

Right to family reunification

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The Council defined a general approach on the Directive on the right to family reunification, which will become the first legal instrument adopted by the Community in the area of legal immigration. The purpose of the Directive is to determine the conditions under which family members of a third-country national, who resides lawfully in the territory of a Member State and has reasonable prospects of obtaining the right of permanent residence, can enter into and reside in that Member State in order to preserve the family unit, whether the family relationship arose before or after the resident's entry. According to the text agreed, the Member States shall authorise the entry and residence of the following family members: - the sponsor's spouse; - the minor children of the sponsor and of his/her spouse, including children adopted in accordance with a decision taken by the competent authority in the Member State concerned or a decision which is automatically enforceable due to international obligations of that Member State or must be recognised in accordance with international obligations; - the minor children including adopted children of the sponsor where the sponsor has custody and the children are dependent on him or her. Member States may authorise the reunification of children of whom custody is shared, provided the other party sharing custody has given his or her agreement. - the minor children including adopted children of the spouse where the spouse has custody and the children are dependent on him or her. Member States may authorise the reunification of children of whom custody is shared, provided the other party sharing custody has given his or her agreement. The minor children referred to in this Article must be below the age of majority set by the law of the Member State concerned and must not be married. By way of derogation, where a child is aged over 12 years and arrives independently from the rest of his/her family, the Member State may, before authorising entry and residence under this Directive, verify whether he or she meets a condition for integration provided for by its existing legislation on the date of implementation of this Directive. The Member States may, by law or regulation, authorise the entry and residence of the following family members: - first-degree relatives in the direct ascending line of the sponsor or his or her spouse, where they are dependent on them and do not enjoy proper family support in the country of origin; - the adult unmarried children of the sponsor or his or her spouse, where they are objectively unable to provide for their own needs on account of their state of health. The Member States may, by law or regulation, authorise the entry and residence of the unmarried partner, being a third-country national, with whom the sponsor is in a duly attested stable long-term relationship, or of a third-country national who is bound to the sponsor by a registered partnership, and the unmarried minor children, including adopted children, as well as the adult unmarried children who are objectively unable to provide for their own needs on account of their state of health, of such persons. Member States may decide that registered partners are treated equally as spouses with respect to family reunification. In the event of a polygamous marriage, where the sponsor already has a spouse living with him in the territory of a Member State, the Member State concerned shall not authorise the family reunification of a further spouse. Member States may limit the family reunification of minor children of a further spouse and the sponsor. In order to ensure better integration and to prevent involuntary marriages, Member States may require the sponsor and his/her spouse to be of a minimum age, and at maximum the age of 21, before the spouse is able to join him/her. By way of derogation, Member States may request that the applications concerning family reunification of minor children have to be submitted the age of 15, as provided for by its existent legislation on the date of implementation of this Directive. If the application is submitted after the age of 15, the Member States which decide to apply this derogation shall authorise the entry and residence of such children on grounds other than family reunification. It is recalled that the first proposal was presented by the Commission in January 2000. A second amended proposal was submitted by the Commission in May 2002. The European Council of Seville invited the Council to adopt this Directive by June 2003.