



Family Reunion in the United Kingdom (UK)

Briefing Paper

United Nations High Commissioner for Refugees (UNHCR)

The United Nations Refugee Agency, UNHCR, works worldwide to protect, assist and find solutions for refugees, internally displaced people and stateless populations. It has some 9,700 staff across 126 countries, many of them working in humanitarian emergencies and in close proximity to regions of conflict, often in difficult and dangerous duty stations. The organisation's needs-based budget for 2016 is US\$6.5 billion.

Global and Regional Context

In June 2015, UNHCR reported that worldwide forced displacement had reached a new post-World War II high of 59.5 million people. Displacement levels have continued to rise since.

In 2015, a million people arrived in Europe, crossing the Mediterranean in unseaworthy dinghies and flimsy boats. More than 3,700 people perished at sea. This year, as at 8 March, 138,000 refugees and migrants arrived in Southern Europe. The majority of the people arriving in Europe, 88 per cent, come from the world's top 10 refugee producing countries. Chief among them: Syria, Afghanistan and Iraq, but also Eritrea and Somalia.

Recommendation:

- 1) In light of the ongoing historically high levels of global forced displacement, increasing the availability of legal avenues, and making more effective use of existing legal avenues so that vulnerable people do not feel compelled to embark on risky irregular travel, is paramount. In this regard, UNHCR continues to advocate for a range of measures, including enhanced family reunification. Increased family reunion channels could also remove a powerful incentive for many third country nationals to move onward in the European Union.

Syria

Five years on, Syria's conflict has spawned 4.8 million refugees in neighbouring countries, hundreds of thousands in Europe, and 6.6 million people displaced inside Syria against a pre-war population of over 20 million. Despite the focus on the refugee situation in Europe at this time, the greatest pressure is still being felt in the Middle East and North Africa, as it has for each of the last five years.

Refugees fleeing the 5-year Syrian conflict face greater hurdles to finding safety while international solidarity with its victims is failing to match and reflect the scale and seriousness of the humanitarian tragedy. These include better access to livelihoods and education for the majority of refugees in neighbouring countries and a greater sharing of responsibility by more countries around the world,

through open asylum systems and increased opportunity for Syrians to move to third countries through organised channels, including enhancing family reunification channels.

On 30 March 2016, UNHCR will be hosting a high-level international conference in Geneva, calling on governments for a major increase in places for Syrians. So far, some 170,000 such places have been pledged by governments around the world. UNHCR hopes to increase that to at least 10 per cent of the registered refugee population, currently at 4.8 million people in the immediate surrounding region alone, over the next few years.

Recommendation:

2) UNHCR is continuing to explicitly promote facilitated family reunion in the context of the Syria emergency, where countless families have been separated. Enhanced family reunification systems can also represent a responsibility-sharing gesture for countries in the region of origin of refugees, through resettlement or humanitarian admission based on family links criteria.

UNHCR and Family Reunification

It is a generally agreed fact that the family is the fundamental group unit of society entitled to protection by society and the State.¹ Following separation caused by forced displacement, such as from persecution and war, family reunification is often the only way to ensure respect for a refugee's right to family unity. Separation of family members can have devastating consequences on peoples' well-being and their ability to rebuild their lives. Family reunification is a fundamental aspect of bringing normality back to the lives of persons who have fled persecution or serious harm and have lost family during forced displacement and flight.

While the 1951 Refugee Convention does not address family reunification and family unity specifically, the Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons recommends that States '*take the necessary measures for the protection of the refugee's family, especially with a view to (...) [E]nsuring that the unity of the refugee's family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country.*'²

Furthermore, UNHCR's Executive Committee (ExCom), of which the UK is an active member, has adopted a series of conclusions that reiterate the fundamental importance of family unity and reunification, and call for facilitated entry on the basis of liberal criteria for family members of persons recognised as being in need of international protection.³ In addition, UNHCR has emphasised that family reunification is an important element for the integration of beneficiaries of international protection in their host societies. ExCom Conclusion No. 104 in particular notes the potential role of

¹ See, UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), Article 16(3): www.unhcr.org/refworld/docid/3ae6b3712c.html; and UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, Article 23(1): www.unhcr.org/refworld/docid/3ae6b3aa0.html

² United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, Final Act and Convention Relating to the Status of Refugees, July 1951: www.refworld.org/docid/40a8a7394.html

³ See in particular, *ExCom Conclusions on Family Reunion*, No. 9 (XXVIII), 1997 and No. 24 (XXXII), 1981; *ExCom Conclusion on Refugee Children and Adolescents*, No. 84 (XLVIII), 1997; and *ExCom Conclusion on the Protection of the Refugee's Family*, No. 88 (L), 1999. All ExCom Conclusions are compiled by UNHCR under, *Thematic Compilation of Executive Committee Conclusions*, June 2011, Sixth edition: www.unhcr.org/refworld/docid/4e8006a62.html

family members in promoting the smoother and more rapid integration of refugee families given that they can reinforce the social support system of refugees.⁴

In this regard, family separation can affect refugees' ability to engage in many aspects of the integration process, from education and employment, to putting down roots, while it also impacts negatively on their physical and emotional health. Indeed, in most cases, family reunification is the first priority for refugees upon receiving status.⁵

Family Reunification in the UK

a) Legal aid provision

Prior to the Legal Aid, Sentencing and Punishment of Offenders 2012 Act, refugees (and those with Humanitarian Protection) seeking family reunion were eligible for legal aid. However, since its implementation, refugees wishing to reunite with their families must apply without legal help, or must pay to hire legal advisers if they cannot obtain *pro bono* advice.

As the British Red Cross have reported⁶, there is clear evidence to demonstrate that refugee family reunion is not a straightforward immigration matter. Their report looks at the cases of refugees who accessed time-limited British Red Cross services to support their applications for family reunion. It examines their experiences, from the documentation gathering stage through to the submission of their application. By necessity, their report did not explore issues arising after initial submission, although they assert that appeals and reapplication procedures can often also be difficult.

UNHCR's own experience with family reunion queries in the UK context endorses the British Red Cross's conclusion in this respect that, far from being straightforward, many refugee family reunion cases are affected by a range of complexities. UNHCR also echoes the fact that such complexities disrupt or undermine an application and that they arise in different ways and at different stages of the application process, and require the flexibility, expertise and experience of legal advisers to deal with them.

Recommendation:

3) The Ministry of Justice should reconsider the limitations set on legal aid eligibility for beneficiaries of international protection seeking family reunion, in particular as qualified and well-regulated legal advisers are best placed to deal with and resolve the significant and diverse complexities that may be experienced throughout the UK family reunion process.

b) Interface between international protection and family reunification

The UK's family reunion application process and guidance is not tailored to the refugee context, including in terms of the generic application form used. It is also important to recall that there are

⁴ UNHCR, *ExCom Conclusion No. 104 on Local Integration*, 7 October 2005: www.unhcr.org/4357a91b2.html

⁵ UNHCR, *A New Beginning: Refugee Integration in Europe*, September 2013: www.refworld.org/docid/522980604.html

⁶ British Red Cross, *Not so straightforward: the need for qualified legal support in refugee family reunion*, 2015: www.refworld.org/docid/560cfcde4.html

humanitarian and protection needs of family members abroad who wish to come to the UK through refugee family reunion.

In essence, the family reunion decision-making procedure should be viewed through a protection lens as opposed to solely an immigration control mechanism, meaning that, for example, refugees who have clearly mentioned family members during their asylum claim should not have to, on a case-by-case basis, still provide high threshold evidence confirming 'subsisting relationship' or dependence.

Recommendations:

- 4) The UK authorities are encouraged to ensure that beneficiaries of international protection receive appropriate information on family reunification in a timely manner and in a way that they understand, including on the favourable conditions enumerated.
- 5) A better and more protection-oriented implementation of the family reunification policy and practice would facilitate family reunification for beneficiaries of international protection. The Home Office should make available dedicated family reunification application forms (including on-line versions) adapted to the specific needs of beneficiaries of international protection.

c) Family reunion criteria

It should be a priority for States to ensure that those who remain behind in countries of asylum or countries of origin can join family members who are residing as beneficiaries of international protection. The concept of the family should be interpreted flexibly, which could reflect strong and continuous social, emotional or economic dependency between family members, though which does not require complete dependence (for example, as in the case of spouses or elderly parents).

The set criteria for UK family reunion can be narrowly construed. Refugees considered in post-flight relationships are disadvantaged and extended family cases must also satisfy more stringent requirements. The UK authorities are generally inflexible when considering atypical cases, including those, for example, involving adult dependents, stepchildren and (*de facto*) adoption.

Recommendation:

- 6) UNHCR urges the Home Office to exercise flexibility in the definition of family members and assist family reunification with extended family and relatives when dependency is shown between such family members. This is also paramount in protecting persons with specific needs, including women and children.

d) Practical constraints and the family reunion process

Family members can be exposed to security risks, and this can create further challenges in developing and submitting applications. In some cases the application process itself, in particular travelling through areas of armed conflict or violence in order to submit documentation, can put family members at risk.

UNHCR has identified additional areas where current practice leads to real obstacles. They concern: restrictions in scope and time; insufficient information about the procedure; difficulty in tracing relatives; difficulties accessing designated embassies or visa application centres to lodge an application; difficulties documenting family links and dependency; problems securing travel documents and visas from remote and/or insecure areas; and meeting integration requirements.

Recommendations:

- 7) UNHCR advocates for family reunification mechanisms that are swift and efficient in order to bring families together as early as possible.
- 8) UNHCR calls on the Home Office to facilitate family reunification by consolidating as well as simplifying and expediting the family reunification process where a right exists.
- 9) The UK authorities are invited to facilitate refugees' access to family reunification by providing for the possibility for the sponsor to apply in the UK when their relation is still abroad.
- 10) The UK authorities should ensure that, in law and in practice, family reunification requests for beneficiaries of international protection, including those who are stateless, are not rejected based solely on the lack of documentary evidence.
- 11) Applicants should also be given the opportunity to submit further evidence, if needed, at different stages of the process, instead of having to resort to expensive (for all entities concerned) and lengthy re-application or appeal procedures.

e) Travel assistance

The UK Government does not presently finance travel assistance to those issued family reunion visas. This means that for those beneficiaries of international protection in the UK who have obtained reunion visas for their family but who do not have the financial means to pay for their travel to the UK, they cannot make the reunion a reality unless they can find alternate sources of funding to cover these travel costs⁷.

This issue is exacerbated as families being granted a settlement visa are required to travel within 30 days from issuance. This time-window may also be challenged by the need, in certain countries, to apply for and obtain exit permits prior to embarking on the journey to the UK.

Recommendations:

- 12) The Home Office is urged to ensure that family reunion visas, once granted, can be made a reality through the provision of travel assistance and more generous travel time-windows.
- 13) The UK authorities could support financial aid schemes for the family reunification of beneficiaries of international protection who do not have sufficient resources to cover such costs.

⁷ British Red Cross, *Family Reunion for Refugees in the UK: Understanding Support Needs*, 2011: www.refworld.org/docid/4f9fcc602.html

f) Unaccompanied and separated children already in the UK⁸

A child who has been granted refugee status or humanitarian protection in the UK does not have a right to be a sponsor for family reunification purposes within the UK Immigration Rules⁹. The UK Home Office Family Reunion Instruction identifies at section 2.1.4 that ‘a *minor with leave otherwise qualifying him/her as a sponsor (even to sponsor parents)*’ is considered ineligible for this purpose.¹⁰ In cases where it is appropriate to allow such children to be joined by their parents, application will be considered only on a case by case basis outside the Immigration Rules, for example, under Article 8 of the European Convention on Human Rights and relevant domestic provisions (exceptional cases rarely succeed and can be very lengthy on appeal).

Recommendations:

- 14) Tracing is of particular importance in the case of unaccompanied minors for whom every effort should be made to trace parents and other relatives as soon as possible where it is in their best interests.
- 15) The UK authorities should re-introduce a routine rather than exceptional procedure, with all due safeguards incorporated, permitting unaccompanied and separated children to be eligible to apply for their parents, care-givers or other family members to join them in the UK if tracing occurs after their recognition in the UK.
- 16) The UK authorities should consider and implement UNHCR’s guidance on the use of DNA testing for the purpose of documenting family links¹¹.

g) A dynamic implementation of the Dublin III Regulation

A dynamic implementation of the Dublin III Regulation would be beneficial to the unity of families and UNHCR recalls that it has consistently been advocating for the proper application of the provisions of the Dublin Regulation by EU Member States¹².

There is a need for a proactive use of Articles 8-11 for unaccompanied children and family members. The dependency clause in Article 16 should be explored as well as a proactive and flexible use of the discretionary clauses, in particular Article 17(2) that provides for the possibility for the Member State in which the application for international protection is made ‘*to request another Member State to take charge of an applicant in order to bring together any family relations on humanitarian grounds based in particular on family or cultural considerations, even where that Member State is not responsible (...)*’.

Recommendation:

- 17) European Member States should do their utmost to ensure a flexible implementation of the above-mentioned Dublin III Regulation provisions and conduct a timely and detailed

⁸ The UK did not opt into: European Union, *Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification*: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:251:0012:0018:EN:PDF>

⁹ See: www.gov.uk/government/publications/family-reunion-set10-see-also-post-flight-family-members-set18/family-reunion-set10-see-also-post-flight-family-members-set18 and https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/428684/Immigration_Rules_-_Part_11.pdf

¹⁰ UK Home Office, Family Reunion: instruction, 5 July 2011:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/257465/familyreunion.pdf

¹¹ UNHCR, *UNHCR Note on DNA Testing to Establish Family Relationships in the Refugee Context*, June 2008, available at:

<http://www.unhcr.org/refworld/docid/48620c2d2.html>

¹² For example, *UNHCR Central Mediterranean Sea Initiative Action Plan*, March 2015: www.refworld.org/docid/5506a6ae4.html

examination of take-charge requests.

h) Family reunion via additional legal avenues

Bringing families together can also serve as a protection tool. States may be able to save lives through facilitated family reunion between beneficiaries of international protection in Europe and family members who have also been forced to flee. UNHCR has explicitly promoted this in the context of the Syria emergency, where countless families have been separated. Enhanced family reunification systems can also represent a responsibility-sharing gesture for countries in the region of origin of refugees, through resettlement or humanitarian admission based on family links criteria. UK visas granted in the family¹³ category to Syrians total:

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
109	114	96	107	112	88	128	201	693	1,073	1,933

For Syrians who do not have the option of family reunification, either because they do not fulfil the requirements or they are not included in the scope of existing family reunification legislation, can be admitted under other mechanisms, not just resettlement, but also via the creation of humanitarian admission, humanitarian visas, labour mobility, scholarship or private sponsorship programmes.

If introduced, such programmes to admit relatives of those already residing in the UK can facilitate the use of existing family reunification mechanisms through streamlined procedures, or through the provision of support in countries where family members are located. This could include, for example, facilitated access to embassies, visa waivers, issuance of humanitarian visas, or assistance with documentation.

The UK's Mandate Refugee Scheme, resettles UNHCR recognised refugees who are deemed eligible for resettlement and also then meet the associated criteria set by the UK authorities¹⁴, including having an existing close family member settled (or in a category leading to settlement) in the UK who is willing to accommodate them. Only in exceptional circumstances and at the UK Home Office's discretion, however, will family members falling within the non-immediate category (parent/grandparent (in the singular) under 65, family members aged 18 or over: son, daughter, sister, brother, uncle, aunt) be accepted. Total arrivals, for all nationalities, under this scheme have been:

2008	2009	2010	2011	2012	2013	2014	2015
75	90	49	22	54	32	14	18

Recommendations:

18) For Syrians who do not have the option of family reunification, either because they do not

¹³ UK published statistics do not distinguish within the family visa category between visas for dependents of individuals with refugee status or humanitarian protection and other categories of successful applicants.

¹⁴ UNHCR, *UNHCR Resettlement Handbook Country Chapters (last updated 2014)*, November 2014: www.refworld.org/docid/542134777.html

fulfil the requirements or they are not included in the scope of existing family reunification legislation, UNHCR urges the UK authorities to admit those with existing family links to the UK under other mechanisms, not just resettlement, but also via the creation of humanitarian admission, humanitarian visas, labour mobility, scholarship or private sponsorship programmes.

19) UNHCR urges the Home Office to more frequently use its discretion when considering resettlement submissions for family members falling within the non-immediate category of the UK's Mandate Refugee Scheme.

i) Integration

Separation of family members during forced displacement and flight can have devastating consequences on peoples' well-being and ability to rebuild their lives. Family unity is a key priority of many refugees and others with international protection needs, and their integration process may be greatly facilitated by reunion with close relatives, whose presence can help them restart their lives.

It should be emphasised that family separation affects a multitude of areas relating to integration for those in need of international protection, including refugees and stateless persons. These include the ability to learn a language, to re-train, to negotiate bureaucracy, to search for work, to look for housing, and to build friendships. Furthermore, enduring isolation and grief in the absence of family members reduces an individual's ability to function.¹⁵

There is presently no formal public Government strategy or systematic monitoring and evaluation in respect of the integration outcomes of those joining beneficiaries of international protection in the UK via family reunification.

An innovative example on the local level is the Third Country National Family Integration Service situated in Glasgow, which is a pioneering initiative with the laudable aim of improving the integration prospects of families who need assistance post reunification¹⁶.

Recommendations:

20) The UK Government, together, where applicable, with the devolved administrations, should introduce a coherent integration strategy pertaining specifically to family reunification as well as systematically prepare for and then monitor and evaluate the integration outcomes of family joining persons of concern in the UK.

21) In order to avoid dependency between family members, in particular for victims of domestic violence, the residence of the family member should be independent of those of the sponsor.

¹⁵ UNHCR, *A New Beginning: Refugee Integration in Europe*, September 2013, page 127: www.refworld.org/docid/522980604.html

¹⁶ British Red Cross, "We started life again": *Integration experiences of refugee families reuniting in Glasgow*, 2015: www.refworld.org/docid/560cde294.html

j) Data capture and analysis

There are deficiencies in the capture and sharing of data in the area of family reunification, which hampers the better understanding of the current application process and its difficulties for many families. This includes the disaggregation of the number and type of applications and applicants, the number and analysis of refusals, reasons for refusals and reasons for initial failure in cases of successful appeal.

Recommendation:

22) UNHCR urges the UK authorities to improve the capture and sharing of data vis-à-vis family reunification.

**UNHCR in the UK
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