

UNHCR recommendations on flexible approaches to family reunification procedures in Europe

Regional Bureau for Europe, February 2023

Introduction

The principle of family unity is inherent in the universal recognition of the family as the natural and fundamental group unit of society, which is entitled to protection by society and the State¹. People have a right to marry and to found and maintain a family and in exercising their rights to family life be free from arbitrary, unlawful, and discriminatory interference. The right to family life and the principle of family unity are of particular importance in the refugee context. Maintaining and facilitating family unity helps to ensure the physical care, protection, emotional well-being and self-reliance of refugees. Prolonged separation from family members can have devastating consequences on the well-being of refugees and their families. The need to reunite with family members is one of the key drivers for irregular and unsafe movement. Therefore, giving effect to the right to family life through processing applications for family reunification in a positive, humane and expeditious manner enables refugees to reunify with their family members through safe pathways. UNHCR Executive Committee has called for every effort to be made to ensure the reunification of separated refugee families and that the reunification of separated refugee families should be undertaken with the least possible delay².

In Europe, standing jurisprudence of the European Court of Human Rights³ requires states to give effect to the right to family life and family unity through flexible, prompt and effective access to family reunification.

Nevertheless, when trying to access family reunification to European countries, refugees and their family members face a variety of administrative barriers. Those barriers include difficulties in securing official documents proving identity and family relations, financial requirements and other related costs, as well as practical obstacles such as limited access to embassies and consulates. In various European countries, waiting times for embassy appointments and processing times for applications can amount to several years.

To lower barriers in access to family reunification and enable European States to ensure that family reunification procedures for all refugees are flexible, prompt and effective, UNHCR makes the following recommendations:

¹ See Article 16 of the Universal Declaration of Human Rights of 10 December 1948.

² UN High Commissioner for Refugees (UNHCR), Conclusions on International Protection Adopted by the Executive Committee of the UNHCR Programme 1975 – 2017, Conclusion Nr. 24.

³ *Mugenzi v. France*, 10 July 2014, Appl. No. 52701/09, para. 52 and *Tanda-Muzinga v. France*, 10 July 2014, Appl. No. 2260/10, para. 73.

UNHCR Recommendations

UNHCR recommends to European States that they ensure that family reunification procedures for all refugees are flexible, prompt and effective. To this aim, UNHCR recommends to demonstrate the necessary flexibility to allow refugees and their family members to apply for family reunification by adapting procedural requirements to their circumstances, vulnerabilities and other safety concerns.

More concretely, UNHCR recommends:

- To increase cooperation between diplomatic representations. States should make greater use of the provisions that would enable family members outside of Europe to apply for and collect visas at embassies and consulates of other States. The cooperation should also be applied to the submission of documentation, facilitation of interviews, collection of biometric data and collection of travel documents. Increased cooperation is particularly important in the context of emergency situations and humanitarian crises.
- To adopt flexible procedures for receiving and processing visa applications in the family reunification procedure and grant exemptions from the requirement to appear in person. This is particularly of relevance when individuals face challenges to access embassies and consulates in departing countries, mainly due to financial, administrative, security or logistical reasons.
- To facilitate family reunification by providing administrative assistance to refugees residing in their territory. Administrative assistance in the context of family reunification includes the issuance of documents relating to family composition including marriage, divorce, adoption, death etc.
- To show flexibility and simplify evidentiary requirements to remove obstacles and ensure effective access to family reunification. States should flexibly give credence to documents issued by States where refugees and family members are residing in lieu of the original documents. States should provide for the possibility that, in the absence of documentary evidence, the credibility of the facts of the case can otherwise be determined in order to establish the prerequisites for family reunification. States should adopt a holistic approach to the sum of the available identity and relationship-supporting evidence, which may include replacement documents issued by departing states or documents issued by third parties.
- To refrain from referring refugees or their family members to the authorities of the country of origin or habitual residence to obtain documentation and evidence. Refugees no longer enjoy the protection of their country of origin or habitual residence, which is replaced by international protection.
- To charge moderate fees for administrative assistance commensurate with those charged to nationals for similar services or waive fees entirely.

UNHCR considers the following practices to be in line with the recommendations:

- 1. Cooperation with diplomatic representations of other states, international organisations and external service providers:** Referral of applicants to embassies and consulates of other countries in case diplomatic representations are not available; provision of joint assistance programs for applicants through provision of legal, financial and administrative assistance; use of visa processing centres or other third-party agencies for visa related services.
- 2. Flexible procedures for receiving and processing visa applications:** Facilitation of online submission modalities and increased digitalisation; remote interviews; mail services and direct applications by the sponsor; as well as granting of exemptions for documentation requirements and biometric data collection.
- 3. Provision of required documents by the countries of asylum and/or residence:** Provision of travel documents or laissez passer, provision of documents or officializations to enable refugees to carry out various acts of civil life including applications for family reunification and provision of leniency in obtaining new travel documents in case a travel document expires during the family reunification procedure.
- 4. Acceptance of alternative proof of identity, marital status and family relationship:** Lightened burden of proof or flexible approaches to proving identity, marital status and family relationships from countries where documents are impossible or difficult to obtain or are not considered reliable; acceptance of replacement documents from departing countries and consideration of other forms of evidence (such as witness statements, religious or traditional certificates of marriage, divorce or death certificates, certificates of custody or adoption, copies of travel documents, copies of other visas or residence permits, medical records, proof of remittance, proof of telephone or phone cards used, proof of regular contact, bills and money transfers, affidavits, wedding or family photos, visitation records, social media communication histories, invoices for marriage fees or proof of fees for issuance of other documents, residence cards, agreements for rent or purchases, baptism certificate, or certificates issued by international organizations such as UNHCR registration documents or the UNHCR Resettlement Referral Form).
- 5. Acceptance of travel documents:** Acceptance of travel documents issued by countries of asylum and/or residence; acceptance of alternative travel documents issued by international organisations.