



## **Discussion paper**

### **Informal Justice and Home Affairs Ministers' Meeting**

Copenhagen

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#### **Family reunification in light of the Commission Green Paper**

The right to family reunification is a matter of considerable importance in, especially, the Member States with a significant migrant population, and it is often an issue which receives political attention and, at times, generates heated debates.

Family reunification constitutes a large share of the legal migration to the EU. Thus, according to statistics, 2010 saw almost 10 times as many family-related first permits for third country nationals joining non-EU citizens as persons granted international protection in first instance in 2010<sup>1</sup>. Therefore, this type of migration plays a big role in the Member States' migration management, and at the same time a smooth and quick administration is of great importance for the applicants and their families living in the EU.

By issuing the Green Paper on the right to family reunification of third-country nationals living in the European Union (COM (2011)735) in November 2011 the Commission has created a framework for a broad debate regarding the Family Reunification Directive (2003/86/EF) with a view to clarifying whether some form of follow-up to the Directive, e.g. a revision hereof, might be timely.

The Commission has focused the discussion on areas of the Directive, which is subject to inconsistency or differences throughout the Member States due, to some extent, to the

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<sup>1</sup> According to the annex to the Commission Green Paper on the right to family reunification of third-country nationals living in the European Union (COM(2011)735) 508.325 family related first permits for third country nationals joining a non-EU citizen were granted in 2010, while - according to from Commission Communication "Annual Report on Asylum and Migration 2010" (COM(2011)291) – 55.095 people were granted protection status.

relatively wide discretion, which some of the provisions of the Directive leaves the Member States.

Thus, the Green Paper raises questions on *inter alia* the relevance of an age limit, the scope of family members covered, the use of integration measures as part of the family reunification process, formalities and procedural issues and the experiences in combating fraud and abuse.

Focusing on integration measures is also a continuation of the ambitions set out in the Stockholm Programme from 2009, where the Council invited the Commission to submit a proposal for evaluation and, where necessary, review of the Directive, taking in to account the importance of integration measures.

Notwithstanding the fact that based on the outcome of the consultation process initiated by the Green Paper, the Commission will assess whether there is a need to revise the Directive. Therefore, it might prove useful to have an informal political discussion on this matter already before the Green Paper deadline.

It should be noted that the Netherlands hosted a Consultation Meeting in December 2011 where there was an initial discussion on experiences with the Directive. At this meeting some Member States highlighted certain parts of the Directive, where changes or elaborations could be relevant, including the right for Member States to introduce integration measures and the combating of forced or fraudulent marriages. Reference is made to the document on the outcome of the conference sent out by the Netherlands following the conference.

Whereas the Green Paper raises the issue of whether clear evidence of problems with fraud, forced marriages and marriage of convenience exist, many Member States have made the point that absence of data does not automatically equal absence of the problem. And that, especially with regard to forced marriages, a single case is considered one case too many due to the severe personal costs for the people involved. Furthermore, even one case with a tragic outcome, such as honour-related punishment, can lead to large political challenges in the individual Member States.

At the same time, however, some Member States have indicated that they have no problem with the Directive as it is.

This will partly be a result of the fact that the situation regarding family reunification varies significantly between the Member States *inter alia* in terms of the quantity and the origin of the migrants who seek family reunification. These differences lead to a

diversity of problems and different approaches by the Member States to solving their problems which in turn has different needs to the Directive.

Finally, it should be recalled that the Directive does not cover all aspects of family reunification as it only applies to family members of third country nationals residing in a Member State. Many of the problems faced in connection to family reunification, especially concerning combating fraud and abuse, should be seen in a broader context including *inter alia* the Free Movement Directive (2004/38/EC), which also applies to family members from third countries to EU nationals.

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Ministers are invited to respond to the following questions:

- 1. What are Member States' experiences with the Family Reunification Directive and which two elements of the Directive would you consider most challenging?**
- 2. In light of the highlighting in the Stockholm Programme of integration measures, what are Member States' experiences and views on the possibility to introduce integration measures under the Directive?**
- 3. Does the Directive provide adequate options for combating forced and fraudulent marriages? And do Member States consider it a prerequisite that clear evidence of abuse is present in order to justify provisions on combating misuse of the access to family reunification, including forced and fraudulent marriages?**

## 1. ANNEX

### Statistics (from the annex to the Green Paper)

**Total number of residence permits issued to third country nationals joining non-EU citizens (family reasons, compared to total number of residence permits issued to third country nationals (all reasons))**

COUNTRY/YEAR	Family related first permits for TCNs joining non-EU citizens			Total first residence permits issued to TCNs, all reasons			Share of permits issued to TCNs joining non-EU citizens to total first permits issued to TCNs		
	2008	2009	2010	2008	2009	2010	2008	2009	2010
Belgium	7,333	8,596	9,997	46,201	58,939	67,653	15.9	14.6	14.8
Bulgaria	1,480	1,482	1,725	3,933	4,385	4,051	37.6	33.8	42.6
Czech Republic	9,712	8,281	13,398	61,350	27,539	34,653	15.8	30.1	38.7
Denmark	:	1,410	1,490	31,655	30,255	28,576	:	4.7	5.2
Germany	29,215	29,761	28,200	114,289	121,954	117,202	25.6	24.4	24.1
Estonia	:	:	:	3,884	3,777	2,647	:	:	:
Ireland	456	568	300	28,926	25,509	22,235	1.6	2.2	1.3
Greece	18,684	19,570	13,398	40,411	45,148	33,623	46.2	43.3	39.8
Spain	103,640	82,521	89,905	399,827	290,813	257,918	25.9	28.4	34.9
France	32,333	29,607	29,400	188,723	193,500	194,973	17.1	15.3	15.1
Italy	60,134	70,904	160,200	550,226	506,833	589,988	10.9	14.0	27.2
Cyprus	1	1	741	25,156	25,638	19,139	0.0	0.0	3.9
Latvia	1,498	414	413	7,706	2,304	2,329	19.4	18.0	17.7
Lithuania	641	764	691	5,298	2,659	1,861	12.1	28.7	37.1
Luxembourg	:	:	:	:	:	:	:	:	:
Hungary	5,337	1,144	1,349	37,486	14,289	14,601	14.2	8.0	9.2
Malta	172	61	30	4,989	3,682	2,763	3.4	1.7	1.1
Netherlands	:	:	:	62,589	56,489	54,478	:	:	:
Austria	7,891	7,651	7,838	21,783	28,035	30,596	36.2	27.3	25.6
Poland	8,805	8,549	598	40,907	33,427	101,574	21.5	25.6	0.6
Portugal	17,087	11,036	11,967	63,715	46,324	37,010	26.8	23.8	32.3
Romania	1,216	1,261	910	19,354	15,380	10,218	6.3	8.2	8.9
Slovenia	0	2,110	2,231	29,215	15,759	7,537	0.0	13.4	29.6
Slovakia	619	640	697	8,025	5,336	4,373	7.7	12.0	15.9
Finland	4,915	4,304	4,302	21,873	18,034	19,210	22.5	23.9	22.4
Sweden	35,050	36,325	25,358	84,144	91,337	74,931	41.7	39.8	33.8
United Kingdom	106,538	96,341	103,187	633,170	671,324	732,208	16.8	14.4	14.1
<b>EU above<sup>2</sup></b>	<b>452,757</b>	<b>423,301</b>	<b>508,325</b>	<b>2,534,835</b>	<b>2,338,669</b>	<b>2,466,347</b>	<b>17.9</b>	<b>18.1</b>	<b>20.6</b>

Source of the data: Eurostat

Data from years before 2008 are not available as the data collection on residence permits was established by Regulation 862/2007, with 2008 as first reference year. Estonia and the Netherlands have not provided data on first permits issued to TCNs joining a non-EU citizens, as these data cannot be distinguished

<sup>2</sup> EU total, excluding those Member States for which data are not available.

from other permits issued for family related reasons. Denmark did not provide data for 2008. Luxembourg did not provide any data for 2008-2010.

The relative low overall ratio of permits issued for family reasons as opposed to the other permits is due to the fact that this statistic only covers the Family reunification scenario, and does not include those third-country national family members who join EU nationals.