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# **Key findings of the 2016 EMN Focused Study on *Family Reunification of Third-Country Nationals in the EU plus Norway***

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# Presentation overview

- Objectives and scope of the EMN study
- Scale of family reunification (FR) in EU28 plus Norway
- Key findings of the Study
  - Definition of sponsor and family members
  - Requirements for exercising the right to FR
  - Submission and examination of the application for FR
  - Access to rights following FR
- Some overall conclusions from the Study

# Objectives and scope of the Study

## Objectives of the Study

The study – which follows the provisions of the Family Reunification Directive (2003/86/EC) – aims to examine Member States' (MS') policies and practices on FR regarding:

- Eligibility criteria for sponsors and family members;
- Material requirements for FR, as well as integration measures prior to and after admission;
- Procedural aspects of the application for FR;
- Rights granted to TCNs reuniting with family in the EU.

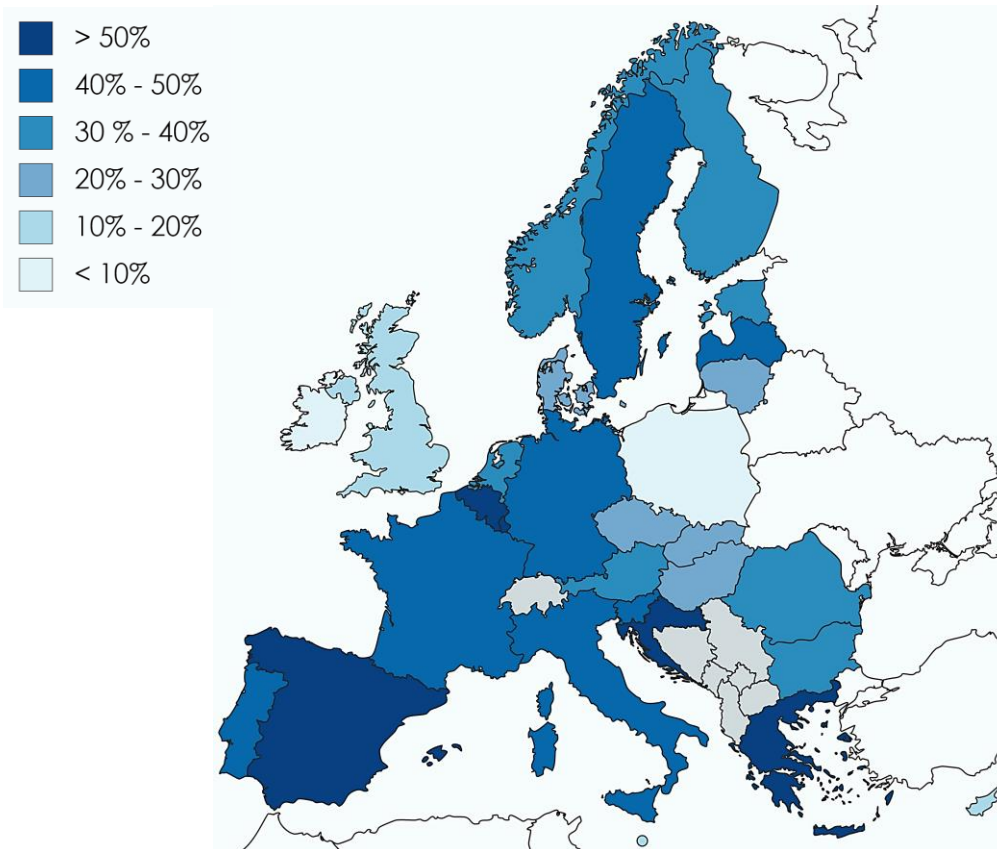
## Scope of the Study

Family members of TCNs residing legally on the territory of the EU and Norway (=sponsors), who come to these (Member) States through the channel of FR together with the sponsor or at a later stage

## Outside the scope of the Study

- EU nationals (mobile or non-mobile)
- Family reunification under the Dublin III Regulation

## First residence permits issued for family reasons in the EU plus Norway

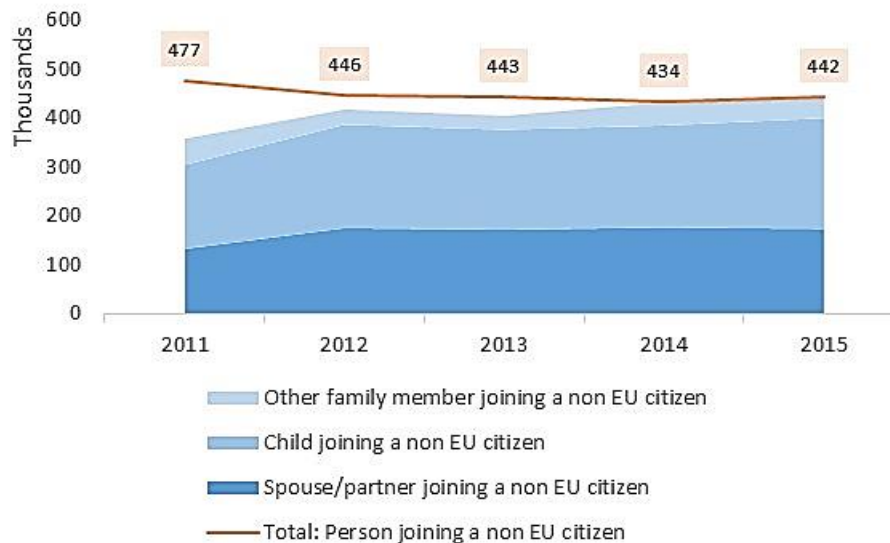


EU average – 30% (2011-2015)

**Top MS** issuing the most first permits for family reasons in the EU plus Norway since 2011: **Germany, Italy, Spain, France, UK, Sweden, Belgium and the Netherlands**

Source: Eurostat (2011-2015)

## Scale of family reunification in the EU plus Norway (cont.)



Since 2011, **more than 400,000 first permits for family reasons** have been issued annually in the EU plus Norway to persons joining legally residing TCNs

**Nearly half** of these first permits have been issued to **children** joining TCNs, followed by spouses or partners

## Recent developments in FR rules in some MS

- Stricter rules on (some aspects of) FR (AT, BE, DE, FI, IE, NL, SE), e.g.:
  - **Belgium** introduced an income requirement (2011); plus a charge for the application; stepped up the fight against marriages of convenience and other abuses of FR; and lengthened the processing time for FR requests from 6 to 9 months
  - In 2016, **Germany** and **Sweden** introduced temporary orders limiting the right to FR for beneficiaries of subsidiary protection until 2018 and 2019 respectively
- Other MS have relaxed some of the conditions for exercising the right to FR (e.g. no waiting period of 2 years in EE), or have introduced measures promoting FR overall (BG, ES, LU, NL)
- Since 2011, 10 MS have introduced (or revised) specific FR rules for refugees and/ or beneficiaries of subsidiary protection (CY, DE, EL, FI, HU, IE, NO, SE, SI, SK), such as possibility for the latter to apply for FR, 3-month grace period, etc.

## Definition of sponsor and family members

- Most MS require **valid continuous or permanent residence permit**, e.g. for work or study purposes, beneficiaries of international protection (including unaccompanied minors (UAMs))
- Most MS extend the right to FR to **beneficiaries of subsidiary protection** (currently not in scope of the Family Reunification Directive) (AT, BE, BG, DE,\* EE, EL, ES, FI, FR, HR, HU, IE, LT, LU, NL, NO, SE,\* SK, UK)
  - FR of beneficiaries of subsidiary protection possible under a parallel scheme (to the Family Reunification Directive) in the Czech Republic, but not allowed in Cyprus, nor Malta
- **UAMs** in all MS but the UK (if they are granted status as refugees or beneficiaries of subsidiary protection)

## Definition of sponsor and family members (cont.)

- MS usually **extend** the scope of family reunification beyond the nuclear family (mother, father, minor children of both parents), but overall enjoy a **large margin of appreciation**
  - Scope of FR generally includes **parents**, though they are excluded in some MS (BE, HU, NL, UK); or allowed under exceptional circumstances (AT, NL)
  - FR with **adult children** allowed if they are dependent on the sponsor due to health or disability (BE, BG, EE, ES, HU, IT, LU, SE, SI, SK); not over a certain age (CZ, IE); or in exceptional circumstances (DE, UK)
  - FR with **same-sex partners** possible in more than half of the MS (AT, BE, CY, CZ, DE, ES, FI, FR,\* HU, IE,\* LU, NL, NO, SE, SI, UK)
  - **Other non-married** partners usually not included in scope of FR; FR possible if they have a registered partnership equivalent to a marriage (BE, ES, IT, LT, LU) or living together in a marriage-like relationship (FI, IE, NO, HR)
  - Other **dependent persons** usually not included in the scope of FR



## Material requirements for exercising the right to FR

- MS generally require TCNs to fulfil all three material requirements – not only sponsors, but also the family as a whole
- Accommodation (AT, BE, BG, CY, CZ, DE,\* EE,\* EL, ES, FR, HU, IT, LT, LU, LV, PL, SE,\* SK,\* UK\*) – not usually required from minor children
- Health insurance (AT, BE, BG, CY, CZ, DE, EE,\* EL, ES, HR, HU, LT, LU,\* LV,\* PL, SI\*)
- Minimum income (AT, BE, BG, CY, CZ, DE, EE,\* EL, FI, FR, HR, HU, IE, LT, LU, LV, NL, NO, PL, SE, SI, SK, UK) – usually equivalent to the basic minimum monthly income or subsistence amount in the MS; size of the family may play a role
  - Reference income threshold major challenge in at least 10 MS
  - Only two MS (CY, HU) have not set a threshold and evaluate this case-by-case
  - Higher threshold in certain MS (BE, MT, PL, SK) (contrary to CJEU judgment in *Chakroun*)

## Integration requirements for exercising the right to FR

- More than half of the MS do not require TCNs to fulfil any specific pre-departure integration measures; this is under investigation/ subject to proposals in some instances (FI, IE, LU, NO)
  - Where such measures are applied: basic language proficiency (AT, DE, NL); civic integration exam (reported only by NL)
  - Costs borne by family members, CJEU judgment in K and A case
- Post-departure integration measures in a small number of MS
  - Further language proficiency or civic integration exam (AT, DE, HU, NL, UK); or other courses as part of integration programmes
  - Costs borne by family members – almost no availability of free-of-charge language training which is central to integration
  - Non-respect can be a ground for withdrawal or (non)-renewal of a residence permit

## Requirements for exercising the right to FR for refugees and/ or beneficiaries of subsidiary protection

- Usually more favourable rules than other sponsors
  - Material requirements do not have to be fulfilled or may be subject to a grace period of minimum 3 months (AT, BE, CZ, DE, EE, FI,\* HU,\* IT, LT, LU, NL, NO, PL, SE, SK); or 6 to 12 months in other cases
  - No waiting period (normally 2-3 years)
  - Applicable to pre-existing family ties in more than half of the MS (AT, BE, CY, CZ, DE, EE, EL, FI, FR,\* HU, IE, IT, NL, NO, SI, SE,\* SK, UK)
- Beneficiaries of subsidiary protection
  - Mostly similar rules as for refugees (AT, BE, BG, DE,\* EE, ES, FR, HU,\* HR, IE, IT, LT, LU, LV, NL, NO, PL, SE,\* UK\*)
  - Only in a minority of cases their FR is subject to a waiting period or a pre-existing family relationship
  - FR of beneficiaries of subsidiary protection not possible in CY, nor MT at present
- UAMs – wider definition of family members (including the legal guardian or another adult responsible for the minor), except for AT

# Submission and examination of the application for FR

## Submission

- Formal party to an application: family member (AT, BE, CZ, DE, FI, HU, IE, IT, LV, SK, UK, NO); sponsor (BG, CY, EL, MT, PL, SI); other MS: either, or
- Family members usually submit applications abroad in diplomatic missions; challenge; possibility to apply online (FI, IE, SE)
- Evidence required: official, valid and original documents and certificates (or copies thereof), e.g. passport, marriage/ birth certificate
  - Lack of documents major challenge across MS: other types of evidence or interviews, DNA testing (last resort), especially for beneficiaries of international protection
- Other challenges: detection of forced/ sham marriages, strict proof requirements in guardianship cases

## Examination

- If not all material requirements met, other elements taken into account (impact of a negative decision; assessment of the best interests of the child – guidelines in FI, NL, NO)
- Processing times of an application vary – 1 ½ months (ES); 2 months (EE,\* HU\*); 3 months (NL,\* SK); 4 months (LT\*); 6 months (AT, FR, IT); 8 months (FR (refugees)); 9 months (BE, CY, CZ, EL, FI, LU, MT, SE)

## Access to rights following family reunification

### Access – in the same way as the sponsor – to:

- Education, vocational guidance and training
  - No targeted measures following family reunification but part of wider integration measures available to citizens or legally residing TCNs (e.g. specific measures for foreign children, language courses)
- Access to labour market
  - Generally unrestricted access to labour market (CZ, DE, EL, EE, ES,\* FI, FR, IT, LT, PL, SE, SI) with certain exceptions in some MS; depends on nature of residence permit, e.g. permanent permit holders usually not required to obtain work permit
- Autonomous right of residence (change of status)
  - Autonomous right of residence following death, divorce, separation, abuse or domestic violence (AT, BE, BG, DE, EE, ES,\* FI, FR, HR, IE, LU, NL, PL); for children (CY,\* DE, LU, NL)
- Access to social allowances generally not available or restricted for families for a number of years following FR
  - Access to family allowances may affect the right to stay, where residence is conditional upon an income requirement

## Some overall conclusions from the Study

- Common framework provided by the Family Reunification Directive's 'shall' clauses vs. MS' discretion arising from the Directive's 'may' clauses – dichotomy means **lots of differences (as well as certain commonalities)** between MS' policies and practices on FR; and **divergences** in the rights and/ or procedures available to sponsors and/ or family members
- Beneficiaries of international protection appear to have generally continued to benefit from **more favourable FR rules**
- Overall, **beneficiaries of subsidiary protection** appear to benefit from a similar level of legally-ensured protection as **refugees** – though exceptions apply, hence further **need to strengthen protection**
- Similarities in rights available to refugees and beneficiaries of subsidiary protection in different MS may **discourage migration status 'shopping'**

## Some overall conclusions from the Study (cont.)

- Some important aspects of protecting the right to FR, but also safeguarding certain groups of migrants are **not 'universally'** available in the EU at present, notably:
  - UAMs cannot be sponsors of FR, nor do they benefit from a wider definition of the family in all MS (AT, UK)
  - Beneficiaries of subsidiary protection are not covered by the scope of FR in some MS (CY, MT) or are currently subject to temporary bans (DE, SE)
  - Benefits for families following reunification do not appear to be commonly available in the EU

## Further information

*The Study also identifies interesting **new practices and measures** developed since 2011 to promote the right to FR (e.g. FI, FR, NL, NO); discusses relevant national and international **case law** throughout; gathers available **data** on FR from both EU and MS-level sources – see below:*

- Synthesis Report for the EMN study: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_family\\_reunification\\_synthesis\\_report\\_final\\_en\\_print\\_ready\\_0.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_family_reunification_synthesis_report_final_en_print_ready_0.pdf)
- National Reports for the EMN study: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/reports\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/reports_en) (as well as Annex 6 of the Synthesis Report)
- Study specifications: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_study\\_specifications\\_family\\_reunification\\_2016.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_study_specifications_family_reunification_2016.pdf)
- EMN Inform for the Study: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_inform\\_family\\_reunification\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_inform_family_reunification_en.pdf)



# Thank you!

## *Any questions?*

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