

“To be or not to be” a good family under European family reunification rules: a core dilemma for integration?

First, the Directive 2003/86/EC requires the mandatory condition of a residence period, in general two years before the application. A non-lawfully residing third-country national being a sponsor for family reunification purposes often depends on their immigration status in the Member State. Austria, Denmark, Estonia, Germany and Latvia require a permanent residence permit in order to be eligible for family reunification. In most EU countries, however, it is enough for the potential sponsor to hold a temporary residence permit. Cyprus and France also require a temporary permit that is valid for at least one year. Other EU Member States grant different reunification rights according to the type of residence permit. For instance, reunification with parents or grandparents is not possible for persons that have no temporary residence permit and consequently only holders of a per-

manent residence permit are entitled to bring in family members in a broader sense. In general, holders of temporary residence permits can bring in members of their nuclear family. In addition to the legal status of the sponsor, Article 8 of Directive 2003/86/EU entitles Member States to establish a period of legal residence before the sponsor is entitled to be joined by his/her family. The term of legal residence required varies between Member States from 12 months or more but may not exceed two years. Meanwhile, Article 4, paragraph 5 of Directive 2003/86/EC states that «in order to better ensure integration and to prevent forced marriages, Member States may require the sponsor and his/her spouse to be of a minimum age, which is at least 21 years old, before the spouse is able to join him/her». In addition to the provision of adequate housing and stable resources or sufficient health insurance, quality housing is required, which is not generalized to all families in the host society and social welfare network. In any case, legislators require financial inputs in the year following the date of the application. The sponsor has to declare possible changes in resources over the previous months. And they also require

the family reunification applicant not to obtain this income from the healthcare or welfare system, although the income of other household members can be taken into account. The amount of resources defined

by law or regulation is only a reference and therefore the immediate consequence of not meeting the income condition may not mean automatic rejection of the application. Moreover, "needs" can vary greatly depending on individuals, as in the Chakroun case, whereby a 60-year-old couple does not have the same needs as a 30-year-old couple¹¹. The Court has framed the margins of manoeuvre of member states. For instance, a yearly schooling allowance granted to the sponsor due to their level of resources may not lead to rejection. However, given the difficulty to achieve sufficient income under economic crisis, Portugal has adapted rules on family reunification when an applicant involuntary ends up unemployed and their level of resources is diminished. Finally, accommodation is a pre-condition for family reunification.

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