

UNICEF WORKING PAPER

Family Unity in the Context of Migration

KEY MESSAGES

- All children, regardless of their or their parents' refugee, temporary protection or migration status, have the right to grow up with their families.
- Family unity protects children's lives, their development and their well-being. By physically being together, migrant and refugee families thrive and contribute more productively to host communities, thereby encouraging their acceptance and integration. Family unity also lessens the need for irregular migration, trafficking and smuggling and supports the global efforts towards a safe, orderly and regular global migration management system.
- In the context of migration and displacement, respect for family unity and the right to family life involves: allowing families to move together; for separated families to reunify; and to take into account family unity and the best interests of the child when considering returns.
- The 2018 Global Compact on Migration (GCM) offers an opportunity to address and remove existing legal and practical barriers to maintain and achieve family unity.

KEY FIGURES

- While there are no global numbers on family reunification,¹ it is one of the most important immigration channels in countries where data exists. In the countries within the Organisation for Economic Co-operation and Development (OECD) alone, family migration constitutes, on average, 40 per cent of total immigration flow.²
- Family reunification is also an important driver for children migrating alone. In the absence of accessible and flexible family reunification pathways or options for families to move together, children end up taking unsafe and irregular paths to reunify with family members.
- In 2015-2016, at least 300,000 unaccompanied and separated children moving across borders were registered in 80 countries – a near fivefold increase from 66,000 in 2010-2011. Worldwide, the total number of unaccompanied and separated children on the move is likely to be much higher.³
- In a 2016 registry of migrant children and adolescents who had returned to Honduras, 31.5 percent of respondents cited family reunification as their main reason for migrating. In a 2018 survey of returnees to El Salvador, 28 percent said family reunification was their primary motivation.⁴

1. The lack of statistics is due to an absence of agreed global indicators on family reunification, and the many different visa categories families use to reunite, depending on their circumstances and the options available – for example, they may use family reunification processes for refugees or migrant workers' family sponsorship schemes.

2. Organisation for Economic Co-operation and Development (OECD), 2017, 'A portrait of family migration in OECD countries', International Migration Outlook 2017, OECD Publishing, Paris.

3. United Nations Children's Fund (UNICEF), A Child Is a Child – Protecting children on the move from violence, abuse and exploitation, UNICEF, New York, May 2017, p.6.

4. United Nations Children's Fund (UNICEF), Uprooted in Central America and Mexico: Migrant and refugee children face a vicious cycle of hardship and danger, p.4; [link](#)

CONTEXT AND CONSIDERATIONS

“The most difficult thing is being alone. When you’ve finished school, work, an activity, a trip, you hope that someone is waiting for you at home, you want to be able to tell someone about your day. But you have to keep everything in your head, the good and the bad things. Everything will explode one day.” (Boy from Afghanistan seeking asylum in Belgium)

For all children in nurturing families, separation from them is deeply traumatic. The above quote is from one of the many thousands of migrant and refugee children who have found themselves alone. The importance of family life is undisputed – and from a child’s perspective, the reason for their separation from their families is irrelevant. Where families are nurturing and protective, family unity is essential for a child’s development; it is essential for the well-being and integration of families; it is essential for the host society; and it is essential for states with an interest in regulating migration management.

The interactions between children and their parents during the infant and toddler years, particularly through consistent relationships and adequate social supports, are critical in shaping their future learning, behaviour and health.⁵ Disrupting the parent-caregiver relationship can be highly stressful and damaging to children, with negative long-term consequences, including substance abuse, school failures, financial hardship and poor health.⁶ Adolescent refugees and migrants who are separated from their parents are at higher risk of experiencing multiple traumas, which can lead to severe mental health problems.⁷

Yet despite this, migration status remains a key barrier keeping families from being together. The commitments agreed in the Global Compact for Safe, Orderly and Regular Migration (GCM) offer a historic opportunity to address these barriers and reap the benefits that family unity brings for children, families, society and states.

Family Unity Needs to be at the Heart of Political Negotiations

During the political negotiations on the Global Compact on Migration (GCM) and the Global Compact on Refugees (GCR), the expansion of safe and legal pathways has been discussed as a cornerstone of effective migration management. Yet, surprisingly little attention has been paid by States to the importance of family unity as a key driver of migration.

Where states do not recognize the importance of family unity, children may be compelled to take irregular and unsafe paths to be reunited with their families. While it has been contended that the prospect of family reunification might encourage families to send children to a destination country, assuming they will be able to make a strong case for their family to follow, the evidence is inconclusive. In a 2016 enquiry into unaccompanied migrant children in the EU, the UK House of Lords found no evidence to support the argument that the possibility of family reunification encouraged families to send children into Europe unaccompanied, to act as an ‘anchor’ for other family members. Instead, it found that some children were reluctant to seek family reunification, for fear that it may place family members in danger.⁸

As of 2015, 50 per cent of refugees were children, and alarming numbers of children are moving on their own – many because they lack safe and legal options to reunify with family members.⁹ Any serious consideration to expand safe and legal pathways, to disrupt smuggling and trafficking networks, and protect vulnerable populations on the move, must reflect the importance of keeping families together.

“At the global level, the global compact should provide a framework for Member States to commit to an overall policy of increasing fair and accessible legal access by migrants at all skills levels to meet labour market needs everywhere, while recognizing other reasons for migration such as family reunification and education.” UN Secretary-General

5. National Research Council and Institute of Medicine, *From Neurons to Neighborhoods: The Science of Early Childhood Development*, p. 225-26 (Jack P. Shonkoff and Deborah A. Phillips), 2000, [link](#); Winston R. and Chicot R., ‘The importance of early bonding on the long-term mental health and resilience of children’, *London Journal of Primary Care*, 24 February 2016, [link](#).

6. American Academy of Pediatrics, ‘Early Childhood Adversity, Toxic Stress, and the Role of the Pediatrician: Translating Developmental Science into Lifelong Health’, Policy Statement, *Pediatrics*, Vol 129, January 2012, p. e224-25, [link](#).

7. Derluyn I. et al., ‘Mental Health Problems in Separated Refugee Adolescents’, *Journal of Adolescent Health*, Vol 44, March 2009, p.291–297, [link](#).

8. UK House of Lords, EU Committee, ‘Children in Crisis: Unaccompanied Migrant Children in the EU’, HL Paper 34, 26 July 2016, para. 62, [link](#).

9. UNICEF, 2017, *A Child Is a Child – Protecting children on the move from violence, abuse and exploitation*, p.6.

The GCM duly recognises the importance of family and the practical obstacles that drive so many children to rely on smugglers and traffickers – UNICEF particularly welcomes the actionable commitment proposed in the GCM to “Facilitate access to procedures for family reunification for migrants at all skills levels through appropriate measures that promote the realization of the right to family life and the best interests of the child, including by reviewing and revising applicable requirements, such as on income, language proficiency, length of stay, work authorization, and access to social security and services.”

As the language for the GCM has been agreed upon in July 2018, the priority in the follow-up is operationalizing its commitment to ensure that the right to family life is considered for families at all income levels, as well as all skill levels. Furthermore, based on the best interests of the child, a broad definition of family should be adopted that acknowledges de facto caretaking and dependency links.

Family Unity Saves Lives and is at the Core of Safe, Legal and Regular Migration Management

The family is recognized by the Universal Declaration of Human Rights as the fundamental unit of society – and families are entitled to protection by society and the state. Families play an essential role in every child’s development – whether a refugee, migrant or child left behind: A child is a child and has the right to protection of family life without discrimination.

The Convention on the Rights of the Child stipulates that family unity needs to be supported, provided it is in a child’s best interest. In some circumstances, where children flee from abusive family situations and neglect, family unity may not be in the best interest of the child.¹⁰ For the large majority of children though, the family remains their most important support system.

The primary focus must be to proactively prevent family separation by enabling families to move together, and to facilitate fast reunification when families are separated, to protect children’s lives and well-being. Separating children from their parents is a highly destabilizing and traumatic

experience with long-term consequences for their safety and development. It does not deter migration, but instead encourages migrants to rely on smuggling and criminal networks, at much greater financial and physical risk. When children are separated from their families, they are more vulnerable to dropping out of school, sexual exploitation, trafficking, gender-based violence, child marriage and recruitment into armed forces and groups.

Children left behind by migrating parents may be neglected and this can severely impact their psychosocial development.¹¹ Children and families seeking to reunite with loved ones often have very limited safe, legal and orderly channels to migrate – this lack of accessible channels for reunification is fuelling smuggling businesses. Children risk their lives on the most dangerous migratory routes – crossing the sea on rubber dinghy boats, traversing deserts by foot, and placing their lives in the hands of profit-oriented human smugglers, where they risk being trafficked into exploitation. A third of trafficking victims are children.¹² Worldwide, there have been more than 21,000 migrant deaths since 2014. While the precise number of children among them is not known, in 2016, there were an estimated 700 child deaths on the Central Mediterranean Route alone.¹³ Not all children who have been trafficked or died moved to unify with family members, but for those who did, family reunification processes could have mitigated the risk and their suffering.



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10. REACH and UNICEF, Children on the Move in Italy and Greece, June 2017, [link](#)

11. See Garza, Rodolfo de la, ‘Migration, Development and Children left behind: A multidimensional Perspective’, Social and Economic Policy Working Paper, UNICEF, New York, May 2010.

12. United Nations Office on Drugs and Crime, Global Report on Trafficking in Persons 2016, UNODC, New York, 2016.

13. UNICEF, 2017, A Deadly Journey for Children: The Central Mediterranean migration route, p. 2. See also: The Guardian, Afghan boy killed in Calais in attempt to climb on to lorry to UK, Sept 18th 2016, [link](#)

Family Unity Helps Family Members Thrive and Contributes More Productively to Host Communities, Encouraging Acceptance and Better Integration

Family plays a crucial role in the smooth and successful integration into host communities – unified families are more likely to prosper through participation in economic, social, cultural and political life and through quicker integration.¹⁴ Families represent an essential social support system, to maintain a sense of normality, and help children overcome trauma of displacement, and adapt to new environments.¹⁵ From an economic perspective, when a refugee family is together they are more self-sufficient, lowering social and economic costs for the host community in the long-term.¹⁶ In the case of migrant workers, family unity has a positive impact on the productivity of the worker.¹⁷ Further, productive and well-integrated new arrivals promote social cohesion, thereby encouraging host communities to provide a welcoming environment – and help migration work for all.

Every Child has the Right to Family Life, but Migration Status Remains one of its Biggest Barriers

Everyone has a right to family life. And while the right to family reunification is widely recognized for refugees – notwithstanding procedural and practical barriers that will be outlined in more detail below – or for high-skilled migrants, those with other migrant statuses face greater challenges to move with or reunify with their families.¹⁸ Further, undocumented children may be prevented from reunifying with their families due to their irregular status and administrative proceedings. This can leave children on the move without the care and protection of their families, impeding their prospects for integration, and consequently taking a toll on host communities, undermining orderly migration management.

For high-skilled migrants, the right to family life, to move together and live together, is often taken for granted. But the right to family life is a universal human right, the realisation of which cannot depend on level of education, skills, or nationality. Under the Convention on the Rights of the Child (CRC), children of skilled workers have the same right to family life as those of less skilled workers. The principle of non-discrimination requires that similarly situated individuals enjoy the same rights and receive similar treatment, unless a distinction in treatment can be objectively justified.¹⁹

States often treat migrant workers and those with temporary protection status differently in regard to the right to family unity. This disparity is often justified by states based on the expectation that migrant workers can return home if they wish to re-join family members, and that for those with temporary protection status, the situation will be resolved quickly. However, this disparity in treatment fails to account for the economic factors that keep many migrant workers firmly tied to the host country, or the reality that many migrants in vulnerable situations, as refugees, may be unable to return to their home country. However, protracted displacement and conflict delays return. This is particularly concerning as the designation of refugee, subsidiary protection or migration status are not always straightforward. There can be wide divergence in the granting of refugee status or subsidiary protection by authorities, to people with the same profiles, depending on location.²⁰

The international community, while acknowledging the particular protection needs of refugees and the protection of their status, has also recognised the vulnerabilities and protection needs of other migrants, particularly those in vulnerable situations.²¹ While their needs may not be exactly the same, they are similar, and so different access to family reunification calls for careful examination. At the very least, where migrants and refugees are in analogous

14. International Organization for Migration (IOM), *Essentials of Migration Management: Migration and Family*, IOM, 2009, Section 2.5, [link](#); United Nations High Commissioner for Refugees (UNHCR), *A New Beginning: Refugee Integration in Europe*, UNHCR, September 2013, p. 70, [link](#); European Parliament, Committee on Civil Liberties, Justice and Home Affairs, Working Document on Developing safe and lawful routes for asylum seekers and refugees into the EU, including the Union resettlement policy and corresponding integration policies (INI report on the situation in the Mediterranean and the need for a holistic EU approach to migration)", European Parliament, 15 July 2015, [link](#)

15. UNHCR, Executive Committee 56th session, Conclusion No. 104 (LVI) - 2005. Contained in United Nations General Assembly document A/AC.96/1021.

16. UNHCR and Graduate Institute of International Studies in Geneva, Summary of Conclusions on Family Unity, Geneva Expert Roundtable, 8-9 November, 2001, p.2, [link](#)

17. International Labour Organization Tripartite Meeting of Experts on Future ILO Activities in the Field of Migration, adopted in 1997; as already recognised by the International Labour Conference, 59th session, 1974, Report VII (I), *Migrant Workers*, 1973.

18. OECD, 2016, *Family migration as an alternative pathway for refugees*, *International Migration Outlook*, p.178, [link](#)

19. UNHCR, 'The Right to Family Life and Family Unity of Refugees and Others in Need of International Protection and the Family Definition Applied', *Legal and Protection Policies Research Series*, UNHCR, Geneva, January 2018, p.17, [link](#)

20. UNHCR, 2011, *Safe at Last? Law and Practice in Selected EU Member States with Respect to Asylum-Seekers Fleeing Indiscriminate Violence*, [link](#)

21. See *Migrants in Countries in Crisis*, Nansen Initiative.

situations and cannot return home, family reunification could be equally applied in the host country.²²

In the context of migration and displacement, respect for family unity and the right to family life includes proactively preventing separation and keeping families together. In the following analysis, we will consider family unity within migration management from the following perspectives: 1) maintaining a family life through either allowing families to move together, or enabling family life despite separation; 2) family reunification; and 3) family unity and returns.

FAMILY UNITY WITHIN MIGRATION MANAGEMENT

1) The right to maintain a family life

Whether they are refugees or migrants, an increased number of families should be able to move together.

Refugees in official resettlement processes are generally allowed to bring families. The case is more complex for migrants²³, and often depends on socio-economic status, skill level and length of stay. Labour migration schemes rarely include an option to bring family members, in order to encourage temporary or circular labour migration. But the idea that temporary or circular labour migration schemes need not include the right to family life is a flawed one. The reality is that temporary and circular schemes often entail medium-to long-term, and even permanent migration to the host society. And where labour migration remains 'temporary', this nevertheless entails prolonged separation – and a few years in the life of a child are more formative than in that of an adult. Recognising this, the right to family unity is reflected in many regional agreements, for example where citizens are moving within the European Union (EU), or within Mercosur.

Temporary or long-term separation due to migration and displacement may be inevitable for many families – and there are circumstances where it may not be in the best interests of the child to migrate with their family members. In this context, States may consider other provisions to

fulfil their obligations under the CRC to realize the child's right to maintain personal relations and direct contact with both parents on a regular basis.

Measures to facilitate the right to family life may include visas for family visits, ensuring that re-entry is allowed after family visits in circular/temporary migration schemes, and ensuring family leave is included in migrant worker's labour contracts. Another practical solution which comes directly from interviewed unaccompanied and separated refugee children (UASC), is enabling access to Wi-Fi and computers in reception centres, while taking necessary measures to protect children online, or the provision of a telephone card so that children can maintain contact with their families.²⁴ This simple step can alleviate trauma and anxiety. The restoration of family links should be independent of finding solutions for UASC, and children should have confidential options to re-establish contacts to prevent children avoiding family contact out of fear of it impacting their immigration proceedings.

As part of its emergency response, SOS Children's Villages is helping to facilitate ICT services in refugee centres by setting up more ICT Corners, offering free WiFi, computers, printing/scanning/copying services and charging stations for mobile phones and other electronic devices. The ICT Corners provide a place to connect to family members online. From November 2015 until the end of July 2016, five SOS ICT Corners in the Balkans provided services to over 206,000 users.²⁵

When a temporary stay becomes long-term or permanent, migrants should have the option to reunify with their family. Similarly, where a stay becomes de-facto long-term, but is not recognised in visa categories, there should be an option to adjust the rights to family reunification.

²². See also respectively, *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, Application no. 13178/03, ECtHR, 12 October 2006, <www.refworld.org/docid/45d5cef72.html>, para. 75; and *Tuquabo-Tekle and Others v. The Netherlands*, ECtHR, 2005, above fn. 74, para. 47, as cited in UNHCR 2017, p.145

²³. See *Migration Regimes and Their Linkages for Family Unity, Integrity and Development*. In: Panizzon M., Zürcher G., Fornalé E. (eds) *The Palgrave Handbook of International Labour Migration*, Palgrave Macmillan, London, 2015.

²⁴. Belgium Committee for UNICEF *The Voice of Migrant and Refugee Children living in Belgium*, UNICEF Belgium, Brussels, 2018 [link](#)

²⁵. SOS Children's Villages International, *Position Paper on Migrant and Refugee Children*, SOS Children's Villages International, Vienna, 2016, p. 7 [link](#)

2) The right to family reunification

Where families have been separated, re-establishing family unity through family reunification is the most straightforward way to ensure family life. The location for family reunification does not necessarily have to be in the country of destination – it should be in the country that is in the best interests of the child, and could mean returning an unaccompanied child to its family in the country of origin. All options need to be assessed transparently on a case-by-case basis, taking into account due process with the best interests of the child as a primary consideration. There are often many obstacles which prevent families from reunifying, including narrow definitions of family, migration status and practical hurdles – these will be considered in more detail below.

Families are often defined narrowly, failing to reflect reality

A major barrier to family reunification is the definition of family – it is often too narrowly defined. At a minimum, it is commonly accepted that a family unit consists of spouses and their children. However, different cultures have varying interpretations regarding the scope and nature of the family unit. In light of this, the CRC explicitly recognises the importance of “persons with whom the child has a strong personal relationship,” and the Committee on the Rights of the Child, in its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, declares that the term “parents” must be interpreted in a broad sense to include biological, adoptive or foster parents, or, where applicable, the members of the extended family or community as provided for by local custom.²⁶ United Nations High Commissioner for Refugees (UNHCR) promotes taking into account levels of physical, financial, psychological and emotional dependency. These recommendations stem from the reality that in many societies, it is common for children to be de facto adopted or fostered by relatives as well as other community members, with whom the child may not even have blood ties. This means that adopting a flexible definition of family is an important consideration to better protect children’s rights to family unity.

Furthermore, family reunification should not lead to further family separation – where children are unaccompanied, and it is in their best interests to be reunified with their family in the country of destination, this should explicitly include siblings. No parent should have to take the decision to reunify with a child in a new country or leave siblings behind.

However, family reunification needs to be in line with the best interest of the child, which includes an assessment of the family and community circumstances, to ensure that the child has not fled from an abusive environment. Where the original family environment is not conducive for a sustainable reintegration, alternatives for placement of children outside their families must be explored, such as placement in extended family or with non-relative alternative care givers and certified host families.

Belgian law affords a route for non-nuclear family members to be admitted by way of humanitarian visas, at the discretion of authorities. This is not strictly under the framework of family reunification, but under the procedure for ‘extreme urgency’ – although there is some overlap. Similar possibilities also exist in Spain where family reunification has been extended beyond core family members when dependence on those and the existence of prior cohabitation in the country is sufficiently established.²⁸

Ecuador’s Organic Law on Human Mobility, approved in January 2017, includes a provision on the best interest of children and adolescents, which explicitly includes the right to have a family and family cohabitation. When children’s or adolescents’ best interest requires the family to be kept together, parents cannot be detained, regardless of any alternative measures that have been issued for the purposes of migration control.²⁹

²⁶ UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, 16 November 2017, [Link](#)

²⁷ UNHCR, ‘The Right to Family Life and Family Unity of Refugees and Others in Need of International Protection and the Family Definition Applied’, Legal and Protection Policies Research Series, UNHCR, Geneva, January 2018, p.38, [link](#)

²⁸ European Legal Network on Asylum (ELENA) and The European Council on Refugees and Exiles (ECRE), Information note on family reunification for beneficiaries of international protection in Europe, June 2016, p.24, [link](#)

²⁹ Republic of Ecuador, Organic Law on Human Mobility, Supplement Official Registry 938, enacted January 31 2017, Quito, Art.2.

Policy restrictions and practical hurdles complicate family reunification

Where family members comply with all legal pre-conditions for family reunification, practical hurdles may make family reunification impossible. These can include: difficulty tracing relatives; limited access to embassies to lodge an application; difficulties documenting family links and dependency; time restrictions on applying for particular benefits as a refugee or beneficiary of subsidiary protection; problems securing travel documents and visas from remote or insecure areas; or lack of legal aid and appeal possibilities.³⁰ With the idea of facilitating integration, states may also impose material restrictions, such as proof of income/subsistence and accommodation as well as language and integration requirements, although there is only limited evidence of its effect on integration into the labour market.³¹ Overall, there is a lack of professional support provided to families to overcome such hurdles, which starts with a lack of information on their rights and the procedures.

“When we want our family to join us, we’re asked for documents that are impossible to find. I won’t be able to invite my family over here, because it’s impossible to get the requested documents. As for the documents, just think about it. If you flee your country, how are you supposed to have documents from your town’s police station? With the war, it’s impossible to get these documents. They asked me for my parents’ marriage certificate.”
(Refugee boy from Syria in Belgium)

Cost around family reunification can be a significant barrier, especially for those who have been forcibly displaced and have depleted their funds. These costs can include application fees, but also hidden costs such as travel documents and visas (including in some cases the cost of travelling, and accommodation in another country to obtain the documents and visa), exit visa fees in country of residence, associated legal costs in country of residence and/or origin, the cost of travel to reunite with family members and, where applicable, the cost of DNA tests.

Travel can also be an important barrier. Family members of refugees often face difficulties accessing embassies abroad. When the family of a refugee is still in the country of origin, approaching a foreign embassy can mean risking their safety. More commonly, family members of refugees are also refugees, outside their country of origin, and travelling to an embassy may be difficult, or impossible. Further, refugee camps are often remote and there are limited embassies in countries of origin or asylum. Consequently, family members may have to travel long distances at great cost to reach an embassy, risking their safety. Some Member States require the application to be made in the country where the family member has legal residence, but refugees often receive no official legal recognition of residence in their first country of asylum.³²



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30. UNHCR, 'The "Essential Right" to Family Unity of Refugees and Others in Need of International Protection in the Context of Family Reunification,' Legal and Protection Policies Research Series, UNHCR, Geneva 2017, January 2018, p.121, [link](#)

31. OECD, 2017, 'A portrait of family migration in OECD countries', In: International Migration Outlook, OECD Publishing, Paris, June 2017, p.109.

32. UNHCR, 'The "Essential Right" to Family Unity of Refugees and Others in Need of International Protection in the Context of Family Reunification,' Legal and Protection Policies Research Series, Geneva 2017, January 2018, p.126, [link](#)

From July 2016 to October 2017, more than 3,000 children were reunified with their families upon returning to Afghanistan. At the border, there are standard operating procedures that were developed as part of an initiative on Strengthening the Reception and Reunification System for Unaccompanied and Separated Children returning from Iran. The procedures call for trained police officials to board buses that arrive in Afghanistan from Iran and identify unaccompanied children. Once identified, unaccompanied children are escorted to a centre at the border, where they are provided a meal, first aid and, if necessary, clothing. At this centre, the registration and family-reunification process begins.

Once these first steps are complete, the children are transported to the Gazargah Transit Centre in Herat. At this transit centre, unaccompanied children are provided psychosocial counselling and officials help determine the follow-up steps that are in the best interests of the child. Information is also gathered to help reunify a child with family members in Afghanistan.

After children's families have been located, a social worker from the transit centre in Herat accompanies the children to their communities of origin and places them in the care of local case workers who connect children with families and conduct follow-up monitoring.³³

Lengthy procedures prolong family separation

Families should be provided with adequate time to gather the required documentation and for the application process. However, legal and practical hurdles that families face, even when their right to family reunification has been recognized, coupled with overburdened or under-resourced authorities, results in lengthy processes and delays. In many cases, families face significant delays until they are allowed to apply for family unification, to then be confronted with an impossibly short turnaround time. Such delays continue to push children to take risks to reunify with family members, taking matters into their own hands and using irregular migration channels.

Further, some families lose their right to be reunified when the children reach 18 years of age during the application process. Family reunification procedures for beneficiaries of international protection can take many months – and this is after their asylum application has been granted, which can take years.

The International Organization for Migration (IOM) Family Assistance Programme is operated by IOM in cooperation with the Federal Republic of Germany with the aim of facilitating and accelerating the family reunification process for those entitled to it. In order to dissuade Syrians and Iraqis from seeking unsafe and irregular means to join their families in Germany, IOM provides free advice and support to all applicants who seek to move to Germany to join a family member who has been recognized as a refugee or is entitled to asylum. To avoid making families travel to countries of origin, the Family Assistance Programme provides its counselling services both in-person and remotely. To date, IOM has reached more than 58,000 families seeking to be reunified in Germany and has considerably shortened waiting times for appointments and visa issuance in all locations. More information is available here: <https://fap.diplo.de>



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33. UNICEF, 2017, Beyond Borders: How to make the Global Compacts on Migrants and Refugees work for uprooted children, p.20, [link](#)

34. UNHCR, 2015, Family Reunification in Europe, Brussels, October 2015, p.6, [link](#)

RECOMMENDATIONS

- 1. Respect the right to family life for all children:** Recognise in law and practice that refugee children, those with subsidiary protection status, migrant children and those with migrant parents, all have the right to family life, regardless of their migration status, income or skill levels. Putting this into practice means including and operationalizing specific provisions on protecting family life within immigration law, policy and procedures at the national and sub-national levels.
- 2. Expand safe and legal pathways for families to migrate together:** When states are considering the expansion of safe and legal pathways to migrate and seek protection, family unity should be a key consideration to enable more families to migrate together. This means considering the following:
 - Allowing migrant workers at all skill levels to bring along their families.
 - Expanding the option for refugees to seek protection as a family unit.
 - Allowing refugees to seek protection without travelling too far, where they risk separation from their families in the process. In practice, this means allowing applications to be made from countries of origin, transit or destination.
- 3. Enable family life where families are separated due to migration:** States might consider maintaining family life in labour migration schemes for all skill categories – this could include through issuing visitor, school or study visas for family members, multi-entry visas in circular/temporary migration schemes to allow migrant workers to return, and ensuring family leave is included in migrant worker’s labour contracts; enabling access to Wi-Fi and computers in refugee reception centres, while taking necessary measures to protect children online, or providing a telephone card to allow for children to maintain contact with families.
- 4. Define ‘family’ flexibly:** States should adopt a flexible approach that recognizes the realities of family situations, without expanding the definition of family unrealistically. UNICEF recommends a culturally-sensitive definition of family, which determines what family means on a case-by-case basis, not only based on blood relations, but also de facto personal ties and dependency, including legal and de facto adoptions, and foster children. A child’s family and community environment needs to be considered to ensure family unity is in a child’s best interest and to avoid reunification with an abusive family.
- 5. Address barriers to efficient and transparent family reunification procedures:** This includes facilitating access to application processing capacities and consular services; providing accurate information quickly; allowing for flexibility on documentary requirements; and easing financial burdens.
 - For example, states may consider reducing or waiving administrative and visa fees for beneficiaries of international protection where such costs may otherwise prevent family reunification. Further, states could support financial aid schemes for the family reunification of beneficiaries of international protection who do not have sufficient resources to cover such costs.³⁴
 - States could ensure that, in law and in practice, family reunification requests are not rejected based solely on the lack of documentary evidence. This could be supported through developing guidelines on the evidence required to establish family links and by providing training for decision-makers.
- 6. Accelerate family reunification procedures:** To avoid undue waiting, and to avoid leaving children stranded alone, consider flexible use of existing family reunification mechanisms to respond to humanitarian situations; prioritizing visa applications for family reunification cases involving children and investing in accelerated procedures; allocating further resources to adequately respond to and process family reunification requests; and investing in guidance and training on child rights for officials considering family reunification applications, including personnel at embassies who interview children.
- 7. Avoid risk of ‘aging out’ due to lengthy application processes:** Age assessments, to determine whether a child is eligible for family reunification, should take place at the date the sponsoring family member obtains status, not the date the reunification application is approved.

8. **Respect the right to family life when considering returns:** States have a responsibility to take into account the best interests of the child, including their right to family unity, when making decisions on returns. This means applying an element of proportionality between the State's legitimate right to make or enforce decisions on returns, and the best interests of the child including the right to a family life, needs to be maintained. The CRC requires that States "shall ensure that a child shall not be separated from his or her parents against their will, except when... such separation is necessary for the best interests of the child." (Art. 9, emphasis added) – this implies conditionality on return decisions.

- Elements commonly considered by authorities when deciding to return families or family members include the length of stay in the host country, age, the family's ties to the country in which they live, the practical reality of returning to the country of origin, the social relationship and working conditions of the family members in the host country, and the family's financial and emotional interdependence.



FURTHER READING

- Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families and of the Committee on the Rights of the Child, 2017, Joint General Comment on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, CMW/C/GC/4-CRC/C/GC/23, [link](#)
- UNICEF Europe, 2017, The Right of the Child to Family Reunification, Advocacy Brief, see [link](#)
- UNHCR, 2017, The Right to Family Life and Family Unity of Refugees and Others in Need of International Protection and the Family Definition Applied, Research Paper, see [link](#)
- Committee on the Rights of the Child, General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6, see [link](#)
- OHCHR, 2005, OHCHR Migration Papers: Family Reunification, see [link](#)