

Response from Your Europe Advice questions re Schengen

Dear Sir/Madam,

Please find below the reply to your enquiry. Please note that the advice given by Your Europe Advice is an independent advice and cannot be considered to be the opinion of the European Commission, of any other EU institution or its staff nor will this advice be binding upon the European Commission, any other EU or national institution.

Dear Sir,

Thank you for your enquiry.

I have read the details of your enquiry.

I wish to refer you to Directive 2004/38 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. The Directive applies only to EU citizens who move to or reside in a Member State other than that of which they are a national, and to their family members who accompany or join them.

Every Union citizen has the right to reside on the territory of a host Member State for a period of up to three months without any conditions or formalities other than the requirement to hold a valid identity card or passport. It does not matter whether the EU national came to work or study there or just to visit as a tourist. A valid identity card or passport is all you need. Non-EU country family members who accompany or the EU national can reside with the EU national for up to three months just with their passport.

The Directive provides that EU national workers and self-employed persons have the right to reside beyond three months without any conditions other than being a worker or self-employed person. The family members of the EU national, irrespective of their nationality, also have the right to reside with the EU national provided that the EU national meets the above conditions (provided that the EU national is a worker or self-employed). If the EU national is economically inactive, the EU national must have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence and have comprehensive sickness insurance cover.

Family members of the EU national who are not Union citizens themselves are obliged to apply for a residence card where the planned period of residence is for more than three months. The deadline for submitting the application may not be less than three months from the date of arrival.

As mentioned, EU citizens have a right of residence in the host Member State for more than three months if they are economically active there (a worker or self-employed). Students and economically inactive EU citizens must have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence and have comprehensive sickness insurance cover in order not to become a burden on the social assistance system of the host Member State.

The EU national and family members can move to another EU Member State after three months if they wish and repeat the above process and continue to do so. It is only if they wish to remain in one particular Member State that they must be for example economically active in and their non-EU Spouse must register if the period in one particular State is beyond three months.

I hope the above information is of assistance, and if you wish to have further information, you may wish to contact the Embassy of the country you wish to travel to.

Once again, I hope the above information is of assistance.

Your Europe Advice

To submit another enquiry, please visit [Your Europe Advice](#), but do not reply to this e-mail.

Your original enquiry was:

Dear Sir/Madam,

Thank you for the assistance you have already provided.

I attach the text of the last enquiry and answer which provided some helpful information but didn't answer all of my questions.

If you refer to the enquiry you will see that the main question was what does an EU citizen, with no Schengen residents card, with a non EU spouse need to do to be able to travel freely around the various Schengen EU countries for an extended period, i.e. exceeding 3 months in of six months?

The previous answer didnt say for sure that an NZ citizen married to an EU citizen had any rights through the spousal relationship.

Do we have this right of free travel or movement under the EU legislation or is my wife limited to those 3 months even though she is married to an EU citizen. If we do have a right to do this, where do I find it written down clearly so I can show it to border guards, immigration and airline staff when they question our rights.