



UNHCR Europe NGO Consultation 2018 Regional Workshops – Southern Europe

Family reunification with beneficiaries of international protection

Statistics

The scarcity of official figures on the procedure of family reunification with beneficiaries of international protection pose a substantial challenge to a proper understanding of the number of people requesting, and ultimately obtaining, entry into an EU country to join family members. States have no obligation to collect or transmit such information to Eurostat or the European Asylum Support Office (EASO), although the ongoing reform of the Migration Statistics Regulation¹ could open up opportunities for advocacy to that effect.²

Available 2017 statistics for **Spain** point to a total of 339 applications for family extension (*Extensión familiar del derecho de asilo o de la protección subsidiaria*),³ mainly concerning nationals of Syria (152), Somalia (46), Pakistan (38), Palestine (34), Afghanistan (15), Cuba (13), Eritrea (9) and Iraq (9). The Office for Asylum and Refuge (OAR) took 336 decisions on family extension applications in 2017, of which 211 were positive and 125 were negative.⁴ This indicates that the success rate of family extension applications was 62.8% last year.

In **Greece**, throughout the year 2017, the Asylum Service received 245 applications for family reunification, while another 17 were submitted before the Aliens Directorate of Attica of the Hellenic Police (*Διεύθυνση Αλλοδαπών Αττικής*) by applicants recognised as refugees under the pre-2013 asylum procedure. Of those submitted to the Hellenic Police last year, all cases were rejected. The Asylum Service has not provided further data on the family reunification applications it processes.⁵

Available statistics from **Greece** cover the number of visas issued to family members of refugees for the purpose of family reunification. From 21 October 2016 to January 2018, only 13 visas of limited territorial validity for family members of refugees had been granted due to “exceptional humanitarian reasons”, corresponding to 7 positive decisions issued by the Asylum Service.⁶

Eligible sponsors

Malta, Greece and Cyprus do not allow subsidiary protection beneficiaries to reunite with family members. This policy has particularly severe repercussions for beneficiaries of protection in Malta and

¹ Regulation (EU) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection, OJ L199/23.

² European Commission, *Proposal for a Regulation amending Regulation 862/2007*, COM(2018) 307, 16 May 2018. See also ECRE, *Comments on the Commission proposal amending the Migration Statistics Regulation*, June 2018, available at: <https://bit.ly/2JwAQsj>.

³ Not to be confused with family reunification (*Reagrupación familiar*). See further below for details.

⁴ AIDA, Country Report Spain, 2017 Update, March 2018, available at: <https://bit.ly/2plAND1>, 78.

⁵ AIDA, Country Report Greece, 2017 Update, March 2018, available at: <https://bit.ly/2G5vKP2>, 175.

⁶ *Ibid.*

Cyprus, as the two countries overwhelmingly grant subsidiary protection.⁷ The issue was raised by the Council of Europe Commissioner for Human Rights in a recent exchange with the Maltese authorities.⁸

The situation in **Spain** is different. According to the law, an individual may opt for either “family extension” or “family reunification”, except where the family members have a different nationality, in which case family reunification is the only option. However, family reunification as set out in Article 41 of the Spanish Asylum Act has never been implemented in practice, since the rules governing reunification with refugees and subsidiary protection holders are to be spelt out in an Implementing Regulation, pending since 2009. This situation is extremely serious for the cases of family members who have different nationality than the sponsor beneficiaries of protection, because the compulsory application of the family reunification excludes them from “extension” and leaves them with no other option. In these particular cases, applicants are prevented from exercising their right to maintain their family unity.⁹

Eligible family members

The categories of eligible family members vary across the region. Namely, adult children may be eligible for family reunification in **Greece, Portugal, Spain** and **Italy** on the basis of dependency or disability. This is not the case for the other countries in the region.

Time limits and material conditions

Whereas Italy, Portugal and Spain impose no deadline, waiting period or material conditions on sponsors, important restrictions are maintained by **Greece, Cyprus** and **Malta**. It should be highlighted that the latter three countries exclude subsidiary protection beneficiaries from family reunification altogether.

Refugees have to wait for at least 12 months after obtaining legal residence in Malta before they can apply for family reunification.¹⁰ In Malta, Greece and Cyprus, refugees are exempt from material conditions (accommodation, sufficient resources and sickness insurance) so long as they apply for family reunification within 3 months of becoming eligible.¹¹

Litigation

A recent family reunification case was litigated in **Greece**. In February 2018, in a case supported by the Greek Council for Refugees, the Administrative Court of Athens annulled a decision rejecting the application for family reunification submitted by a refugee before the Aliens Directorate of Attica, under the pre-2013 asylum procedure. The Court found that the rejection of the application had been issued in breach of the relevant legal framework.¹²

⁷ In 2017, the refugee status rate for Syrian nationals was 1.2% in Cyprus and 30.5% in Malta, while the respective subsidiary protection rates were 98.8% and 69.1%. For Eritrean nationals, Malta had a refugee status rate of 11.8% and a subsidiary protection rate of 81.8% during that year: AIDA, Country Report Cyprus, 2017 Update, February 2018, available at: <https://bit.ly/2CPFFVt>, 7; Country Report Malta, 2017 Update, March 2018, available at: <https://bit.ly/2FoMolW>, 8.

⁸ Council of Europe Commissioner for Human Rights, Letter to the Minister for Home Affairs and National Security of Malta, CommHR/NM/sf 043-2017, 14 December 2017, available at: <http://bit.ly/2o5Bwr6>.

⁹ AIDA, Country Report Spain, 77.

¹⁰ AIDA, Country Report Malta, 70.

¹¹ *Ibid*; AIDA, Country Report Cyprus, 98; Country Report Greece, 173-174.

¹² Greek Council for Refugees, ‘Πρώτη απόφαση διοικητικών δικαστηρίων για οικογενειακή επανένωση πρόσφυγα’, 8 February 2018, available in Greek at: <http://bit.ly/2FhY5EE>.