migrant scheme

⁶⁸ Immigration Decree, article 8.13(6).

⁶⁹ See sample NLD-HO-01005 available on PRADO <<https://www.consilium.europa.eu/prado/en/NLD-HO-01005/index.html>>.

⁷⁰ Under article 8.13(6)(a) of the Immigration Decree, this may be a shorter period as may be envisaged by the EU citizen. This is in line with Article 11 of Directive 2004/38.

⁷¹ CSES, (n 66), p. 62.

⁷² *ibid.*

⁷³ *ibid.*, p. 64.

⁷⁴ *ibid.*, p. 48.

⁷⁵ See IND > EU > Family member with different nationality <<https://ind.nl/en/eu-eea/Pages/Family-member-with-different-nationality.aspx>>.

⁷⁶ See Dutch Government website on fees for the issuance of passports and identity cards <<https://www.rijksoverheid.nl/onderwerpen/paspoort-en-identiteitskaart/vraag-en-antwoord/wat-zijn-de-kosten-van-paspoorten-en-identiteitskaarten>>.

⁷⁷ The application form for EU citizens is available in Dutch <<https://ind.nl/Formulieren/6020.pdf>> and in English <<https://ind.nl/en/forms/6021.pdf>>.

⁷⁸ The application form for non-EU family members is available in Dutch <<https://ind.nl/Formulieren/6006.pdf>> and also in English <<https://ind.nl/en/forms/5005.pdf>>.

⁷⁹ ICF GHK/ Milieu (n 46), p. 12 and 16-17.

⁸⁰ *ibid.*

⁸¹ The nine expat centres are located in major urban areas and can be found on the IND website <<https://ind.nl/en/contact/Pages/IND-desks-and-locations.aspx>>.

	('kennismigrantenregeling'). ⁸² The fee for applying for simultaneous registration with the IND and on the personal records database is €72.60 for workers, €36.30 for the spouse or partner and €18.15 for each child. ⁸³
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Section G: Documentary requirements	Information collated for this Member State
<p>1. What documentation is required from EU citizens and their family members in order to prove their identity? Have any specific problems been identified in practice?</p>	<p>EU citizens must produce a valid passport or identity card.⁸⁴ EU family members must produce a valid passport or identity card.⁸⁵ The rules also provide that EU citizens must be able to make use of other means of proof of their identity,⁸⁶ but further details are not set out in legislation or guidelines. Non-EU family members must provide a valid passport.⁸⁷</p>
<p>2. What documentation is required from EU citizens applying to register as a worker? Have any specific problems been identified in practice?</p>	<p>An EU citizen applying as a salaried worker must provide an employment contract or a signed declaration from their employer.⁸⁸ The application form for a registration certificate⁸⁹ contains a standard declaration form which employers are required to complete. The form contains questions about hours worked and wages paid.⁹⁰</p>
<p>3. What documentation is required from EU citizens applying to register as a self-employed person? Have any specific problems been identified in practice?</p>	<p>An EU citizen applying as a self-employed worker must provide proof of self-employment.⁹¹ The rules specify that this takes the form of proof of registration with the Chamber of Commerce⁹² as well as proof that the work performed is genuine and not purely marginal and ancillary in nature, such as a balance sheet, profit or loss account, monthly records of business results or, in the event none of this documentation is yet available, a financial forecast or statement drawn up by an accountant or financial adviser.⁹³</p>

⁸² The register of recognised sponsors can be found on the IND website <<https://ind.nl/en/Pages/public-register-recognised-sponsors.aspx>>.

⁸³ See for example, the fees for the Amsterdam expat centre <<https://www.iamsterdam.com/en/our-network/in-amsterdam/employers/in-amsterdam-service-fees>>.

⁸⁴ Immigration Regulations, article 7.2a(1)(a).

⁸⁵ Immigration Regulations, article 7.2a(2)(a).

⁸⁶ Immigration Decree, article 8.11(1)(b).

⁸⁷ Immigration Decree, article 8.13(3)(a).

⁸⁸ Immigration Regulations, article 7.2a(1)(b).

⁸⁹ The form entitled '*Inschrijving voor burgers van de Unie (bewijs verblijfsrecht)*' / 'Registration for EU-citizens (proof of entitlement to residency status)' (n 42).

⁹⁰ *ibid.*

⁹¹ Immigration Regulations, article 7.2a(1)(c).

⁹² All businesses and legal entities in the Netherlands are required to register in the commercial register ('*handelsregister*') which is administered by the Chamber of Commerce <<https://www.kvk.nl/english/registration/>>.

⁹³ *ibid.*

<p>4. What documentation is required from EU citizens applying to register as a jobseeker? Have any specific problems been identified in practice?</p>	<p>An EU citizen applying as a jobseeker must provide proof of looking for employment and demonstrate a real chance of finding work.⁹⁴ No problems have been reported as regards the residence rights of jobseekers.</p>
<p>5. What documentation is required of family members to prove the existence of a family relationship? Have any specific problems been identified in practice?</p>	<p>Family members who are themselves EU citizens must provide documentary proof of their family relationship⁹⁵, as well as a copy the registration certificate of their EU sponsor.⁹⁶ Depending on the circumstances, descendants over the age of 21 and ascendants will also have to provide proof of dependence.⁹⁷ Extended family members will need to provide official documentation from their country of origin confirming their dependence, membership of the same household or dependence on serious health grounds.⁹⁸ Unmarried partners have to provide a declaration as to their relationship⁹⁹ to be issued using the standard form.¹⁰⁰ The Dutch rules also address the particular situation of children of an unmarried partner under the age of 18¹⁰¹ who will have to comply with additional requirements applicable to third-country family reunification.¹⁰² The same requirements apply to non-EU family members.¹⁰³</p>
<p>6. What requirements apply as regards translation and legalisation? Have any specific problems been identified in practice?</p>	<p>Any official civil status certificate drawn up abroad is required to bear an apostille¹⁰⁴ or to be legalised¹⁰⁵ (unless exempted under an international agreement¹⁰⁶ or when covered by Regulation 2016/1191).¹⁰⁷</p>

⁹⁴ Immigration Decree, article 8.12 (1)(a).

⁹⁵ Immigration Regulations, article 7.2a(2)(c).

⁹⁶ Immigration Regulations, article 7.2a(2)(b).

⁹⁷ Immigration Regulations, article 7.2a(2)(d).

⁹⁸ Immigration Regulations, article 7.2a(2)(e).

⁹⁹ Immigration Regulations, article 7.2a(2)(f).

¹⁰⁰ Immigration Regulations, Annex 23 (*bijlage 23 - relatieverklaring EU-burger*), which can be found at <<https://wetten.overheid.nl/BWBR0012002/2020-04-23#Bijlage23>>.

¹⁰¹ Immigration Regulations, article 7.2a(2)(g).

¹⁰² Immigration Decree, articles 3-13-3.22. While Directive 2004/38 does not address the situation of such family members, it is questionable whether these requirements are compatible with EU law insofar as the sponsor must show they have resided in the Netherlands for at least a year (Immigration Decree, article 3.15(3)) and the child must undergo a compulsory tuberculosis test (Immigration Decree, article 3.15(3)). It will be recalled that Article 3(2)(a) of Directive 2004/38 only addresses the situation of dependents of an EU citizen or members of their household or those who require personal care on serious health grounds, while Article 3(2)(b) only covers partners in a durable relationship.

¹⁰³ Immigration Decree, article 8.13(3)

¹⁰⁴ This is the means of officially certifying public documents pursuant to the Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, which the Netherlands have ratified <<https://www.hcch.net/en/instruments/conventions/full-text/?cid=41>>.

¹⁰⁵ This is confirmed on the IND website <<https://ind.nl/en/Pages/legalisation-and-translation-of-official-documents.aspx>>, as well as the application forms for EU citizens (n 42) and their family members (n 43). See further Circular on the legalisation and verification of foreign supporting documents (*Circulaire legalisatie en verificatie buitenlandse bewijsstukken 2020*) <<https://wetten.overheid.nl/BWBR0043011/2020-01-01>>.

¹⁰⁶ The following official listing of the international agreements relating to legalisation which the Netherlands have ratified can be found here <<https://www.government.nl/documents/publications/2013/08/27/legalisation-conventions-overview>>.

¹⁰⁷ Art. 4, Regulation (EU) 2016/1191 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union [2016] OJ L 200/01.

	<p>A document which is not issued in Dutch, English, French or German¹⁰⁸ will need to be accompanied by an official translation,¹⁰⁹ unless the document is accompanied by a multilingual standard form issued in accordance with Regulation 2016/1191.¹¹⁰</p>
<p>7. Have any other specific problems been noted as regards the documentary requirements concerning residence formalities in this Member State?</p>	<p>It should be noted that, before being able to register their residence with the IND, EU citizens and their family members first need to be added to the personal records database by the municipality. For this registration, EU citizens and their family members should be able to either provide a birth certificate or make a declaration to that effect.¹¹¹ However, in practice it has been reported that some municipalities insist on the person providing a legalised birth certificate together with an official translation.¹¹² This appears to go beyond the documentary requirements contained in Directive 2004/38,¹¹³ given that no such document is listed among the documents which may be required for the registration of EU citizens¹¹⁴ and their non-EU family members.¹¹⁵ Such a practices appears to affect several large municipalities.¹¹⁶</p> <p>In addition, it should also be noted that the Dutch authorities are also reported to request EU citizens and their family members to produce other documents which are not foreseen by Directive 2004/38,¹¹⁷ such as evidence that they de-registered from their previous country of residence.¹¹⁸</p>

¹⁰⁸ This concession is confirmed on the IND's website <<https://ind.nl/en/Pages/legalisation-and-translation-of-official-documents.aspx>>.

¹⁰⁹ *ibid.*

¹¹⁰ Art. 6, Regulation 2016/1191.

¹¹¹ Law on the Basic Registration of Persons, articles 2.2 and 2.4.

¹¹² Douma (n 6), p. 27 citing the information contained on the website of the municipality in the Hague. Although the website has since been amended to state that providing a birth certificate or marriage certificate is not required for registration, it goes on to state that municipal officials may still want to see such documentation and there is no reference to the alternative possibility of making a declaration: *"These documents are not required for registration. Nevertheless take them with you to your appointment. The municipality will review these documents. If they are in order, the information will be registered in the BRP. Sometimes your certificate or document needs to be legalised and/or translated. [...]"*

<<https://www.denhaag.nl/en/moving-and-immigration/moving-to-the-hague-from-abroad/brp-registration-when-coming-from-abroad-you-do-not-have-a-bsn-1/1st-brp-registration-for-eueea-and-swiss-nationals-coming-from-abroad-you-do-not-have-a-bsn.htm>>.

¹¹³ *ibid.*

¹¹⁴ Directive 2004/38, Article 8(3) as regards EU citizens who are workers, self-employed or self-sufficient and Article 8(5) as regards EU citizens who are family members.

¹¹⁵ Directive 2004/38, Article 10(2) as regards non-EU family members.

¹¹⁶ See for example, the information contained on the municipal website for Amsterdam, which confirms that a person who has moved to the Netherlands from abroad has to produce a birth certificate when registering with the municipality on the personal records database <<https://www.amsterdam.nl/en/civil-affairs/first-registration/>>. Similar information is contained on the municipal website for Utrecht <<https://www.utrecht.nl/city-of-utrecht/registration/registering-from-abroad/>> as well as the municipal website for Rotterdam <<https://www.rotterdam.nl/loket/registration/>>.

¹¹⁷ Douma (n 6), p. 8.

¹¹⁸ Nicolau (n 13), p. 54.

Section H: Permanent residence	Information collated for this Member State
<p>1. Is permanent residence recognised to EU citizens and their family members in this Member State?</p>	<p>Yes. Article 16(1) of Directive 2004/38 has been transposed into Dutch law. EU citizens acquire a right of permanent residence after a continuous period of five years of lawful residence in the Netherlands.¹¹⁹ Family members also acquire a right of permanent residence after a continuous period of five years of lawful residence with their EU relative in the Netherlands.¹²⁰</p>
<p>2. Is permanent residence documentation automatically issued, or must an EU citizen and their family member make a specific request for such documentation?</p>	<p>No. EU citizens and their family members who want to obtain a permanent residence document must apply for it.¹²¹</p>
<p>3. What is the procedure that applies when EU citizens and their family members request permanent residence documentation?</p>	<p>EU citizens may apply for a permanent residence document at any time after having completed five years of continuous residence.¹²² Non-EU family members are required to apply before expiry of their residence card.¹²³ Applications for permanent residence documents can be submitted online¹²⁴ or by post using the application form which is available online.¹²⁵</p> <p>Following submission of the application online or by post, the IND will then request the applicant to arrange an appointment with an IND desk in order to have photograph taken and provide their signature.¹²⁶ Non-EU family members also have to provide their fingerprints.¹²⁷</p>
<p>4. What documentation is required to apply for permanent residence documentation?</p>	<p>Applicants have to provide documentary evidence that shows uninterrupted lawful residence in the Netherlands during a period of five years.¹²⁸ The rules do not further specify what documentation is required to be submitted. However, the application form¹²⁹ provides the following example of documentary requirements for EU citizens: employment contracts with an employer in the Netherlands or a copy of a health insurance policy providing coverage during the</p>

¹¹⁹ Immigration Decree, article 8.17(1)(a).

¹²⁰ Immigration Decree, article 8.17(1)(b).

¹²¹ Immigration Decree, article 8.19 as regards EU citizens and article 8.20(1) as regards non-EU family members.

¹²² Immigration Decree, article 8.19.

¹²³ Immigration Decree, article 8.20(2).

¹²⁴ This is confirmed on the IND website <<https://ind.nl/en/eu-eea/Pages/Permanent-residence-for-EU-citizens.aspx>>.

¹²⁵ The form is entitled 'Aanvraag Verblijfsdocument duurzaam verblijf voor burgers van de Unie en hun familieleden' <<https://ind.nl/Formulieren/6012.pdf>> and is also available in English 'Application for a Permanent Residence Document for Nationals of the Union and their Family Members' <<https://ind.nl/en/Forms/8004.pdf>>. The same application form is used for EU citizens and non-EU family members.

¹²⁶ This is confirmed on the application form (n 125).

¹²⁷ *ibid.*

¹²⁸ Immigration Decree, articles 8.17(1)(a) and 8.19 as regards EU citizens and articles 8.17(1)(b) and 8.20(1) as regards non-EU family members.

¹²⁹ The application form (n 125) further specifies that 'In order to qualify for permanent residence as a national of the Union uninterrupted lawful residence during five years is required. You have had lawful residence if you have actually stayed in the Netherlands and were employed and/or had sufficient means of existence to support yourself. You have to provide means of evidence and documents with your application showing this.'

	previous 5 years or evidence showing possession of a bank account registered to the applicant at an address in the Netherlands during the previous 5 years.
5. Are EU citizens and their family members issued with a certificate of application?	The Dutch rules do not provide for the issue of a certificate of application to EU citizens or their family members who apply for a document attesting permanent residence. However, the application form specifies that applicants will receive a written notice when their application is completed.
6. What is the deadline for making a decision on an application?	EU citizens should be issued with a document certifying permanent residence as soon as possible. ¹³⁰ A permanent residence card should be issued to non-EU family members within 90 days of their application being submitted, ¹³¹ although this may be extended to six months. ¹³²
7. In practice, how long does an application for permanent residence typically take to complete?	It is reported that applications for permanent residence are usually decided upon within six weeks to three months. ¹³³
8. What kind of permanent residence documentation is issued to EU citizens and their family members?	EU citizens and their non-EU family members will be issued with a document certifying permanent residence ¹³⁴ in the uniform residence permit format laid down by Regulation 1030/2002 ¹³⁵ with the label 'EU/EER onderdaan' (EU/EEA national). ¹³⁶ While the Dutch rules are silent on this point, ¹³⁷ in practice a permanent residence card has a validity of ten years. ¹³⁸
9. What is the fee charged to EU citizens and their family members applying for permanent residence documents?	The fee payable by EU citizens and non-EU family members in respect of an application for a permanent residence document is €58 for adults and €31 for children under the age of 21. ¹³⁹ The same fees apply to renewals. ¹⁴⁰ These fees are similar to the fees which are charged for the issuance of identity cards to Dutch nationals. ¹⁴¹

¹³⁰ Immigration Decree, article 8.19.

¹³¹ Immigration Law, article 25(1).

¹³² Immigration Law, article 25(2).

¹³³ ICF GHK/ Milieu (n 46), p. 13.

¹³⁴ Immigration Decree, article 8.19 as regards EU citizens and article 8.20(1) as regards non-EU family members.

¹³⁵ Immigration Regulations, Annex 7e (*verblijfskaart*).

¹³⁶ See sample NLD-HO-01006 available on PRADO <<https://www.consilium.europa.eu/prado/en/NLD-HO-01006/index.html>>. The explanatory notes states that this is a 'permanent residence document for EU citizens, issued to foreign nationals from EU/EEA countries and Switzerland who have resided in the Netherlands lawfully and continuously for five years or more; this also applies to the family members of a person with the nationality of an EU/EEA country or Switzerland, who themselves have another nationality.'

¹³⁷ Douma (n 6), p. 34.

¹³⁸ See sample NLD-HO-01006 available on PRADO (n 136) which clearly states 'this document has to be renewed every 10 years'.

¹³⁹ See IND > EU > Permanent residence for EU citizens <<https://ind.nl/en/eu-eea/Pages/Permanent-residence-for-EU-citizens.aspx>>.

¹⁴⁰ See IND > Renew permanent residence permit (incl. EU permanent residence) <<https://ind.nl/en/Pages/Renew-permanent-residence-permit.aspx>>

¹⁴¹ See Dutch Government website on fees for the issuance of passports and identity cards <<https://www.rijksoverheid.nl/onderwerpen/paspoort-en-identiteitskaart/vraag-en-antwoord/wat-zijn-de-kosten-van-paspoorten-en-identiteitskaarten>>.

10. Can the application be completed on-line?	Yes. EU citizens and non-EU family members may submit an application for a permanent residence document on-line. ¹⁴²
11. Is there an expedited registration procedure or premium service available?	No expedited or premium service exists
12. Have any other problems been noted as regards applications for permanent residence in this Member State?	No. No specific problems have been reported in practice.

Section I: Appeals	Information collated for this Member State
1. In case of a refusal, can EU citizens and their family members have recourse to an administrative review process? If so, what administrative authority is competent to conduct such a review? What is the deadline for requesting administrative review?	Yes. A request for administrative review can be made before the IND. ¹⁴³ A request for administrative review must be brought within four weeks ¹⁴⁴ from the day following the date on which the decision has been notified. ¹⁴⁵ This process must usually be followed before filing a judicial appeal. ¹⁴⁶
2. In case of a refusal, can EU citizens and their family members have recourse to a judicial appeal process?	Yes. A judicial appeal can be filed before an administrative court. ¹⁴⁷
3. What judicial authority is competent to hear such appeals?	A judicial appeal lies before the administrative court ¹⁴⁸ at first instance. ¹⁴⁹ A further final appeal ¹⁵⁰ lies before the Council of State ¹⁵¹¹⁵²
4. What is the deadline for lodging a judicial appeal?	A request for administrative review must be brought within four weeks ¹⁵³ from the day following the date on which the administrative decision has been notified, ¹⁵⁴ or where a request for administrative review is filed, within four weeks from the day on which a decision has been taken on the request for administrative review. ¹⁵⁵ There is a specific form to file. ¹⁵⁶

¹⁴² This is confirmed on the IND website <<https://ind.nl/en/eu-eea/Pages/Permanent-residence-for-EU-citizens.aspx>>.

¹⁴³ Immigration Law, article 77(1). This is further confirmed on the IND's website <<https://ind.nl/en/pages/objection-and-appeal.aspx>>.

¹⁴⁴ Immigration Law, article 69(1).

¹⁴⁵ Article 6:8 of the General Administrative Procedure Law (*Algemene wet bestuursrecht*) <<https://wetten.overheid.nl/BWBR0005537/>>.

¹⁴⁶ General Administrative Procedure Law, article 7:1. This is also confirmed on the website of the Dutch judiciary on the page dedicated to immigration appeals <<https://www.rechtspraak.nl/Onderwerpen/Verblijfsvergunning>>.

¹⁴⁷ General Administrative Procedure Law, article 8:1.

¹⁴⁸ This refers to the '*bestuursrechter*'.

¹⁴⁹ General Administrative Procedure Law, article 8:1.

¹⁵⁰ Immigration Law, article 89.

¹⁵¹ This refers to the '*Raad van State*'.

¹⁵² Further information can be found on the Raad van State <https://www.raadvanstate.nl/onze-werkwijze/bestuursrechtspraak/vreemdelingenkamer.html#2>

¹⁵³ Immigration Law, article 69(1).

¹⁵⁴ General Administrative Procedure Law, article 6:8.

¹⁵⁵ General Administrative Procedure Law, article 7:1(2).

¹⁵⁶ This form can be found on the website of the Dutch judiciary <<https://www.rechtspraak.nl/SiteCollectionDocuments/Verzoekschrift-LSVK.pdf>>.

<p>5. What is the nature of the judicial review process? Does it suspend the effects of the decisions under appeal? What are the fees for lodging a judicial appeal?</p>	<p>A judicial appeal involves a control of the legality of the decision¹⁵⁷. When assessing an appeal, the court may supplement legal grounds on its own initiative.¹⁵⁸ When annulling a contested decision, the Court may also substitute its own decision.¹⁵⁹ A judicial appeal suspends the effect on the IND's decision which is being contested before the court.¹⁶⁰ A judicial appeal involving the residence rights of EU citizens and their family members incurs payment of court fees,¹⁶¹ which is currently €178.¹⁶²</p>
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Section J: Impact of residence formalities on equal treatment	Information collated for this Member State
<p>1. Has Article 25 of Directive 2004/38, which provides that the exercise of a right or completion of an administrative formality should not be conditional upon possession of a residence document, been accurately transposed in this Member State?</p>	<p>This provision has not been explicitly transposed.¹⁶³</p>
<p>2. Have any problems been noted as regards the impact of residence formalities on equality of treatment for EU citizens and their family members?</p>	<p>In the Netherlands, which also operates an optional registration system, EU citizens who claim social security or social welfare benefits will have their details automatically passed on by the relevant institution to the Dutch IND, whenever there is doubt about the lawfulness of an EU citizen's right of residence.¹⁶⁴ This will then be the subject of verification by the IND.¹⁶⁵ The status of worker appears to be restrictively interpreted in respect of claims for benefits. When EU workers claim social benefits, the Dutch IND will only recognise their worker status in circumstances where they work at least 40% of the normal</p>

¹⁵⁷ General Administrative Procedure Law, article 8:69(1).

¹⁵⁸ General Administrative Procedure Law, article 8:69(2).

¹⁵⁹ General Administrative Procedure Law, article 8:41.

¹⁶⁰ Immigration Law, article 73(1).

¹⁶¹ General Administrative Procedure Law, article 8:82.

¹⁶² This is confirmed on the website of the Dutch judiciary <<https://www.rechtspraak.nl/Naar-de-rechter/Kosten-rechtszaak/Griffierecht/Paginas/Griffierecht-bestuursrecht.aspx>>.

¹⁶³ Douma (n 6), p.27 reports as follows that *"The first paragraph of this Article has not been transposed into Dutch law. However, the various acts dealing with different specific subject areas, for example vocational training, social benefits and the like, do not mention a residence document as a condition for exercising a right. No cases violating this provision of the Directive could be identified. However, notice that in an IND brochure ["Declaration of registration of citizen of the Union" which has since been withdrawn] it is mentioned that cards are needed in order to make us of municipal services etc."* This would suggest that as a matter of administrative practice, completion of administrative formalities at the municipality may be *de facto* conditional upon possession of a residence document.

¹⁶⁴ Explanatory memorandum to Decree of 8 July 2014 amending the Aliens Decree 2000 (abolition of the obligation to report EU citizens) (*Nota van toelichting, Besluit van 8 juli 2014 tot wijziging van het Vreemdelingenbesluit 2000 (afschaffing meldplicht EU-burgers)*, *Staatsblad van het Koninkrijk der Nederlanden*) 16 July 2014 (available here: <https://zoek.officielebekendmakingen.nl/stb-2014-268.html#n1>).

¹⁶⁵ *ibid.*

	working week (approximately 15 hours) or earn income which is equivalent to at least 50% of the amount of benefit claimed. ¹⁶⁶
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¹⁶⁶ This is confirmed on the IND's website *EU > Living in the Netherlands as an EU, EEA or Swiss citizen > Right of residence after applying for a benefit from public funds* <<https://ind.nl/en/eu-eea/Pages/EUEEA-or-Swiss-citizen.aspx#Lossrightofresidence>>.