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icon on family reunification

Some Member States initiated changes to facilitate family reunification for beneficiaries of international protection and provided clarifications on the process through more detailed guidance. Courts remained active in shaping policy and practice on family reunification, similar to previous years, and some sought further guidance from the CJEU. Practical barriers persisted in several countries, such as asking relatives to submit documents at consulates or requiring documents which were difficult to obtain.

The coalition programme of the new German government included plans to remove restrictions on the family reunification of beneficiaries of subsidiary protection.1122

An amended law entered into force in June 2021 in Luxembourg, allowing beneficiaries of international protection to apply for family reunification with facilitated conditions during 6 months from being granted the status.1123

The Dutch IND published new work instructions on the examination of identity and family relations in family reunification procedures, including the use of DNA tests.1124 The authority started to use a new, digital family reunification application form, developed together with the Dutch Council for Refugees.1125 The IND also adjusted the procedure for a minor's family reunification application. A child with a residence permit will be able to apply for facilitated family reunification, even if they are being cared for in the Netherlands by an adult family member. Under the previous policy, they were not considered to be unaccompanied anymore for the purposes of family reunification. In practice, this meant that the fees related to the procedure had to be borne by the child and the family members caring for the child, while under the new legal basis, these fees are lifted. The adjustment aims at making the process more compliant with the ECHR, Article 8.1126 A case was pending in front of the ECtHR, where the Dutch authorities rejected the family reunification request of a Somali beneficiary with his brother, stating that there were no indications that the brother was exclusively dependent on him. UNHCR submitted observations to the court and reiterated that the organisation promoted an inclusive family reunification policy, allowing reunification for family members beyond the nuclear family.1127

In Finland, a draft government proposal was sent out for comments to amend the Aliens Act provisions on the family reunification of beneficiaries of international protection.1128 UNHCR

welcomed the draft and provided recommendations for further improvement, for example solutions to practical barriers in lodging an application for family reunification.1129 UNHCR based its recommendations on a study that it commissioned to the Finnish Refugee Advice Centre (FRAC), which found that applicants for family reunification were often requested documents that they were unable to obtain or their application was dependent on their legal residence in the country where the Finnish diplomatic mission is located.1130 The FRAC issued a separate statement on the proposed amendments and concluded that the changes are not sufficient to address many of the already-identified challenges.1131 The organisation highlighted these challenges again in the context of family reunification for Afghan evacuees in a statement signed jointly with Amnesty International Finland, the Finnish Federation for Child Welfare, Refuge Counselling and Save the Children.1132

Faced with the impact of these practical barriers, the Finnish Supreme Administrative Court ruled in a case that the exception from the requirement to possess sufficient means should still be applied when the application for family reunification was submitted only a few days after the 3-month deadline due to administrative delays in obtaining one of the required documents. The court observed that the spouse submitted all documents as soon as they were available and the delay was thus objectively excusable. However, in another case the court found no exceptionally-compelling reasons and confirmed the negative decision for family reunification based on a lack of sufficient means, when the refugee sponsor submitted the application for reunification more than a year after the lapse of the 3-month deadline when more favourable conditions would apply.

The Administrative Court of Athens was also called upon to assess documentation requirements for family reunification. It ruled that a refugee's request for family reunification cannot be rejected merely because of the absence of certain supporting documents, and the authority must assess alternative processes to investigate the family relationship, if necessary with support from the Greek consular authorities.

Adjustments were made to the family reunification process in Spain, and it is now the sponsor in Spain who must begin the procedure, not the family member in the country of origin.1133 Denmark launched a new digital application to allow family members other than spouses and children to apply online for family reunification.1134

The Irish government established an Afghan Admission Programme, providing 500 places for family members of Afghan nationals living in Ireland since 1 August 2021. Eligible family members receive a residence permit allowing them to work without the need for an employment permit.1135 The government of Iceland confirmed that family reunification requests from Afghan residents were treated with priority in 2021 *(see Section 4.16)*.1136

In France, 1,757 family reunification visas for beneficiaries of international protection *(réunification familiale)* and 193 family reunification visas for other foreigners who are not beneficiaries of international protection *(regroupement familial)* were issued to Afghan nationals.

In Norway, the Healthcare Investigation Board published its report following the murder-suicide of a young South Sudanese mother and her children, who had arrived to Norway through family

reunification. The report underlined that refugee women arriving to the country through family reunification are often in an extremely vulnerable situation, and the requirements for family reunification may impact their mental health and prevent them from seeking professional support. The demands of the integration process are often seen to be higher than what a newly-arrived person can handle in such a short period of time. Faced with these challenges, health and social care services still lacked flexibility and coordination.1137

Concerning the scope of persons who can reunite with a family member, the Belgian CALL referred questions for a preliminary ruling to the CJEU in the case of a minor who received international protection in Belgium and whose mother requested a visa for family reunification. The Immigration Office rejected the request, as the daughter was married and the authority held that after the marriage she did not form part of her parents' nuclear family. However, during the asylum procedure, the marriage of a child was not recognised under Belgian law, and the daughter was registered as an unaccompanied minor. The court asked the CJEU whether the daughter should be still considered as an unaccompanied minor under the Family Reunification Directive.

The Norwegian Supreme Court annulled the UDI's negative decision of a family reunification request by a Syrian woman who was married at the age of 13 in 2012. The UDI based its rejection on the fact that she had not reached the age of majority at the time of the marriage and it cannot be recognised under Norwegian law. However, the Supreme Court underlined that a long time has passed since then and the spouse showed real desire to continue cohabitating with the husband. The court also noted that it was also in the best interests of children to grow up with both parents. In addition, the Grand Board of the Norwegian Immigration Appeals Board concluded that the mother of a girl granted refugee status, who was refused both international protection and a residence permit on humanitarian grounds before her daughter was born, should receive derivate refugee status instead of requiring her to go through the family reunification process to obtain a legal permit to stay. The CJEU also used elements related to its jurisprudence on family reunification to reply to questions referred for a preliminary ruling on qualifying for derivate status under the recast Qualification Directive.

In Denmark, refugees with temporary subsidiary protection status are, as a rule, only eligible for family reunification after the expiry of a waiting period. In 2016, the Danish parliament amended the Danish Aliens Act to the effect that, as a rule, beneficiaries of temporary subsidiary protection status in Denmark are required to wait 3 years for family reunification. In the judgment of 9 July 2021 in the case of *M.A. v. Denmark*, the ECtHR found that the Danish authorities had failed to strike a fair balance between the applicant's interest in being reunited with his wife in Denmark and the interest of the community as a whole to control immigration in order to protect the economic well-being of the country, ensure the effective integration of those granted protection and preserve social cohesion. Accordingly, the court found that there had been a violation of the ECHR, Article 8. Due to this judgment, the immigration authorities currently administer a 2-year waiting period in order to comply with the judgment, which also applies to pending cases. Consequently, some of the cases were reopened and impacted families were contacted.1138 The Danish government has announced that it will propose an amendment to the Aliens Act to consolidate this practice.1139

The Swiss Observatory on Asylum and Foreigners' Law and the civil platform humarights.ch commented on the ECtHR judgment involving Denmark and noted that, even if Switzerland is not bound by the ECtHR, the waiting period of 3 years for family reunification of refugees and persons with temporary admission under Swiss legislation is disproportionately long.

Long waiting times for family reunification can have a negative impact on various aspects of the lives of beneficiaries of international protection. For example, the Danish Rockwool Foundation Research Unit and the University of Copenhagen concluded in their study that the risk of receiving a psychiatric diagnosis was twice as high for a refugee father waiting for his family to arrive than for other refugee fathers, and this risk increases the longer the family remains separated.1140

Deliberating on the impact of the COVID-19 measures on family reunification, the French Council of State found the government's decision to suspend the issuance of family reunification visas was disproportionate and contrary to the right to family life and the best interests of the child.

The French Council of State was also faced in August 2021 with a request for the urgent issuance of family reunification visas for the relatives of an Afghan beneficiary of international protection. The council noted that the measures requested were unnecessary, as the consular activity in Kabul ceased, and persons at the airport in the compound dedicated to France were taken care of by the French military, irrespective of visas. Similarly, the council found no reasons to order the administration to take additional measures in another family reunification request from two Afghan nationals.

A case was pending in front of the CJEU concerning a family reunification request of a Syrian child recognised as a beneficiary of international protection in Austria, who reached the age of majority in the meantime. UNHCR provided a statement on the case and underlined that time limits may not be applied in a way that makes family reunification excessively difficult or impossible.1141

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