



# FAMILY REUNIFICATION

*Building upon the New York Declaration for Refugees and Migrants adopted on 19 September 2016, the Global Compact on Safe, Orderly and Regular Migration (GCM) will set out a range of principles, commitments and understandings among Member States regarding international migration in all its dimensions. The GCM should make an important contribution to global governance and enhance coordination on international migration. For the consideration of Member States, the “Thematic Papers” developed by IOM, outline core topics and suggestions to inform actors involved in the 2017 consultation process that will lead to the inter-governmental negotiations and final adoption of the GCM.*

## INTRODUCTION

Protection of the family unit is a fundamental human right,<sup>1</sup> yet migration frequently entails the separation of families for shorter or longer periods of time; for example, when individuals flee armed conflicts or other crises. Displacement and forced migration, and even voluntary, orderly and regular migration can also lead to separation of family members. Such circumstances are of particular concern when they lead to migrant children being separated from their legal guardians or left unaccompanied. The longer-term separation of families due to migration, in particular when children grow up in the home country without one or both parents, can also have a range of psychological, social and other adverse repercussions. While States have the right to determine the conditions of entry, stay and the status of family members in their territories, the importance of family unity and its potential benefits for both migrants and their host communities should form a key part of migration policy considerations.

## EXISTING PRINCIPLES

When families are separated, effective and accessible means to protect the integrity of family units greatly contribute to safe, orderly and regular migration, objectives of both the Sustainable Development Goals in target 10.7, and the New York Declaration and the core aim of the Global Compact on Migration (GCM).

While the durable solutions framework for refugees and IDPs and its three main elements (voluntary repatriation, local integration, and resettlement)<sup>2</sup> continue to be core solutions available to these populations, recent conflicts have demonstrated that these are not easily applicable to the millions of vulnerable migrants, not recognized as refugees, but who have also left their country and are separated from family members.

### ***Normative framework***

The right to family unity is recognized and protected by a variety of instruments under both international human rights law and international humanitarian law.<sup>3</sup> Among these, the Universal Declaration of Human Rights of 1948 and the International Covenant on Civil and Political Rights of 1966 stipulate that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State."<sup>4</sup> There are also provisions found in the International Covenant on Economic, Social, and Cultural Rights and the Convention on the Rights of the Child. These human rights instruments exhort States to facilitate family reunification for migrants, including migrant children.<sup>5</sup>



In the European Union (EU) context, respect for family life is listed as a fundamental right granted by Article 7 of the Charter of Fundamental Rights of the EU along with provisions about the rights of the child (Article 24) and the right to an effective remedy (Article 47), all of which are relevant in the case of family reunification efforts.

The importance of the family unit is one of the 20 “Common Understandings for the Management of International Migration” in the consensus document the “International Agenda for Migration Management (Berne Initiative, 2004)

## ISSUES

Although international law, as well as regional and most national laws contain family reunification provisions for refugees and internally displaced persons (IDPs), migrants—who have often been granted only temporary, subsidiary protection or an alternative status—regularly have to meet more stringent and restrictive conditions, long waiting periods, and bureaucratic hurdles to reunite with their immediate family.<sup>6</sup>

Family reunification constitutes one of the pathways with the greatest potential to contribute to regular and orderly migration:<sup>7</sup>

- The presence of fellow family members in the host country can reduce risks of abuse, abandonment, and exposure to exploitation;
- Opportunities for regular and predictable family visits to temporary migrants may contribute to reducing the incidence of overstays or irregular entry;
- Health experts confirm that the long-term separation of family members can have negative developmental, emotional and health effects;
- Family units are more likely to settle and integrate faster in the host community—with the family unit in place, participation in economic, social, cultural and political life is more likely.

In most national laws, family reunification provisions typically apply to all members of the immediate family (spouses, parents and dependent children).<sup>8</sup> Each State sets out conditions for the admission of close relatives of a migrant who is legally residing in the host country.

## SUGGESTED ACTION

Well planned family reunification programmes serve not only to underscore a nearly universally recognized hallmark of stable societies, but also as reliable, safe and legal pathways, helping to dissuade family members from seeking unsafe and irregular means to reach their close relatives.

The New York Declaration for Refugees and Migrants calls for considering the expansion of existing humanitarian admission programmes, including the opening of flexible arrangements to assist with family reunification.<sup>9</sup> In addition, the New York Declaration specifically encourages countries to pursue durable solutions and policies for family reunification as a key characteristic of managed migration: “We will consider facilitating opportunities for safe, orderly and regular migration, including, as appropriate, employment creation, labour mobility at all skills levels, circular migration, family reunification and education-related opportunities.”<sup>10</sup>

A range of policy and operational options exist that facilitate the availability and effective access to family reunification. Many countries continue to have only limited and restrictive family reunification policies,<sup>11</sup>



however States can effectively reduce barriers to family reunification by also taking practical measures such as:

- 1) Expanding the scope of family reunification;
- 2) Providing comprehensive information and simplifying admission procedures;
- 3) Facilitating access and enhancing application processing capacities;
- 4) Offering pre-departure orientation and integration tools.

All of these measures must take into account gender, ensuring the equality of women and men when it comes to family reunification schemes.

As part of larger programmes designed to expand the availability of protection and humanitarian solutions, the principle of additionality should be respected, ensuring that previously existing admission pathways are not negatively impacted in terms of funding and resource allocation as a result of additional family reunification programmes.

### **1) *Expanding the scope of family reunification***

The adoption of clear guidelines defining who can be included under the dependency category in relation to a sponsor for the purpose of family reunification is crucial. When suitable, policies that expand admissibility criteria in order to permit migrants to be reunified with extended family members, should also be carefully considered. A driving principle behind such measures should be the avoidance of undue hardship for migrant families, e.g. when confronted with specific circumstances such as illness, disability or the need of care for vulnerable family members.

In situations where identity and/or travel documents have been lost or were destroyed, and duplicates are not available, States, in cooperation with external partners, including international organizations, should consider DNA kinship testing as well as other complementary identification or verification methods that may be used to demonstrate family relationships. These procedures should be conducted in strict adherence to personal data protection principles.

### **2) *Providing comprehensive information and simplifying admission procedures***

Improved access to and detailed information about visa facilitation procedures are crucial for the success of family reunification programmes. Relevant details about application forms, required documents, interviews, fees and other steps should be easily accessible from the competent authorities and implementation partners. Information, channeled via the most suitable means of access, should be distributed in the native languages of beneficiaries and in an easily comprehensible form.

The waiver of fees for the submission of family reunification applications would be preferred in cases of humanitarian emergencies, and when this is not possible, flexible payment solutions would be a reasonable alternative. Since the use of banking services or online tools can be limited or nonexistent in some contexts, the possibility of making cash payments in the local currency at fair exchange rates should be made available. As a result, the need for migrants to resort to unregulated brokers, unscrupulous visa intermediaries or even migrant smugglers can be reduced. Additionally, States could consider travel fund schemes to assist with the travel costs and fees for the admission of relatives which could be reimbursed by migrants at a later date.



### **3) Facilitating access and enhancing application processing capacities**

In order to ensure the quick and efficient delivery of these services within reasonable timeframes, additional models of delivery may be considered such as the establishment of mobile or virtual points of assistance or online applications and processing. Both on-the-ground-operations and virtual contact centers should adhere to clear guidelines with the goal of ensuring simplified and efficient procedures and processing; these should be scalable as to the assistance or services offered.

Processing partners along with the use of innovative and suitable high quality technology solutions could be considered as a service delivery option. The goal is to attain short processing times for the family reunification of spouses and children, for all categories and all regions.

### **4) Offering pre-departure orientation and integration tools**

Well-designed and tailored pre-departure orientation can help family members who are about to join their relatives gain much needed information and understanding about the cultural context in the country of destination. These tools increase the likelihood that migrants will be able to properly manage their expectations about life in the destination country, along with assisting them in becoming self-sufficient as soon as possible. After arrival, States can promote an orderly process of migration by fostering the inclusion and integration of migrants within receiving societies.

Finally, well-administered pre-departure support schemes for family reunifications also enable the gathering of information on the socio-economic status of migrants prior to their departure to the host country. In turn, this will enable the host country to tailor solutions for the migrants' education, training and integration needs, strongly increasing the likelihood of successful and suitable integration in the labour market and the host society.

---

<sup>1</sup> Universal Declaration of Human Rights, Article 16(3)

<sup>2</sup> UNHCR, *Framework for Durable Solutions for Refugees and Persons of Concern*, (Geneva, 2003). Available from [www.unhcr.org/partners/partners/3f1408764/framework-durable-solutions-refugees-persons-concern.html](http://www.unhcr.org/partners/partners/3f1408764/framework-durable-solutions-refugees-persons-concern.html)

<sup>3</sup> Including Article 16 of the Universal Declaration of Human Rights (UDH), Article 23 of the International Covenant on Civil and Political Rights (ICCPR), and Article 8 of the European Convention on Human Rights.

<sup>4</sup> Article 16 (3) of the Universal Declaration of Human Rights (UDH).

<sup>5</sup> Art. 44 of ICRMW : “2. States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children.”; Art 9 and 10 of the Convention on the Right of the Child:

“Applications by a child or their parents to enter or leave the country for family reunification shall be dealt in a positive, humane and expeditious manner ; subject to best interest determination”. Reunification is usually in the best interest of the child.(ECtHR, *Sen v. Netherlands*)

<sup>6</sup> OECD, *Family migration as an alternative pathway for refugees*, International Migration Outlook, (Paris, 2016) OECD, p. 180. Available from [www.oecd.org/migration/international-migration-outlook-1999124x.htm](http://www.oecd.org/migration/international-migration-outlook-1999124x.htm)

<sup>7</sup> OECD, Alternative pathways for beneficiaries of international protection, *ibid.*, p. 149.

<sup>8</sup> Regarding children, reunification is usually deemed to be in the best interest of the child; see e.g., ECtHR, *Sen v. Netherlands*.

<sup>9</sup> United Nations General Assembly, *New York Declaration for Refugees and Migrants*, Commitments for migrants, p.15, (New York, 2016). Available from [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/71/L.1](http://www.un.org/ga/search/view_doc.asp?symbol=A/71/L.1)

<sup>10</sup> United Nations General Assembly, *op. cit.*, p.11.

<sup>11</sup> OECD, *op. cit.*, p. 179.