

SAFE PASSAGE

More Flexible and Generous Opportunities for Family Reunification for Refugees

What is family reunification?

During situations of flight or displacement, families often get separated. Family reunification is a process which allows family members to safely and legally travel to join their relative/s who has/have obtained a protection status in a country of asylum.

How does family reunification work in practice?

The 2003 EU Family Reunification Directive is the main legal instrument regulating family reunification; however, a lot of discretion is left to the single Member States in its application, and procedures vary widely. The Directive provides a number of restrictions for the family reunification process, such as a distinction between beneficiaries of international protection or subsidiary protection, and a limited definition of family, which only includes the 'core family', composed of spouse and unmarried children below the age of 18.

It is possible to apply for family reunification also under the Dublin Regulation, when family members arrive in Europe and want to join a relative who has obtained a protection status in another Member State. However, the number of family reunification requests under Dublin is low and the procedure very lengthy.

Why is it important?

It is generally recognised that the family is the fundamental unit of society. The right to family life is codified in the European Convention on Human Rights as well as in the Charter of Fundamental Rights of the EU, of which all EU Member States are signatories.

Family reunification is often the only possibility to reunite families separated during displacement. It is also the only major legal migration channel to Europe for family members in need of international protection.

Family reunification is considered a precondition for rehabilitation and integration into a new society. Being away from relatives, who are often still in danger, is a source of anxiety which may negatively affect the personal capacity to recover from the hardship of the journey and to effectively integrate.

What are the main challenges?

During 2015 and 2016, many EU Member States restricted their family reunification policies, making it increasingly harder for people to join their relatives. Some restrictions include for example requirements of a minimum length of stay in the country or the ability to financially support the joining family members.

Further challenges for family reunification are complexity of procedures and lack of adequate information, language requirements imposed on family members, long waiting times, costs involved in the process which need to be paid for by the applicant and unrealistic travel and cost requirements for family members outside the EU.

Family reunification for beneficiaries of international protection

Who are beneficiaries of international protection?

Beneficiaries of international protection are more commonly known as refugees. Holding an international protection status means that the asylum claim has been accepted as valid and that the 1951 Convention Relating to the Status of Refugees – codified in the EU by the Qualification Directive – applies directly to the individual.

According to the 1951 Convention, a refugee is an individual who *"owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country"*, or a stateless person fulfilling the same criteria.

In other words, after an individual assessment, it has been established that the individual is in need of protection because of a situation of persecution on the basis of one of the following five grounds: race, religion, nationality, political opinion or membership of a particular social group.

Recognised refugees benefit from the rights granted to them by the 1951 Convention, and the Qualification Directive in the EU – as well as all other human rights treaties, applicable to every individual at all times.



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Do specific conditions apply for holders of international protection in relation to family reunification procedures?

Yes. Holders of international protection status are subject to more favourable conditions when applying for family reunification. These include for example the exclusion from the requirement to provide a proof of sufficient and stable income, accommodation and sickness insurance, as well as lower standards for proving family links.

Family reunification for beneficiaries of subsidiary protection

Who are beneficiaries of subsidiary protection?

Beneficiaries of subsidiary protection are individuals who do not qualify as refugees under the 1951 criteria but are nevertheless in need of protection. This is the case, for example, for people fleeing a conflict because of the general situation of violence and risks to their life, without having been individually threatened because of their race, religion, political opinion, etc.

According to the EU Qualification Directive, a beneficiary of subsidiary protection is *"a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm"*.

Subsidiary protection holders usually receive residence permits shorter than international protection holders. Residence permits are renewable, but this adds to the uncertainty of the stay. The difference between the statuses is especially relevant at present, since EU countries are increasingly granting more subsidiary protection statuses rather than international protection statuses.

European countries originally aimed at limiting the differences between the two statuses, to arrive to a uniform status granting the same rights and obligations. According to the latest proposals however, the difference between international and subsidiary protection is not only maintained, but set to increase. For a detailed analysis of the most recent proposal for the EU Qualification Directive, read [here](#).

Are there any differences between refugees and holders of subsidiary protection in relation to family reunification?

Yes. Subsidiary protection holders are excluded from the EU Family Reunification Directive, though States may decide to include them – and up until not so long ago, most countries have.

Generally, subsidiary protection holders are subject to the same rules as other third-country nationals when applying for family reunification, including income requirements and waiting periods, which clearly do not take into account their specific situation of displacement.

Over the course of 2016, increasingly restrictive legislation was implemented in many EU countries to further limit access to family reunification for beneficiaries of subsidiary protection. For example, in Germany, subsidiary protection holders now have to wait two years before they can lodge an application. Sweden also severely limited the possibility to apply for family reunification for those with a subsidiary protection status.



Children and family reunification

Do children enjoy a special treatment?

Yes. Children benefit from the application of the principle of *best interest of the child*, which applies not only in family reunification or other asylum-related procedures, but in all actions regarding children.

Because of this more favourable treatment, it is of paramount importance that children, whether they arrive alone or with family members, are immediately identified as such by States. To this aim, a number of age assessment procedures are in place, and vary depending on the Member State.

When applying the EU Family Reunification Directive, Member States are urged to take into account the best interest of the child.

What about unaccompanied children?

Unaccompanied children are defined as persons under the age of 18 who are not being cared for by an adult, whether that is a parent or a person legally responsible for the child.

According to recent data, the number of unaccompanied children arriving in Europe to claim asylum is on the rise, and some Member States – for example, Sweden – are receiving many more unaccompanied minors than others.

Regarding family reunification for unaccompanied children, EU legislation provides that Member States should authorise the entry of first-degree relatives, legal guardians or other members of the family if there are no first-degree relatives or if they cannot be found.



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