

## RECOMMENDATIONS FOR THE IMPROVEMENT OF THE SLOVENIAN FAMILY REUNIFICATION SYSTEM

Maja Ladić, Iza Thaler, Katarina Vučko - Peace Institute

Urša Regvar - Legal Centre for the Protection of Human Rights and Environment (PIC)

### I. INTRODUCTION

#### a. About COMP4SEE

Complementary Pathways in South-East Europe (COMP4SEE) is a two-year project aiming to develop complementary arrival schemes for persons in need of international protection in three EU Member States – Croatia, Bulgaria and Slovenia – that have not yet established systems for legal reception, other than to fulfil their obligations under the CEAS and the resettlement and relocation (burden-sharing) schemes. The project aims to encourage the implementation of the EU Common Framework for Asylum and Migration Management and the European Commission Recommendation on Legal Routes to International Protection, both of which advocate for a comprehensive approach to migration, including the expansion of legal routes for third-country nationals in need of international protection and facilitating access to the right to family reunification. The project aims to propose arrival models for people in need of international protection that are complementary to the obligations stemming from the CEAS and EU resettlement and relocation schemes

Among the goals of the project is to analyse current family reunification systems in Slovenia, Croatia and Bulgaria and develop recommendations for their improvement. The objective is also to reduce practical barriers to family reunification in selected number of cases. Namely, the project is piloting the provision of pre-departure assistance and post-arrival integration measures to several families in each of the participating countries. The project is providing financial support schemes for family reunification of those people who do not have sufficient resources to cover the costs.

#### b. About complementary pathways

The number of refugees has been increasing in recent years and UNHCR estimates that global forced displacement by mid-2022 has reached 103 million, of whom 32.5 million were refugees and 4.9 million were asylum-seekers.<sup>1</sup> At the same time, possibilities for people in need of protection to legally enter countries that can offer such protection are limited.

Under joint EU resettlement schemes, more than 100,000 persons found protection in the EU since 2015. In 2021, around 22,500 people in need of international protection were resettled

<sup>1</sup> <https://www.unhcr.org/refugee-statistics/>, accessed on 25 January 2023.

from non-EU countries to EU Member States (MS), 156 % more than in 2020 and 2 % more than in 2019.<sup>2</sup>

However, over the last few years, the need to increase the availability of other legal avenues to reach the destination countries has been increasingly advocated,<sup>3</sup> as well as the necessity to create complementary pathways for persons in need of international protection who find themselves in a third country, pathways that could lead to durable solutions.

European Commission's (EC) Communication on a New Pact on Migration and Asylum (Pact)<sup>4</sup> emphasises that the Pact “aims to reduce unsafe and irregular routes and promote sustainable and safe legal pathways for those in need of protection”.<sup>5</sup> Beside resettlement, EC invites MS to include complementary pathways to protection, such as humanitarian admission schemes and measures such as study or work-related schemes but also stipulates that EU will support MS wishing to establish community or private sponsorship schemes through funding, capacity building and knowledge-sharing, in cooperation with civil society.

EC's Recommendation on legal pathways to protection in the EU: promoting resettlement, humanitarian admission and other complementary pathways<sup>6</sup> stipulates that, in line with the UNHCR three-year strategy (2019-2021) on resettlement and complementary pathways, it is appropriate to promote the putting in place or making further use of humanitarian admission models and other complementary pathways as an additional means of admission to expand the number of places offered through safe and legal pathways, in addition to resettlement. Further on, MS are, among other, invited to:

- provide pathways for admitting family members of beneficiaries of international protection through humanitarian admission programmes such as family-based sponsorship schemes;
- contribute to an EU approach to community sponsorship, drawing upon the wide range of models of humanitarian admission to design admission programmes in line with their respective national priorities and take into account EU external relation priorities and interests;
- cooperate closely with civil society to put in place or expand community sponsorship schemes as a humanitarian pathway for admission, where the private sponsors, groups

<sup>2</sup> [https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-of-life/statisticsmigration-europe\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-of-life/statisticsmigration-europe_en), accessed on 25 January 2023.

<sup>3</sup> FRA (2015) Legal entry channels to the EU for persons in need of international protection: a toolbox.

<sup>4</sup> European Commission: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum, Com/2020/609 final; available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2020%3A609%3AFIN>

<sup>5</sup> Ibid.

<sup>6</sup> Commission Recommendation (EU) 2020/1364 of 23 September 2020 on legal pathways to protection in the EU: promoting resettlement, humanitarian admission and other complementary pathways, available at: <https://eur-lex.europa.eu/legal-content/ga/TXT/?uri=CELEX:32020H1364>

of private individuals or nonprofit organisations are involved in different stages of the programme – from identification of those in need of international protection in the non-EU country to integration following their arrival.

As indicated by the above-discussed documents and many other research and policy-related sources, sponsorship programmes are recognised as one of the crucial forms of complementary pathways for the admission of refugees. At the same time, the concept of ‘private sponsorship’ and/or ‘community sponsorship’ has been used to denote programmes very different in their key characteristics.<sup>7</sup>

### c. About family reunification in Slovenia

Family reunification is an established component of the international protection system in Slovenia. It is a right of every beneficiary of international protection (hereinafter: BIP) in Slovenia, as it forms an integral part of the right to private and family life, defined in Article 8 of the European Convention on Human Rights (hereinafter: ECHR), as well as in Article 53 of the Constitution of Republic of Slovenia. The procedure is defined in the Foreigners Act (hereinafter: FA), as reunifying family members are considered foreigners by the existing legal framework (as opposed to persons in need of protection). Therefore, residency provisions for family members are included in the Foreigners Act as well. The International Protection Act (hereinafter: IPA) regulates accommodation entitlements of family members, restoring family links of unaccompanied minors,<sup>8</sup> and states that the application for international protection must include information about family members of the asylum seeker, including those who still live inside or outside their country of origin.<sup>9</sup>

Family members of refugees are granted a permanent residence permit, while family members of subsidiary protection holders are granted a temporary residence permit for the same duration as that of subsidiary protection. The permit can be extended under the same conditions as it is granted and for the same time as the extension of the subsidiary protection status of the sponsor. After five years of legal stay, temporary residence permit holders may apply for a permanent residence permit if they fulfil all the conditions (such as sufficient financial means and language proficiency).<sup>10</sup>

In a general migration context in fact family reunification is one of the main grounds of residency in Slovenia. Statistics show that on 31 December 2021 there were 88,005 permits for temporary residence issued to third-country nationals (hereinafter: TCNs). In terms of the

<sup>7</sup> COMP4SEE (2022), An Overview of Private Sponsorship Schemes: Programmes and Emerging Practices.

<sup>8</sup> Art. 100 IPA.

<sup>9</sup> Art. 45 IPA.

<sup>10</sup> The conditions are laid down in Art. 52 of the Foreigners Act.

purpose of residence the majority had temporary residence permit for employment and work (60,000 permits), followed by family reunification purpose with 17,815 permits.<sup>11</sup>

In 2021, the most permits for residence (temporary and permanent) were issued to citizens of Bosnia and Herzegovina (52%), Kosovo (18%), Serbia (13.7%), North Macedonia (6%) and the Russian Federation (2.5%).<sup>12</sup> There were 6,848 first-time temporary residence permits issued to TCNs for the purpose of family reunification in 2021, which is slightly more than in 2020 (6,438) and similar to the pre-pandemic level (6,756).<sup>13</sup> Amongst these, most permits were issued to citizens of Bosnia and Herzegovina, Kosovo, Serbia, North Macedonia and Russia.<sup>14</sup>

In 2021 only 19 persons were granted international protection in Slovenia, which is the lowest figure since year 2008.<sup>15</sup> Before 2021, there were approximately 80 statuses recognised per year. In 2021, there were 72 applications for the issuance of a residence permit for the purpose of family reunification with a person with international protection in the Republic of Slovenia. Amongst them there were 70 applications for the issuance of a permanent residence permit for reunification with a foreigner with a recognized refugee status. The Migration Directorate of the Ministry of the Interior (hereinafter: MoI) decided on 64 applications, of which 45 applications were approved and residence permits issued, 2 applications were rejected, and in 17 cases the procedure was stopped,<sup>16</sup> because the applicants did not submit the necessary documents or proof.<sup>17</sup>

We can see the family reunification of BIPs is statistically a marginal part of the whole family reunification-related migration to Slovenia. On the other hand, it is popular amongst refugees, and there is a relatively high number of applications for reunification each year. Therefore, it should be recognised as a system in need of constant development, and a fundament of successful integration.

<sup>11</sup> MoI, Report on the work of Migration Directorate in 2021, p. 14-15. Available at:

<https://www.gov.si/assets/ministrstva/MNZ/Dokumenti/DM/porocilo-DM-2021/Porocilo-o-delu-Direktorata-za-migracije-za-let-2021.pdf>

<sup>12</sup> MoI, Report on the work of Migration Directorate in 2021, p. 18. Available at:

<https://www.gov.si/assets/ministrstva/MNZ/Dokumenti/DM/porocilo-DM-2021/Porocilo-o-delu-Direktorata-za-migracije-za-let-2021.pdf>

<sup>13</sup> MoI, Report on the work of Migration Directorate in 2021, p. 20. Available at:

<https://www.gov.si/assets/ministrstva/MNZ/Dokumenti/DM/porocilo-DM-2021/Porocilo-o-delu-Direktorata-za-migracije-za-let-2021.pdf>

<sup>14</sup> MoI, Report on the work of Migration Directorate in 2021, p. 20. Available at:

<https://www.gov.si/assets/ministrstva/MNZ/Dokumenti/DM/porocilo-DM-2021/Porocilo-o-delu-Direktorata-za-migracije-za-let-2021.pdf>

<sup>15</sup> ECRE, AIDA Country Report for Slovenia: 2021 Update, p. 17. Available at: [https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-SI\\_2021update.pdf](https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-SI_2021update.pdf)

<sup>16</sup> MoI, Report on the work of Migration Directorate in 2021, p. 23. Available at:

<https://www.gov.si/assets/ministrstva/MNZ/Dokumenti/DM/porocilo-DM-2021/Porocilo-o-delu-Direktorata-za-migracije-za-let-2021.pdf>

<sup>17</sup> ECRE, AIDA Country Report for Slovenia: 2021 Update. Available at: [https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-SI\\_2021update.pdf](https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-SI_2021update.pdf)

The FA was amended in March 2021 and art. 47 introduced passing an A1 level Slovene language test as a condition for extension of the residence permit of family members of TCNs in general, which also affects BIPs' family members if they do not manage to start the family reunification procedure under facilitated conditions (within 90 days upon status recognition). The family reunification system has seen some significant changes and developments in recent years, some of them significantly tightening the body of rights of reunified family members of BIPs.

#### d. Legal framework

In Slovenia, the procedure for family reunification is initiated by the sponsor, that is the BIP. For family members where family link has existed prior to coming to Slovenia, the sponsor must submit an application for issuance of a residence permit for family members at the MoI, Directorate of Migration. If family links were established after settling in Slovenia, a general procedure defined in Art. 47 FA is utilised and it is carried out by an administrative unit.<sup>18</sup>

#### Eligibility for sponsorship

Eligible for family reunification are BIPs (meaning holders of refugee status<sup>19</sup> and beneficiaries of subsidiary protection<sup>20</sup>) as well as beneficiaries of temporary protection.<sup>21</sup> Persons with refugee status and subsidiary protection (but only those who are granted status for longer than one year) may apply for family reunification immediately after the decision granting them status becomes final.<sup>22</sup> Whereas, beneficiaries who have been granted subsidiary protection for one year obtain the right to family reunification only once their status is extended.<sup>23</sup> If the sponsor submits the application within the deadline of 90-days after receiving the final decision on international protection, the conditions for reunification are facilitated for family relationships predating their entry.<sup>24</sup> If the sponsor misses this deadline, the same department at the MoI will carry out a regular family reunification procedure without facilitated conditions.<sup>25</sup>

#### Eligible family members

The following are considered as family members:

- a spouse, a partner in a civil partnership or a partner with whom the refugee<sup>26</sup> lives in a long-term living arrangement;

---

<sup>18</sup> INT-NA2

<sup>19</sup> Art. 47.a FA.

<sup>20</sup> Art. 47.b FA.

<sup>21</sup> Art. 36 TPDPA.

<sup>22</sup> Arts. 47.a and 47.b FA.

<sup>23</sup> Art. 47.b FA.

<sup>24</sup> Art. 47.a/3 FA and art. 47.b/3 FA. Compare with Article 9 (2) of the Directive 2003/86 / EC.

<sup>25</sup> Art. 47.a/3 FA, art. 47.b/3 FA; see also art. 33/3 FA and Art. 47 FA.

<sup>26</sup> In this section terms refugee and beneficiary of subsidiary protection are used interchangeably, as the scope of rights is the same for both.



- minor unmarried children of the refugee;
- minor unmarried children of the spouse, civil partner or partner with whom the refugee is living in a long-term relationship;
- the adult unmarried children and parents of the refugee, spouse, civil partner or partner with whom the refugee is living in a long-term relationship, if the refugee, spouse, civil partner or partner with whom the refugee is living in a long-term relationship is obliged to maintain him/her under the law of the country of which he/she is a national;
- the parents of a refugee who is an unaccompanied minor.<sup>27</sup>

The law includes an open clause, where, exceptionally, another relative of the refugee may be considered to be a family member if special circumstances are in favour of family reunification (a living community between other relatives which, due to specific factual circumstances, is substantially similar to the primary family or has the same function as the primary family, which means in particular genuine family ties between family members, physical care, protection, emotional support and financial dependence).<sup>28</sup> In case of a polygamous marriage only one spouse is eligible for reunification.<sup>29</sup>

In comparison with the Family Reunification Directive, the definition of family members in Slovenian legislation is broad.

### **Family reunification under facilitated conditions for BIPs (Article 47.a and 47.b of Foreigners Act)**

According to the procedure under facilitated conditions, there are no **special conditions for reunification**, apart from proving the identity and a particular family link with the family members. Eligible beneficiaries can apply immediately after recognition of status (but not the ineligible first-time holders of subsidiary protection of one year!). There is no waiting period or requirement of a period of lawful stay.<sup>30</sup> Neither does the sponsor need to meet the conditions for accommodation, health insurance or stable and regular resources,<sup>31</sup> or comply with integration measures in accordance with Article 7 (2) of Directive 2003/86/EC.

### **Regular family reunification (Article 47 of the Foreigners Act)**

If an application for family reunification has not been submitted within three months of the recognition of sponsor's status, amongst Article 7 (1) of Directive 2003/86 / EC conditions, the national legislation prescribes the fulfilment of a financial condition: “the means of subsistence used to support the members of the family must not be less than the level laid down for entitlement to social assistance in accordance with the law governing social security benefits”<sup>32</sup>

<sup>27</sup> Art. 47.a/2 FA. See also art. 47.b/2 FA.

<sup>28</sup> Art. 47.a/4 FA.

<sup>29</sup> Art. 47.a/9 FA.

<sup>30</sup> Compare with Art. 8/1 and 8/2 of Directive 2003/86 / EC.

<sup>31</sup> Art. 7/1 of Directive 2003/86 / EC.

<sup>32</sup> Art. 47.a/7 FA.

as well as the insurance condition (“adequate health insurance covering at least emergency medical services”).<sup>33</sup>

### **Status of reunified family members**

Reunified family members are granted residency under the Foreigners Act. Family members of persons with refugee status are granted a permanent residence permit, while family members of persons with subsidiary protection are granted a temporary residence permit with the same duration as that of subsidiary protection. The temporary residence permit can be extended under the same conditions as it is granted and for the same time as the extension of the subsidiary protection status of the sponsor.<sup>34</sup> As mentioned above, before legislative changes in 2014, family members of the sponsor were granted the same status (refugee or subsidiary protection) as the sponsor.<sup>35</sup>

Family members are entitled to the same rights regarding health care, social security, education and employment as citizens of the Republic of Slovenia.<sup>36</sup>

Family members are entitled to accommodation in an Integration House or financial assistance with accommodation at a private address together with the sponsor, except for family members of a person with subsidiary protection, who are not entitled to financial assistance.<sup>37</sup>

### **System of integration and inclusion of reunified family members**

Civil society actors, beneficiaries themselves as well as other stakeholders list several issues with the integration system and possibilities which significantly hinder the process of integration of refugees, and especially some of their reunified family members. The process of integration has been thoroughly researched in recent years, and the Peace Institute has published extensively on the topic within the [NIEM](#), [VIW](#), [MICREATE](#), and other projects. In 2021 the integration system was significantly changed, which was criticised by several stakeholders. Period of integration support was shortened from three to two years, and new conditions for extension of a temporary residence permit, and for access to social support were introduced.

## **II. RECOMMENDATIONS FOR THE IMPROVEMENT OF THE SLOVENIAN FAMILY REUNIFICATION SYSTEM**

### **a. Background**

<sup>33</sup> Art. 33/3 FA.

<sup>34</sup> Arts. 47.a/3, 47.b/3,7 FA.

<sup>35</sup> AIDA Country Report: Slovenia (2021 update), p. 96-97, available at: [https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-SI\\_2021update.pdf](https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-SI_2021update.pdf)

<sup>36</sup> Family members of persons with subsidiary protection pursuant to an explicit provision in Article 47.b(12) Foreigners Act and family members of persons with refugee status as holders of a permanent residence permit.

<sup>37</sup> Arts. 93/2 and 97/5 IPA.

These recommendations for the improvements are based on (a) research of legislative, institutional and implementation aspects of family reunification systems, (b) empirical research of family reunification processes from the perspective of the people granted international protection and members of their families.

Summaries of the research on the Family Reunification of Beneficiaries of International Protection in Slovenia are briefly presented in section I.c and d of this document. In our empirical research, we have conducted semi-structured interviews with at least five participants from five groups of stakeholders, involved in the family reunification system, to collect multiple relevant perceptions and experiences and gain a better understanding of potential problems and obstacles. The groups of stakeholders are: 1. Refugees and their family members, 2. CSOs providing assistance in the process of family reunification, 3. Relevant national authorities, 4. International organisations, and 5. Diplomatic staff.

## **b. Recommendations**

### **1. The family reunification procedures should be simplified**

The procedures should be simplified in the manner to make it accessible to BIPs without legal representation.

Complications in administrative procedures were mentioned as an issue that may in itself create a social problem even if it did not exist before. Misinformation about the rights of family members of BIPs was also identified by the stakeholders as an issue. The other is a complicated legal framework and administrative practice.

Families, reunified through a regular procedure may also face significant barriers when residence permits would have to be renewed (families of beneficiaries of subsidiary protection).

In this context, **different cultural and bureaucratic realities of applicants and their family members should be taken into account in order to secure family unity and an effective implementation of the right to family reunification.** Some of them face major difficulties in obtaining the necessary documentation.

### **2. The procedure should be sped up by all the stakeholders involved**

Research shows that in practice, the family reunification procedure often takes too long. This puts additional strains on families, who were often separated for years even before the family reunification process started.

### **3. A system of financial support for family reunification purposes should be established in cooperation amongst stakeholders**



One of the main obstacles is absence of any financial support and astronomical costs of family reunification (costs of obtaining the appropriate evidence – especially DNA testing, travel costs, IOM escort, exit visas and other costs – amounting to thousands of euros). There are no financial schemes in place which causes additional hardship for BIPs (sponsors) and might push them into debt. This is even more so for minor children who are beneficiaries of family reunification. Some of the NGOs organise fundraising campaigns for each individual reunification and try to help with covering the costs. But there should be financial support offered by the state. When it comes to official translations of the necessary documents, the sponsors should be allowed to submit documents in the original language, with MoJ then securing the translation into Slovenian (similarly as in the international protection procedure).

#### **4. A stakeholders coordination body should be established**

It is evident the Slovenian authorities are quite flexible in procedures of family reunification and are actively searching for practical (ad-hoc) solutions in individual cases. On the other hand, several stakeholders lack coordination and partnership approach on the side of the authorities. This lack of proper support, trust and reliance on the authorities was mentioned also as an obstacle for CSOs to participate in potential private or community sponsorship schemes.

To close this gap, a stakeholders coordination body should be established, which would facilitate better coordination, cooperation, trust and discussion amongst stakeholders (all the relevant ministries, social work centres, CSOs, international organisations, and BIPs).

#### **5. The reunified family members of beneficiaries of subsidiary protection be equal in rights to family members of refugees**

While family members of subsidiary protection holders are granted a temporary residence permit for the same duration as that of subsidiary protection, they are not eligible for financial assistance for accommodation, which means that the costs have to be fully covered by the sponsor. This is particularly difficult for unaccompanied children who apply for family reunification. In this case, the child-sponsor must cover these costs, which is burdensome and, in some cases, forces the child to leave school so they can support their family members.

#### **6. The protection needs of reunifying family members be taken into account during and after the procedure, as well as after arrival in phase of integration, inclusion**

Family members often have the same protection needs as the sponsors, they may themselves be in danger. This should be taken into account during the entire procedure of family reunification. The need for protection should be taken into account in the state's policies regarding granting citizenship to children born in Slovenia to BIPs and their partners after family reunification has taken place.

#### **7. Reunified family members would receive equal integration measures and support as their family member with international protection**

In order to gain a better chance of integration, family members should benefit from equal integration measures as their sponsor (BIP). The **integration system** has chronic problems leaving families to struggle with integration and inclusion into Slovenian society for years on end. For certain groups of beneficiaries, **the number of Slovenian language lessons is not sufficient**, particularly if they come from completely different linguistic backgrounds.

Another pressing issue is the **lack of access to appropriate housing**. This issue has become overlying for the majority of Slovenian society in past years, where refugees and refugee families (often larger families) are amongst the worst-off, due to high rent, racism and xenophobia of landlords, misinformation, administrative and other obstacles etc.

Families of subsidiary protection holders are in an even worse situation due to the difference in treatment to family members of refugees.

#### **8. Wider support should be offered to reunified families also in later stages of integration, to give opportunity to people to establish themselves in Slovenia and attain a dignified and independent life**

The move and change of the environment is challenging for the families who are often reunited after longer periods of time. They require long-term support in their integration, including the involvement of social work centres and access to programmes of psychological or psychosocial support.

Furthermore, some of the stakeholders expressed worries over the **situation of women**, who are amongst the family members most often reunited. While children are included in the education system and therefore integrate more easily, for adult women in the family, integration can be very challenging. The position of the women is especially precarious in case they want to separate (which can at times also be a consequence of hardship after long separation and lack of support in the integration process, which can also lead to domestic violence) after residing in Slovenia on a temporary permit. Stakeholders criticised that such a system puts women in an overly reliant and subordinate position to the sponsor, which is problematic per-se but even more so in cases of domestic or gender-based violence. Interviewed reunified family members reported on women who do not dare to get a divorce, because they are afraid of what will happen with their status and there is no one who would provide them with exact information.

#### **9. Capacities for support of beneficiaries of international protection and their families be widened by introducing more programmes, securing enough finances, offering more quality services by the government and especially local authorities**

The integration system lacks capacity to support all the beneficiaries. CSOs expressed the need for legislative changes that would include vulnerable reunited families among vulnerable groups.

Support should be holistic and continuous, but both civil society and the state lack the capacity. The Office for Support and Integration of Migrants does not have sufficient staff to help the

families and maintains the position it is only responsible for the sponsors, but not for their families. Therefore, additional resources should be directed into strengthening the capacities.

The integration happens on the local level, thus the local authorities must become more active and involved. A comprehensive integration strategy is needed and clear division of roles and responsibilities between the stakeholders at the state level and the local level. Especially at the local level all relevant stakeholders (local authorities and administration, services, educational community, NGOs, employers, religious communities etc.) should be involved in the preparation of the integration strategy and its implementation.

**10. Realities, experiences and needs of BIPs and their family members be taken into account in producing of government policies, legislations, and decisions of the authorities**

Representatives of BIPs and their family members should be consulted and included in the working groups or relevant bodies when evaluating the existing and preparing new policies, measures and legislation.