

NATIONAL  
STAKEHOLDER  
REPORT

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# ASYLUM

Hardship of family reunion for  
beneficiaries of international protection





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The **National stakeholder reports** aim at taking the academic debate provided by the ReSOMA discussion briefs to the national level throughout the EU. For each topic, a **structured feedback process** has been implemented in a number of Member States where the issue at hand is most relevant in terms of current developments and upcoming trends. Leading experts discussed the **possible consequences of evolving (or lacking) EU policies for the Member State**, and the **country's role in shaping the EU agenda**. These feedback loops enabled researchers, practitioners and policy-makers to exchange experiences and strategies to face issues related to migration, asylum and integration matters.

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## National stakeholder report

# Hardship of family reunion for beneficiaries of international protection\*

## Hardship of family reunion

Family reunification represents a safe and legal channel for beneficiaries of international protection to reunite with their separated family members. Family reunification is a crucial element of fostering integration of beneficiaries of international protection in host societies and promoting economic and social cohesion in the Member States. To this end, [EU law](#) recognises more favourable conditions to beneficiaries of international protection to apply for family reunification in comparison with ordinary third-country nationals. However, EU law also leaves broad leeway to Member States in granting family reunification to beneficiaries of international protection.<sup>1</sup>

Recent studies highlight the controversy behind the fact that beneficiaries of subsidiary protection do have access to family reunification under national laws and are excluded by the EU Directive. Furthermore, to complete the Common European Asylum System (CEAS) reform, the Commission presented on 13 July 2016 the Proposal for a Regulation on standards for the qualification on issues such as the definition of family and different circumstances of dependency. Yet this goes hand in hand with member states

suspending family reunification for considerably long periods.<sup>2</sup>

## Stakeholder outreach and feedback

This report reaches out to stakeholders from a variety of countries where family reunification of beneficiaries of international protection has been a concern. It provides an overview and analysis of the feedback provided by these stakeholders in relation to the strengths and limitations of family reunification that have been developed in earlier [ReSOMA publications](#). This involves the following countries:

- Austria
- Germany
- Greece
- Hungary
- Italy
- The Netherlands

In each of these countries, between 6 and 10 stakeholders were consulted (see appendix for a full but anonymized overview). This includes policy actors working at the national as well as the local level, NGO's working in the social field and experts from the various national contexts with specific topic of the consultation. In many cases, the consultation took the form of an individual interview (via Skype

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<sup>1</sup> See Commission's Communication on guidance for application of 2003 Directive.

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<sup>2</sup> See ReSOMA Ask the Expert Brief on asylum and the ReSOMA Synthetic state of the art policy brief on Family Reunification, 2018.



or Gotomeeting); in several cases where this was seen as appropriate, the consultation took a form of a virtual meeting with several stakeholders at the same time, allowing for interaction on specific topics. The consultations followed a standardized template, and were implemented by experts with access to networks in the selected countries. For this report, this involved the European University Institute (Austria, Italy, Germany and Greece), UPF-Barcelona (The Netherlands) and the Institute for Minority Studies of the HAS Centre for Social Sciences (Hungary). Based on reports of the stakeholder consultations, this stakeholder outreach report was compiled by the ReSOMA team of Erasmus University Rotterdam.

The consultations focused on three topics that emerged as central from the [Ask the Expert policy briefs](#) and the synthetic state of the art report on family reunification in asylum. These three topics include:

- *The relevance of and obstacles for family reunification:* How relevant is the family reunification topic for different the national stakeholders? What are the main obstacles for family reunification in each country?
- *Different definitions of dependency:* How are “family members” defined according to each country’s procedures? What are the costs and benefits of (not) paying due attention to the different particular circumstances of dependency and the best interests of the child?
- *Long-term impacts of family reunification on migration and integration:* What are the short and longer-term impacts of the current EU and national

policies on family reunification on migration to and integration in each member state consulted?

In deed most national stakeholders agree on the relevance of family reunification in the longer run. However, they also verify that there are various legal and administrative gaps and barriers which in practice undermine the right to family reunification, in particular for beneficiaries of subsidiary protection, humanitarian status holders and unaccompanied minors.

## **The relevance of and obstacles for family reunification**

In some countries, especially in Hungary and Germany, there are opposing views on this topic. NGOs and humanitarian organisations underline its relevance, whereas the governmental actors and bureaucrats do not find it so important. Several state actors in Hungary justify their view by saying that current asylum system does not offer help for the most vulnerable, hence does not oblige them to have moral responsibility. Another reason, which also applies to state actors in other countries, is the hardship of proving the authenticity of the applicants’ documents. Yet majority of the stakeholders see family reunification very crucial especially considering the longer-term costs of integration. In terms of practicalities, NGOs and experts criticize the bureaucratic burden of proof put on the shoulders of the applicants and stress the importance of the family reunification especially for the interests of children.

In terms of *conditions for application*, the deadline for application for family reunification is 3 months after being recognized



as refugee, though the process may take up to two years, as one governmental actor in Germany underlines. If the possibility to apply within 3 month is missed, preferential process is available but adds many restrictive conditions to sponsor a family member, such as having secure health insurance; and sufficiently large accommodation depending on the size of the family, and sufficient income which, for a household of two, for example in Austria, is equal to almost 1400 Euros. Unlike other countries, in the Netherlands, the process seems more attentive to the interests of the beneficiaries, as refugees can apply within 6 months after their status is granted and the first decision is taken in 8 days without any costs for administrative procedure. Furthermore, in all these countries that there are very limited opportunities for beneficiaries of subsidiary protection compared to refugees as they must wait 3 years from the day they receive their status to be able to apply for family reunification.

When it comes to *bureaucratic obstacles*, regardless of differences across groups and countries, all authorities seem overwhelmed by number of applications and being understaffed. Lack of sufficient information channels, financial resources and political will for responsibility sharing are also mentioned in all cases and especially reiterated in Greece and Italy. In particular, three procedures are in place and each procedure has its own bureaucratic obstacles.

- *Reunification with family members in the countries of origin*, is rarely used due to two main obstacles. Either people lack sufficient knowledge of the procedures, which then shows

beneficiaries are not sufficiently informed by the member state they settle in, or their family members simply do not have access to member states' embassies in their country of origin. The application process needs to be initiated by a family member left behind. In most cases this translates to enormous financial burdens for the family, as the application has to be submitted at an embassy. Even if there is an embassy where the family member lives, as one NGO worker in Austria says, it is maybe possible to send all the documents via email but not easy to get appointment for the embassies in Turkey or Lebanon.

- *Relocation to a EU Member State* where family members live. This seems to apply for family reunification of unaccompanied minors who mostly lack sufficient information on the existence of such channels. Apparently, this path became a success for Eritrean unaccompanied minors, as information had spread through their community ties and via word of mouth. Even then, length of procedure (almost 2 years) caused many to drop out.
- *Intra-Dublin transfers* to join a family member resident in another EU Member State is a *lengthy and burdensome* procedure in terms of the certified documents requested to prove family ties. The process is extremely slow in countries like Austria, Belgium, Denmark, Sweden and Germany. This makes it especially problematic for unaccompanied minors who become 18 during the asylum process. In the case of Germany, an additional obstacle mentioned was the limitations of



proving “legal presence” under Dublin III due to the temporary residence permits granted under the German law. Recently there are also cases of delays or rejections of reunification requests in Germany for not providing translations of original files despite the fact that there is no such official requirement according to Dublin procedures.

Several stakeholders from Germany, Italy, Hungary and Greece underline that these obstacles cause lack of trust in this system and push people to look for alternative, irregular and more dangerous ways to reunite with their families.

## **Different definitions of dependency**

Stakeholders stress that in general there is very little attention to and consideration of children's interests and different conceptions of family in the way procedures are set and applied. Family is defined as “core family”, meaning spouses or parents with minor children. In most countries consulted, minor or adult siblings also are not eligible to sponsor a family member even though they might be immediate care givers for each other's families back in their home countries. NGO experts and service providers in all countries mention that de facto dependency is very crucial especially in the case of vulnerable people, people with disabilities, or survivors of war and conflict, as extended family members might become their sole or primary care givers along their migration path.

The Hungarian regulation is on the most restrictive end of the EU definition, and it

was developed with regular migrants in mind, not refugees. Compared to all other countries consulted, Greece is exceptionally inclusive, as unmarried partners, unmarried adult children with serious health problems and parents, who used to live with the beneficiaries in their country of origin and has no other care provider, are defined as “family members” according to Article 13 PD 131/2006 of Greek law. In Germany, special concerns for children under 15 were recently raised at a public hearing in Parliament and discussions continue to provide a certain number of special visas to be allocated exclusively to them. The best interest of the child and protection of people in need are also primary considerations in the family reunification decisions of the Dutch authorities. Similarly, in Germany, exception is possible for vulnerable people, in which case other family members may be able to reunite with these family members. However, as a member of a German NGO working in the social field says;

*“We have rules for emergency, but if the obstacle is the embassy it is often hard to prove the situation of the emergency.”*

## **Long-term impacts of family reunification on migration and integration**

There is a general agreement on the benefits of unity of family and support network for successful integration. Only some government representatives from Hungary argued that family reunification and the burden of dependent family members would impede integration process and family ties may even contribute to more segregation. Otherwise several



stakeholders deliberately underlined that family reunification is not only a human right but also part of EU law with reference to the recent ECJ judgements under [Article 20 TFEU](#).

It is also widely acknowledged that being separated from family members may cause severe problems especially for unaccompanied minors and people with trauma and other health related problems. Long waiting periods to be reunited with family members in other member states only exacerbate problems related to participating social life and integration in both temporary and permanent countries of settlement. Examples are given in Greek context where unaccompanied minors get angry and aggressive, refuse to participate in activities or go to school because they fear losing their right to family reunification by engaging with the local context. In such sensitive cases, as underlined by an NGO worker in Austria, tailored solutions, uninterrupted and coordinated support for applicants are important. It is also underlined that making reunification process smoother and faster is quite crucial from the perspective of integration into the country of settlement. As in the words NGO worker from Italy, "by facilitating family reunification, we facilitate integration, especially for vulnerable people that need a person that helps them every day at home."

Some stakeholders also underline that family reunification process is a constantly changing process. Therefore, it is hard to predict its effects in practice. The most clear example is Germany's upcoming 1000 applicant ceiling for subsidiary protection holders. Seeing current delays or rejections of reunification requests under

the Dublin for not providing translations of original files despite the fact that they are not officially required by Dublin, many stakeholders active in the field are not very hopeful for the new procedures added into the bureaucracy. Sometimes delays might even be caused by NGO's lack of available budget to cover the travel costs for children to reunite with their families. Therefore agents active in different moments of the process also need constant support for family reunification process to go smoothly.

## **Conclusions and policy observations**

National stakeholder consultations reveal that different states of the asylum process must be analyzed in relation to different stages of asylum application and types of protection. For example limited opportunities exist for beneficiaries of subsidiary protection compared to refugees as they must wait 3 years from the day they receive their status to be able to apply for family reunification. Unlike other EU countries, Germany will allow application of subsidiary protection holders from August 1<sup>st</sup> 2018 onwards with a ceiling of 1000 people per month. On the one hand, stakeholders in Germany are concerned because bureaucratic capacities are not set in place to process all those upcoming applications. On the other hand, as in the words of one NGO worker:

*"If we are talking about human rights, fundamental rights, like the right to live together with at least the core family, you cannot just reduce it to 1000 people a month."*



Regarding the dynamics within the EU, next to the [Reunification Directive](#), member states' positions are certainly shaped by trends in neighboring countries. For example, in the Netherlands, the total number of asylum applications remained the same in 2017, despite the drop in the number of first asylum applications by 50%. However Dutch stakeholders underline that what is happening in neighbouring countries like Germany, Belgium or Sweden is closely followed in the Netherlands because changes in their legislation may lead to further increase in the number of application in the Netherlands which is already ranking high.

Several key observations can be drawn from the feedback provided by stakeholders that are relevant for future policies:

- Lack of a truly common European asylum system generates problems for the technical management of procedures as simple as getting accepted the same official document in two different member states.
- Adding further quotas into the system may cause more harm than help. As underlined by German stakeholders, it not only creates more bureaucracy and in return justifies lack of bureaucratic capacity for proper implementation but also puts the burden of proof on subsidiary protection holders who most often has limited access to

official documents to prove familial ties.

- More value should be given to the 'only family member', in Caritas's terms, referring to family member that is the only one survived as it might often be the case for refugees who have dismembered, mutilated families.
- Especially in the case of unaccompanied minors and vulnerable people, the best interest of vulnerable migrants (minors, victim of torture, and mentally ill) should be taken in due account to overcome bureaucratic obstacles in the procedures. As said by an Italian NGO worker, "There are invisible barriers, invisible wounds. Long procedures can accentuate psychological vulnerabilities, they demand a lot of material and mental resources". Further delays in the process family reunification has longer term costs for integration in general and for the interests of children and the vulnerable persons in particular.
- Finally, from country representatives of IOM to local NGOs, different stakeholders agree that family reunification may reduce irregular migration as most often people take dangerous routes in order to unite with their family members.



## Appendix I: Consulted stakeholders

Country	City	Institution
Austria	Wien	Asylkoordination österreich
Austria	Wien	Austrian Red Cross
Austria	Wien	Flüchtlinge Willkommen
Austria	Wien	IOM Austria/EMN
Austria	Wien	IOM Austria/EMN
Austria	Wien	Jesuit Refugee Service
Austria	Wien	University of Wien
Austria	Wien	University of Wien
Austria	Graz	Refugee Law Clinics of University of Graz
Germany	Hannover	Lower Saxony Refugee Council
Germany	Berlin	Office of a member of Parliament
Germany	Berlin	Jesuit Refugee Service Germany (JRS)
Germany	Berlin	German Diakonie
Germany	Kiel	Medibüro
Germany	Gütersloh	Bertelsmann Stiftung
Germany	Berlin	University of Berlin
Greece	Athens	Solidarity Now
Greece	Athens	Norwegian Refugee Council
Greece	Athens	Ministry of Migration Policy
Greece	Athens	Danish Refugee Council
Greece	Athens, Thessaloni- niki	Diotima Centre for Research on Women Issues
Greece	Athens	Babel Day Centre for Migrants' Mental Health
Greece	Thessaloniki	Association for the Social Support of Youth (ARSIS)
Greece	Athens	Greek Council for Refugees
Hungary	Budapest	IOM Hungary
Hungary	Budapest	National Police Headquarters
Hungary	Budapest	Menedék Association
Hungary	Budapest	Menedék Association
Hungary	Budapest	Prime Minister's Office
Hungary	Budapest	Hungarian Helsinki Committee
Hungary	Budapest	UNHCR Regional Representation
Hungary	Budapest	Metropolitan Municipality of Budapest
Hungary	Budapest	Central Statistical Office
Italy	Rome	Civico Zero
Italy	Rome	IOM Italy
Italy	Rome	Caritas
Italy	Palermo	Centro Astalli
Italy	Bergamo	CESVI
Italy	Rome	"Victims of Torture Programs"- Médecins Sans Frontières
Italy	Milan	NAGA
Italy	Udine	SIMM
Italy	Rome	UNAR and Università la Sapienza
Netherlands	Amsterdam	Ministry of Justice
Netherlands	Amsterdam	Stichtinglos
Netherlands	Rotterdam	Municipality
Netherlands	Rotterdam	NGO
Netherlands	Utrecht	Municipality
Netherlands	Utrecht	Municipality
Netherlands	Amsterdam	NGO



### ReSOMA - Research Social Platform on Migration and Asylum

is a project funded under the Horizon 2020 Programme that aims at creating a platform for regular collaboration and exchange between Europe's well-developed networks of migration researchers, stakeholders and practitioners to foster evidence-based policymaking. Being a Coordination and Support Action (CSA), ReSOMA is meant to communicate directly with policy makers by providing ready-to-use evidence on policy, policy perceptions and policy options on migration, asylum and integration gathered among researchers, stakeholders and practitioners.

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