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7.12.3 Family reunification

Court rulings continued to shape policy and practice concerning family reunification. Legislative initiatives touched on the scope of entitlement to and criteria for family reunification. Civil society organisations noted concerns related to the administrative burden of the process and to the scope of family members who may join the beneficiary. The ReSOMA project pointed out the hardship of family reunification for beneficiaries of international protection.[580]

The Aliens Act was amended in Finland to implement changes based on Case C-550/16, and the Finnish Immigration Service updated its guidelines to ensure that unaccompanied minors who are beneficiaries of international protection are considered to be minors for the purposes of family reunification if they were minors when lodging the application but turned 18 during the procedure. Practice had already been adapted to the judgement and it was enacted in law in 2019. The new Finnish government stated that it will re-examine family reunification rules and planned to abandon the requirement of sufficient resources for minors sponsoring family members.

The Council of State in the Netherlands ruled that the IND policy to reject a request for family reunification when unofficial documents and explanations are considered to be insufficient or not plausible are in accordance with the Case C-635/17 *(see Section 7.12.6)*. The Dutch Refugee Council signalled that this policy has a negative impact on beneficiaries of international protection, who often lack official documents to make their identity and family ties plausible.[581] UNHCR published a report on the challenges that refugees trying to reunite with their families face in the Netherlands and put forward recommendations on improving the situation.[582]

The amendment of the law on temporary limitations on obtaining a residence permit in Sweden lifted the ban on family reunification for beneficiaries of subsidiary protection. This development was due to litigation efforts and was welcomed by civil society organisations[583] and UNHCR.[584]

Following the end of the temporary suspension of family reunification for beneficiaries of subsidiary protection in 2018 in Germany,[585] UNHCR called for a more flexible approach[586] and underlined the importance of extending the scope of family to siblings as well.[587]

There was a debate in the Belgian Parliament over a legislative proposal that plans to reduce the period of exemption from the requirement to have sufficient economic resources from one year to three months
(BE LEG 01). UNHCR noted that this modification would make family reunification for

beneficiaries of international protection more burdensome.[588]

A new concern arose when the Civil Registry and Migration Department in Cyprus started requesting all family reunification applicants to provide evidence of stable and regular resources to sufficiently maintain themselves and their family members, including refugees submitting the application within the three-month exemption period from this economic resource requirement. The Cyprus Refugee Council submitted complaints to the Commissioner of Administration and Human Rights and the Commissioner for the Rights of the Child, and both of them assessed this practice to be a violation of law. Additionally, the Commissioner for the Rights of the Child also condemned the total ban of family reunification for beneficiaries of subsidiary protection and suggested amending the law.[589]

The authorities in Slovenia were reported to strictly apply the criteria on documents to establish identity and family links, which was noted to be particularly difficult for beneficiaries of international protection.[590]

The United Kingdom did not opt in the Family Reunification Directive, and a civil society source noted that refugee children still cannot sponsor their parents or siblings for family reunification.[591]

Family reunification is an area of international protection which is frequently brought before the courts. In 2019, the UN Human Rights Committee considered that the immigration authorities in Denmark failed to adequately consider the applicant's marital relationship in the cultural context of the country of origin and in the personal situation. It also observed that this action resulted in blocking the family from being reunited in Denmark. Based on the Committee's decision, the Danish Immigration authorities reconsidered the case and decided to conduct an interview with the applicant and the spouse living in Denmark in order to clarify the information. However, the applicant later withdrew the application for the residence permit.

In another case, the ECtHR found that the authorities in Sweden had implemented immigration policy effectively and struck a fair balance between individual and state interests when an applicant and his wife knew at the time of starting to lead a family life that they would likely not be able to establish and maintain their family life in Sweden.

The Berlin Regional Administrative Court ruled that applications for family reunification submitted by beneficiaries of subsidiary protection who are close to turning 18 years old are to be treated urgently. Furthermore, the immigration office must ensure that such applications are processed in a short timeframe.

The court in Switzerland affirmed that family reunification of persons who had already been granted refugee status in a Member State with a family member entitled to asylum in Switzerland will not be processed by the asylum authorities but rather in accordance with the Law on Aliens and the ECHR, Article 8.

In Ireland, the prolonged delay beyond the 12-month limit for making an application for refugee

family reunification was upheld and found not to be in breach of the ECHR.

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