



Ad-Hoc Query on family reunification of refugees

Requested by EST EMN NCP on 14 November 2008

Responses from Belgium, Bulgaria, Czech Republic, Germany, Estonia, Spain, Italy, Latvia, Lithuania, Hungary, Malta, Netherlands, Austria, Portugal, Slovenia, Finland, Sweden, United Kingdom (18 in Total)

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1. Background Information

Questions concerning family reunification of beneficiaries of international protection (in the framework of family reunification directive 2003/86/EC):

1. Is the family reunification of refugees part of International protection system or regular resident permits system (i.e will the reunified family members receive refugee status or residence permit to settle with a close relative)?
2. How does the application procedure look like? Who submits the application: the refugee who has been granted protection and resides in the Member State or the family member who is in the country of origin/third country? Or both?
 - 2.a) If the application has to be submitted by the family member residing in the country of origin/third country, how is the submitting process organized? Does the family member have to submit the application at representation of the Member State?
3. Does the Member State help with practical arrangements regarding reunification (transportation etc)?

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4. Do you use the three months clause (art 12(1) of Directive 2003/86/EC)?
5. Is the family reunification system of refugees extended also to the beneficiaries of subsidiary protection?

2. Responses

		Wider Dissemination? 1	
	Belgium	yes	<p>1. The family reunification of refugees is part of the regular resident permits system. However this does not exclude the fact that in some cases a person that comes to join his/her family can still apply for asylum in Belgium. So it can happen that this person also receives the status of refugee or becomes a beneficiary of subsidiary protection. This is done because the asylum procedure sometimes provides a faster track to obtain a residence permit.</p> <p>2. -2.a) The family members (spouse, cohabitant partner and/or children under the age of 18) need to address the diplomatic post in the country of residence to apply for a visa for family reunification. The family member will have to provide the necessary documents. It will be the Immigration Department in Belgium that examines this application. At the latest 9 months (maximum 15 months in complex cases) after filing the application the Immigration Department will take a decision.</p> <p>3. No help is provided from the government side. However some social services and also the Red Cross (Tracing Service) can facilitate the travel of the family members</p> <p>4. No</p> <p>5. In a way yes. The <u>refugees</u> receive upon their recognition a residence permit for unlimited duration. In case of family reunification the family members will receive a residence permit of limited duration (trial period of 3 years). After this period they can receive a residence permit of unlimited duration. The <u>beneficiaries of subsidiary protection</u> only receive a residence permit for one year (renewable), after 5 years this will be replaced by a residence permit of unlimited duration. In case of family reunification the family members will receive a residence permit of the same duration as the beneficiary. Once the beneficiary has reached the 5 years, his family members will first have the trial period of 3 years and</p>

¹ A clear "YES", your response may be circulated further (i.e. to national network members) or "NO" should be added here. In case of "NO", then the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However they have requested that it is not disseminated further."

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			<p>afterwards the can receive the residence permit for unlimited duration. Beneficiaries of subsidiary protection have sometimes stricter criteria, as they always need to provide proof of sufficient housing and health insurance (this is not always the case for refugees).</p>
	<p>Bulgaria</p>		<p>The Law on Asylum and Refugees introduces the provisions of Chapter Five of Directive 2003/86/EC of the Council on the right to family reunification. Questions concerning family reunification of beneficiaries of international protection (in the framework of family reunification directive 2003/86/EC):</p> <p>1.The spouse of a foreigner who has been granted refugee status and their children who are minors or under-age and are not married, insofar as this is compatible with their personal status, or where no circumstances under Article 12, paragraph (1)² have been established, are considered refugees.</p> <p>Where a foreigner who has been granted refugee status marries another foreigner, he/she may obtain refugee status only on the basis of his/her own merits.</p> <p>Humanitarian status is granted also to the spouse of a foreigner who has been granted humanitarian status and to their children who are minors or not of legal age and are not married, insofar as this is compatible with their personal situation, or where no circumstances under Article 12, paragraph (2)³ have been established.</p>

² **Article 12. (Former provision set out in Article 12, amended, SG No. 52 of 2007)** Refugee status shall not be granted with respect to an alien:

1. for whom there are serious grounds to assume that he/she has committed an offence defined as a war crime or crime against peace and humanity under Bulgarian legislation and under the international treaties to which the Republic of Bulgaria is a signatory;
2. for whom there are serious grounds to assume that he/she has committed a serious non-political crime outside the territory of the Republic of Bulgaria;
3. for whom there are serious grounds to suspect that he/she may be committing, or inciting towards, acts contrary to the goals and principles of the United Nations Organisation;
4. (Amended, SG No. 52 of 2007) who benefits from the protection or assistance provided by bodies or organisations of the United Nations other than the United Nations High Commissioner for Refugees and such protection or assistance has not been suspended and his/her status has not been established under a relevant resolution of the United Nations Organisation;
5. (Amended, SG No. 52 of 2007) with respect to whom the competent authorities of his/her state of permanent residence have recognised the rights and obligations attaching to citizenship of that state.

³ **Art. 12 (2) (New, SG No. 52 of 2007)** Humanitarian status shall not be granted to any alien for whom there are serious grounds to suspect that he/she may have committed any of the offences referred to in paragraph (1), paragraphs (1) and 3, or a serious public crime, and where he/she has committed, outside the territory of the Republic of Bulgaria, a crime for which Bulgarian law envisages the punishment of deprivation of liberty, and he/she left his/her country of origin solely with the purpose of absconding from criminal prosecution, unless such prosecution endangers his/her life or is inhuman or degrading

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			<p>Where a foreigner who has been granted humanitarian status marries another foreigner, he/she may obtain humanitarian status only on the merits of his/her own case.</p> <p>2. The foreigner with granted refugee status or humanitarian status has the right to ask for family reunification in the territory of the Republic of Bulgaria. The Chairperson of the State Agency for Refugees grants permissions for family reunification.</p> <p>2.a) Family members are issued visas by the Bulgarian diplomatic or consular missions after that the permission of the Chairperson of the State Agency for Refugees has been granted.</p> <p>3.The State Agency for Refugees facilitates the reunification of separated families by assisting foreigners with the issuance of travel documents, visas and in obtaining access to the territory of the country.</p> <p>Where the location of the family members is unknown, the State Agency for Refugees, in cooperation with the United Nations High Commissioner for Refugees, the Bulgarian Red Cross and other organisations, undertakes search actions to locate them.</p> <p>4. No.</p> <p>5. Yes, it is.</p>
	Czech Republic	no	This EMN NCP has provided a response to the requesting EMN NCP. However they have requested that it is not disseminated further.
	Denmark		
	Germany	yes	<p>1) Spouses and minor children of a foreigner who was granted refugee status within the meaning of the provisions for international protection of refugees, can also be granted this protection and the ensuing entitlement to residence, if the conditions regarding family ties are fulfilled. If this is not the case, there is the possibility of subsequent immigration of dependents pursuant to the general residence legislation.</p> <p>2) Spouses must apply themselves for the determination of refugee status and/or for subsequent immigration as dependent. Minor children having reached the age of 16 are also allowed to lodge these applications themselves. For younger children, only the parents can lodge the respective application.</p> <p>2a) The application for determination of refugee status must be lodged in the territory of the Federal Republic of Germany. From the country of origin, only subsequent immigration of dependents is possible. For this, a visa for the explicit reason of family reunification must be obtained from the respective German representation.</p> <p>3) no</p>

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			<p>4) yes</p> <p>5) Spouses and minor children of a foreigner who was granted subsidiary protection cannot be granted this status for themselves due to family ties. They are only allowed immigration for reasons of family reunification pursuant to the general residence legislation. Here, the conditions are more restrictive than in the case of subsequent immigration for dependents of a foreigner with refugee status within the meaning of the provisions for international protection for refugees.</p>
	Estonia	Yes	Estonia doesn't have any practise in family reunification of refugees.
	Ireland		
	Greece		
	Spain		In Spain the family reunification is granted to -family members of recognized refugees , not asylum seekers. Only in the case of family members who fear persecution and flee with the asylum seeker, or that staying in the country of origin can allege funded fear of persecution, they can ask for family reunification.
	France		
	Italy	YES	<ol style="list-style-type: none"> 1. Foreigners, who have been granted refugee status, claiming family reunification have access to normal legislative procedures regarding residence permits. Nevertheless they benefit of a more favorable procedures in comparison to economic immigrants. They are not obliged to demonstrate the availability of suitable housing and minimum income equal to or more of a social security if the family nucleus to reunify is made up of several people. 2. Reunification application is made in Italy by foreigner which were granted refugee status or protection 3. They are not foreseen. 4. There are no limitations, as instead provided in 12(1) of Directive 2003/86/EC 5.No, for the foreigner who was granted the subsidiary protection (under Article 23 c.4 of Legislative Decree 251/07) is required to prove ownership of housing and an adequate income to maintain the beneficiary.
	Cyprus		
	Latvia	Yes	1. Family reunification of refugees is the part of regular resident permits system. The reunified family members receive permanent residence permit to settle with a close relative.

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		<p>2. According to the Republic of Latvia Cabinet Regulation No.652 adopted 30 August 2005 “Procedures by which Refugee Family Reunification, as well as Family Reunification of Such Person who has been Granted Alternative Status is Performed in the Republic of Latvia” the application regarding family reunification has to submit the refugee who has been granted protection to the Refugee Affairs Department of the Office of Citizenship and Migration Affairs. Information regarding the spouse, minor unmarried children (also adopted children), as well as adult disabled dependent children (also adopted children) shall be indicated in the submission. The spouse and adult children of the refugee also may submit an application to the diplomatic or consular representation of the Republic of Latvia regarding family reunification.</p> <p>After that the refugee who has been granted protection draw up an invitation for receipt of a residence permit wherein all family members who wish to reunite with the family shall be indicated.</p> <p><u>In addition to the application, a refugee shall submit to the Refugee Affairs Department:</u></p> <ul style="list-style-type: none">- a copy of his or her personal identification document (refugee travel document), presenting the original;- a copy of his or her marriage certificate or another document certifying the fact of marriage in the relevant state;- copies of valid travel documents recognized in the Republic of Latvia of the spouse and children; and- copies of the birth certificates of the children. <p><u>Family members of a refugee shall submit to the diplomatic or consular representation of the Republic of Latvia:</u></p> <ul style="list-style-type: none">- a questionnaire for requesting a residence permit specified by regulatory enactments;- a copy of a valid travel document recognized in the Republic of Latvia, presenting the original;- a copy of the marriage certificate, presenting the original;- copies of birth certificates of the children, presenting the originals; and- two photographs of each family member. <p>The diplomatic or consular representation of the Republic of Latvia shall forward the received documents to the Refugee Affairs Department of the Office of Citizenship and Migration Affairs.</p> <p>The Refugee Affairs Department shall examine documents, compare such documents with the information at the disposal thereof and, if necessary, request additional information from State and local government institutions of Latvia, foreign states or the person who submitted the documents.</p> <p>The Refugee Affairs Department shall take a decision regarding the issuance of a residence permit for family reunification or a refusal to issue such permit within a period of three months after the receipt of all documents and forward the decision to the diplomatic or consular representation of the Republic of Latvia, as well as inform the refugee or the person who has been granted alternative status regarding the decision taken.</p> <p>The diplomatic or consular representation of the Republic of Latvia shall inform the family members of a refugee or the person who has been granted alternative status regarding the decision of the Refugee Affairs Department.</p> <p>The diplomatic or consular representation of the Republic of Latvia on the basis of a decision of the Refugee Affairs Department regarding the issuance of a residence permit to the family members of a refugee shall issue a single long-stay visa to such family members with the validity period of up to 30 days.</p>
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			<p>The Refugee Affairs Department shall issue the relevant persons upon their arrival in the Republic of Latvia a permanent residence permit that shall be registered in accordance with the procedures specified for the refugee.</p> <p>3. Member State does not help with practical arrangement regarding reunification.</p> <p>4. Until now Latvia didn't use three month clause according to art 12(1) of Directive 2003/86/EC.</p> <p>5. The Family reunification system of refugees extended also to the beneficiaries of subsidiary protection, but this right has person who has been granted alternative status and who after the granting of such status has resided in the Republic of Latvia for at least two years.</p>
	Lithuania	yes	<p>1. An alien granted refugee status by the decision of the Migration Department of the Republic of Lithuania and family members who arrived together are recognized as refugees in the Republic of Lithuania. Family members who arrived separately can be granted refugee status only after individual examination of their applications in line with the international standards. A temporary residence permit may be issued to an alien in the event of family reunification if the alien's family member has been granted refugee status and has been issued a permanent residence permit.</p> <p>2. The application procedure is the same as the family reunification procedure for regular aliens. The application is submitted by the family member, unless the refugee is a tutor or a legal representative of his or her family member.</p> <p>2.a) The submitting process is regular: the family member submits the application and other documents at the diplomatic representation of Lithuania.</p> <p>3.No.</p> <p>4. No.</p> <p>5. No.</p>
	Luxembourg		
	Hungary	Yes	<p>1. In Hungary the family reunification of refugees is part of the international protection system. According to the Act LXXX of 2007 on Asylum : "In order to preserve family unity, subject to the exception set out in Subsection (1) of Section 8 (exclusion clauses), the family members of an alien who has been granted refugee status shall also be granted refugee status upon request."</p> <p>2. The family member who is in the country of origin/third country has to submit an application for a long-term visa or a residence permit on the grounds of family reunification, so the family member starts the process.</p> <p>2.a) Yes, the family member has to submit the application at the nearest representation of Hungary to his/her place of residence.</p>

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			<p>3. No, such practical arrangements are not provided by the Hungarian authorities. According to the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals the family members of the refugee are eligible to apply for a long-term visa or a residence permit on the grounds of family reunification on preferential terms: “A decision rejecting an application for family reunification with a person with refugee status may not be based solely on the fact that documentary evidence of the family relationship is lacking.”</p> <p>The executive governmental degree 114 of 2007 of this Act stipulates: “In the course of family reunification with a refugee the family relationship may be certified in any credible way.” “The third country national family member of a refugee has to provide evidence that he/she meets the entry conditions of</p> <ul style="list-style-type: none"> 1) having accommodations or a place of residence in the territory of the Republic of Hungary; f) having sufficient means of subsistence and financial resources to cover their accommodation costs for the duration of the intended stay and for the return to their country of origin or transit to a third country; g) having full healthcare insurance or sufficient financial resources for healthcare services; <p>only if the application for family reunification is not submitted within a period of 6 months after the granting of refugee status.”</p> <p>4. Yes, but we use in a more favorable way with a period of 6 months. (See above under question 3.)</p> <p>5. According to the Act LXXX of 2007 on Asylum: “In order to preserve family unity, subject to the exception set out in Section 15 (exclusion clauses), the family members of an alien who has been granted subsidiary protection status shall also be granted subsidiary protection status upon request <u>if</u>:</p> <ul style="list-style-type: none"> a) they file a <u>joint application</u> for subsidiary protection, or b) the family member has submitted an application for subsidiary protection upon the consent of the beneficiary of subsidiary protection, <u>before the resolution</u> for granting subsidiary protection status is adopted. <p>If the family member of the beneficiary of subsidiary protection resides in the country of origin/third country he/she has to submit an application for a long-term visa or a residence permit on the grounds of family reunification at the nearest representation of Hungary to his/her place of residence. As the Act LXXX of 2007 on Asylum stipulates that “the beneficiaries of subsidiary protection - unless expressly provided by an act of parliament of government decree otherwise, and with the exceptions set out in Subsections (2) and (3) - shall have the same rights and obligations as refugees”, the family members of a beneficiary of subsidiary protection may apply for a long-term visa or a residence permit on the grounds of family reunification on the same preferential terms as family members of refugees. (See above under question 3.) Those family members who reunify with the beneficiary of subsidiary protection this way (after the granting of subsidiary protection status) shall not be granted subsidiary protection status automatically. They may submit an application for international protection on their own, or they can live together with their family according to the regular resident permits system.</p>
	<p>Malta</p>	<p align="center">yes</p>	<p>1. Family members who benefit from reunification with a refugee are issued with a residence permit.</p> <p>2. The application for family reunification is submitted by the sponsor residing in Malta, i.e. the refugee.</p>

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			<p>3.The Maltese authorities provide administrative support to facilitate the issuance of the required visas to enable the entry of the recognized family members for reunification with the sponsor.</p> <p>4.Malta may apply the three months clause (art 12(1) of Directive 2003/86/EC).</p> <p>5.The family reunification system for refugees is not extended to beneficiaries of subsidiary protection.</p>
	Netherlands	yes	<p>1. In the Netherlands it is part of both. The members of the family of a person, who has recently been granted international or national protection are allowed to ask for a special kind of family reunion. If they ask for reunion with the new holder of an asylum status in the Netherlands within three months after he has received his permit, it is at that time under international protection. They may ask for a regular visa for a long stay in a Dutch embassy nearest to their residence. After their arrival in the Netherlands with this visa the persons are allowed to apply for asylum. Persons of 15 years and older are personally interviewed about their asylum motives. The persons who are themselves in need of protection, are entitled to asylum on their own title. The others who do not have a claim of their own are granted depended asylum on national grounds for as long as the key person has asylum.</p> <p>If the persons ask for family reunion with the holder of asylum later than three months after he has been granted asylum, the regular procedure will be followed. The visa procedure more or less is the same, but the admittance criteria are different. For example, in this case the holder of asylum has to earn enough and durable income. In the assessment of art. 8 ECHR an exception is made in case the reunion cannot be realized anywhere in the world except in the Netherlands.</p> <p>2. The refugee can start a procedure for advise on the visa. If the advise is positive he can ask his family members to submit an application in a Dutch embassy. It is also possible that the family members immediately take the initiative and start a visa procedure at the embassy without asking for advice at first.</p> <p>2. a) If the application has to be submitted by the family member residing in the country of origin/third country, how is the submitting process organized? Does the family member has to submit the application at representation of the Member State? Yes.</p> <p>3. Does the Member State help with practical arrangements regarding reunification (transportation etc)? No.</p> <p>4. Do you use the three months clause (art 12(1) of Directive 2003/86/EC)? Yes</p> <p>5. Is the family reunification system of refugees extended also to the beneficiaries of subsidiary protection? Yes, and also to complementary national protection.</p>
	Austria	no	This EMN NCP has provided a response to the requesting EMN NCP. However they have requested that it is not disseminated further.
	Poland		
	Portugal	Yes	1. In PT the family members benefit of a residence permit under the Immigration Law.

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			<p>2. The refugee submits the application for reunification in territory.</p> <p>3. No.</p> <p>4. No.</p>
	Romania		
	Slovenia	Yes	<p>1. Family reunification of beneficiaries of international protection in Slovenia is based on Council Directive 2003/86/EC and defined by the International Protection Act. The family reunification of beneficiaries of international protection is a part of international protection system and the reunited family members are granted same status as the beneficiary of the international protection, who submitted the application for family reunification.</p> <p>2. The application for family reunification has to be submitted by the beneficiary of international protection, not the family members.</p> <p>3. Ministry of the Interior as the body, responsible for all matters related to international protection, closely cooperates with UNHCR on practical arrangements regarding the reunification.</p> <p>4. No, we don't use the three months clause.</p> <p>5. Yes, beneficiaries of subsidiary protection have the same rights regarding the family reunification as the refugees.</p>
	Slovak Republic		
	Finland	Yes	<p>1. Family reunification is part of the regular process of applying for residence permit. (In some cases the family member of a refugee can also be granted a refugee status).</p> <p>2. The application can be filed either by the family member residing in Finland, or by the applicant from abroad.</p> <p>2.a) If the applicant himself / herself files the application abroad, it is done at the closest Finnish Embassy.</p> <p>3. Mainly the Finnish Red Cross together with IOM is responsible for the travel arrangements to Finland. The integration measures pertaining to the family members of refugees are taken care of by the municipalities and Employment and Economic development Centres, as the regional services of the Ministry of Employment and the Economy, the Ministry of Agriculture and Forestry and the Ministry of the Interior.</p>
	Sweden	YES	<p>1. The family members of a refugee may be given refugee status as a result of the principle of family unity according to the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status. If refugee status is not given, then RP is granted according to the rules regarding family reunification.</p> <p>2. The application should be handed in by the family member.</p> <p>2a. The family member submits an application for RP at a Swedish embassy/consulate, where an investigation is conducted. The application and other relevant documents are then sent to the Swedish Migration Board. The Migration Board conducts an investigation</p>

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			<p>with the refugee living in Sweden and then decides in the case.</p> <p>3. Family members of a refugee may receive contributions to cover travel expenses in order to reunite with the refugee in Sweden. Certain conditions have to be fulfilled, e.g. the refugee and the family members must lack means of their own to cover the travel expenses.</p> <p>4. Sweden has not put into practice art. 7 of the directive 2003/86/EC. Thus, none of the requirements found in art. 7 has to be fulfilled in order for a family member of a refugee to be granted RP.</p> <p>5. Generally, the regulations concerning RP on grounds of family ties apply in the same way to family members of Swedish citizens, of recognized refugees, of persons otherwise in need of protection and to family members of other immigrants (i.e. third country nationals) residing in Sweden. Family members of persons who are not refugees but otherwise in need of protection thus have a right to reunification.</p>
	<p>United Kingdom</p>	<p align="center">Yes</p>	<p>1. It is the United Kingdom Border Agency’s policy to normally grant a successful family reunion applicant leave and status in line with their UK sponsor. However leave in line with a UK sponsor may not always be appropriate i.e. if the family members hold a different nationality to that of their UK sponsor or where the family member has requested leave in line only.</p> <p>2. Family members living outside the United Kingdom wishing to join a family member in this country under the family reunion Immigration Rules (part 11, paragraphs 352A- 352 FI) should seek the appropriate entry clearance from the British embassy/consul/high commission in their country of residence.</p> <p>2.a) When the applicant applies for family reunion; they should include in their application details of their UK sponsor, including evidence of their sponsors’ current immigration status. The Entry Clearance Officer (ECO) will consider the application according to the relevant Immigration Rules and policy, making checks regarding both the applicant and the sponsor if necessary.</p> <p>On consideration of the application the ECO will refuse the family reunion application if the eligibility criteria are not met e.g. that they are not related as claimed to the sponsor in the UK and there is no evidence of a compassionate and compelling nature to consider. If this happens the applicant will have an out of country right of appeal.</p> <p>If the ECO determines that application falls to be refused, but discloses facts of a compassionate and compelling nature, an entry clearance officer will refer the case to the United Kingdom Border Agency for consideration outside the Immigration Rules.</p> <p>If the eligibility criteria are met, or if the facts are of a sufficiently compassionate and compelling character. The ECO grant family reunion to the applicant and issue the appropriate entry clearance visa conferring them leave in line with their UK sponsor.</p> <p>If the visa is going to be issued and the applicant has their own passport, the visa will be affixed to it and it will be endorsed with leave to enter in line with their sponsor. If the applicant does not possess a passport the ECO will need to seek authority to issue a visa on a one way</p>

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			<p>travel document known as a Uniform Format Form. The endorsements will be the same as if issued on a passport.</p> <p>On arrival in the UK, an Immigration Officer (IO) will examine the application for leave to enter, and if satisfied as to the identity of the FR family member, he/she will land the individual as per their entry clearance visa. The entry clearance visa does not confer status in line, only leave. Once in the UK they can then apply to the United Kingdom Border Agency for status in line with their UK sponsor</p> <p>3. To our knowledge we do not help with any practical arrangements regarding family reunion.</p> <p>4. When Directive 2003/86/EC was put forward by the European Commission, the United Kingdom (UK), on reflection, chose to opt out. This decision was taken as a result of the Directive being incompatible with the UK's border control policies. Although the UK opted out it does generally follow the guidance of the Directive.</p> <p>5. Under part 11 of the Immigration Rules the family members of those granted refugee status or 5 years humanitarian protection are entitled to apply for family reunion.</p> <p>The Family members of sponsors who were granted Discretionary Leave (DL) and Humanitarian Protection ((HP) before 30th August 2005) do not qualify for family reunion under part 11 of the Immigration Rules. When their sponsor has obtained their settled status (indefinite leave to remain (ILR)) they may apply for settlement under part 8 of the Immigration Rules. In all circumstances the sponsor will be expected to satisfy the maintenance and accommodation requirements as set out in the Immigration Rules and pay the appropriate visa settlement fees.</p> <p>As a matter of policy the United Kingdom Border Agency allow these individuals family members to make applications/ requests for family reunion before their sponsors have obtained ILR but they will only be granted family reunion where there are compelling and compassionate circumstances that exist, which warrant consideration of the application outside the Immigration Rules.</p>
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