



POLICY OPTION  
BRIEF

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# Hardship of family reunion for beneficiaries of international protection

ASYLUM



**ReSOMA** identifies the most pressing topics and needs relating to the migration, asylum and integration debate. Building on the identification of pivotal issues and controversies in the ReSOMA Discussion Briefs, **ReSOMA Policy Option Briefs** provide an overview of available evidence and new analysis of policy alternatives. They take stock of existing literature of policy solutions on asylum, migration and integration, highlight the alternatives that can fill key policy gaps and map their support among various stakeholders. They have been written under the supervision of Sergio Carrera (CEPS/EUI) and Thomas Huddleston (MPG).

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

## 1. INTRODUCTION

Researchers and stakeholders have identified several controversies and barriers that undermine the right to family life and the principle of family unity of beneficiaries of international protection. As a consequence, different policy options and recommendations have been proposed to fill the key gaps at EU and national level and improve the quality of the responses to the evolving policy agenda. This policy brief will map the most important policy options proposed by academics (Groenendijk; Costello; Storgaard; Czech; Rohan and Klaassen) and relevant stakeholders such as UNHCR, UNICEF, ECRE, Red Cross and COFACE.

In November 2011, the European Commission published the Green Paper on the right to family reunification of third-country nationals living in the EU under Directive 2003/86. As a follow-up, the Commission promoted a public consultation which involved all stakeholders including intergovernmental and nongovernmental organisations, academia, social partners, civil society organisations and individuals (European Commission, 2012).

Several organisations (Caritas Europe, Christian Group, Council of Europe Committee on Migration, COFACE, ECRE, ENAR, EWL, ILGA-Europe, Red Cross EU of-

fice, Save the Children) emphasise the importance of providing “guidance on the Directive, for better enforcement of existing provisions, including infringement procedures” (European Commission, 2012).

UNHCR welcomes the adoption of more favourable rules for refugees in the Family Reunification Directive, but also recognises that many legal and procedural obstacles are contributing to separate refugees and beneficiaries of subsidiary protection from their closest family members in the Member States (UNHCR, 2012). According to the UNHCR, the Directive enshrines adequate provisions to ensure family reunification, but the Member States often fail to implement them in compliance with EU law.

UNICEF instead underlines that the main legal instrument at EU level, the Family Reunification Directive 2003/86, is not a “straightforward document” as it includes exceptions to the general rule and gives Member States a considerable level of discretion (UNICEF, 2016). UNICEF recommends revising the Directive and further harmonising the right to family reunification by adopting clear rules and reducing the wide margin of discretion of the Member States.

## 2. IDENTIFYING AND MAPPING KEY POLICY OPTIONS

### 2.1 Differential treatment between refugees and beneficiaries of subsidiary protection

As beneficiaries of subsidiary protection do not expressly fall under the protection of the Directive, several Member States exclude them from the scope of legislation on family reunification or apply stricter rules compared to refugees. UNHCR therefore recommends that all Member States provide beneficiaries of subsidiary protection access to family reunification under the same favourable rules as those applied to refugees (UNHCR, 2012). The humanitarian needs of beneficiaries of subsidiary protection are very similar to those of refugees and the differential treatment between the two categories should not be allowed under national law.

Most of the organisations (Care for Europe, Caritas Europe, Christian Group, COMECE, Council of Europe, ENAR, International Commission of Jurists, ILGA-Europe, IOM, TDHIF) participating in the public consultation promoted by the Commission in 2012 state that beneficiaries of subsidiary protection should expressly fall under the scope of the Directive and be subject to the same provisions as refugees (European Commission, 2012).

Moreover, ECRE and Red Cross jointly recommend Member States to not discriminate on the basis of different protection statuses when ensuring the right to family reunification (ECRE & Red Cross, 2014).

UNICEF proposes to expand family reunification rights for persons under subsidiary protection. Humanitarian and protection needs are similar for refugee children and

for children granted subsidiary protection. Thus, children with subsidiary status and refugee children should benefit on equal grounds from favourable entitlements to family reunification. In fact, all children should grow up in a family environment and be entitled to family reunification, when in their best interests (UNICEF, 2016).

Scholars also point out that beneficiaries of subsidiary protection should enjoy the same favourable conditions granted to refugees because of the similar push factors at the basis of their decision to leave their country of origin (Storgaard, 2016; Czech, 2016; Rohan, 2014). In this regard, according to the European Court of Human Rights, the difference in treatment needs to be reasonably justified, otherwise there would be a violation of Article 14 of the ECHR which prohibits discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. The Court's approach has recently shifted from a wide recognition for national prerogatives to a strong focus on the human rights of migrants (D'Odorico, 2018). Researchers propose to promote further EU harmonisation by requiring Member States to provide objective and reasonable justifications in case of different treatments (Storgaard, 2016; Czech, 2016; Rohan, 2014).

### 2.2 Proving impossibility and hardship for non "refugees"

UNHCR recognises that where legislation does not provide for "a broad, flexible family definition, the practice of numerous States that permits family reunification on humanitarian and compassionate

grounds or grounds of undue hardship could usefully be replicated in other States and, where this possibility exists, it could be used more regularly” (Nicholson, 2017). UNHCR emphasises that this practice has not a systematic application, but it is often discretionary and exceptional. However, it represents a fundamental tool to both protect very vulnerable individuals and enable States to comply with their international human rights obligations to respect the right to family life and family unity and the best interests of the child (Nicholson, 2017).

For instance, in Finland, persons with subsidiary, humanitarian or temporary protection must meet sufficient resources requirements when seeking to reunite with their family members. However, exceptions are allowed in exceptional cases, where there is a “pressing need or if the best interest of the child requires it”. Similarly, in Germany, beyond the core family, the law enshrines a provision granting wide margin of discretion to the authorities that permits the entry and stay of other categories of family members in order to avoid undue hardship. This clause applies in cases of dependency resulting from disabilities or severe illness, where no other person can sufficiently support the individual and further assistance can only be provided in Germany (UNHCR, 2017).

In March 2017, UNHCR observed that in practice almost no use had been made of this prerogative in Germany. It therefore recommended that the “use of this provision be routinely considered for subsidiary protection beneficiaries who would otherwise be excluded from family reunification and that the conditions for the grant of residence permits on humanitarian (hardship) grounds should be published”.

Another key policy option proposed by UNHCR to ensure that vulnerable family

members and hardship cases have safe access to family reunion is the establishment of “programmes akin to the humanitarian admission programmes developed as part of the response to the Syrian crisis” (Nicholson, 2017). These programmes should involve vulnerable categories of refugees with urgent needs, such as medical needs, to secure them a residence permit on either permanent or temporary basis. Another example could be the adoption of “private sponsorship programmes” to enable vulnerable beneficiaries of international protection to safely move to Europe with the support of private citizens, NGOs, or faith-based groups.

### **2.3 Restricted timeframes for lodging an application**

UNHCR outlines that the adoption of restrictive timeframes to apply for family reunification is a significant obstacle for beneficiaries of international protection. They may not be aware of the precise location of their family members and may have serious difficulties in collecting all the documentation required to lodge an application (UNHCR, 2012). As a result, UNHCR encourages Member States not to apply time limits to the use of the more favourable conditions granted to beneficiaries of international protection.

ECRE and Red Cross also propose to abolish short time limits for family reunification applications, unless they are adapted to permit a first provisional application to be made by the refugee in the country of asylum, allowing documentation and details to be submitted later (ECRE & Red Cross, 2014).

Researchers also acknowledge that sufficient time should be allowed to beneficiaries of international protection to ap-

ply for family reunification (Groenendijk, Costello & Storgaard, 2017; Nicholson F., 2018).

## 2.4 Concept of family member

UNHCR recommends Member States to implement 'liberal criteria in identifying family members' in order to include a broader category of family members under the scope of family reunification when dependency is shown between such family members (UNHCR, 2012). It is also proposed to adopt clear guidelines which define the meaning of 'dependency' in relation to a sponsor for the purpose of family reunification. UNCHR also supports the Commission's assessment of Article 9(2) of the Directive which does not take sufficiently into account the particularities of the situation of refugees by allowing Member States to limit family reunification to those family relationships formed only before their entry in the EU. UNHCR therefore put forward the policy option to grant beneficiaries of international protection the same treatment as other legally residing third-country nationals, where the family is formed after the entry into a Member State.

Several organisations (CIEMI, Caritas Europe, Council of Europe Committee on Migration, ENAR, ETUC, International Commission of Jurists, Save the Children, TDHIF) call for a broader interpretation of the concept of family member that complies with human rights law's requirements (European Commission, 2012). COFACE also emphasises that the Family Reunification Directive should reduce the discretion given to Member States with regard to the reunification of family members who are not part of the nuclear family (COFACE, 2017).

A similar position is supported by ECRE and Red Cross, which underline that Member States should systematically recognise the family reunification rights of dependent family members who are not covered by the concept of nuclear family. Furthermore, the meaning of dependency should not be merely assessed on the basis of financial and physical aspects, but should also include legal, emotional, social and security factors (ECRE & Red Cross, 2014). This policy option is widely supported by academics who recommend adopting an extensive definition of family member eligible for family reunification (Groenendijk, Costello & Storgaard, 2017; Nicholson, 2018).

## 2.5 Children and unaccompanied minors

In order to improve the situation of children and unaccompanied minor, UNICEF identifies the best interests of the child as a priority of the family reunification procedure. In particular, it is proposed that procedures starting before the age of majority should not be interrupted or modified for the sole reason that the child has turned 18 (UNICEF, 2016). This policy option may be highly effective to overcome the obstacles stemming from the legal requirement according to which a minor must be under 18 when the decision on the asylum application is made. The UNICEF's proposal has been recently implemented by the CJEU in the case of *A and S v Staatssecretaris van Veiligheid en Justitie*.

To the same extent, researchers suggest the policy option according to which a child must be regarded as such as long as the application for family reunification is submitted before he or she turns 18 (Groenendijk, Costello & Storgaard, 2017).

However, despite the CJEU ruling, in Germany a Foreign Ministry spokesperson declared that the Government would not implement this policy option (DRK-Suchdien, 2018). This practice may negatively affect a significant part of those 9,805 unaccompanied minors who applied for asylum in Germany in 2017 according to Eurostat data (Eurostat, 2018).

## 2.6 Lack of family tracing procedures and impossibility to access embassies

UNHCR encourages 'Member States to use the possibility for consular representation offered by EU legislation for the issuance of visas for the purpose of family reunification where there is no embassy of the country of asylum in the family member's country of residence' (UNHCR, 2012).

Researchers also suggest to 'enable family reunification applications to be presented in the country of asylum, avoiding the need for families to make dangerous and costly journeys to embassies' (Groenendijk, Costello & Storgaard, 2017). Measures should be implemented to ensure that embassies are in practice accessible, as for instance by enabling online applications and appointments. Moreover, it is pointed out that, if there is no embassy in the country of asylum, another Member State should be allowed to manage the issuance of visas.

A **good practice** has been found in Sweden where an application for family reunification can be submitted online directly by the sponsor. This option may benefit applicants who are unable to submit their applications themselves (European Migration Network, 2016). In addition, online applications reduce the need and costs to travel to a Swedish embassy in order to

submit the application and improve the transparency of the entire process.

## 2.7 Burdensome and costly procedures

Researchers emphasise that Member States should not reject an application for family reunification for the sole reason that documentary evidence is lacking or not considered sufficiently reliable (Groenendijk, Costello & Storgaard, 2017). Information on the procedure and the documentation requirement should be available in different languages, posted on the public websites of embassies and made accessible in refugee camps. Moreover, to overcome the challenges families face in reunification procedures, a policy option would be to consider 'issuing one-way laissez-passer documents to family members who cannot obtain national travel documents and accepting the Convention Travel Document (CTD) or travel documents of the International Committee of the Red Cross (ICRC).

With regard to the excessive costs of visa applications and embassy fees which may prevent family reunification, UNHCR calls on Member States to reduce or waive administrative and visa fees for beneficiaries of international protection. It is proposed that the European Commission and Member States could provide for financial support schemes in the next Migration and Asylum Fund under the Multi-annual Financial Framework for the family reunification of beneficiaries of international protection who lack enough resources to handle costly procedures (UNHCR, 2012).

To the same extent, to reduce practical barriers to family reunification, ECRE and Red Cross suggest making information on

procedures and documentary requirements easy to access, by providing them in various languages and via relevant actors who support refugees in regions of origin. They also propose to reduce or waive administrative and visa fees and

financially support those refugees who do not have sufficient economic resources to cover the costs of family reunification procedures (Red Cross & ECRE, 2014).

### 3. MAPPING THE PATTERNS OF DEBATE ON SOLUTIONS

#### 3.1 The Commission's Interpretative Guidelines

Among the research community and civil society actors there is wide consensus on the importance of providing more harmonised and favourable conditions for both refugees and beneficiaries of subsidiary protection when applying to family reunification in Europe. In particular, Member States should:

1. avoid discrimination between refugees and beneficiaries of subsidiary protection;
2. foster those legal practices allowing family reunification on grounds of undue hardship;
3. allow sufficient time for beneficiaries of international protection to apply for family reunification;
4. enlarge the definition of family members eligible for reunification and include family members who are dependent on the sponsor and the so-called post-flight families;
5. pay particular attention to children's needs;
6. enable family reunification applications to be presented in the country of asylum;
7. ensure flexible and prompt family reunification procedures for beneficiaries of international protection and reduce or waive the documentation requirement.

Most of these policy options have been supported by the **Commission** which released Interpretative Guidelines in 2014 for a better enforcement of the Family Reunification Directive at national level.

The Guidelines are not legally binding but aim to promote a uniform application and interpretation of the Directive's provisions. The Commission has decided to not reopen the legislative debate concerning the Family Reunification Directive. This topic is not a top priority in the current EU policy agenda and there have not been any legislative developments since 2003 when the Family Directive was formally adopted. **The Commission shows the political willingness to address the topic by means of soft law instruments rather than legislative measures** (Conte C., 2018).

The Commission endorsed the first policy options advanced by researchers and stakeholders by clarifying that the Family Reunification Directive should not be interpreted as obliging Member States to deny beneficiaries of temporary or subsidiary protection the right to family reunification. The Commission agrees that the **humanitarian protection needs of persons benefiting from subsidiary protection do not differ from those of refugees** and encourages Member States to adopt rules that grant similar rights to refugees and beneficiaries of temporary or subsidiary protection (European Commission, 2014).

As regards legal practices which allow family reunification on grounds of **undue hardship**, the Commission also noted that certain specific issues or personal circumstances must be taken into account when Member States apply integration measures. Specific individual circumstances include "cognitive abilities, the vulnerable position of the person in question, special cases of inaccessibility of teaching or testing facilities, or other situations of exceptional hardship". In particular, the lower level of literacy of women

and girls who do not have access to education in certain countries should be considered when assessing integration requirements.

The Commission acknowledges that beneficiaries of international protection encounter **several barriers in applying for family reunification within the 3 months' time limit**. Therefore, the Commission points out that the removal of this time limitation is the most appropriate solution, otherwise Member States should consider those objective obstacles the applicant faces when assessing an individual application.

In addition, the Commission actively supported the recommendations to **enlarge the definition of family members** and **prioritise the needs of minors** in the EU legislative process. As part of the Common European Asylum System (CEAS) reform, the Commission presented on 13 July 2016 the Proposal for a Regulation on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection. The new Proposal positively clarifies that the notion of family member should consider the different particular circumstances of dependency and those families formed outside the country of origin, but before their arrival on the territory of the Member States (Groenendijk, Costello & Storgaard, 2017). It also specifies that special attention should be paid to the best interests of the child. According to the Proposal, the concept of family member "should also reflect the reality of current migratory trends, according to which applicants often arrive to the territory of the Member States after a prolonged period of time in transit. The notion should therefore include families formed outside the country of origin, but

before their arrival on the territory of the Member State". The extended family definition in the Commission's proposal is however relevant in the context of maintaining family unity, on the basis of which family members who do not qualify themselves as refugees are entitled to claim a residence permit and are entitled to the same rights granted to the refugee family member. The Commission's proposal nor the recast Directive deals with the right to family reunification, which remains the subject of the Family Reunification Directive. Currently, the proposal on the reform of the Qualification Directive is still under negotiations between the Council and the European Parliament (Conte C., 2018).

The Commission also agrees that **documentation requirements** can be very challenging for refugees and their family members and may constitute a burdensome obstacle to family reunification. It therefore considers that MSs should facilitate the obtaining of travel documents and long-stay visas. To do so, MSs are encouraged to recognise and accept ICRC emergency travel documents and Convention Travel Documents, issue one-way laissez-passer documents, and offer family members the possibility of being issued a visa upon arrival in the MS (European Commission, 2014). Furthermore, the Commission recognises that family reunification procedures must be finalised within a reasonable time. In the Interpretative Guidelines, it is pointed out that, "if the workload exceptionally exceeds administrative capacity or if the application needs further examination, the maximum time limit of nine months may be justified" (European Commission, 2014).

## 4. MAPPING THE EVIDENCE BROUGHT

### 4.1 Evidences for a better implementation of the right to family reunion

Researchers (Storgaard, 2016) examined the legislative trends in the area of family reunification in some Member States (Norway, Denmark, Germany, Sweden and Austria).

It was found that Member States restrict access of third-country nationals to their territory in order to better control and manage large influxes of migrants. To do so, significant barriers have been put in place to hamper the possibility to enjoy family reunification rights by beneficiaries of subsidiary protection. Member States justify their national policy because of the goals to avoid the breakdown of reception facilities and the decline of the integration process. This set of measures is considered effective by national governments to prevent negative attitudes against migrants. National authorities also underline that the decision to limit family reunification rights depends on the fact that the presence of migrants within the Member States' territory is merely temporary.

By contrast, researchers underline that family reunion is a fundamental right of all beneficiaries of international protection which should not be used by Member States as a tool to stem migrations flows (Groenendijk, Costello, Storgaard, 2017; Nicholson, 2018).

International human right standards and EU law provisions require that individuals seeking international protection can reunify with their families in an effective way within a reasonable time. Member States must lift the existing obstacles and treat equally all individuals seeking interna-

tional protection. Despite the efforts at EU level towards harmonising family rights for all beneficiaries of international protection, there is still room for manoeuvre for Member States to limit these rights, in particular for beneficiaries of subsidiary protection. Family reunification is instead an essential tool to protect the right of beneficiaries of international protection to family life and encourage their integration in the Member States (UNHCR, 2018). Studies show that family reunification is a crucial element to promote economic and social cohesion in the Member States (Beaton, Musgrave & Liebl, 2018). Moreover, effective family reunification procedures will have the positive impact of saving migrants' life by means of safe and legal routes to Europe. As a result of restrictive or dysfunctional family reunification procedures, third country nationals entitled to family reunification under EU law are currently resorting to irregular and dangerous routes into the EU to be reunited with their family members.

#### 4.1.1 The European Court of Human Rights

To uphold the policy options reported in this paper, scholars analysed key judgments of the European Court of Human Rights (ECtHR) concerning **Articles 8 and 14 of the Convention**, which developed a **balancing test** aiming to counterbalance the right of the State to control the entry, residence and expulsion of migrants with the individual rights to be reunited with their family (Czech, 2016; Storgaard, 2016). The ECtHR case-law shows that, under Article 8 of the Convention, Contracting States have the duty to facilitate reunification when family members are left behind on the basis of those circumstances motivating the recognition of the subsidiary protection status to the sponsor

and where there is no alternative place for the family to reunite (Storgaard, 2016). In an important case, *Kimfe v. Switzerland*, the ECtHR emphasised the relevance of the “insurmountable obstacles” criterion in the proportionality assessment to accept or reject an application for family reunification. In *Kimfe*, the Court found that the “Government’s legitimate interest in immigration control was outweighed by the applicant’s interest in pursuing a family life” (Storgaard, 2016). The lack of any possibility for the family to reunite outside the Contracting State represents a crucial element in the proportionality assessment under Article 8 and the same decisive weight must be attributed to the “insurmountable obstacles” criterion in cases involving sponsors who are still at risk of ill treatment in their country of origin. In another case, *Tuquabo-Tekle v. The Netherland*, the Court similarly concluded that applications for family reunion needs to be carried out by taking into account the likelihood of risks for family members to be left behind.

The policy option to ensure flexible and prompt family reunification procedures and reduce or waive the documentation requirement finds also support in the ECtHR case-law. In the cases of *Mugenzi v. France* and *Tanda-Muzinga v. France*, the Court found that delays from authorities in assessing the family reunification applications is a violation of Art. 8 of the Convention (five years for Mr Mugenzi and three and a half years for Mr Tanda-Muzinga). In both cases, the ECtHR held that the refusal of French visa authorities to consider the certification of family composition released by the French asylum authorities was obstructing the right to family unit of beneficiaries of international protection (ECRE, 2014).

#### 4.1.2 The European Court of Justice

Scholars also welcome the recent developments before the European Court of Justice in the case of *K & B v Staatsecretaris van Veiligheid en Justitie*. The Court found that **Article 12(1) of Directive 2003/86** does not preclude national legislation which permits an application for family reunification on the basis of more favourable provisions to be rejected because it was lodged more than three months after the sponsor was granted refugee status, while affording the possibility of lodging a fresh application under a different set of national rules (Klaassen, 2018). The CJEU clarified that such different set of rules lay down the following: i) such a ground of refusal cannot apply to situations in which particular circumstances render the late submission of the initial application “objectively excusable”; ii) the persons concerned are to be fully informed of the consequences of the decision rejecting their initial application and of the measures which they can take to assert their rights to family reunification effectively; iii) the sponsors recognised as refugees must continue to benefit from the more favourable conditions for the exercise of the right to family reunification applicable to refugees, specified in Articles 10 and 11 or in Article 12(2) of the directive.

This judgment shows that even when applications are made outside the three-month period, **the effectiveness of the right to family reunification should not be jeopardised by the application of the requirements under Article 7(1) Directive** (M. Klaassen, 2018). This means that Member States can impose the conditions of Article 7(1), but cannot require family members to comply with integration measures from Article 7(2) Directive in case an application is lodged after the three months.

# Annex

## Overview of policy options

### 1. Discrimination between refugees and beneficiaries of subsidiary protection

**What is proposed** Beneficiaries of subsidiary protection should enjoy the same favourable conditions granted to refugees because of the similar push factors at the basis of their decision to leave their country of origin.

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**Who is proposing it**

proposed among stakeholders ECRE, Red Cross, UNICEF, UNHCR, Care for Europe, Caritas Europe, Christian Group, COMECE, Council of Europe, ENAR, International Commission of Jurists, ILGA-Europe, IOM, TDHIF.

debated in the research community Storgaard, 2016; Czech, 2016; Rohan, 2014.

**What evidence** is provided to argue that the proposal is effective? Several Member States apply restrictive requirements for the family reunification of beneficiaries of subsidiary protection without taking into account individual circumstances and the conditions of vulnerable categories such as disabled and elderly people. According to the European Court of Human Rights, the difference in treatment need to be reasonably justified otherwise there is a violation of Article 14 of the Convention. The Court's approach has recently shifted from a wide recognition for national prerogatives to a stronger human rights-based approach. ECHR developed a balancing test aimed to counterbalance the right to State to manage flows with the individual rights to be reunited with their family (Art.8).

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**Where** does the proposal find support? European Commission

### 2. Family reunification on grounds of undue hardship

**What is proposed** Foster legal practices allowing family reunification on grounds of undue hardship.

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**Who is proposing it**

proposed among stakeholders UNHCR

debated in the research community

**What evidence** is provided to argue that the proposal is effective? In March 2017, UNHCR observed that in practice almost no use had been made of this prerogative in Germany. It therefore recommended that the "use of this provision be routinely considered for subsidiary protection beneficiaries who would otherwise be excluded from family reunification and that the conditions for the grant of residence permits on humanitarian

(hardship) grounds should be published”.

**Where** does the proposal find support?

### 3. Timeframe for beneficiaries of international protection to apply for family reunification

**What is proposed** Allow sufficient time for beneficiaries of international protection to apply for family reunification.

**Who is proposing it**

proposed among UNHCR, Red Cross and ECRE stakeholders

debated in the research community Groenendijk, Costello, Storgaard, 2017; Nicholson, 2018.

**What evidence** is provided to argue that the proposal is effective? Several countries impose a ‘three-month time’ limit to apply for family reunification under more favourable conditions, otherwise additional stringent requirements have to be met by the sponsor. In practice, this deadline jeopardises family reunification because of the impossibility for beneficiaries of international protection to collect the necessary documents and timely attend appointments at the relevant embassies. Beneficiaries of international protection may not be aware of the precise location of their family members and may have serious difficulties in collecting all the documentation required to lodge an application.

**Where** does the proposal find support? European Commission

### 4. The definition of family members

**What is proposed** Enlarge the definition of family members eligible for reunification and include family members who are dependent on the sponsor and the so-called post-flight families.

**Who is proposing it**

proposed among Danish Refugee Council, UNHCR, Red Cross, ECRE, COFACE, CIEMI, Caritas Europe, Council of Europe Committee on Migration, ENAR, ETUC, International Commission of Jurists, Save the Children, TDHIF.

debated in the research community Groenendijk, Costello, Storgaard, 2017; Nicholson, 2018.

**What evidence** is provided to argue that the proposal is effective? Article 9(2) of the Directive does not take sufficiently into account the particularities of the situation of refugees by allowing Member States to limit family reunification to those family relationships formed only before their entry in the EU. Moreover, the nuclear concept of family in practice excludes from family reunification several categories of individuals such as parents of adults, adult children, same sex partners and non-married partners who have not been able to live in a stable

relationship with the sponsor.

**Where** does the European Commission proposal find support?

## 5. Children and unaccompanied minors

**What is proposed** Pay particular attention to children's needs by recognising as 'minors' those third-country nationals or stateless persons who are below the age of 18 at the time of their entry into the territory of a Member State.

### Who is proposing it

proposed among UNICEF stakeholders

debated in the Groenendijk, Costello, Storgaard, 2017; Nicholson, 2018. research community

**What evidence** is provided to argue that the proposal is effective? The legal requirement according to which a minor must be under 18 when the decision on the asylum application is made represents a serious hardship for family reunification. This condition implies that, when a minor reaches the age of 18 in the course of the asylum procedure, the Member State is not obliged to authorise the entry and residence for the purposes of family reunification of his/her first-degree relatives. The practice to postpone the decision of an asylum application is implemented by national authorities to impede the right of family reunification of young refugees.

**Where** does the European Commission proposal find support?

## 6. Family reunification application

**What is proposed** Enable family reunification applications to be presented in the country of asylum.

### Who is proposing it

proposed among UNHCR stakeholders

debated in the Groenendijk C.A., Costello C., Storgaard H. L.; Nicholson F. research community

**What evidence** is provided to argue that the proposal is effective? Several EU countries have closed their diplomatic offices in Syria and other countries of conflicts. This context forces individuals to apply for visa and undertake long and expensive journey in order to reach the country where the closest embassy is available. Measures should be implemented to ensure that embassies are in practice accessible, as for instance by enabling online applications and appointments. Moreover, it is pointed out that, if there is no embassy in the country of asylum, another Member State should be allowed to manage the issuance of visas.

**Where** does the proposal find support?

## 7. Family reunification procedures

**What is proposed** Ensure flexible and prompt family reunification procedures for beneficiaries of international protection and reduce or waive the documentation requirement.

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### Who is proposing it

proposed among UNHCR, ECRE and Red Cross stakeholders

debated in the Groenendijk C.A., Costello C., Storgaard H. L.; Nicholson F. research community

**What evidence** is provided to argue that the proposal is effective? The procedure to apply for family reunification is characterised by burdensome and costly requirements. Beneficiaries of international protection are required to submit official documents to apply for a residence permit and prove family links such as passport, birth and marriage certificates. However, the submission of these documents is in practice highly difficult as beneficiaries of international protection must approach the embassy of their country of origin to obtain the relevant documentation. This practice may increase the risk for them and family members of being persecuted in the country of origin. Furthermore, noncompliance with evidential and bureaucratic requirements may result in critical delays of the entire reunification procedure as cases are reviewed on a case-by-case basis. Beneficiaries of international protection often lack adequate access to detailed and precise information in a language that they can understand. Official authorities do not systematically provide sufficient information regarding requirements and deadlines to access family reunification and enjoy more favourable conditions.

**Where** does the proposal find support? European Commission

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# ReSOMA

RESEARCH SOCIAL  
PLATFORM ON MIGRATION  
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## 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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