



The right to family life is a universal right

APPEAL on 2014 European elections



2014 European Parliament Elections - **An appeal to candidates**
FOR FOREIGNERS' RIGHTS TO FAMILY LIFE IN EUROPE

Dear Candidate,

The European citizens who have signed this Appeal are convinced that Europe can become a political and social space in which the people who live together are committed to **building a common future out of their different backgrounds and affiliations**; the families of foreigners are an indispensable resource for this construction.

Discriminatory legal processes continue to oppose a majority of the population of the European Union, composed of 506 million "EU citizens", and a significant minority of approximately **33 million legal residents who are non-EU foreigners**.

Some forms of discrimination, ever more persistent and intensified, lead to **serious delays** in the insertion process for those of foreign origin; these delays represent **a real threat to social cohesion**.

Despite the undeniable progress in legislation brought about by the EU Directive on family reunification, **the rights of these persons remain subject to the vagaries of national immigration policies**. Non-EU immigrants are thus treated differently than natives, in that they must meet more stringent requirements to form a family or be joined by family members for whom they are responsible. In addition, in many countries they are subject to unwarranted state interference in their private lives that would be inadmissible for natives.

The signers of this Appeal include many national federations of associations and organisations working for the full recognition of the right to family life for "third-country" citizens. In light of our direct observation of the application of this right, our field experience, and our multiple competences, we wish to draw your attention to a number of **standards and administrative practices impeding the human right to family life** for non-EU nationals; we present these in the document attached to this Appeal.

We ask for a change in political approach: **the right to family life is a universal right, and its application must not be subject to states' varying conditions and political contingencies**. States do not have the right to prohibit foreigners from third countries who live and work legally in the Union to unite freely with the spouse of their choice or to prevent unification with family members for whom they are responsible.

The EU must have faith in the families who decide to settle here: they enrich our societies with new generations, motivated for success. Any **integration efforts** required of them **must facilitate their task of becoming full citizens**, for us to face together the challenges that go well beyond our borders.

We invite you to express your viewpoint on these questions, which we will communicate it to our members; they will appreciate your position.

(Appendix: Critical situations concerning foreigners' right to family life in the EU 2014)

First signatures (30/04/2014): **CoordEurop** - Coordination Européenne pour le Droit des Etrangers à Vivre en Famille (Bruxelles) ; **C.C.M.E.** - Churches' Commission for Migrants in Europe (Bruxelles) ; **E.C.B.** - European Conference of Bi-national/Bicultural Relationships (Frankfurt am Main).

ALLEMAGNE Der Paritätische Gesamtverband, BERLIN - Verband binationaler Familien und Partnerschaften e.V. I.A.F. FRANKFURT AM MAIN - **BELGIQUE** Associations pour le Droits des Etrangers, A.D.D.E., BRUXELLES - Mouvement contre le Racisme, l'Antisémitisme et la Xénophobie M.R.A.X., BRUXELLES - **ESPAGNE** Salud y Familia, BARCELONE - Unión de Asociaciones Familiares - UNAF, MADRID - **FRANCE** Association Service

Social Familial Migrants - A.S.S.F.A.M, PARIS - Centre d'Information et d'Etudes sur les Migrations Internationales - C.I.E.M.I., PARIS - Service œcuménique d'entraide - CIMADE PARIS - Conseil National des Associations Familiales Laïques - C.N.A.F.A.L., PARIS - Femmes de la Terre, PARIS - Ligue des Droits de l'Homme L.D.H., PARIS - Mouvement contre le Racisme et pour l'Amitié entre les Peuples M.R.A.P, PARIS - Service National de la Pastorale des Migrants S.N.P.M., PARIS - Union Nationale des Associations Familiales - U.N.A.F., PARIS - **ITALIE** La Lucerna - Laboratorio Interculturale, ROMA - Caritas Diocesana, CHIAVARI (GE) - Cooperativa sociale Farsi Prossimo, MILANO - Cooperativa sociale GEA, PADOVA - Coordinamento Italiano COORDIT, GENOVA - IntegrAzioni, LAMEZIA TERME (CZ), MARZANO DI NOLA (AV), BARI, CALTANISSETTA - Fondazione Migrantes, ROMA - Progetto Domani Cultura e Solidarietà PRO.DO.C.S., ROMA - Ufficio Pastorale Migranti - U.P.M., TORINO

Critical situations concerning foreigners' right to family life in the EU

Appendix to the Appeal to candidates in the 2014 European Parliament elections

"For foreigners' rights to family life in Europe"

A survey conducted by CoordEurop and its associated organisations brings to light a series of recurrent difficulties regarding family reunification in several EU countries.

- 1. The waiting period** involved in the reunification process sometimes exceeds two years, an unwarranted period considering the hardships to these families (deterioration of interpersonal relationships, problems of child rearing, health problems, loss of job in the country of origin, economic crisis, etc.). In addition, the length and uncertainty of the process makes it impossible to plan family activities (e.g., school enrolment at the beginning of the year). The procedure is too long in almost all EU countries; we think it should be reduced to one year — or abolished. The problem of uncertainty may continue for various reasons, without any possibility of control by the persons concerned.
- 2. Costs.** A family reunification procedure can be very expensive in proportion to applicants' income. The costs are related to the legalisation and translation of vital documents and certificates that attest to income and housing conditions. The cost should be commensurate with applicants' income, and standardised criteria in all EU countries should make the right to live with one's family affordable.
- 3. Housing conditions** required of third-country foreigners (e.g., a room for each child) may exceed the criteria of capacity and quality for nationals. This is true discrimination.
- 4. Financial resources in terms of income** can often not be demonstrated by the sponsor due to the prevalence of informal jobs and undeclared work, especially in certain sectors and in certain countries. Europe's severe economic crisis has increased the phenomenon of informal economy in the sectors most affected, including personal services. We propose that in evaluating financial resources for family reunification, all retribution for the sponsor's work be taken into account.
- 5. Integration measures required even before reunification** are discriminatory and detrimental when they are applied without the possibility of compliance by the persons concerned (e.g., the need for a basic understanding of the host-country language when no real opportunities exist in the home country).

6. Systematic and invasive investigations before and after the wedding. This practice is being reinforced in EU countries, especially with regard to mixed marriages (between a national and a non-EU spouse) in order to fight against marriages of convenience. The persons concerned are convened in local government offices (e.g., marriage bureaus) and consulates, auditioned separately, and asked to complete questionnaires "verifying the intentions and reality" of their relationship. After marriage, the investigation may be carried out by home visits at times when the couple are assumed to be at home. Authorities invoking differences in age and physical appearance to prevent marriages is particularly reprehensible: it constitutes interference in the private lives of people and introduces prescriptive rules for marriage that are not the responsibility of the state, concerning only those personally involved.

We deplore the lack of statistics from authorities of different countries on the outcome of these investigations. The problem seems to be minor, and the vast majority of couples in good faith should not have their right to family life infringed upon by the pretext of fighting against a very limited occurrence of fraud.

7. The duration of compulsory cohabitation, without any possibility of separation or divorce (except in registered cases of abuse). This is a recurring situation in some countries that often includes verifying actual cohabitation, a traumatic invasion of privacy. When a couple's life together deteriorates and becomes impossible, the obligation of cohabiting to avoid deportation (up to three years in some countries) becomes a terrible instrument of psychological pressure that may lead to physical and domestic violence. The autonomy of the residence permit of the reunited adult is an indispensable way to break these chains, keeping protection mechanisms in case of violence.

8. Long waits for appealing a refusal of marriage and the expulsion of the non-EU partner. The waiting period for appeals can easily reach a year. We believe that procedures for expelling the foreign spouse should not be initiated before the outcome of the appeal.

9. Registered partnerships not equivalent to marriage do not always establish the right to family reunification with a partner or children and other relatives. We believe it is necessary to standardise the treatment of these cases, respecting the principle of non-discrimination, the best interests of children, and the right to free movement within the EU. Granting reunification does not necessarily imply recognition of the state of marriage. We believe, for example, that marriages between persons of the same sex, which are not recognized by most member states, should allow for family reunification of unmarried partners.

10. Minors under guardianship. It may be difficult or impossible to reunite minors whose lineage is not established but who are dependents following placement or establishment of guardianship (e.g., *kefala*). We believe that the principle of the best interests of the child imply that the will of the biological parents and the minor should be duly taken into account, as well as the legal responsibility assigned to a foster parent.

11. The proof of lineage. In the absence of a legal birth certificate (for lack of local administrative services), several European consulates have adopted DNA testing to prove parentage as standard practice. This is an expensive practice for family reunification applicants, and it may further delay the process and cause serious repercussions to family life. It is also a violent intrusion into the privacy of the family. It should be limited to cases in which there is no other way (investigations,

interviews) to establish lineage or in which fraud is obvious; ordinarily consulates should use other means at their disposal to prove parental ties.

12. The regularisation of members entitled to family reunification (spouse, children, etc.) who reside illegally in the EU country is very difficult, if not impossible. Such decisions are made by families in extreme emergency situations, both in the country of origin and the country of immigration. These situations do not receive effective responses, often getting lost in procedures that are too long and complicated and subject to impossible requirements by the host country. These situations are clear evidence of the inefficiency of entry policies adopted by the country, requiring families to unite without authorization.

13. Rights to visits by family members who remain in the country of origin. Currently, it is virtually impossible for a parent, an adult child, or a brother or sister of a resident to obtain a visa for a short visit. This has very serious consequences that deprive immigrant families of invaluable support in critical situations (pregnancy, illness, separation or divorce, etc.). For those affected, preventing a family member from visiting may be a serious and unwarranted intrusion into the privacy and personal life of the family and an unjust deprivation of effective support in a moment of difficulty. It is possible and necessary to find reasonable solutions to this situation.

14. The most favourable provisions for refugees must apply in all cases, regardless of the date on which family ties were established.

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We affirm that requirements should not prevent the exercise of the right to family reunification but rather promote and facilitate it. Detrimental and unjustified conditions — especially if not required for citizens — **generate feelings of hostility among foreigners toward the host society and contribute to the legitimisation of injustice and discrimination against foreigners**, both in government and in the native population.

The fight against fraud should never infringe upon fundamental rights. **It is extremely harmful to establish a basic suspicion of fraud.** The European Union should acknowledge the presumption of good faith among applicants.

Protection of the higher priority interests of children must become established practice in all countries, without needing to resort to the courts of law for it to be respected.

The right to family life is a universal right. Its application must not be subject to states' varying conditions and political contingencies. States do not have the right to prohibit foreigners from third countries who live and work legally in the Union to unite freely with the spouse of their choice or to prevent unification with family members for whom they are responsible.

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(14 March 2014)