

# Right to family reunification

1999/0258(CNS) - 29/03/2019 - Follow-up document

This Commission presents its report on the implementation of Directive 2003/86/EC setting out common rules on the exercise of the right to family reunification by third-country nationals residing lawfully in Member States.

As a reminder, on 22 September 2003, the Council adopted Directive 2003/86/EC on the right to family reunification which applies to all Member States except Denmark, Ireland, and the UK.

In accordance with the Directive, it does not regulate the situation of third-country nationals who are family members of an EU citizen. For the past 30 years, family reunification has been one of the main reasons of immigration to the EU. In 2017, 472 994 were admitted to the EU-25 on grounds of family reunification, amounting to 28% of all first permits issued to third-country nationals in the EU-25.

This report in particular gives an overview of the current situation on the implementation of the Directive by Member States, focusing on the key issues that have emerged from the Commission's own compliance analysis, complaints received and relevant judgements of the CJEU.

In this respect, it is worth stressing that the Commission has received numerous complaints related to the family reunification of third-country nationals.

## *Issues of concern*

The main issues raised concern the refusal to issue visas or permits, proof of identity or family ties as ground for rejection, long processing times by administrations, disproportionate charges for issuing permits, the notion of stable and regular resources, access to employment for family members, incorrectly applied waiting periods, and the proportionality of pre-integration conditions.

It is stressed that three major problems are faced by applicants:

- 1) the obligation to appear in person at a diplomatic mission to submit their application; this obligation creates a practical problem in particular for applicants to smaller Member States that do not necessarily have a diplomatic representation in every country;
- 2) the often very long processing time of an application;
- 3) the lack of documents necessary to process the application, especially the proof of identity and family ties. From the perspective of national authorities, the study reported as a major challenge the detection of forced or sham marriages or registered partnerships and false declarations of parenthood<sup>12</sup>, which requires thorough investigations and in turn may affect the processing time of applications.

## *Conclusions*

The report stated that since 2008, the implementation state of play of the family reunification Directive has improved, due to the infringement proceedings launched by the Commission as well as to the numerous judgments of the Court of Justice of the European Union.

Member States have been investing major efforts to improve and adapt their national legislations so that they fulfil the requirements of the Directive.

The Commission Communication from 2014, which served as a guidance for the application of the Directive highlighted persistent issues in national legislations, in particular a few problematic cross-cutting issues that had clearly emerged, such as integration measures, stable and regular resources, the need to take into account effectively the best interest of the child and the more favourable provisions for the family reunification of refugees. Four years later, these core issues remain a challenge for some Member States, which should continue to seek effective application of the Directive, by paying specific attention to the paramount importance of the fundamental right of respect for family life, the rights of the child and the right to an effective remedy.

As the guardian of the EU Treaties, the Commission has been regularly monitoring the legal and practical implementation of the Directive by Member States, particularly on the issues highlighted in this report.

As family reunification remains a major challenge for the EU in the frame of migration policy, the Commission will continue to closely monitor national legislations and administrative practices and may consider appropriate action – in line with its powers under the EU Treaties – including opening infringement procedures, where necessary.