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MINISTRSTVO ZA NOTRANJE ZADEVE



EMN FOCUSED STUDY 2016

Family Reunification of TCNs in the EU: National Practices

National contribution from Slovenia

Ljubljana, January 2017

The study has been prepared by Legal-Informational Centre for Non-Governmental Organisations (*Pravno-informacijski center nevladnih organizacij* – PIC) in cooperation with the European Migration Network National Contact Point in the Republic of Slovenia and competent departments of the Ministry of the Interior of the Republic of Slovenia.

European Migration Network was established due to the need for exchange of information on all aspects of migrations and for the establishment of common asylum and migration policy. Council Decision 2008/381/EC which provides a legal basis for the establishment of the European Migration Network was adopted on May 14, 2008.

More information on the European Migration Network is available at: www.emm.si.

Disclaimer: The following responses have been provided primarily for the purpose of completing a Synthesis Report for the above-titled EMN Focused Study. The contributing EMN NCPs have provided information that is, to the best of their knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of an EMN NCPs' Member State.

Top-line "Factsheet" (National Contribution)

This National Contribution to the EMN Focused Study is based on an analysis of relevant legislation, interview with a refugee counsellor (a lawyer working with refugees in the procedure of family reunification), information and statistics of the Ministry of the Interior (hereafter: MOI), other related EMN Focused Studies and on the experience of the authors as experts in the field of international protection and regulation of status issues of foreigners including family reunification, the Legal-Informational Centre for Non-Governmental Organizations (hereinafter: PIC).

In the course of research, requests for statistical data have been sent to the competent authorities, however not all the data requested by the Study Template is statistically monitored in the Republic of Slovenia. Additionally, the Slovenian authorities do not differentiate the data among family reunification of international protection beneficiaries and TNCs, thus the data is not broken down by the status of the sponsor. It is not clear how many cases of family reunification have been carried out for international protection beneficiaries and other TNCs, except for the available data on persons admitted for remunerated activities and persons admitted for study purposes. Unlike data on family reunification, data on family formation applications does not exist (see the Annex - DS3data). In connection with inaccuracy with the data on the number of residence permits based on family reunification with TNC's, which are displayed either in the annex, or in the annual reports of the MOI, it is necessary to take into account a statistical fact, which is the result of a specific methodological approach of the MOI regarding the collection and statistical data processing. So-called delays or statistical discrepancies occurs when obtaining the collection and processing of data obtained through the national registry of foreigners. The fact is that the national (statistical) report does not show the total number of applications, which were actually filed and decisions that have been made based on these applications actually issued in the form of a residence permit in the reviewed period. The so-called deviation or delays are shown for example in the cases when the applications were filed before the reviewed period and decided in the reviewed period, or have been filed in the reviewed period and a decision was issued in the next period.

Furthermore, national reports include only statistics on administrative actions derived from national law, and not always from the EU legislation (Directives, Eurostat). The difference can also be seen in relation to the number of issued and valid permits, which is also a possible reason for the so-called derogation in view of national statistical data related to residence permits.¹

¹ The Aliens Act of the Republic of Slovenia and the Law on Administrative Procedure of the Republic of Slovenia provides that the competent authority in relation to lodged application for residence permit, and the fulfillment of the statutory conditions carries

For the purposes of the study, the review of the data presented in the annex, as mentioned above, it is necessary to take into account possible deviations or delays in the display of statistics on family reunifications, especially in the latest period considered.²

The institute of family reunification in Slovenia was regulated in Slovenian legislation before 2011. The first legislative change, new Aliens Act, in 2011 extended the definition of family members to registered partners and partners with whom the sponsor has been living in a long-lasting union. Moreover, it added the extension of the temporary residence permit issued for the purpose of family reunification in case of dissolution of family ties and the provisions regarding the family members of EU Blue Card holders, although they have not yet been excluded from the waiting period. The next change of Aliens Act was in 2014. It transposed the regulation on family reunification of international protection beneficiaries from the International Protection Act to the Aliens Act, thereby expanding the definition of family members to dependent adult children and parents. The change also re-established the condition of waiting period for family members of EU Blue Card holders. The last change of the Aliens Act in 2015 extended the provision that grants the competent authority the discretion to exceptionally grant the sponsor the right to family reunification with all other relatives in the ascending line, in case special circumstances support such reunification in Slovenia, to international protection beneficiaries.

Based on current situation it seems that Slovene policy of family reunification is well implemented and organized, in order to improve its implementation, it would be necessary to unify or at least reduce the derogations concerning the collection of statistical data to be displayed in reports MOI.. Also in drawing up further measures and policies in this field it is inevitable to follow the situation and develop indicators that will lead to effectiveness of the measures, since only correctly placed indicators and aggregated statistical data can be monitor the implementation and the consequences of changes in the legislation in the field of family reunification.

out the following administrative actions: can dismiss the application, reject application, determine that the applicant meets all the requirements and issue the appropriate type of residence permit.

² Eg. in the national annual report of the MOI for the year 2015 the number of valid temporary residence permits for family reunification is 9,678, in the annex the total number of valid applications for family reunification in the same year (2015) was 9,887. The difference in numbers is the result of the fact that the national report of the MOI is not yet included the so-called statistical discrepancy between the number of applications and valid residence permits arising from these applications.

Executive Summary (Synthesis Report)

The provision of family reunification in Slovenia is based on the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (on the Art. 8 – the right to respect private and family life, and Art. 12 –the right to marry), the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the European Social Charter, the Charter of Fundamental Rights, the Convention on the Rights of the Child and the European Convention on the Legal Status of Migrant Workers.

The right to respect private and family life is also protected in the Constitution of the Republic of Slovenia in provisions regarding marriage and family life, equal protection of rights, children’s rights, employment of TCNs and other provisions. Family reunification of TCNs and international protection beneficiaries is regulated in the Aliens Act and in the International Protection Act.

Slovenia has implemented the Directive 2003/86/EC and Directive 2004/38/EC in the Aliens Act. The Aliens Act regulates family reunification of TCNs and international protection beneficiaries, as well as family formation of EU and Slovenian citizens and of families established after the international protection beneficiary entered in the Republic of Slovenia. In case the family of an international protection beneficiary has been established after entering the Republic of Slovenia, same rules apply as for family reunification of TCNs. Family formation with EU citizens and Slovenian nationals is regulated separately.

The institute of family reunification in Slovenia was regulated in Slovenian legislation already before 2011. The first legislative change, new Aliens Act in 2011, extended the definition of family members to registered partners and partners with whom the sponsor has been living in a long-lasting union. Moreover, it added the extension of the temporary residence permit issued for the purpose of family reunification in case of dissolution of family ties and the provisions regarding the family members of EU Blue Card holders. The next change of Aliens Act in 2014 transposed the regulation on family reunification of international protection beneficiaries from the International Protection Act to the Aliens Act, thereby expanding the definition of family members to dependent adult children and parents. It comprehensively regulated the procedure and conditions for applying for family reunification, including the grace period, establishment of family ties and family formation (family reunification after the TCN’s entry the country). It separately regulated the right to family reunification of subsidiary protection beneficiaries. The amendment also re-established the possibility of family reunification for TCNs if they have been living in the Republic of Slovenia on the basis of a temporary residence permit for the past year, and their permit is valid at least for one year. The amendment also excluded daily commuters from family reunification and determined that the waiting period does not apply to family members of EU Blue Card holders. The Aliens Act has been changed again in 2015 following the Constitutional Court’s decision which established that the International Protection Act provisions regarding family reunification of international protection beneficiaries were unconstitutional, because they did not allow the competent authority to consider any other relatives, besides the ones listed in the provision, as family members with whom they can be reunited, while the same was possible in case of family reunification with TCNs. As a result, the provision that allows the competent authority the discretion to exceptionally grant the sponsor the right to family reunification with all other relatives in the ascending line, in case special circumstances support such reunification in Slovenia, was extended to the international protection beneficiaries with the Law on Amendments and Supplements to the Aliens Act-2C. Another change came in 2015 with the new Employment, Self-Employment and Work of Aliens Act that granted family members of TCNs and international protection beneficiaries free access to the labour market.

In the Republic of Slovenia, the majority of applications for family reunification are submitted by persons admitted for remunerated activities (at least 80%). The amount of applications submitted under all other categories of migrants (including international protection beneficiaries) is substantially lower. The data is collected by the Ministry of the Interior. It includes the number of submitted, successful and rejected applications for family reunification by year, gender and status of the sponsor. It also includes the number of sponsors applying for family reunification specified by year, gender, age and status of the sponsor. Separate data regarding applications for family reunification of other possible sponsors such as international protection beneficiaries is not available.

The Aliens Act recognizes the right to family reunification to a TCN who has been granted refugee status or subsidiary protection for more than a year under the condition that the family existed before the international protection beneficiary entered the country. The right to family reunification of a TCN who has been granted subsidiary protection for one year is recognized when his or her subsidiary protection status is extended.

If the family was formed after the subsidiary protection beneficiary entered the country, he / she is granted the right to family reunification but the procedure and requirements are the same as for the family reunification of TCNs. In accordance with the Aliens Act a sponsor of family reunification may be: Third-country national with permanent residence permit; Third-country national who, lived in the Republic of Slovenia in the last year on the basis of a temporary residence permit and a temporary residence permit was issued with a validity of at least one year. Reunification, preservation and retrieval of the family with family members who are aliens, shall not be granted to an alien who resides in the Republic of Slovenia based on a temporary residence permit due to seasonal work or as a daily migrant worker; The beneficiary of international protection, a foreigner who was in the Republic of Slovenia on the basis of the law governing the international protection been given a refugee status, as well as a foreigner, which was recognized a subsidiary protection in the Republic of Slovenia.

A permanent residence permit, shall be granted without limitation as to the purpose of stay in the Republic of Slovenia. Third-country national who is a family member of an alien who is in the Republic of Slovenia on a permanent residence permit or has a refugee status, application for a permit for permanent residence can file at the administrative unit in the territory of his residence. A third country national, who under the Aliens Act could reunite with the family members, can submit a request for the issuance of the first temporary residence permit for his/her family members at a diplomatic consulate of the Republic of Slovenia and at the administrative unit in the area in which the family intend to reside, after arriving in the Republic of Slovenia, or is resident. International protection beneficiaries submit the application for a permanent or temporary residence for the purpose of family reunification at the Ministry of the Interior.

The Aliens Act stipulates that the sponsor has the right to family reunification with his / her parents or parents of his / her spouse, registered partner or partner with whom the sponsor has been living in a long-lasting union, if either of them is obliged to sustain the other in accordance with the laws of the state of which they are nationals. In accordance with the Aliens Act, the competent authority has the discretion to exceptionally grant the sponsor the right to family reunification with all other relatives in the ascending line, if special circumstances support such reunification in Slovenia.

The only difference between refugees and subsidiary protection beneficiaries regarding the requirements for family reunification is the waiting period. If a TCN has been granted subsidiary protection for one year, his / hers right to family reunification is recognized only after his / her subsidiary protection is extended, while refugees can apply for a residence permit for the purpose of family reunification as soon as they are granted the refugee status.

Family members of international protection beneficiaries are not automatically granted the same status as the sponsor. Family members of an alien if they fulfil the conditions defined by law, could be issued a an autonomous residence permit, that is, without a specific purpose.

Another difference, not related to the requirements, is that subsidiary protection beneficiaries apply for a temporary residence permit for the purpose of family reunification, while refugees can apply for a permanent residence permit for the purpose of family reunification. A temporary residence permit to a family member of a Slovenian citizen, who is not a national of an EEA Member State, may be granted if the procedure for issuing temporary residence permits, if among other things proves the fulfilment of the condition that he is a family member of a Slovenian citizen who has registered residence in the Republic of Slovenia. The application for a temporary residence permit for a family member of a Slovenian citizen can be lodged by a family member or his or

her legal representative or a Slovenian citizen. Among requirements for obtaining a residence permit is appropriate healthcare insurance. TCNs have to provide proof of sufficient means of subsistence for those family members who will reside in Slovenia. The monthly amount of sufficient means has to be at least equal to the basic minimum income in Slovenia for each family member. According to the Social Assistance Benefits Act, the minimum income is currently estimated at €292.56 (since 8 August 2016). ³The income requirement is the same for all family members. The income requirement is the same for all family members.

Another ground for rejection of the application is if it is considered that the TCN presents a threat to public health; meaning if he / she comes from a region with an outbreak of contagious disease which may cause an epidemic listed in the international health rules of the World Health Organisation, or from regions with prevalence of contagious diseases which could threaten public health and for which prescribed measures should be introduced on the basis of the law regulating contagious diseases. The provision does not oblige the competent authorities to consider individual circumstances before the rejection of the application, the fact that the TCN comes from a region where there is an outbreak of contagious diseases suffices.

There are no separate provisions regarding family reunification of minor TCNs or international protection beneficiaries in the Aliens Act. Family reunification of UAM's with a refugee status or subsidiary protection status is regulated separately in the International Protection Act. Unlike the Aliens Act, the International Protection Act expressly stipulates that the best interest of the child is the primary concern when dealing with minor international protection beneficiaries.

Among specific integration measures, cash benefit for private accommodation shall be mentioned. A person granted international protection, who is accommodated in private accommodation shall be entitled to a cash benefit 18 months from the date of acquiring the status, with the possibility of extension for further eighteen months, if he / she has been attending the Slovenian language course (at least 80% of hours).

Language barrier is the main obstacle in accessing educational programs and labour market, although TCNs with permanent residence permit and subsidiary protection beneficiaries are entitled to free-of-charge Slovenian language courses.

Among shortcomings of the family reunification system in Slovenia in some cases long procedures shall be pinpointed; among this challenges national authorities also have challenges with obtaining evidence of the existence of family ties from the country of origin. Lack of central body or authority to coordinate the access to different support measures, and lack of an overall strategy hinder TCNs integration into Slovenian society.

Section 1: Overview of the situation on family reunification

This section of the Synthesis Report will provide an up-to-date overview of the national situation with regard to family reunification of TCNs, including figures on the scale of family reunification, e.g. number of residence permits issued on grounds of family reunification, number of unaccompanied minors (UAMs) reunited with family in (Member) States, etc. The section sets out the context for the Study by providing information on the approaches of (Member) States to family reunification, as well as recent (since 2011) changes to law, policy and/ or practice. The section will be drafted on the basis of data available from Eurostat or other relevant sources and complemented by national data provided by EMN NCPs.

Q1. Please briefly describe the basis for developing legislation/ policy on family reunification in your (Member) State (e.g. Directive 2003/86/EC, Art. 8, ECHR on the right to respect private and family life, etc.). **(If your (Member) State distinguishes between family formation and family reunification, please provide further information here and if applicable, make such a distinction in the subsequent questions).**

The provision of family reunification in Slovenia is based on the Convention for the Protection of Human Rights and

³ Source: http://www.mddsz.gov.si/si/delovna_podrocja/sociala/denarna_socialna_pomoc/

Fundamental Freedoms (ECHR) (on the Art. 8 – the right to respect private and family life, and Art. 12 –the right to marry), the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the European Social Charter, the Charter of Fundamental Rights, the Convention on the Rights of the Child and the European Convention on the Legal Status of Migrant Workers.

The right to respect private and family life is also protected in the Constitution of the Republic of Slovenia⁴ in provisions regarding marriage and family life, equal protection of rights, children’s rights, employment of TCNs and other provisions. Family reunification of TCNs and international protection beneficiaries is regulated in the Aliens Act⁵ and in the International Protection Act⁶.

Slovenia has implemented the Directive 2003/86/EC and Directive 2004/38/EC in the Aliens Act. The Aliens Act regulates family reunification of TCNs and international protection beneficiaries, as well as family formation of EU and Slovenian citizens and of families established after the international protection beneficiary entered in the Republic of Slovenia. In case the family of an international protection beneficiary has been established after entering the Republic of Slovenia, same rules apply as for family reunification of TCNs. Family formation with EU citizens and Slovenian nationals is regulated separately.

Q2. Please provide an overview of **recent (since 2011) changes to law, policy and/ or practice** in the field of family reunification in your (Member) State, covering the following:

- Current public debate on family reunification in your (Member) State (e.g. on requirements for exercising the right to family reunification or other issues);
- Whether family reunification is a national policy *priority* currently;
- Any *planned* changes to law, policy and/ or practice on family reunification;
- Any changes to policy and/ or practice as a result of the Commission Communication COM(2014)2010’s guidance for application of Directive 2003/86/EC? If no, please specify why not;
- If your (Member) State has introduced a private sponsorship programme, which requires the beneficiary to be a family member of the sponsor. If yes, briefly elaborate in what ways the requirements, eligibility and access to rights differ.

The first change came in 2011 with the Aliens Act-2⁷. It extended the definition of family members to registered partners and partners with whom the sponsor has been living in a long-lasting union. It also regulated the extension of the temporary residence permit issued for the purpose of family reunification in case of dissolution of family ties. The provisions regarding the family members of EU Blue Card holders were also added, although they have not yet been excluded from the waiting period.

The next change came in 2014 with the Law on Amendments and Supplements to the Law on Foreigners-2A⁸ that transposed the regulation on family reunification of international protection beneficiaries from the International Protection Act to the Aliens Act. In comparison to the International Protection Act, the Aliens Act expended the definition of family members to dependent adult children and parents. It comprehensively regulated the procedure and conditions for applying for family reunification, including the grace period, establishment of family ties and family formation (family reunification after the TCN’s entry the country). It separately regulated the right to family reunification of subsidiary protection beneficiaries. The amendment also re-established the possibility of family reunification for TCNs if they have been living in the Republic of Slovenia on the basis of a temporary residence

⁴ Constitution of the Republic of Slovenia (Official Gazette of the Republic of Slovenia, No 33/1991).

⁵ Aliens Act (Official Gazette of Republic of Slovenia, No 45/14 with subsequent changes).

⁶ International Protection Act (Official Gazette of the Republic of Slovenia, No 22/16).

⁷ Aliens Act-2 (Official Gazette of Republic of Slovenia, No 50/11), Art. 47/3, 47/8, and 39–42.

⁸ Law on Amendments and Supplements to the Aliens Act-2A (Official Gazette of Republic of Slovenia, No 26/14), Art. 27, 28 and 57.

permit for the past year, and their permit is valid at least for one year. This waiting period was previously lifted with the Aliens Act-2. The amendment also excluded daily commuters from family reunification and determined that the waiting period does not apply to family members of EU Blue Card holders.

The Aliens Act has been changed again in 2015 following the Constitutional Court's decision⁹ and a broad public debate regarding the definition of family members with whom the international protection beneficiaries can be reunited. The Constitutional Court established that the International Protection Act provisions regarding family reunification of international protection beneficiaries were unconstitutional, because they did not allow the competent authority to consider any other relatives, besides the ones listed in the provision, as family members with whom they can be reunited, while the same was possible in case of family reunification with TCNs. The above mentioned case of two Somali sisters¹⁰ who were not granted family reunification was accompanied with a broad public debate among the Government¹¹, relevant NGOs, media and general public. As a result, the provision that allows the competent authority the discretion to exceptionally grant the sponsor the right to family reunification with all other relatives in the ascending line, in case special circumstances support such reunification in Slovenia, was extended to the international protection beneficiaries with the Law on Amendments and Supplements to the Aliens Act-2C¹².

The new Employment, Self-Employment and Work of Aliens Act¹³ provides that the right to free access to the labor market, among other things, have an TCN in the Republic of Slovenia residing on the basis of a temporary residence permit on the basis of a family reunification with a Slovenian citizen, TCN in the Republic of Slovenia residing on the basis of a permanent residence permit, TCN who has been granted the right to international protection and their family members who resides in the Republic of Slovenia on the basis of residence permits on family reunification.

There is currently no public debate regarding family reunification in Slovenia (despite great presence of migrant and refugee topics in public debate). The government did propose a change to the Aliens Act but the proposal did not predict any changes regarding family reunification.

There is no private sponsorship programme available in Slovenia.

3. a. Please complete the Excel document in Annex 1 below (including data, as well as metadata) if you have national statistics on:

- The total number of applications for family reunification in 2011-2015 and, where available, the first half of 2016, disaggregated by the ground of residence of the sponsor (beneficiaries of international protection (i.e. refugees, BSPs, UAMs), persons admitted for remunerated activities, persons admitted for study purposes, etc.) and sex;
- The total number of accepted/ rejected applications for family reunification in 2011-2015, and where available, the first half of 2016, if available disaggregated by the grounds for rejection of applications.

⁹ Constitutional Court of the Republic of Slovenia, Decision U-I-309/13, Up-981/13; available at: <http://odlocitve.us-rs.si/si/odlocitev/US30585>.

¹⁰ Media reports regarding the case of the Somali sisters: <https://www.dnevnik.si/1042689566>; <http://www.24ur.com/novice/slovenija/14-letna-somalijska-begunka-koncno-sme-k-sestri-v-slovenijo.html>; <http://www.delo.si/novice/politika/ustavno-sodisce-somalijska-deklara-sme-v-slovenijo.html>.

¹¹ The Government's opinion on the proposition of the Law on Amendments and Supplements-2C: <http://imss.dz-rs.si/imis/a294e024d78a8e8594d0.pdf>. National Council's opinion on the proposition of the Law on Amendments and Supplements-2C: <http://imss.dz-rs.si/imis/03003234300ea46d1a0e.pdf>.

¹² Law on Amendments and Supplements to the Aliens Act-2C. (Official Gazette of Republic of Slovenia, No 19/15), Art.1 and 2.

¹³ Employment, Self-employment and Work of Aliens Act (Official Gazette of the Republic of Slovenia, No 47/15), Art. 6/2.

b. Please supplement the data provided above with a narrative on the profiles of TCNs residing in your (Member) State and asking for family reunification, i.e. are the sponsors mostly beneficiaries of international protection and/or other TCNs, e.g. workers, students, etc.?

In the Republic of Slovenia, the majority of applications for family reunification are submitted by persons admitted for remunerated activities (at least 80%). The amount of applications submitted under all other categories of migrants (including international protection beneficiaries) is substantially smaller. The majority of sponsors are men (at least 90%) aged between 25–59. This can be attributed to the fact that the majority of sponsors are persons admitted for remunerated activities. The ratio between women and men is lower among other categories of migrants.

Section 2: Definition of sponsor and family members

Q4. a. Who can be a **sponsor**¹⁴ to an application for family reunification in your (Member) State (e.g. UAMs, students, workers, etc.)?

Whether a TCN can be a sponsor to an application for family reunification in the Republic of Slovenia depends on the legal grounds of a TCN's stay. According to the Aliens Act¹⁵, sponsors for family reunification can be:

- TCNs with a permanent residence permit;
- TCNs living in the Republic of Slovenia for the past year on the basis of the temporary residence permit which is issued with the validity of at least one year. Exclusion applies for seasonal workers and daily commuters;
- International protection beneficiaries, both refugees and subsidiary protection beneficiaries.

Except for seasonal workers and daily commuters, the law does not expressly exclude any other group of TCNs from family reunification. Students are not explicitly excluded from family reunification, however, the act stipulates that a temporary residence permit shall be issued for the duration of study, education, specialization or professional training, but not longer than one year. Just in case studies, education, specialization or professional training lasts longer than one year and permit is renewed, the students have the right to reunification.¹⁶ The act stipulates the same for victims of human trafficking or illegal employment¹⁷.

b. Does the national law of your (Member) State allow **beneficiaries of subsidiary protection (BSPs)**¹⁸ to apply for family reunification? **Yes.**

If yes, please elaborate below. If no application procedure is made available to BSPs, how does your (Member) State ensure that the right to family life (Art. 8, ECHR) of BSPs is respected?

The Aliens Act¹⁹ recognizes the right to family reunification to a TCN who has been granted subsidiary protection for more than a year under the condition that the family existed before the subsidiary protection beneficiary

¹⁴ Art. 2 and 3 in Chapter I of 2003/86/EC define who can be a **sponsor** to an application for family reunification in the EU.

¹⁵ Aliens Act, Art. 47/1, 47a/1 and 47b/1.

¹⁶ Aliens Act, Art. 44/2

¹⁷ Aliens Act, Art. 50/7.

¹⁸ Currently, BSPs are not covered by Directive 2003/86/EC.

¹⁹ Aliens Act, Art. 47b/1, 47b/3 and 47b/7.

entered the country. The right to family reunification of a TCN who has been granted subsidiary protection for one year is recognized when his or her subsidiary protection status is extended²⁰. If subsidiary protection beneficiaries apply for family reunification within 90 days of having been granted subsidiary protection in Slovenia, they are only required to provide proof of the existence of family ties and identity of family members. If they file the application after the 90-day period, it needs to be supported by evidence confirming the fulfilment of the general conditions that apply for TCNs²¹.

If the family was formed after the subsidiary protection beneficiary entered the country, he / she is granted the right to family reunification but the procedure and requirements are the same as for the family reunification of TCNs²².

Q5. Does your (Member) State extend the **scope of family reunification** beyond nuclear/ core members of the family,²³ i.e. parents, adult children, non-married partners, etc.? **Yes.**

If yes, does your (Member) State extend the scope of family reunification to the following family members:

- Parents? **Yes.**

The Aliens Act²⁴ stipulates that the sponsor has the right to family reunification with his / her parents or parents of his / her spouse, registered partner or partner with whom the sponsor has been living in a long-lasting union, if either of them is obliged to sustain the other in accordance with the laws of the state of which they are nationals.

- Adult children? **Yes.**

Under the Aliens Act²⁵, the sponsor has the right to family reunification with his / her adult unmarried children or the adult unmarried children of his / her spouse, registered partner or partner with whom the sponsor has been living in a long-lasting union, if either of them is obliged to sustain them in accordance with the laws of the state of which they are nationals.

- Same-sex partners who are married? **Yes.**

The Aliens Act²⁶ does not give married same-sex partners an explicit right to family reunification but states that a spouse, registered partner and partner with whom the sponsor has been living in a long-lasting life union is considered a family member whom a sponsor can be reunited with. In accordance with the decision of the Constitutional Court²⁷, interpretation excluding same-sex married partners from the provision would be discriminatory; therefore same-sex couples (married, registered or living in a long-lasting union) have an equal right to family reunification.

- Same-sex partners who are registered? **Yes.**

Please see above.

²⁰ Subsidiary protection is granted and extended in accordance with the International Protection Act (Official Gazette of the Republic of Slovenia, No 22/16).

²¹ Aliens Act, Art. 47b/3 and 47b/7.

²² Aliens Act, Art. 47b/10.

²³ Art. 4 in Chapter II of Directive 2003/86/EC stipulates that (Member) States shall authorise the entry and residence of certain **family members**, including the sponsor's spouse and minor (including adopted) children of the sponsor and/ or his/ her spouse.

²⁴ Aliens Act, Art. 47/3, 47a/2 and 47b/2.

²⁵ Aliens Act, Art. 47/3, 47a/2 and 47b/2.

²⁶ Aliens Act, Art. 47/3, 47a/2, and 47b/2.

²⁷ Constitutional Court of the Republic of Slovenia, Decision U I 68/16 of 16 June 2016.

- Non-married partners? **Yes.**

Under the Aliens Act²⁸, the sponsor has the right to family reunification with his / her spouse, registered partner or partner with whom the sponsor has been living in a long-lasting union.

- 'Dependent' persons, i.e. persons receiving legal, financial, emotional or material support by the sponsor or by his/ her spouse/ partner (other than those mentioned above²⁹)? **No.**

If yes, please specify how the concept of dependency³⁰ is defined in the relevant provisions/ practice.

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- Other (please specify, e.g. foster children, applicants in polygamous and/ or proxy marriages, etc.)? **Yes.**

If yes, please elaborate on each of the categories mentioned above.

In accordance with the Aliens Act³¹, the competent authority has the discretion to exceptionally grant the sponsor the right to family reunification with all other relatives in the ascending line, if special circumstances support such reunification in Slovenia. Special circumstances are given if existing union between other relatives is, due to the specific factual circumstances, essentially similar or has the same function as the nuclear family. Emphasis is placed on the existence of genuine family ties, physical care, protection, security, emotional support and financial dependence. In case of a polygamous marriage, a residence permit may be issued only to one spouse³².

Section 3: Requirements for exercising the right to family reunification

Q6. Does your (Member) State (plan to) impose the following **requirements**³³ for exercising the right to family reunification (please also indicate if exemptions can be made in individual cases based on e.g. hardship clauses):

- Accommodation suitable for the size of the family, as well as meeting health and safety standards? **No.**

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²⁸ Aliens Act, Art. 47/3, 47a/2 and 47b/2.

²⁹ I.e. other than those referred to in Art. 4 of Directive 2003/86/EC.

³⁰ According to UNHCR, dependent persons should be understood as persons who depend for their existence substantially and directly on any other person, in particular because of economic reasons, but also taking emotional dependency into consideration. Dependency should be assumed when a person is under the age of 18, and when that person relies on others for financial support. Dependency should also be recognised if a person is disabled not capable of supporting him/ herself. The dependency principle considers that, in most circumstances, the family unit is composed of more than the customary notion of a nuclear family (husband, wife and minor children). This principle recognises that familial relationships are sometimes broader than blood lineage, and that in many societies extended family members such as parents, brothers and sisters, adult children, grandparents, uncles, aunts, nieces and nephews, etc., are financially and emotionally tied to the principal breadwinner or head of the family unit. Further information is available at: <http://www.unhcr.org/3b30baa04.pdf>, as well as in the Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification mentioned in Section 1 in the first part of this document.

³¹ Aliens Act, Art. 47/4, 47a/4 and 47b/4.

³² Aliens Act, Art. 47/4, 47a/11 and 47b/11.

³³ Art. 7(1) of Directive 2003/86/EC stipulates that Member States may require the person who has submitted the application to provide evidence that the sponsor has: accommodation suitable for the size of the family, as well as meeting health and safety standards; sickness insurance; and sufficient resources to provide for himself/ herself and his/ her family.

- Healthcare insurance? **Yes.**

For TCNs, appropriate healthcare insurance³⁴ is set as one of the requirements for obtaining a residence permit.

If international protection beneficiaries apply for a residence permit for the purpose of family reunification within 90 days of having been granted a refugee status or subsidiary protection in the Republic of Slovenia, they are only required to provide proof of the existence of family ties and identity of the family members³⁵. If they file the application after the 90-day period, it needs to be supported by evidence confirming the fulfilment of healthcare insurance and other general conditions applicable for TCNs³⁶. In case the beneficiary's family was formed after he / she entered the Republic of Slovenia, the application also needs to be supported by evidence confirming the fulfilment of healthcare insurance and other general conditions applicable to TCNs³⁷.

- Sufficient financial resources to provide for the sponsor and his/ her family? **Yes.**

TCNs have to provide proof of sufficient means of subsistence for those family members who will reside in Slovenia. If international protection beneficiaries apply for a residence permit for the purpose of family reunification within 90 days of having been granted a refugee status or subsidiary protection in the Republic of Slovenia, they are only required to provide proof of the existence of family ties and identity of family members³⁸. If they file the application after the 90-day period, it needs to be supported by evidence confirming the fulfilment of sufficient means of subsistence and other general conditions applicable for TCNs³⁹. In case the beneficiary's family was formed after he / she entered the Republic of Slovenia, the application also needs to be supported by proof of sufficient means of subsistence and other general conditions applicable to TCNs⁴⁰.

Q7. a. Does the national law of your (Member) State require TCNs to comply with any **integration measures** before and/ or after admission?⁴¹ **No.**

If yes, are TCNs required to comply with the following integration measures:

- Civic integration exams? **No.**

If yes, please specify:

- When the civic integration exam(s) takes place (i.e. before admission, after admission, before and after admission):

/

- What knowledge and skills are required from applicants in order to pass the exam(s):

/

- If any support is provided to them during preparation (e.g. preparatory classes):

³⁴ Aliens Act, Art. 33/3.

³⁵ Aliens Act, Art. 47a/3 and 47b/3.

³⁶ Aliens Act, Art. 47a/7 and 47b/7.

³⁷ Aliens Act, Art. 47a/10 and 47b/10.

³⁸ Aliens Act, Art. 47a/3 and 47b/3.

³⁹ Aliens Act, Art. 47a/7 and 47b/7.

⁴⁰ Aliens Act, Art. 47a/10 and 47b/10.

⁴¹ Art. 7(2) of Directive 2003/86/EC stipulates that Member States may require TCNs to comply with integration measures, in accordance with national law.

/

- If/ What costs are incurred by applicants:

/

- Language tests? **No**⁴².

If yes, please specify:

- When the language test(s) takes place (i.e. before admission, after admission, before and after admission):

/

- What knowledge and skills are required from applicants in order to pass the test(s):

/

- If any support is provided to them during preparation (e.g. preparatory classes):

/

- If/ What costs are incurred by applicants:

/

- Other integration measures (please specify)? **Yes**.

If yes, please specify what these measures entail and when they take place:

A person granted international protection, who is accommodated in private accommodation and does not have its own means of subsistence or his / her accommodation is not provided otherwise, shall be entitled to financial compensation for a private address accommodation for 18 months from the date of acquiring the status⁴³. A person granted international protection is entitled to financial compensation for private accommodation for further eighteen months, if in the first eighteen months after obtaining the status he / she has been attending the Slovenian language course and was present on it at least 80% of classes⁴⁴.

- If the national law of your (Member) State does not currently require TCNs to comply with any of the above measures – any planned changes? **No**.

If yes, please provide further information below:

/

⁴² However, foreigners who are not EU citizens are entitled to programs that provide faster integration into the cultural, economic and social life of the Republic of Slovenia, which also includes the Slovenian language learning programs and getting acquainted with Slovenian history, culture and constitutional order (Article 106 of the Aliens Act). A person granted international protection also has the right to participate in the Slovenian language course and is entitled to know Slovenian company (Article 103/3 of the International Protection Act).

⁴³ International protection Act, Art. 97/1.

⁴⁴ International protection Act, Art. 97/2.

b. Please specify if any negative consequences (e.g. refusal to issue a permit or withdrawal of the existing permit) are foreseen for family members not complying with the above-mentioned integration measures – both according to law, as well as how this is applied in practice.

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Q8. Does your (Member) State set a **waiting period**⁴⁵ before a sponsor's family members can reunite with him/her? **Yes.**

If yes, how long is the waiting period? Can an application be submitted before the period has expired? Are there any exemptions granted in individual cases?

There is no time limitation for TCNs with a permanent residence permit. TCNs with a temporary residence permit can apply for family reunification if they have been living in Slovenia for the past year on the basis of a temporary residence permit, under the condition that the temporary residence permit was issued with the validity of at least one year. Restrictions regarding the period of legal residence explicitly do not apply to EU Blue Card holders and temporary residence permits issued for research and higher education purposes. The law also stipulates that the restrictions regarding the period of legal residence do not apply for TCNs who had been granted temporary residence permits on the basis of the assessment that their residency is in the best interest of the Republic of Slovenia⁴⁶.

Refugees can apply for a permanent residence permit for the purpose of family reunification as soon as they are granted the refugee status⁴⁷. The Aliens Act recognizes the right to family reunification to a TCN who has been granted subsidiary protection for more than a year, provided that the family existed before the subsidiary protection beneficiary entered the country. The right to family reunification of a TCN who has been granted subsidiary protection for one year is recognized when his subsidiary protection is extended⁴⁸.

Sponsor may file an application for the issuance of the first temporary residence permit for his/her family members, although he/she does not meet legal conditions, but in this case the application for the issuance of the first permit for temporary residence for family reunification for family members is denied because the sponsor does not meet the conditions for recognition of the right to family reunification.⁴⁹

The above mentioned exemptions from the waiting period are the only ones, since exemptions granted in individual cases are not possible.

Q9. Does the national law of your (Member) State provide for a **rejection of an application** for entry and residence of family members on grounds of public policy, public security or public health?⁵⁰ **Yes**⁵¹.

If yes, please provide data (if available) on the number of times your (Member) State has invoked this provision(s) since 2011.

⁴⁵ Art. 8 of Directive 2003/86/EC stipulates that Member States may require the sponsor to have stayed lawfully on the territory for a period not exceeding two years (or three years by derogation in specific circumstances) before having his/ her family members join him/ her.

⁴⁶ Aliens Act, Art. 47/1.

⁴⁷ Aliens Act, Art. 47a/1.

⁴⁸ Aliens Act, Art. 47b/1.

⁴⁹ Aliens Act, Art. 55/1, 33/3 and 33/4.

⁵⁰ Art. 6 of Directive 2003/86/EC stipulates that Member States may reject an application for entry and residence of family members on grounds of public policy, public security or public health.

⁵¹ Aliens Act, Art 10/1,5.

The data regarding the number of times the national authorities invoked the provisions is not available.

Q10. a. In addition to any information you have already provided above, does your (Member) State apply the following provisions concerning the **more favourable family reunification rules for refugees**:⁵²

- Application and possible extension of the grace period of (minimum) three months before the requirements for exercising the right to family reunification apply?⁵³ **No.**

If yes, is this grace period of (minimum) three months extended and if so, for how long?⁵⁴

For how long?

/

- Restriction to relationships established before entry into the (Member) State?⁵⁵ **Yes.**

If yes, please specify:

More favourable family reunification rules (the grace period) apply only for relationships established before the refugee entered the Republic of Slovenia. For relationships established after the entry, the law determines the same procedure and requirements for family reunification as for the TCNs⁵⁶.

- Application of a wider definition of family members (going beyond parents) when it comes to UAMs?⁵⁷ **Yes.**

If yes, please specify:

The Aliens Act does not include a provision that would allow a wider definition of family members explicitly for UAM's, however it contains a provision that the competent authority may use the discretion to exceptionally grant the sponsor the right to family reunification with all the other relatives in the ascending line, if special circumstances support such reunification in Slovenia. Special circumstances are given if existing family union between other relatives is, due to the specific factual circumstances, essentially similar or has the same function as the nuclear family. Emphasis is placed on the existence of genuine family ties, physical care, protection, security, emotional support and financial dependence⁵⁸.

- Have any of these family reunification rules for refugees been changed recently? **Yes.**

If yes, please provide further information on these changes below:

In 2014, the regulation of family reunification of international protection beneficiaries has been transposed from the International Protection Act to the Aliens Act⁵⁹. The Aliens Act brought substantial changes to the regulation of family reunification. In comparison to the International Protection Act, the Aliens Act expanded the definition of family members to dependent adult children and parents. It comprehensively regulated the procedure and conditions for applying for family reunification, including the grace period, establishment of family ties and family

⁵² Art. 9-12 in Chapter V of Directive 2003/86/EC set out more favourable conditions for family reunification of refugees.

⁵³ Art. 7(1) of Directive 2003/86/EC.

⁵⁴ Art. 7(1) of Directive 2003/86/EC.

⁵⁵ Art. 9(2) of Directive 2003/86/EC.

⁵⁶ Aliens Act, Art. 47a/10.

⁵⁷ Art. 10(3)(b) of Directive 2003/86/EC.

⁵⁸ Aliens Act, Art. 47/4, 47a/4 and 47b/4.

⁵⁹ Law on Amendments and Supplements to the Aliens Act 2A, Art. 28.

formation (family reunification after the TCN's entry in the country). It also separately regulated the right to family reunification of subsidiary protection beneficiaries. However, it did not include the provision that allows the competent authority the discretion to exceptionally grant the sponsor the right to family reunification with all other relatives in the ascending line, if special circumstances support such reunification in the Republic of Slovenia.

The above-mentioned provision (family reunification with all other relatives in the ascending line) was extended to refugees and subsidiary protection beneficiaries in 2015⁶⁰, as a result of the Constitutional Court's decision⁶¹ that the State is obliged to adopt such legislation that would enable refugees to effectively exercise the right to family life. The previous legislation contained a closed list of family members whom a refugee or a subsidiary protection beneficiary can be reunited with, and did not take into consideration any other possible life community between other relatives which can be essentially similar or have the same function as the nuclear family. The above-mentioned provision applied only for TCNs. In the Constitutional Court's opinion, such legislation disproportionately limited the refugee's right to family life.

b. If applicable, does your (Member) State apply **similar rules for the family reunification of BSPs** as refugees, i.e. in relation to eligible family members, waiting period and requirements for family reunification? **Yes.**

If yes, please cross-refer to the information you have provided previously on the more favourable rules applicable to refugees, stating that similar rules apply to BSPs.

If no, please explain how the rules differ for BSPs referring to the different topics covered previously (e.g. eligible family members, waiting period and requirements for family reunification).

The only difference between refugees and subsidiary protection beneficiaries regarding the requirements is the waiting period. If a TCN has been granted subsidiary protection for one year, his / hers right to family reunification is recognized only after his / her subsidiary protection is extended⁶², while refugees can apply for a residence permit for the purpose of family reunification as soon as they are granted the refugee status⁶³.

Another difference, not related to the requirements, is that subsidiary protection beneficiaries apply for a temporary residence permit for the purpose of family reunification, while refugees can apply for a permanent residence permit for the purpose of family reunification.

Q11. Are there any differences in the requirements to be met for exercising the right to family reunification (under Directive 2003/86/EC or national law in some cases) in comparison to a similar request governed by national law by a **(Member) State national who has not exercised his/ her free movement rights** (non-mobile EU nationals)? Overall, to what extent are these requirements for exercising the right to family reunification under national law more or less favourable than those covered by Directive 2003/86/EC?

If the sponsor is a Slovenian citizen, he / she does not require a temporary or permanent residence permit to apply for family reunification, registration of residence in the Republic of Slovenia suffices. The rules are more favourable for family members of Slovenian citizens when it comes to rejection of the application on the grounds of public health. If a family member of a Slovenian citizen has a contagious disease listed in international instruments adopted by the World Health Organization or an infectious disease that could endanger public health and for which the national legislation prescribes the use of extraordinary measures, the application can be rejected. The grounds for rejection are assessed individually, while the TCN's or beneficiary's application for a residence permit for the

⁶⁰ Law on Amendments and Supplements to the Aliens Act 2C., Art. 1 and 2.

⁶¹ Constitutional Court of the Republic of Slovenia, Decision U I 309/13 of 14 January 2015.

⁶² Aliens Act, Art. 47b/1.

⁶³ Aliens Act, Art. 47a/1.

purpose of family reunification can be rejected, if it is discovered that the family member comes from a region where such diseases are widespread⁶⁴.

Under the Aliens Act, a Slovenian citizen can present a contract attesting that a legal or natural person is committed to providing all / half of the required amount to prove he / she has sufficient means of subsistence. This contract must be concluded in the Republic of Slovenia in the form of a directly executable notary contract. Besides the listed possibilities, a Slovenian citizen can also prove he possesses sufficient means in any other way⁶⁵.

Q12. a. Please indicate any **challenges** experienced by i) sponsors and/ or family members associated with accessing the right to family reunification, and/ or ii) your (Member) State in the implementation of any of the above requirements for family reunification (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders) and how these can be overcome.

Determination of requirements needed for an international protection beneficiary is more difficult than it was before the regulation on family reunification of international protection beneficiaries has been transposed from the International Protection Act to the Aliens Act (2014). Lawyers dealing with family reunification mentioned that now sponsors to prove family ties have to deliver colour certified photocopies of the documents (passports, identity cards). Sponsors also have to acquire original identity cards for family members. Moreover, they have to ensure that family members have valid passports, as determined by Aliens Act-2⁶⁶. The positive side is that now the International Organisation for Migration does not charge for assistance costs of family reunification anymore. Problems with validation of passports can be eliminated, with semi-official alien's passport with a validity of 3 months and then, if necessary, extend the validation. These were semi-official passports because they were without the biometric picture and without a biometric signature of the passport holder. Now they require biometric photo⁶⁷.

The Ministry of Interior has stated in their annual report that the provision of Art. 47 of the Aliens Act-2, which introduces a requirement of one-year residence in the country before being granted the right to family reunification (Amendment came into force in 2015), has reduced the number of issued temporary residence permits to TCNs in the year 2015. The first temporary residence permits for family reunification decreased by almost 1,000 permits, or 19.33%, compared to 2014⁶⁸.

b. Please provide any examples of proven (e.g. through studies/ evaluations) **good practices** that might help to overcome the above-mentioned challenges or otherwise. Please specify the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).

There were some good practices but in time the conditions render.

⁶⁴ Aliens Act, Art. 124/1 and 55/1.

⁶⁵ Aliens Act, Art. 128/1 and 128/2.

⁶⁶ Aliens Act, Art. 33/3.

⁶⁷ Interview with a refugee counsellor.

⁶⁸ Annual report of MOI for 2015, pg. 110; available at: http://www.mnz.gov.si/si/zakonodaja_in_dokumenti/pomembni_dokumenti/.

Q13. Is any research (conducted by relevant authorities, academics, NGOs etc.) on the following available in your (Member) State:

- Effects of the requirements for family reunification as applied in your (Member) State on the right to family reunification and integration of TCNs? **No.**
- Effects of the integration measures as applied in your (Member) State on the right to family reunification and integration of TCNs? **No.**
- Effects of the minimum age requirement⁶⁹ as applied in your (Member) State on the prevention of forced marriages or any misuse of family reunification (e.g. marriages of convenience)? **No.**

If yes to any of the above, please briefly describe the main findings and conclusions of this research and provide a full reference to the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).

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Section 4: Submission and examination of the application for family reunification

Q14. Please describe the **procedure(s) that apply to the sponsor or his/ her family members** when an application for entry and residence for the purpose of family reunification is submitted, as follows:

a. Who is the formal party to an application for family reunification in your (Member) State: the sponsor or his/ her family members?⁷⁰

The formal party to an application is the sponsor. . A permanent residence permit, shall be granted without limitation as to the purpose of stay in the Republic of Slovenia. Third-country national who is a family member of an alien who is in the Republic of Slovenia on a permanent residence permit or has a refugee status, application for a permit for permanent residence can file at the administrative unit in the territory of his residence. A third country national, who under the Aliens Act could reunite with the family members, can submit a request for the issuance of the first temporary residence permit for his/her family members at a diplomatic consulate of the Republic of Slovenia and at the administrative unit in the area in which the family intend to reside, after arriving in the Republic of Slovenia, or is resident. ⁷¹. International protection beneficiaries submit the application for a permanent or temporary residence for the purpose of family reunification at the Ministry of the Interior⁷².

b. If the sponsor's family members must submit an application for family reunification, where can this application be submitted (e.g. consulate of the (Member) State abroad, possibility to submit the application in the (Member) State, etc.)?

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⁶⁹ Art. 4(5) of Directive 2003/86/EC stipulates that Member States may require the sponsor and his/ her spouse to be of a minimum age, and at maximum 21 years, before the spouse is able to join him/ her, in order to ensure better integration and to prevent forced marriages.

⁷⁰ Art. 5 of Directive 2003/86/EC specifies that Member States determine whether, in order to exercise the right to family reunification, an application for entry and residence must be submitted to the competent authorities by the sponsor or his/ her (family) members.

⁷¹ Aliens Act, Art. 47/2 and 54/1,3.

⁷² Aliens Act, Art. 54/2,4.

c. What documentary evidence is required from the applicant to confirm i) his/ her identity and ii) the family relationship?

A TCN confirms his / her identity and the family relationship with a valid passport or a certified copy of it and other official documents; birth certificates, residence permits, other official documents with a photograph. If the identity of the TCN is established, a permanent or temporary residence permit can be issued to a TCN who does not have and cannot obtain a valid passport from his / her home country⁷³. International protection beneficiaries also have to submit official documents confirming the family ties and the identity of the family members⁷⁴.

d. What methods of investigation are employed by the competent authorities in your (Member) State in the absence of (reliable) documentation?

There is no specific procedure to assess the validity of the family relationship. The competent authorities can gather some information *ex officio* from Slovenian records. If international protection beneficiaries do not possess the required documents, they have to specify all the details regarding the family members whom they wish to reunite with, especially their names, dates and places of birth, residential address and the place of residence at the time of filling the application. They also have to attach a written consent which allows the Ministry of the Interior to send the information (for the purpose of verification of family ties) to International Organization for Migration⁷⁵.

Q15. Please describe the **procedure(s) that apply to family members** when an application for entry and residence for the purpose of family reunification is submitted, as follows:

a. What is the procedure in place in your (Member) State to verify that any **extended family members** have fulfilled the requirements for family reunification (e.g. dependency)? At what stage(s) of the examination procedure is this verified?

Are there any exemptions from fulfilling these conditions and if yes, on what grounds are they granted?

There is no specific procedure in place. TCN has to submit the required documentary evidence to prove compliance with the requirements together with the application for a residence permit for the purpose of family reunification. The requirements are verified during the examination of the TCN's request.

If the conditions are not fulfilled, or any other grounds for rejection of a temporary residence permit for the purpose of family reunification exist, the law stipulates that the competent authority has to take into consideration: the nature and strength of family relationship, the length of TCN's residence in the Republic of Slovenia and the existence of family, cultural and social ties with the home country before rejecting the application⁷⁶.

⁷³ Aliens Act, Art. 33/5 and 33/6.

⁷⁴ Aliens Act, Art. 47a/3 and 47b/3.

⁷⁵ Aliens Act, Art. 47a/3 and 47b/3.

⁷⁶ Aliens Act, Art. 55/5.

b. Please describe the procedure in place in your (Member) State to verify that the following **requirements for family reunification** have been fulfilled:

- Please specify how the health and safety standards, as well as the size of the accommodation are determined as suitable in practice:

These are not requirements for family reunification under national law.

- Please specify the conditions under which sponsors have access to healthcare insurance (e.g. by having employment/ self-employment or is this access automatic)?

In Slovenia, health insurance is mandatory and supplementary. TCNs have access to mandatory health insurance if they are employed, self-employed, unemployed, students, or international protection beneficiaries. If the sponsor is employed, his / her mandatory health insurance is covered by the employer. Supplementary health insurance is provided by insurance companies and has to be covered by sponsor. If the sponsor is self-employed, independent worker or a student, he / she is affiliated to a private regime, meaning that they have to pay the contributions for the mandatory insurance and the premiums for the supplementary health insurance, which is not obligatory.

TCNs with a permanent residence permit have access to mandatory and supplementary healthcare insurance, covered by the public system, under special conditions⁷⁷.

International protection beneficiaries have a right to healthcare and social care⁷⁸. They have access to mandatory health insurance on this ground, if they are not covered on any other basis⁷⁹ (for example employment).

- Please specify the following in relation to the minimum income requirement sponsors must meet in your (Member) State:
 - The amount of the minimum income requirement in the relevant currency and year:

The monthly amount of sufficient means has to be at least equal to the basic minimum income in Slovenia for each family member⁸⁰. According to the Social Assistance Benefits Act⁸¹, the minimum income is currently estimated at €292.56 (since 8 January 2016)⁸².

- If your (Member) State sets a different income requirement depending on the type of family member being reunited (e.g. minor children):

The income requirement is the same for all family members.

- The reference period over which this requirement is considered:

Sponsors are required to prove they possess sufficient means of subsistence for the duration of their residence in the country⁸³.

- How any past/ future income of the sponsor is evaluated in practice:

⁷⁷ Health Care and Health Insurance Act (Official Gazette of Republic of Slovenia, No 9/1992 with subsequent changes), Art. 15/1.

⁷⁸ International Protection Act, Art. 90/1.

⁷⁹ International Protection Act, Art. 89/1; more at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/illegally-resident/24.slovenia_national_report_social_security_en_version.pdf.

⁸⁰ Aliens Act, Art. 33/3.

⁸¹ Social Assistance Benefits Act (Official Gazette of Republic of Slovenia, No 61/10) with subsequent changes.

⁸² Available at: http://www.mddsz.gov.si/si/delovna_podrocja/sociala/denarna_socialna_pomoc/.

⁸³ Aliens Act, Art. 33/3.

Sufficient means are considered met in case the applicant provides proof of earnings or possession of the amount of the money equal to the basic minimum income in Slovenia for each family member. Proof of sufficient resources is assessed on the basis of money earned from occupational activity⁸⁴. The sponsor can present an employment contract, proof of his / her earnings for the past 3 months etc.

The competent authorities can also *ex officio* gather information about the sponsor's ability to provide sufficient means of subsistence from official records⁸⁵. For example, if the TCN is self-employed, they can check the financial position of the TCNs company.

- Whether any exemption grounds apply and to what extent non-compliance has consequences for the right to family reunification:

International protection beneficiaries have to provide proof of sufficient means for subsistence only if they do not submit the application for a residence permit for the purpose of family reunification in 90 days since they have been granted their status⁸⁶.

If the sponsor does not fulfil the requirement of sufficient means, his application for a residence permit on the basis of family reunification can be denied⁸⁷. If the conditions are not fulfilled, or any other grounds for rejection of a temporary residence permit for the purpose of family reunification exist, the law stipulates that the competent authority has to take into consideration; the nature and strength of family relationship, the length of TCN's residence in the Republic of Slovenia and the existence of family, cultural and social ties with the home country before rejecting the application⁸⁸.

If the sponsor does not comply and does not provide the proof of sufficient means even after the competent authority prompts him or her to do so, the application for family reunification can be rejected⁸⁹.

- At what stage(s) of the examination procedure are the above requirements verified?

The requirements are verified during the examination of the sponsors request for a permanent or temporary residence for the purpose of family reunification and each time the TCN requests for the extension of his and the family member's residence permit⁹⁰.

c. Please describe the procedure in place in your (Member) State to ensure **integration measures** have been complied with, for example, if an application form for civic integration exam(s)/ language test(s) must be submitted to the authorities, etc. Please specify what exemption grounds apply and to what extent non-compliance has consequences for the right to family reunification.

There are no integration requirements in the national law.

⁸⁴ Source: Pascouau Y. and Labayle H. (2011), Conditions for Family Reunification under Strain, available at: http://epc.eu/documents/uploads/pub_1369_conditionsforfamily.pdf.

⁸⁵ Aliens Act, Art. 55/2.

⁸⁶ Aliens Act, Art. 47a/3 and 47b/3.

⁸⁷ Aliens Act, Art. 55/1.

⁸⁸ Aliens Act, Art. 55/5.

⁸⁹ General Administrative Procedure Act (Official Gazette of the Republic of Slovenia, No 24/06 with subsequent changes), Art. 174/1,3.

⁹⁰ Aliens Act, Art 33/3, 36/3 and 47/5.

d. If the above conditions are not (completely) fulfilled, how does your (Member) State guarantee that individual circumstances are taken into account (e.g. nature and solidity of the person's family relationship)?⁹¹

If the conditions are not fulfilled, or any other grounds for rejection of a temporary residence permit for the purpose of family reunification exist, the law stipulates that the competent authority has to take into consideration; the nature and strength of family relationship, the length of TCN's residence in the Republic of Slovenia and the existence of family, cultural and social ties with the home country before rejecting the application⁹².

e. What is the procedure in place in your (Member) State to verify whether or not the family member(s) constitute a **threat to public policy, public security or public health**?

The competent authorities can *ex officio* gather information from official national and international registers to verify if a TCN might constitute a danger to public order, security or international relations of the Republic of Slovenia or in case of suspicion that his or her residence in the country is associated with terrorist or other violent acts, illegal intelligence activities, manufacturing or trafficking drugs or other illegal activities, or if there are reasons to believe that the TCN will not abide by the legal order of the Republic of Slovenia⁹³. For instance, the application for a residence permit for the purpose of reunification of family is rejected if the applicant is registered in the Schengen Information System for non-admission purposes⁹⁴.

It is considered that the TCN presents a threat to public health if he / she comes from a region where there is an outbreak of contagious disease which may cause an epidemic listed in the international health rules of the World Health Organisation, or from regions with prevalence of contagious diseases which could threaten people's health and for which prescribed measures should be introduced on the basis of the law regulating contagious diseases⁹⁵. The provision does not oblige the competent authorities to consider individual circumstances before the rejection of the application, the fact that the TCN comes from a region where there is an outbreak of the above mentioned diseases suffices⁹⁶.

f. How does your (Member) State define the **term 'minor child'** and how are the **best interests of the child** taken into account during the examination of the application for family reunification?⁹⁷

A TCN or a stateless person under the age of 18⁹⁸ is considered a minor. There are no separate provisions regarding family reunification of minor TCNs or international protection beneficiaries in the Aliens Act. In case grounds for rejection of the application for family reunification exist, the competent authority should take into consideration the best interest of the child, although this is not expressly stipulated in the Aliens Act.

Family reunification of UAM's with a refugee status or subsidiary protection status is regulated separately in the

⁹¹This is laid down in Article 17 of Directive 2003/86/EC, as well as the principles of effectiveness and proportionality (as interpreted by the CJEU in K. and A., paragraph 60 and O.S and L, paragraph 81) and the EU Charter of Fundamental Rights (O.S. and L, paragraphs 77, 78 and 80).

⁹² Aliens Act, Art. 55/5.

⁹³ Aliens Act, Art. 55/1, 55/3 and 55/4.

⁹⁴ Source: Pascouau Y. and Labayle H. (2011), Conditions for Family Reunification under Strain, available at: http://epc.eu/documents/uploads/pub_1369_conditionsforfamily.pdf.

⁹⁵ Aliens Act, Art. 55/1.

⁹⁶ Source: Pascouau Y. and Labayle H. (2011), Conditions for Family Reunification under Strain, available at: http://epc.eu/documents/uploads/pub_1369_conditionsforfamily.pdf.

⁹⁷ Art. 5 of Directive 2003/86/EC.

⁹⁸ International Protection Act, Art. 2/20.

International Protection Act. Unlike the Aliens Act, the International Protection Act expressly stipulates that the best interest of the child is the primary concern when dealing with minor international protection beneficiaries⁹⁹. It stipulates that, if the search for UAM's family members had not yet begun, it has to start as soon as he / she is granted international protection while protecting the best interests of the child. If the search for the UAM's family members has already begun, it is continued when appropriate. If the lives or physical integrity of a minor or his / hers close relatives could be endangered, especially if they have remained in the country of origin, it must be ensured that the processing and sharing the information of the persons concerned is conducted confidentially¹⁰⁰.

TCNs (including UAM's and accompanied minors) who do not have a legal basis to stay in the Republic of Slovenia (i.e. temporary or permanent residence permit, refugee status or subsidiary protection) and are in the process of removal, but their removal from the country is not permissible or foreseeable, are granted the permission to stay with the validity of 6 months¹⁰¹. They cannot apply for family reunification on the basis of the permission to stay and do not have the right to family reunification under the Aliens Act. The law stipulates that TCNs with a permission to stay can be granted temporary residence under the condition that they have been living in the Republic of Slovenia on the basis of the permission to stay for at least 24 months, and that their removal is not allowed due to non-refoulement¹⁰². After their application for temporary residence is approved, TCNs (including UAM's, minor TCNs) can apply for family reunification.

One of the shortcomings in the system of family reunification concerning minors is that the exemption of the waiting period¹⁰³ cannot be applied in the case of reunification with minors, whether they are the sponsors or if the sponsor is their family member. Separation of children from their parents or other relatives, whom they can be reunited with, constitutes a severe interference with the rights of the child and disproportionately limits their rights. The exemption of the waiting period should therefore be possible in the case of family reunification with minors¹⁰⁴.

g. Please describe what is involved in an assessment for family reunification where **children** are concerned, for example, DNA testing, etc. At what stage(s) of the examination procedure is this assessed?

The assessment is based on the requested official documents, particularly birth certificates. If international protection beneficiaries do not possess such documents, they have to specify all the details regarding the family members whom they wish to reunite with, especially their names, dates and places of birth, residential address and the place of residence at the time of filling the application. They also have to attach a written consent which allows the Ministry of the Interior to send the information (for the purpose of verification of family ties) to the International Organization for Migration¹⁰⁵. The assessment is made during the examination of the sponsor's request for a permanent or temporary residence for the purpose of family reunification. No other procedure is in place.

⁹⁹ International Protection Act, Art. 15/1.

¹⁰⁰ International Protection Act, Art. 100/4.

¹⁰¹ Aliens Act, Art. 82/2 and 73/2.

¹⁰² Aliens Act, Art. 51/1.

¹⁰³ The waiting period applies for the TCNs and in some cases for subsidiary protection beneficiaries. It also applies for UAMs / TCNs who have been granted a temporary residence permit on the basis of the permission to stay.

¹⁰⁴ Ombudsperson's commentary to the Aliens Act-2 proposal, available at: https://www.dz-rs.si/wps/portal/Home/deloDZ/zakonodaja/izbranZakonAkt?uid=C12565D400354E68C125786F00382B69&db=kon_zak&mandat=V&tip=doc.

¹⁰⁵ Aliens Act, Art. 47a/3 and 47b/3.

Q16. Taking the different steps above into account, what is the **duration** of the procedure deciding on an application for family reunification in your (Member) State – both according to law and in practice?

- Legal time limit for deciding upon an application (if any)?

The law stipulates that the decision has to be issued as soon as possible and no later than in 30 days since a complete application has been lodged. If the competent authority has to carry out a special determination process to assess the existence of grounds for rejection, a decision has to be issued no later than in 60 days¹⁰⁶.

- Average duration of the procedure in practice?

After statistical processing of the data by the MOI, the process of issuing temporary residence permits for family reunification, completed the issuance of a positive decision, in 2016 lasted an average of 36.55 days. The procedure for issuing temporary residence permits for family reunification, which ended unfavourable to the party (rejected, discarded application and stopped procedure) in 2016 lasted an average of 112.15 days. The procedure for issuing permanent residence permits for family members of refugees and procedure for issuing temporary residence permits to family members of beneficiaries of subsidiary protection in 2016 lasted an average of 78.63 days.¹⁰⁷ However, the whole process of family reunification can take up to 9 months (in some cases since January 2016).¹⁰⁸

- Have any specific measures been taken by your (Member) State to shorten processing times?

The change in the legislation in 2014¹⁰⁹ set the processing time for issuing a decision to no later than 30 days (previously defined as one month) since a complete application was lodged. The timeframe for the competent authority to carry out a special determination process to assess the existence of grounds for rejection was also shortened to no later than 60 days (previously three months)¹¹⁰.

Q17. a. Please indicate any **challenges** experienced by i) sponsors and/ or family members throughout the above-mentioned procedure(s), and/ or ii) your (Member) State in the implementation of the examination procedure (e.g. based on existing studies/ evaluations or information received from relevant authorities and stakeholders) and how these can be overcome.

The main challenge is obtaining a proof of the existence of family ties through original family books, marriage and birth certificates. They all have to be translated into Slovenian language; the costs are borne by the sponsors. An additional problem is finding the court interpreter, especially for Somali and Tigrinya language. Moreover, the Aliens Act stipulates that family ties could have been determined through international organizations working in the field of migration¹¹¹, but in practice according to the new legislative regime this has not been exercised (so far)¹¹².

b. Please provide any examples of proven (e.g. through studies/ evaluations) **good practices** that might help to overcome the above-mentioned challenges or otherwise. Please specify the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).

¹⁰⁶ Aliens Act, Art. 91/2.

¹⁰⁷ Data obtained from the Ministry of the Interior.

¹⁰⁸ Source: Interview with a refugee counsellor.

¹⁰⁹ Law on Amendments and Supplements to the Aliens Act 2A (Official Gazette of Republic of Slovenia, No 26/14).

¹¹⁰ Before adoption of the Aliens Act-2 in 2011, the time limit for a decision was within two months since the application was lodged.

¹¹¹ Aliens Act, Art. 47a/3 and 47b/3.

¹¹² Source: interview with a refugee counsellor.

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Section 5: Access to rights following family reunification

Q18. Are family members entitled (in the same way as the sponsor) to access the following rights¹¹³ in your (Member) State (please also comment on any *planned* changes in the national legislation/ policy/ practice):

a. Access to education? **Yes.**

If yes, please indicate whether any special measures to support access to education are available specifically to family members, e.g. language assistance, guidance regarding the national education system, etc.

Since most of the educational courses are taking place in Slovenian language, language courses are a prerequisite for effective access to education. The Aliens Act expressly stipulates that the family members of a TNC with a permanent residence permit have the right to free Slovenian language courses, which include the contents on the Slovenian society, regardless of the duration of their stay in Slovenia and the validity of their residence permit¹¹⁴. TCNs with a temporary residence permit are granted the right, if their temporary residence permits are issued with the validity of more than one year¹¹⁵. Local advisory centres and Centres for Self-Study provide information or support to TCN deciding to enrol in educational programmes¹¹⁶.

Subsidiary protection beneficiaries also have the right to free Slovenian language courses, which include the contents on the Slovenian society and the needed information for easier integration into Slovenian society, including information about education¹¹⁷. They are also provided assistance by integration counsellors from the Accommodation, Care and Integration Division of the Ministry of Interior. Comprehensive integration assistance that includes arranging documents, escort to institutions / arranging access to various rights, information and counselling is also provided by Association ODNOS. They assist international protection beneficiaries to select and participate in an adequate form of education or training, including getting settled in the school environment, study help and cooperation with the school employees¹¹⁸.

b. Access to employment and self-employed activity?¹¹⁹ **Yes.**

If yes, please specify whether the access available to family members is limited in any way, for example, if such access is restricted for up to 1 year and/ or limited to a maximum number of days per year, if this right is automatic or conditional upon obtaining a work permit, etc.

According to the Act on Employment, Self-Employment and Work of Aliens, family members of TCNs and

¹¹³ Art. 14 of Directive 2003/86/EC in your (Member) State stipulates that family members are entitled (the same way as the sponsor) to access education, employment and self-employed activity, as well as vocational guidance and training. Art. 15 of Directive 2003/86/EC additionally specifies that family members are entitled to apply for autonomous right of residence after no later than five years, independent of that of the sponsor (also in case of dissolution of family ties).

¹¹⁴ EMN Focused Study 2015, Integration of beneficiaries of international/humanitarian protection into the labour market: policies and good practices. Slovenian national contribution.

¹¹⁵ Aliens Act, Art. 106/2.

¹¹⁶ Ministry of Interior, brochure on Integration into Slovene Society, available at: http://www.mnz.gov.si/si/mnz_za_vas/tujci_v_sloveniji/.

¹¹⁷ International Protection Act, Art. 91 and 103/2.

¹¹⁸ EMN Focused Study 2015, Integration of beneficiaries of international/humanitarian protection into the labour market: policies and good practices. Slovenian national contribution.

¹¹⁹ In addition to Directive 2003/86/EC, there are further Legal Migration Directives containing specific provisions on access to employment of family members of certain sponsors, for example, family members of Blue Card holders or ICTs. Please elaborate on such specificities in the above answer.

subsidiary protection beneficiaries have free access to the labour market. They do not need a work permit or the uniform residence and work permit¹²⁰. TCNs can get self-employed after one year of continuous legal residence in the Republic of Slovenia¹²¹.

c. Access to vocational guidance and training? Yes.

If yes, please describe what the access to vocational guidance and training entails, for example, whether special guidance and training programmes are provided to family members or whether they have access to the general measures.

Vocational information and counselling is provided by the Employment Service of the Republic of Slovenia advisors. It includes individual interviews, identification or assessment of needs, wishes, interests, traumas, psycho-social support, information on rights and obligations, personal planning, incentives for integration activities, preparation and submission of CVs, applications for education, work or employment, qualification recognition applications, etc. After enrolment, international protection beneficiaries are provided with assistance by integration counsellors from Ministry of the Interior and Association ODNOS.

Vocational training and education is performed by secondary vocational and professional schools and last 3 to 4 years. Adults can also participate in shorter trainings by various contractors to acquire national professional qualifications for different occupations, if they have a primary school certificate. They have to undergo an exam at the end¹²².

d. Right to apply for autonomous right of residence independent of that of the sponsor (also in case of dissolution of family ties)? Yes.

If yes, please specify if the access to this right differs depending on the kind of permit the family member receives.

Family members of a TCN who meet the requirements defined by law, may be granted an autonomous residence permit.¹²³

In the event of the TCNs death or dissolution of the marriage, registered partnership or long-lasting union, a residence permit issued for the purpose of family reunification can be extended, under the condition that it lasted for least 3 years in the Republic of Slovenia. The residence permit can be extended only once, with validity up to one year¹²⁴.

Access to the above-mentioned rights (education, employment, self-employment and vocational training) does not differ if the person is granted an autonomous residence permit.

e. Any other rights granted to family members in your (Member) State, for example, healthcare, recourse to public funds, possibility for family members to apply for long-term residence status or naturalisation, etc.? Yes.

If yes, please specify what such access entails in practice in your (Member) State.

¹²⁰ Act on Employment, Self-Employment and Work of Aliens, Art. 6/1 and 6/2.

¹²¹ Act on Employment, Self-Employment and Work of Aliens, Art. 34/1.

¹²² EMN Focused Study 2015, Integration of beneficiaries of international/humanitarian protection into the labour market: policies and good practices. Slovenian national contribution.

¹²³ Aliens Act, Art. 47/7.

¹²⁴ Aliens Act, Art. 47/8.

TCNs granted international protection have the right to information regarding their rights and obligations, the right to reside in the Republic of Slovenia, financial compensation for private accommodation, health care, social security, education, employment, work and help with integration¹²⁵. When exercising their social security rights, international protection beneficiaries are equal to Slovenian citizens¹²⁶. They can apply for Slovenian citizenship after five years of uninterrupted residence in the Republic of Slovenia¹²⁷. Family members of international protection beneficiaries have same rights as the sponsors.

Q19. Are family members of refugees and/ or BSPs granted refugee/ BSP status in their own right or a 'derived' permit (from that of the sponsor)? Please clarify how the type of permit issued differs in terms of its validity and rights attached to it. If possible, please also provide information on the cost of the permit.

Family members of international protection beneficiaries are not automatically granted the same status as the sponsor. Family members of refugees are granted a permanent residence permit¹²⁸ for the purpose of family reunification, while family members of subsidiary protection beneficiaries are granted a temporary residence permit for the purpose of family reunification, the validity of which does not exceed the validity of the sponsors¹²⁹.

International protection beneficiaries do not have to pay the administrative fee for the application for a permanent or temporary residence for the purpose of family reunification¹³⁰.

Q20. a. Do any conditions apply to sponsors and/ or family members after admission for the purpose of family reunification in your (Member) State? **No.**

If yes:

- At which stage(s) after admission is examined whether these conditions have been fulfilled?

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- Does not fulfilling one of these conditions constitute a ground for non-renewal or withdrawal of the residence permit?¹³¹ No.

- If yes, how are individual circumstances and interests¹³² taken into account?

/

- If no, what are the consequences of not fulfilling the conditions (e.g. obligation to pay a fine, exclusion from more favourable residence permits)?

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¹²⁵ International Protection Act, Art. 90/1.

¹²⁶ International Protection Act, Art. 99/1.

¹²⁷ Citizenship of the Republic of Slovenia Act (Official Gazette of the Republic of Slovenia, No 24/7), Art 12.

¹²⁸ Aliens Act, Art. 47a/6.

¹²⁹ Aliens Act, Art. 47b/6 and 47/6.

¹³⁰ Administrative Fees Act (Official Gazette of the Republic of Slovenia, No 106/10 and subsequent changes), Art. 25/10a.

¹³¹ Article 16 of Directive 2003/86/EC

¹³² Article 17 and Article 24 of the Charter

Q21. a. Please indicate any **challenges** experienced by family members in your (Member) State with regard to accessing the above-mentioned rights (e.g. based on existing studies/ evaluations or information received from relevant authorities and stakeholders) and how these can be overcome.

International protection beneficiaries and their family members face systemic and practical obstacles related to access to the labour market due to language barrier, lack of evidence on their education, lack of work experiences, discrimination and structural imbalances on labour market. Inclusion or participation of international protection beneficiaries in the labour market is seen as a significant challenge by various Government actors. Although they have access to the educational system, the courses are mainly in Slovenian language. Knowledge of Slovenian language is therefore a prerequisite for enrolling in the educational system.

There is no central body or authority to coordinate the access to different support measures. Responsibilities in this area are distributed among various policy actors or public institutions. Competent authorities need to develop an overall strategy for better integration of international protection beneficiaries into the Slovenian society, including special measures for training and employing international protection beneficiaries. Recommendation still stands that the systemic solutions, policies and measures are necessary to ensure their independence and active economic, social and political participation¹³³.

b. Please provide any examples of proven (e.g. through studies/ evaluations) **good practices** with regard to the provision of education/ access to the labour market and vocational guidance and training/ right to autonomous residence for family members in your (Member) State/ etc. Please specify the source (e.g. based on existing studies/ evaluations/ other sources or information received from relevant authorities and stakeholders).

Projects of integration assistance help subsidiary protection beneficiaries and their family members to familiarize with the society, labour market, operation of institutions, organizations and enterprises. Comprehensive integration assistance that includes arranging documents, escort in institutions, information and counselling is also provided by Association ODNOS¹³⁴.

Section 6: National and international case law

Q22. Has the following CJEU/ ECtHR case law led to any changes in policy and/ or practice in family reunification in your (Member) State:

- *CJEU - C-540/03 European Parliament v Council of the European Union*;
- *CJEU - C-558/14 Khachab v Subdelegación del Gobierno en Álava*;
- *CJEU - C-153/14, Minister van Buitenlandse Zaken v K and A*;
- *CJEU - C 338/13, Marjan Noorzia v Bundesministerin für Inneres*;
- *CJEU - C-578/08, Rhimou Chakroun v Minister van Buitenlandse Zaken*;
- *CJEU - C-356/11 and C-357/11, O. S. and L*;
- *ECtHR - Mugenzi v. France, Application No. 51701/09, 10 July 2014*;
- *ECtHR - Tuquabo-Tekle And Others v The Netherlands, Application no. 60665/00, 1 March 2006*;

¹³³ EMN Focused Study 2015, Integration of beneficiaries of international/humanitarian protection into the labour market: policies and good practices. Slovenian national contribution.

¹³⁴ EMN Focused Study 2015, Integration of beneficiaries of international/humanitarian protection into the labour market: policies and good practices. Slovenian national contribution.

- ECtHR - *Hode and Abdi v. the United Kingdom*, Application No. 22341/09, 6 February 2013;
- ECtHR – *Biao v. Denmark*, Application No. 38590/10, 24 May 2016;
- Any other relevant case law (please specify)? No.

If yes, please briefly describe the changes brought about by this case law.

/

Q23. Has any national case law led to changes in policy and/ or practice in family reunification in your (Member) State since 2011 onwards? **Yes.**

If yes, please briefly describe the changes brought about by this case law. *(For example, in 2013 the Belgian Constitutional Court held that the differentiation of requirements for family reunification between refugees and beneficiaries of subsidiary protection is unlawful, hence the latter were exempted from the condition of sufficient income even after the period of one year when the sponsor is joined by his/ her minor children. As well, in 2015, the Slovenian Constitutional Court held that in specific factual circumstances the scope of family life should include non-nuclear family members who perform a similar or same function as the nuclear family, allowing for an individual examination of specific circumstances and leading to an amendment of the national legislation on family reunification.¹³⁵*

The Aliens Act was changed as a result of the Constitutional Court's decision¹³⁶ in 2015. The previous legislation contained a closed list of family members whom a refugee or subsidiary protection beneficiary could be reunited with. New Act allowed the competent authority the discretion to exceptionally grant the sponsor the right to family reunification with all other relatives in the ascending line, if special circumstances support such reunification in Slovenia, only in cases when a person applying for the family reunification was a TCN. In the case brought before the Court a Somali national, minor, applied for family reunification with her sister and was refused on the grounds that siblings are not listed as family members whom the international protection beneficiaries can be reunited with and on the ground that, under the applicable law, the competent authority did not have the discretion to grant her family reunification with any other relative¹³⁷. In the Constitutional Court's opinion, such legislation, that did not take into consideration any other possible life union between other relatives which can be essentially similar or have the same function as the nuclear family, disproportionately limited the refugee's right to family life. The Court stated that the State is obliged to adopt such legislation that would enable refugees to effectively exercise the right to family life. As a result, the above-mentioned provision was extended to refugees and subsidiary protection beneficiaries.

[Section 7: Overview of the international and EU legislative framework on family reunification \(Synthesis Report\)](#)

This section of the Synthesis Report will briefly outline the EU legal framework guiding national legislation on family reunification. It will provide a mapping of the substantive and procedural provisions in the EU acquis that

¹³⁵ European Legal Network on Asylum (ELENA) (2016), Information Note on Family Reunification for Beneficiaries of International Protection in Europe, <http://www.ecre.org/information-note-on-family-reunification-for-beneficiaries-of-international-protection-in-europe/>.

¹³⁶ Constitutional Court of the Republic of Slovenia, Decision U I 309/13 of 14 January 2015.

¹³⁷ At the time of the decision, the applicable law was the International Protection Act. Regulation of family reunification of international protection beneficiaries has been later transposed to the Aliens Act.

regulate family reunification. The section will also highlight how the EU acquis relates to the broader international legal framework in this area.

This section will be developed by the EMN Service Provider, hence no input from the EMN NCPs is required.

Section 8: Conclusions (Synthesis Report) [maximum 3 pages]

The Synthesis Report will outline the main findings of the Study and present conclusions relevant for policymakers at national and EU level. **Member States should include any overall conclusions in the Top-line Factsheet at the beginning of the Common Template rather than duplicate information in this Section.**

Annex 1 Statistical Annex

Q24. With reference to Question 3.a. above, please complete the following table with national statistics on the (estimated) number of applications for family reunification, if available.

Please provide here a brief explanation of the metadata, describing for example the population covered, the method used to reach the estimates, any caveats as to their likely accuracy etc. It should be noted, given the differences in methods used to make the estimates, that it will not be possible to synthesise this information to produce a 'total EU estimate' for the Study.

The data was provided by the national register of the Ministry of the Interior. It includes the number of all submitted, issued - successful and rejected applications for family reunification by year, gender and status of the sponsor. It also includes the number of sponsors applying for family reunification specified by year, gender, age and status of the sponsor.

Ministry of the Interior separately collects data about applications and sponsors only for family reunification of persons admitted for remunerated activities and study purposes. Therefore, separate data regarding applications for family reunification of other possible sponsors such as international protection beneficiaries is not available. National authorities record relevant information regarding the applications but do not aggregate it in statistical form, therefore separate data regarding other possible sponsors, including international protection beneficiaries, is also not available.

The accuracy of the data gathered in the annex is questionable, due to different statistics in the annual reports¹³⁸ (also prepared by Ministry of Interior). Regarding the inconsistency MOI states, in that it is necessary to take into account a statistical fact, it is necessary to take into account a statistical fact, which is the result of a specific methodological approach of the MOI regarding the collection and statistical data processing. So-called delays or statistical discrepancies occurs when obtaining the collection and processing of data obtained through the national registry of foreigners. The fact is that the national (statistical) report does not show the total number of applications, which were actually filed and decisions that have been made based on these applications actually issued in the form of a residence permit in the reviewed period. The so-called deviation or delays are shown for example in the cases when the applications were filed before the reviewed period and decided in the reviewed period, or have been filed in the reviewed period and a decision was issued in the next period. Furthermore, national reports include only statistics on administrative actions derived from national law, and not always from the EU legislation (Directives, Eurostat). The difference can also be seen in relation to the number of issued and valid permits, which is also a possible reason for the so-called derogation in view of national statistical data related

¹³⁸ Available at: http://www.mnz.gov.si/si/zakonodaja_in_dokumenti/pomembni_dokumenti/.

to residence permits.

For example in the Ministry of Interior annual report for 2015, the number of issued first temporary residence permits to TCNs has reduced compared to 2014. In 2015, number of issued first temporary residence permits for family reunification decreased by almost 1,000 permits, or 19.33%, compared to 2014¹³⁹. However, the obtained statistical data in the Study annex does not show the same results. For the purposes of the study, the review of the data presented in the annex, as mentioned above, it is necessary to take into account possible deviations or delays in the display of statistics on family reunifications, especially in the latest period considered.

For example, the number of valid temporary residence permits for family reunification in the year 2015 was 9,678¹⁴⁰, however in Annex, the number total number of successful family reunification applications is 9,887.

¹³⁹ Ministry of Interior Annual Report for 2015, pg. 110; available at: http://www.mnz.gov.si/si/zakonodaja_in_dokumenti/pomembni_dokumenti/.

¹⁴⁰ Ministry of Interior Annual Report for 2015, pg. 107.

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Indicator definition:	Total number of persons applying for family reunification, disaggregated by age and gender (of the sponsor and/ or family members) (2011, 2012, 2013, 2014, 2015 and 2016) <i>(please modify as necessary, i.e. depending on the data available in your MS)</i>
Explanation of indicator definition:	The data was provided from the national register by the Ministry of the Interior. It includes the number of sponsors applying for family reunification specified by year, gender, age and status of the sponsor. Ministry of the Interior separately collects data about sponsors only for family reunification of persons admitted for remunerated activities and study purposes. National authorities do not record relevant information regarding any other sponsors. Therefore separate data regarding other possible sponsors such as BIPs is not available.
Information source:	<i>Ministry of the Interior</i>
Final source publishing the information (including link if available):	
Dissagregation by gender:	Yes
Other disaggregation available (e.g. age)	Yes
Method of data collection:	<i>Administrative data collected by the Ministry of the Interior</i>
Date that information was last accessed:	<i>8.jan.16</i>
Data scope:	<i>National</i> The number of sponsors is smaller than the number of filed applications because a person can be a sponsor for more than one application.
Supporting Comments:	