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

Samantha Arnold
EMN, Irish National Contact Point
Presentation overview

- Rationale, objectives and scope of the EMN study
- Scale of family reunification in EU28 plus Norway
- Key findings of the Study
  - Definition of sponsor and family members
  - Requirements for exercising the right to family reunification
  - Submission and examination of the application for family reunification
  - Access to rights following family reunification
- Overall conclusions
Objectives and scope of the Study

Objectives of the Study
The study aims to examine (Member) States’ policies and practices on family reunification with regard to:

- Eligibility criteria for both sponsors and family members;
- Requirements for family reunification, as well as integration measures prior to and after admission;
- Procedural aspects of the application for family reunification;
- Rights granted to TCNs reuniting with family in the EU;
- Policies regarding non-renewal or withdrawal of the residence permits of family members.

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 family reunification together with the sponsor or at a later stage;
- The Study follows the provisions contained within the Family Reunification Directive (2003/86/EC) which predominantly regulates family reunification in the EU

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 is 30% (2011-2015)

Top eight MS issuing the most first permits for family reasons in EU plus Norway (2015): Germany, Italy, Spain, France, UK, Sweden, Belgium and the Netherlands

More than 400,000 first permits for family reasons have been issued in the EU plus Norway to persons joining TCNs annually since 2011.

Nearly half of these first permits have been issued to children joining TCNs, followed by spouses or partners.
Recent developments in family reunification rules in the EU plus Norway

- Stricter rules on some aspects of family reunification (AT, BE, DE, FI, IE, NL, SE), for example:
  - Belgium has introduced an income requirement and a charge for the application; stepped up the fight against marriages of convenience and other abuses; and lengthening the processing time for family reunification requests from 6 to 9 months
  - Germany and Sweden have introduced temporary orders in 2016 limiting the right to family reunification for beneficiaries of subsidiary protection

- Other (Member) States appear to have eased the conditions for exercising the right to family reunification (EE) and/ or introduced measures supporting family reunification overall (BG, ES, LU, NL)

- Introduction/ Revision of specific family reunification rules for refugees and/ or beneficiaries of subsidiary protection (CY, DE, EL, FI, HU, IE, NO, SE, SI, SK) (e.g. possibility for the latter to apply for family reunification, 3-month grace period, etc.)
Key findings: Definition of sponsor

- Most MS require valid continuous or permanent residence permit, e.g. for work or study purposes, beneficiaries of international protection (including UAMs)

- Most MS extend the right to FR to beneficiaries of subsidiary protection (who are not within the scope of the Family Reunification Directive):
  - AT, BE, BG, DE (temporary suspension until 2018), EE, EL, ES, FI, FR, HR, HU, IE, LT, LU, NL, NO, SE (temporary suspension until 2019), SK, UK)
  - FR of beneficiaries of subsidiary protection possible under a parallel scheme (to the Family Reunification Directive) in CZ but not allowed in CY, nor MT

- UAMs in all MS (if they are granted refugee or beneficiary of subsidiary protection status), except for the UK
Key findings: Definition of family members

- (Member) States usually extend the scope of family reunification beyond the nuclear/core members of the family
  - Parents are excluded in some MS (BE, HU, NL, UK)
  - Adult children
    - Family reunification is allowed in cases where 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 exceptional circumstances (DE, UK)
- Same-sex partners
  - Family reunification is possible in most 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
  - Family reunification 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 scope of FR
Key findings: Material requirements for exercising the right to family reunification

- Adequate accommodation (AT, BE, BG, CY, CZ, DE,* EE,* EL, ES, FR, HU, IT, LT, LU, LV, PL, SE,* SK,* UK*)

- 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)
  - Reference income threshold major challenge
  - CJEU judgment in Chakroun
  - Higher threshold in certain MS (BE, MT, PL, SK)
Key findings: Integration requirements for exercising the right to family reunification

- Most MS do not require TCNs to fulfil any specific pre-departure integration measures; under investigation/subject to proposals (FI, IE, LU, NO)
  - Basic language proficiency (AT, DE, NL); costs borne by family members
  - CJEU judgment in K and A case

- Post-departure integration measures in some MS
  - Further language proficiency; costs borne by family members
  - Can be a ground for withdrawal or (non)-renewal of a residence permit
Key findings: Requirements for exercising the right to family reunification for refugees and beneficiaries of subsidiary protection

- Usually more favourable rules
  - 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)
  - 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*)
  - Family reunification not possible in few MS (CY, MT)

- UAMs
  - Wider definition of family members, including the legal guardian or another adult responsible for the minor
Key findings: Access to rights following family reunification

- **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 the labour market (CZ, DE, EL, EE, ES,* FI, FR, IT, LT, PL, SE, SI) with certain exceptions in some MS

- **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)
  - Autonomous right of residence for children (CY,* DE, LU, NL)

- **Access to social allowances**
  - Generally yes, but depends on the type of social benefits (for e.g. family allowances)
  - Access to public funds may affect the right to stay
Overall conclusions of the Study

- Family reunification remains **one of the most important channels of legal migration**, accounting for **nearly one third** of all arrivals of TCNs in the EU at present.

- Common framework (mainly provided by the Family Reunification Directive and its ‘shall’ clauses) vs. (Member) States’ discretion (due to the Directive’s ‘may’ clauses), resulting in **both commonalities and differences** between (Member) States’ policies and practices on FR.

- **Divergences** in the rights and/or procedures available to sponsors and/or family members (including for refugees and/or beneficiaries of subsidiary protection and their family members).

- **Beneficiaries of subsidiary protection** overall appear to benefit from a similar level of legally-ensured protection as refugees (exceptions apply); and together with refugees, these groups have, on the whole, continued to benefit from **more favourable family reunification rules**.
Overall conclusions of the Study (cont.)

- Important aspects of protecting the right to family reunification, but also safeguarding certain groups of migrants are *not ‘universally’* available in the EU
  - UAMs cannot be sponsors of FR, nor benefit from a wider definition of the family in all (Member) States
  - Beneficiaries of subsidiary protection are not covered by the scope of FR in some instances
  - Benefits for families following reunification do not appear to be commonly available

- Finally, the Study also:
  - Identifies interesting **new practices and measures** developed in recent years to promote the right to FR (e.g. FI, FR, NL, NO)
  - Discusses relevant **national and international case law** throughout
  - Gathers statistics on FR from both EU and MS-level sources, but **lack of comprehensive and comparable data on the nature of family reunification** showing key characteristics of the sponsor and his/ her family members
Further information

- 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)


- 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

samantha.arnold@esri.ie