



Ad-Hoc Query on policies for family members of beneficiaries of international protection

Requested by NL EMN NCP on 12 February 2014

Responses from Austria, Belgium, Czech Republic, Estonia, Finland, France, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Netherlands, Portugal, Romania, Slovak Republic, Sweden, United Kingdom, Norway

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1. Background Information

The Advisory Committee on Migration Affairs (Adviescommissie voor Vreemdelingenzaken (ACVZ)) is an independent committee that advises Dutch Government and Parliament on immigration law and policy. At the request of the State Secretary of Security & Justice the ACVZ is preparing an advisory report on the Dutch migration policy for family members of beneficiaries of international protection, meaning persons who have been granted refugee status or subsidiary protection status. In order to compare this policy with possible similar policies in other EU member states, the ACVZ would like to receive information thereon.

Scope of the research

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The State Secretary has asked the Advisory Committee to investigate how the Dutch migration policy for family members of beneficiaries of international protection must be qualified in relation to international and European law. In this respect articles 3 (1) and 10 (1) of the International Convention on the Rights of the Child are of special importance, stating that:



3 (1): In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration; and

10 (1): (...) applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner (...).

In it's report the Committee will focus on the way in which the policy for family members of beneficiaries of international protection is put into practice, especially when (foster)children are involved.

We would very much appreciate your responses by 12th **March 2014**.

2. Responses

		Wider Dissemination?	
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Belgium	Yes	<p>1) Does your country have a specific migration policy for family members of</p> <p>a) persons who have been granted refugee status?</p> <p>b) beneficiaries of subsidiary protection?</p> <p>Yes, people with a refugee status and beneficiaries of subsidiary protection with a permanent residence permit enjoy since long more favorable conditions regarding family reunification. Recent legislative changes and caselaw of the Constitutional Court (GwH arrest nr. 121/2013) states that also all beneficiaries of subsidiary protection, irrespective of the duration of their residence permit, are exempted from the conditions regarding sufficient income, adequate housing and health insurance and are entitled to the same rights as those who are granted the refugee status.</p>

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<p>2) If yes, what are the general conditions for being granted a residence permit under this policy? Please attach (a link to) the applicable rules (in English, French or German).</p> <p>Family reunification is distinct from ‘family formation’ that involves persons who do not yet constitute a single family but who intend to become one. Family reunification concerns persons linked by already existing family ties. If they submit the application for family reunification within the year following the granting of a refugee status or subsidiary protection status, and if the family tie existed before the arrival in Belgium, the family members of beneficiaries of international protection do not need to submit evidence of the existence of adequate housing, sufficient income and of health insurance for the family members in question. This is a more favorable treatment in comparison with the normal procedure for family reunification. This exemption does not apply to the family reunification with an adult child with a disability. On the other hand, with regard to unaccompanied minors who wish to be joined by their parents, proof of inadequate housing and of health insurance for the parents is never required.</p> <p>Link to the applicable rules in English, French or German: article 10 of the Immigration Act (Loi du 15/12/1980). https://dofi.ibz.be/sites/dvzoe/FR/Pages/Législation.aspx</p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p> <p>Four categories of persons may join you in Belgium:</p> <ul style="list-style-type: none">- the spouse, the registered partner equivalent to marriage and the legally registered partner- the child under 18 years of age (including adopted children)- the adult child with a disability, if he can not meet his own needs.- the parents, if it concerns an unaccompanied minor who was granted the subsidiary protection status or refugee status. <p>Foster children can in principle not benefit from family reunification. They could be granted a residence on humanitarian grounds (on a case by case basis).</p> <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for</p>
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		<p>a residence permit under this policy?</p> <p>In order to establish family or marriage ties, a number of documents may be accepted to prove the relationship. These documents may be foreign court decisions (e.g. a decree of divorce or adoption) or foreign certificates (e.g. birth, marriage certificates). The law provides that the claim of impossibility to provide documents must be 'real and objective', that is, independent of the will of the applicant.</p> <p>As a general rule, official documents must be provided, but two other, subsidiary, types of proof may be possible. The law provides that if official documents cannot be produced, the Belgian authorities shall first take into account "other valid types of evidence" in order to establish family ties. These items of evidence need to be provided only when official documents are impossible to obtain. If such evidence cannot be provided, the Belgian authorities may conduct interviews or any other inquiry deemed necessary to verify the validity of the facts or documents in question.</p> <p>In the absence of 'valid' evidence, the Immigration Office may suggest to take a DNA test to determine the family ties.</p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so, please describe them and explain the reason for this.</p> <p>For what concerns the category "child under 18 years of age" this also involves children of one of the spouses.</p> <p>In the case of adoption: if the adoption has been attested to by a foreign decree of adoption, the competent Belgian authorities have to recognize them. The procedure after that will vary depending on whether or not the country in question has signed the Hague Convention on adoption. In case of "de facto" adoptions there are difficult and long procedures.</p> <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p> <p>Members of the family who have been authorized to join must report themselves within 8 working days of their</p>
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			<p>arrival in Belgium, to the municipal administration of the place of their residence. The municipal administration will enter them in the Registry of foreigners and issue a residence card A valid for one year and renewable. For 3 years, provided the conditions for family reunification continue to be met, their card A will be renewed by the municipal administration or a period of one year. At the end of this 3-year period, they will receive a residence card B of unlimited duration.</p> <p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>(see answer on question 4)</p> <p>As a general rule, official documents must be provided to support an alleged relationship, but two other, subsidiary, types of proof may be possible. The law provides that if official documents cannot be produced, the Belgian authorities shall first take into account “other valid types of evidence” in order to establish family ties. These items of evidence need to be provided only when official documents are impossible to obtain. If such evidence cannot be provided, the Belgian authorities may conduct interviews or any other inquiry deemed necessary to verify the validity of the facts or documents in question.</p> <p>In the absence of ‘valid’ evidence, the Immigration Office may suggest to take a DNA test to determine the family ties.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>Foster children can in principle not benefit from family reunification. They could be granted a residence permit on humanitarian grounds (on a case by case basis).</p> <p>To apply for a residence permit on humanitarian grounds, the following documents are requested:</p> <ul style="list-style-type: none"> - A certificate issued by a Belgian court proving that the foster parent was appointed as guardian of the child - An approval of the biological parent (s) or death certificate or certificate that the child was left behind. - Birth certificate of the child + any valid passport
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			<ul style="list-style-type: none"> - Medical certificate - A certificate of good conduct if the foster child is older than 18 - Identity documents of the guardian (s) and proof of sufficient financial means. - Certificate of good conduct of the guardian (s) <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>Article 12 bis §7 of the Immigration Act states that in the context of the investigation of the application for family reunification, the best interest of the child is taken into consideration.</p> <p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake?</p> <p>The “best interest of the child” is not further specified in the Immigration Act.</p> <p>11) Which circumstances are taken into account in practice?</p> <p>No information available</p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state?</p> <p>No information available</p> <p>13) In what way insight is being provided hereon in practice?</p> <p>No information available</p> <p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the</p>
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			<p>Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>No information available.</p>
	Czech Republic	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Estonia	Yes	<p>1) Does your country have a specific migration policy for family members of</p> <p>a) persons who have been granted refugee status?</p> <p>b) beneficiaries of subsidiary protection?</p> <p>Yes. In Estonia the migration policy concerning requested persons is regulated by Act on granting international protection to aliens.</p> <p>2) If yes, what are the general conditions for being granted a residence permit under this policy? Please attach (a link to) the applicable rules (in English, French or German).</p> <p>The Act on granting international protection to aliens is available here.</p> <p>The general condition are: that if a family member of an alien needs international protection, he or she shall also be granted international protection together with the residence permit of a family member on the same basis and with the same period of validity as to an alien. A residence permit of a family member shall be extended for up to the same period of validity as an alien's residence permit.</p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p> <p>Family members of an asylum seeker are:</p> <p>1) his or her spouse;</p> <p>2) his or her unmarried minor child, <u>including an adopted child</u>;</p> <p>3) his or her and his or her spouse's unmarried minor child, <u>including an adopted child</u>.</p>

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			<p>Family members of a refugee and of a person enjoying subsidiary protection are:</p> <ol style="list-style-type: none">1) his or her spouse;2) his or her and his or her spouse's unmarried minor child, including an adopted child;3) unmarried and minor child under his or her or his or her spouse's custody, including an adopted child. In case of shared custody the agreement of the other party sharing custody is required;4) his or her or his or her spouse's unmarried adult child if the child is unable to cope independently due to his or her state of health or disability;5) a parent or grandparent maintained by him or her or his or her spouse if the country of origin does not provide support resulting from other family ties. <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p>Family members specified in this Act shall be considered as a family if the family existed in the country of origin, including the marriage that was contracted before entry into Estonia. At the request of the Police and Border Guard Board or the Security Police a parent, guardian or another responsible adult person is required to certify the existence of the right of custody. For identification of the right to family reunification the applicant shall submit data concerning family ties, including about partners.</p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so, please describe them and explain the reason for this.</p> <p>The residence permit of a minor child shall not be revoked and extension thereof shall not be refused if this does not correspond to the rights and interests of the child. If a family member has been issued a residence permit of a family member and the circumstance that constituted a basis for granting the residence permit has ceased to exist but the obligation to leave Estonia would be clearly too burdensome for him or her, he or she may be issued a residence permit to settle with his or her spouse or a residence permit to settle with a close relative under the circumstances and conditions provided for in the Aliens Act.</p> <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p>
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			<p>Residence permits (of family members of aliens who have been granted international protection).</p> <p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>First the relationship between parent and biological child is being judged by official, legalized documents. If such documents aren't available, the relationship is being judged by DNA-research.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>A parent, guardian or another adult responsible person who is staying in Estonia together with a minor alien is presumed to have the right of custody. At the request of the Police and Border Guard Board or the Security Police a parent, guardian or another responsible adult person is required to certify the existence of the right of custody.</p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>The residence permit of a minor child shall not be revoked and extension thereof shall not be refused if this does not correspond to the rights and interests of the child. If a family member has been issued a residence permit of a family member and the circumstance that constituted a basis for granting the residence permit has ceased to exist but the obligation to leave Estonia would be clearly too burdensome for him or her, he or she may be issued a residence permit to settle with his or her spouse or a residence permit to settle with a close relative under the circumstances and conditions provided for in the Aliens Act.</p> <p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake?</p> <p>It should be taken into account that the best interests and the rights of the child is guaranteed.</p>
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			<p>11) Which circumstances are taken into account in practice?</p> <p>It is taken into account that the best interests and the rights of the child is guaranteed.</p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state?</p> <p>The family unity should be the first priority.</p> <p>13) In what way insight is being provided hereon in practice?</p> <p>The family unity is the first priority.</p> <p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>In asylum proceedings involving an unaccompanied minor and upon reunification of families, the rights and interests of the minor shall be taken into consideration above all.</p>
+	Finland	Yes	<p>1) Does your country have a specific migration policy for family members of</p> <p>a) persons who have been granted refugee status?</p> <p>b) beneficiaries of subsidiary protection?</p> <p>a) and b): yes</p> <p>2)If yes, what are the general conditions for being granted a residence permit under this policy? Please attach (a link to) the applicable rules (in English, French or German).</p> <p>Aliens Act Section 114 and 115: issuing residence permits to family members and other relatives of beneficiaries of international or temporary protection.</p> <p>Section 114</p>

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		<p>Issuing residence permits to family members of beneficiaries of international or temporary protection</p> <p>(1) A residence permit is issued on the basis of family ties to a family member of a refugee or an alien who has been issued with a residence permit on the basis of the need for subsidiary protection or humanitarian protection, or who has enjoyed temporary protection if:</p> <p>1) the sponsor lives in Finland or has been issued with a residence permit for the purpose of moving to Finland; and</p> <p>2) the applicant is not considered a danger to public order, security or health. (323/2009) (2) If any of the circumstances mentioned in subsection 1(2) emerge, an overall consideration is made taking account of the sponsor's possibilities for leading a family life with the applicant in a third country. In the consideration, the importance of the family tie for the persons concerned shall be taken into account.</p> <p>(3) If the sponsor has been granted a residence permit on the basis of the need for subsidiary protection, and the ground for issuing the permit was an armed conflict, or if he or she has been granted a residence permit on the basis of humanitarian protection or temporary protection, it is taken into account in the overall consideration that there is no absolute impediment to the sponsor's return to his or her home country. (323/2009)</p> <p>(4) Issuing a residence permit referred to in this section does not require that the alien have secure means of support if the family was formed before the sponsor entered Finland. (549/2010)</p> <p>Section 115 Issuing residence permits to other relatives of beneficiaries of international or temporary protection</p> <p>(1) A residence permit is issued to other relatives of a refugee or an alien who has been granted a residence permit on the basis of subsidiary protection or humanitarian protection or enjoyed temporary protection, if refusing a residence permit would be unreasonable because the persons concerned intend to resume their close family life in Finland or because the relative is fully dependent on the sponsor living in Finland. If the applicant is considered a danger to public order, security or health or Finland's international relations, an overall consideration is carried out as provided in section 114(2). (323/2009)</p> <p>(2) Issuing a residence permit does not require that the alien have secure means of support.</p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p>
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		<p>Aliens Act Section 37 Family members (definition, includes foster children)</p> <p>Section 37 Family members</p> <p>(1) When applying this Act, the spouse of a person residing in Finland, and unmarried children under 18 years of age over whom the person residing in Finland or his or her spouse had guardianship are considered family members. If the person residing in Finland is a minor, his or her guardian is considered a family member. A person of the same sex in a nationally registered partnership is also considered a family member. (380/2006)</p> <p>(2) Persons living continuously in a marriage-like relationship within the same household regardless of their sex are comparable to a married couple. The requirement is that they have lived together for at least two years. This is not required if the persons have a child in their joint custody or if there is some other weighty reason for it.</p> <p>(3) When no official statement is available on the dependency status (foster child), an unmarried child under 18 years who is under his or her parent's or guardian's de facto care and custody and in need of such care and custody on the date a decision is made on the residence permit application shall be treated as a child under subsection 1. Treatment as a child under subsection 1 requires reliable evidence that the child's previous parents or guardians have died or are missing and that the sponsor or his or her spouse was the child's de facto guardian before the sponsor entered Finland. If the sponsor is a foster child residing in Finland, treatment as a child under subsection 1 requires reliable information which shows that the person concerned was the sponsor's de facto guardian before the sponsor entered Finland. (549/2010)</p> <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p>Yes, Aliens Act Section 7, para 2: Investigation of the matter. Section 7 General administrative procedures</p> <p>(2) The authorities shall ensure that the matter is investigated. The person concerned shall present the grounds for his or her claim and generally contribute to the investigation of his or her matter. The authorities shall tell the person concerned what further clarification needs to be presented in the matter. A request for clarification shall be specified and in proportion to the means for clarification available to the person concerned, considering his or her circumstances.</p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so, please describe them and explain the reason for this.</p>
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		<p>Yes, Aliens Act section 115 on issuing residence permit to other relatives (parents, single siblings to the adult, minor siblings with/without guardian residing in another country than the sponsor living in Finland. Condition is that they resume their close family life in Finland or the relative is fully dependent on the sponsor living in Finland. The decision is based on overall assessment of facts and the residence permit will be issued if refusing a residence permit would be unreasonable because the persons concerned intend to resume their close family life in Finland or because the relative is fully dependent on the sponsor living in Finland.</p> <p>Section 115 Issuing residence permits to other relatives of beneficiaries of international or temporary protection</p> <p>(1) A residence permit is issued to other relatives of a refugee or an alien who has been granted a residence permit on the basis of subsidiary protection or humanitarian protection or enjoyed temporary protection, if refusing a residence permit would be unreasonable because the persons concerned intend to resume their close family life in Finland or because the relative is fully dependent on the sponsor living in Finland. If the applicant is considered a danger to public order, security or health or Finland's international relations, an overall consideration is carried out as provided in section 114(2). (323/2009)</p> <p>(2) Issuing a residence permit does not require that the alien have secure means of support.</p> <p>6) What kind of residence permit is granted if the family member meets all the requirements? If the family member meets all the requirements he or she will be issued a continuous residence permit (i.e. temporary residence permit for continuing residence in Finland). A fixed-term residence permit is granted according to the nature of residence either as a temporary or a continuous residence permit. The first residence permit is always issued for a fixed term. Permanent residence permit is issued after four years of legal residence.</p> <p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>An alleged relationship between parent and child is usually based on submitted application and other documents. An oral hearing (interview) will be held if there are no other means of establishing sufficient grounds for granting a residence permit. The Finnish Immigration Service may also offer a DNA test if there are no other means of sufficiently establishing the applicant's biological relationship. A forensic examination may be performed to establish the age of an underage applicant or sponsor if there is evident reason to doubt the credibility of the age</p>
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		<p>information provided.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>Treatment as a child requires reliable evidence that the child's previous parents or guardians have died or are missing and that the sponsor or his or her spouse was the child's de facto guardian before the sponsor entered Finland. If the sponsor is a foster child residing in Finland, treatment as a child requires reliable information which shows that the person concerned was the sponsor's de facto guardian before the sponsor entered Finland.</p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>Yes. According to the Aliens Act, The Finnish Immigration Service or the District Police may obtain an opinion on an application for a residence permit on the basis of family ties from the social welfare or health care authorities of the sponsor's domicile or place of residence. Also special attention shall be paid to the best interest of the child and to the circumstances related to the child's development and health.</p> <p>Aliens Act, Section 6</p> <p>Applying the Act to minors</p> <p>(1) In any decisions issued under this Act that concern a child under eighteen years of age, special attention shall be paid to the best interest of the child and to circumstances related to the child's development and health.</p> <p>(2) Before a decision is made concerning a child who is at least twelve years old, the child shall be heard unless such hearing is manifestly unnecessary. The child's views shall be taken into account in accordance with the child's age and level of development. A younger child may also be heard if the child is sufficiently mature to have his or her views taken into account.</p> <p>(3) Matters concerning minors shall be processed with urgency.</p> <p>Aliens Act, Section 63 (973/2007)</p> <p>Opinions on applications for a residence permit on the basis of family ties</p> <p>(1) The Finnish Immigration Service or the District Police may obtain an opinion on an application for a residence permit on the basis of family ties from the social welfare or health care authorities of the sponsor's</p>
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			<p>domicile or place of residence. An opinion on the sponsor's social situation or health may be requested if the sponsor is an unaccompanied minor, if the applicant is a member of the alien's extended family or if there is another special reason related to establishing the family's situation.</p> <p>(2) Notwithstanding any secrecy provisions, social welfare or health care authorities are obliged to submit in their opinion to the Finnish Immigration Service or the District Police referred to in subsection 1, for the purpose of an application for a residence permit on the basis of family ties, any information that they have on the person's social situation or health that is necessary for a decision on issuing a residence permit on the basis of family ties.</p> <p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake? N/A</p> <p>11) Which circumstances are taken into account in practice? N/A</p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state? The decision is based on overall assessment of facts taking into account the provisions laid down in Aliens Act, the Constitution of Finland, Administrative Procedure Act, relevant EU legislation, international conventions on human rights and other international treaties. Also the case law of international human rights institutions is taken into account. The decision making process shall respect basic human rights and the decision may not restrict aliens' rights any more than necessary.</p> <p>Section 66a (380/2006) Consideration in connection with an application made on the basis of family ties If a residence permit has been applied for on the basis of family ties, account must be taken of the nature and closeness of the alien's family ties, the duration of his or her residence in the country and the cultural and social ties of his or her family to the home country when considering the refusal of the permit. The same applies to consideration when deciding on the cancellation of a residence permit issued on the basis of family ties or on the removal from the country of the sponsor or his or her family member.</p> <p>13) In what way insight is being provided hereon in practice? N/A</p>
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			<p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>Aliens Act Section 6 (see above) draws the attention of the authorities on the Convention obligations.</p>
	France	Yes	<p>1) Does your country have a specific migration policy for family members of</p> <p>a) persons who have been granted refugee status?</p> <p>b) beneficiaries of subsidiary protection?</p> <p>a) Yes.</p> <p>b) Yes.</p> <p>2) If yes, what are the general conditions for being granted a residence permit under this policy? Please attach (a link to) the applicable rules (in English, French or German).</p> <p>a) When a foreign national has been granted refugee status in France, her/his spouse (if the marriage has been celebrated prior to the grant of refugee status or, alternatively, if it has been celebrated for at least one year and if the community of life has not ceased) and children under 19, as well as her/his direct ascendants when the refugee is an unaccompanied minor, can rightfully obtain a ten-year residence permit.</p> <p>This is provided by article L. 314-11-8 of the Code on Entry and Residence of Foreigners and Right of Asylum (CESEDA) which is available at the following Web address: http://www.legifrance.gouv.fr/affichCode.do;jsessionid=D90731B90A0240009CB56F9C9631B930.tpdjo08v_2?iSectionTA=LEGISCTA000006180202&cidTexte=LEGITEXT000006070158&dateTexte=20140225</p> <p>b) When a foreign national has been granted subsidiary protection in France, her/his spouse (if the marriage has been celebrated prior to the grant of subsidiary protection or, alternatively, if it has been celebrated for at least one year and if the community of life has not ceased) and children under 19, as well as her/his direct ascendants when the beneficiary of subsidiary protection is an unaccompanied minor, can rightfully obtain a one-year temporary residence permit.</p> <p>This is provided by article L.313-13 of CESEDA, which is available at the following Web address: http://www.legifrance.gouv.fr/affichCode.do;jsessionid=D90731B90A0240009CB56F9C9631B930.tpdjo08v_2?i</p>

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		<p>dSectionTA=LEGISCTA000006180199&cidTexte=LEGITEXT000006070158&dateTexte=20140225</p> <p>If family members are still in the country of origin or in a third country and wish to settle with the foreign national who has been granted a protection in France, they must apply for the issuance of a long-stay visa at the French embassy or consulate territorially competent.</p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p> <p>See answer to the question 2. Adopted children can also apply for a residence permit under this policy (article L. 341-11-10 of CESEDA). Before granting a residence permit to adopted children, the public prosecutor checks the lawfulness of the decision of adoption when it has been pronounced abroad.</p> <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy? According to article L. 721-3 of CESEDA, the French Office for the Protection of Refugees and Stateless Persons (OFPRA) can issue necessary documents to refugees and stateless persons in order to enable them to carry out the various activities of their daily civil life. Under the same conditions, OFPRA also issues the same documents to beneficiaries of subsidiary protection when they are unable to obtain them from the authorities of their country of origin. The Director-General of OFPRA authenticates the acts and documents submitted. Acts and documents which have been established by OFPRA are considered as authentic. Documents concerned are mainly birth and marriage certificates.</p> <p>Concerning children, article L. 314-11-10 of CESEDA stipulated that children of a refugee are understood as legitimate or natural children whose parenthood has been established in regard to the refugee. The burden of proof regarding parenthood in regard to the refugee lies on the refugee him/herself.</p> <p>Such a proof consists in the presentation of a civil act. However, in order to take into account the particular situation of refugees (inability to contact the authorities of the country of origin to seek an administrative document, destroyed civil status register, war areas), the French law provides that, in the absence of civil status, the administrative authority takes into account any elements from which the child parent relationship can be</p>
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		<p>sufficiently established. (See article 111-6 of CESEDA and article 111-1 of the Civil Code)</p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so, please describe them and explain the reason for this. In general, any foreign national whose personal and family ties in France are such that refusal to grant residence in France would disproportionately affect his/her right to respect for private and family life, may be issued a one-year temporary residence permit. Parents of accompanied minors who have obtained refugee status are especially concerned (i.e. parents of young women who risk female circumcision). In that case, family ties are especially appreciated in terms of their intensity, age and stability, in terms of life conditions of the individual, his/her integration into French society and the nature of his/her relationship with the family staying in the country of origin.</p> <p>This is provided by article L. 313-11-7 of CESEDA which is available at the following Web address: http://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=D613B1FE991147BC18A1BDD31B754272.tpdjo01v_2?idArticle=LEGIARTI000024197223&cidTexte=LEGITEXT000006070158&dateTexte=20140314</p> <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p> <p>See answers to questions 2 and 5.</p> <p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>Applicants should provide civil acts which enable the establishment of parenthood and/or any elements sufficiently establishing the reality of family ties.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p>
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		<p>Applicants should provide the decision of adoption issued by a court from the country of origin. The lawfulness of the decision is checked by the public prosecutor.</p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>International Convention of the Rights of the Child (article 3§1), ratified by France, is still the subject of a recital in litigation before the courts involving children in family reunification procedure.</p> <p>The European Convention on the Exercise of Children's Rights of 1996, ratified by France on 1st August 2007, has seven references to the best interests of the child.</p> <p>The Charter of Fundamental Rights of the European Union of 2000 is also considered as a procedural guarantee as Article 24-2 of the Charter states: "In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests shall be a primary consideration."</p> <p>The principle of the best interests of the child was included in provisions notably related to parental authority or child protection. Article L. 112-4 of the Family and Social Action Code provides that the interests of the child, the consideration of their physical, intellectual, social and emotional basic needs and the respect of his/her rights should guide all decisions concerning her/him. Similarly, according to article 375-1-2 of the Civil Code, the children's judge must decide in strict consideration of the interests of the child.</p> <p>Article 4 of the Organic Law n°2011-333 of 29 March 2011 on the Human Rights Defender states that the Human Rights Defender must defend and promote not only the rights of the child enshrined by national law or an international commitment regularly ratified or approved by France, but also her/his best interests.</p> <p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake?</p> <p>The right to reunification of children with their refugee parents is enshrined in national law.</p>
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			<p>11) Which circumstances are taken into account in practice?-When parents are separated, a judgment of custody of the child is then required.</p> <p>In case of death of one of the parents in the country of origin or of parental deprivation, the child who stayed in the country of origin is allowed to join the other parent in France, even if the refugee has a new family.</p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state?</p> <p>It is the responsibility of the State to always uphold the best interests of the child, a concept enshrined in an international convention ratified by France.</p> <p>13) In what way insight is being provided hereon in practice?</p> <p>As the law rightfully provides residence of minor children, the administration must apply the law.</p> <p>14)) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>According to the law, minor children have the same rights as refugees themselves: unconditional right to stay, entitlement to refugee status/subsidiary protection under the family unit principle.</p>
	<p>Greece</p>	<p>Yes</p>	<p>Our response to the questionnaire will address both the family members of beneficiaries of international protection who are present in the country when the status of international protection is granted to the beneficiary and the family members who are present in the country of origin and the beneficiary of refugee status requests to be authorised to enter Greece on the basis of family reunification.</p> <p>1) Does your country have a specific migration policy for family members of a) persons who have been granted refugee status? b) beneficiaries of subsidiary protection?</p>

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		<p>GR response: Yes. The policy is applicable to family members of persons who have been granted refugee status and to family members of beneficiaries of subsidiary protection. Furthermore, the right to family reunification may be exercised only by beneficiaries of refugee status.</p> <p>2) If yes, what are the general conditions for being granted a residence permit under this policy? Please attach (a link to) the applicable rules (in English, French or German).</p> <p>GR response: According to provisions of articles 2, 23 and 24 of presidential decree 141/2013, the derived residence permit is granted to a family member of the beneficiary of international protection if the family existed prior to their entry in Greece and under the condition that the family members are already in Greece and their applications for international protection have been rejected. The derived residence permit is granted if both the beneficiary of international protection and the family member (depending on its age) have stated their family links in their requests for international protection. Derived residence permit will also be granted to the child of beneficiary of international protection born in Greece after granting international protection to its parent.</p> <p>Under article 24 par. 5 of P.D. 141/2013, if a family has been formed after the entry of the beneficiary of international protection in and within the country, derived residence permit is also granted to his/her family members.</p> <p>A residence permit is also granted to family members of a refugee in the framework of family reunification as provided for in articles 13-18 of Presidential Decree 131/2006 as supplemented by P.D. 167/2008 and amended by P.D. 113/2013. The refugee needs to file an application to the competent authority requesting to be reunited with his/her family members.</p> <p>A full translation of the applicable rules in English, German or French is not available.</p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p>
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		<p>GRresponse:</p> <p>Under Articles 2, 23 and 24 of P.D. 141/2013 a residence permit may be granted to the following family members of the beneficiary of international protection (hereinafter referred to as 'the beneficiary'):</p> <ul style="list-style-type: none">a) The spouse or partner with whom the beneficiary of international protection has a stable relationship according to the Greek legislation,b) The minor, unmarried and dependent children of the beneficiary irrespective of whether they were born out of wedlock, including adopted children.c) Adult children suffering from mental or physical disability rendering them unable to file an individual application for international protection.d) The mother or father or the person who is responsible for the beneficiary of international protection, according to the Greek legislation, in case he/she is minor and unmarried.e) The parents of the beneficiary of international protection who formed part of the latter's household at the time they abandoned their country of origin and they were dependant, wholly or in part, on the beneficiary. <p>Under Article 24 of P.D. 141/2013 a residence permit may be granted to the following family members of the beneficiary of international protection, provided the family was formed after his/her entry in Greece and within Greece:</p> <ul style="list-style-type: none">a) Child.b) Spouse with valid residence permit. <p>Under articles 4 and 13 of P.D. 131/2006 as supplemented by P.D. 167/2008 and amended by P.D. 113/2013, residence permit for family reunification purposes is granted to the following family members of a beneficiary of refugee status:</p> <ul style="list-style-type: none">a) the spouse provided he/she is over 18 years of age,b) their common minor children, including those who have been legally adopted.c) The minor and unmarried children of one of the spouses, including those who have been adopted, provided that the custody of the children has been granted to the former.d) The adult and unmarried children of the refugee or the refugee's spouse provided they may not objectively cover their needs due to their health status.
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		<p>e) The parents of the refugee provided that they formed part of the latter's household, they were supported by him/her and do not enjoy proper family support in the country of origin.</p> <p>f) The unmarried partner with whom the refugee is in a duly attested stable long-term relationship.</p> <p>If the beneficiary of refugee status is unaccompanied minor, residence permit for family reunification purposes may be to the following family members:</p> <p>a) first-degree relatives in the direct ascending line.</p> <p>b) His/her legal guardian or other family member provided that the minor has no blood relatives in the direct ascending line or that those may not be traced.</p> <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p>GRresponse:</p> <p>There are no specific provisions in our national law or case law addressing the question of the burden of proof. However, the following needs to be noted.</p> <p>In the case of family members under articles 2, 23 and 24 of P.D. 141/2013 they need to have filed an application of international protection. The statements concerning their family links as well as any documents submitted – however not required- establishing the family links with the beneficiary of international protection are evaluated by the Asylum Service.</p> <p>In the case of article 24 par. 5 of P.D. 141/2013 the beneficiary of international protection must submit a birth certificate or a paternity recognition act of his/her child. For the case of the spouse the beneficiary of international protection must submit a marriage certificate and a copy of the residence permit of the spouse.</p> <p>In the case of residence permits for the purposes of family reunification, under article 14 of P.D. 131/2006 as supplemented by P.D. 167/2008 and amended by P.D. 113/2013, the refugee must submit to the competent authorities:</p> <p>a) An application requesting it to allow the entry of his/her family members.</p>
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			<p>b) Recent family status certificate or some other document translated into Greek certified by a Greek authority establishing the family links of the said persons with the refugee and their age. If the refugee is not in a position to submit the said documents, the competent authorities may take into account other evidence.</p> <p>c) Certified copy of the family members' travel documents.</p> <p>(It needs to be noted that when a third-country national files an application for international protection he/she is asked several questions regarding his/her family members, e.g. names of children, their age, whereabouts of his/her parents etc).</p> <p>If the application for family reunification of an adult refugee involves his/her parents, he/she needs to submit additional documents demonstrating his/her ability to care for them effectively.</p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so, please describe them and explain the reason for this.</p> <p>GR response: See above responses.</p> <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p> <p>GR response:</p> <p>In the case of articles 2, 23 and 24 of P.D. 141/2013 the family members are granted a residence permit as family members of beneficiary of international protection, which is valid for three years and may be renewed.</p> <p>In the case of article 24 par. 5 of P.D. 141/2013 the family members are granted a residence permit as family members of beneficiary of international protection, which has the same expiry date with the one of the beneficiary of international protection and may be renewed.</p>
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		<p>In the case of family reunification, family members of the refugee are granted a residence permit as family members of refugee, whose duration is minimum 1 year and may expire the same date with the one of the refugee.</p> <p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>GR response: See above.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>GR response: See above.</p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>GR response: N/A.</p> <p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake?</p> <p>GR response: N/A</p> <p>11) Which circumstances are taken into account in practice?</p> <p>GR response:</p>
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			<p>N/A</p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state?</p> <p>GR response: N/A</p> <p>13) In what way insight is being provided hereon in practice?</p> <p>GR response: N/A.</p> <p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>GR response: N/A.</p>
	<p>Hungary</p>	<p>Yes</p>	<p>1) Does your country have a specific migration policy for family members of</p> <p>a) persons who have been granted refugee status?</p> <p>b) beneficiaries of subsidiary protection?</p> <p>Yes. The family reunification of refugees and beneficiaries of subsidiary protection is ensured under specific conditions by the Hungarian law.</p> <p>According to Article 19 (1) of Act II of 2007 on the admission and right of residence of third-country nationals (hereinafter: RRTN) a residence permit may be issued on the grounds of family reunification to a third-country national who is relative of a third-country national being in possession of a residence permit, immigration permit, permanent residence permit, interim permanent residence permit, a national or EC permanent residence permit, or - under specific other legislation - in possession of a residence card or permanent residence card (hereinafter:</p>

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		<p>sponsor). Family members of refugees, and the parents or legally appointed guardians of unaccompanied minors recognised as refugees may be granted a residence permit on the grounds of family reunification. Pursuant to Article 17 (1) of Act LXXX of 2007 on asylum (hereinafter: Asylum Act) - unless a rule of law or government decree expressly provides otherwise - a beneficiary of subsidiary protection has the rights and obligations of a refugee, in this way family members of the beneficiary of subsidiary protection, and the parents of unaccompanied minors being beneficiaries of subsidiary protection, or their legally appointed guardian may be granted a residence permit on the grounds of family reunification.</p> <p>2) If yes, what are the general conditions for being granted a residence permit under this policy? Please attach (a link to) the applicable rules (in English, French or German).</p> <p>The general conditions of entry and stay in the territory of Hungary for third-country nationals for a period of longer than three months are the following [Section 13 (1) of RRTN]:</p> <ul style="list-style-type: none"> a) a valid travel document; b) a visa for a validity period longer than three months, a residence permit, an immigration permit, a permanent residence permit, an interim permanent residence permit, a national permanent residence permit, or an EC permanent residence permit; c) necessary permits for return or continued travel; d) they have to justify the purpose of entry and stay; e) accommodation or a place of residence in the territory of Hungary; f) sufficient means of subsistence and financial resources to cover their accommodation costs for the duration of the intended stay and for the return to their country of origin or transit to a third country; g) full health insurance or sufficient financial resources to cover healthcare services; h) they must not be subject to expulsion or exclusion, they must not be considered to be a threat to public policy, public security or public health, or to the national security of Hungary; i) they must not be subject to SIS alert. <p>As a general rule, family reunification of refugees may be requested under favourable conditions: family members do not have to verify compliance with the requirements set out in Article 13 (1) points e)-g) of the RRTN (accommodations or place of residence in Hungary, sufficient means of subsistence and financial resources to cover their accommodation costs, health insurance or sufficient financial resources for healthcare services). They are requested to verify these conditions only if more than six months have elapsed between the time of granting</p>
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		<p>refugee status and the time of lodging the request for family reunification. In this case they have to submit the following documents: valid passport, photo, application form, application fee and the proof of the family link. The above mentioned favourable conditions cannot be applied to family members of beneficiaries of subsidiary protection.</p> <p>According to Article 13 (5) of the RRTN the spouse of refugee may be issued a residence permit for the purpose of family reunification if their marriage was contracted before the refugee has entered Hungary.</p> <p>According to Article 19 (3) of RRTN, a decision rejecting an application for family reunification to a refugee may not be based solely on the fact that documentary evidence of the family relationship is missing.</p> <p>The existence of family relationship can be proven in the course of family reunification to a refugee or beneficiary of subsidiary protection in any credible way, in particular by a birth certificate, marriage certificate, adoption document, or other reliable means: family photos, letters, passports, other documents or by DNA tests. The sample required for DNA testing is taken in the presence of the representative of the regional directorate of the Office of Immigration and Nationality or the consular officer. If the existence of family relationships is proven by a third country national through a DNA test performed abroad, the regional directorate contacts the Hungarian Institute for Forensic Sciences which gives an expert opinion. The applicant is required to cover all costs arising in connection with the DNA testing.</p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p> <p>Family member: the third country national's</p> <ul style="list-style-type: none"> • spouse; • minor child in common with his/her spouse (including adopted and foster children); • dependant minor child (including adopted and foster children) of whom a third country national parent has the right of parental custody; • spouse's dependant minor child (including adopted and foster children) of whom the spouse has the right of parental custody. <p>According to Article 19 (4) of RRTN the following relatives of refugees may also be granted a residence permit on the grounds of family reunification: their parents who are dependants their siblings, direct relatives on the</p>
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		<p>ascending/descending line (e.g. grandparents/grandchildren) if they are unable to provide for themselves due to health reasons.</p> <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p>According to Article 19 (3) of RRTN, the rejection of the application for family reunification to a refugee may not be based solely on the fact that documentary evidence of the family relationship is missing. The existence of family relationship can be proven in the course of family reunification to a refugee or beneficiary of subsidiary protection in any credible way, in particular by a birth certificate, marriage certificate, adoption document, other reliable means: family photos, letters, passports, other documents or by DNA tests..</p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so, please describe them and explain the reason for this.</p> <p>According to Article 19 (4) of RRTN the following relatives of refugees may also be granted a residence permit on the grounds of family reunification: their parents who are dependants, their siblings or direct relatives on the ascending/descending line (e.g. grandparents/grandchildren) if they are unable to provide for themselves due to health reasons.</p> <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p> <p>The period of validity of the residence permit for family reunification is maximum three years that can be extended (several times) for a maximum of three years. The validity period of the residence permit for family reunification cannot exceed the validity period of the sponsor's residence permit.</p> <p>While determining the validity period of the residence permit the authority has to take into account the validity of the passport as well. The permitted length of residence is determined on the basis of third country national's travel document which should remain valid for a further 3 months after the expiry of his/her residence permit. Family members - unless they have obtained the right of residence on any other grounds - shall be authorized to extend</p>
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		<p>their right of residence after five years from the date of issue of their first residence permit, or upon the death of the spouse (i.e. the refugee), and if other requirements for further residence are ensured.</p> <p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>The existence of family relationship can be proven in any credible way, in particular by a birth certificate or family photos, letters, passports, other reliable means or by DNA tests. The sample required for DNA testing is taken in the presence of the representative of the regional directorate of the Office of Immigration and Nationality or the consular officer. If the existence of family relationships is proven by a third country national through a DNA test performed abroad, the regional directorate contacts the Hungarian Institute for Forensic Sciences which gives an expert opinion. The applicant is required to cover all costs arising in connection with DNA testing.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>The existence of family relationship can be proven in any credible way, in particular by credible explanation, family photos, letters, passports, or other reliable means.</p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>According to Article 1(2a) of Act CXL of 2004 on the General Rules of Administrative Proceedings and Services the best interest of the child shall be a primary consideration during the administrative procedures in Hungary.</p> <p>10)-11) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake? Which circumstances are taken into account in practice?</p> <p>Not available.</p>
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			<p>12)-13) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state? In what way insight is being provided hereon in practice?</p> <p>Not available.</p> <p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>According to Article 1(2a) of Act CXL of 2004 on the General Rules of Administrative Proceedings and Services the best interest of the child shall be a primary consideration during the administrative procedures in Hungary. The family reunification of refugees and beneficiaries of subsidiary protection is ensured under specific more favourable conditions by the Hungarian law. Please see the answers above.</p>
	<p>Ireland</p>	<p>No</p>	<p>1.Does your country have a specific migration policy for family members of (a) Persons who have been granted Refugee Status (b) Beneficiaries of Subsidiary Protection?</p> <p>With regard to (a) Refugees can apply for Family Reunification with their Family Members under Section 18(3) and Section 18(4) of the Refugee Act 1996 (as amended). With regard to (b) Beneficiaries of subsidiary protection, applications can be made by the beneficiary under Statutory Instrument 426 of 2013 Regulation 25(3) & (4).</p> <p>2. If yes, what are the general conditions for being granted a residence permit under this policy?</p> <p>Section 18(3) of the Refugee Act 1996 (as amended) refers to spouses/civil partners and minor children (under 18) and states that, following the completion of a report on the application by the Office of the Refugee Applications Commissioner (ORAC) (pursuant to Section 18(2) of the Refugee Act 1996 (as amended)) and consideration of this report by the Minister, if the Minister is satisfied that the person the subject of the application is a member of the family of the refugee, the Minister shall grant permission in writing to the person to enter and reside in the State and the person shall be entitled to the rights and privileges specified in Section 3 of the Act for such period as the refugee is entitled to remain in the State. Section 18(4) of the Refugee Act 1996 (as amended) states that the Minister may at his/her discretion grant permission to a dependent member of the family of a refugee to enter and reside in the State and such member shall be entitled to the rights and privileges</p>

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		<p>specified in Section 3 for such period as the refugee is entitled to remain in the State. 'Dependent family member' in this case refers to grandparent, parent, brother, sister, child, grandchild, ward or guardian of the refugee who is dependent on the Refugee or is suffering from a mental or physical disability to such extent that it is not reasonable for him/her to maintain himself/herself fully. The same criteria apply for beneficiaries of Subsidiary Protection. Regulation 25 (3) & (4) of the aforementioned SI refer and identify the family members for whom the beneficiary can apply for. According to this Regulation, the Minister shall (Reg 25(3)) or may (Reg 25(4)) grant permission to remain in the same manner as outlined above for family members of refugees. The subjects of the application, if approved, shall be entitled to the rights and privileges specified in Regulation 22 of the said SI.</p> <p>3. Which family members can apply for a residence permit under this policy? Does this policy apply to foster children?</p> <p>As per Question 2 above. The policy does not refer to foster children as provided for in Irish legislation.</p> <p>4. Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p>In making an application for family reunification, the onus is on the applicant to establish the identity of the family member, their relationship to same and (in the case of the dependents referred to in Section 18(4) or Regulation 16(4) as appropriate, the financial and/or medical dependence of the family members on the subject. To establish identity original documents are requested (i) Valid passport (ii) original birth/death/marriage certificates (as appropriate), original documents proving civil partnership (iv) original legal documents proving the refugee is the ward/guardian of a minor child (where appropriate), evidence of financial dependence, where relevant (e.g. money transfer receipts), evidence of medical dependency, where relevant (original up to date medical reports).</p> <p>5. Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster children) that differ from the general conditions? If so please describe them and explain the reason for this?</p> <p>In all cases for family reunification identity and relationship must be proven. In conjunction with the documents outlined in Question 4 above, the applicant and their family members may be requested to attend for DNA testing where the relationship to the family members cannot be satisfactorily established to the Minister. In the case of minor children, where one parent may wish to remain in their country of origin, or in the case of</p>
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		<p>separated/divorced parents or where the child(ren) has/have been living in the care of another person (e.g. an aunt), a notarized letter from the other parent/carer consenting to the child(ren) moving to this State accompanied by a copy of an appropriate photographic identification document (passport, driver's licence) of that person which clearly displays his/her signature should be submitted.</p> <p>6. What kind of residence permit is granted if the family member meets all the requirements?</p> <p>When Permission to Remain is granted to the family members, it is denoted by a Stamp 4 on the person's passport/travel document. This permission is granted in line with the permission of the Refugee/Beneficiary of subsidiary protection. This permission allows the family member to work without the requirement for a work permit and to avail of State benefits where appropriate. The family member must register with the Garda National Immigration Bureau (GNIB), accompanied by the Refugee/Beneficiary of subsidiary protection. Registration is obligatory for all family members over the age of 16. Once a minor family member reaches the age of 16 they must register with GNIB. All permission to remain must be renewed in line with the Refugee's/Beneficiary's permission and the Refugee/Beneficiary of subsidiary protection must accompany each family member to GNIB in order for them to register/renew their permission.</p> <p>7. What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>An investigation into the application for Family Reunification is carried out by the ORAC. The applicant is requested to submit original identity documents for each subject of the application (passports) and original birth certificates to establish their relationship to the applicant. Where the familial link cannot be established, the applicant and their family members may be requested to attend for DNA testing.</p> <p>8. What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>Foster children are not catered for in the current legislation and therefore no application is processed.</p> <p>9. Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so please describe them.</p> <p>The applicant must be able to establish the identity of the children and their relationship to the applicant, to the Minister (the consent of the child(ren)'s other parent/carer should be submitted if required as outlined at Question</p>
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		<p>5 above). It is imperative that the Minister is satisfied, in all cases involving the entry of persons into the State, that the identities of all such persons, including children, have been verified. This is in order to prevent any potential risks to children who may be entering the State, particularly the risk of trafficking. In particular, it is imperative that the identity of persons the subject of the application and their relationship to the declared refugee is established by reference to authentic documents of identity. Birth certificates are not documents of identity, as they merely record the fact that a birth has been registered, and they do not allow the particular person to whom the registered birth refers to be identified. However, authentic lawfully issued passports of States recognised by the Irish State provide proof of identity because they contain the necessary bio data and photograph. They are also issued on the basis of secure procedures operated by a foreign State.</p> <p>10. On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake?</p> <p>Under the existing legislation and Statutory Instrument, the application for Family Reunification for all subjects must be supported by the appropriate original documentary evidence to establish identity and the relationship of each family member to the applicant. Also considered are the issues of financial dependency, medical dependency and the subject(s) domestic circumstances (applications by SP beneficiaries). Family rights under Article 8 of the European Convention on Human Rights are also considered.</p> <p>11. Which circumstances are taken into account in practice?</p> <p>As per question 10.</p> <p>12. In what way, on the basis of law or case law, insight must be provided in to the way in which the interests of the family member concerned are being weighed against the interests of the State?</p> <p>Each family member, the subject of a application, are assessed independently on his/her own merits taking into account the relevant legislation/statutory instruments and Article 8 of the European Convention on Human Rights. While the personal circumstances of each subject are different, in considering the applications, a balancing act is completed on the rights and entitlement of the subject of the application and these are compared to those of the State.</p> <p>13. In what way insight is being provided hereon in practice?</p> <p>As per Question 12.</p> <p>14. In what way is being ensured that the obligation of Article 10 (1) of the Convention on the Rights of the</p>
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			<p>Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>All applications are dealt with in chronological order. After investigation by the ORAC and consideration by the Minister, if the Minister is satisfied that the child(ren) is/are in fact the biological child(ren) of the applicant, or the applicant is the legal guardian or ward of the child(ren) , or that the appropriate consent of the other parent has been given and the identity of that parent established, the application is approved. The GNIB and the Visa office in the Department are notified of the approval of an application. All applications are processed in chronological order. Applications can be delayed where the applicant cannot provide the necessary documentation or where DNA testing has to be arranged. Lack of consent from a parent and lack of documents establishing the applicant to be the legal/ward or guardian can also delay the application. Where identity/relationship/guardianship cannot be established and/or where DNA testing does not prove the necessary familial link, the application will not be granted.</p>
	<p>Latvia</p>	<p>Yes</p>	<p>1) Does your country have a specific migration policy for family members of</p> <p>a) Persons who have been granted refugee status?</p> <p>b) Beneficiaries of subsidiary protection?</p> <p>Yes. Specific migration policy for family members of refugees as well as family members of beneficiaries of subsidiary protection (alternative status).</p> <p>2) If yes, what are the general conditions for being granted a residence permit under this policy? Please attach (a link to) the applicable rules (in English, French or German).</p> <p>Regulation prescribes the procedures for reunification of the families of refugees or persons having acquired alternative status or temporary protection in the Republic of Latvia. A family may reunite if it has existed in the country of origin of a refugee or person having acquired alternative status or temporary protection.</p> <p><u><i>A full translation of the applicable rules in English is available at: http://www.vvc.gov.lv - Cabinet Regulation No. 74 - Procedures for Reunification of Families of Refugees or Persons Having Acquired Alternative Status or Temporary Protection in the Republic of Latvia</i></u></p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to</p>

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		<p>foster-children?</p> <p><i>According to the Asylum Law:</i></p> <p><i><u>Family member</u> – the spouse of an asylum seeker, refugee or such person who has been granted alternative status or temporary protection, as well as <u>the minor children</u> of an asylum seeker, refugee or such person who has been granted alternative status or temporary protection and the spouse of the asylum seeker, <u>who are not married and are dependant on both or one of the spouses or are adopted, and father, mother or other adult, who, in accordance with the regulatory enactments of the Republic of Latvia in the area of children rights' protection, is responsible for the recipient of international protection, if the mentioned recipient is minor and single, under condition that such family has already existed in the country of origin.</u></i></p> <p><i>A person who has acquired refugee and alternative status has the right to reunite with family members who are located in foreign countries. A person who has acquired alternative status has such right if he or she has resided in the Republic of Latvia for at least two years after acquisition of such status.</i></p> <p><i>A minor unaccompanied refugee who is not married has the right to take in his or her mother and father who have arrived from a foreign country.</i></p> <p><i>A family member of a refugee shall be issued a permanent residence permit. A family member of a person who has acquired alternative status shall be issued a temporary residence permit for the same period of time for which a temporary residence permit has been issued to the person who has acquired alternative status.</i></p> <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p><i>In order for a family to reunite, a refugee or person who has acquired alternative status shall draw up an invitation for the request of a residence permit (hereinafter – invitation) in accordance with the regulatory enactments regulating the procedures for approval of invitations. All family members wishing to be reunited shall be indicated in the invitation.</i></p> <p><i>When drawing up an invitation, a refugee or person who has acquired alternative status shall present a valid personal identification document.</i></p> <p><i>The family members of a refugee or person having acquired alternative status or temporary protection and the mother and father of an unaccompanied minor refugee shall submit the following to the diplomatic or consular</i></p>
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		<p><i>mission of the Republic of Latvia:</i></p> <ul style="list-style-type: none"> - <i>a completed application for the request of a residence permit which has been drawn up in accordance with the regulatory enactments regulating the issuance of residence permits;</i> - <i>a copy of a valid travel document or transfer document recognised in the Republic of Latvia (presenting the original) (a copy of the transfer document shall be submitted if family members reside in the territory of a European Union Member State which granted temporary protection thereto);</i> - <i>copies of documents (presenting the originals), which certify kinship or marriage to the person who has drawn up the invitation;</i> - <i>a photograph of each family member (35 x 45 mm, the face of the person in the picture shall be uncovered, without headgear).</i> <p><i>If the spouse of a refugee or person having acquired alternative status or temporary protection or the mother and father of an unaccompanied minor refugee cannot submit any of the documents referred previously and have indicated a justified reason in writing, the diplomatic or consular mission of the Republic of Latvia may accept documents for the reunification of a family without the respective document.</i></p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so, please describe them and explain the reason for this.</p> <p><i>No.</i></p> <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p> <p><i>If all requirements are fulfilled, family members are granted residence permits accordingly the status of the main person:</i></p> <ul style="list-style-type: none"> - <i>for refugee family members – permanent residence permits (should be prolonged after 5 years);</i> - <i>for family member of persons who acquired alternative status – temporary residence permits (should be prolonged after 1 year).</i> <p><i>Both categories have free access to the labour market.</i></p> <p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p><i>Information provided by a refugee or a person who acquired alternative status during the asylum interview and</i></p>
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		<p><i>information provided in invitation regarding invited family members as well as submitted documents that approves relationship between them are checked. The relationship between parent and biological child is being judged by official, legalized documents. If these aren't available, the relationship is being judged by DNA-research.</i></p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)? <i>Please see the answer to the question No 7.</i></p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p><i>Section 6 of the “<u>Protection of the Rights of the Child Law</u>” establishes that:</i></p> <ul style="list-style-type: none"> - <i>in lawful relations that affect a child, the rights and best interests of the child shall take priority;</i> - <i>in all activities in regard to a child, irrespective of whether they are carried out by State or local government institutions, public organisations or other natural persons and legal persons, as well as the courts and other law enforcement institutions, the ensuring of the rights and interests of the child shall take priority;</i> - <i>protection of the rights of the child shall be realised in collaboration with the family, State and local government institutions, public organisations and other natural and legal persons;</i> - <i>during periods of extra-familial care necessary measures shall be taken to ensure the re-unification of a child with his or her parents.</i> <p><i>The Asylum Law defines rights of unaccompanied minors:</i></p> <p><i>An unaccompanied minor shall be accommodated at an accommodation centre for asylum seekers, with a guardian appointed by the Orphan’s Court or at a child care institution. A decision regarding accommodation of an unaccompanied minor at an accommodation centre for asylum seekers, with a guardian or in a child care institution shall be taken by the Orphan’s Court, upon clarifying the opinion of the Office, <u>taking into account the interests and opinion of the minor in accordance with the age and maturity thereof and observing the following conditions:</u></i></p> <ul style="list-style-type: none"> - <i>an unaccompanied minor shall be accommodated together with adult relatives;</i> - <i>children from one family shall not be separated, except in cases where it is done in the best interests of the children; and</i>
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			<p><i>- the place of accommodation of an unaccompanied minor shall only be changed if it conforms with the interests of this person.</i></p> <p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake? <i>Please see the answer to the question No 9.</i></p> <p>11) Which circumstances are taken into account in practice? <i>Opinion of the minor (depending on his/her maturity) regarding accommodation is clarified through interview and taken into account.</i></p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state? <i>According to the <u>Immigration Law</u> the issuance of residence permit shall be refused if competent State institutions have provided information which is the grounds to refuse the entry for the foreigner (if he/she poses a threat to national security).</i></p> <p>13) In what way insight is being provided hereon in practice? <i>In case of serious doubts the conclusion/opinion of the Security Police regarding particular person is taken into account when decision on granting residence permit.</i></p> <p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner? <i>Please see the answer to the question No 9.</i></p>
	Lithuania	Yes	<p>1) Does your country have a specific migration policy for family members of</p> <p>a) persons who have been granted refugee status?</p> <p>b) beneficiaries of subsidiary protection?</p> <p>a) Yes</p> <p>b) No.</p>

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		<p>2) If yes, what are the general conditions for being granted a residence permit under this policy? Please attach (a link to) the applicable rules (in English, French or German).</p> <p>Family member of persons granted refugee status are eligible for family reunification. If they submit an application for family reunification within 3 months after one of the family members was granted refugee status in Lithuania they are exempt from the general requirements applied to other third country nationals (the requirement that a sponsor has lived in Lithuania for 2 successive years and solely if the sponsor has reasonable prospects of obtaining the right to permanently reside in Lithuania). They are also exempt from specific conditions applied to family members of other third country nationals (to provide a health insurance, to have adequate means of subsistence, place of residence).</p> <p>Beneficiaries of subsidiary protection have no right for family reunification.</p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p> <ul style="list-style-type: none">- the spouse or the person with whom a registered partnership has been contracted;- the children (adopted children) under the age of 18, on condition that they are not married and are dependent from parents;- direct relatives in the ascending line who have been dependent for at least one year and are unable to use the support of other family members resident in a foreign country; <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p>No, there are no specific provisions. Only in the case of asylum seekers the law states that the burden of proof falls on state institutions.</p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so,</p>
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		<p>please describe them and explain the reason for this.</p> <p>See responses to question 2.</p> <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p> <p>Family members of a refugee who arrive together as a family are issued with a permanent residence permit (5 years). If it is a case of family reunification, family members of a refugee are issued with the temporary residence permit (1 year) which can be renewed.</p> <p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>Alleged relationship must be proved by official documents. The Law also specifies that for the purpose of proving blood relationships, unless it is possible to prove their existence otherwise, a DNA test may be used. DNA research has been used in practice few times.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>Lithuania has no practice in determining these relationships but they should be proved by official documents.</p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>Yes. The Law on the legal status of aliens indicates that if international treaties to which the Republic of Lithuania is a party provide otherwise than the Law, the provisions of the international treaties shall apply. Therefore Lithuania directly applies the UN Convention on the Rights of the Child. Case law also refers to the UN Convention in the case of children.</p> <p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake?</p>
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			<p>The case law provides that the principle of the unity of family must be ensured.</p> <p>11) Which circumstances are taken into account in practice? The principle of the unity of family is ensured.</p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state? The case law provides that provisions of the UN Convention on the Right of the Child and the principle of the unity of family must be ensured.</p> <p>13) In what way insight is being provided hereon in practice? The case law provides that provisions of the UN Convention on the Right of the Child and the principle of the unity of family must be ensured.</p> <p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner? In the migration context the UN Convention on the Rights of the Child is directly applied.</p>
	<p>Luxembourg</p>	<p>Yes</p>	<p>1) Does your country have a specific migration policy for family members of a) persons who have been granted refugee status? b) beneficiaries of subsidiary protection?</p> <p>Yes. The policy is applicable to family members of persons who have been granted refugee status and to family members of beneficiaries of subsidiary protection.</p> <p>2) If yes, what are the general conditions for being granted a residence permit under this policy? Please attach (a link to) the applicable rules (in English, French or German).</p>

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		<p>According to article 45 of the amended Law of 5 May 2006 (Asylum Law) the Minister in charge of immigration ensures that family unity shall be maintained. The minister can decide that the dispositions of article 45 can be extended to close relatives who lived within the family at the time of departure from the country of origin and who were wholly or mainly dependent on the beneficiary of refugee or subsidiary protection status at that time.</p> <p>The Minister ensures that family members of the beneficiary of refugee or subsidiary protection status, who do not individually qualify for such status, are entitled to claim the benefits referred to in Articles 46 to 55, as far as it is compatible with the personal legal status of the family member. However, the Minister can limit or revoke these advantages because of reasons of national security or of public order.</p> <p>Article 69, paragraph (2) of the amended law of 29 August 2008 on free movement of persons and immigration establishes the right for the refugee to apply for family reunification without proving that he has sufficient funds and adequate housing if the application is done during the first three months after the refugee status was granted. If the application is done later, the refugee has to fulfil the same conditions as a third country national.</p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p> <p>Article 70 of the Law of 29 August 2008 on free movement of persons and immigration establishes that the following persons can obtain the family reunification:</p> <p>a) the sponsor's spouse or a partner with whom the third-country national has entered into a registered partnership in accordance with the substantive and formal conditions laid down by the Law of 9 July 2004 on the legal effects of certain partnerships, as amended;</p> <p>b) unmarried children, aged less than 18, of the sponsor and/or of his/her spouse or partner, provided that the sponsor, spouse of partner has custody of the children in question and that they are dependent on him/her, and provided further that, in the case of shared custody, the other person having custody has given his/her agreement. The persons referred to in point (a) must be aged over 18 at the time of the application for family reunification. Reunification of the family of a spouse shall not be authorised in the case of a polygamous marriage where the sponsor already has another spouse living with him/her in the Grand Duchy of Luxembourg.</p> <p>c) The Minister authorises the entry and stay, for the purposes of family reunification, of first-degree relatives in the direct ascending line of an unaccompanied minor enjoying international protection</p>
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		<p>d) The Minister may authorise the entry and stay, for the purposes of family reunification, of:</p> <ol style="list-style-type: none"> a. first-degree relatives in the direct ascending line of the sponsor or of his/her spouse or partner where they are dependent on them and do not enjoy proper family support in their country of origin; b. the adult unmarried children of the sponsor or of his/her spouse or partner, when they are objectively unable to provide for their own needs on account of their state of health; c. the legal guardian or any other member of the family of an unaccompanied minor enjoying international protection, where that minor has no relatives in the direct ascending line or such relatives cannot be traced. Foster children are comprehended. <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p>The applicant must prove the family relationship with the following documents;</p> <ul style="list-style-type: none"> • a full copy of his or her passport, certified as true to the original; • a birth certificate; • a document proving the existence of the marriage, the registered partnership or the family relationship (for the children of the non-resident, proof that he or she has custody and responsibility of them); • In the case of refugees, the family relationship can be proved by any kind of evidence. The absence of the justifying documents cannot motivate a refusal of the application of family reunification, based only on that fact. However, the reality of an effective family life and the prior existence of the alleged family life are always verified as well as the solidarity of the family links (see Judgment of the Administrative Court n° 32328C of 22 April 2013). • In relation with the use of DNA testing, Luxembourg does not use invasive procedures. However, in cases where there is a doubt on the biological relationship, DNA testing can be proposed on voluntary basis to the applicant (see judgment of the First instance Administrative Court n° 23176 of 27 February 20081). Nevertheless, if the applicant refuses and there is no other way to proof the relationship the application would be refused. <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so, please describe them and explain the reason for this.</p>
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		<p>As mentioned in question 3 and 4 the applicant must prove by any means the existence of the family relationship and the strength of the family links in all cases. In the case of foster children the existence of the family link must be proved as well as the strength of the link and the dependency in accordance with article 45 (2) of the Asylum Law or article 70 of the amended law 01 29 August 2008 on free movement of persons and immigration.</p> <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p> <p>If all the requirements are met, the family member is granted a residence permit on the grounds of international protection, derived from the status of the main person. In first instance the residence permit is granted for three years minimum and can be renewed. With the derived residence permit the family member has free access to the labour market, with certain restrictions. (Article 46 of the Asylum Law)</p> <p>If the residence permit is granted under article 69 of the Law of 29 August 2008 on free movement of persons and immigration, the family member will receive a residence permit as a family member of a third country national. The first permit is valid for one year; the duration of the next one will be adapted to the duration of the sponsor's residence permit. It can't exceed 5 years.</p> <p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>In first instance the relationship between parent and biological child is being judged by official legalized documents. If these aren't available by any other type of proof (i.e. testimonial evidence). The authorities can propose a DNA testing but this is not systematically done. As the Law doesn't foresee DNA tests, these kinds of tests must be done on a voluntary basis. Please note that the Minister of Immigration and Asylum can't ask to have such a test done, he may only suggest it. The Minister may also ask the family members who want to join the sponsor to have an interview at the Embassy or Consulate of Luxembourg in their country of origin or that represent Luxembourg in their country of origin.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>The Directorate of Immigration will evaluate all the evidence and proof that can prove the family bond and the</p>
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		<p>dependency link between the applicant and the foster child.</p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>Yes. Article 42 (3) of the Asylum Law establishes the best interests of the child shall be a primary consideration in the context of the international protection procedure, as well as article 68 (7) of the Law of immigration in the context of family reunification.</p> <p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake?</p> <p>See answers 2, 5 and 9.</p> <p>11) Which circumstances are taken into account in practice?</p> <p>See answer 10.</p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state?</p> <p>In accordance with article 45 of the Asylum Law the family unity must be respected. However, is up to the applicant to demonstrate the existence and strength of the family bond and the Directorate of Immigration will evaluate all these elements on a case-by-case. It is important to intention that article 45 (3) and (4) expressly authorised to refuse the family reunification on the basis of national security or public order. Also Luxembourg is bind by article 8 of the European Convention of Human Rights.</p> <p>13) In what way insight is being provided hereon in practice?</p> <p>N/A</p>
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			<p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>N/A</p>
	Netherlands	Yes	<p>1) Does your country have a specific migration policy for family members of</p> <p>a) persons who have been granted refugee status?</p> <p>b) beneficiaries of subsidiary protection?</p> <p>NI response: Yes. The policy is applicable to family members of persons who have been granted refugee status and to family members of beneficiaries of subsidiary protection.</p> <p>2) If yes, what are the general conditions for being granted a residence permit under this policy? Please attach (a link to) the applicable rules (in English, French or German).</p> <p>NI response: The derived residence permit is only granted if the family members belonged to the household of the main person at the moment he or she entered the Netherlands. Furthermore it is required that these family members arrived in the Netherlands simultaneously with or within three months after the moment the main person was granted the international protection status. The derived residence permit can also be granted if the family members haven't arrived within three months, but applied for an authorisation for temporary stay based on family reunification within this time frame. The derived residence permit is only granted if the main person has mentioned the family member in his request for international protection. Furthermore, the family member must have belonged to the household of the main person before he entered the Netherlands and meanwhile the family bond may not be broken. This has to be proven by official documents. If that's not possible, the main person has to give a plausible explanation on the family bond. Biological relations in cases where there are no official documents can be proven by means of DNA-research. The authorization for temporary stay will not be granted if the biological parent who stays behind doesn't give</p>

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		<p>permission for the departure of the child(ren).</p> <p>A full translation of the applicable rules in English, German or French is not available.</p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p> <p>NI response: Under Article 29 (2) of the Aliens Law 2000 a residence permit can be granted to the following family members of the bearer of the international protection status (hereinafter referred to as 'the main person'):</p> <p>a) The spouse or the minor children; b) The unmarried partner or the adult children, on the condition that they are dependent on the main person in such a way, that they must be considered part of his family. This provision does also apply to foster-children.</p> <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p>NI Response: The main person and his or her family member must prove the alleged relationship by:</p> <ul style="list-style-type: none"> - A valid passport proving their identity; - If applicable, a document proving the marriage; - If applicable, a document proving the partnership and living together before the arrival in the Netherlands; - If applicable, a document proving the biological relationship between parent and child. <p>If one or more of these documents are not available, the main person and the family member must give a credible explanation about the reason for this and why they should not be hold responsible for it. If the reason for the lack of documents is credible and the main person and his family member(s) are not to be blamed for it, they have to make their identity and relationship plausible in another way. In cases where biological relations are concerned, this can be done by DNA research.</p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so,</p>
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		<p>please describe them and explain the reason for this.</p> <p>NI response:</p> <p>Biological minor children In relations between parents and their biological minor children the biological relationship is (also) considered as a factual family bond. Only in one or more of the following circumstances this bond can be considered as broken:</p> <ul style="list-style-type: none"> - The child is living on his own and is self supporting; - The child has started a family of his own by marriage or partnership; - The child takes care of an illegitimate child. <p>Biological adult children A factual family bond between the main person and his adult child is only presumed if this child is more than normally (emotionally) dependent on him. A more than normal (emotional) dependence is not being presumed if the biological adult child is living on his own, is self supporting or has started a family of his own.</p> <p>Adopted or foster-children In the case of foster-children it's not possible to prove the existence of a relationship between parent and child by DNA-research. In these cases the main person has to give a credible explanation that there is a factual family bond between him and the foster-child. The following circumstances are being taken into account when judging this bond:</p> <ul style="list-style-type: none"> - The period during which the foster-child was taken up in the family of the main person; - The (financial) dependence of the foster-child on the main person; - The reason for taking up the foster-child in the family of the main person and, if so, the reason for temporarily placing him outside of that family. <p>If the factual family bond between the main person and his foster-child is presumed, the conditions for breaking this relationship are the same as those mentioned above in cases of biological children.</p> <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p> <p>NI response:</p>
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		<p>If all the requirements are met, the family member is granted a residence permit on the grounds of international protection, derived from the status of the main person. In first instance the residence permit is granted for five years. Later, it can be changed in a residence permit for an indefinite period. With the derived residence permit the family member has free access to the labour market.</p> <p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>NI response: In first instance the relationship between parent and biological child is being judged by official, legalized documents. If these aren't available, the relationship is being judged by DNA-research.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>NI response: In these cases the main person has to give a credible explanation that there is a factual family bond between him and the foster-child.</p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>NI response: Not available yet.</p> <p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake?</p> <p>NI response: Not available yet.</p>
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			<p>11) Which circumstances are taken into account in practice?</p> <p>NI response: Not available yet.</p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state?</p> <p>NI response: Not available yet.</p> <p>13) In what way insight is being provided hereon in practice?</p> <p>NI response: Not available yet.</p> <p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>NI response: Not available yet.</p>
	Portugal	Yes	<p>1) Does your country have a specific migration policy for family members of</p> <p>a) persons who have been granted refugee status?</p> <p>b) beneficiaries of subsidiary protection?</p> <p>Yes. It is applicable to family members of persons who have been granted refugee status and to family members of beneficiaries of subsidiary protection.</p> <p>2) If yes, what are the general conditions for being granted a residence permit under this policy? Please attach</p>

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		<p>(a link to) the applicable rules (in English, French or German).</p> <p>Beneficiaries of international protection, recognized in accordance with Law, are entitled to reunification with their family members who are within or outside national territory. A translation of the applicable rules in English, German or French is not available.</p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p> <p>The family members are the spouse, underage or incapable children under guardianship of the couple or of one Spouse, minors adopted by an unmarried applicant, by a married applicant or by the spouse, following decision taken by the relevant authority of the Country of Origin provided that legal framework incorporates the same rights and duties of natural affiliation and provided that decision is acknowledged by Portugal. Children who are of age, and of whom the couple or one of the spouses is in charge, and study in a Portuguese teaching institution, progenitors in first direct line of kindred to the resident or the respective spouse provided they depend from either of those. Underage brothers or sisters provided they are under the tutelage of the resident, in accordance to decision made by a relevant authority of the Country of origin and provided that decision is acknowledged by Portugal. Are also considered family members of the unaccompanied minor refugee to the purposes of family reunion: Direct ascendant in first degree of kindred; His / her legal guardian or any other relative, if the refugee has no direct ascendants or if their locating proves impossible to determine.</p> <p>No, it does not apply to foster-children.</p> <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p>Yes. The application in general must include the following: a) Documents that prove the existence of relevant family ties or of the de facto union; b) Documents that prove the fulfilment of all conditions to obtain family reunion;</p>
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		<p>c) Notarised copies of travelling documents which belong to the family members or to the de facto partner. When a refugee is unable to present official documents that prove a family tie, other proofs of the existence of such relationship must be taken into consideration.</p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so, please describe them and explain the reason for this.</p> <p>See answer n° 3.</p> <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p> <p>To the members of the family of the applicant shall be granted an exceptional residence permit, which validity is similar to that of the asylum or subsidiary protection beneficiary.</p> <p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>The standard procedure is the former cohabitation, any register of the alleged relationship, legalized documents, as well as any other trustworthy means of proof.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>Not applicable.</p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>Not available.</p>
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			<p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake?</p> <p>Not available.</p> <p>11) Which circumstances are taken into account in practice?</p> <p>The main person must give a credible explanation about the reason for reunification with the children and a credible explanation about their relationship. Also, if necessary, in determining the best interest of the child or children in this context various investigations can be undertaken by social workers, Family and Minors Court and psychologists.</p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state?</p> <p>Not available.</p> <p>13) In what way insight is being provided hereon in practice?</p> <p>Not available.</p> <p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>See answer n° 11.</p>
	Romania	Yes	Law 122/2006 on asylum in Romania (further modified and completed) set the legal regime of aliens who apply for a form of protection in Romania, the legal status of the beneficiaries of a form of protection in Romania, the

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		<p>procedure for granting, cessation and cancellation of a form of protection in Romania as well as the procedure for establishing the responsible state for examining the asylum application.</p> <p>The provisions on family reunification of beneficiaries of a form of international protection in Romania are applied and interpreted in the context of its finality and of the specific piece of legislation. The purpose of the activities implemented according to Law 122/2006 is to grant protection for the aliens being on Romanian territory who are in need of protection because they cannot benefit from protection of their countries of origin. By country of origin it can be understood (art. 2 e) of Law 122/2006) “the country whose citizen is the person, in case of a foreign citizen and the country/countries where the person has his/her usual residence”. Thus, in examination of the asylum applications involves the analysis of the reasons invoked by applicants related to the country/countries of origin (in case the applicant has more than one citizenship) to establish if they don’t benefit from its/their protection and are exposed to persecutions or serious risks in the country/countries they came from. The Romanian authorities ensure compliance of the principle of family unity, according to art. 7 from the above mentioned law (“Principle of family unity”).</p> <p>Compliance with the principle of family unity cannot be the only reason for granting a form of protection for the family members of a beneficiary of the refugee or subsidiary protection status, but it must be taken into account when analyzing the asylum applications of the family members because it can be presumed that the dangers posed to the main beneficiary can extend to the family members in the same country of origin. Nevertheless, in the case the family member of the beneficiary of refugee or subsidiary protection status also has the citizenship of another country or only the citizenship of another country and this country can offer protection, granting of a form of protection in Romania is not rightful.</p> <p>In this respect, it can be mentioned that the legislation on the regime of aliens in Romania provides for the possibility of applying for the family reunification for the aliens being legally in Romania (including the beneficiaries of a form of international protection). So there is a legal alternative to comply with the principle of family unity for the persons who don’t comply with or don’t wish a family reunification according to the law on asylum.</p> <p>Also, family reunification according to the law on asylum and family reunification according to the law on aliens differ from the procedure, scope and effects point of view.</p> <p>Family reunification has been introduced into the law on asylum to give the beneficiaries of the refugee or subsidiary protection the opportunity to apply for international protection for their family members who have the same country of origin, taken into account the presumption that they can be exposed to persecutions due the status of the beneficiaries.</p>
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		<p>Family reunification according to the law on aliens in case of refugees and persons granted with subsidiary protection represents a legal possibility for the cases when the family members wish to come to Romania to live with the beneficiary of a form of protection but also to keep the contacts with his/her country of origin and allow him/her to go back.</p> <p>A. Family reunification in case of beneficiaries of international protection (major)</p> <p>Law 122/2006 on asylum in Romania provides for the possibility for the major persons who were granted a form of protection in Romania to apply for asylum for their family members (spouse and minor children) if those are not on Romanian territory. Those applications are submitted at the specialized structure of the General Inspectorate for Immigration.</p> <p>By family members of a beneficiary of international protection (major) it can be understood – according to the provisions of the Law 122/2006:</p> <ul style="list-style-type: none">- Spouse of the beneficiary of international protection- Minor children of the beneficiary of international protection or minor children of his/her spouse under the condition they are not married and irrespective they are the result of a marriage or not, or they are adopted according to the national laws applicable in the country of origin. <p>Together with the application the beneficiary of international protection will present documents (e.g. birth certificate, marriage certificate, ID, etc.) – in original, or any other proofs clearly proving the family ties. When necessary the decision officer can have an interview with the beneficiary of international protection to get additional information or to clarify other relevant aspects regarding the application for family reunification.</p> <p>1. In case the conditions for family reunification are fulfilled</p> <p>Family reunification is approved when the proof of family ties was done by the beneficiary of international protection (in case of spouse the marriage must be concluded before the granting the protection status). In case the family reunification is approved, the family members will be directed by the beneficiary of international protection to apply at the Romanian Embassy in the country he/she is the for entry visas. In the meantime, the diplomatic mission is informed regarding the fulfilment of the legal conditions for issuing the visas. For the family members who don't have travel documents or are in the impossibility to get them and are outside the country of origin travel documents and short stay visas are issued. The validity of the travel document is maximum 30 days and it ceases as from the date the owner enters the Romanian territory.</p> <p>In case the family member don't present enough documents proving his/her identity the diplomatic mission or the</p>
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			<p>consular office don't issue the visa or the travel document.</p> <p>After entering the Romanian territory the family members enter the asylum procedure and will have the status of asylum seekers by the end of the procedure. The refugee status is granted for the spouses and minor children being on Romanian territory, upon request according to art. 24 (1) of Law 122/2006 (exceptions are cases when the persons are in one of the exclusion clauses). In case of spouses those provisions are applied only for the cases when the marriage was concluded before the last entry into Romania of the beneficiary of international protection. Subsidiary protection is granted for the spouses and minor children being on Romanian territory, upon request according to art. 27 (1) of Law 122/2006 (exceptions are cases when the persons are in one of the exclusion clauses). In case of spouses those provisions are applied only for the cases when the marriage was concluded before the last entry into Romania of the beneficiary of international protection.</p> <p>2. In case the conditions for family reunification are fulfilled</p> <p>In case the conditions for family reunifications for a beneficiary of international protection are not fulfilled the specialised body of the General Inspectorate for Immigration issues a decision rejecting the application. The decision is communicated to the person who applied for family reunification. The decision can be contested according to the law.</p> <p>The procedure for family reunification should be finalized as soon as possible, but not exceeding 9 months from the submission date. When the case may be, the deadline can be extended with a maximum of 6 months.</p> <p>B. Family reunification in case of unaccompanied minors beneficiaries of international protection</p> <p>According to Law 122/2006 family reunification in cases of unaccompanied minors benefiting from international protection is done according to the interest of the child. In those cases the General Inspectorate for Immigration launches family reunification procedure automatically. Thus, the agreement of the minor or the legal representative is requested. In all cases the opinion of the minor is taken into account and is treated with high importance. In cases when the unaccompanied minor was identified, the decision officer analyses the possibility and conditions for family reunification and issues a reasoned decision. The decision is subject to two remedies as provided for ordinary procedure.</p> <p>By family members of unaccompanied minor beneficiary of international protection can be understood his/her parents or other major person responsible for him/her.</p> <p>The family members who are granted refugee or subsidiary protections status benefit from the rights set for beneficiary of international protection (art. 20 of Law 122/2006) including the right to get a residence permit.</p>
	Slovak Republic	Yes	1) Does your country have a specific migration policy for family members of

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			<p>a) persons who have been granted refugee status? b) beneficiaries of subsidiary protection?</p> <p>a)yes b)yes</p> <p>There is no special legal act on a) and b). However, there are provisions in the Act on Asylum and Act on Residence of Foreigners in the Slovak Republic dealing with the family reunification.</p> <p>2) If yes, what are the general conditions for being granted a residence permit under this policy? Please attach (a link to) the applicable rules (in English, French or German).</p> <p>Family members of beneficiaries of international protection have 2 options: they can either apply for a residence permit (permanent or temporary) for the purpose of family reunification under the Act on Residence of Foreigners (a) or they can apply for international protection for the purpose of family reunification under the Act on Asylum (b).</p> <p>a) According to the Act on Residence of Foreigners, a family member of a beneficiary of international protection can apply for a temporary residence permit for the purpose of family reunification. Temporary residence permit is also granted to the third country national who is a relative in the ascending line of the beneficiary of international protection who is under the age of 18.</p> <p>b) According to the Act on Asylum, asylum can be granted to a family member of the person who was granted asylum under the Geneva Convention. The family member has to be present during the asylum procedure in the territory of the Slovak Republic and fulfil the condition that he/she has not been granted a permanent residence permit. He/she will be granted permanent residence along with the refugee status. The same applies to family members of beneficiaries of subsidiary protection who will be granted subsidiary protection along with temporary residence permit.</p> <p>The international protection can also be granted to a child born to the beneficiary of international protection in the territory of the Slovak Republic under the condition that she (the mother) provides all the documents necessary for the decision on granting the child the international protection within 180 days.</p>
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		<p>http://mic.iom.sk/en/residence/general-info/12-pobyt-cudzincov-na-slovensku-zakladne-informacie.html</p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p> <p>The following family members can apply for a temporary residence permit for the purpose of the family reunification:</p> <ul style="list-style-type: none">• spouse, if they are married and were married during the time when the recipient of international protection left the country of origin and he/she agreed with the reunification• single child or spouse under 18 years old• parents of a recipient of international protection under 18 years old or their foster parents under the condition that the child agrees with the reunification <p>Slovak legislation does not differentiate between biological and foster parents so this policy also applies to foster parents.</p> <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p>In case of the family reunification with a child under 18, consent of the noncustodial parent who has the right to meet the child is necessary. There are also other provisions specifying which documents are necessary e.g. proving the purpose of the residence, financial resources, clean criminal record etc.</p> <p>As for the legal proceedings regarding the residence of foreigners, the burden of proof is divided into two parts.</p> <ul style="list-style-type: none">• Foreigner (as the party) may offer further evidence in support of his/her arguments• The Police (as the decision-making authority) have to fully investigate the reality of the situation and for that purpose obtain all the evidence necessary for their decision. <p>Due to the aforementioned, other proofs might be anticipated.</p> <p>For the purpose of the family reunification, a family member can apply for the national visa under the Act on the Residence of Foreigners (in order to be able to come to Slovakia). The application shall be submitted at the Slovak</p>
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		<p>embassy. The following documents are required: a valid passport, a document confirming their family status, documentary evidence that shows financial dependence (if necessary). These documents are to be considered by the embassy. After the submission of the application during the interview, it is verified whether the statements correspond with each other. It should be mentioned that granting international protection is claimable, i.e. if they fulfil the requirements, the Migration Office will grant them international protection.</p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so, please describe them and explain the reason for this.</p> <p>There are equal conditions (mentioned in 3)) for all the above mentioned categories. The conditions are not applicable to adult children. The exceptions are children up to the age of 14 who do not have to prove their clean criminal record if they want to reunify.</p> <p>As already mentioned in 4), in case of the family reunification with a child under 18, consent of the noncustodial parent who has the right to meet the child is necessary.</p> <p>In case of family reunification with the following family members, the fulfilment of the requirements (in order to be issued a temporary residence permit) has to be proved by the person with whom the applicant wishes to reunify:</p> <ul style="list-style-type: none"> • A single child under 18 years old • A single dependent child over 18 years old or their spouse's dependent child over 18 years old who cannot provide for themselves due to persisting health problems • A dependent parent or their spouse's dependent parent who does not receive appropriate financial benefit in their country of origin <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p> <p>If they apply for a residence permit for the purpose of family reunifications and they have met all the conditions, they are granted temporary residence permit. If they apply for international protection they are granted temporary or permanent residence permit according to the type of international protection.</p>
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			<p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>To prove their alleged relationship, the birth certificate has to be submitted. Further documents might be required such as the ruling of the court on the dissolution of marriage, child custody, amendment of the conditions for noncustodial parent regarding meeting the child or the above mentioned consent of the noncustodial parent.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>The same conditions as mentioned in 7).</p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>According to the national legislation, when considering the application the Police take into account the best interest of the child of the third country national. In its Art. 1 (2), the Constitution of the Slovak Republic declares that the Slovak Republic recognizes and honors general rules of international law, international treaties by which it is bound and its other international obligations (such as The Convention on the Rights of the Child). Therefore, the Constitution of the Slovak Republic is the main legal tool to ensure the best interest of the child. According to the Act on Asylum in case of the reunification of parents with a beneficiary of international protection under the age of 18 the child has to agree with the reunification.</p> <p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake?</p> <p>The interest of the child is not defined in the Slovak legislation. Therefore the consideration of its interest is very individual and depends on the individual case as well as the way of decision-making by the specific authority.</p>
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			<p>11) Which circumstances are taken into account in practice?</p> <p>Relationship with their parents, financial resources of the parent, standard of accommodation etc.</p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state?</p> <p>Decision (regarding the residence permit) has to be in compliance with the laws and other legal acts, it has to be issued by the respective authority (respective Police unit), based on the reality of the situation and has to include all the necessities.</p> <p>The decision also includes the reasoning of the decision by the authority in which it has to be mentioned what the ground for the decision was, how the assessment was done, how they chose the right reasoning when applying the law based on which they made the decision, and how they dealt with the proposals and objections of the parties and their statements on the grounds of the decision.</p> <p>A remedy (an appeal) shall be available against the negative decision on the residence permit.</p> <p>13) In what way insight is being provided hereon in practice?</p> <p>See 10)</p> <p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>According to the Art. 7 (5) of the Constitution of the Slovak Republic, international treaties on human rights and fundamental freedoms, international treaties whose executions does not require a law and international treaties which directly establish rights or obligations of natural persons or legal persons and which were ratified and promulgated in a manner laid down by law shall have priority over the laws. Therefore, the Convention on the Rights of the Child has priority over the national law.</p> <p>In Art. 1 (2), the Constitution of the Slovak Republic declares that the Slovak Republic recognizes and honors general rules of international law, international treaties by which it is bound and its other international obligations.</p>
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	<p>Sweden</p>	<p>Yes</p>	<p>1) Does your country have a specific migration policy for family members of a) persons who have been granted refugee status?</p> <p>No, everyone who has a close family member in Sweden with a permanent residence permit is allowed to join this person irrespective of the grounds for the permanent residence status of the family member.</p> <p>b) beneficiaries of subsidiary protection?</p> <p>No, everyone who has a close family member in Sweden with a permanent residence permit is allowed to join this person irrespective of the grounds for the permanent residence status of the family member.</p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p> <p>A person is entitled to receive a residence permit if he/she is married, has entered into a registered partnership with, or is cohabiting with someone living in Sweden. Marriage or partnership should be registered with the Swedish Tax Agency.</p> <p>Future husbands, wives or cohabittees A person may receive a residence permit if he/she is planning to marry or cohabit with someone living in Sweden.</p> <p>Children under 18 Unmarried children under 18 are entitled to be reunited with a parent in Sweden. This means that a child can apply for residence permit to move to the parent in Sweden.</p> <p>Other close relatives In exceptional cases, a person may obtain a residence permit if he/she has lived outside of Sweden with a relative that the applicant wishes to be re-united with. This category covers, for example, unmarried children over the age of 18 and the parents of a person resident in Sweden. In such cases, besides having lived together in the same household immediately before a family member moved to Sweden, the applicant must also be exceptionally dependent on this family member. The dependence must have existed already in the country of origin, and it must be of a nature which goes beyond that which is to expected among family members, one which makes it difficult for the two persons to live apart. If a child is adopted by a person who has been granted a residence permit in Sweden and that person is the legal guardian of the child, the rules are the same as for other children.</p>
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		<p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p>The documents required are:</p> <ul style="list-style-type: none"> copies of the pages in the applicant's passport which show personal details, the document's period of validity and whether the applicant has permission to live in countries other than his/her country of origin. <p>If a person is married to or a registered partner of the person he/she wants to join in Sweden, the applicant must also attach:</p> <ul style="list-style-type: none"> a marriage certificate or equivalent any documents proving that the marriage has been registered in the country of origin. <p>If a person has lived together with the person he/she is joining in Sweden in his/her country of origin or elsewhere, he/she must also attach:</p> <ul style="list-style-type: none"> a certificate of population registration, rental contract or proof of purchase for your residence, or other documents showing that partners have a shared residence. <p>If the applicant has children under the age of 18 who are moving to Sweden with him/her, he/she must also attach:</p> <ul style="list-style-type: none"> a copy of the child's passport that shows their personal details, citizenship and period of validity a birth certificate or equivalent document on which the parents' names appear approval from the other guardian, if they are not accompanying the applicant to Sweden a court decision (if the applicant has sole custody) or a death certificate (if the other parent is deceased) adoption documents if the child was adopted. <p>If you are pregnant, an applicant must also attach</p> <ul style="list-style-type: none"> a certificate of pregnancy. <p>The Migration Board offers DNA analysis when other evidence regarding family ties is not sufficient for the Migration Board to be able to reach a decision regarding a residence permit. If the Migration Board decides to offer DNA analysis, the Migration Board will meet all the costs associated with the taking of samples, transportation of the samples and the analysis itself.</p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so, please describe them and explain the reason for this.</p>
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		<p>See question 3.</p> <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p> <p>Married couples, registered partners and co-habitees If a person has lived with his/her husband, wife or partner in the country of origin for at least two years, the Migration Board will, as a rule, grant a permanent residence permit. If the partners have not lived together in their country of origin, the Migration Board will, as a rule, grant a residence permit for two years or, in certain cases, for shorter periods (but always for at least one year). Extensions are possible. If the relationship ends during the time in which a person possesses a time-limited residence permit, the permit will in most cases not be extended. The Migration Board can also cancel a residence permit if the relationship ends. In each individual case, however, the Migration Board consider whether there are any reasons to approve continuation of the residence permit. If a relationship ends while a person has a temporary residence permit he/she must submit a new application, stating the reasons for an extended permit.</p> <p>Children under the age of 18 If a child applies with a parent, they usually receive the same permit as their parent.</p> <p>Close relatives over the age of 18 If the applicant is entitled to family reunification, the Migration Board grants a permanent residence permit.</p> <p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>In the first place, official documents are examined. When this is not sufficient, or not possible, the Migration Board can offer DNA-testing – see question 4.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>The Migration Board examines official documents showing the adoption or that the person is a legal guardian. See</p>
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		<p>question 4.</p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>The best interest of the child should always be considered, if possible the child has the right to be heard.</p> <p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake?</p> <p>Based on the complexity of the question and the workload of the NCP we will not be able to answer this question</p> <p>11) Which circumstances are taken into account in practice?</p> <p>Based on the complexity of the question and the workload of the NCP we will not be able to answer this question</p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state?</p> <p>Based on the complexity of the question and the workload of the NCP we will not be able to answer this question</p> <p>13) In what way insight is being provided hereon in practice?</p> <p>Based on the complexity of the question and the workload of the NCP we will not be able to answer this question</p> <p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>The best interest of the child should always be considered, if possible the child has the right to be heard. The Swedish Migration Board applies a children's rights approach.</p>
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	United Kingdom	Yes	<p>1) Does your country have a specific migration policy for family members of</p> <p>a) persons who have been granted refugee status?</p> <p>b) beneficiaries of subsidiary protection?</p> <p>UK response Yes, the UK has a Family Reunion policy which enables qualifying family members of a person granted refugee status or humanitarian protection to apply to be granted leave in line with their UK sponsor.</p> <p>2) If yes, what are the general conditions for being granted a residence permit under this policy? Please attach (a link to) the applicable rules (in English, French or German).</p> <p>UK response Applicants can apply for family reunion from abroad or from within the UK. The criteria for refugee family reunion applications are set out in part 11 of the Immigration Rules and allow pre-existing family members (spouse, civil partner or unmarried/same-sex partner, plus any children under 18 who formed part of the family unit before the sponsor fled to seek asylum) to apply to be reunited with or to have their leave brought in line with a recognised refugee or of a person granted humanitarian protection in the UK.</p> <p>➤ There are also provisions in Appendix FM of the Immigration Rules to grant entry clearance to the post-flight partner and children under the age of 18 of a person granted refugee or humanitarian protection in the UK.</p> <p>Furthermore, there are provisions in Appendix FM of the Immigration Rules to grant entry clearance to adult dependent relatives (parent, grandparent, child or sibling who must be over the age of 18) of a refugee or person with humanitarian protection in the UK.</p> <p>Children under the age of 18, who have a close relative in the UK (who is not the child's parent) and that family member has been recognised as a refugee or granted humanitarian protection in the UK, may also apply to join that family member under Part 8 of the Immigration Rules. In such cases serious and compelling family or other considerations as well as other criteria must exist.</p> <p>For those applying from within the UK, the guidance can be found at:</p>
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		<p>https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257465/familyreunion.pdf</p> <p>For those applying from visa posts to join sponsors in the UK, guidance can be found at: https://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#set101-family-reunion-policy</p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p> <p>UK response See response to Q2. Foster children are not referred to in the policy.</p> <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p>UK response The Immigration Rules and associated guidance do not refer to the burden of proof in Family Reunion cases.</p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so, please describe them and explain the reason for this.</p> <p>UK response No.</p> <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p> <p>UK response In family reunion cases, leave will be granted to the applicant in line with the sponsor in the United Kingdom who has refugee status or humanitarian protection.</p>
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			<p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>UK response Staff can use documentary evidence provided in the application and interview. If the applicant submits DNA evidence, and it is from an organisation approved by the Ministry of Justice, it will be considered.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>UK response Foster children are not covered by the Immigration Rules.</p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>UK response Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the UK Border Agency (now the Home Office) to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. The statutory duty to children includes the need to demonstrate:</p> <ul style="list-style-type: none">• Fair treatment which meets the same standard as a British child would receive;• <u>The child's best interests are a primary, although not the only, consideration in any decision affecting the child;</u>• No discrimination of any kind;• Asylum applications are dealt with in a timely fashion;• Identification of those that might be at risk from harm. <p>However, as children applying to join family members in the UK who have either asylum or humanitarian</p>
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		<p>protection will qualify under the Immigration Rules (as in question 3 above), there is no requirement for a separate best interests consideration to be completed.</p> <p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake?</p> <p>UK response Please see response to question 3 above.</p> <p>11) Which circumstances are taken into account in practice?</p> <p>UK response Please see response to question 3 above,</p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state?</p> <p>UK response Family Reunion cases are considered on the basis of whether or not the applicant qualifies under the Immigration Rules only.</p> <p>13) In what way insight is being provided hereon in practice?</p> <p>UK response See response to question 12 above.</p> <p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>UK response</p>
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			<p>S.55 of the Borders, Citizenship and Immigration Act 2009 is the mechanism through which the UK Government ensures compliance with the UNCRC. S.55 compliance is built into all HO asylum guidance, including that relating to Family Reunion.</p>
	<p>Norway</p>	<p>Yes</p>	<p>1) Does your country have a specific migration policy for family members of a) persons who have been granted refugee status? b) beneficiaries of subsidiary protection?</p> <p>Beneficiaries of subsidiary protection are more or less included in the Norwegian refugee criteria: they are granted protection and given the same type of residence permit and have the same rights as any person who is granted refugee status in accordance with the 1951 convention.</p> <p>As a main rule, the criteria for family migration is the same whether the sponsor has been granted refugee status or whether the sponsor is a Norwegian national or a foreigner with a residence permit in Norway, etc. There are however some modifications, a sponsor with refugee status is not required to be able to financially support his/her closest family members who apply for family reunification, as long as the application has been sent within a year from the date the sponsor received his/her refugee status.</p> <p>However, parents and/or siblings of minors who have been granted protection are entitled to a residence permit even though this deviates from the general rules.</p> <p>2) If yes, what are the general conditions for being granted a residence permit under this policy? Please attach (a link to) the applicable rules (in English, French or German).</p> <p>The (i) sponsor must have been granted protection, (ii) the applicant must be a family member that is entitled to family migration, (iii) the sponsor must be able to support the family members, except in the case where the sponsor is granted protection and the applicant is the sponsor's spouse(marriage must be contracted before the sponsor entered Norway), cohabitant or child. The applicant's identity must be documented or made probable.</p> <p>If the applicant is a spouse/cohabitant/fiancée that the sponsor did not have when entering Norway, the sponsor</p>

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		<p>must have been working/studying full time in Norway for at least 4 years. Housing is not a requirement.</p> <p><i>The relevant clauses from the immigration Act/Regulations are copied into the attached appendix. The English translation has not been updated since 2010.</i></p> <p>3) Which family members can apply for a residence permit under this policy? Does this policy also apply to foster-children?</p> <p>The spouse, a cohabitant of more than 2 years, cohabitant with common children, cohabitants that are expecting a child (may be granted a permit), parents and/or siblings of minors with protection. Elderly parents over 60 without a spouse, or cohabitant or relatives in direct line of ascent or descent in the country of origin may also be granted a permit. A fiancée may be granted a permit.</p> <p>4) Are there any specific provisions in your national law or case law about the burden of proof in applications for a residence permit under this policy?</p> <p>As a main rule, a family migration applicant who is in danger of persecution from national authorities, or who is entitled to derived refugee status after entering Norway and who does not have a passport, is not required to contact national authorities to get a passport issued.</p> <p>5) Are there any special conditions for particular categories of family members (spouses or partners, parents, biological minor children, biological adult children, foster-children) that differ from the general conditions? If so, please describe them and explain the reason for this.</p> <p>No</p> <p>6) What kind of residence permit is granted if the family member meets all the requirements?</p> <p>A residence permit is granted for 1 to 3 years which constitutes the right to a permanent residence permit. The family member may apply for derived refugee status after arriving in Norway. The refugee's spouse, cohabitant and children are under certain conditions entitled to this. If granted, the family member will receive a residence</p>
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		<p>permit as a refugee.</p> <p>7) What is the standard procedure for investigating an alleged relationship between parent and biological child(ren)?</p> <p>This depends on which country the applicant comes from. Documentation, interviews and DNA tests are the common tools.</p> <p>8) What is the standard procedure for investigating an alleged relationship between parent and foster-child(ren)?</p> <p>Interviews.</p> <p>9) Are there any procedural guarantees in law or case law to ensure that the best interest of the child(ren) concerned is a primary consideration in the decision upon the request for reunification with the main person? If so, please describe them.</p> <p>Yes. Both the Immigration Act and Regulations state that the best interest of the child is a primary consideration. The child is to be given the opportunity to be heard. In some cases, the child shall also be given the opportunity to an interview. There are clauses and instructions that clearly emphasize the importance of the best interest of the child when considering making an exception from other rules, especially the income requirements. There are rules that ensure that the parent in Norway has the parental responsibility and/or consent from the other parent if a child is applying alone. Applications from children without parents in the home country are to be given priority and handled faster than other applications.</p> <p>An application from a child may also be rejected if just one of the parents is living in Norway, and there is a danger of abuse from that parent's spouse.</p> <p>10) On the basis of law or case law, which circumstances must be taken into account when considering the interests at stake?</p> <p>The family immigration rules in Norway are very detailed and extensive. In most cases, the best interest of the</p>
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			<p>child is included in the Immigration Act/Regulations.</p> <p>11) Which circumstances are taken into account in practice?</p> <p>See 10</p> <p>12) In what way, on the basis of law or case law, insight must be provided into the way in which the interests of the family member concerned are being weighed against the interests of the state?</p> <p>See 10</p> <p>13) In what way insight is being provided hereon in practice?</p> <p>Unclear question.</p> <p>14) In what way is being ensured that the obligation of article 10 (1) of the Convention on the Rights of the Child is met, meaning that applications for reunification of a child with his parent(s) is being dealt with in a positive, humane and expeditious manner?</p> <p>See 10.</p>
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